



Montgomery County Government

MONTGOMERY COUNTY COUNCIL
OFFICE OF LEGISLATIVE OVERSIGHT

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TITLE

An Evaluation of the Comprehensive Fire and Rescue Services Law,
Chapter 21, Montgomery County Code, 1984, (Bill 15/16-79).

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I. SUMMARY AND MAJOR CONCLUSIONS AND RECOMMENDATIONS

1. Summary. The County has ultimate authority to provide fire and rescue services to the citizens of Montgomery County under its police power. The County has chosen to provide these services through local independent fire and rescue corporations. The basic legislation governing the organization, management and funding of the fire and rescue services is Chapter 21, Montgomery County Code, 1984. This chapter was enacted as Bill 15/16-79, and was commonly referred to as the comprehensive fire and rescue services bill.

Bill 15/16-79 became effective in July 1980, and provided the following responsibilities to the major components associated with the fire and rescue services:

●Eighteen independent fire and rescue corporations.

Responsible for providing direct delivery of fire, rescue and emergency medical services using volunteer, paid or a combination of volunteer and paid personnel, under authority delegated by the County and subject to County-wide policies and regulations established by a Fire and Rescue Commission.

●Seven member Fire and Rescue Commission. Responsible for developing effective, efficient and equitable fire and rescue services by adopting County-wide policies, standards, procedures, plans and programs applicable to all fire and rescue service operations.

●Thirty-six member Fire Board. A non-governmental entity representing the 18 independent corporations whose major functions are to elect five of the Commissioners from its membership, approve specific Commission policies and programs, and advise the Commission on fire and rescue matters.

●Department of Fire and Rescue Services. Responsible for providing support services, mainly fire prevention, communications and training, to the Commission and corporations; and, at the direction of the County Executive, assuming operational and administrative command of a corporation.

The Council's purpose in enacting Bill 15/16-79 was to promote the achievement of five major goals: maximum protection of life and property, maximum volunteer participation, optimum personnel practices, adequate accountability and improved operations and administration.

2. Conclusions. This report concludes that, although the intent and goals of the legislation are valid, most of the goals of the comprehensive fire and rescue services legislation have either not been achieved or criteria by which accomplishment can be measured have not been implemented. The report further concludes that the three major reasons for the failure to achieve the above goals of the legislation are:

III. INTRODUCTION, HISTORY AND DEFINITIONS

1. Introduction. Fire and rescue services* in Montgomery County are provided by 18 separate and independently chartered fire departments and rescue squads. These departments and squads all evolved from volunteer citizen organizations. The oldest, Silver Spring Volunteer Fire Department, was incorporated in 1918 and the youngest, Wheaton Volunteer Rescue Squad, was incorporated in 1955. Of the 18 corporations, two do not receive direct tax support (Damascus Volunteer Fire Department and Bethesda-Chevy Chase Rescue Squad), the remaining 16 receive direct funding from County fire taxes. All 18 corporations receive indirect tax support in the form of various administrative and technical services.

Direct tax support is provided for salaries of corporation employees, the purchase, maintenance and operation of apparatus and equipment, supplies, and debt service on the fire stations. Indirect tax support takes the form of the loan and maintenance of communications equipment, central fire and rescue alert notification and dispatch services, individual training, and retirement benefits for volunteer service.

2. History. For many years an official County Fire Board with one representative from each corporation served in an advisory capacity to the County manager. In reality, that Board provided an official link between County government and the independent fire departments and rescue squads.

When the first County Council took office in 1949, a Department of Public Safety, with a Division of Fire Protection headed by the Fire Marshall, was created. The Fire Marshall's principal duties concerned only fire prevention matters. The management, operation, training and all fiscal matters pertaining to the delivery of fire and rescue services remained under the control of the separate independent corporations.

Two significant changes occurred in 1955. First, the law was amended to provide that recommendations from the Fire Board would now go directly to the County Council and not to the County manager; and, second, all studies, evaluations and recommendations on fire response and performance were to be made by the Fire Board.

In 1967, the Council passed Bill No. 1 which directed a sweeping change to the fire and rescue services. A year earlier a similar bill was passed (Bill No. 17), but was subsequently defeated under reconsideration. Bill No. 1 established a Department of Fire and Rescue Protection, brought all associated services under a County Fire Chief and paid firefighters became County merit system employees. All volunteer firefighters and rescue squad members, meeting standards established by the County, could hold officer rank with authority equal to paid officers in the same rank. In addition, volunteers were granted the same benefits

*Note: Common usage defines fire and rescue services to include all services relating to fire suppression, rescue operations, emergency medical and ambulance service and the organizations, operations and administration associated with these services.

available to merit employees to include: group insurance, participation in the medical program, line-of-duty death and disability benefits, and a length of service award program (LOSAP). Finally, the then existing 16 fire tax areas were reduced to two, a rural and an urban fire tax district.

The volunteer corporations were totally against Bill No. 1 and petitioned it to referendum. In the general election in November 1968, the bill was defeated, 103,940 to 45,850. As an indication of the attention given to this issue, the referendum question received over 15% more votes than did the Charter amendment question on the same ballot which provided for the County Executive.

The next year the Council passed a bill which enlarged the size and increased the authority and responsibilities of the Fire Board. Composition of the Board was doubled in that each of the 16 fire departments and two rescue squads would have two representatives, the chief and one elected delegate. The Board was given responsibility for a variety of operational and administrative functions, to include: approval of response areas, establishment of minimum training standards for paid and volunteer personnel, establishment of uniform budget procedures, and adoption of rules and regulations to enforce compliance with all standards adopted by the Board.

Except for a bill creating the Department of Fire and Rescue Services in 1972, and minor modifications to existing legislation to provide a role for the County Executive and make adjustments to fire tax districts and response areas, the laws pertaining to the fire and rescue services remained essentially unchanged for the next decade. The Council created the Department of Fire and Rescue Services (DFRS) to consolidate under a director (not a fire chief) the following fire related activities then performed by the County: the Fire Marshall, communications (centralized alert notification and dispatch service), and individual training of volunteer and paid personnel. In addition, the Director, DFRS, was also to serve as the Executive Secretary to the Fire Board.

Late in 1978, the County Executive informed the Council that he would be recommending legislation similar to the defeated Bill No. 1 of ten years earlier, which would place fire and rescue services under the direct control of the County. Before that bill was formally introduced, the Council, by resolution, established an Ad Hoc Committee to review the legislative alternatives to the bill being proposed by the Executive. The Ad Hoc Committee was composed of one Councilmember and representatives from each of the major groups concerned in fire and rescue services: DFRS, the Fire Board, and paid firefighters (union and non-union).

The Ad Hoc Committee met for just over four months and recommended legislation which was introduced as Bill 15-79. The County Executive then submitted his proposed legislation which was designated Bill 16-79. In March 1979, the Council decided to consider the two bills together as Bill 15/16-79.

For over a year the Council debated the merits of the proposed bill before unanimously passing the comprehensive fire and rescue services legislation which became effective in July 1980. The legislation was codified as Chapter 21 of the Montgomery County Code.

3. Definitions. Some of the key words and phrases which have a specific meaning in the context of the fire and rescue services are defined in the basic law (Sec. 21-4A(c)). At EXHIBIT A is an extract of that law, Chapter 21. However, other terms are used in the law and by the fire and rescue services but are not defined in the legislation. Definitions for two of these words and terms are presented below:

●Career employees. Although the term is not defined in the legislation, it refers to all individuals (officers, firefighters, rescue squadmen, and persons in administrative and support positions) who are employed by the local corporations and paid with County tax funds. The term is synonymous with the terms "paid employee" and the official term of the Personnel Regulations, Fire and Rescue Service Merit System Employees of the Independent Fire and Rescue Corporations of Montgomery County. (It must be noted that some incorrectly use the term "career" when referring to paid officers, firefighters and rescue squad members, and the term "civilian" when referring to paid administrative and support personnel. There is no basis in law or regulation for this inaccurate usage.)

●Active. This term is used in two contexts in the law and is very commonly used within the fire and rescue services. In Sec. 21-3 on the Length of Service Award Program (LOSAP) program and Sec. 21-4N on volunteer personnel administration, the term clearly refers to volunteers, in the context of "active volunteer member" and "active volunteer participation." Unfortunately, in Sec. 21-40 of the legislation, when discussing training requirements and certification standards, the term is used to refer to both volunteers and career fire and rescue personnel. The most commonly understood meaning of the term, and the meaning which this report uses, is in the context of volunteers. Thus an "active volunteer" refers to an individual who participates in activities in the corporation which qualify for LOSAP credits, such as: attending training courses and drills, performing duties at the station house (standby or sleep in), responding to incidents, attending meetings, and holding an elected or appointed position.

PART A - DESCRIPTION

IV. DESCRIPTION OF THE FIRE AND RESCUE SERVICES IN MONTGOMERY COUNTY

1. General. The enactment of Bill 15/16-79 resulted in a major change to the organization and management of fire and rescue services in the County. Before enactment, fire and rescue services were performed by 18 independent fire and rescue corporations under a decentralized arrangement where the relatively autonomous corporations were subject to a Fire Board which drew its membership from the same volunteer corporations it was charged to oversee. Except for the County Fire Marshall, a centralized training academy and a centralized communication alert notification and dispatch system, each volunteer corporation had almost total independence in the manner it delivered fire and rescue services in its respective first response area. Although the Fire Board and its Executive Committee had authority to establish uniform procedures and standards in such areas as personnel (paid and volunteer), training, communications, and budgeting, and even had statutory authority to enforce

compliance with the standards it adopted, there, were very few examples where the Board set standards for operations, management or accountability for the independent corporations. In the response areas of each corporation, that corporation set operational procedures, minimum standards of proficiency, and priorities for the expenditure of public funds. Likewise, each corporation evaluated its own performance and rated its own proficiency.

The County Executive's Bill, 16-79, would have changed all that by centralizing fire and rescue services under a single fire chief appointed by the Executive, making all paid employees of the corporations County merit system employees, standardizing all operational procedures, and, except for the Damascus area, establishing one single County-wide fire tax rate.

When the County Council enacted Bill 15/16-79, it rejected total centralization of the fire and rescue services. However, the enacted legislation, passed by the unanimous vote of the Council, did not retain the status quo of fire and rescue service organization, management or operations. The new legislation specified several major changes in the organization and management of the fire and rescue services, such as: providing for centralized policymaking in a newly created Fire and Rescue Commission; stipulating County-wide standardization of personnel administration, training and certification; directing a master plan for the County for operations, apparatus, equipment and facilities; providing for accountability for cost-effective service delivery, management practices and expenditure of tax funds; and allowing the conduct of performance audits by the Commission, the Executive and the Council, or their designees.

To better understand the legislation and its impact on fire and rescue services in the County, this section of the report describes the organization, management and operational framework of those services established in Bill 15/16-79. First is an examination of the delegation of authority by the Council.

2. The County's authority over fire and rescue activities.

The County's authority to provide fire and rescue services derives from the County's police power. In enacting Bill 15/16-79, the Council stated that it was acting pursuant to Section 101 of the Montgomery County Charter. Section 101 delineates the Council's authority from the State to legislate for the peace, good government, health, safety and welfare of the County (Md. Ann. Code, Art. 25A, Sec. 5(S)).

The County chose to provide fire and rescue services through independent fire and rescue corporations. Authority for the County to use volunteer corporations for the delivery of fire and related services is explicitly recognized and approved by the State (Md. Ann. Code, Art. 25, Sec. 3(w)).

3. Organizations and Missions for the Delivery of Fire and Rescue Services.

General

Providing fire and rescue services in Montgomery County involves a number of organizations using a combination of public and private resources. The five primary entities are: the County Council, the Executive branch, especially the Department of Fire and Rescue Services, the 18 independent fire and rescue corporations, the Fire Board and the Fire and Rescue Commission. Other organizations and agencies who contribute to this important public safety mission include:

- Washington Suburban Sanitary Commission--water supply and hydrant maintenance.
- Montgomery County Medical Society--medical protocol for pre-hospital advanced life support and guidelines in the quality assurance program.
- Montgomery College and the University of Maryland--courses in fire science and fire service technology.

The Council and Executive Branch

The Council's role involves the enactment of legislation for the organization and funding of fire and rescue services and legislation for those ancillary programs such as fire and building codes, detection devices and, more recently, sprinkler systems. The Council also exercises the fundamental responsibility of oversight.

The Executive branch provides a variety of administrative and technical support services and oversight, primarily through the Department of Fire and Rescue Services. The full range of those services are examined later in this report.

Independent Fire and Rescue Corporations

Fire suppression, rescue operations and emergency medical services are provided by 16 independent fire departments and 2 rescue squads, through a combination of paid (public or private funds) and volunteer personnel. Fifteen of the fire departments and one rescue squad receive direct tax support from the County to pay for personnel, operating expenses and capital acquisitions. The remaining fire department and rescue squad receive no direct tax funds, but receive critical indirect public support in the form of services "in kind." These support services include: central alert notification and dispatch services, the loan and maintenance of all communications equipment, free water/sewage for all stations, workman's compensation for volunteers, Length of Service Award Program (LOSAP), State assistance if a volunteer is killed or disabled in line of duty, State scholarship assistance and, most important, operational back-up and reinforcement when unable to respond to an incident or an incident exceeds the capability of the corporation. At EXHIBIT B is a chart which outlines the major characteristics of the 18 corporations.

The popular conception is that all of the local corporations are generally alike. To be sure, the most common characteristic of the 18 corporations is that each is an independently chartered corporation operating under a volunteer board of directors/trustees. However, a closer review discloses a number of differences among the independent departments and squads. Examples of differences include:

●Board of Directors/Trustees. Thirteen corporations are governed by a board of directors or trustees selected by and from the membership of the corporation. Of the remaining five, two fire corporations, Bethesda and Chevy Chase, have governing boards chosen by citizen representatives of civic and municipal associations from the respective communities each department serves. The governing board of the Takoma Park Volunteer Fire Department has, in addition to member representatives, officials of the City of Takoma Park in its membership. The Glen Echo Fire Department is governed by the Conduit Road Fire Board whose representatives are elected by the citizens residing in that community. Finally, Wheaton Rescue Squad draws its board from the members of the squad and from the business community which it serves.

●Chiefs of the fire departments and squads. Six of the 16 fire departments have a paid merit employee as the Chief (Bethesda, Chevy Chase, Glen Echo, Kensington, Silver Spring and Takoma Park). The other ten fire departments and the two rescue squads have volunteer chiefs elected by the membership. In those departments/squads electing the chief, some also elect the officers (example: Rockville), while others permit the Chief to select the subordinate officers (example: Cabin John).

●Paid and volunteer firefighters. Not all the volunteer fire departments have volunteer firefighters. Two fire departments are entirely staffed by officers and firefighters who are paid merit employees of their respective corporations (Bethesda with 115 employees and Chevy Chase with 23). The funds to pay the salaries and other personnel costs for these career employees come from the fire tax. One fire department (Damascus) is staffed totally by volunteers. Of the remaining fifteen fire departments/rescue squads, all but one are staffed with a combination of paid merit employees and volunteers (Kensington Fire Department with 105 authorized paid employees is the largest in this group and Upper Montgomery County Fire Department with seven authorized paid employees is the smallest). The last corporation, Bethesda-Chevy Chase Rescue Squad is unique in that, in addition to a large volunteer complement, the corporation has nine positions which are paid from volunteer funds, and has assigned on a full-time basis one County merit employee who is listed on the personnel complement of the Fire and Rescue Commission.

●Ownership of Stations. Of the 33 fire/rescue stations, only four are owned and titled to the County in that they were funded by the sale of County bonds and repaid with general revenue funds. Ten of the remaining 29 stations are owned by the corporations and were constructed using private volunteer funds. The construction of the two rescue stations was funded with County bonds, but payment on the debt service comes from private volunteer funds. Funding for the construction of the remaining 17 stations was also provided by County bonds; however, payment on the debt service of these stations is appropriated by the Council from public fire tax funds. (The fire tax is discussed in Section VI of the report.)

●Ownership of Apparatus. The titles for all apparatus purchased in whole or in part with any tax funds before July 30, 1980, are retained by the individual fire or rescue corporations. All apparatus purchased with tax funds after July 30, 1980, are titled in the name of the County.

The mission of the eighteen independent fire departments and rescue squads is explicitly stated in the law (Sec. 21-4D). In general, these corporations are authorized to provide fire, rescue and/or emergency medical services within the framework established by law and by the County-wide policies and regulations established by the Fire and Rescue Commission. The specific public safety functions of these corporations include all or some of the following:

- Fire suppression and related activities
- Fire prevention activities under the supervision of DFRS
- Rescue activities
- Emergency medical services

Performance of the above functions is clearly at the option of both the corporations and the County. Sec. 21-4A(a) explicitly states that the delivery of fire, rescue and emergency medical services through local corporations is only "for as long as such corporations are willing and able to provide these services." In the absence of a fire and rescue corporation to deliver services, the law authorizes DFRS to provide the services. Thus, the fire and rescue corporations are not indispensable to the continued delivery of fire and rescue services. However, they are the current means chosen by the County through which such services are provided.

The Fire Board

General. For many years a County Fire Board, composed of one delegate from each fire department and rescue squad, served in an advisory capacity to the County Manager. In 1955, the Council passed a law which, in addition to reaffirming its advisory role, gave the Fire Board authority to conduct studies and evaluations and make recommendations on fire response and performance directly to the County Council. In 1969,

ter the defeat of Council Bill No. 1 by referendum, the Council passed legislation which doubled the number of representatives from each fire and rescue corporation and increased the Fire Board and Executive Committee's responsibilities. The Board, in addition to an advisory function, was given operational and administrative responsibilities to include authority to approve response areas, location and relocation of stations, and set minimum training standards and uniform communication procedures. The Board's role and responsibility remained essentially unchanged for the next decade.

Current duties and authority. When Bill 15/16-79 became effective in July 1980, the authority of the Fire Board was significantly reduced, with most of its duties going to the newly established Fire and Rescue Commission. The Fire Board is still composed of two representatives from each of the 18 fire/rescue corporations. In addition to adopting its own bylaws and establishing committees, its major duties and responsibilities under Sec. 21-4C of the law are as follows:

- Elect annually five of its members to the Fire and Rescue Commission.

- Advise the Fire and Rescue Commission on any matters relating to fire, rescue and emergency medical services.

- Review and comment on any proposal of the Fire and Rescue Commission to adopt policies, rules, regulations, requirements or standards pertaining to fire or rescue services.

- Approve policies and programs of the Fire and Rescue Commission recommended to the Council relating to a code of ethics and personnel conduct.

- As pertains to volunteers: support the maintenance and enhancement of volunteer participation; approve uniform minimum standards for volunteers; and approve policies and programs recommended to the Council relating to volunteer recruitment and retention.

Summary. With the exception of annually electing five of its members to the Fire and Rescue Commission, and approval of policies and programs relating to a code of ethics and volunteers, the Fire Board under Bill 15/16-79, essentially reverted to its pre-1955 advisory role.

The Fire and Rescue Commission

General. Enactment of Bill 15/16-79 resulted in the rejection of major proposals in the County Executive's Bill 16-79. His proposed legislation would have established a County Fire and Rescue Services Department, made all paid personnel employed by the corporations County merit system employees, and vested all authority for fire and rescue related policy, planning and operations in a County Fire Chief. The Council, however, did not reject all the proposals in Bill 16-79. The new law affirms the Council's belief that ultimate responsibility for fire, rescue and emergency medical services rests with the County government and the delivery of those services would be achieved with a combined system of

public and private resources. The Council included one of the proposals of Bill 16-79, a Fire and Rescue Commission; however, the Council empowered that Commission with more than the advisory role proposed in Bill 16-79. Under the legislation, the Fire and Rescue Commission is responsible for the policy and regulatory framework to support the independent local fire and rescue corporations.

Composition of the Commission. The Fire and Rescue Commission is composed of seven members:

- Five of the members are elected annually by the Fire Board from its membership and are subject to confirmation by the Council.

- The remaining two members are appointed by the County Executive from the general public for two-year terms and are also subject to confirmation by the Council.

Election of the five representatives of the local corporations is in accordance with the law and Fire Board bylaws and provides for representation from various County localities and one at large. Also, at least one of the five members must be a representative of a rescue squad. The Commission elects annually a chairperson who currently receives an annual compensation of \$10,000. The remaining six Commission members receive compensation of \$8,000 annually. In addition, all Commission members receive reimbursement for expenses up to \$1,500 per year.

Staff support for the Commission. The legislation authorizes the Commission its own staff, independent of the Department of Fire and Rescue Services. The staff also serves the Fire Board. The staff complement totals six, one of whom is the Executive Secretary and another is a firefighter/paramedic who is permanently assigned to the Bethesda-Chevy Chase Rescue Squad.

Most suspense dates in the legislation for Commission action were to be computed from the date initial staff support is assigned. That date was November 9, 1981.

Overall responsibility and authority. The legislation gives the Fire and Rescue Commission overall responsibility for developing effective, efficient and equitable fire and rescue services County-wide by providing the policy and regulatory framework for all fire, rescue and medical services. The law clearly states that the Fire and Rescue Commission derives its authority to provide policy and regulatory framework for the independent fire departments and rescue squads from the County government and acts on behalf of the County.

Specific duties and responsibilities. The Fire and Rescue Commission is charged with:

- Advising the County Executive and County Council on any matters relating to fire, rescue and emergency medical services;

- Adopting County-wide policies, standards, procedures, plans, regulations and programs applicable to all fire, rescue and emergency medical service operations;

●Establishing communications and dispatch procedures for emergency operations centers;

●Establishing guidelines for curriculum and programs of the Public Service Training Academy; and

●Meeting periodically with the Executive/CAO.

Enumerated in the law are specific requirements to be completed by the Fire and Rescue Commission within specific time requirements. Each time requirement is computed from the date of assignment of initial staff to the Commission. That date was November 9, 1981. In addition, the specific requirement to develop purchasing and contracting procedures was assigned a completion date of July 1, 1981. There are also several requirements which are not assigned any suspense date. In this latter group are actions relating to personnel administration for volunteers.

Failure to accomplish the specific task within a specified time period ^{would} result in the requirement being assigned to another agency. At EXHIBIT C is a chart enumerating the specific statutory requirements of the Fire and Rescue Commission, the date the action was to be completed as computed from the date the Commission's initial staff was assigned (November 1981); and the agency to be responsible for accomplishing the action should the Commission fail to act within the statutory time requirements. The law does authorize the County Executive to grant extensions to the time requirement upon the request of the Commission.

Oversight and enforcement. The new legislation provided for oversight of fire and rescue activities and for enforcement of Commission adopted policies and procedures. Various sections of the law direct or authorize the County Executive, the County Council and/or the Commission to conduct oversight activities. However, enforcement is limited to the Executive and the Council.

Sec. 21-4B(k) explicitly states that policies and regulations adopted by the Commission are binding. To determine whether its policies and regulations are being followed, the Commission is given oversight powers in two areas: general performance and personnel administration. Sec. 21-4B(k) further directs all fire and rescue corporations to furnish the Commission whatever information it requests on operations, administration, volunteer participation or any other aspect of fire and rescue services. In Sec. 21-4L, the Commission is authorized to conduct performance audits of any corporation supported in whole or in part with tax funds for the purpose of making budget, management or legislative recommendations. In addition, the Commission can request the County Executive to authorize the County Attorney to take legal action to assist the Commission in enforcing its policies and regulations.

Finally, should the Fire and Rescue Commission find that a corporation has seriously failed to comply with its policies or other matters it adopted, the law authorizes the Commission to request the County Executive to approve such a finding and impound all tax funds designated for that corporation.

The Department of Fire and Rescue Services

General. In 1973, the County Council enacted Bill 25-72, which created a Department of Fire and Rescue Services (DFRS). The Director, DFRS, was given responsibility for all functions pertaining to fire prevention (including the activities of the Fire Marshall), operation of the fire and rescue communications alert and dispatch system, and training of fire and rescue services personnel. In addition, the Director was to serve as the Executive Secretary to the Fire Board. With the enactment of Bill 15/16-79, the overall functions of the DFRS were increased; however, the Director ceased to function as the Executive Secretary to the Fire Board. The current major functions and responsibilities of DFRS as enumerated in Section 2-39A and Chapter 21 of the Code are as follows:

•Administer all laws pertaining to fire prevention. This includes enforcing the fire safety code, investigating causes and origins of fires, reviewing building plans, inspecting buildings, and conducting fire safety education programs. These are traditional functions of the Fire Marshall. However, it should be noted that the Fire Marshall's duties do not include evaluating the tactics and performance of individuals or units engaged in fire suppression or rescue operations.

•Communications. Operate all fire, rescue and emergency medical services communications equipment in the Emergency Operating Center (EOC), utilizing procedures developed by the Fire and Rescue Commission. All communications equipment used by every organization and person involved in fire and rescue services, to include corporations who do not receive direct tax support, is the property of the County government and is purchased, maintained and replaced by the County. Communications equipment loaned to corporations includes personal pagers, mobile and vehicle radios, the microwave system, battery chargers, and all essential hook-ups and periphery equipment. The inventory cost (maintenance and replacement) of this equipment for calendar year 1984 was in excess of \$1.3 million.

•Training: Under guidelines developed by the Commission, DFRS is responsible for developing and conducting all course curricula and programs relating to fire, rescue and emergency medical services. Training by DFRS has been almost exclusively individual classroom type training at the Public Service Training Academy and some refresher training in the stations.

•Apparatus and facilities. In accordance with a Commission approved Master Plan and specifications, DFRS is responsible for acquiring and assigning all apparatus and facilities purchased in whole or in part with County government revenues.

•Support for the Fire & Rescue Commission and Fire Board. The Director, DFRS is responsible for providing coordination with and assistance to the Fire and Rescue Commission, and support to the Fire Board.

●Act for the Fire and Rescue Commission. Where the Commission has not acted within a specific statutory time requirement, the Director, DFRS is required to take action. Examples include: develop an integrated emergency command structure, designate response areas, and adopt training requirements and certification procedures.

●Assumption of Command. When directed by the County Executive, assume operational and administrative command of a corporation under Section 21-4K of the Code.

●Emergency Medical Services (EMS). Under policies and procedures established by the Commission, the Director must coordinate and conduct EMS training programs leading to certification of emergency medical technicians and paramedics, oversee the medical aspects of the EMS program, and oversee all emergency medical services for quality assurance under protocols established by the Montgomery County Medical Society. However, DFRS normally is not involved in any EMS field operations.

●Field Operations. When assigned by the County Executive, conduct fire suppression, rescue and emergency medical services which are not being performed by the corporations.

●Emergency Management Training. Under the CAO, the Director coordinates the preparation and implementation of emergency and disaster plans.

4. Operations of the Fire and Rescue Services

General. It is not within the scope of this report to evaluate the conduct of field operations by the independent fire departments and rescue squads. However, a brief discussion on the current operational procedures of the participants in fire and rescue services is necessary to understand the complexity and magnitude of this public safety service which costs the taxpayers almost \$40 million annually, plus a cost in volunteer time and funds known only to each individual corporation.

Alert notification and dispatch. Except for an occasional direct call to a fire or rescue station, almost all calls for assistance are made through the 911 Emergency System to the Emergency Operations Center (EOC) located in an underground facility in the Stella B. Werner Council Office Building. The facility consists of separate Police and Fire/Rescue communications and operations areas. Each call over the 911 system initially comes into the Police Communications Center where a police calltaker determines what type assistance is needed (police, fire or ambulance). Calls for fire and ambulance (medical) assistance are immediately transferred to the Fire/Rescue EOC where a firefighter/dispatcher receives the call, ascertains the nature and location of the incident, a call-back number and name of the calling party. The incident location is then looked up in a file which identifies the location of the incident in relation to a "phantom box" number. The phantom box is a throwback to an earlier time before telephones were available when fires were reported by means of a fire alarm box. The County is currently subdivided into 483 specifically defined geographical box areas which are used as reference points.

Once the box location of the incident is located, the appropriate box card is pulled to identify the first due units (pumper, ladder truck, rescue squad vehicle, ambulance or MICU) which are to be dispatched according to the type incident (house fire, brush fire, rescue, medical emergency, etc.). The first due unit is the one closest to the incident as determined by actual road mileage from the unit's station. At EXHIBIT D is a map showing the location of the fire and rescue stations. Should the incident require additional apparatus, additional units are sent according to a predetermined priority as recorded on the box card.

After the firefighter/dispatcher determines the first due units, a check is made on a screen which displays the operational status of each major piece of apparatus and an actual voice and/or tone notification is sent to the appropriate unit(s).

This point in the alert notification procedure is the first time one becomes aware of the operational impact of a fire and rescue system composed of 18 independent local corporations. Many communication aspects of the alert notification process are standardized, such as radio frequencies, voice procedures, standard abbreviations and phraseology, and category of alarm (house fire, vehicle fire, hot wires down, brush or grass fire, etc.). However, there is one significant area where standardization is lacking. Each of the chiefs of the 18 independent corporations has designated their own set of procedures by which the firefighter/dispatcher in the EOC will notify them, activate the various alarm levels and codes and specify response assignments (type and number of apparatus). These individual communications and dispatch procedures are not in accordance with the legislative requirement for the Commission to establish comprehensive and consistent procedures (Sec. 21-4H). The delay that is introduced into the EOC, no matter how brief, to alert the various corporations in accordance with individual procedures is magnified when an alert requires notifying one or more corporations for the same emergency. It is not unusual when responding to a fire alarm, especially at night, that apparatus must be dispatched from more than one station and from more than one corporation because of manning and apparatus availability.

Notifying the station(s). The station(s) is alerted by a vocal announcement and/or sounding of selective calling tones. The station(s) orally acknowledge receipt of the alert. Should any unit fail to respond, that is, fail to be enroute to the incident within five minutes, the EOC dispatches the next due unit as indicated on the alert notification cards.

Response Time. When discussing response time, an understanding of the following five time segments is important:

First: The time required for the incident to be discovered (fire, accident, etc.) and reported to the EOC. The fire and rescue services have no control over this segment of time.

- Second: The EOC, processes it and notifies the appropriate station(s). Currently, the EOC does not have equipment to precisely measure this time, but it is estimated to average between 30 and 90 seconds.
- Third: The time from the moment the station(s) is alerted until the first fire/rescue apparatus "rolls out" and proceeds to the incident. This segment of time is the only one cited in current communications policies and procedures (see below).
- Fourth: The time for the fire/rescue apparatus to travel to the scene of the incident. This segment is affected by road and weather conditions, time of day and station location.
- Fifth: The time to set up at the scene before actually suppressing the fire or performing the rescue operations. This time is a major factor in the case of fires in high rise buildings or Metro locations where time is needed to reach the actual scene of the fire.

The Fire and Rescue Commission has not issued a definition of response time. However, a review of the Commission approved Communications Policies and Procedures Manual discusses "response time" in the context of failing to complete the third segment in five minutes. Specifically, the policy as stated in the Communications Manual is that a unit initially alerted is allowed five minutes to respond before another unit is dispatched. The policy does not include any rationale behind this five minute response period; however, most who were interviewed opined that it was probably too long, but was needed to allow time for volunteers to respond to the alert.

Response areas. Each fire station has a specifically designated geographical response area, referred to operationally as "first due area." At EXHIBIT E is a map of the current response areas in the County. Originally, all response areas coincided with fire tax areas. In the case of Damascus, Upper Montgomery County, Rockville and Kensington, their areas still coincide with the fire tax districts of Damascus, Upper Montgomery County, Rockville and Kensington. The response areas of the other 12 fire departments are areas located within the Consolidated Fire Tax District. (The tax districts are discussed in Sec. VI of this report.)

Operations at the incident scene. Operations at the incident scene vary according to the type of incident and the specific corporation responding to the incident. Each corporation has its own individual operating procedures for actions at the fire (commonly referred to as "fire ground operations") or the rescue scene. Although all career and volunteer firefighters are required to complete the same individual training courses in basic firefighting and EMS operations at the Public Service Training Academy, the in-service training (also referred to as unit drills) which is conducted at the individual stations is in accordance with each department's operating procedures. Thus, for any

incident where units from more than one corporation is involved, there is a potential for confusion and delay because of inconsistent standard operating procedures among the departments. Also, it should be noted that a significant number of fire incidents involve units from more than one department responding to the first alarm; and units from two or more departments almost always respond to multi-alarm incidents.

A documented example of problems that can result when more than one department, each operating according to its own procedures, respond to a multi-alarm fire can be found in an inquiry board report on a fire in January 1979. The report noted the lack of an overall strategy to contain the fire which adversely affected the organization of assignments and the control of operations.

Command of operations at the incident scene. Current policy clearly gives command of operations at the incident scene to the responding department in whose geographical first response area the incident occurs. However, the policy is not so clear when the response involves units from more than one department. First, there is the situation where officers at an incident are of different rank (an assistant chief or captain from one department and a sergeant or lieutenant from the first due department). Second, there is the situation where an officer is a career employee and another officer at the scene is a volunteer officer. The drafters of Bill 15/16-79 recognized potential problems and confusion in this area and specifically charged the Fire and Rescue Commission to adopt an integrated emergency command structure, applicable to all corporations, to all fire and rescue service personnel (volunteer and career), and to all emergency incidents (Sec. 21-4E).

In August 1982, the Fire and Rescue Commission published AP 13-2, Integrated Chain-of-Command Structure. The procedure defines the rank-related chain-of-command during emergency incidents involving only officers from the first due corporation (that is, the department responsible for the geographical area in which the incident occurs). The AP further provides that chiefs of the various departments may, at their discretion, "work together" to establish command responsibilities at the incident scene. However, the AP does not set a firm policy as to the chain-of-command at the incident scene when more than one department is involved, and where the senior officer (career or volunteer) from the first due department is subordinate to the chief or officer (career or volunteer) from another department. The current policy leaves it up to the officer from the first due department in whose area the incident occurs to "exercise judgment relative to retaining command" upon the arrival of a superior officer from another department. This discretionary policy ignores levels of rank and authority and appears to fall short of an integrated emergency command structure.

Referring again to the report of a board of inquiry investigating a January 1979 fire which involved more than one department, a finding was made that command at the fire was too loosely organized to be effective, and that the chain-of-command was never clearly established or maintained.

Number of incidents. In FY 83 and in FY 84, the number of emergency calls received in the Fire/Rescue EOC in each twelve month

riod was approximately 82,000. Of this number, approximately 31,000 or 38% were fire related and 51,000 or 62% were EMS/rescue related. Of the 51,000 calls for EMS/rescue related incidents, approximately 25,000 were for an ambulance and 7,200 were critical care calls, that is, incidents requiring advanced life support equipment and/or the services of a paramedic. The remainder of the calls were for rescue related incidents.

Fire and emergency medical incident reports. For every fire incident, the first due unit responding submits an incident report which reports the location of the fire; information on the origin, type and spread of the fire; unit and personnel information (paid and volunteer); and information pertaining to the apparatus and equipment used.

For every EMS/rescue incident there is a corresponding report which records similar information on location, responding personnel (again, broken down between paid and volunteer) and the type apparatus. These incident reports also record information on the condition of the patient and the treatment administered.

A unit other than the first due which responds to a fire incident also submits an incident report on personnel, apparatus and equipment involved in the incident. Finally, the Communications Section in the Fire/Rescue EOC complete an incident report which records their activities for each incident.

The above incident reports record most of the pertinent data concerning the time and nature of incident and the personnel, apparatus and the equipment responding, and, in the case of EMS/rescue, the condition of the patient and treatment administered. What is not recorded in these after-action reports is any information on the tactics and strategy used at the incident scene, especially fire ground operations at a fire incident. The recording of such information is not required by either the Fire and Rescue Commission or the Department of Fire and Rescue Services. Individual fire corporations may be collecting such information, but it is not made available to the Commission or DFRS on a routine basis.

V. PERSONNEL ADMINISTRATION, TRAINING AND CODE OF CONDUCT

1. General. The legislation directs the Fire & Rescue Commission to accomplish several specific personnel related functions, to include: arranging with the County government to provide a number of personnel services, developing personnel regulations for career employees, developing programs to recruit and retain volunteers, and to recommend to the Council a benefits program for volunteers.

2. Career employees of the Fire & Rescue Corporations not County employees. The new legislation emphasized that paid employees of the local corporations were not County employees. The question of whether fire and rescue employees paid with tax funds were County employees had been the subject of a long court case which in 1978 decided that paid employees of the independent fire and rescue corporations were employees of the local corporations. (As noted earlier in this report, the

legislation does not define career, but makes many references to "career personnel", "career employees of corporations" and "career personnel employed by the local corporations and paid with tax funds." Also, the personnel regulations adopted by the Commission do not use the term "career," when referring to employees of the independent fire and rescue corporations as "fire and rescue service merit system employees").

3. Personnel Services to be provided by the County. Section 21-4M of the legislation directs the Commission to arrange with the County to provide the following personnel services for career employees of the local corporations who are paid with tax funds:

- Uniform administration and application of personnel regulations and policies. The Chief Administrative Officer is specifically assigned responsibility for uniformly administering and applying personnel regulations adopted by the Commission.

- Consistent administration and application of a uniform pay plan and benefits program. The benefit program is to be "substantially equivalent" to that of the County government.

- Use of the County's payroll system for disbursement of salaries, wages and fringe benefits.

- Review of all personnel transactions for consistency with applicable personnel regulations. However, the Commission itself was specifically responsible for establishing procedures by which personnel data would be provided by the corporations, designating what data would be provided, and correcting inconsistent personnel actions (Sec. 21-4M(c)).

- Use of the Merit System Protection Board.

4. Personnel Regulations. In April 1981, the Commission adopted a set of personnel regulations for fire and rescue service merit employees of the independent fire and rescue corporations, popularly referred to as the "Yellow Book." These regulations closely parallel the Personnel Regulations for County government merit system employees.

5. Personnel Administration for Volunteers. The legislation also assigned the Fire and Rescue Commission responsibilities relating to volunteers. In each instance, the law requires approval for each action by the Fire Board. Commission responsibilities relating to personnel administration for volunteers include:

- Preparing and adopting uniform minimum standards governing all volunteer members of the corporations.

- Recommending a benefits program to provide financial protection to the volunteer's family in the event of disability or death in the line of duty, to recognize the contributions of volunteers, and to induce volunteer participation.

- Developing policies and programs to recruit and retain volunteers.

6. Training. Another major issue the law addresses concerns training requirements and certification standards for paid employees and volunteers. Specifically, the Commission was directed to adopt within 15 months after assignment of initial staff the following actions:

- Uniform certification standards and procedures and uniform minimum training requirements to be met by volunteer and career fire and rescue personnel engaged in similar duties.

- Uniform standards and procedures and minimum training requirements to be met for eligibility to the officer ranks by volunteers and career personnel engaged in similar duties.

The legislation provided that the adopted training standards and requirements would apply immediately to all new fire, rescue and emergency medical services personnel; and, for existing personnel, would be subject to time schedules promulgated in regulations proposed by the Commission, adopted by the Executive and approved by the County Council.

In July 1984, the Commission published minimum training standards which it had earlier adopted and made effective on May 16, 1984. As of this writing, the Commission is reissuing the minimum standards and a time schedule as Executive Regulations under procedures outlined in Sec. 2A-15.

7. Code of ethics and personal conduct. Sec. 21-4P of the legislation directs the Commission to adopt a code of ethics and a code of on-duty personal conduct for career and volunteer personnel. As of this date the Commission has not taken action in this area.

The same section of the law also requires members of the Fire Board and the Commission to file confidential financial disclosure statements with the County in accordance with Sec. 19A-12 of the Code. A review of the financial disclosure statements on file with the Ethics Commission indicates that several members of the Board and Commission currently have not submitted the required statements; some have never submitted one.

VI. FISCAL MATTERS

1. General. Sixteen of the 18 fire and rescue corporations receive direct public tax support in the form of annual appropriations. All 18 corporations receive additional indirect public support in the form of County-provided equipment and administrative and tactical support services. The source of the public funds is the fire tax which is levied on all real and personal property in the various fire tax districts, assessed at a rate established annually by the Council for each \$100 of assessed value of the property. That portion of the Council approved appropriation which is for the purchase of apparatus and for salaries is retained by the County for such purposes. The remainder is distributed by the County to the treasurer of each corporation in monthly installments. The corporations are authorized to expend the public funds for operations, supplies, maintenance and equipment.

2. Budget Process. Each of the 16 fire departments and rescue squads who receive tax funds submit an annual budget to the Fire and

Rescue Commission. At the same time, the Commission prepares a separate budget for itself and the Fire Board, which must be approved by the Board. At the same time, the Department of Fire and Rescue Services prepares and submits its budget as a separate Executive branch department.

The Commission then submits the budgets of the corporations together with its own and the Board's budget to the Executive with recommendations. In addition, the Commission includes recommendations on the DFRS budget. The County Executive in turn submits a recommended budget to the Council for action. Final Council approval is reflected in the form of appropriations resolutions. The source of funds for the Commission/Fire Board and the Department of Fire and Rescue Services is the General Fund; for the fire and rescue corporations, the source of funds is the Fire Tax.

3. Fire Tax. The Council annually sets the tax rate for each fire tax district which is assessed on all real and personal property assessed for County tax purposes. The tax districts are divided into two classes: Consolidated and Individual. The Consolidated tax district is composed of 12 former individual fire tax areas. The remaining four fire departments (Rockville, Kensington, Upper Montgomery County and Damascus) constitute individual fire tax districts. At EXHIBIT F is a map showing the fire tax districts. Departments may retain their individual tax district until such time a tax rate equal to or exceeding 26¢ per \$100 assessed valuation is required. At that point, the department is included in the Consolidated Tax District.

At EXHIBIT G is an extract from the FY 84 Comprehensive Annual Financial Report reflecting the tax rates and tax levies for the period FY 75 through FY 84. Because the Damascus Fire Department receives no direct tax funds, the Damascus Fire Area has no tax levy. Also, the two rescue squads do not serve a single fire tax area. Bethesda-Chevy Chase Rescue Squad serves Bethesda and Chevy Chase, but receives no fire tax funds; Wheaton Rescue serves Kensington and a portion of the Consolidated fire area, and receives funds from those two tax districts on the basis of 70% from Kensington tax district and 30% from the Consolidated tax district.

4. Budget expenditures. The total cost for fire and rescue services is not known. Funding comes from both public and private sources. The amount of public tax funds expended for fire and rescue services is recorded. However, only the independent corporations know the amount of private funds expended. As stated earlier, two corporations (Damascus and Bethesda-Chevy Chase) operate almost exclusively with private funds; two fire departments (Bethesda and Chevy Chase) operate exclusively with public fire tax funds; and the remaining 14 corporations use a combination of private and public funding.

Public funds are appropriated annually in several accounts from two sources:

• 16 fire departments/rescue squads - Consolidated and Individual Fire Tax District Funds.

●Department of Fire and Rescue Services and the Fire and Rescue Commission/Fire Board - General Fund.

In addition, public funds are expended by other agencies in supporting fire and rescue services. Examples include:

●Administrative overhead support - budget preparation, processing financial operations (payroll), personnel and legal services.

●Operational support - communications equipment and maintenance.

●Logistics - free water and sewage.

●Benefits - LOSAP, workman's compensation.

The total appropriated budgets for the three major organizations directly involved in fire and rescue services exceeds \$40 million in the FY 86 appropriation. The actual and budgeted expenditures for the most recent fiscal years are outlined in the table below.

Fire Department and Rescue Squad
Expenditures (Actual and Budgeted)
FY 1983 - 1986

(Source: OMB, April 1985)

<u>Account</u>	<u>FY 83</u> <u>(Actual)</u>	<u>FY 84</u> <u>(Actual)</u>	<u>FY 85</u> <u>(Budget)</u>	<u>FY 86</u> <u>(Budget)</u>
DFRS	\$ 2,579,899	\$ 3,661,941	\$ 3,608,610	\$ 3,910,620
F/R Comm.	240,137	258,701	325,150	391,400
Fire Dept/ Rescue Squad	29,135,048	30,702,518	32,599,380	35,657,860
Tot. - Oper.	\$31,955,084	\$34,623,160	\$36,533,140	\$39,959,880
Budget (incl Debt Service)				
Cap. Projects	977,273	2,545,892	1,919,000	2,576,000
TOTAL	\$32,932,357	\$37,169,052	\$38,452,140	\$42,535,880

The value of the indirect support services is not readily available. For instance, most special funds are assessed a charge to cover the cost for all general overhead services provided those agencies. However, no indirect costs are assessed the fire/rescue corporations. As stated earlier, all communications equipment and services are provided by the County, even to the two corporations who do not receive direct tax support. The Department of Facilities and Services estimates the total FY 84 inventory (replacement costs) and maintenance service costs for communications and electronics equipment provided the fire and rescue organizations was \$1,348,000 (inventory - \$1,157,000 and maintenance - \$191,000).

Outlined in the table below are the expenditures by the 15 fire departments and one rescue squad which receive direct tax support compared to total County expenditures for the period FY 1973 through FY 1983.

Fire Department and Rescue Squad Expenditures Compared
to Total County Expenditures/Per Capita FY 1973-1983
(Source: Council Staff Reports)

EXPENDITURES COMPARED TO TOTAL COUNTY
(Millions \$\$)

	<u>TOTAL EXPENDITURES</u>		<u>FIRE DEPTS.</u>		<u>ALL OTHER EXPENDITURES</u>	
	<u>Actual \$</u>	<u>FY 83 \$</u>	<u>Actual \$</u>	<u>FY 83 \$</u>	<u>Actual \$</u>	<u>FY 83 \$</u>
FY 1973	\$304.6	\$676.5	\$ 9.0	\$20.0	\$295.6	\$656.5
FY 1983	\$738.5	\$738.5	\$29.9	\$29.9	\$708.6	\$708.6
% Increase	<u>142%</u>	<u>9.2</u>	<u>232%</u>	<u>50%</u>	<u>140%</u>	<u>8%</u>

PER CAPITA EXPENDITURES
(Population: FY 73 - 561,100; FY 83 - 590,500)

	<u>TOTAL EXPENDITURES</u>		<u>FIRE DEPTS.</u>		<u>ALL OTHER EXPENDITURES</u>	
	<u>Actual \$</u>	<u>FY 83 \$</u>	<u>Actual \$</u>	<u>FY 83 \$</u>	<u>Actual \$</u>	<u>FY 83 \$</u>
FY 1973	\$ 543	\$1,206	\$ 16	\$ 36	\$ 527	\$1,170
FY 1983	\$1,251	\$1,251	\$ 51	\$ 51	\$1,200	\$1,200
% Increase	<u>+130%</u>	<u>+3.8%</u>	<u>+219%</u>	<u>+42%</u>	<u>+128%</u>	<u>+2.6%</u>

The above table demonstrates that expenditures for fire departments and rescue squads in the ten year period ending in June 1983 have increased substantially more than expenditures for all other County government departments/agencies.

5. Purchasing and contracting. Bill 15/16-79 directs the Commission to establish procedures governing purchasing and contracting by those corporations which are financed in whole or in part with tax funds. The legislation also authorizes the Commission to direct joint or centralized purchasing and contracting. This authority to standardize purchasing and contracting procedures was a major change to the then existing legislation which permitted each corporation to establish a fiscal policy and purchasing system for the expenditure of tax monies received from the County.

In June 1981, the Commission adopted a procedure for contracting and purchasing, Administrative Procedure No. 6-1. The AP stipulates that expendable supplies and firefighting and rescue supplies and equipment

niforms, protective clothing, housekeeping, etc.) are to be purchased through contracts negotiated by the Commission's Central Purchasing Committee. Likewise, this same Committee has responsibility for ordering, and charging independent corporations for standardized capital supplies (furniture, appliances, office equipment, brass goods, hose, etc.). Under the AP, each independent corporation retains authority to purchase or contract for non-standard capital supplies and services.

Elsewhere in the Code (Sec. 2-39A(4)), the Director, DFRS is assigned responsibility for the purchase of apparatus and facilities under plans and guidelines developed by the Commission. Local corporations may add to the design and specifications of apparatus provided volunteer funds are used for any additional costs resulting from each addition.

VII. ACCOUNTABILITY, OVERSIGHT AND ENFORCEMENT

1. General. The Fire and Rescue Commission's oversight and enforcement authority was discussed in Section IV of this report. This section presents the overall requirements for accountability, oversight and enforcement by all organizations involved in fire and rescue activities.

Bill 15/16-79 provides the Fire and Rescue Commission with audit and oversight authority, and the Executive and Council with the power to conduct their own audit and oversight activities. This explicit assignment to the Executive and Council is in addition to their inherent responsibility to exercise oversight and fiscal control over all programs financed in whole or in part with County public funds.

2. Audit and oversight. In the statement of legislative intent, Section 21-4A, the Council emphasized that the fire and rescue services program should reflect "maximum cost-effective performance of these services; [and] adequate accountability for service levels and resource use." Within the body of the legislation are the following references to audit and oversight activities to determine that the operational, management and fiscal objectives of the program are being met:

•Performance audits. The County Council, County Executive and the Fire and Rescue Commission, or their designees, are authorized to conduct performance audits of any corporation supported in whole or in part with tax funds (Sec. 21-4L).

•External audit. Financial transactions relative to fire tax funds are included in the annual independent post-audit contracted by the County Council (Sec. 21-4S(d)).

•Audit of LOSAP records. The Director of Finance and the Commission are authorized to audit records of volunteer participation in the length of service award program (Sec. 21-3(d)).

•Fire/Rescue agencies' budget review and approval. The County Executive submits recommendations to the Council for approval. Appropriations are made conditional upon the local corporations being subject to and complying with the provisions of the law (Sec. 21-4Q(d)).

●Financial disclosure statements. All members of the Fire Board and the Commission are required to submit annual confidential financial disclosure statements (Sec. 21-4P(c) and Sec. 19A-12(b)).

●Treasurer's bond. Each corporation must provide a corporate bond to the County for approval by the Director of Finance in an amount specified by the Director (Sec. 21-4S(c)).

●Improving effectiveness and efficiency. The Council may request evidence from all organizations and participants comprising the fire and rescue services of annual improvement in their effectiveness and efficiency (Sec. 21-4A(b)(1)).

●County Executive meet with the Commission. The law directs that the County Executive and/or CAO meet with the Commission periodically to discuss matters under the Commission's jurisdiction (Sec. 21-4B(h)).

●Corporations provide information to the Commission. The Commission may request from the corporations information on operations, administration, volunteer participation or other aspects of the fire and rescue services to ensure compliance with its policies and regulations. At the request of the Commission and the approval of the Executive, the County Attorney is authorized to take legal action to assist the Commission in enforcing the Commission's policies and regulations (Sec. 21-4B(k)),

●Review and approval of Commission adopted policies, plans, regulations and standards. Throughout the law there are specific requirements for various agencies to review, comment and/or approve Commission actions. These requirements include:

●●personnel regulations--CAO and Fire Board review and comment on amendments, and, should there be an objection, approval of the Council is required;

●●personal transactions--personnel office review for consistency with applicable regulations;

●●integrated emergency command structure--DFRS and Fire Board must comment;

●●integrated chain-of-command--CAO must eventually approve;

●●communications and dispatch procedures--DFRS and Fire Board must be consulted;

●●Master Defense Plan--after a public hearing, Executive comments and Council approves;

●●long-or short-term transfer of apparatus--CAO must approve;

●minimum training requirements--Fire Board must review
1 DFRS must be consulted; and

●code of ethics and personal conduct--Fire Board must
approve and the Ethics Commission and DFRS must be consulted.

●Finding by the Commission that a corporation has seriously
failed to comply with Commission policies. The Commission may make a
finding that a corporation has seriously failed to comply with its adopted
policies. Upon such a finding, the County Executive can impound all tax
funds designated for that particular corporation. Should the Commission
be unable to make a finding of non-compliance and the County Executive
determines the facts warrant such a finding, the matter is referred to the
Council who may make such a finding (Sec. 21-4Bk(3)).

●Assumption of command by County government. Upon a finding
by the County Executive of a public emergency due to the inability or
unwillingness of a corporation supported in whole or in part by tax funds
to provide fire or rescue services, the County Executive, or a designee,
is authorized to assume operational and administrative command of that
corporation (21-4K).

In the following sections of this report, an evaluation will be
presented on how each of the agencies involved in fire and rescue services
have complied with the intent and provisions of the Code concerning
accountability, oversight and enforcement.

PART B EVALUATION

VIII. EVALUATION OF THE LEGISLATION

1. General. So far this report has described the organization and
operation of the fire and rescue services and examined the specific
provisions of the comprehensive fire and rescue services legislation (Bill
15/16-79). This section of the report evaluates each of the five major
goals of the legislation, concentrating on the relationship of each goal
to the organizations and participants which make up the fire and rescue
services and their responsibilities to contribute to the achievement of
those goals.

2. Major organizations and components. As a review, the major
organizations and participants of the fire and rescue services include:

●Eighteen independent fire and rescue corporations.
Responsible for providing direct delivery of fire, rescue and emergency
medical services using volunteer, paid or a combination of volunteer and
paid personnel, under authority delegated by the Council and subject to
County-wide policies and regulations established by a Fire and Rescue
Commission.

●Seven member Fire and Rescue Commission. Responsible
r developing effective; efficient and equitable fire and rescue services
County-wide by adopting policies, standards, procedures, plans and
programs applicable to all fire and rescue service operations.

•Thirty-six member Fire Board. A non-governmental entity representing the 18 independent corporations whose major functions are to elect five of the Commissioners from its membership, approve specific Commission policies and programs, and advise the Commission on fire and rescue policy.

•Department of Fire and Rescue Services. Responsible for providing support services, mainly fire prevention, communications and training to the Commission and corporations; and, at the direction of the County Executive, assuming operational and administrative command of a corporation.

•Other Executive branch agencies. Responsible for providing the following administrative and technical support services, to the Commission and the corporations: executive management, legal, personnel, budgetary, payroll and facilities and communications maintenance.

•County Council. Responsible for providing fiscal and performance auditing and legislative oversight.

3. Goals. In this section of the report, the following five major goals enumerated in the fire and rescue legislation are examined and an evaluation is presented as to the degree each goal has been achieved:

- #1: Maximum protection of life and property
- #2: Maximum volunteer participation
- #3: Optimum personnel practices
- #4: Adequate accountability
- #5: Improved operations and administration

Goal #1: Maximum Protection of Life and Property

Definition. The law includes in this goal the provision of "maximum cost effective, equitable and responsive services to all County citizens, including adequate maximum response times, effective fire and rescue incident supervision, adequate manning, effective distribution of personnel and apparatus and timely adaptation to changing service needs." The legislation continues by charging that: "All participants comprising fire, rescue and emergency medical services share the responsibility for improving their effectiveness and efficiency every year." (Sec. 21-4A(b)(1)).

Overall observation. This evaluation is unable to objectively determine with any degree of assurance whether the citizens of Montgomery County are receiving maximum protection of life and property because the information and data necessary to evaluate the effectiveness and efficiency of operations are not being collected and analyzed.

Discussion. The legislation assigns to the Fire and Rescue Commission the responsibility for developing effective, efficient and equitable fire and rescue services County-wide; and for providing the policy and regulatory framework for all such fire and rescue services. The law then proceeds to assign specific duties and requirements to the

(mission to carry out the above broad responsibilities. Some of those specific duties and requirements have been either fully or partially accomplished (for example, developing personnel regulations for merit employees, establishing response areas for all corporations, adopting purchasing and contracting procedures); however, many other requirements have not been accomplished. In this later category are many of those actions and requirements which the Commission must fulfill to be able to evaluate whether the goal of providing maximum protection of life and property is being accomplished.

The Commission has not initiated any program whereby data to measure the efficiency, effectiveness and cost effectiveness of fire and rescue services is systematically collected. The Commission does not collect or analyze information on fire losses, fire saves, failure to respond, out-of-service apparatus (especially out-of-service due to personnel shortages), qualifications and training of command personnel and firefighters, percentage of career and volunteer response to incidents, or adequacy of unit (in service) training. Likewise the Commission does not review operational procedures of the independent corporations nor critique the operational performance of units after an incident. The consequence is that the Commission is unable to empirically prove whether the citizens are receiving maximum protection of life and property.

In the opinion of many persons interviewed, several of the sub-goals, also have not been accomplished.

●Response times. One sub-goal is to provide for "adequate maximum* response time." The Fire and Rescue Commission has not published any response times, either maximum or minimum. The only reference to one segment of response, namely the time between alert notification/dispatch and actually beginning to travel to the incident is found in the Communications Manual. In Section 11.5 there is a provision that in the event any unit fails to respond within five minutes after being dispatched, the next due unit will be dispatched. This, in essence, allows a "maximum" of five minutes. In the almost unanimous opinion of those interviewed, five minutes is too long, and certainly not "adequate." However, those interviewed were likewise almost unanimous in their opinion that the actual response time is usually much less than five minutes.

●Effective incident supervision. Another sub-goal, to achieve "effective fire and rescue incident supervision," is also subject to debate. At the heart of this sub-goal is the requirement in the law (Sec. 21-4E) that the Fire and Rescue Commission adopt an integrated emergency command structure, applicable to all corporations and all personnel both volunteer and career. The Commission adopted and published a command structure and published Administrative Procedure 13-2, in November 1, 1982.

*The use of the term maximum is either a serious error in the law or, at best, confusing. Response times are usually referred to as a "minimum," meaning the least amount of time permitted to accomplish a given act or sequence. For example, "All apparatus must be fully manned and proceeding to the scene of the incident within one minute after notification."

Many who were interviewed concede that the AP does delineate a command structure, but do not believe it is integrated, that is, providing for a clear line of authority (chain-of-command) when units from two or more corporations, involving both volunteer and career officers, respond to an incident. This problem is primarily limited to fire incidents.

From a review of the administrative procedure it appears that the Commission approved integrated command structure provides for a clear chain-of-command for incidents occurring within the response areas of each individual department. However, when an officer from another fire department arrives at the scene of an incident, and the officer is of a higher rank than the officer of the department in whose response area the incident has occurred, the procedure equivocates. To quote the AP: "Upon arrival of a superior officer or another department, the initial Duty Officer shall exercise judgment relative to retaining command. The officer shall assign and/or utilize the incoming officer or relinquish command and provide command assistance as directed." This, in my opinion, is not a positive statement on an integrated emergency command structure. It does not ensure that the highest ranking officer on the scene will take command and provide incident supervision.

●Adequate manning. This sub-goal, and another sub-goal, effective distribution of personnel and apparatus, still have to be met. The Commission has issued a policy on minimum manning of apparatus which requires three personnel on an engine (pumper), a ladder truck and a Mobile Intensive Care Unit, and two personnel on an ambulance. The near unanimous opinion of career and volunteer officers and firefighters interviewed was that three personnel on a engine or a truck are not sufficient. At the time of this writing, the Council has appropriated funds in the FY 86 budget to conduct a staffing study and the Commission has contracted with an outside consultant to assist in the refinement of the Master Fire Defense Plan which addresses distribution of apparatus.

Summary. An accurate assessment of whether Goal #1, Maximum Protection of Life and Property, is being achieved cannot be accomplished until such time as all organizations and participants comprising the fire and rescue service establish the policies, standards, regulations and performance measurements which are needed to evaluate adequacy of individual and unit training, the effectiveness of the service delivery, the efficiency of management by those in positions of responsibility, and the cost-effectiveness of public resources. The law clearly places responsibility for adopting County-wide policies, standards, procedures, plans and programs to meet this goal on the Fire and Rescue Commission. However, as the law states, all organizations and participants comprising fire and rescue services share the responsibility for improving effectiveness and efficiency. A following section of this report will demonstrate that other organizations and participants have contributed to this inability to evaluate the effectiveness and efficiency of the fire and rescue services.

Goal #2: Maximum Volunteer Participation

Definition. The achievement of this goal would require the maintenance and expansion of participation by volunteers in fire, rescue

1 emergency medical service operations and in policy making. It is not surprising that this goal was second only to achieving maximum protection of life and property. A fundamental issue which was debated in enacting Bill 15/16-79 was whether the County would continue to provide for the delivery of fire and rescue services through local independent corporations or through a County fire and rescue agency staffed with County merit employees. The Council unanimously chose to retain a volunteer-based fire and rescue service. In the legislation, the Council emphasizes the County's "vigorous support for the continuation and expansion of volunteer participation" and declares its policy intention that "all County officials and employees actively encourage, and not in any way discourage, qualified volunteer participation." (Sec. 21-4A(a)(4)).

Overall observation. Unlike Goal #1 where there is an absence of performance data necessary to make a judgment on whether the goal is being achieved, it is clear that this goal is not being achieved.

Discussion. In Sec. 21-4N of the legislation, the Fire and Rescue Commission is charged with developing policies and programs to recruit and retain volunteers. Also, the Commission is directed to recommend a benefits program to the County Council to provide financial protection to volunteers and their families in the event of disability or death. Finally, the legislation directs the Commission to prepare and adopt uniform minimum standards governing all volunteer members of the corporations. No statutory deadline is included in the legislation for these activities. To date, no substantial policies, programs or benefits package have been recommended or adopted by the Commission.

Elsewhere in the legislation (Sec. 21-4C), the Fire Board is directed to actively support the maintenance and enhancement of volunteer participation and to approve Commission policies and programs relating to volunteer recruitment, retention standards and benefits. To date, the Fire Board has not made any substantial efforts in these areas.

Volunteer participation. The legislation directs the corporations to furnish whatever information is requested by the Commission. Specifically included is information on volunteer participation (Sec. 21-4B(k)(1)). However, the Commission does not maintain information on volunteer participation; nor does any other single organization maintain that information.

In the course of this evaluation, the Office of Legislative Oversight requested each of the 18 corporations to provide data on the number of volunteers, preferably broken down into the various categories of active, probationary, honorary, life, retired, etc. Their responses in February 1985 indicated that the total volunteer membership in the 18 corporations was 2,516 of which 958 were classified as "active" (See EXHIBIT B). In the 1979 worksessions on Bill 15/16-79, the group representing the volunteer corporations reported to the Council a total of 1,564 volunteer firefighters; however, it is not clear from the minutes whether this referred to all volunteers or just "active" volunteers. As stated earlier in this report in the section on definitions, the legislation uses the term "active" twice without defining the term. In one instance it clearly refers only to volunteers. In the other instance

it just as clearly refers to both career and volunteer personnel. The Fire and Rescue Commission has not issued a standard definition of an active volunteer, relying on each corporation to define what constitutes an active volunteer.

A review of the bylaws of the 18 corporations reveals that there is a wide variance in the corporations' use of the term active volunteer. Some departments only require attendance at meetings to qualify as active; others (Kensington and Silver Spring) require completion of minimum firefighting and EMS training; and other corporations include members of their marching unit or ladies auxilliary as qualifying for active status. Finally, several corporations (Bethesda, Rockville and Takoma Park) do not even mention the term active in their bylaws.

Except for one or two exceptions, all corporation members who were interviewed opined that volunteer membership has declined in recent years, especially volunteer firefighters. The reasons for this decline includes: lack of citizen interest, changing socio-economic structure of the County, and competition for the time of the volunteer because of second job, continuing education, and social activities.

While recognizing that changes in the County and society have contributed to the decline in volunteer participation, the Fire and Rescue Commission, Fire Board and most corporations have not developed comprehensive and cooperative programs to encourage County residents to volunteer for the fire and rescue services. Except for the annual banquet for volunteers and the free use of uniforms and equipment, there is very little being done to encourage volunteer participation. Programs which are already available, such as tuition assistance for students taking courses in fire science technology, room and board in fire stations for students who volunteer for fire or rescue service, free training, opportunity to do community service, and participation in the LOSAP program, are virtually unpublished.

At the same time, there is an increasing program which works counter to encouraging volunteer participation. That program permits paying either a volunteer or an off-duty career employee to serve a tour of duty. The program is a form of temporary employment and is commonly referred to as "casual labor." Under the casual labor program a qualified firefighter or EMS person, either career or volunteer, is paid an hourly wage to perform a temporary tour of duty due to a personnel shortage. Appropriations for casual labor has grown steadily over the past five years. In FY80, \$92,600 was expended for casual labor. For FY86, \$456,230 has been budgeted, an increase of almost 400% in six years. The hourly wage paid for casual labor varies among the corporations, with some paying the federal minimum wage. The casual labor program not only works counter to any volunteer program by discouraging donated service, it also probably violates Section 7.1 of the Personnel Regulations for fire and rescue service merit system employees. That section provides for equal pay for work of substantially equal value performed under essentially similar conditions.

Summary. The Fire and Rescue Commission has not fulfilled its responsibility for developing policies and programs to recruit and retain

volunteers. Considering the success of volunteerism in general in the County; the availability of means to advertise (Ride-on buses, cable TV, volunteer newsletter, the County newspaper); the potential for many low- or no-cost programs to encourage volunteer participation (medical benefits, life insurance, per diem allowance for completing minimum training, public recognition and award ceremonies, and grants to corporations); and the fundamental need to recruit and retain volunteers if the local corporations are to remain viable--it is difficult to understand why the Commission, the Fire Board and the local corporations have placed so little emphasis on this matter.

Goal #3. Optimum Personnel Practices.

Definition. Included in this goal is the "promotion of equity and harmony among both career employees and volunteers; continual improvement in the capabilities of all personnel; effective personnel administration; and job performance and personal conduct of the highest caliber by career and volunteer personnel."

These sub-goals are translated in other sections of the law as requirements of the Fire and Rescue Commission, specifically: Sec. 21-4M, Personnel Administration for Career Employees; Sec. 21-4N, Personnel Administration for Volunteers; Sec. 21-4O, Training Requirements and Certification Standards (for career and volunteer personnel), and Sec. 21-4P, Code of Ethics and Personal Conduct (for career and volunteer personnel).

Overall observation. This goal is the most difficult to evaluate because it elicits the most emotional opinions. However, this evaluation concludes that optimum personnel practices have not been achieved; evidence of equity and harmony between career and volunteer personnel is lacking; and many of the legislative requirements in the area of career and volunteer personnel administration have not been accomplished.

Discussion. One of the major issues debated by the Council in the worksessions on Bill 15/16-79 was the personnel practices of the corporations concerning their employees who are paid with County funds. Today, personnel related issues still contribute to tension within the fire and rescue services and are the basis for many grievances and court actions. The basic issue is the extent of the corporation's autonomy over managing the career personnel versus the management of these career personnel under a uniform merit system adopted by the Commission.

Bill 15/16-79 retains the authority of the local corporations to deliver fire and rescue services and reaffirms that paid career personnel of corporations are not County employees. However, the legislation makes several significant changes to the local corporation's role in the personnel administration of these career employees.

First, the legislation stipulates that the Commission must adopt the Council approved personnel regulations for County employees unless specifically amended by the Commission. All amendments must be sent to the CAO and Fire Board for comment, and if neither object, the amendment takes effect. However, should either the CAO or the Board object, the

amendment must be referred to the Council for action. Thus, the legislation grants authority to the Commission over the fundamental personnel regulations for paid merit employees of the local corporations, but the Council has not granted unrestricted authority to the Commission.

Second, the legislation directs the Commission to arrange with the County to provide a variety of personnel services to the local corporations to include: disbursement of salaries through the County's payroll system; administration and application of personnel regulations and policies; consistent administration and application of a benefits program which is substantially equivalent to that of the County government; and review for consistency with applicable personnel regulations all personnel transactions involving career personnel.

Third, the legislation requires the Commission to adopt procedures relating to disclosure by paid personnel of illegal and improper actions, and protection of these personnel from retaliatory action for making any disclosure ("whistleblower" procedures).

In April 1981, the Commission adopted personnel regulations for fire and rescue service merit employees of the local corporations, the "Yellow Book." There have been several subsequent changes to the regulations.

In arranging with the County to provide personnel services, there has been only mixed success. Paying career personnel on the County's payroll system has been accomplished in that payroll checks are issued by the County. However, a County personnel management system for fire/rescue career personnel is unsatisfactory in that it attempts to account for a workforce which consistently works a 48-hour week in a variety of shift arrangements with a County system designed for a 40-hour work week. The result is that issues concerning work hours, pay, overtime and leave are a constant source of complaints and grievances. As of July 1985, consideration is being given by OMB to include the fire and rescue services in a redesigned County personnel management system.

Another area experiencing difficulty is the lack of uniformity in the areas of overtime, compensatory leave, annual leave, and, until very recently, work hours. Earlier this year the Commission reaffirmed its policy of a 48-hour work week after being confronted with examples of corporations working only 40 or 44 hours per week.

Another example where there is a lack of uniformity in personnel administration among local corporations is in the appointment process to merit system positions. At least one corporation has appointed a person to the senior merit position in the corporation without following the procedures in the personnel regulations. Also, other corporations have not followed the personnel regulations when appointing merit employees who were not firefighters. The corporations have unilaterally narrowed the definition of "career employee" to one who is a firefighter or provides rescue or emergency medical services. Those paid positions which are not involved in firefighting or rescue activities, approximately 30 out of the total paid complement, are referred to as "civilian." For most of the "career" positions, the corporations have used the appointment process specified in the personnel regulations; however, for the "civilian" positions, several corporations have ignored the hiring process specified

in the personnel regulations and made direct appointments. Until very recently, the County had not interfered with these improper appointments. Recently, the County refused to honor one such appointment made contrary to the personnel regulations.

It should be noted that the Commission has not always agreed with the personnel administration practices of the local corporations. On the one hand the Commission cites its legal authority to adopt County-wide procedures, especially its authority to correct inconsistent personnel actions (Sec. 21-4M(c)). At the same time, the local corporations cite the same law (Sec. 21-4M(g)) that states employees of local corporations are not County employees and are subject to the local corporations, to include hiring.

The County has not been able to carry out the mandate of the legislation to review for consistency all personnel transactions involving paid personnel employed by the corporations (Sec. 21-4M(a)(4)) because the Fire and Rescue Commission has neither designated what personnel data will be collected by the corporations nor established procedures by which such data is provided by the local corporations.

Finally, the Commission has not adopted "whistleblower" procedures for the disclosure and protection of career employees. Other personnel related requirements in the legislation which have not been accomplished include: the adoption of a code of ethics and on-duty personal conduct for all career and volunteer personnel (Sec. 21-4P); the adoption of personnel procedures for volunteers (Sec. 21-4N); and the adoption of a benefits program for volunteers (Sec. 21-4N(a)).

Summary. The lack of uniformity in personnel practices which existed in the corporations prior to enactment of Bill 15/16-79 has been reduced. However, achievement of optimum personnel practices where equity and harmony among career and volunteer employees is promoted, and effective personnel administration procedures are adopted, have not occurred.

Goal #4: Adequate Accountability.

Definition. The purpose of this goal is to provide adequate accountability to the citizens for service delivery, management practices and the use of public funds. Implicit in achieving this goal is the requirement to collect and analyze data on a variety of operational, administrative and financial activities which will enable management to fix accountability and report to the citizens.

Overall observation. This goal has not been achieved in that there is little oversight and even less accountability for service delivery, management practices and the use of public funds. Where the law includes specific requirements for oversight and accountability, the record of the past five years reflects inactivity and neglect. In other areas of the legislation where there are references to accountability and oversight, the law is inconsistent, incomplete or ambiguous.

Discussion. A major area of attention during the worksessions on Bill 15/16-79 concerned accountability and oversight. The legislation

gives the Commission responsibility for adopting County-wide policies and procedures; and to ensure that they are being followed, the law requires accountability and oversight in the areas of management, operational performance and the use of public funds. Essentially, the Fire and Rescue Commission is charged with overall responsibility for oversight and accountability; however, other agencies share that responsibility, as will be discussed.

A fundamental responsibility of the Fire and Rescue Commission is to adopt County-wide policies, standards, procedures, plans and programs applicable to all fire and rescue service operations (Sec. 21-4B(e)(2)). The legislation complements this responsibility by making policies and regulations adopted by the Commission binding on the corporations and requiring the corporations to furnish whatever information is requested by the Commission on operations, administration, volunteer participation, or other aspects of fire and rescue services (Sec. 21-4B(k)). Finally, the Commission is given authority to make a finding that a corporation has seriously failed to comply with policies or other matters adopted by the Commission and to request the County Attorney and/or County Executive to enforce its policies. Despite this apparent clear line of responsibility, authority and enforcement, a close review of the law and the actions of the parties concerned reveals a failure to comply with these requirements for accountability and oversight on the one hand, and some fundamental inconsistencies and gaps in the legislation relating to accountability and enforcement.

The following is a review of the legislative references to accountability, oversight and enforcement, and an evaluation of the degree of compliance by the responsible parties with inconsistencies and/or ambiguities in the law highlighted.

•Performance audits. Section 21-4L authorizes the County Executive, County Council and the Commission, or their designees, to conduct performance audits of any tax supported corporation for the purpose of making budget, management or legislative recommendations. In the five years the law has been in effect, there is no record that any performance audit was conducted. Furthermore, had there been any audits of the local corporations, it would have been discovered that the legislation did not include the two corporations which do not receive direct tax support: Damascus Volunteer Fire Department and Bethesda-Chevy Chase Rescue Squad. This is a serious deficiency in the legislation. The County has responsibility for providing fire and rescue services to County citizens and has chosen to carry out that responsibility through local fire and rescue corporations. It is not within the Council's authority to legislate away its ability to provide oversight of all corporations. Furthermore, the legislation limits the purpose of performance audits to that of making budget, management or "legislative recommendations." This is a serious contradiction in the law because the Council has legislative authority and is not limited to only making "legislative recommendations." These legislative limits on the Council's inherent responsibility and authority to provide oversight in the form of performance audits of corporations not receiving direct tax support should be changed.

•Audit of financial transactions. The law requires the audit of financial transactions relative to County fire tax funds as part of the

ual audit required by the Charter. This provision of the law has been carried out by the Council.

●Audit of LOSAP records. The law gives both the Commission and the Director of Finance authority to audit records of volunteer participation in the LOSAP program. There is no record of any audit by either party in the five years since enactment of the current legislation. The last audit by the Director of Finance of LOSAP records was in July 1980 when one corporation was audited. The report found serious problems associated with the administration of LOSAP records in that corporation and speculated that similar problems probably existed in other corporations. Despite a recommendation by the Chief Administrative Officer that cyclical audits of LOSAP records in all corporations be conducted, none has been performed.

●Financial disclosure statements. Section 21-4P(c) requires that members of the Commission and the Fire Board must comply with the financial disclosure requirements of the Code. Section 19A-12(b) requires members of the Commission and Fire Board to file confidential sworn financial disclosure statements. A review of the statements on file with the Ethics Commission reveals that many present and former members of the Fire Board and Commission have not complied with this legislative requirement.

●Treasurer's bond. Under Sec. 21-4S(c) of the legislation, each corporation must provide a corporate bond to the County in a sum fixed by the Director of Finance conditioned upon faithful discharge of duties of the corporation's treasurer. There is no record that the Department of Finance has set a bond limit or has on file any corporate bonds.

●Effectiveness and efficiency. In discussing the primary goal of the legislation, to provide maximum protection of life and property, the Council includes language that all organizations and participants comprising the fire and rescue services are responsible for improving their effectiveness and efficiency every year, and that evidence of this improvement may be requested by the Council at any time (Sec. 21-4A(b)(1)). To date the Council has not requested evidence of such improvement. Furthermore, neither the Council, Executive or the Commission has requested the systematic collection and analysis of data from corporations or other participants which would provide evidence of improvements in effectiveness and efficiency.

●Operational performance. In the area of fire suppression, neither the Council, the Executive nor the Commission has established a requirement for the systematic collection of data or for the conduct of the performance tests which would facilitate an evaluation of the operational preparedness of a corporation to conduct fire suppression activities or to critique the actual performance of a corporation after an incident. Unlike emergency medical services where there are published performance criteria, certification standards and oversight by field personnel and the medical society, the individual fire corporations set their own standards and levels of proficiency in preparing for fire suppression operations and conducting fire suppression operations.

•Enforcement. Sec. 21-4B(k), states that policies and regulations of the Commission are binding, and authorizes the Commission to enforce its policies and regulations. However, enforcement by the Commission is limited to only making a finding that a corporation has seriously failed to comply with the Commission's policies. After making such a finding, the Commission must request the County Attorney for assistance in enforcing Commission policies. If the finding by the Commission is sustained by the County Executive, then the County Executive can impound all tax funds. However, this again could not apply to the two corporations which do not receive direct tax funds (Damascus and Bethesda-Chevy Chase). Finally, the County Executive can also make a finding that a corporation is unable or unwilling to provide fire or rescue services. But the law is not specific as to when the County can invoke this action or as to what are the performance measurements by which a corporation's inability or unwillingness to act is judged.

Summary. As stated previously, the Commission has not required the Department of Fire and Rescue Services or the individual corporations to collect and publish data on unit training standards and performance levels; interdepartmental training sessions and exercises; actual response times for each incident; failures to respond and cause(s) for the failures (equipment malfunction, insufficient manning, others); or an after-action evaluation of individual and unit performance at an actual fire scene. Collection and analysis of the above data would provide the Commission, the elected officials, and the citizens with the corporations' operational preparedness, actual performance and use of publicly funded resources.

When clear lines of accountability for service levels, operations and resource use are lacking, no one feels responsible for inefficiencies and failures and everyone takes credit for efficiencies and accomplishments. Without accountability, the fire and rescue services lack the ability to discover problem areas and deficiencies and then to work cooperatively in developing policies, regulations and procedures to correct those problems and improve efficiency and effectiveness. The current organization, management structure and responsibilities outlined in the legislation have not provided for adequate accountability to the citizens for service delivery, management practices and the use of public funds.

Goal #5: Improved operations and administration.

Definition. The final goal in the legislation is to achieve the reduction of costs, including administrative overhead, apparatus and other expenses; and to promote the effective management of personnel, purchasing, maintenance, training and other programs.

Overall observation. The current organization, division of responsibilities and operational relationships of the fire and rescue services have not created a climate where cost effective performance is rewarded and new ideas for improving efficiency and effectiveness are encouraged. This evaluation found several instances where specific legislative requirements which could contribute to improved operations and lower costs have not been accomplished; and other examples where possible economies were not pursued by the Commission.

Discussion. In almost every instance where there has been a failure to act on a legislative requirement or on a possible cost-effective idea, that failure to act has been defended by the Commission on the basis that each requirement would infringe upon the rights of the independent fire and rescue corporations. Specific examples are cited below:

•Purchasing and contracting. The legislation specifies that by July 1, 1981, the Fire and Rescue Commission is to establish procedures governing purchasing and contracting by corporations which are financed in whole or in part with tax funds. Also the legislation permitted the Commission to include a joint centralized purchasing and contracting system in the procedures (Sec. 21-4V). This was a major change to the previous fire and rescue legislation which permitted each corporation to establish its own individual fiscal policy and purchasing system for the expenditures of tax monies received from the County. (Note: Elsewhere in the Code, Sec. 2-39, the Director, DFRS is given responsibility for purchasing all apparatus and facilities.)

In November 1981, the Commission adopted Administrative Procedure 6-1, Purchasing and Contracting Procedures, which provides for centralized purchasing of certain categories of supplies. These supplies include: expendable firefighting and rescue equipment, housekeeping goods, uniforms, protective clothing and standardized capital supplies such as furniture, and brass goods. These purchases are to be made through the Commission's Central Purchasing Committee.

Notwithstanding the adoption of these procedures and the creation of a Central Purchasing Committee, the Commission has not enforced centralized purchasing. The Commission has neither budgeted nor allocated funds into a central purchasing fund so as to enable centralized purchasing.

One example will illustrate the Commission's reluctance to comply with purchasing procedures the Commission itself adopted in AP 6-1. The Commission recently directed all departments and squads to standardize on a single brand of self-contained breathing apparatus, SurvivAir. The Commission adopted policy was that all replacements for existing breathing apparatus would be that brand. However, the Commission did not direct the Central Purchasing Committee to proceed to purchase the apparatus with a single bid, and the separate corporations have proceeded to make independent purchases. The potential number of apparatus to be replaced with the SurvivAir is approximately 500. Some corporations on their own have combined their purchases in a single bid and obtained a lower bulk purchase price.

•Training. As of July 1985, the Commission has published two regulations in the Montgomery County Register. The first deals with minimum training standards for firefighters and rescue squad personnel; and the second with the time schedule for all fire and rescue personnel to come under the standards. These fundamental standards are specifically directed in the law (Sec. 21-40) with a computed time requirement for adoption of February 1983. While various explanations for the delay of over two years have been proffered, the fundamental reason appears to be

the Commission's reluctance to dictate training standards and criteria to the independent corporations.

In addition, as discussed earlier in this report, the Commission has not initiated any minimum unit training standards or levels of proficiency for in service training despite the fact that such standards and procedures obviously fall under the Commission's responsibility to adopt County-wide standards and procedures for fire and rescue services. Firefighting is a unit or team operation, not an individual activity. Fire suppression is a team effort by personnel and equipment from the same corporation, or, more often than not, by personnel and equipment from more than one corporation. To ignore the establishment of minimum training and proficiency standards for unit operations because it is considered an infringement into the prerogatives of the independent corporations is to ignore the fundamental thrust and goals of the legislation.

•Equipment maintenance. Each corporation is responsible for the maintenance of its equipment, to include apparatus. Some corporations have paid mechanics in their personnel complement (Kensington, Takoma Park, Gaithersburg, Sandy Spring and Rockville); other corporations detail firefighters to perform equipment maintenance; and all corporations individually contract-out major overhaul and apparatus repair. Each corporation maintains an inventory of repair parts and supplies (batteries, tires, pumps, brass goods, etc.). This form of decentralized maintenance is preferred by the majority of chiefs who were interviewed because it puts equipment maintenance totally under their control. However, no one has examined whether this is the most cost-effective method of accomplishing maintenance. It would appear that an examination of the feasibility and possible cost savings of some degree of centralized maintenance would be prudent especially since maintenance is one of the areas highlighted in the legislation where improved efficiency is a goal.

Summary. The lack of achievement in the first four goals directly contributed to the failure to accomplish the fifth goal of improving administration and operations.

OVERALL SUMMARY OF GOAL ACCOMPLISHMENTS

From the above evaluation of the five major goals of the comprehensive fire and rescue service legislation, it is evident that most of the goals and sub-goals have either not been achieved or standards and criteria by which accomplishment could be measured have not been implemented.

It is evident that the citizens of Montgomery County are receiving fire and rescue services. However, it is not certain whether these fire and rescue services are the most cost-effective, most equitable and most responsive. The majority of those interviewed opined that the current fire and rescue service is good, but it is costly, redundant in apparatus and equipment, less responsive than it should be, and inequitably applied.

To make a precise evaluation of the efficiency and effectiveness of the fire and rescue services would require the collection and analysis of information on the operational preparedness and performance of each

corporation. The Fire and Rescue Commission is charged with adopting information on operations, administration and all other aspects of fire and rescue services. To date, the Commission has not collected the data necessary to evaluate operational preparedness and performance; and the Executive and the Council have not seen fit to demand the collection of such evaluation data under their inherent oversight responsibilities.

Programs to encourage recruitment and retention of volunteers have simply not been forthcoming. Testimony supports the general feeling that the number of volunteers has steadily declined over the past five years. During this same period, the Fire Board and the Fire and Rescue Commission have done virtually nothing to reverse that trend and, in fact, may have contributed to the decline by supporting programs such as casual labor.

While there has been much activity in the area of promoting optimum personnel practices, the accomplishments are, at best, marginal. The Commission has adopted personnel regulations for merit employees of the fire and rescue services, but has not enforced adherence to the letter or the spirit of those regulations. Several local corporations have ignored the regulations and insisted on filling non-firefighting merit positions and the corporation's highest ranking merit position without following the appointment process required in the personnel regulations. Still other corporations have from time to time not complied with Commission directives or Merit System Protection Board interpretations of the regulations regarding appointment, overtime and other personnel actions.

The corporations are still without a code of ethics of personal conduct, provisions to protect "whistleblowers," a fire service personnel management system, or a system whereby the County systematically reviews all personnel transactions for consistency with applicable personnel regulations. The responsibility for failing to achieve optimum personnel practices must be placed on the Commission in those cases where the legislation assigns it responsibility; and, because the Executive branch is charged with providing a variety of personnel services to the Commission and local corporations and is answerable for oversight of personnel administration, it too must share in that responsibility.

Adequate accountability for service delivery and the use of public funds by the fire and rescue service is simply not present because the data and information needed to make judgments on preparedness, performance and expenditure of public funds is either not collected or, if collected, not systematically analyzed. In addition, specific legislative requirements for accountability and oversight are not being performed.

Finally, shortcomings and failures in the accomplishment of the above four goals directly contribute to the failure to accomplish the fifth goal: improved operations and administration.

The final section of this report will evaluate the major reasons why all legislative mandates have not been met and why many of the legislative goals have not been achieved.

IX. REASONS FOR FAILURE TO ACHIEVE THE GOALS OF THE COMPREHENSIVE FIRE AND RESCUE SERVICES LEGISLATION.

General. In this section, the following reasons as to why the goals of Bill 15/16-79 have not been achieved are discussed:

1. Deficiencies in the legislation.
2. The dichotomy between the intent and goals of the legislation and the fundamental beliefs and sentiments of a majority of the members of the Fire and Rescue Commission.
3. An apparent reluctance on the part of Executive branch departments to require adequate accountability for service levels and resource use by the organizations and participants comprising the fire and rescue services in a manner and to the degree required of other public programs.

REASON #1: DEFICIENCIES IN THE LEGISLATION.

From a review of the legislative file of Bill 15/16-79 and from interviews with many who participated in the public hearings and worksessions leading up to its enactment, it is clear that Bill 15/16-79 was a compromise. The compromise was between one extreme which would see a single centralized County fire and rescue department with all paid personnel becoming County merit employees; and the other extreme of a volunteer fire and rescue service where each corporation was autonomous within its response area, totally independent operationally, and subject to minimum interference and control from the County over personnel administration, management, operations and expenditure of public and private funds.

From a reading of the legislation, especially the statement of intent, it is clear that the County acknowledges its responsibility for the public safety through fire and rescue services; that the County has chosen to carry out that responsibility by providing for the delivery of fire and rescue services through local fire and rescue corporations; and that the County recognizes that these local corporations must operate under County-wide policies, standards, procedures, plans and programs adopted by a seven-member Fire and Rescue Commission. This organizational relationship is to last for as long as the local corporations are willing and able to provide these services, or until such time the County judges a local corporation unable or unwilling to provide services, at which time the County's Department of Fire and Rescue Services would take over.

While the above arrangement is clear in the intent, an examination of the detailed provisions of the legislation and an evaluation of the status of fire and rescue services five years after Bill 15/16-79 was enacted reveals a number of deficiencies in the legislation, mainly in the consistency, clarity and completeness of the law. The following are major examples:

• Improper delegation of authority to the Fire Board. The Fire Board is a non-governmental entity, generally considered advisory to the Commission. Neither the County Executive nor the Council has any control

or even influence over who each of the 18 corporations select as its two representatives on the board (the department/squad chief and one delegate). Likewise, the County has no control over the bylaws of the Fire Board. However, the legislation gives the Fire Board powers far in excess of those usually characterized as advisory.

First, the Fire Board elects five of the seven members of the Fire and Rescue Commission from among its own members. This appears to be an improper delegation of authority to the Fire Board in that it is inconsistent with the Charter. Section 215, Article 2 of the Charter states that, "Except for commissions appointed to advise the Council, the County Executive shall appoint, subject to the confirmation of the Council, all members of boards and commissions..."

Also, the Fire Board is empowered to approve Commission policies and programs relating to uniform minimum standards for volunteers, a code of personal conduct, and volunteer recruitment and retention programs. In addition, the Board has approval authority over any volunteer benefits program recommended to the Council by the Commission.

Finally, the Board can object to any proposed amendment to the personnel regulations for fire and rescue service merit system employees, thereby preventing the amendment from taking effect until the Council reviews the issue.

The Fire Board is established by law, but it is not an agency of the County government. It appears inappropriate for the County to vest a non-governmental Fire Board with authority to elect members to the Commission and to approve County policies and programs. (Note: In August 1985, the Council considered and tabled Bill 59-85. That bill would have given the Executive the authority to appoint all seven members to the Fire and Rescue Commission, subject to confirmation by the Council).

●Insufficient guidance for the Fire and Rescue Commission to establish policies and standards. The Commission is responsible for adopting County-wide policies, standards, procedures, plans and programs applicable to all fire and rescue service operations. However, while the Council requires these actions by the Commission, the Council has not provided any guidance on which the Commission can base its policies. While the general guidance in the statement of legislative intent is quite clear, the body of the law appears to lack sufficient guidelines for the Commission to act. Guidance is especially lacking in the areas of uniform minimum training standards and requirements, and County-wide policies and standards for unit preparedness and service delivery.

In the area of training, one example concerns the federal uniform guidelines on personnel selection (Sec. 21-40(a)). It is unclear what these guidelines are and how they relate to training and certification. One of the results of this lack of guidance is a long delay in publishing standards and the narrowing of those standards to include only individual training, totally neglecting unit (in service) and interdepartmental training standards. The importance of in service training was demonstrated in a report of investigation of a fire which occurred in October 1984. The investigation recommended that the Commission assure

that in service unit training programs are sufficient to maintain minimum professional standards.

As for service delivery, it is likewise unclear what plans and procedures this grant of authority by the Council allows the Commission. For example, there is no guidance as to response times, staffing levels or performance. As a result, many of the policies, plans, standards and regulations which the law directs the Commission to adopt have either not been accomplished (code of ethics and personal conduct, volunteer programs), or have been inordinately delayed (Master Fire Plan, minimum training standards).

In summary, the lack of explicit Council guidance and standards in the delegation of authority to the Commission to adopt County-wide policies, plans, programs and procedures appears to exceed the normal delegation of ministerial or administrative tasks to that of delegating discretionary policy making authority.

●Insufficient requirements for accountability and oversight.

On first reading, the law appears to stress accountability. The legislative intent includes as one of the major goals of the law the achievement of adequate accountability for service delivery, management, practices and resource use; and the law specifically addresses financial and performance audits and the audit of LOSAP records. However, under closer examination the references to accountability and oversight are illusory, inconsistent and, in the case of performance audits, discretionary.

The law contains no requirements for any of the organizations and participants in fire and rescue services to be specifically accountable for individual or unit preparedness, for actual operational performance during a fire or rescue incident, or for the expenditure of public funds other than that which is covered in the general financial audit by the Council's independent auditor. In the matter of public fund expenditures, the file of Bill 15/16-79 reveals there was discussion and an approved motion requiring the corporations to adhere to a uniform accounting procedure with oversight by the Director of Finance. For reasons unknown, that approved motion is not reflected in the final legislation.

The legislation authorizes the Executive, the Council, the Commission, or their designees, to conduct performance audits. However, the law gives no guidance as to what the audit should examine; and because the legislation does not require the conduct of the audits, none has been performed in the five years the law has been in effect.

Also, the Council has limited the purpose of these performance audits to that of making budget, management and legislative "recommendations." This procedure creates problems. First, if the audit uncovers a serious problem in a corporation, there is no provision in the legislation for immediate remedial action. Second, and more important, the legislation also limits the Council and the Executive to that of making recommendations from its performance audits. This limitation on the Council, which has full legislative authority, to only making "recommendations", and on the Executive, who has enforcement authority,

appears to be an illegal restriction on the Council and Executive from exercising their respective legislative and executive powers.

Finally, the legislation restricts the performance audits to these local corporations that are supported in whole or in part with tax funds, thereby excluding the Damascus Fire Department and the Bethesda-Chevy Chase Rescue Squad from these audits. While the County does not have the legal authority to control the budgets of privately financed corporations, the County does have the legal authority under its police power to exercise oversight and control over non-fiscal operations of all fire and rescue corporations. The distinction between those corporations that receive direct tax funding and those that do not is irrelevant in the case of performance audits which produce legislative and/or managerial recommendations.

● Incomplete, vague and weak enforcement provisions. The legislation states that policies and regulations adopted by the Commission are binding and authorizes the Commission to enforce its policies and regulations. However, the law gives no enforcement powers to the Commission; and enforcement powers given to the County are unclear and limited to only tax supported corporations.

The legislated "enforcement power" of the Commission is limited to finding that a corporation has seriously failed to comply with policies or other matters adopted by the Commission. If the County Executive approves of the Commission's finding, the County Executive can either direct the County Attorney to take legal action (unspecified in the law) or impound all tax funds designated for that corporation. However, should the corporation be one which does not receive direct tax support, the legislation does not specify what additional options are available to the County Executive.

The legislation also provides for the Executive to refer matters relating to a corporation's failure to comply with Commission policies to the Council if the Commission is unable to make a finding of non-compliance and the Executive determines the facts warrant such a finding. However, the law is unclear as to what constitutes the Commission's inability to make a finding. Should it require some investigatory activity by the Commission, the Commission action becomes a prerequisite to the Executive's authority to impound tax funds.

Finally, should the Executive impound a corporation's tax funds, the legislation limits the County Executive's future actions to that of modifying, revoking, or extending the impoundment in accordance with the Commission's findings of the corporation's compliance or noncompliance. However, there is neither a provision in the legislation concerning any subsequent action by the Executive, nor for allowing the Executive discretion to refute the Commission's findings.

● Vague and inconsistent provisions concerning assumption of command. The law also authorizes the County Executive, or designee, to assume operational and administrative command of any corporation upon the finding of a public emergency due to the inability or unwillingness of a corporation to provide fire or rescue services. However, the law is again incomplete because the assumption of command only applies to tax supported corporations.

This silence in the legislation concerning emergency assumption of operational command of privately financed fire and rescue corporations is a serious omission in the law. Also, the law is vague because it contains neither guidance as to when the County Executive may invoke emergency authority nor guidance as to what constitutes a corporation's "inability" or "unwillingness" to act.

●Other vague and inconsistent provisions relating to the County's emergency authority. Three other areas of the law which are vague and incomplete concern the temporary transfer of apparatus, the County's authority to temporarily transfer career personnel and the County's authority over volunteer personnel in an emergency.

First, the legislation authorizes the Executive to transfer apparatus purchased in whole or in part with tax funds "including any such apparatus-titled to a corporation" (Sec. 21-4J). Such transfer is limited to the Executive making a finding of an emergency and for a period not to exceed seven days. For a period longer than seven days, approval of the Commission is required. Again, there is no definition in the legislation as to what constitutes an emergency. Also, the legislation limits the County's ability to transfer apparatus bought with private funds in an emergency. This is a potential limit on the County's ability to provide fire and rescue protection.

Second, the legislation makes no reference to the County's authority to temporarily transfer career personnel *among* departments and squads in an emergency. This is a serious omission. The temporary transfer of career personnel paid with tax funds appears to be reasonable and necessary for the County to carry out its responsibility of providing fire and rescue protection for the citizens.

Finally, the legislation also does not address whether the County may compel volunteers to provide fire and rescue services in an emergency. Although the law permits the County to assume operational command of tax supported corporations in an emergency, it is unclear whether this authority includes command of volunteer personnel in those corporations. The County should be able, in an emergency, to compel all personnel, career and volunteer, to provide these critical public services.

●Legislation silent on dissolution procedure. The legislation requires approval of the County Council before a fire or rescue corporation can be organized in the County. Also, the Council's approval is required for a corporation to change the location of its facilities (Sec. 21-1). However, the law does not provide a procedure for dissolution of a fire or rescue corporation. Such procedures are necessary and should include a provision for adequate notice to permit the transfer of service responsibilities without an interruption of those services.

●Legislation concentrates only on direct tax support to corporations. The legislation has many references to corporations which are supported in whole or in part with tax funds. This has been interpreted by the County, the Commission and the corporations as meaning

direct tax support. Thus, two corporations, a fire department and a rescue squad, which do not receive direct tax funding are considered free from many provisions in the law.

The legislation should include as tax support those services provided volunteer corporations "in kind." For example, operational support in the form of supplying all communications equipment to include maintenance and replacement, alert notification and dispatch services, back-up units and coverage, personal benefits such as workman's compensation and LOSAP, and logistic support such as water and sewage. Currently, one of the corporations classified as not receiving any direct tax support has the exclusive use of a County merit system employee* who is assigned to the Commission and paid from County general funds. *Now two

●Ambiguous regarding personnel services provided by the County.

The legislation directs the Commission to arrange with the County to provide "as a service to local corporations" a number of personnel services. Because County assistance is described as a service, it is unclear whether the corporations are required to use the service or whether the use of the service is elective. In fact, one of the personnel services the County is to provide under this section of the law is not currently being provided. That service is the review for consistency with applicable personnel regulations all personnel transactions involving career employees.

●Weak directive to County government departments to support the Commission. The legislation directs the local corporations to furnish whatever information is requested by the Commission on all aspects of fire and rescue services. However, in the same section of the law, all departments of County government are only "encouraged to cooperate" with the Commission. This appears to be a serious shortcoming in the law. As will be discussed, the absence of a positive requirement on County government departments to cooperate with the Fire and Rescue Commission may have contributed to the reluctance of some Executive branch agencies to treat the Commission and corporations in a manner similar to other public providers.

●Lack of definitions. In addition to the terms already identified (a public emergency, unwilling, unable, etc.) other words are used in the law but are not defined. One example is "career", as in "career employees of corporations" and "career personnel employed by the local corporations and paid with tax funds." Because the law does not define career, the term has been used in two contexts. The first, and most often accepted, is that a "career" employee is any employee, firefighter, officer, rescue squad member, medic, mechanic, chief, or administrative aide, who is employed by a local corporation and paid with tax funds. However, apparently as a means of circumventing the appointment process in the personnel regulations, some corporations have limited "career" to mean only firefighters, officers, and other paid employees involved in fire suppression, rescue operations or emergency medical services. The other paid employees in administrative and support positions are referred to as "civilian" employees.

Another word requiring definition is "active." The term active is popularly used to describe volunteers who are participating members of a corporation. However, the legislation uses the term active in two different connotations. The first is in the context of volunteer participation as, "...to induce active volunteer participation." The second use of the word refers to all personnel, paid and volunteer, as, "the Commission will adopt uniform minimum training requirements to be met by all active fire, rescue and emergency medical services personnel...[to] be applied similarly to volunteer and career personnel engaged in similar duties."

REASON #2: THE DICHOTOMY BETWEEN THE INTENT AND PURPOSE OF THE LEGISLATION AND THE FUNDAMENTAL BELIEFS AND SENTIMENTS OF A MAJORITY OF THE MEMBERS OF THE FIRE AND RESCUE COMMISSION.

From a review of the legislative file of Bill 15/16-79 and a detailed study of the legislation itself, especially the statement of legislative intent, it is quite clear that the Council:

- Acknowledges that the County government has ultimate responsibility for public safety through fire and rescue services;

- Authorizes the delivery of these services by independent local fire and rescue corporations, using a combination of paid and volunteer personnel; and

- Directs that the local corporations comply with County-wide policies, standards, procedures, plans and programs adopted by a Fire and Rescue Commission under authority from and acting on behalf of the County government.

In the five years that it has been in existence, the Commission has not fully carried out its fundamental responsibility of adopting policies, standards and regulations because it has been the sentiment of a majority of those serving on the Commission that such policies, standards and regulations infringe upon the independence of the local corporations. A review of Commission activities over the same five year period reveals that many of the duties and responsibilities specifically assigned the Commission in the legislation have either been inordinately delayed or have not been fulfilled.

Two examples where responsibilities of the Commission have experienced long delays beyond the suspense dates because of the potential and significant impact on the independent operations of the local corporations are the adoption of a Master Fire Defense Plan, and the adoption of uniform certification standards and procedures and uniform minimum training requirements for career and volunteer personnel.

The list of legally directed duties and responsibilities which the Commission has not acted upon is longer. Examples include:

- Adopting County-wide policies and procedures to assure unity in emergency responses and uniformity in the application of all regulations.

• Adopting a code of ethics and personal conduct for volunteer and career personnel.

• Conducting performance audits of corporations.

• Adopting a "whistleblower" provision to protect paid employees from retaliatory action by corporations.

• Designating what personnel data local corporations are to furnish the County's Personnel Director, and establishing procedures by which such data is provided by the corporations so as to enable the Director to review all personnel transactions for consistency with regulations and to permit the Commission to correct inconsistencies.

• Adopting policies, standards and programs pertaining to the following volunteer personnel administration actions: uniform minimum standards, recruitment and retention programs, and a benefits program.

• Requiring corporations to furnish information on operations, administration, volunteer participation and other aspects of fire and rescue services.

• Establishing policies and procedures for the collection and analysis of data pertaining to the preparedness and operational performance of the local corporations.

• Complying with its own procedure requiring centralized contracting and purchasing for certain categories of supplies and equipment.

• Collecting and analyzing data necessary to evaluate the efficiency and effectiveness of the local corporations in their delivery of service and the use of public resources.

• Requesting the County Attorney to take legal action to assist the Commission in enforcing its policies and regulations whenever there is evidence of noncompliance by a local corporation.

• Finally, the Commission has not used the full range of support services of the Department of Fire and Rescue Services. The fire and rescue legislation (Sec. 21-4A(a)(4)) and Chapter 2-39A of the Code specifically directs DFRS to provide support services to the Commission. Except for technical support in the areas of communications, training, fire prevention and, most recently, in the conduct of a County-wide Truck Study, the Commission has been reluctant to take advantage of that technical support.

On the basis of interviews, two principal reasons are presented for a reluctance to use DFRS services: First, many on the Commission and within the corporations perceive a hesitance on the part of DFRS to be fully cooperative and forthcoming in their support, citing instances where support was either not given, or was of such quality as not to be of much

value. The other reason is more supportive of DFRS and critical of the Commission and corporations. Those interviewed in the second group opine that the Commission and corporations have been unwilling to accept support or involvement by DFRS for fear that such support contributes to government encroachment on the independence of the corporations.

While viewpoints differ as to the reasons why the Commission has not used the full range of support services of DFRS, there is almost unanimous agreement that the small size and limited professional ability of the Commission's staff have contributed to the Commission's delay in fulfilling their legislated mandates.

REASON #3: AN APPARENT RELUCTANCE ON THE PART OF EXECUTIVE BRANCH DEPARTMENTS TO REQUIRE ADEQUATE ACCOUNTABILITY BY THE COMMISSION AND FIRE AND RESCUE CORPORATIONS FOR PROGRAM PERFORMANCE AND RESOURCE USE IN A MANNER AND TO THE DEGREE REQUIRED OF OTHER PUBLIC PROGRAMS.

As background, it should be recalled that this evaluation was initially requested by the Executive branch. In making that request, there was an expression of concern that serious difficulties existed in the management of the fire and rescue services, and that the reasons for these difficulties were subject to opinion. There was also the suggestion that an evaluation of the fire and rescue services should include an examination of the basic law, the functions of the Commission, and "the roles and responsibilities of County departments in fire service matters."

Reasons #1 and #2 concentrated on the comprehensive fire and rescue services legislation and the activities of the Commission. This third and final reason concludes that the Executive branch departments involved in fire and rescue service matters, namely, the Departments of Fire and Rescue Services, the Personnel Department, the Department of Finance, the Office of Management and Budget, and the Office of the County Attorney, have not demanded the same degree of accountability for service performance, management practices, and resource use as is demanded of other public programs.

This opinion is based on interviews with staff personnel and an examination of legislative requirements and accomplishments since enactment of Bill 15/16-79. Specifically, the interviews disclosed that the Fire and Rescue Commission and the corporations are simply not regarded in the same manner as are other agencies who provide a public service and expend public funds.

Evidence of this condition can be demonstrated by an evaluation of the performance of these County government departments in matters relating to the fire and rescue services and, specifically, in fulfilling the mandates of the comprehensive fire and rescue services legislation. The following are examples:

- Neither the County Executive nor any designee has conducted a performance audit of any corporation or demanded other evidence that the local corporations are capable of performing fire and rescue services.

- The Director of Finance has not enforced the requirement that the treasurers of all corporations post a corporate bond in a sum which the Director must set.

●The provisions of the fire and rescue service legislation and the Code of Ethics requiring members of the Fire Board and Commission to file annually a confidential financial disclosure statement have not been enforced.

●Internal audits of corporations receiving tax funds have not been conducted. Also, no follow-up internal audits have been conducted of corporation LOSAP records despite a 1980 internal audit which concluded that the LOSAP records of one corporation was very poorly managed.

●After almost five years of being on the County's payroll system, there is no adequate personnel management system for properly accounting for work hours, pay, overtime and leave of paid employees of the local corporations.

●The Personnel Department has been reluctant to insist that the Commission designate the type personnel data and the procedures by which that data will be provided by the local corporations to the Personnel Department. The result of this reluctance is that the Personnel Director has not been fulfilling the legislative directive to review all personnel transactions involving career employees of the corporations for consistency with the personnel regulations.

●Until recently there has been no action by the Personnel Department when local corporations have not followed the procedures in the personnel regulations for fire and rescue service merit system employees in filling non-firefighter merit positions. As a result, the Chief Administrative Officer has not fulfilled his responsibility to administrator and apply fire and rescue services personnel regulations uniformly.

●For those requirements where the legislation has imposed a deadline for Commission action and an extension has not been granted, the appropriate County government department or agency has not assumed responsibility to accomplish the action as directed in the legislation. Two examples would be the Department of Fire and Rescue Services adopting minimum uniform training standards and requirements and the Ethics Commission promulgating a code of ethics and personal conduct.

●Finally, the Executive branch has not taken an active role in encouraging volunteer participation. Although the Department of Fire and Rescue Services has only a minor legislative role in the Commission's responsibility for developing policies and programs to recruit and retain volunteers (Sec. 21-4N(c)), it would seem logical that the Executive branch would want to take an active role in encouraging and supporting programs to enhance active volunteer participation. The success of such programs could increase volunteer participation and reduce the cost of temporary employees (casual labor) and the cost of hiring more career personnel.

The apparent reluctance on the part of some Executive branch departments to fulfill their responsibilities under the law is, at best, the result of a sincere desire to give the Commission time to establish itself and fulfill its legislative mandate. At worst, it is a disregard

for a major public safety program which costs the taxpayers over \$40 million a year.

When interviewing the County Executive as a part of this evaluation, he specifically requested that this report note that he personally shared in this reluctance to step into those areas which the legislation assigned to the Commission. He emphasized that Bill 15/16-79 reflected the decisions of the Council after a long and arduous period of acrimonious debate. It was and is his desire to make it work. In the process, the County Executive emphasized that the Executive branch has consistently given the Commission and the corporations the benefit of the doubt.

X. OTHER MATTERS

Reports by the Office of Legislative Oversight usually include a section on matters which are indirectly related to the subject under examination. Usually these peripheral issues are discussed in sufficient detail to present conclusions and recommendations. Because of the scope of this evaluation the following matters will only be identified and a few clarifying remarks will be presented. Nonetheless, each issue is considered important enough to bring to the attention of the Council for possible future examination.

1. Fire Tax Districts. The County Council should review the continued value of the anachronistic fire tax districts. All areas of the County receive some level of tax supported fire and rescue services. The fire tax is neither equitable nor is there any relationship between taxes collected and services provided. The County government's responsibility for providing equitable fire and rescue services is fundamental. The entire County should share equally in paying for these important services.

2. Equal Employment and Affirmative Action. In the course of this examination it was noted that there is a very small percentage of minority and female employees in paid merit positions in the fire and rescue services; and apparently, an even smaller percentage in the volunteer ranks. Outlined below are some items which suggest that the participation of minorities and females in the fire and rescue services should be reviewed by the appropriate County agencies. (Note: Data for career personnel is as of February 1985; for volunteer personnel, June 1985).

- Females comprise 2% of the paid work force (all ranks from firefighter to chief).

- There are no females or minorities in any of the approximately 150 paid supervisory positions (Sergeant to Chief) in the 16 local corporations directly supported with tax funds.

- Of approximately 490 paid firefighter and rescue squad member positions, 8% are filled by females and minorities.

- A report to the Commission from 14 of the 16 volunteer corporations (Damascus Fire and B-CC Rescue not reporting) reflects a

al of 141 females and/or 38 minority volunteer members. Of that number, a total of 6 women and/or minorities are in supervisory or professional positions.

3. Fire and rescue corporation's commercial insurance. Currently the fire and rescue corporations are covered by six commercial insurance policies for an annual premium expenditure in excess of \$500,000. The premium is funded with tax funds except for Damascus Fire Department and Bethesda-Chevy Chase Rescue Squad which reimburse the County for their portion of the premium. Except for an accidental death and permanent disability policy (annual premium in 1984 was \$69,720), all risks currently covered in commercial policies can be included in the County's Risk Management Program. It is recommended that a review be made to determine whether savings could be realized from transferring some or all of the commercial policies to the Risk Management Program.

XI. CONCLUSIONS AND RECOMMENDATIONS

Conclusions. Based on an analysis of the findings of this evaluation of the comprehensive fire and rescue services legislation, Chapter 21, Montgomery County Code, 1984, the following major conclusions are presented:

1. The intent and goals of the comprehensive and rescue services legislation are valid, but have not been fulfilled.
2. The five major goals of the legislation, to achieve: maximum protection of life and property, maximum volunteer participation, optimum personnel practices, adequate accountability, and improved operations and administration, have either not been accomplished or standards and criteria by which accomplishment can be measured have not been implemented.
3. There are three major reasons that the intent of the legislation has not been fulfilled and the goals of the legislation have not been achieved:

- deficiencies in the legislation;

- a dichotomy between the intent and goals of the legislation and the fundamental beliefs and sentiments of a majority of the members of the Fire and Rescue Commission; and

- an apparent reluctance on the part of some Executive branch departments to require adequate accountability for service levels and resource use by the Commission and fire and rescue corporations in a manner and to the degree required of other public programs.

Recommendations. To fulfill the legislative intent and achieve the major goals of the comprehensive fire and rescue services legislation, and comply with the Charter and correct inconsistencies, ambiguities and other deficiencies in the law, it is recommended that Chapter 21 of the Code be amended to:

1. Provide that the County Executive appoint and the County Council confirm all members to the Fire and Rescue Commission. The terms of all members should be for more than one year and staggered. All members should be required to be County residents. Direct that the Fire Board is an advisor to the Executive in this matter.

2. Direct the Department of Fire and Rescue Services to provide all administrative and technical staff support to the Fire and Rescue Commission with the Director, Department of Fire and Rescue Services serving as the Executive Director of the Commission. The separate staff for the Commission should be abolished.

3. Include definitions of key words and terms currently not present in the definitions section; for example: "career," "active," "inability and unwillingness" (in the context of a corporation being unable or unwilling to provide service), and "a public emergency."

4. Include specific legislative standards and safeguards in the delegation of authority to the Commission to develop County-wide policies, standards, procedures, plans and programs, especially in pertaining to service levels, individual and unit (in service) training standards, and operational performance.

5. Clarify and emphasize the County's ultimate responsibility and accountability for public safety through fire and rescue services by:

- Strengthening the requirements for accountability, oversight and audit of all local corporations, especially in the major areas of service delivery, management practices and use of public funds. In the area of accountability for public funds, require a uniform accounting system substantially equivalent to that used in the County.

- Clarifying and expanding the County's enforcement responsibility to include all local corporations, eliminating the provision that requires action by the Commission as a prerequisite.

- Clarifying the County's authority to assume command of a corporation in a public emergency.

- Including provisions for the County to temporarily transfer career personnel *among* departments and squads in a public emergency.

- Including provisions which would permit the County to compel the performance of volunteer firefighters in a public emergency.

- Establishing a standard procedure whereby a fire and rescue corporation can be dissolved.

6. Expand the provisions on training requirements and certification standards to include unit (in service) training and drills.

7. Clarify the County's role and responsibilities for developing programs to recruit and retain volunteers, to set uniform minimum standards for volunteer members and to provide an equitable benefits

rogram for volunteers. Eliminate the Fire Board's approval authority over actions by the Commission relating to the code of personal conduct and volunteer related actions. Direct that the Fire Board is an advisor to the Commission in these matters.

8. Clarify provisions on personnel administration for career employees relating to the corporations' use of the services of the Personnel Department in administering the personnel regulations.

9. Require that all purchasing and contracting by the local corporations be in accordance with procedures adopted by the Council pursuant to Section 313 of the Charter, and current provisions of the Code.

10. Strengthen the requirement that all County government departments and agencies actively cooperate with all organizations involved in the fire and rescue services.

It is further recommended that the County Council approve this report for public release and direct that copies of this report be distributed to the following with a request for comments:

The County Executive
Chairman, Fire and Rescue Commission
Chairman, Fire Board
President of each local fire and rescue corporation

