

A BASE BUDGET REVIEW OF THE MONTGOMERY COUNTY OFFICE OF HUMAN RIGHTS

SUMMARY OF FINDINGS AND RECOMMENDATIONS

OFFICE OF LEGISLATIVE OVERSIGHT REPORT 2006-6

APRIL 25, 2006

THE ASSIGNMENT

This report is a base budget review of the Montgomery County Office of Human Rights (the Office). It includes analysis of the Office's workload trends, an assessment of the current staffing organization, and feedback from different stakeholders about what is working well and what needs improvements. A primary focus of the assignment was to examine the Office's activities to determine whether they fulfill mandated legal requirements.

This study is part of a broader initiative of the Montgomery County Council to explore ways of enhancing the Council's annual budget decision-making. The Council has expressed interest in fiscal and program data and analysis that extend beyond review of the marginal budget changes that occur from one year to the next.

HIGHLIGHTS OF THE APPROVED FY06 BUDGET AND WORKLOAD ACTIVITIES

Director's Office – (\$492K and 3.5 workyears) The Director is responsible for the overall administration and management of the Office of Human Rights. The office budget funds the Director, an administrative specialist, a technology specialist and a principal administrative aide. In FY06, the administrative specialist position was lapsed for part of the year.

Discrimination Investigations – (\$1.1 million and 12 workyears) The Discrimination Investigation Program carries out the intake and investigation of civil rights complaints, as established in County Code Chapter 27 and associated Executive Regulations. In FY05, 155 complaints were filed; a majority of the complaints filed alleged employment discrimination based on race.

The data show 237 case investigations closed out in FY05: 170 (72%) were settled or closed administratively; 61 investigations (26%) resulted in a finding that no reasonable grounds existed to suggest a discriminatory act; and six (3%) produced a finding that reasonable grounds existed to suggest a discriminatory act occurred.

Fair Housing – (\$342K and 4.95 workyears) The Fair Housing Program manages Montgomery County Government's fair housing responsibilities as defined in County Code Chapter 27. The Fair Housing Division consists of four staff positions and a group public services intern position.

Data for the Fair Housing Program show a decline in the number of compliance tests. Specifically, a total of 119 tests were conducted between 2003 and 2005: 46 tests in 2003; 53 in 2004; and 20 in 2005. By comparison, a total of 300 tests were conducted between 2000 and 2002, the previous three-year period. The review of the Fair Housing Program activities also shows that the Analysis of Impediments for Fair Housing, a systemic study of barriers that affect the rights of fair housing choice, needs to be updated.

Community Mediation and Public Affairs - (\$217K and 2.0 workyears) Staff in this section carry out the training, outreach and community relations responsibilities of the Office. In addition, they provide staff support to the Commission on Human Rights and the Committee on Hate/Violence. The Office reported 37 hate/violence incidents in 2005, compared to 97 incidents reported in 2001.

The programs the Community Mediation Program administers to promote tolerance and celebrate diversity include the Network of Neighbors (started in 1977); the Human Rights Camp (offered intermittently since 1986); the Partnership Fund for Hate/Violence Incidents (established in 1987), Study Circles (established in 1996); and the Human Rights Hall of Fame (established in 2001).

COMMITTEES AND PROGRAMS ESTABLISHED IN COUNTY’S HUMAN RIGHTS LAW

County Code Chapter 27, *Human Rights and Civil Liberties*, establishes three groups to advise the County on human rights. By law, the Office of Human Rights is responsible for staffing these groups.

	Commission on Human Rights	Interagency Fair Housing Coordinating Group	Committee on Hate/Violence
Legal Requirements			
Membership	15 members	Minimum of 12 members	15 voting members, 6 ex-officio
Type of Duties	Advisory and Adjudicatory ¹	Advisory	Advisory
Annual Report	Yes	Yes	Yes
Advisory Duties	<p><i>Advise</i> County residents, the County Council, and others about racial, religious, and ethnic prejudice, intolerance, discrimination, and bigotry.</p> <p><i>Recommend</i> procedures, programs, and laws to promote and protect equal rights and opportunities for all persons.</p> <p><i>Conduct</i> educational and other programs to promote equal rights and opportunities of all persons.</p> <p><i>Research, analyze, and disseminate</i> information about activities and programs to eliminate prejudice, intolerance, bigotry, and discrimination.</p>	<p><i>Facilitate and promote</i> the County's efforts to prevent discrimination in housing.</p>	<p><i>Advise</i> the County Council, the County Executive, and County agencies about hate/violence in the County.</p> <p><i>Recommend</i> policies, programs, legislation, or regulations as it finds necessary to reduce the incidence of hate/violence.</p> <p><i>Promote</i> educational activities that demonstrate the positive value of ethnic and social diversity in the County.</p> <p><i>Develop and distribute</i> information about hate/violence in the County.</p>
Staffing Practices			
Office of Human Rights’ staff support	The Compliance Director helps the Commission fulfill its adjudicatory roles. The Program Manager in Community Mediation provides administrative support.	The Fair Housing Coordinator provides policy support and the Program Specialist provides administrative support.	The Program Manager in Community Mediation provides periodic policy support and the Office Services Coordinator in the Fair Housing Program provides administrative support.
Office of Human Rights program responsibilities	The Office administers complaint intake process, offers mediation, conducts investigations, makes initial findings of whether reasonable grounds exists, and conciliates cases where reasonable grounds exist.	The Office manages a testing program and sponsors an annual event for Fair Housing Month.	The Office collects and reports program data and administers community response programs, including Network of Neighbors, Study Circles and Partnership Fund for Hate/Violence Incidents.

¹ The Commission’s Case Review Board has the adjudicatory duty to hear and decide discrimination complaints based on local, federal, and case law. The Commission hears cases only after the Office has conducted an investigation and issued an initial determination – see Chapter II in the full report for more details on this process.

ALIGNMENT OF OFFICE ACTIVITIES WITH LEGAL MANDATES

OLO found that the Office of Human Rights has achieved mixed results in aligning its programs and activities with the statutory requirements outlined in the County Code. In particular, the Discrimination Investigation Program activities are generally well aligned with County law, while the Fair Housing Program activities are less well aligned.

Determining how well the Office of Human Right meets its legal responsibilities to help the Commission on Human Rights implement Chapter 27 is complicated by statutory language that is open to different interpretations.

FEEDBACK FROM COMMISSIONERS AND STAFF

OLO interviewed members of the Commission on Human Rights and staff from the Office of Human Rights and other offices/agencies to learn what Office operations work well and what needs improvement.

OLO interviewed nine current and former members of the Commission on Human Rights. OLO heard positive feedback about how the Commission meetings are run, the Director's practice of convening an annual retreat, and the Office's processing of discrimination complaints. Commissioners also acknowledged the professionalism of Office staff. Many Commissioners said that both the Commission and Office could improve their community outreach, and that communication between the Commission and the Office needs to be strengthened.

OLO interviewed all of the current staff in the Office of Human Rights. OLO heard positive feedback about employee morale and the support the Director provides to staff. The Office staff report that the Discrimination Investigation Program runs well whereas the Fair Housing Program is in a rebuilding stage. Staff report the Office generally uses automation effectively, but opportunities exist to use the case management software more efficiently. Staff expressed mixed views about public awareness of the Office.

OLO interviewed 12 staff from other offices/agencies who routinely work with the Office of Human Rights: the Department of Housing and Community Affairs; Department of Health and Human Services, Office of the County Attorney, Office of Zoning and Administrative Hearings, and the Housing Opportunities Commission. OLO heard positive feedback regarding the Discrimination Investigation Program and mixed feedback about the Fair Housing Program. OLO heard general agreement that a need exists for the Interagency Fair Housing Coordinating Group; however, some raised concerns about attendance and/or questioned whether the Group has outlived its original purpose.

OLO RECOMMENDATIONS

Consistent with the Council's intent to use OLO's base budget projects to enhance its decision-making, OLO recommends some immediate Council actions on the FY07 budget and identifies longer-term issues for Council review at a post-budget worksession.

As the Council considers the FY07 Budget, OLO recommends the Council:

1. Request that the Chief Administrative Officer facilitate development of a project that combines research and public outreach (e.g., a housing discrimination study), which is jointly managed by the Office of Human Rights and the Commission on Human Rights. OLO proposes reallocating \$100,000 in the Office's FY07 Recommended Budget to fund the project.
2. Request Executive branch staff to address issues related to the Fair Housing Program when the Council reviews the Office's FY07 Budget.

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RECOMMENDATIONS REGARDING POST-BUDGET DISCUSSION ISSUES

OLO recommends the Council revisit and clarify its public policy guidance with respect to the implementation of programs to promote human rights and reduce discrimination. The Council should schedule a post-budget worksession to decide how it wants to address the issues outlined below. In doing so, the Council will also need to decide what combination of staff support (e.g., OLO, central Council, and/or Executive branch staff) best meets the Council's needs for background information and options for Council consideration.

Issue #1 What should be the advisory and adjudicatory responsibilities assigned by law to the: Commission on Human Rights, the Committee on Hate/Violence, the Interagency Fair Housing Coordinating Group, and the Committee on Ethnic Affairs?

OLO's review of the Office of Human Rights raised concerns about the adequacy of the current staff support provided to the Commission on Human Rights, as well as some overlap in missions among the Commission on Human Rights, the Interagency Fair Housing Coordinating Group, and the Committee on Hate/Violence. In 2004, the Committee Evaluation and Review Board report also raised this issue of overlapping assignments. OLO understands that the study the County Executive planned to undertake of these issues has not yet started.

OLO recommends the Council consider whether to consolidate or amend the advisory responsibilities of these three groups. Further, OLO recommends the Council examine the core question of whether the Commission on Human Rights should continue as a citizen board with both adjudicatory and advisory responsibilities.

Issue #2 How should the law assign roles and responsibilities to the Office of Human Rights and the Commission on Human Rights, with a particular focus on the question of providing staff support for the Commission?

The issue of staff support for the Commission is a source of contention between the Commission and the Director of the Office of Human Rights. Current and former Commissioners report feeling unsupported by the Office and frustrated in not being able to more fully achieve their mission. The Office staff report feeling frustrated by requests for staff assistance that exceed the level required by the County Executive's Handbook on Boards, Committees, and Commissions. OLO recommends the Council revisit and clarify the intended relationship between the Office and the Commission, and amend Chapter 27 to reflect its guidance.

Issue #3 Are changes needed to improve alignment of the scope, location and strategies of the Office of Human Rights programs with the Council's public policy goals?

In its annual approval of budgets, the Council evidences its support for the programs/activities supported by public funds. OLO recommends the Council look closely at whether the Office's activities as they evolved continue to align with the Council's public policy goals and priorities. Specific questions to address include:

- Should the Discrimination Investigation Program expand beyond its current function as a complaint-based operation? For example, should the Discrimination Investigation Program study a specific public sector program, similar to studies the Commission conducted in its early days?
- Should the Fair Housing Program and/or the Community Mediation and Public Affairs Program continue to reside in the Office of Human Rights or are there organizational advantages to relocating these programs to other Departments?
- Is the Community Mediation and Public Affairs Program developing strategic outreach initiatives to reach diverse populations? Many of the activities of the Community Mediation and Public Affairs Program are longstanding programs that may merit a review of their alignment with changing County demographics.

Issue #4 How should the Executive Branch be preparing for the transition that will occur when the current leadership of the Office of Human Rights retires?

Current and former Commissioners and staff from partner agencies expressed concern for maintaining high quality discrimination investigations upon the retirement of these individuals. As the Office of Human Resources begins to address the implications of the overall aging of the County Government workforce, the Office of Human Rights could consult with the Office of Human Resources to create a succession or transition plan.