

A BASE BUDGET REVIEW OF THE OFFICE OF HUMAN RIGHTS



OFFICE OF LEGISLATIVE OVERSIGHT
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Sue Richards
Suzanne Langevin

EXECUTIVE SUMMARY

County Code Chapter 27, *Human Rights and Civil Liberties*, establishes the: Office of Human Rights, Commission on Human Rights, Interagency Fair Housing Coordinating Group, and Committee on Hate/Violence. The law assigns these entities specific responsibilities to implement County's policies and programs to promote tolerance and reduce discrimination.

In FY06, the \$2.1 million operating budget for the Office of Human Rights funds \$1.972 million in personnel (22.45 workyears) and \$153K in operating costs. The Office budget supports:

- A \$1.1 million Discrimination Investigation Program that receives and investigates complaints of alleged discrimination;
- A \$342K Fair Housing Program that administers compliance testing and outreach activities, and coordinates County programs to prevent discrimination;
- A \$217K Community Mediation and Public Affairs Program that sponsors events to promote tolerance, manages the hate/violence incidents program, and provides staff support for the Commission on Human Rights; and
- A \$492K budget for the Director's Office to provide overall direction and guidance.

Workload data for the Discrimination Investigation Program shows 155 complaints were filed in FY05; most of these alleged employment discrimination were based on race. The data show 237 case investigations closed out in FY05: 170 (72%) were settled or closed administratively, 61 investigations (26%) found no reasonable grounds existed to suggest a discriminatory act, and 6 (3%) found reasonable grounds existed.

Data for the Fair Housing Program shows a decline in the number of compliance tests. Specifically, a total of 119 tests were conducted between 2003 and 2005, including 46 tests in 2003, 53 in 2004, and 20 in 2005. By comparison, a total of 300 tests were conducted during the previous three-year period, (2000 to 2002).

A review of the Community Mediation and Public Affairs Program shows a decline in the number of hate/violence incidents. The Office reported 37 hate/violence incidents in 2005, in its 2004/2005 Annual Report, compared to 97 incidents in 2001, in the 2002/2003 Annual Report.

OLO's review 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 is 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.

OLO proposes three recommendations for the Council's review. Specifically, OLO recommends:

- The Council request the CAO to facilitate development of a project proposal that combines research and public outreach, e.g., a housing discrimination study, which would be jointly managed by the Office of Human Rights and the Commission on Human Rights. OLO proposes reallocating \$100,000 in the FY07 Recommended Budget to fund the project;
- The Council request Executive branch staff to address issues related to the Fair Housing Program when the Council reviews the Office's FY07 Budget next week; and
- After budget, the Council clarify the responsibilities and relationship of the Office and the Commission, and sort out the overlapping missions of the three boards the Office supports.

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Chapter I. Authority, Scope, and Organization of Report

A. Authority

Council Resolution 15-1092, *FY 2006 Work Program of the Office of Legislative Oversight*, adopted July 26, 2005.

B. Purpose and Scope

This report is a base budget review of the Montgomery County Office of Human Rights (the Office). The Office of Human Rights manages the County's efforts to promote tolerance and reduce discrimination. The Office's FY06 budget, as approved by the Council, includes approximately \$2.1 million and 22.5 workyears for these activities. The Office's core programs include:

- Investigating and enforcing the County's anti-discrimination laws;
- Monitoring hate/violence incident data and delivering support services to victims of hate/violence incidents; and
- Sponsoring outreach and educational events.

The Office also provides staff support to three citizen boards: the Commission on Human Rights; the Committee on Hate/Violence and the Interagency Fair Housing Coordinating Group.

Chapter 27 of the Montgomery County Code, Human Rights and Civil Liberties, establishes several requirements to regulate the Office's programs and activities. For example, the law delineates the administrative process that must be used to investigate and adjudicate complaints of alleged discrimination. It establishes the authority and administrative requirements for a Partnership Fund to compensate victims of hate/violence. It authorizes the appointment of a Fair Housing Coordinator, and it defines the membership and duties of the Commission on Human Rights, the Interagency Fair Housing Coordinating Board, and the Committee on Hate/Violence.

As stated in OLO's FY06 Work Program, approved by the Council in July 2005, the purpose of this base budget review is to provide the Council with a detailed examination of the Office's activities to determine whether they fulfill the requirements specified in law. The Council also requested:

- An analysis of the Office's workload trends;
- An assessment of the Office's current staffing organization and staffing levels; and
- Feedback from Commissioners and staff about what is working well and opportunities for improvement.

This study reports how Commissioners and staff perceive the Office's support for its citizen boards and committees; however, it does not examine the operations, functions and activities of the committees themselves.

C. Organization of Report

Chapter II, Legal Authority, reviews the history of the Commission on Human Rights and discusses the protections and legal mandates established in law.

Chapter III, Base Budget Overview of the Office of Human Rights, examines the Office's budget trends, personnel complements and expenditure data.

Chapters IV through VII present a detailed review of the legal requirements, program activities, and performance measurement data for the each Office's four program budgets:

- The Director's Office (Chapter IV);
- The Discrimination Investigation Program (Chapter V);
- The Fair Housing Program (Chapter VI); and
- The Community Mediation and Public Affairs Program (Chapter VII).

Chapter VIII, Feedback and Observations, reports observations from the Commission on Human Rights and staff in the Office of Human Rights and other agencies.

Chapters IX and X present OLO's Findings and Recommendations

D. Terminology

This report references many entities with names that are used interchangeably or with names that have changed. (For example, the Commission on Human Rights was initially called the Commission on Inter-Racial Problems, and later the Commission on Human Relations.)

For clarity's sake, this report uses current names to refer to the Commission and the Office staff, i.e., the Commission on Human Rights (the Commission) and the Office of Human Rights (the Office). It uses the following names to refer either to the budgets, programs or staffing units in the Office: the Director's Office, the Discrimination Investigation Program, the Fair Housing Program, and the Community Mediation and Public Affairs Program.

E. Methodology and Acknowledgements

Office of Legislative Oversight staff members Sue Richards and Suzanne Langevin conducted this study, with assistance from Kristen Latham and Teri Busch. OLO gathered information through document reviews, general research and interviews. OLO used legislative records and bill files to compile legislative history. OLO collected

program budget and staffing data from Recommended and Approved operating budgets, approved personnel complements, and comprehensive annual financial reports. OLO interviewed more than 50 people as part of this study. The names and affiliations of the interviewees are listed below.

F. Acknowledgements

OLO appreciates the high level of cooperation and assistance we received from everyone involved. OLO thanks everyone for sharing their time and insights especially appreciates the extensive assistance we received from the Office of Human Rights' staff.

The Office of Human Rights

Odessa Shannon (Director)	Rafael Alvarez	Ralph Baker
Michael C. Brown	Lasantha Dahanaike	Michael Dennis
Lois Hackey	Sonja Harvell	Cuong Duthinh
Esther Greene	Kimberly Ham	Cecelia Hatton
David Hughley	Joseph Kopyto	Beverly Marshall
Patricia Miller	Peter Mitchell	Fay Mixon
Marissa Wills	Angela Withers-Sullivan	

Current and Former Members of the Commission on Human Rights

Jim Blinkoff	Rick Fein	Janet Friedman
Diane Graham	Beth Harrison	Eeshan Melder
Peter Nickoloff	Nancy O'Connor	Jackie Simon

Staff from Other Departments and Agencies

Affiliation	Names
Office of the County Executive	Tina Clarke and Debbie Goodwin
Office of the County Attorney	Nancy Appel
Department of Health and Human Services	Oliver Brown and Corinne Stevens
Department of Housing and Community Affairs	Michael Denney, Angela Dickens, Cynthia Gaffney, Juin Killingsworth, Luann Korona, Myriam Torrico, Fred Wilcox and Ruby Rubens (retired)
Office of Human Resources	Kaye Beckley, Jon Bernheimer, Carolyn Hohlfeld, Julie Mack and Carlos Vargas
Office of Management and Budget	Rose Glavinic
Police Department	Dave Baker
Office of Zoning and Administrative Hearings	Francoise Carrier and Marty Grossman
Housing Opportunities Commission	Doug Ryan

Chapter II. Legal Authority

This chapter provides a brief history of the Commission on Human Rights (the Commission), the Office of Human Rights (the Office) and outlines the legal roles and responsibilities of each.

- **Part A** describes the early history of the Commission on Human Rights (originally called the Commission on Inter-Racial Problems);
- **Part B** explains the overlapping legal structure of County, state and federal human rights laws and enforcement agencies;
- **Part C** presents the County's administrative procedures for processing complaints and enforcing human rights laws;
- **Part D** describes the legislative history of Bill 36-99, a comprehensive revision to Chapter 27 (*Human Rights and Civil Liberties*) enacted in 2001;
- **Parts E and F** present the additional roles and responsibilities of the Commission on Human Rights and the Office of Human Rights.

A. History of the Commission on Human Rights¹

The Commission on Human Rights traces its origins to July 1960 when the County Council created the Commission on Inter-Racial Problems. The Council appointed community members to this Commission to ease tensions by serving as a "sounding board" for proponents and opponents of integration. Later, the Commission requested and received authority to conduct studies and make public policy recommendations on race relations.

The first issue the Commission addressed was segregation at Glen Echo Park, a privately owned amusement center. The Commission recommended that the Council discontinue a County recreation program that transported white children to Glen Echo Park's swimming pools. The Council unanimously endorsed the Commission's recommendation in September 1960.

Opposition to the County government's use of segregated facilities in Glen Echo Park was the first of many instances in which the Commission addressed County government activities and practices. Subsequently, the Commission studied prejudice in the County government's hiring practices, police relations with the black community, and the judicial system.

¹ Information in this section was gathered substantially from, David Brack, "Twenty Years of Civil Rights Progress: A history of the Human Relations Commission of Montgomery County, Maryland," published as a special supplement to the Montgomery Sentinel in 1980, included in Appendix A.

The Commission successfully lobbied the County Council to confront discrimination in public accommodations, housing, and employment. In 1962, the County enacted legislation to prohibit discrimination in public accommodations, well ahead of state and federal legislation. In 1967, the Council enacted legislation to prohibit discrimination in housing; in 1972, it prohibited discrimination in employment and assigned the Commission responsibility for investigating complaints. Initially, the Commission held public hearings to conciliate complaints. If the Commission could not resolve a complaint; it referred the complaint to a prosecuting attorney.

The Commission carried out its activities without paid staff until 1965, when the County Manager assigned a part-time Executive Secretary to the Commission. In 1967, the Council provided the Commission with a full-time Executive Secretary and a support person. The Council also amended the law to require the use of three member panels to investigate and adjudicate complaints. One panel investigated housing complaints and a second panel investigated public accommodation complaints. Over the next decade, the Council increased the Commission's staff to nine positions, including two positions assigned to investigate discrimination complaints.

In 1976, the federal Equal Employment Opportunities Commission (EEOC) certified that the County's anti-discrimination laws, enforcement procedures, and remedies were equivalent to those at the federal level. As an EEOC "deferral agency," complainants could ask the Commission on Human Rights to investigate an employment discrimination complaint while preserving their rights under federal law. This designation also meant that the EEOC could ask the Commission on Human Rights to investigate and conciliate employment complaints filed directly with the EEOC but alleged to have occurred in Montgomery County.

The number of employment discrimination cases the Commission investigated increased quickly, from 160 in 1975 to 288 in 1977. In 1978, the Council funded six new positions to investigate discrimination complaints for the Commission, bringing the staff complement to 16. The EEOC funded four of these investigation positions. Two years later, when the EEOC withdrew its funding, the County funded these positions (Today, the EEOC reimburses the County at a rate of \$540 for each accepted resolution).

In 1984, the Council passed Bill 65-83. This law renamed the Executive Secretary the Executive Director and authorized the Executive Director to dismiss a complaint if an investigation found no reasonable grounds existed to show that a violation of the law had occurred. The Council authorized the Commission to hear a complainant's appeal of the Director's decision.

In 1986, the Council passed Bill CR-A85, which became Section 1A, *Structure of County Government*, of the County Code. Section 1A-203 officially created an Office of Human Rights, under the direction of an Executive Director appointed by the Chief Administrative Officer. This legislation differentiated the Commission on Human Rights from the Office of Human Rights.

Today, the Commission has 15 volunteer members, who are appointed by the County Executive and confirmed by the County Council for three-year terms. A Case Review Board, which has three Commission members, has replaced the three panels. The Office of Human Rights, which provides staff support to the Commission, has a merit system Director plus 21 staff positions, including 12 positions in the Discrimination Investigation Program.

B. Federal, State and County Anti-discrimination Laws.

An overlapping network of federal, State and County laws protect Montgomery County's residents, employees and visitors from discriminatory practices in employment, public accommodations, and real estate. Anti-discrimination laws at each level of government specify their prohibitions by establishing discrimination types (for example, employment, public accommodation, and housing) and bases (for example, race, sex, disability).

Table 1 shows the types of discrimination prohibited in County, State and federal law. Every level of government prohibits discrimination in employment, public accommodations, and housing; only County law prohibits discrimination in commercial real estate transactions.

TABLE 1: DISCRIMINATION TYPES PROHIBITED IN COUNTY, STATE AND FEDERAL LAW

Type	Prohibited in County Law	Prohibited in State Law	Prohibited in Federal Law
Employment	✓	✓ ²	✓ ³
Public Accommodation	✓	✓	✓
Housing	✓	✓	✓
Commercial Real Estate	✓		
Intimidation	✓ (based on race, religion, national origin, disability or sexual orientation)	✓ (in housing only, based on race, color, religion, sex, age, disability, national origin, familial or marital status, sexual orientation, genetic status or testing)	✓ (based on race, religion, national, origin, disability, sex)

Source: OLO, April 2006.

² Applies to employers with 15 or more employees only

³ Applies to employers with 15 or more employees only, except for prohibitions on age discrimination which apply to employers with 20 or more employees.

Table 2 compares the prohibited bases specified in federal, State and County law. It shows County law has the most prohibited bases (14), followed by State law (11) and federal law (8). County law offers the broadest range of protections.

TABLE 2: DISCRIMINATION BASES PROHIBITED IN LAW

Prohibited Bases	County Law	State Law	Federal Law
Race	✓	✓	✓
Color	✓	✓	✓
Religion	✓	✓	✓
Sex	✓	✓	✓
Age ⁴	✓	✓	✓
Disability	✓	✓	✓
National Origin	✓	✓	✓
Presence of Children/ Familial Status	✓ (housing and commercial real estate only)	✓	✓ (housing only)
Retaliation	✓	✓	✓
Sexual Orientation	✓	✓	
Marital Status	✓	✓	
Genetic Status	✓	✓	
Source of Income	✓ (housing only)		
Family Responsibilities	✓		
Ancestry	✓		

Source: OLO and Office of Human Rights, April 2006.

The County Code acknowledges that the protections it offers are substantially similar to those in State or federal law. County law states that the County's intent is to provide Montgomery County residents with prompt and efficient enforcement options that may not be available at the other levels, not to duplicate enforcement efforts.

⁴ County and State laws are non-specific on minimum age, but the enforcement agencies apply coverage from the age a person can legally work (14 years old). Federal law applies only to persons over 40 years old.

In general:

- Complaints alleging discrimination based on their source of income (in housing), family responsibility, or ancestry can only be filed with the County;
- Complaints alleging discrimination based on sexual orientation, marital status or genetic status can be filed with the County or the State; and
- Complaints alleging discrimination based on race, color, religion, sex, age, disability, national origin or presence of children (in housing only) can be filed with the County, the State or the federal government.

C. The County's Procedures for Processing Discrimination Complaints

Chapter 27 of the Montgomery County Code, *Human Rights and Civil Liberties*, and Chapter 27 of the Code of Montgomery County Regulations establish the County's procedures for receiving, investigating, resolving and adjudicating discrimination complaints filed with the County. The County establishes these procedures to give a complainant an alternative to litigating a complaint through the courts. After forty-five days, a complainant may decide at any time to withdraw his/her complaint and file a lawsuit, except as noted below.

Section 27-7 of the County Code outlines the administrative procedures for processing a complaint, which consists of four steps – complaint filing, fact-finding, issuance of a preliminary finding, and disposition.

Step 1: Complaint Filing: An individual must report to the Office that an alleged prohibited act occurred in Montgomery County within the previous 365 days.⁵

At any time after a complaint is filed, Section 27-7 authorizes the Director to ask the County Attorney to pursue interim relief such as temporary restraining orders, preliminary injunctions or other legal relief to preserve the status quo or prevent irreparable harm.⁶

Step 2: Fact-Finding: Staff in the Office conduct an investigation.

⁵ The Commission or any single Commissioner may also file a complaint on behalf of a private individual, or group of individuals. Specifically, Section 27-5 states the Commission may "initiate and receive complaints of discrimination, prejudice, intolerance, and bigotry from any person or group because of race, color, sex, age, marital status, religious creed, ancestry, national origin, disability, sexual orientation, genetic status, presence of children, family responsibilities or source of income, that deprives that person or group of equal rights, protection, or opportunity in employment, real estate, and public accommodation."

⁶ Section 27-7 of the County Code authorizes the Commission to direct the County Attorney to pursue interim relief. The Commission cannot fully exercise this authority because the law does not allow the Director to inform the Commission of the details of a complaint before he/she issues a finding. The same section also authorizes the hearing examiner to direct the County Attorney to pursue interim relief.

Step 3: Issuance of the Director's Finding: Based on the investigation, the Director of the Office issues a preliminary finding that either:

- No reasonable grounds exist to believe that a violation of Chapter 27 occurred or;
- Reasonable grounds exist to believe that a violation of Chapter 27 occurred.⁷

Step 4: Disposition of the Director's Finding: The processing of a complaint following a Director's finding varies, depending on the whether or not the Director finds reasonable grounds exist.

Chart 1 on the next page shows the various options (and final outcomes) that are available to the complainant and/or the respondent following a finding by the Director that are described in more detail below.

No Reasonable Grounds. If the Director issues a finding that "no reasonable grounds" exist to believe a discriminatory act occurred, the complainant may appeal the decision to the Commission's Case Review Board (CRB) within 30 days. In deciding the appeal, the CRB may review the case file, speak to the parties directly, ask the Director to investigate further; or conduct a full hearing.

If the CRB chooses to decide an appeal based on a full hearing, it may conduct the hearing itself or it may ask the Office of Zoning and Administrative Hearings (OZAH) to conduct the hearing. After the hearing, OZAH forwards a written report and recommendation to the CRB. The CRB reviews OZAH's recommendation before it issues a final decision that must be based on federal, state, County and case law.

If the CRB upholds the Director's finding of no reasonable grounds, the case is dismissed and a complainant cannot appeal this decision to Circuit Court.

Reasonable Grounds. Whenever the Director issues a finding that reasonable grounds exist to believe a discriminatory act occurred, the Office must attempt to conciliate the matter between the complainant and respondent. During conciliation, the Office attempts to negotiate terms that would, in the judgment of the Office, represent full relief to the complainant. The law establishes a 90-day limit to conciliate a complaint; however, the Office can extend this period with the consent of the complainant and the respondent. (The Office states that many times parties ask for additional time to obtain or change counsel, to conduct informal discovery, or to consult with principals, etc. It further states that an extension of time is always better and less expensive than an adjudicatory alternative.)

The Commission must approve any conciliation agreement, which becomes a binding, enforceable order of the Commission. While statements or actions made during

⁷ This is a preliminary finding that evidence exists to support the allegation; it is not a determination that a violation actually occurred.

conciliation are confidential, the Commission may disclose the final terms of an agreement except in employment or public accommodations cases. (Sec. 27-7)

If the parties cannot agree on conciliation terms, and the Director decides that further efforts would be fruitless, he/she must promptly certify the complaint to the Commission. The Commission must appoint a CRB to decide if discrimination actually occurred.

The CRB may conduct a hearing on the complaint, or refer it to OZAH for a hearing (In practice, the CRB has asked OZAH to conduct its hearings since 1992). The CRB considers OZAH's recommendation, and may hear additional oral argument before it issues a final decision. The CRB's decision must be based on federal, State, County and case law. Either party may appeal the CRB's decision to Circuit Court.

Penalties and Damages. If the CRB decides a respondent violated the law, it may assess penalties and/or damages against any person, except the County. Table 3 shows the penalty limits in County law for different types of discrimination. When the CRB imposes a civil penalty it must consider:

- Any prior findings of discrimination;
- The willfulness of the discriminatory act; and
- The severity of the complainant's injury.

The CRB may also award the complainant damages (with interest) to replace money the complainant lost as a result of a discriminatory act. The amount of damages and interest can accrue from the date the discrimination occurred.

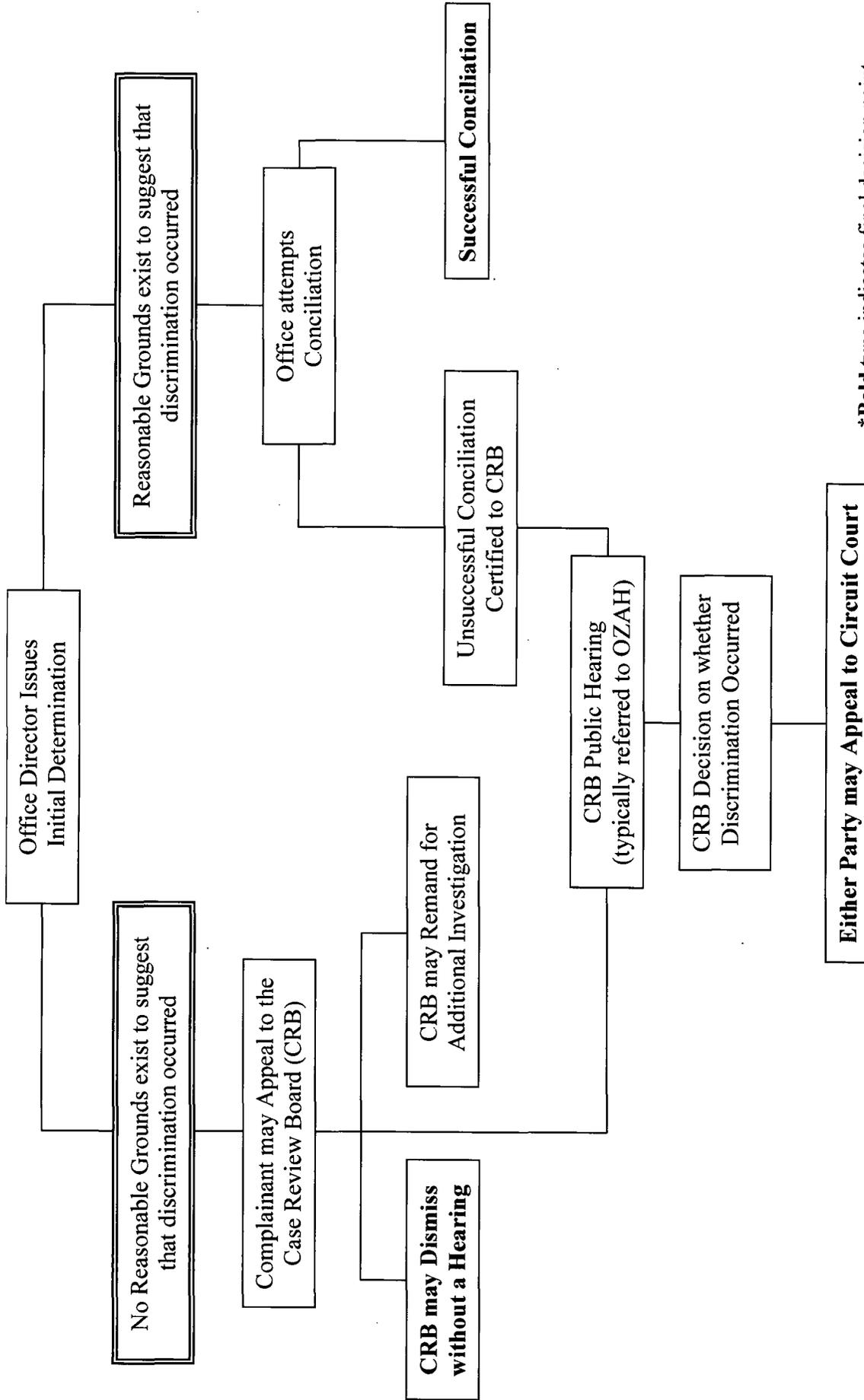
TABLE 3: CIVIL PENALTIES AND DAMAGES IN COUNTY LAW

Discrimination	Penalties	Damages (other than punitive)
Housing	Up to \$10,000, 25,000, or \$50,000	<ul style="list-style-type: none"> • Reasonable attorney's fees; • Property damage; • Personal injury; • Unreimbursed travel expenses; • Humiliation and embarrassment (up to \$5,000); • Interest on any damages • Equitable relief • Consequential damages⁸; or • Other relief that furthers the purposes of this Article or is necessary to eliminate the effects of any prohibited discrimination
Employment or Public Accommodations	Up to \$5,000	
Commercial Real Estate	Up to \$1,000	
Intimidation	Up to \$1,000	
Other Violation	\$500	

Source: OLO and County Code Sec. 27.8 1, April 2006.

⁸ Sec. 27-8 provides the following examples of consequential damages: lost wages from employment discrimination or higher housing costs from housing discrimination, for up to 2 years after the discrimination, not exceeding the actual difference in expenses or benefits that the complainant realized while seeking to mitigate the consequences of the discrimination (such as income from alternate employment or unemployment compensation following employment discrimination).

CHART 1: COMPLAINT PROCESSING AFTER INITIAL DETERMINATION



***Bold** type indicates final decision point

Penalties and Damages. If the CRB decides a respondent violated the law, it may assess penalties and/or damages against any person, except the County. Table 3 shows the penalty limits in County law for different types of discrimination. When the CRB imposes a civil penalty it must consider:

- Any prior findings of discrimination;
- The willfulness of the discriminatory act; and
- The severity of the complainant's injury.

The CRB may also award the complainant damages (with interest) to replace money the complainant lost as a result of a discriminatory act. The amount of damages and interest can accrue from the date the discrimination occurred.

D. Bill 36-99

In December 1999, the Council President introduced Bill 36-99 at the request of the County Executive, to “update and clarify the County’s Human Relations law.”⁹

According to Council staff, Bill 36-99, as introduced, would “repeal the Commission’s role in adjudicating cases of alleged discrimination” and limit the Commission to “overseeing certain anti-discrimination programs and advising County agencies about human relations issues in the County.”¹⁰ It proposed to transfer all authority to decide discrimination complaints or to appeal initial determinations to the Office.

In January 2000, the Council held a public hearing on Bill 36-99. The public hearing record shows 12 speakers opposed this fundamental change in the Commission’s role, including former Commissioners and plaintiffs’ attorneys. The implications of this transfer of authority dominated the first Health and Human Services Committee worksession.¹¹

In the end, the Council amended Bill 36-99 to preserve Commission’s authority. The Council’s official minutes reflect that the Council intended to maintain the tradition of using a volunteer Commission to hear appeals and to hear and decide discrimination complaints where reasonable grounds existed. Table 4 shows the key provisions in Bill 36-99 (as adopted) that appear in Chapter 27 (*Human Rights and Civil Liberties*) today.

⁹ Memorandum from the County Executive to the County Council President, September 16, 1999.

¹⁰ Memorandum from Council staff to Council, May 1, 2001: Agenda Item #4.

¹¹ HHS Committee worksessions were held on June 15, 2000, November 9, 2000, and March 1, 2001.

TABLE 4: MAJOR AMENDMENTS TO CHAPTER 27 RESULTING FROM BILL 36-99

Subject	Pre- Bill 36-99	Post-Bill 36-99
Agency Name	Commission on Human Rights staff	Office of Human Rights created to clarify roles of Commissioners and executive branch staff
Hearings and Appeals	Commission convenes separate Employment, Housing and Public Accommodations hearing panels.	Commission convenes a single three-member hearing panel
Confidentiality		Cases are confidential until certified to the Commission, but open to parties upon case appeal
Prohibited Acts		Added genetic status in employment; specified housing included brokering and appraising; and defined disability and reasonable accommodation
Employment Discrimination	Law applied to employers with seven or more employees	Law applies to employers with one or more employees
Damages and Penalties		Monetary award for humiliation increased from \$1,000 to \$5,000

Source: OLO and Office of Human Rights, April 2006.

E. Other Responsibilities of the Commission on Human Rights

In addition to the Commission's adjudicatory duties, Section 27-5 assigns the Commission eight other research and policy advisory responsibilities. These are to:

- Research, analyze, and disseminate information about activities and programs to eliminate prejudice, intolerance, bigotry, and discrimination;
- Conduct educational and other programs to promote equal rights and opportunities of all persons regardless of race, color, religious creed, ancestry, national origin, sex, age, marital status, disability, sexual orientation, genetic status, presence of children, family responsibilities, or source of income;
- Promote goodwill, cooperation, understanding and human relations among all persons;
- Cooperate with interested citizens, racial, religious, and ethnic groups; and community, business, professional, technical, educational, and civic organizations;
- Study and investigate, through public or private meetings, conferences, and public hearings, conditions that could result in discrimination, prejudice, intolerance, or bigotry because of race, color, religious creed, ancestry, national origin, sex, age, marital status, disability, sexual orientation, genetic status, presence of children, family responsibilities, or source of income;

- Advise County residents, the County Council, the County Executive, and the various departments of County, state, and federal governments about racial, religious, and ethnic prejudice, intolerance, discrimination, and bigotry and recommend procedures, programs, and laws to promote and protect equal rights and opportunities for all persons, regardless of race, color, religious creed, ancestry, national origin, sex, age, marital status, disability, sexual orientation, genetic status, presence of children, family responsibilities, or source of income;
- Work to eliminate discrimination, prejudice, intolerance, and bigotry in housing, recreation, education, health, employment, public accommodations, justice, and related matters;
- If the County Executive does not object, the Commission may conduct additional programs to relieve group tension or adverse intergroup actions resulting from causes other than race, color, sex, religious creed, ancestry, national origin, age, marital status, disability, sexual orientation, genetic status, presence of children, family responsibilities, or source of income.

F. Responsibilities for Fair Housing and Hate/Violence in Chapter 27

In addition to assisting the Commission on Human Rights, Chapter 27 also establishes responsibilities for the County's fair housing activities and the Committee on Hate/Violence.

Fair Housing Activities. Section 27.26A of the County Code requires the Director of the Office of Human Rights to coordinate the activities of all County agencies to prevent discrimination in housing and test compliance with housing discrimination laws. To carry out this function, the Director must designate one managerial level staff member as the Fair Housing Coordinator. Immediately following this provision, Section 27-26A specifies that the *Commission*¹² must:

- Encourage housing industry participation in activities promoting fair housing, and maintain liaison with industry representatives;
- Test compliance with housing discrimination laws;
- Assess information needs and assure that appropriate County agencies are gathering and analyzing the necessary data to monitor compliance with housing discrimination laws;
- Maintain a bibliography of information and databases relevant to housing discrimination;
- Promote education and training to achieve fair housing; and
- Provide staff support for meetings and activities of the interagency fair housing coordinating group.

¹² Prior to the adoption of Bill 36-99, the law assigned these responsibilities to the Director of the Office.

Section 27-26B establishes an Interagency Fair Housing Coordinating Group (IFHCG), which is responsible for facilitating and promoting efforts to prevent discrimination in housing. The County Code requires the County Executive to appoint members (subject to confirmation by the Council) from the following nine County departments, offices and commissions:

- Office of Community Outreach in the Office of the Chief Administrative Officer;
- Commission on Human Rights;
- Housing Opportunities Commission;
- Department of Economic Development;
- Department of Housing and Community Affairs;
- Community Service Centers;
- Department of Health and Human Services;
- Commission for Women; and
- Commission on People with Disabilities.

The County Code requires the IFHCG, with staff support from the Fair Housing Coordinator, to submit an annual report on housing discrimination to the County Council and the County Executive. This annual report must:

- Assess County, State and federal laws prohibiting discrimination in housing, and evaluate their enforcement in the County;
- Recommend changes in law, policy, programs or priorities needed to reduce discrimination in housing;
- Include a work program for the coming year;
- Include a progress report on the previous year's work program; and
- Include the views of the Fair Housing Coordinator and any member whose views differ from those of the report.

Committee on Hate/Violence. Section 27-63 establishes the membership, appointment procedures, terms, staffing and duties of the Committee on Hate/Violence. The County Code assigns the Office of Human Rights staffing responsibility for the Committee; it assigns the following duties to the Committee:

- Develop and distribute information about hate/violence in the County;
- Promote educational activities that demonstrate the positive value of ethnic and social diversity in the County;
- Advise the County Council, the County Executive, and County agencies about hate/violence in the County, and recommend such policies, programs, legislation, or regulations as it finds necessary to reduce the incidence of acts of hate/violence;

- Submit an annual report by October 1 to the County Executive and the County Council on the activities of the Committee, including the source and amount of any contribution received from a public or private source to support the activities of the Committee; and
- Establish a subcommittee to manage the Partnership Fund for Victims of Hate/Violence¹³.

Section 27-26 of the County Code establishes the Partnership Fund for Victims of Hate/Violence to provide property damage and personal injury compensation to victims of incidents characterized by the:

- Use of racial, religious, or ethnic statements;
- Display of hate groups symbols;
- Intent to harm, injure, or intimidate a particular group or organization; or
- Perception by the victim that he has been a victim of an act of hate/violence based on their religion, race, national origin, ethnic background, sexual orientation, or disability.

Victims can seek compensation for damages (up to \$2000 per incident) and personal injuries (up to \$4,000 per incident). The amount approved by the Board must be based on the actual expenses incurred, minus any other private or public compensation.

¹³ Prior to January 2006, the Partnership Fund was administered by the Partnership Board. Bill 3-05, effective January 2006, consolidated the Partnership Board into the Committee on Hate/Violence Incidents.

Chapter III. Base Budget Overview of the Office of Human Rights

This chapter presents a budget overview of the Office of Human Rights (Office) that shows trends in the program structure, staffing levels, and budget for the Office. This chapter is organized as follows:

- **Part A** presents the FY07 Recommended Operating Budget for the Office;
- **Part B** reports approved budget and expenditure data since FY96;
- **Part C** presents an in-depth review of the Office's FY06 budget components; and
- **Part D** provides information about the Office's FY06 workforce.

Since the County Council established the Commission on Human Rights and its staff, the amount and configuration of staff support has changed considerably. Some of the key events affecting the staffing and structure of the Office are summarized below.

- In 1962, when the Council enacted the law that established the Commission on Human Relations, the Council specified that the County Manager or designee would serve as the Director of the Commission. (Council Ord. 4-120)
- In 1967, the County Council changed the position of Director to an Executive Secretary and specified that the primary duties of this position were to "... serve as Executive Secretary... and assist the various Commission Panels as shall be required." (Council Ord 6-56)
- In 1970, County voters adopted a Charter that changed the County's governance structure from a County Manager to a County Executive form of government. As a result of this change, the assignment of additional staff to the Commission became the responsibility of the County Executive.
- In 1986, the Council enacted Bill CR-A-85 to clarify the organizational structure and supervisory responsibilities for the County Government as a whole. This legislation created separate offices for commissions that were independent of departments or other offices, including the staff to the Commission on Human Rights.¹⁴

A. The FY07 Office of Human Rights' Recommended Operating Budget

The recommended FY07 operating budget for the Office of Human Rights is approximately \$2.3 million, a \$155,000 (7%) increase over FY06. The largest portion of

¹⁴ Bill CR-A-85 established the Office of the Commission for Women, the Office of Community Use of Educational Facilities and Services, the Office of Consumer Affairs, and the Office of the Human Relations Commission.

this increase (26.6%) represents increases in operating expenses. These increases are intended to fund:

- A consultant to report on housing discrimination (as required by Bill 36-04);
- A second session of the Human Rights Camp for eighth-graders; and
- The relocation of the Office.

B. Office of Human Rights' Budget and Spending Trends

This section presents ten years of budget, appropriation and expenditure data for the Office of Human Rights. It also reports trends in positions, workyears and reimbursements of rental license fee revenue.

1. Approved Budgets and Expenditures

Table 5 displays the Office's approved budget and actual expenditures for FY96 through FY06. The data show that over the ten-year period between FY96 and FY06, the approved budget for the Office of Human Rights increased by \$1 million (91%), from \$1.1 million in FY96 to \$2.1 million in FY06. On average, the approved budget grew approximately \$100,000 (7%) each year.

TABLE 5: APPROVED BUDGETS AND ACTUAL EXPENDITURES FOR THE OFFICE OF HUMAN RIGHTS, FY96-FY06

Fiscal Year	Approved Budget	Annual % Budget Change	Actual Expenditures	Annual % Expenditure Change
FY96	\$1,111,595	--	\$1,101,002	--
FY97	\$1,230,949	11%	\$1,221,619	11%
FY98	\$1,364,091	11%	\$1,337,211	9%
FY99	\$1,427,431	5%	\$1,398,469	5%
FY00	\$1,405,320	-2%	\$1,375,729	-2%
FY01	\$1,621,422	15%	\$1,478,933	8%
FY02	\$1,617,142	0%	\$1,530,787	4%
FY03	\$1,846,160	14%	\$1,780,177	16%
FY04	\$1,829,341	-1%	\$1,811,532	2%
FY05	\$1,969,488	8%	\$1,835,967	1%
FY06	\$2,125,530	8%		

Source: OLO and Approved Budgets and FAMIS reports, FY96-FY06, April 2006.

The Council appropriates and the Office spends funds for both personnel and operating costs. Personnel costs are the major cost driver of the budget. Table 6, on page 19,

shows personnel costs as a share of total expenditures ranged from a low of 88% in FY98 to a high of 96% in FY04.

TABLE 6: PERSONNEL AND OPERATING EXPENDITURES FOR THE OFFICE OF HUMAN RIGHTS, FY96-FY06

Fiscal Year	Actual Expenditures		
	Personnel (% of Total)	Operating (% of Total)	Total
FY96	\$1,018,727 (93%)	\$82,275 (7%)	\$1,101,002
FY97	\$1,135,950 (93%)	\$85,669 (7%)	\$1,221,619
FY98	\$1,175,090 (88%)	\$162,121 (12%)	\$1,337,211
FY99	\$1,279,931 (92%)	\$118,538 (8%)	\$1,398,469
FY00	\$1,262,843 (92%)	\$112,886 (8%)	\$1,375,729
FY01	\$1,351,571 (91%)	\$127,362 (9%)	\$1,478,933
FY02	\$1,443,947 (94%)	\$86,840 (6%)	\$1,530,787
FY03	\$1,689,628 (95%)	\$90,549 (5%)	\$1,780,177
FY04	\$1,730,990 (96%)	\$80,542 (4%)	\$1,811,532
FY05	\$1,736,264 (95%)	\$99,703 (5%)	\$1,835,967
FY06			\$2,125,530

Source: OLO and FAMIS reports, FY96-FY06, April 2006.

2. Personnel Costs

This section examines how the factors that affect the Office's personnel costs have changed since FY96. These factors are the number of permanent staff positions in the Office, reimbursements from other departments, and multilingual pay.

Positions and Workyears. The approved personnel complement for the Office of Human Rights increased by four workyears since FY06. Table 7 displays the full- and part-time positions budgeted for the Office since FY96.

TABLE 7: POSITIONS AND WORKYEARS IN THE OFFICE OF HUMAN RIGHTS, FY96-FY06

Fiscal Year	Full-time Positions	Part-time Positions	Total Positions	Total Workyears
FY96	18	1	19	18.5
FY97	18	1	19	18.4
FY98	20	0	20	18.5
FY99	20	0	20	20.0
FY00	23	0	23	20.9
FY01	23	0	23	22.2
FY02	23	0	23	21.2
FY03	23	0	23	23.5
FY04	22	0	22	22.5
FY05	22	1	23	22.5
FY06	22	1	23	22.5

Source: OLO and Approved Operating Budgets, FY96-FY06, April 2006.

Workyears by Program. Each year, the Office of Management and Budget reports the allocation of workyears for each program budget. Table 8 displays the allocation of workyears among the Office of Human Rights' programs since FY96.

TABLE 8: WORKYEARS BY PROGRAM IN THE OFFICE OF HUMAN RIGHTS, FY96-FY06

Fiscal Year	Discrimination Investigations	Community Mediation	Fair Housing	Director's Office	Total Workyears
FY96	12.8	1.7	0.0	4.0	18.5
FY97	12.7	1.7	0.0	4.0	18.4
FY98	12.8	1.7	0.0	4.0	18.5
FY99	12.8	1.7	1.5	4.0	20.0
FY00	12.8	2.5	1.6	4.0	20.9
FY01	13.0	2.5	2.7	4.0	22.2
FY02	13.0	2.5	2.2	3.5	21.2
FY03	13.0	2.5	4.5	3.5	23.5
FY04	12.0	2.5	4.5	3.5	22.5
FY05	12.0	2.0	5.0	3.5	22.5
FY06	12.0	2.0	5.0	3.5	22.5

Source: OLO and Approved Operating Budgets, FY96 to FY06, Program Summaries, April 2006.

Reimbursement from License Rental Fees. Between FY96 and FY06, the Office received intermittent reimbursement for personnel costs from the Department of Housing and Community Affairs (DHCA). These charges reflect transfers from County rental license fee revenue to pay for a portion of the Office’s budgeted fair housing activities.

In FY03, DHCA and the Office stopped this reimbursement practice after the Landlord-Tenant fund was dissolved and the rental license fee revenue began to be accounted for in the General Fund. Typically, it is the County’s practice not to make transfers within the General Fund. However, the Finance Department maintained rental license fee revenue as restricted money within the General Fund. As a result, in FY06, the Office of Management and Budget, working with the Office staff, reinstated a transfer from the restricted rental license fee funds to support a portion of the Office’s Fair Housing activities.

Table 9 displays the amount of reimbursement received by the Office each year between FY96 and FY06. The workyears reimbursed, along with the amount, has varied in the years reimbursement was received. The amount of the FY06 transfer is \$123,280 for 1.50 workyears; 0.75 workyears are allocated to the Compliance Unit and 0.75 are allocated to the Fair Housing Unit.

TABLE 9: RENTAL LICENSE FEE REVENUE REIMBURSEMENT DATA FOR THE OFFICE OF HUMAN RIGHTS, FY96-FY06

Fiscal Year	Workyears Reimbursed	Amount Reimbursed
FY96	0.00	\$0
FY97	0.00	\$0
FY98	1.50	\$64,000
FY99	0.00	\$0
FY00	1.50	\$78,031
FY01	1.75	\$82,559
FY02	2.25	\$85,319
FY03	0.00	\$0
FY04	0.00	\$0
FY05	0.00	\$0
FY06	1.50	\$123,280

Source: OLO and Approved Personnel Complements, FY96-FY06, April 18, 2006.

Multilingual Pay. The County Government provides a multilingual pay differential to recognize the value of multilingual employees. The Office of Human Resources multilingual pay regulations¹⁵ establish the eligibility criteria for multilingual pay. Under these guidelines, an employee must:

¹⁵ Montgomery County Office of Human Resources, *A User’s Guide: Multilingual Compensation in Montgomery County*.

- Speak a language spoken by 3% or more of Montgomery County (for example, Spanish, French, Vietnamese, or Chinese); and
- Pass a basic (spoken) or advanced (spoken and written) language test administered by the Office of Human Resources.

If an employee meets these criteria, the Director of a Department must certify that the employee works in a position for which there is a business necessity for the language. Employees who pass the basic test receive a \$1.00 per hour pay differential for hours worked; employees who pass the advanced test receive a \$1.30 per hour pay differential.

Table 10 shows budget and expenditure data for multilingual pay in the Office from FY96 to FY06. The Office's expenditures for the multilingual pay differential range from \$2,300 in FY98 to \$5,350 in FY02. The Director of the Office reports that the multilingual pay expenditures since FY99 reflect payments to one bilingual employee who speaks and writes Spanish fluently. In addition to this employee, the Director reports that, as a whole, the Office staff understand and/or speak eight different languages, even though they do not qualify for a multilingual pay differential.

TABLE 10: MULTILINGUAL PAY BUDGET AND EXPENDITURE DATA FOR THE OFFICE OF HUMAN RIGHTS, FY96-FY06

Fiscal Year	Multilingual Pay	
	Approved Budget	Actual Expenditures
FY96	\$4,200	\$2,909
FY97	\$2,400	\$2,990
FY98	\$2,800	\$2,286
FY99	\$2,800	\$2,756
FY00	\$2,811	\$2,981
FY01	\$2,800	\$3,719
FY02	\$4,200	\$5,346
FY03	\$4,200	\$5,189
FY04	\$9,080	\$4,460
FY05	\$6,810	\$4,676
FY06	\$4,000	.

Source: Approved Personnel Complements and FAMIS Expenditure Reports, FY 96-FY06, April 2006.

3. Operating Expenses

Between FY96 and FY 05, operating expenditures for the Office of Human Rights ranged from a low of \$80,542 in FY04 to a high of \$162,121 in FY98. (See Table 6 on page 19 for these data.) In FY05, operating expenditures totaled \$99,703 or 5% of all

expenditures. Table 11 lists the ten budget categories that had the highest expenditures in FY05. These ten categories represent 80% of all operating expenditures in FY05.

Table 11 shows the Office spent almost \$21,000 for telephone service and \$18,000 for temporary clerical support. The Director reports that she uses temporary office clerical personnel to provide backup for the operations at the front desk and also to provide help for special projects, such as the Human Rights Hall of Fame.

TABLE 11: MAJOR CATEGORIES AND AMOUNTS OF OPERATING EXPENSES FOR THE OFFICE OF HUMAN RIGHTS, FY05

Sub Object Code	Description	FY05 Amount
3000	Local Telephone Service	\$20,963
2102	Temporary Office Clerical	17,944
3800	General Office Supplies	11,170
3549	Other Education, Tuition	9,667
3300	Assigned Motor Pool	5,882
3149	Other Central Duplicating	4,539
3150	Central Duplicating- Postage	4,310
3849	Other Supplies and Equipment	3,275
4902	Other Office Equipment	2,892
3501	Non-Local Conference	1,940

Source: OLO and FAMIS reports, April 2006.

4. Sources of Funding

The General Fund is the primary source of funds for the Office of Human Rights'. These funds are supplemented by revenues from the federal Equal Employment Opportunity Commission (EEOC) and funds from a federal HOME grant administered by DHCA. The budgeted amount of the Federal Equal Employment Opportunity Commission (EEOC) for processing dual filed complaints in the approved FY06 budget is \$75,000. The budgeted amount for the HOME grant in the approved FY06 budget is \$40,000.

5. The Office of Human Rights' FY06 Program Budget

In FY06, the budgeted costs for the Office of Human Rights are \$2.118 million including \$1.954 million for personnel and \$164,401 for operating expenses. Personnel funding pays for 22.45 workyears organized into four units: the Director's Office, Discrimination Investigations, Fair Housing, and Community Mediation.

- **The Director's Office** – The Director is responsible for the overall administration and management of the Office of Human Rights. The current personnel complement for the Director's Office consists of four full-time positions: a director, an administrative specialist, a technology specialist and a principal administrative aide.

- **Discrimination Investigations** - The Discrimination Investigation Program carries out the intake and investigation of civil rights complaints, as established in Chapter 27 of the Montgomery County Code and in Executive Regulation. The current personnel complement of this division consists of 12 full-time positions, including two managers, eight investigators, one intake officer and one office services manager.
- **Fair Housing** - The Fair Housing Program manages Montgomery County Government's fair housing responsibilities as defined in Chapter 27 of the Montgomery County Code. The current personnel complement for the Fair Housing Division consists of four staff positions including two full time program managers, a full-time program specialist, and a full-time office services coordinator, plus 0.95 workyears for a Public Services Intern group position.
- **Community Mediation and Public Affairs**- The Community Mediation and Public Affairs Program carries out the training, outreach and community relations responsibilities of the Office of Human Rights and provides staff support to the Commission on Human Rights, the Committee on Hate/Violence, and the Committee on Hate/Violence Partnership Fund. The current personnel complement is two full-time positions: a program manager and a program specialist.

Table 12 shows the personnel positions and funding assigned to each unit in the Office of Human Rights. It shows Discrimination Investigations accounts for approximately half of the personnel costs (54%) followed by the Director's Office (20%), Fair Housing (17%) and Community Mediation (9%).

**TABLE 12: PERSONNEL BUDGET FOR THE OFFICE OF HUMAN RIGHTS
BY PROGRAM, FY06**

Program	Title (grade)	Workyears	Personnel Budget	% of Total Personnel Budget
Director's Office	Director (OM1)	1	\$407,395	21%
	Admin. Spec. III (23)	1		
	Info Tech Spec. I (20)	1		
	Prin. Admin. Aide (13)	1		
	Lapse	0.5		
	Subtotal	3.5		
Discrimination Investigations	Manager III (OM3)	2	\$1,056,002	54%
	Investigator III (25)	8		
	Investigator I (20)	1		
	Office Services Coord (16)	1		
	Subtotal	12		
Fair Housing	Program Manager II (25)	1	\$299,890	15%
	Program Manager I (23)	1		
	Program Spec. I (18)	1		
	Office Services Coord (16)	1		
	Public Services Intern	.95		
	Subtotal	4.95		
Community Mediation	Program Manager I (23)	1	\$208,923	11%
	Program Spec. I (18)	1		
	Subtotal	2		
Total		22.45	\$1,972,210	100%

Source: OLO and FAMIS Reports, April 2006.

The FY06 budget for operating expenses is \$153,320, including \$38,000 for the Human Rights Hall of Fame and \$3,000 for support for the Commission on Human Rights. Table 13 displays the allocation of the operating expense budget by program.

**TABLE 13: OPERATING BUDGET FOR THE OFFICE OF HUMAN RIGHTS
BY PROGRAM, FY06**

Program	Amount	% of Operating Budget	Top categories
Director's Office	\$84,430	55.1%	Other Special County Functions (\$38,321) Local Telephone Service (\$13,240) Other Education, Tuition and Training (\$6,389)
Discrimination Investigations	\$18,332	12.0%	Local Telephone Service (\$7,532) Other Education, Tuition and Training (\$4,000) Other Central Duplication (\$3,000)
Fair Housing	\$42,282	27.6%	Legal/Attorney Services (\$9,999) Advertising Legal Compliance (\$5,500) Other Supplies and Equipment (\$4,000)
Community Mediation	\$8,276	5.4%	Other Boards and Commissions (\$3,000) Other Central Duplicating (\$2,000) Local Telephone Service (1,076)
Total	\$153,320	100%	

Source: OLO and FAMIS Reports, April 2006.

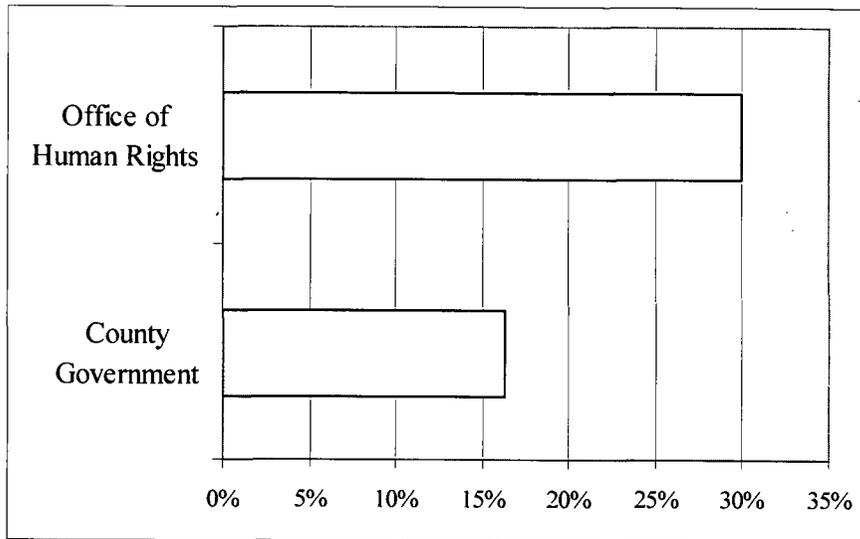
C. Office of Human Rights' Workforce Analysis

Each year, the Office of Human Resources compiles the Personnel Management Review to provide general information on key characteristics of the County government workforce. At OLO's request, the Office of Human Resources disaggregated the data for the Office of Human Rights so that OLO could examine how the workforce characteristics of the Office compare to the County government's workforce characteristics.

This section presents the results of OLO's analysis. The analysis compares tenure, race/ethnicity, and salary data for the Office's workforce of 20 employees as of February 2006 with the County government's workforce of 8,429 employees as of December 2005. Salary averages for the Office are also based on 20 employees, while County government averages are calculated based on 7,526 full time employees.

Tenure. Chart 2 shows the percentage of current Office and County government employees employed by the County for more than twenty years. Twice as many Office employees have more than twenty years of tenure with County government than the County government workforce as a whole (33% vs. 16%).

CHART 2: YEARS OF COUNTY GOVERNMENT EXPERIENCE



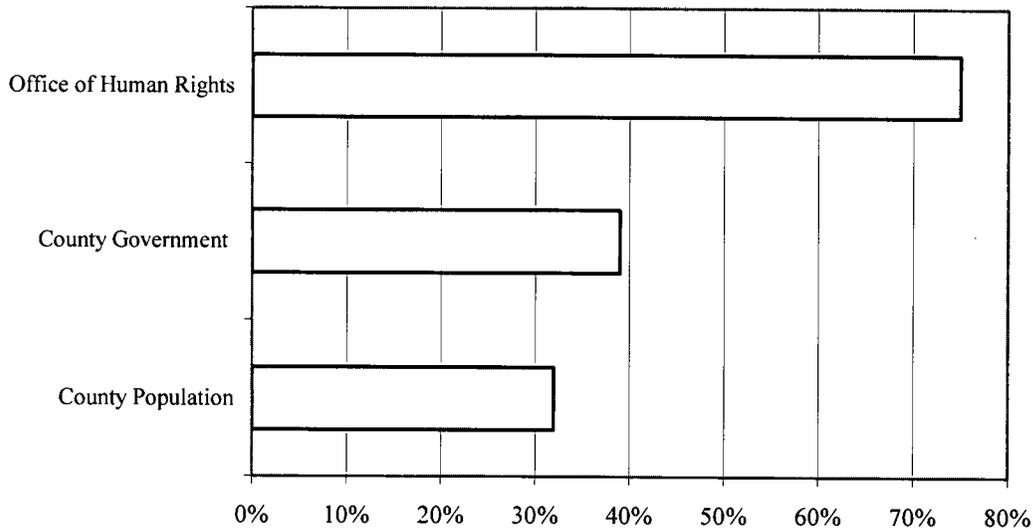
	Office (n=20)		County Government (n=8,429)	
More than 20 Years Tenure	30%	6	16%	1375
Less than 20 Years Tenure	70%	14	84%	7054

Source: OLO and Office of Human Resources, April 2006.

Race/Ethnicity. Charts 3 and 4 shows data provided by the Office of Human Resources on race, and also US Census data for the County population provided by the Maryland National Capital Park and Planning Commission.¹⁶

The Office of Human Resources reports the race/ethnicity of County government employees in the following categories: White, African American, Hispanic, Asian, and Native American. These data show that 75% of staff in the Office of Human Rights is a racial or ethnic minority, compared to less than 40% of the County government’s total workforce.

CHART 3: PERCENTAGE OF STAFF AND COUNTY POPULATION SELF-REPORTING AS A RACIAL/ETHNIC MINORITY



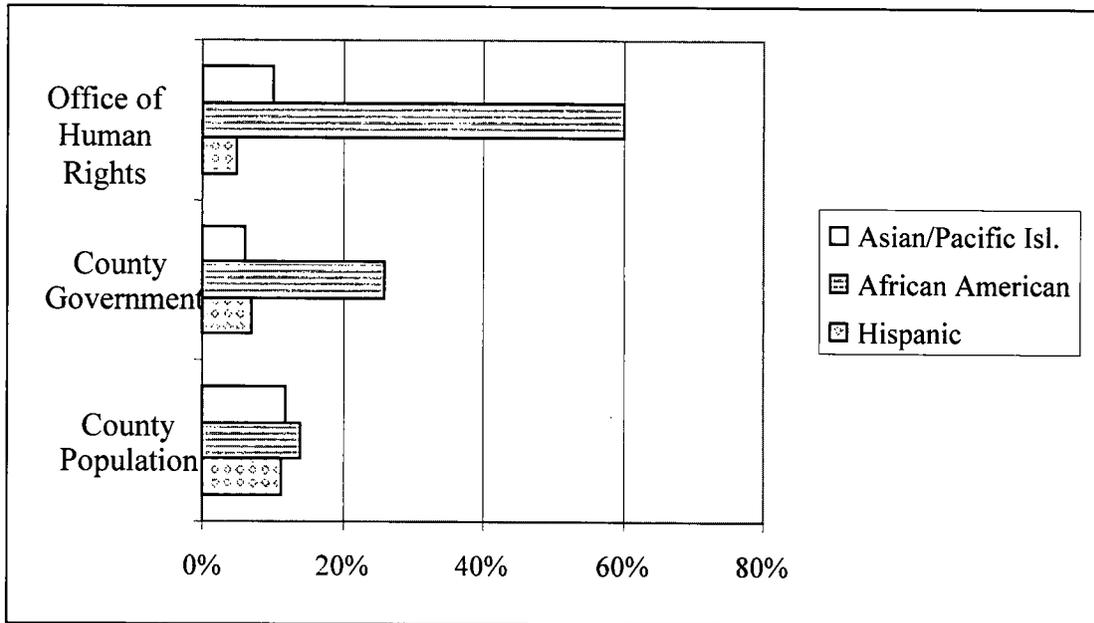
	Office (n=20)		County Government (n=8,429)		County Population (n=914,900)	
Racial/Ethnic Minority	75%	15	39%	3,287	32%	292,768
White	25%	5	61%	5,142	68%	622,132

Source: OLO and Office of Human Resources, April 2006.

¹⁶ 2003 Census Update Survey as reported by Maryland National Capital Park and Planning Commission

Chart 4 details the specific race/ethnicity data for staff self-identified to the Office of Human Resources as a racial/ethnic minority. It also provides similar information for the County's population in general. It shows that the Office's workforce includes a greater percent of African Americans and Asian/Pacific Islanders, and a lower percent of Hispanics than the County government's workforce.

CHART 4: RACE/ETHNICITY DATA OF STAFF AND COUNTY POPULATION

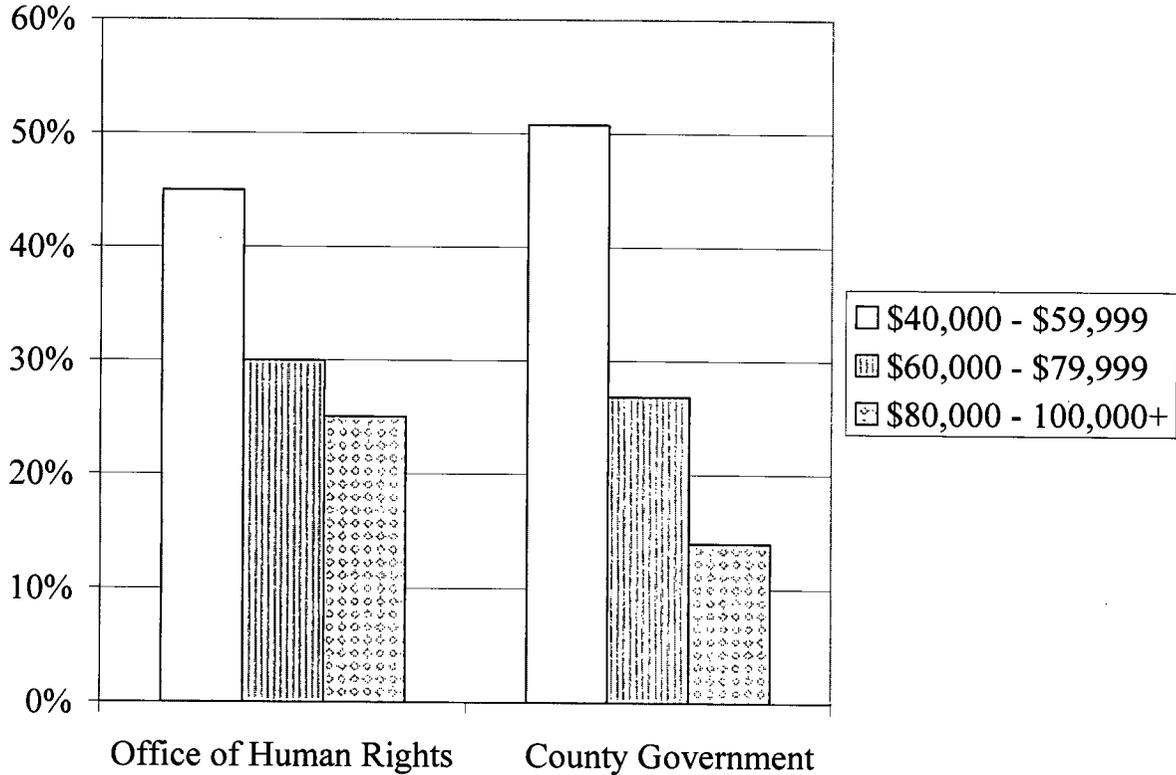


	Office (n=20)		County Government (n=8,429)		County Population (n=914,900)	
African American	60%	12	26%	2,146	14%	128,086
Asian/Pacific Islander	10%	2	6%	464	12%	109,788
Hispanic	5%	1	7%	589	11%	104,299

Source: OLO and Office of Human Resources, April 2006.

Salary. Chart 5 shows data that compares the annual base salaries of the Office of Human Rights workforce with the County government workforce. The data show the Office has a greater percent of its workforce in the higher salary ranges compared to the County government's workforce. The weighted average annual base salary for an Office of Human Rights' employee is \$67,835, while the weighted average County government annual base salary is \$60,082.

CHART 5: A COMPARISON OF ANNUAL BASE SALARY DATA FOR THE OFFICE OF HUMAN RIGHTS AND COUNTY GOVERNMENT WORKFORCES



	Office (n=20)		County Government (n=7526)	
\$0,000 - \$59,999	45%	9	55%	4173
\$60,000 - \$79,999	30%	6	29%	2204
\$80,000 - 100,000+	25%	5	15%	1149

Source: OLO and Office of Human Resources, April 2006.

Qualifications. Interviews with staff in the Office of Human Rights show that a number of employees with qualifications that exceed the minimums for their positions. For example:

- The minimum qualifications for an Investigator include a Bachelor's degree and four years of experience. Some of the existing Investigators have graduated from law school or are retired from local police departments.
- The minimum qualifications for a Manager III includes five years of progressively responsible professional experience; the existing Manager IIIs report more than 20 years of experience. One Manager III also holds a certification in human rights work.
- The minimum qualifications for a Program Manager I include a Bachelor's degree and five years experience in a directly related/program specialization area. The Fair Housing Coordinator graduated from law school and has previous experience as a discrimination investigator.
- The minimum qualifications for a Program Manager II include three years experience in a directly related program/specialization area. The Fair Housing Testing Coordinator had six years experience in fair housing prior to joining the Office. This experience included experience as a testing coordinator and enforcement director for a community-based fair housing organization.

Chapter IV. Director's Office

The FY06 Approved budget for the administration of the Office of Human Rights is \$491,800, including personnel costs of \$407,400 and an operating budget of \$84,400. The budget, which funds four positions and 3.5 workyears, accounts for 23% of the total budget of the Office of Human Rights.

This chapter is organized as follows:

- **Part A** presents a brief history of the legislation for the Office of Human Rights and its professional staff;
- **Part B** outlines the responsibilities and authority the law assigns to the Director;
- **Part C** describes the positions and duties of staff in the Director's Office;
- **Part D** describes the performance plans that the Director is responsible for completing; and
- **Part E** presents the program performance measures and statistical reports the Director has developed.

A. Legislative History of the Director of the Office of Human Rights

As described in Chapter II, the Council established an Executive Secretary position to assist the Commission in carrying-out its duties. This position was initially part-time; filled by a staff person in the County Manager's Office. After two years, it became a full-time position.

In 1984, the Council enacted Bill 65-83. This legislation changed the Executive Secretary's title to Executive Director and gave the Executive Director the authority to make an initial determination of reasonable grounds. Bill 65-83 also granted the Commission the authority to hear an appeal of the Executive Director's determination.

In 1986, the Council enacted Bill CR-A-85. This legislation, which established the administrative structure for the County Government, designated the staff for the Commission on Human Relations as the Office of the Human Relations Commission.¹⁷

In 1996, the County Council enacted legislation to reorganize the administration of several County Government departments, including the Department of Housing and Community Development, the Office of Consumer Affairs, and the Office of Economic Development. In part, this legislation (Bill 11-96) transferred certain responsibilities for Fair Housing to the Director in the Office of Human Rights.

¹⁷ Later, Bill 36-99 renamed the Commission on Human Relations the Commission on Human Rights and it renamed the Office of the Human Relations Commission the Office of Human Rights.

In 2000, the County Council enacted legislation to change the names of the Human Relations Commission and the Office of the Human Relations Commission to the Commission on Human Rights and the Office of Human Rights, respectively. This legislation (Bill 36-99) designated the Executive Director of the Commission as the Director of the Office, revised the procedures for deciding a complaint alleging discrimination, and clarified the responsibilities of the Director. These responsibilities are discussed below.

B. Responsibilities and Authority of the Director Specified in Law

The responsibilities and authority of the Director for the Office of Human Rights are specified in Chapters 1A and 27 of the Montgomery County Code.

Chapter 1A, *Structure of County Government*, establishes the Director's authority to supervise staff in the Office of Human Rights.

Chapter 27, *Human Rights and Civil Liberties*, broadly addresses the Director's relationship to the Commission and assigns the Director responsibilities in two program areas: Discrimination Investigations and Fair Housing.

Relationship to the Commission. Section 27-4, *Commission Staff and Office of Human Rights*, addresses the Director's relationship to the Commission on Human Rights. Under the law, the Director must:

- Assist the Commission to implement this article (Sec. 27-4(a)); and
- Carry out any other duties described in this Chapter (Sec. 27-4(b)(6)).

Discrimination Investigation Program. Section 27-2, *Commission Membership and Case Review Boards*; and Section 27-7, *Administration and Enforcement*, address the filing, investigation, and certification of complaints. These sections require the Director to:

- Promptly provide a copy of a complaint to the respondent after it is filed; and, if the Director decides to corroborate the complaint through testing, a copy of the test results as well (Sec. 27-7(c));
- Investigate as necessary to ascertain appropriate facts and issues, after receiving a complaint (Sec. 27-7, (e)(1));
- Determine, based on an investigation, whether reasonable grounds exist to believe that a violation occurred, and promptly send the determination to the complainant and respondent (Sec.27-7(f)(1));
- Promptly certify a complaint to the Commission, if the Director determines that no reasonable grounds exist to believe a violation occurred and the complainant appeals that determination to the Commission (Sec. 27-2(b) and (Sec. 27-7(f)(2));
- Attempt to conciliate a complaint, after making a determination that reasonable grounds to believe a violation occurred (Sec. 27-7(f)(3) and Sec. 27-7(g)(4)); and

- If the Director determines reasonable grounds exist to believe a violation occurred and the complaint was not resolved by conciliation within 90 days, promptly certify a complaint to the Commission Sec. 27-7(g)(4).

In addition to these mandated responsibilities, Section 27-4, *Commission Staff and the Office of Human Rights*, and Section 27-7, *Administration and Enforcement*, establish the Director's authority to administer and manage the complaint process. Section 27-4 (b) addresses administration and enforcement matters and Section 27-7(g) addresses conciliation. These sections authorize the Director to:

- Receive sworn complaints alleging discrimination (Section 27-4(b)(3));
- Investigate, resolve or conciliate the complaint (Section 27-4(b)(4));
- Issue regulations to carry out the responsibilities of the Director and the Office (Section 27-4(b)(5)); and,
- Extend the conciliation deadline by mutual consent of the complainant and respondent (Sec. 27-7(g)(4)).

Fair Housing Program. Section 27-26A, *Coordination of Fair Housing Activities*, contains additional mandates the Director must follow in the area of fair housing. The statute requires the Director to:

- Coordinate the activities of all County departments, offices, and agencies to prevent discrimination in housing and test compliance with housing discrimination laws; and
- Designate a staff member at an appropriate managerial level as the County's fair housing coordinator.

C. A Description of Roles, Responsibilities and Activities in the Director's Office

Staffing for the Director's Office consists of the Director, an Administrative Specialist, an Information Technology Specialist, and a Principal Administrative Aide. The remainder of this section describes the responsibilities of each of these positions.

1. The Director

The Director is responsible for the management of the Office of Human Rights and for the overall direction of the Office. The Director is a full-time merit position, under the supervision of the Chief Administrative Officer.

In addition to the responsibilities of the Director specified in law, the position description for the Director defines the following as essential job duties:

- Plan, direct and coordinate work of staff;
- Analyze data to determine trends, patterns and develop policies and strategies including testing, education and legal enforcement, new and/or coordinated programs;

- Create partnerships for addressing problem areas;
- Evaluate program effectiveness;
- Interact with elected and appointed officials at all levels of government;
- Prepare and administer budget and personnel; and
- Serve on various local, community and statewide committees related to human rights.

The current Director's tenure began in April 1994. Since her arrival, she has implemented several changes. The Director reports her major accomplishments include:

- Revising the organizational program structure and staffing levels of the Office;
- Restructuring the management, supervision, and training of the Discrimination Investigation Program;
- Establishing a Fair Housing Program; and
- Implementing technology and case management software.

The Director states she instituted changes, such as the establishment of the Fair Housing Program, to respond to new responsibilities assigned as a result of Executive action or County Council legislation. The Director made other changes to address management concerns that a previous Office of Legislative Oversight study identified in 1994.

The County Council released OLO Report 94-2, *The Montgomery County Human Relations Commission*, in February 1994, shortly before the current Director's arrival. OLO Report 94-2 identified numerous problems at the Commission on Human Rights at the time, including an inordinate backlog of unresolved complaint cases; minimal oversight of management and staff; and low employee morale.

The current Director reports that she used OLO Report 94-2 as a blueprint to improve the management of the Office of Human Rights. At OLO's request, the current Director prepared a written response that explains how she addressed each issue in the OLO study. For example, to address a concern OLO identified at the time that the Commission lacked consensus about its goals, the Director reports she instituted an annual retreat so the Commission could establish goals for the coming year. See Appendices C and D for a copy of OLO's request and the Director's response.

2. Administrative Specialist

An Administrative Specialist manages administrative services for the office. In smaller offices such as the Office of Human Rights, these administrative services include: technical budget preparation and tracking, personnel system, program oversight, training, and special projects as assigned by the Director.

Other examples of work performed by the Administrative Specialist include: contract management, selection, acquisition and implementation of computer software to automate the office's manual case management system, and supervision of administrative staff.

The previous Administrative Specialist supervised all of the administrative employees including two Office Services Coordinator positions, one in Discrimination Investigations and one in Fair Housing, and the Principal Administrative Aide in the Director's Office.¹⁸

3. Information Technology Specialist

The Information Technology (IT) Specialist performs entry level professional information systems technology tasks, working with other technology specialists, vendors, and end users. Since FY96, the grade level and skills for this position have migrated upward. The position was an Office Automation Aide (Grade 15) in FY95; an Office Automation Aide (Grade 17) in FY98; and an Information Technology Specialist (Grade 20) in FY03.

Currently, the Office's technology consists of three major components:

- Desktop computers for Office staff, which are purchased, installed, supported and maintained by the Department of Technology Services under the Montgomery County Government's Desktop Modernization Program;
- A customized off the shelf (COTS) software package, Time Matters^{®19} that supports the case management activities of the Discrimination Investigations Program; and
- A desktop computer and software for dual filed complaints, which is purchased, installed and maintained by the EEOC.

The Information Technology Specialist reports that her main responsibilities are: maintaining the Office's Time Matters[®] software, keeping the Office web page up to date, resetting passwords, and helping staff troubleshoot problems. Recently, the IT Specialist facilitated the replacement of the EEOC computer system which is housed at the Office to support the Office's dual filing of EEOC complaints.

The IT Specialist reports that Time Matters[®] maintenance responsibilities consist of re-indexing the system and running reports as requested. Time Matters[®] is designed to back

¹⁸ The Administrative Specialist position is currently vacant after the retirement of a long-tenured employee. Many of the duties have been distributed among other administrative staff in the Office. The Office is currently working with the Office of Human Resources to fill this position.

¹⁹ In 1999, the Office, working with the Department of Technology Services (DTS), contracted with Design One Corporation, a vendor in Rockville, MD, to implement Time Matters[®], a customized off the shelf (COTS) case management software package. DTS staff reports that Time Matters[®] replaced a home grown DOS based system that had become difficult and costly to maintain. The Office contracted with Design One for \$8,948 to upgrade an existing single user version of Time Matters[®] to a 15 user network version; to provide a license for Hot Docs, and to provide one year of technical support from the manufacturer of Time Matters[®]. Implementation of a Hot Docs document assembly system allowed the Office to automate the creation of the Office complaint form. In 2005, the Office upgraded to Time Matters[®] version 6.0 at a cost of \$2,224 for 15 licenses; shortly after, the vendor released an updated version of the software. Since this version was released shortly after the Office's purchase, the vendor provided a free upgrade.

up files automatically everyday to the network server. The IT Specialist reports Time Matters has not experienced any system breakdowns or maintenance problems in recent memory.

The IT Specialist estimates that the Office currently uses approximately 60% of Time Matters[®] capabilities. Staff use the calendar function most routinely to schedule use of the conference rooms; examples of capabilities that are not fully used include the use of forms and templates to produce interrogatories or subpoenas with boilerplate language.

In addition to technology support responsibilities, the IT Specialist compiles data (manually) to assist with the preparation of the Director's monthly and annual reports. She is also responsible for maintenance of the office's computers, printers, fax machines, scanners and typewriters.

In 2004, the County Executive recommended a reduction in this position from full-time to half-time status; however, the Council restored the position to full-time status when it adopted the budget. According to Council staff, the Office's justification for restoring this position was that the Time Matters[®] software required daily maintenance and was not supported by DTS. The Office also stated that if a failure occurred on the days the specialist was not working, staff would not have access to the system.

4. Principal Administrative Aide

The Principal Administrative Aide is responsible for staffing the front desk and performing administrative duties that support the Discrimination Investigations program. The Office of Human Rights is open Monday through Friday during normal business hours. The Principal Administrative Aide receives walk in visitors, many of whom wish to file a complaint. See Chapter V, Discrimination Investigations, beginning on page 39, for a description of the Principal Administrative Aide's duties for the Discrimination Investigation Program.

D. Performance Plans and Expectations

As part of management duties, the Director develops performance plans for the employees who manage the Office's programs. Despite some differences in Performance Plan formats, each Performance Plan establishes performance expectations, guiding principles or competencies, and career development objectives. The County's performance planning system requires development of a new plan each year, a mid-year progress discussion, and a final evaluation review.

The current management positions in the Office are the Compliance Director, the Program Manager of the Discrimination Investigations Program, the Program Manager of the Fair Housing Program, and the Program Manager of the Community Mediation and Public Affairs Program. A review of these performance plans identifies the following performance expectations for each of the Office's programs.

Discrimination Investigations – This program is jointly managed by the Compliance Director and the Program Manager. Some of the key performance expectations for this program are that:

- The work products will conform to County, State, and federal law;
- The management of the caseload will produce a decline in the average of the pending inventory;
- The program will close out no less than 240 cases annually; and
- The management will set quality standards and criteria to ensure a high quality work product and accurate case files.

Fair Housing – This program is managed by the Fair Housing Coordinator. The performance expectations for this program are:

- To provide staff support to the Interagency Fair Housing Coordinating Group;
- To coordinate the activities of County departments to prevent housing discrimination and to promote fair access and treatment;
- To initiate, plan, develop and support office outreach activities and education programs, including the annual April Fair Housing event; and
- To conduct a testing program to assess the extent of discrimination in the County.

Community Mediation and Public Affairs – This program is managed by the program manager. The performance expectations for this program are:

- To provide staff support to the Commission on Human Rights and the Partnership Board;
- To address emerging community issues and concerns;
- To initiate, plan, develop, and support Office outreach activities and community participation;
- To compile, edit, and produce the Office's Annual Report.

E. Program and Performance Measures

The Director oversees the development of the program and performance measures for the Office of Human Rights. Two sources of published program measures are the measures published annually in *Montgomery Measures Up!* and complaint data in the Director's Statistical Report, which is compiled and reported monthly to the Commission on Human Rights.

Montgomery Measures Up!. The Office of Human Rights publishes program measures for the Discrimination Investigations Program and the Fair Housing Program in *Montgomery Measures Up!*

The family of measures for the Discrimination Investigations Program consists of:

- *Outcome/Results measures* which track the monetary relief obtained, the percent of complaints settled voluntarily, and the percent of mediated cases resolved;
- *Services quality measures* which reports the average age of cases dual filed with the EEOC and the total number of cases in the inventory;
- *Efficiency measures* which report the complaints closed per workyear and the average cost per caseload;
- *Workload/Outputs measures* which report complaints closed and sessions provided; and
- *Input measures* which report expenditures and workyears.

The family of measures for the Fair Housing Program consists of:

- *Outcome/Results measures* which track the number of Commission and court complaints filed;
- *Service Quality measures* which report the percent of people satisfied with the Fair Housing Programs training and outreach sessions;
- *Efficiency measures* which report the average cost per test for various test types, including lending tests, rental tests, new construction testing, and sales testing;
- *Workload Output measures* which report the number of tests and outreach sessions; and
- *Input measures* which report expenditures and workyears.

The Director's Statistical Report. This two-page report compiles monthly statistical data for the Commission on Human Rights. The report compiles input and output measures for the intake, processing and closure of the complaint process. See Appendix E for the FY98-FY05 reports, and Chapter V, beginning on page 39, for a detailed review the data.

Chapter V. Discrimination Investigations

The Discrimination Investigation Program in the Office of Human Rights receives and investigates complaints of alleged violations of human rights laws found in Chapter 27 of the County Code, and certain other state and federal human rights laws.

The FY06 approved budget for this program is \$1,074,334 and 12 work years. This represents the largest portion (51%) of the total budget of the Office of Human Rights. The budgeted personnel complement, which totals \$1,056,002 million, represents 95% of the program's costs. It funds two Managers, eight Investigators (classified as Investigator IIIs), one Intake Officer (classified as an Investigator I), and an Office Services Coordinator.

This chapter examines the roles, responsibilities and operations of the Discrimination Investigation Program. It is organized as follows:

- **Part A** provides an overview of the Administrative Review Process for Discrimination Complaints;
- **Part B** presents the roles and responsibilities of staff in the Discrimination Investigations Program;
- **Part C** describes the program's data management systems and practices;
- **Part D** presents data about the characteristics of the Discrimination Investigations Program; and
- **Part E** analyzes program data to assess the promptness and efficiency of the process.

A. The County's Administrative Review Process for Discrimination Complaints

As explained in more detail in Chapter II, beginning on page 4, the County Code establishes an administrative review process for discrimination complaints. This process assigns responsibilities to both the Director in the Office of Human Rights and the Commission on Human Rights. Since 1992, the Commission has exercised its authority to seek assistance from a third entity, the Office of Zoning and Administrative Hearings (OZAH), in performing some of its responsibilities.

- The law assigns the **Director** and the Discrimination Investigation Program in the Office of Human Rights responsibility for: receiving complaints; conducting investigations; issuing letters of determination; and ensuring the availability of conciliation services.

- The law assigns the **Case Review Board (CRB)**, a panel of three members of the Commission on Human Rights, the responsibility for deciding (1) cases where the Director has made a finding that reasonable grounds exist to believe a discriminatory act occurred and the conciliation has failed, and (2) complainant appeals of the Director's finding of no reasonable grounds exist.
- The law allows the CRB to ask **OZAH** to conduct its administrative hearings and make recommendations to the CRB on those cases.

The structure of the administrative review process for Discrimination Complaints established in Chapter 27 has two phases:

- The first phase consists of an investigation and an initial finding which is meant to achieve a prompt review and determination of whether reasonable grounds exist to prove that a discriminatory act occurred; and
- The second phase, if warranted, consists of a hearing and decision that an act of discrimination occurred and, if so, what remedy is appropriate.

The activities of the Discrimination Investigation Program fall under the first phase of the County's administrative review process. The major case processing services that the Discrimination Investigation Program provides are:

- **A complaint intake process.** The complaint intake process consists of an interview and the drafting and mailing out of a complaint. It is designed to screen out frivolous complaints and educate callers or visitors about how the County's process works;
- **A complaint investigation process.** The investigation process consists of a fact finding review of each allegation; a determination that there are or are not reasonable grounds to believe that a discriminatory act occurred; and the preparation of a letter of determination;
- **Mediation, conciliation and settlement services.** These services are required to be available or offered in the event the complainant and respondent agree to resolve the complaint.

Within this administrative review process, several sections of the law and regulations establish specific timeframes and requirements for complaint investigation and processing, which the Director carries out through the Discrimination Investigation program. Under Section 27-7 of the County Code, the Discrimination Investigation Program must:

- Accept only a complaint that is filed within one year of the date of the alleged discriminatory act;

- Accept only a written, notarized complaint that states the particulars of the alleged violation, the name and address of the person alleged to have committed the violation;
- Certify immediately to the Commission a complainant's appeal of a no reasonable grounds finding;
- Conciliate a case if the Director determines that there are reasonable grounds to believe a violation occurred; and
- Certify a complaint to the Commission if conciliation has not been achieved within 90 days.

Staff in the Discrimination Investigation Program also conduct training sessions and maintain a system of logs and monthly reports to monitor the progress of cases and the workload of the staff. The next section looks at the specific responsibilities of the program staff.

B. Roles and Responsibilities of Staff

The personnel complement assigned to the Discrimination Investigation Program includes 12 workyears: two Managers, eight Senior Investigators, one Investigator (serving as an Intake Officer), and an Office Services Coordinator. The responsibilities of staff described below are based on interviews and a review of written documents.

1. The Compliance Director

The Director of Compliance holds one of the Manager positions in the Discrimination Investigation Program. The position supervises the Intake Officer and the Office Services Coordinator. The Compliance Director also compiles a monthly and annual statistical report for the Director that tracks key workload measures for the Discrimination Investigation Program.

The Compliance Director manages the mediation program and conciliates cases where the Director finds reasonable grounds exist to believe an act of discrimination occurred. He also manages the referral of complaints to the Case Review Board.

The Director of Compliance ensures that the work products of the Discrimination Program comply with County, state and federal law and regulations. The current Director of Compliance is a Professional Human Rights Worker, certified by the National Association of Human Rights Workers, and provides numerous training sessions to educate the public about civil rights law.²⁰

²⁰ See Appendix G.

2. The Program Manager

The Program Manager holds the other Manager position in the Discrimination Investigation Program. The Program Manager oversees the Investigators' workload and has direct supervisory responsibility for the eight investigators. The Program Manager is responsible for assigning cases to the investigators. The Program Manager:

- Provides consultation, guidance and feedback as needed;
- Settles complex issues that cannot be resolved by investigators;
- Establishes work standards;
- Reviews the investigators' work for accuracy, completeness and quality; and
- Manages productivity by establishing performance goals and targets.

2. The Investigators

The eight investigators in the Discrimination Investigation Program are responsible for investigating each alleged violation of human rights laws contained in filed complaints.

The investigators report that they exercise a significant amount of discretion in deciding how to proceed with the investigation of a complaint. Generally, investigators begin their investigations by preparing a written list of documents and questions for the respondent based on the official complaint. This is called a Request for Information. The Request for Information is mailed to the respondent, along with the same information regarding mediation that is provided to the complainant. The investigators summarize all of the information provided by the respondent for the complainant, who may provide a rebuttal.

The Office does not establish a standard response time for the respondent or the complainant. Investigators report they set deadlines at their discretion; they commonly allow 30-60 days for a response. Investigators may approve extensions upon the request of either party.

The law authorizes an investigator to use a variety of tools to conduct an investigation, such as fact finding conferences, witness interviews, and affidavits. The investigators report they also conduct site visits, telephone interviews, and document reviews. Table 14 on the next page details a selection of these tools.

TABLE 14: TOOLS USED BY INVESTIGATORS

Investigation Tools	Descriptions
Rebuttal	The investigator summarizes the information and responses provided by the respondent for the complainant. If the complainant does not provide a rebuttal, the investigation may be terminated.
Witness Interviews or Affidavits	Investigators may interview witnesses in person or via telephone. They may also accept affidavits in lieu of conducting an interview.
On-site Inspections	Investigators may visit the site of the alleged discrimination to survey the site, identify possible witnesses, or gather other evidence.
Document Reviews	Investigators must review all documents provided by the complainant or the respondent, and summarize their contents for the case file.
Fact-Finding Conferences	The County Code authorizes the Director to compel the respondent, complainant, and any witnesses to participate in a pre-investigation conference. The purpose of a Fact-Finding Conference is to investigate issues in dispute and explore settlement opportunities.

Source: OLO, April 2006.

An investigator must conduct a review by compiling a factual record to support a final recommendation as to whether reasonable grounds exist to believe an act of discrimination occurred.

After the investigator has conducted the investigation and arrived at a recommendation, he or she produces a draft Letter of Determination. A Letter of Determination is a written document that summarizes the investigator's findings for each of the complainant's allegations. The Program Manager reviews the Letter of Determination and the supporting documentation in the case file, and forwards it to the Director for her signature. The investigators report that they must close out 40 cases per year to meet the performance goals established by the management team.²¹

Besides their investigation responsibilities, the investigators are responsible for conducting intake interviews on a rotating basis so that the regular Intake Officer has time to keep up with his paperwork.

The investigators report that the workload has remained fairly steady over the past five years. Other than rotating duty on the intake desk, the investigators generally do not undertake special assignments or special projects. The exceptions to this are two investigators who provide specialized support or training. An investigator who is fluent in Spanish provides language and translation services while another investigator who is technologically adept provides training on the Time Matters software at the investigators' monthly meetings.

²¹ The Director reports that the performance goal is 30 cases per year, while 40 cases per year is an incentive goal.

3. The Intake Officer

The Intake Officer holds the position of Investigator I in the Discrimination Investigation Program. The Intake Officer is responsible for receiving potential human rights complaints. He shares the responsibility for managing telephone calls to the office with the Principal Administrative Aide. (This position is budgeted in the Director's Office, see Chapter IV on page 31)

The Principal Administrative Aide and the Intake Officer report that the office routinely receives many phone calls that are requests for information about other County services. They report the most frequent referrals to other offices are to the federal Department of Labor and the County's Department of Housing and Community Affairs. When the Principal Administrative Aide receives a phone call from someone who wants to file a complaint, she maintains a log of the date, their name and contact information, and the type of complaint.

The Intake Officer then conducts interviews with potential complainants over the telephone or in-person to collect pertinent information. During this initial conversation, the Intake Officer also informs a potential complainant about the overall complaint process. Finally, the Intake Officer provides the complainant with information regarding mediation.

Following an initial interview with a caller or visitor, the Intake Officer summarizes the information and then consults with the Compliance Director to determine if the complainant has articulated a claim of discrimination under the law. In some cases, the Intake Officer must request additional information from the complainant. The Intake Officer drafts a formal complaint document for those potential complaints that have met the standards in law.

After the Compliance Director reviews the draft complaint, the Intake Officer packages the draft complaint, with general information on human rights laws and the complaint process. The Intake Officer provides this package of information to the Principal Administrative Aide, who mails it to the complainant.

After the complainant has reviewed the draft and made any necessary edits, the complainant must have a notary public witness his/her signature on the complaint. The Compliance Director and the Intake Officer are both notaries public, and provide this service at no cost when requested.

3. Office Services Coordinator²²

The Office Services Coordinator is responsible for docketing notarized complaints. The Office Services Coordinator also manages the logistics of the mediation process, such as scheduling a conference room and providing note-taking materials. The Office Services Coordinator also provides back-up phone coverage support for the Principal Administrative Aide.

²² This position is currently vacant. The Intake Officer has assumed responsibility for mediation logistics.

C. Recordkeeping and Reporting

Recordkeeping. In addition to managing the staff and case workload, the Managers of the Discrimination Investigation Program routinely compile and report key indicators to monitor program operations. The key components of the program's document and management information systems include: a written log of contacts by intake staff, a written log of complaints filed (or "docketed"), a Director's Statistical Report, and individual case files.

The complaint intake log is a set of handwritten sheets maintained in a set of three-ring binders. The Principal Administrative Aide is responsible for filling out the information. For each complaint she records the date of the phone call or interview and contact information. At one time, she recorded whether the caller or visitor spoke a foreign language; however, this practice was discontinued after a few months.

The log of filed (or "docketed") complaints also consists of handwritten sheets maintained in a set of three-ring binders. There are two separate log books for employment complaints²³ and real estate complaints; plus a third log book for public accommodation complaints and intimidation complaints, which are tracked on different sheets in the same binder. The records in these log books date to the establishment of the office in 1962.

The Program Manager maintains the complaint log, recording:

- Case number assigned by the Office;
- Case number assigned by EEOC for dual filed complaints;
- Complainant name;
- Respondent name;
- Date complaint was docketed;
- Date notarized complaint was received;
- Complaint basis;
- Disposition (or finding); and
- Date complaint was closed.

The Program Manager also creates case files for each complaint. She assigns complaints to investigators on a rotating basis, and distributes those case files. Each investigator maintains these files during the investigation, adding information and documentation as the investigation progresses. OLO reviewed a sample of completed case files and noted documents and information such as:

- The original notarized complaint;
- Records and statements provided by each party in support of their positions;
- A copy the Letter of Determination; and

²³ The Office maintains a fourth log book which is a duplicate record of only those employment complaints which are dual filed with the EEOC.

- A standard memo to the file from the Principal Administrative Aide indicating the date on which the Office mailed the Letter of Determination to the complainant and the respondent.

In addition to these written logs and records, the Office is beginning to automate its records. The Office has purchased 15 licenses of Time Matters[®], a case management system for law practices that can create electronic case files, and interface with word processing and electronic calendaring software.

Reporting. The Compliance Director and the Information Technology Specialist (in the Director's Office) review the handwritten logs and compile monthly and annual reports of the number of contacts, number and type of complaints docketed in and closed, amount of dollar relief obtained through conciliation or settlement, number of active cases, etc for the Director. The Director shares this information with the Commission on Human Rights at its regular monthly meetings.²⁴

In addition, the Compliance Director uses this information to report program measures for Montgomery Measures Up! Those reported measures include active cases, complaints closed per work year, average cost per case closed, monetary relief, percentages of complaints settled voluntarily and complaints mediated, etc.

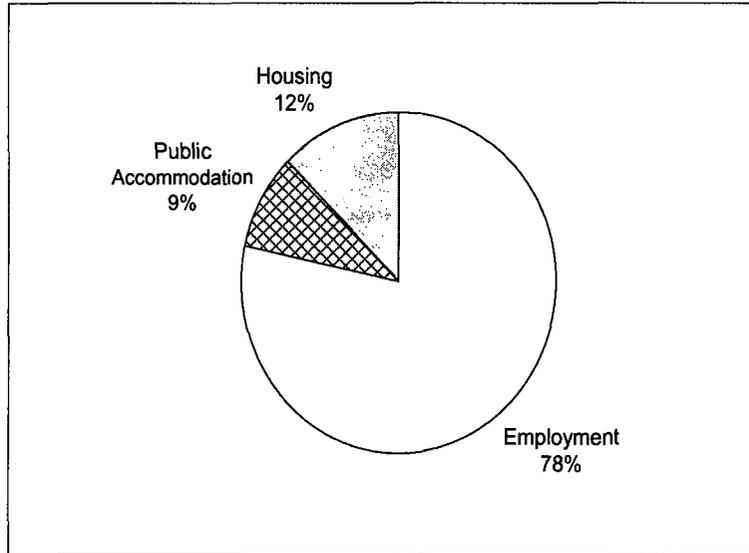
The remaining sections of this Chapter, Sections D and E, present quantitative data regarding the activities of the Discrimination Investigation Program.

²⁴ See Appendix E for the Director's Statistical Reports, FY98-05 and Appendix F for a combined summary of these reports.

D. Characteristics of the Discrimination Investigation Program

Complaint Summary. The Office reports the following characteristics of complaints filed from FY98-FY05. As shown in Chart 6, the majority of complaints from FY98 through FY05 allege employment discrimination.

**CHART 6: TYPES OF COMPLAINTS FILED: FY98-FY05
(N=1857)**



Source: OLO and the Office of Human Rights, April 2006.

The Office reports in the FY07 edition of Montgomery Measures Up! that about 70% of all complaints are dual filed with the EEOC. This suggests that between FY02 and FY05 the Office dual filed approximately 1299 out of 1426 total employment complaints. This data indicate that the remaining employment complaints (approximately 127) alleged discrimination prohibited only by the State and/or County.

Table 15 presents the three most frequently alleged discrimination bases, out of a total of 15 bases. The data show that race, which was cited in 705 allegations between FY98 and FY05, was the most frequently alleged discrimination basis. Sex, which was cited in 506 allegations, was the second most frequently cited basis. (Allegations exceed the number of complaints because a complainant may allege discrimination on more than one basis in a single complaint.)

TABLE 15: RANKING OF FILED ALLEGATIONS BY DISCRIMINATION BASES, FY98-FY05

Ranking	Discrimination Bases	Number of Allegations
#1	Race	705
#2	Sex	506
#3	Retaliation	439

Source: OLO and the Office of Human Rights, April 2006.

Intake. The Office reports that the Intake Officer and the Principal Administrative Aide screen more than 8,500 calls, visits and pieces of correspondence annually. These staff observe that only a small percentage of these annual contacts result in a formal intake interview, however the Office does not record this data specifically.

The Intake Officer reports that not all complaints drafted after an intake interview are notarized and returned by the complainant. The complainant must take this final step before a complaint is officially filed. Table 16 shows how many of complaints drafted by the Intake Officer were returned each year between FY03 and FY05. The data show the rate of drafted complaints returned by complainants increased steadily from 58% in FY03 to 63% in FY04 and 74% in FY05.

TABLE 16: COMPLAINTS DRAFTED BY THE OFFICE THAT WERE NOTARIZED AND RETURNED BY COMPLAINANTS FY02-FY05

FY	Number of Complaints Drafted by Intake Officer	Number of Complaints Drafted by Intake Officer that were Notarized and Returned by Complainant	Percent of Drafted Complaints that were Notarized and Returned
02	228	not reported	unknown
03	243	142	58%
04	238	149	63%
05	218	162	74%

Source: OLO and the Office of Human Rights, April 2006.

Table 17 presents data to show how many filed complaints are drafted by the Office, and how many are drafted independently by others (i.e., the complainant or the complainant's attorney). These data show the number of complaints drafted by others dropped sharply in FY05, as did the total number of complaints filed. As shown in the table, a total of 166 complaints were filed in FY05, and only four of these were drafted by others.

TABLE 17: COMPLAINTS DRAFTED BY THE OFFICE AND COMPLAINTS DRAFTED BY OTHERS, FY02-FY05

FY	Number of Complaints Filed that were Drafted by Intake Officer	Number of Complaints Filed that were Drafted by Others	Total Number of Complaints Filed	Percent of Complaints Filed that were Drafted by the Office
02	not reported	Unknown	253	Unknown
03	142	82	224	63%
04	149	98	247	60%
05	162	4	166	98%

Source: OLO and the Office of Human Rights, April 2006

Mediation. After the Office accepts a complaint for filing, the Office asks a complainant whether they wish to participate in mediation. The Office currently maintains a list of 16 mediators who have agreed to volunteer their services. The Office recruits experienced mediators (or those who have been previously trained as mediators), and offers them an orientation into civil rights law enforcement.

Table 18 presents data that show the use of mediation by complainants and respondents from FY02-FY05. It shows the share of cases complainants and respondents agreed to mediate ranged from 24% to 39% of all cases filed between FY02 and FY05.

TABLE 18: USE OF MEDIATION, FY02-FY05

FY	Number of Cases Filed	Number of Cases that Attempt Mediation	Percent of Cases Filed that Attempt Mediation
02	253	71	28%
03	224	54	24%
04	275	77	28%
05	166	64	39%

Source: OLO and the Office of Human Rights, April 2006.

Table 19 presents data to assess how many of the cases that attempted mediation were successfully resolved. These data show the success rate ranged from a low of 24% to a high of 63%.

TABLE 19: MEDIATION OUTCOMES FY02-FY05

FY	Cases Attempting Mediations	Cases Resolved through Mediation	Percent of Attempted Mediation Cases that were Resolved
02	71	17	24%
03	54	23	43%
04	77	49	63%
05	64	32	50%

Source: OLO and the Office of Human Rights, April 2006.

Investigators. The Program Manager distributes cases to one of eight Investigators on a rotating basis. The Division trains each Investigator to investigate any alleged discrimination, regardless of basis or type. Table 20 shows the number of cases closed per Investigator per year.

TABLE 20: CASES CLOSED PER INVESTIGATOR, FY02-FY05

FY	Total Number of Cases Closed	Average Number of Cases Closed per Investigator	Range per Investigator
02	226	28	15-37
03	259	32	15-41
04	233	29	19-41
05	237	34	17-51

Source: OLO and the Office of Human Rights, April 2006.

Case Disposition Data – Findings of Reasonable Grounds. Table 21 shows case disposition data for cases closed during the period of FY02 to FY05. The data report how many closed cases had a finding of reasonable grounds, how many had a finding of no reasonable grounds, and how many were closed for other reasons. Fewer than 10 cases closed in any year between FY02 and FY05 that resulted in a reasonable grounds finding.

TABLE 21: CASE DISPOSITIONS: FINDINGS OF REASONABLE GROUNDS, NO REASONABLE GROUNDS, AND OTHER FY02-FY05

Reasons for Closing	FY02	FY03	FY04	FY05
Reasonable Grounds	4	9	4	6
No Reasonable Grounds	107	115	73	61
Other	115	135	156	170
Total Cases Closed	226	259	233	237

Source: OLO and the Office of Human Rights, April 2006.

Table 21 above also shows an increase in the cases closed for “Other” reasons. The Office classifies the other reasons for closing out a case in five sub-categories:

Withdrawal with Settlement: The complainant requested to withdraw his/her complaint. The Office is aware that the parties have reached a settlement.

Pre-Determination Settlement: Complainant and respondent negotiated a settlement with the knowledge or assistance of the Office.

Complaint Withdrawn: The complainant requested to withdraw his/her complaint. The Office has no indication of a settlement.

Administrative Closure: The complaint is closed because of duplicate filing, bankruptcy, the inability to locate one party, a complainant's failure to cooperate or to accept full relief, or lack of jurisdiction.

Termination of Investigation: The complaint is closed because the complainant submitted a notarized complaint that failed to articulate a claim of discrimination, or he/she failed to rebut a respondent's legitimate business reason for its actions.

Table 22 shows the cases closed for one of these five "other" reasons from FY02 to FY05.

TABLE 22: CASE DISPOSITIONS: WITHDRAWALS, SETTLEMENTS, ADMINISTRATIVE CLOSURES AND TERMINATIONS, FY02-FY05

Other Reasons for Closing	FY02	FY03	FY04	FY05
Withdrawal with Settlement	32	36	40	33
Pre-Determination Settlement	14	19	19	16
Complaint Withdrawn	8	17	13	6
Administrative Closure	37	16	19	37
Termination of Investigation	24	47	65	77
Total Other Closures	115	135	156	170

Source: OLO and the Office of Human Rights, April 2006

The Office reports that it revised its internal policies in FY05 to allow Investigators to administratively close cases in which a complainant does not cooperate in rebutting a respondent's response to an alleged complaint. This change accounts for some of the decrease in no reasonable cause findings, and some of the increase in administrative closures for FY05.

Conciliation. If the Director issues a finding that reasonable grounds exist to believe that the respondent violated the law, the Office must attempt to conciliation (Conciliation is a settlement that, in the Director's judgment, provides full relief to the complainant). The Director has delegated the responsibility for conciliation to the Compliance Director. Table 23 on the next page shows the number of cases in which the Director issued a reasonable grounds finding and attempted to conciliate the case as required by the County Code. It shows that the Office successfully conciliated between four and nine cases each year.

TABLE 23: CONCILIATION DATA, FY02-FY05

Conciliations	FY02	FY03	FY04	FY05	Total
Successful	3	9	4	4	20
Unsuccessful	1	0	0	2	3
Total	4	9	4	6	23

Source: OLO and the Office of Human Rights, April 2006.

Caseload. Investigators may not finish their work on complaints within the same fiscal year that they are filed. Consequently, the Office begins each fiscal year with a backlog of cases carried over from the previous year. Between FY02 and FY05, the backlog carried over from year to year has been approximately 300 cases.

To understand how many cases the Discrimination Investigation program manages in a particular fiscal year, OLO calculated total caseload data for FY02 to FY05. To calculate the total caseload, OLO combined the number of open cases carried over from the previous year with the number of new cases filed during the fiscal year. The results detailed in Table 24, show a relatively stable number of new cases filed each year, with a less stable number of cases still open at the beginning of the next fiscal year. Fewer new cases filed in FY05 produced a 12% drop in the total FY05 caseload, compared to FY04.

TABLE 24: OFFICE OF HUMAN RIGHTS CASELOAD, FY02-FY05

FY	Open Cases at Start of Fiscal Year	New Cases During Fiscal Year	Caseload During Fiscal Year
02	278	253	531
03	305	224	529
04	270	275	545
05	311	166	477
06	245	-	-

Source: OLO and the Office of Human Rights, April 2006.

Hearings. As detailed in Chapter II, Legal Authority, the Case Review Board hears both reasonable grounds cases in which conciliation cannot be reached, and complainants' appeals of no reasonable grounds cases. Since 1999, the CRB has asked OZAH to conduct its hearings.

The CRB has referred a total of 14 cases to OZAH for public hearing. The Office reports that it referred most of these cases because it could not conciliate a reasonable grounds case; most were not appeals of the Director's finding. Of the 14 cases referred to OZAH:

- Seven cases had hearings conducted by OZAH;
- Five cases were recalled by the Office due to settlements, withdrawal, or bankruptcy of the respondent; and
- Two cases are awaiting public hearing.

Table 25 provides details for the seven cases heard by OZAH. It shows that the Case Review Board issued a finding at odds with the hearing examiner in only one instance. That case was appealed to the Circuit Court, which ultimately reversed the Case Review Board.

TABLE 25: DATA FOR CASES HEARD BY OZAH

OZAH Case	Type of Case	OZAH Finding	CRB Finding	Circuit Court Finding
00-1	Race/Employment	Complainant	Complainant	Complainant
01-01	Sex/Employment	Complainant	Complainant	Case Still Open
01-3	Race/Employment	Complainant	Settled	Settled
02-11	Race/Employment	Respondent	Complainant	Respondent
02-41	Sex/Employment	Complainant	Complainant	N/A
03-57	Housing/Source of Income	Complainant	Complainant	Case still open.
03-56	Housing/Source of Income	Complainant	Complainant	Case still open.

Source: OLO, the Office, and OZAH, April 2006.

E. Performance Data for the Discrimination Investigation Program

The County’s discrimination prohibitions are substantially similar to those found in State or federal law. The County Code states that its intent is not to duplicate enforcement efforts by state or federal authorities, but rather to provide prompt and efficient enforcement that may not be available at those levels.

In order to assess the promptness and efficiency of the Discrimination Investigation Program, OLO:

- Analyzed data from handwritten logs of all cases filed from FY02 to FY05;
- Examined 97 complete case files out of 184 employment discrimination complaints closed in FY05²⁵; and
- Requested that the Office compile data available to staff, but not shown in these sources.

Intake. Table 26 shows how quickly the Office was able to complete the intake process. In FY05, a complainant waited an average of 25 working days to receive a fully drafted complaint. Notably the median time was 12 working days, with a range from three to 153 working days, excluding holidays.

TABLE 26: MEASURES OF ELAPSED TIME BETWEEN THE INTAKE INTERVIEW AND THE DATE A DRAFT COMPLAINT WAS MAILED, FY05

Elapsed Time	Number of Working Days
Average	25 days
Median	12 days
Range	3 days – 153 days

Source: OLO and the Office of Human Rights, April 2006.

²⁵ Of these 97 case files, approximately 65 contained a complete sample of the information presented in this section. Sixty-eight of the 97 FY05 closed employment discrimination that OLO examined contained both the date that the Intake Officer completed the draft complaint and the date that the Office received the notarized complaint.

Mediation. As shown in Table 18, 64 complaints filed in FY05 attempted mediation, and 32 of these were successfully resolved. Table 27 shows how long it took to mediate a case successfully, based on data for FY02 to FY05, plus how long it took to conduct an investigation. The data show the average number of days to achieve a mediated settlement varies from 200 to 280. It shows that the time it took to successfully mediate cases in FY04 or FY05 was longer, on average, than the time it took to conduct full investigations.

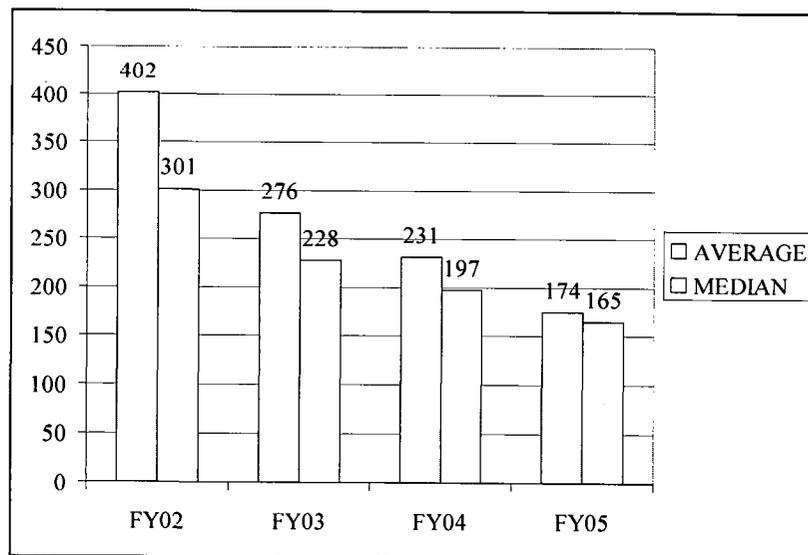
TABLE 27: NUMBER OF DAYS TO COMPLETE SUCCESSFUL MEDIATION AND TO CONDUCT A FULL INVESTIGATION, FY02-FY05

FY	Number of Successful Mediations	Average Number of Days to Achieve Successful Mediation	Average Number of Days to Conduct a Full Investigation
02	17	200	402
03	23	260	276
04	49	240	231
05	32	280	174

Source: OLO and Office of Human Rights, April 2006.

Investigations. For the entire period between FY02 and FY05, investigators completed their investigations in an average of 289 working days, with a median of 219 working days, as measured from the receipt of a notarized complaint. Chart 7 on the next page shows that both the average and median working days has steadily and significantly decreased over time.

CHART 7: AVERAGE AND MEDIAN WORKING DAYS TO CASE CLOSURE, FY02-FY05



Source: OLO and the Office of Human Rights, April 2006.

Time Frames for Closed Cases. The final two tables in this section present additional performance information. Because of the variability in case closure times, OLO created Table 28 to show the number of cases completed in separate time frames. These data were compiled from OLO’s review of the Office of Human Rights’ complaint logs, and reflect only cases that were filed and closed from FY02 to FY05.

TABLE 28: TIME FRAMES OF CLOSED COMPLAINTS – FY02 TO FY05

FY	# Cases Filed and Closed	Number of Cases Closed In...				
		Less Than 6 Months	6-12 Months	13-18 Months	18 -24 Months	More than 24 months*
02	145	19	40	23	19	43
03	146	34	48	23	20	21
04	150	29	66	34	13	8
05	72	20	51			

*Does not include cases still open.

Source: OLO and the Office of Human Rights

Conciliation. If the Office issues a reasonable grounds finding after its investigation, the County Code statute establishes a 90-day conciliation period for cases in which the Director makes a reasonable grounds finding. However, the statute also allows the Director to extend that period with the consent of the complainant and the respondent.

At OLO’s request, the Office compiled data to estimate the time it takes to conciliate a complaint. Table 29 shows the number of conciliations and the estimated length of conciliation periods²⁶ between FY02 and FY05. The data show that the estimated conciliation period ranged from 325 days to 433 days.

TABLE 29: LENGTH OF CONCILIATION PERIOD – FY02-FY05

	FY02	FY03	FY04	FY05
Average	391 days	325 days	375 days	433 days
Range	343-420 days	113-558 days	150-548 days	281-540 days
Number of Conciliations	4	9	4	6

Source: OLO and the Office of Human Rights, April 2006.

²⁶ The Office reports that this information is not maintained in the normal course of business. Instead, it reported the date a “reasonable grounds” determination was issued and the date the case was closed. This is not the exact length of the conciliation period because complaints are closed at the end of any given month and the conciliation may have been completed at any time during the month.

Relief. The Office reports that, between FY02 and FY05, it reached conciliation agreements or participated in settlement agreements that resulted in complainants receiving almost \$2.1 million in monetary relief. Table 30 below details the monetary relief obtained each year. (These amounts do not include any relief obtained in cases that were settled privately between a complainant and a respondent.)

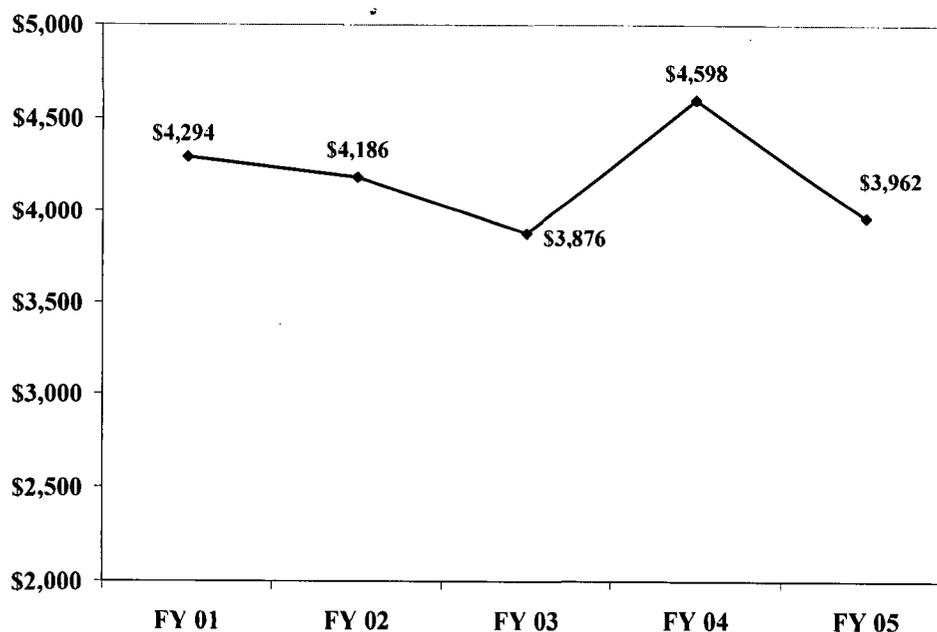
TABLE 30: MONETARY RELIEF AWARDED TO COMPLAINANTS BY TYPE OF DISCRIMINATION, FY02-FY05

	FY02	FY03	FY04	FY05	FY02-FY05
Employment	\$504,483	\$441,096	\$817,504	\$262,557	\$2,025,640
Housing	\$2,100	\$2,111	\$250	\$1,300	\$5,761
Public Accommodations	\$41,350	\$7,610	\$9,210	\$7,036	\$65,206
Total	\$547,933	\$450,817	\$826,964	\$270,893	\$2,096,607

Source: OLO and the Office of Human Rights, April 2006.

Cost Per Closed Case. The Office reports the average cost per closed case in Montgomery Measures Up! Chart 8 below shows this data from FY01 to FY04. The Office reports that the increased costs from FY03 to FY04 were due to staff turnover and extended leave. The weighted average cost per closed case over this time period is \$4,175.

CHART 8: AVERAGE COST PER CASE CLOSED FY01-FY05



Source: OLO and Montgomery Measures Up

Chapter VI. Fair Housing

The FY06 Approved budget for the Fair Housing Program is \$342,170, including personnel costs of \$299,890 and an operating budget of \$42,282. The budget for Fair Housing funds four positions and 4.95 workyears. It accounts for 16% of the total budget of the Office of Human Rights.

The position complement for the Fair Housing Program consists of a Fair Housing Coordinator, a Program Manager who serves as the Testing Coordinator, a Program Specialist, an Office Services Coordinator and a group Public Services Intern position to fund testers hired as temporary employees.

This chapter is organized as follows:

- **Part A** presents a legislative and budget history of the Fair Housing Program;
- **Part B** presents the current legal requirements for the Fair Housing Program contained in County Code Chapter 27, *Human Rights and Civil Liberties*;
- **Part C** describes the positions, duties and activities of the staff; and
- **Part D** shows the program performance measures in Montgomery Measures Up!

A. History of the Fair Housing Program

In 1987, the County Council adopted Bill 18-87, *Fair Housing – Coordination*, as an emergency act to “direct the Department of Housing and Community Development to coordinate County activities to prevent discrimination in housing” and to “establish an interagency fair housing coordinating group.” Some key features of the Fair Housing Program’s legislative and budget history are summarized below.

The Legal Requirements Established in Bill 18-87. The Council enacted Bill 18-87 to address housing discrimination in the County identified by a study by a nonprofit housing advocacy group and a subsequent colloquium sponsored by the County Council. Bill 18-87 proposed a coordinating group that would create “a public forum” and “encourage diverse participation.” It also:

- Designated 12 member agencies, including the Housing Opportunities Commission and 11 Montgomery County Government departments or offices;
- Required the Executive to invite representatives of the housing industry, active community groups, as well as staff representatives from the County Council, MCPS, and Maryland-National Capital Park and Planning Commission;
- Required the Executive to designate a chair and authorized the group to form its own subcommittees;
- Required that meetings of the group and its subcommittees be open to the public; and

- Required the coordinating group to submit an annual report on housing discrimination in Montgomery County to the County Council and the County Executive.

The law specified that the annual report must assess laws prohibiting discrimination in housing, recommend changes in law, policy, programs or priorities to reduce discrimination, include a work program for the coming year and a progress report of the previous year, and include the views of the fair housing coordinator and any group member with different views.

Fair Housing Program Models

The Fair Housing Program experienced many changes in its organizational structure, staffing, and program components over its twenty year history. A review of the legislative and budget history shows three distinct phases.

From 1987 to 1991. In its initial years, the Fair Housing program had a Fair Housing Coordinator, a managerial position in the Department of Housing and Community Development, who reported directly to the DHCD Director.

Fair Housing Coordinator Duties. The major duties of the Fair Housing Coordinator position were to:

- Develop and implement strategies to reduce discrimination in housing;
- Provide briefings and other communication with elected officials, department heads, industry representatives, and media on fair housing;
- Manage and coordinate the County's fair housing program;
- Supervising the testing program to insure compliance with fair housing laws by providing guidance and oversight to the testing contractor;
- Disseminating fair housing information to the public; and
- Promoting education and training to achieve fair housing by offering training options and guidance to industry representatives.

The Interagency Fair Housing Coordinating Group. The Fair Housing Coordinator chaired the Interagency Fair Housing Coordinating Group, which had representatives from the real estate industry, civic and social organizations, non-profit housing advocacy groups, and government program managers. The Coordinator reports the industry representatives included members of the Executive Committees of the Board of Realtors and the Property Management Association. The Coordinator also reported that DHCD sent letters to the heads of agencies and departments to recruit staff members for the Interagency Fair Housing Coordinating Group.

The Fair Housing Coordinator focused efforts on three components: training, testing and oversight of the County's housing programs and initiatives, such as the MPDU program. The focus on testing produced some significant agreements with major financial institutions and developers that required them to undergo training and make modifications to their outreach and hiring practices.

Funding. OLO was unable to locate specific information about the level of funding for Fair Housing Programs during this period. OLO did learn that the sources of funding included Community Development Block Grant funds, several DHCD programs, a transfer from the Landlord Tenant Fund, and the Housing Opportunities Commission.

Results and Products. The Interagency Fair Housing Coordinating Group presented its first annual report to the County Executive and County Council in 1988. A final report was presented in 1991.

From 1991 to 1996. In 1991, the Fair Housing Coordinator left DHCD to serve as a Special Assistant to the newly elected County Executive. The Fair Housing Coordinator position was not filled; however, longstanding members of the group who OLO interviewed report that the Interagency Fair Housing Coordinating Group continued to meet within DHCD to coordinate the County's fair housing activities. OLO was not able to find any annual reports or detailed information about the amount or sources of funding.

From 1996 to 2006. In May 1996, the County Council enacted Bill 11-96, Community and Consumer Affairs Reorganization. Among other things, this legislation transferred administration of the Fair Housing Program from the Department of Housing and Community Development to the Office of the Human Relations Commission.

Fair Housing Coordinator Duties. The Director of the Office reports that the Director position functioned as the de facto Fair Housing Coordinator for the first few years of tenure.

In 2001, the Council enacted Bill 36-99 primarily to revise the procedures for deciding a complaint alleging illegal discrimination. The legislation also clarified the authority and roles and responsibilities of the Commission on Human Rights and the Executive Director. Some of these revisions transferred fair housing duties previously assigned to the Office of Human Rights (See Section 27-26A on page 14 for a list of these items).

The Interagency Fair Housing Coordinating Group. During that time, the Director established a separate committee of community members to supplement the existing Interagency Fair Housing Coordinating Group, which functioned primarily as an organization of service providers. At first the two groups co-existed and functioned independently. When concerns were heard about members of each group feeling left out of the others' discussions, the Director consolidated the two groups.

The Bill revised Section 27-28, *Interagency Fair Housing Coordinating Group*, to add a sentence to the beginning of Section 27-28(b) that states "The County Executive appoints the members of the coordinating group, subject to confirmation by the County Council." The effective date of this bill was August 13, 2001.

The Fair Housing Program Budget and Staffing. Fair housing activities were first mentioned in the budget description of the Discrimination Investigation Program in FY97. Two years later, in FY99, the recommended and approved budgets established a

Fair Housing Program with 1.5 workyears and a budget; and, one year later, in FY00, the Fair Housing Program became a separate organizational unit with four positions. Finally, in FY01, the County Executive recommended and the County Council approved the establishment of an in-house testing program, staffed through funding of a Public Services Intern group position. The Fair Housing Program has sustained a personnel complement of 4.95 workyears since FY00.

Funding. The Director of the Office states that when the fair housing program responsibilities were transferred in 1996, they came without the funding support that had existed in DHCA. As described in Chapter III, on page 21, the County Executive and County Council budgeted funds for the Office's Fair Housing Program from the Landlord Tenant Fund in FY98, from FY00 through FY02, and again in FY06. The amount of funding ranged from \$64,000 in FY98 to \$123,280 in FY06, not adjusted for inflation.

In addition to these funds, in FY06 and previous years, the Office received \$40,000 in HOME grant funds administered by DHCA. DHCA monitors the use of these funds as part of its responsibilities for administering federal grant funds. DHCA and the Office met recently to discuss parameters associated with the use of these funds. (See Appendix H for a copy of the Memorandum of Understanding between DHCA and the Office.)

In 1996, the federal Department of Housing and Urban Development required local recipients of HOME and Community Development Block Grant funding to certify annually that they were taking actions to affirmatively further fair housing. HUD required each jurisdiction to conduct an initial study to identify impediments to fair housing, and to update this study annually. In Montgomery County, DHCA delegated the responsibility for conducting and updating the Analysis of Impediments to Fair Housing study to the Fair Housing Program. (See Appendix I for a copy of the 2002 AI Progress Report.)

Results and Products. OLO's research found the most recent annual report from the Interagency Fair Housing Coordinating Group was received in January 2001. At OLO's request, staff in the Fair Housing Program provided copies of other recent publications and reports. These include:

- ***The Fair Housing Testing Report, prepared by the Montgomery County Office of Human Rights, March 2003.*** This report presents the results of 301 rental tests completed between April 2000 and December 2002. The tests included: 151 race tests, 57 national origin tests, 32 familial status tests, 56 source of income tests, five disability tests, and 27 new construction accessibility tests (See Appendix J for excerpts that summarizes the tests conducted and the results).
- ***Fair Housing Tester Training Manual, prepared by the Montgomery County Office of Human Rights, October 2003.*** This publication explains the purpose of Montgomery County's systemic testing program and provides background information about Fair Housing laws and the testing process.

- **Montgomery County Fair Housing Survey – A Report of Data Collected for 2005, prepared by the Metropolitan Washington Council of Governments, Washington DC, no date.** This report provides a comparative summary of 1998 and 2005 data collected under Section 27-13, the Real Estate Reporting Requirement. The law requires real estate professionals who manage 25 or more units to report information such as vacancy rates, and the racial and ethnic composition of their leaseholders and employees. The survey data is intended to be used to show the influences of race on housing patterns. DHCA conducts the survey and transmits the data to the Office for analysis. (See Appendix K for a copy of the survey form and an excerpt of the report.)

The Office also provided data about the number and location of compliance tests conducted in 2003, 2004 and 2005. See Section D, beginning on page 70, for a discussion of these data.

B. Current Legal Requirements for the Fair Housing Program

As detailed in Chapter II, Chapter 27 establishes several legal requirements that are designed to protect residents from discriminatory practices when they are seeking housing in the County. The requirements regulate the activities of the private sector, the Director, and the Commission.

Various sections of Chapter 27 define prohibited practices and establish posting and reporting requirements that private sector entities, including property managers, real estate agents, and brokers, must comply with. Specifically:

- Section 27-12 identifies prohibited discriminatory housing practices to establish standards for the County’s investigation of alleged complaints of discrimination;
- Section 27-13a requires posting of notices explaining the law to be prepared by the Commission and posted in real estate offices, rental offices of multifamily buildings; and
- Section 27-13b requires real estate brokers, agents, and property managers to submit “whatever reports relating to housing under the person’s control that the Commission decides is necessary to carry out this subdivision.”

Section 27-26A, *Coordination of fair housing activities*, requires the Director of the Office to:

- Coordinate the activities of all County departments, offices, and agencies to prevent discrimination in housing and test compliance with housing discrimination laws; and
- Designate a staff member as the County’s fair housing coordinator.

Section 27-26B requires the County Executive to appoint members of the Interagency Fair Housing Coordinating Group and it requires the IFHCG to prepare an annual report. The report must:

- Assesses County, State and federal laws prohibiting discrimination in housing and evaluate their enforcement in the County;
- Recommend changes;
- Include a work program;
- Include a progress report on the previous year's work program; and
- Include views of FHC and any member whose views differ from those of report.

Section 27-26A requires the Commission²⁷ to:

- Encourage housing industry participation in activities promoting fair housing;
- Test compliance with housing discrimination laws;
- Assess information needs and assure that appropriate County agencies are gathering and analyzing the necessary data to monitor compliance with housing discrimination laws;
- Maintain a bibliography of information and databases;
- Promote education and training; and
- Provide staff support for meeting and activities of IFHCG.

C. Staffing Roles and Responsibilities

Staff in the Fair Housing Program provide staff support to the Interagency Fair Housing Coordinating Group, coordinate the activities of County programs to reduce housing discrimination, and plan and develop outreach activities.

1. Program Manager II - Fair Housing Coordinator

The Director of the Office has designated the Program Manager II in Fair Housing as the County's Fair Housing Coordinator. The duties of this position are defined in law and in the employee's performance plan. They are:

- To provide staff support to the Interagency Fair Housing Coordinating Group,
- To initiate, plan, develop and support office outreach activities and education programs;
- To coordinate County programs and activities to reduce discrimination and
- To manage a testing program to determine compliance with anti-discrimination law.

Staff Support to the Interagency Fair Housing Coordinating Group. The Fair Housing Coordinator's support duties for the IFHCG consist of preparing meeting

²⁷ These activities were previously assigned to the Office. The location of this section in the statute suggests that the Council may have intended these duties to be assigned to the Coordinator.

agendas, maintaining and monitoring the IFHCG membership roster, organizing an annual retreat to develop a work program, providing support for IFHCG events, and compiling submissions from member agencies to produce an annual report.

As described earlier in this Chapter, the Council established the Interagency Fair Housing Coordinating Group in 1988 to create a public forum with diverse participation for County program managers and industry representatives to discuss and address fair housing issues. The law specifies the IFHCG members and, in 2000, was amended to require County Executive appointments.

A review of IFHCG minutes for 2005 shows the active members are mostly department and agency staff (representing County Government housing programs, HOC and MCPS), plus representatives from other Office Committees, e.g. the Commission on Human Rights and the Committee on Hate/Violence; and, a few community representatives. Late in 2005, a representative from M-NCPPC joined the IFHCG. (See Appendix L for a copy of the current membership roster.)

The law also mandates that the IFHCG develop an annual work program and provide an annual progress report to the County Council and County Executive. The IFHCG held a retreat in September 2005 to establish Committee Goals for 2006. The IFHCG grouped its goals into three areas, i.e., Community Outreach, Internal/Committee, and Legislative Initiatives, and identified tasks with assigned staff responsibilities in each area. For example, the tasks grouped in Community Outreach are: MCPS, at large, web outreach, Cable TV, PRN newsletter, annual report, and communication with other agencies/stakeholders (See Appendix M for the complete list of these Fair Housing 2006 Goals). The Fair Housing Coordinator is currently soliciting submissions from IFHCG members to produce an annual report of its 2005 activities.

A review of the minutes shows, in 2005, the IFHCG sponsored an educational forum on predatory lending, partnered on several events and issues identified by its members, and explored ways to increase its visibility among County Government departments.

Training, Education and Outreach. The Fair Housing Coordinator manages the training, education and outreach activities for the Fair Housing Program. To accomplish these activities, the Fair Housing Coordinator works with the IFHCG and supervises the Program Specialist, who has lead responsibility in this area.

The Fair Housing program organizes outreach activities such as seminars, workshops, and forums to educate the public on the provisions, requirements, and remedies of the fair housing law. The Fair Housing Program also convenes a seminar every April in association with Fair Housing Month.

Last year, the Interagency Fair Housing Coordinating Group partnered with 13 other organizations to sponsor an evening seminar focused on predatory lending.²⁸ Approximately 170 people attended.

As part of his job responsibilities, the Compliance Director provides ongoing training courses for property managers and real estate agents. For instance, he will participate in a training session sponsored by the Interagency Fair Housing Coordinating Group in April 2006, in recognition of Fair Housing Month. Other participants in this training include, the Maryland Commission on Human Relations, the Department of Housing and Community Affairs, the Office of Consumer Protection, and the Housing Opportunities Commission.

The Fair Housing staff also works closely with the schools to educate children about the fair housing law. The Fair Housing Program sponsors a poster contest in the schools every April. For more information about the Fair Housing Program's outreach activities, see the discussion of the Program Specialist's duties, beginning on page 68.

County Program Coordination. The Fair Housing Coordinator reports that the IFHCG functions as a loosely organized support network of program managers who help each other address issues of mutual concern. The Fair Housing Coordinator reports that staff from HOC resolved an emergency housing issue resulting from a phone call to the Office last December. Staff from the Fair Housing Program also provide assistance at DHCA's Annual Housing Fair, which is held each October.

Data Analysis and Research. The Fair Housing Coordinator manages data analysis and research activities for the Fair Housing Program, which include the testing program, the analysis of rental survey data collected by DHCA, monitoring of the analysis of impediments to fair housing, and other issues that arise. The Fair Housing Coordinator supervises the Program Manager I, who has lead responsibility for the testing program.

Testing. The Fair Housing Program administers a testing program to measure the prevalence and extent of housing discrimination in Montgomery County. If the test results show evidence of housing discrimination, the County will either use the evidence to support a complaint filed by the Commission on Human Rights or bring a housing discrimination case in federal court.

Rental Survey Data Analysis. Section 27-13 requires property owners or managers with 25 units or more to comply with reporting requirements defined by the Commission. Currently, the Program Manager in DHCA's Licensing and Registration Unit distributes a survey form, "The Office of Human Rights Rental Housing Occupancy Composition and Rental Office Employee Survey."

²⁸ The participating agencies were AARP, Action in Montgomery, Commission on Aging, Commission on People with Disabilities, Commission for Women, Consumer Credit Services of Greater Washington, County Executive's Office, Office of Community Outreach, Department of Housing and Community Affairs, Housing Opportunities Commission, Human Rights Commission, Inter-Agency Fair Housing Coordinating Group and the League of Women Voters.

The Program Manager in DHCA reports the response rate ranges from 50 to 75%. The Program Manager creates a database, which is forwarded to the Fair Housing Coordinator. The Fair Housing Coordinator reports she plans to meet with the Program Manager to improve data collection from the form.

The survey form requests data about the race and ethnic background of leaseholders and rental office employees. It also requests data about the number of single family heads of households. In 2005, the Office contracted with the Metropolitan Washington Council of Governments to analyze the data and compare the results to data collected in 1998. (See Appendix N for a copy of the 2005 Survey Form and Appendix K for excerpts from the MWCOG Report.)

Analysis of Impediments to Fair Housing. *The Analysis of Impediments to Fair Housing Choice* is a study of the barriers that affect rights of fair housing choice. State and local jurisdictions that receive Community Development Block Grant Funds through the Consolidated Plan process must certify to HUD that they will “work diligently to affirmatively further fair housing.” As part of this certification process, they must prepare and update annually an Analysis of Impediments (AI) Study (In practice, out of more than 1,000 CDBG entitlement jurisdictions in the country, only about 40 or 50 actually have programs to address housing discrimination²⁹).

In Montgomery County, DHCA has lead responsibility for administering the Consolidated Plan process and the County’s CDBG program. When the federal government established the requirement for an AI Study in 1996, DHCA delegated this responsibility to the Fair Housing program in the Office of Human Rights. The Fair Housing Coordinator at the time joined a regional study effort, headed by the Metropolitan Washington Council of Government.

The initial Fair Housing Plan for Montgomery County, produced as a result of MWCOG’s study, identified nine impediments to fair housing. This study was used to generate a Fair Housing Plan consisting of 13 goals and multiple supporting activities. After the study was completed the Fair Housing Program and DHCA used this Plan to monitor the County’s progress and meet federal certification requirements.

The most recent Montgomery County Fair Housing Plan Impediment Analysis Progress Report on file is dated November 2002. The Fair Housing Coordinator reports she and staff in DHCA have discussed updating the Analysis of Impediments study.

Other Studies and Research. The Fair Housing Coordinator reports that staff conducts research on housing discrimination issues and other program questions as issues arise. For example, last year the Fair Housing Coordinator researched predatory lending issues and the legislative history of the County Executive’s responsibility to make appointments to the Interagency Fair Housing Coordinating Group.

²⁹ National Low Income Housing Coalition:2005 Advocates’ Guide
<http://www.nlihc.org/advocates/analysisofimpedients.htm>

2. Program Manager I –Testing Coordinator

The Program Manager in Fair Housing manages the County’s testing programs. He also assists the Fair Housing Coordinator with education, training and outreach sessions, and attends the IFHCG.

Testing. At OLO’s request, the Program Manager compiled data on the tests conducted for the past three years. Table 31, below, displays this information. The data shows the Office conducted 20 fair housing tests of Montgomery County housing units during 2005. All of these were rental tests.

Table 31 also reports the total number of tests for 2003 and 2004. The 20 tests conducted in 2005 compare with 53 tests in 2004 and 46 tests in 2003. Table 31 also displays the geographical location of tests for the past three years.

TABLE 31: SYSTEMIC TESTS CONDUCTED TO MONITOR HOUSING DISCRIMINATION 2003-2005

Area	2003	2004	2005
Bethesda/Chevy Chase	17	9	3
Silver Spring	3	10	6
Kensington	0	1	0
Wheaton	0	0	2
Rockville	12	21	4
Gaithersburg	6	4	2
Potomac	0	1	0
Germantown	6	3	3
Sandy Spring	0	1	0
Damascus	1	1	0
Clarksburg	1	2	0
TOTAL	46	53	20

Source: OLO and the Office, April 2006.

Staffing the In-House Testing Program. The Program Manager reports that, based on experience, an effective testing program needs a pool of 30 to 40 people, including at least 10 control testers. Currently, the Fair Housing Program has 22 people under contract as testers.

Initially, the Program Manager passed out flyers, attended civic association and neighborhood meetings, and pursued other networking and community organizing strategies to recruit testers. Recently, the Office is working with staff in the Office of Human Resources to hire testers through more traditional channels. The Program Manager reports that advertising is currently through Human Resources on the Peopleclick system. The advertisement is scheduled to run through April 4.

The Program Manager reports that the Office staff holds a mandatory three-hour training session for all newly hired trainers. In 2005, the Office held two sessions and trained 14 people.

Outreach and Training. The Program Manager facilitates discussions with community groups and leaders. For example, last fall, the Testing Coordinator facilitated a discussion on housing related issues with African American leaders, participated in the DHCA Annual Housing Fair, participated in the Human Rights Camp, and spoke at a NAACP general membership meeting.

3. Program Specialist

The Program Specialist administers information, outreach and advertising activities for Fair Housing and provides staff support to the Interagency Fair Housing Coordinating Group. She performs these duties under the supervision of the Fair Housing Coordinator.

Information, Outreach and Advertising. The Program Specialist reports that program goals are to get out into the community to let people know the County has a Human Rights Office and to reach out to property managers as well. Her promotional work has focused on updating the program's brochures, distributing information to libraries, government services centers and property managers, and creating a new logo.

At OLO's request, the Program Specialist provided a list recent of Fair Housing Activities, which is summarized in Table 32. The list includes a mix of housing fairs, community meetings, and the predatory lending educational forum.

**TABLE 32: INFORMATION AND OUTREACH ACTIVITIES AND EVENTS,
OCTOBER 2004-APRIL 2006**

DATE	EVENT	DESCRIPTION
October 2004	4 th Annual Housing Fair	The Office participated as an exhibitor at this event, which was sponsored by DHCA.
May 2005	Predatory Lending Educational Forum	The Office coordinated panel discussions and presentations by several groups, including Fannie Mae; AARP- Maryland; Consumer Credit Counseling Services of Greater Washington. The event was co-sponsored by HOC, MCPS, the Commission for Women, the Commission on Aging, the Human Rights Commission and the League of Women Voters.
June 2005	The Office Annual Retreat	The Office sponsored this event for IAFHCG members to discuss goals and objectives.
Summer 2005	NAACP Community Leader Meeting	The Office met with NAACP Community Leaders to discuss predatory lending issues.
October 2005	5 th Annual Housing Fair	The Office participated as an exhibitor at this event, which was sponsored by DHCA.
November 2005	NAACP General Membership Meeting	The Office set up a display and presented to NAACP members and community leaders.
April 2006	April Fair Housing Event	The Office will conduct an educational forum for property managers, leasing agents, renters, and others.

Source: OLO and the Office, April 2006.

Historically, the Fair Housing Program has managed contracts for advertisements in newspapers and on television to inform the public about the fair housing law. In past years, the program ran advertisements in minority newspapers and on CSPAN during the broadcasting of soccer games. Fair Housing staff also met with tenant associations and visited complexes that the Landlord Tenant Mediation staff believe may have problems. The Program Specialist reports the Fair Housing program currently does not have any contracts in place for any radio and/or TV ads.

Staff Support to the Interagency Fair Housing Coordinating Group. The Program Specialist provides staff support to the Interagency Fair Housing Coordinating Group. Her duties include setting up the meeting room, arranging for refreshments, attending meetings, drafting minutes, and corresponding with Committee members and staff in the Office of the County Executive.

Other Duties. The Program Specialist reports that the job includes assisting with recruitment of the testing pool and also fielding calls for investigators. The current Program Specialist also participated as the Office's representative on the interview panel for the Human Rights Commission.

4. Office Services Coordinator

The Office Services Coordinator (OSC) position located in Fair Housing reports that the position was intended to assist the Fair Housing Program. In practice, most of the job activities support programs and activities in Community Mediation and Public Affairs and the Director's Office.

Currently, the Office Services Coordinator is responsible for providing staff support to the Committee on Hate/Violence for the Community Mediation and Public Affairs Program. For the Director's Office, the OSC performs budget-related duties such as processing payment and reimbursement requests, and purchasing supplies and equipment. The OSC also serves as the Office representative to certain internal county government committees such as the Chief Administrative Officer's Limited English Proficiency Committee.

D. Performance Measures

The FY07 edition of Montgomery Measures Up!, provides a family of measures for the Fair Housing Program. The program outcomes, workload outputs, and inputs for FY05, FY06 and FY07 are displayed below.

The Office reports there are no Commission or court complaints filed to date in FY06. The Office also reports it has conducted 20 paired tests to date in FY06, plus an additional 30 practice tests while training new testers. The number of tests conducted to date in FY06 is significantly lower than the 200 tests estimated for the FY06 Budget in Montgomery Measures Up! The Office states these numbers differ because most of FY06 was spent getting the testing program up and running, i.e., recruiting and training testers. The Office also reports that the grassroots approach to recruiting, so as not to alert the industry, was not successful in garnering the appropriate pool. Thus, limited types of testing could be performed.

**TABLE 33: FAIR HOUSING PROGRAM OUTCOMES, WORKLOAD INPUTS AND OUTPUTS
FY05-FY07**

	FY 05 Actual	FY 06 Budget	FY 07 Proposed
Outcome Results			
Commission and court complaints filed	NA	8	4
Service Quality			
% of people satisfied with training and outreach sessions	92	90	92
Workload/outputs			
Paired tests conducted to determine levels of discrimination	NA ³⁰	200	210
Training and outreach sessions held	21	40	42
Inputs			
Workyears	5.0	5.0	5.0
Expenditures	236,426	385,381	449,330

Source: OLO and Montgomery Measures Up! FY07, March 2006.

³⁰ A hiring freeze affected the program's ability to maintain a legally appropriate pool of testers in FY 05. In addition, the Testing Coordinator position was vacant for most of the year. That position has now been filled, the freeze has been lifted, and testers are again being trained.

Chapter VII. Community Mediation and Public Affairs

The FY06 approved budget for the Office's Community Mediation and Public Affairs Program is \$217,200. This includes \$208,900 for personnel and \$8,300 for operating expenses. The budget funds two positions and two workyears; it represents 10% of the budget for the entire Office of Human Rights.

The position complement for the Community Mediation and Public Affairs Program includes one Program Manager and one Program Specialist. This chapter reviews the legislative and program budget history of the Community Mediation and Public Affairs Program; it presents the relevant legal requirements for the program; and describes the roles and responsibilities of staff, including the major program activities.

This chapter is as follows:

- **Part A** presents an overview of the history of the Community Mediation and Public Affairs Program (CMPA);
- **Part B** describes the positions and duties of the staff of the Program; and
- **Part C** presents performance measurement information as available in Montgomery Measures Up! and otherwise provided by the program.

A. History of Community Mediation and Public Affairs

The Community Mediation and Public Affairs Program has been a core element of the Office of Human Rights over the years; despite changes to its name, level of staffing, operations and governance structure. Based on a review of the approved budget documents and OLO Report 94-2, some key historical highlights of this program budget are described below.

- According to OLO Report 94-2, from the 1960's through the early 1980's, members of the Commission on Human Rights, acting primarily through Commission committees, worked with the Office staff to accomplish the duties and activities of the Commission. The activities included: participation in fairs, workshops and community forums; staffing a speakers' bureau; membership and participation on other agency advisory boards, committees, and commissions; and participating in the Network of Neighbors.
- According to the recommended budget for FY92, in March, 1991, the budget for the Commission, which was made up of the Commission, the Office and the Hate/Violence Partnership Board, funded activities to reduce the acts of hate/violence and promote harmonious human relations within the community. The performance indicators in FY92 tracked measures such as hate/violence incidents (275); responses to hate/violence incidents (310); Network of Neighbors participants (700); workshops, trainings and meetings on hate/violence (250); and workshops and speaking engagements on Hispanic and Asian issues (190).

- In April 1991, the HHS Committee discussed the results of a Sensitivity Awareness Symposium (SAS) Taskforce Retreat which recommended unifying the Coordinating Committee on Hate/Violence and the SAS Task Force. This merger consolidated a Committee of internal Executive staff tasked with receiving and coordinating responses to hate/violence incidents with a task force of community groups established to reduce hate/violence by holding programs for students and adults. Legislation to create the Committee on Hate/Violence was introduced in June and adopted in July 1991. Responsibility for staffing the Committee was placed in the Office of the Human Rights because the Director had chaired the internal coordinating committee.
- In February 1994, OLO Report 94-2 reported that the Office staff carried out practically all of the community relations work of the Commission. The staff complement of the Community Relations Unit consisted of a manager and four employees; three employees staffed the Human Relations Education and Training Program and one employee staffed the Community Mediation for Hate/Violence Incidents Program which provided staff support for two separate citizen boards, the Committee on Hate/Violence and the Partnership Board for Hate/Violence Incidents.
- In March 1995, the County Executive and County Council abolished the Human Relations Education and Training Program and reduced staff support for the Community Mediation for Hate Violence Incidents Program to 1.7 workyears. Curiously, the budget proposed shifting the workload for the Community Mediation for Hate Violence Incidents Program to Commission members, who previously had only a secondary role in the program; moreover, it did not address the effect of this change on the missions of the citizen boards that had played a more central role in the program, i.e., the Committee on Hate/Violence or the Partnership Board.
- In response to Council questions, the Director stated the proposed Program Manager would be responsible for developing a network of public and community agencies and individuals available to respond to hate/violence acts. The Director identified eighteen potential partners and said operational details such as incident reporting, first response, victim assistance and prevention activities, would be worked out with the network members.
- In July 2000, the County Executive recommended and the County Council approved a budget that increased the staff resources to 2.5 workyears and established the Community Mediation for Hate Violence Incidents Program as a separate organizational unit.
- In July 2004, the County Executive recommended and the County Council approved reducing the staff to 2.0 workyears to reflect a reallocation of staff from the Community Mediation Program to the Fair Housing Program.

- In July 2004, the final report of the Committee Review and Evaluation Board (CERB) recommended consolidating the Partnership Board for Hate/Violence Incidents and the Committee on Hate/Violence. In September 2005, following a detailed review of the CERB Committees recommendations, the Council adopted Bill 3-05 which repealed the Partnership Board.

B. Staff Roles and Responsibilities

Staff in the Community Mediation and Public Affairs Program support two citizen committees, the Commission on Human Rights and the Committee on Hate/Violence, and administer numerous community outreach activities and special events.

1. Program Manager

The Program Manager coordinates County programs to respond to hate/violence incidents, manages the contracts and logistics for the Human Rights Hall of Fame, provides staff support to the Commission on Human Rights and the Committee on Hate/Violence and its Partnership Fund subcommittee, serves as the lead staff for public affairs and communication matters, and supervises the Program Specialist.

Staff Support for the Commission on Human Rights. The County Council established the Commission on Human Rights in 1962. As explained in more detail in Chapter II, beginning on page 4, the Commission on Human Rights is a 15-member citizen body established in Section 27-2 of the County Code. In addition to the Commission's adjudicatory responsibilities (which are managed by the Director of Compliance), the Commission's mandate establishes:

- An advisory role in setting the County's human rights policy;
- A public education role; and
- A responsibility to promote goodwill, cooperation and tolerance among diverse community and interest groups.

Sec. 27-5 specifies eight duties related to these Commission roles. For example, the Commission must:

- Research, analyze and disseminate information about anti-discrimination programs;
- Conduct educational programs and other programs to promote equal rights and opportunities;
- Promote goodwill, cooperation, understanding and human relations among all persons; and
- Study and investigate conditions that could result in discrimination, prejudice, intolerance or bigotry.

Sec. 27-3 requires that the Commission on Human Rights hold at least nine meetings annually; in 2005, the Commission met 13 times.

The Program Manager serves as the Office of Human Rights' staff to the Commission on Human Rights. The Program Manager reports that job duties consist of preparing agendas; setting up the meeting room; recording the meeting, preparing minutes; circulating a folder of announcements and events; and following up on requests and items discussed at the meeting.

The Director and the Program Manager state that the Commission on Human Rights has the primary responsibility for conceptualizing and determining the projects and activities that the Commission undertakes and that the Office and the staff play a supporting role. The Program Manager reports the Office is fortunate to work with such dedicated, well meaning and talented volunteers.

In addition to supporting the regular meetings of the Commission, the Program Manager also makes arrangements for the Commission's annual retreat and supports the Commission's review of applicants for Commission vacancies. This responsibility includes arranging for a member of the Office to sit with Commissioners on the interview panel and working with staff in the Office of the County Executive, who has lead responsibility for the recruitment process.

The Program Manager reports that the position does not serve on the interview panel to avoid a conflict of interest because the position works with the Commission on a daily basis. Instead, it is usually arranged for the Director or the Director of Compliance to serve as the Office representative. Last fall, when these staff were not available, it was arranged for the Program Specialist from the Fair Housing Program to participate in the selection process.

The budgeted operating expenses for the Community Mediation and Public Affairs Program includes a line item of \$3,000 for Boards/Commissions/Committees. The Program Manager reports these funds pay for expenses related to the Commission's annual retreat, such as the facilitator.

Staff Support for the Committee on Hate/Violence and the Partnership Fund Sub-Committee of the Committee on Hate/Violence. The County Council established the Committee on Hate/Violence in 1991. In 2005, the Council enacted Bill 3-05 to modify the membership terms and duties of the Committee to accommodate a merger of the Partnership Fund. Bill 3-05 took effect in January 2006.

The mission of the Committee on Hate/Violence is to advise elected officials about hate/violence in the County and recommend policies and programs to reduce the number of hate/violence incidents. The law also mandates that the CHV promote educational activities that demonstrate the value of ethnic and social diversity and develop and distribute information about hate/violence. The law requires an annual report.

The mission of the Partnership Fund Sub-Committee of the Committee on Hate/Violence is to hear and decide staff recommendations for awards from the Partnership Fund for Victims of Hate/Violence Incidents. The Program Manager in the Community Mediation and Public Affairs Program provides periodic support to the Committee. The Office Services Coordinator in the Fair Housing Program serves as staff to the Committee.

A representative from the Montgomery County Police Department (MCPD) Community Relations Unit provides the Committee with a monthly report of hate/violence incidents; and staff representatives from Montgomery County Public Schools, Montgomery College, the Office of the County Executive, and the County Council also serve as non-voting members. A Commissioner from the Commission on Human Rights also attends to serve as liaison between the CHV and the Commission.

In 2005, the Committee on Hate/Violence met 10 times. CHV members received a presentation from Police Chief Manger in April. Committee members also volunteered for the Office Human Rights Camp in March and the essay contest in June. CHV members also began work to organize an essay contest in an MCPS school which will take place in April 2006.

The Office Services Coordinator in the Fair Housing Program provides administrative and logistical support to the Committee. She provides access to the building, sets up the room, maintains the attendance list and the list of Committee members, and works with staff in the Office of the County Executive to fill vacancies. A member of the Committee is responsible for preparing the Committee's meeting minutes.

Coordinating the Community's Response to Victims of Hate/Violence Incidents.

The Program Manager serves as lead staff for the County's Hate/Violence Incident Program. This responsibility consists of keeping in touch with numerous community sources to monitor the prevalence of hate/violence incidents countywide, conducting follow-up investigations, and coordinating a community response, if appropriate.

The Program Manager learns of potential hate/violence incidents from multiple sources, including phone calls to the Office's complaint line for compliance investigations; periodic review of police reports, phone calls from victims, or referrals from someone who knows the victim.

The definition of a hate/violence incident includes hate crimes plus other acts that may generate a police report but may not be formally charged as a hate crime by a law enforcement officer. The Program Manager evaluates a series of factors to determine whether or not a reported act constitutes a hate/violence incident. These include:

- If a racial, religious, or ethnic statement is made during the incident;
- If hate group symbols are displayed;
- If the motive of an act is to harm, injure, or intimidate a particular group or organization; or
- If the victim perceives that she or he has been a victim of a hate/violence act based on their religion, race, national origin, ethnic background, sexual orientation or disability.

The Program Manager estimates the Office receives and investigates approximately 28 reports of potential hate/violence incidents annually. The Program Manager reports staff will pursue multiple strategies to coordinate a response to a hate/violence incident, depending on what is learned about the specific facts in each case. In some cases, the

manager notifies a homeowners or civic association to resolve an issue; in other cases, the Program Specialist makes phone calls or sends letters to notify qualifying victims of the Partnership Fund.

The Partnership Fund for Victims of Hate/Violence. The County Council enacted legislation to establish the Partnership Fund for Victims of Hate/Violence in 1987 to reimburse victims for their expenses to repair or replace property damaged in a hate/violence incident. In 2002, the Council expanded the use of the fund to cover personal injury awards.

The Program Manager administers the Partnership Fund for Victims of Hate/Violence. The Program Manager states tasks of the job include notifying victims by phone or letter that they are eligible to apply for compensation; reviewing and processing applications; and making recommendations for funding awards to the citizen board.

In 2005, in recognition of its upcoming merger with the Committee for Hate/Violence in January 2006, the Partnership Board had five members and two vacancies. It met three times and made one award for \$275. Table 34 summarizes the number and award amounts from the Partnership Fund since 2001.

TABLE 34: PERFORMANCE INDICATORS FOR THE PARTNERSHIP BOARD FOR VICTIMS OF HATE/VIOLENCE, 2001-2005

Calendar Year	# of Victims Contacted	# of Awards	Total Amount of Awards
2001	8	1	\$100
2002	12	1	\$2,000
2003	18	4	\$2,016
2004	13	3	\$750
2005	28	1	\$275

Source: OLO and the Office Annual Report 2003, April 2006.

Study Circles. The Director established the Office Study Circles Program in 1996. Study Circles are discussion groups of interested neighbors and community members organized jointly by interested community members and the Office staff. The Study Circles meet to discuss issues of race, ethnicity and human rights.

When the Office receives an expression of interest, the Program Manager will provide training to assist in the establishment of a Study Circle. The Program Manager will facilitate the initial meeting and attend three subsequent meetings to address issues that may arise. In 2005, the Office established three new Study Circles, primarily in Bethesda/Chevy Chase, Silver Spring and Wheaton.

The Human Rights Hall of Fame. The Director established the Montgomery County Human Rights Hall of Fame in FY01 to honor individuals who have made "great personal sacrifices and contributions to human and civil rights in Montgomery County, either as trailblazers of the past or as current foot soldiers in the struggle." The

establishment of a Human Rights Hall of Fame, including a biennial award dinner and induction ceremony, is the most recent addition to the Office's community mediation and outreach activities.

Currently, there are 62 individuals in the Hall of Fame. The Office maintains a website describing their contributions and their names are listed on a plaque mounted in the lobby of the Executive Office Building. The Office inducted the first class of nominees in March 2001; two additional classes were inducted in 2002 and 2004; the fourth class was inducted in March 2006.

The Program Manager manages the logistics and arrangements for the Human Rights Hall of Fame. These duties include accepting the applications; assembling the application packages for the judges review; arranging the logistics for the dinner and induction ceremony such as securing a location, arranging for catering and entertainment, mailing out invitations and taking reservations, and arranging for speakers. The Director solicits members of the judges' panel and makes the final award decisions.

The FY06 budgeted operating expenses for the Director's Office includes \$38,300 for "Other Special County Functions" to pay for a dinner and awards ceremony to induct the 2006 class of honorees. The Director reports the Office does not solicit sponsorship contributions for the Human Rights Hall of Fame to avoid a potential conflict of interest in the event the Compliance Program receives a complaint and conducts an investigation of a business sponsor.

Communication and Liaison Responsibilities. The Program Manager represents the Office on various interdepartmental and interagency staff committees. The Program Manager is also responsible for preparing and publishing an annual report. The most current annual report presents program descriptions and indicators as of 2003.

2. Program Specialist

The Program Specialist in the Community Mediation and Public Affairs Program has lead responsibility for the Office's Human Rights Camp, and provides backup support for the Program Manager and the Director.

Human Rights Camp. The Commission on Human Rights established the Human Rights Camp in 1986 to create a forum to teach students about human rights and diversity. The Office offered the camp to high school students twice a year for ten years. In 1995, funding for the camp was cut and the camp was discontinued until it was reinstated in October 2004. In the FY06 Approved Budget, the County Council appropriated funding for two camps – one to be held in October 2005 and the second in March 2006.

Camp attendees participate in workshops on cultural inclusion, gang prevention, artistic expression, and self awareness as part of a three day program at Camp Letts in Edgewater Maryland. The students participate in horseback riding, canoeing, games and campfires. The participants also draw posters which are submitted as entries in the Fair Housing Poster contest sponsored by the Office's Fair Housing Program.

The Program Specialist reports that camp participants fill out an evaluation form and that he/she makes changes to the program based on the feedback received.

Police Briefings. The Program Specialist coordinates and schedules quarterly meetings with area police departments to discuss hate crimes and trends. She also drafts memos and prepares minutes for the meetings.

Network of Neighbors. The Commission on Human Rights created the Network of Neighbors program in 1977 to provide community based support and assistance to victims of hate/violence incidents. The Network of Neighbors is a database of County residents who have volunteered to be available to provide support for victims of hate/bias or incidents. If someone is interested in joining the Network of Neighbors, the Program Manager provides training in methods of community support and response. As of March 2006, the Network of Neighbors has 64 trained volunteers.

The Program Specialist notifies victims by letter of the Network of Neighbors program and services. The letter asks the victim to contact the Office if they are interested in receiving services so that the Program Specialist can then notify the appropriate network members when their services are needed. In 2005, volunteers in the Network of Neighbors provided support to eight victims of hate/violence incidents.

Backup Staff Support for the Commission on Human Rights. The Program Specialist provides backup support for the Program Manager's staffing of the Commission on Human Rights. Examples of these back up responsibilities include providing support if the Commissioners implement a community program or taking minutes if the Program Manager is unavailable.

Backup Staff Support for Budget and Personnel Tasks. The Program Specialist is providing administrative staff support personnel and budget tasks while recruitment is underway for an administrative specialist. For example, the Program Specialist supervises the Office Services Coordinator who is responsible for processing payments and is working with staff in the Office of Human Resources to process the recruitment for the administrative specialist.

C. Performance Measures

In addition to the program data found in the foregoing program descriptions, the Community Mediation and Public Affairs staff have maintained data for the County's Hate/Violence Incidents. A Hate/Violence Incident Fact Sheet from 1994 (see Appendix O) shows historically the Office staff tracked the total number of incidents plus data to report:

- The incident type, e.g., harassment, vandalism, assault, arson, crossing burning;
- The victim profile, e.g., Black, Jewish, Asian, Hispanic, White, Other ethnic/religious minority, Sexual Orientation, or Disability; and
- The object of the act, e.g., against an individual, personal property, public property, or religious property.

At OLO's request, the Office provided recent program data for Hate/Violence Incidents, displayed in Tables 35 and 36. There has been a steady decline in the total number of incidents, with 37 incidents in 2005; compared to 97 in 2001. In all five years, race/or and religion were the most frequently reported bases.

TABLE 35: TOTAL NUMBER OF COUNTY HATE/VIOLENCE INCIDENTS, CY01 – CY05

Year	Total # of Incidents
2001	97
2002	77
2003	60
2004	40
2005	37

Source: OLO and the Office Annual Reports, April 2006.

TABLE 36: CHARACTERISTICS OF HATE/VIOLENCE INCIDENTS, CY01-CY05

Year	Basis of Hate Violence Incidents				
	Race	Sexual Orientation	Disability	Ethnicity/ Nat'l Origin	Religion
2001	37	9	0	9	42
2002	38	1	0	9	29
2003	34	1	0	4	21
2004	12	2	0	4	22
2005	1	0	0	4	32

Chapter VIII. Observations and Feedback

As part of this project, the Council asked OLO to solicit feedback from Commissioners and staff in the Office about things that are working well and areas of improvement. To accomplish this, OLO interviewed three groups of people: members of the Commission on Human Rights; Office staff; and staff from other agencies and departments.

A. Observations from the Commission on Human Rights

The observations summarized below reflect the views and perspectives of six current Commissioners, and three former Commissioners (identified together as “Commissioners” throughout this chapter). OLO asked the Commissioners to share general observations about the Commission, specific views about the relationship between the Commission and the Office of Human Rights, and to comment on things that are working well and areas that could be improved.

The Commissioners OLO interviewed expressed a variety of opinions and perspectives. Several common themes emerged from these conversations about what is working well and areas that could be improved. These themes are described below:

- ***Both the volunteer Commissioners and professional staff in the Office of Human Rights are dedicated, well-meaning, talented people.*** Many of the Commissioners recognize the skills, compassion and dedication of the volunteer Commissioners as well as the professional staff. The Commissioners especially acknowledge the dedication of the Director, and the professionalism of the staff. Many Commissioners also recognize the contributions of fellow Commissioners, particularly those who bring a professional expertise to the Commission’s work.
- ***When asked about things that are working well, the examples the Commissioners cite how the Commission meetings are run, the practice of an annual retreat, the Commission’s use of subcommittees, and the recent strategic planning effort.*** Commissioners generally express mixed views about the clarity of the Commission’s mission and focus. Commissioners have positive comments about the annual retreat to identify priorities for the coming year and a recent strategic planning effort to narrow the Commission’s focus.
- ***When asked about things that are working well, the Commissioners generally express favorable views about how the Commission and the Office handle the processing of discrimination complaints.*** Many Commissioners share the view that the procedures for processing complaints generally work well. They state this is a significant accomplishment because the investigation and resolution of these complaints directly affects individuals in the community. Commissioners note the fact that the Case Review Board does not currently have a case backlog also shows the complaint process is working well because this was not previously the case. One Commissioner observes that the mediation process works very well. Some Commissioners question how the Office handled some aspects of specific cases;

however, as one Commissioner observes, the complaint process is generally working well but could use some fine tuning.

- ***Several Commissioners share the view that both the Commission and the staff could do better outreach in the community. Suggestions for improving the Commission's community outreach efforts include strategies to make the Commission more publicly visible, strategies for getting Commissioners into the community to hear concerns, and strategies for making better use of the Commissioners' time.*** The Commissioners share an interest in improving community outreach efforts but have different ideas about how this could be accomplished. Some Commissioners suggest using public service announcements, letters to the editors, and cable television to increase the visibility and public awareness of the Commission. Other Commissioners suggest there could be more efforts to hold forums or have Commissioners participate in fairs and events. One Commissioner observes that the Commission has struggled with a lack of focus from time to time and that the practices of using the retreat to set priorities for the year or focusing on one large project are not been as effective as they were previously.
- ***Many Commissioners report that the lines of communication between the Commission and the Office need to be strengthened and expanded.*** Several Commissioners recount examples of lapses in communication between the Commission and the Office that need to be fixed. The Commissioners state they are not routinely informed of public events; they do not receive police reports, mail or draft minutes in a timely manner; and they are not kept advised of pending legislation. Commissioners were especially dismayed to learn of pending legislation and events to publicize the community's response to hate crimes through the press.

Commissioners suggest the communication between the Office and the Commission could be expanded to notify Commissioners of the Office's initiatives, activities and views. One Commissioner suggests putting a mechanism in place that would allow the Commissioners to react quickly when the Office shares this information. Other Commissioners suggested the Office work with the Commission to review pending legislation and coordinate testimony. Commissioners recognize that the views of the Commission and the Office may not always match; however, Commissioners suggest they should at least discuss the issues with staff and make an effort to avoid contrary positions. If different views exist, at least the Commission should be invited to speak so the Council has the benefit of hearing different views.

- ***Several Commissioners suggest that the quality of relationship between the Commission and the staff could be improved.*** The Commissioners characterize the support they receive from the Office in different ways; however, there is a shared feeling that, as one Commissioner put it "the Office doesn't value the Commission." One Commissioner observes that staff feels the Commissioners are a nuisance and it is unsettling to have the feeling that they are a bother. Another states that the Commission is tolerated at best. Another observes that the feeling conveyed by the

staff's behavior is that the County Council could impose the Commission on the Office but it couldn't force working together.

- ***Since the Commissioners have different ideas about the underlying cause(s) of the uneasy relationship between the Commission and the Office of Human Rights, their suggestions about what could be done to address or resolve the situation also vary.*** Two or three Commissioners trace the source of unease between the Commission and the Office of Human Rights to legislative changes enacted in 2001 and the Office's perception that the intent of this legislation was to establish the Commission and the Office as two separate entities. One Commissioner suggests the problematic relationship could reflect the fact that the Commissioners are volunteers with full-time jobs who are not routinely available to attend daytime events. Some Commissioners attribute the issues to a personality conflict that spilled over to the Commission as a whole. Some Commissioners suggests it would be helpful to clarify the ambiguities that exist in law regarding the duties of the Commission, the Office and the relationship between the two. Some Commissioners think it would make sense to assign the Commission a half workyear of dedicated staff; although others express concerns that this approach would increase the perception of the Commission and the Office as two separate entities. Some Commissioners are optimistic that the influx of new Commissioners might bring new energy and enthusiasm to the tasks at hand.
- ***During OLO's interviews, individual Commissioners mentioned ideas for improving different aspects of the County's Human Rights efforts.*** The specific suggestions offered by Commissioners included the following:

The County efforts in Human Rights would benefit from closer ties and a more effective working relationship between the Director of the Office of Human Rights and the corporate community.

The Council should revisit the authority of the Case Review Board to hear appeals of the Director's findings. In particular, the law allows a complainant to ask the Case Review Board to review a no reasonable cause finding issued by the Director. However, the complainant may not know that:

- The Case Review Board may decide the appeal based solely on its review of the investigatory record; and
- The complainant may not appeal the Case Review Board's decision on this appeal to Circuit Court.

One option to resolve this truth in advertising issue would be to eliminate the Case Review Board's authority to hear appeals.

The Council should revisit the policy that gives the Office of Human Rights jurisdiction to investigate and the Commission to adjudicate complaints brought by County employees against the County government. An alternative approach would

be to require County employees to file these cases with the State Commission of Human Rights, or the EEOC.

B. Observations from the Office of Human Rights Staff

The observations provided below represent the views and perceptions of all of the current staff in the Office of Human Rights. OLO asked the staff to share their perceptions of things that are working well and things that could be improved. The views address issues such as employee morale, career development, Office operations, particularly practices related to the processing of discrimination investigations, and the use of automation.

- ***The Office employees report that employee morale is high and they are supported in their work.*** A majority of the Office staff stated that they work in an environment where employee morale is high. Many employees who brought a perspective from working in other County government departments or offices observe that the Office is the best place they have worked so far. In particular, employees state that they feel respected and treated as adults and they appreciate that the Director listens and responds to their concerns. As one employee observed, the general flow of the department works extremely well because the staff is a quiet professional group of people with dynamic leadership from the Director.
- ***When asked about things that are working well, many employees cite the opportunities they have for training and/or career development.*** Several employees remark that the Director values and acknowledges the need for ongoing training and state, for the most part, they receive the training needed to do their job. Investigators report that they receive in-house training frequently and staff in both Discrimination Investigations and Fair Housing have had the opportunity to attend professional conferences regularly.

Employees also appreciate the opportunity for career development and on-the-job training. One employee observed that weekly meetings with the Director are helpful for keeping things on track; another employee commented that his skills have improved over time because the more he does, the better he gets.

- ***Differing perceptions of the Discrimination Investigation and Fair Housing programs suggest the Discrimination Investigation Program is more stable whereas the Fair Housing Program is in a rebuilding stage.*** The Office staff perceive the Discrimination Investigation Program “runs like clockwork.” Investigators report their caseload has been stable and that the backlog of cases has declined over the years. Managers and investigators meet monthly to review the caseload and managers consult with investigators to suggest approaches or resolve complex issues.

Investigators generally offer positive comments about the management changes the Director instituted after arrival. Investigators state that they appreciate their autonomy and not being micromanaged; however, they also appreciate being able to go to someone with a problem and get help.

In contrast, employees perceive the Fair Housing Program is in a rebuilding stage, in part because both the Fair Housing Coordinator and the Testing Coordinator are fairly recent hires (The Fair Housing Coordinator transferred into the position in October 2004; the Testing Coordinator was hired in April 2005).

Employees acknowledge they have had difficulty establishing a viable pool of testers and that this has affected the testing program. Some employees also suggest more community outreach activities could be used to generate more housing complaint investigations. Employees were generally optimistic about the program coming together.

- ***The management structure and practices for processing discrimination complaints is designed to produce thorough, high quality work.*** The Office employees report that the investigation of a complaint generally follows a structured set of steps that includes a request for information that is sent to the respondent, preparation of a summary of the respondent's information that is sent to the complainant for a rebuttal, witness interviews, and a draft letter of determination that is reviewed by one or both managers before it is signed by the Director. An investigator can customize these steps at his or her discretion.

A few investigators observe that sending a summary of a respondent's information is not a common practice in other places. Some investigators stated that preparing the summary of the respondent's information for the complainant is a necessary but time consuming step. They state that it can take time to summarize a lengthy or complex response but that this is necessary to preserve confidentiality.

Some investigators report that a policy change to permit an investigator to close out a case administratively if a complainant fails to send a rebuttal after thirty days has improved management of the process. They state previously they had to proceed with the investigation.

- ***When asked about things that were working well, several investigators observe that their caseload is manageable and that the backlog of cases, which previously had been a serious problem, no longer exists.*** Most investigators report that they currently carry a caseload of 40 active cases. They state that this compares favorably to earlier times when the caseload averaged 50-60 cases. Investigators who worked in other agencies report in those agencies it was not uncommon for the caseload to reach 100 cases per investigator.
- ***When asked to discuss things that are working well, most investigators support the performance requirement that each investigator close out 30 cases each year. Investigators also generally agreed with the current approach which has few formally established time limits in law or in practice.*** Most investigators reported the practice of requiring each investigator to close out 30 cases a year is an effective method for managing productivity because the amount of time it takes to close out a case can vary widely.

Factors that affect the time it takes to conduct an investigation and process a case include the type of case, the number and types of alleged discrimination, the need to conduct an evidence based investigation, the extended settlement negotiations that can take place, or illnesses or other circumstances that affect the availability of a complainant. The managers observe that employment cases normally take longer than others because of need to review records and contact witnesses; housing cases generally do not have witnesses.

Several investigators state that 12 to 15 months is a reasonable amount of time to conduct an investigation, measured from the time a respondent is notified of a complaint until the Director signs a letter of determination. In practice, many investigators estimate an average investigation takes 18 months, contested cases can take 24 months, and some cases have taken four years.

One investigator observes, based on his/her experience, it generally takes two to four months to get the initial material, plus; another two months to interview witnesses. Investigators report letters of determination can take one or two days to draft if case issues are simple and clear cut or they can take two to three weeks if a case is complex.

Managers report that the only formal time frames for case processing are:

- The statute of limitations to file a complaint, which is one year from date of harm;
- The 30-day limit for a complainant to appeal a finding of no reasonable cause; and
- The 90-day limit to attempt conciliation after a finding of reasonable cause, which was established in 2001.

The managers state that a quality civil rights investigation takes time and that arbitrary time limits do not help the process.” Instead, the managers rely on internal consensus guidelines for responses and opportunities for extensions so that each side can be heard. The managers also note that the investigation process requires due process for all parties which means ample time for each party to make its best case.

A minority view suggests that the current approach is less effective than it could be because a complex case has the same value in terms of performance as a simple case. This view suggests using a one-size fits all approach creates an incentive for an investigator to hold aside simple cases as an “insurance policy.”

- ***Investigators report mixed views about the current practice of incorporating a substantial level of detail in the letters of determination.*** At the end of an investigation, an investigator drafts a letter of determination to present the charges, the evidence, and a recommendation about whether the evidence shows reasonable cause exists to suggest an act of discrimination occurred. Typically, a letter of determination includes a statement of all of the facts and relevant legal citations. The

draft letters of determination receive two or three levels of review, from one or both managers and from the Director. After letters of determination are signed by Director, they are distributed to the complainant and respondent.

The Director and managers report the letters of determination are working well. The managers note that letters of determination used to be relatively brief until there was a policy change to produce more comprehensive, detailed letters of determination. The managers report that there are fewer appeals of the Director's findings since this policy change was instituted.

Some investigators question the efficiency of lengthy letters of determination. According to this view, letters of determination could be much shorter and less detailed. For example, one investigator reports that in a previous job, the agency's letters of determination were intended to be succinct presentation of the issues and generally were three to five pages long.

- ***Employees observe that the Office generally uses technology and automation effectively; however, some opportunities exist to improve the operations of the front desk and to make better use of the case management software, Time Matters®.*** Employees report that they regularly use email, voice mail, and faxes to communicate efficiently. Some employees express the view that the practices for providing coverage of the front desk are antiquated compared to other County government offices and that more extensive use of voice mail could improve the efficiency of these activities.

The investigators express mixed views about the Time Matters® software that the Office uses for case management and processing. Investigators generally agree that Time Matters® is a very good system. One investigator reports that Time Matters® will help the Office achieve its goal of moving towards a paperless environment. Other investigators believe Time Matters® provides a framework that could help bring uniformity to the investigators' documentation practices.

Investigators acknowledge that the use of Time Matters® varies widely from one investigator to another. Everyone uses it to enter basic data about a complaint and for scheduling and calendar functions; investigators who are more proficient use it to enter cases, update contact information, and manage documents for each case.

Some investigators question whether all of the investigators were properly trained in the use of the technology at the outset. Others state that Time Matters® was not available for an extended period of time when the most recent upgrade did not go as smoothly as it could have. They report the Office has a consultant under contract to maintain Time Matters® who was finally able to resolve the issue.

- ***Employees express mixed views about public awareness of the Office of Human Rights and its outreach to minority communities.*** Some employees report that the Office of Human Rights is not well known. They observe that most people know

very little about what the Office does or how the Office works. They report that the Office fields many phone calls and makes frequent referrals for people seeking information about housing programs. Similarly, people calling to file a complaint are frequently seeking representation. Other employees report that as a result of their efforts, more people are becoming aware of the Office and its programs.

Investigators who are bilingual report they receive hundreds of phone calls from people in the community and work to publicize the Office through contacts with community leaders and word of mouth. They believe people are aware of the Office but that outreach efforts need to be ongoing because the immigrant community is continuing to grow. Some investigators express concerns that these calls detract from the time the bilingual investigators can devote to their investigative work.

- ***Employees express mixed views about whether the work of the Office is perceived positively.*** Employees in the Community Mediation and Public Affairs Program report they routinely receive positive feedback about the Human Rights Camp. In contrast, employees in Discrimination Investigations report it is difficult to evaluate how well they are doing from the public's perspective because the nature of their work is such that someone is always unhappy with the outcome.

Some investigators in Discrimination Investigations also question their role in investigating complaints against the County government. Some say this role is awkward. Others state the Office's practice of conducting fact finding investigations for complaints against the County government creates a conflict of interest. A few investigators believe the Office has a reputation of making findings against the County and they are concerned that this affects how the County government addresses other unrelated matters such as the processing of a recent request to reclassify the investigators.

- ***When asked about areas of improvement, investigators offer suggestions to improve the intake process.*** The Office's current intake practices consist of taking complaint information over the phone or in person, preparing a draft complaint, collecting preliminary documentation, making a preliminary determination that a complainant qualifies as a case, and mailing out a complaint to be reviewed and notarized. The intake process is conducted by a junior investigator who is supervised by the Director of Compliance. Also, each investigator serves one day as an intake officer on a rotating basis.

Many investigators suggest the resources should be adjusted to relieve the investigators of their rotating intake duties. They raise concerns that this approach not only takes time away from their investigations, but also creates inconsistent intake practices. Some suggest that intake should function as a separate unit supervised by a senior person.

Some investigators observe many people file frivolous complaints and suggest that better management of frivolous complaints is needed. These investigators

acknowledge that complaint intake is a difficult job because people are often emotionally distraught and generally not familiar with the law. They recognize it can be particularly difficult to persuade people they do not have a case when they are convinced they do, and suggest sometimes the path of least resistance is to accept a frivolous complaint. One investigator suggests creating a fast-track for complaints of questionable merit; another suggests putting a senior supervisor in charge of dismissing these difficult cases.

One investigator reports that a strategy for not accepting a case could be to send a letter of explanation that lists the reasons a complainant does not have a case and offers to revisit this conclusion if a complainant produces more information. Another suggests creating a fast-track process for complaints of questionable merit.

Another investigator suggests the Office experiment with conducting intake on-site so that a complaint could be drafted, reviewed and notarized at one time. This investigator believes the Office currently invests substantial resources in drafting complaints that are sent out and never returned.

Another investigator suggests taking steps to shorten the draft complaint since it determines the issues that must be investigated. A corollary suggestion is to accept complaints drafted by attorneys only after they are carefully reviewed to be sure the issues raised are relevant. If the issues are too broadly construed or irrelevant, the complaint should be returned to be revised.

- ***Some employees in the Discrimination Investigation Program offer mixed views about the use of the Case Review Board, which was implemented in 2001 to replace Commission panels.*** A few employees express mixed views about the use of a Case Review Board, which was instituted in 2001. They support the change that allows the Case Review Board to review the investigation record instead of holding a hearing. The investigators also acknowledge that the Case Review Board provides a necessary check on the investigation; however, they also state that use of a board that includes both lay people and professionals raises some concerns. For example, one investigator questions an instance where a Case Review Board had requested further investigation of an issue that, in the investigator's opinion, did not have probative value.

C. Observations from Agency and County Government Staff

The observations and comments summarized below incorporate the views and perspectives of X agency and County government staff, including staff from the Department of Housing and Community Development, the Department of Health and Human Services, the Office of the County Attorney, the Office of Zoning and Administrative Hearings, and the Housing Opportunities Commission.

- ***Staff provide positive feedback about the Discrimination Investigation Program.*** Staff praise the professionalism of Office staff and the thoroughness of the

investigations. Staff also comment favorably about the management of the caseload, the training sessions, and the mediation and settlement skills.

- ***When asked to identify areas for improvement, some staff raise concerns about the time it takes to conduct an investigation. Others suggested specific ideas for improvement.*** Staff who are familiar with the work of the Discrimination Investigation Program raise concerns about the time it takes to conduct an investigation. As one interviewee observed it makes your heart sink when you read an allegation of a serious complaint and realize it was reported two or three years ago. Some suggest it would be useful to routinely monitor the elapsed time from the date a complaint is filed until it is certified to the Case Review Board and also from the time a complaint is referred to the Office of Zoning and Administrative Hearings until the Case Review Board makes a decision.

Staff also offered specific suggestions for improvement. These ideas included:

- Structuring the letters of determination to more clearly present a common set of uniform facts based on what is required for each type of discrimination;
 - Having the investigators act strategically to keep something out of the file if they anticipate the case is not going to settle to provide more leverage later in the process;
 - Taking action to tighten up the investigations so that shocking details are not found out in the deposition that takes place after the case has been referred to Office of Zoning and Administrative Hearings; and
 - Examining the law and content of the referral order from the Commission on Human Rights to the Office of Zoning and Administrative Hearings to see if it could be amended to give OZAH the authority to forward a recommendation without a hearing in certain cases. As currently structured, the order requires OZAH to conduct a hearing to determine facts. This locks OZAH into holding a hearing even if case is dispositive, i.e. facts are not disputed.
- ***Some staff observe there has been a change in the type of housing discrimination complaints from 30 or 40 years ago when racism was more prevalent.*** Today, law is complicated and most discrimination issues are due to a misunderstanding of requirements under the law. In order to comply with the law, providing training and maintaining interest for property managers is necessary. There is a further need to provide training frequently because of the ongoing turnover of property managers.
 - ***Staff provide mixed feedback about the skills and talents of Office staff in the Fair Housing Program.*** Several staff report that the staff in the Fair Housing Program are professional and competent; however, they also observe there has been a shift in the skills, talents and interests of staff in the Fair Housing Coordinator position. Staff report that the first Fair Housing Coordinator had a background in fair housing issues,

a professional network of contacts, and expertise in data analysis and compliance with federal requirements. In contrast, the current Fair Housing Coordinator is more focused on staffing an interagency group and functioning as an individual case manager.

- ***Staff generally agree a need exists for the Interagency Fair Housing Coordinating Group (IFHCG).*** Staff generally agree a need for the IFHCG exists given the range of housing programs the County has and the seriousness of the issues. Some staff observe that the scope of the County's fair housing efforts has expanded in recent years to include a focus on special needs housing in the Department of Health and Human Services (DHHS). For example, they cite the work of the Interagency Housing Work Group in DHHS which is charged with defining special needs population and looking at recommendations for strategies to house population, especially the homeless.
- ***Staff express concerns about the Interagency Fair Housing Coordinating Group's membership, attendance and compliance with the State open meetings law.*** Some staff raise concerns that there is no record of County Executive appointments to the group, despite a requirement in County law. There is also a concern that the Group may not be in compliance with the State open meetings law. Others observe that few active members attend, despite a large membership list. Some staff suggest the membership list may need to be pruned; however, it is difficult to create a membership list that is small enough to be functional but large enough to be inclusive. Staff generally support the earlier consolidation of two groups into one, i.e., the group of staff program managers and the group of community representatives.
- ***Some staff raise concerns that the Interagency Fair Housing Coordinating Group lacks focus and suggest that the operations of the Group may be following a common pattern for interagency groups which may have outlived their original purpose.*** Some staff raise concerns that the IAFHCG lacks focus. This view suggests that after the problem that originally created a group is addressed, the membership of a group is pushed down the organizational hierarchy and, as a result, a group loses its true policy function. Typically, a group continues to exist and meet but it loses its focus. The remedy is to be strategic about membership and mission and combine passion with results.
- ***When asked about areas of improvement, staff offered several specific suggestions.*** These include revisiting the funding sources for Fair Housing and the practices the Office has in place for tracking expenditures for different sources of funds, and updating the Analysis of Impediments study.

Chapter IX. Findings

This report is a base budget review of the Montgomery County Office of Human Rights (Office). It examines the Office's legal mandates and program activities, analyzes the Office's workload trends, assesses the Office's organizational structure and staffing levels, and identifies both what is working well and opportunities for improvement.

This chapter presents OLO's findings, and is organized as follows:

- **Part A** summarizes the legal framework that establishes the Office of Human Rights' and the Commission on Human Rights;
- **Part B** provides an overview of the Office of Human Rights' budget and expenditures;
- **Part C** reviews the Office of Human Rights' program activities and results; and
- **Part D** offers an assessment of how the Office's activities align with the mandates assigned by County law.

A. The Legal Framework

Finding #1. Montgomery County has a long history of activism and advocacy for human rights. The County's public accommodations and housing discrimination laws predate the passage of federal civil rights laws. The Council established the local authority to conduct investigations and conciliate complaints in 1962.

In 1960, the County Council created the Commission on Inter-Racial Problems as a sounding board to relieve increasing tension among the races. By the end of its first year, the Commission proposed that the County prohibit discrimination in public accommodations. In January 1962, the Council passed legislation to this effect. The Council later prohibited discrimination in housing (1967) and employment (1972). County prohibitions on discrimination in public accommodations and housing predate federal prohibitions.

County law assigned responsibility for investigating and adjudicating alleged violations of discrimination laws to the Commission.³¹ The Commission accomplished this largely through public hearings, conducted by volunteer Commissioners.

³¹ In 1962 the Council changed the Commission's name from the Commission on Inter-Racial Problems to the Commission on Human Relations; in 2001, the Council again amended the law and changed the Commission's name to the Commission on Human Rights.

Finding #2. Since the 1960s, the Council has amended the law several times to: modify the administrative review process for discrimination complaints, and redefine the roles, responsibilities, and relationship of the Commission and the County Government staff assigned to provide assistance.

Early in its history, the Commission operated without paid staff. Volunteer Commissioners held public hearings to hear and decide allegations of discrimination, and conciliated complaints if discrimination occurred.

In FY68, the County Manager assigned a County government employee to assist the Commission panels as a part-time Executive Secretary. The Executive Secretary recommended to the Commission panels whether there were reasonable grounds to believe that a complaint had merit. By FY70, the County Manager assigned a full-time Executive Secretary to support the Commission.

In 1984, the Council passed Bill 65-83. This legislation changed the Executive Secretary's duties and title, and redefined the Commission's adjudicatory responsibilities. Significantly, the law gave the newly named Executive Director the authority to make an initial determination of whether or not reasonable grounds existed to believe a discriminatory act occurred and shifted the Commission's authority to hearing and deciding cases with merit, i.e., where the Director's initial determination found reasonable grounds existed, and hearing and deciding appeals brought forward by a complainant of cases where the Director's initial determination found no reasonable grounds existed.

In 1986, the Council passed legislation that designated the support staff for the Commission on Human Relations as the Office of the Human Relations Commission, officially differentiating the Office from the Commission.

In December 1999, at the request of the County Executive, the Council introduced Bill 36-99 to update and clarify Chapter 27, *Human Rights and Civil Liberties*. Among other things, Bill 36-99 proposed transferring all authority to decide discrimination complaints, or to decide appeals of initial determinations to the Office. The Executive proposed the Commission's role in discrimination matters be limited to serving as an advisory body only.

The Council rejected the proposed shift in the Commission's role and authority, but the final version of Bill 36-99 did implement a number of other amendments. Most significantly, it created a single three-commissioner hearing panel (a Case Review Board) that replaced three existing Commission hearing panels on Employment, Housing and Public Accommodations. The law passed by the Council also extended the reach of the employment discrimination law to apply to employers with one or more employees, in place of the previous threshold of seven employees.

Finding #3. Chapter 27 of the County Code assigns a broad array of advisory and adjudicatory responsibilities to the Commission on Human Rights.

Chapter 27 of the County Code, *Human Rights and Civil Liberties*, assigns both adjudicatory and advisory responsibilities to the Commission on Human Rights. In sum, the Commission's adjudicatory responsibilities are to:

- Hear cases where the Director of the Office of Human Rights has made a determination that reasonable grounds exist to decide whether discrimination actually occurred, and if so, to decide what penalties or remedies are appropriate; and
- Hear and decide appeals of initial findings made by the Director of the Office of Human Rights that no reasonable grounds exist to suggest a discriminatory act occurred.

Chapter 27, *Human Rights and Civil Liberties*, also assigns the following policy and advisory duties to the Commission on Human Rights:

- Promote goodwill, cooperation, understanding, and human relations among all persons;
- Cooperate with interested citizens, racial, religious, and ethnic groups; and community, business, professional, technical, educational, and civic organizations;
- Advise County residents, the County Council, the County Executive, and the various departments of County, State, and federal governments about racial, religious, and ethnic prejudice, intolerance, discrimination, and bigotry and recommend procedures, programs, and laws to promote and protect equal rights and opportunities for all persons, regardless of race, color, religious creed, ancestry, national origin, sex, age, marital status, disability, sexual orientation, genetic status, presence of children, family responsibilities, or source of income;
- Work to eliminate discrimination, prejudice, intolerance, and bigotry in housing, recreation, education, health, employment, public accommodations, justice, and related matters;
- Conduct additional programs (if the County Executive does not object) to relieve group tension or adverse intergroup actions resulting from causes other than race, color, sex, religious creed, ancestry, national origin, age, marital status, disability, sexual orientation, genetic status, presence of children, family responsibilities, or source of income³²;

³² Section 27.5

- Research, analyze, and disseminate information about activities and programs to eliminate prejudice, intolerance, bigotry, and discrimination;
- Conduct educational and other programs to promote equal rights and opportunities of all persons regardless of race, color, religious creed, ancestry, national origin, sex, age, marital status, disability, sexual orientation, genetic status, presence of children, family responsibilities, or source of income; and
- Study and investigate, through public or private meetings, conferences, and public hearings, conditions that could result in discrimination, prejudice, intolerance, or bigotry because of race, color, religious creed, ancestry, national origin, sex, age, marital status, disability, sexual orientation, genetic status, presence of children, family responsibilities, or source of income. (Sec. 27-5)

The 2004 final report of the Committee Evaluation and Review Board (CERB) identifies four categories of County boards, committees, and commissions: adjudicatory, advisory, licensing, and program direction. Although CERB classifies the Commission on Human Rights as an “advisory board”, in practice, it is a hybrid because it has a mix of adjudicatory and advisory responsibilities.

In its role as an adjudicatory board, the Commission more closely resembles the Landlord-Tenant Commission, the Commission on Common Ownership Communities, or the Board of Appeals. In its role as an advisory board, the Commission’s duties mirror those of many other advisory boards, such as the Commission for Women, the Commission on Aging, or the Commission on People with Disabilities.

Finding #4. The County Code establishes an Office of Human Rights, distinct from the Commission. It assigns the Director responsibility for supervising the Office and requires the Office to provide support to the Commission, but does not specify the nature of that support.

In 1986, the Council passed Bill CR-A85, which became Section 1A, *Structure of County Government*, of the County Code. Section 1A-203 officially created an Office of Human Rights, under the direction of an Executive Director, appointed and supervised by the Chief Administrative Officer. Section 1A-204(a), Supervision of Offices and Appointment of Heads, establishes the Director’s responsibility to supervise the Office of Human Rights.

Chapter 27 of the County Code establishes the responsibilities of the Director and addresses the Director’s relationship to the Commission on Human Rights. In sum:

- Sec. 27-4(a) states: “The executive director of the Commission heads the Office of Human Rights and must assist the Commission to implement this article.”

- Sec. 27-4(b)(1) states: “The County Executive may assign additional staff to assist the Commission in carrying out this article.” This section authorizes the Commission will use volunteer workers and volunteer consultants. It states that the services of these individuals as volunteers must not be considered as service of employment in the merit system.
- Sec. 27-4(b)(6) states: “The director must carry out any other duties described in this Chapter. Section 27-5 which immediately follows this section specifies the duties of the Commission. (These duties are listed in Finding #3, at page X).

Finding #5. In the 1990s, the Council enacted legislation that expanded the program responsibilities of the Office of Human Rights to include staffing the Committee on Hate/Violence, the Partnership Fund, and managing the Fair Housing Program.

Committee on Hate/Violence. Bill 26-91 established the Committee on Hate/Violence (the Committee) and assigned responsibility for staffing its work to the Office of Human Rights. By law, the Committee must:

- Develop and distribute information about hate/violence in the County;
- Promote educational activities that demonstrate the positive value of ethnic and social diversity in the County;
- Advise the County Council, the County Executive, and County agencies about hate/violence in the County, and recommend such policies, programs, legislation, or regulations as it finds necessary to reduce the incidence of acts of hate/violence; and
- Submit an annual report by October 1 to the County Executive and the County Council on the activities of the Committee, including the source and amount of any contribution received from a public or private source to support the activities of the Committee.

The Partnership Board. In 1986 the Council created the Partnership Fund for Victims of Hate/Violence and established a volunteer board to administer the Fund. The Partnership Fund compensates owners for property damaged as a result of a hate/violence incident. From 1986 through 2005, the Office was responsible for providing staff support to the Partnership Board, just as it does to the Commission and the Committee.

As recommended in the July 2004 report of the Committee Review and Evaluation Board (CERB), the Council enacted legislation in 2005 (Bill 03-05) to merge the Partnership Board with the Committee on Hate/Violence, effective in January 2006. The Council assigned responsibility for administering the Partnership Fund to a subcommittee of the Committee on Hate/Violence, adding this task to the Committee responsibilities listed above.

Fair Housing Program. In 1996, the Council, at the request of the County Executive, amended the law (Sec. 27-26A) to relocate the Fair Housing Program from the Department of Housing and Community Affairs to the Office of Human Rights. Responsibility for the Fair Housing Program includes coordinating the activities of all County departments, offices, and agencies to prevent discrimination in housing and testing compliance with housing discrimination laws.

Additionally, Sec.27-26A requires:

- The Director of the Office of Human Rights to designate a managerial staff member as the County's Fair Housing Coordinator; and
- The County Executive to appoint members of the Interagency Fair Housing Coordinating Group (IFHCG).

The Fair Housing Coordinator must help the IFHCG prepare an annual report on housing discrimination in the County. By statute, this annual report must:

- Assess County, State and federal laws prohibiting discrimination in housing, and evaluate their enforcement in the County;
- Recommend changes in law, policy, programs or priorities needed to reduce discrimination in housing;
- Include a work program for the coming year;
- Include a progress report on the previous year's work program; and
- Include views of the IFHCG and any member whose views differ from those expressed in the report.

Finding #6. As a result of the legislative changes enumerated in Finding #5, the Office of Human Rights currently provides staff support to three different groups - the Commission on Human Rights, the Interagency Fair Housing Coordinating Group, and the Committee on Hate/Violence. A comparison of the statutory responsibilities of these three bodies shows overlapping areas of responsibility.

The extensive set of advisory responsibilities assigned to the Commission on Human Rights detailed in Finding #3 overlap in some instances with the responsibilities assigned to the Committee on Hate/Violence and the IFHCG. The following table provides a side-by-side comparison of the overlapping responsibilities.

Duties of the Commission on Human Rights	Duties of the Interagency Fair Housing Coordinating Group	Duties of the Committee on Hate/Violence
Advise County residents, the County Council, the County Executive, and the various departments of County, State, and federal governments about racial, religious, and ethnic prejudice, intolerance, discrimination, and bigotry and recommend procedures, programs, and laws to promote and protect equal rights and opportunities for all persons....	Facilitate and promote the County's efforts to prevent discrimination in housing. Its annual report must: assess County, State and federal laws prohibiting discrimination in housing and evaluate their enforcement in the County; and recommend changes in law, policy, programs or priorities needed to reduce discrimination in housing	Advise the County Council, the County Executive, and County agencies about hate/violence in the County, and recommend such policies, programs, legislation, or regulations as it finds necessary to reduce the incidence of acts of hate/violence; and
Conduct educational and other programs to promote equal rights and opportunities of all persons....		Promote educational activities that demonstrate the positive value of ethnic and social diversity in the County;
Research, analyze, and disseminate information about activities and programs to eliminate prejudice, intolerance, bigotry, and discrimination;		Develop and distribute information about hate/violence in the County;

Source: OLO and Chapter 27, April 2006.

B. Budget Trends and Personnel Resources for the Office of Human Rights

Finding #7. The FY06 approved budget for the Office of Human Rights is \$2.1 million, of which 93% is for personnel costs. The 22 workyears funded in FY06 are divided among administration and three core programs: discrimination investigations, fair housing, and community mediation and public affairs.

The Council appropriated \$2.1 million in FY06 for the Office, \$1.97 million (93%) for personnel and the balance (\$150,000) for operating expenses. Personnel resources for the Office are budgeted for the Director's Office and three core programs as shown in the following table.

OFFICE OF HUMAN RIGHTS PERSONNEL RESOURCES

Program	FY06 Personnel Costs (in \$000s)	FY06 Workyears	Percent of Total Personnel Budget
Director's Office	\$407	3.5	21%
Discrimination Investigations	\$1,056	12	54%
Fair Housing	\$300	4.95	15%
Community Mediation and Public Affairs	\$209	2.0	10%

Source: OLO and FAMIS, April 2006.

Finding #8. The approved annual budget of the Office of Human Right almost doubled during the past decade, with compensation increases acting as the major cost driver. The annual adjustments ranged considerably from a reduction of 2% in FY00 to an increase of 15% in FY01.

Between FY96 and FY06, the approved budget for the Office of Human Rights increased 91% from \$1.1 million in FY96 to \$2.1 million in FY06. The year to year budget of the Office has fluctuated by as much 15%. The median annual change over this time period is 8%, while the range is -2% to 15%.

The compensation increases for Office staff paralleled those for other County government employees during the past ten years. Personnel costs continue to explain the largest share of the Office's budget, consistently accounting for more than 88% of the total annual appropriation for the Office.

Finding #9. The approved personnel complement for the Office increased by four workyears between FY96 and FY06. During this period, the Office experienced three substantive changes in its organizational structure - in FY96, FY00 and FY01.

Although an increase in four workyears over ten years is relatively small, a review of the Office's program and budget history shows a number of substantive changes in its organizational structure and program staffing allocations.

- In FY96, the approved budget for the Office reduced the Community Mediation of Hate/Violence Incidents budget by 1.7 workyears, and deleted the Human Relations Education and Training Program.

- In FY00, the approved budget established Fair Housing as a separate organizational unit with four positions, 3.6 workyears, and \$60,000 in operating expenses to conduct testing and prepare court cases.
- In FY01, the approved budget established Community Mediation as a separate organizational unit with two positions and 2.5 workyears.

Finding #10. The General Fund is the primary source of funding for the Office. Limited additional revenues are received from the Equal Employment Opportunity Commission (EEOC), a federal HOME grant administered by DHCA, and a transfer from the County's restricted rental license fee revenues.

General Fund support for the Office of Human Rights is supplemented by revenues from the federal Equal Employment Opportunity Commission (EEOC) and funding from a federal HOME grant administered by DHCA. The Office also receives a transfer from the County's rental license fee revenue to reimburse it for a portion of its fair housing activities.

The FY06 Approved budget shows \$75,000 in revenues from the EEOC for processing dual-filed complaints, and \$40,000 in HOME grant funds. The approved budget also shows a transfer from the County's rental license fee revenues of \$123,000 to support 1.5 workyears; 0.75 workyears are allocated to the Discrimination Investigations Program and 0.75 are allocated to the Fair Housing Program. The County's use of rental license fee revenues to support fair housing activities has been budgeted intermittently, in part due to technical changes in how the County accounts for its rental license fee revenues.

Finding #11. Compared to the general County government workforce, the Office's staff has longer tenure and is more diverse.

Thirty percent of staff in the Office has more than 20 years tenure with County government (compared to 16% for the County government's workforce.); this includes the Director and the managers of the Discrimination Investigation Program.

Interviews with staff and data provided by the Office of Human Resources show the Office of Human Rights' workforce is very diverse. Seventy-five percent of the Office of Human Rights staff, versus 39% of County Government's workforce, self-report to the Office of Human Resources that they are a racial or ethnic minority. Eight (of 22) staff members in the Office of Human Rights report some foreign language ability.

C. The Office of Human Rights' Programs, Activities, Measures and Results

Finding #12. The Discrimination Investigation Program primarily investigates employment discrimination. The greatest number of these complaints allege discrimination based on race, followed by sex and retaliation.

The Discrimination Investigation Program receives and investigates complaints of alleged discrimination. Data reported by the Discrimination Investigation Program show that it primarily receives employment complaints. Between FY98 and FY05, the Office received 1,857 employment, real estate, public accommodations, and intimidation complaints, 77% (1,426) alleged employment discrimination.

Because a single complaint may allege discrimination on more than one basis (for example, a single employment discrimination complaint may allege discrimination based on race and sex), the Office investigated a total of 2,692 allegations. Most of these allegations identified discrimination based on race (705), followed by sex (506) and retaliation (439).

The Discrimination Investigation Program reports few complaints of violations of human rights protected only at the County level, i.e., protections against acts of housing discrimination based on the presence of children or the source of income, or protections against employment discrimination based on family responsibilities. The Office reports that only 26 of the 1,857 complaints filed between FY98 and FY05 identified one of these bases.

Finding #13. A review of workload and program data for the last four years shows the Discrimination Investigation program is processing the same number of complaints each year and they are closing out complaints more quickly.

The following table summarizes workload and performance data for the Discrimination Investigation Program for FY02 to FY05. The table displays annual caseload data for the Office (The annual caseload is the number of open cases carried over from the previous year plus the number of new cases filed each year). The table also shows the median number of days it took to close a complaint. OLO compiled the data from reports and logs maintained by the Discrimination Investigation Program. These data show the following trends:

- The number of open cases carried over from the previous fiscal year remained steady; on average, 291 open cases were carried over from the previous fiscal year;
- New case filings averaged 230 cases over the four-year period; new filings reached a high of 275 cases in FY04 and dropped to 166 cases in FY05;
- The total caseload for the Office remained stable, averaging 521 cases annually over the four-year period; and
- The median number of working days to close out a complaint declined steadily from 301 days in FY02 to 165 days in FY05.

OFFICE OF HUMAN RIGHTS WORKLOAD DATA

Measure	FY02	FY03	FY04	FY05	4 year Ave.
Open Cases Carried Over (from previous FY)	278	305	270	311	291
New Cases Filed	253	224	275	166	230
Total Caseload	531	529	545	477	521
Median # of working days to close out a complaint	301	228	197	165	

Finding #14. Between FY02 and FY05, the Discrimination Investigation Program conciliated 23 cases, and the average conciliation period lasted 376 days.

If the Director issues a reasonable grounds finding, Chapter 27, *Human Rights and Civil Liberties*, establishes a 90-day period during which the Director must attempt to conciliate the case (Conciliation is a settlement that, in the Director’s judgment, provides full relief to the complainant). The Commission must approve any conciliation agreement. The Office may extend this conciliation period with the consent of the complainant and the respondent.

Between FY02 and FY05, the Office reports it successfully conciliated 23 reasonable grounds cases. OLO’s analysis shows that the quickest conciliation period was an estimated 115 days, while the longest lasted an estimated 558 days (Note: The Office reports that it does not normally track the length of conciliation periods. It offered that the period of time from the date the Director issued a “reasonable grounds” finding to the date the Office officially closed the case as a reasonable estimate of the conciliation period³³).

Since the conciliation follows a Director’s finding of reasonable grounds, the time it takes to conciliate a case does not account for the initial time it takes to investigate a case. Between FY02 and FY05, the median time to investigate a case was 219 working days. This suggests the total elapsed time spent on conciliated cases ranged from 334 days to 777 days.

The Office reports that many times parties will request to extend the conciliation period to obtain or change counsel, conduct informal discovery, consult with principals, etc. Further it states that extensions are “always better and less expensive to all parties than the adjudicatory alternative.”

³³ This measure does not reflect the exact length of the conciliation period because the Office closes out complaints at the end of any given month, but the conciliation may have been completed at any time during the month.

Finding #15. The primary focus of the Fair Housing Program is to provide staff support to the Interagency Fair Housing Coordinating Group. The Fair Housing Program also administers compliance testing activities using in-house staff, manages an analysis of rental survey data, and conducts issue research and outreach activities.

The Fair Housing Program provides dedicated staff support to the Interagency Fair Housing Coordinating Group. The Fair Housing Coordinator reports that the IFHCG functions as a loosely organized support network of program managers who help each other address issues of mutual concern.

In 2005, the Fair Housing Coordinator and her staff, working with the IFHCG, sponsored an evening seminar focused on predatory lending and conducted a retreat to develop a list of goals for 2006. This year, the Fair Housing Coordinator is working with the IFHCG to sponsor another event for Fair Housing month and to publish an annual report.

The Fair Housing Program administers a testing program using in-house staff to measure the prevalence and extent of housing discrimination in the County. According to the Program Manager, an effective testing program needs a pool of 30 to 40 people; currently, the Fair Housing Program has 22 people under contract as testers. In 2005, the Program conducted 20 tests.

The Fair Housing Program also manages data analysis and research activities to assess housing discrimination and fair housing activities. In 2005, the Fair Housing Program published an analysis of this data by the Metropolitan Washington Council of Governments (MWCOCG) that compares data from 2004 with data from 1998. The basis for this analysis was race and ethnicity data collected through a survey DHCA administers on behalf of the Fair Housing Program.

The Fair Housing Coordinator reports she researches housing discrimination issues on an as needed basis. For example, in 2005, she conducted research on predatory lending issues and the legislative history of the language in Chapter 27 that states the County Executive must appoint members of the Interagency Fair Housing Coordinating Group.

The Program Specialist is responsible for outreach and advertising. In 2005, her work focused on updating the program's brochures and distributing information to government offices and property managers. She also participated in five events, including the predatory lending forum, the Office annual retreat and DHCA's Annual Housing Fair.

Finding #16: A review of the Fair Housing Program's workload and activities data shows a decline in compliance testing and a lack of advertising contracts. It also shows the County's Impediment Analysis Progress Report is outdated.

The County has operated a program of compliance testing to measure the extent of housing discrimination since the Fair Housing Program began in 1988. In 1999, the County developed a testing program using in-house staff; and in 2000, the County approved funding for in-house testers hired as temporary County employees.

In March 2003, the Fair Housing Program published the results of the first rental testing audit project. The Fair Housing Testing Report summarized the results of 301 rental tests completed over a two and a half year period, between April 2000 and December 2002. In contrast, in the three year period between January 2003 and December 2005, the Fair Housing Program reports it conducted a total of 119 tests, including 46 tests in 2003, 53 in 2004, and 20 in 2005³⁴.

Historically, the Fair Housing Program managed contracts for advertisements in newspapers and on television. The Program ran advertisements in minority newspapers and on CSPAN during the broadcasting of soccer games to inform the public about the fair housing law. Currently, the Fair Housing Program currently does not have any contracts in place for any radio and/or television ads.

The Analysis of Impediments to Fair Housing Choice is a study of the barriers that affect rights of fair housing choice. State and local jurisdictions that receive Community Development Block Grant Funds through the Consolidated Plan process must certify to the federal Department of Housing and Urban Development (HUD) that they will "work diligently to affirmatively further fair housing."

As part of this certification process, a local jurisdiction must prepare and update annually an Analysis of Impediments (AI) Study. In Montgomery County, DHCA has lead responsibility for administering the Consolidated Plan process and the County's CDBG program and completing the certification process. The Fair Housing Program has lead responsibility for managing the programs and activities to address the impediments identified in the analysis.

When the requirement for an AI Study was established, the Fair Housing Coordinator at the time joined a regional study effort, headed by the Metropolitan Washington Council of Government. MWCOG's study for Montgomery County identified nine impediments to fair housing and produced an initial Fair Housing Plan for the County with 13 goals and multiple supporting activities. After the study was completed, the Fair Housing

³⁴ A footnote in *Montgomery Measures Up!* states the lack of testing in FY05 was due to a hiring freeze which affected the program's ability to maintain a legally appropriate testing pool and a vacancy in the Testing Coordinator position. The current Testing Coordinator was hired in April 2005.

Program and DHCA used this Plan to prepare a progress report that monitored the County's fair housing activities and met federal certification requirements. The most recent Montgomery County Fair Housing Plan Impediment Analysis Progress Report on file is dated November 2002.

Finding #16. The Community Mediation and Public Affairs Program manages activities that promote tolerance and diversity, monitors Hate/Violence incident data, and coordinates a community response. This Program also publishes an annual report for the Office and provides staff support to the Commission on Human Rights.

The activities of the Community Mediation and Public Affairs Program consist of managing programs that promote tolerance and diversity, and monitoring Hate/Violence incident program data and a coordinated community response. The Program also publishes the Office's annual report and provides staff support to the Commission on Human Rights.

Community Mediation staff administer three programs that promote tolerance and celebrate diversity. The flagship program is the Human Rights Camp, a weekend program currently for students, offered intermittently since 1986. The other programs are Study Circles, established in 1996, and the Human Rights Hall of Fame, established in 2001.

The Community Mediation staff monitor hate/violence incident data and coordinate the appropriate community response using the Network of Neighbors, established in 1977, and/or the Partnership Fund, established in 1987.

Staff in the Community Mediation Program provide logistical and administrative support to the Commission on Human Rights. In addition to its adjudicatory duties, which are supported by staff in the Discrimination Investigations Program, the Commission has an advisory role in setting human rights policy, a public education role, and a duty to promote goodwill and tolerance.

The Director and Program Manager state the Commission has primary responsibility for conceptualizing its projects and staff play a supporting role. Staff in the Community Mediation Program prepare agendas and minutes, circulate announcements and follow up on requests discussed at the meeting.

Staff in the Community Mediation Program provide periodic support to the Committee on Hate/Violence (Additional staff support is provided by staff in the Fair Housing Program). Until the establishment of the Partnership Fund as a sub-committee of the Committee on Hate/Violence in January 2006, staff also supported the Partnership Committee. In 2005, this Committee met three times and made one award.

Finding #17: A review of the workload and program data for Community Mediation and Public Affairs shows new program development is limited, and program participation is steady or declining. The Office's recently published annual report for 2004/2005 shows a decline in hate/violence incidents.

To manage the Network of Neighbors program, the Community Mediation Program Manager trains and maintains a list of community volunteers who are available to express concern and offer assistance to victims of hate/violence incidents in their communities. As of March 2006, the Network has 64 trained volunteers, compared to 700 in 1991.

The Community Mediation Program has provided human rights awareness and training to 60 MCPS students since the Camp was reinstated in FY05. In FY05, the Office conducted one Human Rights Camp; in FY06 it conducted two sessions.

The Community Mediation Program created a Human Rights Hall of Fame in FY01. Since that time 62 individuals have been inducted into the Hall. The Office staffed the program, including the nomination process and an award dinner, in 2001, 2002, 2004, and 2006.

The Office's Annual Report for 2004/2005, published in 2006, reports a decline in hate/violence incidents. There were 37 hate/violence incidents in 2005, compared to 97 incidents in 2001, as published in the 2002/2003 Annual Report.

D. Alignment of the Office of Human Resources' Activities with Legal Mandates

Finding #17. The Office has achieved mixed results in aligning its programs and activities with the mandates assigned to it by the County Code. Specifically, The Discrimination Investigation Program is fairly well aligned with the responsibilities outlined in County law, while the Fair Housing program is less well aligned.

The Office of Human Rights is mandated by County law to implement certain programs and activities. The Office is also assigned legal responsibility to work with groups established in the law (i.e. the Commission on Human Rights, the Committee on Hate/Violence, the Interagency Fair Housing Coordinating Group) to accomplish various parts of the County's Human Rights mission.

A review of the Office's programs to assess how well it fulfills the requirements and mandates in Chapter 27 evidences mixed results. A review of the Discrimination Investigation Program activities and a sample of case files found a high degree of alignment with specific guidance contained in law. For example, as required by Sec. 27-7, the Office:

- Accepts only notarized complaints;
- Offers conciliation services;

- Certifies reasonable grounds cases that could not be conciliated to the Commission's case review board; and
- Maintains confidentiality unless a case goes to public hearing.

OLO found less alignment between the Offices practices and the policy intent in law to provide a prompt efficient investigation program. Specifically, although the law contains several references to promptness, the Discrimination Investigation Program does not routinely compile performance measures to track how long it is taking to process cases. It also lacks uniform guidelines or internal policies for establishing time limits or granting extensions.

Similarly, although the Council amended the law to place a 90-day limit on the Director's efforts to conciliate a case with a finding of reasonable grounds, OLO found that, on average, it took 376 days to conciliate a complaint. The Office conciliated a total of 23 cases from FY02 to FY05. The shortest case took 115 days; the longest took 558 days, not including the time spent on the initial investigation.

A review of the Fair Housing Program found less alignment between the legal mandates in Chapter 27 and the Office's program practices. For example, no record exists of the appointment of the Interagency Fair Housing Coordinating Group members; the current membership does not include representation from the housing industry; and the Group has not routinely submitted an annual work program or an annual report for quite some time. The Office states it is currently in the process of preparing an annual report.

Finding #18. Assessing how well the Office of Human Right meets its legal responsibilities to assist the Commission on Human Rights with implementation of the Human Rights Chapter is complicated by vague statutory language regarding the duties assigned to the Commission, the Office, and the relationship between the two.

As explained in Findings #3 and #4, the language in Chapter 27 contains a specific list of duties assigned solely to the Commission on Human Rights, along with a broad mandate that the Director "must assist the Commission to implement this article." Although both the Office and the Commission are dedicated to their work, the ambiguities in the structure and wording of the law have created a disconnect between the Office's staffing pattern and the support the Commissioners need to fulfill their policy and advisory duties.

The Office's staffing pattern. To comply with the direction in Chapter 27 to provide staff support and assist the Commission with the implementation of its duties, the Director assigns the Compliance Director the responsibility of providing staff support so the Commission can fulfill its adjudicatory roles; she assigns the Program Manager from the Community Mediation and Public Affairs Program to support the Commission in its administrative duties.

The Commissioners' feedback. Feedback from individual Commissioners indicates that Commissioners feel that additional staff support is necessary if they are to fulfill their duties. Specifically, they maintain that the Office's current arrangement of assigning staff to the Commission does not fully provide the support the Commission needs to carry out the Commission's policy and advisory duties.

Besides leaving a gap in staff support for the Commission, this arrangement has led to a strained relationship between the Office and the Commission, and a shared view among several Commissioners that both the Commission and the staff could do a better job of outreach in the community.

Both the Office and the Commission express a willingness to address the situation. The Office reports that it would consider any specific request from the Commission for an additional level of support to conduct a specific program or activity. For its part, some Commissioners suggest it would be helpful to clarify the ambiguities that exist in law regarding the duties of the Commission, the Office and the relationship between the two. Others think it would make sense to assign the Commission a half workyear of dedicated staff; although some Commissioners are concerned that this could lead to further separation between the Office and the Commission.

The Commissioners shared several suggestions for improving the Commission's community outreach efforts, including strategies to make the Commission more publicly visible, to get the Commissioners into the community to hear concerns, and to make better use of the Commissioners' time. Some of the Commissioners propose using public service announcements, letters to the editor, and cable television to increase the visibility and public awareness of the Commission. Others suggest there could be more efforts to hold public forums or participate in fairs and events.

Chapter X. Recommendations

County Code Chapter 27, *Human Rights and Civil Liberties*, sets forth the County's public policies with respect to human rights, fair housing, and acts of hate/violence. The law establishes the: Office of Human Rights, Commission on Human Rights, Interagency Fair Housing Coordinating Group, and Committee on Hate/Violence. The law further assigns each of these entities specific advisory, adjudicatory, and/or management responsibilities related to implementing the County's policies and programs to promote tolerance and reduce discrimination.

In FY06, the \$2.1 million operating budget for the Office of Human Rights funds \$1.972 million in personnel, \$153K in operating and 22.45 workyears. In sum, the Office budget supports:

- A \$1.1 million Discrimination Investigation Program that receives and investigates complaints of alleged discrimination;
- A \$342K Fair Housing Program that administers compliance testing and outreach activities, and coordinates County programs to prevent discrimination;
- A \$217K Community Mediation and Public Affairs Program that sponsors events to promote tolerance, manages the response to hate/violence incidents, and staffs the Commission on Human Rights; and
- A \$492K budget for the Director's Office to provide overall direction and guidance.

OLO's review 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 functions in ways that are well aligned with County law, while the Fair Housing Program is less well aligned. Determining how well the Office of Human Right is meeting its legal responsibilities to assist the Commission on Human Rights with implementation of the Human Rights Chapter is complicated by statutory language that is open to different interpretations.

Consistent with the Council's stated intent to use OLO's base budget projects to enhance its budget decision-making; this chapter presents recommendations for Council action in two parts:

- **Part A** identifies specific budget and information issues that OLO recommends the Council consider during its review of the Office of Human Rights' FY07 budget request; and
- **Part B** presents broader discussion issues and policy questions that OLO recommends the Council address after immediate decisions are made on the FY07 budget.

**PART A – RECOMMENDATIONS FOR COUNCIL REVIEW OF THE FY07 BUDGET
FOR THE OFFICE OF HUMAN RIGHTS**

Recommendation #1

Approve \$100,000 for a policy study and public outreach project that is a joint effort of the Commission on Human Rights and the Office of Human Rights. Request that the Chief Administrative Officer work with the Commission and Office to develop a joint project proposal, with a copy transmitted to the Council by September 1, 2006.

A gap exists between the Commission’s duties prescribed in law and the staff support the Office current assigns to the Commission “to support the Commission in the implementation of this [chapter]” The Office currently assigns staff to assist the Commission with its adjudicatory responsibilities and assigns staff to provide administrative support, as the County handbook requires; however, the Office does not assign staff to assist the Commission with its policy and advisory duties.

The Commission reports that the Office’s current staffing pattern has made it difficult to fulfill the Commission’s policy advisory and outreach functions mandated in law. To address this gap, the Commission requested 0.5 workyears of staff support. The County Executive’s Recommended FY07 Budget for the Office of Human Rights includes \$50,000 to fund a housing discrimination study; however, it does not include staffing resources for the Commission.

OLO proposes that the Council combine the requests for funding from the Executive and the Commission and approve \$100,000 for a policy study and public outreach project that would be a joint venture of the Commission and the Office. OLO recommends the funding for this proposal use money that is already in the Executive’s Recommended FY07 Budget. Specifically, OLO recommends that the Council lapse the Office Services Coordinator position in the Discrimination Investigation Program in order to reallocate \$50,000 for 0.5 workyears in staff resources for the Commission; and then combine these resources with the \$50,000 the Executive requested for a housing discrimination study.

Given the reported communication difficulties between the Commission and the Office, OLO suggests that the Council request the Chief Administrative Officer to facilitate the development of the joint project proposal. This proposal should define the project’s study questions, public communication and outreach strategies, staffing plan, schedule, and management structure. It should identify the specific duties of the Commission and the Office and establish shared management responsibilities for the project.

Funding a policy study that incorporates a public outreach strategy provides a stop-gap, interim solution to an unresolved policy issue the Council also needs to address, i.e., the intended relationship between the Office and the Commission, including the intended nature and level of staff support. In Recommendation #3, beginning on page 112, OLO proposes the Council clarify the intended relationship and amend Chapter 27 accordingly.

Recommendation #2

Request Executive Branch staff to address three major issues related to the Fair Housing Program during its review of the FY07 budget for the Office of Human Rights.

OLO's base budget review identified three components of the Fair Housing Program that merit Council review: compliance testing; the transfer of County rental license fee revenue, and the administration of HOME grant funds. Below is a brief explanation of each issue, with recommended questions for the Council to ask Executive Branch staff to address during the worksession on the FY07 budget for the Office of Human Rights.

Issue #1. Compliance testing for the Fair Housing Program in FY06 and FY07.

The Office of Human Rights (the Office) acknowledges the compliance testing for Fair Housing is in a "rebuilding stage". The Council should request a briefing on the current status of compliance testing in FY06 as well as plans for testing in FY07. OLO recommends the Council ask the following specific questions:

- What is the status of Office's efforts to establish an adequate pool of testers?
- What is the status of the tests completed to date in FY06? How many and what types of tests are planned for the remaining months of this fiscal year?
- What is the budget for testing in FY07? How many and what types of tests are planned and what is the proposed schedule for these tests?
- What are the Office's intended plans and schedule for reporting the results of its testing?

Issue #2. Transfers from the County's Rental License Fee Revenues for Fair Housing

In December 2005, the Office of Human Rights, working with the Office of Management and Budget, reinstated a transfer from the County's rental license fee revenues to support fair housing activities. This reinstatement occurred after a three year hiatus.

- What led to the reinstatement of the transfer of County rental license fee revenues in FY06?
- What types of activities have these revenues funded to date in FY06?
- What is the amount of the transfer assumed in the FY07 budget and what are the assumptions used to set this amount?
- What controls does the Office have in place to ensure this money is spent only on fair housing issues associated with rental units?

Issue #3. Department of Housing and Community Affairs' HOME Grant for Fair Housing

In December 2005, the Office executed a Memorandum of Understanding (MOU) with the Department of Housing and Community Affairs concerning the administration of HOME Grant funds. This MOU proposes closer monitoring of the Office's HOME fund expenditures.

- What types of activities has the HOME grant funded to date in FY06?
- What is the current status of the County's Analysis of Impediments Report to Fair Housing, which the draft MOU defines as an allowable activity?
- What controls do DHCA and the Office have in place to monitor how HOME grant funds are spent?

PART B – RECOMMENDATIONS FOR POLICY ISSUES TO BE ADDRESSED BY THE COUNCIL

Recommendation #3

The Council should revisit and clarify its public policy guidance with respect to the implementation of programs and activities to promote human rights and reduce discrimination.

OLO's base budget review of the Office of Human Rights identified a need for the Council to revisit and clarify a number of important issues related to the implementation of Chapter 27, *Human Rights and Civil Liberties*. OLO recommends the Council schedule one or more worksession(s) to address the key policy questions, which are outlined below.

In moving ahead to address these policy issues, the Council will need to decide what combination of staff support (e.g., OLO staff, central Council staff, and/or Executive Branch staff) is most appropriate for preparing the needed background and options for Council consideration.

Issue #1 What should be the respective 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.

The 2004 report of the Committee Evaluation and Review Board (CERB) 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 different 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?

Current language in Chapter 27 does not provide clear guidance concerning the relationship between the Office of Human Rights (Office) and the Commission on Human Rights (Commission), the assignment of roles and responsibilities, or the intended staff support.

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, *Human Rights and Civil Liberties*, specifically and clearly to reflect its guidance. Questions to address include:

- Does the Council intend for the Commission and the Office to function as two distinct and independent entities or to share certain responsibilities?
- If the Council intends that the Commission and the Office share responsibilities, what specific tasks are to be shared between the Commission and the Office, and what specific tasks could be accomplished separately?

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?

Through its approval of annual operating budgets, the Council evidences its support for the programs and activities supported by public funds. In some instances, it is helpful for the Council to look closely at how these programs and activities have evolved over time to ensure they continue to align with the Council's public policy goals and priorities.

With respect to the programs and activities managed by the Office of Human Rights, OLO recommends the Council answer the following questions:

1. Should the Discrimination Investigation Program expand its scope beyond its current function as a complaint-based operation? For example, should the Discrimination Investigation Program conduct special projects or systemic studies to supplement its current operations? One option would be to conduct a study of a specific public sector program or agency, similar to the studies the Commission conducted in its early days.
2. 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?
3. 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?

During the course of conducting this base budget review, OLO learned that the Executive Director has 20 years of service with the County and the top two managers each have over 30 years of service with the County. Current and former Commissioners and staff from partner agencies expressed concern for maintaining high quality discrimination investigations upon the retirement of these individuals.

The Office of Human Resources has indicated that it is beginning 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 that:

- Addresses the knowledge, skills and abilities of these employees and encourages transferring some of the knowledge via written policies and procedures ;
- Recognizes both the official and unofficial duties and roles of these employees;
- Identifies future challenges affecting the Office's mission; and
- Supports the development of existing employees.

Chapter XI. Agency Comments

The Office of Legislation Oversight circulated a final draft of this report to the Office of Human Rights, the Department of Housing and Community Affairs, and the Commission on Human Rights. The final report incorporates all of the technical corrections provided by these entities.

Written comments from the Chief Administrative Officer and the Commission on Human Rights are included in their entirety beginning on the following page.

OLO greatly appreciates the time taken by everyone who reviewed the draft report and looks forward to discussing the issues raised in this study.



OFFICES OF THE COUNTY EXECUTIVE

Douglas M. Duncan
County Executive

Bruce Romer
Chief Administrative Officer

MEMORANDUM

April 19, 2006

TO: Karen Orlansky, Director
Office of Legislative Oversight

FROM: Bruce Romer, Chief Administrative Officer 

SUBJECT: Office of Legislative Oversight Report 2006-6
A Base Budget Review of the Office of Human Rights

Thank you for the opportunity to comment on OLO Report 2006-6, A Base Budget Review of the Office of Human Rights. We wish to thank Sue Richards and Suzanne Langevin for this thorough analysis and excellent report.

In general, we concur with the findings and recommendations in this report. We are pleased with the overall assessment that the core activities of the agency are in alignment with the mandates of the law, and are performed in a highly professional manner. The diversity of staff that you noted and the high morale are objectives identified by the Executive Branch for all Departments.

While we are not prepared to support additional consultant funding for the Office of Human Rights we are committed to improving the collaborative working relationship between the Commissioners and the staff of the Office of Human Rights. We will work actively to facilitate the necessary changes so that the Commission and the Office work effectively together.

We look forward to working with Council in its review of this report.



101 Monroe Street • Rockville, Maryland 20850
240/777-2500, TTY 240/777-2544, FAX 240/777-2517
www.montgomerycountymd.gov





COMMISSION ON HUMAN RIGHTS

Douglas M. Duncan
County Executive

April 20, 2006

Nancy Morrison O'Connor
Chairperson

Ms. Sue Richards, Program Evaluator
Ms. Suzanne Langevin, Legislative Analyst
Office of Legislative Oversight
100 Maryland Avenue
Rockville, MD 20850

Dear Ms. Richards and Ms. Langevin:

As Chair and Vice-Chair of the Commission on Human Rights (the Commission), we appreciate this opportunity to comment on the draft of Office of Legislative Oversight Report 2006-06, "A Base Budget Review of the Office of Human Rights" (the Report). We would like to commend you on producing an excellent and thorough report that will undoubtedly prove to be a useful resource for the Commission and other Boards, Commissions and Committees, as well as the Council, for years to come.

The comments in this letter are based on a review of the draft Report by those Commissioners who participated in the Office of Legislative Oversight's review. The full Commission has not reviewed the draft Report.

The members of the Commission are a talented and dedicated group of volunteers who represent the diversity of our community and who relish the opportunity to serve the cause of human rights in Montgomery County. We appreciate the time you have taken to explain to the Commission the purpose and methodology of your project and to solicit our input for the Report. We have already discussed with you a number of clarifications and technical comments on the draft Report. The balance of this letter concerns the Report's recommendations.

The Report makes three recommendations: two for the County Council to consider as it reviews the FY07 budget for the Office of Human Rights (the Office) and one broad policy recommendation for the Council to consider at a later time.

Recommendation #1 calls for the Council to approve \$100,000 for a policy study and public outreach project to be conducted jointly by the Commission and the Office, with the facilitation of the Chief Administrative Officer (CAO). We are honored and enthusiastic about the proposed opportunity to join as partners in a major project and to make a significant contribution to human rights in the County.



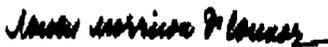
In addition, the Report refers in several instances to communication difficulties and staffing disagreements between the Commission and the Office, and it finds that ambiguities in Chapter 27 contribute to this "disconnect." We agree that the quality of the relationship between the Commission and the Office sometimes suffers at least partially because our respective roles are not always clear. The proposed joint project presents the Commission with a valuable opportunity to work closely with the Office and the CAO, to discuss roles and responsibilities under Chapter 27, and to improve our mutual lines of communication. Most importantly, this joint project could help both the Commission and the Office do a better job of promoting human rights in the County.

Recommendation #2 requests that Executive Branch staff address three major issues relating to the Fair Housing Program of the Office. This recommendation does not relate directly to the Commission. Nevertheless, without commenting on its specifics or the underlying findings in the Report, we are supportive of this recommendation to the extent that it can lead to improvements in the Fair Housing Program.

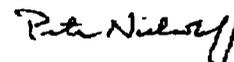
Recommendation #3 constitutes a broad, long-term policy initiative for the Council both to reevaluate its public policy goals with respect to promoting human rights and reducing discrimination in the County and to clarify which programs should be in place to support those goals. The issues posed are interesting and deserving of the Council's attention. Issues #1 and #2 in particular could have significant and enduring policy implications for the Commission and other volunteer bodies established under Chapter 27. However, given the nature and scope of the issues raised, we would like to reserve the opportunity to comment formally at a later time when the full Commission has had a chance to review and discuss the Report. Further, should the Council take action on this recommendation, we trust and request that the Commission will be fully included in the process. We stand ready to provide any assistance we can to the Council and the County Executive.

Thank you for this opportunity to comment on the draft Report. We look forward to participating in the continuing dialogue on these important issues.

Sincerely,



Nancy Morrison O'Connor, Chair
Commission on Human Rights



Peter Nickoloff, Vice-Chair
Commission on Human Rights

OFFICE OF LEGISLATIVE OVERSIGHT REPORT 2006-6

A BASE BUDGET REVIEW OF THE OFFICE OF HUMAN RIGHTS

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TWENTY YEARS *Of* CIVIL RIGHTS PROGRESS

A History of the
Human Relations Commission
of Montgomery County,
Maryland

By David Brack

The Montgomery County Human Relations Commission celebrates twenty years of progress in 1980. Created by the County Government as a "sounding board" for interracial discussion and release of tension in the early 1960's, the Commission has evolved into an established enforcement agency as well, investigating, holding hearings and adjudicating complaints of discrimination in public accommodations, housing and employment.

In step with rising public awareness of the various forms of discrimination, its mandate has gradually broadened over the years. To racial and religious issues have been added those of ancestry, national origin, sex, marital status, age, and physical and mental handicap. Not surprisingly, the Commission's annual complaint caseload has grown along with its increased enforcement power from a mere handful of cases in the early years to almost 300 in recent years. It has acquired a paid staff of 16 to perform day-to-day support tasks and is aided regularly by dedicated volunteers and citizen advisors.

In short, the Commission has fully "arrived" in the County after a long struggle to justify and clarify its existence, and it enters the 1980's with a sense of accomplishment and stature that is matched by few county-level human relations agencies in the nation.



The Sentinel depicts the August 1963 March on Washington when 250,000 people heard Dr. Martin Luther King, Jr., announce his dream of equality.



The Montgomery Mall marquee on December 18, 1977, the date Montgomery County legislation became effective banning discrimination against handicapped persons.



A Sentinel cartoon published the day after 1,200 people attended a County Council hearing on a proposal to repeal Montgomery County's 1962 Public Accommodations Law. The proposal was rejected.



ing in Rockville marchers support open Relations Commission was holding its using legislation. The legislation was en-

The National Scene

The Human Relations Commission was conceived in response to the nationwide civil rights movement of the 1950's. The movement gained impetus from the 1954 Supreme Court ruling that "separate but equal" education was unconstitutional (*Brown v. Board of Education*). But the decision was not followed by dramatic voluntary change.

As postponement and frustration of efforts to implement the law occurred, litigation and appeals to the country's conscience to end racial discrimination were joined by demonstrations, boycotts and sit-ins. Finally, in 1957, the nation passed its first civil-rights legislation since reconstruction, protecting voting rights, and by 1964, yet another federal Civil Rights Act was passed, prohibiting discrimination in public accommodations and employment.

Change did not come without cost. That same year, 1964, three civil rights leaders were murdered in Mississippi while helping register blacks to vote. Marches in Selma, Alabama, and riots in New York, Chicago and other cities followed. By 1965 American cities were literally burning over civil rights issues.

Here in Montgomery County, Maryland, our Human Relations Commission witnessed, shared in, and reacted to many of these events. It grew, not without setbacks, as the movement grew.

The Beginnings 1960-1962

The immediate pressure that led Montgomery County leaders to decide that an interracial commission might be needed here were local boycotts and demonstrations in 1960.

In January of that year the NAACP's Montgomery County Chapter, inspired by the success of civil rights demonstrations elsewhere, began an economic boycott against two Rockville restaurants which refused to serve blacks. The boycott was accompanied by a formal request by concerned citizens before the County Council that a "Council of Human Rights" be formed to exercise "persuasive" action in cases of discrimination.

Council Creates Commission

While the Council was considering the request, picketing began in July at Glen Echo Park, a privately owned amusement center in Bethesda, to protest its policy of racial segregation. This provoked the Council to establish an interracial council on July 12, 1960.

The County Council gave the new "Commission on Interracial Problems" the cautious mandate of communication with trade

associations, individual owners and operators of recreation, restaurant and hotel facilities and any individuals "who propose or oppose the integration of such facilities." Further, it was asked to "attempt to arrive at methods whereby the good name of Montgomery County and its public peace may be continued." Put simply, the Commission was created to help ease tension.

The original Commission members, appointed by the Council, were drawn from a cross-section of community organizations: The Catholic Archdiocese of Washington, the Chamber of Commerce, the Montgomery County Ministerial Association, the Washington Board of Rabbis, the Urban League and the Democratic State Central Committee. The Republican State Central Committee declined to participate. The members served, at least ostensibly, as individuals, not as representatives of organizations.

The Commission first met on July 27, 1960, electing as Chairwoman Ann Brown of the Democratic Central Committee.

The First Issue-Glen Echo

The first order of business was Glen Echo Park. The problem at the park was recalcitrant segregation of all the facilities. The Commission, however, narrowed its attention to the fact that public funds were being used to transport white children participating in the County's summer recreation program to the segregated pool at the park.

This, the County Attorney stated, was illegal. The Commission recommended that the program cease and a non-segregated one replace it. By resolution of September 7, 1960, the County Council unanimously agreed.

The Council's vote only resolved one sideline issue, and resentment of Glen Echo's continuing segregation mounted. Public airing of such resentment brought results.

In April 1961, Glen Echo announced a change of policy and opened all of its facilities to all persons. (Over the next several years, however, the park experienced further problems, including an Easter riot in 1967. It finally closed its doors as a private park in 1968 and was turned over to the federal government.)

Participation in the Glen Echo desegregation effort was a good beginning for the Commission. Although credit properly belonged to the community activists who had picketed the park, the Commission's involvement showed that it could pursue a legitimate investigatory function in the County and could help in achieving peaceful social change.

In the fall of 1960, the Commission sought and received from the County Council authority to make surveys, studies and

recommendations concerning interracial and human relations conditions and problems. The Commission then launched a study of County Government hiring practices. This led to reaffirmations by County officials that they would not tolerate discrimination, and the County code was amended to reflect this attitude.

The Commission also surveyed racial discrimination in places of public accommodations. The results, published in the Commission's first annual report, revealed that the majority of establishments serving the public were willing to state for the record that they did not discriminate. Of the 228 owners interviewed, 140 stated that they served all persons without question, and 118 of these added that they would employ any qualified person, regardless of race.

Blacks Excluded

Nevertheless, frequent complaints of discrimination in public accommodations came before the Commission. Many of these involved episodes in which mixed racial groups arrived at restaurants, only to have blacks rejected at the door. One particularly unfortunate but typical incident involved a black child who could not enter a roller skating rink with his white classmates.

Even after Commission investigations of such incidents, few owners voluntarily changed their policies. Owners apparently feared the economic consequences of being out on a limb alone on a social issue.

Legal Force vs. Friendly Persuasion

This attitude in the community convinced the Commission that passage of legal restraints would be necessary for real civil rights progress. Without legal compulsion, the Commission felt "the right to equal treatment will develop slowly, if at all."

Thus, within its first year of existence, the Commission proposed passage of a public accommodations law. The proposal itself evolved from bitter contention. Two dissenting Commissioners resigned, citing their opposition to "coercive legislation" and their belief that a "policy of moderation" and a "purely voluntary trend toward integration" were working in the County.

Discrimination Banned in Public Places

On January 16, 1962, the Council voted four-to-two to outlaw racial and religious discrimination in places of public accommodations. Montgomery County was the first Maryland county to prohibit discrimination in public places. The County was two years ahead of even the federal government in enacting an equal public accommodations law.

Under the new law the Commission was authorized to investigate possible violations, and if it found any, to conciliate or turn them over to prosecuting attorneys. Penalties included up to six months in jail and a \$1,000 fine.

To achieve passage Council members had reached a compromise allowing an exemption for establishments selling alcoholic beverages as a "prominent part" of their business. The exemption remained in effect for five years.

From the start, enforcement met with mixed success. The "tavern exemption" proved crucial, forcing the Commission to drop several prominent cases. A number of well publicized complaints were filed against Crivella's Wayside Restaurant in Silver Spring, but the restaurant qualified

as exempt from the anti-discrimination law because its beer-wine ratio exceeded that for food.

In another notable instance, County resident and then Peace Corps Director Sergeant Shriver filed a complaint against the Country Corner Inn in Olney for its refusal to serve several black Peace Corps trainees. Again, the tavern exemption allowed discrimination to continue.

Even so, the legislation was having an undeniable progressive effect. Cases to which the tavern exemption did not apply were frequently resolved successfully by the Commission with commitments by restaurants not to discriminate in the future.

A bowling alley and a motel both dropped their discrimination policies as a result of complaints filed with the Commission. However, a public swimming pool evaded the law by changing to private club status.

Commission Renamed

The same 1962 ordinance that put the Public Accommodations Law into effect also reorganized the Commission, renaming it the Commission on Human Relations and giving it self-perpetuating status.

The agency's name remains the same today in the County Code (Chapter 27), although even officially it has since been shortened to the Human Relations Commission (HRC).

Years of Struggle 1962-65

Public accommodations enforcement carried over as an issue in the 1962 election campaign. A more conservative County Council was elected, and the Commission, which had been created by a friendly council, came into conflict with it.

As 1963 began, a new County Councilman, John Hiser, who had run for his seat on an anti-public accommodations ordinance platform, proposed the law's repeal. Meanwhile, the Commission itself was proposing that the law be strengthened by removing the tavern exemption. This direct confrontation was played out in the next several months before a County Council that now had a 5-2 Republican majority.

On April 24, 1963, a Council hearing on repeal of the Public Accommodations Law was held. It received national media coverage. A broad range of local and national groups had spoken out against repeal at the hearing date approached, arguing that repeal would be psychologically devastating to blacks. At the hearing itself, an agenda of over 100 speakers caused a continuation two nights later. On the first night about 1,200 people attended, a record for such a meeting. Speaking for the Commission, Reverend Kenneth Wentzel argued that repeal of the law would abolish the Commission, which is needed as a "forum for...peaceable conversation and dialogue" on interracial problems.

Debate on the proposal continued throughout the summer. In its 1963 annual report the Commission bluntly deplored the divisions in the County Council by urging it to "accept the responsibility for an orderly and lawful transition...to acceptance of the Negro as a full citizen" or else pay the consequences in possible violence. Specifically, the Commission demanded the removal of the "odious exemption clause" for taverns. Finally, on September 12, the Council voted (four-to-two) to reject Hiser's proposal to repeal the public accommoda-

Human Relations Chairpersons 1960-1980

Ann Brown	1960-1962
Rev. Kenneth B. Wentzel	1962-1963 and 1964-1965
Dr. John J. O'Connor	1963-1964
Georgia R. Lawson	1965-1967
Frank E. Wall	1967-1968
Bebe Petrou	1968
Gerald D. Morgan	1968-1971
Paul L. Hershey	1971-1974
Joan R. Thompson	1974-1979
James J. Mihalik	1979-present

tions ordinance and the Commission's mandate.

March on Washington

In August 1963 Montgomery County and the entire country awaited the March on Washington by civil rights advocates, led by Rev. Dr. Martin Luther King. At an August 8 County Council meeting it was proposed that all public meetings require permits, an attempt to control spillover from the Washington crowds. The proposal was attacked as an illegal intrusion on elementary human rights and did not succeed.

When August 28 arrived, hundreds of thousands of people gathered at the Lincoln Memorial and heard Dr. King announce, "I have a dream."

Problems in Housing

Though relatively impotent as a body of divided opinion acting without staff help or funding at the behest of a less than enthusiastic Council, the Commission continued to confront issues that were troubling the entire nation.

In fiscal years 1963 and 1964 the black community increasingly spoke out at Commission meetings on problems in housing. In February 1964, NAACP spokeswoman Edith Throckmorton reported that County slum landlords were charging high rents for rundown buildings and unfairly evicting blacks because of zoning. In April at the Commission's housing seminar (which had become an annual event) Leonard Jackson, president of the Ken-Gar Civic Association, spoke on the practical limitations of black self-improvement efforts in housing: they had no money to remodel, and could get no loans. Low-cost housing developments, he added, were the County's need. (Jackson later served as an HRC Commissioner.)

Fair housing was the topic at another Commission meeting on June 22, 1964. Atlee Shidler testified as president of Suburban Maryland Fair Housing, a community group organized to promote equal housing opportunities for blacks. Shidler claimed that black communities were being squeezed out of the County, and he urged that powers of government be used to counteract the trend. Shidler summed up the situation in the County as follows:

"The arrival of Negro families has not affected the curve of increasing property values... (but) many homeowners fear and expect Negro inundation as much as they fear and expect loss of property values."

Prejudicial Justice

Fair housing and equal public accommodations were not the only issues before the Commission in its early years. Scattered incidents of interracial violence were another concern.

In September 1963, Edith Throckmorton brought two such cases before the Commission. One involved the alleged throwing of objects and use of objectionable language by the white occupant of a car driving through a black community. The other involved the attack on a black man by two whites, who were later charged with assault and battery.

But the most prominent County interracial incident of the early 1960's was the Giles-Johnson case. It began in the summer of 1961 as a controversial accusation by a teenage white girl against three black youths. Following the trial, which brought a guilty verdict and death sentence for all three, there followed six years of legal argument and public concern over questionable evidence in the case. A crusade for retrial was led by *Sentinel* editor Roger

Farquhar, and it at last succeeded when the Supreme Court ruled in favor of reopening the case. This led to freedom for all three men.

The Giles-Johnson case spotlighted the issue of prejudicial legal proceedings, which blacks felt invariably worked against them. In response to complaints of this nature, the Commission announced in March 1964, plans to investigate the system of jury selection in the County. This was worrisome to the County Council, which expressed concern that the Commission might be stepping outside its intended scope of activities.

Commission Stifled

The Commission and the County Council remained at odds throughout 1964. Commission appointments were long delayed. The Council hinted that restaurant and real estate interests should be represented among HRC members. The Commission viewed this as a threat to its usefulness.

Finally, in August, three appointments were made. But the Commission publicly protested those appointments in its annual report of September 1964, claiming that Commissioners who opposed any form of social change had been named.

In April 1965, the Council went further and appointed two more new Commissioners. Both were personal choices of Councilman Hiser. Civil rights advocates objected to both, and one appointee, the Reverend William B. Adams, was accused by opponents of being an outright racist.

The *Montgomery County Sentinel* also deplored the appointments. Recalling Hiser's segregationist history, the newspaper stated on April 8, 1965 that the Council "gave Hiser carte blanche to destroy the Commission," a "real tragedy" because the public accommodations law had saved the County from violence.

Amid the outcry, pickets from the Congress of Racial Equality appeared at the April 26 meeting of the Commission. Police came also, on guard. A month later another tense meeting occurred. CORE demonstrated outside while members of the White Citizens Council of Maryland sat in the audience.

A Period of Decline

Embroidered in constant controversy and internal stalemate, the Commission entered a period of decline from 1964 into 1966. Little was accomplished. Even its standing committees were gradually abolished. For example, one Commissioner's "housing report" presented in April 1965, suggested meekly that the Commission limit itself to non-controversial matters. Another Commissioner pointed out, however, that no housing committee existed which could legitimately draft such a report.

The situation was so bad that the County Council President suggested in July 1965, that the Commission be abolished and a new one be appointed by groups other than the Council, thereby avoiding politicization. She also wanted the Commission's hearing process, one of its major activities, bypassed to avoid divisive discussion by taking cases directly into court.

Open Hearings Opposed

The Commission itself was split on the hearing issue. Elizabeth Scull, then a Commissioner and now a longtime County Council member, took the view that bypassing would weaken the Commission: "The hearing process is a must for getting all the facts on the table." The opposing view was that the hearing process was often

worthless.

Civil rights groups bitterly opposed eliminating hearings. Their view carried the day, and the move to abolish hearings failed. Nor was the Commission abolished and reconstituted. Ironically, even Councilman Hiser opposed that move. "Let them stew in their own juice," he said.

Meanwhile, public confidence in the Commission had dwindled to the point that only three public accommodations complaints were received in 1965. Some County citizens were bypassing the Commission to file discrimination complaints with the state agency, the Maryland Commission on Interracial Problems and Relations. Activists were comparing the County Commission unfavorably to the Rockville Human Relations Commission.

As 1965 ended, one Commissioner said in frustration: "I'm glad my term is almost over. It's been like serving a jail sentence, much of it in solitary confinement."

Years of Activism 1965-1971

Despite its continuing stalemate, the Commission revived somewhat by late 1965. It appointed a subcommittee on open housing. It recommended County Council action to protect the housing interests of low income blacks, particularly by shielding black communities such as Scotland in Potomac from exploitation by developers.

Meanwhile movements on several fronts were compelling the Commission to take a stand on fair housing. The Commission was becoming involved, timidly at first, in an inexorable movement toward what would eventually become a County ordinance enforcing fair housing.

As a first step the Commission, pushed by a minority of its members and by Suburban Maryland Fair Housing, reached a compromise in 1965 recommending that persons seeking housing "be thought of without regard to race."

By 1966, the Rockville Human Relations Commission was drafting fair housing legislation and a federal law was under consideration. In April the makeup of the Commission changed with the appointment of three new members, bringing a shift in position away from the middle of the road.

All White Apartments Picketed

An all white apartment complex in Silver Spring was picketed by 75 open housing advocates in March of 1966. This and other open housing demonstrations in the County prompted the Commission, along with other community organizations, to hold five nights of public hearings on open housing in June. The hearings were well attended and covered by the media. Marchers demonstrated peacefully outside. Realtors, who had launched a mail and newspaper campaign against open housing legislation, were conspicuously absent.

On June 25, the Commission appointed a committee of 12 citizens to draft two open housing ordinances, one covering apartment rentals, and the other covering the real estate industry.

Recognizing that "passage of law doesn't change hearts," in a further step the Commission also embarked on a new program of education to create a "continuing dialogue" on housing discrimination.

Political Victory for Housing

Open housing was a major issue in the 1966 County and State elections. Maryland

gubernatorial candidate George P. Mahoney (Democrat) opposed fair housing legislation and ran with the campaign slogan, "A man's home is his castle." He was defeated by Spiro Agnew.

Local County Council election results were a positive sign for the Commission and for fair housing. After four years of what *The Washington Post* (March 21, 1967) had described as virtual "dormancy" in which the County had erased its reputation as a pacesetter in human relations, the Commission came back to life quickly in 1967 under a new County Council. As one Commissioner said: "Now we have a Council in line with our thinking."

HRC Proposes Housing Law

On January 30 the Commission voted six to three to submit draft fair housing legislation to the Council. During Commission debate, the aforementioned Commissioner Adams spoke against the legislation in language that offended many and became a public issue. In one of his milder statements he said: "The forced housing, alias fair housing, alias slum housing ordinance... is a crass demonstration of compulsory racism on behalf of a minority group."

On February 7 Adams was fired by the County Council, but a judge restored him to the Commission in March, ruling that his right to free speech had been denied.

In April of 1967 the County Council voted to make the Commission a full time agency of the County Government, and then turned over to it the task of moderating a stalemate between the management of Suburban Hospital in Bethesda and its housekeeping employees. The strike, which had racial overtones, dragged on for months before being resolved.

A Housing Milestone

A milestone in the history of the Commission was achieved on July 20, 1967. After five summer nights of public hearings and demonstrations by supporters, the Commission's proposed open housing law was passed by the County Council.

It was one of the broadest laws in the nation, outlawing discrimination in the sale or rental of virtually all housing except owner-occupied housing of two rented units or less. It preceded by one year the federal Fair Housing Law. The state of Maryland also passed a fair housing law in 1967, but it was thrown out the next year in a public referendum.

To assemble the votes needed for passage of the County law, the Council included a "presumptive clause" that shifted the burden of proof of compliance from the landlord or owner if ten percent of the units in an apartment or neighborhood were occupied by non-whites.

In the same year that Montgomery County passed its open housing law, civil rights riots broke out elsewhere in 36 American cities. Violence erupted close to home after Rap Brown spoke in Cambridge, Maryland.

Tavern Exemption Repealed

Within days after enacting the open housing ordinance, the County Council voted unanimously to repeal the "tavern exemption" to the Public Accommodations Law.

The amendments also broadened the Commission's powers and prescribed uniform administrative procedures consistent with the Fair Housing Law. Three-member housing and public accommodations panels

were created to enforce both laws.

The Commission was enlarged to 15 members and was given stronger advisory, coordination and program implementation roles in interracial and interagency affairs. For the Commission, this was a sign of respect by its political parent, the County Council.

First Full-Time Staff

A few months earlier in March 1967, the Council had approved the Commission's first substantial budget request (\$25,000), providing for its first full-time Executive Secretary and a typist. Two earlier part-time Executive Secretaries, S.W. Parrish and Robert Passmore, had permanent assignments in the County Manager's office.

In August, Bertram Keys, Jr., a former Community Relations Director for the D.C. Legal Aid Society, was appointed Executive Secretary.

A Temporary Setback

The open housing ordinance was ruled invalid by the Circuit Court in December 1967. In March of 1968 the Maryland Court of Appeals upheld the lower court's ruling that enactment procedures were impermissible.

Undaunted, civil rights proponents in the County cooperated in a swift effort to draft and get passed a new fair housing law, this one without a presumptive clause. The Human Relations Commission's Housing Committee coordinated this project.

By May 1968 the County Council had passed the new ordinance. Termed by federal authorities "the most comprehensive fair housing measure in the United States," it was stronger even than the recently enacted federal housing legislation. The ordinance was further supported by a June 13 Supreme Court ruling against housing discrimination.

Poor People's March

Early in 1968 Dr. Martin Luther King, in Memphis, Tennessee, to organize the Poor People's Campaign, was assassinated. The riots which followed destroyed entire neighborhoods in the District of Columbia, and although Montgomery County experienced no comparable violence, there were seven fire bomb attacks in Rockville, one upon the city hall.

During this nationwide catharsis the Commission issued a statement to the community supporting the conclusions of the federal Kerner Commission report concerning the responsibility of white citizens for creating and maintaining black ghettos. The statement called for a survey of job opportunities in the County as a means of measuring the degree of minority frustration.

When the Poor People's Campaign finally arrived in Washington, D.C., in May 1968, the Commission issued a statement of sympathy with the purpose of the campaign and urged courteous treatment of participants who might visit the County. Many campaigners were hosted by Montgomery County religious and civic groups. The Commission set up a telephone service to relate information and dispel rumors that accompanied the summer encampment in the capital.

The Commission's support for the Poor People's Campaign was controversial. There was widespread concern that violence could erupt. Some County Council members openly disapproved of the Commission's actions.

Other issues before the Commission at

the time included gun control, employment opportunities in the County for inner-city blacks and public accommodations complaints.

Armed with enforcement authority and staff capability, the Commission investigated discrimination complaints against barbershops, swimming pools and country clubs.

Swimming Pools, Desegregate

Repeated incidents of discrimination at community swimming pools raised the question of whether such pools were indeed "public" facilities. In October of 1968 one non-profit community pool in Bethesda-Chevy Chase was integrated after the Commission successfully utilized the complaint process authorized by the public accommodations ordinance. This was the first neighborhood pool in the County to integrate.

Two years later, in the summer of 1970, the Commission collected letters of voluntary non-discrimination policy from community pools, despite a federal judge's ruling that one of these was private and could set its own policy.

Country Club Complaints

Several complaints were filed against country clubs. Though the Commission had no authority over private membership clubs, their discriminatory guest policies became the public accommodations issue. Complaints were lodged against Chevy Chase, Argyle, Kenwood, Lakewood and Manor Country Clubs.

One publicized incident involved alleged discrimination against Mrs. Carl Rowen in her attempt to participate in a tennis league. The Commission, supported by tennis star Arthur Ashe, urged the U.S. Lawn Tennis Association to take a stand against segregation.

A planned speaking engagement by District of Columbia Mayor Walter Washington at Kenwood Country Club was cancelled in January 1969 for racial reasons. The incident so embarrassed some of Kenwood's members that they themselves initiated a move to integrate the club.

Conceding that the Commission had little legal sway over country clubs, HRC Executive Secretary Keys said the Commission's goal was "to open up completely these country clubs to Negroes," by working with their leadership and through publicity.

A few of the country club complaints were conciliated, but most wound up in lengthy court battles. One noteworthy country club case went to a public hearing in 1976. After hearing the complaint of James Gregg against Montgomery Country Club, the Panel first decided that the club was actually a place of public accommodation due to its management and membership selection methods, and then ordered the club to accept Mr. Gregg and his family as members free of charge for five years. The Panel's decision was appealed to the Circuit Court. (Three years later, in 1979, both parties agreed to an out of court settlement.)

Because of its questionable legal authority with country clubs, the Commission explored other ways to attack their discriminatory policies, either through their dependence on state beverage laws or because they receive real estate tax breaks for their "green space." Ultimately a state law was passed banning discrimination by those who receive preferential real estate tax rates.

A Blow Over Barbershops

The Commission also responded to complaints against barbershops. In Gaithersburg, for example, black employees of the National Bureau of Standards were having difficulty getting haircuts at two shops. After the Public Accommodations Panel's hearing on the complaints, a barbershop owner filed suit against two complainants, two witnesses and Bertram Keys. The Commission filed a counter suit.

By the time the court ruled on the barber case in 1969, most County barbers were serving blacks. But the court dealt a major blow to the Commission by invalidating the County's 1962 Public Accommodations Law. Coincidentally this brought the existence of the Commission itself into question, since the 1962 Public Accommodations Law had reconstituted it.

Police-Community Relations

By the late 1960's police-community relations had become the most explosive human relations issue in the County. Blacks had long complained of unfair treatment by the white police force. The first black police officer was not hired until 1968.

Attempting to deal with sensitive police-community relations issues, the Commission helped establish a part-time community relations department within the Police Department. The Commission's Executive Secretary participated in the police recruit training program. Additional black officers began to be hired.

In the spring of 1969 newspaper headlines reported the obscenity trial of Bunton Dillingham of Freedom House, a counter-culture residence in Bethesda. In the midst of his trial, the police and Freedom House engaged in a confrontation and a seven-day stand-off. On June 11 Dillingham was convicted. Later that month Freedom House was closed.

The confrontation provoked the Commission to announce plans to study police-community relations. This angered the County Council, which felt it was properly handling the problem in closed sessions and that the Commission was overstepping.

The Commission promptly reaffirmed that it would proceed with the study with or without the Council's approval. One Commissioner warned: "If we are gagged on this issue, what will be the next issue we will be instructed not to explore? Prejudice? Open housing?"

County Council member James Gleason responded that perhaps the ordinance creating the Commission needed rewriting if "you are going to get into some areas."

Public Accommodations Law Reenacted

Because the court had thrown out the Public Accommodations Law in the barber-shop case, the County Council now faced the job of reenacting legislation and, at the same time, reconfirming the legal existence of the Commission on Human Relations.

The Council passed in November of 1969 a new and equally strong law banning discrimination in public accommodations based on race, religion and also national origin.

Despite hints to the contrary, the Council did reestablish the Commission to deal with discrimination. However, its powers were cut, so that the Commission could deal with matters of group tension only with the Council's approval.

Police Relations Worsen

The Council's restriction did not deter the Commission's Justice Committee from its already approved study of police-community relations.

Meanwhile, housing problems provoked altercations with police at Good Hope, Quebec Terrace and Berlin (Rockville Gardens) Apartments in July 1970. These were discussed at open Commission sessions. They led to a formal Human Relations Commission recommendation that equal protection and equal enforcement of the law be ensured and that police minority recruitment and human relations training efforts be improved.

The "Clipper" case of alleged police brutality became a center of Commission controversy in March 1970. The victim, named Clipper, claimed his arm had been broken by police when they arrested him. Because his complaint was filed after the statute of limitations ran out, the Commission was never able to prove whether or not the allegation was correct.

Release of the long awaited police-community relations report was delayed till after the 1970 elections to avoid its becoming embroiled in politics. The Commission was already under attack for its handling of the Clipper case. County Council member James Gleason, who would soon be elected County Executive, charged that the Commission was dominated by radicals and was overstepping its legal authority. His proposed amendment limiting Commission activity to the spheres of race, creed and color was passed. Gleason felt that the Commission was entirely too antagonistic in its stance and oriented toward making fiery headlines, especially regarding police problems.

After the election the Commission finally released its police-community relations report, which, not surprisingly, described widespread belief among blacks that the County police practiced discrimination.

Years of Professionalism 1971-1976

As 1971 began, Montgomery County's first chief executive under its new charter took office and a new era arrived for the Human Relations Commission. There was no abrupt shift from the activism of the late 60's. However, a difference in style was noticeable in tune with County Executive James Gleason's desire to avoid the appearance of cultivating controversy. Gleason preferred to counter discrimination through quiet maneuvering and by fostering conciliation.

The Commission performed in an even more businesslike and impartial manner. Its staff was enlarged to process an overwhelming increase in complaints. A flurry of laws, amendments and regulations were passed in the early 1970's in the interest of broadening and disciplining the County's human relations efforts.

The author Dave Brack is a Wheaton resident who is Supervisory Writer-Editor for the U.S. General Accounting Office. Working in his spare time as a volunteer, he researched the Human Relations Commission's history by reviewing Commission reports and minutes and accounts in the Montgomery County Sentinel and other newspapers and by interviewing early Commissioners, civil rights leaders and County Council members.

Another volunteer, Edie Tatel who is a former English teacher of Chevy Chase, edited the history, assisted by Helga Butler, also of Chevy Chase.

The change in Commission style was reflected in its new staff leadership. Bertram Keys who had won the Sentinel's 1970 Man of the Year Award, resigned in January 1971, leaving a good record behind him. He was replaced with Alan Dean, an experienced and sensitive State Department and civil rights administrator in the District of Columbia. In the words of the County Executive, Dean would "not approach his job in the manner in which Mr. Keys felt constrained to approach it - running to the press rather than working with the County Government."

Dean's appointment and his quiet approach to equal rights enforcement were opposed by some Commissioners, who felt that publicity and public airing of discrimination charges were essential to civil rights progress. To resolve these internal disagreements, Chairperson Paul Hershey directed the Commission through a profound and timely reevaluation of its goals and methods.

The new Executive Secretary weathered the storm, and his style emerged as the policy of a new Commission.

Confidentiality Begins

Confidentiality was the major change resulting from the reevaluation process. No longer were complaints aired in open Commission sessions. In fact, complaints were now kept confidential through investigation and settlement attempts. Only when a complaint could not be conciliated, yet investigation indicated discrimination, would the complaint be aired in public before a Commission enforcement panel. Confidentiality made it easier for the Commission to negotiate settlements.

Although confidentiality took effect in 1972, it was not written into the law until much later. A 1976 amendment ensured confidentiality by specifying that any Commission member or staff employee who violates confidentiality requirements shall be guilty of a misdemeanor and fined up to \$1,000.

Discrimination Testing

In January 1971 the Commission proposed several amendments to strengthen the Fair Housing Law by expanding the rights of those discriminated against and imposing new penalties on violators. One clause allowed for civil damage suits by complainants. The Council passed the amendments in March 1972, but had to override the County Executive's veto to do so. Gleason questioned the ethics of discrimination "testing," which was authorized by one amendment.

During the late 60's, fair housing enforcement had gained impetus from the testing activities of Suburban Maryland Fair Housing (SMFH). Matched black and white SMFH volunteers posed as applicants. Test results indicating discrimination formed the basis of a number of complaints SMFH brought before the Commission. Although the testing tactic was controversial, it proved effective as an investigative technique and also as a deterrent against discrimination.

Now that the Council had formally authorized testing, the Commission could use the tactic comfortably and often requested MFH tests. Later on (in 1977) the Housing Committee developed written guidelines to discipline and refine the testing process.

Sex Discrimination Banned

In 1971 the Commission appointed an ad hoc committee to study the status of

women in Montgomery County. That committee's final report urged that the Commission be authorized to investigate incidences of discrimination based on sex.

A County Council bill was introduced to amend the Public Accommodations Law by prohibiting discrimination based on sex. (Race, religion and national origin were already covered.) In March 1972 the sex discrimination amendment was passed.

In May of that same year Maryland became the eighteenth state to ratify the Equal Rights Amendment (ERA). One month later Montgomery County established a Commission for Women, the first such local agency in the State of Maryland appointed to promote equal rights for women.

The Human Relations Commission and the new Women's Commission soon thereafter collaborated on a study and report showing that women and minority workers in the County Government were both underrepresented and disproportionately concentrated at low pay scales. In 1973 the County instituted an affirmative action program for employing minorities and women.

Key Employment Legislation Passed

Under Chairperson Paul Hershey the Commission worked throughout 1972 and 1973 for the passage of Montgomery County legislation banning employment discrimination.

The Council finally passed a Fair Employment Law in the fall of 1973, effective in December, prohibiting employment discrimination based on race, sex, religion, national origin, marital status and age.

This was the third key piece of legislation the Commission had been laboring for years to acquire. Montgomery County had been a forerunner in acting to prohibit discrimination in public accommodations and housing, but the County lagged years behind other jurisdictions in employment legislation. The federal Equal Employment Opportunity Act had been passed nine years before in 1964, and Maryland's Fair Employment Law in 1965. Perhaps the existence of federal and state employment laws had reduced the urgency for local legislation.

When Montgomery County finally moved into the area of fair employment, the law it passed became one of the strongest in the nation. It covers all employers who hire more than six people. (Maryland and EEOC laws apply only to employers of 15 or more.) The law grants full enforcement power to the Commission and provides for the appointment of a five-member Employment Panel to hear and decide the outcome of complaints which cannot be settled following investigation.

Other Legislative Victories

Soon after passing the Fair Employment Law, the Council acted on other draft legislation submitted by the Commission. In November 1973 the Fair Housing Law was amended to cover discrimination based on sex and marital status. (Race, religion and national origin were already covered.) The amendment became effective in January 1974.

In addition, the Commission sought and received authority to issue summonses and subpoenas. That amendment became effective in May 1974, enhancing the Commission's investigatory powers.

Growing Caseload

Now, with employment discrimination

covered and sex discrimination prohibited, complaints began to flood the Commission. The caseload had grown from six complaints received in 1962 to 84 received in 1972 and 189 in 1974.

As late as 1972 there were only two Commission employees. The Commission urgently sought and received additional staff to help it keep pace. By 1973, the Commission employed six persons, and by 1974, eight. A Deputy Executive Secretary was hired in 1975.

Apartment Reports Required

By 1973 the Commission concluded that segregation of Montgomery County apartments was still a major problem, despite the County's strong Fair Housing Law. Joined by Suburban Maryland Fair Housing, NAACP, and other community organizations, the Commission proposed regulations requiring owners of apartment complexes with 25 or more rental units to file quarterly reports to the Commission on their rental activity involving blacks and Hispanics.

After a public hearing in August, the proposed Real Estate Reporting Regulations were adopted by the Commission and the County Council to become effective January 1974. One of the Commission's stated purposes for requiring apartment reports was to prevent discrimination by making owners and managers aware of their actions regarding minorities. The Commission also sought reports to discover where investigation for discrimination may be indicated and to be able to spot trends in minority apartment occupancy.

Five County landlords refused to comply with the new law and were sued by the Commission. In April of 1977 the Circuit Court ruled the regulations unconstitutional. The Commission and the County Government filed an appeal.

On May 23, 1978, the Maryland Court of Appeals reversed the lower court decision, holding that "color-consciousness," or the collection of data by race, is a valid constitutional means of preventing discrimination. The case received national attention.

Rules of Procedure Adopted

A 1975 employment complaint of sex discrimination led to the adoption of formal rules of procedure for all Commission panels. When the complaint of Virginia Lee Wein against Equitable Savings and Trust was scheduled for a public hearing, Equitable filed in court for injunctive relief claiming that the Commission Employment Panel's failure to promulgate rules of procedure denied Equitable due process of law. The court stayed proceedings until such rules and procedures were adopted. They were hastily adopted. Meanwhile, the Equitable complaint was settled confidentially.

Monetary Damages Authorized

In 1974 the County Attorney issued an opinion that Commission enforcement panels actually had no clear legal authority to order payment of monetary damages in discrimination cases, even though the panels had been ordering monetary damages all along.

Draft legislation was prepared and submitted to the County Council. In a major step for the Commission, the Council passed an amendment effective in November 1976, authorizing the Human Relations Commission panels to order payment of up to \$1,000 for humiliation damages due to discrimination in addition to compensa-

tion for expenses incurred and back pay lost.

The 1976 amendments also clarified and refined Commission rules to bring them in line with those of the U.S. Equal Employment Opportunity Commission. The Commission was seeking status as a local EEOC referral agent.

New Horizons 1976-1980

In 1976 the Montgomery County Human Relations Commission was certified as a "deferral" agency for EEOC, a national acknowledgment that the local agency's anti-discrimination laws, enforcement procedures and remedies are equivalent to those available under federal fair employment law (Title VII, Civil Rights Act of 1964).

Deferral status meant that EEOC could refer its employment complaints originating in Montgomery County to the local agency for investigation. It also meant that complainants could file at the local level while still registering or "dual filing" their complaints under federal law.

The alliance with EEOC marked the beginning of a new era in Commission history.

Backlog Mounts

Until the Commission became an EEOC deferral agency, it had managed to keep reasonably current with a steadily increasing caseload, even though only two investigators were employed. Immediately afterwards EEOC swamped the local agency with hundreds of federally filed complaints deferred for local investigation and conciliation.

The Commission received 160 new complaints in the 1975 fiscal year, as compared with 203 in 1976 and 288 in 1977, after becoming an agent for EEOC.

EEOC had promised funding support to enable HRC to hire additional compliance personnel, but funds were slow in coming. By the time they became available the Commission had already amassed an overwhelming backlog of outstanding complaints. The backlog grew from 128 complaints outstanding at the end of FY 1976 to 208 by FY 1977 and 250 by FY 1978.

During the 1978 fiscal year the Commission staff size increased from ten to 16. All six new positions were in compliance work, four of them EEOC funded.

Faster Complaint Processing

In 1978 the Commission instituted a new system for handling complaints designed to encourage early, voluntary settlement before investigation. Called "rapid charge processing," the system was designed to avoid the buildup of a backlog of complaints awaiting investigation and to provide more timely relief for discrimination victims.

Key features of the system are careful complaint intake to eliminate frivolous charges at the outset and the scheduling of an early fact-finding conference where settlement is likely. The new system enabled the Commission to reduce by 15 percent the time needed to resolve new complaints.

Just as the enlarged compliance staff using improved methods was beginning to make a dent in the backlog, EEOC modified its deferral policy and reduced its funding. Montgomery County's EEOC allotment was reduced from \$83,000 in 1978 to \$42,000 in 1979. By the summer of 1980, EEOC announced it would no longer provide any funding for small volume agencies includ-

ing the Montgomery County Human Relations Commission.

Handicap Rights Legislation

In late 1977 the County Council amended the public accommodations, housing and employment laws to prohibit discrimination on the basis of physical, mental and emotional handicap. In sharp contrast to the legislative struggles of the 60's, the handicap rights amendment sailed smoothly through the Council with few speakers testifying against it.

The legislation became effective on December 18, 1977. The Commission then launched an extensive public education campaign to inform disabled persons of their rights and the complaint procedure and to explain the legislation to businesses. A brochure entitled **Rights for Handicapped People** was published, along with the booklet **Guidelines for Employing Handicapped Persons**. A monthly newsletter called **Opening Doors** was distributed to 700 handicapped people and organizations representing them.

Also in 1977 the Commission was assigned to handle handicap discrimination complaints against the Montgomery County Government filed under the U.S. Rehabilitation Act of 1973.

Handicap complaints accounted for 21 percent of the Commission's FY 1979 caseload. As a result of case settlements, a department store made its restrooms accessible to wheelchairs, a mentally handicapped man rented an apartment and several parking lots allotted handicapped parking spaces.

The first public hearing on a handicap complaint was held in August, 1979. The Commission's Public Accommodations Panel ordered the Far East Restaurant to pay Sidney Schantz \$191 for having failed to seat him at a table accessible for his wheelchair.

In 1979 Montgomery County appointed a Commission on Handicapped Individuals. A Human Relations Commission representative serves on this new board.

Trends of the Late 70's

With the addition of new protected classes in the 1970's, the HRC caseload became more diversified. Nevertheless, race remains today the predominant basis for discrimination complaints filed with the Commission, as it has been throughout the agency's 20-year history.

In fiscal year 1980, 35 percent of the Commission's complaints involved racial discrimination, and 20 percent sex discrimination. National origin, age and marital status each account for approximately ten percent of the agency's current caseload, and handicap six percent. Only five percent of HRC's current complaints involve religious discrimination.

One of the most notable recent trends is an increasing number of age discrimination complaints. Unlike federal law, the County's Fair Employment Law of 1973 is open ended, protecting people of all ages from discrimination. Some age complaints are filed by teenagers, but most by older workers who have been turned down for jobs or forced to retire. The largest financial settlement in Commission history was negotiated in 1980, when a 62 year old man, whose job application had been rejected, was hired and received back pay in a settlement valued at \$42,000.

Proposals to add age to the housing and public accommodations laws were debated in the mid 1970's but rejected to avoid complications concerning elderly and adult

housing and public accommodations for minors.

National Origin Concerns

Discrimination against the County's growing Hispanic population became a pressing problem in the late 1970's. In response, the Commission launched outreach efforts to inform the County's Spanish speaking population of their rights. Spanish versions of Human Relations Commission brochures and posters were distributed. In 1976 the Commission conducted a workshop in Spanish at the Takoma-East Silver Spring Community Center.

By 1977 leaders of the Hispanic community were speaking out at open Commission forums to protest insufficient Hispanic staff representation in all County Government agencies, including the Human Relations Commission. The Commission hired its first Hispanic Investigator that year, although earlier an Hispanic Aide had been employed.

Later, in the midst of the Cuban refugee crisis of Spring, 1980, the Commission again co-sponsored a dual language Exchange of Ideas with Hispanic residents.

The relocation of Indochinese refugees in Montgomery County in the late 1970's became an additional concern. The Commission responded in 1979 by co-sponsoring, along with the Social Services Department, an Information Exchange for the Indochinese population. Over 100 refugee families attended to hear and question representatives of ten County Government agencies. Small group workshops were conducted in three Indochinese languages, Vietnamese, Cambodian and Laotian. Translated versions of HRC pamphlets were distributed.

Recent Housing Issues

In the mid and late 1970's the Commission received and settled over 100 housing complaints of discrimination based on marital status. They were filed by divorced or separated people as well as by singles and unmarried co-applicants of the same or opposite sex. The Commission's enforcement and educational efforts counteracted a tendency on the part of some County landlords to prefer traditional "family" tenants.

One large apartment complex in Bethesda, Parkside Apartments, challenged the marital status provisions of the County's Fair Housing Law by continuing its policy of rejecting unmarried tenants of the opposite sex. In 1980 the HRC Housing Panel heard six marital status complaints against Parkside in public hearings. The Panel's landmark decision is expected in the fall of 1980.

Montgomery County's acute need for affordable housing became a major concern of the Human Relations Commission in 1979 and 1980, when the agency held two public forums on the issue and took a strong stand favoring construction of assisted housing projects. Commission Chairperson James Mihalik stated: "Fair housing is impossible without an adequate supply of affordable housing located throughout the County."

The Montgomery County Board of Realtors, encouraged by the Commission, signed an Affirmative Marketing Agreement with the U.S. Department of Housing and Urban Development in 1976 to promote open housing. Afterwards the Commission organized the Community Housing Resources Board, one of the first in the nation, to implement and monitor the realtor agreement.

Major Housing Studies

Under the direction of the Commission two important federally funded housing studies were completed in 1979.

The purpose of the first was to find out why minorities tend to cluster residentially in the County. Consultant Jane Takeuchi concluded in her final report (August 1979) that socioeconomic and convenience factors along with the perception of discrimination elsewhere, lead to racial clustering. She found that blacks prefer to live in a racially mixed apartment rather than one that is predominantly black, while whites prefer a predominantly white environment.

Another analysis, the New Horizons Fair Housing Study, assessed the status of fair housing in Montgomery County and recommended action for the future. Consultant Joseph H. Battle and Associates found that subtle housing discrimination still exists here, limiting the housing locations minorities consider. Battle suggested a regular testing program to uncover and prevent discrimination along with expanded public education and affirmative action measures.

The New Horizons report and the consultant's recommendations were discussed at an October 1979 Fair Housing Workshop attended by 160 people. Afterwards many of the proposals for action were incorporated into the County Government's 1980 Housing Policy, including the testing program.

HRC Educational Involvement

By law the Commission is charged with the "watchdog" role of working to eliminate prejudice in education. It lacks jurisdiction, however, for discrimination complaints filed against Montgomery County Public Schools.

Traditionally the Human Relations Commission and the Montgomery County Board of Education have maintained good working relationships, meeting jointly, usually once each year, to discuss human relations concerns.

Frequently, the Commission has been successful in influencing Board action to improve minority relations and minority balance in the schools.

In 1975, for example, the Commission's Education Committee reviewed the Board of Education's draft human relations policy statement and came up with the view that the proposed 50 percent ceiling on minority enrollment was too high. Instead, the Commission recommended a 30 percent ceiling. This stance provoked considerable public comment and influenced final board policy leading to the significant school integration effort of 1976.

School Board Censure

The Commission strongly supported the Board's institution of a mandatory black studies human relations course (HR-18) for school personnel. After a conservative majority was elected to the Board in 1978, the new Board voted to rescind the HR-18 requirement. That vote was vehemently protested by the black community. Meeting in an open session on January 22, 1979, the Human Relations Commission voted to censure the four conservative School Board members for "their blatant insensitivity to the racial implications of the Board's decision."

Board relations with HRC were understandably strained throughout the next year. In late 1979 the Commission once again met in joint session with the Board. They discussed an HRC Education Committee study of school system employment of minorities and women. The Commission

reported that some school positions remain racially and sexually stereotyped, setting a poor example for students, contrary to stated MCPS goals.

Racial Harassment Continues

Despite its broadened tasks, today, as in 1960, much of the Commission's work still deals with racial and ethnic hostility. The HRC Community Relations Committee and the Executive Secretary work with the police, the school system's Human Relations Department and community leaders to eliminate tensions before they escalate into conflicts.

This cooperation partly resulted from a wave of harassment incidents which occurred in 1976 and 1977. Small crosses were burned on the lawns of a number of black families. Threatening notes signed "KKK" were posted here and there and even distributed by mail in the County.

To counteract these events, the Commission called a March 1977 Meeting of Neighbors. Over 200 people of all races gathered to discuss how they could work in their neighborhoods to prevent racial hostility.

As an outgrowth of the discussion, a "Network of Neighbors" was organized. Over 70 individuals, plus several churches, enrolled. Network members vowed to work in their communities as a positive force for human relations values. Should harassment incidences occur near them, they visit victims and offer support. The U.S. Department of Justice uses HRC's Network of Neighbors as a model proposal for other agencies.

The Network has been busy in 1980. The year has been racially tense nationwide, possibly due to insecurities caused by inflation. In Montgomery County a black church has found threatening notes posted on its doors, and black families have been harassed and their homes vandalized. Nearby, in Frederick, Maryland, a small Ku Klux Klan rally was held in the summer.

Several recent incidents have been directed against Jewish families and synagogues. As Executive Secretary Dean told the County Council in August 1980, "Prejudice against Jews has not yet disappeared here." His statement could in fact be applied to any of several ethnic and racial minorities in the County as the decade begins. There has been progress as HRC's history shows, but there is still work to be done.

Expanded Public Information

Throughout its existence the Commission has depended upon public forums and the media to get its views across to County citizens. In the 1970's it has formally recognized these relationships by hiring a public information officer and establishing a printing budget.

The Human Relations Commission's public information program attacks discrimination on two fronts: by providing information to aid and encourage compliance with the County's equal rights laws and by informing people of their right to file complaints when they suspect discrimination.

The Commission now distributes equal rights brochures in four languages, fair housing and fair employment posters, and guidelines for employers, housing providers, business owners and the public.

Commissioners and staff members serve on an active Speakers Bureau. Radio and television public service announcements, news releases and a full schedule of public forums and workshops on human re-

lations topics strengthen the Commission's public information program.

Today and Tomorrow

Today's Commission is a body of 15 County residents, appointed by the County Executive and confirmed by the County Council. They serve staggered three-year terms, are drawn from different occupations, and represent various religious, racial, ethnic and political perspectives. The public service credentials of the Commissioners, even beyond their role on the Com-

mission, are impressive.

Aside from attendance at regular Commission meetings, the Commissioners serve on panels and committees. Committees meet on matters such as budget, community relations, education, employment, housing, and justice. They identify and weigh issues, conduct studies, and work with County agencies, community groups, and individuals. They also formulate recommendations that are presented before the Commission, and on occasion before the County Council.

Some Commissioners are members of

the Commission's Employment, Housing and Public Accommodations Panels. These panels act as the enforcement arm of the Commission. They consist of three or more County residents appointed by the County Executive for three-year terms. The panels receive staff investigative reports and determine the final disposition of discrimination cases at the administrative level. Should conciliation fail, the appropriate panel sits as a fact-finding body in a public hearing and then decides whether the discrimination charge is valid; if it is, the panel decides what redress should be or-

dered.

A paid staff of 16 manages the daily workload of the Commission, investigating and conciliating discrimination complaints and handling research and public information functions.

Public meetings of the Human Relations Commission are held monthly, most often at Davis Library in Bethesda, the Commission's offices since 1978. Occasionally meetings are held on location in various communities in the County. Each meeting includes a public forum period allowing interested citizens to speak on human rela-

Local, State and National CIVIL RIGHTS CHRONOLOGY 1950 - 1980

Montgomery County	Maryland	United States	Montgomery County	Maryland	United States
1951 County's only black doctor excluded from medical association because he could not be served at dinner meetings.	Commission on Interracial Problems and Relations, now Maryland Commission on Human Relations, created. (Original Maryland Interracial Commission, established in 1927, but inactivated by law in 1943.)	Harry S. Truman, President. Supreme Court upholds D.C. statute banning discrimination in restaurants.	1965 Fair Employment Practice Law enacted.	Fair Employment Practice Law enacted.	Dr. King leads voter registration march in Selma, Alabama. Riots in Watts, California.
1953	Commission resolution lifts color bars in state legitimate theaters. Lunch counters integrated at five and dime stores.	Dwight D. Eisenhower, President.	1966 All white apartments picketed by open housing advocates.	Spiro Agnew elected Governor, supporting fair housing. (Defeats George P. Mahoney, opponent of fair housing legislation.)	Stokely Carmichael heads Student Nonviolent Coordinating Committee, calls for black power. Riots in Cleveland.
1954 Marian Anderson sings at Baltimore's Lyric Theater, but is refused hotel accommodations.		Supreme Court rules school segregation unconstitutional in <u>Brown vs. Board of Education</u> .	1967 First Fair Housing Law enacted, then invalidated by Circuit Court. Tavern exemption repealed from Public Accommodations Law.	Fair Housing Law enacted. Violence in Cambridge after Rap Brown's speech.	Race riots in Tampa, Cincinnati, Newark, Detroit and 30 other cities.
1955		Bus boycott in Montgomery, Alabama.	1968 Second Fair Housing Law enacted. First black police officer hired. Complaint settlement integrates first community swimming pool.	Fair Housing Law of 1967 defeated by public referendum. Public Accommodations Law extended to cover bars and taverns. Discrimination in home finance prohibited.	Dr. Martin Luther King, assassinated. Riots in 125 cities. Kerner Commission reports on causes of race riots. Fair housing law enacted, enforced by Department of Housing and Urban Development. Poor People's Campaign.
1956 Public Schools integrated.		Supreme Court outlaws racial segregation on buses (<u>Browder vs. Gayle</u>).	1969 Circuit Court invalidates Public Accommodations Law. County Council reenacts Public Accommodations Law and reestablishes Human Relations Commission, limiting its activities. School system establishes Human Relations Department and equal employment program.	Lawyers Title Insurance Co. voluntarily removes racial covenants; others follow.	Richard M. Nixon, President.
1957 President orders National Guard to escort black students to previously white schools in Little Rock, Arkansas. Congress passes first Civil Rights Act since Reconstruction to protect voting rights and creates U.S. Commission on Civil Rights.		Sit-in at lunch counter in Greensboro, North Carolina. Civil Rights law passed in strength 1957 voting rights act.	1971 James Gleason becomes first County Executive.	Fair Housing Law enacted.	Supreme Court validates school busing for integration.
1960 Demonstrators protest segregation at Glen Echo Park. Human Relations Commission established, as first local commission in Maryland.		Freedom rides begin from Washington, D.C.; riders attacked in Alabama, arrested in Mississippi. John F. Kennedy, President.	1972 Amendment prohibiting sex discrimination added to Public Accommodations Law.	ERA passed.	Equal Rights Amendment proposed. Title IX prohibits sex discrimination in federally funded educational programs.
1961 Baltimore City enacts Equal Public Accommodations ordinance.		James Meredith enrolls as first black student at University of Mississippi amid riots, two deaths.	1973 Fair Employment Law passed.		Rehabilitation Act of 1973 prohibits handicap discrimination in federally funded programs.
1962 County Council enacts Equal Public Accommodations Law with tavern exemption. Reorganizes Human Relations Commission for enforcement.		President Kennedy assassinated; Lyndon B. Johnson, President. Dr. Martin Luther King, Jr. arrested. Gov. George Wallace stands in school house door at University of Alabama. Medgar Evers murdered. March on Washington when 250,000 hear Dr. King's "I have a dream" speech. Bomb kills four children in a Birmingham church.	1974 Housing Law amended to cover sex and marital status discrimination. HRC gains summons and subpoena powers.	Fair Housing Law amended to cover sex and marital status discrimination. Discrimination based on handicap prohibited.	Richard Nixon resigns; Gerald Ford President.
1963 County Council rejects proposal to repeal 1962 Public Accommodations Law.	Limited Public Accommodations Law enacted. (Covers 11 of 22 counties.) Demonstrations and riots in Cambridge.		1976 HRC Enforcement panels authorized to order monetary damages and compensation for humiliation.		Jimmy Carter, President.
Rockville Human Rights Commission established.	State-wide Public Accommodations Law enacted then sustained in public referendum.	Three civil rights workers murdered in Mississippi. Riots in New York City, Rochester, Paterson, Chicago. Congress passes Civil Rights Act banning discrimination in employment and public accommodations; creates EEOC.	1977 Discrimination based on physical and mental handicap prohibited.	Pregnancy disability rights legislation. Commission empowered to order monetary relief.	
			1978 Charles Gilchrist, County Executive.		Supreme Court limits affirmative action in college admissions (<u>Regents of University of California vs. Bakke</u>).
			1980 New Horizons Fair Housing Plan adopted.		Congress debates strengthening Fair Housing Law.

tions issues. Often there is a guest speaker or a report and discussion on a particular human relations topic.

Community Support

Unlike members of many other Montgomery County boards and commissions, Human Relations Commissioners and Panel members serve without pay. The Commission's demands on their time and energies appear staggering.

Yet when vacancies are announced, the County Executive is often flooded with applications. In 1979, he was hard pressed to choose among 50 well qualified applicants for only five openings. Significantly, whites show as much interest as blacks and other minorities.

In addition, the Commission benefits from countless hours of service by volunteers and Citizen Advisors. Recent volunteers have included high school and college students, senior citizens, writers, editors, typists, photographers, a radio announcer, a retired attorney and a personnel specialist.

The volunteer assistance the Human Re-

lations Commission receives from its citizenry indicates the existence of a broad base of equal rights support in Montgomery County.

The Ultimate Goal

As part of a nationwide movement toward social justice, the Human Relations Commission has acquired the essential legal means of preventing open discrimination of many kinds in the County. These means include a very active complaints process that has become quite businesslike and efficient. Likewise, the oldest functions of the Commission - its advisory, educational, and community relations activities have continued and even been strengthened.

The Commission presently stands with similar agencies at the end of three active decades of successful human rights struggle in the United States. It has a right to some pride and self assurance. But Alan Dean suggests, "we've just scratched the surface."

Beyond the realm of its present enforcement and conciliation efforts lies an ideal - a society of justice and harmony in which cit-

izens would not need to be coerced into respecting the rights of all their neighbors. Such a society would put the Commission itself out of business.

The Commission's Future Role

As long as human rights are a prominent American concern, a human relations agency will be needed in the County and the question of its role in government will continue to be as valid as it has been during the entire 20 years of Human Relations Commission existence. During these years, its role has varied from perfunctory to militant to almost bureaucratic, and there has been a sense of increasing professionalism, legitimacy, and achievement.

Nevertheless, the history of the Commission shows its dependence upon the leadership of the County Executive and Council, and surely some of this dependence, with the politicization it implies, will continue despite the battery of laws that have now institutionalized the Commission. Attempts over the years to establish for the Commission a special independent position

in the government have not gotten very far.

There are those who remember the aggressiveness of the late 1960's and feel that they represented the Commission at its best - abrasive, vocal, and moving forward. In their view, progress toward social justice remains, as it was in the 1960's, a matter of confrontation, of pushing the average American citizen a bit farther than he thinks he wants to go. On the other hand, the Commission has worked in the 1970's in another way, grounded in persuasion, education, and the confidence that, when necessary, enforcement to the fullest extent of the law will carry the day. It could be that the latter approach best fits the mood of the County and nation as we begin the 1980's.

At any rate, it is well to consider the Commission's many achievements over 20 years whenever its future, and that of the County, are pondered. The Commission's history bears witness to real social progress which sets a standard for County leaders, and the leadership of the Commission as they help to shape events in the next decade or two.

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VI
CHRONOLOGY OF
 Human Relations Legislation

- 1962 January 16, 1962—Ordinance #4-120, Section 4—Establishes the Human Relations Commission and enacts the Public Accommodations Law.
- 1967 August 19, 1967—Ordinance #6-42, First Fair Housing Ordinance is effective.
- December 13, 1967—Montgomery County Circuit Court invalidates the Fair Housing Ordinance.
- Appropriation Resolution #6-373—Restructures the Human Relations Commission, enlarging it to 15 Commissioners and providing for a paid staff.
- 1968 March 8, 1968—Maryland Court of Appeals upholds the Circuit Court decision to invalidate the Fair Housing Ordinance. 249 Md. 271-1968—Scull v. Montgomery County Citizens League.
- August 15, 1968—Bill #18—Second Fair Housing Law is effective.
- 1969 September, 1969—Montgomery County Circuit Court holds Human Relations Commission Ordinance #4-120, invalid, including the Public Accommodations provisions and the portion establishing the Commission.
- November 4, 1969—Bill #46-69—Re-enacts Public Accommodations Law and law establishing the Commission, but restricts scope of activities.
- 72 June 1, 1972—Bill #31-71—Sex amendment to Public Accommodations Law effective.
- June 19, 1972—Bill #30-71—"Requirements" section 77-14A to Fair Housing Law.
- 1973 December 5, 1973—Bill #1-73—Fair Employment Practices Law effective.
- 1974 January 29, 1974—Resolution #7-1600—Real Estate Reporting Regulations effective.
- January 31, 1974—Bill #31-73—Sex and Marital Status amendment to Fair Housing Law effective.
- February 1, 1974—Bill #62-73—Bona fide seniority system and bona fide employee benefit plan amendment to Fair Employment Practice Law effective.
- May 16, 1974—Bill #68-73—Summons and subpoena power amendment effective.
- August 8, 1974—Bill #10-74—Incorporated municipalities amendment effective. (Allows incorporated municipalities to refer complaints to Human Relations Commission for enforcement).
- November 25, 1974—Bill #24-27—Amends definitions of "employer" and "employee" in Fair Employment Practices Law to cover volunteers.

- 1975 September 9, 1975—Resolution #8-454—Rules of Procedure adopted.
- 1976 November 18, 1976—Bill #42-76—Allows Human Relations Commission panels to order monetary damages and award compensation for humiliation in cases of discrimination.
- 1977 January 24, 1977—Bill #46-76—Provides for certain reorganization of the Commission. Some of the provisions are: 1) complaint procedures consolidated into one section in the law, 2) one-year statute of limitations, 3) three-year term of office of panel members, and 4) allows compensation of Commissioners.
- April 26, 1977—Montgomery County Circuit Court holds Real Estate Reporting Regulations invalid.
- December 18, 1977—Bill #19-77—Physical and mental handicap amendment effective to fair housing, fair employment practices, and public accommodations law.
- 1978 May 23, 1978—Maryland Court of Appeals reverses Montgomery County Circuit Court and holds Real Estate Reporting Regulations constitutional.
- September 28, 1978—Bill 30-78 amends the Administrative Procedures Act, Chapter 2A, Montgomery County Code, 1972, as amended, to apply new Pre-Hearing Procedures to discrimination complaint hearings of the Human Relations Commission and its panels.
- 1979 February 8, 1979—Bill 36-78 effective, providing that employment discrimination complaints against the Montgomery County Government may be filed with and processed directly by the Human Relations Commission.
- May 10, 1979—Bill 1-79 effective, defining "religious creed" to include all aspects of religious observances and practices and allowing denial of employment on the basis of religious creed when its observance or practice would cause undue business hardship.
- 1982 December 10, 1982—Bill 43-82 provides for the recovery of damages for certain actions against persons or property based on racial and religious intimidation.
- 1984 September 14, 1984—Bill 65-83 prohibited discrimination in employment, housing and public accommodations on the basis of sexual orientation. This bill also prohibited discrimination in housing based on the presence of children. Bill was originally effective May 24, 1984 but was delayed by court action.
- 1986 May 19, 1986—Bill 29-85 generally amended the provisions on Human Relations Commission hearings
- 1986 October 23, 1986—Bill 68-83 created a Partnership Fund for victims of Hate/Violence activities to assist in the restoration or replacement of the victim's property.
- 1987 December 25, 1987—Bill 20-87 amends the fair housing law to prohibit discrimination in the transfer of an interest in any type of real estate and to prohibit discrimination based on age in real estate.

AMENDMENTS

Sec. 27-26A: Effective January 15, 1990 intimidation because of sexual orientation is illegal (Bill No. 32-89).

Effective February 15, 1990 intimidation because of handicap is illegal (Emergency Bill No. 1-90).

Sec. 27-26B: Effective February 15, 1990 the minimum civil liability to victims of certain property damages is increased to \$2,000 or a higher amount of actual damages, including damages for humiliation, embarrassment and emotional distress; the Anti-Hate/Violence Fund is extended (Emergency Bill 1-90).

Sec. 27-26F(d): The maximum compensation from the Partnership Fund to victims of property damage is increased to \$2,000 per incident, with a maximum of \$5,000 to a victim in a 12-month period (Bill No. 10-90).

Sec. 27-26F(h): The sunset provision of the Partnership Fund is eliminated (Bill No. 10-90).

Secs. 27-11, et. seq.: Effective June 27, 1991 source of income discrimination becomes an unlawful housing practice.

Genetic Status
(Employment)

Became effective March 21, 2001

Bill 36-99 Rewrote the Statute

Became effective August 13, 2001

Family Responsibilities
(Commercial & Residential Real Estate and Employment)

Became effective July 23, 2004

Predatory Lending (Real Estate)

Becomes effective March 8, 2006

MEMORANDUM

March 9, 2006

TO: Odessa Shannon, Executive Director
Office of Human Rights

FROM: Sue Richards, Program Evaluator
Office of Legislative Oversight

SUBJECT: Request for Information

Thank you for taking the time last week to discuss the drafts of OLO's chapters related to our FY06 assignment from the Council to conduct a base budget review of the Office of Human Rights. We greatly appreciate the high level of cooperation that you and your staff have demonstrated throughout our study period.

This memo follows up on our agreement that you will write a written response that outlines the actions you took as Executive Director of the Office of Human Rights to respond to issues raised in an OLO Report 94-2, *The Montgomery County Human Relations Commission*, which was released in February 1994. My intent is to include both this memo and your response in the Appendix of OLO's base budget report.

Attached is a summary of the issues identified in OLO Report 94-2, *The Montgomery County Human Relations Commission*. As we discussed, for each issue listed, it would be helpful if you could describe the specific actions you took and the results of those actions. In addition, I would appreciate your assessment of the extent to which specific issues have been fully resolved and which issues continue to be of concern today.

So that your memo can be understood as a stand-alone document, I recommend that you reference the number and first sentence of each issue in your written response. If you have an alternative suggestion for organizing your response, just let me know.

Please call me if you have any questions or concerns about how we are proceeding. I would appreciate your response by Monday, March 20.

Summary of Issues Identified in OLO Report 94-2,
The Montgomery County Human Relations Commission

On February 22, 1994, the County Council released OLO Report 94-2, *The Montgomery County Human Relations Commission*. The timing of this study, which identified numerous problems, coincided with the arrival of the current Executive Director, who accepted her position at that time on a “temporary” basis in 1994. Subsequently, the Executive Director received a permanent appointment. As she implemented a series of management improvements, she used OLO Report 94-2 as a blueprint for change. Below is the list of issues identified in OLO Report 94-2. The title of each issue is lifted directly from the text of the report. The discussion that follows summarizes the highlights of the more extensive discussion found in the report.

Issue #1. A Lack of Consensus on the Commission of its Immediate Objectives and Long Term Goals.

In 1994, OLO Report 94-2 stated that “in recent years, the Commission on Human Relations had not developed or articulated a set of near or long-term objectives and goals. OLO also reported that, under new leadership, the newly appointed Chairman of the Commission had appointed a committee to formulate a set of annual goals.

Issue #2. Open discord between a majority of the Commission members and management of the Office of the Human Relations Commission.

In 1994, OLO Report 94-2 characterized the relationship between a majority of the Commission and OHRC management as “strained and characterized by a lack of cooperation and a dearth in meaningful communication.” OLO reported that the situation had several unfortunate consequences: an almost total cessation of new program initiation; an unusually high number of resignations by both Commission and Commission panel members, confusion and declining morale within the Commission staff, and an absence of vitality in the Human Relations Commission.

At that time, OLO reported that differences between the Commission and the Executive Director of the Commission were not new and that a review of opinions issued by the County Attorney showed that the County Attorney periodically intervened to address the respective duties and authority of the two entities. OLO also reported that the differences became more strident and more public beginning in the mid-1980s.

In the 1994 study, OLO detailed five examples of actions and occurrences that contributed to the current discord. They were:

- Disagreement over the authority of the Commission to oversee and evaluate the activities of OHRC staff;
- Elimination by the Executive Director of staff support at the monthly Commission meetings;

- A proposal by the Executive Director to separate the activities of the OHRC staff from those of the Commission;
- A suggestion by the Executive Director to eliminate all Commission panels;
- Differing interpretations concerning a Commission Panel's authority to make a reasonable cause finding after the Executive Director has determined there is no reasonable basis for concluding discrimination occurred.

Issue #3. Overemphasis on the Independence of the Office of the Human Relations Commission.

In 1994, OLO Report 94-2 stated that the establishment of an Office of the Human Relations Commission, created as a result of 1986 legislation that officially designated supporting staff as "offices," generated a mind set and operational attitude on the part of OHRC management that the Office of the Human Relations Commission is totally independent of, and not accountable to the Commission. OLO also reported that the disagreements between the Commission and Executive Director were exacerbated by management's overemphasis on an independent office isolated from the Commission.

Issue #4. Existence of an Unauthorized Camp Fund.

In 1994, OLO reported that cash contributions to a Montgomery County Human Relations Camp Fund paid for the transportation, food and camp rental for the Human Relations Camp held two times a year. OLO also reported that OHRC estimated that four members of the Community Relations Section contributed 0.3 workyears to plan and prepare for the two camp sessions.

Issue #5. Inordinate Backlog of Unresolved Complaint Cases.

In 1994, OLO found that OHRC had a backlog of several hundred cases. An OHRC analysis to address whether the program could be performed more efficiently found that "with the current staffing pattern, the [OHRC] programs could not be performed in a better, more efficient way." In OLO's opinion at that time, "a lack of innovative management, coupled with the absence of formal written performance standards, [has] contributed to the inordinate large backlog of unresolved complaint cases." OLO suggested a variety of management improvements to reduce the average time to investigate a complaint, such as:

- Replacing an investigator with an OHRC administrative employee to receive the initial intake call;
- Reinstating a fact finding conference in cases where the changes of a predetermined settlement appear favorable;
- Expediting the introduction and use of word processing;
- Installing voice mail on the investigators' phones;
- Considering the reallocation of clerical and professional personnel;
- Increasing the use of volunteers;

- Establishing decision points in the investigative step of the complaint process;
- Developing an evaluation questionnaire; and
- Establishing required performance standards for investigators.

Issue #6. Minimal Oversight of OHRC Management and Staff.

In 1994, OLO found “no person or entity is exercising effective oversight of OHRC management; and there is only minimal oversight by OHRC management of OHRC staff.” At that time, OLO identified the following indications of the lack of oversight: no employee performance evaluations; management’s lack of concern over the backlog of complaint cases; HRC regulations not subject to Council approval and review; existence of an unauthorized fund; failure to publish an annual report; and low employee morale.

Issue #7. Low Employee Morale.

In 1994, OLO reported employee morale was at an all time low due to factors such as employees working out of class; intra-office conflict; and the confusion over the staff relationship with the Commission.

Issue #8. Unorganized and Out of Date Human Relations Legislation.

In 1994, OLO identified the need for a complete revision and rewrite of the County’s human relations legislation. Some of the shortcomings OLO identified included omission in the statement of public policy; qualifications for membership on the Commission; specifying the relationship between the Commission and the Executive Director; a multiplicity of hearing options; action by the Commission to an appeal of the decision by the Executive Director of “no reasonable grounds,” compensation; real estate reporting; and a change of words in the codified version of the law.

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**RESPONSES FROM THE DIRECTOR OF THE OFFICE OF HUMAN RIGHTS
TO ISSUES RAISED IN OLO REPORT 94-2
(March 2006)**

Summary of Issues Identified in OLO Report 94-2,
The Montgomery County Human Relations Commission

On February 22, 1994, the County Council released OLO Report 94-2, *The Montgomery County Human Relations Commission*. The timing of this study, which identified numerous problems, coincided with the arrival of the current Executive Director, who accepted her position at that time on a “temporary” basis in 1994. Subsequently, the Executive Director received a permanent appointment. As she implemented a series of management improvements, she used OLO Report 94-2 as a blueprint for change. Below is the list of issues identified in OLO Report 94-2. The title of each issue is lifted directly from the text of the report. The discussion that follows summarizes the highlights of the more extensive discussion found in the report.

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In 1994, OLO Report 94-2 stated that “in recent years, the Commission on Human Relations had not developed or articulated a set of near or long-term objectives and goals.” OLO also reported that, under new leadership, the newly appointed Chairman of the Commission had appointed a committee to formulate a set of annual goals.

Director’s Response

Each year the Commission on Human Rights has held a retreat, generally led by a facilitator, at which time goals are established for the coming year. The agenda is set by the Chair, and often includes training on the laws, provided by the Compliance Director.

The Office of Human Rights, separated from the Commission in 2001, has an annual retreat at which a review of the accomplishments of the past year and plans for the coming year are discussed. Individual accomplishments are recognized with awards, including a Director’s award for contributions to the agency over and above work requirements. The Office also has a long-term strategic plan reviewed annually.

Issue #2. Open discord between a majority of the Commission members and management of the Office of the Human Relations Commission.

In 1994, OLO Report 94-2 characterized the relationship between a majority of the Commission and OHRC management as “strained and characterized by a lack of cooperation and a dearth in meaningful communication.” OLO reported that the situation had several unfortunate consequences: an almost total cessation of new program initiation; an unusually high number of resignations by both Commission and

Commission panel members, confusion and declining morale within the Commission staff, and an absence of vitality in the Human Relations Commission.

At that time, OLO reported that differences between the Commission and the Executive Director of the Commission were not new and that a review of opinions issued by the County Attorney showed that the County Attorney periodically intervened to address the respective duties and authority of the two entities. OLO also reported that the differences became more strident and more public beginning in the mid-1980s.

In the 1994 study, OLO detailed five examples of actions and occurrences that contributed to the current discord. They were:

- Disagreement over the authority of the Commission to oversee and evaluate the activities of OHRC staff;
- Elimination by the Executive Director of staff support at the monthly Commission meetings;
- A proposal by the Executive Director to separate the activities of the OHRC staff from those of the Commission;
- A suggestion by the Executive Director to eliminate all Commission panels;
- Differing interpretations concerning a Commission Panel's authority to make a reasonable cause finding after the Executive Director has determined there is no reasonable basis for concluding discrimination occurred.

Director's Response

Different personalities, agendas and expectations sometimes cause tensions between the Commission and the Office. The Office of Human Rights was separated from the Commission by law in 2001, with the duties and responsibilities of both the Office and the Commission clearly outlined. Although this separation should have addressed most of the issues in the 1994 report, there have been, on occasion, still some differences in expectations of staff responsibilities and support, and reluctance on the part of Commissioners to initiate projects.

The roles and responsibilities of the Commissioners are explained to applicants during the interview process. However, the appointments are the Executive's and substitutes are made with persons who were not recommended by the interviewers.

Panels were eliminated when the new law created the Case Review Board, consisting of 3 Commissioners, to act as the appeal board. The presence of the Case Review Board (CRB), has at times created some tensions with staff, who have to answer many questions they feel have already been addressed in the file, delaying work on current cases. The CRB on some occasions has asked for an attorney to sit with them because they felt the need for legal advice. It should be noted that there have been no formal reversals of the original decisions in public hearings, even in the Circuit Court, and most have been settled before hearing.

By law, Commissioners are supposed to rotate on the CRB, and there has been rotation when the term of a Commissioner on the CRB expired.

There have been several turnovers of Commissioners and Chairs since I assumed this position. The tone of the meetings is set by the Chair of the Commission, also impacting on the relationship with staff. At each meeting, I personally suggest projects. Unfortunately, I was away for several months recuperating from spinal surgery, and was therefore unable to make additional suggestions. Recently 5 new Commissioners and a new Chair have been installed. I am optimistic, based on these meetings, that this will be an involved and active Commission.

I do believe that the Commission needs at least a .50 dedicated staff to perform the kind of research they are required to do by law. The staff support given by the Office is the administrative support required to be given by the rules and regulations for staff support for boards and commissions. Commissioners complain that they are volunteers and do not have the time to put into large projects. Staff assigned have other duties and cannot provide such support on an on-going basis, although always available to assist with logistics, etc.

Issue #3. Overemphasis on the Independence of the Office of the Human Relations Commission.

In 1994, OLO Report 94-2 stated that the establishment of an Office of the Human Relations Commission, created as a result of 1986 legislation that officially designated supporting staff as “offices,” generated a mind set and operational attitude on the part of OHRC management that the Office of the Human Relations Commission is totally independent of, and not accountable to the Commission. OLO also reported that the disagreements between the Commission and Executive Director were exacerbated by management’s overemphasis on an independent office isolated from the Commission.

Director’s Response

The Office of Human Rights was separated from the Commission by law in 2000, implemented in 2001, and is accountable to the Chief Administrative Officer, as was always the case. The Office of Human Rights was never accountable to the Commission, as confirmed by County Attorney opinion.

Issue #4. Existence of an Unauthorized Camp Fund.

In 1994, OLO reported that cash contributions to a Montgomery County Human Relations Camp Fund paid for the transportation, food and camp rental for the Human Relations Camp held two times a year. OLO also reported that OHRC estimated that four members of the Community Relations Section contributed 0.3 workyears to plan and prepare for the two camp sessions.

Director's Response

The fund, which was approved by OMB at the time, was eliminated. The camp is now part of the operating budget.

Issue #5. Inordinate Backlog of Unresolved Complaint Cases.

In 1994, OLO found that OHRC had a backlog of several hundred cases. An OHRC analysis to address whether the program could be performed more efficiently found that “with the current staffing pattern, the [OHRC] programs could not be performed in a better, more efficient way.” In OLO’s opinion at that time, “a lack of innovative management, coupled with the absence of formal written performance standards, [has] contributed to the inordinate large backlog of unresolved complaint cases.” OLO suggested a variety of management improvements to reduce the average time to investigate a complaint, such as:

- Replacing an investigator with an OHRC administrative employee to receive the initial intake call;
- Reinstating a fact finding conference in cases where the changes of a predetermined settlement appear favorable;
- Expediting the introduction and use of word processing;
- Installing voice mail on the investigators’ phones;
- Considering the reallocation of clerical and professional personnel;
- Increasing the use of volunteers;
- Establishing decision points in the investigative step of the complaint process;
- Developing an evaluation questionnaire; and
- Establishing required performance standards for investigators.

Director's Response

- *An Intake officer was authorized in the budget and conducts the first interview. Intake is an investigative function and cannot be assigned to an administrative employee.*
- *Fact finding has always been an option for the investigator. If the investigator feels that this step will expedite the process, he/she will use it. We have a very successful Mediation program, with about a 50% success rate. Mediators are volunteers from the bar association and other qualified individuals.*
- *The entire investigative process was automated. We also have a computer tracking system to identify the status of all cases. The huge backlog has been eliminated. The inventory is no more than what should be expected.*
- *All employees have been equipped with computers.*

- *All telephones are equipped with voice mail.*
- *Volunteers are an on-going part of our operation, those who come into the office and those who are on standby, such as the Network of Neighbors. We also have an agreement with the schools that allows students to earn community service credits while working in the Office.*
- *Decision points were established at intake and charging party's rebuttal. Investigators are always tuned into points at which settlements are possible, or a case should be closed. Each case is different, requiring a judgment call by the investigator...*
- *We depend on voluntary feedback to let us know how we are doing. Because of our mission, one party is usually unhappy. However, our successful mediation program has provided settlements for a significant number of complaints. We have, incidentally, received commendations from complainants and from respondent attorneys who have commented on the professionalism of the staff and quality of work.*

As for the work itself, all cases go through three levels of review, and all dual-filed employment cases (the majority of the workload) are submitted for review to EEOC. We have a 100% acceptance rate. The County Attorney, and the Hearing Examiner, involved in some appeals, have also commented on the excellent quality of the cases.

- *Every employee has a performance plan and is evaluated formally once a year. In addition, there is ongoing and continuous dialogue about performance on a daily or as needed basis. This includes positive as well as negative feedback.*

Issue #6. Minimal Oversight of OHRC Management and Staff.

In 1994, OLO found "no person or entity is exercising effective oversight of OHRC management; and there is only minimal oversight by OHRC management of OHRC staff." At that time, OLO identified the following indications of the lack of oversight: no employee performance evaluations; management's lack of concern over the backlog of complaint cases; HRC regulations not subject to Council approval and review; existence of an unauthorized fund; failure to publish an annual report; and low employee morale.

Director's Response

The first 4 issues have been responded to above. Annual reports have been produced. An additional investigator was added. Employee morale is high.

Issue #7. Low Employee Morale.

In 1994, OLO reported employee morale was at an all time low due to factors such as employees working out of class; intra-office conflict; and the confusion over the staff relationship with the Commission.

Director's Response

I am proud to state that employee morale is high. This is a great staff, working as a team, and willing to do whatever it takes to make every effort successful.

Issue #8. Unorganized and Out of Date Human Relations Legislation.

In 1994, OLO identified the need for a complete revision and rewrite of the County's human relations legislation. Some of the shortcomings OLO identified included omission in the statement of public policy; qualifications for membership on the Commission; specifying the relationship between the Commission and the Executive Director; a multiplicity of hearing options; action by the Commission to an appeal of the decision by the Executive Director of "no reasonable grounds," compensation; real estate reporting; and a change of words in the codified version of the law.

Director's Response

The law was completely revised and approved by the County Council in 2001, after a year of discussion and revision..

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STATISTICAL REPORT

FY 1998

1. Number of persons interviewed during the fiscal year		9218
2. Number of complaints docketed in	Employment	200
	Housing	23
	PA	45
	TOTAL	268
3. Number of complaints closed in	Employment	277
	Housing	20
	PA	26
	TOTAL	323
4. Dollar relief obtained in	Employment	\$253,713.18
	Housing	\$480.00
	PA	\$7,798.00
	TOTAL	\$261,991.18
5. Public Hearings held in FY 1997		0
6. Total Active Cases as of June 30, 1998		448

Complaints Closed

	Employment	Real Estate	Public Accommodation
No Reasonable Grounds	174	10	11
Reasonable Grounds	6	0	1
Withdrawal with Settlement	26	5	5
Pre-Determination Settlement	13	0	5
Complaint Withdrawn	11	2	1
Administrative Closure	47	3	3
TOTALS 323	277	20	26

BASES FOR COMPLAINTS FILED IN FY 1998*

	Employment	Real Estate	Public Accommodation	Totals
Race	74	8	29	111
Color	0	1	1	2
Sex	60	0	4	64
Sexual Orientation	8	0	0	8
Age	22	0	0	22
Ancestry	12	2	2	16
National Origin	31	3	3	39
Religious Creed	7	0	1	8
Mental Handicap	11	2	1	14
Physical Handicap	29	10	6	45
Marital Status	0	1	0	1
Presence of Children	0	2	0	2
Source of Income	0	3	0	3
Retaliation	47	0	1	48
TOTALS	301	34	48	383

*Totals may exceed number of complaints filed as complaints may be filed on more than one basis.

MONTGOMERY COUNTY HUMAN RELATIONS COMMISSION
EXECUTIVE DIRECTOR'S STATISTICAL REPORT

FISCAL YEAR 1999

1. Number of personal contacts (via phone or in person) during the month		9,209
2. Number of complaints docketed in	Employment	196
	Housing	22
	PA	31
	TOTAL	249
3. Number of complaints closed in	Employment	284
	Housing	30
	PA	49
	TOTAL	363
4. Dollar relief obtained in	Employment	\$326,988.54
	Housing	\$16,564.35
	PA	\$264,430.00
	TOTAL	\$607,982.89
5. Total Active Cases as of June 30, 1999		331
6. Public Hearings during FY2000		1
7. Housing Units obtained during FY2000		1
9. Cases Awaiting Panel Review as of June 30, 1999 (Employment = 11) (Housing = 1) (Public Accommodation = 0)		12

Complaints Closed

	Employment	Real Estate	Public Accommodation
No Reasonable Grounds	189	20	32
Reasonable Grounds	5	3	2
Withdrawal with Settlement	30	3	8
Pre-Determination Settlement	14	1	5
Complaint Withdrawn	12	0	1
Administrative Closure	34	3	1
TOTALS 363	284	30	49

EXECUTIVE DIRECTOR'S STATISTICAL REPORT

Page 2

BASES FOR COMPLAINTS FILED IN FISCAL YEAR 1999*

	Employment	Real Estate	Public Accommodation	Totals
Race	86	7	20	113
Color	0	0	1	1
Sex	65	1	2	68
Sexual Orientation	5	0	0	5
Age	24	1	0	25
Ancestry	7	2	1	10
National Origin	25	4	3	32
Religious Creed	5	1	0	6
Mental Handicap	6	1	2	9
Physical Handicap	13	2	6	21
Marital Status	3	0	0	3
Presence of Children	0	2	0	2
Source of Income	0	7	0	7
Retaliation	45	2	0	47
TOTALS	284	30	35	349

*Totals may exceed number of complaints filed as complaints may be filed on more than one basis.

MONTGOMERY COUNTY HUMAN RELATIONS COMMISSION
EXECUTIVE DIRECTOR'S STATISTICAL REPORT

FISCAL YEAR 2000

1. Number of personal contacts (via phone or in person) during the fiscal year		9078
2. Number of complaints docketed in	Employment	191
	Housing	26
	PA	33
	TOTAL	250
3. Number of complaints closed in	Employment	221
	Housing	21
	PA	42
	TOTAL	284
4. Dollar relief obtained in	Employment	\$640,316.41
	Housing	\$9,144.70
	PA	\$59,050.00
	TOTAL	\$708,511.11
5. Total Active Cases as of June 30, 2000		300
6. Public Hearings during FY2000		3
7. Housing Units obtained during FY2000		1
9. Cases Awaiting Panel Review as of June 30, 2000 (Employment = 8) (Housing = 1) (Public Accommodation = 3)		12

Complaints Closed

	Employment	Real Estate	Public Accommodation
No Reasonable Grounds	131	11	26
Reasonable Grounds	2	1	1
Withdrawal with Settlement	32	4	4
Pre-Determination Settlement	11	5	4
Complaint Withdrawn	5	0	1
Administrative Closure	40	0	6
TOTALS 284	221	21	42

MONTGOMERY COUNTY HUMAN RELATIONS COMMISSION
EXECUTIVE DIRECTOR'S STATISTICAL REPORT

Page 2

BASES FOR COMPLAINTS FILED IN FISCAL YEAR 2000*

	Employment	Real Estate	Public Accommodation	Totals
Race	77	9	18	104
Color	0	0	0	0
Sex	63	1	3	67
Sexual Orientation	1	0	0	1
Age	20	0	0	20
Ancestry	10	5	1	16
National Origin	44	3	5	52
Religious Creed	4	2	0	6
Mental Handicap	3	1	1	5
Physical Handicap	19	3	8	30
Marital Status	0	0	0	0
Presence of Children	0	5	0	5
Source of Income	0	9	0	9
Retaliation	54	3	0	57
TOTALS	295	41	36	372

*Totals may exceed number of complaints filed as complaints may be filed on more than one basis.

MONTGOMERY COUNTY OFFICE HUMAN RIGHTS
EXECUTIVE DIRECTOR'S STATISTICAL REPORT

FISCAL YEAR 2001

1. Number of personal contacts (via phone or in person) during the fiscal year		9043
2. Number of complaints docketed in	Employment	144
	Housing	27
	PA	28
	TOTAL	199
3. Number of complaints closed in	Employment	171
	Housing	25
	PA	25
	TOTAL	221
4. Dollar relief obtained in	Employment	\$410,515.22
	Housing	\$5,160.00
	PA	\$1,510.49
	TOTAL	\$417,185.71
5. Total Active Cases as of June 30, 2001		278
6. Public Hearings during FY2001		2
7. Housing Units obtained during FY2001		0
9. Cases Awaiting Panel Review as of June 30, 2001 (Employment = 5) (Housing = 1) (Public Accommodation = 2)		8

Complaints Closed

	Employment	Real Estate	Public Accommodation
No Reasonable Grounds	85....	13	11
Reasonable Grounds	4	1	1
Withdrawal with Settlement	27	5	6
Pre-Determination Settlement	12	3	2
Complaint Withdrawn	9	0	1
Administrative Closure	34	3	4
TOTALS	171	25	25

MONTGOMERY COUNTY OFFICE OF HUMAN RIGHTS
EXECUTIVE DIRECTOR'S STATISTICAL REPORT

Page 2

BASES FOR COMPLAINTS FILED IN FISCAL YEAR 2001

	Employment	Real Estate	Public Accommodation	Totals
Race	50	10	13	73
Color	3	1	1	5
Sex	44	0	6	50
Sexual Orientation	5	1	0	6
Age	25	1	0	26
Ancestry	2	0	4	6
National Origin	21	2	3	26
Religious Creed	3	1	1	5
Mental Disability	4	3	2	9
Physical Disability	19	6	3	28
Marital Status	1	1	0	2
Presence of Children	0	2	0	2
Source of Income	0	9	0	9
Retaliation	43	2	0	45
TOTALS	220	39	33	292

*Totals may exceed number of complaints filed as complaints may be filed on more than one basis.

EXECUTIVE DIRECTOR'S STATISTICAL REPORT

FISCAL YEAR 2002

1. Number of personal contacts (via phone or in person) during the month	8,875	
2. Number of complaints docketed in	Employment	190
	Real Estate/Housing	33
	Public Accommodation	30
	Intimidation	0
	TOTAL	253
3. Number of complaints closed in	Employment	155
	Real Estate/Housing	34
	Public Accommodation	36
	Intimidation	1
	TOTAL	226
4. Dollar relief obtained in	Employment	\$504,482.91
	Housing	\$2,100.00
	PA	\$41,350.00
	Intimidation	\$0.00
	TOTAL	\$547,932.91
5. Total Active Cases as of June 30, 2002	310	
6. Public Hearings	2	
7. Housing Units obtained	4	
8. Cases Awaiting Review as of June 30, 2002		
Panel: (Emp.=1) (REH=1) (PA=1) (Intim.= 0)	3	
Case Review Board: (Emp.=5) (REH=0) (PA=1) (Intim.=0)	6	
TOTAL	9	

COMPLAINTS CLOSED

	Employment	Real Estate/ Housing	Public Accommodation	Intimidation
No Reasonable Grounds	86	6	14	1
Reasonable Grounds	3	0	1	0
Withdrawal with Settlement	20	10	2	0
Pre-Determination	5	5	4	0
Complaint Withdrawn	4	3	1	0
Administrative Closure	28	2	7	0
Termination of Investigation	9	8	7	0
TOTALS = 226	155	34	36	1

EXECUTIVE DIRECTOR'S STATISTICAL REPORT

Page 2

BASES FOR COMPLAINTS FILED IN FISCAL YEAR 2002*

	Employment	Real Estate	Public Accommodation	Intimidation	Totals
Race	59	7	20	0	86
Color	2	0	1	0	3
Sex	69	0	2	0	71
Sexual Orientation	6	0	0	0	6
Age	16	0	0	0	16
Ancestry	12	1	2	0	15
National Origin	12	2	5	0	19
Religious Creed	4	1	1	0	6
Mental Disability	2	3	2	0	7
Physical Disability	17	5	3	0	25
Marital Status	0	0	0	0	0
Presence of Children	0	1	0	0	1
Source of Income	0	5	0	0	5
Retaliation	58	1	3	0	62
TOTALS	257	26	39	0	322

*Totals may exceed number of complaints filed as complaints may be filed on more than one basis.

**EXECUTIVE DIRECTOR'S STATISTICAL REPORT
FISCAL YEAR 2003**

1. Number of personal contacts (via phone or in person) during the month		8772
2. Number of complaints docketed in	Employment	183
	Real Estate/Housing	21
	Public Accommodation	20
	Intimidation	1
	TOTAL	224
3. Number of complaints accepted but not filed	Employment	76
	Real Estate/Housing	11
	Public Accommodation	14
	Intimidation	0
	TOTAL	101
4. Number of complaints closed in	Employment	204
	Real Estate/Housing	24
	Public Accommodation	31
	Intimidation	0
	TOTAL	259
5. Dollar relief obtained in	Employment	\$441,095.93
	Real Estate/Housing	\$2111.00
	Public Accommodation	\$7,610.00
	Intimidation	\$0.00
	TOTAL	\$450,816.93
6. Total Active Cases as of June 30, 2003		275
7. Public Hearings		1
8. Housing Units obtained		1
9. Cases Awaiting Panel Review (Emp.=1) (REH=1) (PA=1) (Intim.=0) = Cases Awaiting Case Review Board Review		3
(Emp.=2) (REH=0) (PA=0) (Intim.=0) =		2
	(as of June 30, 2003)	Total =5

COMPLAINTS CLOSED

	Employment	Real Estate/Housing	Public Accommodation	Intimidation
No Reasonable Grounds	95	10	10	0
Reasonable Grounds	7	0	2	0
Withdrawal with Settlement	31	2	3	0
Pre-Determination Settlement	14	2	3	0
Complaint Withdrawn	15	2	0	0
Administrative Closure	11	2	3	0
Termination of Investigation	31	6	10	0
TOTALS = 259	204	24	31	0

EXECUTIVE DIRECTOR'S STATISTICAL REPORT

Page 2

BASES FOR COMPLAINTS FILED IN FISCAL YEAR 2003*

	Employment	Real Estate	Public Accommodation	Intimidation	Totals
Race	48	7	14	1	70
Color	3	1	0	0	4
Sex	55	0	4	0	59
Sexual Orientation	1	1	0	0	2
Age	151	0	0	0	15
Ancestry	21	0	2	0	23
National Origin	22	3	4	0	29
Religious Creed	2	0	0	0	2
Mental Disability	5	0	0	0	5
Physical Disability	23	3	4	0	30
Marital Status	0	1	0	0	1
Presence of Children	0	2	0	0	2
Source of Income	0	77	0	0	7
Retaliation	67	1	1	0	69
TOTALS	262	26	29	1	318

*Totals may exceed number of complaints filed as complaints may be filed on more than one basis.

EXECUTIVE DIRECTOR'S STATISTICAL REPORT

FY 2004

1. Number of personal contacts (via phone or in person) during the month	8741	
2. Number of complaints docketed in	Employment	183
	Real Estate/Housing	16
	Public Accommodation	48
	Intimidation	0
	TOTAL	247
3. Number of complaints accepted but not filed	Employment	73
	Real Estate/Housing	9
	Public Accommodation	7
	Intimidation	0
	TOTAL	89
4. Number of complaints closed in	Employment	189
	Real Estate/Housing	16
	Public Accommodation	28
	Intimidation	1
	TOTAL	234
5. Dollar relief obtained in	Employment	\$817,504.29
	Real Estate/Housing	\$250.00
	Public Accommodation	\$9,210.00
	Intimidation	\$0.00
	TOTAL	\$827,044.29
6. Total Active Cases as of June 30, 2004	316	
7. Public Hearings	1	
8. Housing Units obtained	0	
9. Cases Awaiting Panel Review (Emp. = 2) (REH = 0) (PA = 1) (Intim.=0) = Cases Awaiting Case Review Board Review (as of June 30, 2004) (Emp. = 2) (REH = 0) (PA = 0) (Intim.= 0) =	3	
	2	
	Total =5	

COMPLAINTS CLOSED

	Employment	Real Estate/Housing	Public Accommodation	Intimidation
No Reasonable Grounds	63	6	4	1
Reasonable Grounds	4	0	0	0
Withdrawal with Settlement	35	2	3	0
Pre-Determination Settlement	13	2	4	0
Complaint Withdrawn	9	2	2	0
Administrative Closure	14	2	3	0
Termination of Investigation	51	2	12	0
TOTALS = 234	189	16	28	1

EXECUTIVE DIRECTOR'S STATISTICAL REPORT

Page 2

BASES FOR COMPLAINTS FILED IN FY 2004*

	Employment	Real Estate	Public Accommodation	Intimidation	Totals
Race	68	3	12	0	83
Color	2	0	0	0	2
Sex	60	1	25	0	86
Sexual Orientation	4	1	1	0	6
Age	44	1	2	0	47
Ancestry	2	2	1	0	15
National Origin	25	0	3	0	28
Religious Creed	13	0	0	0	13
Mental Disability	0	0	1	0	0
Physical Disability	37	8	4	0	49
Marital Status	1	0	0	0	1
Presence of Children	0	2	0	0	2
Source of Income	0	6	0	0	6
Retaliation	61	3	2	0	66
TOTALS	327	27	51	0	405

*Totals may exceed number of complaints filed as complaints may be filed on more than one basis.

**MONTGOMERY COUNTY OFFICE OF HUMAN RIGHTS
EXECUTIVE DIRECTOR'S STATISTICAL REPORT
FISCAL YEAR 2005**

1. Number of personal contacts (via phone or in person) during the month		8,609
2. Number of complaints docketed in	Employment	139
	Real Estate/Housing	5
	Public Accommodation	16
	Intimidation	6
	TOTAL	166
3. Number of complaints accepted but not filed	Employment	41
	Real Estate/Housing	13
	Public Accommodation	2
	Intimidation	0
	TOTAL	56
4. Number of complaints closed in	Employment	184
	Real Estate/Housing	16
	Public Accommodation	31
	Intimidation	6
	TOTAL	237
5. Dollar relief obtained in	Employment	\$262,557.20
	Real Estate/Housing	\$1,300.00
	Public Accommodation	\$7,036.00
	Intimidation	\$0.00
	TOTAL	\$270,893.20
6. Total Active Cases as of June 30, 2005		252
7. Public Hearings		0
8. Housing Units obtained		0
9. Cases Awaiting Panel Review (Emp. = 2) (REH = 0) (PA = 0) (Intim.=0) = Cases Awaiting Case Review Board Review (as of June 30, 2005) (Emp. = 7) (REH = 1) (PA = 1) (Intim.= 0) =		2
		9
	Total =	11

COMPLAINTS CLOSED

	Employment	Real Estate/Housing	Public Accommodation	Intimidation
No Reasonable Grounds	48	6	7	0
Reasonable Grounds	4	2	0	0
Withdrawal with Settlement	33	0	0	0
Pre-Determination Settlement	7	3	6	0
Complaint Withdrawn	4	0	2	0
Administrative Closure	22	0	9	6
Termination of Investigation	66	5	7	0
TOTALS = 237	184	16	31	6

**MONTGOMERY COUNTY OFFICE OF HUMAN RIGHTS
EXECUTIVE DIRECTOR'S STATISTICAL REPORT
BASES FOR COMPLAINTS FILED IN FISCAL YEAR 2005**

Page 2

	Employment	Real Estate	Public Accommodation	Intimidation	TOTALS
Race	51	0	8	6	65
Color	6	0	2	0	8
Sex	38	0	3	0	41
Sexual Orientation	7	0	0	0	7
Age	13	0	0	0	13
Ancestry	12	0	0	6	18
National Origin	17	1	0	6	24
Religious Creed	6	0	0	0	6
Mental Disability	0	0	0	0	0
Physical Disability	25	2	3	0	30
Marital Status	3	0	0	0	3
Presence of Children	0	0	0	0	0
Source of Income	0	1	0	0	1
Family Responsibilities	2	0	0	0	2
Retaliation	44	1	0	0	45
TOTALS	224	5	16	18	263

*Totals may exceed number of complaints filed, as complaints may be filed on more than one basis.

COMBINED DATA FROM EXECUTIVE DIRECTOR'S STATISTICAL REPORTS,
FY98-FY05

DISCRIMINATION COMPLAINT TYPES, FY98-FY05

FY98-FY05 COMBINED	EMPLOYMENT	REAL ESTATE	PUBLIC ACCOMMODATIONS	INTIMIDATION	TOTAL
COMPLAINTS FILED	1426	173	251	7	1857

DISCRIMINATION COMPLAINT BASES, FY98-FY05

FY98-FY05 COMBINED	EMPLOYMENT	REAL ESTATE	PUBLIC ACCOMMODATIONS	INTIMIDATION	TOTAL
Race	513	51	134	7	705
Sex	454	3	49	0	506
Retaliation	419	13	7	0	439
Physical Disability	182	39	37	0	258
National Origin	197	18	26	6	247
Age	179	3	2	0	184
Ancestry	78	12	13	6	109
Religion	44	5	3	0	52
Mental Disability	31	10	9	0	50
Source of Income	0	47	0	0	47
Sexual Orientation	37	3	1	0	41
Color	16	3	6	0	25
Presence of Children	0	16	0	0	16
Marital Status	8	3	0	0	11
Family Responsibility	2				2
TOTAL	2160	226	287	19	2692

OFFICE OF HUMAN RIGHTS COMPLIANCE DIRECTOR TRAINING SESSIONS, FY05

Date	Event	Participants (approximately)
7/29/2004	MCPD Sex Harassment	50
8/4/2004	Weichert Real Estate	35
9/16/2004	Rockville Rotary	20
10/14/2004	International Personnel Management Assoc.	25
10/18/2004	HHS/Addiction Prevention	50
10/19/2004	RIMSI Corp.	20
10/20/2004	Weichert Real Estate	35
12/2/2004	Greater Capitol Area Association of Realtors®	100
12/15/2004	Greater Capitol Area Association of Realtors®	100
12/20/2004	Weichert Real Estate	35
1/13/2005	MC Bar Assoc./Emp.	20
1/27/2005	MCPD Sex Harassment	37
3/01/2005	Montgomery County African American Employees Association	50
2/24/2005	Equity Residential	25
2/25/2005	Equity Residential	25
3/08/2005	Greater Capitol Area Association of Realtors®	100
3/10/2005	Equity Residential	25
3/11/2005	Equity Residential	25
4/21/2005	Greater Capitol Area Association of Realtors®/Prop. Mgmt.	15
5/13/2005	Greater Capitol Area Association of Realtors®	100
5/16/2005	Habitat for Humanity	15
5/26/2005	Paley, Rothman, et. al.	30
2/3/2005	Community Use of Public Facilities	20
5/4/2005	Leadership Conference on Civil Rights	500 (networking)
6/27/2005	Montgomery County Commission on Human Rights (Commissioner training at annual retreat)	15



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

Douglas M. Duncan
County Executive

Elizabeth B. Davison
Director

MEMORANDUM

December 16, 2005

TO: Odessa Shannon, Executive Director
Office of Human Rights

FROM: *EBD* Elizabeth B. Davison, Director
Department of Housing and Community Affairs

SUBJECT: Memorandum of Agreement Between the Department of Housing and
Community Affairs (DHCA) and the Office of Human Rights (OHR)
2006 HOME; Fair Housing Activities

The Department of Housing and Community Affairs (DHCA) is hereby making \$40,000 in grant funds available from the HOME Investment Partnership Program to the Office of Human Rights to continue addressing fair housing issues.

All activities and programs will expire when the work is completed or on November 30, 2006, whichever date comes first.

Parameters for fair housing activities are fully described in Attachment I. This information will be used to monitor and measure performance of the individual activities. OHR will assume responsibility for paying all costs associated with these activities over and above the HOME amounts.

Requests for payment will be authorized by OHR's designated person before transmittal to DHCA. DHCA will then prepare the ADPICS document before transmittal to the Finance Department.

Attachment I specifies the budget and the respective contact persons for implementing this agreement, and special conditions required to be met. In order to ensure that they meet federal regulations, any contracts and subcontracts, or amendments to any contracts or subcontracts negotiated under this Memorandum of Understanding will not be valid unless countersigned by me. Before OHR modifies any contract or agreement, it will coordinate with DHCA to review proposed changes and the impact of federal regulations.



Office of the Director

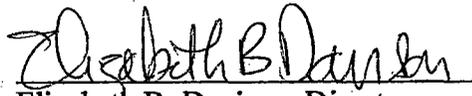
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Odessa Shannon, Executive Director
December 16, 2005
Page 2

Attachment II provides the federal requirements to be included in HOME funded contracts and specifies the method of determining income eligibility should that be necessary.

If you are in agreement with the terms and conditions of this Memorandum of Understanding, please sign below and return this memorandum to Angela Dickens, Senior Planner, Federal Programs, DHCA, 100 Maryland Avenue, 4th floor. A completely signed copy will be returned to you for your records.


Odessa Shannon, Executive Director
Office of Human Rights


Elizabeth B. Davison, Director
Department of Housing and Community
Affairs

Date

12/20/05
Date

Attachments

cc: Marissa Wills, OHR
Angela Dickens, DHCA

ATTACHMENT I

SCOPE OF SERVICES

The Office of Human Rights (OHR) will provide fair housing services and activities with the HOME Investment Partnership funds provided by the Department of Housing and Community Affairs (DHCA). Those activities include, but are not limited to, the activities listed below.

1. Fair housing testing services that test compliance with Federal, State and County laws related to fair housing. Such testing must be done by trained testers in a manner approved by both OHR and DHCA. Information derived from such tests is to be made available in the form of a report to the OHR, DHCA and the Interagency Fair Housing Coordinating Group (IFHCG) or its successor group. Organizations selected to do the testing must be recruited through the county's procurement process and must meet all county requirements. Requests for proposals prepared in order to solicit qualified organizations to carry out testing services will be reviewed and recommended by DHCA prior to their distribution.
2. Fair housing education and outreach services, including the sponsorship of training sessions in conjunction with the real estate industry and other nonprofit organizations involved in housing; the provision of publications and other educational materials, including the development and printing of fair housing materials specific to Montgomery County or materials which are specific to the metropolitan region; the granting of scholarships to income-eligible persons to attend training sessions.
3. The funding of any other activities proposed by OHR to address the impediments identified in the Analysis of Impediments to Fair Housing prepared for Montgomery County by the Metropolitan Washington Council of Governments.
4. Activities not specifically noted above or not included and recommended in the Analysis of Impediments but in furtherance of fair housing objectives. These activities must be submitted to the contact person in DHCA for review and approval prior to starting any such activities. Funds must not be used to pay the cost of OHR staff or any other general operating expense not specifically related to the proposed activities.

ATTACHMENT I (continued)

The County's procurement regulations must be used to secure all services for proposed activities. No sole source contracting is allowed, unless the County Council specifically designates a non-profit entity as a grantee in accordance with the County's procurement regulations.

OHR must provide quarterly written reports indicating progress on planned activities and noting any difficulties that may have occurred.

OHR must maintain adequate financial data and records to allow both DHCA and the U.S. Department of Housing and Urban Development (HUD) to monitor the activities for compliance with program regulations.

BUDGET

Total HOME Funds \$40,000

Note: OHR must not prepare or generate any ADPICS documents for these HOME activities. OHR's designated contact person must authorize all requests for payment prior to transmittal to DHCA. All authorized payments must have original invoices attached and note the activity for which payment is to be made.

CONTACT PERSONS

The contact person for DHCA is: Angela Dickens, Senior Planner
Federal Programs
100 Maryland Avenue, 4th Floor, COB
Rockville, MD 20850
(240) 777-3630 (office) (240) 777-3653 (fax)
angela.dickens@montgomerycountymd.gov

The contact person for OHR is: Marissa Wills
Fair Housing Coordinator
110 North Washington Street
Rockville, MD 20850
(240) 777-8458 (office) (240) 777-8460 (fax)
marissa.wills@montgomerycountymd.gov

ATTACHMENT II

SPECIAL CONDITIONS FOR
HOME-FUNDED PROJECTS

1. **APPLICABILITY OF UNIFORM ADMINISTRATIVE REQUIREMENTS:** Whenever the Grantee receives Federal assistance under this agreement, applicable Federal uniform administrative requirements as defined under 24 CFR 92.505 apply. In addition, the administrative requirements contained in the HOME Program Final Rule (24 CFR Part 92) apply.

2. **AGREEMENTS WITH COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS (CHDOs):** If the nonprofit owner or developer is a Community Housing Development Organization (CHDO) and is using set-aside funds under 24 CFR 92.300, the appropriate provisions under 24 CFR 92.300 apply. Specifically, these funds are being provided to a CHDO, its subsidiary, or a partnership in which it or its subsidiary is the managing general partner. If a CHDO owns the project in partnership, it or its wholly owner for-profit or nonprofit subsidiary must be the managing general partner. In acting in any of the capacities specified, the CHDO must have effective project control. In addition, a CHDO, in connection with the housing it develops, sponsors, or owns with HOME funds provided under this agreement, may provide direct homeownership assistance (e.g. downpayment assistance) and not be considered a subrecipient.

If funds for operating expenses are provided under 24 CFR 92.208 to a CHDO that is not also receiving CHDO set-aside funds for housing to be developed, owned, or sponsored by the CHDO, the CHDO must agree that it shall apply for CHDO set aside funds for a project within 24 months of receiving the funds for operating expenses. A CHDO may not receive HOME funding for operating funds for any fiscal year in an amount that provides more than 50 percent or \$50,000, whichever is greater, of the CHDO's total operating expenses in that fiscal year (this includes organizational support and housing education provided under section 233(b)(1), (2), and (6) of the Act, as well as operating funds provided under section 92.208).

If the county provides project-specific assistance to a CHDO, specifically project-specific technical assistance and site control loans, or project-specific seed money loans, the provisions of 24 CFR 92.301 apply.

3. **COMPENSATION AND METHOD OF PAYMENT:** If the amounts to be paid are based on an estimated budget, the Grantee shall be reimbursed only for actual expenses supported by documentation acceptable to the Department of Housing and Community Affairs (DHCA). Attachment III-A explains the documentation that shall be required for various types of expense categories. Payment shall be based on monthly submission of an invoice for work which the County determines is satisfactorily completed. Each item in the invoice must be described in detail.

The Department of Housing and Community Affairs and the Grantee may agree in writing to transfer funds between expense categories provided there is no significant change in the scope of services and the total dollar amount of the contract remains the same. New expense categories may be added by the same method provided they are consistent with the scope of services, are HOME eligible, represent a fair value for services to be received, and do not exceed the total dollar amount of the contract. Funds may not be spent after expiration of this grant agreement. The final request for payment must be submitted within 90 days after the expiration of the contract. All funds remaining for which invoices have not been received shall be reprogrammed by DHCA.

Any funds not used for reimbursement of expenses under this grant agreement must be deposited in a bank insured by the Federal Deposit Insurance Corporation (FDIC). Any balance exceeding FDIC coverage must be collaterally secured. Consistent with the national goal of expanding the opportunities for minority business enterprises, the Grantee and its subcontractors are encouraged to use minority banks.

Since this project is being funded with Federal HOME funds, the Grantee must submit all proposed subcontracts and amendments for review and approval by DHCA staff to insure compliance with all applicable HUD regulations. DHCA staff shall review all proposed subcontracts and amendments in a timely manner, and indicate in writing their compliance or noncompliance with HUD requirements.

4. **TERM AND REVERSION OF ASSETS:** The term of this contract shall be as set forth in the letter agreement which is a part of this contract. The Director of the DHCA may extend this contract for up to an additional 180 days through written notice to the contractor. The Director of the Office of Procurement shall be notified of all such extensions. Any further extensions shall be by written amendment to this agreement. Upon final expiration of the agreement, the Grantee must transfer to the County any HOME funds on hand at the time of the expiration and any accounts receivable attributable to the use of HOME funds.

5. **PROGRAM INCOME:** Certain income derived from prior HOME funded activities and/or this project is considered to be program income. For the purpose of this contract, program income is currently defined at 24 CFR. 92.2. Program income includes but is not limited to: interests, rents, loan repayments, funds derived from the sale of property acquired or improved with HOME funds, assessments, or other types of financial assistance.

In accordance with 24 CFR. 92.503, all program income, except for specifically designated programs and revolving loan funds as established by an agreement between the County and the Grantee must be returned to the County prior to submittal of any invoice for work performed under this agreement, unless DHCA waives or alters this requirement through written agreement. The Grantee, in presenting an invoice to the County, must certify that it has no program income on hand, and has returned all program income received. For designated program exceptions, the contractor must declare the amount of program income received and certify that it has been properly spent. Adequate fiscal records must be maintained to clearly indicate the disposition of all program income. For revolving loan funds, the contractor must complete and submit a Status of Funds report by July 31 of each year. Report forms shall be supplied by DHCA.

6. **ATTENDANCE AT MEETINGS:** The Grantee shall arrange and/or attend any meetings necessary to implement the Scope of Services of this grant agreement.

7. **FINANCIAL MANAGEMENT SYSTEM:** In accordance with 24 CFR. Part 85.20 or 24 CFR Part 84.20, as applicable, the Grantee shall maintain a financial management system that provides for the following:

1. Accurate, current, and complete disclosure of all financial activities under this grant agreement;
2. Records that identify the amounts of funding authorized, obligations, unobligated balances, assets, outlays, and incomes;
3. Effective control and accountability for all funds and for capital items purchased under this grant;

4. A comparison of actual outlays with budgeted amounts and the relationship between performance and costs incurred;
5. Accounting records that are supported by source documentation.

8. **AUDIT AND INSPECTION:** Grantees who expend \$300,000 or more in Federal awards shall have a single or program-specific audit conducted in that year in accordance with 24 CFR 44 and 45, as applicable. Grantees who expend less than \$300,000 a year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review by appropriate officials of HUD, the County, and the General Accounting Office (GAO). DHCA may modify or waive individual Grantee audit requirements. Any and all such modifications must be by written agreement.

A copy of any audits conducted by the Grantee, whether required under Federal regulations or not, shall be furnished to DHCA within 30 days of receipt of same. If the audit report contains findings or concerns, the Grantee must submit to DHCA within 60 days of receipt of the audit report, the Grantee's plan of action for correcting all noted deficiencies. Should the Grantee fail to submit a plan or follow through on the necessary remedial actions in a timely manner, the contract may be suspended or terminated under the provision of Article 22. Suspension and Termination.

The Grantee agrees that the County, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, or any of their duly authorized representatives shall, until the expiration of 3 years after closeout of the Grant Year, have access to and the right to examine any pertinent books, documents, papers, and records of the Grantee and any subcontractor involving transactions related to the Agreement. Closeout of the Grant Year occurs when HUD accepts the last expenditure report for a given Grant Year. Each Grant Year contains 50 to 60 individual projects. Consequently, all Grantees must retain records for 5 to 7 years depending on when the last project for their particular Grant Year is completed. In order to insure compliance with this requirement, the Grantee must contact DHCA before disposing of records.

9. **REPORTING REQUIREMENTS:** The Grantee must file written quarterly progress reports with the DHCA until the project is completed. Each report must summarize the actual achievements of the project relative to its scope of services and stated goals. In addition, each quarterly report must include Attachments III-B (Benefit Data Report) and III-C (Subcontract Activity Report) as appropriate. If the Grantee has provided a service or benefit to low and moderate income households or residents, Attachment III-B must be completed. If the Grantee has negotiated a subcontract, Attachment III-C must be completed. The Grantee shall provide any other information or reports that may be requested by DHCA to comply with HUD requirements and regulations.

10. **AFFIRMATIVE ACTION/EQUAL OPPORTUNITY:** The Grantee shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, marital status, age or handicap. The Grantee must take affirmative action to ensure that minority applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin, marital status, age or handicap. Such action shall include, but not limited to, the following: employment, upgrading, demotion, or transfer, recruitment or advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Grantee agrees to post in conspicuous places, available to employees and applicants for employment, notices that are provided by the County setting forth the provisions of this Equal Opportunity clause.

The Grantee must, in all solicitations or advertisements for employees placed by or on behalf of the Grantee, state that all qualified applicants shall receive consideration for employment without regard to race, color, religion, sex, national origin, marital status, age or handicap. In the event of the Grantee's non-compliance with the Equal Opportunity clause of this grant agreement or with any of the said rules, regulations, or orders, this grant agreement may be canceled, terminated, or suspended, in whole or in part.

Whenever housing assisted under this contract contains five (5) or more HOME-assisted units, the Grantee must affirmatively market the housing to those persons least likely to apply to live in the housing. To meet this requirement, the Grantee agrees to comply with the County's affirmative marketing plan. Upon written approval by the County, the Grantee may develop its own affirmative marketing plan; this plan must be reviewed and approved by the County.

The work to be performed under this grant agreement is assisted under a program providing direct Federal financial assistance from the Department of Housing and Urban Development (HUD) and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended. Section 3 requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project, and grant agreements for work in connection with the project be awarded to business concerns, which are located in or owned in substantial part by persons residing in the area of the project.

The Grantee must comply with the provisions of Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder, prior to the execution of this grant agreement. The Grantee must certify and agree that it is under no contractual or other disability which would prevent it from complying with these requirements.

The Grantee must send to each labor organization or representative of workers, with which he has a collective bargaining agreement or other grant agreement or understanding, if any, a notice advising the said labor organization or workers' representative of his commitments under this Section 3 clause and must post copies of the notice in conspicuous places available to employees and applicants for employment or training.

The Grantee must include this Section 3 clause in every subcontract for work in connection with the project and shall, at the direction of Montgomery County, Maryland, take appropriate action pursuant to the subcontract upon a finding that the subcontractor in violation of regulations issued by the Secretary of HUD, 24 CFR Part 135, and shall not let any subcontract unless the subcontractor first provide it with a preliminary statement of ability to comply with the requirements of these regulations. Copies of the Section 3 regulations are available from the Department of Housing and Community Affairs, 100 Maryland Avenue, Fourth Floor, Rockville, Maryland 20850, telephone number 240-777-3600.

11. **SUBCONTRACTING WITH MINORITY FIRMS:** It is national policy to award a fair share of contracts and grant agreements to small and minority business firms. Accordingly, affirmative steps must be taken to assure that small and minority businesses are utilized when possible, as sources of supplies, equipment, construction and services. Affirmative steps shall include the following:

- (1) Including qualified small and minority businesses on solicitation lists;
- (2) Assuring that small and minority businesses are solicited whenever they are potential sources;
- (3) When economically feasible, dividing total requirements into smaller tasks or quantities so as to permit maximum small and minority business participation;
- (4) Where the requirements permit, establishing delivery schedules which shall encourage participation by small and minority businesses;

(5) Using the services and assistance of the Small Business Administration, the Office of Minority Business Enterprise of the Department of Commerce, and the Community Services Administration as required;

(6) If any subcontracts are to be let, the prime contractor or grantee shall take the affirmative steps in 1 through 5, above.

The above affirmative action shall also be taken in support of women's business enterprises.

12. **RELIGIOUS ACTIVITIES:** In accordance with 24 CFR 92.257, the Grantee must not use HOME funds to directly benefit any religious activity. This prohibition does not preclude secular organizations affiliated with religious organizations from sponsoring HOME funded projects, which are open to and serve the entire community. No HOME or other Federal funds can be used to rehabilitate and/or construct any church owned property. All grants must conform to DHCA's and HUD's policy statements regarding religious and quasi-sectarian organizations.

13. **PROHIBITED ACTIVITIES (FOR CONSTRUCTION OR REPAIR):** The Grantee shall be prohibited from inducing by any means any person employed in Construction, completion, or repair of public work to give up any part of the compensation to which he is otherwise entitled, and shall comply with any other provisions of the Copeland Anti-Kick Back Act (18 USC 874) as supplemented in Department of Labor Regulations (29 CFR, Part 3).

14. **LEAD BASE PAINT:** Housing assisted with HOME funds is subject to the Lead-Based Paint Poisoning Prevention Act (42 USC 4821 et seq.) and 24 CFR part 35. The lead-based paint provisions of 24 CFR 982.401(j), except 24 CFR 982.401(j)(1)(i), also apply, irrespective of the applicable property standard.

15. **CEMENT AND CONCRETE (FOR CONSTRUCTION OR REHABILITATION):** The use of cement or concrete containing fly ash is prohibited and subject to HUD Regulations (40 CFR 249).

16. **COMPLIANCE WITH FEDERAL REGULATIONS:** In accordance with 24 CFR 92, the Grantee agrees to comply with all Federal laws, regulations, and requirements applicable to HOME grants and/or loans. Grantee also agrees to comply with any and all changes in HUD regulations and requirements applicable to HOME grants and/or loans.

The Grantee agrees that all signs, posters, pamphlets, printed materials, advertisements, and written articles concerning this program/project must include a statement acknowledging full or partial HOME funding as appropriate. The Grantee agrees and certifies, with respect to lobbying, to the following:

A. No federal appropriated funds have been paid or shall be paid, by or on behalf of the Grantee, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan or cooperative agreement.

1. If any funds other than federal appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this federal contract, grant, loan or cooperative agreement, the Grantee shall complete and submit Standard Form L, Disclosure Form to Report Lobbying in accordance with its instructions.

2. The Grantee shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

17. **CAPITAL EQUIPMENT:** In accordance with 24 CFR Part 85.03, equipment is being defined as tangible, non-expendable, personal property having a useful life for more than one year and an acquisition cost of \$5,000 or more per unit. Prior to purchasing any equipment, the Grantee shall obtain written permission from the County. The County reserves the right to purchase such equipment through its sources of supply if such a purchase will result in a cost savings. Title to equipment shall remain with the County. Recipients shall submit to the County annually, during the term of this agreement (and any extension), an inventory listing of all County-owned equipment in their custody. Attachment III-D is provided for this purpose. Upon completion of this agreement or whenever the equipment is no longer needed by the Grantee, disposition of the equipment shall be determined in accordance with 24 CFR 85.32.

18. **PLANT INSPECTION:** The County may inspect the place of business of the Grantee under any grant agreement awarded or to be awarded by the County or any subcontractor thereunder. The unreasonable failure of a bidder or offerer to supply information promptly in connection with such an inspection may be grounds for determination of non-responsiveness.

19. **FEDERAL LABOR STANDARDS AND OTHER FEDERAL REQUIREMENTS (FOR CONSTRUCTION OR REHABILITATION):** The Federal Labor Standards Provisions and other requirements listed in Attachment III-E to this contract are made a part of this contract. The contractor agrees to follow all required provisions. The County shall provide the contractor with copies of the requirements to be included in all subcontracts.

20. **COMPLIANCE WITH CLEAN AIR AND WATER ACT (For contracts in Excess of \$100,000):** The contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 970 (42 USC 1957 et. seq.) and the Federal Water Pollution Control Act (33 USC 1251 et seq.) as amended.

21. **ENTIRE AGREEMENT:** This grant agreement, together with attachments, constitutes the entire agreement between the parties. There are no other collateral grant agreements or agreements of any kind between the parties.

22. **SUSPENSION AND TERMINATION:** In accordance with 24 CFR 85.43 suspension or termination may occur if the grantee materially fails to comply with any terms of this award. In addition, this award may be terminated for convenience in accordance with 24 CFR 85.44.

23. **FEDERAL LABOR STANDARDS AND OTHER FEDERAL REQUIREMENTS:** If this project involves construction exceeding \$2,000 in value and is being financed in part or in full with funds from the Federal Government of the United States through the Department of Housing and Urban Development (HUD), the following provisions must apply, and are hereby made a part of this contract. **These documents must be included with this, and all other, agreements, contracts and subcontracts involving the construction work.**

1. The FEDERAL LABOR STANDARDS PROVISIONS ATTACHMENTS PACKET as revised 7/98 (11 pages).

2. A current project-specific Davis-Bacon Wage Rate Determination (issued for this project only)- This must be posted conspicuously at the job site during all phases of construction.

If you have not previously worked with Davis-Bacon and related federal requirements, a step-by-step Contractor's Guide to Davis-Bacon is available at no charge from your Contract Monitor. This, as well as additional information, is also available on the World Wide Web HUD Home Page at: <http://www.hud.gov>.

If you would like this material in an alternative format, or if you need additional information, you may also contact the Davis-Bacon Compliance Officer with the Department of Housing and Community Affairs by calling 240-777-3600, or by mail at 100 Maryland Avenue, Fourth Floor, Rockville, Maryland 20850.

IF YOUR PROJECT INVOLVES CONSTRUCTION, THIS PAGE SHOULD IMMEDIATELY BE FOLLOWED BY A COPY OF THE AFEDERAL LABOR STANDARDS PROVISIONS ATTACHMENTS PACKET@ AS WELL AS PROJECT-SPECIFIC WAGE RATE DETERMINATION. IF THESE DOCUMENTS ARE MISSING, CONTACT THE CONTRACT MONITOR BEFORE EXECUTING THIS OR ANY OTHER CONSTRUCTION RELATED INSTRUMENT.

ATTACHMENT III-A**SPECIAL CONDITIONS**
EXPENSE DOCUMENTATION

Federal and County regulations require appropriate documentation for all requests for CDBG funds. The Grantee must submit original documentation of all expenses claimed when submitting requests for payment. DHCA reserves the right to require substitute, or additional, documentation at its discretion.

The County will not process any invoices unless the proper back-up documentation is included. DHCA reserves the right to request additional or supplemental documentation for any item for which reimbursement is requested under this agreement and to withhold payment if acceptable documentation is not provided. Illustrative documentation is described below.

1. Audit/Legal Fees or Other Similar Fees - All audit expenses for which compensation is requested must be limited to scope of the federally funded program and must be accompanied by original bills, receipts, and/or invoices. DHCA reserves the right to limit such fees to those determined by DHCA to be fair and reasonable. Grantees are requested to request specific information from DHCA for such expenses prior to commitment to such obligations.
2. Bookkeeping - Provide the name of individual along with time sheet, number of hours worked and fee charged per hour.
3. Duplicating and Printing - Provide invoice, bill, and/or receipt for items. If xeroxing is conducted utilizing owned or rented equipment, the charge must not exceed \$.10 a copy, and the number of copies must be indicated.
4. Equipment - Equipment is defined in OMB Circular A-110 as "tangible non-expendable personal property including exempt property charged directly to the award having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. However, consistent with recipient policy, lower limits may be established. DHCA has established a limit of \$500 for the definition of equipment". Approval of purchase of equipment may be approved by DHCA only under extraordinary circumstances and must require a detailed written request by the Grantee for such waiver explaining the necessity for such purpose and guaranteeing compliance with the ongoing regular accounting and inventory requirements for the life of such equipment. All such approved equipment purchases must be accompanied by an original invoice and a Capital equipment purchase Attachment III-D form must be provided.
5. Insurance - Provide cover letter indicating insurance company, amount of coverage, and invoice or receipt. Montgomery County must be listed as a named insured.
6. Leased Equipment - Obtain prior written approval by DHCA to enter into lease agreements and provide copy of lease agreement and invoice for such approved leases.
7. Mileage Reimbursement - A mileage log must be maintained with mileage cost not to exceed 32.5 cents per mile. All destinations must be specifically identified and the purpose of trips. Provide a copy with each request for payment.
8. Miscellaneous - All items for which reimbursement is requested must be identified with specificity and adequate source documentation provided. DHCA reserves the right to deny compensation for any invoices which appear to be inconsistent with the project or ineligible for CDBG compensation.
9. Postage - Provide copies or original postage receipts from post office.
10. Publications - Provide back-up documentation for monies spent in the form of original bills, invoices, and/or receipts.
11. Rent - Provide copy of executed lease with all attachments and schedules, and original invoices.
12. Salaries and Wages - Provide copies of time sheets for the employee for whom reimbursement is being requested. Identify the number of hours worked on the CDBG funded program and the dollar per hour rate or salary rate of the person doing the work.

13. Supplies - Identify with specificity all items purchased and accompany with bills, receipts, and/or invoices.
14. Telephone - Provide copy of telephone bill and indicate portion to be paid with CDBG monies, and a description of the uses invoiced for.
15. Training - Provide information on individual trained, type of training, and documentation of cost of training. Training must be limited to areas specifically directly related to the scope of services delivered under this agreement.
16. Vehicle Insurance - Provide cover letter of insurance coverage along with invoice. Such insurance must be limited to that directly related to the scope of services provided under this agreement. Montgomery County must be listed as a named insured as specified in Attachment IV.

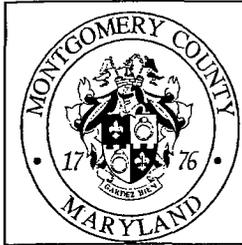
ATTACHMENT III-B

Montgomery County, Maryland
 Department of Housing and Community Affairs

ANNUAL BENEFIT DATA REPORT

Report on services delivered in the previous three-month period. This information will be reported to the U.S. Department of Housing and Urban Development.

This report must be submitted to DHCA by July 15th of each year.*



REPORT ON CLIENTS SERVED BETWEEN JULY 1ST AND JUNE 30TH

Project Name: _____

Reporting Year: _____

Project Number: _____

1. Client Service Level: (Check One) _____ Households _____ Persons

2. Total number of clients served during the reporting year: _____

3. Income status of clients served during the reporting year: (See table below for income levels)

_____ Number of clients with extremely low-incomes _____ Number of all others
 _____ Number of clients with low-incomes _____ TOTAL of all income levels (this
 _____ Number of clients with moderate-incomes _____ number should be equal to #2a. above)

HUD Income Limits *Effective: January 28, 2004*

Family Size	Extremely Low	Low	Moderate
1	\$18,250	\$30,450	\$40,250
2	\$20,900	\$34,800	\$46,000
3	\$23,500	\$39,150	\$51,750
4	\$26,100	\$43,500	\$57,500
5	\$28,200	\$47,000	\$62,100
6	\$30,300	\$50,450	\$66,700
7	\$32,350	\$53,950	\$71,300
8	\$34,450	\$57,400	\$75,900

All income figures have been rounded to the nearest \$50

4. Demographic data about clients served during the reporting year:

a. Race and Ethnicity:	Hispanic Or Latino	Not Hispanic Or Latino	Total
White.....	_____	_____	_____
Black or African American.....	_____	_____	_____
Asian.....	_____	_____	_____
American Indian or Alaskan Native.....	_____	_____	_____
Native Hawaiian or Other Pacific Islander.....	_____	_____	_____
American Indian or Alaskan Native <u>AND</u> White.....	_____	_____	_____
Asian <u>AND</u> White.....	_____	_____	_____
Black or African American <u>AND</u> White.....	_____	_____	_____
American Indian or Alaskan Native <u>AND</u> Black or Afr. American....	_____	_____	_____
Other Multi-Racial.....	_____	_____	_____
Refused to Disclose.....	_____	_____	_____
TOTALS (this number should equal #2a. above)	_____	_____	_____

ATTACHMENT III-C

SUBCONTRACT ACTIVITY REPORT

If applicable, submit to DHCA by the 15th of the month after the quarter ends

Name of Subcontract Number 1

Date of Subcontract: _____ Dollar Amount: _____

Name of Subcontractor: _____

Mailing Address _____

ID Number: _____

Subcontract for: (check one)

Construction Education/Training Other _____

Ethnic Code: (check one) 51% of Company Ownership is:

White Black American Indian/Alaskan Hispanic Asian/Pacific Islander

Name of Subcontract Number 2

Date of Subcontract: _____ Dollar Amount: _____

Name of Subcontractor: _____

Mailing Address _____

ID Number: _____

Subcontract for: (check one)

Construction Education/Training Other _____

Ethnic Code: (check one) 51% of Company Ownership is:

White Black American Indian/Alaskan Hispanic Asian/Pacific Islander

CDBG Project Name: _____

Report filed By: _____

Title: _____ Date: _____

FOR DHCA Project Number: _____ Reviewed By: _____
USE ONLY: Date: _____ Included in HUD Report _____

ATTACHMENT III-D
CAPITAL EQUIPMENT INVENTORY

If applicable, submit to DHCA by July 15th of each year

Reporting period: July 1, _____ to June 30th _____

<u>Equipment Purchased</u>	<u>Date Purchased</u>	<u>Cost*</u>
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
5. _____	_____	_____
6. _____	_____	_____
7. _____	_____	_____
8. _____	_____	_____
9. _____	_____	_____
10. _____	_____	_____

* Report all Capital equipment valued over \$500.00.

CDBG Project Name: _____

Report filed By: _____

Title: _____ Date: _____

FOR DHCA Project Number: _____ Reviewed By: _____
USE ONLY: Date: _____ Included in HUD Report _____

ATTACHMENT III-F

(Letterhead)

ANNUAL CERTIFICATE OF COMPLIANCE

(NOTE: Each HOME-assisted development owner/property manager must complete and submit this certification by July 15th of each year. This form is not applicable to the American Dream Downpayment Initiative.)

The undersigned, as duly authorized representative of the residential property,

_____ located at

_____ hereby certifies to the Montgomery County Department of Housing and Community Affairs that to the best of my knowledge, understanding, and belief, the aforementioned property complies with the tenant income restrictions required by the regulatory documents and the applicable HOME program regulations and that the tenant income information attached to this Certificate is true and correct.

Current records supporting this certification are maintained by the development's owner/property manager and shall be available for inspection by Department personnel.

SIGNATURE:

(Owner's Name, printed)

(Date)

(Signature of Owner or Authorized Representative)

(Title)

This certificate should be submitted to:

**Stephanie Killian
Montgomery County Department of Housing and Community Affairs
100 Maryland Avenue, Fourth Floor
Rockville, Maryland 20850**

**MONTGOMERY COUNTY FAIR HOUSING PLAN
IMPEDIMENT ANALYSIS PROGRESS REPORT
November 2002**

Impediment #1: Lack of Current Information about Housing Discrimination.

- I. Testing Goal: To determine extent and types of housing discrimination in the county in order to identify areas needing education and enforcement

Activity	Status
A. Conduct random audit of rental housing providers over a 6-month period to test for discrimination based on race, national origin, disability, familial status, and compliance with FH construction accessibility requirements	Completed 1/10/98
B. Analyze results, plan and implement strategies to address findings	In Progress

- II. Data Collection Goal: To seek compliance with data collection requirements

Activity	Status
A. Coordinate with DHCA on collection of data under the Real Estate Reporting Requirement	Report provided to IFHCG by DHCA in December 1997. Report provided to IFHCG by DHCA in December 1998.
B. Analyze results, plan and implement strategies to address findings	In Progress
C. Publicize data as part of annual rental housing vacancy survey	Draft Under Review

- III. Education and Outreach Goal: To educate the general public about and promote fair housing

Activity	Status
A. Conduct seminars in six geographically dispersed County locations addressing fair housing issues and responsibility and rights of residents	Completed March 1998
B. Conduct sessions in the community to stress the importance of maintaining and investing in the value of property, the basic processes of home sales/purchase, the lending and appraisal process, and how to recognize discriminatory practices	In Progress
C. Prepare and promote Fair Housing in three languages in print ads and public service announcements	In Progress
D. Promote public/private partnerships and collaborate to further fair housing based on best practices and local considerations	In Progress
E. Coordinate with MCPS on the development of and inclusion in a new 10th grade curriculum, information, scenarios, and exercises in fair housing laws and responsibilities	Phase 1 - Completed May 1998. Phase 2 Completed

IV. Legislation (Goal: to put more teeth in existing laws as more effective deterrents)

Activity	Status
A. Propose legislation to increase monetary awards to the level permitted by state	Increased Civil Penalties increased by the Council 12/97 Increase in Damages not addressed
B. Revise composition of Interagency Fair Housing Group and extend terms to three years	Initial revision completed Recommendations made for additional members Term of office not addressed

Impediment #2. Communities are underserved by Lending Institutions

I. Lending Practices Goal: To determine the extent of discriminatory practices, including disparate treatment of loan applications, higher rejection rates, higher fees, and lack of bank branches.

Activity	Status
A. Using Home Mortgage Disclosure Act Data (HMDA), analyze lending practices of 10 largest banks in the County, as relates to mortgage lending and refinancing, underwriting, pre-screening, higher fees, steering, redlining, appraisals, credit checks, marketing, and other practices which could be questionable.	Completed April 1998 Second Analysis Draft Under Review
B. Conduct a targeted local testing program in areas in which HMDA data indicates a problem. Publicize test results and promote and coordinate education and collaboration as being a business interest.	On Going

II. Legislation Goal: To regulate the appraisal system

Activity	Status
A. Research and propose as appropriate, and at the appropriate level, legislation to regulate appraisers, and lower the dollar threshold for appraiser certification	No Activity

Impediment #3. Lack of Performance Monitoring of County Financial Institution

Goal: To monitor the contract provision that county shall only bank with institutions that maintain a rating of satisfactory or better under the Federal Community Reinvestment Act

Activity	Status
A. Obtain and evaluate Local Community Reinvestment Act (CRA) performance of the major financial institutions receiving county funds	Completed
B. Begin monitoring loans and community activities of the First National Bank of Maryland, the major recipient of county, HOC and MCPS funds	No Longer Pertinent; New Contract Issued
C. Identify community needs and involvement of financial institutions in addressing them	In Progress
D. Link deposits of county government/HOC/MCPS joint funds to acceptable performance under CRA	In Progress

Impediment #4: Lack of County Guidance on Occupancy Standards

Goal: To remove requirements in conflict with federal law

Activity	Status
A. Initiate study of variance in and impact of different occupancy standards on protected classes, especially families with children	No Longer an issue; HUD issued guidelines in Federal Register
B. Determine whether a voluntary or mandatory occupancy standard is in the best interest of fair housing	Under Study
C. Provide written guidance with regards to the number of occupants in a dwelling unit, particularly in rental housing	Under Study

Impediment #5: Disparate Treatment of Group Homes

Goal: To remove requirements in conflict with federal law

Activity	Status
A. Continue non-enforcement of county ordinance relating to group facilities that are in conflict with the Fair Housing Act until county law is changed	Completed
B. Bring local law into compliance with federal fair housing law for group residential facilities for persons with disabilities	Completed
C. Pass Zoning Text Amendment 95017 to eliminate current impediments to sitting group homes.	Completed

Impediment #6: Siting of Affordable Housing

Goal: To eliminate opposition to siting of affordable housing related to biases against minorities, low-income people, and recent immigrants

Activity	Status
A. Work with non-profits and communities to combat NIMBYism through efforts to educate and inform communities about past experiences	On Going
B. Review zoning laws, and fees to ensure that density and costs are not unfairly limiting housing opportunities	On Going
C. Conduct study of actual effects of affordable housing in different types of neighborhoods over the past 30 years on property values, resale value of market rate housing, traffic and other commonly cited concerns by opponents	Draft Under Review
D. Use results to ameliorate any negative effects identified, or to disprove bases of prevailing objections.	Awaiting Results of Review

Impediment #7: Inadequate Outreach to minority Community

Goal: To address the perception if not reality of inadequate county outreach efforts

Activity	Status
A. Engage county departments and agencies in outreach to ensure that fair housing issues are included as part of mandated mission and evaluation of relevant agencies	On Going
B. See Section on Education and Outreach	
C. Make regular use of non-English and minority press for announcements, informational articles, and discussion	On Going

Impediment #8: Efforts to Affirmatively Further Fair Housing

Goal: To assure fair and targeted distribution of funds for addressing housing discrimination, promote need for standardization and/or certification, provide training for all stakeholders

Activity	Status
A. Review current legal impediments, e.g. unusually low cap on awards in discrimination cases, need for confidentiality	In Progress
B. Review training given appraisers, investigate need for licensing or certification, evaluate current fair housing training programs and determine need for improvement	No Action
C. Develop and implement strategies related to the enforcement of fair housing laws, including emerging issues, continuous updating of knowledge of laws, regional approaches to promotion of fair housing, and cooperation	On Going

with local agencies	
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Impediment #9: Lack of Affordable Housing

Goal: To assure that county laws and practices promote affordable housing in all areas of planned development

Activity	Status
A. Review and amend area master plans as needed to remove barriers to affordable housing	No Action
B. Work with non-profits, associations and communities to combat NIMBYism through efforts to educate and inform communities about past experiences	On Going

MONTGOMERY COUNTY OFFICE OF HUMAN RIGHTS

Fair Housing Testing Report

March 2003

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TESTING AUDIT OF MONTGOMERY COUNTY April 2000- December 2002

Introduction

The Department of Housing and Urban Development (HUD) defines "fair housing choice" as the ability of persons of similar income levels to have available to them the same housing opportunities regardless of race, color, national origin, religion, sex, familial status, or disability. The federal Fair Housing Act was passed to insure that all people will have access to the housing of their choice.

Montgomery County has traditionally placed great importance on fair housing issues and has led the way in fighting against discrimination in housing. In 1968 Chapter 27 of the Montgomery County Code was revised in order to include an "open housing law" which prohibits discrimination in the sales and rental of housing. The Human Relations Commission, which was created in 1962 and later renamed the Office of Human Rights (OHR), was given the responsibility of enforcing the fair housing ordinance. Since that time, Chapter 27 has evolved and presently prohibits discrimination in housing on the basis of race, color, religious creed, ancestry, national origin, sex, sexual orientation, marital status, presence of children, age, physical or mental disability, source of income, or genetic status. The people in these groups fall into what are called "protected classes".

In 1999 the County further demonstrated its commitment to fair housing by developing, through the Office of Human Rights, an in-house testing program. The first project undertaken by the testing program was a rental testing audit which was designed to determine the level of discrimination present in the rental housing market in Montgomery County.

Scope of Audit

This report focuses on the 301 rental tests completed between April 2000 and December 2002. The geographical scope for this audit included: Kensington, Silver Spring, Bethesda, Rockville, Gaithersburg and Germantown.

The protected classes addressed in the audit were race, national origin, familial status disability and source of income. The testing included: 151 race tests, 57 national origin tests, 32 familial status tests, 56 source of income tests and 5 disability tests. Also included in this audit are twenty-seven new construction accessibility tests

Tests Conducted/April 2000 – December 2002

	Race	National Origin Latino	National Origin Asian	Familial Status	Source of Income	Disability
Tests Completed	151	39	18	32	56	5
Tests With Evidence	45	12	5	7	15	2
Tests With No Disparate Treatment	102	24	10	24	36	2
Tests Which Are Inconclusive	4	0	3	1	4	1

Montgomery County Fair Housing Survey

A Report of Data Collected for
2005



Prepared by

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS
WASHINGTON, DC

INTRODUCTION

The Montgomery County Office of Human Rights (hereafter MCOHR) was formerly known as the Montgomery County Human Relations Commission. The MCOHR was established by law to foster equal opportunity for all residents in the County. The MCOHR enforces laws protecting equal rights in employment, public accommodations, housing, and commercial real estate. As part of the MCOHR, the Fair Housing Program focuses on far-reaching programs which provide community outreach, monitoring activities and agency coordination for the County's fair housing concerns. The fundamental goal of the Fair Housing Section is making housing choice and fair treatment a reality through its Fair Housing Enforcement Program.

The Real Estate Reporting Requirement (Section 27-13) of the County code was enacted to create awareness of fair housing among real estate professionals and provide Montgomery County with data that can be used to show the influences of race on housing patterns. Section 27-13 requires real estate professionals in charge of 25 or more rental units to annually report vacancy rates, the racial and ethnic composition of their leaseholders and employees, single-parent households, and other information pertinent to the housing community in Montgomery County. This data is collected by the Department of Housing and Community Affairs (hereafter DHCA). It is then responsibility of the MCOHR (Fair Housing Section) to compile this data into a report that can be used as part of the Fair Housing Enforcement program. This report will examine the population of racial and ethnic concentrations¹ in the rental housing market in various geographical locations in Montgomery County.

MAIN FINDINGS

- **More minority households lived in Montgomery County rental housing in 2004 than in 1998.** More than half of the Montgomery County rental population was White in 1998. Approximately one third of Montgomery County rental households were White in 2004. Whites are the largest racial or ethnic category comprising 31 percent of the population surveyed. African-Americans, the second largest racial or ethnic category and comprise nearly the same percent of rental households as Whites with 30 percent of the rental households. Hispanics and Asians are the two smallest racial and ethnic categories with 21 percent Hispanic and 12 percent Asian.
- **When comparing Montgomery County's 1997-1998 Rental Housing Survey to 2004 Real Estate Reporting Survey data used for this report, the difference between the representation of each racial and ethnic group in the total county population varied with some groups changing more than others.** For instance, Asians represented 11.5 percent in 2004 and nine percent in 1998. However, the number of African-American households remained virtually unchanged.

¹ Concentrations of racial and ethnic groups are defined as twice the level of representation in the rental housing population.

- **Apartment complexes with concentrations of White households had the lowest average rents, significantly lower than African-American, Asian, and Hispanic concentrated apartment complexes.** From 1998 to 2004, the average rent for White concentrated developments decreased by a significant \$694 a month. However, minority concentrated rental housing developments between 1998 and 2004 showed an average increase of \$324 a month.
- **Analysis suggests that racial and ethnic concentrations, vacancy rates and average rent may be related.** When comparing the average rent and vacancy rate changes in concentrated developments from the 1997-1998 Rental Housing Survey to the most current Real Estate Reporting Survey, the average rents increased most dramatically among concentrations that had large reductions in vacancy rates. Furthermore, rents decreased in concentrated developments that had increases in vacancy rates.
- **African-American and White households were the two most segregated racial groups among renters in Montgomery County.** Only three percent of householders living in African-American concentrated developments were White. Commensurately, approximately two percent of the households residing in White concentrated developments were African-American. The change showed fewer Whites renting in African-American concentrations, while more African-Americans are now renting in White concentrated developments.
- **Asian households made up the largest percent of racial and ethnic households living in concentrated developments of their own race.** Nearly half, (44 percent), of the Asian rental households surveyed in Montgomery County lived in Asian concentrated developments in 2004. Asian concentrated developments also exhibited the most diversity, meaning these developments had the largest number of different racial and ethnic households residing in Asian concentrated developments.
- **Racial and ethnic backgrounds of rental office employees resemble those of tenants.** For instance, African-American, White, and Hispanic concentrated developments all had a disproportionate number of office employees resembling the racial and ethnic background of tenants. This trend existed in all racial and ethnic concentrated developments, except for Asians, which were underrepresented.

SCOPE OF DATA

This report focuses on 2004 Real Estate Reporting Survey sent by the DHCA. The report was sent to all Montgomery County buildings with 25 or more rental units. The Real Estate Reporting Survey requests information on the race of the head of the households; on single-parent households; the address of and number of apartment units; the race of the office employees working in the complex and number of residents with disabilities.

425 surveys were distributed and 372 buildings responded to the survey containing 61,162 occupied and 4,408 vacant units.

**INTERAGENCY FAIR HOUSING COORDINATING GROUP (IFHCG)
FAIR HOUSING ADVOCACY COMMITTEE (FHAC)
Joint Meeting - 3rd Thursdays @ 9:30 a.m.**

COMMITTEE MEMBERS DIRECTORY (March 2005)

<u>NAME</u>	<u>ADDRESS</u>	<u>TELEPHONE/FAX</u>
Nancy Appel	Office of the County Attorney 101 Monroe St, 3 rd Fl. Rockville, MD 20850 nancy.appel@montgomerycountymd.gov	(240) 777- 6754 (O)
Cuvator Armstrong	15301 Bunchberry Court Gaithersburg, MD 20878 Qrealtor@juno.com	(301) 309-1919 (O) (301) 309-1929 fax (301) 926-0045 (H)
Gregory Bell	MCPS Office of Tech. & Acct. 850 Hungerford Drive, Rm 211 Rockville, MD 20850 Gregory_Bell@fc.mcps.k12.md.us	(301) 279-3168 (O) (301) 517-5916 Secretary
Oliver Brown	Health & Human Services Mental Health Services 751 Twinbrook Parkway Rockville, MD 20851 oliver.brown@montgomerycountymd.gov	(240) 777-1413 (O) (240) 777-1145 fax
Tina Clarke	Office of the County Executive 101 Monroe St., 2 nd Fl. Rockville, MD 20850 tina.clarke@montgomerycountymd.gov	(240) 777-2523 (O) (240) 777-2517 (Fax)
Angela Dickens	DHCA Federal Programs COB, 4 th Floor Rockville, MD 20850 angela.dickens@montgomerycountymd.gov	(240) 777-3630 (O) (240) 777-3653 fax
James Frazier	NAACP 8714 Tuckerman Lane Potomac, MD 20854 TAF1197@yahoo.com	(301) 299-8835 (H)
Lesa Hover	AOBA 86 State Circle, 2 nd Fl. Annapolis, MD 21401 lesahoover@erols.com	(301) 261-1460 (O) (410) 280-3935 fax
Shirley Johnson	Commission for Women 14828 Lake Terrace Rockville, MD 20853 Shirleyj6190@aol.com	(301) 460-2815 (H) (301) 460-9032 fax

<u>NAME</u>	<u>ADDRESS</u>	<u>TELEPHONE/FAX</u>
Sharon Suarez	M-NCPPC 8787 Georgia Avenue Silver Spring, MD 20910 Sharon.suarez@mncppc-mc.org	(301) 495-4720 (H)
Myriam Torrico	DHCA COB, 4 th Floor 100 Maryland Ave Rockville, MD 20850 myriam.torrico@montgomerycountymd.gov	(240) 777-3627 (O) (240) 777-3691 fax
Ryneec Wims	DHCA COB, 4 th Floor 100 Maryland Ave Rockville, MD 20850 renee.mclean@montgomerycountymd.gov	(240) 777-3670 (O) (240) 777-3691 fax
Jean Williams	NAACP 20551 Summer Song Lane Germantown, MD 20874 JAWMLC@aol.com	(301) 972-3546

Montgomery County Government:

Michael Dennis Staff	Office of Human Rights 110 N. Washington St., 2 nd Fl. Rockville, MD 20850 michael.dennis@montgomerycountymd.gov	(240) 777-8491 (O) (240) 777-8460 fax
Cecelia Hatton Staff	Office of Human Rights 110 N. Washington St., 2 nd Fl. Rockville, MD 20850 cecilia.hatton@montgomerycountymd.gov	(240) 777- 8479 (O) (240) 777-8460 fax
Beverly Marshall Staff	Office of Human Rights 110 N. Washington St., 2 nd Fl. Rockville, MD 20850 beverly.marshall@montgomerycountymd.gov	(240) 777- 8468 (O) (240) 777-8460 fax
Missy Wills Staff	Office of Human Rights 110 N. Washington St., 2 nd Fl. Rockville, MD 20850 marissa.wills@montgomerycountymd.gov	(240) 777-8465 (O) (240) 777-8460 fax

<u>NAME</u>	<u>ADDRESS</u>	<u>TELEPHONE/FAX</u>
Louise Kauffmann	City of Gaithersburg 31 South Summit Avenue Gaithersburg, MD 20877 lkauffman@gaitthersburgmd.gov	(301) 258-6310 (H) (301) 948-6149 fax
Juin Killingsworth	DHCA Landlord Tenant Affairs COB, 4 th Floor 100 Maryland Avenue Rockville, MD 20850 juin.killingsworth@montgomerycountymd.gov	(240) 777-3658 (O) (240) 777-3691 fax
Betsy Tolbert Luecking	MC Health & Human Services Aging & Disability Services Commission on People with Disabilities 401 Hungerford Drive, Rockville, MD 20850 betsy.luecking@montgomerycountymd.gov	(240) 777-1256 (O) (240) 777-1288 fax
Ellen V. Menis	10601 Montrose Avenue, #201 Bethesda, Maryland 20814	(301) 530-2635 (h)
Debbie Resnick	Offices of the County Executive EOB, 2 nd Floor 101 Monroe Street Rockville, MD 20850 debbie.resnick@montgomerycountymd.gov	(240) 777-2534 (O) (240) 777-2517 fax
Sharrod Robertson	NAACP Long & Foster Realtor 402 King Farm Blvd., Ste. 150 Rockville, MD 20850 Sharrod.robertson@longandfoster.com	(240) 463-8150 (O)
Doug Ryan	Housing Opportunities Commission 10400 Detrick Avenue Kensington, MD 20895 ryand@hocmc.org	(301) 929-6733 (O) (301) 929-2391 fax
Sue Shoenberg	1808 Briggs Road Silver Spring, MD 20906 sueshoenberg@earthlink.net	(301) 949-0660 (O) (301) 942-2576 fax (301) 933-4972 (H)
Jackie Simon	Avery-Hess Realtors 501 N. Frederick Ave., Suite 107 Gaithersburg, MD 20877 jackiesimon@airbridge.net	(301) 977-9596 fax (301) 330-6110 (H)
Kelly Stewart	Weichert Realty 5136 Norbeck Road Rockville, MD 20853 kellystewart@MRIS.com	(301) 468-1600 (O) (301) 984-1076 fax (301) 460-0981 (H) (301) 674-7724 (Cell)

FAIR HOUSING COMMITTEE 2006 GOALS

(Composed from Retreat-9/27/25)

◇ Community Outreach

- MCPS – Greg; Missy
- At Large – Tina
- Web Outreach – Betsy
- Cable TV – Tina
- ~~Monthly~~ ^{PR} Newsletter – Cecelia; Nancy
- Annual Report – Oliver; Betsy; Missy
- Communication w/Other Agencies/Stakeholders – Ellen; Cecelia

◇ Internal/Committee

- Communication w/Dept. Heads – Tina; Missy
- Confirm/Clarify Roles & Responsibilities of Members/Orientation – Shirley; Cecelia
- Communication to Internal Members Encouraging Participation -
- Intros @ Meetings –
- Promote Accomplishments, Successes, & Actions –
- Project Evaluations –
- Monitoring/Tracking Initiatives -
- Budget Assessment

◇ Legislative Initiatives

- Support Special Needs Housing -
- Condo Conversion Bill: Def of HC –
- Increase Rental Assistance Money –
- Increase Involvement w/State Legislature/Predatory Lending –
- Compliance Money for Predatory Lending @ County Level –
- Create Financing to Allow Renters to Keep Their Homes on Legislative Level --
- Access Issues Need to be Tackled -



DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
 Division of Consumer Affairs • Licensing and Registration
 100 Maryland Avenue, Rockville, Maryland 20850

240/777-3799 • TDD 240/777-3679 • FAX 240/777-3699

Website: <http://montgomerycountymd.gov/dhca>

OFFICE OF HUMAN RIGHTS
Rental Housing Occupancy Composition
and
Rental Office Employee Survey
 April 2005

1. Please report the total number of leaseholders and rental office employees according to the following categories.

Report each rental unit only once. If the unit is a racially/ethnically mixed household, record the race or ethnic background of the **primary leaseholder**.

Race/Ethnic Background	Total Number of Primary Leaseholders	Total Number of Rental Office Employees
American Indian • Alaska Native		
Asian Indian • Chinese • Filipino, Japanese • Korean • Vietnamese, Native Hawaiian • Guamanian or Chamorro • Samoan • Other Asian or Other Pacific Islander		
Black /African American		
Spanish/Hispanic/Latino • Mexican, Mexican American • Chicano • Puerto Rican • Cuban		
White		
Other racial/ethnic groups not listed in any of the above categories.		
TOTAL Units Occupied		

Over

2. How many primary leaseholders are Single Heads of Household?

A Single Head of Household is defined as any single, separated, divorced or widowed person who has one or more **dependent** family members living with him or her. *For example, a single parent with children, or an adult who provides financial support for a dependent relative.* **DO NOT** include married or unmarried couples, single persons living alone, or those residents sharing apartments as roommates.

Number of Units with Female Heads of Household _____
Number of Units with Male Heads of Household _____
Total ALL _____

3. How many units have a household member who is disabled?

A disabled person is defined as a person whose physical, mental or emotional disability has been reported to the management and whose disability substantially limits one or more major life activities such as walking, breathing, hearing, seeing, speaking or working.

Total Number of Units with a Disabled Household Member _____

Print Preparers

Name: _____ Title _____

Daytime Telephone Number: _____

THANK YOU • PLEASE RETURN TO
Department of Housing and Community Affairs
Division of Consumer Affairs • Licensing and Registration
100 Maryland Avenue, Room 330,
Rockville, Maryland 20850
QUESTIONS? Call 240-777-8450





Montgomery County Government

HATE/VIOLENCE INCIDENTS
FACT SHEET

County Statistics - Verified Reported Acts of Hate/Violence

1983	:	145 incidents
1984	:	151 incidents
1985	:	195 incidents
1986	:	170 incidents
1987	:	151 incidents
1988	:	149 incidents
1989	:	196 incidents
1990	:	279 incidents
1991	:	195 incidents
1992	:	211 incidents
1993	:	160 incidents
1994	:	91 (as of September 26, 1994)

Breakdown

	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>
*Type of Incident:					
Harassment	108	109	150	147	88
Vandalism	139	80	80	72	50
Assault	51	35	63	33	9
Arson	5	1			
Cross Burning	1				

*Victim Profile:

	<u>1990</u>	<u>1991</u>	<u>1992</u>	<u>1993</u>	<u>1994</u>
Black	114	77	94	60	43
Jewish	77	40	44	53	29
Asian	15	9	22	11	3
Hispanic	15	7	16	11	9
White	29	26	32	18	17
Other ethnic/religious minority	60	40	16	15	7
Sexual Orientation	17	17	14	14	3
Disability			1	2	2

	<u>1990*</u>	<u>1991*</u>	<u>1992*</u>	<u>1993*</u>	<u>1994*</u>
Against persons	149	136	184	156	89
Against pers. property	51	32	42	35	26
Against public property	46	22	22	28	24
Against religious property	53	29	16	9	
Incidents committed by a group (3 or more persons)		9	6	2	

*Because some of these incidents have occurred in more than one category, the totals will not necessarily be the same as the total number of incidents for a given year.

A Hate-Violence Fact
09/26/94

Human Relations Commission

164 Rollins Avenue, Rockville, Maryland 20852-4067
Administration 301/468-4260; Compliance 301/468-4265; TTY 301/530-6436

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