

1 TRANSCRIPT OF PROCEEDINGS  
2 BEFORE THE  
3 COMMISSION ON HUMAN RIGHTS  
(TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION)  
4 AUSTIN, TEXAS

4 PUBLIC MEETING FOR THE )  
COMMISSION ON HUMAN RIGHTS )  
5 TEXAS WORKFORCE COMMISSION )  
CIVIL RIGHTS DIVISION )  
6

7 COMMISSION MEETING

8 WEDNESDAY, JANUARY 27, 2010

9  
10 BE IT REMEMBERED THAT at approximately  
11 9:00 a.m., Wednesday, the 27th day of January 2010,  
12 the above-entitled matters came on for hearing at the  
13 Texas Workforce Commission, TWC Building, 101 East  
14 15th Street, Room 244, Austin, Texas, before CHAIR  
15 ANDERSON and the COMMISSIONERS of the Human Rights  
16 Commission, Texas Workforce Commission-Civil Rights  
17 Division; and the following proceedings were reported  
18 by Janis Simon, a Certified Shorthand Reporter, in the  
19 State of Texas.

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1 P R O C E E D I N G S

2 WEDNESDAY, JANUARY 27, 2010

3 (9:00 a.m.)

4 AGENDA ITEM NOS. 1 & 2

5 CHAIR ANDERSON: Good morning, everyone.

6 And welcome to the January meeting -- the quarterly  
7 meeting, the first one in December, 2010. I hope  
8 everybody had a Merry Christmas, Happy New Year and --  
9 well, we'll get started for the -- for the 2010 year.

10 And I'd like to open with a -- in a --  
11 we only have one speaker?

12 Becky, we just have the one?

13 Ms. Marilou Morrison of Austin, Texas.

14 And you have three minutes, Ms. Morrison.

15 MS. MORRISON: Is the mike on? Is the  
16 mike on? Oh, okay. Thank you.

17 (Brief pause)

18 MS. HOLT: There.

19 MS. MORRISON: Oh, thank you.

20 Okay. Good morning. Today I will  
21 address Agenda Items 4, 5, 6, and 7.

22 I'm aware that CRD Management has  
23 received the long overdue and official letter from HUD  
24 placing the CRD on what amounts to probation for its  
25 poor quality of work. The CRD has for a very long

1 time been unable to meet its HUD contracts with  
2 regards to quality. And because CRD investigators are  
3 unable to satisfactorily investigate and close cases  
4 that meet the requirements set forth, CRD will lose  
5 its HUD contract, unless immediate and workable steps  
6 are taken. CRD currently has 10 investigator  
7 positions assigned to housing cases exclusively and  
8 with the expectation that approximately 40 cases per  
9 month will be investigated and closed to HUD's  
10 satisfaction.

11                   During the course of this meeting you  
12 will be told how many housing investigations were  
13 completed to HUD's satisfaction during the first  
14 quarter of Fiscal 2010, and it will be far fewer than  
15 the 25 percent of the number CRD Management submitted  
16 to the Legislative Budget Board. HUD pays CRD \$2400  
17 for each housing investigation satisfactorily  
18 completed in a timely manner. Due do the math. This  
19 represents a huge portion of the CRD's budget.

20                   At a Commission Meeting held before the  
21 numbers were submitted to the LBB, Mr. Crump warned  
22 CRD Management that the numbers projected were, quote,  
23 "unattainable," and that was long before this recent  
24 letter from HUD. How can CRD continue to claim that  
25 it can complete anywhere near the number of cases

1 projected to the LBB that meet HUD's requirements for  
2 quality? HUD has recalled some cases and has made no  
3 promises as to how many it will send during the next  
4 three quarters.

5                   And CRD has failed to generate any  
6 significant number of cases on its own, nor is it  
7 likely to do so. Realistically, the CRD's future  
8 looks bleak. The reason for this situation is exactly  
9 what I've told you before. CRD's Management lacks the  
10 ability and knowledge of HUD policies and  
11 investigative techniques required.

12                   With 10 housing investigator positions,  
13 it is unable to satisfactorily complete as many  
14 housing investigations as three former housing  
15 investigators did prior to 2003. And until they  
16 become -- and until they become disgusted -- did prior  
17 to 2003, until they became disgusted and found other  
18 jobs.

19                   I believe the current housing  
20 investigators could be productive also if there were  
21 competent management and supervisors who had even  
22 basic knowledge of HUD requirements and investigative  
23 techniques and the ability to teach, mentor, and  
24 monitor employees, rather than berate and blame and  
25 confuse them creating lower and still lower morale.

1                   I want the Commission to begin, once  
2 again, to provide the services due our citizens. And  
3 I want it on record that I told you Commissioners what  
4 might actually turn this situation around. No  
5 investigator can learn how to satisfactorily complete  
6 a housing investigation with what little training HUD  
7 provides, unless he or she has competent management  
8 with whom to confer about cases.

9                   Before the three former investigators  
10 who originally made up the housing team left, they  
11 were each closing five or six cases monthly, 2003 to  
12 2006. During two -- during that time, an experienced  
13 investigator, Robert Hood (phonetic), trained the  
14 other two and served as their de facto supervisor  
15 helping and monitoring them on a daily basis.

16                   I recommend that the Commissioners, TWC,  
17 or whomever accepts responsibility for CRD ask  
18 Mr. Hood to train and -- train the current housing  
19 investigators on a temporary basis. I believe he  
20 might be able to turn this around and save the HUD  
21 contract, but it may well be too late now. But you  
22 owe the citizens of Texas a chance. Thank you.

23                   By the way, it sure would be nice to  
24 have the information about the new Commissioners on  
25 the Website. It's been a long time.

1

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## AGENDA ITEM NO. 3

3

CHAIR ANDERSON: We'll go to Item No. 3,  
4 and that's the discussion, consideration, and possible  
5 action regarding activities conducted in the first  
6 quarter of Fiscal Year 2010, Mr. Gomez.

7

MR. GOMEZ: Yes. Good morning. For the  
8 record, my name is Robert Gomez. I'm the Director of  
9 the Civil Rights Division.

10

Good morning, Chair Anderson and  
11 Commissioners. I'd like to direct your attention to  
12 the tab in your handout labeled "Director." I worked  
13 with Commissioner Morris to develop a new presentation  
14 format for my information, and the following are the  
15 highlights of my activities since October 15, 2009.

16

They are divided up into three sections,  
17 as far as my report: Internal CRD Activity and Action  
18 and Its Impacts; TWC Activity and Action and Its  
19 Impacts and also Federal Activity and Action.

20

So, under the first caption, Internal  
21 CRD Activity and Action, conducted meeting with Civil  
22 Rights Management Team, a discussion centered around  
23 the employment investigators not exceeding their  
24 approximate 55 case inventory for a monthly caseload,  
25 and also discussed internal leave request procedures

1 in regards to meeting our performance standards  
2 numbers. Some personnel actions that were done,  
3 conducted personnel meetings with individuals  
4 concerning demotions based on performance. Conducted  
5 interviews and hired individuals for the Investigator  
6 3 positions.

7                   We have -- since the last time we met,  
8 we hired two new housing investigators. And, again,  
9 these housing investigators were hired for the  
10 vacancies that we did have in housing. They are  
11 currently going through their learning curve, which in  
12 housing is extensive. It takes about six months to a  
13 year.

14                   And I would like to introduce them at  
15 this point in time. Mr. Rodolfo Martinez was an  
16 internal promotion effective December 1st, 2009. He  
17 was previously our intake investigator for employment.

18                   Rudy.

19                   MR. MARTINEZ: (Standing)

20                   MR. GOMEZ: And also Patricia Mayhew.  
21 She was an external candidate, and she started January  
22 15th this year.

23                   And Patricia.

24                   MS. MAYHEW: Yes, sir.

25                   MR. GOMEZ: And she's our -- those are

1 our newest Housing Investigator 3s.

2 CHAIR ANDERSON: Welcome to both of you.

3 MR. GOMEZ: The Housing Investigator 3,  
4 there was -- on another personnel action there was a  
5 Housing Investigator 3 that requested to be placed in  
6 the vacant Intake Investigator 2 vacated by Mr. Rudy  
7 Martinez. So, we have since done that, and we are  
8 currently posting a -- an Employment Investigator 3  
9 for the Employment Section.

10 Since October 15th I have conducted a  
11 full staff meeting, shared information about the  
12 occurrences and what our targets were and performance  
13 measures for the division. Conducted meetings with  
14 representatives of HHSC based on best practices. That  
15 was in regards to our reviews and best practices in  
16 conducting the reviews that we do for personnel  
17 policies and procedures. Conducted a meeting with  
18 Team 1, which is the Housing Team concerning the  
19 Housing -- Department of Housing and Urban Development  
20 Review Report.

21 Under the next caption of the TWC Action  
22 and Activity, of course, attended the Executive Staff  
23 Meetings on a weekly basis on Mondays and also the  
24 biweekly TWC Commissioner Meetings. Participated in  
25 meetings with representatives of TWC, Office of

1 Internal Audit, to discuss the Activity-Based  
2 Management Review. We are currently drafting a  
3 response to that Activity-Based Management Review  
4 audit that was conducted for the division, and we  
5 should have that report probably in the second week of  
6 February.

7 CHAIR ANDERSON: When was that  
8 conducted?

9 When was that conducted?

10 MR. GOMEZ: That was conducted back  
11 in -- gosh, I think it was either the end or the start  
12 of the fiscal year, the end of FY '09 or -- and the  
13 start of Fiscal '10. And maybe even further back. I  
14 think it was August or July. I'll get you those  
15 dates, Chairman. And, like I say, we are currently  
16 developing the response for that ABM.

17 Under the Federal Activity Action  
18 caption, participated in meetings with the TWC Open  
19 Records staff and EEOC, FEPA representative from EEOC  
20 and the Legal staff concerning the processing of Open  
21 Records Requests by the Civil Rights Division. And,  
22 well, the outcome of that meeting was that we are --  
23 or Legal is going to request the Texas Office of  
24 Attorney General to exempt investigator's personal  
25 observational notes in the case records on Open

1 Records Requests.

2                   Also, along the lines of the HUD Review  
3 Report, participated in a teleconference with Gene  
4 Crump, representative -- who is the Deputy Executive  
5 Director for TWC, and the regular -- Regulatory  
6 Integrity Division and representatives from HUD  
7 concerning the review. I did provide, for your  
8 review, the briefing and update regarding the actions  
9 to the HUD On-Site Performance Review and Response --

10                   CHAIR ANDERSON: Before we go there --

11                   MR. GOMEZ: Yes, sir?

12                   CHAIR ANDERSON: -- before we go there,  
13 because -- there will probably be some questions  
14 generated. On the internal -- or the process where  
15 people go from a higher grade to a lower grade, are  
16 you working with HR to review that entire process?  
17 Because that -- that has a -- a fiscal impact on the  
18 CRD if people have lower goals and people are, you  
19 know, dropping down to a -- a -- a lower grade where  
20 their objectives are lower, then that could have a  
21 financial impact.

22                   MR. GOMEZ: Yes, sir. We had -- when we  
23 have these occurrences and prior to taking any  
24 personnel action, we do work extensively with the HR  
25 Department. We work with Brenda Nichols and Greg, who

1 is the attorney in HR, and basically each situation  
2 is -- is unique in the actions that management is  
3 going to take. For example, we had some voluntary  
4 demotions, and we had some involuntary demotions. And  
5 then we had some requests through the process that is  
6 established through TWC HR on requesting transfer to a  
7 vacant position. That also encompasses a fact of  
8 whether or not that position is already posted, which  
9 was the case in this current Employment Investigator 3  
10 position.

11                   And, yes, it does have fiscal impact,  
12 because of the reduction in salary. For example, if  
13 an individual is being demoted, either voluntarily or  
14 involuntarily, from an Investigator 5 to an  
15 Investigator 3, obviously, there is an impact on the  
16 performance standards, performance numbers, and also  
17 on the salary and budget impact as far as expenditures  
18 are concerned. So, each -- each situation, each  
19 individual personnel action, prior to management  
20 taking any action whatsoever, we do consult, and we  
21 get direction and guidance from HR.

22                   CHAIR ANDERSON: If it -- if it begins  
23 to have a significant impact, is there -- what is the  
24 process with the TWC? Do they -- can we -- can we  
25 say, "No, we're not going -- you know, we need this

1 position at an Investigator 5 level, and you'll either  
2 have to perform or we'll have to go out and get -- I  
3 mean, you know, bottom line, go out and get somebody  
4 else"?

5 MR. GOMEZ: Well, in working with HR,  
6 Chair Anderson, we look at each individual request.  
7 For example, there's a -- the process that I mentioned  
8 through TWC is a process that involves a document  
9 called a P30 where you can actually submit that P30 to  
10 any director, hire an entity and request that for the  
11 next vacant position, before it's posted, that they  
12 are considered for that position, that they do meet  
13 the qualifications, is my understanding. And that's a  
14 process -- like I say, before we take any action, we  
15 do go through HR. So, it depends on what the position  
16 is and what the situation is.

17 And, also, in honoring that P30, we as  
18 managers or I as a director have the option of  
19 exercising whatever action is needed to not compromise  
20 the fiscal position of the position -- of the  
21 division, in other words, to consider what the  
22 business need is and consider what the impact to the  
23 budget is going to be.

24 CHAIR ANDERSON: I -- I see Mr. Crump is  
25 here. And I -- you know, at some point, I mean, the

1 budget was drafted and accepted based on "X" number of  
2 Investigator 3s and 5s, and we're saying we're going  
3 to be in balance. And if we're going to be out of  
4 balance, because we've got more 3s than we anticipated  
5 and, therefore, their -- their work product could be  
6 less than an Investigator 5, then -- then that's going  
7 to have an impact on our making the financial goals.

8 MR. GOMEZ: That would probably -- will  
9 impact the revenue, as far as the performance  
10 standards for 5 versus a 3, but it also impacts the  
11 expenditures, because you're going from a Salary Level  
12 5 to a Salary Level 3. And that's my understanding.

13 CHAIR ANDERSON: Mr. Crump.

14 MR. CRUMP: Good morning, Chair  
15 Anderson, Commissioners. For the record, Gene Crump,  
16 Deputy Executive Director.

17 Chair Anderson, I think that what you're  
18 trying to get to is is, yes, myself and Ms. Nichols  
19 are looking at the policies of how they apply to the  
20 Civil Rights Division, the revenue expenditures and  
21 the piece rate system, under which Civil Rights  
22 operates. And we're looking for an acceptable  
23 solution that works within the TWC framework. So,  
24 we're certainly aware of it. Brenda and I are  
25 consulting on that right now.

1                   CHAIR ANDERSON: And -- and I don't know  
2 what the numbers of 5s and 3s are going to be. But,  
3 as I mentioned, I mean, it was -- the budget was put  
4 together with that ratio in mind. And if it changes  
5 one or even -- or -- or one or two, then -- then  
6 that's going to have an impact on their production.

7                   MR. GOMEZ: Well, currently, the  
8 investigator positions are 5s and 3s. And the  
9 difference really -- if you are looking at the  
10 performance standards closures is really minimal.  
11 It's like 1. If you're going from a -- an  
12 Investigator 3 outstanding to an Investigator 5  
13 proficient, it's basically the same number, the 4.  
14 And then -- and like for -- an Investigator 3, for  
15 example, the performance numbers are 3 for proficient  
16 and 4 for outstanding. For an Investigator 5 in  
17 housing the proficient number is 3 and -- 4, I'm  
18 sorry, and the outstanding is 5.

19                   CHAIR ANDERSON: One Commissioner,  
20 myself -- I don't know if the others -- and I'm not  
21 going to speak for them but, you know, has -- has that  
22 as a concern. Right now it looks like the numbers are  
23 pretty balanced, the -- the financial report. But  
24 going forward, I -- I think it's something that we  
25 need to focus on and -- and make sure that we don't

1 get out of balance.

2 MR. CRUMP: Yes, sir, we'll make a  
3 positive team decision around that.

4 MR. GOMEZ: Yes, sir.

5 Thank you, Gene.

6 CHAIR ANDERSON: Any -- any of the  
7 Commissioners have any comments or thoughts on that  
8 before we get into the -- the HUD Report?

9 COMM. STIDVENT: No, I would just agree  
10 with -- with your comment that we have to consider the  
11 budget in making those personnel decisions and that --  
12 and consider whether we can return those positions to  
13 those that can -- that undertake higher outputs to  
14 reflect in the budget.

15 MR. GOMEZ: Yes. Thank you,  
16 Commissioner.

17 Regarding the briefing and update on the  
18 HUD review and response, I, again, did provide you  
19 a -- a summary of -- or briefing and update including  
20 background, discussion, and resolution steps. And you  
21 had an opportunity to review that. If you have any  
22 questions over that, I will be glad to answer them.  
23 If not, then I will give you an additional update,  
24 since we sent out the packets to y'all.

25 CHAIR ANDERSON: Does Mr. Moore or

1 Mr. Crump also want to participate in this, or are  
2 they -- since they were named?

3 (Laughter)

4 CHAIR ANDERSON: From my standpoint,  
5 from the Chair's standpoint, I think the  
6 Commissioners -- the other Commissioners will agree  
7 this is kind of disturbing in that HUD would -- I  
8 mean, we went through this exercise a year ago when  
9 they -- they issued a report and -- and didn't even  
10 let you-all know what was in the report. Some of the  
11 things were maybe inaccurate or not actually all  
12 correct, and now we go through the same thing again.  
13 So, if you can you give us some background and, you  
14 know, what's transpired and -- and what might be going  
15 forward.

16 MR. GOMEZ: Yes, sir. I'll let Gene  
17 and -- and John submit their information from their  
18 viewpoint. But from mine, yes, you're correct,  
19 because we had already gone through this once before,  
20 that they came down, conducted the on-site. And then,  
21 we did not get any feedback, questions, or any  
22 information until a written report was issued.

23 Same situation here, very briefly. As  
24 the information that I provided to you explains, is  
25 that they were here to do a one-day on-site on

1 September 9th. We did not hear anything, any  
2 feedback, like I say, or any contact, neither myself  
3 or Legal support, until they issued the report, which  
4 was signed by Mr. Sweeney on January 8th that we  
5 received on January 11th.

6                   So, that is the situation that we find  
7 is -- is -- is difficult to deal with in -- in trying  
8 to respond to this report in as far as most of the  
9 items, corrective action items, that are in the report  
10 itself have already been taken care of or addressed.  
11 And at this point in time, I'll let Gene and -- and --  
12 and John basically --

13                   MR. CRUMP: Once again, good morning,  
14 Commissioners. For the record, Gene Crump, Deputy  
15 Executive Director. I know that Chair Anderson shared  
16 with you my informal notes of -- of our conference  
17 call.

18                   As opposed to my normal, reserved  
19 position here at the Commission Meeting, we had some  
20 very frank comments with Mr. Sweeney and his  
21 investigators. I was very disappointed, to say the  
22 least, when I saw the report. John and Robert brought  
23 it to me.

24                   And so let me kind of go at it this way.  
25 I won't say anything so that I could be quoted out of

1 context like I was earlier this morning by our first  
2 public speaker. I was a little disappointed about  
3 that, but I expressed to Mr. Sweeney that this report  
4 read literally could -- could be read very damaging.  
5 He assured me that that was not the intended case, and  
6 I expressed the fact that, if we had had an exit  
7 conference and had went through the comments, that we  
8 could have moderated those so that we could have  
9 identified those areas for our improvement, not to  
10 basically write a report that misrepresented the facts  
11 or their intentions from the HUD perspective.

12                   And I'll give you one specific example.  
13 It was suggested that our Legal -- they kept referring  
14 to Legal staff, actually, John's staff and RID, were  
15 not following up on cases and prosecuting them and  
16 taking them through the normal legal process that we  
17 have within the state. And so I asked the  
18 investigators that were on the call, how did they  
19 determine that. He said, "Well, we went into  
20 TEAPOTS," which is the HUD database for tracking all  
21 of our cases.

22                   And the -- I asked the investigator,  
23 "So, did you talk to Mr. Moore or his staff?" "Well,  
24 no, we went to TEAPOTS." I said, "So, you really  
25 don't know what was happening with the legal cases."

1 I said, "If you would like to indicate to us that we  
2 need to improve our documentation and make it more  
3 timely in TEAPOTS, I think that would be a fair  
4 finding." I said, "But you don't have any audit  
5 documentation to note that, in fact, we're not  
6 following through the legal cases." "Well, we looked  
7 in TEAPOTS." I said, "That's my point."

8 I -- and that leads me to the conclusion  
9 that I addressed, that I believe Mr. Sweeney  
10 understood our issues with the audit in general. When  
11 I asked if we could have an exit conference, they  
12 expressed to me they're only here for a day. So, it's  
13 very, very hard in -- from the audits I've seen to  
14 actually conduct a complete audit in a day, but I  
15 asked if we could be part of the exit conference.

16 And they expressed, "Well, you know that  
17 we're there on such and such a day. We tell you  
18 several months in advance." I said, "That's great.  
19 So, we'll have the exit conference from 4:00 to 5:00."  
20 And they said, "Well, no." I said, "So, we'll have  
21 the exit conference from 3:00 to 4:00." He said,  
22 "Well, no, we don't know when we're going to leave."

23 I expressed to them that several of us  
24 have other jobs within the agency. We don't always  
25 focus on Civil Rights, while it's very, very important

1 to us. But we have other things that might impact our  
2 schedule. So, if we could have an exit conference  
3 scheduled -- Mr. Sweeney interrupted at that point,  
4 and said, "Gene, I understand our point. What we can  
5 do is, after the auditors come and gather their data,  
6 do their field work and then leave, they -- we could  
7 have a joint conference call to have an exit  
8 conference."

9                   So, in my -- my belief is is that we  
10 certainly identified to Mr. Sweeney the -- kind of the  
11 normal audit process that I'm used to, we will  
12 follow-up in the future to allow us to address the  
13 issues as they come up, moderate those issues, and  
14 anything that we have -- has been corrected. As I  
15 noted in my e-mail that Mr. -- that Chair Anderson  
16 sent to you guys -- and Mr. Sweeney acknowledged, we  
17 probably already corrected most, if not all, the audit  
18 findings, and I believe we have.

19                   So, that was the general tone of the  
20 discussion. I -- I tried very hard not to suggest  
21 that we want to rehash the audit at this point but to  
22 really look for ways to improve our service. And  
23 that's what really auditors are supposed to do.  
24 They're supposed to find those things that we're not  
25 doing well and give us an opportunity to improve.

1                   And I think that was the -- as we closed  
2 the call, I believe that we all left with that  
3 feeling. That's my general comments. Are there any  
4 specific questions for me?

5                   CHAIR ANDERSON: From the Legal  
6 perspective, they -- they were somewhat critical, I  
7 guess. And -- well, maybe that's not an appropriate  
8 characterization. But, you know, from -- from the RID  
9 perspective.

10                  MR. MOORE: Thank you, Chairman. For  
11 the record, John Moore, Director of Regulatory  
12 Integrity.

13                  Mr. Crump very well summarized the --  
14 the conversation that he -- he mostly had with  
15 Mr. Sweeney. I managed to bite my tongue during the  
16 process.

17                  My division is not perfect. We have a  
18 lot of work to do, too, as everybody else does, and  
19 we're always looking for ways to improve. And the --  
20 and the -- the report from HUD does give us some --  
21 some things that we can do and are doing.

22                  Mr. Gomez and his staff and -- and I and  
23 my staff will be meeting on, basically, a weekly  
24 basis. And that will be recorded in TEAPOTS --

25                  (Laughter)

1                   MR. MOORE:  -- to make sure that that's  
2 on the record.

3                   One of the blaring holes, as Mr. Crump  
4 pointed out, was the fact that -- that the work being  
5 done in RID was not being entered into TEAPOTS, and  
6 the reliance on -- on the audit of what was in TEAPOTS  
7 we now understand is very important to HUD.  
8 Therefore, my staff has been -- will be given, I think  
9 as of today, access to TEAPOTS to enter on their own  
10 any and all work that we do on any HUD cases.  So  
11 that, in the future when HUD comes in and looks at  
12 TEAPOTS, they will know that -- that work is being  
13 done.

14                   Specifically, just to give you an  
15 example, on Page 4 of the -- the report there's a list  
16 of, I think, 12 cases that they specifically  
17 mentioned.  10 of those cases have been conciliated.  
18 I'm still not sure about the status of one of those  
19 cases.

20                   And then there's another one, Bang  
21 versus Henshaw, and I think it's on your -- your list  
22 of cases for executive staff.  Well, we filed suit in  
23 that case six months before they came on site to  
24 review in September.  And if that would have been in  
25 TEAPOTS, that would not have been on the list.  We

1 understand that.

2                   So, that is going to be corrected, and  
3 we will make sure that -- that everything that we do  
4 in conjunction with Robert's staff will be into that  
5 system so that there will be no questions in the  
6 future. And as I told them the first time we met with  
7 HUD on the initial report and as Mr. Crump indicated,  
8 I believe, on the phone call we are always available  
9 by phone or by e-mail to answer any questions. And we  
10 made that clear to them again that, that all you have  
11 to do is pick up the phone and talk to us, and we'll  
12 be happy to talk to them.

13                   So, we will work to improve the service  
14 that we're delivering to -- to CRD and work to make  
15 sure that our cooperation is well documented and  
16 available for anybody to look at.

17                   CHAIR ANDERSON: If they're so focused  
18 on TEAPOTS, why do they even need to come down? They  
19 can just -- just go on-line and check TEAPOTS.

20                   MR. CRUMP: Mr. Chairman, we'll accept  
21 that as a rhetorical question.

22                   (Laughter)

23                   CHAIR ANDERSON: Go ahead.

24                   COMM. MICHALKA: If I recall, this is  
25 the -- this is the second time we've had problems -- I

1 don't want to say "problems" but issues or concerns  
2 regarding HUD reports in the past couple of years. Is  
3 that right?

4 MR. GOMEZ: (Nodding)

5 COMM. MICHALKA: And if I recall  
6 correctly, it's the same type of process where they  
7 just -- they come in. And then, at some point in --  
8 after that time, they issue a report without input or  
9 anything like that.

10 Has this been put in writing and sent  
11 officially to Mr. Sweeney and his -- because they  
12 are -- they are -- there's two things going on:  
13 They're evaluating the -- the programs and the process  
14 here, but in the meantime, they are -- also have a  
15 format and they are a governmental entity. They do  
16 have processes and things like that that also need to  
17 be changed.

18 And I'm sure that we are not the only  
19 ones that have frustration with that process. And  
20 since we're seeing a pattern here, too, becomes -- you  
21 know, I was wondering has something been put in  
22 writing since we --

23 MR. CRUMP: The -- the direct answer is,  
24 no, ma'am. Again, the first -- the audit a year ago  
25 or 18 months ago I -- John and Robert handled that

1 off-line. This time when it arrived, I was like,  
2 "Okay." Well -- sorry. I got involved to talk to  
3 Mr. Sweeney and his investigators on-line.

4 We could certainly -- we could certainly  
5 draft a letter like that. I -- I would like to  
6 suggest to the Commission I believe we've solved that  
7 process, at least for -- at least for TWC CRD. I  
8 don't know that we've solved it for any other FHAP and  
9 housing agency. So, it -- it could be done.

10 I would -- it would be my recommendation  
11 to the Commission that we not approach it at -- that  
12 way this time, based on the phone call. Had I known  
13 the wish of the Commission, that would have been --  
14 that would have -- something -- certainly we could  
15 have done that. I could have certainly called  
16 Mr. Sweeney and said, "We're going to address our  
17 concerns in writing." Again, if it pleases the  
18 Commission, it would be my recommendation we not do  
19 that this time --

20 COMM. MICHALKA: No, I understand. I  
21 was just wondering if that was a thought, had been  
22 done. And maybe if they do this again --

23 (Laughter)

24 MR. GOMEZ: Commissioner Michalka, one  
25 of the things I do -- I do want to point, as Gene

1 says, the first time -- the first occurrence that you  
2 pointed out previous to this, when John and I  
3 addressed the issue, we actually had a face-to-face  
4 meeting with Gary, his Deputy Thurman, Joe Castillo,  
5 who is the head of the Review Team and his Review Team  
6 and my Management Team, along with John and his team,  
7 Legal Team. So, really, in as far as putting it in  
8 writing, we thought that had already been addressed  
9 and taken care of, because we did have that  
10 face-to-face meeting here in our offices.

11                   So, again, like Gene responded, no, we  
12 haven't put it in writing, but that's probably the  
13 reason why we didn't put it in writing that first  
14 time, is that we did have a face-to-face meeting, that  
15 he was aware that we were not in agreement with the  
16 type of process that was taken by the Review Team.

17                   MR. MOORE: Hindsight is always good,  
18 but as -- as with the -- the telephone conversation we  
19 had, we left feeling with the first meeting that we  
20 had accomplished what we had -- what we had wanted to  
21 accomplish and were going to get the -- you know, get  
22 a response. And that's where we left it.

23                   MR. CRUMP: So, Commissioners, I -- I  
24 probably jumped the gun when I made the call. I was  
25 disappointed with the process and the tone of the

1 report.

2                   COMM. STIDVENT: I got a call last week  
3 that one of the assistant secretaries from HUD, John  
4 Trasvina, is going to be coming to Austin in April for  
5 a City of Austin event, and I'm wondering if that is  
6 something that we want to get on his schedule or meet  
7 with. I don't know if that's appropriate or helpful  
8 or good for just building good will with the agency,  
9 but I just wanted to flag that.

10                   MR. GOMEZ: Yes. And, in fact, we will  
11 be participating with the City of Austin. I've been  
12 working with Charles. In fact, I just got a call  
13 from -- yesterday that he's going to send the draft  
14 agenda. He wants some of my staff to participate in  
15 that and myself and for us to set up our display booth  
16 for outreach.

17                   So, we will be working with him. So,  
18 yes, this will provide us an excellent platform to --  
19 to address maybe this issue. And I would -- and I'd  
20 like to invite any of you Commissioners that want to  
21 come down for that event, I will send you a copy of  
22 that agenda so you can have it. And it's going to be  
23 here in Austin. I still don't know where.

24                   I don't know if you received that  
25 information, Commissioner, but --

1                   COMM. STIDVENT: No, I don't. I just  
2 received information that the City of Austin will be  
3 holding an event. And then, in my other capacity,  
4 they pushed the information my way to see if there was  
5 something set up at the University, but --

6                   MR. GOMEZ: Okay. Yes, it's going to be  
7 in -- in recognition of National Fair Housing Month in  
8 April. I think it's April 14th and 15th.

9                   COMM. STIDVENT: Okay.

10                  MR. MOORE: And -- and just to follow  
11 up, our response is due -- our written response is due  
12 February 8th --

13                  MR. GOMEZ: Correct.

14                  MR. MOORE: -- and we will be hopefully  
15 finalizing it by the end of this week or the first of  
16 next week.

17                  MR. GOMEZ: The draft of the report is  
18 on my desk. I will --

19                                 (Simultaneous discussion)

20                  CHAIR ANDERSON: In a cover letter? Is  
21 that possible there to indicate in a positive manner  
22 the -- the thoughts that -- of all the Commissioners  
23 but particularly Commissioner Michalka just voiced?

24                  MR. CRUMP: Yes, Mr. Chairman, we can  
25 certainly put in there -- we can thank them for the

1 conference call and reiterate our concerns and -- and  
2 the positive discussion in the conference call. Yes,  
3 sir.

4 MR. MOORE: We can do that.

5 CHAIR ANDERSON: Because we -- we  
6 already had one example where people who don't have  
7 any complete -- don't have complete knowledge, who  
8 just hear some information, have taken it out of  
9 context and don't know that, in fact, the report  
10 reflected some inaccuracies.

11 MR. CRUMP: Yes, sir.

12 MR. GOMEZ: Exactly.

13 CHAIR ANDERSON: Any other questions  
14 from any of the Commissioners concerning the -- the  
15 HUD report?

16 (No response)

17 CHAIR ANDERSON: Okay.

18 MR. GOMEZ: Okay. To continue -- thank  
19 you, Gene.

20 To continue, I'd like to bring up Daryl  
21 Steglich who will give you the update on the  
22 Division's budget.

23 AGENDA ITEM NO. 4

24 MR. STEGLICH: Good morning, Chair  
25 Anderson, Commissioners. For the record, my name is

1 Daryl Steglich, Texas Workforce Commission Finance  
2 Department. I'll be providing you some information on  
3 case closures and financial revenue and expenditure  
4 projections.

5                   The first slide that we have is -- is  
6 the cases resolved. Based on the current -- current  
7 first quarter, for employment cases, we have 292 cases  
8 closed. The projected amount that we had that was  
9 built in the budget was 264. So, we are above the  
10 level expected for the budget in the first quarter for  
11 employment cases.

12                   For housing cases we closed 85 cases.  
13 The first quarter projection was 105. For the 420  
14 that we expected for the year for the revenue, at  
15 85 -- 85 cases for the quarter, that puts us at 340  
16 cases per year.

17                   CHAIR ANDERSON: Are we -- are we  
18 catching up on the -- because the housing is where we  
19 get a significant amount of revenue. And if we're 20  
20 cases below after the end of the first quarter, is  
21 December and January reflecting the trend the other  
22 way?

23                   MR. GOMEZ: December is reflecting  
24 basically what we had expected based on the tenure of  
25 the staff and the learning curve. We expect a

1 turnaround in January, this month, simply because  
2 the -- of the experience of the investigators. In the  
3 housing area, as I mentioned before, there is a steep,  
4 a very steep learning curve in as far as conducting  
5 investigations.

6 I think with the corrective action and  
7 the actions that were taken additionally based on the  
8 HUD Review Report, this is going to assist all staff,  
9 not only the new staff, to process their cases faster  
10 and more accurately and get them through to HUD and  
11 get them paid. So, the -- the projection and the case  
12 closures I think it's going to be positive --

13 COMM. DIGGS: What was the --

14 MR. GOMEZ: -- as we move on.

15 COMM. DIGGS: I'm sorry.

16 MR. GOMEZ: Please.

17 COMM. DIGGS: What was the number in  
18 December? What was the --

19 MR. GOMEZ: December, the numbers that I  
20 sent you-all and the monthly performance measures  
21 broken down in employment and housing, employment were  
22 95 for December, 387 for the year. And housing, 27  
23 for December and 112 for the year.

24 COMM. DIGGS: Thank you.

25 MR. GOMEZ: Uh-huh.

1                   MR. STEGLICH: For the next slide, I  
2 have a -- an updated presentation for that. This is  
3 revenue and expenditure projections based on current  
4 caseloads, case closure rates, with comparison to 2008  
5 and 2009. I'll direct your attention to the lower  
6 left-hand corner where we have the revenue projections  
7 and the percent expended for the 2010 budget. The --  
8 of course, the revenue projection is 2 -- \$2.7  
9 million, and the expectation is that we would expend  
10 100 percent of that.

11                   The projected amount based on the  
12 current case closures using a straight-line projection  
13 methodology is 2 -- about 2.6 million. That will put  
14 us 1 -- a little -- almost 1 point -- 102 percent over  
15 on the revenues as a total for the year.

16                   CHAIR ANDERSON: So, what you're -- what  
17 you're telling us is that we're going to have a  
18 shortfall?

19                   MR. STEGLICH: At -- at the current --  
20 current rate, yes, sir, in total. There -- even  
21 though we're closing more housing cases, we are  
22 closing less -- more housing cases than what we had  
23 built into the budget when less -- excuse me, more --

24                   MR. GOMEZ: Employment.

25                   MR. STEGLICH: -- employment cases than

1 we expected in the budget, and we're closing less  
2 housing cases than we did -- had built into the  
3 budget. And the differentiation, of course, is the  
4 difference between \$2400 for a HUD case and \$550 for  
5 a -- an employment case. And then, of course, we  
6 supplement the employment cases because we don't have  
7 full cost recovery for that.

8                   So, there are -- there are -- there are  
9 other issues related to that. The -- the total  
10 shortfall -- the in-total shortfall that we've got is  
11 about \$130,000. Again, that's projected based on the  
12 first quarter, but it's -- and that assumes that what  
13 has happened in the past will happen in the future.

14                   CHAIR ANDERSON: Again, from -- from my  
15 perspective -- and I'll let the other Commissioners  
16 address -- that we need to make sure we've got a plan,  
17 that -- that Mr. Gomez and his staff works with  
18 Mr. Crump and -- and you, Daryl, and your staff making  
19 sure that that number is in balance by the end of the  
20 year. So -- and -- and don't -- please don't wait  
21 until two months before the end of the year to try to  
22 make the correction. Let's -- let's do it at the  
23 six-month level. At least that's my perspective.

24                   I welcome any of the Commissioners to  
25 discuss their vision.

1 (No response)

2 MR. GOMEZ: Yes, sir, we will do that,  
3 Chair.

4 MR. STEGLICH: Moving on to the -- to  
5 the -- to the final slide. This is -- this is simply  
6 the expended -- expended -- expenditures by category  
7 for the fiscal year using -- giving the comparison.  
8 As you can see, I'll direct your attention to the --  
9 to the 2010 budget line and 2010 expended line. The  
10 way our budget is set up, we're -- our expenditure  
11 levels for the first quarter are a little bit below  
12 the budgeted levels.

13 Again, that's for the expenditures.  
14 However, the amount that -- revenue that we're  
15 generating is -- is the reason we have a deficit. The  
16 revenues will not be sufficient at this point in time  
17 from the projection to offset the expected expenditure  
18 level for the year.

19 CHAIR ANDERSON: We're going to have to  
20 make some cuts someplace --

21 MR. STEGLICH: That's --

22 CHAIR ANDERSON: -- or increase revenue.

23 MR. STEGLICH: -- that's a -- yes, sir.  
24 The -- the -- the problem that -- that the Civil  
25 Rights Division has is that the primary expenditure

1 within -- within the division is salaries.

2 CHAIR ANDERSON: Do we need to move  
3 somebody from employment into housing, or is that  
4 feasible?

5 MR. GOMEZ: At this point in time if we  
6 want to deal with the inventory that we have in  
7 employment, we would have to leave -- we need to leave  
8 the employment investigators as they are. We did  
9 think about doing that prior to posting this position  
10 that's currently posted. But given the numbers, given  
11 the inventory currently in employment, we do have an  
12 average of 55 cases per investigator.

13 Now, that's without still  
14 distributing -- we still have the investigator that's  
15 leaving, will be here until Friday. So, until he  
16 leaves, we will distribute -- or redistribute his  
17 inventory. So, that's going to up the inventory of  
18 the current investigators until we hire the next  
19 investigator.

20 And, again, although the learning curve  
21 for employment is not as steep as the one for housing,  
22 than individual that we hire on for that Investigator  
23 3 will still have to go through a learning curve or a  
24 learning process in as far as what we look at in  
25 employment investigations for EEOC.

1                   COMM. OSTERHOUT: I have a question here  
2 on our 2010 budget. On Other Operating we show a  
3 tremendous jump there over the previous two years  
4 and -- and actually over what's expected for -- for  
5 2010. It's \$170,285. What -- is there something  
6 that's just jumped up there that we don't know about  
7 or --

8                   MR. STEGLICH: One of the things that's  
9 included in the Other Operating is, first of all,  
10 benefits are included in the Other operating, which  
11 part of that is hospitalization, employee insurance.  
12 That has -- that has been regularly climbing over the  
13 years --

14                   COMM. STIDVENT: Just one question. Why  
15 do -- why is there a category Salaries and Benefits if  
16 Other Operating includes benefits?

17                   MR. STEGLICH: I'm sorry. Let me get  
18 you a breakdown of that -- of that information. I'm  
19 sorry. I started out in one direction and I,  
20 obviously, didn't -- didn't complete my thought  
21 process. But I'll provide -- I'll provide  
22 information, a breakdown, on how this -- how this  
23 breaks down by specific areas. And I'll do some --  
24 some research regarding the increases that are showing  
25 up in the Other Operating costs as a separate -- as a

1 separate analysis and provide that information to you.

2 CHAIR ANDERSON: Well, we're going to  
3 meet again in April, unless we meet -- we need to meet  
4 sooner. But let's -- let's discuss this entire --  
5 again, entire budget and the action plan to make sure  
6 that we get through this year, because I don't think  
7 we have any extra sources of income like we've had in  
8 the past couple of years from -- from lawsuits and  
9 settlements and things like that. So, April needs to  
10 be a -- somewhat more detailed in -- in how we're  
11 going to get through the rest of the year and not be  
12 over budget, in -- in addition to the answer on the  
13 other question for Commissioner Stidvent.

14 MR. STEGLICH: I'll -- I'll provide that  
15 information.

16 MR. GOMEZ: We can, in all likelihood,  
17 provide that information prior to the next meeting.  
18 Correct, Daryl?

19 MR. STEGLICH: Absolutely. Absolutely.

20 Any other questions?

21 (No response)

22 MR. STEGLICH: If not, thank you.

23 MR. GOMEZ: Thank you, Daryl.

24 That concludes my report over the  
25 Director's activities and the budget. If there's no

1 further questions then, I will introduce the  
2 Employment Manager who will give you the rundown on  
3 the Employment Enforcement area.

4 AGENDA ITEM NO. 5

5 MR. ROBERTSON: Good morning. Good  
6 morning, Commissioners. For the record, Tony  
7 Robertson, Employment Enforcement T&M Team 2. And  
8 Happy New Year to you-all as well.

9 If you just take a moment and look at  
10 the slides dealing with the first quarter, the first  
11 slide dealing with employment case inventory, one of  
12 the key things that we need to understand there is  
13 that we're looking at our first quarter numbers. The  
14 last meeting we gave you our end-of-year FY '09 data,  
15 and so first quarter we're well ahead of where we need  
16 to be when we look at our inventory, as well as where  
17 we look at cases filed and the cases resolved.

18 Are there any questions there?

19 CHAIR ANDERSON: I think it's -- I think  
20 it's great that we're ahead, and we've always talked  
21 about that. And that's great, but it -- from a  
22 financial standpoint. And I guess I keep -- keep  
23 harping on it and, you know, we end up losing money on  
24 every case that we complete. But certainly, if the  
25 cases are being filed and we're getting rid of them --

1 processing them, not getting rid of them, but  
2 processing them in an expeditious manner, that's a  
3 good thing.

4 MR. ROBERTSON: Absolutely, Chair  
5 Anderson, and thank you for that.

6 You know, one of the key things, since  
7 we transformed and became the two separate teams that  
8 we are today, the unique things that -- that -- that  
9 are happening in employment right now, or Team 2, is  
10 that we have revamped our processes. We have revamped  
11 looking at how we deal with intake. We have -- we  
12 have revamped those things, not saying that they  
13 weren't working in the past, but we're trying to --  
14 to -- to make it a more user-friendly type system and  
15 so that the information that's given out to the  
16 clients or to the -- to the complainant and the  
17 respondent is not only accurate but is very  
18 understandable for them.

19 What we've seen in the past is a lot of  
20 these cases that we get -- and when we classify them  
21 A, B, and C cases, the understanding on the  
22 complainant's side is -- is just really not there.  
23 And, as you know, with the economy the way it is right  
24 now, the cases are coming in. And at one point in  
25 time we also had to take a couple of months and

1 transfer cases because we were getting an influx of  
2 too many cases coming in and our caseloads, the  
3 inventories went well over 65 cases per investigator.

4                   And so, with that, you know, we have to  
5 look at ways to help these investigators, take that  
6 stress off of them, take that pressure off of them.  
7 And also, the key thing on that, as -- which you'll  
8 see in the other slides here, is that we don't age  
9 those cases. And so we're getting rid of a lot of  
10 aged cases, and then we're also working the current  
11 cases as well.

12                   But I must agree with you at -- at the  
13 cost that we get for each employment case, our -- you  
14 know, our cost recovery is not there because it costs  
15 us more to do than what -- than what EEOC is paying  
16 us. But with that aside, those cases are being  
17 processed more efficiently, more effectively, and more  
18 timely, as well. So, thank you for that information,  
19 as well.

20                   Next slide.

21                   This slide deals with employment type of  
22 case closures. Just year-to-date, no fault  
23 settlements are at 29. But the total that you look at  
24 when you go down through all that list, if you look at  
25 the first quarter, the total closures are 352 cases

1 that have been closed.

2                   Now, keep in mind, that puts us ahead of  
3 the game somewhat for the simple fact that we're still  
4 waiting to sign off and attain our -- our EEOC  
5 contract. It is coming. We did speak with our state  
6 coordinator, and usually about this time frame, the  
7 latter part of January, first part of February, is  
8 when we'll get our new FY '10 contract. But we're  
9 being -- they're being paid and processed accordingly,  
10 and so we carried over a lot of cases.

11                   And the key thing with us in employment,  
12 especially with Team 2 and Enforcement, is that we  
13 want to be paid for these cases. We don't want to do  
14 work for free, so to speak, because we are  
15 revenue-generated. And -- and as Mr. Crump mentioned  
16 earlier, we're on a piecemeal type of budgeting, and  
17 so we depend on that grant -- well -- or we depend on  
18 that contract, excuse me, and that workshare  
19 agreement.

20                   And I would like to let you-all know  
21 that EEOC is quite pleased with us at this point in  
22 time. Although we're ahead of the game, they're  
23 trying to ask us to kind of slow down just a little  
24 bit, because we don't want to continue to turn in  
25 cases where we don't get credit for those cases. With

1 that also said, on those closures, our reworks are  
2 less than 5 percent, which is -- which is an  
3 outstanding situation not only for my staff, but when  
4 I share this information with Mr. Gomez and he reports  
5 it to you-all, it's -- it's most important that you  
6 understand the reworks can affect our budget as well,  
7 because sometimes those cannot be paid based on the  
8 type of information or based on the type of work that  
9 the investigators have put into this case.

10                   And -- and so being less than 5 percent  
11 and being paid for those reworks is -- is a benefit to  
12 us. And so, you know, we're quite proud of that fact.  
13 And, once again, it's always going to tell back on  
14 what we're being paid per case. But Team 2 is rockin'  
15 and rollin', and they're -- they're ahead of the game.

16                   CHAIR ANDERSON: Is there any -- any  
17 conversation or discussions or rumors coming out of  
18 Washington that they may increase the case -- or the  
19 fee per case?

20                   MR. ROBERTSON: All of the above, sir.  
21 All of the above. We got a chance to meet with  
22 Mr. Valdez last week, our State Coordinator. And it's  
23 just -- the scuttlebutt that's out there, the  
24 rumblings that, yes, there could be a possibility  
25 of -- of that happening. Unfortunately, they're not

1 trinkling that down to the -- the regional offices,  
2 out of Mr. Fetzner's office in Dallas that runs our  
3 region who we partner with.

4                   But, yes, sir, there is a good  
5 possibility of that happening. And there's also a  
6 good possibility that we will be afforded and awarded  
7 the opportunity to upgrade our contracts as well and  
8 so modify them. As you know, we did not get an  
9 opportunity to modify our contract for FY '09. So,  
10 we -- we met our LBB budget -- excuse me. We met our  
11 LBB targets. We met our EEOC targets and closures as  
12 well -- for our internal processes as well.

13                   So, our -- our budget was met. Our --  
14 our closures were met. But we had a whole bunch of  
15 extra cases that, in the past, we were allowed to do  
16 an upgrade to modify our contract to have it upgraded  
17 at a higher amount or a different amount for those  
18 additional cases.

19                   As you know, with this new  
20 Administration, those things have not taken place yet.  
21 And it's been a year, and we understand that. And  
22 we're trying to be patient as well -- with them as  
23 well. So, there is talk about it, yes, sir. We just  
24 don't have the official word that it's going to be a  
25 yea or a nay on it.

1 CHAIR ANDERSON: Okay.

2 MR. ROBERTSON: Thank you.

3 Next slide.

4 This -- this particular slide shows  
5 employment cases closed by selected categories. I  
6 really have nothing on there. I just would like for  
7 you to take a moment and read it, and if you have any  
8 questions I'll be more than -- than glad to answer  
9 that. Just what's key for the first quarter  
10 year-to-date totals, we're looking at for disability  
11 cases, 66, aged ADEA cases, 64, and Title VII, 222.

12 Next slide.

13 This slide deals with, as you see, our  
14 age of pending employment -- employment cases, excuse  
15 me. If you'll look at September, October, and  
16 November, you'll see the breakout, 180 days, 181 to  
17 250, and so on. Those cases that are showing 365 days  
18 within the first three months or our first quarter  
19 data, 7, 13, and 8 is -- is really a -- an outstanding  
20 move at this point in time, because we're really  
21 moving -- we're pressing the -- the issue on these  
22 employment cases that are aged.

23 And one of the things that -- that's  
24 important for you-all to understand why we're having  
25 issues with particular aged cases is because of -- of

1 certain contact or the lack of contact and lack of  
2 cooperation. And -- and that is trying to find the  
3 respondents, in most cases, and -- and is rare that we  
4 can find the complainant in some of these cases, also.  
5 But the unique thing is is that we -- we are now  
6 looking at enforcing and issuing what we've always had  
7 in place by statute, our subpoena power, with the  
8 warning letters that go out.

9                   And then, we're -- we're going to now  
10 enforce those subpoenas, because what you have to  
11 realize, you know, faxing a subpoena over or one of my  
12 investigators taking a subpoena on site has not  
13 enforcement authority. It has zero authority. So, it  
14 has to be delivered by the local authority or a  
15 constable's office that makes it more effective and  
16 more strong for us to get the information we need, or  
17 we close that case as lack of cooperation.

18                   We're dealing with a lot of cases -- God  
19 bless you, by the way.

20                   We're dealing with a lot of cases that,  
21 you -- you know, we're not getting the cooperation  
22 that's needed. We're not getting the -- the feedback  
23 that's needed. They're not providing us the  
24 additional documentation, and so we're sending these  
25 warning letters and warning letters and warning

1 letters.

2                   Well, that -- that's how we used to do  
3 business in the past. The -- the new business that we  
4 deal with is that we want to be more effective in  
5 enforcing them, and so we've implemented that process.  
6 It's always been there, but we've never taken  
7 advantage of -- of really implementing an enforcement  
8 subpoena-type situation because, once again, we can  
9 fax it to them, we can -- we can walk it up, but it  
10 has no legal authority. It has no enforcement  
11 authority until it's served by the folks that properly  
12 need to serve it and the costs associated with that.

13                   Yes, sir?

14                   CHAIR ANDERSON: Well, I -- you know, I  
15 guess I need a little bit more explanation. I mean,  
16 you give a warning letter. And then, in the past, you  
17 just give them warning letters, warning letters over a  
18 period of three months, and then before you finally go  
19 to enforcement. Who does that, Susanna's -- John's  
20 team or --

21                   MR. ROBERTSON: Well, it -- it is --

22                   (Simultaneous discussion)

23                   CHAIR ANDERSON: -- Attorney General's  
24 team --

25                   MR. ROBERTSON: Thank you. Good

1 question. It's -- the -- the way our process works is  
2 that we -- we have to do what we call a --

3 CHAIR ANDERSON: And I thought we --  
4 another question was --

5 MR. ROBERTSON: Sure.

6 CHAIR ANDERSON: -- I thought we had the  
7 enforcement authority to do --

8 MR. ROBERTSON: We do have the  
9 enforcement to put it out, but the unique thing -- I'm  
10 sorry.

11 Go ahead, Susanna.

12 MR. HOLT: Commissioners, Susanna Holt,  
13 for the record. Can you hear me?

14 I can shed some light on the -- on the  
15 statute and the process for the subpoena enforcement  
16 authority. The Commission has the ability to issue  
17 subpoenas. They are effective whether or not they are  
18 faxed, mailed, hand-delivered, or served by a -- a  
19 constable or other person that's -- has the authority  
20 to serve, to issue citations.

21 Once the subpoenas are issued, if the  
22 respondent does not comply, then they can be sent over  
23 to the Attorney General who can file a petition in  
24 court for subpoena enforcement and enter -- get the  
25 Court to intervene. And in my experience those were

1 always successful in resulting in compliance by the  
2 respondent.

3                   If you have any questions, I'll be happy  
4 to speak further to the issue.

5                   (No response)

6                   MR. ROBERTSON: Thank you, Susanna. I  
7 stand corrected. Thank you very much. I appreciate  
8 that.

9                   And -- and we do work through our Legal  
10 services for all of that type of information, and  
11 they -- they've been very supportive to us and -- and  
12 providing us that information, guidance, as well as  
13 the knowledge that we need in reference to moving  
14 forward with those cases that are simply aged, that  
15 we're -- the reason why we're having issues is based  
16 on contact and lack of cooperation.

17                   Any questions?

18                   (No response)

19                   MR. ROBERTSON: Thank you, Chair  
20 Anderson, for your question as well.

21                   Next slide.

22                   Now, we move into the training and  
23 monitoring side of the house. This slide depicts  
24 the -- the number of four-hour workshops by the Texas  
25 Labor Code statute that -- that I am obligated to meet

1 and -- and make sure that it is taken care of. And if  
2 you'll look at it right now, what we're dealing with  
3 for the first quarter, we've just had one four-hour  
4 workshop for the first quarter.

5                   And so -- and we've had zero dealing  
6 with private employers or -- or anyone who is  
7 requesting EEO training. We've had a lot of requests  
8 in the first quarters, but a lot of those -- in the  
9 first quarter, excuse me, but a lot of those requests  
10 are being met during this quarter and some time frame  
11 on down. They want to look at a six-month window to  
12 probably implementing that based on private sector  
13 budgets and different things like that. And so we've  
14 got the requests in, but it's just not reflected or  
15 showing on this report for the first quarter.

16                   CHAIR ANDERSON: The state cutting back  
17 in certain areas, in the past the -- the law was or  
18 maybe the interpretation on the law was that -- that  
19 they -- there was a certain amount of training that  
20 they had to go through.

21                   And then that was, if I remember  
22 correctly, John, that was discontinued --

23                   MR. ROBERTSON: That's correct.

24                   CHAIR ANDERSON: -- that they no longer  
25 had to -- required to -- to do the training. So,

1 therefore, they're not doing the training, because  
2 there's financial implications, and they don't want to  
3 spend the money there. Is that -- is that your  
4 analysis?

5 MR. ROBERTSON: Well, thank you, Chair  
6 Anderson. In the past, absolutely.

7 What -- and what he's -- he's directly  
8 talking about, for all the other Commissioners to also  
9 be aware of and I kind of shared this information.  
10 I'd like to share it to you again -- share it with you  
11 again. Some two fiscal years, three fiscal years ago  
12 the rules were changed on -- in reference to our  
13 Chapter 21.556, which is the mandatory eight-hour  
14 compliance training for state agencies and  
15 institutions of higher ed -- higher ed who received  
16 three or more complaints with merit -- or just -- back  
17 then, it was just three or more complaints of  
18 discrimination.

19 If you were an agency that received  
20 three or more complaints of discrimination, you would  
21 automatically -- and -- and the way we interpreted it  
22 and the way we -- we processed that -- that statute,  
23 they indicate that you must make contact and set up a  
24 mandatory eight-hour training for managers and  
25 supervisors. Okay. We were doing that. We were

1 having high numbers. We -- we had to hire  
2 individuals, and it was great, plus it was  
3 cost-effective for us as well.

4                   Since that time frame, the rule has  
5 changed on us. It was put out for public comment,  
6 public -- public review. The Commissioners at that  
7 time also had an opportunity to review it, make  
8 changes, do whatever they needed to do from that  
9 point, either to support that or give their concerns  
10 in reference to it -- in reference to it.

11                   Well, it was posted. And our new rule  
12 now, what has to happen is is that all agencies, in  
13 order for it to be a mandatory eight-hour training,  
14 which we utilize our four-hour workshops under because  
15 we break them out into four-hour sessions, is that you  
16 have to have three or more complaints with merit.  
17 Okay. Now the new rule indicates that we have to do  
18 with merit.

19                   And if you'll give me an opportunity,  
20 I'll share with you how merit is defined under Rule  
21 819.25, as well as under our -- our Texas Labor Code.  
22 "For the purpose of this section, the term 'complaint  
23 with merit' shall mean a complaint that is -- is  
24 resolved, either by a cause finding or threw  
25 withdrawal of a complaint with a remedy favorable to

1 the complainant, such as a negotiated settlement,  
2 withdrawal with benefits, or a conciliation."

3                   Now, keep in mind, mediations have  
4 nothing to do with this. They are not included with  
5 this, and what we followed is the exact language and  
6 guide that EEOC utilizes when they use or define cases  
7 with merit. And so this is our new rule. This is our  
8 new process. And as the Chair was saying, with that,  
9 all the agencies and all the institutions of higher ed  
10 jumped on board and understood exactly what that rule  
11 meant.

12                   So, we don't get those requests anymore,  
13 and we make them up through the advertisement and  
14 marketing and -- and mailouts that I do, the mass  
15 mailouts every fiscal year, urging folks, urging  
16 agencies, urging those institutions of higher ed to  
17 look at taking some mandatory training or compliance  
18 EEO training.

19                   Now, with that also said, we also have  
20 been very fortunate each fiscal year for the last five  
21 fiscal years that I've been here, we have two agencies  
22 that guarantee us six mandatory trainings, because  
23 they're such a big agency and they have so many  
24 complaints that are filed each and every year. And so  
25 we appreciate them for that, and it is working in some

1 cases. But they're such a large agency, when you look  
2 at over 12,000 employees, they're trying to reach the  
3 majority of all of them.

4 So -- and we appreciate that. And so  
5 that is -- and -- and tell us what a -- Chair Anderson  
6 has made mention about, and I hope this information  
7 has kind of helped you as well.

8 Any questions?

9 (No response)

10 MR. ROBERTSON: Thank you.

11 Next slide.

12 Next, is our EEO and -- and housing  
13 presentations conducted year-to-date. For EEO has  
14 been four, and then the number of housing  
15 presentations have been three.

16 Next slide.

17 Individuals at events. This is, once  
18 again, one of my LBB measure -- or targets that I must  
19 meet. And so, for this fiscal year for individuals at  
20 EEO training, I am well surpassed my -- my percentage  
21 of -- of meeting my 650 individuals that need to be  
22 trained for my LBB target or my measure. Year-to-date  
23 we're at 428 individuals who have requested or have  
24 been at EEO presentations or trainings to this date  
25 for the first quarter.

1 CHAIR ANDERSON: How could you have --

2 MR. ROBERTSON: As a matter of fact, 471  
3 for -- as -- when you look at December's number, it  
4 went up to 471, which is the performance report that  
5 Mr. Gomez sends to you-all monthly as well.

6 I'm sorry. Do you have a question?

7 CHAIR ANDERSON: Yeah, we have zero at  
8 EEO presentations and 428 at E -- EEO training.  
9 What's -- what's the difference between those two  
10 again?

11 MR. ROBERTSON: Well, once again, EEO  
12 presentations are those type of presentations where my  
13 services or I've been asked or Mr. Gomez or even  
14 Vickie may be asked to come and present or provide  
15 some type of a training for a conference -- not a  
16 training, excuse me, a presentation for it can be  
17 either a conference or someone is inviting me to speak  
18 to their group or I'm being invited each and every  
19 year to provide some type of EEO information in  
20 reference to who we are and what we do. And so those  
21 are what EEO presentations are, as well as that is  
22 what housing presentations consist of as well.

23 Now, in the presentations under housing  
24 you'll see 11. The unique thing about that is that  
25 we're taking -- instead of saying housing training,

1 which is what we're saying presentations are, we have  
2 been getting a lot -- through the good work of the  
3 investigators in housing from their conciliation  
4 agreements, we have been getting a lot of requests for  
5 fair housing training.

6                   We offer a one-hour training, a two- and  
7 a four-hour training in fair housing that, once again,  
8 has been certified and -- and -- and blessed by HUD.  
9 And so we've been doing that on a monthly basis at  
10 least almost two to three a month, and we appreciate  
11 the hard work and the information that was given to  
12 the investigators to go ahead and sell that  
13 information so that it would -- it would allow them --  
14 well, I won't -- don't want to use a word like "sell,"  
15 but give that information to the complainant and the  
16 respondent based in their conciliation agreements on  
17 how this would resolve this issue and -- and make all  
18 parties happy in reference to the complaint that has  
19 been filed. So, that's where you'll see 11  
20 presentations in the first quarter for housing.

21                   Okay. Thank you.

22                   Next slide.

23                   Another important measure that is  
24 important to this division and -- and Team 2 as well  
25 are our personnel policy reviews. Once again, to

1 date, we have seven completed case reviews or on-site  
2 policy reviews which have been conducted. And -- and  
3 three of those have been certified as compliant with  
4 the TCHR Act as well.

5                   So, when you see our next report, you'll  
6 see that number increase, and we'll go from that  
7 point. None have not been certified. Once again,  
8 we're just putting out best practices to all these  
9 agencies and institutions of higher ed so they can  
10 better understand how their policies have a direct  
11 effect on the decisions that they make with their  
12 employees and how it can have a direct EEO effect  
13 within those six categories that we deal with.

14                   Any questions?

15                   (No response)

16                   MR. ROBERTSON: And last -- well, under  
17 Team 2, dealing with the firefighter reviews. As you  
18 see, 20 reviews have been conducted.

19                   AGENDA ITEM NO. 6

20                   MR. ROBERTSON: Finally, I'd like to  
21 turn your attention to the Annual Report that you-all  
22 have received last week in reference to the  
23 requirements under the statute and Texas Labor Code  
24 that we put out a Commission on Human Rights Annual  
25 Report. This report has been completed and has been

1 dated for today. I hope you-all have had an  
2 opportunity to -- to look at it.

3                   It is a -- the -- the only change that  
4 is important for you-all that -- that you need to  
5 understand are the -- the charts and -- and the tables  
6 of that report, because it reflects Fiscal Year '09.  
7 And so that's what's really important that you see the  
8 comparisons versus statewide as opposed to CRD's data  
9 as well. And -- and with that said, I'm not going to  
10 go into a lengthy discussion with you on it.

11                   It does require action from the  
12 Commissioners, and it does require the approval as  
13 well as signature so that I can move forward and  
14 process this and get it to the Governor's Office, the  
15 Legislature, LBB, and so on from that point for  
16 distributions. If you'll take a moment and look at  
17 that. If you have any questions, I'll be glad to  
18 entertain that right now.

19                   CHAIR ANDERSON: Okay. Look at Page 3.  
20 You've got percentages for CRD and EEOC, and then  
21 you've got some other percentages that are CRD and  
22 statewide. What is the difference in that? Why --  
23 why are some EEOC and why are some statewide?

24                   MR. ROBERTSON: Forgive me. Statewide  
25 does mean -- is EEOC. And what they did is -- when we

1 do this report or when I put this report together, it  
2 is how EEOC provides us the data as well and what we  
3 go off of. Then, we also forward this information to  
4 our External Relations folks who also look at it and  
5 review it, give us their seal of approval, so to  
6 speak, and then we forward it from that point.

7                   But that is an easy change if needs be,  
8 but EEOC it has been the practice how we do that. But  
9 they're considered statewide. When -- when I say,  
10 "statewide," it's -- it's -- it's talking to EEOC. Or  
11 if I say, "statewide," when you look at the housing  
12 part of it, that's considered HUD as well.

13                   CHAIR ANDERSON: Okay. Well, I'm  
14 probably more familiar with it than -- than most  
15 people other --

16                   MR. ROBERTSON: Sure.

17                   (Simultaneous discussion)

18                   CHAIR ANDERSON: -- the Commissioners.  
19 And -- and I was confused. So, you may want to have  
20 some clarification there.

21                   On Page 4 --

22                   MR. ROBERTSON: Yes, sir.

23                   CHAIR ANDERSON: -- fourth line, you've  
24 got "merit resolutions.z". What does that mean, or is  
25 that just a typo?

1                   MR. ROBERTSON: Thank you, Chair. Good  
2 catch. I believe, sir, that is -- that is just a  
3 typo.

4                   CHAIR ANDERSON: Okay.  
5                   The average processing time for  
6 employment complaints, 154 and 194 for housing  
7 respectively. Are those -- Robert and Tony, are those  
8 good numbers compared to other FHAPs --

9                   MR. ROBERTSON: Well, if you'll --

10                  CHAIR ANDERSON: -- or -- or --

11                  MR. GOMEZ: What page are you looking  
12 at?

13                  CHAIR ANDERSON: Page 4, the average  
14 processing time.

15                  MR. GOMEZ: Employment, the average  
16 processing time for employment complaints resolved,  
17 that is excellent, because as I had mentioned to  
18 you -- and I don't believe most of the Commissioners  
19 were on board. But when -- when I mentioned to you  
20 that when I initially came in as Director for the  
21 Civil Rights Division, there were cases that were 500,  
22 600 days old. One of the changes that we made soon  
23 after I became Director through the Employment Manager  
24 back then, who was Vickie, was to initiate the 180-day  
25 processing time limit or time frame for our

1 investigators, which at first was kind of pushed back  
2 on, because they were used to just, you know, working  
3 their cases at 300 days as EEOC does.

4                   But we wanted to get that backlog of  
5 inventory out. We implemented that, like I say, soon  
6 after I -- I became Director. And so that is an  
7 excellent -- excellent mark of 154 days, because the  
8 time frame that was set up for our investigators was  
9 180 days.

10                   CHAIR ANDERSON: And about 194 on  
11 housing.

12                   MR. GOMEZ: 194, we do need to work on  
13 that, as the report -- we acknowledged the review that  
14 HUD -- HUD did, the Review Report. We acknowledge  
15 that, with the caveat that when I speak with Mr. Gary  
16 Sweeney and when I speak with other FHAPs here  
17 state -- in the state of Texas and also in the nation  
18 and also with individuals from HUD, other than Gary,  
19 this seems to be the average nationwide because of the  
20 number of cases, because of the complexity of cases.

21                   Now, we have D&C cases, which are our  
22 design and construction cases, that are quite  
23 complicated. We also now have the mortgage and  
24 lending cases, which are extremely complicated. In  
25 fact, our first meeting that we had with John and --

1 and the housing staff on Monday, that was one of the  
2 things that came up, that the investigators are having  
3 cases where they need to read or do comparative data  
4 analysis on stacks of paper that are about five, six  
5 inches high, and this is because of our lending and  
6 mortgage cases.

7                   So, they're becoming more complex.  
8 They're becoming more numerous. So, therefore, we  
9 would like to cut that to closer to a hundred days as  
10 is the -- the mandate from HUD. But even they can see  
11 it and -- and my saying that I speak -- when I speak  
12 to Gary, he says, "Well, you know, this is the  
13 situation or the issue nationwide and -- and not only  
14 with the FHAPs that partner with HUD but also within  
15 HUD investigations themselves."

16                   CHAIR ANDERSON: Any other questions  
17 from the Commissioners?

18                   (No response)

19                   CHAIR ANDERSON: We need a motion to  
20 approve or adopt the report with the changes, the one  
21 typo change, and then the consistency on the EEOC or  
22 statewide. I don't -- I don't care which way it goes,  
23 but it probably ought to be consistent throughout.

24                   MR. ROBERTSON: Absolutely.

25                   CHAIR ANDERSON: Everything else says,

1 "statewide," other than those two references to EEOC.

2 MR. ROBERTSON: Yes, sir.

3 CHAIR ANDERSON: Do -- do we have a  
4 motion?

5 COMM. STIDVENT: So moved.

6 CHAIR ANDERSON: All in favor?

7 (Those in favor of the motion so  
8 responded)

9 CHAIR ANDERSON: Opposed?

10 (No response)

11 CHAIR ANDERSON: Okay. The motion has  
12 been --

13 MR. ROBERTSON: Thank you,  
14 Commissioners.

15 CHAIR ANDERSON: -- seconded and  
16 approved. Thank you.

17 MR. ROBERTSON: Thank you very much.  
18 That concludes my -- my presentation to you. If there  
19 are no other questions, I will now turn it over to  
20 Vickie Covington, Manager Team 2 -- Team 1, excuse me.

21 CHAIR ANDERSON: Susanna, we can go  
22 ahead and sign this now, because it's a cover page,  
23 right, the document? They're just going to change the  
24 content. So, we can go ahead and change -- or sign  
25 the cover page?

1                   MR. HOLT: Yes, and with your motion  
2 approving the anticipated changes. And I would  
3 suggest getting an electronic signature from  
4 Commissioner James incorporated into the document that  
5 goes to the Governor's Office.

6                   CHAIR ANDERSON: Okay.

7                   Ms. Smith, will you take care of  
8 Mr. James's electronic signature?

9                   MS. SMITH: Yes, sir.

10                  CHAIR ANDERSON: Everybody got black  
11 ink?

12                  (Brief pause)

13                  CHAIR ANDERSON: We'll -- we'll  
14 circulate it. Go ahead and -- and -- please and  
15 present your report.

16                                 AGENDA ITEM NO. 7

17                  MS. COVINGTON: Good morning,  
18 Commissioners, and -- and any guests that we may have.  
19 For the record, my name is Vickie Covington, and I'm  
20 the Manager of the Housing Enforcement, ADR, and  
21 Outreach.

22                                 We have an experienced ADR staff that  
23 continues to provide outstanding services to the  
24 people of Texas. In the first quarter they resolved  
25 74 cases, and 64 people received more than \$300,000 in

1 individual relief in the form of monetary settlements  
2 and nonmonetary relief in the form of getting their  
3 jobs, being hired as a new employee, being retained in  
4 their jobs, and receiving job transfers and  
5 promotions.

6 Are there any questions pertaining to  
7 this slide?

8 CHAIR ANDERSON: You have three -- three  
9 mediators?

10 MS. COVINGTON: Yes, Chair, we have  
11 three mediators.

12 Although our housing staff is not  
13 experienced as our ADR and employment staff, they also  
14 have been instrumental in obtaining individual relief.  
15 At the end of the first quarter last year our  
16 conciliation and withdrawal resolution rate was 48  
17 percent compared to 56 percent this first quarter,  
18 2010, with one charge being issued.

19 Complainants received more than 45,000  
20 in monetary relief. Reasonable accommodations, such  
21 as installation of disabled parking spaces and  
22 allowance for support animals, property modifications  
23 so that the property complies with the Fair Housing  
24 Act and the Texas Fair Housing Act and Housing.  
25 Public entrance is also a big component of the

1 conciliation agreements to ensure people other than  
2 the complainant and perspective housing consumers are  
3 not harmed by discriminatory practices. The  
4 agreements include terms whereby respondents change  
5 their policies and procedures, train their staff, and  
6 TWC CRD monitor and compliance reviews.

7 Are there any questions regarding --

8 (No response)

9 MS. COVINGTON: Next slide, please.

10 (Brief pause)

11 MS. COVINGTON: Are there any questions?

12 (No response)

13 MS. COVINGTON: Everyone -- well, there  
14 was some discussion earlier about the age of the  
15 housing cases. We have a structured payment plan from  
16 HUD on the age of our cases, and they -- the goal --  
17 HUD's goal is that we resolve at least half of our  
18 cases within a hundred days. And they've asked us to  
19 reduce our cases that are over a year old to 5 percent  
20 of our inventory. Currently, they're 16 percent of  
21 our inventory. So, we have about -- we have to work  
22 to get it down by 9 percent.

23 CHAIR ANDERSON: What's "legal issued"  
24 mean?

25 MS. COVINGTON: Legal issued means

1 they're either pending litigation or we've requested  
2 the Legal staff to provide us with assistance on those  
3 cases. We currently have three charges that are  
4 pending right now. Two are actually in litigation,  
5 and we're working with John's staff to modify one of  
6 the charges because one of the respondents has agreed  
7 to a conciliation.

8 MS. COVINGTON: Are there any questions?

9 (No response)

10 MS. COVINGTON: I'm going to combine the  
11 housing update and the housing outreach, the next two  
12 slides. Each year as part of our MOU with HUD, we're  
13 required to send housing staff to the National Fair  
14 Housing Training Academy and every two years to send  
15 the Leadership, Management, and Legal staff to a Fair  
16 Housing Policy Conference. Several training sessions  
17 have been posted to the National Fair Housing Training  
18 Academy Website, and management is working on refining  
19 its plan to send the required number of staff.

20 There's not been an announcement yet  
21 regarding the Fair Housing Policy Conference.  
22 However, we anticipate this conference will take place  
23 in April of this year, and -- which Robert mentioned  
24 earlier is also National Fair Housing Month.

25 MR. GOMEZ: We're hoping it's not going

1 to be the same dates that Charles has that conference  
2 here.

3 MS. COVINGTON: The Training and  
4 Monitoring Manager and his staff provided housing  
5 outreach at the Annual TWC Workforce Conference that  
6 was held early December. And Tony and his staff  
7 educated people who visited with the CRD booth  
8 regarding their fair housing rights, and they handed  
9 out numerous fliers and -- and fact sheets.

10 We continue to send out the Did You Know  
11 Update to let the Commissioners and other stakeholders  
12 know of federal employment and housing discrimination  
13 court cases. It has been updated to include education  
14 on trends we see here at the Civil Rights Division.  
15 For example, we've seen an increase not only in our  
16 disability complaints being filed but also an increase  
17 in the cases being filed based on disability being  
18 potential cause cases.

19 I'm also working with the Director to  
20 come up with a cost-effective outreach plan so that we  
21 can participate in activities to let housing consumers  
22 know of their rights and to let the providers know of  
23 their responsibilities. And Robert also mentioned  
24 earlier that we've been invited by the City of Austin  
25 to participate in their Fair Housing Annual Conference

1 that's going to be held in April.

2 MR. GOMEZ: Also, Commissioners, along  
3 these lines -- and I think I -- I don't remember  
4 sharing it with Vickie, because I just spoke to the  
5 Director of the Border Fair Housing & Economic Justice  
6 Center out in El Paso. He's meeting with other local  
7 agencies that are involved in housing. What they're  
8 planning is a conference also for National Fair  
9 Housing Month in April. What they're going to  
10 concentrate on is the -- the housing that has  
11 overnight sprung up in that area because of the troop  
12 influx into Fort Bliss.

13 And so he's meeting -- like I said, as  
14 we speak, he was going to meet this morning with other  
15 city/county agencies that are in that area, and they  
16 were going to also put a conference and outreach and  
17 informational-type of workshop together for that area.  
18 We do have some outreach money that we need to use in  
19 outreach that we have received in our conciliation  
20 agreements, and so we plan to possibly utilize some of  
21 those funds to participate and/or sponsor in that  
22 particular workshop and conference that's coming up.

23 I will have further details on that.  
24 And also this morning I believe he mentioned that they  
25 were going to start working on a draft agenda. This

1 is their second meeting. They met once before the  
2 holidays simply to decide whether or not they were  
3 going to have it, and they were going to kind of iron  
4 out -- or set up more nuts and bolts of the actual  
5 conference today.

6                   And when I get that information, I will  
7 share it with y'all.

8                   CHAIR ANDERSON: Our Outreach  
9 Coordinator, certainly is a laudable goal and  
10 something that I've advocated, is -- you know, we --  
11 we set up these outreach locations. But is he still  
12 doing cases --

13                   MS. COVINGTON: Our outreach activities  
14 have been scaled back so that we can focus on case  
15 resolutions and reducing the aged cases in our  
16 inventory, and I've been working with Robert in trying  
17 to come up with some cost-effective ideas that we can  
18 use. Some of the things that we've discussed is when  
19 the investigators go on-site for their housing  
20 investigations, to simply conduct some outreach  
21 activities while they're in the area.

22                   MR. GOMEZ: Also, this particular  
23 position -- specifically, Chair Anderson, that you  
24 mentioned -- initially, if you'll recall way back when  
25 we hired this position, I think I had been here for

1 about a year or maybe less. But we hired this  
2 position specifically to be very flexible in that if  
3 when we do get a grant, when we do have outreach  
4 activities, this individual will be involved in that,  
5 take the lead in that, because that position is -- is  
6 dedicated for that. But when we are scaling back, as  
7 Vickie says, or we don't have much activity in the  
8 outreach area, then that position will concentrate on  
9 case closures and -- and meeting what HUD has proposed  
10 for us to do.

11 CHAIR ANDERSON: And primarily focused  
12 on housing. Right?

13 MR. GOMEZ: Pardon?

14 CHAIR ANDERSON: And primarily focused  
15 on housing?

16 MR. GOMEZ: Yes. Yes, sir.

17 CHAIR ANDERSON: Good.

18 MS. COVINGTON: Are there any questions,  
19 anymore questions?

20 COMM. DIGGS: I actually have one, and I  
21 was looking at our closure rate versus the full  
22 target. And I just want to make sure I'm  
23 understanding. We have a target of 420 cases to close  
24 for the year.

25 MS. COVINGTON: Yes.

1                   COMM. DIGGS: And my rudimentary math  
2 just tells me that if we -- to hit the target, the run  
3 rate for the remainder of the year needs to be about 9  
4 additional cases per month.

5                   MS. COVINGTON: That's -- that's  
6 correct. Some of the factors that have impacted our  
7 resolutions, we've had staff on -- out on special  
8 leave. We've had people who have been voluntary --  
9 who have volunteered -- volunteered for a demotion and  
10 people who were involuntarily demoted. And, of  
11 course, we've had a -- a vacancy.

12                   So, some of the -- some of these factors  
13 we can try to mitigate them. However, some of them,  
14 frankly, are beyond our control. Special leave, one  
15 staff, that's how critical it is.

16                   COMM. DIGGS: Uh-huh. Uh-huh. And with  
17 your -- even with your vacancy, because you have such  
18 a long ramp-up, I -- I don't know that it's going to  
19 fix if you get that vacancy taken care of pretty  
20 quickly. I don't know if it's going to fix your  
21 issues.

22                   MR. GOMEZ: Well, the vacancy currently  
23 that we have, Commissioner Morris (sic), is in  
24 employment. We are fully staffed in housing, but as I  
25 stated before, they came on board just recently. Rudy

1 came on board in November, and then -- and then  
2 Patricia came on board this month.

3 COMM. DIGGS: Okay.

4 MR. GOMEZ: So, in housing, there is --  
5 as the EEOV states, there is a steep learning curve  
6 because of all the -- complexity of the case itself  
7 and also the requirements of HUD, as you can tell by  
8 our report. And so it does take a longer time for  
9 that person to get up and -- and get it going and --  
10 and start closing cases to reflect and -- and offset,  
11 if you want to consider it this way, their salary or  
12 expenditure versus the revenue that they're going to  
13 be producing.

14 COMM. DIGGS: But aren't you still down  
15 one?

16 MR. GOMEZ: In employment.

17 COMM. DIGGS: It's in --

18 MR. GOMEZ: In employment, yes.

19 COMM. DIGGS: Okay.

20 MR. GOMEZ: And like I say, we tossed it  
21 around. We discussed it. We -- we got -- threw it  
22 around to see if we wanted to hire another housing  
23 investigator or leave it as employment. We even  
24 hired -- we even talked about the possibility of not  
25 hiring. But in not hiring, we still have to deal with

1 that inventory that we're going to be left by the  
2 investigator that is leaving the employment.

3                   Perhaps -- what I have discussed with  
4 staff is in order to reduce the expenditure in the  
5 salary and -- and benefits and overhead, perhaps if we  
6 start losing housing investigators that we would,  
7 perhaps, need to sit down with Budget again and  
8 readjust our goal and not hire those positions. That  
9 way it will cut, like I stated before, salary,  
10 overhead, and expenditures and benefits reflecting the  
11 Investigator 3 versus the -- again, their long  
12 learning, steep learning curve, which would offset the  
13 nonproduction of revenue during that period of time.

14                   COMM. DIGGS: Okay. Thank you.

15                   MS. COVINGTON: You're welcome.

16                   Are there other questions?

17                   (No response)

18                   MS. COVINGTON: Thank you.

19                   MR. GOMEZ: Okay. That concludes my  
20 report and my staffs' report on the activities of the  
21 division for this past quarter. If there's no further  
22 questions, then I'll turn it over, Chair Anderson, to  
23 you.

24                   AGENDA ITEM NO. 9

25                   CHAIR ANDERSON: The next meetings are

1 April 21st, July 21st, and October 20th.

2 Does any of the Commissioners have  
3 any -- or any requests for changing those dates? Are  
4 they still good?

5 (No response)

6 CHAIR ANDERSON: Okay.

7 (Brief pause)

8 CHAIR ANDERSON: If for some reason we  
9 go long in Executive Session, we will be meeting -- we  
10 will go -- go back in Open Session probably in -- in  
11 the room which we're having Closed Session, because  
12 this location is scheduled for another meeting this  
13 afternoon. So, we have to vacate by 12:30. I do not  
14 know how long we'll be in Executive Session.

15 Talk about the action items. Requested  
16 that we send all Commissioners a side-by-side  
17 comparison, the 19 -- 2009 actual budget and revenue  
18 to the proposed 2010 budget and revenue, and that's  
19 done. That's being done. Right?

20 MR. GOMEZ: Yes, sir.

21 CHAIR ANDERSON: Okay. Requested that  
22 if the case numbers -- was the same thing we talked  
23 about today --

24 MR. GOMEZ: Uh-huh.

25 CHAIR ANDERSON: -- are not where

1 they're supposed to be at the end of the first  
2 quarter, that Mr. Gomez, Gene Crump, and Daryl  
3 Steglich will get together to come up with a plan so  
4 the numbers are met and the budget is met. And so --

5 MR. GOMEZ: And we consistently discuss  
6 that and -- and meet on that, yes, sir.

7 CHAIR ANDERSON: Okay. Let's -- let's  
8 have a plan on -- in April. Vickie's already talked  
9 about the shortage of investigators in housing and the  
10 problems of meeting that. Maybe -- maybe take a look  
11 at the intake people and maybe they start closing --  
12 trying to close cases or something or -- I don't know  
13 but come up with a plan that -- so we can meet the  
14 budget that -- that both CRD and the TWC financial  
15 people are in agreement with.

16 MR. GOMEZ: Yes, sir.

17 CHAIR ANDERSON: Mr. Gomez advised that  
18 he would send all the Commissioners a copy of the  
19 current Customer Service Survey, and I believe that's  
20 being sent.

21 MR. GOMEZ: Yes, and I will continue  
22 sending it on a monthly basis.

23 CHAIR ANDERSON: The meetings for 2010  
24 are being -- have already been discussed.

25 And Chair Anderson requested Mr. Gomez

1 get with Brenda Nichols, HR, and identify training  
2 issues for Fiscal Year 2010.

3 MR. GOMEZ: That was done. The training  
4 issues and needs were discussed with the managers, and  
5 then the list was received from HR Training and  
6 Development. We compared those and paired those up,  
7 and I believe I sent you an e-mail, Chair Anderson,  
8 along with Brenda. Brenda basically stated we had  
9 the -- the -- the plan laid out, and I think that was  
10 your response, also, that the training that was going  
11 to be allotted for CRD staff was such that would also  
12 allow us to address the issues and -- and them doing  
13 the work or closing their cases.

14 And that, along with internal training,  
15 we also need to consider what now -- this HUD review.  
16 We're going to be meeting with staff Monday  
17 afternoons, and I believe every -- every month or  
18 every other week Vickie is going to have a full day's  
19 training for the investigators. So, this is going to  
20 encompass quite a bit of their time. So, I think that  
21 plan that we sent to you -- that I sent to you on that  
22 e-mail meets what the training needs are for the  
23 staff.

24 CHAIR ANDERSON: Did I send it to the  
25 other Commissioners?

1 (No response)

2 CHAIR ANDERSON: They're looking at me

3 like I didn't send --

4 (Laughter)

5 (Simultaneous discussion)

6 MR. GOMEZ: I can forward my e-mail to

7 the other Commissioners if you want me to.

8 CHAIR ANDERSON: Yes --

9 MR. GOMEZ: I believe that was dated

10 back in December? December or November that I did

11 send that.

12 CHAIR ANDERSON: Does somebody have

13 the -- the signed document?

14 (Discussion off the record)

15 CHAIR ANDERSON: Susanna, is there any

16 problem with that?

17 COMM. MICHALKA: Is it possible to just

18 get another one, print it off real fast?

19 MS. HOLT: Sure.

20 (Discussion off the record)

21 CHAIR ANDERSON: Anything else we need

22 to discuss before we go into Executive Session?

23 MR. GOMEZ: No, sir.

24 AGENDA ITEM NO. 10

25 CHAIR ANDERSON: Okay.

1 All right. We're now going to go into  
2 Executive Session pursuant to Government Code Section  
3 551.074(a)(1) to discuss the appointment, employment,  
4 evaluation, reassignment, duties, accomplishments,  
5 performance, goals, and responsibilities of Texas  
6 Workforce Commission Civil Rights Division Director,  
7 and that's going to be a performance review conducted  
8 today.

9 We're also going to go into Executive  
10 Session pursuant to Government Code Section 551.074 to  
11 discuss the appointment, employment, evaluation,  
12 reassignment, duties, accomplishments, performance,  
13 goals and responsibilities of Executive Staff and  
14 other personnel.

15 Additionally, we're going into Executive  
16 Session pursuant to Government Code Section 551.071(1)  
17 and (2) concerning contemplated litigation or pending  
18 litigation of the following cases: John Benavides, et  
19 al versus Texas Commission on Human Rights; Border FHA  
20 versus Cliff Terrance Apartments; Texas Commission on  
21 Human Rights, Texas Workforce Commission, David  
22 Powell, Robert Gomez v. Marilou Morrison; Texas  
23 Workforce Commission-Civil Rights Division v. Raymond  
24 Henshaw and Mark Henshaw; and Texas Workforce  
25 Commission-Civil Rights Division versus Tsokos.

1                   Agenda 10c. where the Commissioners seek  
2 the advice of their -- of their attorney as privileged  
3 communications under the Texas Disciplinary Rules of  
4 Professional Conduct of the State Bar of Texas, and we  
5 are adjourning at 10:41 a.m.

6                   (Recess: 10:41 a.m. to 10:51 a.m.)

7                   (Executive Session: 10:51 a.m. to  
8 12:05 p.m.)

9                   CHAIR ANDERSON: The Commission on Human  
10 Rights went into Closed Session, and we -- the Closed  
11 Session ended at 12:05 p.m. We are now back in Open  
12 Session. There was -- there is no action to be taken  
13 as a result of the discussions in Executive Session.

14                   AGENDA ITEM NO. 11

15                   CHAIR ANDERSON: So, the meeting for  
16 January -- January 27th, 2010 is complete, unless  
17 there's any further discussions or actions that need  
18 to be taken.

19                   (No response)

20                   CHAIR ANDERSON: The meeting is -- is  
21 closed and adjourned. Thank you.

22                   (Meeting adjourned: 12:05 p.m.)

23

24

25

1 C E R T I F I C A T E

2 STATE OF TEXAS )  
3 COUNTY OF TRAVIS )

4

5 I, JANIS SIMON, a Certified Shorthand  
6 Reporter in and for the State of Texas, do hereby  
7 certify that the above-mentioned matter occurred as  
8 hereinbefore set out.

9 I FURTHER CERTIFY THAT the proceedings  
10 of such were reported by me or under my supervision,  
11 later reduced to typewritten form under my supervision  
12 and control and that the foregoing pages are a full,  
13 true, and correct transcription of the original notes.

14 IN WITNESS WHEREOF, I have hereunto set my  
15 hand and seal this day of 2010.

16  
17  
18  
19  
20  
21

22 JANIS SIMON  
23 Certified Shorthand Reporter  
24 CSR No. 7076 - Expires 12/31/11  
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