

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
COMMISSION ON HUMAN RIGHTS
(TEXAS WORKFORCE COMMISSION)
AUSTIN, TEXAS

PUBLIC MEETING FOR THE)
COMMISSION ON HUMAN RIGHTS)

COMMISSION MEETING

WEDNESDAY, JULY 11, 2007

BE IT REMEMBERED THAT at approximately
9:00 a.m., Wednesday, the 11th day of July 2007, the
above-entitled matters came on for hearing at the
Texas Workforce Commission, TWC Building, 101 East
15th Street, Room 244, Austin, Texas before CHAIRMAN
ANDERSON and the COMMISSIONERS of the Commission on
Human Rights; and the following proceedings were
reported by Patricia Gonzalez, a Certified Shorthand
Reporter, in the State of Texas.

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P R O C E E D I N G S

WEDNESDAY, JULY 11, 2007

(9:00 a.m.)

AGENDA ITEM NOS. 1 AND 2

CHAIRMAN ANDERSON: We'll call the

meeting to order. We'll go ahead and get started and make a couple of announcements and then see if there's any comments from the guests.

My name is Tom Anderson. I'm the Chair.

And welcome, everybody, and the Commissioners, to the July 11th meeting.

I don't believe that we've announced this before, but former Commissioner Robert Keeney -- and I don't know -- we have had a meeting since then, but I don't believe we mentioned anything about it. He passed away on November 28th. Several of us on the Commission worked with Mr. Keeney. He was an attorney, a -- very knowledgeable, very dedicated to the Agency, and he did serve on the Board -- on the Commission from March 31st, 2007 through February 1st -- I'm sorry. I got the dates backwards -- February 1st, 2005 through March 31st, 2007.

So is there -- do we have anybody from the audience that want to make any comments? Do we have any slips or anything like that?

1 Have you submitted a slip?

2 MS. MORRISON: I submitted it. Yes.

3 CHAIRMAN ANDERSON: Okay. Why don't you
4 go ahead. And as in the past, you have three minutes.

5 And I have it right here. Ms. Morrison
6 from Austin. You have three minutes, and, please,
7 confine your comments to the agenda items.

8 MS. MORRISON: Okay. I --

9 CHAIRMAN ANDERSON: Is that microphone
10 on?

11 MS. MORRISON: Thank you.

12 I am addressing Agenda Item No. 4,
13 "Possible Action Regarding Employment Enforcement."

14 Possible action includes further
15 reduction in EEOC contract due to inability to meet
16 current contract and investigators' inability to
17 recognize and/or obtain evidence to support a cause
18 determination, along with additional loss of personnel
19 who leave because of inadequate training and lack of
20 management mentoring and support.

21 It is my understanding that one member
22 of management was able to complete only one
23 investigation during the same time period investigator
24 she supervised were required to close 12. I do not
25 know if that case has been returned for rework yet.

1 Item No. -- the next item, addressing
2 "Possible Action Regarding Housing Enforcement."
3 Possible -- no, probable action regarding Housing
4 includes additional loss of partially trained
5 investigators for the same reasons previously cited,
6 lack of adequate training, an absence of management
7 mentoring and support. Possible action includes loss
8 of contract because neither any remaining investigator
9 nor their supervisor has a clue as to how to conduct
10 an investigation of a design and construction
11 complaint.

12 It has come to my attention that nine of
13 the HUD cases worked by this manager, seven were
14 returned for rework. Funds from HUD are paid for
15 cases only after actually accepted by HUD and the
16 amount of payment depends on how long it took to
17 satisfactorily complete the investigation, and
18 management has already been notified that CRD will
19 receive no grants from HUD.

20 "Training and Monitoring." Possible
21 action, the elimination of the Training function
22 because anticipated revenue has been grossly
23 overstated and methods for calculating number of
24 individuals trained is highly questionable.

25 The consultant monitor hired to assess

1 the problems and recommend solutions does not have a
2 difficult job. The problems are glaring and the
3 solutions are obvious. The hostile working
4 environment to which employees are subjected makes
5 productivity impossible. Further, this unspeakable
6 situation has denied the citizens of this state the
7 access to a venue paid for by their tax dollars in
8 which to address complaints of unlawful employment and
9 housing discrimination.

10 Thank you.

11 CHAIRMAN ANDERSON: Thank you,
12 Ms. Morrison.

13 We -- Cynthia, you --

14 MS. WASHINGTON: We're still waiting.

15 CHAIRMAN ANDERSON: We're still waiting.

16 Robert, how would you like to proceed.

17 Would you like to -- is there anything we can proceed
18 with that doesn't require the computer?

19 MR. GOMEZ: Well, Chair Anderson, we can
20 proceed because you have the handouts, and basically
21 the same thing that is reflected on the monitor is in
22 your handouts. Those are the same graphs and
23 information.

24 So, really, it's up to you. I can
25 proceed and you can follow in your handout. And,

1 also, the staff doing the reports for Employment,
2 Housing and Training and Monitoring, all their
3 information is in your handouts. So it's really up to
4 you whether we want to proceed or not.

5 CHAIRMAN ANDERSON: Yes. Let's proceed.

6 AGENDA ITEM NO. 3

7 MR. GOMEZ: Okay. Good morning, Chair
8 Anderson, again, and Commissioners. My name, for the
9 record, is Robert Gomez. I'm the Division Director
10 for the Civil Rights Division -- Texas Workforce
11 Commission Civil Rights Division.

12 In your handouts on the Director's
13 Report, I will touch on all the bulleted items on the
14 meetings, itinerant investigator project update,
15 Housing outreach projects information, staffing
16 report, networking/contact update, summit/conference
17 attendance, customer service survey evaluation and the
18 future goals of the Division. I would like to direct
19 you to the first tab -- Director tab, the red tab in
20 your handout.

21 Aside from the usual weekly meetings
22 that I have with TWC executive staff and the
23 Commissioners' meetings with TWC, also with the
24 regularly scheduled CRMT, our Civil Rights Management
25 Team meetings, I also had an occasion to attend a

1 conference with the Board of Fair Housing in El Paso.
2 They had a conference in El Paso for -- during Fair
3 Housing Month. I was able to meet with staff. They
4 have additional staff, also, to set up the office
5 space that we have acquired for the itinerant
6 investigator in the Valley. That was established,
7 also, through the Board of Fair Housing and Economic
8 Justice Center.

9 They had a grand opening out there in
10 San Juan, Texas where I attended with two of my
11 managers. And, also, I'd like to extend my gratitude
12 and thank you to Commissioner Wipf who also attended
13 with us, and she provided information regarding the
14 Division and also the Commissioners. And I think this
15 is very positive because we'll be able to establish --
16 or we have established an office out there in the
17 Valley to cover the Valley area and bring our services
18 out there to the individuals that we serve in the
19 Valley area in San Juan, Texas.

20 CHAIRMAN ANDERSON: Where -- go ahead,
21 for the record, state where we have offices.

22 MR. GOMEZ: Yes, sir. We all -- we do
23 have offices in El Paso, in Lubbock, Amarillo and now
24 in San Juan. And Special Projects Manager and
25 Investigation Team Manager 1, Vickie Covington, and I

1 just got back from Tyler, Texas where Commissioner
2 Khalifa -- and thank you, Commissioner Khalifa, for
3 putting us in contact with Mr. Stephen Lynch out there
4 in Tyler with the East Texas Workforce Center, and we
5 have obtained itinerant investigator office space also
6 out there in Tyler.

7 We also took the opportunity -- we had
8 an on-site investigation to do and we also had --
9 because of our special projects that we have through
10 HUD, we made contacts with additional community
11 agencies and organizations and we also contacted the
12 workforce center in Longview, and they were kind of
13 wanting us to establish an itinerant investigator
14 office there also. They offered some space, but for
15 now, we're going to establish that itinerant
16 investigator office in Tyler, Texas, again, through
17 the help of Commissioner Khalifa and Mr. Stephen Lynch
18 out there at the East Texas Workforce Center.

19 So that's where we have itinerant
20 investigator offices now. Again, El Paso, Lubbock,
21 Amarillo, San Juan and Tyler.

22 I have participated -- since April 4th,
23 participated in several U.S. Department of Housing and
24 Urban Development HUD conference calls regarding the
25 Fair Housing Assistance Programs and Fair Housing

1 Initiative Programs. We still have the Katrina/Rita
2 outreach, the education outreach, incentive projects
3 that we have going on out in the state of Texas where
4 we're partnering with the PHIP partners across the
5 state of Texas.

6 Participated in the meeting concerning
7 personnel policy reviews with the Texas Veterans
8 Commission. As a part of our responsibility, the
9 Division does reviews of state agencies. We had an
10 occasion that we met with the Texas -- representatives
11 from the Texas Veterans Commission regarding one of
12 our reviews. Issues were the pricing, what the cost
13 was going to be for that agency, and also what the
14 actual review entailed.

15 And we were able to sit down and meet
16 with them. Not only our staff but also TWC staff from
17 our legal support with representatives, again, from
18 the Texas Veterans Commission and we were able to iron
19 out the misunderstanding, some of the information that
20 they needed to get in regards to what our
21 responsibilities are as far as the Civil Rights
22 Division for the State of Texas in doing the reviews
23 for these state agencies.

24 I had the opportunity to attend the
25 Small Business Development Center Annual State

1 Conference in Lubbock. It just so coincided with the
2 two days that our itinerant investigator needed to be
3 out there in that area; so I combined both visits. As
4 the itinerate investigator made some contacts and also
5 attended the Small Business Development Center
6 Conference in Lubbock, I did address several of the
7 directors across the state and also other businesses
8 that were represented there at the conference and I
9 shared with them information as to what we can provide
10 as the Civil Rights Division in as far as training,
11 support, direction and information that they might
12 need to address any employment issues that they might
13 encounter with their businesses and also with the
14 small business development centers.

15 It was very positive. The outcome is
16 that they want us back out there to conduct workshops,
17 to conduct training sessions. Not only in general
18 terms as to what we do but also specific training
19 workshops in regards to sexual harassment, ADA,
20 reasonable accommodations, so on and forth. So it was
21 very positive.

22 Participated in meetings regarding the
23 case inventory controls. The Civil Rights Management
24 Team, along with the representatives from HR and Legal
25 from the Texas Workforce Commission, we sat down and

1 looked at our inventory controls as far as the case
2 inventory for Employment and Housing, distribution of
3 cases, how we do intake and how the process goes from
4 intake through determination of a particular case,
5 both in Housing and Employment. So that was very
6 informative, and, also, I think it was beneficial for
7 both us as a Civil Rights Management Team and the TWC
8 HR and Legal staff.

9 Met with several agencies on outreach
10 activities, in particular the Waco Red Cross, which is
11 very interested in us going out there and doing
12 outreach activities in that area.

13 Also conducted a conference call with
14 the Houston Area Urban League regarding outreach
15 activities in our HUD projects, and this has kind of
16 branched out in not only addressing HUD issues and
17 Housing information but also Employment issues.

18 I met with the representative -- this
19 was very interesting. I met with a representative of
20 Indonesia, a Mr. Bahri of Indonesia, along with
21 Susanna Holt from TWC, the Office of General Counsel,
22 and what it is is Mr. Bahri of Indonesia was in the
23 United States under the auspices of the United States
24 Department of States International Visitor Leadership
25 Program which fosters citizen-to-citizen diplomacy for

1 emerging leaders. The Washington office asked him
2 to -- with his contact out here in Austin, to
3 coordinate a meeting to meet with the Civil Rights
4 Division to learn how minority rights are protected at
5 the state level.

6 The exchange during the meeting was very
7 informative and beneficial, I believe, for both sides.
8 He had a lot of questions as to how we dealt with
9 Employment issues and Housing issues, all the way from
10 contact or initial outreach to intake all the way
11 through a determination, and it was very beneficial
12 for both sides. Very interesting, also.

13 I had the opportunity to attend the
14 Annual U.S. EEOC Fair Employment Practices Agency's --
15 the FEPA conference in Memphis, Tennessee. A lot of
16 good information was obtained and I brought that back
17 for my management team and also for general staff in
18 the Civil Rights Division. Very informative.

19 CHAIRMAN ANDERSON: I think that would
20 be a good -- that type of conference would be good for
21 one of the Commissioners to attend in the future. So
22 you might think about getting that information out
23 ahead of time so one of the Commissioners might be
24 able to work it in their schedule.

25 MR. GOMEZ: Yes, sir. That, the FEPA

1 annual conference, and also the upcoming conference
2 for -- with HUD on the annual -- or the biannual HUD
3 policy conference that's coming up. I believe it's
4 going to be held next June or July. So that -- we've
5 already gotten word on that. We haven't gotten
6 specifics as to where it's going to be held or the
7 specific dates that it's going to be held, but as soon
8 as we get that information, I will forward it to you,
9 Chair Anderson, and to the Commissioners.

10 CHAIRMAN ANDERSON: That -- we won't
11 have the travel caps issue anymore; so I think we'll
12 be okay, as long as we have some money in the budget.

13 MR. GOMEZ: The out-of-state travel cap,
14 yes, sir.

15 I also attended and participated in the
16 Quarterly Performance Measures Meetings. We briefed
17 the offices, the TWC Commissioners before attending
18 the Performance Measures Meetings, and, again, this
19 was very informative for both sides. And the feedback
20 we received from the Commissioners was very positive,
21 in that they did grasp the information that we had
22 shared with them in as far as the updated information
23 on the case closures and the revenue that we are
24 generating from our case closures both in Employment
25 and Housing and meeting the -- our LBB target

1 measures.

2 I participated in meetings concerning
3 Katrina education outreach projects. Projects are
4 ongoing. In fact, next month -- or this month,
5 towards the end of this month, the special projects
6 manager will be attending some outreach activities out
7 there in Tyler. So we're into the project -- or the
8 continuation of the outreach and education project
9 with HUD in as far as partnering with our PHIP
10 partners across the state.

11 The last bullet on there, you'll find a
12 list of the contacts that I have made since the
13 April 4th -- since our last meeting. I won't go
14 through those, but you have them listed there.

15 And, basically, that's the update from
16 the Director standpoint.

17 I did want to share with you as a part
18 of my report the customer service survey evaluation
19 for May 2007, which is very, very positive. Under the
20 "strongly agree" and "agreed" columns, we had 54
21 responses from individuals that we did send the survey
22 to. And under the "disagreed" and "strongly
23 disagreed," we only had three responses under those
24 two columns, which gives us a 94.74 percent positive
25 response.

1 Again, the questions, just as a
2 reminder, are five questions that we have on that
3 survey: "Was staff courteous and helpful? Did staff
4 provide accurate information? Did staff provide
5 timely responses to inquiries? Was staff
6 knowledgeable in CRD procedures," and, "Would you
7 recommend our service to others?" And like I say,
8 under the "strongly agree" and "agree" columns, we did
9 have 54 responses. Under our "disagree" and "strongly
10 disagree" columns, we had three responses. So --
11 which was very, very positive.

12 And I can provide you-all a copy of the
13 actual comments that were sent to us along with those
14 responses.

15 CHAIRMAN ANDERSON: I believe the --
16 couple of Commissioners had some questions about the
17 survey in the past. Have those been answered and are
18 there anything else, Commissioner Khalifa or James,
19 that you had concerning those -- that item?

20 You okay?

21 COMM. KHALIFA: It was concerning the
22 staff learning how many there were, wasn't it, and all
23 that's been answered.

24 CHAIRMAN ANDERSON: Okay.

25 MR. GOMEZ: Okay. As far as future

1 goals, the last bullet on my Director's Report,
2 continuing to meet our performance measures targets
3 for the LBB; also to finish out this fiscal year in
4 meeting those targets.

5 Again -- you know, I'd like to emphasize
6 that CRD staff continues to produce quality work. We
7 have no problems in our quality. Our quality of work
8 is there. We achieve 100 percent. We achieve
9 99.89 percent in as far as investigations complying
10 with the review standards; Employment and Housing
11 complaints resolved timely, 96.42 percent. So our
12 accuracy and our quality of work is there, and I
13 commend CRD staff, frontline staff and also CRD
14 managers for that.

15 Our target measures, we have already, as
16 of June, exceeded our target measure for Housing. Our
17 target for the LBB was 260, and we have -- as of the
18 end of June, we have completed 266 cases that have
19 been accepted by HUD, which puts us over the target.

20 Employment: We're coming up on
21 Employment. Our target is 1,285, and we have
22 closed -- as of the end of June, we have closed 990
23 cases. And both Alice and Vickie, when they give
24 their reports, will go into a little bit more detail
25 in regards to those numbers.

1 I just wanted to share that with you
2 because I think it's very, very positive. We have two
3 months left in our fiscal year -- in our state fiscal
4 year, and I am pretty confident that we will achieve
5 the target or at least come in within 5 percent of
6 those targets. And I just want to share with you-all
7 that because I do want to give those kudos to the
8 staff -- like I say, all staff. Not only frontline
9 staff but also management, support staff and
10 support -- and the support staff that we have,
11 administrative support.

12 Currently, as far as staffing -- a brief
13 staffing report, we do have a vacancy currently that
14 our interviews will start tomorrow. They will be
15 conducted tomorrow and Friday by one of our managers,
16 Alice, in hiring an Investigator V position. The
17 Investigator V that did leave the Division was a very
18 tenured, very experienced investigator. We were -- it
19 was hard for us to see him leave, but he did leave for
20 a better pay with the City of Austin. He was offered
21 more pay; so, you know, he went ahead and took that
22 position. We also had an Intake Investigator II. One
23 of our intake investigators that left the Division,
24 she left because she was offered, again, a higher
25 position with better pay with another state agency.

1 And this information we captured from
2 them when we went through our exit conference. And
3 what I usually do as a Director is I sit down with
4 them when they're processing out and just basically
5 ask some questions as to, you know, what their future
6 goals are and all that and thank them for having
7 worked with us in the Division, and this is the
8 information that we got. Basically, it's for higher
9 pay, a better salary and better opportunities out
10 there.

11 So we're currently hiring. Our
12 Investigator II position, I believe, closes or has
13 just closed and it's with the process -- or the phases
14 with HR, and we're waiting to obtain those
15 applications for our intake investigator, which is a
16 very critical and crucial position in what we do,
17 because that's where it all starts, at the intake
18 level, before it goes to mediation or to the
19 investigators for our investigator process.

20 CHAIRMAN ANDERSON: Are you -- you've
21 already posted the position?

22 MR. GOMEZ: It's posted and -- has it
23 closed? It has closed and we're waiting for HR to
24 send us the applications so we can review them, screen
25 them and set up the interviews for Investigator II.

1 Like I say, that's a highly critical position because
2 that's where it all starts, our initial contacts with
3 our customers.

4 And with that, I conclude my report.
5 And if-you all have any questions, I will be more than
6 happy to answer them.

7 (No response)

8 CHAIRMAN ANDERSON: It doesn't appear
9 so.

10 MR. GOMEZ: Okay. Thank you.

11 And Daryl will come up and give his
12 report on the CRD's budget.

13 MR. STEGLICH: Good morning, Chair
14 Anderson, Commissioners. For the record, my name is
15 Daryl Steglich, Texas Workforce Commission Finance
16 Department. I'll present some financial information
17 for you this morning.

18 The first slide is the expenditure by
19 category through May 2007 for each of the three
20 quarters. I've broken down a third quarter into each
21 of the months. From a trend standpoint, it's pretty
22 much linear. There are no -- no major deviations
23 except that we have some grant payments which are
24 starting on some of the Katrina-related grant funds
25 that we have out.

1 For -- the next slide, please.

2 This slide compares the expenditures
3 from 2006 and 2007 for the same period. Again,
4 there's not a lot of difference between the two except
5 that in the other operating category there are some
6 expenditures that were for planned maintenance and
7 other items that were budgeted in the budget at the
8 beginning of the year. So that's not -- it's -- it
9 increased over the same period last year, but it's not
10 an unexpected type of thing.

11 From a practical standpoint, last year
12 we had a -- in 2006, we had a 2 -- about a
13 2 million-dollar budget. We had expended 1.6 million
14 of it. That's a -- we were at 78 percent last year,
15 75 percent through the year. This year, we have a
16 2.4 million-dollar budget. We're at 1.7. That's
17 70 percent. So we're tracking as far as the budget is
18 concerned in total.

19 Next slide, please.

20 And this final slide just kind of shows
21 the comparison. The actual number is 69.6 percent.
22 So as far as the budget is concerned, we're tracking
23 for 75 percent through the year.

24 I'll answer any questions that you may
25 have.

1 CHAIRMAN ANDERSON: Based on this, then,
2 we shouldn't have any problem staying within our
3 budget unless there's some extraordinary expenses in
4 the last quarter.

5 MR. STEGLICH: That is correct, sir.
6 Unless there's some unexpected expenditures that
7 happen that cause a bubble, we should be able to make
8 it through 2007 fiscal year.

9 If you have no further questions, that
10 concludes my presentation.

11 CHAIRMAN ANDERSON: Are you going to
12 address or is Gene going to address issues concerning
13 future budget?

14 (No verbal response)

15 CHAIRMAN ANDERSON: My answer is -- I
16 guess the answer is Gene. Right?

17 (Laughter)

18 MR. CRUMP: Yes, sir.

19 Good morning, Commissioners. For the
20 record, Gene Crump, Deputy Executive Director.

21 Commissioners, we had a quick budget
22 recap meeting, if you will, this morning with Chair
23 Anderson and Robert, Daryl and myself. We looked at
24 FY '07 execution budget. Execution is -- as Daryl
25 just said, we're going to be fine for FY '07 and

1 looking forward to FY '08.

2 What we were looking at were number of
3 cases we project to close on EEOC and HUD side, based
4 on Robert's projections, and what the expenditures
5 would be. As we look forward to '08, '08 looks okay
6 as we -- we will have a good plan going into '08, and
7 as we did in '07, we'll monitor it on a quarterly
8 basis.

9 So right now everything looks good and
10 there are documents we provided Robert that Robert
11 certainly could provide to the Commissioners if they
12 wanted to see those comparisons. But on the TWC side,
13 we are going through the '08 budget process, and so
14 we're trying to finalize, at the Division level, what
15 all the Division Directors believe they would make.

16 Of course, it's kind of unique for
17 Robert. Robert operates basically, if you can think
18 about it on a piece-rate basis, piece rate for EEOC
19 cases closed, for HUD cases closed and training
20 sessions conducted by Tony. So Robert has to predict
21 ahead in terms of number of cases or training sessions
22 to be closed. And then once you get the revenue set
23 up, then the expenditures kind of follow. It's pretty
24 straightforward.

25 CHAIRMAN ANDERSON: Now, the training

1 budget was based on goals that were set up a couple of
2 years ago which has been changed because of the rule
3 change. Is that correct? So those -- that training
4 budget is going to be out of whack for 2007, but it
5 will be back in -- within structure, within budget in
6 2008.

7 MR. CRUMP: Yes, sir. Again, if you
8 think about it on a piece-rate basis, number of
9 sessions that Tony expects to conduct, and then based
10 on the revenues. And then personal policy reviews
11 also come into play.

12 So, again, in terms of the way that
13 Robert has to look at his revenue side, he's operating
14 different product lines, and, you know, an equal
15 opportunity product line, a HUD product line, a
16 personal policy review product line, training product
17 line and just base it out.

18 CHAIRMAN ANDERSON: I guess my point was
19 that the -- the assumption for the number of people
20 trained, et cetera, et cetera, for this budget cycle
21 was based on some rules that were changed through the
22 TWC.

23 MR. GOMEZ: Well, first, the targeted
24 measures for the -- the LBB target measures, as far as
25 that was concerned for the individuals receiving EEO

1 compliance training, that number was set way before
2 we --

3 MR. CRUMP: Oh. I see.

4 MR. GOMEZ: -- even came over to TWC.
5 Now, starting this new fiscal year, we have new
6 numbers, not only in Employment and Housing but also,
7 as you mentioned, for individuals receiving EEO
8 compliance training. That has been adjusted.

9 And, basically, the adjustment has been
10 made to reflect the change in the rules, as you've
11 stated. There was a change in the rules; therefore --
12 which -- a change in the rules -- the rule was good.
13 It benefits the other state agencies. It benefits the
14 individuals and the -- our customer target, but it did
15 impact us in a way that we had to lower our numbers
16 for the new fiscal year, and they have been adjusted
17 to reflect that change in the rule.

18 CHAIRMAN ANDERSON: Okay.

19 MR. CRUMP: Yes, sir. I understand now.

20 CHAIRMAN ANDERSON: And the other
21 Commissioners understand the process there? There
22 wasn't a whole lot of control. I mean, the rules were
23 established and changed prior to most of the
24 Commissioners not -- here even being on the
25 Commission.

1 MR. GOMEZ: Correct. They were numbers
2 that were set before I came in, and I believe some of
3 the numbers were even set before TCHR came under TWC.
4 So we did not have a lot of control over those target
5 measures, but starting this next fiscal year, when we
6 submitted our information and our target numbers to
7 the Appropriations Committee, then they were accepted
8 as submitted and they're much more doable and a lot
9 more friendly to CRD this time around starting next
10 fiscal year.

11 CHAIRMAN ANDERSON: I'm not sure I
12 really care whether they're friendly to CRD or not but
13 whether they're realistic, and I think that's the key,
14 is that they're more realistic compared to the rules
15 that were established -- the new rules that were
16 established so --

17 MR. GOMEZ: Correct.

18 CHAIRMAN ANDERSON: Does anybody have
19 any questions for Mr. Crump?

20 (No response)

21 AGENDA ITEM NO. 4

22 MR. GOMEZ: Okay. Chair Anderson, I
23 guess the next report is for -- under our Enforcement
24 Report under Employment, and Vickie Covington, Special
25 Projects Manager and Investigation Teams Manager 1,

1 will provide that report and information for you-all.

2 MS. COVINGTON: Good morning,
3 Commissioners, TWC staff and guests. For the record,
4 my name is Vickie Covington. I'm the Special Projects
5 and Manager, Investigation Team 1. This morning I'll
6 be sharing with you some of the Employment
7 information.

8 In looking at the first slide for our
9 Employment case inventory, when we look at where we
10 were last May, 2006, we had 643 cases filed compared
11 to 819 filed through May 2007. That's an increase of
12 176 cases. When we look at how many cases we had
13 closed last May, it was 744 compared to 853 through
14 May of 2007, and that's an increase of 109 cases when
15 we look at last year. The cases filed through June
16 2007 totaled 1,057, which is 163 more cases than the
17 total that was filed in 2006. The cases resolved
18 through June 2007 totaled 990 cases, which is 27 cases
19 more than we resolved last fiscal year.

20 During the months of April to June 2007,
21 the Division closed an average of 117 cases per month.
22 This puts us on track to come within 5 percent of the
23 performance measure.

24 Are there any questions concerning this
25 information?

1 (No response)

2 MS. COVINGTON: Next slide.

3 CHAIRMAN ANDERSON: And the inventory is
4 dropping, also. Right? The ending inventories?

5 MS. COVINGTON: We -- that --

6 CHAIRMAN ANDERSON: Compared to --

7 MS. COVINGTON: That information will be
8 presented later on to -- so we can show where we are
9 as far as the inventory.

10 For the type of closures, most of our
11 cases were closed as no cause, but for no-fault
12 settlements for Fiscal Year '07 through May, the
13 percentage is 5.5. And for withdrawals with
14 settlements, it's 11 percent. And that gives us a
15 total merit resolution of 16.5 percent. And that's an
16 increase of 1.8 percent over merit resolutions from
17 last year this time.

18 Are there any questions?

19 (No response)

20 MS. COVINGTON: Next slide.

21 This slide shows the breakout of
22 disability age and Title VII cases. The disability
23 cases represent approximately 19 percent of our case
24 closures, age represent approximately 24 percent and
25 Title VII approximately 57 percent.

1 Are there any questions?

2 (No response)

3 MS. COVINGTON: Next slide.

4 On our disability closures, if you'll
5 note, the no-fault settlements and the withdrawal with
6 benefits, those numbers are quite significant. They
7 represent approximately 19.4 percent of merit
8 resolutions, and those are where we have a favorable
9 resolution to the complaining party, and that is up
10 significantly.

11 Are there any questions?

12 (No response)

13 MS. COVINGTON: Next slide.

14 On the age closures, it's significant to
15 note that our no-fault settlements are approximately
16 5.4 percent and our withdrawal with settlement is
17 5.9 percent. And that gives us an approximate merit
18 resolution of 11 percent.

19 Are there any questions?

20 (No response)

21 MS. COVINGTON: Next slide.

22 And this slide shows our Title VII
23 closures by type, and here again, our no-fault
24 settlements are 5.3 percent and our withdrawals with
25 settlements are 12.3 percent for a total of

1 17.6 percent where we have a favorable resolution to
2 the complaining party.

3 And Tony will share with you later on in
4 the presentation some of the numbers from the ADR unit
5 as far as the monetary amount to complaining parties.

6 Are there any questions?

7 (No response)

8 MS. COVINGTON: Next slide.

9 We continue to do very well on resolving
10 cases in a timely manner. If you'll look at the zero
11 to 179-day category, right now -- or at the end of
12 May, approximately 88.5 percent of our cases fell into
13 this category. And in the 180- to 250-day category,
14 those cases represented 5.5 percent of our inventory.
15 And, totally, that's about 94 percent, which is where
16 we want to be.

17 The last three categories represent 5.5
18 percent of our inventory, and those are our priority
19 cases.

20 I do -- I want to just give you a head's
21 up. We are receiving cases from the EEOC that are at
22 or approaching 250 days, and so we anticipate our age
23 cases to increase. However, those will still remain
24 our priority cases so that we will be able to
25 manage. We will try to keep it to the 5.5 percent,

1 but just to let you know, we may not be able to.

2 MR. GOMEZ: Let me just expand on that a
3 little bit.

4 I mentioned during my report that I had
5 the opportunity to attend the FEPA conference in
6 Memphis. When I was there, I needed to address, as we
7 have been addressing, the low inventory of employment
8 cases. What I did is I sat down with the deputy
9 executive director for our region, our EEOC region. I
10 sat down with the new director for the Houston EEOC
11 office. And, also, we were joined, curiously enough,
12 by the director of the Louisiana office when we were
13 meeting -- sat down and met on us obtaining cases or
14 getting waived cases from EEOC. And, previously, I
15 had spoken to the other EEOC offices here in Texas and
16 we had been receiving cases from the other EEOC
17 offices, but this gave me an opportunity to sit down
18 with the deputy executive director and actually
19 formulate a plan, if you will.

20 What was interesting is that Louisiana,
21 because of Katrina/Rita, they have lost three
22 investigators out there; so they have a backlog of
23 cases. They have an abundance of cases that are not
24 being looked at or that they have on backlog that are
25 aging. And the Houston office has lost two

1 investigators; so they also have a backlog of cases.
2 And, in fact, prior to this, we were receiving cases
3 from the Houston office because of that reason.

4 Well, what we ironed out or what we
5 worked out was that the Louisiana office, because of
6 their dire need to address the backlog of cases --
7 they were going to send their cases to Houston so they
8 could assist them with that backlog, and, in turn,
9 Houston was going to send the cases that are in our
10 jurisdiction in the state of Texas to us. They were
11 going to waive them to us.

12 So we have received these cases, and
13 that's -- for us, it helps us in addressing the low
14 inventory that we have in Employment cases, which
15 helps to increase the inventory of cases for
16 Employment, the investigative side, for our
17 investigators that are doing the Employment
18 investigations.

19 So I believe that this plan that we
20 worked out is helping us out quite a bit in addressing
21 the inventory situation -- low-inventory situation,
22 and we received a batch of, I believe, 90 cases, and
23 then we received, subsequently, another batch of about
24 128 cases from EEOC. And that's to replenish the
25 diminishing inventory of Employment cases for our

1 investigators.

2 CHAIRMAN ANDERSON: And so when they
3 come in, they come in at the age that they already --
4 wherever they are in the pipeline as far as EEOC is
5 concerned. Right?

6 MR. GOMEZ: Yes, sir, because they --
7 the clock starts ticking for the actual case when they
8 are perfected with EEOC.

9 Now, with EEOC, we are getting these
10 cases post-mediation also. So that means they
11 received the case, perfected the case. The case was
12 assigned to the mediation section under EEOC. It's
13 gone through the mediation process. More than likely
14 failed or they did not want to come to the table and
15 mediate, and those are the cases that are being sent
16 to us. And they -- they've already had the clock
17 running on them.

18 MS. COVINGTON: Are there any questions?

19 (No response)

20 MS. COVINGTON: Next slide.

21 The next few slides compare CRD's
22 resolution by type, receipts versus resolution and
23 average age of pending inventory with those of EEOC
24 and FEPAs for 2006.

25 CHAIRMAN ANDERSON: This is as a result

1 of a request of one of the Commissioners, I believe,
2 wasn't it?

3 MS. COVINGTON: Actually, it was --
4 we -- the last few year years, periodically, we
5 presented this information. And Robert actually got
6 this information when he went to the FEPA conference.

7 MR. GOMEZ: This was part of the
8 information that was shared with us at the FEPA
9 conference. They were trying to show how the receipts
10 are low throughout the country in regards to the
11 FEPAs, and so I thought this information was very
12 beneficial in us establishing the fact that we had a
13 low inventory in Employment cases and what we're
14 actually doing to address that in what I just
15 explained to you, in working with EEOC, both here in
16 Texas and Louisiana, in obtaining additional cases.

17 MS. COVINGTON: The majority of EEOCs,
18 FEPAs and CRD closure resolutions were no cause
19 determinations. CRD's resolution rate for no cause
20 was higher than both EEOC and FEPA averages. And the
21 data that you're looking at are EEOC across the board
22 and FEPAs across the board.

23 Our merit resolutions, which include
24 settlements, conciliations and withdrawals with
25 benefits, was less than that of EEOC. Ours was

1 16.4 percent compared to EEOC at 22.2 percent and
2 FEPAs at 20.6 percent.

3 We believe our aggressive training and
4 outreach programs account for the differences
5 reflected in merit findings. Our training and
6 monitoring manager will share later on in our
7 presentation the education and outreach activities the
8 CRD has participated in; as well as last fiscal year,
9 we're continuing to do this fiscal year.

10 Are there any questions?

11 (No response)

12 MS. COVINGTON: Next slide.

13 This slide shows the receipts and
14 resolutions for EEOC, FEPAs and CRD. For EEOC, the
15 percentage was 98 percent. For FEPAs, 103 percent.
16 For CRD, 107 percent.

17 CHAIRMAN ANDERSON: You might want to
18 put these on separate charts --

19 MS. COVINGTON: Next time.

20 CHAIRMAN ANDERSON: -- in the future.
21 Some of us have a hard time reading those.

22 COMM. JAMES: Some of us are old is what
23 you're saying.

24 (Laughter)

25 CHAIRMAN ANDERSON: No. I didn't say

1 that.

2 (Laughter)

3 CHAIRMAN ANDERSON: Just said it's a
4 little hard to read.

5 (Laughter)

6 MS. COVINGTON: If I can't see it, then
7 I probably should --

8 (Laughter)

9 MS. COVINGTON: And I can't see it,
10 so --

11 (Laughter)

12 MS. COVINGTON: Are there any questions?

13 (No response)

14 MS. COVINGTON: Next slide.

15 And what this slide shows is the average
16 age of the pending inventory. And, here again, the
17 EEOC's average age is 167 days; FEPA is 855; and CRD,
18 153.

19 CHAIRMAN ANDERSON: Do you have any
20 ideas why the FEPAs are eight, seven times as high as
21 everybody else?

22 MS. COVINGTON: It could be because -- I
23 don't know if they have -- in their state statute if
24 they have a two-year limitation as far as getting into
25 court. I'm not sure about that.

1 MR. GOMEZ: I would like to say that
2 it's because of the efficiency of our CRD staff.

3 CHAIRMAN ANDERSON: I mean, it's -- the
4 numbers are great for us. I'm just wondering why the
5 others are so bad.

6 MS. COVINGTON: Well, we do have the
7 180-day --

8 CHAIRMAN ANDERSON: Sure.

9 MS. COVINGTON: -- window that we
10 aggressively work. So cases that are outside of the
11 180-day window are pretty rare. So the 153 average
12 day is, I guess, a testament to the hard work that our
13 investigators do.

14 Any other questions?

15 (No response)

16 MS. COVINGTON: Thank you. I will be
17 followed by Alice MacKenna, Manager, Investigation
18 Team 2.

19 COMM. JAMES: Mr. Chair, is it warm in
20 here or just me?

21 (Simultaneous discussion)

22 CHAIRMAN ANDERSON: No.

23 COMM. KHALIFA: It's not just him.

24 CHAIRMAN ANDERSON: It's not just him.

25 (Simultaneous discussion)

1 CHAIRMAN ANDERSON: If there's a way to
2 adjust the air, it would be appreciated. I don't know
3 if there is or not. Maybe on a central thermostat.

4 (Simultaneous discussion)

5 AGENDA ITEM NO. 5

6 CHAIRMAN ANDERSON: Alice, go ahead,
7 please.

8 MS. MacKENNA: Good morning, Chair
9 Anderson, Commissioners, staff. For the record, my
10 name is Alice Wilson MacKenna, Manager with the CRD.

11 Today, as usual, I will be reviewing the
12 slides and then tell you what's been happening in
13 Housing since we last met, but I would like just to
14 take a few last moments. As you notice, Cynthia is
15 substituting for Becky this month, and last meeting,
16 she substituted for me. I just want to take a moment
17 to say thank you to Cynthia. She's been stepping in
18 all over the place. She is my right hand; I rely on
19 her a lot.

20 Cynthia, thank you.

21 MR. GOMEZ: She's being cross-trained.

22 (Laughter)

23 MS. MacKENNA: May I have the next
24 slide, please.

25 Okay. This slide shows a marked

1 decrease in our active case inventory as well as in
2 our receipts. The reason for this is that HUD allowed
3 us to waive all cases back to them during the period
4 of April the 9th through June the 15th of this month.
5 This has allowed us also to decrease our aged cases,
6 but during that period of time, we waived
7 approximately 70 complaints back to HUD. If we hadn't
8 of waived them, we would have received those, which
9 would just have exploded our inventory, our active
10 inventory.

11 Are there any questions on this slide?

12 (No response)

13 MS. MacKENNA: Next slide, please.

14 This slide reflects only one charge
15 issued during the fiscal year; however, I do want to
16 mention that five design and construction complaints
17 we found cause on, charges have been written on all
18 five complaints by the investigator that currently --
19 that just left the employment. Those charges are
20 waiting review. And then once they have been reviewed
21 and approved, they will be issued.

22 So, hopefully, by next meeting, we will
23 have that number increased, the number of cases that
24 we found cause on.

25 CHAIRMAN ANDERSON: You say they were

1 design cases? Is that what the --

2 MS. MacKENNA: Yes. Those five are
3 design --

4 CHAIRMAN ANDERSON: Okay.

5 MS. MacKENNA: -- and construction.

6 You will also note the higher number of
7 cases closed during the third quarter. This is due to
8 the fact that we have more investigators doing
9 Housing. That's the only reason for the higher
10 closures. Because, before, we had four investigators
11 handling Housing, and this third quarter -- or this
12 whole year, we've had every investigator handling
13 Housing.

14 Any questions?

15 (No response)

16 Next slide, please.

17 While it's still high, our age cases are
18 coming down. And there is a typo on this slide.
19 Under May, it's not 15. It's 115. I just wanted to
20 let you know that. Our age cases, as I said, have
21 been decreasing. A lot of that is because we were
22 able to waive those cases back to HUD.

23 But I can tell you that we are even
24 lower than what that slide reflects. As of the end of
25 June, our age cases were at 86.

1 Are there any questions?

2 (No response)

3 MS. MacKENNA: May I have the next
4 slide, please.

5 As usual, things that have been going on
6 in Housing since we last met:

7 TWCCRD, together with five other state
8 PHAP agencies -- well, I won't say state PHAPs, but
9 PHAP agencies in the country were invited to submit a
10 statement of work for an enforcement initiative. The
11 six PHAP agencies were nominated by their respective
12 HUD regional offices as agencies whose Housing
13 programs were among the top in the nation. HUD had
14 some PHAP money and they wanted the six PHAPs to
15 submit the statement of work on predatory lending.
16 That is not something we normally get into unless we
17 can relate it to one of the covered bases, be it race
18 or sex or national origin.

19 We submitted the statement of work and
20 just recently became aware that we did not receive the
21 award. However, we don't know who received the award.
22 We also don't know if PHAP has awarded the money. So
23 we are kind of in limbo as to what's going on with
24 that money. They may have pulled it back to use it
25 for something else, but at the moment, we just don't

1 know.

2 As reported at the last meeting, we did
3 participate in the Fair Housing activities during
4 April, which is the Fair Housing Month. A
5 presentation was given at the Fair Housing summit in
6 El Paso where we joined with the Border Fair Housing
7 and Economic Justice Center for the third annual
8 summit. Additionally, we participated in Fair Housing
9 activities with the City of Austin, Equal Employment
10 and Fair Housing office.

11 And during May, 12 -- 13 -- excuse me --
12 of our investigators attended the Fair Housing
13 Training Academy in D.C. Four of them attended the
14 first week and nine of them attended the second week.
15 This has fulfilled the requirement from HUD to send 12
16 people. We actually sent one more to the training
17 academy.

18 I've been involved in the Housing
19 program since its inception in 1990, and this contract
20 year, we closed -- I got 300 cases. HUD says 299. I
21 haven't quibbled over one case.

22 That's the highest that we've ever
23 closed during that -- however many years that is.
24 I don't know why, but I contend that it's because we
25 have some very good investigators doing some very good

1 work.

2 We also have an added problem because of
3 this. We're going to have to put in an explanation of
4 variance to the LBB because we exceeded the number of
5 closures that they had established for us during this
6 period of time.

7 We have applied for a NOFA again this
8 year and we are waiting to see if we are awarded that.
9 And that was Vickie and Bereniz that did most of the
10 work on that.

11 And, Robert, I didn't get with you on
12 this, but the regional conference is probably going to
13 be in April. Gary had said that they're looking to
14 Fair Housing Month for the regional conference next
15 year. Nothing is set in stone.

16 MR. GOMEZ: And as soon as we get --
17 like I stated before, as soon as we get more specifics
18 on that, we'll send it out to you, Chair Anderson, and
19 also the other Commissioners, in case they want to
20 attend that and place it on their calendar for
21 attending the HUD Policy Conference, which will be in
22 April.

23 CHAIRMAN ANDERSON: Any of the
24 Commissioners, if they want to can go -- well, I say
25 any of them. We probably could only afford to send

1 one or two, maybe, at the most, because you still have
2 staff that needs to go.

3 MR. GOMEZ: Yes, sir.

4 CHAIRMAN ANDERSON: But I think
5 Commissioner Khalifa and Santiago were the two over
6 Housing.

7 I forgot who was over Employment.

8 (Simultaneous discussion)

9 CHAIRMAN ANDERSON: Okay. So -- but --
10 no. If you can't go and, you know, Commissioner Wipf
11 wants to go or something or -- we'll just work that
12 out when we get there.

13 MR. GOMEZ: Yes, sir.

14 MS. MacKENNA: Are there any questions?

15 COMM. JAMES: You said we applied for a
16 what?

17 MS. MacKENNA: A NOFA, notice of funds
18 available. Well, it's actually a SuperNOFA, and it's
19 just known as a "NOFA." HUD has monies available,
20 which they give out to the Fair Housing Initiative
21 Program agencies, the nonprofits. That is the way
22 they're funded, is a competitive basis, and we are, as
23 a PHAP, allowed to apply for one of those PHIP grants,
24 and it's a NOFA.

25 We have in the preceding two -- three

1 years --

2 MR. GOMEZ: Three years.

3 MS. MacKENNA: -- three years been
4 awarded the NOFAs that we've applied for.

5 CHAIRMAN ANDERSON: I don't think we'll
6 get one every year. Do you?

7 MS. MacKENNA: Excuse me?

8 CHAIRMAN ANDERSON: I don't think we'll
9 get one every year.

10 MS. MacKENNA: I don't know. I've heard
11 some agencies have gotten them every year.

12 MR. GOMEZ: That is the goal of our
13 Special Projects staff.

14 CHAIRMAN ANDERSON: Okay. I would like
15 to -- and, of course, the -- we can decide that
16 amongst the Commissioners, but so we can let the
17 attorneys go back to being attorneys, unless you're
18 going to be here for the whole time, is to go into
19 Executive Session now rather than Mr. Robertson's
20 report.

21 Is that what your preference would be or
22 do you care?

23 MS. HOLT: I don't have a preference.

24 Robert -- whatever the Commission
25 desires. I think that Executive Session might be

1 somewhat lengthy; so I would recommend continuing with
2 the agenda.

3 CHAIRMAN ANDERSON: Well, we've got a
4 lengthy training -- a fairly lengthy training report
5 and also had some questions for Ms. Thomas concerning
6 some training for staff and things like that.

7 (Brief Pause)

8 MS. HOLT: Tony has indicated that his
9 training will be approximately ten minutes.

10 CHAIRMAN ANDERSON: Oh, okay. Let's
11 continue on, then, with the regular agenda.

12 MS. MacKENNA: If there are no other
13 questions, I will hand it over to Tony Robertson,
14 Manager of Training and Monitoring.

15 CHAIRMAN ANDERSON: Of course,
16 Mr. Robertson doesn't know how many questions we're
17 going to ask.

18 (Laughter)

19 AGENDA ITEM NO. 6

20 MR. ROBERTSON: Good morning,
21 Commissioners. For the record, my name is Tony
22 Robertson, Manager of Training and Monitoring in ADR.

23 Next slide, please.

24 I'd like to present a brief summary of
25 our third quarter workings for T&M ADR. The slide

1 that you're looking at reflects the ADR data dealing
2 with total cases assigned being 206; cases returned to
3 investigation being 161; mediations held, 57; no-fault
4 settlements, 36; and cases closed, 50. At present and
5 as of this date, our mediation monetary total amount
6 for FY '07 is 1,748,159. That is outstanding.

7 We're hopeful that the fiscal year-end
8 final mediation settlements will surpass \$2 million
9 this year. And, once again, those are savings to the
10 taxpayers here in the state of Texas.

11 So I'm quite proud of the group, and
12 they're doing an outstanding job and we're just
13 looking at more savings to the State of Texas and
14 going from that point.

15 While I'm here on this slide, also, I
16 want to go ahead and just read -- or let you-all know
17 some information. Once again, we are being considered
18 for the Peacemaker Award. If you-all will recall,
19 last year we won that Peacemaker Award as our
20 organization for ADR under CRD and I'm proud to
21 present that we've been asked to be nominated again
22 and present that information, and, hopefully, we'll
23 win that award again and bring it home to CRD once
24 again to reflect the hard work and dedication that
25 these mediators do to the people of Texas.

1 Next slide.

2 Third quarter data for EEO compliance
3 trainings reflects the total requested by agencies and
4 higher education -- or institutions of higher
5 education was six; the total requested by private
6 employers was two. And out of that request for EEO
7 trainings, a total of six were based on the statute
8 under Chapter 21 Section 21.556, which, as you-all
9 know, is our new rule change that took effect in FY
10 '05 dealing with mandatory EEO training with three or
11 more complaints with merit.

12 Are there any questions?

13 CHAIRMAN ANDERSON: Do the Commissioners
14 recognize that's the reason that the numbers in 2005
15 and 2006 are higher than they are at the present, is
16 because of that rule change?

17 MR. ROBERTSON: Yes, sir. That is
18 correct.

19 CHAIRMAN ANDERSON: They have to have
20 three or more.

21 MR. ROBERTSON: Complaints with merit,
22 yes, sir.

23 MR. ROBERTSON: With merit. In the
24 past, they just had to have three complaints or
25 something like that.

1 MR. ROBERTSON: Right. In the past, it
2 was just three or more complaints that were filed
3 against a state agency or institution of higher ed.
4 If you filed -- if we had three complaints, say, for
5 example, against TWC, at that point in time, all their
6 senior management, supervisors and managers have to
7 mandatorily attend the eight-hour EEO compliance
8 training.

9 Are there any other questions?

10 (No response)

11 MR. ROBERTSON: Thank you.

12 Next slide.

13 Third quarter data for EEO and Housing
14 presentations reflects the total number of EEO
15 presentations that were presented being eight, and the
16 total number of Housing presentations as well being
17 six.

18 With that in mind -- the key thing with
19 that is that we've done a lot of EEO presentations and
20 a lot of EEO trainings. We've also done a lot of
21 EEO -- excuse me, Housing trainings and then Housing
22 presentations. There's a difference between the two,
23 because what allows -- this allows us to attend
24 conferences, be exhibitors at different locations. It
25 also allows us to go out upon request from any

1 organization to give out information more so on the
2 education and outreach on what we do in Housing and
3 what we do in Employment.

4 So these presentations of eight and --
5 excuse me -- six are just minor requests that folks
6 ask and give me a call and say -- or I'll get them
7 from Mr. Gomez or any of the other staff indicating,
8 "We'd like for you-all to come out and present to us
9 on EEO trainings or Housing trainings. Then these are
10 considered presentations.

11 Next slide.

12 Third quarter data for individual at
13 events reflects the total number of individuals at EEO
14 compliance, slash, trainings, which is 316. The total
15 number of individuals at EEO presentations, as you'll
16 see, was 900, and that number, once again, is going to
17 be higher because of the fact that we attend TBC
18 conferences with Commissioner Lehman's office. We are
19 requested to go out throughout the state of Texas to
20 present either presentation, once again, or conduct a
21 training, which we go into a contractual agreement,
22 and a monetary amount is paid to us at that point in
23 time.

24 Please keep in mind that these totals
25 represent the request for attendance as exhibitors and

1 speakers at various events around the state and have
2 been conducted since the new fiscal year. Once again,
3 these include our outreach and education and any other
4 efforts that we deal with or participation in
5 conferences. And so that's what we're looking at when
6 you look at the individuals at events and their
7 totals.

8 The numbers will show a difference with
9 EEO trainings, and you'll see a higher number with the
10 presentations in Housing and EEO presentations because
11 of our attendance there and because of our requests to
12 attend and present.

13 Are there any questions?

14 (No response)

15 MR. ROBERTSON: Next slide, please.

16 Personal policies and procedure reviews,
17 as of to date -- or as of this third quarter ending,
18 we have completed eight policy reviews and our total
19 policy reviews certified in compliance with the Act --
20 that being the TCHR Act -- is 25 year to date. We're
21 scheduled to complete 30 policy reviews this year for
22 FY '07. We will meet that. As a matter of fact, we
23 are conducting our last review against ourselves,
24 which is TWC, and that is being conducted as we speak
25 to -- right now. Mr. Swinney, one of my policy

1 reviews, had started that review on yesterday with the
2 TWC staff and attorneys, and the review is going quite
3 well at this point in time. And that is our last
4 review for FY '07.

5 Next slide.

6 As you see, third quarter ending, we
7 have completed a total of 45 firefighter reviews and
8 have provided the necessary technical assistance
9 needed to all those fire departments when conducting
10 those reviews. We're scheduled for 60 reviews this
11 year. We're on target. We shall be complete with
12 those firefighter reviews on or before August the
13 15th.

14 Finally, if there's no other questions,
15 I'll open up the floor, should I say, to any of your
16 questions at this point in time. I know I'm going to
17 be conducting a training for you as well, but if you
18 want to go into an Executive Session at this point in
19 time, I'll come back for the training -- that will be
20 fine -- or I can move forward from that point.

21 CHAIRMAN ANDERSON: Well, let's go into
22 Executive Session, unless there's something else that
23 we need to talk about right now -- oh. I know.

24 So that Ms. Thomas can leave, training
25 for staff, is there anything planned or have you and

1 Robert had any discussions concerning any additional
2 training?

3 I know we worked very diligently to get
4 the closures up to speed, but I was thinking in terms
5 of, you know, next fiscal year.

6 MS. THOMAS: Jan Thomas, Director of HR
7 and Staff Development.

8 I don't think we have anything right at
9 the moment. I think we were kind of giving the staff
10 a chance to finish out the fiscal year and focus on
11 performance measures, but with the outlook for the
12 '08, I think we could plan to start back on the
13 training effort probably starting in -- more like in
14 September or October.

15 And we did complete the -- I think we
16 did the FMLA training and we -- we did complete
17 several of the ones that we had scheduled for them.

18 CHAIRMAN ANDERSON: Okay. So we have --
19 there's some possibilities of some follow-up training,
20 then --

21 MS. THOMAS: Yeah. We --

22 CHAIRMAN ANDERSON: -- starting next
23 year --

24 MS. THOMAS: Yeah.

25 CHAIRMAN ANDERSON: -- next fiscal year.

1 MS. THOMAS: We can work with Robert to
2 do that as far as staff development. And I don't know
3 if John has some other -- additional training in mind.

4 MR. MOORE: Commissioners, John Moore,
5 Regulatory Enforcement.

6 Robert and I have been having
7 discussions about additional training for
8 investigators concerning actual testimony in court or
9 in administrative proceedings or in depositions, and
10 we have discussed that with Jan's training department
11 and will be trying to put a package together for the
12 training to begin sometime in -- at the beginning of
13 Calendar Year 2008.

14 So that will be some additional training
15 that we'll be adding in on top of everything else that
16 they get.

17 CHAIRMAN ANDERSON: That's great. No.
18 It's -- I'm sure that will be welcomed by the staff.

19 And so, obviously, you-all are working
20 together on it; so that's fine. Whatever John, Jan
21 and Robert, you can work out, that's fine.

22 MR. GOMEZ: Yes, sir.

23 MR. ROBERTSON: I'd like to add one more
24 thing, also, Chair and Commissioners, in reference to
25 the Training for not only the investigators but all of

1 our CRD staff, if you'll recall, about three to four
2 months ago, EEOC came and they conducted race and
3 color discrimination and the changes and the effects
4 that are happening throughout the country and
5 throughout the nation, and we were a major part of
6 receiving that training.

7 I've also been tasked -- and it is
8 scheduled for the latter part of August -- as a matter
9 of fact, to be exact, August 14th. August 14th or
10 16th, we will be conducting -- or they will come back
11 again -- the staff from D.C. will be coming to Austin
12 to present a full day training on religious
13 discrimination, if I'm not mistaken, Mr. Gomez. And
14 we've set that up -- it will be over in the Trinity
15 Building and we look forward to doing that training.

16 I'll let Mr. Gomez indicate anything
17 additional to it, but we have invited two other FEPAs
18 in the state of Texas to join us; so we're looking to
19 have at least 30 investigators and staff -- training
20 staff to receive the upcoming changes for religious
21 discrimination training that has affected the nation
22 today.

23 MR. GOMEZ: The first training that Tony
24 mentioned in regards to the color discrimination
25 training, we were the pilot program. And since we are

1 the State FEPA, we also host the training for the
2 State of Texas. And as such, we are going to host
3 again -- as the State FEPA, we're going to host the
4 second part of that training, which is religious
5 discrimination, in August, as Tony has reported, but
6 we were the pilot training, the guinea pigs, I guess,
7 training for the nation as far as the EEOC training is
8 concerned for FEPA, the training that was conducted
9 last time.

10 MR. ROBERTSON: That concludes my
11 summary. If there's nothing else, I can come back to
12 you after Executive Session. I'll now turn it over to
13 Mr. Gomez. Thank you.

14 MR. GOMEZ: That concludes our reports,
15 Chair Anderson, and, again, if you-all have any
16 questions on anything that we have presented, both
17 myself and my staff, then I welcome those. If not,
18 that concludes our reports.

19 AGENDA ITEM NO. 9

20 CHAIRMAN ANDERSON: Okay. We're now
21 going to go into Executive Session pursuant to
22 Government Code Section 551.071 Section (1) concerning
23 contemplated litigation or the pending litigation on
24 the following cases: Texas Workforce Commission Civil
25 Rights Division v. Henry Carter, et al, and Texas

1 Workforce Commission Civil Right Division versus Sugar
2 Land/Fort Bend Real Estate, Inc., doing business as
3 RE/MAX Southwest.

4 Commission on Human Rights is now
5 closed, July 11, 2007, and the time is 10:10 -- it's
6 not closed. It's going into Executive Session.

7 MS. HOLT: I think there's a second item
8 on the agenda for Executive Session.

9 CHAIRMAN ANDERSON: We're going to now
10 go into Executive Session pursuant to Government Code
11 551.074(1) to discuss the appointment, employment,
12 evaluation, reassignment, duties, discipline or
13 dismissal of the Executive Director.

14 (Executive Session: 10:10 a.m. to
15 12:01 p.m.)

16 CHAIRMAN ANDERSON: The Human Rights
17 Commission of the TWC is back in session, regular
18 session. We went into closed session at 10:18 a.m,
19 and we closed session at 11:55, July 11, 2007.

20 TWCCRD approved a motion to pursue
21 settlement negotiations in the case styled TWCCRD
22 versus RE/MAX, et al, pending in Fort Bend County,
23 Texas.

24 AGENDA ITEM NO. 10

25 CHAIRMAN ANDERSON: Next item on the

1 agenda is Mr. Robertson. And you're going to talk,
2 briefly --

3 MR. ROBERTSON: Yes, sir.

4 CHAIRMAN ANDERSON: -- about the
5 training, I think, that was asked by some of the
6 Commissioners concerning -- and we covered a little
7 bit today, but -- about the Training and Monitoring
8 and the Texas Labor Code.

9 So, Tony, you've got the floor.

10 MR. ROBERTSON: Thank you, sir. For the
11 record, once again, Tony Robertson, Training and
12 Monitoring, Texas Workforce Commission Civil Rights
13 Division.

14 Commissioners, just real quick, I -- and
15 in your handout, you're welcome to follow with me, I
16 just want to present a brief training or information
17 to you in reference to what exactly my section does
18 and how we're tasked to do those jobs that we deal
19 with, the first one being compliance training.

20 When we talk about compliance training,
21 all we're basically saying is that mandatory training
22 that is done to state agencies and institutions of
23 higher education that have three or more complaints
24 with merit. That's basically what we look at when we
25 talk about the compliance training.

1 When we talk about voluntary training,
2 we're talking about any entity within the state of
3 Texas that has one or more employees -- it doesn't
4 matter the number -- who we go out and provide EEO
5 training to them. Those blocks of instructions are
6 two-hour training, four-hour training and our net live
7 conference training, which is our computer-based
8 trainings that we deal with, and those are
9 approximately 90 minutes, based on request.

10 With each one of these trainings that we
11 deal with, there is a fee that we do charge to deal
12 with the entities that we work with and help get them
13 where they need to be in understanding what is going
14 on in today's society when we look at EEO law, any
15 changes in Supreme Court rulings, Fifth Circuit
16 rulings or how the investigative process has changed
17 within our office or within the EEOC realms as well.

18 Education and outreach strictly is
19 self-explanatory. We go out and deal with all the
20 entities that invite us out on education and outreach
21 for Housing or Employment. And we provide the
22 brochures that are needed, training and information
23 that is needed, any type of mediation information that
24 is needed and just basically what we do and who we are
25 when we go out and do education and outreach.

1 there's a lot of savings because they fly out in a
2 State plane; so it's a State entity which allows us to
3 not be billed or not be charged to our time or
4 anything else like that or affect our budget.
5 Commissioner Lehman's office handles that whole
6 budget.

7 COMM. WIPF: Thank you.

8 MR. ROBERTSON: Yes, ma'am.

9 Any other questions?

10 (No response)

11 MR. ROBERTSON: Thank you, ma'am.

12 On policy reviews, one of the key things
13 that is important that we understand and know that my
14 staff and I deal with is looking at the numerous
15 agencies that we have throughout the state of Texas
16 and the institutions of higher education, how we have
17 to continually, on a six-year cycle, make sure that
18 they are in compliance with 21.450.

19 And in that policy, what that allows us
20 to do is go out and provide policy trainings and
21 policy reviews dealing with their HR policies under
22 six sections. Now, five of those sections we deal
23 with just for State agencies only. And if I could,
24 I'll just let you know what those sections are once
25 again.

1 We're dealing with their recruitment and
2 retention. It used to be called an affirmative action
3 plan, but now it's what we call a recruit plan. We
4 want to know how they hire, how they select people,
5 what is their process, do they utilize a matrix, do
6 they use a whole person concept, is it applied across
7 the board to everyone who comes in and applies for
8 positions, as well as who are they hiring and how are
9 they recruiting specific need classifications, like
10 your engineers, your chemists -- whatever the case may
11 be, your nurses, and even physicians within State
12 agencies, because we do have psychiatrists. We have
13 physicians. As you-all know, we have attorneys as
14 well. And with those classifications, they are,
15 basically, all the same under the State
16 classification, and how are they going out recruiting
17 minorities in those specific fields.

18 And so they provide us information. We
19 review that information. We want to make sure that
20 that information that we pull, that they're utilizing
21 certain advertisements. Are they going out and going
22 to career fairs? Are they advertising at HBCUs, which
23 are historically black colleges and universities. Are
24 they applying at what we call UT-Pan American, your
25 Hispanic universities and colleges as well, and how

1 are they bringing in the minority population within
2 the State workforce.

3 And so that is the first part of our
4 review that we deal with. The second part of our
5 review or the second section that they deal with is
6 performance evaluation. We want to make sure that
7 each and every state agency, as well as each
8 institution of higher ed, has a standard
9 across-the-board performance evaluation that provides
10 an equal opportunity and an equal -- and a chance for
11 those for promotional opportunities as well as dealing
12 with disciplinary issues. If there's poor
13 performance, how you rate it, good, bad, exceed
14 standards, et cetera.

15 And we go off best practices and we look
16 at past litigations when they deal with those type of
17 issues in court in helping these State agencies stay
18 focussed on a performance evaluation that is
19 measurable and that the criteria is acceptable, not
20 only to us but to their -- to the ED of that agency
21 and the HR folks that run that agency as well.

22 And so the first part we deal with is,
23 once again, recruitment and retention. The second
24 part is performance evaluations. I'm moving up to the
25 third piece, which is disciplinary action.

1 Disciplinary action, we want to make
2 sure that there is no EEO issue when they make
3 decisions on disciplinary actions. Is everyone being
4 treated the same? Are the Hispanics, are the Blacks,
5 are the Asians, are the Whites, are they all being
6 treated the same when it comes to adverse action? And
7 the adverse action that we look for more than anything
8 else are suspension, demotion, terminations, et
9 cetera. We don't consider a voluntary demotion an
10 adverse action, but we've seen policies in the past
11 that indicate that a voluntary demotion would be an
12 adverse action.

13 So best practices allow us to keep them
14 consistent not only with other agencies but within the
15 industry as well -- or the private population as well.

16 The next piece that we deal with after
17 disciplinary actions is what we call our EEOPs. We
18 want to make sure that they look at -- that they're
19 providing EEO training, new hire -- initial new hire
20 training for those employees who have been hired for
21 the first 30 days. And then after that, they have to
22 provide a supplemental every two years.

23 Now, Texas Labor Code Chapter 21.010
24 governs that piece for us to monitor them and make
25 sure that this is what they've got in place, each and

1 every State agency.

2 Now, we can provide that training to
3 them at a cost or they can provide a curriculum to me
4 and I certify that curriculum. I don't certify an
5 instructor. I just certify the curriculum, because
6 the curriculum has to be internal to their agency. It
7 has nothing to do with how we conduct business here at
8 CRD, how they conduct business and do they cover those
9 fine points dealing with Civil Rights Act of '64, ADA,
10 ADEA, et cetera.

11 We found in some of those points, as we
12 know, there's no law, state or federal, dealing with
13 sexual orientation, but it is permissible for each
14 agency or private company to provide a policy on
15 sexual orientation. And we do not "gig" them for any
16 of that. That is something that is in a policy and
17 they -- as long as they enforce that policy, we have
18 no problem with that.

19 The next piece of that is the ADA piece,
20 or their reasonable accommodation, when we look at the
21 No. 5 piece of it. What we want to make sure is that
22 they have a policy in place that ensures a true
23 definition of how they handle reasonable
24 accommodations and what is defined as "undue
25 hardship." And so when we look at that policy and

1 those things are not in that policy, we advise them.

2 We give them recommendations.

3 We're not an enforcement type issue as
4 Team 1 and Team 2 are, but we are enforcement for
5 certification, because if they don't get that
6 certification or don't get that goal from us, then
7 they have to provide a letter to the Governor
8 explaining why they're not certified. So it kind of
9 gives us a somewhat enforcement issue but we like to
10 think of it as a nice part of being -- trying to
11 certify someone. But we don't have the enforcement
12 authority or subpoena authority to say, "Hey, you'd
13 better do that." What they have to do at that point
14 in time is if they choose not to accept the
15 recommendations, then they must provide a letter to
16 the Governor of the State of Texas indicating why they
17 will not make that change or do what we ask them to do
18 or accept that recommendation.

19 Once it goes to the Governor's office,
20 it is at that point in time out of our hands. Then
21 they'll get back into contact with our Director,
22 Mr. Gomez, indicating how we need to move forward with
23 that process.

24 Now, keep in mind, each month that
25 they're not certified, there's a \$5,000 fee included

1 on top of that. So we charge our hourly rate to get
2 them certified, but at the same time, if they choose
3 not to accept the recommendations and we choose not to
4 certify them, which we've never had any problems like
5 that -- I want to make sure that's known -- but if
6 that should ever happen, there's an additional \$5,000
7 fee that is charged to that agency, which is in
8 statute as well.

9 COMM. KHALIFA: That comes to us.

10 MR. ROBERTSON: That's correct. That is
11 absolutely correct.

12 What happens, Commissioner Khalifa, it
13 goes through the Comptroller's Office. They pay
14 through the Comptroller's Office and the Comptroller
15 Office sends it down to us.

16 The first part of it is directly paid to
17 us through our interagency contracts. If they ever
18 get into that non-certification issue, then it goes
19 through the Comptroller's Office then comes to us from
20 that point. So there could be some time involved with
21 that as well.

22 The last piece, which only applies to --
23 or the sixth piece that only applies to institutions
24 of higher education is compensation. And what we
25 basically look at when we deal with institutions of

1 higher ed is just, "How do they pay their staff? What
2 is a nonfaculty and a faculty-type salary? What is a
3 professorship? What is a president's salary as
4 opposed to a junior college salary," and how they
5 advertise for those salaries as well.

6 Within the state, we do not deal with
7 that because we fall into a state classification
8 system. So a Director I will make the same as a
9 Director I at TWC or TDCH -- TDCJ or TxDOT or the
10 Railroad Commission. Whatever agency it may be, we
11 don't have to worry about compensation when we're
12 dealing with State agencies, only with institutions of
13 higher ed.

14 And with that said, that completes that.
15 And if you-all have any questions, I'll be more than
16 glad to entertain them.

17 CHAIRMAN ANDERSON: Does that answer the
18 questions that -- Commissioner James, Khalifa, I think
19 you-all had some questions about the training and
20 policy reviews. Did that cover --

21 COMM. JAMES: Very well done.

22 MR. ROBERTSON: Thank you, sir.

23 CHAIRMAN ANDERSON: Okay. Thanks, Tony.

24 MR. ROBERTSON: You bet. I purposely
25 left out firefighter reviews.

1 CHAIRMAN ANDERSON: We know it's --

2 COMM. KHALIFA: We've gone over those
3 before, haven't we?

4 CHAIRMAN ANDERSON: Yeah. We have.
5 They're not funded. They just -- we just have to do
6 them.

7 COMM. WIPF: Mandated.

8 CHAIRMAN ANDERSON: Mandated, yeah.

9 AGENDA ITEM NO. 11

10 CHAIRMAN ANDERSON: Our next meeting is
11 October 3rd, 2007. We do not have a meeting in
12 December 2007, but we may have -- we may need to do
13 that. It just depends on what happens in October.

14 We want to have the same agenda on the
15 closed session -- I already talked with Susanna about
16 that -- in October. And one of the other things,
17 Robert, is if you'd get with John Moore and perhaps
18 he'll have for the October the training plans that he
19 is going to put together -- well, Susanna is here,
20 too, for the staff coming out of the Regulatory
21 Enforcement Division --

22 MR. GOMEZ: Yes, sir.

23 CHAIRMAN ANDERSON: -- that we talked
24 about --

25 MR. GOMEZ: Yes, sir.

1 CHAIRMAN ANDERSON: -- what he
2 mentioned.

3 MR. GOMEZ: I will do that. And I'll
4 keep you updated as we go along. If I get any other
5 information in regards to that, I'll copy you on any
6 information that I may get.

7 CHAIRMAN ANDERSON: Okay. Is there
8 anything else we need to cover?

9 (No response)

10 AGENDA ITEM NO. 12

11 CHAIRMAN ANDERSON: Okay. Meeting's
12 adjourned.

13 (Proceedings concluded at 12:16 p.m.)

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C E R T I F I C A T E

STATE OF TEXAS)
COUNTY OF TRAVIS)

I, Patricia Gonzalez, a Certified
Shorthand Reporter in and for the State of Texas, do
hereby certify that the above-mentioned matter
occurred as hereinbefore set out.

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

IN WITNESS WHEREOF, I have hereunto set
my hand and seal this 18th day of July 2007.

PATRICIA GONZALEZ
Certified Shorthand Reporter
CSR No. 6367-Expires 12/31/08

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