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

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| PUBLIC MEETING FOR THE | § |
| COMMISSION ON HUMAN RIGHTS | § |
| TEXAS WORKFORCE COMMISSION - | § |
| CIVIL RIGHTS DIVISION | § |

COMMISSION MEETING

WEDNESDAY,OCTOBER 15, 2008

BE IT REMEMBERED THAT at 9:05 a.m., on Wednesday, the 15th day of October 2008, the above-entitled matter came on for hearing at the Texas Workforce Commission, TWC Building, 101 East 15th Street, Room 244, Austin, Texas, before CHAIRMAN TOM ANDERSON and the COMMISSIONERS of the Commission on Human Rights, Texas Workforce Commission - Civil Rights Division; and the following proceedings were reported by Lou Ray, a Certified Shorthand Reporter of:

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P R O C E E D I N G S

WEDNESDAY, JULY 16, 2008

(9:05 a.m.)

AGENDA ITEM NOS. 1 AND 2

COMM. ANDERSON: Good morning, everyone. I'm Tom Anderson, Chair of the Civil Rights Division, Texas Workforce Commission. On behalf of the Commissioners, I want to welcome everyone to the meeting today.

And the first thing I want to do is to go ahead and -- we do have one person who would like to speak to the Commission, Ms. Morrison of Austin, Texas, and she wants to address the Commissioners. You have three minutes, and please stay on topic.

COMMENTS BY MARILOU MORRISON

MS. MORRISON: The Commission situation continues to become increasingly dire (inaudible) --

COMM. ANDERSON: Do you have the speaker on?

MS. MORRISON: -- by holding out false hope that the (inaudible) of getting a HUD SuperNOFA, when they knew or should have known that CRD did not meet the essential eligibility requirements for being in good standing. Now, of course, management has no choice but to admit that CRD did not get a SuperNOFA,

although the Austin Tenants Council, Fort Worth Human Rights Commission, among others in Texas, did receive SuperNOFA grants.

Reasonably intelligent people should question the veracity of management's glowing reports. At approximately 40 percent employee turnover rate, the CRD has the worst of any agency and continues to lose investigators. I would say "faster than they can train them" but the steady loss is actually because management is unable to train; that and because of its abusive treatment of employees.

For example, one employee was yelled at and physically shoved by his supervisor when attempting to leave to pick up his children in an emergency situation. This manager barely got a slap on the wrist for this outrageous incident of workplace violence. I predict that because of this, TWC is going to have a lot of difficulty enforcing its workplace violence and other policies relevant to misconduct in the future.

Another employee has filed a grievance because of --

COMM. ANDERSON: Ms. Morrison, please -- Ms. Morrison, please address the Commissioners --

MS. MORRISON: -- or performing

investigations acceptable to HUD, and there are other investigators who feel the same way.

COMM. ANDERSON: Ms. Morrison --

MS. MORRISON: -- reports the loss of additional investigators and blames the CRD's failures on these losses --

COMM. ANDERSON: Ms. Morrison, do we have to get the deputies out here?

MS. MORRISON: -- the most experienced housing investigator was among the --

COMM. ANDERSON: Ms. Morrison --

MS. MORRISON: -- resigning since the July Commission meeting. New hires are already voicing disgust with management and their inability to provide support and assistance in learning the job. There will be --

COMM. ANDERSON: Ms. Morrison, please cease to discuss any issue that has to do with --

MS. MORRISON: -- CRD Commissioners that the management's inability --

MS. HOLT: Ms. Morrison --

MS. MORRISON: -- low employee morale and --

MS. HOLT: Ms. Morrison, you need to direct your comment to an item on the agenda.

MS. MORRISON: -- has always been the primary cause of CRD's disintegration. I cannot understand why Commissioners have refused, ignored or are unable to see the obvious. Why have Commissioners allowed the destruction of what was a valuable and viable agency when anyone can be a victim of discrimination?

I recently learned that one of the --

COMM. ANDERSON: Ms. Morrison, you will not be able to discuss any issues before this Commission in the future if you do not cease your discussion at this time.

MS. MORRISON: -- security risk whom should be denied information available to others. Apparently Commissioners --

COMM. ANDERSON: Will the court reporter please stop taking notes?

(Discussion off the record)

COMM. ANDERSON: For the record, this is a Commissioners' court, and we have the right to set the agenda, and we have the right to permit people to speak from the public. But you are required by this Commissioners' -- by this Commissioners' court -- or this Commissioners' board to address the topics that we ask you to address, which is the agenda items, and

not to address those items for which you have a personal vendetta.

If you do not make sure that your comments are addressed to the topics, you will not be allowed to speak to the Commissioners' court anymore. If you want to talk to individual Commissioners, that's between you and the individual Commissioners.

Is that understood?

(No response)

COMM. ANDERSON: Ms. Morrison?

(No response)

COMM. ANDERSON: Okay. Ms. Holt, would you make sure that this is -- takes place going forward?

MS. HOLT: Yes, sir.

COMM. ANDERSON: Thank you.

Do any Commissioners have any comments that you want to make?

COMM. KAHLIFA: I really don't mind listening to you, but you've got to be respectful of the court. You're not being respectful.

MS. MORRISON: You're the one that's being discriminated against.

COMM. KAHLIFA: We're listening. We're listening.

COMM. ANDERSON: Thank you.

MS. HOLT: Chair Anderson, let's move on, please, to Agenda Item No. 3.

AGENDA ITEM NO. 3

COMM. ANDERSON: Okay. Mr. Gomez and Mr. Crump or Mr. Dixon, when the time comes for the financials -- Mr. Gomez, would you go ahead and please proceed with the -- with your report?

MR. GOMEZ: Yes. Good morning, Commissioners -- Commissioner James, Commissioner Kahlifa, Commissioner Wipf and Chair Anderson. For the record my name is Robert Gomez, and I am the Director for the Civil Rights Division.

This morning I'd like to run down the bulleted items on the Director's report in your handout. The bulleted items I will not take in order, but I will give you information on the meetings I've attended since the last meeting, July 16, 2008, the information on expanded presence project update, outreach projects information, staffing report, networking contact update, summit conference and attendance.

And then for outreach projects information I will bring up Mr. David Trinidad to share some detailed information on events and

conferences that we have attended during this period since the last meeting. Also the future goals of CRD, I will share some of those with you.

So let me get started again, directing you to the tab -- Director's tab in your handout. As always, since July 16th, I conducted meetings with my management staff on the CRMT -- Civil Rights Management Team. I also conducted weekly telephonic meetings with Chair Anderson, attended team meetings with TWC CRD staff. We have had two full staff meetings. We are scheduled to have a full staff meeting tomorrow.

I attended weekly TWC executive staff meetings and by-weekly TWC Commission meetings. I also participated as recently as yesterday in the TWC coordinated performance briefings with the TWC Commissioners.

I also had the opportunity to attend the EEOC TAPS conference along with several management staff to San Antonio, Texas on the 31st of July, which was very beneficial. And on that note, in discussing the EEOC, we were contacted by EEOC, Mr. Jaime Valdez, stating that because we have partnered with EEOC in conducting several outreach and networking and education events, that there is a -- there is a plaque

of recognition that they're going to award TWC CRD. I did attempt to get Jaime to perhaps schedule Mr. Michael Fetzer, who is the district director for EEOC, Mr. Rodney Klein, the training and outreach manager, and Mr. Jaime Valdez to come to this meeting to present that plaque, but unfortunately their calendar did not allow. So they're coming down on November 5th. We have arranged for a room at the Trinity Building at 9:30 in the morning to present that plaque to us. Again, that's for -- in recognition of attending and coordinating outreach and education events with EEOC as their partner -- as their FEPA partner for the State of Texas. So I just wanted to mention that to you-all.

Also we worked -- I worked with my special projects staff, Mr. Tony Robertson who is the manager of training and monitoring, and also my outreach coordinator Mr. David Trinidad, on the grants that were administered both by HUD, the SuperNOFA, and also the Department of Justice. And again I will have David Trinidad come up and give you detailed information regarding those two grants when I do introduce him and he addresses you-all this morning.

I also had the opportunity to conduct telephonic conferences with the Commissioners

individually regarding the review report that we received from HUD, and we have since responded to that review and we did talk to you at length about our response and what we expected in the future in partnering with HUD and further -- in future reviews that they are to conduct. So I believe that we covered all those points as far as the review and as far as our response to their review also.

COMM. ANDERSON: That was done in conjunction with the General Counsel's office?

MR. GOMEZ: With John Moore, yes, sir. It was a conference call between John Moore and the Commissioner that we contacted and myself. And, like I say, we at length discussed what the review entailed. We did provide you-all a copy of the review and also provided you a copy of the response that we went over, that review and response. So that was what was done in regards to that HUD review, and also what our expectations are from HUD as being partnered with them in future reviews. So that's something that we also discussed, not only amongst ourselves, but also relayed back to Mr. Gary Sweeney who is the regional director for HUD.

COMM. ANDERSON: And for the record, what was their response? They will comply with your

request?

MR. GOMEZ: Yes, what John Moore and myself were able to do is get a -- more or less like a verbal agreement that the next time that there is such a review we're going to get ample time to sit down with them at the entrance, discuss what's going to be reviewed, and also have an exit conference to see what the findings are. It gives us an opportunity to address those situations before they put it in writing.

It seems that this time around, whether it was on their side or our side, this was not done, which kind of got away from the usual processing of a review as both John Moore and I know a review is conducted. So we kind of established those ground rules.

We also have spoken -- I have spoken with Gary in that I have requested a response to our response and more or less to close this review that was conducted last September, September of 2007. So that's where we stand on that, Chair Anderson.

Okay. I also had the opportunity and the great pleasure, along with Tony Robertson, again manager for training and monitoring, to conduct interviews for our Investigator III positions and our

Investigator II positions, the intake. And I'd like to say that I think we hired a group of people -- outstanding group of people, very qualified, very energetic, energized to take hold of the job and to lead us into what the mission of CRD is.

At this time, with your permission, I'd like to have them stand up and I'd like to introduce them to you. It's something I'd like to do so they can get acquainted with you-all coming on board. Some of these investigators have been with us, I believe, for four months and some for a couple of months, and I think one of the intake investigators just came on this month.

And as of today, as -- you know, it's been 10 days since we're fully staffed. CRD has been fully staffed for 10 days today, so that's gives you an indication that the Investigator II came on board Monday of last week.

So at this point in time, let me introduce to you our new investigators. First to start off with is Investigator III Mr. Lester Taylor. Next to him is Patrick Sensick. And Patrick was our Investigator II intake investigator, and it's -- you know, we like to see that; that, you know, our Investigator IIs are in-house, investigators do

promote. But then that leaves a vacancy and, therefore, that's why we haven't had a full house or a full FTE count because Mr. Psencik was promoted from an Investigator II to Investigator III.

Next to him Gloria Burke. She's an Investigator III. Next to her is Roy Minton. And Roy Minton is Investigator III. And if you ever go to our office and visit our office, you might get him confused with his twin brother who also works with us. He's a mediator, Mr. Michael Minton. And unless you know what they're wearing in the morning you probably can't tell them apart.

Next to him is Deborah Martinez, and she's the one that started as our Investigator II and started last Monday. So she's very, very new. Next to her we do have Debra Monroe. And she's an Investigator III.

I believe Debra and Patrick and Roy went with us to Fort Worth. They've already taken internal training. And also as a part of their external training with HUD, they did go with us to Fort Worth and attend that regional training with us.

And again, I'd like to welcome you-all to the division and I wanted to introduce them, Commissioners, to you-all. And I think, again, that

this group of investigators is very energetic and enthusiastic to get started to help us meet the mission and goals and objectives of the Civil Rights Division.

COMM. ANDERSON: Does HUD still have that university in Washington, D.C., that people go to?

MR. GOMEZ: Yes, sir. And I'm glad you brought that up because they're all headed towards Washington, D.C. They were going to leave the first week of November, but because of a little thing of the elections, they canceled that class. And so I think they're leaving on December 14th out there, right before Christmas. But they're all set up to attend that academy and they're going to be attending Week 1. And that's what we wanted was to get them on the board with Week 1 and get them started on the pathway to achieving the five weeks that is required by the Academy.

I do also want to point out on that point, Chair Anderson, that Cynthia here is the one that is almost there. I think she needs one more week of the academy and she'll be certified through the academy. And I think she's scheduled for December also. So we're almost there with our supervisor. So

that is a big positive for us and our staff.

To continue with my report, as I mentioned, several of the new investigators did attend the HUD policy training regional directors meeting in Fort Worth, as I did also with management staff. It was a two-day -- and in some cases three-day event -- because we also had TEAPOTS training.

We conducted an outreach education presentation at the Workforce Center -- to the Workforce Center staff in Edinburg. And actually this presentation took place in Pharr. And the manager for training and monitoring, Mr. Robertson, and the outreach corridor, Mr. David Trinidad, and I attended that along with EEOC. That was one of the events that we coordinated with EEOC and also the Department of Justice -- the Department of Labor I mean.

We also attended -- the next day we attended the Work Source Solutions Employer Forum, Technical Assistance for Agricultural Labor in McAllen. Again this was an outreach partnership with EEOC and DOL, along with Mr. Francisco Cerda from the TWC Migrant Worker Program who so generously invited us to attend and give the audience there a presentation on who we were, what we did, and also the enforcement side of it of TWC CRD, and also the

outreach and education side of TWC CRD. So it was very beneficial for the audience, and we did receive plenty of positive feedback after that conference.

The outreach coordinator and myself conducted public service announcements for a radio station in San Antonio, Texas, and I'll let David Trinidad -- and at this time I'll bring him up so he can give you some detailed information on our outreach efforts, including the radio station PSA that we had in San Antonio and also the grants that we did apply for. So at this point in time I'd like to introduce Mr. David Trinidad, our outreach coordinator slash also investigator.

MR. TRINIDAD: Good morning, Commissioners.

COMM. ANDERSON: Good morning.

MR. TRINIDAD: For the record, my name is David Trinidad. I am the outreach coordinator for the Texas Workforce Commission Civil Rights Division.

At our last meeting the Commission inquired as to the status of two grants, the TWC CRD had applied for, specifically the HUD SuperNOFA 2008 and the Department of Justice grants -- right, the Department of Justice grant. TWC CRD has received information regarding the status of both of these

grants, starting with some background on the HUD SuperNOFA 2008 background. TWC CRD, in conjunction with TWC grants coordinator Dede Webb, whom I would like to acknowledge is sitting in attendance today --

MS. WEBB: Good morning.

MR. TRINIDAD: -- developed an outreach and education proposal targeting the Midland-Odessa area, because given recent migration of workers and families to Midland-Odessa, resulting from the renewed interest in oil production in the region, the area had experienced -- and TWC CRD had recognized a housing crisis that in many ways was improperly displacing a number of protected classes and individuals as recognized under the Fair Housing Act.

Because a SuperNOFA award is a highly competitive national competition, TWC CRD worked hard to ensure that our proposal was sound and promoted the key concepts of the Fair Housing Act. However, even with this commitment to excellence, TWC CRD was not awarded the 2008 SuperNOFA.

At this time, HUD has not provided TWC CRD with the specifics as to why the grant was not awarded. The grant process-- the grant process does allow for a formal written request of a debriefing of HUD officials as to the particulars of the grant

1 process leading to the award, and TWC has submitted
2 such formal written request. But as of to date, TWC
3 CRD has not received a scheduled time or date for the
4 HUD debriefing.
5 That notwithstanding, I am able to shed
6 some light as on the need of three areas of
7 improvement that TWC CRD has since recognized as
8 legitimate concerns, and those three areas are -- in
9 no specific order -- proximity of the project manager
10 to the project, performance rating and leveraging
11 resources. Again, without having gone through the
12 debriefing process, anything further on this matter
13 would be pure conjecture. And anyone who would give
14 you any analysis up to this point would be
15 speculation.
16 As for the Department of Justice grant,
17 this grant involving education and outreach of
18 imigration-related unfair employment practices.
19 Specifically this grant involved the
20 anti-discrimination provisions of the Migration and
21 Nationality Act as they relate to citizenship,
22 national origin, document abuse and retaliation.
23 Again, as with all of TWC CRD grant
24 projects, CRD worked closely with the TWC grants
25 coordinator Dede Webb to develop a sound and

well-rounded outreach and education proposal targeting those who suffer from the abuses outlined in the Immigration and Nationality Act.

The DOJ grants project, like the SuperNOFA, is also a highly competitive national competition. And again TWC CRD was not awarded the grant.

However, through the efforts of Ms. Dede Webb, TWC CRD was able to make contact with the grant reviewers of DOJ and some light we can shed as to the results as to the conclusion. TWC CRD has learned that the grants reviewers for the DOJ grant specifically tend to favor the recipient of last year's grant. In addition, the granter tends to award only one grant per state per year. Given these factors, TWC also learned that a DOJ grant was awarded in Texas last year and that that same recipient was again awarded the grant for this year.

Any questions regarding the grants?

MR. GOMEZ: Just to add to that, Chair and Commissioners, the way I would see it, you know, the -- the excellent job that was done by -- with Dede's help and also by David, you know, I saw was impeded by the fact that we had no knowledge of the fact that they considered those two hurdles that we

had to overcome in as far as the fact that they usually favor someone who has received it before and the fact that they usually don't grant the project or the grant -- award the grant to two entities in the same state. So the way that I saw it afterwards or the way we found out afterwards -- and this was on the work of Dede, and I give a lot of thanks and appreciation for doing that for us. She did research. She contacted these individuals and that's when we found out that these two hurdles existed, which were unknown to us when we initially applied.

So on that note, that's one of the reasons -- or a couple of the reasons that perhaps we weren't awarded the grant.

COMM. ANDERSON: It seems to me that an immigration grant would be particularly favorable to the State of Texas and New Mexico and Arizona and states along the border. Who received it in the state of Texas?

MS. WEBB: They were in Dallas.

MR. GOMEZ: Was it Dallas or Garland.

MS. WEBB: No, that -- Garland was the HUD.

MR. GOMEZ: The HUD. Okay. I believe it was in Dallas, and they were local Dallas. And as

David explained, you know, they wanted us to have someone full-time or that was placed or that was, quote, unquote, "stationed in that area" that we were going to conduct the project.

MR. TRINIDAD: Mr. Gomez is correct. We're talking about two different projects. The DOJ project is -- well, having the project manager located in the area actually was the SuperNOFA grant, not the DOJ project.

MR. GOMEZ: Yes, correct.

COMM. ANDERSON: Well, that line of reasoning, we'll never get a grant.

MR. TRINIDAD: Well, what we've seen -- and I don't know if it's just a current trend or not, but what we've seen during the Hurricane Rita incidents there was a very broad interest in wanting to educate and outreach through the Department -- through HUD. But what we've seen here in the last two years is we've seen a very micro or -- I believe it's micro selection process where they want just in area. They want to focus on specific areas throughout the state. And this is where competition between the FHIPs and the FHAPs becomes, you know, pretty embroiled.

COMM. ANDERSON: What about -- obviously

we're not going to get those grants. What about any grants in early 2009 and, more to the point, I guess, when Gene or Jim comes up, how is that going to impact the budget? I mean, in the past we've kind of counted on these grants to supplement, GR and other EEOC and HUD working awards.

MR. GOMEZ: Well, Chair, knowing that these grants are competitive -- highly competitive -- they're nationwide -- and as David pointed out we're not only competing with FHAPs, but we're also competing with FHIPs on these projects -- on most of them -- we really do not count them in as a part of our budget. These are over and above what we've already budgeted and projected for the year. So this is sort of like if you want to call it icing on the cake after we have established our budget but we don't count them in into the regular budget. So this is over and above our already-projected budget in as far as revenue and expenditures for the fiscal year.

COMM. ANDERSON: And what about future grants? I don't know if Mr. Trinidad or Dede or you can address the future grants coming down the pipe.

MR. GOMEZ: Right. Well, we've talked about this, and I feel encouraged that we are going to apply for future grants, even knowing now -- you know,

we had two unknowns that we didn't know about that we do know now. We have the unknowns that we know, and we also don't know if the individuals that got granted those awards will satisfy their grant and comply with their SOWs that they have submitted for that project. So knowing that up front now, we know how to approach this and we're going to still continue applying for this money and see how it goes from there.

We do have -- as David mentioned, we do have a debriefing from HUD regarding the SuperNOFA. And again that gives us valuable information and again I'm encouraged to apply again and keep applying. We understand it's highly competitive. We understand that there might be other variables that, hopefully, are not hidden this time around. So knowing that, we will continue to apply and we will continue to compete for those grants, given the opportunity.

COMM. ANDERSON: How long -- one more question, Commissioners. How long -- I mean, if they favor last year's recipients -- and I assume Dallas won in 2007 and now they've got one in 2008 -- how long does this perpetuate? Does it go to 2009, 2010? I mean, at what point do they say, "Okay, Dallas, you've received enough?" As long as they keep submitting the grant?

MR. TRINIDAD: For the record, Commissioner, that particular grant that you're making reference to was the Department of Justice grant. The SuperNOFA grants are very competitive, and I believe, you know, they look at all merits when they review their -- when they review the applicants.

Now, as far as the DOJ grant, we have expressed our concern, as you've just mentioned, with DOJ. And that is one of the reasons why they -- we believe that we're very encouraged to want to apply again next year. They know who we are and they know what our concern is. And it's not -- it's no different than the concern that you just brought up.

COMM. JAMES: Generally speaking, how much money is floating out around there? And I don't mean in Mr. Kahlifa's wallet because we know that's a lot, all right? But generally speaking, grants for our purposes, is there $20 million? Is there a hundred million dollars?

MR. TRINIDAD: In the HUD SuperNOFA it is a substantial amount of money. When I say substantial, I guess -- let me put a dollar figure to that -- it's over a million dollars that are distributed -- well, several million dollars actually, because there's even one grant that actually is a

million-dollar grant for advertising. We've kind of played around with the idea of even wanting to apply for that one. But with regard to the SuperNOFAs there is a substantial amount of money that the HUD distributes.

With the DOJ grant, I believe it was a million dollars or less. And as Chair Anderson keenly pointed out, yeah, you're looking probably at immigration abuse in some key state areas. Politics being what they are, I could not tell you if, you know, Wisconsin wouldn't end up getting a grant some time or New Jersey or --

COMM. JAMES: Yeah, the Canadians that come --

MR. TRINIDAD: Sure --

COMM. JAMES: -- yeah, the terrorists that come across the border.

(Laughter)

COMM. JAMES: And I make your assumption as well that there are millions of dollars. Do we generally target -- not through the budget process but just as one of our overall goals -- that we want to capture a half million dollars a year in terms of grants or other funding sources?

MR. GOMEZ: We have not done that,

Commissioner James, because we don't know, number one, if they're going to be offered, depending on what the -- how the federal monies are out there, whether or not HUD will have monies for these projects. Something else that does come up that I'm pretty sure David is going to touch on is the fact that we worked the Katrina-Rita projects with HUD previously. We've had two of those. And now there is information out there of the possibility of having an Ike follow-up or coming back with what happened with the Ike Hurricane. And we're looking forward to that. And since we already have a record of having worked Katrina/Rita twice in two projects and also being here in Texas and being the FHAP for Texas, then we're pretty assured that we're going to be the frontrunners for that particular project if it comes up.

And again, you know, to answer your question, it depends on the funding because if HUD is funded in that they have substantial funds for these projects, then they put them out there, but again it is highly competitive.

So we don't -- that being one of the reasons -- the second reason is highly competitive -- also it's nationwide, and so we really hesitate on putting the goal -- our goal is simply to strive and

apply for these grants and apply for these grants in a manner that is going to be a quality submittal of a proposal, working along with, like I say, the grants coordinator with TWC who supports us in this and just go with that. But it's kind of difficult to set a goal when we don't know -- we're unsure of those variables.

COMM. JAMES: Sure. And remind me -- my last question -- remind me what the impact is if we got a million dollars that was unanticipated? What is the budgetary impact in fiscal years -- future fiscal years? You have that look on your face.

MR. CRUMP: Good morning, Commissioners. For the record, Gene Crump, Deputy Executive Director. It's basically a process. Within the Texas Workforce Commission appropriation, we have the ability to submit -- I believe it's a Rider 22. I can't remember the exact rider. We have the authority to submit a request to both the LBB and Governor's Office to use additional dollars that are provided to us through various fiscal grants. And to kind of provide a little bit more elaboration around some of the questions that y'all have asked, again, mentioning Ms. Webb, she is a full-time grants coordinator. So she is, if you will, in touch and hooked up with any

number of grant coordinators out of Washington. She monitors various web sites.

So if a grant presents itself, then we're on top of it, not only for the Civil Rights Division, but for TWC as a whole.

COMM. ANDERSON: Yes.

MR. CRUMP: As a matter of fact, we're one of the states that are in a pilot project in establishing grant web sites and Dede is our liaison on that. So in those particular instances, we're always ahead of the power curve in identifying those grants in submitting.

And one of the good things that Robert mentioned is we will always ask for a debrief if we fail to receive a grant to improve our grant application the next year. I mean, that's the whole point, to identify those areas where we can strengthen the grant.

But in terms of the appropriations process, if it's federal dollars it's usually not a problem. We have a process that we go through to -- if we were to receive a million dollars. And if we did not have the appropriation authority already granted to us, we submit a request. It's pretty straight forward.

COMM. JAMES: That allows us to do what --

MR. CRUMP: To expend those dollars.

COMM. JAMES: In some way that we think is appropriate --

MR. CRUMP: Correct. And we normally have -- within TWC we probably do three or four Rider 22s every year.

COMM. JAMES: Sure.

COMM. ANDERSON: Now, we have to use it in a way that the grant says. We can't add more people, for example, unless that's specifically in the grant. So we have to use it as advertising or outreach or PSAs --

MR. CRUMP: Yes, sir. You have to use the grant dollars in which they are appropriated. But if part of the grant proposal is you needed to add two staff to monitor PSAs or something, we have the authority within the appropriations bill to add staff. In fact, TWC just did that and notified the Legislative Budget Board and the Governor's Office we were adding staff because we received additional dollars to support the hurricane relief efforts.

COMM. ANDERSON: Once that grant runs out, if it's for a year or two years or whatever, then

the entity -- Civil Rights Division TWC would have to pick up those salaries and benefit costs.

MR. CRUMP: Yes, sir. We would probably do it -- I would advise if it's a temporary project a lot of times what we do is we hire contract staff or temporary staff. And going in those staff know that they are there for that project period or that contract period.

MR. GOMEZ: If you would allow me to give you an example -- a perfect example with NCRD, when we received the grant for $300,000 -- we received that grant for $300,000 -- we established the outreach coordinator position part-time. And when that money was running out, what we decided to do, instead of eliminating that position, we increased it to a full-time position, but we put a slash investigator for that position.

So, therefore, David now occupies that position and his title is outreach coordinator/investigator because he still does housing investigations. So we were able to do that because, as you-all very well know, we're on a piece rate basis. You know, we close cases we get paid for them and, therefore, we can sustain that FTE upon closures of cases, whether it be employment or housing.

So that's what we did with that position, the one that David currently occupies, because it did start out because of a grant, that $300,000 grant. We hired on Betty Neese part-time. And then I think she was part-time for three or four months. And when the grant was running out, the life of the grant was running out, we said, well, we can also have her trained as an investigator and do housing investigations when she's not doing outreach.

And in fact, we're kind of doing that because we did not get those two grants, the SuperNOFA and the DOJ grants, so now we have increased David's inventory of housing cases and he's doing more housing investigations instead of outreach. So we're able to do that with his position.

COMM. ANDERSON: So there's a revenue position rather than an expenditure personnel.

MR. GOMEZ: Yes -- well --

MR. TRINIDAD: Well, I like to look at myself as an even wash both ways --

(Laughter)

MR. GOMEZ: Now he's producing revenue on the back end versus producing it on the front end.

COMM. JAMES: Well, I recognize the whole grant process is a very difficult one, very time

consuming, so I certainly appreciate everyone's efforts with that, even when we don't get it. These efforts are very much appreciated.

MR. TRINIDAD: Thank you. So continuing then with the expanded in outreach, TWC CRD outreach and expanded presence remains to education -- to educating the public with regard to employment and housing rights. Recently TWC CRD was able to participate in a workforce solutions employer forum for agriculture in the McAllen and Edinburg area. This forum included the combined efforts of DOL, Wage and Hour Division, the US EEOC Division, the US DOJ Office of Special Counsel, who had actually discussed the Immigration Nationalization Act, one of the grants that we were talking about earlier, the US Department of Homeland Security, and TWC CRD.

We provided two presentations to staff, and the other -- I'm sorry. We provided two presentations. One to staff people from the Workforce Solutions and the other to those of the agricultural forum, which were business people.

Throughout these presentations, TWC CRD was able to show the audience the unique differences between it and the other agencies present so that each individual attending the forum would have a better

understanding as to who TWC CRD is and what falls within its jurisdiction and boundaries -- or jurisdictional boundaries, excuse me.

And as Mr. Robert Gomez had mentioned earlier, the US Department EEOC is going to provide a -- or has recognized our outreach efforts and is going to present a placard, I believe, November 5th?

MR. GOMEZ: November 5th.

MR. TRINIDAD: Now, while conducting outreach activities in San Antonio, TWC CRD was invited back to participate in a 30-minute radio PSA with Cox Radio Incorporated. The host of the PSA was local San Antonio radio personality Karen Klaus (phonetic) directed the informational PSA. The PSA centered around employment and housing discrimination, how to recognize such discrimination and focused on other scenarios as well.

San Antonio is America's 29th largest radio market, as well as Cox Radio's most diverse area. While half the population is Hispanic, 75 percent of these people are second generation or later and use English as their main language.

The Cox Radio San Antonio cluster reaches two-thirds of the entire market population. Cox Radio Incorporated is a large radio outlet owning

radio stations in numerous markets throughout the United States. In San Antonio Cox Radio Inc., owns and operates six local stations.

The radio PSA aired multiple times throughout the month of September and aired on all six stations, thus ensuring CRD outreach to their diverse listening audience. The six radio stations to air the PSA were Y100 Country, 99.5 KISS Rock, KONO 101.1 Oldies, Power 106.7 Hip Hop, KKYX 680 AM, which is classic country, and Magic 105.3 FM, which is music from the '80s, '90s and today.

And also we're -- TWC has been invited to put together a presentation on a fair housing workshop in Bryan, Texas for later this month. Expected attendance would be approximately 125 people.

Any questions?

Then I would like to direct you back to Executive Director Robert Gomez. Thank you.

MR. GOMEZ: Thank you, David. Thank you very much.

At this point in time, before I bring up Jim on the budget, I'd like to give you a rundown on the future goals for CRD. Of course, I introduced the new staff and we're excited and encouraged on bringing on this staff in meeting our mission.

We did acknowledge a contract with EEOC on the charge resolution for fiscal year 2009, and our contract calls for a closure of 1197 cases. So we look forward to that, which is still within our LBB target, which this becomes one of our goals.

As far as for the CRD to be in our performance goals this year, our goal for employment and housing closures is 1500. And that goal we will achieve during this fiscal year. And again, that is a goal for our employment and housing enforcement and as far as case closures.

We also have a goal of this year, fiscal year '09 of training 650 individuals, conducting 321 personnel policy reviews during fiscal '09. And also our goal is to review 60 fire department tests during this fiscal year.

And those are our goals as set for our staff. I'm very confident that we will meet these goals during this fiscal year, and also continue our partnership as a state FEPA and state FAP with both EEOC and HUD in continuing to meet our goals that are set as partners as the State FEPA and FAP.

We will continue to pursue grants, as presented by Mr. Trinidad. Knowing some unknowns on certain grants, we will approach it differently and

work together with TWC grants coordinator Dede Webb.

Also in pulling back somewhat on the outreach project as far as the Expanded Presence Program, we are going to pull back a little bit because, as you can see, we have several new staff that have to go through a learning curve process. As indicated to you, this new staff will be attending the academy for the first week in December. So in doing that, we're going to pull back David in particular from the Expanded Presence Program somewhat so he can concentrate on a higher case closure as far as having an inventory -- a higher inventory of cases to work.

But along with that, we are going to continue to keep in touch with our partners out there, the partnerships and networking that we have set up through our informational CRD e-mail that we send out there and that you-all are copied on. So we will continue to do that and then start-up, once we pass that learning curve, as far as the new investigators are concerned.

That concludes my presentation as far as the items to cover. At this point in time, I'd like to bring up Jim with TWC budget --

COMM. ANDERSON: Let me ask a couple of questions.

MR. GOMEZ: Yes.

COMM. ANDERSON: Come up, Jim. That's fine.

Payments from EEOC and HUD, are they staying the same? We're not getting a change in rate from EEOC or from HUD for 2009?

MR. GOMEZ: EEOC is going to remain the same. We haven't received any word on that, 550 per case. As far as HUD is concerned, we're still at the $2400 per case, 2900 -- additional 500 -- for cases that are charged or are considered difficult or extra work is deemed for those cases.

COMM. ANDERSON: Is that a formula or has that been -- is it just you-all saying this is a hard case or extraordinary or is it HUD that says --

MR. GOMEZ: It's HUD that makes that determination.

COMM. ANDERSON: Okay.

MR. GOMEZ: Also there is a proposal, a draft proposal currently that we did get word on that there is going to be a performance payment scale that is going to be considered by HUD depending on their funding. And this involves several attributes to the case, whether the case is a difficult case, a simple case or are a case that can be closed right away

1 versus a case that is difficult and has to take the
2 full 100 days. They are going to base it on the
3 100-day scale.
4 We did receive, like I say, a table. I
5 can make that available to you-all if you want a copy
6 of that. It is in draft format. Again, the word that
7 I've gotten from HUD is that it depends on the funding
8 that HUD would get, but it's based on -- it's
9 performance based and performance payment based. So
10 that means that, hopefully, if it does go into effect,
11 it will give us an opportunity to get the new
12 investigators trained, get them through their learning
13 curve and get them trained and closing cases so we can
14 address the aging cases.
15 The situation with our aging cases is
16 not particular or specific to CRD. In talking to
17 other FHAPs they have encountered the similar
18 situation. In talking to Gary Sweeny, the regional
19 director for HUD, he has encountered this not only
20 with the FHAPs in Texas and this region, but also
21 nationwide and also within HUD themselves as far as
22 their investigators.
23 So one of the things that, I guess, OMB
24 or whoever oversees HUD, what they want to do is to
25 base it on a performance-based payment plan. And that

will be dependent again on the type of case, what they develop as a scale for the type of case and the number of days needed for closure of that type of case and what the payment scale -- what area of the payment scale it's going to fall under. But that's in the draft form, and, as I stated before, if you-all want a copy of that draft proposal then we can make it available to you.

COMM. ANDERSON: Go ahead and send it to everybody.

MR. GOMEZ: Okay. Will do.

COMM. ANDERSON: This is probably a combination financial operational question, but as the employment -- or the economy deteriorates, we're going to get people getting laid off. There's probably going to be more employment claims, people may be losing housing or not being able to qualify for housing because of new credit rules. Staffing is probably not going to increase, so my guess is -- and you-all can address it -- is that the aging of cases and the size of the inventory is going to increase. How are we going to address this? Have y'all got a plan or have you talked with Mr. Crump and his staff? Do we lose -- we're not going to lose any money from EOC because they don't pay us in accordance with any

kind of performance plan or aging of cases, correct?

MR. GOMEZ: Well, I'm encouraged on the employment side because if it does happen as you say, Chair Anderson and there's an increase in our inventory and employment, employment would have certain pluses that we don't have in HUD or the housing side in that employment they really don't set a time frame for us and we have a longer period of time to work those cases. That's the first thing.

The second thing is that we have a higher case closure as far as performance standards for our Investigator IIIs and Vs is concerned -- or Investigator Vs and employment. The next thing is that if the economy -- of course, it's already taken a downturn, but if we see an increase in the inventory of housing cases based on the economy, then this can be addressed also by our processing of cases.

As you well remember, when I came in I had been here about three months -- I initiated, with the employment enforcement area the PCHP processing of cases. Most of these cases -- or a number of these cases are what we find now, and historically what we have found and one of the positives of the PCHP system through EEOC is that a lot of these cases -- yes, there's going to be a lot of -- plenty of individuals

being laid off, fired, terminated, whatever you want to call it, downsized, but when they come in to apply with us it's usually their first reaction to them being laid off, fired or what have you.

Once we look at the case, when we see that it's not meeting prima facie, we can dismiss those cases based on PCHP review. They're class -- or Category C cases that we see in most of those cases.

So I don't see a very big impact or a negative impact if we do incur a raise in the inventory or filing of cases. Because usually what we can do, in employment we have a lot more leeway and a lot more flexibility and a lot more time than we do in the housing area.

Currently, having stated before that we are fully staffed, in the breakdown of investigators that we do have, six employment investigators versus nine housing investigators, I feel very confident that if we do receive a surge of employment cases that we can handle them with the investigators we have.

On the other side of it, the housing cases are a little bit more difficult to explain because right now, as I mentioned to you, we do have that draft proposal by HUD dipping in on their funding whether or not they're going to go on this payment

schedule, performance payment schedule. So we're going to need to look at that later -- obviously we need to address the inventory that we have, the aging inventory that we have. One of the reasons of pulling back on the outreach with David is to do that.

And as far as hiring different -- additional staff, we would have to look at it once we get that inventory and work along with HUD, EEOC, if we need to, and, of course, TWC. But at this point in time, I'm assured that -- I feel confident that any -- any rise in employment cases we can handle it because of that flexibility and the time factor -- the time frame factor.

And then in housing we will need to look at it and see where we stand.

COMM. ANDERSON: On the employment side, most of those cases are going to come in -- or a lot of them are going to come in and they're going to be a combination -- I mean, it's going to be allegations of discrimination for some reason, and also, well, we were laid off. So doesn't that require more investigation? I mean, it establishes a prima facie case in that discrimination is one of the elements, even though they were laid off, were they laid off in -- by a discriminatory manner?

MR. GOMEZ: Yes, it does. But again, when we implemented the PCHP system of investigating, those usually are identified at the intake level or at the intake stage. Some of them might even identify through our mediation stage. And then if it does get through intake and mediation, which is up front prior to investigations, then at the investigative stage, once they get a response from the respondent, it's usually a case that can be determined at that point in time because of PCHP.

If there's no further questions, Commissioners --

COMM. ANDERSON: I did have one on the goals. You know, as we talked about recently -- but I would like -- I don't know about the other Commissioners, but I would like for us to go over those on a quarterly basis in a little bit more detail, why they either made it, we don't make it, why they're not on target, similar to the way TWC does. It would be a little bit more formal, but on a quarterly basis.

MR. GOMEZ: Yes, sir, what we can do -- and I believe we had it on the agenda previously, if I'm not mistaken. We have a portion on the performance measures or LBB targets. We can add it on

to the agenda and we can cover it during the quarterly meetings that we have with you Commissioners.

COMM. ANDERSON: I think that if there's any action that the Commissioners can take or recommend, that we would need to discuss it so we can be -- try to be ahead of the curve and provide any resources or guidance from the Commissioners.

MR. GOMEZ: Yes, sir.

COMM. ANDERSON: Okay. Jim?

MR. DIXON: For the record, my name is Jim Dixon. I'm a budget analyst for the Finance Department of the Texas Workforce Commission, and I'm filling in for Darryl this morning. And if you will recall from our last Commission meeting, the finance division had revamped, if you will, our slide presentation to try to get a better picture, a more accurate picture of trends for the financial position of the Civil Rights Division for each quarter and throughout the year.

And the first slide you're looking at here is the cases that were resolved. And what we have done here in the fourth quarter, this is through the end of August of this year. And what we have done, if you will look at these darker shaded areas, those show the total number of cases closed through

all four quarters. And then the lighter-shaded areas show the fourth quarter cases themselves. So you're able to see the trend over the past three years, if you will.

And what we will do next Commission meeting through the November quarter is we'll begin to compare 2007 and '08 to 2009. And from each quarter you'll be able to see the cases as they are resolved and compare them to previous quarters.

Next slide? And this slide here compares the revenues and expenditures over the past three years. The first group of bars to the left show the amount of cases that we resolved as far as the revenue that was generated by those cases. That's the darker-shaded area. And then the lighter-shaded area is the additional revenue that shows.

So for 2008 we show as of the end of August $2.1 million of revenue generated. And then the bars to the right show the expenditures that were incurred. The darker ones, of course, are through the first four quarters, and then the top lighter-shaded areas show the last quarter expenditures for the Civil Rights Division.

And beginning again in the next -- the first quarter this year, we'll start putting in the

2009 figures and compare them to '07 and '08.

COMM. ANDERSON: Obviously the chart shows that we expended more than we generated in revenue. Where did we make up those funds? Was that from grants?

MR. DIXON: Well, there's that additional, you know, money that was carried forward from previous -- from previous years.

COMM. ANDERSON: And where do we stand now? About even?

MR. DIXON: About even. Right.

COMM. ANDERSON: So this year we've got -- we can't obviously expend any more than we're going to generate.

MR. DIXON: Right.

COMM. ANDERSON: So I think it's even more important for CRD and, obviously, TWC's financial staff to monitor this very closely because we don't have any carryover to provide that cushion.

MR. DIXON: Well, on that note also, we did receive our voucher from both EEOC and HUD, and we're preparing to draw down the monies from HUD and EEOC. I think Alice is working on the housing side and Vickie is working on the EEO side as far as drawing down that number. But those figures, if I may

provide them to you, with the HUD voucher that we're getting ready to draw down, that gives us $648,399. With EEOC what we're getting ready to draw down is $545,000 and 50 -- $545,050.

COMM. KAHLIFA: Question.

MR. DIXON: Yes, sir.

COMM. KAHLIFA: We're going to spend about the same money as we spent last year?

MR. DIXON: 2.3.

COMM. KAHLIFA: 2.3?

MR. GOMEZ: Probably around the same. You do have to remember, Commissioner Kahlifa that we did add two additional FTEs for this fiscal year, although that should be off set by the production of cases because those are housing investigators. So they will produce the cases that we need for them to produce.

Also, if you remember, on adding those two FTEs we did hire Investigator IIIs instead of Investigator Vs.

COMM. KAHLIFA: Okay. So I'm right. They're the same amount, right? About the same?

MR. GOMEZ: And if it's not it will probably be a draw, because what we are expanding we're also making up with the revenue that's going to

be produced by these new FTEs.

COMM. KAHLIFA: Okay. Then you said something else there that was very interesting, cases. In 2007 I totaled cases of almost 1586, 2008 is 1338 which is 248 cases less --

MR. GOMEZ: Yes, sir.

COMM. KAHLIFA: For the same amount of money.

MR. GOMEZ: Yes, sir, because of the turnover and because of the lack of production when we hired at a higher salary, thus having more expenditure than revenue.

COMM. KAHLIFA: That's almost 20 percent difference.

MR. GOMEZ: That's the reason that that occurred, Commissioner Kahlifa. As I stated before, when we looked back at why that occurred, that's why the additional staff that we're hiring we're hiring at a lower pay level as an Investigator III instead of Investigator V, because we figure if we hire Investigator V, we're still going to have that salary expenditure, but the production of revenue is not going to be there because of the learning curve and the learning process.

Therefore, if we hire an Investigator

III at a lower salary our expenditure will be lower with the same revenue being produced by those positions.

COMM. KAHLIFA: So what you're telling me is we should really do good in 2009?

MR. GOMEZ: If staff -- and I'm encouraged by staff, the new staff that we hired -- if all staff meets their performance standards as far as closing the cases that we need to close, then, yes. To answer your question, the word "yes." That's why the --

COMM. KAHLIFA: That's a lot of -- I mean 20 percent difference for the same amount of money. That's a big difference.

MR. GOMEZ: Yes, sir. Yes, sir. And that's one thing, when we got together with TWC budget, we did look at that. We looked at the production versus the expenditures and what was the number of cases that we needed to close and make sure that we made it possible for those investigators, through internal and external training, the academy, to be able to close those cases and have the opportunity and the tools to close those cases because we are dependent on that production of revenue, yes, sir.

COMM. ANDERSON: Have we got a contingency plan in place in case -- I mean, the next slide shows that we're $300,000 higher in the budget for 2009 than we are in 2008. So that means the staff has to make up that $300,000 that has to generated because we're not going to get any SuperNOFA's, we don't have a carryover. Do we have a contingency plan in place in case things don't materialize like you're planning?

MR. GOMEZ: One of the things that we have put into place that goes along with hiring the investigators at a lower level Investigator III is that after their first year, based on their performance -- production or performance measure, their case productions after their first year, if they want to go up to an Investigator V, also their performance number in as far as case closures does go up also.

So we have that in place to benefit not only the individual investigator but also to address the budget situation.

COMM. ANDERSON: I guess, Jim and Gene, do you -- obviously you-all are -- work closely with Robert and his staff. This is not unusual, I would guess, from other agencies or other departments

that -- issues that come up, financial issues that come up and how to address them. So --

MR. DIXON: Well, no, sir, it's not completely unusual, but it is a little different with CRD, as Robert has said, and to kind of go over some of the finer points. CRD basically operates on a piece rate basis. So we depend on production. As was discussed at your last Commission meeting, the decision has been made to go back to a more specialist versus generalist, and they believe the production is going to go up.

If you look at -- if you go back to the first set of slides, basically CRD has to close 1500 cases. The mix would be 1200 equal opportunity and 300 HUD cases -- housing cases -- to remain -- to generate enough revenue along with the general revenues that's provided by the state to stay within the budgeted guidelines for fiscal year 2009.

Unfortunately -- you asked about a contingency plan, sir -- because it's based on a piece-rate basis, there's very little contingencies that can be provided. If you look at the budget, probably 80 to 90 percent of it is salary driven. So the only contingencies you have are to reduce salary expenditures. So it would be -- if you had vacancies

to hold the vacancies open or -- and the last resort would obviously be a reduction of force. I mean, we don't foresee that. I believe Robert and his team can certainly meet the 1500 cases. But those are the only contingencies you have within the Civil Rights Division. So it is a little unique in that case.

COMM. KAHLIFA: Can TWC, since we are under the TWC, chip in some if we need it?

MR. DIXON: That would be a Commission decision, sir.

(Laughter)

UNIDENTIFIED SPEAKER: Not this Commission.

(Laughter)

COMM. WIPF: Why are we focusing on a contingency? Now that we have full FTEs, we should have the capacity of accommodating more cases. And I would think that the impact of the Galveston -- both in employment and housing, should provide us with a lot of cases that we can just go full speed ahead.

MR. DIXON: One additional point around the employment cases, you have to think of the general revenue provided as almost a governor in terms of using a car analogy in the fact that the cost to perfect the case is somewhere around 11 or $1200 in

direct costs within CRD. You're only receiving $550 from US -- from EEOC. So basically you kind of max out at about 1,275 equal opportunity places. In other words, that's almost the maximum that CRD can produce. Otherwise they begin losing money for doing an equal opportunity case. Did that make sense?

Okay. It gets kind of mathematical in there, but you have to kind of think of it that way.

COMM. ANDERSON: Plus having the specialists and not having the flexibility -- and Robert and I have talked about this -- we don't have the flexibility to move people around. And if we needed more housing to be closed in order to help us meet the budgetary numbers, is that -- that's really an operational issue. Is that a possibility? What can we do in that regard if you are coming towards the end of the year, last quarter, and we've got an out-of-balance budget?

MR. GOMEZ: Well, at that point in time, Chair Anderson, we would have to do what we did last year. We had the managers and supervisors closing housing cases. We would have to step up and do that, and I can pretty much get it affirmed from our supervisors and managers because our training and monitoring manager was working housing cases --

COMM. ANDERSON: -- trouble now, huh?

MR. GOMEZ: At that point in time --

(Laughter)

MR. GOMEZ: -- I think, you know, after having depended and looked for investigators to do that, of course, if you-all remember this last fiscal year, we did incur quite a high number of turnover. So that accounts for that.

Now that we're fully staffed, as Commissioner Wipf positively puts it -- and thank you for that -- I believe that we are going to close the cases that we need. Again, if we absolutely have to step up -- and my supervisors and managers do step up -- to the plate and start closing those cases.

And then also, of course, we have David stepping that's up to the plate now by cutting back on the outreach and closing more housing cases.

COMM. ANDERSON: I think it goes even more to what we talked about before, is just keeping -- making sure the Commissioners are current on the LBB goals and where we're -- what kind of trends we're seeing. Because if we're seeing -- obviously if we see trends with the aging of the cases and the inventory has gone up, we're not closing them, then that has an impact on our long-term budget -- or

the budget for the remainder of the year.

MR. GOMEZ: Right.

COMM. ANDERSON: Jim, I'm sorry, we took a lot of your time.

MR. DIXON: That's okay.

COMM. ANDERSON: Go ahead and --

MR. DIXON: And the last two slides simply show through August 31st the expenditures for the Civil Rights Division for 6, 7 and 8 showing a comparison for salaries, benefits, travel grants and other operating, and then total.

And the fourth slide was put in there this time just to show you the 2009 budget. So next quarter we will start showing what's been expended against that budget through the first quarter. And as you see, there's 2 point -- almost $2.7 million budgeted for 2009.

If there are any questions --

COMM. JAMES: Of course, what's striking about that last slide is the increase in operating expenses from 2008 to 2009. Remind me what that $300,000 is.

MR. GONZALEZ: It's all the administration that goes -- that civil rights grants pays for. It's a part of the agency cost allocation.

Plus it's the other things within the Civil Rights Division other than travel and grants. It's your other operating like supplies and other operating.

COMM. JAMES: Yeah, and my question was wrong and I apologize. I'm just looking for why an almost 90 percent increase from the previous year.

MR. DIXON: Okay. Let me make a comment and Gene can correct me if I'm incorrect. But we have cost allocations that are looked at on a yearly basis, sometimes on a monthly basis. And what happens is there's some of the smaller grants that don't get -- they get less than CRD does. Their portion of that actually went down. So other grants had to take up part of that percentage that you pay for the administration operations of the agency.

COMM. ANDERSON: And I don't want to step on your question, but the $300,000 in other operating that has increased in 2000 -- from 2008 to 2009 almost directly flows to the bottom line of the $300,000 greater in total expenditures. The salary and benefits are kind of in line, adding a couple of people. Travel is a little bit high and grants obviously went down to zero. But that kind of stands out to the Commissioners, all of us.

MR. DIXON: Commissioners, I don't have

the exact details. Let me get that and provide that to you. I think we'd be better if we laid it out in a spreadsheet so you can just see it exactly.

COMM. JAMES: Sure. Yeah, I'm hoping it's a typo.

(Laughter)

MR. DIXON: Excellent comment, sir.

(Laughter)

MR. GOMEZ: We're hoping with you.

MR. DIXON: One quick comment around that. As everyone starts out the fiscal year, we assume full employment in all divisions. So cost allocation is based on full salaries for everyone. I can tell you right now that for the administrative support functions, we are not at full employment. So that number is already inaccurate as you begin the year. So those numbers are just, if you will, on a monthly basis. But let me get you a spreadsheet so you can compare the totals.

COMM. JAMES: Great.

COMM. ANDERSON: All right. Thank you both.

MR. GOMEZ: Okay. Thank you, Jim. Commissioners and Chair Anderson, at this point in time -- again, if you have any questions, if not then

we will move on to our enforcement reports, and first up is Manager Vickie Covington with our employment case for employment enforcement report.

AGENDA ITEM NO. 4

MS. COVINGTON: Good morning, commissioners, TWC staff and guests. For the record, my name is Vickie Covington. I'm manager, Investigation Team 1.

I'd like to share with you that the CRD received more than 1600 complaints that resulted in more than 1200 charges filed and more than 1100 charges resolved. All together, employment resolutions through investigations and settlements resulted in more than $1,600,000 in relief to complainants and provided public interest in the form of training to respondents.

Are there any questions on this first slide?

COMM. ANDERSON: Are the inventories creeping up?

MS. COVINGTON: Yes, Chair, our inventory is creeping up. However, if you would look at the cases filed last year and the cases closed, although there is a difference of about a hundred -- a little bit over a hundred cases, right now I think

we're able to work the cases that are coming in.

And as Robert stated earlier, we do have ABC case processing. So when a case comes in -- and you had used the example of lay-offs -- when a case is actually filed, what we're finding sometimes is that the complainant does not know that there are other people being laid off. They may or may not know that. So once we serve that complaint on the respondent and get that information back -- that's if it doesn't settle in mediation -- then the investigator can make a determination to let the complainant know what they found. And if the complaint cannot give any rebuttal information, then we go ahead and close that case.

COMM. ANDERSON: They should know -- I mean, under the Warren Act, if the employer reaches a certain level with 50 employees, I believe, and they've got -- and they lay off 10 percent of their workforce, then they've got to give a Warren notice. So most of them should know that they're in a group layoff I would think.

MS. COVINGTON: And that may be true, Chair, but they do not disclose that information --

COMM. ANDERSON: To you all --

MS. COVINGTON: -- to us when they file the complaint. Next slide?

Last year we closed 1278 complaints. And of those 14.8 percent were closed with merit resolutions. This year we've actually seen an increase in our merit resolutions. Overall it was about 18.7 percent.

Are there any questions?

And just as a refresher, the merit resolutions are the no-fault settlements and the withdrawals with settlement. Next slide.

This slide shows a breakdown of the type of cases. And as you can see, Title VII is still the highest percentage of our cases.

Any questions?

COMM. ANDERSON: Chapter 22, is that where the Ike would go -- if we get Ike cases or got the -- What is Chapter 22?

MS. COVINGTON: Chapter 22 is an emergency evacuation statute that basically covers employees if they're -- if they have to evacuate an area because of an emergency. We do not have jurisdiction over Chapter 22 complaints; however, when complainants contact us, we do give them basic information about the statute and let them know that if they choose to, they would have to go through court -- some sort of court action to get relief on

their Chapter 22. And we have received quite a few calls because of Ike.

COMM. ANDERSON: Do we get reimbursed for those? It's just a service we provide. Full service operation, right?

MR. GOMEZ: Basically it's just a referral service, yes, sir.

MS. COVINGTON: And I might add, the 1600 complaints that we received, those were just the written complaints. And you're exactly right, Chair, we get several different types of requests for help and we do the best we can to point people in the right direction. Next slide?

This is a breakdown of our disability complaints. And we saw an increase in merit resolutions basically across the board. In ADA area it was approximately 2 percent increase in merit resolutions.

COMM. ANDERSON: I've probably have asked this in the past and you probably answered it and at my age I probably have forgotten it, but what -- somebody comes to you and they've got their -- all three or four categories, where do you put that as far as statistics. They're a minority, they're elderly or over 40 and they're disabled?

MS. COVINGTON: Well, actually, the information management system, the IMS is an EEOC database, we capture all of that information. If they file under, for example, Title VII ADA or ADEA, all of that information is captured. But as far as the priority in listing the complaints, it's ADA, ADEA in Title VII. But technically we would be able to go into the system and pull all the complaints and look at the basis and the issue.

COMM. ANDERSON: Because several categories may have merit.

MS. COVINGTON: That's exactly true, Chair. And when we put together your annual report that the Human Rights Commission will have to sign off on, that's when you'll see an exact breakdown on the bases and issues, and you'll notice that it will equal more than the total cases resolved. Next slide?

This is a breakdown of our age closures. And the percentage increase for merit resolutions here was approximately 5 percent.

Are there any questions?

Next slide?

And on -- we also saw an increase on our Title VII cases of approximately 4 percent merit resolution.

Are there any questions?

This slide shows the age of our pending employment cases. And as you can see, there has been a trend upward in the cases that are 251 days and over. These cases continue to be our priority cases. And one of the -- it is one of the results of us actually possibly losing one of our employment investigators who's now a housing investigator. But I believe that once we put a plan together, which we have already talked about as management, in addressing the aged cases and implement that plan, I think by the end of the year we'll be probably pretty close to where we were at the end of fiscal year 2007. And that's with the caveat that we do not see a drastic increase in cases being filed.

COMM. ANDERSON: Now, of course, obviously that goes back to my earlier questions, but -- or earlier issues, but, I mean, we've seen a dramatic increase from 301 to 365 and then over 365, a substantial increase in those cases. My concern and the other Commissioners' I think concern is how are we going to -- we still keep getting cases in, maybe even more, and how are we going to be able to work down those aged cases. I know the EOC doesn't pay -- doesn't care -- well, I won't say they don't care.

They don't pay based on the aging of the cases, but obviously it has an impact on legislators and citizens and Commissioners when the cases are aging like this.

MS. COVINGTON: Chair, we do have a two-year statutory limitation. Once a complainant files with us, they have up to two years to go to court. And so what you see here, we closely monitor those cases, even -- as you'll notice, we have 31 in the category that are over 365 days. So those cases are definitely our priority because one of the things that we don't want to happen is for the complainant to lose their rights to file in state court. So we are mindful of that.

What we also attempt to do is to work the newer cases and the older cases until we can get the older cases reduced down to some sort of manageable level in our inventories. And also those cases represent potential -- well, not all of them -- but some of them represent potential cause cases, cases that are your more difficult cases to work, and we may have to go back and forth from the parties and interviewing people and trying to reach a recommendation that we can give to the director.

MR. GOMEZ: One of the additional actions that we have taken, Chair Anderson and

Commissioners, is we had a meeting with our legal section, John Moore, Nancy Fahy and Robert Rodman, who are our support in legal. And we had a very productive meeting with our employment investigators last week.

In this meeting we reached an agreement where we will work with legal in interpretation because we have investigators that, for whatever reason, contact the respondent and wait and wait and wait for a response from the respondent, when interpretation given by our legal support said, "You don't have to wait for that. You just let them know that you asked for information. You give them the 10-day requirement plus two for mailing. You send them another follow-up if they don't respond and say you're going to make a decision on the case based on the information already available."

So we did receive -- we did agree and achieve that agreement with legal. They will review those cases, and staff knows now -- now that we're going into the specialized plan, we have did have our employment investigators there and I think this is going to speed up the process.

Also our managers are going to look at the inventories, individual inventories to see when we

are on these 365-day cases. That's one thing that -- and I've shared this with my managers at the CRMTs. I don't want to see any cases over 300 days. Period.

And if you-all recall, about a year, year-and-a-half ago, I had somewhat shared that with you-all that -- the possibility of us not having any cases over 300 days was my goal, and this is what we need to do. We can't let these cases sit there. Either they're going to go and get either dismissed, worked or some outcome has to be done on these case and not sit there for over 300 days. It's not the type of service that we want to give our customers, and it's not something that we can work with given what procedures we have and working with the legal staff.

So that has been shared with the managers and supervisors and they have knowledge of this. And it was, of course, shared with each investigator -- employment investigator -- last week along with our legal support staff.

COMM. ANDERSON: I think that -- speaking just for myself; the other Commissioners certainly all have opinions, very strong opinions -- but I think from my perspective I want to see both the housing aging cases -- the inventories and the

employment cases -- next meeting, which will be in January, down -- trending down significantly and then throughout the whole year. So that certainly is a goal that maybe it's not on your goals, but maybe ought to be, that we work all these cases down, the aging down.

MR. GOMEZ: Assuredly it's a mutual goal, Chair Anderson, and I see it the same way you do and have shared that with my managers and do share that with them each time that we do meet.

MS. COVINGTON: Are there any other questions?

I'll be followed by Ms. Alice MacKenna, manager of Investigation Team 2.

AGENDA ITEM NO. 5

MS. MacKENNA: Thank you, Vickie. Good morning, Chair Anderson, Commissioners, staff and guests. For the record my name is Alice MacKenna. I'm a manager with the CRD.

This first slide shows our current pending inventory, as well as cases received and closed during the fiscal year. And you will note that we received more cases than we closed. In FY '09 these numbers should be reversed given that we now have nine full-time investigators concentrating on

housing, plus a half investigator if you count our outreach and education.

Any questions?

This slide shows the way our cases close. And as you can see, the majority of our cases, 43 percent, are closed after a full and thorough investigation; 25 percent were closed after resolution. That's a reconciliation or withdrawal with benefits.

Are there any questions?

COMM. KAHLIFA: What (inaudible)?

MS. MacKENNA: Commissioner?

COMM. KAHLIFA: There was a sharp drop of closures from last year to this year?

MS. MacKENNA: Yes, sir, there was.

COMM. KAHLIFA: And again is that because of the number of FTEs or --

MS. MacKENNA: The FTEs, the staff turnover, yes, sir.

COMM. KAHLIFA: So it should be getting better?

MS. MacKENNA: Excuse me?

COMM. KAHLIFA: It should be getting better then?

MS. MacKENNA: It should be because with

the new investigators we have finishing their learning curve, their attitude is fantastic and we've already had case closures.

COMM. KAHLIFA: Y'all have got a lot of pressure on you.

(Laughter)

MR. GOMEZ: That's why I invited them here, Commissioners, so they could hear it first hand from you-all.

MS. MacKENNA: Are there any other questions?

This slide shows the age of our cases. And as you can see, we did end FY 2008 with fewer aged cases than FY 2007 despite the fact that we had several new staff members during that fiscal year. So we are seeing a downward trend on the aged cases.

Are there any questions?

As usual I'd like --

COMM. KAHLIFA: Wait a minute. Way to go.

MR. GOMEZ: Thank you.

MS. MacKENNA: As usual, I'd like to tell you what's been happening since we last met. In August, as has already been alluded to, we did attend HUD regional training in Fort Worth. And some of us

remained an extra day to do the TEAPOTS training, and I stayed up there for a refresher. TEAPOTS has changed drastically since the beginning of the middle '90s.

COMM. ANDERSON: Is it better?

MS. MacKENNA: Better, quicker, faster, more user friendly than it was initially.

COMM. ANDERSON: That was one of the complaints?

MS. MacKENNA: Yeah, that was one of the complaints. That's correct.

In September Patrick Banners (phonetic) and Russell Barger (phonetic), investigators with HUD came down to Austin and took some of our investigators on-site in San Antonio. This was designed to assist our new investigators in conducting on-site and designing construction cases, as well as to show them some best practices for doing on-sites, and it was really well received and we learned a lot from that.

I also believe that at our last meeting comments were made that TWC CRD had lost it's HUD contract. As Mr. Gomez has reported, we did in fact receive a contract with HUD for FY 2009. Additionally, as Mr. Trinidad has already stated, we were not awarded a NOFA for this year. However, it

does appear that we may receive monies from HUD to conduct an outreach and education initiative targeting the victims of Hurricane Ike as we did for the victims of Hurricanes Rita and Katrina. This would be the third time -- if we receive the money, this would be the third time that HUD has awarded us a noncompetitive NOFA.

To me this shows that HUD not only approves of our work but has confidence in our outreach and education efforts as well as our investigations. There's a good possibility that that money is coming down. Gary has mentioned -- Gary Sweeny has mentioned that they're trying to get some money freed up for that initiative.

We again have fulfilled our training requirements to send 12 people to the training academy for this fiscal year and we're already underway for FY '09. We have seven people attending training at the academy for Week 1 and one person to Week 5 in December, which has already been alluded to.

Are there any questions?

COMM. ANDERSON: No.

MS. MacKENNA: If there are no questions, I'll be followed by Tony Robertson, manager for ADR training and monitoring.

AGENDA ITEM NO. 6

MR. ROBERTSON: Good morning, Commissioners. For the record, Tony Robertson, TNM ADR and special projects manager.

The first slide we're looking at the information reflects FY '08 year-to-date totals for ADR. The information reflects the total number of cases assigned for the fourth quarter, which were 241, with a total year-to-date total of 972.

If you look at fourth quarter cases returned to investigations, that was 184 for the fourth quarter, with a year-to-date total of 692. The fourth quarter mediations held were 54, with a year-to-date total of 191.

And finally, the fourth quarter -- to continue, excuse me -- fourth quarter cases closed was 76 with a year-to-date total of 278 or --

MR. GOMEZ: 78.

MR. ROBERTSON: -- 278 cases.

The ADR section has closed a total of 278 cases, which is 98 cases above their required target of 180 cases closed for FY '08. And the settlement amounts have surpassed the 1.4 million. And as Vickie mentioned earlier, we have together combined surpassed over 1.6 million for FY '08, which

once again is a tremendous savings to the taxpayers of Texas and the parties involved.

I'm once again -- like to always put it on public record that I'm very proud of the mediators. They do an outstanding job. They go above and beyond what is called from them, and they definitely at all times exceed the standards set forth for them.

Are there any questions.

COMM. KAHLIFA: That's almost a 50 percent increase. Did you not have the staff problems that the others had?

MR. ROBERTSON: Negative, sir. No, sir. I have three outstanding mediators who are investigator as well -- Investigator Vs, and they just hunker down and deal with those ADR cases.

COMM. KAHLIFA: You do have full staff?

MR. ROBERTSON: Yes, sir.

COMM. KAHLIFA: And you have been fully staffed all year?

MR. ROBERTSON: Roger that. Yes, sir.

MR. GOMEZ: I think the ADR staff has been fully staffed since I took over this division about four years ago, Commissioner Kahlifa.

Another note on the mediators is that also we divided the investigative staff into three --

1 into thirds, and each third is assigned to one of the
2 mediators and -- well, the housing investigators --
3 and this is for the purpose of the mediators assisting
4 the housing investigators in their conciliation
5 efforts. If ever an investigator in the housing area
6 needs some assistance or direction in conciliating a
7 case, then they will consult with the mediator
8 assigned to them or that they're assigned to obtain
9 this direction and guidance. So we also have done
10 that with our mediators.
11 MR. ROBERTSON: Thank you, Mr. Gomez.
12 Next slide, please.
13 This information reflects the FY '08
14 fourth quarter and year-to-date total numbers for the
15 four-hour workshops that we present or which are
16 conducted every fiscal year. The fourth quarter
17 totals show we completed 17 agency requests at EEO for
18 our compliance training, with a year-to-date total of
19 30. This is four more than what was conducted in FY
20 '07.
21 And once again, this is due to the fact
22 that we have an opportunity to do the mass mail outs.
23 With the rule change, we still get out and do our mass
24 mail outs to all of these state agencies and several
25 private entities, encouraging them to take advantage

of the EEO trainings that we provide that can help further, hopefully, hinder the complaints that come out of their offices and come out of their agencies and businesses.

As indicated in the past Commission meetings, this number will drop and rise due to our current standards that have been applied. As you know, this standard continues to have an impact on how and when TNM provides mandatory EEO training for state agencies and institutions of higher ed. We're continually working with our partners, those that we have -- have established that have EEO training programs, more so when we look at the institutions of higher ed and state agencies, and they are continuing to assure me and this division that they are going to implement their trainings, they continue to do the two-year and new trainings, and then they provide that information to us to let us know those individuals who have been trained and that information is permanently placed in those individuals' personnel files.

COMM. ANDERSON: Staffing was established for the training back when the training was required or more required than it is now for the state agencies, correct? So why don't we use some of those trainers to do some investigations? Why don't

we transition some of them so they can do both because, obviously, they're not doing --

MR. GOMEZ: Chair Anderson, that's already been done.

COMM. ANDERSON: Okay.

MR. GOMEZ: When we did change, we had one of the mediators that left. I did transfer that FTE from Tony's shop to the investigation shop, and I think I had placed it under Team 1. So we anticipated that. That gives us the current two trainers/reviewers, and that has been done.

COMM. ANDERSON: Okay.

MR. ROBERTSON: Thank you. Next slide, please.

The information on this slide reflects also fourth quarter and FY '08 year-to-date information for EEO and housing presentations. Fourth quarter totals show we conducted a total of 4 EEO and one housing presentation, with a total year-to-date for FY '08.

We've combined the year-to-date total of EEO compliance and EEO presentations and housing presentations. TNM -- excuse me -- has conducted 45 total voluntary trainings and presentations for fiscal year '08.

Are there any questions? Next slide, please.

Individuals and events. As you know, in the past we've had an LBB target that has been set based on a rule change that occurred in my particular section in FY '06. I'm happy to say that this -- there's no need to belabor this. We have exceeded that standard and met that standard and met that LBB target. And I'm very, very proud of the staff.

We do get a lot of requests now for trainings, and once again I have to refer it back to our mass mail outs, our proactive approach in going out and trying to reach all of these different entities and businesses, as well as agencies and institutions of higher ed, to please look at conducting your -- conducting EEO trainings, receiving EEO trainings, dealing with updates, new laws that have evolved, et cetera. And to date we have conducted a little over -- we had a total of 696 individuals trained, which my LBB target is 650.

COMM. KAHLIFA: How do you go from 8,161 individuals at housing presentations to 667?

MR. ROBERTSON: Where are you looking at there, sir?

COMM. KAHLIFA: Individuals at housing

presentations at the very bottom, the darker green one?

MR. ROBERTSON: Right. Thank you. In FY '06 and FY '07 we were very fortunate once again to have the HUD grants, the SuperNOFA grants. Those numbers were based off all the education and outreach that we did when we went out and did those education and outreach that was required from us, not only from us but for our partners that we partnered with with the grant to do these presentations. So that's what the difference is.

If you look at '08, we did not get the SuperNOFA grant. So from that point that dwindled down in our housing presentations, so to speak, as well as in our trainings. One of the key things that happened in the first quarter of FY '08 is that we were still having a spillover from FY '07 in training and closing out the grant from the previous fiscal year or the previous calendar year. So those numbers showed a high number.

After that, the rest of these numbers are indications of conciliation agreements that the investigators have conducted, which they give us the business and we go out and do presentations and trainings from that. So there's the big disparity in

1 those numbers.

2 COMM. JAMES: I'm probably mixing topics

3 here, so bear with me.

4 MR. ROBERTSON: Sure.

5 COMM. JAMES: At one point we had the

6 SuperNOFA grant. Then we didn't have it. Is it

7 appropriate to connect that to the comments earlier

8 about, "Well sometimes when you get a grant you're

9 more likely to get it in the future than if you

10 don't?" Is it appropriate to apply that philosophy to

11 the SuperNOFA grant? And if so, why didn't we get it

12 since we did have it?

13 MR. ROBERTSON: Well, I would say, no,

14 it's not appropriate to put it in that text.

15 MR. GOMEZ: I think we're talking about

16 two different agencies. The response that we got from

17 the DOJ was that they base those -- that those were

18 the two hurdles. Only one out of the state and --

19 COMM. JAMES: So that's kind of specific

20 to DOJ --

21 MR. GOMEZ: Right. And the SuperNOFA is

22 through HUD. And as Alice mentioned, that probably

23 does apply because, like Alice mentioned, you know,

24 we're very much looking forward to the fact that we

25 were selected before to work those special projects

for the hurricane twice, and this is a direct reflection of that, Commissioner Kahlifa, just to further answer your question, that the numbers that are included on there do include the workshops conducted in conjunction with not only the grants that were received before, but also the special projects regarding the -- both hurricanes. So that's reflective of that.

And we're encouraged by the fact that Gary Sweeny, the regional director for HUD is saying that because we have worked successfully and completed our SOWs for the special projects regarding the hurricanes that we're in line to be considered for that money again because of our successfully completing the project.

MR. ROBERTSON: Thank you, Mr. Gomez.

Sir, I hope that answers your question.

COMM. JAMES: It does.

MR. ROBERTSON: All right. If there's no more questions on that particular slide, can we move to the next slide, please? Thank you.

I've just handed you out our policy review schedule and how we conduct business in TNM, especially when we look at our policy reviews. And what I want to indicate is that if you look at the

slide, it indicates that in FY '08 we were -- our LBB target was 31 policy reviews to be conducted, completed and certified. As you see, we ended up with 29 policy reviews conducted, completed and certified.

If you'll just give me a moment, I'll read the EOV that we continually use that is effective and there's no other way we can put it because it's something that we have no control over. And it goes as such: "The number of on-site personnel policy reviews conducted and approved are based on the LAR performance measure targets that are established prior to the start of the subsequent fiscal year. After the LAR performance measure target of 31 reviews for FY '08 was established, two state agencies went through a consolidation and were placed under other state agencies."

Let me stop there. Once again, that is nothing that we can control. Nothing that TWC can control. And nothing definitely that the Commission on Human Rights can control.

When the Legislature comes into session, as you know, they're trying to dwindle down government a little bit. So instead of having big government, we're having smaller government. So we've gone from so many agencies that used to be upwards of over 300

agencies down to a little bit under 100-some agencies, under 180 agencies, state agencies. So those agencies get consolidated. Once again, we have no control over it -- over that.

When those agencies get consolidated, those agencies also deal with an agency that may have already went through a review that we've already conducted because we review every six years. We go through a six-year cycle. So if that agency is placed under an agency that I completed back in '07 and I'm on '08 and '09 and moving forward, there's no way that I can capture that information, number one, because they have now been consolidated under a new agency or an agency that somewhat does the same functions as they do.

So I ended up with a 93.3 or 93.55 percent rating on my performance measure, which I didn't meet the LBB target. But once again, I have no control over that. So that's how that happens. And it has happened to us in the last three fiscal years.

I would dare not say it may not happen in FY '09 when the Legislature comes into session again in January. But those are some important points that you-all should know, No. 1.

No. 2, the handout I just gave you, last

fiscal year or at the beginning of this fiscal -- FY '08, back in October, myself, Mr. Crump and Mr. Gomez, had the opportunity to go meet with all three Commissioners at that time. At that time it was Commissioner Chair Rath, Commissioner Lehman and Commissioner -- present Commissioners Congleton. And in that they had a concern and they wanted to know how we can look at going from a cumulative method and to showing a performance measure based off each quarter for our policy reviews.

So we agreed and went on ahead and said, okay, for the rest of fiscal year '08 that's what we'll go ahead and put that down.

What you see now is how we are approaching it in FY '09. Basically nine reviews for the first quarter, nine reviews for the second quarter, to break up into 31 reviews so that when we sit with the Commissioners of TWC and Mr. Crump and Mr. Temple and them in reference to our performance measures in our performance briefings, they can see that CRD has conducted and has met their performance measure in a quarterly basis. So that's -- that was the solution that we came up with, and that is the solution that I present to you-all in reference to our policy reviews.

So once again, I came out at 93.55 percent, but once again that's not under my control nor is it under Mr. Gomez's control or your control. When the Legislature abolishes or places agencies under different agencies, we don't get a record of that. We don't get the information that, "Hey, this is going to take place and so you guys be ready."

When we go to make contact 90 days out for the new fiscal year of our policy reviews, it is at that time that we're notified, "Hey, Tony, we no longer are this agency. We have been put up under the Workers' Compensation or we've been up under the AG or we've been put up under DRR," or whatever the case may be. So we have to improvise and adjust our tactics and adjust our review policy from that point.

So it's important that you know that. I wanted you to have that information, and I'll answer any questions you may have at this time.

COMM. ANDERSON: No, I think the Commissioners have -- this group of Commissioners asked for the same thing, and that is to schedule the personnel policy reviews throughout the entire year so that we're not scrambling at the end of the year trying to get 15 of them done when we haven't done anything in the first quarter. So this looks like a

good schedule. And are the district courts all glad to see you coming around?

MR. ROBERTSON: Oh, sir, let me tell you -- yes.

(Laughter)

MR. ROBERTSON: But they are very receptive. They have been very amenable and they are going to accept our recommendations, because that is a unique -- those are some unique agencies in the way they do business. But we're here to help them and I think we've done a good job with them so far.

MR. GOMEZ: Chair Anderson and Commissioners, just one thing, both an FYI and also a heads-up, I guess, because we did go into this calendar, and I know that I have assured you, Chair Anderson, on previous conversations that I have spoken and worked with Tony -- with Mr. Robertson on getting this schedule so we can show that we are working in each quarter.

But, again, another heads-up and FYI, I'm getting ready to send the monthly performance measures report for the month of September, which is the first month of the fiscal year, obviously. We're currently waiting for the information for budget so we can determine the average cost per employment and

housing complaint resolved, which is the information that we usually wait for. We have our numbers.

And given that we do have our numbers, let me just share with you one additional point of the reviews is that there is a difference between the performance measure and what actually takes place even if we set up a calendar such as this. Because on the performance measure it calls for the number of on-site personnel policy reviews conducted and approved. That's what the LBB looks at because obviously at the end of the year you do have to have them conducted and approved. Now that for this month, just another heads-up, is zero because we did initiate them.

So what I have included in my performance measures report that I sent to you, as far as management performance measure, is that number of on-site personnel policies reviews, initiated, conducted and pending approval, which is shown on here. And that, Commissioners and Chair Anderson, for the month of September is five. So we've got five that have been initiated and are pending approval.

Now, the actual performance measure that the LBB looks at to establish what's going to be completed at the end of the fiscal year for the month of September obviously, because as Tony mentioned it

is a cumulative process, and I have explained that before at this meeting, that it is a cumulative process. Therefore, if you initiate a review, odds are you're not going to complete that review during the same quarter because it is a cumulative process.

Again, just to reiterate, we identify the agency, state agency, university. We send the notice asking them what they need to provide. They respond. We get that information. We review it. We respond by scheduling the on-site. We conduct the on-site. We come back, prepare our report, send the initial report. If there's any items out of compliance, they have an opportunity to respond to those noncompliance items. So this is a whole process that does take time, and usually it does take longer than 60 or 90 days.

So that's why you see -- and you're going to see for the month of September that we have not approved any policy reviews, but we have initiated and are pending approval five.

MR. ROBERTSON: Thank you, sir. Next slide, please?

As you see, I did meet the target of 55 reviews conducted and completed for FY '08.

Finally, I just want to end with the

Legislature will be in session, as you know, this fiscal year. And as you-all are aware, I am preparing our biennium and annual report that I do every two years. I'm waiting for data that is needed from -- not only from the Bureau of Labor Statistics, but also from the Comptroller's office and our LMI partners, labor market folks, here at TWC who provide me the statewide civilian workforce data or numbers. So I wanted to just let you-all know that that report is almost completed, with the exception of that data, and it will be sent to Mr. Gomez for review and sent out to you-all sometime in November I want to say, latter part of November, so that you-all can review it.

It will be signed, as you know, and approved by the TWC Commissioners, but I do want you-all to please give me your input in it because it does have to go out by January 5th of '09. So I just wanted to leave that information with you and let you know that that will be forthcoming. It will be out and done before our next Commissioners' meeting.

So with that said, I am through and will entertain any questions you may have.

If there are none, I'll turn it back over to Mr. Gomez. Thank you.

MR. GOMEZ: Okay. Thank you, Tony.

That concludes our presentation on the information as far as what this quarter we have accomplished and established and are looking forward to. At this point once again I'd like to ask you-all if you have any questions for me? If not, then that concludes our presentation.

COMM. WIPF: Mr. Chairman?

COMM. ANDERSON: Yes.

COMM. WIPF: Before we dismiss our staff, I would like to say something.

COMM. ANDERSON: Sure.

COMM. WIPF: In April I've completed six years of being with this agency. And I have seen a lot of up and downs. I have seen executive director changes, personnel changes. But today I am seeing a lot of enthusiasm, a lot of new faces, and I'm really very hopeful that this is a beginning where we can all work together.

Sometimes I feel like an overprotective mother, that I don't see the faults of my children. And I'm very fortunate to have my colleagues here to see those little gaps and point it out to you, and I do thank you for that.

But for our new staff, thank you for coming on board. Our managers have been here, many of

them for the longest time. And I know they're doing their best. But I would like you -- this is unsolicited advice -- I would like you to be focused on your job. Learn as much as you can as far as you can. We have a lot of work to do. Just concentrate on the people that we are here to serve.

We are available for you in case you need to talk to one of us on one-on-one situation. And if there's any concern that you have, don't let it fester. We would like you to be able to speak to your director, whether it's pertaining to him or pertaining to another personnel.

If we can just keep the communication open, I think we can really make this a very successful agency. That is what we have always hoped for. We have done so much and we still have a lot of work to do. I'm counting on all of you to please just work together and ignore some of the verbal beatings that you might hear once in a while. And this is just part of life. It just makes us feel so visible and so important that they do put their time in even coming down and letting us know what's happening.

So I do thank you all, and I will see you again next time.

MR. GOMEZ: Thank you for your comments,

Commissioners Wipf.

COMM. KAHLIFA: I'd like to add that I know personally, and I know the other Commissioners, are always here for you guys. You know, if Robert is acting up and you need to get with us, we're available to you.

(Laughter)

COMM. JAMES: Well, I guess I better say something, too. There's a great commercial on TV, although I can't remember the brand at all. Maybe some of you with children can. It's either Play School or Fisher Price. And at the end of the commercial, their logo comes up and it essentially says "Learn, Laugh, Grow," and I would encourage you to do those things -- and get some toys in the process.

(Laughter)

MR. GOMEZ: Thank you, Commissioners.

COMM. ANDERSON: Commissioner Wipf and I came on the CRD at the same time -- actually six or seven years ago, and it's been a challenge. We went through, as she mentioned, a transition from an independent agency to an agency that falls under a much -- one of the largest agencies in the state, TWC. It was a challenging transition. Many of the

employees were only used to being independent and now -- at that time and now, of course, we are part of a very large organization that has policies and procedures that are very -- in some cases very different from what we were used to.

Certainly by now we've all gotten used to it and its extremely cooperative, competent staff at TWC -- legal, HR, financial operations -- to assist us so that we can focus on the important things of CRD, which is training, education, investigations in housing and employment discrimination. Being part of the agency is extremely rewarding and satisfying. This is a great group of Commissioners, very interested and very dedicated to what they're doing. And as all of them have said so far, we're here to support you-all in your mission, which is the mission of the Civil Rights Division.

So with that in mind, we are very appreciative of everything all of the staff does and the leadership of the management people, the management staff of the CRD.

AGENDA ITEM NO. 10

COMM. ANDERSON: And now back to more routine things, 2009 meetings. We've not scheduled them and we need to because this will be the last

meeting of 2008. Does the -- does the Commission -- Commissioners want to keep the same schedule that we had last year for -- for this year for 2009, which is a January, April, July and October meeting dates?

COMM. WIPF: That's fine.

COMM. ANDERSON: Seeing no dissent, it will be the same time frame, Becky, if you could get that out to everybody, which would be the -- what is it, the third Wednesday of those particular months? Remain at 9:00 a.m. in the morning? 9:00 a.m. Okay.

COMM. JAMES: And I'm certainly comfortable moving it back to accommodate the folks who have to travel in so they don't have an overnight, but I don't know if that will work. But I'm good with 9:00 a.m. as well.

COMM. ANDERSON: I think we have a mixed bag. We have some people who drive in the day of; we have others that fly in the day before. So I think that 9:00 a.m. so far has worked pretty well. If there is any changes, we can certainly entertain it and address that.

Do I have a motion to accept --

COMM. KAHLIFA: Does anybody else want ten o'clock besides me?

COMM. JAMES: I'm okay with --

COMM. KAHLIFA: Okay.

COMM. ANDERSON: Do I have a motion then that we go with a January, April, July and October meetings, the third Wednesdays of those months, at 9:00 a.m.?

COMM. JAMES: Move approval.

COMM. ANDERSON: Do I have a second?

COMM. KAHLIFA: Second.

COMM. ANDERSON: All in favor.

COMM. KAHLIFA: Aye.

COMM. JAMES: Aye.

COMM. ANDERSON: All right. Any other business before we go into closed session -- or executive session?

AGENDA ITEM NO. 9

COMM. ANDERSON: All right. We're now going into executive session pursuant to Government Code Section 551.74(a)(1) to discuss the appointment, employment, evaluation, reassignment, duties, accomplishments, performance goals and responsibilities of the Texas Workforce Commission Civil Rights Division director.

We're going into executive session pursuant to Government Code Section 551.074 to discuss the appointment, employment, evaluation, reassignment,

duties, accomplishments, performance goals and responsibilities of the executive staff and other personnel.

Additionally, we are going -- now going into executive session pursuant to Government Code Section 551.071(1) and (2) concerning contemplated litigation or pending litigation of the following cases: Texas Workforce Commission Civil Rights Division versus Henry Carter, et al; Texas Workforce Commission Civil Rights Division versus Sugar Land/Fort Bend Real Estate, Inc., d/b/a Remax Southwest; and Agenda 9C where the Commissioners seek the advice of their attorney as privileged communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas.

The Commission on Human Rights is now in closed session, October 15th, 2008, and the time is now 11:01 a.m.

(Recess: 11:01 a.m. to 12:12 p.m.)

COMM. ANDERSON: Okay. We'll go back on the record, and the Commission on Human Rights executive session being closed session and ended on -- on October 15th, 2008, and the time is 12:12. There was one item to put on the record, and that is that the --

(Brief pause in the proceedings)

COMM. ANDERSON: All right. Back on the record. And the Executive Director's performance appraisal will be conducted, written and evaluated -- evaluated and written by three of the Commissioners headed up by Commissioner James. The other two members will be Commissioner Kahlifa and Commissioner Wipf, and it will be done this quarter. The performance appraisal will be conducted in January of 2009 for the calendar year of 2008.

Is there any other items that need to be discussed, Susanna?

MS. HOLT: No.

AGENDA ITEM NO. 11

COMM. ANDERSON: Commissioners, this meeting is adjourned and we'll see you in January. Thank you very much.

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

C E R T I F I C A T E

STATE OF TEXAS )
COUNTY OF TRAVIS )

I, LOU RAY, 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 22nd day of October 2008.

_____

LOU RAY
Certified Shorthand Reporter
CSR No. 1791-Expires 12/31/09

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