Annual Report

2011 Fiscal Year

July 1, 2010 through June 30, 2011

Rhode Island Commission for Human Rights

180 Westminster Street Third Floor
Providence, RI 02903-1918
Phone: 401-222-2661 TDD: 401- 222-2664 Fax: 401-222-2616
www.richr.ri.gov

STATE OF RHODE ISLAND

COMMISSION FOR HUMAN RIGHTS

Chair
Dr. John B. Susa

Commissioners

Iraida Williams
Camille Vella-Wilkinson
Alton W. Wiley, Jr., Esq.
Alberto Aponte Cardona, Esq.
Rochelle Bates Lee
Nancy Kolman Ventrone

Chair Emeritus
Marguerite A. Beaubien

Commissioner Emeritus
Joaquin F. Gomes

Executive Director
Michael D. Évora, Esq.

January 27, 2012

The Honorable Lincoln D. Chafee
Office of the Governor
State House, Room 222
Providence, RI 02903

Dear Governor Chafee:

It is with sincere pleasure that I submit to you the latest Annual Report of the Rhode Island Commission for Human Rights (Commission).

The Report conveys essential information on the program activities of the Commission during the 2011 fiscal year, including charge intake, charge investigation, administrative hearings and final case dispositions. In addition, the Report offers a summary of agency Decisions and Orders, an update on education/outreach efforts, a summary of enforcement/court actions undertaken by Commission counsel and highlights of caseload accomplishments occurring during what has been an eventful year.

Through the diligent efforts of Commissioners and Commission staff, and with the assistance of student interns, the agency realized significant achievements during FY 2011. For the thirteenth consecutive year, the number of cases processed by the Commission exceeded the number of new cases taken in, thereby decreasing the number of open cases carried forward into a new fiscal year. The Commission processed nearly five percent more cases in FY 2011 than in FY 2010; the average case-processing time for FY 2011 was an all-time recorded low of 326 days.

Consistent with the agency's statutory mandate to implement a comprehensive educational program, Commission staff members conducted over 30 education/outreach sessions in the community, reaching nearly 1,000 employers, housing providers and individuals and educating them about their rights and responsibilities under the state's antidiscrimination laws.

I hope that you find the Report informative and helpful as you (and the General Assembly) contemplate the resources to be devoted to this vital agency in the future.

Sincerely,

John B. Susa, Ph.D.
Chairperson

Fax (401) 222-2616

180 Westminster Street, Providence, RI 02903-1918
(401) 222-2661
www.richr.ri.gov

TDD# (401) 222-2664

"The practice or policy of discrimination against individuals … is a matter of state concern. Such discrimination foments domestic strife and unrest, threatens the rights and privileges of the inhabitants of the state, and undermines the foundations of a free democratic state. The denial of equal employment opportunities because of such discrimination and the consequent failure to utilize the productive capacities of individuals to their fullest extent deprive large segments of the population of the state of earnings necessary to maintain decent standards of living, necessitates their resort to public relief, and intensifies group conflicts, thereby resulting in grave injury to the public safety, health, and welfare.

It is hereby declared to be the public policy of this state to foster the employment of all individuals in this state in accordance with their fullest capacities … and to safeguard their right to obtain and hold employment without such discrimination.

The right of all individuals in this state to equal employment opportunities...is hereby recognized as, and declared to be a civil right."

From R.I. Public Laws 1949, ch. 2181, by which
the Commission for Human Rights was created and empowered

FY 2011 HIGHLIGHTS

INTAKE

The Commission took in 378 new charges of discrimination, representing a decrease of one percent from FY 2010. Employment charges made up nearly 84% of intake; housing charges accounted for about 14% of intake. Approximately one percent of intake was in the area of public accommodations and an additional one percent were charges of disability discrimination unrelated to employment, housing or public accommodations.

Charges of disability discrimination predominated, with 139 new cases taken in, representing nearly 37% of intake. Charges of sex discrimination (including pregnancy discrimination and sexual harassment) followed, with 72 new cases taken in, representing 19% of intake. Charges of race and age discrimination followed, with 52 and 51 new cases taken in respectively, each representing approximately 13.5% of intake.

INVESTIGATIONS

For the thirteenth consecutive year, the Commission processed more cases than it took in (422 vs. 378).

- Probable Cause was found in approximately 10.7% of cases, representing a slight increase from FY 2010 (10.2%).
- No Probable Cause was found in nearly 43% of cases, representing an increase from FY 2010 (40%); a substantial number of these cases resulted from a complainant's failure to pursue his/her charge
- Nearly 16% of cases settled prior to a determination of Probable Cause or No Probable Cause, representing an increase from FY 2010 (15%)

ADMINISTRATIVE HEARINGS

The Commission held administrative hearings in three cases throughout the fiscal year. In the Decision and Orders issued within the year, the Commission found that: 1) a complainant failed to prove that he was the victim of age discrimination where his employer had legitimate, performance-based reasons for his treatment and termination; 2) a local restaurant discriminated against a manager in terms and conditions of employment and termination because of his disability; and 3) a donut shop Shift Leader with epilepsy was found to have been the victim of disability discrimination by her employer when the employer subjected her to harassment and constructive discharge.

THE COMMISSION AT THE COURTS

The Commission continued to engage in enforcement efforts in Superior Court to ensure compliance with its Decision and Orders and initiated court actions in post-Probable Cause fair housing cases.

CASELOAD ACCOMPLISHMENTS

- The Commission processed nearly five percent more cases in FY 11 than in FY 10 (422 vs. 403)
- The Commission has realized a dramatic decrease in the time taken to process cases. While the average age of a case at closure in FY 2003 was over three years, the average age of cases closed in FY 2011 was a record 326 days, a significant decrease from FY 2010 (366 days).

OUTREACH

Commission staff members conducted over 30 outreach/education sessions in the community, reaching nearly 1,000 employers, housing providers and individuals and educating them about their rights and responsibilities pursuant to the state's antidiscrimination laws.

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Commissioners and Staff Members

Commissioners

John B. Susa, Ph.D., Chair
Alberto Aponte Cardona, Esq.
Rochelle Bates Lee
Camille Vella-Wilkinson
Nancy Kolman Ventrone
Alton W. Wiley, Jr., Esq.
Iraida Diaz Williams

Staff

Michael D. Évora, Esq., Executive Director
Cynthia M. Hiatt, Esq., Legal Counsel
Francis A. Gaschen, Esq., Legal Counsel
Angela V. Lovegrove, HUD Project Director
Marlene Colón Toribio, EEOC Project Director
Glenn Cardozo, Sr. Compliance Officer
Tina M. Christy, Sr. Compliance Officer
Allison G. Cote, Sr. Compliance Officer
VACANT, Sr. Compliance Officer
Stephen W. Strycharz, Investigator
Jason Flanders, Investigator
Susan Chase Pracht, Investigator*
Betsy Ross, Chief Clerk
Lynn Cimaglia, Administrative Aide
Zaida Rivera, Administrative Aide

*Ms. Pracht resigned from state service in February 2011.

Overview

The Rhode Island Commission for Human Rights (Commission) was created by the Rhode Island General Assembly in 1949 and is one of the oldest state anti-discrimination agencies in the country. In establishing the Commission, the General Assembly declared that "[t]he practice or policy of discrimination against individuals … is a matter of state concern", and observed that "… discrimination foments domestic strife and unrest, threatens the rights and privileges of the inhabitants of the state, and undermines the foundations of a free democratic state". R.I.G.L. § 28-5-2. Through impartial investigation, formal and informal resolution efforts, predetermination conferences and administrative hearings, the Commission seeks to ensure due process for both complainants (charging parties) and respondents, to provide redress for victims of discrimination, and to properly dismiss cases in those instances in which charges of discrimination lack evidentiary support.

The Commission enforces Rhode Island anti-discrimination laws in the areas of employment, housing, public accommodations, credit and delivery of services. The employment and public accommodations statutes prohibit discrimination based on race, color, sex, disability, ancestral origin, religion, sexual orientation, gender identity/expression and age. The housing statute, in addition to prohibiting discrimination on these bases, also prohibits discrimination based on marital status, familial status, status as a victim of domestic abuse, and association with members of a protected class. The credit statute, in addition to prohibiting discrimination on the bases covered by the employment law, also prohibits discrimination based on marital status and familial status. Discrimination in the delivery of services on the basis of disability is prohibited.

The Commission's major program activities include intake, investigation, conciliation, administrative hearings, enforcement, outreach and education.

The Commission was created and empowered by Title 28, Chapter 5 of the General Laws of Rhode Island (the Fair Employment Practices Act) and has statutory responsibility to enforce the following laws:

- Fair Employment Practices Act (R.I.G.L. § 28-5-1, *et seq*.)
- Fair Housing Practices Act (R.I.G.L. § 34-37-1, *et seq*.)
- Hotels and Public Places Act (R.I.G.L. §11-24-1, *et seq*.)
- Prevention and Suppression of Contagious Diseases—HIV/AIDS Act (R.I.G.L. §§ 23-6.3-11 and 23-6.3-12)
- Civil Rights of People with Disabilities Act (R.I.G.L. § 42-87-1, *et seq*.)
- Equal Rights of Blind and Deaf Persons to Public Facilities Act (R.I.G.L. § 40-9.1-1, *et seq*.)

The Commission is overseen by seven Commissioners who are appointed by the Governor with the advice and consent of the Senate. The Commissioners are not compensated for the services they render to the agency.

In addition to enforcing state laws, the Commission has contractual agreements with the Equal Employment Opportunity Commission (EEOC) and U.S. Department of Housing and Urban Development (HUD) to assist in the enforcement of the following federal laws: Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act; and Title VIII of the Federal Fair Housing Law.

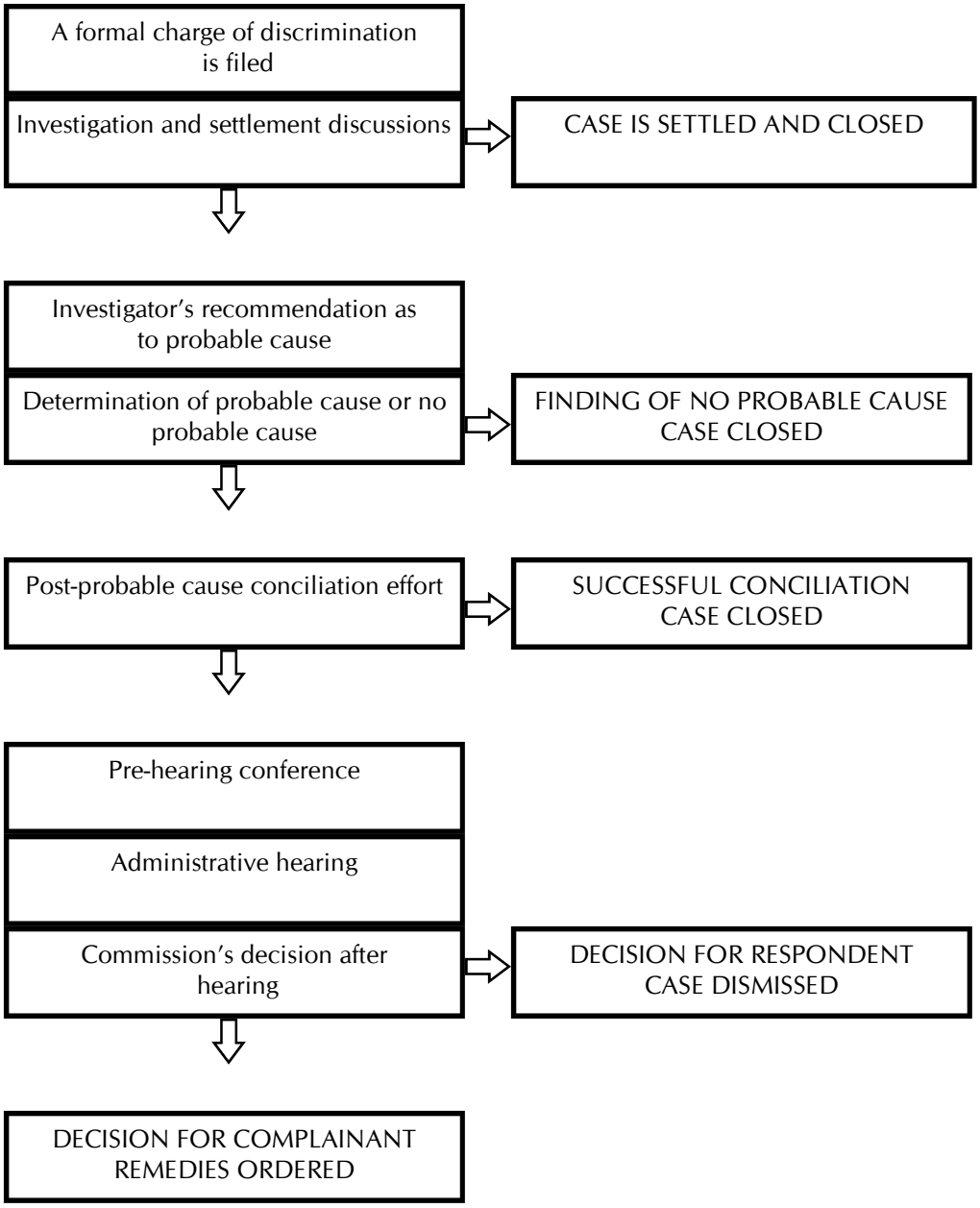
Given the agency's limited resources, keeping the Commission robust and effective has been a task shared by the entire staff, Commissioners, interns and volunteers.

PROTECTED CATEGORIES UNDER STATE AND FEDERAL LAW

	EMPLOYMENT		HOUSING		PUBLIC ACCOMMODATION	CREDIT
	State	Federal	State	Federal	State	State
RACE	√	√	√	√	√	√
COLOR	√	√	√	√	√	√
RELIGION	√	√	√	√	√	√
ANCESTRAL ORIGIN	√	√	√	√	√	√
SEX[1]	√	√	√	√	√	√
AGE[2]	√	√	√		√	√
DISABILITY[3]	√	√	√	√	√	√
SEXUAL ORIENTATION[4]	√		√		√	√
GENDER IDENTITY OR EXPRESSION[5]	√		√		√	√
MARITAL STATUS			√			√
FAMILIAL STATUS			√	√		√
STATUS AS A VICTIM OF DOMESTIC ABUSE			√			

[1] Includes sexual harassment and discrimination on the basis of pregnancy status.
[2] Protects individuals 40+ years of age in Employment; protects individuals 18+ years of age in Housing, Public Accommodations and Credit.
[3] Includes physical and mental disabilities.
[4] Protects individuals who are heterosexual, homosexual, or bisexual.
[5] "Gender identity or expression" includes a person's actual or perceived gender, as well as a person's gender identity, gender-related self-image, gender-related appearance, or gender-related expression, whether or not that gender identity, gender-related self-image, appearance, or expression is different from that traditionally associated with the person's sex at birth.

CHARGE PROCESS SUMMARY



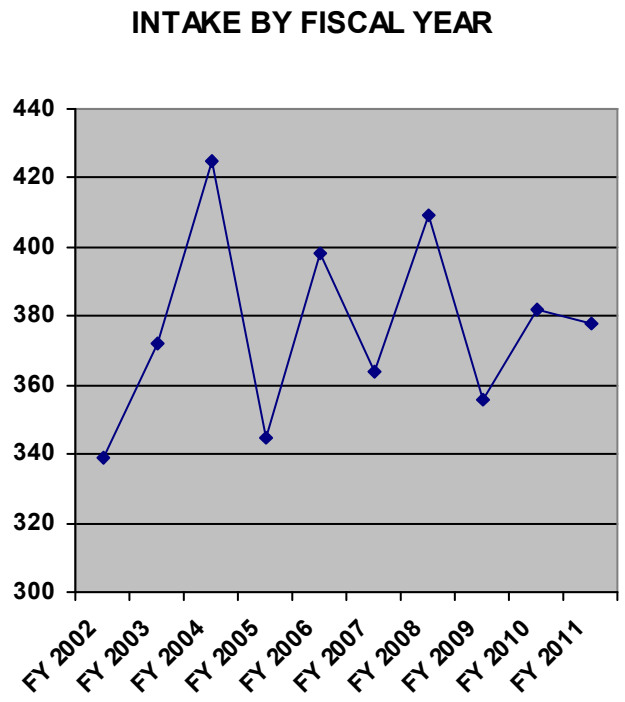
NOTE: Rhode Island law expressly provides that, under certain circumstances, complainants and/or respondents may elect to terminate proceedings before the Commission and have the case heard in Superior Court.

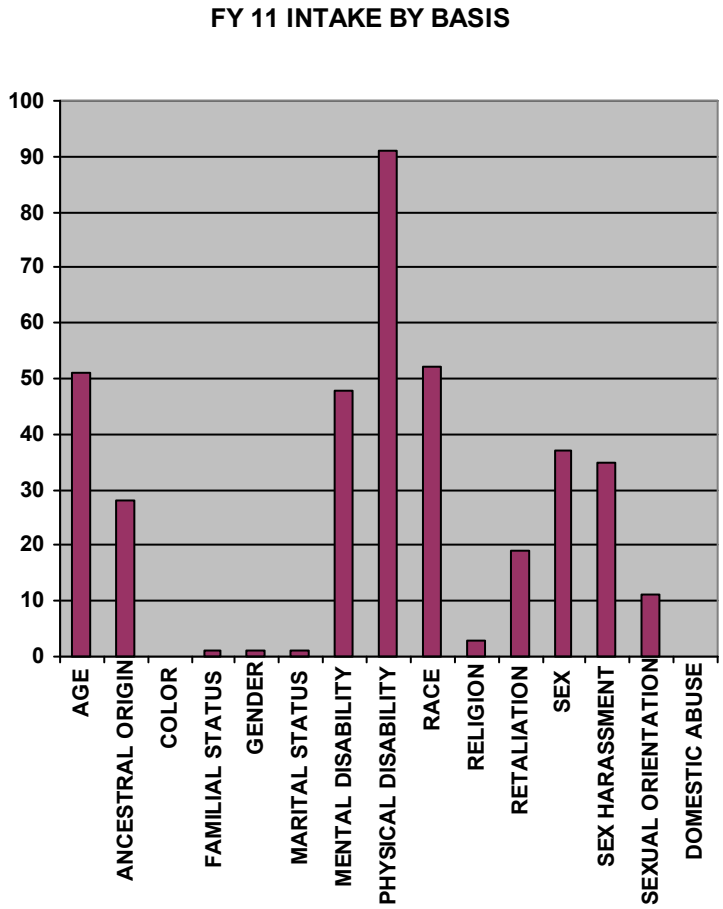
Intake

Inquiries are received and evaluated. If allegations represent a prima facie case and jurisdictional requirements are met, a formal charge of discrimination is filed and forwarded to the respondent.

The intake process usually begins with a telephone call or visit to the Commission. Each year the agency receives thousands of telephone and walk-in inquiries from individuals requesting information or wanting to pursue a charge of discrimination. The majority of these inquiries do not come within the jurisdiction of the Commission and these are referred to other agencies or organizations. In those cases in which the inquiry presents a claim within the Commission's jurisdiction, an intake officer assists the individual in filing a formal charge of discrimination.

The Commission took in a total of 378 cases in the fiscal year, representing a one percent decrease from FY 2010 (382). As in past years, disability-related claims predominated in this year's intake, with a total of 139 new cases (48 based on mental disability and 91 based on physical disability), accounting for nearly 37% of the annual intake. Sex-based claims (including pregnancy and sexual harassment claims) followed in number, with a total of 72 new cases, or 19%, with race and age claims following at 52 and 51 (13.5%), respectively.





INTAKE FY 2011
BY BASIS AND TYPE

	Employment	Housing	Public Accom.	Ind. with Disab.*	Credit	Totals
Age	51	0	0	NA	0	51
Ancestral Origin	16	11	1	NA	0	28
Color (only)	0	0	0	NA	0	0
Familial Status	NA	1	NA	NA	0	1
Gender Identity or Expression	1	0	0	NA	0	1
Marital Status	NA	1	NA	NA	0	1
Mental Disability	35	10	0	3	0	48
Physical Disability	77	11	2	1	0	91
Race	42	9	1	NA	0	52
Religion	3	0	0	NA	0	3
Retaliation	13	6	0	NA	0	19
Sex**	35	2	0	NA	0	37
Sexual Harassment	35	0	0	NA	0	35
Sexual Orientation	8	2	1	NA	0	11
Status as Victim of Domestic Abuse	NA	0	NA	NA	0	0
Total	316	53	5	4	0	378

*Figures in this column reflect charges filed solely under the Civil Rights of People with Disabilities Act.

**Other than sexual harassment

Investigations

Upon assignment, an investigator conducts an impartial investigation of the allegations and, after analyzing all elements of the case, makes a recommendation to a Preliminary Investigating Commissioner.

After the intake phase is completed and a formal charge of discrimination is filed, each case is assigned to an investigator**.** The average time from the filing of a charge to assignment to an investigator was six weeks or less. Most of the Commission's personnel resources are devoted to the investigation process. **Over 18% of case closures in FY 2011 resulted from settlements or conciliations.**

For those cases which do not settle, investigators use a variety of techniques to investigate the case. Often the investigators hold Predetermination Conferences where both complainants and respondents can present evidence to support or refute the allegations. The conferences are held before a Preliminary Investigating Commissioner. A case may involve the collection and analysis of comparative, statistical and/or direct evidence. Investigators may need to travel on-site to collect information and testimony pertinent to the charge. Not all investigations are alike. The individual characteristics of each case will influence an investigator's approach. **In furtherance of the investigative process, the Commission issued dozens of subpoenas in the fiscal year to compel the production of documents and witness testimony.**

In FY 2011, a determination of "Probable Cause" was rendered in approximately 10.7% of cases. While the percentage of Probable Cause cases may seem low, it should be noted that many potential Probable Cause cases settle prior to a formal determination as to Cause and some cases in which the complainant requests a right to sue may be Probable Cause cases. **A "No Probable Cause" determination was rendered in approximately 42.7% of cases**; a significant number of these No Cause findings resulted from the complainant's failure to pursue her/his charge by responding to requests for information.

For the thirteenth consecutive year, the Commission processed more cases than it took in (422 vs. 378), resulting in a continued decrease in the number of cases carried forward to the next fiscal year. "Processed" cases include cases in which a determination of Probable Cause is rendered. Although such cases are not yet closed, they are included in the list of case dispositions to provide an accurate view of the Commission's work.

Case Dispositions

TERMS AND DEFINITIONS	
Administrative Closures	Includes cases closed for failure to locate/cooperate, no jurisdiction, charges withdrawn without benefits, receiverships, bankruptcies, and rights to sue issued when a respondent elects to have the case heard in Superior Court following a finding of probable cause.
Conciliation	Case settled after a finding of probable cause.
Decision and Order	Commission makes a finding after a hearing before the Commissioners. If the decision is for the complainant, remedies are ordered. If it is for the respondent, the case is dismissed.
Failure to Locate/ Cooperate	Case administratively closed because complainant could not be found or would not cooperate with the Commission.
Negotiated Settlement	Case formally settled prior to a finding.
No Jurisdiction	Case closed because the Commission has no jurisdiction over the matter.
No Probable Cause	Insufficient evidence exists to support the probability that the complainant was a victim of discrimination.
Probable Cause	Sufficient evidence exists to support the probability that the complainant was a victim of discrimination.
Right to Sue	Complainant is issued a Notice enabling her/him to take the case to court, and the Commission closes the case internally.
Withdrawal	Complainant decides not to pursue the case.
Withdrawal with Benefits	Complainant withdraws the case upon receiving a settlement from the respondent.

Status of Probable Cause Cases FY 2011	
Probable Cause cases	**45**
Respondent's Election to Superior Court	21
Complainant's Election to Superior Court	0
Joint Elections	3
Other Closure	6
Open as of 6/30/11 [pending administrative hearing or other closure at the Commission]	15

Case Dispositions FY 2011	
Type of Disposition	**Number**
Decision and Order	3
Probable Cause	45
No Probable Cause	180
Conciliation	11
Negotiated Settlement	14
Withdrawal with Settlement	52
Right to Sue	82
Administrative Closure	35
Total	422

Administrative Hearings

After a "probable cause" ruling, a Commissioner conducts an administrative hearing during which sworn testimony is taken before a stenographer. A Decision and Order is rendered thereafter.

The administrative hearing process begins after the Preliminary Investigating Commissioner finds probable cause and the parties are unable to conciliate. (The parties have the statutory right, after a finding of probable cause, to elect to have the matter heard and decided in the Superior Court; in cases in which no such election is made, the agency's administrative hearing process commences.) One Commissioner conducts the hearing with the assistance of Legal Counsel. At the hearing, which is less formal than a court trial, witnesses present sworn testimony and relevant exhibits are accepted. A stenographer makes a record of the entire proceeding. After the parties present all their evidence, three Commissioners decide the case and issue an order.

A typical hearing lasts from one to three days. For all parties involved, including the Commission, the administrative hearing can be a costly and time-consuming activity. Despite receiving no reimbursement for services rendered, Commissioners consistently held hearings.

Commission Hearings and Closures FY 2011	
Cases in which Hearings were Held	3
Number of Hearing Days	4
Closures of Cases in Hearings	
Total Decision and Orders	3
Mixed Decisions	2
Decisions for Respondent	1
Written decisions on motions (These include motions to dismiss, discovery motions and motions on damages and attorney's fees.)	12

The following are summaries of the Decision and Orders issued by the Commission in FY 2011:

Rocco R. DeCarlo v. C & D Security Management, Inc. and Frederick Cawley **(May 31, 2011)**

The complainant alleged that the respondents discriminated against him with respect to terms and conditions of employment and termination of employment because of his age (67 years old at the time of his termination). The Commission issued a Decision and Order finding that the complainant did not prove by a preponderance of the evidence that the respondents discriminated against him as alleged in the complaint.

Based on a number of considerations, the Commission found that the complainant did not prove that age was one of the factors in his termination. The complainant had been hired a year earlier, at age 66, by the person who recommended his termination. The employer continued to employ em-

ployees in their sixties after the complainant's termination. While there was a younger employee who was not terminated, even though he had committed an infraction similar to an infraction of the complainant, the Commission credited the testimony of respondents' witnesses that the younger employee otherwise had a clean record while the complainant's record showed other problems. The Commission noted that the respondents had not terminated the complainant for previous infractions but had extended his probation instead. The Commission interpreted this extension to mean that the respondents were giving the complainant time to improve, rather than using initial infractions as an excuse to terminate an older employee. When the complainant's actions caused the respondent employer to receive a complaint from the federal agency responsible for oversight of the respondent employer's federal contract, the complainant's employment was terminated. The Commission found the respondents' explanation of the termination to be credible and did not find that discrimination occurred.

Anthony Selvidio v. TGI Fridays (Carlson Restaurants Worldwide) **(June 20, 2011)**

The complainant alleged that the respondent discriminated against him with respect to terms and conditions of employment, denial of reasonable accommodation and termination of employment because of his disability. At the time of his termination, the complainant was a manager at the respondent's Warwick restaurant. The Commission issued a Decision and Order which found that the respondents discriminated against the complainant because of his disability, in violation of the Fair Employment Practices Act and the Civil Rights of People with Disabilities Act, with respect to terms and conditions of employment and termination of employment. The Commission found for the respondent on the issue of denial of reasonable accommodation.

The Commission found that the complainant's chronic neurological condition of migraine headaches was a disability considering its severity and its effect on his major life activities.

The Commission found that the respondent provided to the complainant a reasonable accommodation for his disability, having a schedule that did not significantly vary the hours of work from day to day. While it was not the exact accommodation that the complainant requested, it met the parameters set forth in the medical note that supported the request.

The Commission found that the complainant's supervisor was hostile to the complainant's request for a reasonable accommodation. Soon after the request for a reasonable accommodation was granted and soon after the complainant was required to take several days off due to a severe migraine, the complainant was terminated. The Commission found that the complainant's disability was a factor in his termination. The complainant's supervisor was hostile to the accommodation and the supervisor relied on hearsay evidence on the alleged infraction which purportedly led to the complainant's termination, sleeping on duty. The supervisor never gave the complainant the opportunity to explain the circumstances which would

have linked the appearance of sleeping on duty to his disability. If the supervisor had heard the complainant's explanation, it could have led the respondent to find that no infraction had occurred. The complainant's explanation also could have given rise to the employer's duty to further accommodate the complainant's disability. The supervisor did not give the complainant an opportunity to explain or improve which had been given to other managers who had committed infractions. The complainant had worked for the respondent for over five years, had received evaluations that rated him as meeting or being above expectations and had not received prior discipline. The Commission weighed all the factors and found that disability discrimination against the complainant was a factor in his termination.

The Commission ordered that the respondent award the complainant the next available position of manager and give him front and back pay and benefits. The Commission did not award compensatory damages for pain and suffering to the complainant. The Commission ordered that the Commission anti-discrimination poster be posted in respondent's Rhode Island facilities and that its Rhode Island supervisors be trained on anti-discrimination laws. The complainant's attorneys have submitted a Motion for Attorneys' Fees.

Commissioner Rochelle Bates Lee dissented from the finding that the respondent reasonably accommodated the complainant's disability and from the Commission's decision that it would not award compensatory damages to the complainant for pain and suffering.

Tracy L. Stewart v. T & T Donuts, Inc. and Izilda Teves **(June 30, 2011)**

The complainant alleged that the respondents discriminated against her with respect to terms and conditions of employment, harassment and constructive discharge because of her disability. The Commission issued a Decision and Order that found that the complainant proved that she had a disability and that the respondents discriminated against her because of that disability with respect to terms and conditions of employment and constructive termination, in violation of the Fair Employment Practices Act and the Civil Rights of People with Disabilities Act. The Commission found that the respondents did not discriminate against the complainant when they asked her to provide a medical note.

The complainant proved that she had a disability, epilepsy. The evidence demonstrated that the respondents knew of the complainant's disability. At one point during her employment as a Shift Leader at the donut shop, the complainant had a seizure. She held onto a cup of iced coffee until it cracked, spilling the coffee on the complainant and a co-worker. The complainant then left the room and stayed in the locked break room for approximately twenty minutes.

The respondents, due to concerns about the complainant's safety around high temperature ovens and hot liquids, asked the complainant to obtain a medical note that verified that it was safe for her to continue working. The Commission found this request justified as it was based on legitimate

safety concerns.

The respondents continually asked the complainant about her disability, in front of customers and the complainant's co-workers, even though the complainant asked that the public comments stop. The respondents made no effort to maintain confidentiality about the complainant's disability. At one point, respondent Teves made comments about the complainant's disability when the complainant was off-duty and accompanied by her son. The Commission found that the frequent discussion of the complainant's disability in public constituted harassment. The Commission further found that it rose to the level of an abusive working environment in which a reasonable person would have been compelled to resign and that the complainant was compelled to resign. The complainant left her employment and the Commission found that the respondents constructively terminated the complainant.

A hearing on damages has been held and the Commission is reviewing the evidence to determine an appropriate award of damages. The Commission ordered the respondents to receive training on anti-discrimination laws, to develop and distribute a policy against harassment and to post the Commission anti-discrimination poster in the workplace.

Commissioner Alton W. Wiley, Jr. dissented from the Commission's finding that the respondents harassed the complainant and constructively terminated her employment because of her disability.

The Commission at the Courts

The Commission continues to take steps to enforce Commission Decision and Orders and to pursue litigation in court where statutorily authorized to do so. The following are highlights from Fiscal Year 2011:

J.J. Gregory and Sons v. the Rhode Island Commission for Human Rights and Brenda Zeigler

Following an administrative hearing, the Commission issued a Decision and Order finding that J.J. Gregory and Sons had discriminated against Brenda Zeigler with respect to terms and conditions of employment and termination because of her sex. The Commission found that the complainant's supervisor treated her differently than her male co-workers and influenced the respondent to terminate the complainant because of her sex. J.J. Gregory and Sons filed an appeal. The Superior Court upheld the Commission's finding of discrimination.

Rhode Island Commission for Human Rights on behalf of Patrick Banyaniye v. Mi Sueño, Inc. and Jesus M. Titin

After an administrative hearing, the Commission issued a Decision and Order finding that the night club, Mi Sueño, and its owner, Jesus Titin, discriminated against the complainant with respect to entry to a public accommodation because of his disability. The complainant, who has a mobility impairment requiring the use of crutches,

had been told that he could not enter the night club with his crutches. The Commission ordered the respondents to pay the complainant $5,000 in compensatory damages for the pain, suffering and humiliation caused by the discrimination and $7,860 in attorney's fees. The respondents did not appeal the Decision but failed to comply with the Commission's Order in a timely fashion. After the Commission filed a Petition for Enforcement in Superior Court, the parties settled and the respondents commenced installment payments of the damages and attorney's fees ordered by the Commission.

Rhode Island Commission for Human Rights on behalf of Laura and Edward Breault v. Elmhurst House, Inc., et al.

The complainants filed two charges alleging that: 1) the respondents failed to provide a reasonable accommodation for Laura Breault's disability by refusing to replace a respondent-furnished air conditioner which failed to cool her unit to a temperature necessary for the proper functioning of her oxygen apparatus; 2) the complainants, who are mobility impaired and require the use of wheelchairs, did not have equal access to an emergency exit in respondents' housing because it was routinely blocked by an open gate leading to a trash receptacle for use by residents. The Commission found probable cause in both cases and the respondents elected to have the matters heard and decided in Superior Court. The Commission subsequently filed suits in Superior Court on the complainants' behalf. Thereafter, the cases were settled with an agreement by the respondents 1) to provide Laura Breault with a new air conditioner; 2) to advise residents and the trash hauler verbally and in writing that the gate to the trash receptacle was to remain closed to permit ingress/egress by the complainants and other disabled residents.

Rhode Island Commission for Human Rights on behalf of Veronica Hogan et al. v. Housing Opportunities Corporation, et al.

The complainant filed a charge on behalf of herself and her minor children, alleging that they were discriminated against on the basis of her disability when she was denied the opportunity to rent respondent housing because she was taking methadone to treat a substance addiction dating back five years. The Commission found probable cause and the respondents elected to have the matter heard and decided in Superior Court. The Commission subsequently filed suit in Superior Court on the complainants' behalf. Thereafter, the case was settled with an agreement by the respondents to place the complainant on their waiting list utilizing the date of her initial rental application.

Fair Housing Overview

COMMISSION HOSTS COMMUNITY FAIR HOUSING FORUM

On April 15, 2011, the Commission co-sponsored a community forum on the topic of "Affirmatively Furthering Fair Housing" with the U.S. Department of Housing and Urban Development (HUD) to commemorate Fair Housing Month. The event took place in the Alderman's Chambers at Providence City Hall and was attended by about 70 individuals. Providence Mayor Angel Taveras welcomed the attendees. HUD Assistant Secretary of Fair Housing and Equal Opportunity, John Trasviña, provided the keynote address. The event included two panel discussions. The first panel, on the topic of "Affirmatively Furthering Fair Housing – Legal Background and Requirements", featured Commission Legal Counsel Frank Gaschen along with Thomas Roddick, HUD Deputy Regional Counsel for New England, and Robert Shumeyko, Director, HUD New England Office of Community Planning and Development. The second, on the topic of "State and Local Perspectives on Implementation of Affirmatively Furthering Fair Housing", featured Charles Kimes, Community Development Specialist for the State of Rhode Island, Office of Community and Development, Michael Milito, Deputy Assistant Director of Law & Human Resources for Rhode Island Housing, and Garry Bliss, who oversees the City of Providence's Community Development Block Grant and Housing Programs.

CIVIL PROSECUTOR

In compliance with the Commission's contract with HUD, an existing staff member serves as the Civil Prosecutor in housing cases. The responsibility of the Civil Prosecutor will be to present evidence of discrimination, whether in a hearing before the Commission itself, or in the Superior Court, when the Commission has found probable cause to believe that discrimination has occurred.

HOUSING CASELOAD

The population of Rhode Island in 2010 was 1,069,725. Under guidelines established by HUD, a state having a population of up to 1,500,000 residents should, on average, receive and process up to 15 fair housing complaints per year. **The Commission received 53 complaints and processed 54 complaints in FY 2011, which is equivalent to HUD's estimated average workload of a state having a population of about 5,400,000 residents.**

INTAKE/INVESTGATIVE DISPOSITIONS TEN-YEAR VIEW

FY	INTAKE	DUAL FILED*	STATE ONLY	PROCESSED
2011	53	50	3	54
2010	47	41	6	40
2009	63	55	8	71
2008	59	53	6	43
2007	43	39	4	45
2006	50	40	10	47
2005	32	25	7	33
2004	47	38	6	44
2003	25	21	4	36
2002	27	24	3	31

*cases co-filed with the U.S. Department of Housing and Urban Development

DISPOSITION OF FAIR HOUSING COMPLAINTS

The Commission processed 54 housing complaints in FY 2011. Five cases (9.3%) resulted in a finding of Probable Cause, while 24 cases (44.4%) resulted in a No Cause finding. A settlement was achieved in 23 additional cases (42.6%), and two cases (3.7%) were withdrawn by the complainant.

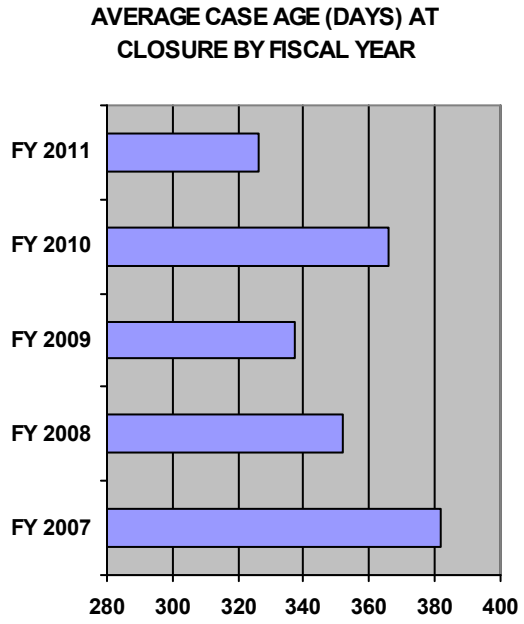
Settlements: From the time a charge is filed and the investigation commences, the Commission seeks to amicably resolve all pending matters. The goal of settling complaints continues even if a case is filed in Superior Court. As noted above, 23 cases were successfully settled during the investigative phase. Resolutions of these cases included respondents' agreement to: provide monetary settlements; discontinue eviction proceedings; grant a request for a two-bedroom unit and live-in aide; approve transfer requests; expunge notices of noncompliance; allow an emotional support animal and refrain from requesting certification of said animal; grant reasonable accommodations for tenants with disabilities; and undergo fair housing training.

Post-Probable Cause Resolutions: In addition to the dispositions noted above, the Commission successfully settled six cases during the fiscal year following a finding of probable cause. Three of those cases are highlighted under "The Commission at the Courts", at page 13 of this Report. An additional case resulted in a monetary settlement and, in another case, the respondents agreed to modify their policies to better accommodate tenants with disabilities. In a noteworthy case, a complainant alleged that she was subjected to discriminatory terms and conditions of financing on the basis of her sex when Bank of America denied her application for refinancing of an existing home mortgage. The complainant alleged that a Bank of America policy circumscribing the conditions under which a refinancing application would be approved resulted in gender discrimination as the complainant's contributions to the existing mortgage payments from a joint account before and after her husband's death did not qualify her for refinancing. The Commission found probable cause and, as neither party elected to pursue the matter in Superior Court, the case was scheduled for an administrative hearing before the Commission. Prior to the commencement of the hearing, the matter settled, with the respondents agreeing to pay the complainant in excess of $18,500.00.

Caseload Statistics

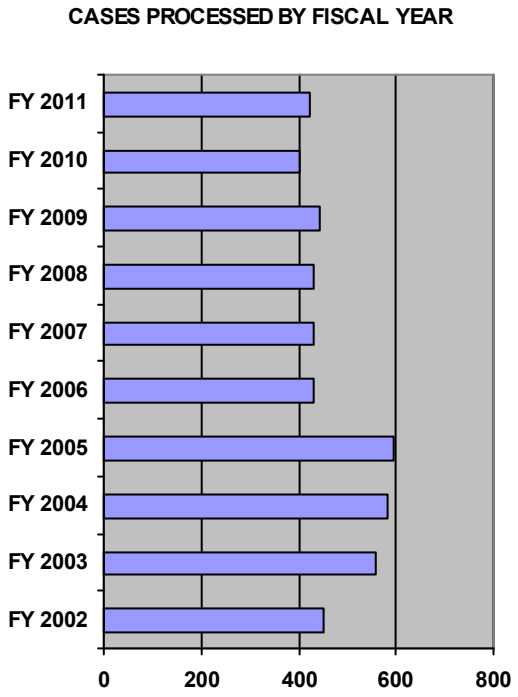
DECREASE IN CASE PROCESSING TIME

In recent years, the Commission has labored to ensure more expeditious processing of cases. The "hands on" role Director Evora has taken in overseeing caseload management, concerted staff efforts and the use of the Commission's subpoena power to expedite stalled investigations are among the tools used to achieve success in this area. The average age of cases closed in FY 2003 exceeded three years. By FY 2006, that time had been decreased to 423 days. **For FY 2011, the average age of a case at closure was a record 326 days.**



INCREASE IN CASE PROCESSING

For the thirteenth consecutive year, the Commission was able to process more cases than it took in (422 vs. 378). **The agency processed nearly five percent more cases in FY 2011 than it did in FY 2010 (422 vs. 403)**.



AGED CASE REDUCTION

FY 2011 saw a continuing reduction in the number of cases considered "aged" under federal EEOC guidelines. Thanks to the diligent efforts of Commissioners, staff and interns, **the Commission closed FY 2011 with only two aged cases in its caseload.**

Outreach

DATE	TOPIC	LOCATION/GROUP
7/13/10	Fair Housing	Clarkin Realty, Warwick, RI
7/20/10 & 7/21/10	Fair Housing & the LGBT Community: Initiatives & Strategies for Combating Housing Discrimination Based on Sexual Orientation/Gender Identity	HUD National Policy Conference, New Orleans, LA
7/28/10	Fair Housing	Minority Elder Task Force, East Providence, RI
8/12/10	Fair Housing	Fall River Deaconess Home School, Fall River, MA
9/8/10	Commission Overview and Interactive Discussion on Discrimination	Bethany House Nursing Home, Providence, RI (Staff training)
9/15/10	General Commission Information—Recruitment	Community Service Opportunities Fair—Brown University
10/18/10	Fair Housing	Housing Hotline, Newport, RI
10/20/10	Fair Housing	RI Minority Elder Task Force, East Prov., RI
10/27/10	Commission Overview and Legal/Enforcement	RI Bar Assoc./ Government Lawyers Committee, Commission Office
12/7/10 & 12/9/10	Commission Overview and Interactive Discussion on Discrimination	YearUp, Providence, RI
12/15/10	Train the Trainers—Fair Housing	Homeownership Connection, Pawtucket, RI
1/18/11	Keynote Address: "Battle from Within: Ideological Changes in Civil Rights Practice"	Roger Williams Law School, MLK Commemoration
1/19/11	Fair Housing	RI Housing Workshop on Impediments to Fair Housing, Warren, RI
2/1/11	Impediments to Fair Housing	Johnnycake Center, Peacedale, RI
2/11/11	Fair Housing	RI Housing Workshop on Impediments to Fair Housing, Providence, RI
2/22/11	Fair Housing	East Providence Landlord Group, East Providence City Hall
3/1/11	Commission Overview/Sex Discrimination/ Sexual Harassment	"Gender and the Law" class, Roger Williams Univ. School of Law, Bristol, RI
3/10/11	Commission Overview/Disability Discrimination in Employment	Ocean State Employer Service Network at RI Dept. of Labor & Training, Cranston, RI
4/4/11	Commission Overview/Sexual Harassment	"Social Work & the Law" class, RI College
4/14/11	General Commission Information/Overview	Feinstein Institute Intern Recruitment Fair, Providence College
4/15/11	"Affirmatively Furthering Fair Housing" - Panel	Alderman's Chambers, Providence City Hall
4/18/11	Commission Overview/Employment Discrimination	"Employment Law" class at Roger Williams Univ. School of Law, Bristol, RI
4/21/11	Fair Housing	Scituate Senior Center, Scituate, RI
4/26/11	Fair Housing	Glocester Senior Center, Glocester, RI
4/27/11	Fair Housing	Crossroads Staff, Providence, RI
5/11/11	Commission Overview/Sexual Harassment	Manafort Bros. Construction, Cumberland, RI
5/17/11	New Developments in Employment Discrimination Law	Labor & Employment Committee, RI Bar Assoc., Providence, RI
5/25/11	Commission Overview	Interview for cable access show of Pepper-bird Magazine (Liberian community)
6/7/11 & 6/9/11	Commission Overview and Interactive Discussion on Discrimination	YearUp, Providence, RI

Federal Agreements

U.S. Equal Employment Opportunity Commission

The Commission has been certified by the U.S. Equal Employment Opportunity Commission (EEOC) as a Fair Employment Practices Agency since 1968. Consistent with Section 706 of the Civil Rights Act of 1964, the Commission is authorized to process charges of employment discrimination which fall under federal as well as state jurisdiction (co-filed). Each year, the Commission enters into a work-sharing agreement with EEOC under which the Commission is expected to investigate a predetermined number of cases. EEOC reimburses the Commission at a fixed rate for each case closed in compliance with the guidelines spelled out in the agreement. **This year, the Commission met its contractual obligation by closing 251 co-filed cases.**

U.S. Department of Housing and Urban Development

The Commission continued its relationship with the U.S. Department of Housing and Urban Development (HUD) as defined under the federal Fair Housing Act, Title VIII of the Civil Rights Act of 1968. The Commission enters into an annual contract with HUD for fixed-rate reimbursement for the processing of housing cases filed under both state and federal law. **The Commission took in 53 charges of alleged housing discrimination, 50 of which were co-filed with HUD, and processed 54 charges, 52 of which were co-filed with HUD.**

FEDERAL FUNDS RECEIVED, FY 2011		
EEOC*	Case Processing	$150,600
	Training/ Transportation	$1,500
HUD*	Case Processing	$133,180
	Administrative Costs	$20,000
	Training	$11,500
	Addendum to 2010 contract	$2,100
TOTAL		$318,880

*EEOC's fiscal contract year was October 1, 2010 to September 30, 2011. HUD's contract year was July 1, 2010 to June 30, 2011.

Affirmative Action

The Commission's commitment to affirmative action remains constant. In addition to promoting its internal affirmative action plan, the Commission routinely engages in endeavors geared to enrich and diversify the Rhode Island community. Staff members are available to participate in seminars and conferences that address affirmative action as it relates to the Commission's work.

COMMISSION WORKFORCE PROFILE		
Category	Employees	Percent
Total Employees	14	100
Women	9	64
Racial/Ethnic Minorities	6	43

Interns

Each year, high school, college, graduate students and recent graduates receive first-hand experience in the Commission's primary functions through the intern program.

Interns assist in investigations, conduct legal research, perform clerical duties and work independently through a structured program. For their work, interns may earn college credits, stipends through work-study grants, and/or receive compensation from the state Government Internship Program.

FALL 2010	
Amy Chen	Brown University
Sovannara Chim	Tolman High School
Mark Costello	Providence College
Michael Creamer	Community College of RI (CCRI)
Chris Gordon	Providence College
Terry Simijis	CCRI

SPRING 2011	
Michael Arcampora	Brown University
Lisa Bowie	Roger Williams University School of Law (RWUSL)
Amy Chen	Brown University
Mark Costello	Providence College
Michael Creamer	CCRI
Chris Gordon	Providence College
Samantha Grasso	University of RI
Faiza Islam	Rhode Island College
Phoebe Romero	Brown University
Terry Simijis	CCRI
Randi Snead	University of RI
Gilbert Valdez	CCRI

SUMMER 2011	
Rachel Bessette	McGill University
Ingrid Covaci	Bryant University
Malorie Diaz	RWUSL
Lydia Halperin	Brown University
Albertina Kawatu	UNC Chapel Hill
Preeti Kinha	Bowdoin College
Madeline Kitzes	Case Western Univ. School of Law
Sarah Lewis	Brown University
Catherine O'Connor	Boston College
Sylvester Omuemnu	Providence College
Brianne Rok	Villanova Univeristy
Stephanie Scotto	University of RI
Amanda Shuman	UMass Dartmouth Law School
Avery Yshimine	Brown University
Yvonne Yu	Brown University

Recognitions

February 2011—Susan Pracht, Investigator, resigned from her position to pursue a one- to two-year volunteer placement with the Brethren Volunteer Service (BVS), an international organization analogous to the Peace Corps which places volunteers throughout the world to serve human need and advocate for peace. Through BVS, Susan was placed at Church and Peace near Frankfurt, Germany.

Susan began working at the Commission as a Summer Intern in 2001, returning to the Commission in June 2003. From June 2003 through August 2006, Susan served the Commission in many capacities, including as Investigative Intern, Fair Housing Intern, Outreach Coordinator, mentor to incoming Interns and Assistant to the Executive Director. In August of 2006, she was hired as a full-time Investigator.

The Commissioners and staff wish Susan every success as she continues her efforts to ensure peace throughout the world and justice for every individual.