

# ANNUAL REPORT

**2017 FISCAL YEAR**

**JULY 1, 2016 THROUGH JUNE 30, 2017**



## **RHODE ISLAND COMMISSION FOR HUMAN RIGHTS**

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*“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**





STATE OF RHODE ISLAND  
COMMISSION FOR HUMAN RIGHTS



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Michael D. Évora, Esquire  
Executive Director

January 26, 2018

The Honorable Gina M. Raimondo  
Office of the Governor  
State House, Room 222  
Providence, RI 02903

Dear Governor Raimondo:

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 2017 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 the Commission, an overview of legislative activity, 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 2017. For the nineteenth 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. In addition, the Commission continued to ensure timely due process to all parties appearing before the agency by meeting its Strategic Plan goal of processing cases in less than one year on average; the average age of a case at final disposition was 315 days.

Consistent with the agency's statutory mandate to implement a comprehensive educational program, Commission staff members conducted 51 education/outreach sessions in the community, reaching over 1,700 employers, housing providers and individuals and educating them about their rights and responsibilities under state and federal antidiscrimination laws.

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

Sincerely,

John B. Susa, Ph.D.  
Chairperson

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# COMMISSIONERS AND STAFF MEMBERS

## COMMISSIONERS

**Chairperson:** John B. Susa, Ph.D.  
Alberto Aponte Cardona, Esq.  
Angelyne E. Cooper, Esq.  
Cynthia M. Hiatt, Esq.  
Rochelle Bates Lee  
Tolulope Kevin Olasanoye, Esq.  
Iraida Diaz Williams

## STAFF

**Executive Director:** Michael D. Évora, Esq.

**Staff Attorney:** Francis A. Gaschen, Esq.

**Staff Attorney:** Marissa Janton, Esq.

**HUD Project Director:** Angie V. Lovegrove

**EEOC Project Director:** Marlene Colón Toribio

**Sr. Compliance Officer:** Glenn C. Cardozo

**Sr. Compliance Officer:** Tina M. Christy

**Sr. Compliance Officer:** Allison G. Coté

**Sr. Compliance Officer:** VACANT\*

**Investigator:** John Bogue

**Investigator:** Jason Flanders

**Investigator:** Yvonne S. Yu

**Chief Clerk:** Betsy A. Ross

**Administrative Aide:** Zaida Rivera

**Administrative Aide:** Lynn Soccio

\* This position was vacated in August 2009 and the Commission has not received authorization to fill it.

# FY 2017 HIGHLIGHTS

## INTAKE

The Commission took in **405 new charges of discrimination**, representing a 13.6% increase from FY 2016. Of the new charges, 72.6% were in the area of employment, 20% in housing and 2.7% in public accommodations. Charges of disability discrimination in delivery of services (unrelated to employment, housing or public accommodations) accounted for 4.7% of intake.

**Claims of disability discrimination predominated**, with **46.2%** of cases taken in (187 cases), containing an allegation of disability discrimination. Retaliation-based claims followed in number, with **32.1%** of cases (130 cases), containing an allegation of retaliation for having opposed unlawful practices. Sex-based claims (including pregnancy and sexual harassment claims) and age-based claims followed at **25.4%** (103 cases) and **16%** (65 cases), respectively. An allegation of race discrimination was raised in **14.3%** (58 cases) of total cases. **See pages 8-10.**

## INVESTIGATIONS

For the 19<sup>th</sup> consecutive year, the Commission processed more cases than it took in (412 vs. 405). **See page 11.**

- **Probable Cause** was found in approximately **12.4%** of total cases processed, representing an increase from FY 2016 (11.1%);
- **No Probable Cause** was found in approximately **34%** of total cases processed, representing an increase from FY 2016 (32.7%); a substantial number of these cases resulted from a complainant's failure to pursue his/her charge;
- Approximately **16.5%** of cases taken in **settled prior to a determination** of Probable Cause or No Probable Cause, representing a decrease from FY 2016 (21.4%).

## ADMINISTRATIVE HEARINGS

The Commission held administrative hearings in two cases. A Decision and Order was issued in one case, finding that a respondent gym and its owner discriminated against a biracial employee with respect to derogatory and disparate treatment, and termination of employment, because of his race and color. **See pages 14-15.**

## THE COMMISSION AT THE COURTS

Among its court activities throughout the year, the Commission: filed suit in Superior Court to enforce an order resulting from a Commission finding of discrimination in a housing case alleging harassment, intimidation and coercion on the basis of race and color by fellow tenants; commenced a court action in a housing case in which the Commission had found probable cause to believe that respondent owners and management company subjected the complainant to discriminatory terms and conditions of rental based on his race, color and ancestral origin, and retaliated against him for reporting the discriminatory treatment; filed a court action to collect on a judgment in a case in which the Commission found that the respondents had subjected the complainant to verbal and physical sexual harassment on the job, resulting in a hostile work environment; entered into a settlement stipulation after commencing a court action in a case in which the Commission had found probable cause to believe that the complainants were denied the opportunity to rent an available unit on the basis of age and disability. **See pages 16-17.**

## DECREASED CASE PROCESSING TIME

The Commission has realized a steady and significant 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 2017 was 315 days (down from 331 days in FY 2016). **See page 13.**

## OUTREACH

Commission staff members conducted **51 outreach/education sessions** in the community, reaching **over 1,700 employers, housing providers and individuals** and educating them about their rights and responsibilities pursuant to state and federal antidiscrimination laws. **See pages 22-24.**



# AGENCY 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 (those against whom charges are filed), 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, housing status, military status 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, familial status and military 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.

## AGENCY OVERVIEW

In addition to enforcing state laws, the Commission has contractual agreements with the **Equal Employment Opportunity Commission (EEOC)** and the **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 Civil Rights Act of 1968**.

### EQUAL OPPORTUNITY COMMITMENT

The Commission's commitment to equal opportunity 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 equal opportunity as it relates to the Commission's work.

<b>COMMISSION WORKFORCE PROFILE</b>		
	<b>Number of Employees</b>	<b>Percent of Total</b>
<b>Total Staff</b>	14	100%
<b>Women</b>	9	64.3%
<b>Racial/Ethnic Minorities</b>	7	50%

# PROTECTED CATEGORIES UNDER STATE AND FEDERAL LAW

	EMPLOYMENT		HOUSING		PUBLIC ACCOMMODATIONS	CREDIT
	State	Federal	State	Federal	State	State
Race	✓	✓	✓	✓	✓	✓
Color	✓	✓	✓	✓	✓	✓
Religion	✓	✓	✓	✓	✓	✓
Ancestral Origin	✓	✓	✓	✓	✓	✓
Sex <sup>[1]</sup>	✓	✓	✓	✓	✓	✓
Disability <sup>[2]</sup>	✓	✓	✓	✓	✓	✓
Age <sup>[3]</sup>	✓	✓	✓		✓	✓
Sexual Orientation <sup>[4]</sup>	✓	*	✓	*	✓	✓
Gender Identity or Expression <sup>[5]</sup>	✓	✓	✓	*	✓	✓
Familial Status			✓	✓		✓
Marital Status			✓	*		✓
Status as a Victim of Domestic Abuse			✓	*		
Housing Status <sup>[6]</sup>			✓			
Conviction Status <sup>[7]</sup> (“Ban the Box”)	✓					
Military Status <sup>[8]</sup>			✓			✓
Retaliation	✓	✓	✓	✓	✓	✓
<b>* Federal law prohibits discrimination on this basis in certain instances.</b>						

1 Includes sexual harassment and discrimination on the basis of pregnancy status.

2 Includes physical and mental disabilities.

3 Protects individuals 40+ years of age in Employment; protects individuals 18+ years of age in Housing, Public Accommodations and Credit.

4 Protects individuals who are heterosexual, homosexual or bisexual.

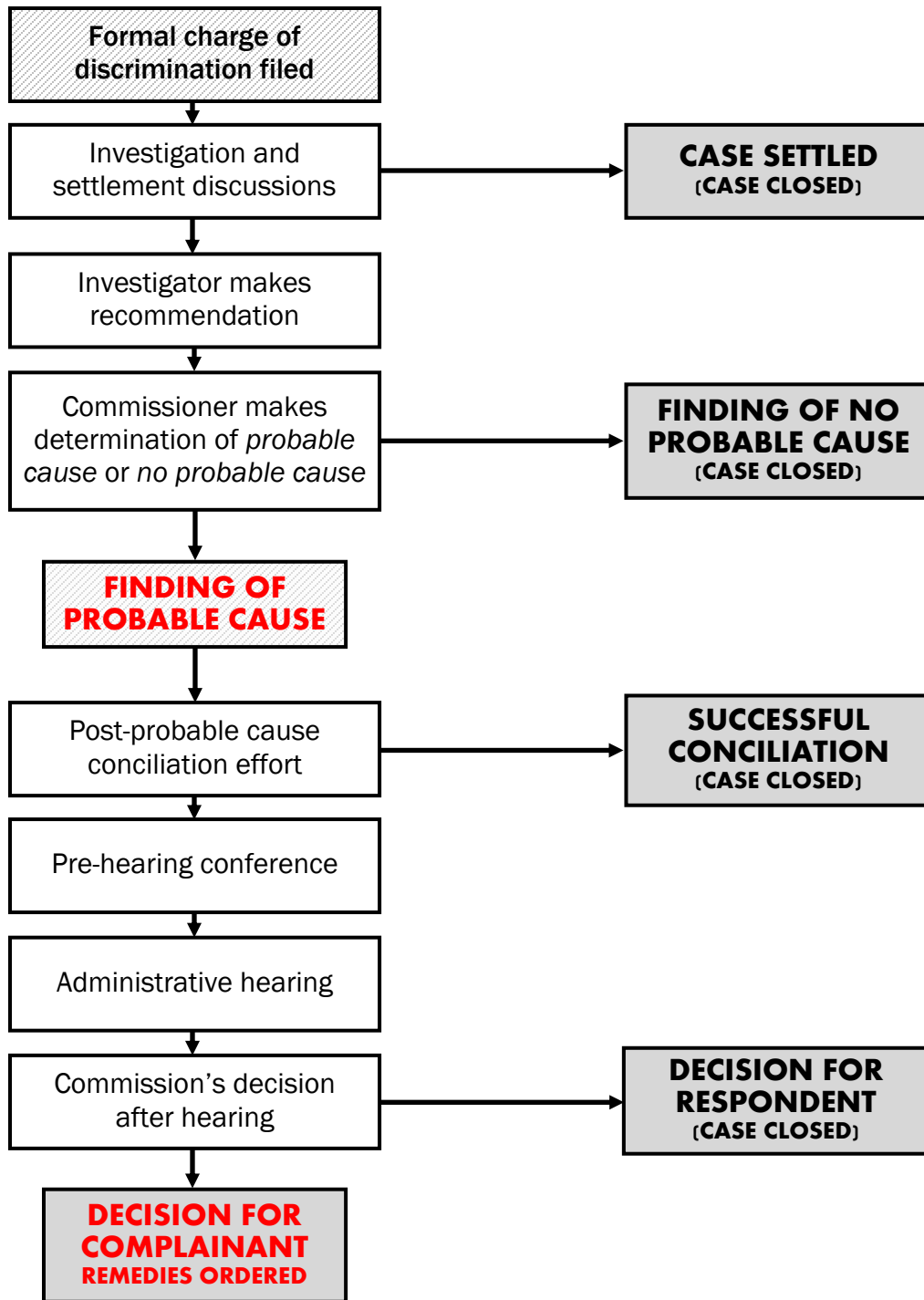
5 Includes an individual’s actual or perceived gender, as well as an individual’s gender identity, gender-related self-image, gender-related appearance, or gender-related expression, whether or not that gender identity, gender-related self-image, appearance or expression is different from that traditionally associated with that individual’s sex at birth.

6 “Housing Status” means the status of having or not having a fixed or regular residence, including the status of living on the streets or in a homeless shelter or similar temporary residence.

7 Prohibits employers from inquiring before a first interview, either via an employment application or otherwise, whether an applicant has been convicted of a crime. Certain exceptions apply.

8 “Military Status” means status as a service member in the Armed Forces, or status as a veteran with an honorable discharge or an honorable or general administrative discharge.

# 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.

# 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. As such, 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 EEOC guidelines.

This year, the Commission met its initial contractual obligation by closing 232 co-filed cases, and received an upward modification for an additional 24 case closures.

## U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

The Commission has been certified by the U.S. Department of Housing and Urban Development (HUD) as a “substantially equivalent” agency pursuant to the federal Fair Housing Act. 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.

This year, the Commission took in 81 charges of alleged housing discrimination, 77 of which were co-filed with HUD, and processed 72 charges, 67 of which were co-filed with HUD.

### FEDERAL FUNDING FY 2017\*

<b>EEOC</b>	<b>Case Processing</b>	\$179,200
	<b>Training/Transportation</b>	\$1,600
	<b>FEPA Engagement Funds</b>	\$1,000
	<b>TOTAL:</b>	<b>\$181,800</b>
<b>HUD</b>	<b>Case Processing</b>	\$172,800
	<b>Administrative Costs</b>	\$30,000
	<b>Training/Transportation</b>	\$28,750
	<b>TOTAL:</b>	<b>\$231,550</b>
<b>TOTAL (ALL FEDERAL FUNDS):</b>		<b>\$413,350</b>

\* EEOC’s contract year was October 1, 2016 to September 30, 2017. HUD’s contract year was July 1, 2016 to June 30, 2017.

# INTAKE

**Inquiries are received and evaluated. If 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.

## CASES TAKEN IN:

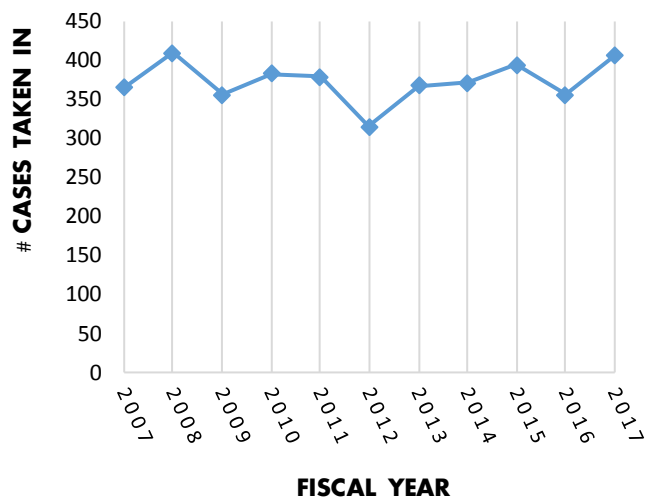
The Commission took in a total of **405 cases** in the fiscal year, representing a 13.6 percent increase from FY 2016 (356 cases).

- **Disability claims predominated**, with a total of 187 new cases (46.2% of total cases) containing an allegation of disability discrimination.
- **Retaliation-based claims** followed in number, with 130 cases (32.1% of total) containing an allegation of retaliation for having opposed unlawful practices.
- **Sex-based claims** (including pregnancy and sexual harassment claims) were made in 103 cases (25.4% of total cases).
- **Age-based claims** were raised in 65 cases (16% of total cases).
- **Race-based claims** were raised in 58 cases (14.3% of total cases).

FY 2017 INTAKE BY AREA		
	Number of Cases	Percent of Total
<b>Employment</b>	294	72.6%
<b>Housing</b>	81	20%
<b>Public Accommodations</b>	11	2.7%
<b>Delivery of Services*</b>	19	4.7%
<b>Credit</b>	0	0%
<b>TOTALS:</b>	<b>405</b>	<b>100</b>

\* Figures reflect charges of disability discrimination in delivery of services (unrelated to employment, housing, public accommodations or credit).

## INTAKE BY FISCAL YEAR



## INTAKE

### FY 2017 INTAKE BY BASIS AND AREA<sup>[1]</sup>

	Employ.	Housing	Public Accom.	Indiv. With Disability <sup>[2]</sup>	Credit	TOTALS:
<b>Age</b>	62	3	0	N/A	0	65
<b>Ancestral Origin</b>	38	13	6	N/A	0	57
<b>Color</b>	41	10	5	N/A	0	56
<b>Disability</b>	128	41	0	18	0	187
<b>Familial Status</b>	N/A	5	N/A	N/A	0	5
<b>Gender Identity or Expression</b>	1	2	0	N/A	0	3
<b>Housing Status</b>	N/A	0	N/A	N/A	N/A	0
<b>Marital Status</b>	N/A	1	N/A	N/A	0	1
<b>Military Status</b>	N/A	1	N/A	N/A	0	1
<b>Race</b>	38	15	5	N/A	0	58
<b>Religion</b>	7	1	1	N/A	0	9
<b>Retaliation</b>	112	17	0	1	0	130
<b>Sex<sup>[3]</sup></b>	92	9	2	N/A	0	103
<b>Sexual Orientation</b>	6	4	3	N/A	0	13
<b>Status as Victim of Domestic Abuse</b>	N/A	2	N/A	N/A	N/A	2
<b>Unlawful Questioning</b>	3	N/A	N/A	N/A	N/A	3

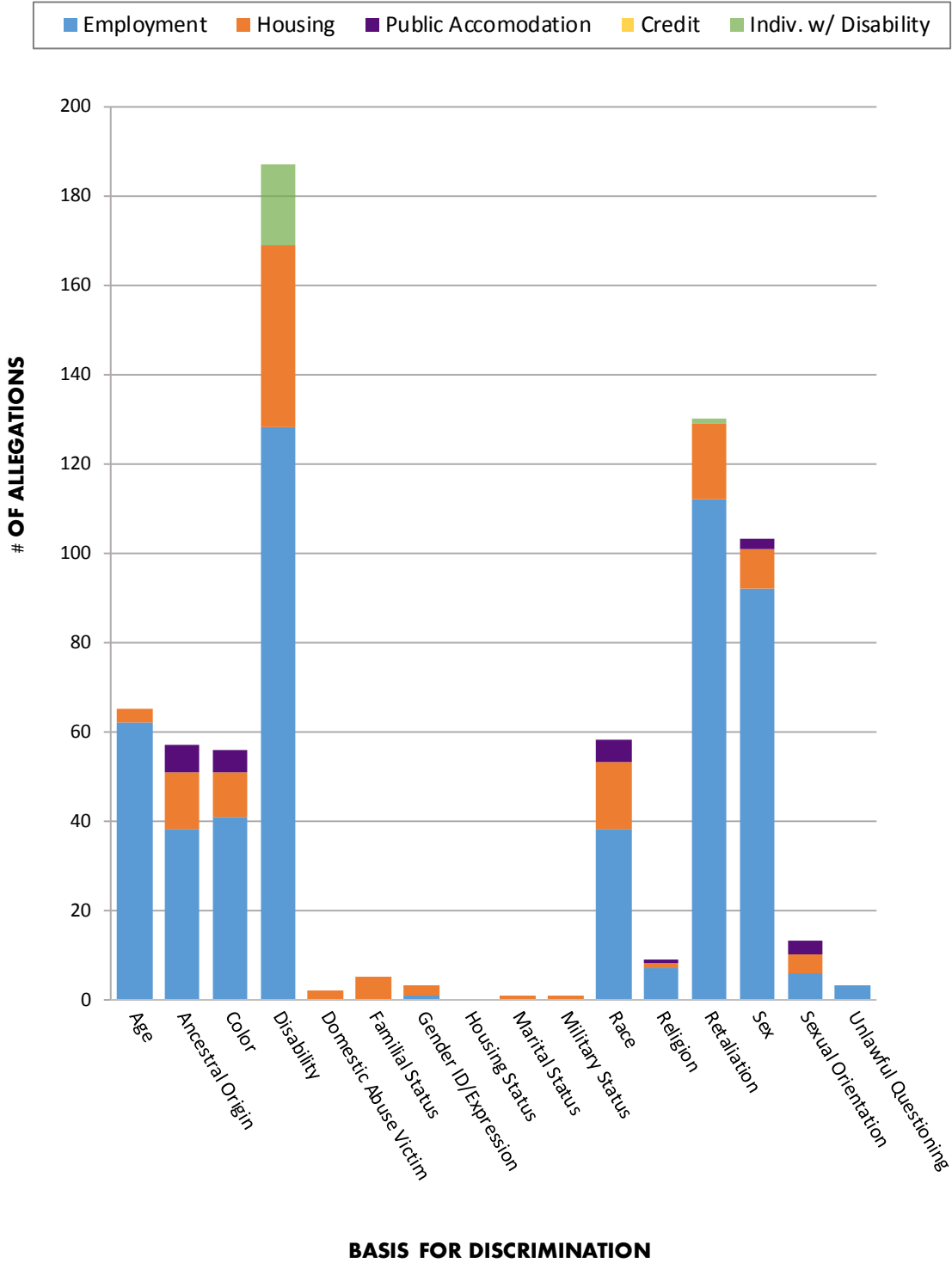
[1] Figures reflect the fact that most charges filed allege more than one basis of discrimination. Example: if a given charge alleged discrimination on the bases of age, race and color, it is reflected in the figures for all three categories.

[2] Figures reflect charges of disability discrimination in delivery of services (unrelated to employment, housing, public accommodations or credit).

[3] Includes allegations of pregnancy discrimination and sexual harassment.

# INTAKE

## FY 2017 INTAKE BY BASIS





# INVESTIGATIONS

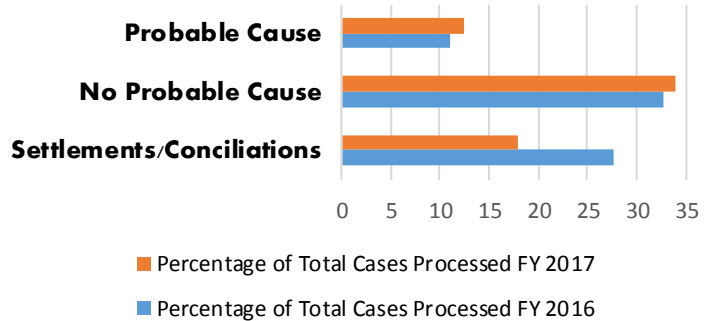
**Upon assignment, an investigator conducts an impartial investigation of the allegations and, after analyzing all elements of the case, makes a recommendation to a Preliminary Investigating Commissioner.**

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. **Approximately 18% of case closures in FY 2017 resulted from settlements or conciliations,** representing a decrease from FY 2016 (27.6%).

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 multiple subpoenas in the fiscal year to compel the production of documents and witness testimony.

In FY 2017, a determination of **Probable Cause** was rendered in **approximately 12.4% of total processed cases,** reflecting an increase from FY 2016 (11.1%). 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

## CASE DISPOSITIONS FY 2017 vs. FY 2016



determination as to Cause and some cases in which the complainant requests a right to sue may be Probable Cause cases. **During the fiscal year, the Commission settled 68 cases (16.5% of total cases processed) prior to a determination as to whether Probable Cause existed.**

**A No Probable Cause determination was rendered in approximately 34% of total processed cases,** reflecting an increase from FY 2016 (32.7%). A significant number of these No Cause findings resulted from a complainant's failure to pursue her/his charge by failing to respond to requests for information.

**For the nineteenth consecutive year, the Commission processed more cases than it took in (412 vs. 405), 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

<b>Administrative Closures</b>	Includes cases closed for failure to locate a complainant, complainant's failure to cooperate, no jurisdiction, charges withdrawn without benefits, receiverships, and bankruptcies.
<b>Conciliation</b>	Case settled after a finding of probable cause.
<b>Decision and Order</b>	Commission makes a finding after a hearing before the agency. If the decision is for the complainant, remedies are ordered. If it is for the respondent, the case is dismissed.
<b>Negotiated Settlement</b>	Case formally settled prior to a finding of Probable Cause or No Probable Cause.
<b>No Probable Cause</b>	Insufficient evidence exists to support the probability that the complainant was a victim of discrimination.
<b>Probable Cause</b>	Sufficient evidence exists to support the probability that the complainant was a victim of discrimination.
<b>Right to Sue</b>	Complainant is issued a Notice enabling her/him to take the case to court, and the Commission closes the case internally.
<b>Withdrawal with Settlement</b>	Complainant withdraws the case upon receiving a settlement from the respondent.

## CASE DISPOSITIONS FY 2017

TYPE OF DISPOSITION	# OF CASES
<b>Decision and Order</b>	1
<b>Probable Cause</b>	51
<b>No Probable Cause</b>	140
<b>Conciliation*</b>	6
<b>Negotiated Settlement</b>	18
<b>Withdrawal with Settlement</b>	50
<b>Right to Sue</b>	122
<b>Administrative Closure</b>	24
<b>TOTAL:</b>	<b>412</b>

\* Includes conciliation of cases in which probable cause was found in a prior fiscal year.

## STATUS OF FY 2017 PROBABLE CAUSE CASES

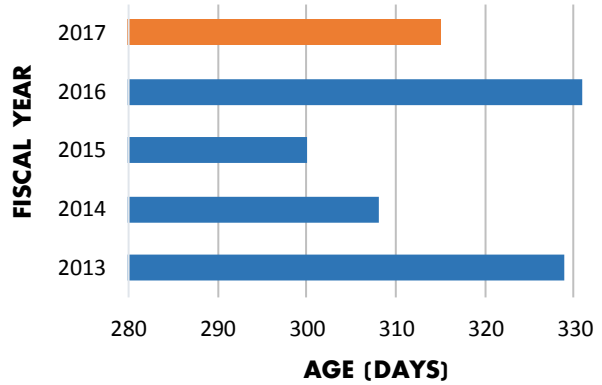
<b>Probable Cause Rulings</b>	51
<b>Respondent's Election to Superior Court for Trial</b>	21
<b>Complainant's Request for Right to Sue</b>	4
<b>Joint Election</b>	4
<b>Conciliation</b>	2
<b>Open as of 6/30/17 [pending right to sue, administrative hearing, conciliation or other action]</b>	20

# CASELOAD STATISTICS

## CASE PROCESSING TIME

In recent years, the Commission has labored to ensure more expeditious processing of cases. The “hands on” approach in caseload management taken by Director Évora, 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 2017, the average age of a case at closure was 315 days.**

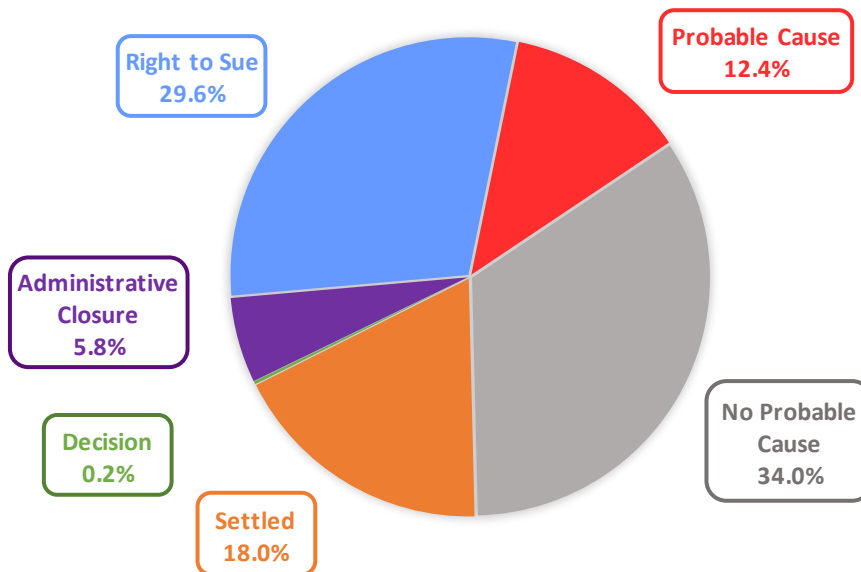
## AVERAGE CASE AGE AT CLOSURE



## INVESTIGATIVE RULINGS



## TOTAL DISPOSITIONS BY TYPE



# 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 a Staff Attorney. 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 a Decision and 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 routinely held hearings.

In FY 2017, the Commission issued the following Decision and Order:

- **Aaron M. Washington v. THE MAXX FITNESS CLUBZZ and Matthew D'Amico, alias** (August 1, 2016)

The Complainant alleged that the Respondents discriminated against him with respect to derogatory and disparate treatment and termination of employment because of his race and color.

The Complainant was employed by the Respondents as a part-time front desk attendant. He was the only biracial employee; the other employees were white.

The Commission found that the Complainant performed his job duties in a satisfactory manner and in a manner consistent with how he had been trained. During the Complainant's training, he was told that he could bring his laptop computer to work. On one occasion, he told the Assistant Manager that he was using his laptop computer at work and she did not tell

<b>COMMISSION HEARINGS AND CLOSURES FY 2017</b>	
<b>Cases in which Hearings were Held</b>	2
<b>Number of Hearing Days</b>	2
<b>CLOSURES OF CASES IN HEARINGS</b>	
<b>Total Decision and Orders</b>	1
<b>Decision for Complainant</b>	1
<b>Decision for Respondent</b>	0
<b>Mixed Ruling</b>	0

## ADMINISTRATIVE HEARINGS

him that use of his laptop computer violated the Respondents' policies. The Complainant used his laptop computer on a few occasions and observed other employees doing personal business on computers while at work.

One of the duties of the front desk attendant was to do the "D list", which involved checking whether the debit/credit cards of those customers who were delinquent in their payments would process a credit/debit card charge. The Complainant ran the "D list" when he was at work unless he was busy with his other duties with customers. He often worked on Sundays and it was often the case that debit/credit cards would not process charges on Sundays. The Complainant observed that other employees did not start or complete the "D list" on their shifts.

The Head Manager told the Complainant that he needed to let the Complainant go, and that the Owner, Respondent D'Amico, wanted the Complainant gone. The Head Manager told the Complainant that the reasons for his termination were using his laptop computer while on duty and his failure to run the "D lists". Caucasian employees committed these purported offenses regularly without suffering any disciplinary action. The Respondents' handbook provides that an employee will receive three warnings before termination. The Complainant did not receive any warnings before termination. The Commission found that the evidence that the Respondents had treated the Complainant in a disparate manner

was credible; the Respondents did not offer a nondiscriminatory justification for their treatment of the Complainant. The Commission also found that the Respondents discriminated against the Complainant because of his race and color with respect to termination of employment.

The Commission ordered that the Respondents post the Commission anti-discrimination poster prominently in all of their Rhode Island facilities, that they train all of their Rhode Island supervisors on state and federal employment anti-discrimination laws and that they offer the Complainant the next available position of part-time front desk attendant. A separate hearing was held on the issue of an appropriate award of damages and the decision on damages is pending.

# THE COMMISSION AT THE COURTS

**The Commission initiates court actions to enforce agency Decisions and Orders and initiates or intervenes in court proceedings in which the public interest is implicated.**

## HIGHLIGHTS FROM FY 2017:

- ***RICHR (Cham) v. ALA Properties, LLC, et al.*** (Superior Court, C.A. No. PC-2017-2119)

In this case, the Commission found probable cause to believe that respondent owner and managers subjected the complainant to discriminatory terms and conditions of rental (including reassignment of his parking space and failure to provide hot water) because of his race and color (black) and ancestral origin (Gambian; non-native English speaker). The Commission also found probable cause to believe that the respondents retaliated against the complainant by initiating an eviction action against him after he complained of the discrimination to city officials. After the Commission was unable to settle the matter, the Commission issued a complaint. Upon receipt of the complaint, the respondents elected to have the matter heard and decided in Superior Court. The Commission thereafter commenced a Superior Court action, which is pending.

- ***RICHR (Thornton) v. Jolene Stocker and Karl Peckenham*** (Superior Court, C.A. No. PM-2017-1258)

In this case, the Commission issued a Decision and Order in Fiscal Year 2016, finding for the complainants, an African-American mother and minor daughter who had alleged that respondents, two white tenants in their building, had

discriminated against them with respect to harassment, intimidation and coercion because of their race and color. The Commission found that the respondents' harassment of the complainants was severe and pervasive, and created an abusive housing environment. The Commission found that the respondents violated the Fair Housing Practices Act by threatening and intimidating the complainants and interfering with their enjoyment of their dwelling because of their race and color. The Commission ordered the respondents to participate in fair housing training, and to pay pecuniary damages to the complainants, including costs for having to move, as well as compensatory damages for complainants' pain, suffering and humiliation.

The Commission filed a petition to enforce in Superior Court after the respondents failed to comply with the Commission's Order. The matter is pending before the court.

- ***RICHR (Oliveira) v. Furniture Warehouse, et al.*** (Superior Court, C.A. No. PC-2016-2221)

In this case, the Commission had issued a Decision and Order in a previous fiscal year, finding that the respondent employer and employees had subjected the complainant to discrimination based on her sex (sexual harassment of both a verbal and physical nature, resulting in a hostile work environment). The Commission ordered remedies, including

## THE COMMISSION AT THE COURTS

reimbursement of medical costs associated with PTSD caused by the harassment, reimbursement for lost earnings caused by time out of work due to PTSD, and compensatory damages for pain and suffering. The Commission filed a petition to enforce in Superior Court after respondents failed to comply with the Commission's Order. After the respondents defaulted in that action, the court entered an order and judgment in the Commission's favor, upholding its Decision and Order. The Commission filed a complaint to enforce the judgment and the matter is pending.

- ***Mancini v. City of Providence***, 155 A.3d 159 (R.I. 2017)

On March 8, 2017, the Supreme Court of Rhode Island issued a decision holding that the state Fair Employment Practices Act (FEPA) "does not provide for the individual liability of an employee of a defendant employer". The decision issued in response to a certified question from the District Court in respect to whether a specific provision of the FEPA provided for the naming of individual employees as respondents in employment discrimination cases. The Commission had submitted an amicus brief to the Court arguing that the plain language of the statutory provision allowed for individual liability.

- ***Taylor v. National Investments Ltd. et al.*** (District Court, C.A. No. 1:17-cv-00117-S-PAS)

In this case, the Commission found probable cause to believe that the

respondent owners/managers had subjected the complainant to discriminatory terms and conditions of rental, including rejection of her rent-reduction request after she had been laid off, filing a false police report against her, and initiating an eviction action against her, based on her race and color (black) and in retaliation for having filed a previous charge of discrimination with the Commission. After the Commission was unable to settle the matter, the Commission issued a complaint. Upon receipt of the complaint, the respondent elected to have the matter heard and decided in court. Thereafter, the complainant's private counsel filed suit in District Court and the Commission joined the action, which is pending.

- ***RICHR (Riendeau and Hamby) v. The Housing Authority of the City of Woonsocket*** (Superior Court, C.A. No. PC-2016-4008)

In this housing case, the Commission had found probable cause in the previous fiscal year. The Commission had found probable cause to believe that the two complainants were denied the opportunity to rent an available unit by a local housing authority because of their age (early 20s) and the mental disability of one of the complainants. After the finding of probable cause, the respondent elected to have the matter heard and decided in Superior Court, and the Commission commenced a court action. The matter subsequently settled, with the respondent agreeing to a monetary settlement for the complainants (\$1,000.00).

# FAIR HOUSING OVERVIEW

## HOUSING CASELOAD

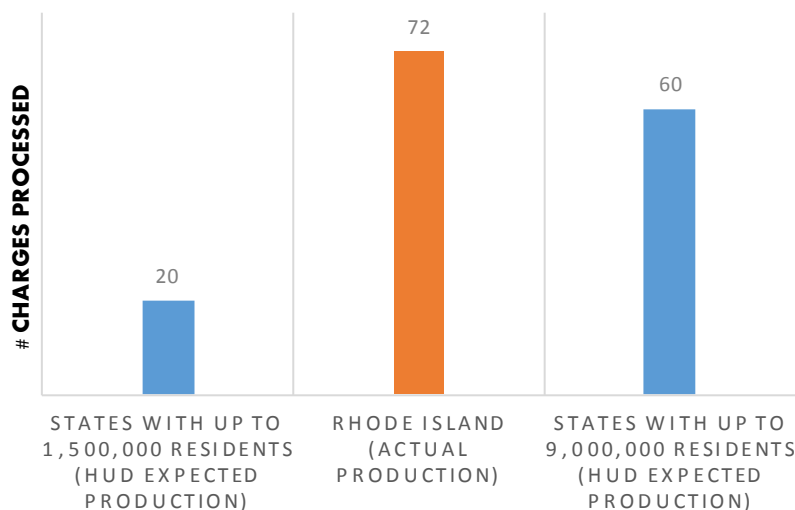
Under guidelines established by the U.S. Department of Housing and Urban Development (HUD), a state having a population of up to 1,500,000 residents should, on average, receive and process up to 20 fair housing charges per year. (The U.S. Census Bureau estimated the population of Rhode Island in 2016 at 1,056,426 residents.) **The Commission received 81 charges and processed 72 charges in FY 2017, which exceeds HUD’s estimated average workload of a state having a population of 9,000,000 residents.**

## INTAKE AND DISPOSITIONS FIVE-YEAR VIEW

FY	INTAKE	PROCESSED
<b>2017</b>	81	72
<b>2016</b>	68	99
<b>2015*</b>	101	94
<b>2014</b>	49	51
<b>2013</b>	51	50

\* The substantial increase in charges for FY 2015 was attributable to the intake of nearly four dozen Commission-initiated charges generated from a testing project conducted pursuant to a HUD Partnership Grant.

## COMMISSION ACTUAL PRODUCTION COMPARED TO HUD EXPECTED WORKLOAD

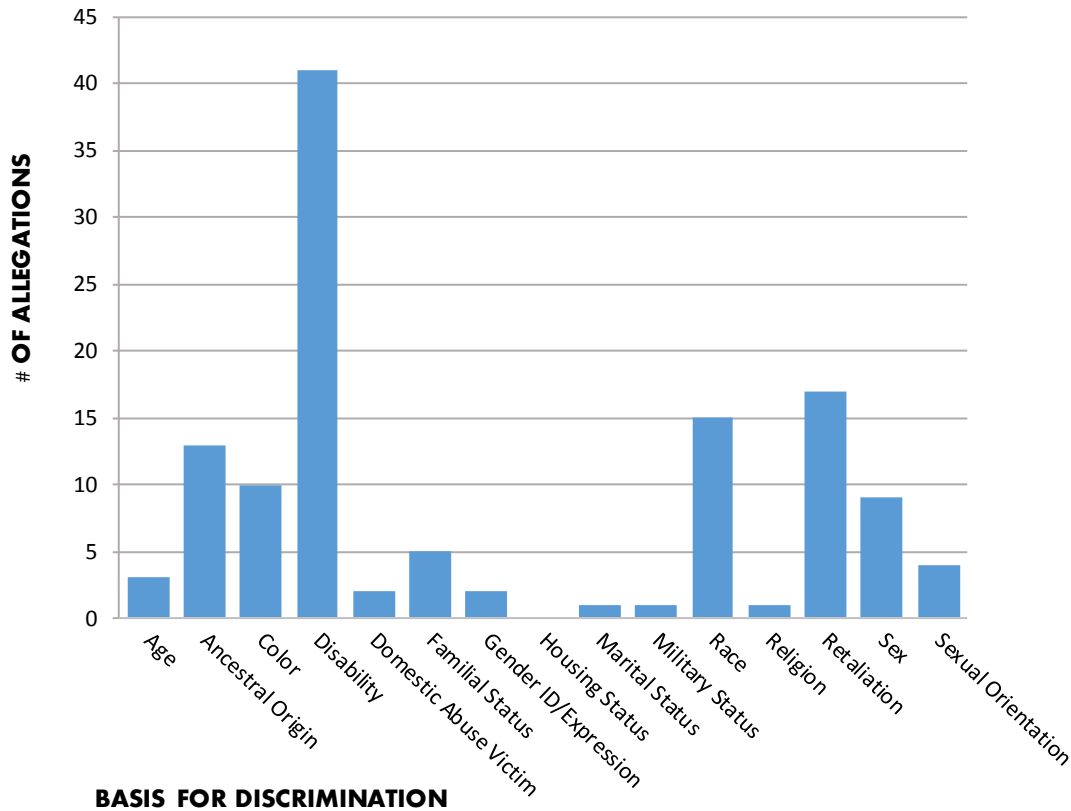


\* 2016 population of Rhode Island: 1,056,426 residents (from U.S. Census Bureau)



## FAIR HOUSING OVERVIEW

### FY 2017 HOUSING INTAKE BY BASIS



### CHARGE DISPOSITIONS

The Commission processed 72 housing charges in FY 2017:

- Nine cases (12.5%) resulted in a finding of **Probable Cause**.
- 27 cases (37.5%) resulted in a **No Probable Cause** finding.
- Two cases (2.8%) resulted in a **split ruling**.
- A **settlement** was achieved in 25 cases (34.7%) during the investigative phase.
- Three cases (4.2%) were **withdrawn** by the complainant.
- Two cases (2.8%) were closed after the complainant requested a **Right to Sue**.
- One case (1.4%) was closed for **lack of jurisdiction**.
- One case (1.4%) was closed based on **failure to locate the complainant**.
- Two case closures (2.8%) were **post-Probable Cause conciliations**.

## FAIR HOUSING OVERVIEW

### POST-PROBABLE CAUSE DISPOSITIONS

Of the 11 cases in which the Commission found **probable cause** or issued a **split ruling** in the fiscal year:

- One case (9.1%) resulted in the **issuance of a complaint** and the subsequent commencement of a **Superior Court action**, after respondent elected to have the matter decided in Superior Court.
- One case (9.1%) was successfully **settled** (see details below).
- The remaining nine cases (81.8%) **remained open** at the end of the fiscal year, pending a settlement, issuance of a complaint followed by an agency administrative hearing or a court trial, or other disposition.

The successfully settled case was one in which the Commission had found probable cause to believe that the two complainants were subjected to discriminatory terms and conditions of rental by the respondent owner and management company because of their sex, sexual orientation and disability. The matter settled shortly after the probable cause finding, with the respondents agreeing to a monetary settlement for the complainants (\$3,000.00), as well as to a donation made in the complainants' name to a local nonprofit organization serving homeless and at-risk veterans in Rhode Island (\$250.00).

A second case in which the Commission had found probable cause in the previous fiscal year, also settled. In that case, the Commission had found probable cause to believe that the two complainants were denied the opportunity to rent an available unit by a local housing

authority because of their age (early 20s) and the mental disability of one of the complainants. After the finding of probable cause, the respondent elected to have the matter heard and decided in Superior Court, and the Commission commenced a court action. The matter subsequently settled, with the respondent agreeing to a monetary settlement for the complainants (\$1,000.00).

### COURT ACTIONS

See discussions of **Cham**, **Thornton**, **Taylor**, and **Riendeau** cases on **pages 16-17**.

### COMMISSION FULFILLS HUD PARTNERSHIP AWARD

In June of 2016, the U.S. Department of Housing and Urban Development (HUD) awarded the Commission a **HUD Partnership Grant** in the amount of \$12,400.00. HUD had solicited grant proposals from Fair Housing Assistance Program agencies (FHAPs) for projects proposing enhanced education and outreach efforts to persons and entities subject to the FHAP's fair housing laws. The Commission proposed the planning and execution of a Cooperative Testing Conference in Rhode Island, with the goal of training individuals to serve as fair housing testers.

The resulting **Fair Housing Testing Seminar**, a collaborative effort with **South Coast Fair Housing**, was held at Roger Williams University School of Law on November 17, 2016. The seminar featured guest presenters from the **Fair Housing Justice Center** of New York, NY.

## LEGISLATIVE UPDATE

**The Commission annually monitors all bills before the General Assembly and identifies those which either affect the agency directly or have an impact in the area of civil rights.**

During the 2017 legislative session, Commission staff members presented oral and/or written testimony on numerous bills.

**Among the bills which the Commission supported were bills seeking to:**

- amend the state Fair Housing Practices Act to prohibit discrimination on the basis of “lawful source of income”
- amend the state Fair Employment Practices Act to prohibit an employer from inquiring into an applicant’s wage and salary history until an offer of employment has been made and compensation has been negotiated
- amend the state Fair Employment Practices Act to clarify its provisions on individual liability include individual respondent employees (refer to discussion of Mancini v. City of Providence, **page 17**)
- prohibit landlords from inquiring about immigration or citizenship status of a tenant, prospective tenant, occupant, or prospective occupant of residential rental property
- expand the equal pay provisions under the jurisdiction of the Department of Labor and Training
- implement several of the recommendations of the state Justice Reinvestment Working Group in respect to: probation and parole supervision systems; compensation of victims of crime; sentencing guidelines; parole, medical parole

and community confinement; creation of a Superior Court Diversion Program; pretrial risk assessments; and suspect mental health referrals by law enforcement officers **(PASSED: NOW LAW)**

- reinstate free RI Public Transit Authority bus fare for elderly and disabled users who meet certain criteria **(PASSED WITHIN BUDGET APPROPRIATION)**
- repeal the state’s voter ID law
- require establishments which sell food or beverages via drive-thru windows to install equipment to assist those with hearing impairments
- require certain movie theatres to provide at least two showings per week with open captioning
- provide that persons with fewer than six misdemeanor convictions, with certain exceptions, may apply to the court for expungement of records ten years after completion of last sentence

**Among the bills which the Commission opposed were bills seeking to:**

- require all state and local government officials to comply with and support the enforcement of federal immigration law **(DEFEATED)**
- require all nongovernmental employers with three or more employees to participate in federal E-Verify Program **(DEFEATED)**

# OUTREACH

**Upon request, the Commission provides free outreach/training to the public. In FY 2017, the Commission's efforts reached over 1,700 employers, housing providers and individuals, educating them about their rights and responsibilities under state and federal law.**

<b>DATE</b>	<b>TOPIC</b>	<b>TYPE</b>	<b>LOCATION/GROUP</b>
<b>July 2016</b>	Fair Housing	Sent materials (brochures, posters)	Communities for People—Enhanced Family Preservation Programs, RI
<b>July 2016</b>	Fair Housing	Sent materials (brochures, posters)	The Center for Sexual Pleasure and Health, Pawtucket
<b>July 2016</b>	Fair Housing	Sent materials (brochures, posters)	Palladian Group, Providence
<b>7/12/16</b>	Public Accommodations— Testing	Presentation	Providence Youth Student Movement (PrYSM), Providence
<b>8/9/16</b>	Public Accommodations— Testing	Presentation	Providence Youth Student Movement (PrYSM), Providence
<b>Aug. 2016</b>	Fair Employment/Fair Housing (general, sexual harassment, domestic violence)	Sent materials (brochures, posters)	Day One RI, Providence
<b>Aug. 2016</b>	Fair Housing (general, sexual harassment, domestic violence)	Sent materials (brochures, posters)	Blackstone Valley Advocacy Center, Central Falls
<b>Aug. 2016</b>	Fair Housing (general, sexual harassment, domestic violence)	Sent materials (brochures, posters)	Garrahy Courthouse, Restraining Order Office, Providence
<b>8/30/16</b>	Public Accommodations— Testing	Presentation	Providence Youth Student Movement (PrYSM), Providence
<b>9/12/16</b>	General Overview	Presentation	Providence Human Relations Commission (Commissioners and staff), Providence
<b>9/22/16</b>	General Overview and Sexual Harassment	Presentation	Rhode Island Community Food Bank, Providence

## OUTREACH

<b>DATE</b>	<b>TOPIC</b>	<b>TYPE</b>	<b>LOCATION/GROUP</b>
<b>9/26/16</b>	General Overview and Sexual Harassment	Presentation <i>(two sessions)</i>	RI Public Transit Authority, Providence
<b>9/28/16</b>	General Overview and Sexual Harassment	Presentation <i>(two sessions)</i>	RI Public Transit Authority, Newport
<b>9/29/16</b>	General Overview and Sexual Harassment	Presentation	RI Public Transit Authority, Providence
<b>Sep. 2016</b>	Fair Housing (general, LGBT, domestic violence)	Sent materials (brochures, posters)	Crossroads RI (for statewide dist.)
<b>Sep. 2016</b>	Fair Housing (general, disability)	Sent materials (brochures, posters)	CODAC Behavioral Healthcare, RI
<b>Sep. 2016</b>	Fair Housing (general, disability)	Sent materials (brochures, posters)	Disability Services Center, Rhode Island College, Providence
<b>10/19/16</b>	Fair Housing	Presentation	Rhode Island Minority Elder Task Force, East Providence
<b>10/24/16</b>	General Overview and Sexual Harassment	Presentation <i>(four sessions)</i>	East Providence Fire Department, East Providence
<b>10/26/16</b>	Fair Housing	Presentation	Commission Office, Providence
<b>10/31/16</b>	General Overview and Sexual Harassment	Presentation <i>(four sessions)</i>	East Providence Fire Department, East Providence
<b>11/4/16</b>	Fair Housing	Handout in conference materials	Cultural Competency Conference (sponsored by RI Minority Elder Task Force)
<b>11/17/16</b>	Fair Housing—Testing	Training seminar	Roger Williams Law School, Bristol
<b>11/21/16</b>	General Overview and Sexual Harassment	Presentation <i>(three sessions)</i>	East Providence Fire Department, East Providence

## OUTREACH

<b>DATE</b>	<b>TOPIC</b>	<b>TYPE</b>	<b>LOCATION/GROUP</b>
<b>12/14/16</b>	General Overview and LGBTQ Protections	Presentation	RI LGBTQ Public Policy Convening, RI Foundation, Providence
<b>1/5/17</b>	General Overview	Presentation	Portsmouth Abbey School, Commission Office, Providence (students and faculty)
<b>1/21/17</b>	General Overview and Information	Table	Women's Rally PVD, State House South Lawn
<b>3/7/17</b>	General Overview and Sexual Harassment	Presentation <i>(two sessions)</i>	Waterrower, Warren
<b>3/7/17</b>	LGBTQ Discrimination	Presentation	RI LGBTQ Policy Convening, Warwick
<b>4/24/17</b>	General Overview	Presentation	Year Up, Providence
<b>4/24/17</b>	Employment and Housing Discrimination	Presentation	Year Up, Providence
<b>4/24/17</b>	General Overview / Hateful Words	Presentation <i>(three sessions)</i>	Coventry Middle School, Coventry
<b>5/3/17</b>	General Overview and Sexual Harassment	Presentation	The Northern RI Collaborative, Lincoln
<b>5/9/17</b>	Employment Discrimination Law—Legal Update	Presentation	RI Bar Association, Labor Law Committee, Cranston
<b>5/23/17</b>	Fair Housing	Presentation	RI Minority Elder Task Force, East Providence
<b>6/9/17</b>	Fair Housing	Presentation	Valley Apartments, Providence
<b>6/17/17</b>	General Overview / Information	Table	RI Pride Festival, Providence

# INTERNS

**Each year, high school, college, graduate students and recent graduates receive first-hand experience in the Commission's primary functions through the agency's 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/graduate school credits, stipends through work-study grants, and/or receive compensation from the state Government Internship Program.

## FALL 2016

Turki Alammari	Johnson & Wales University
Katie Barrios	The Met School
Cassandra Chisholm	Providence College
Deborah Gbaba	Tolman High School
Joshua Herman	Brown University
Monique LeCroy	Community College of Rhode Island
Jascary Martinez	Community College of Rhode Island
Taylor Pearce	Brown University
Bowen Yang	Brown University

## SPRING 2017

Elizabeth Anders	Roger Williams University
Katie Barrios	The Met School
Rachel Caliri	Rhode Island College
Mitchell Carlow	Johnson & Wales University
Allie Doyle	Brown University

## SPRING 2017 (CONT.)

Luna Floyd	Brown University
Deborah Gbaba	Tolman High School
Joshua Herman	Brown University
Eren Ileri	Brown University
Basel Nader	Rhode Island College
Emily Pavao	The Met School
Evelyn Santos	Brown University
Julia Staffiere	Roger Williams University

## SUMMER 2017

Mounia El Arar	Roger Williams University School of Law
Shannon Haibon	Roger Williams University School of Law
Katriina Juntunen	George Mason University
Zayd Kerkache	Cumberland High School
Margaret Mahoney	Denison University
Karen Michel	Roger Williams University School of Law
Meili Novak	Brown University
Evelyn Santos	Brown University
Clare Tyler	School One
Bowen Yang	Brown University

# RECOGNITIONS

**The Commission recognizes the following Commissioners and staff members for milestones achieved in FY 2017.**

## **Cynthia M. Hiatt, Esq.**



In July 2016, Cynthia M. Hiatt retired after 37 years of service as Commission Legal Counsel. Cynthia was hired in February of 1979 and served the Commission through three Executive Director administrations. During her tenure at the Commission, she aided in the passage of, and often authored, legislation adding many protected categories to the laws enforced by the Commission to ensure equal protection for all. These include the addition to one or more of the laws enforced by the Commission of: disability, sexual orientation, housing status, gender identity/expression, military status, unlawful questioning pertaining to those with criminal records, and expanded protections for nursing or pregnant employees.

In addition to her work at the Commission, Cynthia also served in the RI Bar Association House of Delegates, as Chair of the Sex Discrimination Committee of the RI Bar Association, as Treasurer for the Coalition of Women Lawyers, and as an Arbitrator with the Superior Court Arbitration Program.

In June 2017, she was appointed as a Commissioner, filling the term vacated by Camille Vella-Wilkinson.

## **Camille Vella-Wilkinson**



Commissioner Camille Vella-Wilkinson, who served as a Commissioner since June of 1999, was elected to the state House of Representatives in November 2016. Upon being sworn in as a Representative for District 21 (Warwick) in January 2017, she resigned from her position as a Commissioner. In her nearly 18 years as a Commissioner, she was a tireless champion of civil rights in general, and of issues pertaining to disabled veterans in particular.

## **Marissa Janton, Esq.**



In October 2016, Marissa Janton was hired as a Commission Staff Attorney, filling the position vacated by Cynthia M. Hiatt upon her retirement. Marissa, a graduate of the Roger Williams University School of Law, earned her B.A. in Political Science from Roger Williams University. She had served as a Staff Attorney for the Rhode Island Center for Justice and as a Law Clerk to the Honorable Francis X. Flaherty (Supreme Court of Rhode Island). Marissa also served as a Judicial Extern to the Honorable William E. Smith (Federal District Court), and as a Legal Intern for the Honorable O. Rogeriee Thompson (Superior Court).



## RECOGNITIONS

### Steven W. Strycharz



In December 2016, Steven W. Strycharz retired after 18 years of service as an Investigator at the Commission. In addition to his investigative duties, Stephen served as the Commission's Fire/Safety Coordinator. He also served as the President of Local 2884 of Council 94 for several years prior to retirement.

### John C. Bogue, Jr.



In March 2017, John C. Bogue, Jr., was hired as a Commission Investigator, filling the position left vacant upon the retirement of Stephen W. Strycharz. John, a graduate of the University of Rhode Island with a B.A. in Philosophy/Psychology, earned his law degree from the University of Connecticut School of Law. He came to the Commission from Rhode Island Community Living and Supports, where he had served as a Community Living Aide. He also served as a Legal Intern at the Commission in the Summer of 2009.

### Dina Quezada



In October 2016, Dina Quezada, who had served as a Commission Investigator since September of 2011, resigned after accepting a position with the RI Department of Transportation as their Chief Program

Development/Title VI Coordinator. Dina also served as the Commission's Interim HUD Project Director in 2016.

### Yvonne S. Yu



In May 2017, Yvonne S. Yu was hired as a Commission Investigator, filling the position vacated by Dina Quezada upon her resignation. Yvonne, a graduate of Brown University with a B.A. in Anthropology, had served as a temporary Investigator at the Commission since June 2016, and as an Investigative Intern at the Commission in the Summer of 2011. Prior to her hire, she served as an appointed member of the Brown University Sexual Assault Task Force, charged with developing policies for the enforcement of Title IX of the Education Amendments Act of 1972.

### Michael D. Évora, Esq.



In November 2016, Commission Executive Director Michael D. Évora was awarded the RI State Council of Churches' *Sister Ann Keefe Community and Faith Service Award* at the Council's "Heroes of Faith" Breakfast, in recognition of his work in pursuit of the 2015 Comprehensive Community-Police Relationship Act of 2015.





Find current updates on work the Commission is doing, information on our public outreach sessions, and timely news postings of discrimination-related current events on our official Facebook page: the Rhode Island Commission for Human Rights. Follow us to stay informed!



For general information on the Commission, as well as access to intake questionnaires, Rules and Regulations, and Decisions and Orders, visit our website:

**[WWW.RICHR.RI.GOV](http://WWW.RICHR.RI.GOV)**