

# **ANNUAL REPORT**

**2019 FISCAL YEAR**

**JULY 1, 2018 THROUGH JUNE 30, 2019**



## **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**

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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:** John C. Bogue, Jr.

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

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

**Sr. Compliance Officer:** Jason Flanders

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

**Investigator:** Carluis Mercedes

**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 2019 HIGHLIGHTS

## INTAKE

The Commission took in **330 charges of discrimination**, representing a 15% decrease from FY 2018. Of the new charges, 72.7% were in the area of employment, 22.4% in housing and 1.5% in public accommodations. Charges of disability discrimination in delivery of services (unrelated to employment, housing or public accommodations) accounted for 3.3% of intake.

**Claims of disability discrimination predominated**, with **46.7%** of cases taken in (154 cases), containing an allegation of disability discrimination. **Retaliation-based claims** followed in number, with **39.4%** of cases (130 cases), containing an allegation of retaliation for protected activity such as having opposed unlawful practices. **Sex-based claims** (including pregnancy and sexual harassment claims) and **race-based claims** followed at **27.9%** (92 cases) and **21.5%** (71 cases), respectively. An allegation of **color** discrimination was raised in **19.4%** (64 cases) of total cases.

## INVESTIGATIONS/DISPOSITIONS

- **Probable Cause** was found in approximately **11.5%** of total cases processed, representing a slight decrease from FY 2018 (11.9%);
- **No Probable Cause** was found in approximately **32.7%** of total cases processed, representing an increase from FY 2018 (29.5%); a substantial number of these cases resulted from a complainant's failure to pursue their charge;
- Approximately **17.7%** of cases taken in **settled prior to a determination of Probable Cause or No Probable Cause**, representing a decrease from FY 2018 (19.1%).

## 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 2019 was 325 days.

## ADMINISTRATIVE HEARINGS

The Commission issued three Decision and Orders during the fiscal year:

- The Commission found that a complainant failed to prove that he was subjected to discriminatory terms and conditions of employment and termination because of his race and color. The Commission further found that, although the complainant failed to prove that the respondent engaged in unlawful pre-employment inquiries by asking about his conviction status after he had been interviewed, the respondent had engaged in unlawful pre-employment questioning by asking him about arrests during the application process.
- The Commission found that a respondent owner/landlord had subjected a complainant to unlawful retaliation for having filed a previous charge of housing discrimination and for having pursued a charge of discrimination against the respondent's first-floor tenant. The respondent advised the complainant that her rent was doubled and then had the complainant served with an eviction notice.
- Following a previous Decision and Order finding that respondents had subjected a complainant to discriminatory terms and conditions of employment and termination because he was biracial, the Commission held a hearing on damages and subsequently ordered backpay and compensatory damages.

## LEGISLATIVE UPDATE

The Commission presented testimony supporting bills seeking to expand protections in the laws it enforces, as well as bills related to issues such as equal pay, sexual harassment, voter access, police officer training, LGBTQIA veterans' benefits and expungement of criminal records.

## OUTREACH

Commission staff members conducted **49 outreach/education sessions** in the community, reaching **over 1,900 employers, housing providers and individuals** and educating them about their rights and responsibilities pursuant to state and federal antidiscrimination laws.

## 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. All of the laws enforced by the Commission also prohibit retaliation against an individual for protected activity such as having opposed unlawful practices.

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.*)

## AGENCY OVERVIEW

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 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**.

### COMMISSION WORKFORCE PROFILE

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

### 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.

# 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 <u>in certain instances</u>.</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.

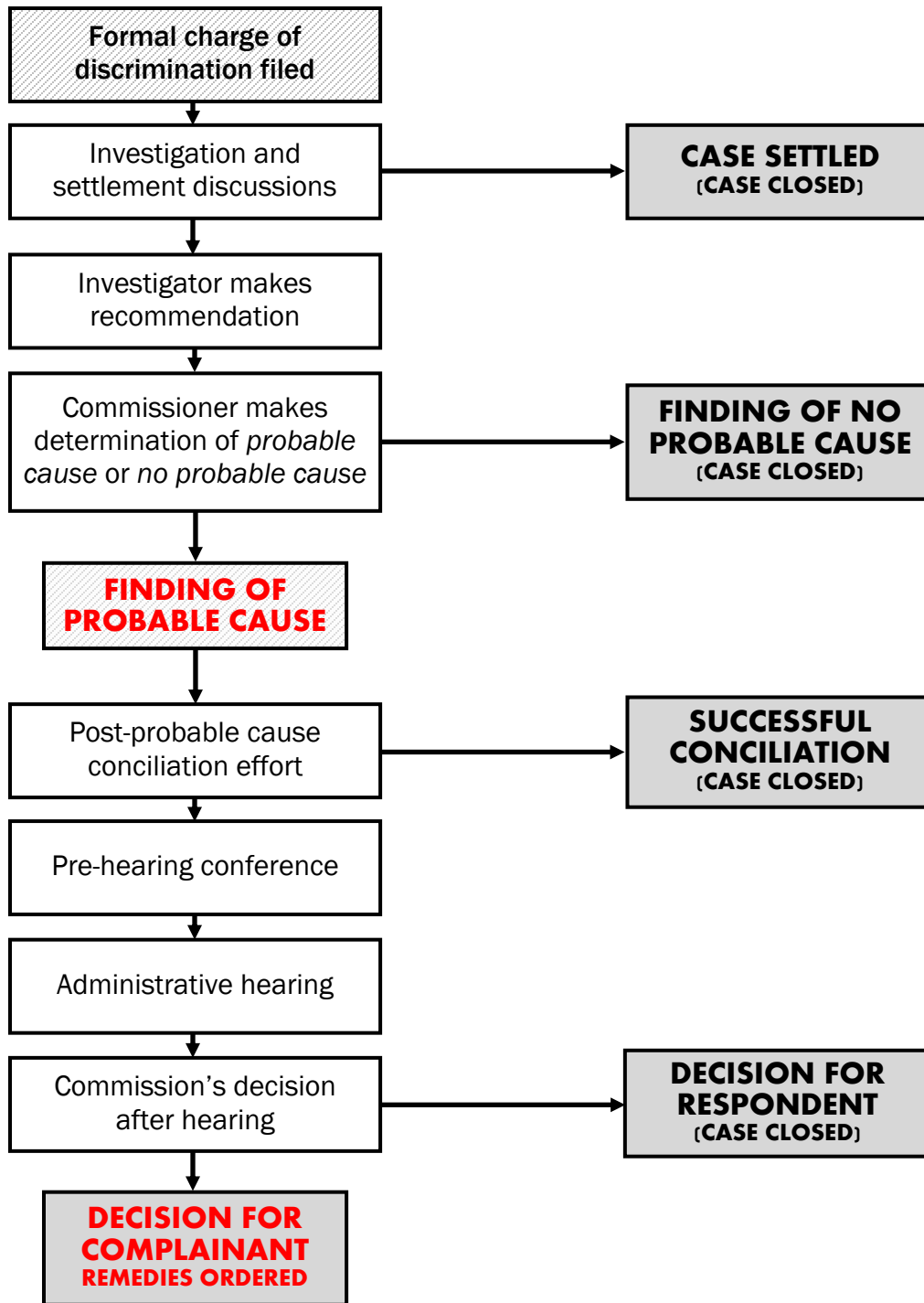
6 “Housing Status” means the status of having or not having a fixed or regular residence, including the status of living on the streets or in a homeless shelter or similar temporary residence.

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 revised contractual obligation by closing 220 co-filed cases.**

## 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 74 charges of alleged housing discrimination, 67 of which were co-filed with HUD, and processed 66 charges, 57 of which were co-filed with HUD.**

### FEDERAL FUNDING FY 2019\*

<b>EEOC</b>	<b>Case Processing</b>	\$176,000
	<b>Training/Transportation</b>	\$1,900
	<b>FEPA Engagement Funds</b>	\$1,000
	<b>TOTAL:</b>	<b>\$178,900</b>
<b>HUD</b>	<b>Case Processing</b>	\$168,800
	<b>Administrative Costs</b>	\$36,273
	<b>Training/Transportation</b>	\$17,600
	<b>TOTAL:</b>	<b>\$222,673</b>
<b>TOTAL (ALL FEDERAL FUNDS):</b>		<b>\$401,573</b>

\* EEOC’s contract year was October 1, 2018 to September 30, 2019. HUD’s contract year was July 1, 2018 to June 30, 2019.

# 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, or to the agency website. Each year the agency receives thousands of 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 **330 cases** in the fiscal year, representing a 15 percent decrease from FY 2018 (388 cases).

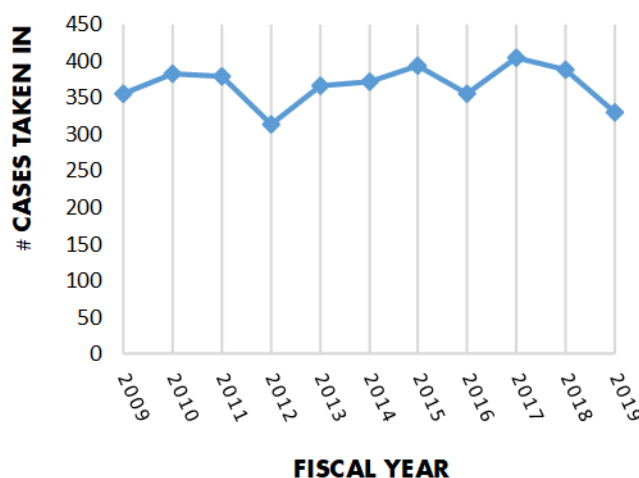
- **Disability claims predominated**, with a total of 154 new cases (46.7% of total cases) containing an allegation of disability discrimination.
- **Retaliation-based claims** followed, with 130 cases (39.4% of total cases) containing an allegation of retaliation for having engaged in protected activity.
- **Sex-based claims** (including pregnancy and sexual harassment claims) were made in 92 cases (27.9% of total cases). Of these, an allegation of **sexual harassment** was made in 42 cases (12.7% of total cases).
- **Race-based claims** were raised in 71 cases (21.5% of total cases).
- **Color-based claims** were raised in 64 cases (19.4% of total cases).

## FY 2019 INTAKE BY AREA

	Number of Cases	Percent of Total
<b>Employment</b>	240	72.7%
<b>Housing</b>	74	22.4%
<b>Public Accommodations</b>	5	1.5%
<b>Delivery of Services*</b>	11	3.3%
<b>Credit</b>	0	0%
<b>TOTALS:</b>	<b>330</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 2019 INTAKE BY BASIS AND AREA<sup>[1]</sup>

	Employ.	Housing	Public Accom.	Indiv. With Disability <sup>[2]</sup>	Credit	TOTALS:
<b>Age</b>	51	3	0	N/A	0	<b>54</b>
<b>Ancestral Origin</b>	30	3	0	N/A	0	<b>33</b>
<b>Color</b>	45	17	2	N/A	0	<b>64</b>
<b>Disability</b>	103	38	2	11	0	<b>154</b>
<b>Familial Status</b>	N/A	8	N/A	N/A	0	<b>8</b>
<b>Gender Identity or Expression</b>	5	0	0	N/A	0	<b>5</b>
<b>Housing Status</b>	N/A	0	N/A	N/A	N/A	<b>0</b>
<b>Marital Status</b>	N/A	0	N/A	N/A	0	<b>0</b>
<b>Military Status</b>	N/A	0	N/A	N/A	0	<b>0</b>
<b>Race</b>	53	16	2	N/A	0	<b>71</b>
<b>Religion</b>	4	2	0	N/A	0	<b>6</b>
<b>Retaliation</b>	118	9	2	1	0	<b>130</b>
<b>Sex<sup>[3]</sup></b>	87	4	1	N/A	0	<b>92</b>
<b><i>Sexual Harassment</i></b>	41	1	0	N/A	0	<b>42</b>
<b>Sexual Orientation</b>	8	0	1	N/A	0	<b>9</b>
<b>Status as Victim of Domestic Abuse</b>	N/A	4	N/A	N/A	N/A	<b>4</b>
<b>Unlawful Questioning</b>	1	N/A	N/A	N/A	N/A	<b>1</b>

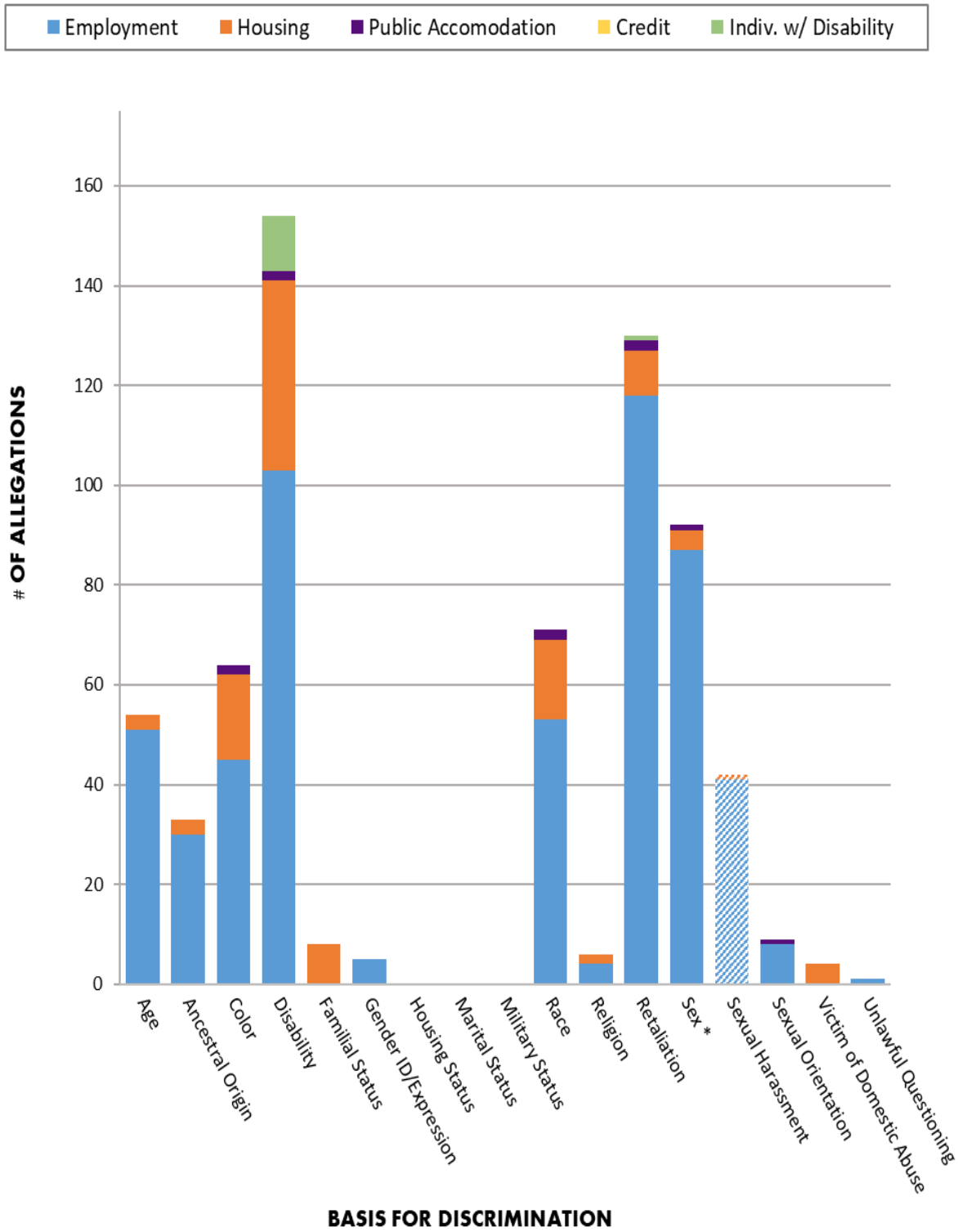
<sup>[1]</sup> Figures reflect the fact that most charges filed allege more than one basis of discrimination. Example: if a given charge alleged discrimination on the bases of age, race and color, it is reflected in the figures for all three categories.

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

<sup>[3]</sup> Includes allegations of pregnancy discrimination and sexual harassment.

# INTAKE

## FY 2019 INTAKE BY BASIS



\* Includes allegations of pregnancy and sexual harassment.

## INVESTIGATIONS/DISPOSITIONS

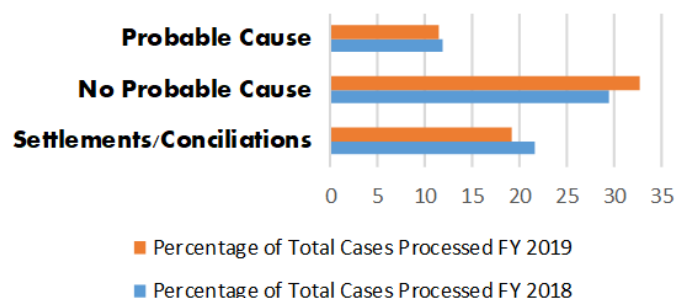
**Upon assignment, an investigator conducts an impartial investigation of the allegations and, after analyzing all elements of the case, makes a recommendation to a Preliminary Investigating Commissioner.**

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 19.2% of case closures in FY 2019 resulted from settlements or conciliations**, representing a decrease from FY 2018 (21.7%).

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 2019, a determination of Probable Cause was rendered in approximately 11.5% of total processed cases**, reflecting a decrease from FY 2018 (11.9%). 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 2019 vs. FY 2018



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 72 cases (17.7% of total cases processed) prior to a determination as to whether Probable Cause existed.**

**A No Probable Cause determination was rendered in approximately 32.7% of total processed cases**, reflecting an increase from FY 2018 (29.5%). A significant number of these No Cause findings resulted from a complainant's failure to pursue their charge by failing to respond to requests for information.

**For the twenty-first consecutive year, the Commission processed more cases than it took in (407 vs. 330), 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.

## INVESTIGATIONS/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 2019

TYPE OF DISPOSITION	# OF CASES
<b>Probable Cause</b>	47
<b>No Probable Cause</b>	133
<b>Conciliation*</b>	6
<b>Negotiated Settlement</b>	17
<b>Withdrawal with Settlement</b>	55
<b>Right to Sue</b>	134
<b>Decision and Order</b>	2
<b>Administrative Closure</b>	13
<b>TOTAL:</b>	<b>407</b>

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

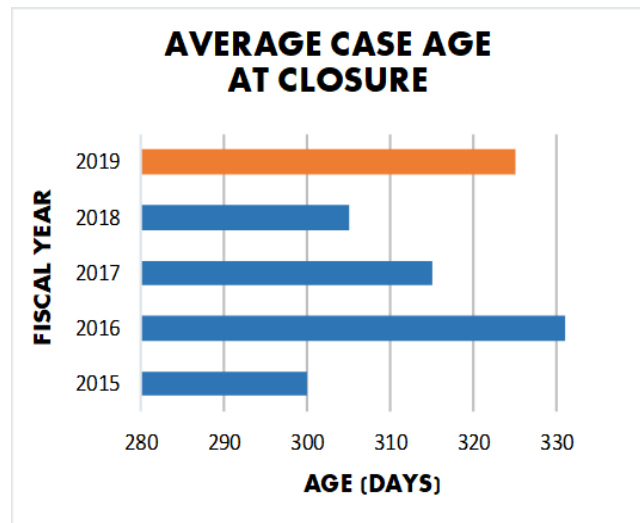
### STATUS OF FY 2019 PROBABLE CAUSE CASES

<b>Probable Cause Rulings (includes mixed rulings)</b>	47
<b>Respondent's Election to Superior Court for Trial</b>	19
<b>Complainant's Election</b>	5
<b>Joint Election</b>	4
<b>Conciliation</b>	2
<b>Open as of 6/30/19 [pending right to sue, administrative hearing, conciliation or other action]</b>	17

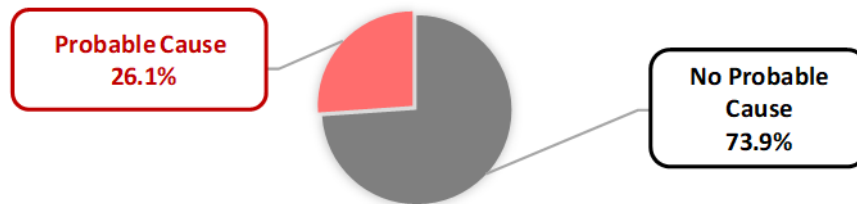
# CASELOAD STATISTICS

## CASE PROCESSING TIME

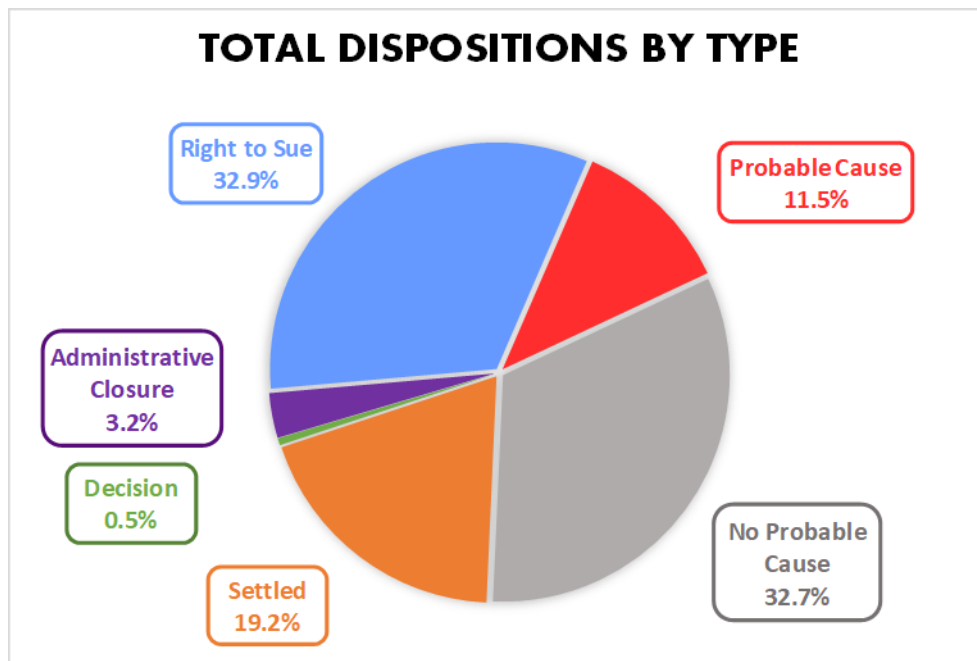
In recent years, the Commission has labored to ensure more expeditious processing of cases. The “hands on” approach in caseload management taken by Director Évora, concerted staff efforts and the use of the Commission’s subpoena power to expedite stalled investigations are among the tools used to achieve 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 2019, the average age of a case at closure was 325 days.**



## INVESTIGATIVE RULINGS 2019



## TOTAL DISPOSITIONS BY TYPE





## ADMINISTRATIVE HEARINGS

**After a Probable Cause ruling, a Commissioner may conduct 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 hold hearings.

In FY 2019, the Commission issued the following Decision and Orders:

- **Aries Crudup v. YF Rhode Island, LLC d/b/a You Fit Health Clubs** (April 1, 2019)

The complainant, a former employee of the respondent, alleged that the respondent discriminated against him with respect to unlawful pre-employment inquiries, and with respect to terms and conditions of employment and termination because of his race and color. Specifically, the complainant alleged that he was asked unlawful questions about convictions and arrests during the application process, and that, once hired as a Fitness Director, he was subjected to a hostile environment and ultimately terminated because he is Black/African American.

The Commission found that the complainant, who represented himself at the administrative hearing, failed to prove by a preponderance of the evidence that he was subjected to a hostile work environment or that his race/color played a role in his termination. While the complainant alleged that two white coworkers were "rude" to him and "targeted" him, he failed to provide specificity in respect to these claims and failed to prove that his race/color were factors in the alleged treatment. Moreover, while the respondent had various anti-harassment policies and reporting provisions in place, the com-

## ADMINISTRATIVE HEARINGS

plainant never complained to the respondent about his treatment by others.

The Commission further found that the respondent had legitimate, nondiscriminatory reasons for terminating the complainant. While it was undisputed that the complainant's job performance was satisfactory, the evidence established that complainant was terminated by the same individual who had hired him, that he was terminated for being dishonest on his job application about the nature and sum of his felony convictions, and that the felony convictions, which included possession of a firearm and larceny from a person, led respondent to be concerned about the threat the complainant posed to the company's assets, customers and financial information to which he had access. In addition, the evidence established that respondent had terminated white employees under similar circumstances.

With respect to the complainant's allegations of unlawful pre-employment inquiries, the Commission found that the respondent had not violated the Fair Employment Practice Act (FEPA) by asking the complainant, via its Candidate Profile questionnaire, if he had ever been convicted of a felony. The Commission concluded that the question was permissible/lawful because it was asked after the complainant had been interviewed twice by the respondent. However, the Commission found that the respondent had violated the FEPA by inquiring about the complainant's arrest record on the Candidate Profile.

While the FEPA allows an employer to inquire about *convictions* after an initial interview, it prohibits questions about *arrests* at any time during the application process.

Based on the finding of a FEPA violation in respect to pre-employment inquiries about arrests, the Commission ordered that the respondent revise its Background Check Authorization to eliminate questions related to arrests, post the Commission's antidiscrimination poster at the facility in question, and pay the complainant \$2000 plus interest in compensatory damages.

• **Denise Christian v. Antonette Moran**  
(June 28, 2019)

The complainant alleged that the respondent landlord/owner discriminated against her in respect to terms and conditions of rental in retaliation for the complainant having filed a previous charge of housing discrimination against the respondent, and for the complainant having pursued a discrimination charge against another respondent tenant. Specifically, the complainant alleged that respondent informed the complainant that she and her minor child had to vacate their second-floor unit after the complainant prepared for and participated in a predetermination conference at the Commission in respect to a discrimination charge (initial charge) against the respondent's first-floor tenant.

The complainant had filed the initial charge against both the respondent and

## ADMINISTRATIVE HEARINGS

THE

the first-floor tenant, alleging that they had discriminated against her on the basis of familial status. That charge alleged that the first-floor tenant had made unwarranted complaints in respect to the complainant's minor child and that, in response, the respondent offered the complainant the return of her security deposit to move out of the unit. The complainant withdrew the initial charge in respect to the respondent after a mutual agreement as to the complainant's tenancy was reached. However, the complainant continued to pursue the charge against the first-floor tenant.

The Commission found that the respondent had retaliated against the complainant in violation of the Fair Housing Practices Act. The evidence established that the complainant went to the Bristol Police Department to obtain copies of reports she had filed against the first-floor tenant in preparation for a predetermination conference to be held at the Commission in respect to the initial charge. Two days after that conference, the respondent verbally informed the complainant that she and her child had to vacate their unit; the respondent told the complainant that the complainant was jeopardizing the respondent's son's job as a Bristol police officer by going to the station to obtain the copies. Subsequently, the respondent placed an advertisement for the complainant's unit in a local newspaper. The following month, the respondent told the complainant that her monthly rent would increase from \$700 to \$1400 beginning the next month.

At the beginning of that next month, the complainant placed several calls to the respondent attempting to clarify the amount of rent and asking the respondent to pick up the rent payment, which the respondent had previously done. The respondent did not respond to the calls. The following month, the complainant was served with an eviction notice.

The Commission ordered that the respondent cease and desist from all unlawful housing practices and that the respondent undergo fair housing training. The Commission further ordered that the respondent pay a civil penalty in the amount of \$500 to the State of Rhode Island and pay the complainant \$5,000 plus interest in compensatory damages.

• **Aaron M. Washington v. The Maxx Fitness Clubzz and Matthew D'Amico, alias** (October 29, 2018)

This Decision on Damages issued after the Commission had issued a Decision and Order finding that the respondents had discriminated against the complainant with respect to terms and conditions of employment and termination because of his race and color (biracial). After a subsequent hearing on damages, the Commission ordered that the respondent pay the complainant \$12,000 plus interest in backpay, and pay the complainant \$12,000 plus interest in compensatory damages.

## **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.**

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### **HIGHLIGHTS FROM FY 2019:**

***TO BE PROVIDED IN AGENCY'S FY  
2020 ANNUAL REPORT***

# FAIR HOUSING OVERVIEW

## HOUSING CASELOAD

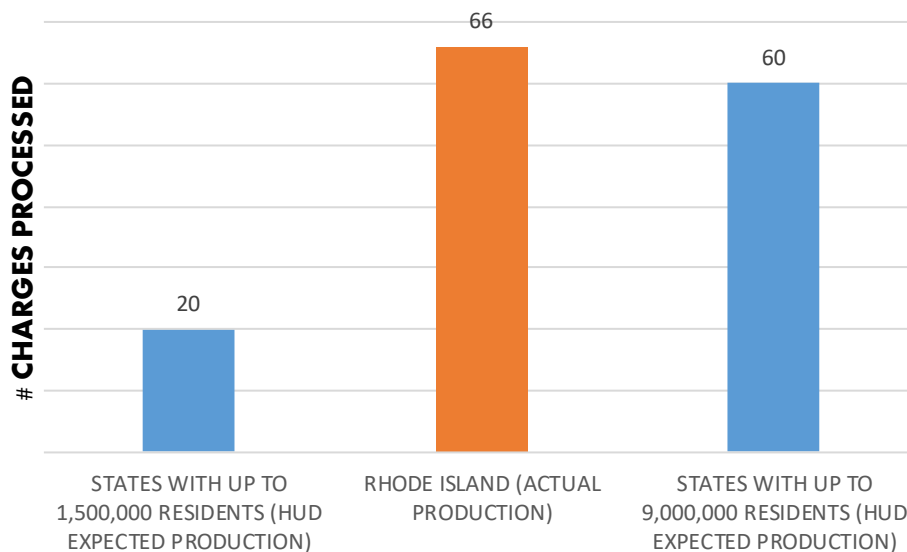
Under guidelines established by the U.S. Department of Housing and Urban Development (HUD), a state having a population of up to 1,500,000 residents should, on average, receive and process up to 20 fair housing charges per year. (The U.S. Census Bureau estimated the population of Rhode Island in 2019 at 1,059,361 residents.) **The Commission received 74 charges and processed 66 charges in FY 2019, 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
2019	74	66
2018	52	71
2017	81	72
2016	68	99
2015*	101	94

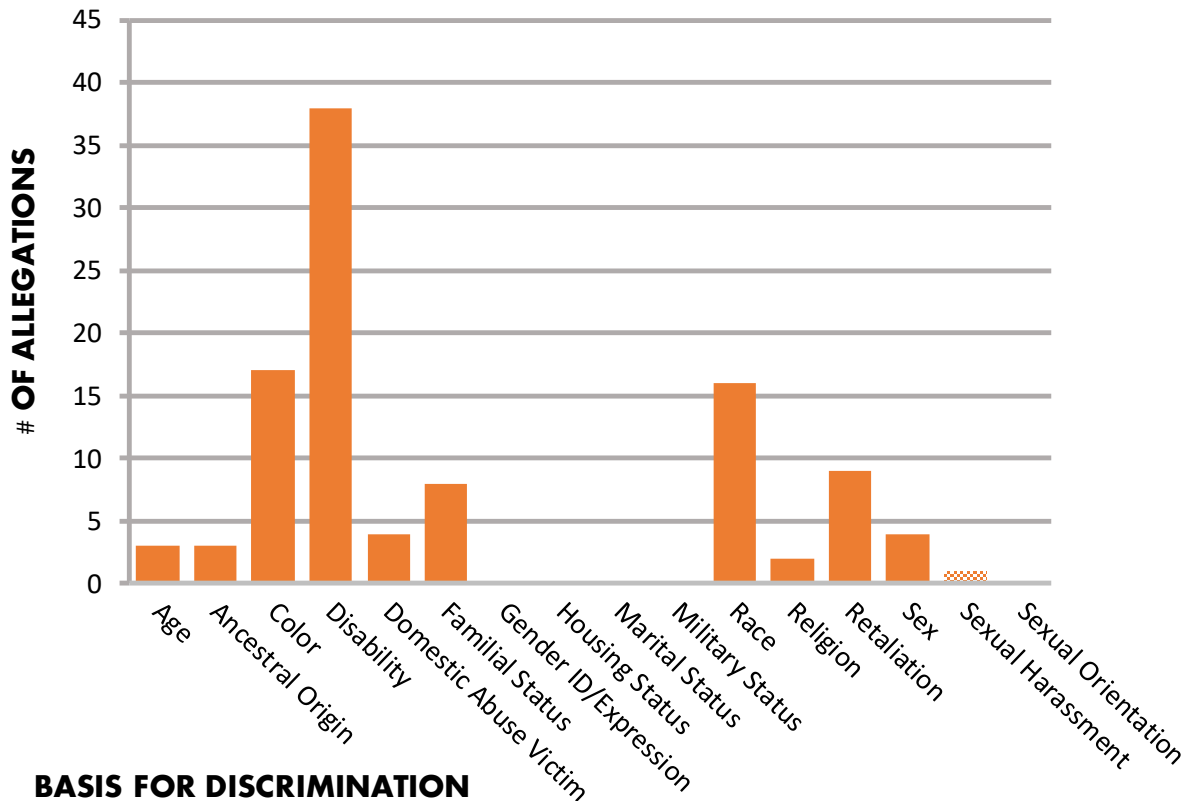
\* The substantial increase in charges for FY 2015 was attributable to the intake of nearly four dozen Commission-initiated charges generated from a testing project conducted pursuant to a HUD Partnership Grant.

## COMMISSION ACTUAL PRODUCTION COMPARED TO HUD EXPECTED WORKLOAD



## FAIR HOUSING OVERVIEW

### FY 2019 HOUSING INTAKE BY BASIS



### CHARGE DISPOSITIONS

The Commission processed 66 housing charges in FY 2019:

- **Seven** cases (10.6%) resulted in a finding of **Probable Cause**.
- **30** cases (45.5%) resulted in a **No Probable Cause** finding.
- **One** case (1.5%) resulted in a **split ruling**.
- A **settlement** was achieved in **20** cases (30.3%) during the investigative phase.
- **One** case (1.5%) was **withdrawn** by the complainant.
- **One** case (1.5%) was closed after the complainant requested a **Right to Sue**.
- **Two** case closures (3.0%) were **post-Probable Cause conciliations**.
- **Three** cases (4.5%) closed upon the **filing of suit in Superior Court after a finding of Probable Cause** in a prior fiscal year.
- **One** case (1.5%) resulted from a **Decision & Order** after hearing.

## LEGISLATIVE UPDATE

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

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During the 2019 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 (FEPA) to prohibit agreements requiring that alleged civil rights violations remain confidential and to prohibit non-disparagement agreements concerning alleged civil rights violations or alleged unlawful conduct as a condition of employment.
- amend the state FEPA to clarify that its provisions on individual liability include individual respondent employees
- prohibit landlords from inquiring about the immigration or citizenship status of a tenant or prospective tenant of residential rental property
- expand the equal pay provisions under the jurisdiction of the Department of Labor and Training
- amend a state disability rights law to prohibit misrepresenting that an animal is a service animal and to expand liability for harm to service animals **(PASSED; NOW LAW)**
- repeal the state’s voter ID law and create a process for in-person early voting
- amend existing law to mandate, rather than “encourage”, employers of 50 or more to provide training on sexual harassment to all employees
- require movie theatres of a certain size to provide at least two showings per week with open captioning
- entitle veterans who received a less than honorable discharge based solely on their sexual orientation to municipal and state veterans’ benefits to which they otherwise would have been entitled had the discharge been honorable **(PASSED; NOW LAW)**
- amend various state laws to provide greater opportunities for expungement of criminal records
- prohibit the state from denying a license, permit, certificate or registration to practice a profession because of a criminal conviction (with certain exceptions)
- amend the FEPA to include volunteers, unpaid interns and those in domestic service as “employees”
- require police commission on standards to publish training standards for police officers in handling incidents involving persons with developmental disabilities
- repeal “payday lender” provisions in state law
- broaden antidiscrimination protections for medical marijuana users

## OUTREACH

**Upon request, the Commission provides free outreach training to the public. In FY19 the Commission's efforts reached over 1,900 employers, housing providers and individuals, educating them about their rights and responsibilities under state and federal law.**

DATE	TOPIC	GROUP/LOCATION
7/25/18	General Overview & Disability Discrimination	Ocean State Independent Living, Pawtucket
7/26/18	General Overview & Disability Discrimination	Ocean State Independent Living, Warwick
8/7/18	General Overview & FY18 Intake Trends	State Advisory Committee to U.S. Civil Rights Commission, providence
8/22/18	General Overview & Sexual Harassment	Electric Boat, Quonset
8/24/18	FAQs & Fair Housing (Brochure Distribution)	ASL Academy, Pawtucket
8/25/18	Information Table	Mayor's "Seniors Day in the City", RI Convention Center, Providence
9/18/18	General Overview & Sexual Harassment	Warren Town Hall staff, Warren
9/21/18	General Overview	Ocean State Independent Living, Pawtucket
9/24/18	General Overview	East Providence Affirmative Action Committee, East Providence
10/22/18	General Overview	East Providence Affirmative Action Committee, East Providence
11/7/18	Information Table	RICDHH "Employment & Economic Opportunities for the Deaf and Hard of Hearing" event, Providence State House
11/15/18	General Overview	NAACP—Providence Branch, Providence
11/30/18	Fair Housing	RI Minority Elder Task Force, East Providence



## OUTREACH

DATE	TOPIC	GROUP/LOCATION
12/4/18	RICHR Contact Information & Description (Newspaper Publication)	<i>Woonsocket Call</i>
12/5/18	General Information Sharing/ LGBTQ Discrimination	RI LGBTQ Policy Convening Group, Warwick
12/7/18	General Overview & Employment Discrimination	YearUp Providence, Providence
12/11/18	Fair Housing	Blackstone Valley Prep MS1, Central Falls
12/17/18	General Overview	East Providence Affirmative Action Committee, East Providence
1/7/19	General—Sexual Harassment (Op-Ed Publication)	<i>Providence Journal</i>
1/16/19	General Overview & Sexual Harassment	RI Senate, Providence
1/23/19	General Overview	East Providence MLK Celebration, East Providence City Hall, East Providence
1/28/19 (two sessions)	General Overview	The Met School, Providence
1/31/19	Fair Housing—Service Animals & Medical Marijuana	RI Bar Association, Cranston (CLE)
2/6/19	Fair Housing	Winter Task Force Meeting, RI Coalition for the Homeless, Pawtucket
2/13/19	Fair Housing	Fogarty Manor/Pawtucket Housing Authority, Pawtucket
3/4/19	Age Discrimination (including RICHR Contact Information)	RI Minority Elder Task Force, East Providence
3/8/19	General Overview (Met School Student Intern Presentation)	RICHR Conference Room, Providence

## OUTREACH

DATE	TOPIC	GROUP/LOCATION
3/15/19	General Overview & Employment Discrimination	YearUp Providence, Providence
3/19/19	General Overview—Sexual Harassment in Employment & Housing	RI Bar Association, Cranston (CLE)
3/28/19	Fair Housing	RI Minority Elder Task Force, East Providence
4/9/19	General Overview & Sexual Harassment	Milk Money, Providence
4/9/19	Fair Housing (Brochure Distribution)	Center for Southeast Asians, Providence
4/19/19	Fair Housing	Valley Apartments, Providence
4/19/19	General Overview & Sexual Harassment	netWORKri, Providence
4/25/19	General Overview & Sexual Harassment	netWORKri, Providence
4/26/19	General Publicity	Benefit Reception, Center for Southeast Asians, Providence
5/3/18	General Overview & Sexual Harassment	Coalition Building Academy, Providence
5/6/19	General Overview—History of Fair Housing Practices Act (Brown University Student Intern Thesis Presentation)	Brown University, Providence
5/10/19	General Overview & Sexual Harassment	Coalition Building Academy, Providence
5/14/19	General Overview & Sexual Harassment	Hot Club, Providence
5/16/19	Information Table	RI Commission for the Deaf and Hard of Hearing “Hearing Loss Expo”, Providence

## OUTREACH

DATE	TOPIC	GROUP/LOCATION
5/23/19	General Overview & Sexual Harassment	Charlestown Parks & Recreation Department, Charleston
5/28/19	Public Accommodations—Service Animals	Luk Thai Restaurant, Wakefield
5/30/19	General Overview (The Met Senior Speech)	The Met School, Providence
6/11/19	General Overview	Hate Crimes Briefing, RI Advisory Committee to U.S. Commission on Civil Rights, Providence
6/13/19	General Overview & Sexual Harassment	netWORKri, Providence
6/14/19	General Overview & Sexual Harassment	netWORKri, Providence
6/15/19	Information Table	RI PrideFest, Providence

# INTERNS

**Each year, high school, undergraduate and graduate students, as well as 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 2018

Courtney Buffi	University of Rhode Island
Molly Helmes	Providence College
Aisha Johnson-Merritt	Johnson & Wales University
Christopher Morillo	Brown University
Emily Pavao	The Met School
Bradley Schionning	University of Rhode Island
Alexis Viera	Brown University
Christopher Wong	Brown University

## SPRING 2019

Courtney Buffi	University of Rhode Island
Rossvierlin Cajigas	University of Rhode Island
Tiffany Freire	Johnson & Wales University
Sarah Joffe	Brown University
Nicolle Kenyon	Rhode Island College

## SPRING 2019 (cont'd)

Kayla LaRosa	Roger Williams University
Vanessa MacMillan	Bryant University
Cynthia Ng	Brown University
Emily Pavao	The Met School
Vicki Williams	Johnson & Wales University

## SUMMER 2019

Nate DerHagopin	Suffolk University
Mariel Garcia	Roger Williams Univ. School of Law
Tanner Jackson	Roger Williams Univ. School of Law
Cory Lee	Roger Williams Univ. School of Law
Allison Mastrangelo	Penn State University
Nicholas Moore	The Masters School
Zarya Shepherd	University of Rhode Island
Jennifer Sullivan	University of Rhode Island
Kali Theroux	Roger Williams University

## RECOGNITIONS

The Commission recognizes the following Commissioners and staff members.

### Carluis Mercedes



On December 26, 2018, Carluis Mercedes joined the Commission staff as an Investigator. Carluis pursued General Studies at the Community College of Rhode Island. Prior to starting at the Commission, he worked for the State of Rhode Island/Rhode Island School for the Deaf as an Audiology Test Technician. In that position, he was responsible for conducting hearing screenings for school-age children and for providing a basic understanding of the screening procedures and results to school nurses and teachers. He also served as a translator for Spanish-speaking students and parents/guardians.

### Jean Stover



In February 2019, former Commissioner Jean Stover passed away at the age of 97. Commissioner Stover served as a Commissioner from 1972 to 1987, and again from 2000 to 2007.

Commissioner Stover, a graduate of Bryant College, was a member of the League of Women Voters of Providence and Barrington and served as President from 1965 to 1969.

She had worked as a paralegal and tutored ESL students. She presided over administrative hearings related to alleged sex discrimination in universities and the early cases that defined the scope of disability discrimination protections. In 2004, she, along with other commissioners, issued a decision that affirmed the state Fair Employment Practices Act's strong protections against sexual harassment.

Known for her common sense and plain speaking, and fearlessness in the pursuit of justice, Commissioner Stover was revered by many and will be missed.

### Alberto Aponte Cardona



On March 18, 2019, Commissioner Cardona resigned from his position as Commissioner to engage in other public service on the state Labor Relations Board. He was appointed as a Commissioner in 2005.

Commissioner Cardona, a *magna cum laude* graduate of Johnson & Wales University with a Bachelor of Science degree in Criminal Justice and Housing Resources, earned his law degree from the Roger Williams University School of Law in 2004. He practices law at the A.C. Law Group, LLC.

He was the Even Start Coordinator for the Central School District; in that

## RECOGNITIONS

position, he supported family literacy and outreach programs, and coordinated community action projects. Previously having worked for Progreso Latino, Inc. as a Project Director, he serves/has served on the: Board of Directors of Prevent Child Abuse RI, the Board of Governors of Schools and Community Organized to Promote Excellence, among others. A former Judge for the Central Falls Housing Court, he is the President of the Rhode Island Hispanic Bar Association.

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)**