2011 ANNUAL REPORT OF THE FAIRFAX COUNTY OFFICE OF HUMAN RIGHTS AND EQUITY PROGRAMS

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2010 ANNUAL REPORT OF THE
FAIRFAX COUNTY HUMAN RIGHTS COMMISSION

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STATEMENT OF PURPOSE

In July 1974, the Fairfax County Board of Supervisors adopted the Human Rights Ordinance, establishing the Human Rights Commission "to institute an affirmative human rights program of positive efforts to eliminate discrimination and provide citizen recourse for discriminatory acts." The Ordinance was amended by the Board of Supervisors on November 16, of 2010.

Although Human Rights and Equity Programs merged in 2008, the responsibilities of the two divisions are distinctly different. The Human Rights Division (HRD) enforces the Fairfax County Human Rights Ordinance. HRD receives and investigates each complaint filed by a person who believes that he/she has been discriminated against in Fairfax County by a private business or organization in violation of the County's Human Rights Ordinance. HRD also administers the County's Fair Housing Plan. The Equity Programs Division (EPD) manages the County's Equal Employment Enforcement (EEO) program. EPD also ensures the County's compliance with all federal, state, and county mandates granting equal access to all County services, programs, and employment opportunities.

EXECUTIVE SUMMARY

Workload and Staffing

The Office of Human Rights and Equity Programs (OHREP) currently has twenty-two staff positions, five of which are fully funded by federal monies generated by complaint resolutions and HRD's work-sharing agreements with both the Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Housing and Urban Development (HUD).

Career Development

OHREP has made significant strides in both its Outreach and Career Development efforts. During the FY 2011, all 21 members of OHREP attended required personal career development training within its budget. Career development is critical to the operation of OHREP in order to continue to provide quality services to our customers. Staff attended substantive trainings in the following areas: EEOC training on Case Management Best Practices (designed to assist staff in managing their cases more effectively) and the new provisions of the Americans with Disabilities Act (ADA), which was particularly helpful. (When conducting fair housing training sessions and participating in panel and other discussions, staff members are often asked to describe the differences between the ADA and fair housing law.) Additionally, staff continued to participate in individual self-development trainings

The division director and a fair housing staff member attended the 6th Mortgage Lending Industry Strategic Markets and Diversity Conference in Arlington, Virginia. A number of fair lending and related issues were addressed at the conference relating to policies that impact affordable housing, access to fair housing/fair lending and related programs, and the implications for access to housing for minority populations.

The director and a member of the fair housing staff attended the Tyson's Workforce Housing Summit. A panel of national experts and housing developers engaged in a discussion of the impact of metro service currently under construction. Developers plan to build a large number of housing units to accommodate the expected increase in job opportunities. The dialogue included reference to affordable housing issues and how the agency will be following these and other housing-related developments closely, particularly with regard to fair housing compliance issues.

Staff, as well as the county attorney for fair housing and the Chair of the Commission attended the 2010 HUD Policy Conference. The five-day conference featured fair housing presentations and training workshops by fair housing policy experts, attorneys, academicians, housing advocates, government officials, and community leaders focused on providing equal housing opportunities.

Human Rights Division-Housing Discrimination

In October 2003, the Board of Supervisors passed amendments to the County's Human Rights Ordinance designed to bring the Ordinance into substantial equivalency with the Virginia Fair Housing Act and the Federal Fair Housing Act. In March 2006, the U.S. Department of Housing and Urban Development (HUD) deemed the County Ordinance to be substantially equivalent to the Federal Fair Housing Act enforced by HUD and OHREP became a Fair Housing Assistance Program (FHAP) agency. As a FHAP agency, OHREP receives reimbursement for housing complaints it investigates that are dual-filed by HUD under the Fair Housing Act. HUD also provides additional funds for administrative costs, special enforcement efforts, training, and other projects designed to enhance the agency's administrative and enforcement of the County's fair housing law. To be eligible for assistance through the FHAP, OHREP must demonstrate each year that the fair housing law it enforces remains substantially equivalent to the Federal Fair Housing Act and participate in a bi-annual audit by HUD officials.

The Human Rights Division is also charged with engaging in actions that affirmatively further Fair Housing. As part of that aspect, the agency completed and released the results of a series of telephone tests based on disability and familial status. In addition, the agency initiated the process for determining the scope and type of tests to conduct in its next fair housing testing cycle; the tests will be conducted during FY 2012.

The staff gave a number of fair housing presentations about fair housing laws and related issues, the role of the agency in fair housing enforcement, and the educational services and outreach activities it provides. Audience participants included members of the public, professionals operating in real estate and related markets, representatives from the private and non-profit sectors working in the housing field, and employees at county and other government agencies who provide housing and related services. Agency staff also distributed fair housing brochures and related materials to participants.

Additional activities during the past year have included, but were not limited to, training employees of the rental housing industry; conducting a fair housing presentation for senior management and employees involved in property management; conducting a fair housing presentation; answering questions and distributing materials on the disability and reasonable accommodations aspects of fair housing laws for members of the Disability Awareness Action Network (DAAN); conducting a fair housing training session organized by Good Shepherd Housing as part of its Emergency and Permanent Housing Training Course (a series of courses designed to train staff with various public and private non-profit human services agencies to provide effective housing counseling. The agency held a fair housing month forum and training session, and collaborated with the Northern Virginia Association of Realtors (NVAR) to promote the event to its membership.

The communications and media relations director for the Northern Virginia Association of Realtors (NVAR) interviewed the agency's director and senior staff for an article on Fair Housing titled "Opportunity Knocks On All Doors: Zero tolerance Toward Unfair Housing Practices is the Rule." The article was published in the July/August 2010 issue of NVAR's Update Magazine. An agency staff member also contributed a side piece to the article on fair housing testing, "Are You Up To The Test? Fair Housing Advocates Dispatch Advocates To Find Out." NVAR is a professional trade association serving more than 12,000 real estate professionals in Northern Virginia. The magazine is published on-line nine times a year and is available to all of the Association's membership.

Staff members attended a Dialogue on Race and Culture. The event was hosted by the Northern Virginia Urban League and AARP. The program included a discussion of disparities impacting the African American and Latino/Hispanic communities. Approximately 60 people attended the event.

The director and a fair housing staff member attended a reception to celebrate the opening of the new offices of the Northern Virginia Association of Realtors (NVAR). The Chairman and several members of the Fairfax County Board of Supervisors, and other County officials also attended. The event provided an opportunity to speak informally with several officials at NVAR about education and outreach initiatives, and related projects.

As part of its fair housing month activities, the agency erected a Fair Housing Display, and distributed literature in the lobby of the Fairfax County Government Center. Approximately 650 display items, including fair housing brochures available in seven different languages, copies of the agency's familial status and disability testing report, and other resources and promotional materials were distributed to county employees, clients, members of the public, and other visitors.

Throughout the year, the Fairfax County Government Cable TV station (Channel 16), broadcast several public service announcements, interviews, and other programs, which were written and produced in conjunction with the agency and were designed to educate the public, housing providers, housing seekers, real-estate professionals, housing counselors and others about fair housing laws and related issues. These broadcasts included:

- PSA: Fair Housing. The program includes information about the protected classes covered under Fairfax County fair housing law, describes fair housing protections accorded all citizens, and gives examples.

- PSA: Human Rights Commission. A public service announcement about the role and resources available through the agency, including information about fair housing laws, and the complaint and enforcement processes, education and outreach, and other services and resources offered.

- An interview titled "Fair Housing for Seniors with Disabilities" featuring a member of the Human Rights Commission, the director of the agency's Human Rights Division and a fair housing specialist.

- Know Your Rights *"Vea Conozca Sus Derechos."* An interview conducted entirely in Spanish with one of the agency's fair housing investigators. The HUD regional director for the agency also participated in the interview.

- "No Place Like Home: The Foreclosure Crisis and Predatory Loans."

The efforts to establish outreach relationships and opportunities with the religious community, agency staff attended the bi-monthly meeting of Community Interfaith that links the Fairfax County faith-based community to county projects. Community Interfaith dialogues offer people of diverse ethnic, cultural and faith backgrounds an opportunity to share their experiences and viewpoints and to obtain information about training programs, forums, conferences, and collaborative partnerships with community-based organizations and local government. Approximately 45 members attended the meeting.

During the Human Rights Commission's 33rd annual Human Rights Awards Ceremony John Horejsi, a key founding force behind the Social Action Linking Together Organization (SALT), which assists those with housing challenges, was among the awardees. Kenneth R. Fredgren, a member of the Reston Citizens Association who heads the Reston Accessibility Committee (RAC), was also honored. RAC partners with local owners and property managers to improve access for persons with mobility impairments. The guest speaker was Paula Young Shelton, Author/Teacher, and daughter of civil rights leader and former U.N. Ambassador Andrew Young. Approximately 100 people attended the event.

Human Rights Division-Outreach Programs

The Fairfax County Student Human Rights Commission (SHRC) is made up of student representatives from various public high schools in the County. During this fiscal year, student commissioners:

- Developed a logo that they felt reinforced their mission and purpose.
- Hosted an anti-bullying awareness campaign with the theme "Step Up." The campaign included posters hung throughout the various schools and pledge sheets with which the student body at participating schools could sign and create a pledge chain or banner.
- Hosted a Fair Housing Poster contest in honor of Fair Housing Month in April. Its theme was, "Fair Housing: A Place to Call Home." Two winners were honored and recognized at our annual Fair Housing Luncheon and again at the Human Rights Commission Awards Ceremony.
- Hosted two guest speakers, Mr. J. Daniel Sarmiento, director of the Hispanic Youth Institute and Mr. Colman McCarthy, founder and director of the Center for Teaching Peace. Mr. Sarmiento spoke about the state of Hispanic youth and his program, the Hispanic Youth Institute. Mr. McCarthy spoke about peace studies and promoting curriculums designed around that topic.

In addition, three commissioners who attended schools that did not participate in the commission during the 2009 – 2010 school year hosted the disability awareness campaign at their respective schools in December 2010. We closed out our commission year with a small recognition ceremony and a viewing of the Freedom Riders movie which was released in May 2010.

Equity Programs Division - Education

In the area of education, EPD has surpassed its targeted performance measures. The target was 1,100 participants attending EPD discrimination classes. EPD updated and redesigned all training classes, including adding a new ADA course regarding reasonable accommodations called "Through a Dog's Eyes." As of June 30, 2011, at least 1,729 participants attended the following sessions: Prevention of Sexual Harassment Workshop for Employees; Prevention of Sexual Harassment Workshop for Managers and Supervisors; "The Spirit of the ADA" for Managers and Supervisors; "The Spirit of the ADA" Customer Service Workshop for Employees; Introduction to Diversity; Genetic Information Nondiscrimination Act; "Through a Dog's Eyes"; and, HIV/AIDS Awareness. EPD established a target number for 20 department requested trainings to be conducted for the fiscal year and as of June 30, 2011, 28 department trainings had been conducted. Requests from departments were also captured as part of the 1,729 participants attending trainings.

REPORT OF HUMAN RIGHTS DIVISION

Introduction

This is a report of matters generated under provisions of Chapter 11, Human Rights Ordinance, Code of the County of Fairfax, Virginia, focusing upon the activities of the staff under the administration of the director, as well as the Human Rights Commission. While this report concentrates principally on the past fiscal year, FY 2011, we have selected a three-year span of data to reflect the trends, behaviors, and central tendencies of the relevant activities.

Case load adjudication is the primary focus of work performed by the Human Rights Division (HRD) and it is important to explain the difference between "cases" and "issues." The term "case" refers to all activities generated by a complaint filed with this Commission. Each case may contain several issues of discrimination and each issue must be investigated, analyzed, and decided upon separately.

A total of 386 cases were pending at the end of FY 2009, 304 cases were pending at the end of FY 2010, and 273 cases were pending at the end of FY 2011. During this fiscal year, the agency continued to place special emphasis on the reduction of the older case inventory and the goal of reducing the number of cases over the age of 270 days by 10 percent each fiscal year. OHREP data shows that there was an overall reduction of the age of the pending inventory in FY 2011 by 10 percent (the goal set by the agency).

The following figures depict the activities of the agency with regard to the cases received and resolved by the staff over the last three years.

Figure 1

HUMAN RIGHTS CATEGORIES OF CASES (2011)

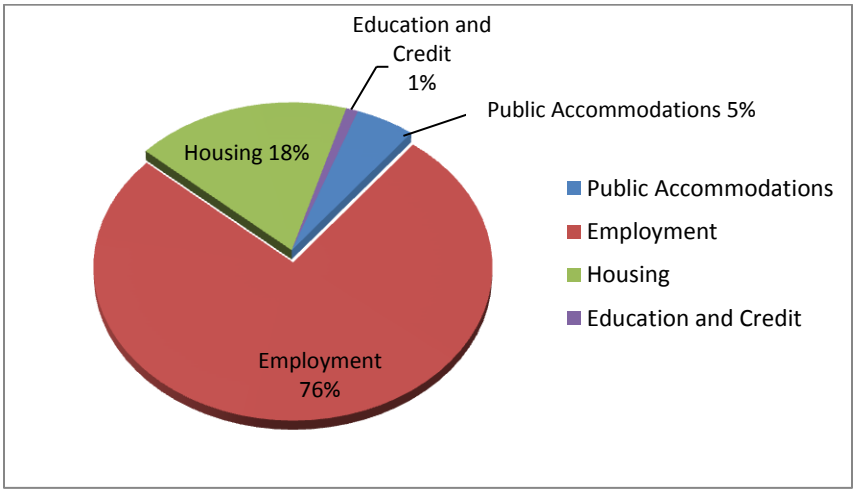


Figure 1 depicts a breakdown of the major categories of cases received during FY 2011. Employment cases comprise 69 percent of the total, housing cases comprise 21 percent of the total, public accommodations cases comprise 7 percent of the total, and education and credit make up the remaining 3 percent. As one can see, employment at 69 percent continues to be the leading category for individuals filing allegations of discrimination. Housing cases, at 21 percent, is the second leading category. Figures 3 through 5 reflect the actual numbers of cases in all the categories.

Figure 2

HUMAN RIGHTS BASES OF DISCRIMINATION CASES (2011)

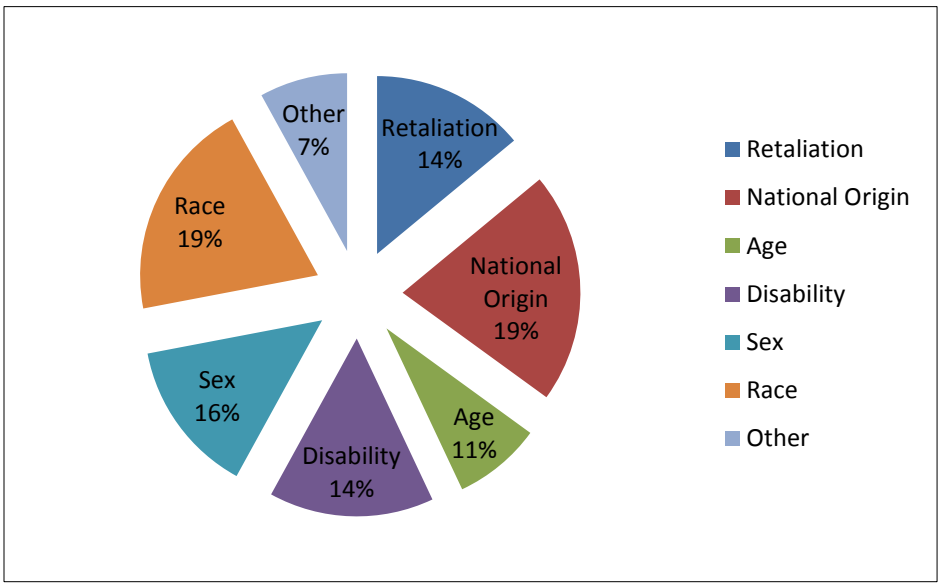


Figure 2 conveys the most compelling evidence of the continuing diversification of the population in Fairfax County. In the past, Race has been the major basis on which complaints of discrimination were filed; however, as illustrated by Figure, 2 National Origin and Race represent the major bases and OHREP has seen increases in Sex, Age and Disability as bases for discrimination complaints.

Figure 3

HOUSING, PUBLIC ACCOMMODATION, EDUCATION AND CREDIT CASES RECEIVED

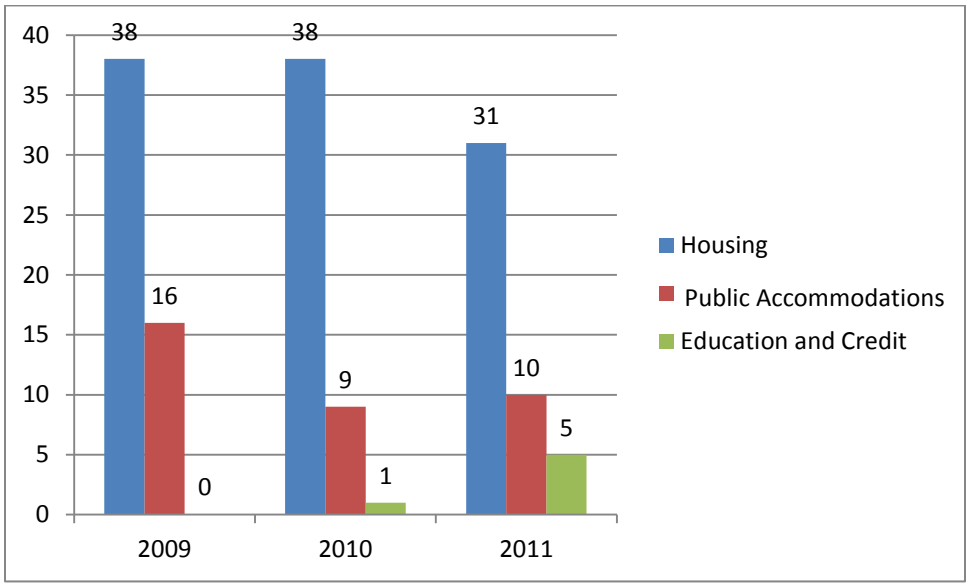


Figure 4

HOUSING, PUBLIC ACCOMMODATION, EDUCATION AND CREDIT CASES RESOLVED

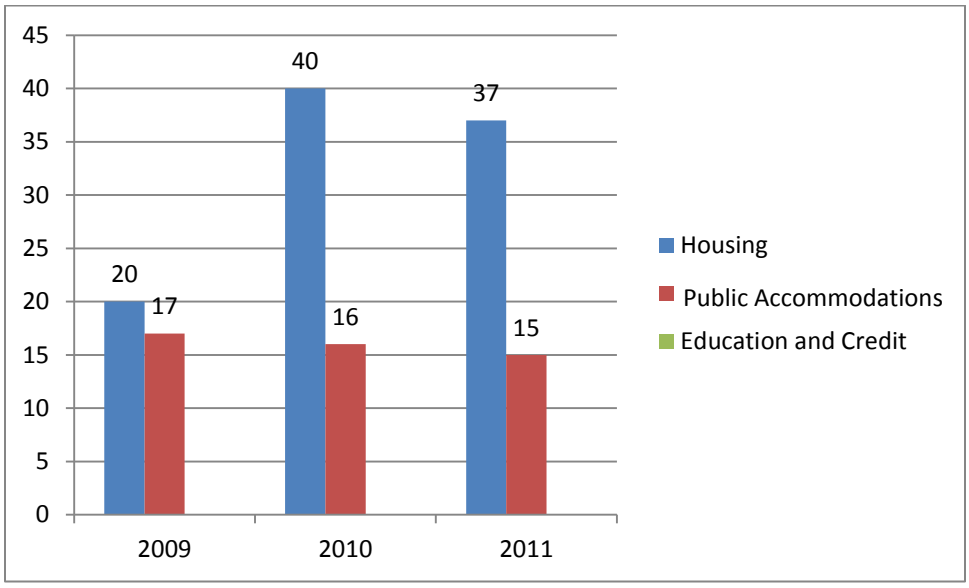
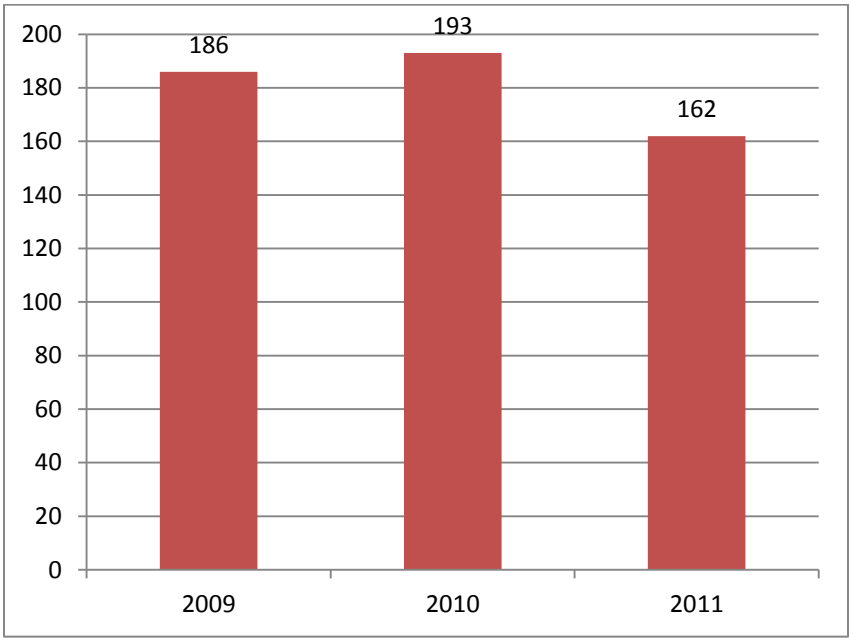


Figure 5

EMPLOYMENT CASES RESOLVED

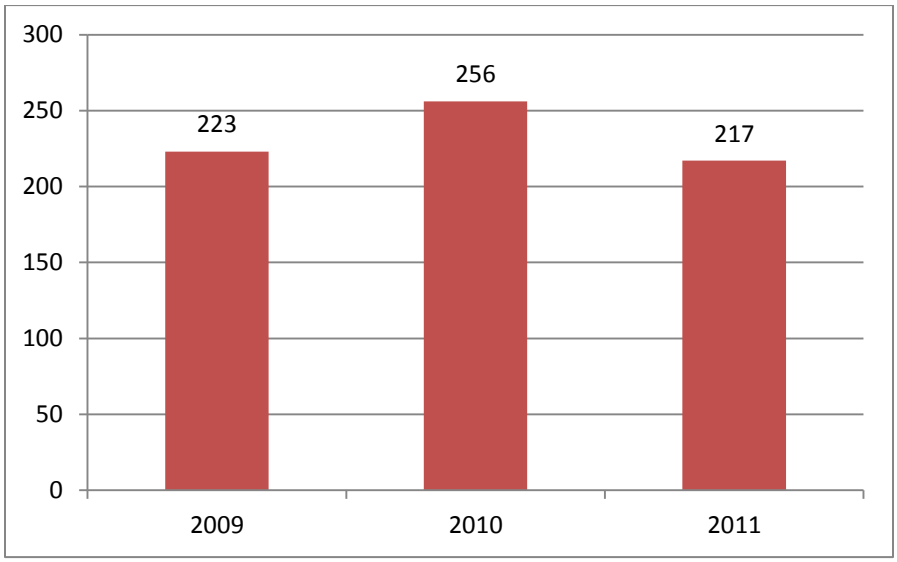


Figures 3 through **5** show the number of Housing, Public Accommodations, Credit, Education and Employment cases received and the number of cases resolved by the office.

***The numbers shown on Figure 5 reflect the employment cases that were fully investigated, mediated, or conciliated and do not include those cases that were administratively closed.**

Figure 6

TOTAL CASES RESOLVED



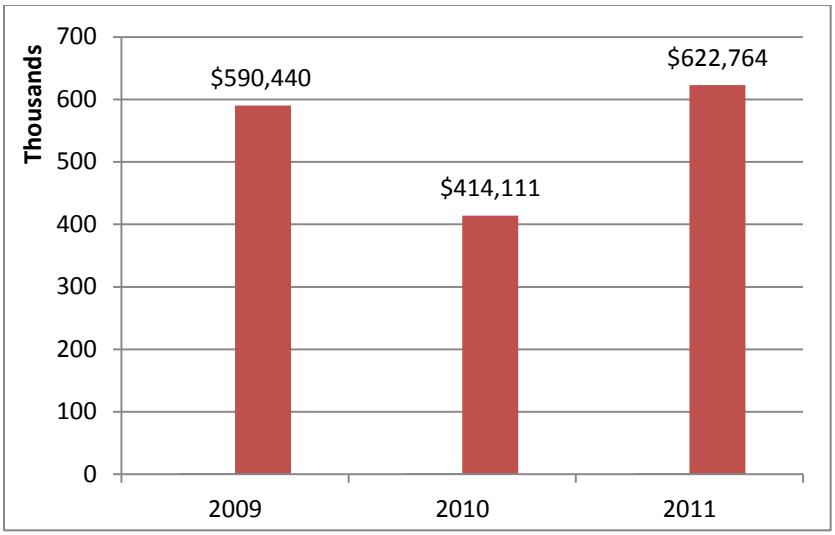
***The numbers shown on Figure 6 reflect the cases that were fully investigated, mediated, or conciliated, and do not include those cases that were administratively closed.**

Despite the loss of investigative staff, OHREP's data shows that the staff closed 70 more cases than it took in during FY 2011. Tremendous progress was made and continues to be made in eliminating the size of the pending inventory. This should result in a significant decrease in the amount of time the respondents and complainants will have to wait to have their cases resolved. It should be noted that the decrease in the total number of cases resolved for 2011 is largely attributable to a moratorium on staff case production requirements for one quarter of the fiscal year.

The Director and staff have applied innovative methods and concentrated efforts to process as many cases as possible and bring equity and relief to many individuals. This is evidenced by the decrease in the number of aged cases (270 days old and older). In FY 2009 there was a 10 percent decrease in aged cases, a 12 percent decrease in FY 2010 of aged cases in 2010, and a 9 percent decrease in aged cases in 2011.

Figure 7

MONETARY SETTLEMENTS RECEIVED



In addition to monetary settlements as reflected in Figure 7, a number of complainants resolved their complaints for non-monetary awards such as company policy changes, training, accommodations (disability and religious), and job references. For many complainants, a non-monetary resolution may be more important than a financial settlement.

The final agreements often include, in addition to the monetary relief for the complainant, a commitment by the respondent to take deliberate corrective action that improves the environment for all of the employees in a company or tenants in an apartment complex. The benefits resulting from these actions are non-monetary in nature. A corrective action may result in a simple policy change with regard to an employment practice that was found to be in violation of the Ordinance. Another type of corrective action may involve training of the company's management personnel in matters relating to the kinds of employment decisions permitted under the law. Such actions are viewed as affecting all of the employees or tenants and improving fairness regarding the terms, conditions, and benefits of their employment or tenancy.

APPEALS

Chapter 11, Article 1 of The Fairfax County Human Rights Ordinance provides for an appeal process that allows a complainant who is not satisfied with the director's decision to request that the decision be reviewed by the Commission. In 2010, the director instituted a reconsideration process that a complainant may use prior to requesting an appeal. Reconsideration allows the complainant to present newly discovered evidence as a basis for reconsideration. If the complainant does not prevail in his/her reconsideration, he/she may proceed with an appeal.

In the appeal process complainants may be represented by counsel or represent themselves. During an appeal, the complainant has an opportunity to explain to the Commission why there is a substantial defect in the investigation resulting in a final investigative report that is clearly erroneous or in error on a question of law.

	Appeals Scheduled	Appeals Held
2009	23	21
2010	10	10
2011	14	14

PUBLIC HEARINGS

Sections 11-1-11 through 11-1-13 of the Fairfax County Human Rights Ordinance provide that a public hearing can be held in order to determine if there are reasonable grounds to believe that a violation of the Ordinance has occurred. The public hearing is an investigative tool that OHREP may use to determine the facts in a case that have not otherwise been resolved by staff action. Both sides have an opportunity to present their evidence and witnesses to the Commissioners and to cross-examine the opposing parties and witnesses. Following the hearing, the Commission issues a decision and, based on case law, recommends a settlement of the case. When a case is not settled after the public hearing, the Commission may recommend that the Board of Supervisors pursue enforcement of the Ordinance in the courts.

	Hearings Scheduled	Hearings Held
2009	1	1
2010	4	4
2011	1	1

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REPORT OF EQUITY PROGRAMS

Introduction

The Equity Programs Division (EPD) administers the county's Equal Employment Opportunity Enforcement (EEO) program and ensures county compliance with all federal, state, and county mandates granting equal access to county services, programs, and employment opportunities. In particular, the equal opportunity staff provides technical assistance, training, and conducts investigations of alleged discrimination to ensure equality in the workforce.

Adherence to the requirements of the Americans with Disabilities Act (ADA) is another component of the program. ADA compliance involves providing technical guidance to managers and employees about accessibility to facilities and services for the public as well as responding to requests for employee disability accommodations.

FY 2011 Workload

EPD had a total of 1,263 workflows during the fiscal year. The workflows include inquiries; investigations; and complaints (Chapter 17, Applicant Appeals, Citizen Complaints & EEOC Charges). The bases of discrimination include disability, race, national origin, religion, retaliation, gender, union affiliation, genetic, multiple bases and non-discriminatory matters.

Since the county's signing of the U.S. Department of Justice (DOJ) ADA Settlement Agreement in January 2011, EPD has coordinated the county's compliance. EPD facilitated the monthly meetings of the county's ADA Compliance Team and managed the timely completion and submission to the DOJ of the agreement requirements. These efforts included the supervision of increased facility and program accessibility; and the development and updating of county policy. EPD has also extended the county's virtual accessibility efforts by leading the development of an accessibility webpage for citizens on the county government's home page.

EPD continued to ensure that the County's Personnel Regulations are current. EPD worked with the Department of Human Resources to update policy on the ADA, confidentiality and genetic information. In order to strengthen our relationship with the community and educate our county residents on the contributions of various cultural groups, EPD coordinated, developed, and presented celebratory projects including: the Naturalization Ceremony; Asian/Pacific American Heritage Month; African American History Month; Barbara Varon Volunteer Award Presentation; American Indian Heritage Month; Hispanic Heritage Month; and Disability Employment Awareness Month. EPD also participated in a Public Safety Job Fair and Asian/American Law Enforcement Job Fair.

SCORE CARD RESULTS

Below are the Score Card Results for each division for FY 2009 and FY 2010. The Score Card is a more effective and innovative ways to improve the services provided by OHREP.

Human Rights Division Measures

FY 2011

Measures:	Target:	Outcome:
Percentage of complainant/respondent satisfaction with the overall quality of HRD's intake and mediation services	80%	97%
Complaints formalized and presented to the complainant for signature with 5 business days	90%	97%
Improve scheduling and utilization of mediation services	90%	100%
Decrease the number of aged cases over 270 days	10%	9%

Equity Program Division Measures

FY 2011

Measures:	**Target:**	**Actual (To Date)**
Percentage of customer satisfaction with the overall quality of EPD's services	80%	90%
OHREP (EPD) shall maintain 100% timely submission on all budget related matters	100%	100%
Number of participants who attended EPD training classes	1100	1729
Conduct at least 10 combined (EPD + OHR) events on an annual basis	80%	100%
Percentage of OHREP staff who attended at least two subject matter related training classes each	80%	82%
Total number of department specific training classes conducted.	20	28