

**STATE OF VERMONT
HUMAN RIGHTS COMMISSION**

ATTACHMENT 3

TO: HRC Commissioners
FROM: Karen Richards, Executive Director
DATE: August 25, 2016

**STATISTICS AND OUTREACH
YEAR END REPORT FY2016**

SUMMARY

This report summarizes the work of the HRC for Fiscal Year 2016 (FY16) highlighting the information needed to understand how the agency is doing in meeting its statutory responsibilities to increase awareness of human and civil rights, examine and evaluate the effectiveness of current laws and identify and take enforcement action to remedy practices of discrimination that detract from Vermonters' and visitors' full enjoyment of those rights.

CALLS AND REFERRALS

Between July 1, 2015 and June 30, 2016, we logged in 830 calls.
July – Sep. 2015 = 220
Oct – Dec. 2015 = 202
Jan. – June 2016 = 408

If the caller makes a follow up call, concerning the same matter, that call is also logged. For the same period, the executive staff assistant logged an additional 178 calls for a total of 1008 calls. This is up slightly from FY15 when we logged a total of 957 calls.

Additional contact logged:

July – Sep. 2014 = 54
Oct. – Dec 2014 = 40
Jan – June 2015 = 84

Of these calls, only 56 were accepted as complaints. The majority are referrals to other agencies. The primary referral sources are the attorney general’s office for private employment discrimination complaints, Vermont Legal Aid for landlord tenant or other legal matters, law enforcement for criminal complaints, and other government agencies or non-profit service providers.

CASES

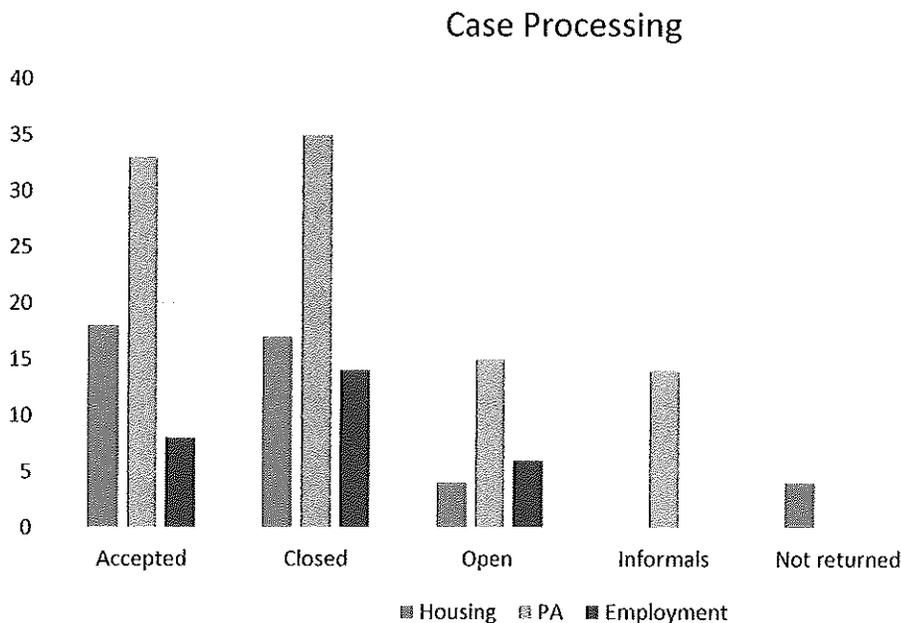


In FY15, HRC accepted 77 cases. This was consistent with prior years. This year’s number of fifty-six (56) cases accepted for processing is well below the averages for the past three years (including FY13). However, last year a total of 17 of those complaints were not returned reducing the actual number of cases processed to 60. This year only five were not returned so in terms of actual processing the difference is 52 cases in FY16 compared to 60 cases in FY15.

Housing cases have declined for the second year in a row despite running Public Service Ads (PSA) on WCAX and conducting a lot of training for providers. Historically housing cases were the ones most likely to not be returned for processing but this year only two of the five were housing cases so that does not explain the low number. Reaching tenants in Vermont is difficult but clearly the HRC needs to conduct some outreach that will directly

reach tenants and/or reach providers who are assisting them. Ellen was doing all of the fair housing training and reached almost 400 people this past year. Having a new staff person will undoubtedly affect this effort but may present an opportunity for the person to learn more about the position and housing discrimination issues by doing some concentrated outreach to targeted groups early on.

In our other areas of jurisdiction, we accepted twenty-one (21) public accommodation cases and fourteen (14) informal cases for a total of 35 public accommodations cases for FY16 versus 41 (combined) in FY15. Employment cases (eight (8) total) are down significantly from last year's high of 17. Last year's spike in employment cases however was an anomaly so this year's data is actually more consistent with past years (11 in FY13 and 10 in FY14).



This chart shows the manner in which cases were processed for FY16 including the number closed, some of which were opened in prior fiscal years. It also shows the number of cases remaining open at the end of the fiscal year and therefore carried forward into FY17. The totals are: closed sixty-five (65) cases; open at the end of FY16, twenty-five (25) cases, and not returned, five cases (5) (0-Employment, 2-Housing and 3-Public Accommodations).

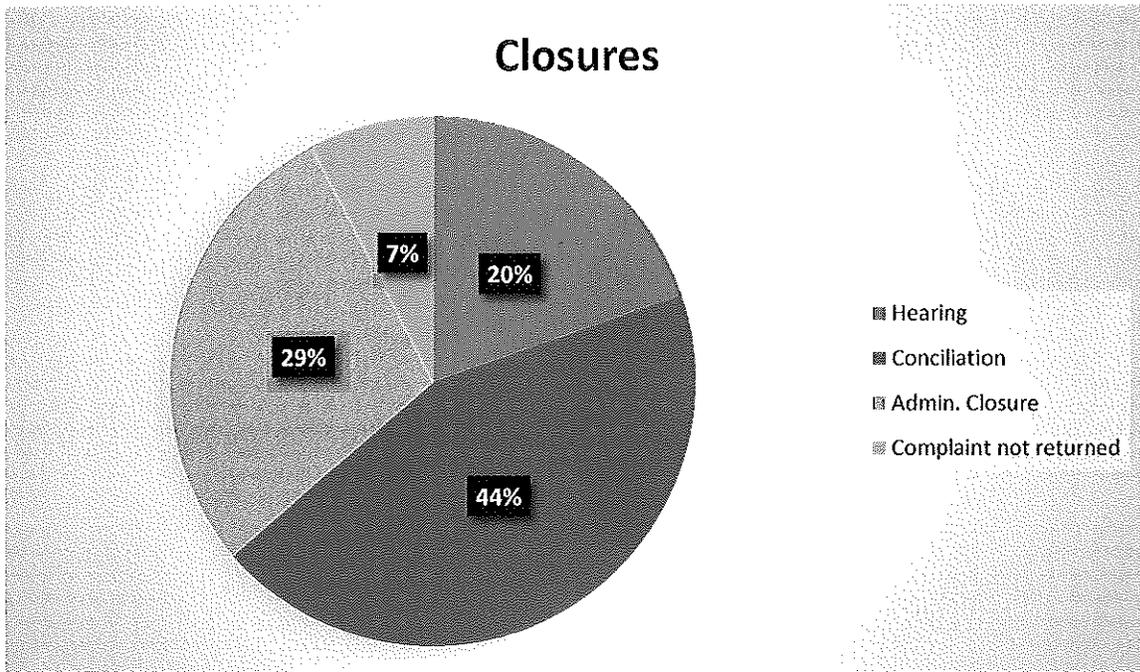
Cases Brought Before the Commission For Hearing

In FY16, the Commission heard 13 cases, compared to 17 in FY15. Of the cases heard, the Commission found no reasonable grounds in six (6) cases and reasonable grounds in seven (7) cases. In FY15, the Commission heard 17 cases but only two (2) were reasonable grounds. Most of the reasonable grounds cases in FY16 were in the category of public accommodations and the highest number of no reasonable grounds cases was in housing, followed by employment. Most housing and employment cases that should settle, from a factual standpoint, do. In the public accommodations area, the reasonable grounds cases have been in areas of emerging law and interpretation (specifically the ADA/VFHPAA rights of offenders with mental illness and racial profiling). As the HRC makes its positions with regard to these issues known, more of these case types appear to be heading towards conciliation and/or formal mediation. In addition, the reasonable grounds findings have resulted in positive press coverage that is raising the HRC's statewide profile and bringing important civil and human rights issues to the attention of legislators, regulators and the general public.

Outcome	Employment	Housing	Public Accommodations	Totals
Reasonable Grounds	1	0	6	7
No reasonable grounds	2	3	1	6

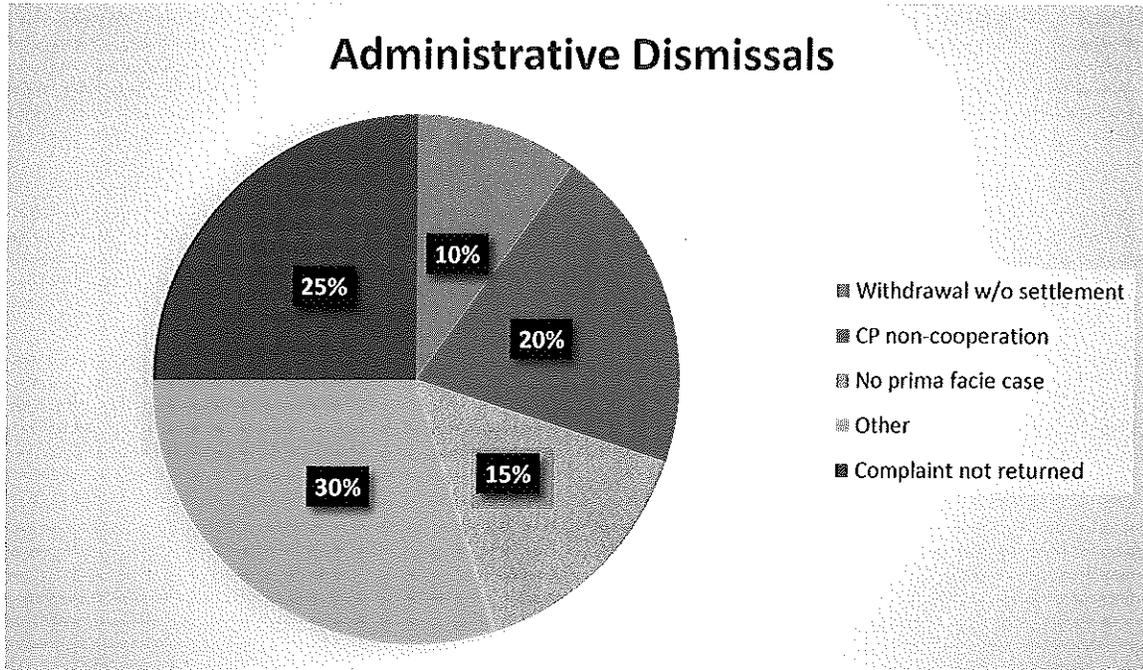
Disposition of Closed Cases

Cases are generally disposed of in three ways: (1) hearing, (2) conciliation/settlement or (3) administrative dismissal. This chart shows the percentage of cases that were disposed of in each category.



There are improvements in the way cases were processed overall between FY15 and FY16. Last year, administrative dismissals (which included administrative closure and complaints not returned) were 41% of the total case. In FY16, administrative dismissals (including administrative closure and complaints not returned) dropped to 36% of the dismissals and the number of complaints processed to hearing or conciliation was 64% versus 59% in FY15. The chart on the next page shows the breakdown of administrative dismissals by type.

Administrative Dismissals



A total of 20 cases were administratively dismissed. The largest category in FY16 was "other" with six (6) cases. This captures closures related to complainants who die (1), cases that start as an informal that are opened as formal cases (1), requests by the complainant to withdraw (1) and the initiation of an administrative or judicial complaint in another forum (3). While complaints not returned is the second highest category at five (5) cases, in FY15, those cases constituted 50% of the closures versus 25% this year. This reflects the more aggressive approach we have taken with complaints. There are several points of follow up by the executive staff assistant after the complaint is sent out. This appears to have been effective in significantly reducing the number not returned.

Complainant non-cooperation-- consists of individuals who file a complaint and then fail to keep in contact with the administrative law examiner during the course of the investigation. Four (4) cases were dismissed for this reason. Multiple attempts are made to reach complainants with email, telephone, and certified and regular mail warning of dismissal before a case is actually dismissed. This number is also down from 23% in FY15 and dismissal for lack of a *prima facie* case (three (3) cases) or some other legal argument that may have arisen during the course of the investigation of the complaint are up slightly (15% this year versus 9% last year).

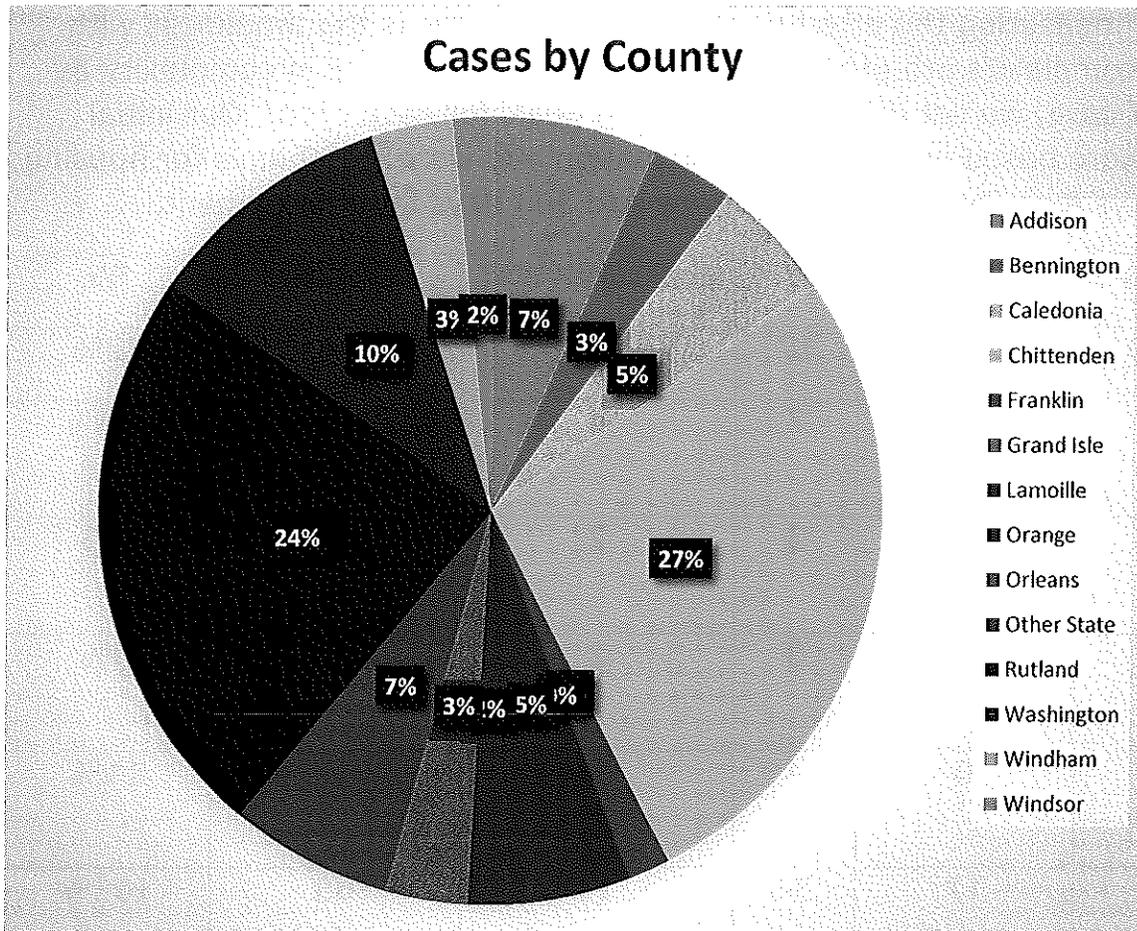
Investigation Processing Time

Part of measuring the effectiveness of HRC services is the timeliness with which complaints are processed. Because the cases vary in complexity by type of case, we set different processing goals for each type. Our initial goals were based on anecdotal information and were: 100 days for housing; 200 days for public accommodations and 300 days for employment.

DAYS	HOUSING	PA	EMPLOYMENT	Total	%
1-100	14	17	3	34	52%
101-200	3	7	4	14	22%
201-300	0	3	2	5	8%
301-400	0	3	2	5	8%
Over 400	0	4	3	7	11%
Total	17	34	14	65	101%

Housing cases are right where they should be in terms of the goal. HUD requires that at least 50% of our federal cases be processed within 100 days. Thirty percent (30%) of PA cases were over 200 days and 36% of the employment cases were over 300 days. Some cases were significantly over (500-800 days). These were public accommodations cases and employment cases that had to be re-assigned due to an HRC investigator resignation and rehiring of the ALE position. Turnover at the Attorney General's Office, which represented the respondents in most of the affected cases, also contributes to slow processing. Finally, some of the Department of Corrections (DOC) PA cases took a lot of time due to the massive amount of documentation that had to be gathered and reviewed. We will likely experience similar issues again in FY17 as we will once again be hiring new staff. Until we get some staff stability, it is difficult to determine realistic processing times for these cases.

Areas of the State Served



This chart shows the cases accepted in FY16 by county of residence of the complainant. We had cases from all counties except Essex, and Grand Isle so we are more or less serving the entire state with case intake. The largest number of cases came from Chittenden (16-27%) and Rutland (14- 24%). It appears that the numbers are generally consistent with relative population--Addison (4- 7%) Bennington (2-3%), Caledonia (3-5%), Franklin (1- 2%), Lamoille (3- 5%), Orange (1-2%), Orleans (2- 3%), Washington (6- 10%), Windham (2- 3%) and Windsor (1- 2%).

Protected Categories by Type of Case FY16

Protected Category	Housing	PA	Employment	Total ¹
Age	0	0	1	1
Breastfeeding	0	0	0	0
Disability	11	24	0	35
Gender ID	0	1	1	2
National Origin	0	3	0	3
Race/Color	1	4	1	6
Retaliation	0	1	3	4
Religion	0	2	0	2
Sex	0	1	3	4
Minor Children	2	0	0	2
Public Assistance	2	0	0	2
Marital Status	0	0	0	0
Family/Parental Leave	0	0	1	1
Workers Comp	0	0	0	0
Sexual Orientation	0	0	0	0

As has been the usual case, the category of disability continues to generate the most significant number of cases in housing and public accommodations. Anecdotally, there should be more race and gender ID cases, given statistical evidence of fairly widespread discrimination against these protected categories nationally, but VHRC is not seeing these cases.

¹ Totals will not equal the number of actual complaints because many cases allege discrimination based on more than one protected category.

Settlements

Case Type	Monetary Relief	Non-monetary Relief/ Public Interest
Employment (4)	\$17,000	New pay grade and retroactive step
		Reasonable accommodations provided
		Written reprimand & investigation report removed from personnel file.
Housing (8)	\$2950	Moved to top of transfer list and lease agreement rescinded
		Fair Housing Training (8)
		Assistance animal allowed for minor child
Public Accommodations (12)	\$82,300	Handicapped accessible parking (2)
		Training, apology and free rental
		Assistance animal allowed in emergency housing shelter
		Allowed handicapped accessible parking nearest entrance
		Accessible route to goods and services
Total	\$102,250	

There were a total of 29 settlements, 27 of them were pre-determination and two were post-determination. Given that the post cases were also reasonable grounds cases. This means that there were 40 cases resolved either by hearing or conciliation. Thus 62% were settled or heard. Several post cases are pending and will not be resolved until FY17.

OUTREACH AND EDUCATION

Education Provided by HRC Staff to Others

Type	# of Events	# of People	Amount collected
Employment	1	150	\$0
Housing	23	377	\$1370
Public Accommodation	7	305	\$0
Implicit Bias	9	321	\$500
Total	40	1109	\$1870

This is the second year we have had accurate information about our education and outreach activities. For a staff of four, this is an impressive amount of outreach and education. I expect it will decrease in the coming year due to the loss of Ellen and the need to train a new person. Most of the training shown here is pro-active rather than required as part of a settlement.

Training Received by Staff

In addition to providing training/education to others, HRC staff and Commissioners participated in training to improve their own knowledge and skills:

7/28/15- Webinar- Hate-related Housing Discrimination- Richards and Maxon

9/1-3/15 HUD Policy Conference, Washington DC- Richards

9/16-18/15 Mid-Atlantic ADA regional conference, Baltimore- Maxon

HEMS HUD on-line database training- Richards, Maxon, Bolduc

9/28/15-10/1/15 International Association of Official Human Rights Organizations (IAOHRA) Annual Conference, Birmingham, AL- Richards

1/11/16 VLRB Training on Employment/Labor issues, Montpelier- Campbell and Commissioner Brodsky

3/7/16 Commission on Women Housing Conference, Burlington- Richards and Commissioners Marzec-Gerrior and Brodsky

4/1/16 Vermont Bar Association Spring Meeting, Burlington- Richards

4/7-8/16 New England Civil Rights Conference- Springfield, MA- Maxon, Campbell, Yang and Commissioner Ellis

5/11/16 HRC Sponsored ADA Training Titles I, II & III with Kathy Gips from the New England ADA Center (Montpelier)- All HRC staff and Commissioners Marzec-Gerrior, Besio and Vickers.

6/3/16 Vermont Legal Aid, Annual Staff College- Ethics seminar- Richards

6/4/16 Leahy Women's Economic Conference, Randolph- Richards

6/27-29/16 International Restorative Justice Conference- Halifax, N.S.- ED Richards

Outreach

Targeted outreach efforts were made in 2016 to reach protected groups and to get information out to the public about housing discrimination. WCAX Public Service Ads on housing discrimination have been running daily for about a year. ED Richards appeared on Channel 17 in Burlington on a program about housing discrimination in April. ED Richards also attended a meeting of the newly formed chapter of the NAACP in the early spring and met with the intake staff at the Pride Center to assist them in understanding what information the HRC needs in order to establish a prima facie case sufficient to initiate a complaint. ED Richards also continues to work closely with Justice for All on issues related to racial inequities in the criminal justice system.

The VHRC needs a robust outreach plan and a realistic means of carrying it out in fair housing, beyond the trainings we are currently doing. For FY17, we have gotten an additional grant from HUD to conduct outreach in fair housing. In addition, we have identified a fairly comprehensive list of places where we can get information to tenants but staff time is limited for this activity between the investigations and the training we are doing. A lot of extra time this year has been spent on the restorative justice initiative which also reduces available time for this activity but hopefully the HUD grant and training will help to reverse the current trend.