



June 17, 2016

Senator Michael Folmer
337 Main Capitol
Harrisburg, PA 17120

Senator Anthony H. Williams
11 East Wing | Box 203008
Harrisburg, PA 17120

Dear Senator Folmer and Senator Williams:

Thank you for the opportunity to address your committee on June 7, 2016 at the Senate Hearing. Please know that we share a common interest in ensuring that Pennsylvania has a well-functioning and effective civil rights agency. Protecting the people of the commonwealth from discrimination is essential work and I take it very seriously. I want you to know that all the actions that I have taken since I was hired has been for the sole purpose of ensuring that the Pennsylvania Human Relations Commission (PHRC) is able to continue to protect the people that we serve. Please allow me an opportunity to follow up on a few of your questions and remarks made during the June 7, 2016 Senate State Government Committee Hearing.

During your opening remarks to PHRC and in your written questions to me, much emphasis was placed on "getting PHRC's house in order", and your concerns about a dozen or so former and current employees who alleged that PHRC harassed, discriminated, and retaliated against them. There was also concern that cases were being closed without being investigated fully and that we are not effectively penalizing parties who have committed unlawful acts of discrimination.

Let me start by saying, I am disheartened that any employee of the commission, past or present feels that they were or are being discriminated against. While these employees may have concerns, some of the facts they presented to you are simply not accurate.

After my appointment, it was apparent to me that PHRC had to change the way it was doing business. Productivity and effectiveness had been declining for years. PHRC needed to reemphasize the importance of timely and effective investigations. PHRC needed to better serve and protect the public. In prior years, employees were not held accountable for completing quality investigations and were primarily measured on quantity. As long as an employee closed their mandated 18 or 19 cases per quarter, the employee received a satisfactory rating. These standards led to cases being closed without thorough investigations and complex cases sitting without action for long periods. .

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For these reasons, the revised case management procedures were implemented on October 2013 and employees were required to comply. Contrary to the information reported to you, the revised procedures that I implemented ensured that investigations are more thorough and timelier before a case is closed. The results speak for themselves:

- Settlements increased almost 1 million dollars
- Number of settled cases increased by 8%
- Probable cause determinations increased by 70%
- 30 cases were approved for public hearing, almost 30% more than the year prior

Unfortunately, these changes in how we do our work, coupled with increasing caseloads and decreasing staff have affected some employees more negatively than they have affected others. Change is hard. Despite numerous trainings, regular performance assessments, coaching, counseling and in some cases, repeated performance improvement plans, some employees could not or would not make the changes needed for PHRC to properly serve the public. We are often an aggrieved party's only option, to use Sen. Williams' word; our employees' work cannot be "sloppy." We must provide quality and timely investigations. Employees that failed to do so were held accountable.

Attached you will find additional information that addresses some of the other topics that we feel you would be well served to know about in follow up to the hearing. We know that PHRC is not perfect and we want to work with you as our partner to improve. As such, I am requesting a follow up meeting with you so that we can have an open and frank discussion about PHRC's challenges. I hope that together as informed partners we can continue to make positive changes that result in providing even better services to the public.

Thank you in advance for your consideration of this meeting request.

Sincerely,



JoAnn Edwards
Executive Director
PHRC

PHRC's Responses to Issues Raised at the June 7, 2016 Senate Hearing

1. **PHRC should triage investigation cases** – Pursuant to the directives contained in the Pennsylvania Human Relations Act, the PHRC is obligated to dismiss cases that are untimely, lack jurisdiction, or are frivolous. Upon receipt of a complaint, PHRC takes care to sort through complaints that are problematic in terms of jurisdiction, timeliness and ones that are frivolous. Cases that appear to have merit early in the investigation process are handled on a priority basis because they are likely to contain evidence of probable cause.
2. **PHRC is not prompt in returning phone calls** – One addition to the new procedures was a standard for returning phone calls and emails to the public. Staff is expected to return phone calls within three working days. The employee's adherence to the new procedures is reflected in his/her Commonwealth employee performance review. Prior to the reengineering process and the new procedures, the investigation staff were not given written expectations for returning calls/emails in a timely manner.
3. **How much training does PHRC do** - In SFY 2014-15, with a complement level of 101 staff, PHRC provided training to over 5,000 people. To date in SFY 2015-16 PHRC has held 90 training sessions, thereby training only 2,296 participants. The decrease in training external parties is reflective of PHRC's inability to pay the associated conference registration fees needed to access larger audiences.
4. **How many LGBT complaints have been received by local HRCs** - In an informal survey conducted about one year ago, local human relations commissions reported that 74 cases had been received at the local level. Likely, this number has grown given the recent stance EEOC has taken on accepting these complaints as sex discrimination as well as the recent Federal action regarding "bathroom laws." In July 2016, PHRC will query local human relations commissions that attend its summit on the number of complaints received during 2016 and convey that information to you.
5. **Notifying Respondents Timely** – As required by statute, PHRC notifies a Respondent of a pending case with PHRC after a complaint has been officially "docketed" (assigned to an Investigator). PHRC cannot contact a Respondent before this point in the process because not all complaints that are referred to PHRC become active cases. Because of the drastic reduction in staff, it now takes several months before the Complainant's information can be drafted in to a formal complaint and served upon the Respondent. PHRC also has a statutory obligation to formally serve the complaint upon the Respondent within 30 days of the case being docketed.
6. **Use of Law School Interns/Lawyers to Mediate Cases** – PHRC continues to work with Pennsylvania law schools, mediation programs, the Pennsylvania Council of Mediators, the Office of General Counsel, and local bar institutes to recruit pro-bono mediators. We

will continue to do this and welcome any assistance from the NAACP and/or other advocacy groups in building our network of volunteer mediators.

7. **Cost/Benefit of Striving to Eliminate Discrimination** – PHRC and Bloomsburg University applied for a research grant from the Center for Rural Pennsylvania to quantify the economic impact of discrimination. While this is a start, the cost of discrimination is hard to measure but the harm is immeasurable. What is someone's education worth? What is not being harassed because of your race worth? What is not being fired because you are pregnant worth? Pennsylvania loses when citizens are stopped from living up to their potential.
8. **Automatic Granting of Respondent Requested Extensions** – Prior to issuing and enforcing the procedures Investigators were liberal in granting 30-day extensions to Respondents to file their answers. With the new procedures, the Investigator advises the Respondent that extension requests must be submitted in writing; including the length of time needed and the reason for the request. Extensions are only then granted for good cause shown.
9. **PHRC Needs an online tracking and docketing system like the courts use** —Pursuant to the Pennsylvania Human Relations Act, the PHRC has three roles, to investigate claims of discrimination, to prosecute probable cause claims when it believes that discrimination has occurred, and to adjudicate or decide public hearings involving discrimination claims where probable cause is found. PHRC's case investigations are neutral and confidential. Until a case is approved for public hearing and is placed on the public hearing docket, confidentiality is required: this in part protects both parties and the process. Just like police investigations are confidential, discrimination investigations are confidential, and must not be shared with the public. However depending on the availability of funds, may in the future be able to offer a mobile app where both parties can search and receive status updates about a case in which they are involved.

Cost Savings and Avoidance Calculations

SFY 2011/12	Cost Savings	Cost Avoidance	Partnership Grants
<ul style="list-style-type: none"> Stopped non-essential travel and other operational activities to pay back \$1.5 m debt from prior ED. 	<ul style="list-style-type: none"> Consolidated OHR, OIT and budgeting functions with the governor's office and avoided \$354,000 (r) in costs 	<ul style="list-style-type: none"> Obtained three partnership grants totaling \$313,719.11 <ul style="list-style-type: none"> Lancaster Housing Opportunity Partnership surveyed the top non-English languages in south central Pa and provided educational materials in the languages - \$129,513.70 The Reinvestment Fund provided lending data on redlining - \$75,270. Fair Housing Partnership of Greater Pittsburgh - \$53,000. 	<p>\$1,500,000.00</p>
SFY 2012/13	<ul style="list-style-type: none"> Consolidated the Pittsburgh Regional Office space for an annual savings of \$61,00 (r) Removed fifty desk top printers for a savings of \$50,000 	<ul style="list-style-type: none"> Consolidated OHR, OIT and budgeting functions with the governor's office and avoided \$354,000 (r) in costs 	<p>\$354,000.00</p>
SFY 2013/14	<ul style="list-style-type: none"> Relocated PHRC Central Office from private leased to free space for an annual savings of \$240,475 (r) Relocated PHRC Harrisburg Regional Office from private leased to free space for an annual savings of \$246,632.64 (r) 	<ul style="list-style-type: none"> Initiated the Mediation Pilot Program and avoided \$175,000 in investigation costs Consolidated OHR, OIT and budgeting functions with the governor's office and avoided \$354,000 (r) in costs 	<ul style="list-style-type: none"> Obtained three partnership grants totaling \$226,098.00 <ul style="list-style-type: none"> Southwestern Pennsylvania Legal Services, Inc. provided a tool to help planning and redevelopment authorities to improve their efforts to meet the HUD AFFH mandate and serve the entire population in the 10 entitlement jurisdictions. \$110,000. Lancaster Housing Opportunity Partnership Prepared and provided educational tools to professional in the housing industry and other related fields by promoting an awareness of state and federal fair housing laws. - \$66,098. Poverty and Race Research Action Council Analyze and map demographic information and opportunities and provide an outreach plan, list of stakeholders and handouts. - \$50,000

	\$487,107.64		\$529,000.00	\$226,098.00
SFY 2014/15				
<ul style="list-style-type: none"> • Relocated PHRC Central Office from private leased to free space for an annual savings of \$240,475 (r) • Relocated PHRC Harrisburg Regional Office from private leased to free space for an annual savings of \$246,632.64 (r) 	\$487,107.64	<ul style="list-style-type: none"> • Extended the Mediation Program for a second year and avoided \$135,000 in investigation costs. • Consolidated OHR, OIT and budgeting functions with the governor's office and avoided \$354,000 (r) in costs 	\$489,000.00	
SFY 2015/16				
<ul style="list-style-type: none"> • Relocated PHRC Central Office from private leased to free space for an annual savings of \$240,475 (r) • Relocated PHRC Harrisburg Regional Office from private leased to free space for an annual savings of \$246,632.64 (r) 	\$487,107.64	<ul style="list-style-type: none"> • Consolidated OHR, OIT and budgeting functions with the governor's office and avoided \$354,000 (r) in costs • Creating an on-line questionnaire and avoiding \$200 per questionnaire received via on-line - \$11,000 	\$365,000.00	

Questions from Senator Folmer and PHRC's Responses:

1. In your testimony, you note: "PHRC is also tasked with preventing discrimination from occurring in the first place by providing education and outreach to Pennsylvanians about the law and their civil rights." Where does this task come from – statutory, regulatory, and other?

Answer 1:

The PHRA provides for the education and outreach mandates. Statutorily interwoven with the PHRC's enforcement responsibility is the PHRA mandate to utilize a variety of educational strategies to promote equal opportunity (e.g., creation of advisory councils; formulation of policies and recommendations to agencies and officers of the Commonwealth; issuance of publications; creation of educational programs with the Department of Education, initiation of programs intended to reduce inter-group tension and conflict and foster equal opportunity). To date in SFY 2015-16 PHRC established three new advisory councils as follows: Cumberland, Dauphin, Perry Advisory Council; Lebanon, Lancaster, Berks Advisory Council; and, Southwestern Pennsylvania Advisory Council. PHRC is evaluating the feasibility of establishing two additional councils in the counties of Lehigh and Erie.

2. Your testimony also notes PHRC's appropriations have not kept pace with the Commission's increased responsibilities and you call for support of the Governor's budget request of \$12 Million (an additional \$2 Million). Before increasing the taxpayer moneys you receive, shouldn't we first examine the responsibilities to see if any of them can be either lifted or reduced? For example:
 - How do you measure the cost-benefit of the Commission's Mediation Program?

Answer 2:

Everything PHRC does is driven by statute. PHRC is the only state civil rights agency in Pennsylvania and over time PHRC continues to receive more responsibilities from the legislature. PHRC's responsibilities are created by the PHRA. It is difficult to measure the cost benefits of the work that PHRC does, however it is factual to say that unlawful discrimination costs the taxpayers money. Individuals who are discriminated against and prevented from receiving a proper education often drop out of school, which studies have shown results in higher incarceration rates. Individuals who cannot find or keep employment due to discriminatory reasons often turn to the welfare system for support. The same could be said for those who are denied housing. All of these actions cause individuals to turn to Pennsylvania's social support systems, which ultimately costs taxpayers more money. In order for individuals to be productive members of society, they must be afforded the same opportunities as everyone else, regardless of their race, color, ethnicity, sex, age, disability and so on.

You had a specific question about the PHRC's Mediation Program. The PHRC's Mediation Program is voluntary, confidential and free. It is offered prior to the initiation of PHRC's investigation, and only occurs if both parties are willing and able to mediate their case within the allocated time frame. The PHRC Mediation Program is supported almost entirely by volunteer attorney mediators from across the state; these trained attorney mediators conduct mediations for the PHRC and the parties for free.

There are only 1.5 PHRC staff members who provide support to the mediation program. The first PHRC employee is an Attorney 1 who oversees and administers the program, writes training and other materials, solicits and trains volunteer mediators, assigns volunteer mediators, conducts mediations if no volunteers are available and writes reports regarding the mediation program. The mediation program is also supported by half of the time of a clerical staff person, who reaches out to the respondents to see if they are interested in mediation after the complainant expresses an interest, and helps the Attorney 1 who oversees and administers the mediation program.

Because the majority of the mediations conducted to date have been conducted by volunteers, the mediation program is extremely cost effective. There is a settlement rate of about 53% on average and this early resolution of the case saves the parties and the PHRC time and money. The settlement and early case resolutions provided by the mediation program saves PHRC the costs of investigation for those mediation -settled cases. As a result of these early settlements, during the first two years of the mediation program, the PHRC has saved \$310,000 in investigating costs.

Here is the breakdown to support the claim of \$310,000 in savings: If a case is mediated instead of Investigated, PHRC "avoids" an estimated \$5,000 in costs per case. In SFYs 2013/14 and 2014/15 PHRC avoided \$310,000 in investigation costs by settling 62 cases through mediation. In addition to cost avoidance of \$5,000 per case generated by an early settlement, mediation also brings additional funds to the PHRC. If a settled mediation case is also a dual filed EEOC case, the EEOC will pay PHRC \$700 for the settled case, which is additional revenue to the PHRC. As a result of settling 62 cases in the first two years of the program, PHRC generated \$43,400 in additional federal dollars.

So far, in this fiscal year (2015-16), the mediation program has resulted in 51 settled cases, saving the PHRC an additional \$255,000 in costs of case investigation.

Question 2. Continued. What does it mean when you say: "Broadened PHRC's focus on investigations to consider and pursue systematic relief where possible" and – more importantly – how do you measure the cost-benefits of such an initiative?

Answer 2: Continued

Sometimes a company has a policy or practice that violates the PHRA and the violation will affect more than one individual. When these instances are identified, the PHRC will work to make sure that the relief it pursues will address all of those affected. Sometimes, the broader relief will merely include requiring that the company make a policy change, distribute that policy change to the employees and provide training for the employees with regard to anti-discrimination and anti-harassment. At other times, in addition to policy change and training the PHRC may advocate for the entity to provide for all of the affected individuals to be given the same relief as the named complainant, if appropriate. For example, recently the PHRC identified a situation where an applicant was incorrectly excluded from consideration for employment because the employer had a policy that excluded anyone who had back surgery, even if the person who had surgery was completely healed. The employer agreed to provide that applicant and others like him, notice of the changed policy and an opportunity to reapply and be fully considered for a position.

Although it is hard to measure a cost benefit of systemic relief, intuitively, it seems clear that systemic relief saves money. The PHRC could investigate and pursue many individual claims when a company's policy or practice violates the law and many are affected; by pursuing systemic relief, all of those affected can be helped as part of one case.

As an example and as an attempt to quantify the cost savings from systemic relief, please note the following: A PHRC case involved a large public transportation provider. Following a probable cause disability discrimination finding by the PHRC, the PHRC negotiated a conciliation agreement and consent order containing broad based systemic relief and compliance by the transportation provider. The consent order required website changes, fair practice notice postings at every location, policy changes and training for all drivers and a compliance reporting period of three years. The PHRC estimates that this relief will impact 3,500 employees. If 3,500 employees receive training that educates them with regard to their responsibilities to comply with the PHRA and this leads each employee to avoid one act of discrimination, the PHRC could save the cost of investigating the resulting claim of discrimination. If 3,500 claims of discrimination can be avoided, that would save the PHRC and the taxpayers \$17.5 million (3,500 claims times \$5,000 average cost to investigate a claim of discrimination equals \$17.5 million).

Question 2. Continued. How were the "financial accomplishments since 2012" calculated?

Answer 2: Continued

Please see the attached chart for a breakdown of costs savings per fiscal year.

3. A number of bills have been referred to this Committee proposing to expand the role of the Commission – most notably, Senate Bill 974 to prohibit discrimination based on an individual's sexual orientation, gender identity or expression. How should this Committee assess the impacts on the Commission before passing such a measure?

Answer 3:

It is hard to predict the financial impact of the passage of SB 974 on the PHRC. Currently, following developments in case law, the PHRC takes and investigates claims based on sex, when sex stereotyping leads to discrimination. LGBT individuals who claim to have been subjected to sex stereotyping discrimination may file and pursue claims at the PHRC. If SB 974 were passed, it is anticipated that more LGBT individuals who believe they have been subjected to discrimination may file claims with the PHRC, but we don't know how many more.

Questions from Senator Williams and PHRC's Responses:

Internal Culture

1. **Ms. Edwards, you took leadership of the commission's daily operations in 2011, following the long tenure of PHRC's first Executive Director, Homer Floyd. Please describe what changes you made to policies and procedures since then.**

Answer 1:

The primary changes I have made were to take the pre-existing, investigative procedures, add details for greater clarification and enforce the time based requirements. I also instituted "ROOT" which is Review of Older Cases by the Team. ROOT is a team based process where investigators are assisted by their supervisor, regional director and attorney to resolve older cases. This focus has led to more quality, accurate and timely investigations for the public. I also instituted a case priority policy, where probable cause, aged cases, cases involving education, people over the age of 75 years old, those terminally ill, and housing cases are worked on first.

2. **Without going into personal details, how do you explain the large amount of EEOC complaints and lawsuits brought by former employees alleging harassment, discrimination and retaliation by senior management? Over a dozen former and current employees have reported ongoing harassment, discrimination, and retaliation to my office. This seems to rise above the level of personality conflicts or failure to adapt to new procedures?**

Answer 2:

Change is hard, plus the lack of staff puts incredible pressure on everyone. However, I want to remind you that the commission has not been found liable for discrimination by any court. Also PHRC staff filed 23 Civil Service Commission complaints: three are pending, and 20 were resolved in the PHRC's favor. Further PHRC staff filed 27 grievances: three are pending, two settled, and 22 were denied in PHRC's favor.

3. **Does the PHRC have a written policy against the use of discriminatory or biased speech by employees?**

Answer 3:

This question is unclear but in general the PHRC follows the commonwealth's anti-discrimination policies and guidelines.

- 3a. **Do the PHRC Commissioners follow these policies?**

Answer 3a:

I cannot answer for the commissioners but I would hope they follow such policies.

4. **Institutional Knowledge: What has been the net effect of losing so many experienced investigators and senior staff members? Have you developed policies to ensure that any remaining institutional knowledge is retained beyond the employee's service? (See Strategic Plan Goal 3, Objective A.3)**

Answer 4:

Losing senior staff hurts any organization. Institutional knowledge was lost when I joined the organization as many managers and administrators retired around the same time as Homer Floyd.

However, one by product of the reengineering project has been to reduce all investigation procedures to writing. Thus, as knowledgeable staff leave we now have this important process documented. Further, we have begun process mapping all activities in the commission and created standardized training presentations for external and internal audiences including a civil rights history presentation from the former Executive Director, Homer Floyd.

5. **Specifically, what trainings in the last three years has the commission received on cultural diversity, cultural competency or discrimination to keep up to date on discrimination laws?**

Answer 5:

For Commissioners:

- Training on diversity and working together provided by OA/HR in August 2014
- Training on unconscious bias was provided by PA Turnpike Commission's diversity officer in April 2016.

For staff and attorneys:

- Training on race and privilege was provided in June 2014 by YWCA Lancaster
- Quarterly EEOC and Fair Housing training webinars since 2004 have been offered
- Disability training was provided through the Mid Atlantic ADA Center (a certified representative from OVR came to the Harrisburg Regional Office and two regional directors attended ADA center's conference.
- Accessibility/Disability trainings were provided in 2015-16 by two vendors (Accessibility First and Lehigh Valley Center for Independent Living. Both vendors were funded with HUD monies.)

For Attorneys:

- PHRC Attorneys have attended and presented at various legal workshops through the Pennsylvania Bar Association and the American Bar Association. Materials from these trainings are shared among the attorneys to build institutional knowledge.
- Some staff has received additional Train the Trainer opportunities so that they can bring back what they have learned and share it with others. For example, in January 2014 a Central Office staff employee Tameka, participated in a Train the Trainer workshop on Race and Privilege provided by the YWCA in Lancaster —she was then able to bring this training information back to share with PHRC staff.

6. **What steps are you taking to encourage diversity hiring and promotion within the commission? (See Goal 3, Objective A.2 for 2015-16)**

Answer 6:

PHRC has worked extensively with the State Civil Service Commission (SCSC) and the Governor's Office of Human Resources to develop and implement a plan to recruit diverse candidates for commission jobs. Please refer to the attached copy of SCSC's plan. Further, people of color in all regional offices have been promoted from investigators to supervisory positions during my tenure as the executive director.

7. **How have you promoted equity at the commission by placing people of color in positions of authority and creating opportunities for them to be amongst the higher salaried employees at the commission?**

Answer 7:

All of our investigative positions, team leaders, and regional directors are hired, as they have been for decades through the Civil Service process. Certainly, when anyone has a background in civil rights or discrimination law, and they meet the civil service requirements, we try to hire them. For example, we've hired people with work experiences from local human relations commissions, housing advocacy and antipoverty organizations, and the Anti-Defamation League.

Additionally, people of color in all regional offices have been promoted from investigators to supervisory positions during my tenure as the executive director. Finally, our attorney hires represent our commitment to diversity.

8. **Do you think that the commission should be hiring more investigators and management with civil rights backgrounds?**

Answer 8:

The PHRC Investigators and Regional Directors must be hired according to SCSC principles. When we can "reach" qualified candidates with prior anti-discrimination experience that is certainly preferred.

9. **It would appear that some hiring has been done despite the budgetary issues, but only at the top administrative level. Can you explain the role/need for a special assistant to the executive director?**

Answer 9:

The special assistant position was an existing position under Homer Floyd's administration. Like the previous special assistant, the current employee focuses on internal operations so the executive director can focus on external partnerships and overall management of the commission.

Case management

1. Why was it necessary to re-engineer the investigation process?

Answer 1:

Given the \$1.5 million budget deficit and limited staff in SFY 2011/12 PHRC had to work differently. Further in SFY 2012/13 53% (or 1,659) of the commission's pending cases were aged or over one year old. These circumstances along with feedback from an earlier study by the Delta Development Group commissioned by Homer Floyd confirmed we had to do something to better serve the public. Later in 2013 David Berney, a complainant's attorney shared his doctoral dissertation with PHRC which confirmed what we already knew--investigations were sluggish; few probable cause (PC) findings were forthcoming; and settlement amounts were low.

2. Who made the decision to halt walk-in complaints at the Philadelphia office, and has this policy since been reversed?

Answer 2:

Walk-in complaints have not been halted. The traditional manner in which "walk-in" complainants were served was changed as of December 2014 due to the lack of staff resources. Currently, complainants who come to the office receive a questionnaire and are encouraged to complete and return it while on-site at the office. If there is a request for help such as reading comprehension or language translations that complainant receives help. Once the questionnaire is completed the intake person will call the complainant back according to commission priorities and then on a first in/first out basis so as not to be unfair to other citizens who don't have ready access to the respective office. Prior to this change the intake staff would stop working on an existing complaint for one, two and sometimes three hours to draft a complaint for the person who walked in the door.

3. What are the current staff complements (number of attorneys, investigators, and administrative employees) at each regional office? Can you explain why there are fewer staff members in Philadelphia and Pittsburgh than in Harrisburg despite their large populations?

Answer 3:

Staff complement at any particular office is based on the number of complaints received in that office, not population. The Harrisburg, Philadelphia, and Pittsburgh Regional Offices' complements are: 30, 21, and 15 respectively.

4. How many investigators do you have in each regional office? What is their per-person caseload?

Answer 4:

*Numbers are based on FILLED complement only, not TOTAL complement

Pending Cases SFY 2015/16 (6/1/16)			
Office	Pending Cases	HRR1/2 Investigation	Cases per HRR1/2/wage/annuitant.
Harrisburg	1002	14.5	69
Philadelphia	647	7	92
Pittsburgh	419	6	70
Central	15	N/A	N/A
Total	2083		

Harrisburg includes: .5 FTE for N.N. who is a PT wage (14 FT HRR 1/2 plus .5)

Philadelphia includes: .5 FTE for E.O and K.K, each of whom are working out of class and one FTE for Millie and Suzanne each who are annuitants. (four perm HRR2s plus three as explained above)

Pittsburgh includes: .5 FTE for J.R. and T.M each who are annuitants. (5 FTE plus one)

Pending Intakes SFY 2015/16 (6/1/16)			
Office	Pending Intakes	HRR1/2/Annuit. Intake Staff	Intake per HRR1/2
Harrisburg	387	5	77
Philadelphia	456	3.5	130
Pittsburgh	227	3	77
Central	40	N/A	N/A
Total	1110	84	

Harrisburg includes: 1 FTE for D.B. who is working as an annuitant (5 FTE plus one)

Philadelphia includes: .5 FTE for C.J. one FTE for T.M. who are working as annuitants (two FT HRR2 plus 1.5)

Pittsburgh includes only two FT HRR2 staff.

5. A lot of information has been presented about closing cases and reducing backlogs, but do you have qualitative information on whether the outcomes of those closed cases were objectively just? In other words, is the PHRC actually succeeding in protecting people from discrimination and punishing those responsible?

Answer 5:

Yes. As evidence of PHRC's improvements see the final orders in your June 7, 2016 hearing packet. Also, PHRC increased PC findings by 70% (from 40 PCs in SFY 2013-14 to 68 in SFY 2014-15); a 40% decrease in the agency's aged back log; an increase by 1 million over SFY 2013/14's amount of \$4.9 million; and satisfaction surveys that revealed 98% of complainants who used the pilot mediation program stated they would use the program again.

6. Can you please describe the commission's use of outside counsel since 2011? Were those contracts competitively bid? How do you justify the expense when you can't hire investigators?

Answer 6:

During my tenure, PHRC has hired one outside counsel-Attorney David Berney, who we hired to evaluate and handle the enforcement of the conciliation agreement PHRC has with the Reading School District. At the time PHRC contracted with David Berney in the summer/fall of 2014. PHRC had been attempting to work cooperatively with the Reading School District to pursue compliance with the conciliation agreement. Due to excessive PHRC turnover in the staff assigned to handle the Reading School District matter, PHRC did not have adequate legal staff to move the case forward. Attorney Berney is an education and human rights attorney, and his work was well known to the PHRC. Attorney Berney had studied the PHRC and authored a report on its operations and effectiveness several years earlier. As a volunteer in 2013, Attorney Berney met with commissioners and senior staff to discuss his report and ideas for improving the commission's efforts to investigate cases.

There was no requirement for the PHRC to obtain competitive bids for legal services.

Outreach

1. The PHRC website is very difficult to navigate and has little information regarding current caseloads, wait times, etc which used to be contained in greater detail in the annual report. Is the website continuing to be developed?

Answer 1:

Commonwealth agencies websites have been converted to a standard template that gives them a similar look to each website. Our website is constantly being updated. Adding additional details to our annual report will be taken into account for this coming year's annual report.

2. Why are there no minutes from public commission meetings posted on the website?

Answer 2:

I am not sure that we have done so in the past, but we can post the minutes of public commission meetings on our website.

3. Social media— you have a twitter account which has never posted, no Facebook page...why not? (Strategic Plan Goal 2, Objective C for 2015-16 included "expanding PHRC use of social media...")

Answer 3:

We currently do not have enough resources to address social media adequately. During National Fair Housing Month we did offer tweets.

4. There has seemingly been a shift in priorities from casework (Act enforcement) to outreach, can you explain why?

Answer 4:

PHRC has a dual purpose—to enforce the anti-discrimination laws by investigating claims; and, to prevent discrimination from happening in the first place through education. By law PHRC has to do both—enforce and educate. The vast majority of the agency’s budget and focus is on enforcement. It would be short sighted of us to only respond and react to discrimination claims without trying to prevent its occurrence through education and our network of partners some of whom are volunteers. Volunteers staff our advisory councils and tension task force and local HRCs assist in educating the community.

5. Why doesn’t the PHRC inject itself into clear public cases of discrimination, like Hategate/Pornigate? Why doesn’t it take stances on policies with racial discrimination components like stop-and-frisk?

Answer 5:

PHRC doesn’t have the resources to conduct our own independent investigation of controversies like the “Pornigate” situation. We are focused on the cases that have been filed with us. Certainly, if there were individuals who believe they were subject to unlawful discrimination because of the offensive emails they could have filed claims with the PHRC. However, just because we don’t inject ourselves into the public discourse about such controversies doesn’t mean that the PHRC is doing nothing about these types of concerns. For example, as is more fully outlined in the accomplishments listing included with our testimony, the PHRC responded fully and effectively when the Coatesville School District experienced a crisis arising from the exchange of racist and sexist texts between the school superintendent and the athletic director. In addition, the PHRC has been providing training for several state agencies on anti-harassment and anti-discrimination.

While the PHRC does not get involved in challenges to arrests, the PHRC has not ignored the concerns raised about discrimination by police. For example, the PHRC has advocated for the opportunity to provide and has provided diversity trainings to local police forces. In addition, the PHRC, and Pennsylvania State Police participated in police/community panel discussions and workshops convened by the NAACP. Also, the Pennsylvania State Police and other criminal justice entities, like the attorney general, participate in PHRC’s bimonthly Tension Task Force meetings. We do a lot with the very limited resources we have; certainly we want to and could do more with increased funding.



State Civil Service Commission's Plan
To Recruit Diverse Candidates
For PHRC

From: Wallace, Jeffrey (CS)
Sent: Tuesday, May 17, 2016 8:21 AM
To: Edwards, JoAnn
Subject: RE: information regarding Senate hearing

JoAnn -

I asked staff to provide to me a summary of PHRC recruitment activities during the last two years. Below is a recap of targeted recruitment efforts implemented by the Commission on behalf of PHRC within the last two years:

In **September 2015**, the Commission implemented extensive recruitment efforts to promote two vacancies for **Regional Director, HRC** in Philadelphia and Pittsburgh. The Commission worked closely with Lisa Petrina (OA) and Tammy McElfresh (PHRC) throughout this process and provided both with a detailed recap of recruitment efforts, which included the following:

Posted vacancy information on the following websites:

Immediate Needs section of SCSC website (now called Featured Vacancies)

www.jobgateway.pa.gov

www.craigslist.org

www.ebayclassifieds.com

The Leadership Conference on Civil and Human Rights

(http://www.civilrights.org/career_center/job-opening-old.html)

Forwarded detailed vacancy information electronically to:

Guidance offices of colleges and universities in Pennsylvania and surrounding states, with a request that the information be distributed to appropriate alumnae SCSC's Bureau of Employment Services, as well as Western and Eastern Regional Offices

CareerLink Offices statewide

Dauphin County Diversity Networking Forum members

Governor's Advisory Commissions

Office of Vocational Rehabilitation

Local government contacts

Contacts maintained by the Commission's Recruitment and Workforce Diversity Division, including those targeting:

*disability organizations

*diversity-related organizations

*veterans organizations

*organizations for women

*(Detailed spreadsheets for all of the aforementioned organizations are maintained on the HR Professional section of our website.)

Shared employment information with the following professional organizations:

Pennsylvania Bar Association - www.pabar.org

Fraternal Order of Police, Pennsylvania State Lodge - www.pafop.org

Pennsylvania State Troopers Association - www.psta.org

Latino Hispanic Professional Association - lhpa.inc@gmail.com

Pennsylvania State Conference of the National Association for the Advancement of Colored People - www.pastatenaacp.org

American Civil Liberties Union offices in:

Philadelphia - info@aclupa.org

Pittsburgh - pginfo@aclupa.org

Harrisburg - hbginfo@aclupa.org

Ohio - contact@acluohio.org

Maryland - aclu@aclu-md.org

Delaware - admin@aclu-de.org

Somerset County, New Jersey - somersetchapter@aclu-nj.org

The following Urban Leagues:

Urban League of Philadelphia through Rosalyn McPherson at

rmcpherson@urbanleaguephila.org

Shenango Valley Urban League through Michael Wright at mlw@neohio.twcbc.com

Greater Warren-Youngstown Urban League through Thomas Conley at

tconley@wyul.org

Greater Stark County Urban League through Vincent Watts at vwatts4591@aol.com

Akron Urban League through Fred Wright at fwright@akronurbanleague.org

Urban League of Greater Cleveland through Marsha Mockabee at

mmockabee@ulcleveland.org

Buffalo Urban League through Brenda McDuffie at bmcduffie@buffalourbanleague.org

Metropolitan Wilmington Urban League through Deborah Wilson at dwilson@mwul.org

Greater Baltimore Urban League through J. Howard Henderson at jhh985@aol.com

Greater Washington Urban League through George Lambert, Jr. at

glambert@gwul.org

Urban League of Greater Pittsburgh through Esther Bush at ebush@ulpgh.org

Broome County Urban League through Jennifer Lesko at jlesko@bcul.org

Urban League of Morris County through Mable Davis at mdavis@ulmcnj.org

Urban League of Union County through Ella Teal at ulunioncty@aol.com

Urban League of Essex County through Vivian Cox-Fraser at vfraser@ulec.org

Urban League of Hudson County through Elnora Watson at ewatson@ulohc.org

Urban League of Bergen County through Jeffrey Richardson at jrichardson@ulbcnj.org

New York Urban League through Arva Rice at arice@nyul.org

The Commission remained in touch with OA and PHRC staff to monitor effectiveness of recruitment strategies.

.....

In **December 2015**, the Commission implemented specialized recruitment efforts to promote several **Human Relations Representative 1** vacancies in Harrisburg, Pittsburgh, and Philadelphia, including one vacancy for a **bilingual position in Harrisburg**. Recruitment efforts that were implemented include the following:

Posted vacancy information on the following websites:

Featured Vacancy section of the Open Test Announcements page of the SCSC website

www.jobgateway.pa.gov

www.craigslist.org (except for Allegheny County vacancies – Craigslist.org charges a fee to post vacancies in the Pittsburgh area)
www.ebayclassifieds.com

Created a promotional flyer for these vacancies, and distributed it electronically to: Guidance offices of colleges and universities in Pennsylvania with a request that the information be distributed to appropriate alumnae
SCSC's Bureau of Employment Services, as well as Western and Eastern Regional Offices

CareerLink Offices statewide

Dauphin County Diversity Networking Forum members

Governor's Advisory Commissions

Office of Vocational Rehabilitation

Army Career and Alumni Program (ACAP)

Local government contacts

Contacts maintained by RWDD staff, including those targeting:

*disability organizations

*diversity-related organizations

*veterans organizations

*organizations for women

*college graduate program offices

*(Again, these are from the spreadsheets in the HR Professional section.)

The Commission highlighted and profiled the PHRC job opportunities as "Featured Vacancies" on its main employment webpage at www.scsc.pa.gov

Commission staff remained in contact with Lisa Petrina (OA) regarding these recruitment and selection needs.

WHITE PAPER
PA HUMAN RELATIONS COMMISSION
 (June 2, 2016)

The Pennsylvania Human Relations Commission (PHRC) has been protecting the civil rights of the residents of the Commonwealth since 1955 when the PA Human Relations Act was first passed. Despite facing some huge financial hurdles over a number of years, the PHRC is now at a “tipping point” with respect to fulfilling its statutory mandates to eradicate and prevent unlawful discrimination from occurring in Pennsylvania.

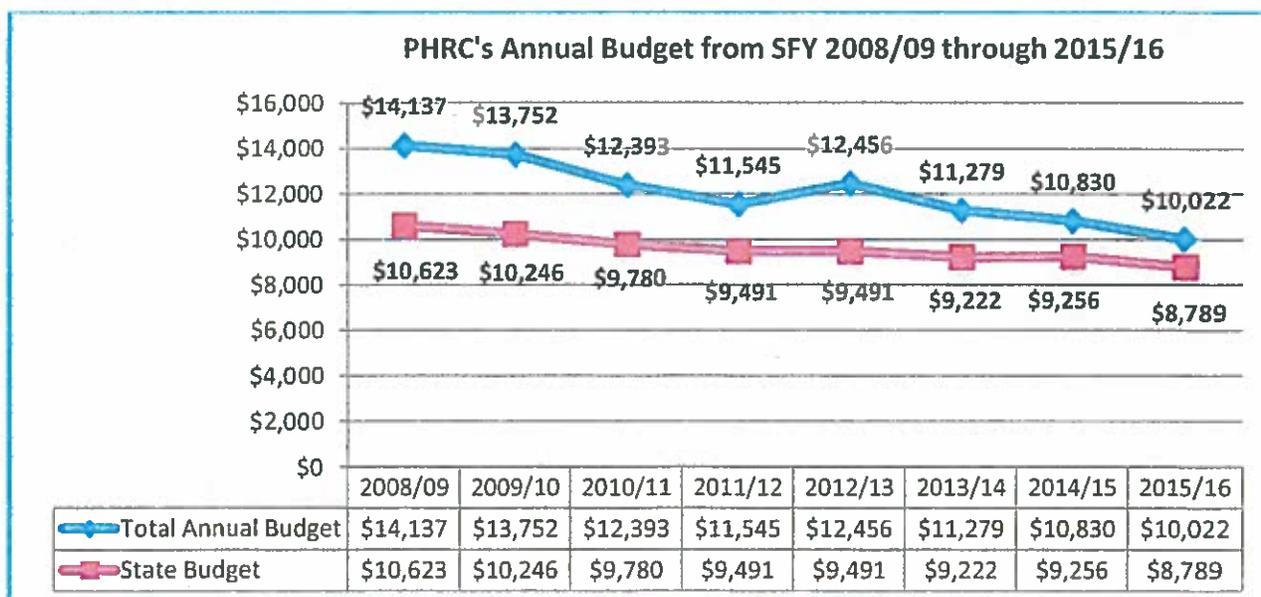
The commission cannot continue to operate with inadequate funding and staffing levels. Since State Fiscal Year (SFY) 2011/12 the commissioners, executive director and her staff have left no stone unturned with respect to realizing cost savings, avoiding expenses and going the extra mile to obtain additional revenue. This team has:

- Eliminated an inherited \$1.5 million budget deficit during the executive director’s first year of employment;
- Saved over \$3+ million through cost saving measures such as moving two offices from expensive leased space in to smaller but free state owned space, etc.;
- Avoided an additional \$2+ million in expenses as a result of creating a mediation program; an on-line questionnaire, etc. and;
- Obtained three grants totaling \$539,817.11 from the US Dept. of Housing and Urban Development which have been used to promote a better understanding of housing discrimination and drive inquiries to PHRC’s housing hotline.

Despite this great work, the commission’s declining funding and staffing complement levels are putting the commission’s efforts to pursue efficient and timely investigations at risk; now wait times to complete investigations are growing, fewer federal funds are coming in to Pennsylvania and the amount of civil rights education and outreach activities being provided are modest at best.

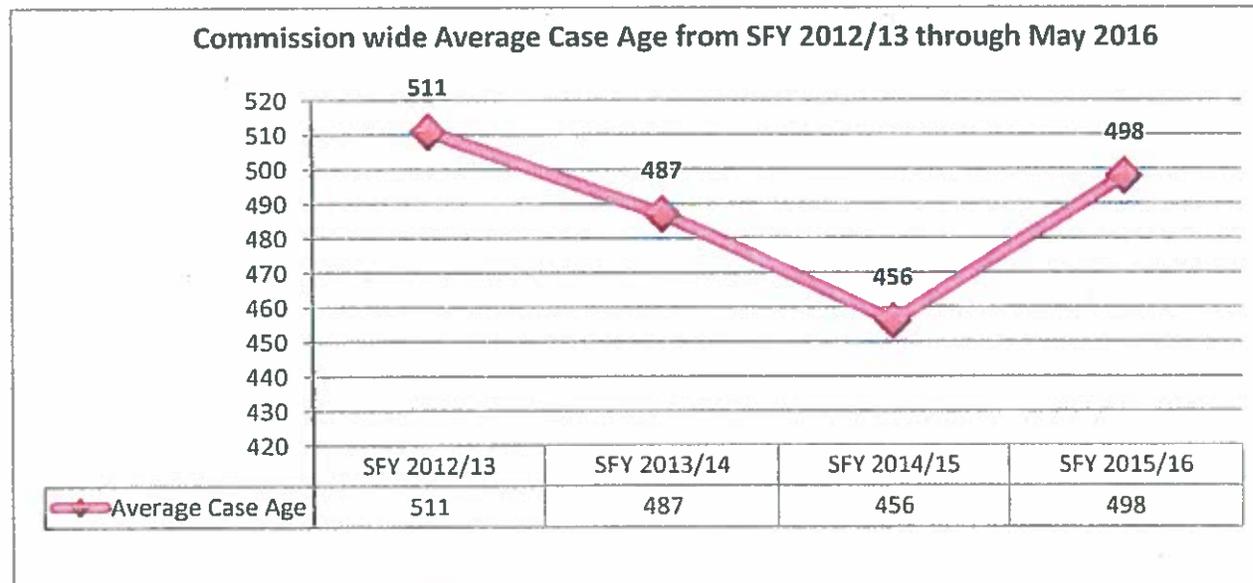
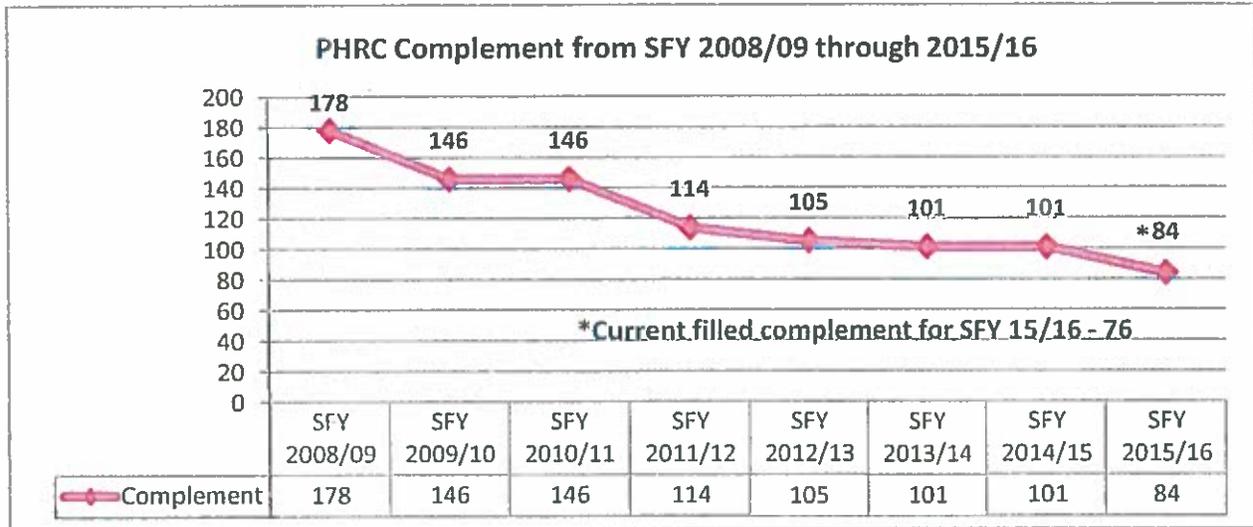
Continuous Budget Decline

Over the past eight SFYs the commission’s budget has decreased from \$ 14.1 million in SFY 2008/09 to \$10.0 million this year. Overall, this is a decrease of 30%! The \$10.0 million provided is not sufficient for the commission to cover its personnel and operating costs.



Staff Complement

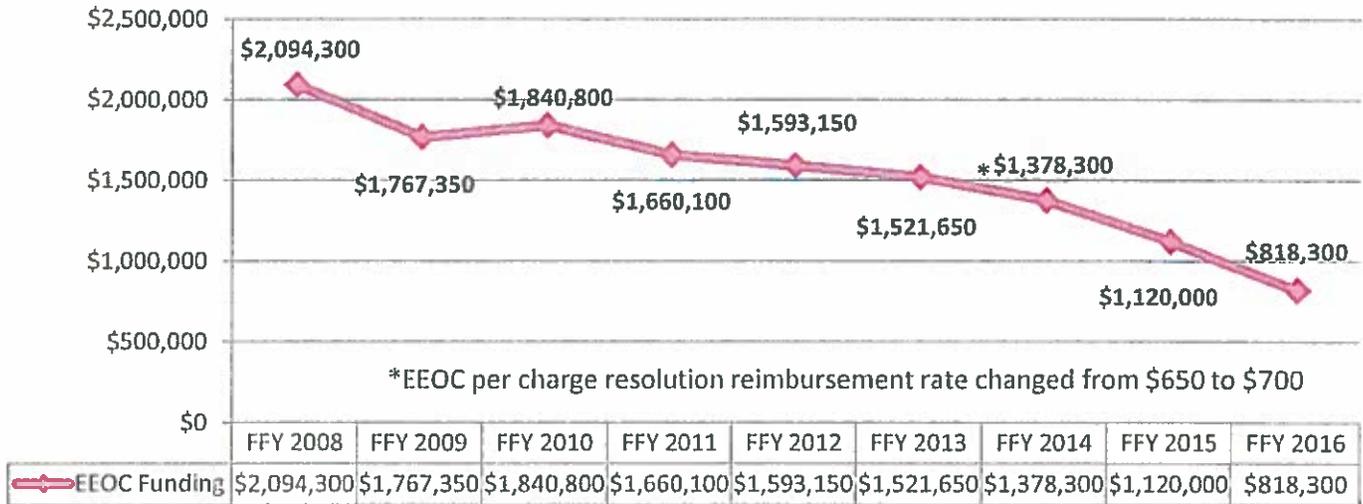
The commission's continuous budget decline has significantly reduced the number of staff available to perform timely investigations. Since SFY 2008/09, the commission has lost 101 positions or 57% of its complement. Sadly, this complement reduction has undone the progress achieved under the 2012/13 reengineering initiative with the average time to investigate a case climbing to 498 days to complete.



Consequences of Staff and Budget Reductions

The commission's reduction in staff and funding has resulted in three major consequences. First, the commission is bringing in less and less federal dollars to Pennsylvania. As shown below, the Commission and thus Pennsylvania has lost over \$1.3 million in federal funding during the last eight FFYs. This drop in federal funding is directly related to the commission's continuous decrease in complement. Currently, the commission's all time low complement of 76 people is not sufficient to investigate and close 1,356 cases that are required under the commission's work share agreement with the US Equal Employment Opportunity Commission (EEOC). Therefore, the commission will ask EEOC to reduce by 200 the number of cases under the work share agreement to 1,156 cases. This case reduction represents an additional loss to the commission and Pennsylvania of another \$140,000 in federal funding.

EEOC Funding from FFY 2008 through 2016



A second consequence is that the General Assembly is breaking their promise to the people of Pennsylvania which requires the commission to reach out and educate others so that equal opportunity would be achieved through the voluntary means of education and persuasion. This education and outreach mandate of the PA Human Relations Act is largely unfunded. In fact, the commission's staff ratio to carry out this education and outreach mandate is one employee for every 3.2 million citizens.

The 1955 General Assembly stated the third consequence of not funding and staffing the commission. The General Assembly found that discrimination--

"...foments domestic strife and unrest, threatens the rights and privileges of the inhabitants of the Commonwealth, and undermines the foundations of a free democratic state....deprives large segments of the population of the Commonwealth earnings necessary to maintain decent standards of living, necessitates their resort to public relief and intensifies group conflicts thereby resulting to grave injury to the public health and welfare, compels many individuals to live in dwellings which are substandard, unhealthful and overcrowded, resulting in racial segregation in public schools and other community facilities...thereby threatening the peace, health and safety and general welfare of the Commonwealth and its inhabitants." PHRC Section 2(a); 43 P.S. 952(a).

The time to act is now – increase funding to PHRC to \$12 million dollars.



pennsylvania

HUMAN RELATIONS COMMISSION

PENNSYLVANIA HUMAN RELATIONS COMMISSION ACCOMPLISHMENTS STATE FISCAL YEARS 2011-2015

State Fiscal Year 2011-12

- Eliminated \$1.5 million deficit during new Executive Director's first year of employment
- Consolidated the PHRC's human resources, information technology and budget functions under the governor's office
- Finalized a settlement and consent decree with Reading School District, cementing a five-year action plan to address problems blocking district students' achievement and fair access to education.

State Fiscal Year 2012-13

- Recruited a pilot project team of investigators, supervisors and management representatives to review and revise case investigative procedures.
- Updated case investigative and intake processes with new time and quality driven procedures
- Relocated Harrisburg Regional and Central Offices from expensive leased space to smaller, but free, state owned office space
- Obtained \$313,719 in U.S. HUD grant funds to implement three fair housing projects
- Secured case settlements in excess of \$6.7 million.
- Moved 20 cases forward to public hearing.

State Fiscal Year 2013-14

- Developed a Pilot Mediation Program and obtained funds from the Governor's Innovation Office to implement it.
- Consolidated Pittsburgh Regional Office space for annual reoccurring savings of \$61,000
- Worked with Commissioners to develop and start implementing PHRC's first strategic plan
- Initiated "Agility" bartering program with PennDOT to transport mail and case files between Harrisburg and Pittsburgh.
- Installed a toll-free hotline for individuals to report housing discrimination
- Received Governor's Innovation Award for ROOT reengineering process
- Responded to crisis in Coatesville School District that started when racist and sexist emails and texts between the Coatesville superintendent and athletic director were discovered. Worked with statewide NAACP; attended hearings and provided information to students and staff about discrimination. Negotiated an MOU with the School District, NAACP and the U.S. Department of Justice to implement stronger protections against discrimination and promoting diversity and understanding. Provided training to the school board and staff, provided SPIRIT program training for students.
- Obtained \$226,098 in U.S. HUD grant funds to implement three fair housing projects
- Secured case settlements of \$4.9 million
- Moved 29 cases forward to public hearing.

State Fiscal Year 2014-15

- Received Governor's Innovation Award for the Mediation Program
- Reduced case backlogs by 30 percent and case age by 21 percent
- Began a case management system (CMS) replacement project; convened a CMS workgroup, hired a project manager and CRM architect
- Developed videos for PHRC website and training purposes that provide overview of discrimination - sixteen videos were produced (8 in English, 8 in Spanish)
- Obtained State Police training for PHRC staff on how to conduct investigations
- Obtained second year for Governor's Innovation Office funding for Mediation Program
- Held first annual statewide summit for local human relations commissions
- Created local advisory council in southwestern Pennsylvania
- Trained approximately 2,600 individuals statewide on understanding civil rights
- Increased monetary settlements by \$1 million over previous year
- Increased number of probable cause findings by 70% over previous year
- In conjunction with the Pennsylvania Bar Institute, developed and provided statewide trainings for lawyers on the Pennsylvania Human Relations Act and PHRC practice and procedure.
- Moved 60 cases forward to the public hearing docket; 36 by Rule to Show Cause petition and 24 by public hearing request.

State Fiscal Year 2015-16

- Carried out statewide fair housing media campaign with HUD funding (radio, bus transit and bus shelter advertising)
- Launched online employment questionnaire for those individuals who wish to file an employment discrimination complaint-estimated cost savings of \$109,453 annually.
- Completed project mapping in preparation for CMS system replacement (if funds are available)
- Increased number of trained volunteer mediators by ongoing outreach efforts through the Pennsylvania Bar Association and the Pennsylvania Council of Mediators; also provided volunteer mediator training through the Office of General Counsel, the Dauphin County Bar Association and at the University of Pennsylvania.
- Established two new advisory councils for a total of nine councils statewide.
- Initiated a temporary, fair housing rights book facilitation program for youth in 5th through 8th grade.