

990037

AGENCY PERFORMANCE REPORT

1998

STATE OF MINNESOTA

DEPARTMENT OF HUMAN RIGHTS

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AGENCY SUMMARY

OUR MISSION

The quality of life in Minnesota is directly related to the ability of all its people to be free from discrimination. The physical, emotional, mental, social, and economic well-being of each person in Minnesota depends upon the provision of equal opportunity for all. The economic and social health of our diverse society, in turn, depends upon the well-being of its people. Building upon Minnesota's progressive, non-partisan civil rights tradition, the Department of Human Rights works to foster a society that respects, supports, and is enriched by each member of our increasingly diverse population, and works toward a future in which our children will never experience discrimination.

A society that tolerates discrimination not only creates emotional pain and economic hardship for individuals and groups, but also harms itself. The discriminatory denial of opportunities to meet basic needs, such as for housing, education and employment, negatively affects the state's economic health. To remain economically competitive, Minnesota must foster the full economic participation of its diverse population. Morally and economically, Minnesota cannot afford to tolerate discrimination.

OUR GOALS

The Minnesota Department of Human Rights is dedicated to eliminating illegal discrimination and remedying the impact of discrimination on the lives of the people of Minnesota. To accomplish these goals, the department works to do the following:

- Motivate organizations and individuals to comply with the Human Rights Act, by vigorously enforcing the law; specifically, by receiving and investigating jurisdictional charges of discrimination, and engaging in persuasion, conciliation and, when necessary, litigation;
- Provide employer incentives for complying with the Human Rights Act, by reviewing state contractors through the contract compliance program, in order to promote an employment climate free of historic, discriminatory barriers to the employment of people of color, women and people with disabilities;
- Act as a state leader in the area of human rights. To maintain this leadership role, the department recognizes that it must anticipate and identify changes in the social environment that affect human and civil rights issues; therefore, the department actively works to create and strengthen its relationships with relevant public, private and community-based organizations, in order to share information and cooperatively recognize and address emerging civil rights issues;
- Devote resources to human rights education; in order to supplement its enforcement activities and promote an environment free of discrimination. Whenever possible, the department will attempt to prevent discriminatory situations from arising by taking proactive measures.

The department is committed to promoting and creating, then maintaining a Minnesota free from illegal discrimination, in all aspects of its people's lives. Through the cooperative and innovative efforts of its administration and dedicated staff, the department will ensure that state resources are effectively utilized in carrying out its mission and meeting its goals. In doing so, the department strives to maintain the confidence of the public by conducting its activities in a timely, fair and professional manner.

AGENCY ORGANIZATION: PROGRAM AREAS

The Department of Human Rights is responsible for the following two program areas, as established under the Minnesota Human Rights Act:

- **Intake and charge processing:** Receiving, processing, investigating and resolving alleged violations of the Minnesota Human Rights Act; and
- **Contract compliance:** Receiving, reviewing and approving affirmative action plans from firms seeking to do business with the state of Minnesota; issuing certificates of compliance, which certify to state agencies that firms seeking covered contracts are in compliance with the relevant provisions of the Human Rights Act and department rules, thereby qualifying those firms to contract with the state.

PROGRAM: INTAKE AND CHARGE PROCESSING

Agency Goal #1: Motivate individuals and organizations to comply with the Act by vigorously enforcing the Act; specifically, by investigating discrimination complaints and engaging in conciliation and persuasion.

During the past two years, the department's base budget was increased by \$300,000, enabling the agency to hire and train additional investigators and expand its alternative dispute resolution options. As a result, and through a dramatically revised case processing procedure, investigator caseloads have decreased; the bulk of non-meritorious cases are screened out by senior investigative staff within six months of filing; and the remaining cases, which have been assessed to have potential for probable cause, are investigated and decided within one year of filing.

The department also was able to accept for processing 75 charges filed with the Minnesota office of the U.S. Equal Opportunity Commission (EEOC). This is assisting that agency in reducing its large inventory of cross-filed cases, which provides prompter service to those Minnesotans whose Human Rights charge were initially filed at the federal level; the department ultimately is responsible for resolution of their cross-filed state claim.

Description of Services:

INTAKE

- People with discrimination concerns come to the Department of Human Rights through telephone (including relay and TTY services), letter, department community outreach workers, or walk-in inquiry;
- If the issues are not jurisdictional to the Human Rights Act, referral is made to appropriate resources, if possible;
- If the issues articulated are jurisdictional to the Minnesota Human Rights Act, a questionnaire is provided to potential charging party, to collect essential information;
- If the questionnaire is returned, a charge will be drafted, incorporating jurisdictional issues and bases (taking a charge does not indicate the department's belief that the claim has merit, and no charge can be taken if claims clearly are non-jurisdictional to the Act); and
- If the charge draft is returned with a notarized signature, case is "filed" as of date received by the Department of Human Rights.

INITIAL INQUIRY

- A copy of the charge is sent to charging party within 10 days, with a cover letter, to document that a charge has been filed;
- Copy of charge is sent to respondent, with service letter, within 10 days of filing; Initial Information Request (IIR) is included with charge service, to obtain basic documents relevant to charge; additional material to support respondent's position can be included in response; subpoena sent with service to government entities (Minn. Stat. §363.05, subd. 2(b)(1997);
- The department is a neutral fact-finder, not an advocate for charging party; outcome is based on whether there is sufficient evidence (probable cause) of a violation of the Act;
- Respondent's Answer to charge is due within 20 days of service; extension of up to 10 additional days may be given for "good cause" (if not submitted, second demand is sent, with specific notice of consequences, including possible default judgment or decision based on "adverse inference" that the withheld information would support charging party's allegations);
- A copy of Respondent's Answer, with attachments/exhibits (but not documentation from IIR) is sent to charging party (and attorney), with request for rebuttal within 30 days (may give extension);
- If charging party does not submit rebuttal, and there is no indication of inability to do so (e.g., literacy, English fluency, disability affecting communication), case is dismissed as not warranting further use of resources (DWR);
- Where charging party has identified witnesses, they may be contacted for information at Initial Inquiry stage; and
- Respondent attorney will be copied on all correspondence to respondent, once the department is notified of representation.

SCREENING

- Cases are referred to screening committee when Initial Inquiry phase is complete;
- Case processing unit supervisors and senior investigators serve on the committee, which meets regularly with the Commissioner or designee;
- Screeners determine whether cases are appropriate for referral to mediation (through Office of Dispute Resolution, Minnesota Bureau of Mediation Services); referral to investigation, with instructions for investigation; or early dismissal, as not warranting further use of department resources (DWR);
- DWR at screening stage may be based on apparent lack of merit (when initial inquiry does not substantiate allegations, and it is unlikely that further investigation would produce evidence sufficient to show a violation of the Act occurred), or due to the inconsequential nature of case (e.g., minimal or no actual damages, and little potential for other, significant damages or public policy impact; respondent fixed problem as soon it became aware of it; clear lack of jurisdiction); a charging party whose case is dismissed at this stage may request the department to reconsider its decision and reopen the file for further processing (Minn. R. 5000.0570)(1997); and
- Cases in which the mediation referral opportunity is declined by either party, or which are not resolved through mediation, are returned to the department for investigation.

INVESTIGATION

- Cases referred to investigation, either directly from screening or following referral for mediation, are distributed among three case processing units which have specific areas of specialization, and assigned to Enforcement Officers (EOs);
- EOs conduct investigation, which may include interviewing witnesses and reviewing and analyzing documents; investigations are tailored to the issues in each case;
- If parties to a charge indicate interest in settling before determination is made, EO facilitates negotiation of a no-fault, predetermination settlement agreement;
- When investigation is completed, case is reviewed by case processing unit supervisor, who issues a determination on behalf of the Commissioner; virtually all determinations at this stage are either Probable Cause or No Probable Cause (PC/NPC); and
- Total processing time on any case should not exceed twelve months from filing, exclusive of time at mediation stage.

APPEALS

- By statute, and as detailed in Minn. R. 5000.0700 (1997) and Minn. R. 5000.0750 (1997), a party who receives an adverse determination can request reconsideration based upon evidence not available during the investigation; evidence available but not properly weighed; or other substantial basis for contending determination is in error; and
- Through an appeals committee process, the Commissioner/designee reviews the appeal; options are to affirm, reverse, or vacate/remand for further investigation and issue new determination, or reopen a case closed at the screening stage.

CONCILIATION / LITIGATION

- If PC is found, case is referred to the Office of Attorney General for conciliation; remedies at this stage may include payment of actual damages, such as lost pay and benefits (up to three times actual loss); job hire, reinstatement, promotion or transfer; adoption of non-discrimination policies and training; work references; removal of disciplinary action; other remedies, as appropriate to the facts of the case (comparable remedies are applicable to cases involving housing, education, public accommodations, public services, education);
- If conciliation is not successful, the Attorney General's office evaluates whether case is appropriate for litigation, i.e., evaluates quantity and quality of evidence, value of remedy, legal/social significance of issues and makes recommendation to the commissioner;
- Commissioner determines whether to proceed with litigation or dismiss case (A dismissed case may be brought as a private civil action in state district court within 45 days of dismissal.);
- Department litigation is heard by administrative law judge (ALJ), at Office of Administrative Hearings, or state district court;
- Additional remedies may be sought in litigation, including punitive damages, compensation for pain and mental anguish, civil penalty (payable to the state), costs and attorney fees; and
- District court or ALJ decision can be appealed to Minnesota Court of Appeals.

CROSS-FILING WITH OTHER AGENCIES

- The Minnesota Human Rights Act applies to all employers within the state, regardless of the number of employees, and has a one-year filing period. Federal anti-discrimination laws, enforced by the Equal Employment Opportunity Commission (EEOC), apply to those employers with a minimum of either 15 or 20 employees, and have a 300-day filing period;
- Filing a charge alleging discrimination based on race, color, national origin, religion, sex, disability or age (40+) with either the department or the EEOC will be deemed to have been simultaneously filed with the other agency (i.e., cross filed) through the agencies' work sharing agreement, if timely and jurisdictional for both agencies. Under that agreement, the agency that receives the charge typically is the one to handle investigation (both agencies will notify charging party and respondent which agency will investigate);
- Employment discrimination charges based on marital status, sexual orientation, status with regard to public assistance, creed, or age 18-39 can be processed by the department only; most disability cases involving on-the-job injury will be processed by EEOC, due to Workers' Compensation Act preemption of Human Rights Act; and
- The agency that investigates a cross-filed charge notifies the other of its disposition; it is adopted by the second agency, unless there is a difference in case law or jurisdiction; however, a party receiving an adverse decision from the investigating agency may ask the second agency to review the decision.

Agency customers in this program area are identified as either primary or secondary. Charging parties (potential and actual) and respondents, including public employers, are primary customers; the general public, including potential respondents, and the department's attorneys (including University of Minnesota Law School Clinic) are secondary customers or consumers of the department's services and work product in the intake and case processing area.

CASE PROCESSING

Background Information:

Measure	1995FY	1996FY	1997FY	1998FY
New cases filed:	1363	1284	1402	1468
Cases closed:	1298	1723	1585	1594
Cases needing decision at year end:	NA	1213	943	863
Average caseload per investigator:	NA	78	25*	18
Average compensation received:	NA	\$9,118	\$9,657	\$11,042
(when case settles or is litigated)	NA	NA	(109 cases)	(135 cases)

*as of 12/31/97

Detail on Workload

New Charges Filed/Area of Discrimination:

AREA of DISCRIMINATION	FY95	FY96	FY97	FY98
Employment	980	886	1323	1322*
Housing	71	54	127	111
Public Accommodation	77	80	116	103
Education	41	38	56	43
Public Services	51	93	125	126
Aiding & Abetting	77	81	81	102
Credit	13	4	4	3
Business Contract			8	5
Reprisal	121	86	92	227**

* For breakdown of protected-class bases for employment discrimination charges, the largest single area, see below.

** Act amended to allow filing of reprisal charge against an individual person.

Note: Because a single charge may allege discrimination in more than one area, such as employment and reprisal discrimination, column totals exceed the total number of charges actually filed. The area of reprisal discrimination is most frequently cited as an additional area of discrimination, in a charge filed in another area of discrimination, such as employment or housing. In FY 1998, 216 charges (predominantly filed in the area of employment) contained reprisal as a second area of discrimination.

New Charges Filed/Basis of Discrimination:

BASIS of DISCRIMINATION	FY95	FY96	FY97	FY98	FY98: basis, as % of all charges	FY98: basis, as % of employment charges
Race	366	356	401	459	31%	19%
Color	6	1	3	9	1%	<1%
National Origin	108	114	138	129	9%	6%
Sex	481	418	438	436	30%	27%
Religion	21	24	25	23	<1%	1%
Creed	1	1	0	1	<1%	<1%
Age	163	183	200	186	13%	13%
Marital Status	39	36	51	46	3%	3%
Sexual Orientation	44	36	46	46	3%	2%
Public Assistance	9	17	36	13	<1%	<1%
Disability	278	333	375	376	26%	22%
Familial Status	7	6	20	13	<1%	NA

Note: A substantial number of charges allege discrimination on more than one basis, such as race and national origin; therefore, column totals exceed the total number of charges actually filed. In the 1998 fiscal year, 1197 charges alleged discrimination on a single basis; 229 charges alleged two bases; 144 charges contained three or more bases.

Definitions:

Determination: Department's disposition on the merits of the case (i.e., probable cause, no probable cause, or the department's determination that further use of its resources to reach a cause determination is unwarranted), or other case closure made pursuant to withdrawal, predetermination settlement, or other means consistent with Minnesota Rules, 5000 (1997).

WD/SA: Withdrawn/Satisfactorily Adjusted. Prior to a determination being issued in a case, charging party withdraws charge pursuant to an agreement reached with the respondent. The department is not a party to this agreement and cannot enforce these two-party settlements.

PDS: Predetermination settlement. Prior to issuing a determination in a case, the department obtains an agreement between the parties, by which the charge is resolved. The department negotiates these agreements, is a party to them, and may go to court to enforce compliance.

PC-Lit/Council: After probable cause (PC) is found in a case, the department, largely through its legal counsel in the Attorney General's Office, may pursue remedies through conciliation or litigation. The department is party to conciliation agreements and may go to court to ensure compliance.

FY1998 CASE DISPOSITIONS, BY TYPE:

DISPOSITION TYPE	NUMBER OF DISPOSITIONS	% OF DISPOSITIONS
Withdrawn (reason unknown)	35	2%
PDS or WD/SA	77	4%
No Probable Cause	528	30%
Probable Cause	153	9%
ADR: Settlement	51	3%
ADR: Withdrawn	32	2%
180-day Hearing Request	13	<1%
Dismissed (DWR)	729	41%
Dismissed (not located/co-op)	16	<1%
Withdrawn: Private Action	117	7%
Dismissed: Lack of Jurisdiction	18	1%
TOTAL	1769	100%

Note: Each stage of disposition of cases is reported. In some instances, a case may be counted more than once, such as when a case with a probable cause determination is withdrawn for private litigation; this occurred in 31 instances.

INTAKE/CASE PROCESSING: PERFORMANCE ON OBJECTIVES IN 1996 REPORT

1996 Goal 1: Inform people of their rights and obligations under the Minnesota Human Rights Act.

1996 Objective 1: Review and edit all public communication to increase clarity and increase effective public education.

Agency performance:

All department informational materials, including brochures, were updated during the performance period.

1996 Goal 2 : Reduce illegal discrimination in Minnesota, through the timely processing of charges filed with the department and obtain appropriate relief.

1996 Objective 1: Reduce the time for reaching a charge determination to 12 months.

Agency performance:

Beginning **1997FY**: 484 cases (40%) pending determination were over 12 months old.

Beginning **1999FY**: 8 cases pending determination are over 12 months old.

Detail on age of open cases, i.e., needing a determination:

<u>Year filed</u>	<u>Open 7/96</u>	<u>Open 1/1/99</u>
1989	1	0
1990	0	0
1991	0	0
1992	2	0
1993	13	0
1994	297	0
1995	435	0
1996	483	0
<u>1997</u>	<u>NA</u>	<u>8</u>
TOTAL	1231	8

1996 Objective 2: At least 75% of cases that do not warrant further use of department resources (DWR) are dismissed within 6 months of their filing. (This objective excludes cases where a probable cause decision is issued, but that the department subsequently determines not to litigate.)

Agency performance:

1996FY: 25% of DWR dismissals occurred within 6 months of filing.

1998FY: 84% of DWR dismissals occurred within 6 months of filing; average age at closure, 144 days.

Reason for objective: The legislative appropriation language adopted in 1996 included this as a new standard for judging agency eligibility for additional funding. Meeting this goal better ensures that the parties are informed more promptly that a case will not be pursued by the department; enforcement staff resources then are focused on the cases with the greatest likelihood of probable cause determination.

Average case age at time of determination:

Probable Cause: 337 days

No Probable Cause: 332 days

Note: Pursuant to an amendment enacted in August 1997, the time during which a case is referred for mediation is not counted toward the statutory, twelve-month limit for reaching a determination; however, the computer program which calculates the average processing time has not been adjusted to reflect this tolling period, nor to reflect the time a case is on administrative appeal status within the agency.

1996 Objective 3: Through predetermination settlement, withdrawn/satisfactorily adjusted, mediation, conciliation and litigation, obtain relief for charging parties alleging discrimination.

Agency performance:**1998 FISCAL YEAR**

TYPE OF CLOSURE	TOTAL NUMBER	TOTAL RECOVERY	AVG. RECOVERY
ADR (if \$ reported)	2	\$37,500	\$18,750
CONCILIATION	98	\$1,097,366	\$11,199
PDS	22	\$51,765	\$2,353
WD/SA	11	\$184,860	\$16,805
DISMISSED/SA	2	\$4,682	\$2,341
TOTAL	135	\$1,490,673	\$11,042

LITIGATION and 180-DAY HEARINGS

Litigation refers to department resources spent on enforcement actions initiated by the department and taken to either the Office of Administrative Hearings (OAH) or state district court. Substantial relief is obtained through conciliation of probable cause cases by the department's attorneys prior to litigation.

180-day hearing refers to department resources which must be spent for hearings at the OAH, before an administrative law judge. Minn. Stat. §363.071 (1998) requires the department to pay for these administrative hearings if a charging party makes a request to the department after her/his charge has been pending for more than 180 days. This option is not available to a charging party in a case certified as "complex," pursuant to Minn. Stat. §363.071, subd.1a (1998).

Cost to Agency for 180-Day Hearings

	FY1993	FY1994	FY1995	FY1996	FY1997	FY1998
Cost:	\$43,130	\$106,808	\$156,664	\$153,788	\$178,552	\$33,367
Cases:	33 cases	44 cases	49 cases	33 cases	33 cases	25 cases
(Active at OAH)						

Note: More consistent application of complex-case certification authority, as well as more prompt investigation of cases, has reduced the number on cases eligible for 180-day hearings, thereby lowering total cost of hearings initiated by charging parties.

MEDIATION PROGRAM

The Department, utilizing its \$50,000 dedicated appropriation, continued its working relationship with the Bureau of Mediation Services, Office of Dispute Resolution (ODR). In addition to having ODR mediate selected, screened cases, the Department extended mediation services (for cross-filed cases) to the EEOC; in exchange, the EEOC has agreed to litigate cross-filed cases in which the Department's ability to litigate a long-pending case is jeopardized by the length of time taken to issue a probable cause finding.

The chart, below, summarizes mediation activities for the 1998 fiscal year:

Case Information (Source of Case)	Department of Human Rights	Equal Employment Opportunity Comm.	TOTAL
Cases Referred to Mediation	149 cases	54 cases	203 cases
Mediations Held	56 (38%)	36 (67%)	92 (45%)
Agreements Reached (as % of Mediations)	31 (55%)	12 (33%)	43 (47%)
Agreements Reached (as % of Referrals)	21%	22%	21%

The Department has been appropriated \$50,000 to continue the mediation program in the present, 1999 fiscal year. During the first half of this fiscal year, the Department increased its referrals by 75%, having already referred 100 cases to mediation.

FAIR HOUSING INITIATIVE

Appropriations for Housing Education and Testing

The 1997 legislature appropriated \$50,000 to the Department, to be distributed as grants to eligible non-profit organizations to conduct housing testing. The Department awarded the entire amount to the only eligible organization to express interest in the grant, the Minnesota Fair Housing Center (FHC). FHC conducted community audit tests of rental housing opportunities in St. Cloud, Bloomington and Burnsville. Community audit testing differs from complaint-based testing, in that it is designed to sample the housing environment rather than to supply litigation-worthy evidence.

The 1998 legislature appropriated \$100,000 to the Department, to be distributed to eligible organizations for conducting housing education, outreach and testing. The Department extensively publicized this grant program, and received eight grant applications from all over the state. Five of the proposals have been selected to receive grants. The money will fund complaint-based testing suitable to support litigation in several cities outside the metropolitan area, establishment of housing issues coalitions in Northwestern Minnesota and Duluth, a housing hotline, multilingual brochures and anti-discrimination theatre performances.

The large increase in grant proposals between 1997 and 1998, and the large number of deserving grant proposals in 1998 was very gratifying. If the legislature continues this grant program in 1999, the Department anticipates even more interest. The Department, consistent with its mission statement goals of exercising human rights issues leadership and providing human rights education, statewide, urges the legislature to make another, larger appropriation in 1999, to enable statewide disbursement the funds, in amounts adequate to make an impact.

PROGRAM: CONTRACT COMPLIANCE

Agency Goal #2: "Provide incentives for complying with the Human Rights Act by reviewing state contractors through the **contract compliance program**, in order to foster and encourage a climate free of historic discriminatory barriers to the employment of people of color, women and people with disabilities." [emphasis added]

Description of Services: The contract compliance program exists to promote the policy that state government should do business only with businesses committed to equal opportunity and affirmative action. This is one of the policy tools chosen by the legislature to increase employment opportunities for groups who have historically faced discrimination in employment.

The Human Rights Act provides that no state agency may execute a contract costing more than \$100,000 with any firm having more than 40 full-time employees, unless that firm has received a certificate from the Department of Human Rights indicating that it has an affirmative action plan for employment opportunities for women, minorities and persons with disabilities.

The department reviews affirmative action plans submitted by firms soliciting business from state government. Plans are reviewed, and any deficiencies are brought to the attention of the firm. A certificate is issued to a firm only after the department determines a plan meets the requirements of Minn. R. 5000.3400 to 5000.3600 (1997).

Minnesota Rules direct the department to monitor whether certified firms are making a "good faith" effort to implement the plans they prepared and submitted. Monitoring is conducted by review of required reports from certificate holders, department desk audits and on-site audits. The department can impose sanctions against firms that fail to make reasonable efforts to implement their plans.

Program Drivers: Changes in the level of state spending for bid or contracted services affect the number of firms filing plans and seeking a certificate from the agency, as do amendments to the Human Rights Act.

It is the department's view that an increasing rate of compliance is indicative of greater contractor awareness and effort, as well as of the increased effectiveness of department staff when providing technical assistance to contractors. Unit resources can be directed toward other enforcement activities in the Compliance Unit when there is a significant reduction in the number of times plans must be resubmitted and reviewed by staff before gaining approval.

The department's sanction of a contractor, suspension of its certificate, is most commonly imposed for not submitting reports; contractor's request for revocation of certificate (not wanting to comply any longer); not making good faith efforts to implement the approved AAP. The department has not carried out spot checks of contract holders to determine their certification status, because the State's MAPS system now monitors contracts for certificates. The department also is in the process of adopting rules to void illegally awarded contracts.

Agency customers in this program area are identified as either primary or secondary. Covered contractors seeking covered contracts with the state and Minnesota state agencies offering such covered contracts are the primary consumers of this area's services, although members of the minority groups, women and people with disabilities may be prime beneficiaries in this program area; secondary customers are the general public (benefiting from advances in public policy), and our affirmative action counterparts at the City of Minneapolis and Hennepin County, who accept the department's certificate of compliance for purposes of qualifying their own contractors.

The department has the following multiple goals to meet its customers' needs in the contract compliance program area:

- Issue certificates of compliance in a timely manner (serves state agencies and their contractors);
- Monitor contractors for compliance; take appropriate action when a contractor is out of compliance (serves covered groups and public); and
- Produce reliable product (serves above, as well as City of Minneapolis. and Hennepin County).

CONTRACT COMPLIANCE: PERFORMANCE ON 1996 OBJECTIVE

1996 Objective: Decrease by two percentage points, annually, the proportion of deficient affirmative action plans submitted by those seeking covered state contracts. Deficiencies are found when an employer's plan fails to meet department rules for certification. In descending order, the most commonly occurring deficiencies are incorrect statistical analysis of the contractor's workforce; incorrect affirmative action goals; contractor's identification of problem areas by organizational units or job groups; and developing AAP for disabled individuals.

Agency performance:

<u>Measure</u>	<u>1995FY</u>	<u>1996FY</u>	<u>1997FY</u>	<u>1998FY</u>
Plans filed and reviewed:	2,450	2,762	2240	2672
Plans with deficiencies:	1,158 (47%)	1,405 (51%)	867 (39%)	531 (20%)
Compliance certificates issued:	1,292	1,357	997	926
Firms monitored for compliance:	13*	0	5	2**
Sanctions/enforcement actions:	92	61	125	101

* In FY1995, there were three additional FTE positions in the Compliance section.

** Increased budget and subsequent legislation allowed creation of two additional professional positions in the Compliance Unit at the beginning of FY1999. During the first five-and-one-half months of FY1999, ten firms have been monitored for compliance.

Note: In tabulating the number of AAPs filed (see above table), the department counts each instance of a contractor submitting an AAP for review; because the entire plan must be reviewed upon each submission to ensure no changes have been made (or are now needed) in sections other than the section/s with cited deficiencies, staff effort is roughly equal each time a plan is submitted. Almost all of the contractors who initiate the process ultimately receive certificates of compliance; about five percent do not complete the process, or have expired, pending or suspended certificates.

AGENCY'S 1998 PERFORMANCE OBJECTIVES (for FY1999 and FY2000)

Employee participation: Consistent with 1998 legislation, the department formed a worker participation committee that developed the following goals, objectives and measures for the agency's enforcement program areas.

INTAKE/CASE-PROCESSING:

Objective #1: Intake turnaround times will be as follows:

- a. All initial intake calls will be returned (initial attempt) within no more than one business day;
- b. All questionnaires will be mailed out within no more than three business days of questionnaire designation;
- c. All questionnaires will be assigned, for staff review and appropriate action, within two weeks of each questionnaire's return date; and
- d. The statutory filing deadline will be met for every charge in which the potential charging party responds in a timely manner.

Note: These timeframes are considered realistic and attainable within current levels of staffing and intake activity by the public.

Objective #2: Processing of filed charges will meet the following criteria:

- a. A case disposition will be made within twelve months of the filing date of each charge, as set out by statute;
- b. All charges will be screened within six months of filing; and
- c. In seventy-five percent (75%) of all cases receiving dismissal dispositions, that dismissal will be made within six months of filing.

CONTRACT COMPLIANCE:

Objective #1: Information and referral call response times will be as follows:

- a. All telephone calls will be returned (initial attempt) within no more than one business day; and
- b. All technical assistance information will be mailed out within no more than one business day of receipt of request.

Objective #2: Processing of all submitted AAPs and certificates of compliance will meet the following rule-established deadlines and criteria:

- a. AAP worksheet/checklist will be accurately completed and approved on each application for certification;
- b. When an AAP fails to comply with department rules, thereby necessitating revision of the plan, the contractor is informed of these deficiencies within 15 days of submission of its plan;
- c. Certificate of compliance is issued no more than 30 days after the department has received a contractor's AAP which, upon initial submission, complies with department rules; and
- d. For plans determined to have deficiencies, the certificate is issued within 15 days after the department has received a contractor's revised submission/s, as required above.

Objective #3: The department will increase its monitoring of certificate holders, as follows:

- a. All certificate holders are monitored, for purposes of ensuring they meet their reporting obligations;
- b. All monthly reports are analyzed for AAP compliance;
- c. The number of desk audits of annual and semiannual reports will increase by ten percent a year;
- d. The number of on-site audits will increase by twenty percent a year; and
- e. Sanctions, as allowed by department rules and the Human Rights Act, are imposed on all contractors with certificates who fail to correct compliance deficiencies within the allowed time period.

SUMMARY

We have completed two years under the legislative directive to report semi-annually on the activities of the Minnesota Department of Human Rights, and we are pleased to report that we have continued to meet and exceed the legislature's mandate to improve the timeliness of case processing. Caseloads per investigator remain low. During the six months from June 30, 1998 to December 31, 1998 MDHR closed 715 cases. On December 31, of the 1214 cases needing agency determination, only eight were older than 12 months (.6%). During this six-month period, 100 cases were referred to ADR, up almost 50% from the last six-month reporting period.

Last July MDHR had taken 50 cross-filed cases from the EEOC in order to assist that agency in reducing its large caseloads. MDHR subsequently took another 25 cases from the EEOC, primarily charges against state and local governments. The legislature has directed MDHR to give priority to investigating and processing charges where the respondent is a government entity. Last month, the regional director of the EEOC wrote a letter commending MDHR on the quality of our case processing. Our investigating those cases reduces Minnesotans' waiting time for decisions in their dual-filed cases initially filed with the EEOC.

The department is extremely pleased with the performance in meeting and exceeding the objectives set out in our 1996 agency performance report. We are gratified by the support of the legislative and executive branches of Minnesota government throughout this period. We are excited about the prospects for the coming biennium and beyond.

With our systems for efficiently processing cases and expanding contract compliance monitoring, by trained and dedicated staff, as well as our initiatives in the areas of fair housing and alternative dispute resolution, the department continues to vigorously carry out its mission for the people of Minnesota.

FY1997-98 Agency Performance Report

Agency: MN Department of Human Rights (MDHR)

TRENDS AND PERSPECTIVE

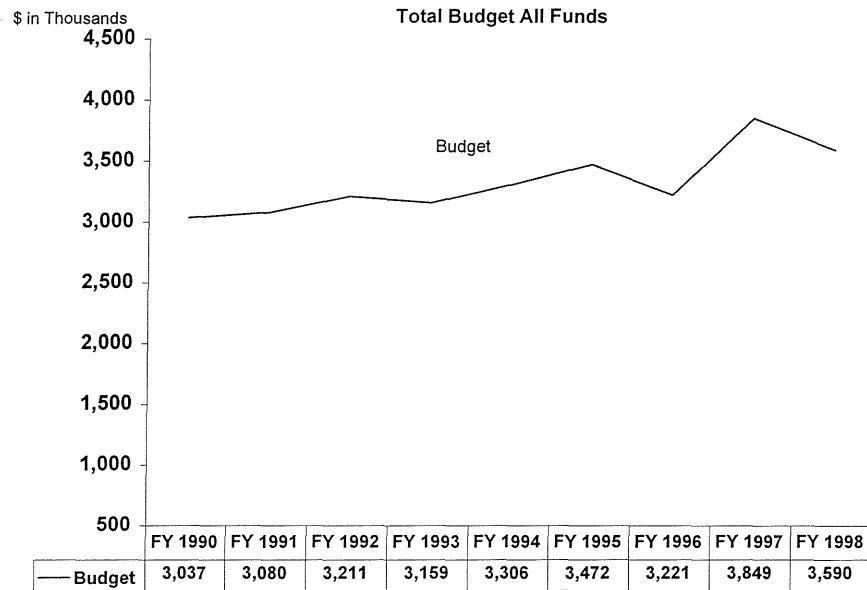


Figure 1

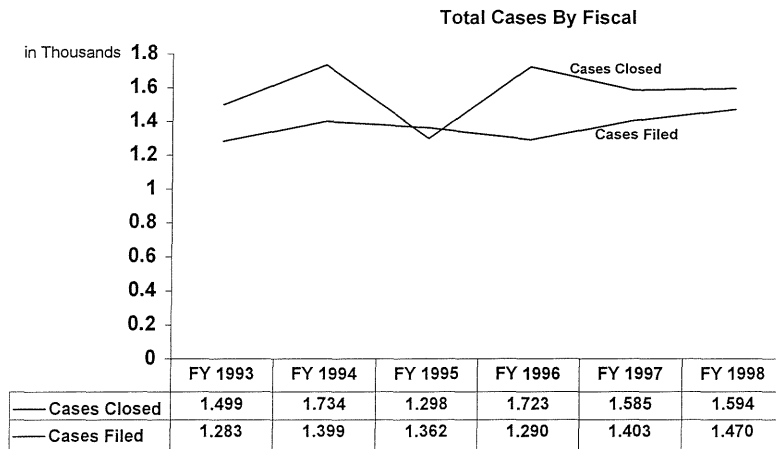


Figure 2

FY 1997-98 Expenditures by Business Units Total 7.4 Million

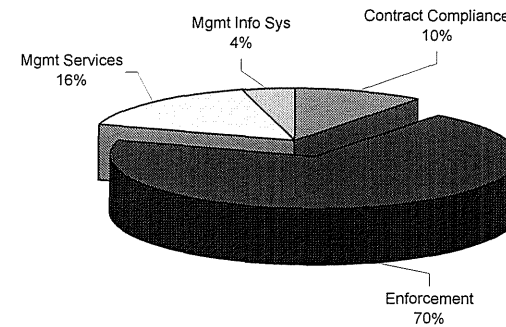


Figure 3

FY 1997-98 Expenditures by Category Total 7.4 Million

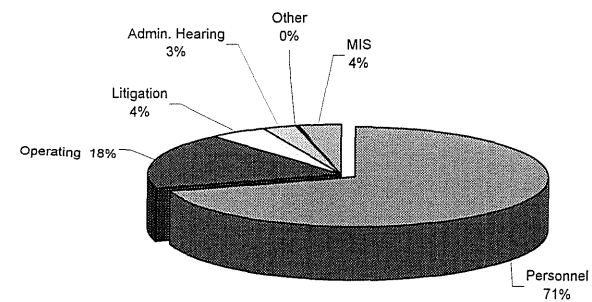


Figure 4

Summary

Expenditures

Description	FY'97	FY'98
FULL TIME	2,510,436	2,577,369
PART TIME	45,520	60,927
OVERTIME		1,061
OTHER BENEFITS	14,172	26,826
SPACE	198,543	231,154
REPAIRS	35,090	8,466
PRINTING &ADV	13,024	11,535
PROFESSIONAL /TECH	349,073	82,380
COMPUTER SER	7,282	15,481
COMMUNICATION	44,248	69,137
TRAVEL - IN	6,846	7,305
TRAVEL - OUT	6,055	14,253
SUPPLIES	153,685	77,866
EQUIPMENT	3,435	87,407
EMPLOYEE DEV	12,841	14,725
OTHER OPERATE	12,207	14,952
STATE P/T SERV	98,326	127,047
LITIGATION	158,249	127,337
180 DAY HEARING	178,552	33,367
TOTAL	\$ 3,847,583	\$ 3,588,596

Revenues

	FY'97	FY'98
Contributions to General Funds		
Civil Penalties	16,000	57,700
EEOC Contract	219,500	239,248
Total	\$ 235,500	\$ 296,948

Agency Cost Reimbursements

Legal Expenditures	29,483	27,149
Total	\$ 29,483	\$ 27,149