

EVALUATION OF
THE MINNESOTA DEPARTMENT OF HUMAN RIGHTS:
FOLLOW-UP STUDY

Program Evaluation Division
Office of the Legislative Auditor
State of Minnesota

Program Evaluation Division

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August 31, 1983

PREFACE

During the 1983 legislative session, several legislators, particularly those on the Senate Finance and House Appropriations Committees, spent considerable time examining the operation of the Department of Human Rights. Their principal concern was the inability of the department to process cases in a timely and effective way. In part, they focused on findings made by the Program Evaluation Division in a 1981 report.

To supplement the 1981 report and better equip ourselves to participate in the 1983 legislative session, we began in March of this year to gather more current data and assess what progress the Department of Human Rights has made since our earlier study. Although we shared our preliminary findings and recommendations with appropriate legislative committees and staff, we think it would be useful to present our follow-up work in this report. We hope it will be helpful to all those who have a continuing interest in strengthening the Department of Human Rights.

The department's current administration has been in office too short a time for this follow-up report to be an assessment of their performance. We have had enough contact with them, however, to know that they are genuinely concerned about the department's effectiveness. We also know that they disagree with some of our principal recommendations.

In our view, the department cannot continue to hope that more resources, or even increased productivity, will solve its case processing problems. We continue to believe that the department must screen cases more vigorously and establish priorities for its work. We also continue to recommend that the Legislature impose a time limit on the department's case processing. These are, we know, difficult approaches for the department to support. But in a situation where resources are limited, new approaches are needed.

Despite differences of opinion, we have always been well received by all department officials and personnel. We are grateful for their cooperation and look forward to working with them in the future.

This report was prepared by Allan Baumgarten and Elliot Long.



James R. Nobles
Deputy Legislative Auditor
for Program Evaluation

PROGRAM EVALUATION DIVISION

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TABLE OF CONTENTS

	<u>Page</u>
EXECUTIVE SUMMARY	ix
INTRODUCTION	1
I. CASE PROCESSING	3
A. The Caseload	
B. Closure of Cases	
C. Average Age of Cases at Closure and Still Open	
D. Elapsed Time Between Filing and Closure By Type of Closure	
E. Case Outcomes	
II. STRATEGIES FOR IMPROVING PERFORMANCE	17
III. CONCLUSIONS AND RECOMMENDATIONS	21
APPENDIX A: DEPARTMENT BUDGET AND STAFF COMPLEMENT	25
APPENDIX B: CONTRACT COMPLIANCE	29
STUDIES OF THE PROGRAM EVALUATION DIVISION	31

LIST OF TABLES

	<u>Page</u>
Table 1 Charges Filed, Cases Closed, and Cases Open at the End of the Fiscal Year	4
Table 2 Charges Filed by Primary Reason for Filing	6
Table 3 Charges Filed by Jurisdictional Category	7
Table 4 Charges Filed by Race	8
Table 5 Rate of Closures of Charges Filed Before July 1976 and During Fiscal Years 1977-1983	9
Table 6 Average Elapsed Time between Filing and Closure for Cases Closed 1978-1983	10
Table 7 Average Age of Cases Closed and Cases Still Open for Charges Filed Before July 1976 and During Fiscal Years 1977-1983	11
Table 8 Cases Closed by Type of Closure	14
Table 9 Cases Closed by Type of Closures for Charges Filed Before July 1976 and During Fiscal Years 1977-1983	15
Table 10 Department of Human Rights Budget Data, 1979 - 1985	26

EXECUTIVE SUMMARY

In our 1981 evaluation of the Department of Human Rights, we found that the department was unable to resolve charges of discrimination in a timely fashion. This problem had serious consequences for the department and its clientele. Our report presented a series of recommendations aimed at solving this problem.

Acting on our report, the 1981 Legislature amended the Human Rights Act to give the Department of Human Rights expanded authority to establish priorities for investigating charges and to screen charges for merit. Other amendments made it easier to pursue a discrimination charge in district court. The Legislature also authorized the department to dismiss a number of old charges filed prior to July 1, 1978.

In this report, we examine the department's progress in solving its caseload problems and analyze actions that the department has taken or could take toward that goal. Our follow-up review revealed that the department's problems have not been solved. Indeed, they have worsened in some respects. We conclude that the department cannot continue to hope that additional resources or increased productivity will solve its case processing problems. Instead, the department needs to make important changes in its approach to enforcement of the Human Rights Act.

A. CASE PROCESSING

In our 1981 study, we found that the department was unable to close as many cases as were filed each year. As a result, the department had an accumulated inventory of more than 2,600 cases in October 1980. Persons filing a charge could expect a wait of several years before their charge would be acted on and closed.

In our recent follow-up review, we asked:

- Has the department succeeded in bringing the number of charges filed and the number closed into balance during the two years that have elapsed since our earlier study?

We found that the department has not solved the fundamental problem of long delays in case processing. New filings continue to exceed closures, and the inventory of charges now exceeds 3,100. The inventory has grown even though the department dismissed 583 old cases in July 1981 under special authority provided by the 1981 Legislature.

New filings shot up to 1,628 in 1981 and 1,676 in 1982, and then dropped to 1,350 in 1983. Of these new charges:

- Sex discrimination charges remain the largest group and account for nearly 39 percent of all cases.

Charges of discrimination on the basis of age have increased sharply from 9 percent to 20 percent, while charges of racial discrimination continued to steadily decline. Whites filed 80 percent of all charges in 1983, and the percentage of charges filed by each ethnic or racial minority group has declined since 1980. Employment discrimination charges still accounted for more than 80 percent of charges filed.

Case closures reached a peak of 1,255 in 1982 and then dropped to 1,200 in 1983.

- About one-half of all closures were because of a finding that the charge lacked probable cause, i.e., the department found insufficient evidence to believe that illegal discrimination had occurred.

Only about six percent of all closures were cases in which the department found probable cause and pursued the matter in conciliation, administrative hearings, or litigation. About 19 percent were closed through predetermination settlements, and the rest were closed through administrative dismissals or the withdrawal of the charging party. For cases closed, the average time needed for closure dropped from 549 days in 1980 to 442 in 1983. This was largely due to decreases in the time required to close cases which lacked probable cause.

The department has assigned priority to closing charges that are eligible for reimbursement under contracts with federal agencies because the alleged discrimination violated both state and federal law. As a result, it devotes only a small amount of time to cases arising solely under state law. In the past, the department has halted work completely on those cases in order to devote all resources to closing federal cases and meeting contract quotas. In 1983, the department will not complete as many cases as called for in its federal contracts. As a result, its federal funding will be reduced.

B. STRATEGIES FOR IMPROVING PERFORMANCE

In our 1981 report, we proposed a series of options designed to improve the department's performance in case processing. In this chapter, we report that the department has done little to implement our proposals or changes made by the 1981 Legislature.

1. BUDGET

We recommended that the Legislature consider additional staff for the department, to be used in a strategic way to reduce the case backlog while keeping up with new charges. The 1981 Legislature provided funding for an additional case processing unit. Al-

though the department suffered budget cuts between 1981 and 1983, it was still able to increase the number of enforcement officers from nine to eleven.

The department received funding for additional positions in the 1984-85 biennium, part of which is contingent on approval of the Governor. However, the department has not filled these positions or other enforcement vacancies. It is apparently using salary savings from these vacancies to cover the reductions in federal funding described above.

2. ESTABLISH CASE PROCESSING PRIORITIES

In 1981, we recommended that if the department lacks the resources to close all new charges in a timely manner, it should establish priorities for identifying those charges that it will handle promptly. The 1981 Legislature amended the Human Rights Act to clarify and extend the department's discretion in this area. However, we found this year that:

- The department has not established its own priorities for case processing, except to emphasize charges eligible for federal reimbursement.

3. SCREEN CHARGES

Since 1980, the number of charges closed because they lack probable cause has increased from 39 percent to one-half of all closures. In 1981, we recommended that the department work aggressively to screen charges at intake, promptly dismiss those that clearly lack merit, and concentrate investigative resources on the remaining cases. Under the 1981 amendments to the Human Rights Act, the department is able to immediately dismiss charges it finds to be frivolous or without merit and to require charging parties to provide or identify evidence of illegal discrimination.

In our follow-up review, we found:

- The department has made very little use of this expanded discretion, and does not effectively screen charges.

4. EXPAND ALTERNATIVES

In order to divert cases from the department's workload, we recommended in 1981 that the department and the Legislature expand the availability and use of alternative means of resolving discrimination charges. The Legislature amended the Human Rights Act to make it easier to file a charge in district court. Since then, the number of charging parties withdrawing cases from the department to pursue a charge in court has doubled.

The department, however, has not significantly increased alternatives to traditional case processing. Of the three approaches the department has worked with--arbitration, mediation, and a no-fault procedure conducted by local human rights commissions--we

think that mediation programs have the most potential for diverting cases from the department.

5. INCREASE PREDETERMINATION SETTLEMENTS

The department has not increased the number of charges closed through predetermination settlements since 1981.

C. CONCLUSIONS AND RECOMMENDATIONS

The department's fundamental problem--its inability to close as many cases as are filed--remains unsolved. Though the department may wish for additional resources, we think that it must commit itself to operating an effective civil rights enforcement program within the resources it receives.

We think it is unrealistic to expect the Department of Human Rights or any civil rights enforcement agency to eliminate illegal discrimination on a case by case basis. Discrimination is widespread, and only a small fraction of victims of illegal discrimination file charges with the department. Therefore, the department's ability to deter discrimination through effective enforcement is as important as a case by case investigation of individual charges.

New approaches are needed to improve the effectiveness of the Department of Human Rights. In this report, we offer three recommendations to the department and the Legislature:

1. Screen charges: The department needs to screen charges vigorously at an early stage in order to identify charges that have or lack potential, divert charges to mediation programs, and concentrate its limited resources on a smaller group of cases.

2. Establish priorities: Since the department is unable to investigate all charges in a timely manner, it should select those charges which it finds to be most important, according to the criteria and priorities it establishes.

3. Impose a time limit: During the 1983 session, we proposed amendments to the Human Rights Act that would require the department to determine, within twelve months of filing a charge, whether or not probable cause exists. If the department could not meet this deadline, it would dismiss the charge, without prejudice to the charging party. We think such an approach is needed to establish an effective enforcement program in which the department promptly investigates charges that it thinks are important.

INTRODUCTION

In 1981, we issued an evaluation report on the Minnesota Department of Human Rights. In that report, we documented the department's serious problems with its caseload and offered a number of recommendations to address those problems. In order to assess the department's progress since, we conducted a follow-up review.

This report presents the results of our follow-up study. Chapter I updates information about the department's case processing program and describes how long it takes to resolve charges and how they are resolved. Chapter II presents our analysis of how the department has changed its case processing procedures in response to our 1981 report and to legislative actions during the 1981 session. Chapter III presents our recommendations for significant changes in the department's case processing program.

Appendix A presents information about the department's staff and budget and the role federal funds play in setting the department's priorities. Appendix B is an updated review of the department's contract compliance program. The reader is referred to our 1981 report for additional information about the department's history, organization, and duties.



I. CASE PROCESSING

A key finding of our 1981 report was that the Department of Human Rights was unable to investigate and resolve charges of discrimination in a timely fashion.

- More charges were filed with the department than were closed each year;
- There was an accumulated inventory of over 2,600 open cases in the department in October 1980;
- A person filing a charge could expect a long wait before his or her case would be acted on and closed. Delays of several years were not uncommon.

The department was established to provide a source of relief to victims of discrimination that was quicker and more accessible than district court. Long delays in charge processing mean that the department has failed to achieve this basic purpose.

We recommended in 1981 that the department and Legislature take action to bring the number of cases filed and closed into balance. We suggested a number of ways to increase productivity in the department and to divert cases to outside agencies in order to lighten the workload. Recognizing that these actions might not succeed in solving the problem, we also recommended that the department screen charges on their technical merit--can the charging party produce or identify evidence of illegal discrimination--or on other criteria relating to their importance and potential.

The key question now is: Has the department succeeded in bringing the number of charges filed and the number closed into balance during the two years that have elapsed since our earlier study?

In our follow-up review, we found that the department has not solved the fundamental problem of long delays in case processing. Table 1 presents information on charges filed and cases closed for 1976 through 1982 and part of 1983.¹ For every period shown in Table 1, with one exception, more charges were filed than closed. As a result the number of open cases in the department has grown and reached 3,119 as of June 30, 1983.

¹Unless otherwise noted, all references are to state fiscal years.

TABLE 1
 CHARGES FILED, CASES CLOSED, AND CASES OPEN
 AT THE END OF THE FISCAL YEAR

1977 - 1983

	<u>Charges Filed</u>	<u>Cases Closed</u>	<u>Cases Open At Year End</u>
FY 1977	1,232	195	1,703
FY 1978	1,034	641	2,096
FY 1979	1,218	932	2,383
FY 1980	1,231	990	2,626
FY 1981	1,628	1,069	3,062
FY 1982	1,676	1,838 ^a	2,969
FY 1983	1,350	1,200	3,119

^aIncludes 583 cases dismissed under special authority in July 1981.

The exception occurred in 1982, when the department dismissed 583 cases filed prior to July 1, 1978 under special authority provided by the Legislature during the 1981 session.² Despite this one-time house cleaning, the inventory of open cases is larger now than it was two years ago. Because 583 cases were categorically dismissed in 1982, closures exceeded new filings during 1982. However, if these special cases were subtracted from the total closed through normal case processing activities, then even in 1982 there was a sizeable gap between new filings and closures.

²The commissioner may dismiss, without prejudice to the charging party, any case filed with the department on or before June 30, 1978. The commissioner shall notify a charging party by regular mail sent before August 1, 1981, that he has a right to bring a civil action pursuant to this section. Upon giving notice the commissioner shall end all proceedings in the department relating to the charge. Notwithstanding any statutory period of limitation to the contrary, an individual notified pursuant to this clause may bring a civil action relating to his charge; provided that the action is filed on or before February 1, 1982. (Minn. Laws 1981, Chap. 330, Sec.6)

A. THE CASELOAD

Our 1981 report presented a description of the kinds of charges filed with the Department of Human Rights. These statistics can now be updated. Table 2 presents a distribution of charges filed between 1976 and 1983 by primary reason for filing, e.g., sex, race, or religion. During 1982, the last full year for which data are available, allegations of sex discrimination, the largest group, accounted for nearly 39 percent of all charges filed. Allegations of racial discrimination accounted for about 20 percent, and disability and age discrimination each accounted for about 13 percent of charges filed.

As Table 2 shows, racial discrimination has declined markedly as a source of charges, and age discrimination has grown in importance.

Table 3 presents information on the distribution of charges across jurisdictional categories, such as employment or education. Employment discrimination is by far the most frequently filed type of discrimination charge, accounting for 79.4 percent of all charges filed in 1982 and 82.8 percent in 1983. Housing discrimination is the second largest group, accounting for 4.3 percent of charges filed in 1983.

It comes as a surprise to many to learn that most people who file charges of discrimination are not members of racial minority groups. In our 1981 report we pointed out that about 71 percent of all charges were filed by whites. As Table 4 shows, the percent of charges filed by whites has grown since then to about 80 percent in 1983. The percentage of charges filed by each racial or ethnic minority group has declined since 1980.

B. CLOSURE OF CASES

In our 1981 study, we found that it often took many years for cases to be resolved. Many cases that were administratively dismissed or did not support a probable cause finding took as long to resolve as genuinely difficult and complex cases.

In 1983, the situation is substantially the same if not more serious. Table 5 shows that a quarter of cases filed between July 1, 1978 and June 30, 1979 remain open as of the end of February 1983. While most cases filed earlier than this have been closed (including 583 which were categorically dismissed rather than closed as the result of an investigation), five percent of cases filed before July 1976 are still open. As Table 5 shows, many charges filed since July 1979 are unresolved: over a third of cases filed during 1980, 44 percent of cases filed during 1981, and about half of all cases filed in 1982.

TABLE 2
 CHARGES FILED BY PRIMARY REASON FOR FILING^a
 (Percentage Distribution)

Date Filed	Sex	Race	Disability	Age	Marital		National Origin	Reprisal	Religion	Public Assistance	Color	Familial		Total	
					Status	Age						Status	Creed	Percent	Number
Before July 1976	39.3%	33.3%	11.8%	-%	5.8%	4.5%	0.1%	1.8%	2.2%	0.4%	-%	-%	100%	669	
FY 1977	41.6	31.7	14.2	0.1	5.4	3.9	-	2.1	1.7	0.2	-	-	100	1,232	
FY 1978	39.3	25.5	17.9	5.3	4.1	5.1	0.1	0.9	1.7	0.1	-	-	100	1,034	
FY 1979	36.1	24.0	20.3	12.6	2.4	2.5	-	1.1	0.9	0.1	-	-	100	1,218	
FY 1980	35.8	24.3	15.9	8.9	5.8	3.4	4.1	1.1	0.6	-	0.3	-	100	1,231	
FY 1981	35.6	21.9	17.0	9.5	3.8	4.2	4.0	1.3	0.4	0.0	2.1	0.2	100	1,628	
FY 1982	38.8	20.2	13.3	13.5	2.7	2.5	6.7	1.1	0.5	0.0	0.6	0.1	100	1,676	
FY 1983 ^b	37.0	18.0	13.9	20.5	3.0	2.1	2.7	0.4	1.1	0.0	1.3	0.0	100	937	

^aBasis of discriminatory act alleged by charging party.

^bAs of February 28, 1983.

TABLE 3
 CHARGES FILED BY JURISDICTIONAL CATEGORY
 (Percentage Distribution)

Date Filed	Employment	Housing	Public			Education	Aiding and Abetting	Credit	Total	
			Accommodation	Reprisal	Service				Percentage	Number
Before July 1976	79.5%	5.7%	3.7%	2.8%	4.6%	3.0%	0.3%	0.3%	100%	669
FY 1977	74.8	6.8	3.1	7.6	3.8	2.2	0.7	0.9	100	1,232
FY 1978	80.0	6.7	3.2	6.0	2.5	1.4	0.2	0.1	100	1,034
FY 1979	77.7	4.8	4.1	5.0	2.6	1.0	4.6	0.2	100	1,218
FY 1980	81.3	5.6	3.4	5.0	1.9	1.1	0.9	0.6	100	1,231
FY 1981	80.5	5.9	3.0	4.4	2.1	1.0	2.6	0.5	100	1,628
FY 1982	79.4	3.0	2.2	7.1	2.3	0.6	5.4	0.0	100	1,676
FY 1983 ^a	82.8	4.3	1.8	3.0	2.5	0.9	4.1	0.6	100	937

^aAs of February 28, 1983.

TABLE 4
 CHARGES FILED BY RACE
 (Percentage Distribution)

<u>Date Filed</u>	<u>White</u>	<u>Black</u>	<u>Indian</u>	<u>Hispanic</u>	<u>Other</u>	<u>Commissioner's Charges</u>	<u>Total</u>	
							<u>Percent</u>	<u>Number</u>
Before July 1976	61.4%	28.6%	5.2%	3.6%	1.8%	-	100%	669
FY 1977	63.0	24.7	3.8	3.5	5.0	-	100	1,232
FY 1978	70.5	21.4	2.1	2.5	3.5	-	100	1,034
FY 1979	74.5	18.9	2.3	2.0	2.4	-	100	1,218
FY 1980	71.4	18.8	3.0	3.7	3.0	-	100	1,231
FY 1981	73.7	18.4	2.3	3.1	1.7	0.5	100	1,628
FY 1982	76.2	17.4	1.8	1.5	1.2	1.0	100	1,676
FY 1983 ^a	79.5	13.2	1.8	2.0	1.1	1.6	100	937

^aAs of February 28, 1983.

TABLE 5
 RATE OF CLOSURE OF CHARGES FILED BEFORE JULY 1976
 AND DURING FISCAL YEARS 1977 - 1983

Date Filed	Total Cases Filed	Percent of Cases Closed ^a	Percent of Cases Still Open ^a
Before July 1976 ^b	669	94.7%	5.3%
FY 1977	1,232	97.2	2.8
FY 1978	1,034	96.2	3.8
FY 1979	1,218	75.0	25.0
FY 1980	1,231	65.3	34.7
FY 1981	1,628	55.9	44.1
FY 1982	1,676	50.2	49.8
FY 1983	937	19.0	81.0

^aAs of February 28, 1983.

^bIncomplete count.

C. AVERAGE AGE OF CASES AT CLOSURE AND STILL OPEN

The time that elapses between filing and closure is a function of how long the department takes with each case, but also which cases the department chooses to work on and resolve. Table 6 shows how many cases have been closed each year between 1978 and 1983 and that the number of cases closed increased each year through 1982. However, closures declined in 1983.

Case processing productivity levels have been quite stable for the last four years. We conclude that absent a breakthrough in productivity or a new policy that permits more rapid screening and resolution of charges, the present level of output represents what reasonably can be expected for the near future. There are no overt problems involving staff competence that are preventing achievement of distinctly higher productivity, although there are always improvements to be sought.³ For instance, some enforcement officers regularly close more cases than others. The department should be able to improve performance through staff training or development or by skillful recruiting. Supervisors in the department say that there is an abundant pool of people who want the job of human rights enforcement officer.

³Department managers believe that instances of low employee morale have affected productivity in the past year.

TABLE 6
 AVERAGE ELAPSED TIME BETWEEN FILING AND CLOSURE
 FOR CASES CLOSED 1978 - 1983

<u>Date Closed</u>	<u>Average Days Between Filing and Closure</u>	<u>Number of Cases Closed</u>
FY 1978	460	641
FY 1979	511	932
FY 1980	549	990
FY 1981	519	1,069
FY 1982	438 ^a	1,838
FY 1983 ^b	442	802

^aAverage time between filing and closure for 1,838 closures in 1982 (regular closures and special dismissals) is 767 days or 438 days considering 1,255 regular closures only.

^bAs of February 28, 1983.

The average elapsed time in days between filing and closure is shown in Table 6 for 1978 to 1983. Average time between filing and closure is somewhat lower in 1982 and 1983. This is largely due to increased contract commitments with federal agencies which require the department to give high priority to recent cases eligible for contract credit. See Appendix A for a discussion of the federal contracts and their effect on the department.

Table 7 takes a different approach to the question of how long it takes the department to resolve charges of discrimination. It examines groups of charges filed in eight separate time periods and examines how many cases are closed or open, how old the open cases are, and how long it took to close the cases.

Those cases filed before the end of fiscal year 1980 that are still open have been in the department for a considerable period of time. The 37 cases filed before July 1976 were 2,975 days old on average as of the end of February 1983. As Table 7 shows, open cases filed in 1980 were 1,148 days old on average and cases filed as recently as 1982 were 442 days old on average.

Of the cases closed, those filed prior to 1981 usually took over a year to resolve. Those filed more recently have taken less than a year to close. The department's general policy has been to investigate charges in the order filed. However, in recent years high priority has been given to an increased number of employment charges that qualify the department for certain federal support.

TABLE 7

AVERAGE AGE OF CASES CLOSED AND CASES STILL OPEN
FOR CHARGES FILED BEFORE JULY 1976 AND DURING
FISCAL YEARS 1977 - 1983^a

<u>Date Filed</u>	<u>Cases Closed</u>	<u>Average Elapsed Time Between Filing and Closure (days)</u>	<u>Number of Cases Still Open</u>	<u>Average Age as of February 28, 1983 (days)</u>
Before				
July 1976	665	1,134	37	2,975
FY 1977	1,202	855	35	2,257
FY 1978	992	813	39	1,857
FY 1979	913	470	305	1,529
FY 1980	808	385	429	1,148
FY 1981	910	274	718	816
FY 1982	841	190	835	442
FY 1983	178	97	758	132

^aThe age of open cases was computed on February 28, 1983.

D. ELAPSED TIME BETWEEN FILING AND CLOSURE
BY TYPE OF CLOSURE

The length of time to resolve a case is related to how it is closed. A case may be withdrawn by the charging party a few days after filing because of second thoughts or because the charging party was able to obtain a satisfactory result through his or her own actions. At the other extreme, a case may require a lengthy investigation in order to reach a probable cause determination, followed by protracted litigation.

If the department was promptly settling cases that could be resolved prior to a determination of probable cause and promptly closing charges that prove upon initial review to be defective, frivolous or without merit, the average length of time to settle such cases would be short. The average life of cases closed through a no probable cause finding might be somewhat longer. Only cases that went beyond a probable cause determination would need months or years to resolve.

There are a number of ways in which a charge filed with the department may be closed:

1. Charging Party Withdraws (CPW)
The charging party (CP) voluntarily withdraws because he or she decides not to pursue the case.
2. Private Right of Action (PRA)
The charging party chooses to withdraw and pursue the case in court.
3. Dismissed, Cannot Locate (DCL)
The department dismisses the case because the charging party cannot be located.
4. Dismissed, Lack of Jurisdiction (DLJ)
The department dismisses the case because it discovers, despite earlier screening, that it lacks jurisdiction.
5. Predetermination Settlement (PDS)
Both parties agree to a voluntary settlement prior to department determination on the merits of the charge.
6. No Probable Cause (NPC)
Upon investigation, the department finds insufficient evidence to believe that illegal evidence has occurred and that the charge does not merit further litigation either through administrative proceedings or in court.
7. Probable Cause, Satisfactory Agreement (PCSA)
After a determination of probable cause, i.e., sufficient evidence was found to believe that illegal discrimination had occurred, parties to the dispute reach an agreement.
8. Probable Cause, Other Closures (PCOTH)
This group of cases includes all that have been closed after a probable cause finding and further administrative or judicial hearings.

Relatively few charges filed with the department result in either a probable cause finding or a voluntary settlement which provides a remedy to the charging party. About one-half of the cases closed in 1983, for example, were closed with a determination of no probable cause (NPC), while only six percent were closures subsequent to a determination of probable cause (PCSA and PCOTH). In nearly 20 percent of cases closed in 1983, a predetermination settlement (PDS) was reached. In the remainder of cases, the charge was either dismissed or withdrawn.

The average life of cases closed has declined from 549 days in 1980 to 443 days in 1983. This is largely due to a significant reduction in the time the department takes to dismiss charges which lack probable cause. As Table 8 shows, no probable cause closures took an average of 631 days in 1980 and only 336 days in 1983. While eleven months is still a long time to wait to learn that a charge lacks merit, this improvement is a positive development.

It also took less time to close charges when the department decided it could not locate the charging party. These cases had an average life of 757 days in 1980 and 585 days in 1983. This reflects the department's tightened standards for judging when a charging party could not be located.

For other closures, it took as long or longer to resolve the charge. Two years ago, we found that cases that were dismissed because the department concluded it lacked jurisdiction took an average of 336 days to close. These cases took even longer--386 days--to close in 1983. The average life of cases in which the charging party withdrew was 502 cases in 1980 and 560 days in 1983. Cases in which the charging party withdrew to pursue the case in court had an average life of 409 days in 1980 and 495 days in 1983.

E. CASE OUTCOMES

Our 1981 study described the outcome of charges filed with the department, and in Table 8 we present data on charges filed through February 1983.

Again, there are two ways of looking at case outcomes and we examine both. Table 8 describes cases closed each year between 1978 and 1983, while Table 9 reviews the status of cases filed in various periods as of the end of February 1983.

The way cases are closed in a given year depends in part on which, of all cases open in the department that have been filed over the years, the department chooses to work on or dispose of. In 1982, 583 cases filed before July 1979 were categorically dismissed pursuant to legislative authorization. In 1979 there was a larger than normal number of cases dismissed because the charging party could not be located. This may have been another occasion in which a group of old cases were cleaned out of the department's inventory.

In many ways a better way to look at how cases are resolved is to examine a group of charges filed in a particular time period. Table 9 presents this information and shows that for cases filed since July 1977 (FY 1978 and later) about half of all charges are closed by a finding of no probable cause.

TABLE 8
 CASES CLOSED BY TYPE OF CLOSURE^a
 1978 - 1983

Date Closed	CPW	PRA	DCL	DLJ	PDS	NPC	PCSA	PCOTH	All Cases Closed	
									Percent	Number
FY 1978	16.4%	6.1%	18.1%	2.7%	15.9%	29.2%	7.6%	4.1%	100%	641
FY 1979	9.2	9.1	26.7	2.7	31.1	15.5	2.1	3.6	100	932
FY 1980	12.6	5.7	6.8	2.1	28.5	39.3	1.1	3.9	100	990
FY 1981	12.8	3.7	2.8	1.4	18.5	52.8	1.9	6.1	100	1,069
FY 1982 ^b	7.7	7.6	3.9	2.3	19.4	54.0	1.7	3.1	100	1,255
FY 1983 ^c	8.5	8.7	3.5	4.3	19.5	49.5	1.9	4.1	100	802

AVERAGE ELAPSED TIME IN DAYS BETWEEN FILING AND CLOSURE

Date Closed	CPW	PRA	DCL	DLJ	PDS	NPC	PCSA	PCOTH	Average Days	Number of Cases
FY 1978	292	370	519	518	289	520	554	1,048	460	641
FY 1979	409	539	594	477	362	565	657	1,065	511	932
FY 1980	502	409	757	336	375	631	735	1,061	549	990
FY 1981	320	507	824	343	406	465	836	1,568	519	1,069
FY 1982	348	340	733	278	308	412	954	1,658	767	1,255
FY 1983	560	495	585	386	360	336	731	1,854	442	802

CPW: Charging party withdraws

PDS: Predetermination settlement

PRA: Charging party withdraws to pursue the case in court

NPC: Determination of no probable cause

DCL: Dismissed, can't locate charging party

PCSA: After a probable cause determination, satisfactory agreement reached

DLJ: Dismissed, HRD lacks jurisdiction

PCOTH: Probable cause determination, other closures

^aSee text of the report for a full explanation of this typology.

^bDoes not include 583 charges which were an average of 1,477 days old when dismissed under special authority in July 1981.

^cAs of February 28, 1983.

TABLE 9
 CASES CLOSED BY TYPE OF CLOSURE FOR CASES FILED BEFORE JULY 1976
 AND DURING FISCAL YEARS 1977 - 1983

<u>Date Filed</u>	<u>CPW</u>	<u>PRA</u>	<u>DCL</u>	<u>DLJ</u>	<u>PDS</u>	<u>NPC</u>	<u>PCSA</u>	<u>PCOTH</u>	<u>All Cases Closed Percent</u>	<u>Closed Number</u>
Before July 1976 ^b	8.7%	3.8%	21.9% ^c	2.9%	8.1%	31.7%	5.1%	17.8%	100%	633
FY 1977	10.9	7.7	38.1 ^c	1.1	11.6	23.2	2.7	4.7	100	1,202
FY 1978	8.0	3.3	43.4 ^c	1.7	21.8	17.8	2.1	1.9	100	992
FY 1979	10.2	6.5	6.5	2.3	30.0	38.8	2.3	3.4	100	913
FY 1980	13.2	4.2	3.6	1.5	23.1	51.5	1.8	1.1	100	808
FY 1981	12.8	6.5	1.9	2.8	20.6	53.3	1.1	1.0	100	911
FY 1982	7.6	9.9	2.6	3.1	23.7	52.3	0.8	0.0	100	841
FY 1983	8.2	7.3	1.0	7.7	24.6	51.0	0.0	0.0	100	194

AVERAGE ELAPSED TIME IN DAYS BETWEEN FILING AND CLOSURE

<u>Date Filed</u>	<u>CPW</u>	<u>PRA</u>	<u>DCL</u>	<u>DLJ</u>	<u>PDS</u>	<u>NPC</u>	<u>PCSA</u>	<u>PCOTH</u>	<u>All Cases Elapsed Time</u>	<u>Closed Number of Cases</u>
Before July 1976	853	1,024	1,217	1,434	1,080	865	1,014	1,696	1,136	663
FY 1977	553	686	1,040	572	707	755	651	1,386	855	1,202
FY 1978	363	375	1,178	242	420	717	644	1,192	813	992
FY 1979	375	405	545	319	264	617	711	823	470	913
FY 1980	327	423	537	358	280	415	647	902	385	808
FY 1981	249	303	415	212	227	287	422	442	274	911
FY 1982	166	198	276	135	165	200	349	-	190	841
FY 1983	84	115	147	66	90	103	-	-	97	194

^aSee Key on Table 8 and text of the report for a full explanation of this typology.

^bStatistics are incomplete for this period.

^cIncludes 583 cases dismissed under special authority in July 1981.

Between 20 and 25 percent of all cases are resolved through a voluntary settlement between the charging party and the respondent to the charge. About 16 percent of the charges were either voluntarily withdrawn by the charging party, sometimes to pursue the case privately. One or two percent were resolved after a probable cause finding through either an agreement between the parties or litigation. The rest were dismissed by the department because the charging party could not be located or because the department discovered it lacked jurisdiction for the charge after all.

II. STRATEGIES FOR IMPROVING PERFORMANCE

In our 1981 report, we concluded that the department's inability to process charges in a timely manner had numerous negative effects on the department and its clientele. We proposed a series of options designed to improve the department's performance in case processing:

- Increase the department's case processing staff;
- Change the department's approach to case processing by selecting charges for processing according to state priorities;
- Screen charges at intake or at an early stage of investigation and dismiss those charges that apparently lack potential;
- Increase the availability and use of alternative means to resolve charges of discrimination such as arbitration; and
- Place a greater emphasis on predetermination settlements.

The 1981 Legislature enacted a series of amendments to the Human Rights Act which make explicit the department's discretion to establish priorities in case processing, impose an evidence standard on charges, and otherwise screen charges, dismissing those which are frivolous or without merit.¹

The Legislature also increased the damages that a charging party might be awarded. The ceiling on punitive damages was lifted from \$1,000 to \$6,000, and the exclusion on damages for anguish and suffering was removed. It was hoped that the possibility of a larger recovery would deter discrimination and would encourage private attorneys to represent charging parties. Since 1981, the number of charging parties withdrawing their action from the department in order to sue in court has doubled.²

During our follow-up review, we found that the department has made very little use of its administrative discretion in charge processing. For example, the department has not moved aggressively to screen charges at intake. In the past two years, the department has dismissed only 30 charges as frivolous or without merit, or about one percent of new charges filed during that period.

¹Many legislators were surprised by the department's position that it did not already have that discretion. Thus, we view the amendments as reflecting legislative intent to change department practice, and not just to authorize change.

²We have no way of knowing how many individuals are bypassing the department and going straight to district court, as another 1981 amendment allowed.

We recommend that the department expand its efforts to screen charges at intake. In Chapter I, we showed that one-half of all case closures were because of determinations of no probable cause. The challenge is to identify charges lacking merit as early as possible so that limited investigative resources can be spent more productively.

Furthermore, the department has not established its own priorities for processing charges, and continues to work on charges in chronological order. The department's only significant priority is to act on charges which are eligible for reimbursement from federal agencies. Priority has also been assigned to a handful of charges involving allegations of violence or police misconduct.

As of April 1983, the department has not significantly expanded the availability of alternatives to traditional means of processing discrimination charges. Our 1981 report identified three such alternatives: arbitration, mediation, and use of local human rights commissions. The department has taken a first step toward establishing a program of voluntary, binding arbitration of discrimination charges in cooperation with the American Arbitration Association and the Minnesota Project. To date, no panels have been established and no charges referred to this proposed program.

The department has attempted to expand its program of referring potential charges to local human rights commissions, and has trained and certified more local commissions for participation. Although a few commissions report positive results, it is unclear how effective this program is in diverting charges from the department's workload. Most commissions are notably lax in providing reports on their activities. Furthermore, the gain in diverting charges from the department's workload may not be worth the time and effort needed to train commissions and to oversee their work. The program's major benefit may be that it provides a way for local human rights commissions to participate in human rights enforcement.

In our view, the department's new mediation program may offer the most potential for reducing its caseload and providing an acceptable alternative to the parties. In May 1983, the department began to refer charges of employment discrimination to panels of mediators coordinated by the Mediation Center in Minneapolis. Department staff identified charges for referral and invited the parties to consider mediation.

During the initial phase of this program, the mediators--attorneys and other professionals--are serving on a volunteer basis. The Mediation Center is trying to secure outside funding to cover its costs of administering the program, so the department's cost is minimal.

We recommend that the department continue to use mediation programs. Such programs will be most helpful to the department and to parties when:

- They are coordinated and administered by agencies outside the Department of Human Rights.

- They are easily accessible to the parties, particularly where the parties seek to protect an ongoing relationship; and
- Where direct costs are kept low through the use of volunteers and by aggressively seeking outside grants.

The Mediation Center plans to evaluate the program after the pilot phase. If it finds the program successful, the legislature may wish to consider designating appropriations to support mediation programs.

The department has not increased the number of charges closed through predetermination settlements since 1981. In the last three years, about one-fifth of all closures were through such settlements. As a result, the department does not qualify for a five percent premium paid by the EEOC to state and local agencies who meet the EEOC's standard of closing 35 percent of charges through predetermination settlements.

³EEOC pays an additional five percent premium to agencies who meet its standard of closing cases in an average of six months. The department does not meet the standard and does not receive the premium.

III. CONCLUSIONS AND RECOMMENDATIONS

The fundamental problem that existed in 1981 and earlier is unsolved. The department is unable to close as many cases as are filed. By some measures, the department is doing better. In Chapter I, we noted that the average time required to close a case has dropped from 18 months to 14.5 months. In other ways, the department has not improved its performance. Statistics for 1983 show a decline in the department's rate of productivity. During 1983, the department closed 1,200 cases, down from 1,255 in 1982.

Contrary to predictions by the department that more and more charges are filed each year, the number of new charges declined from 1,626 in 1982 to 1,350 in 1983. There are several reasons why the department received fewer charges in 1983 than it did in the past. The Human Rights Act no longer requires that parties file a charge with the department before taking a case to court. In the last year, the department has changed its intake procedure. A potential charging party cannot present his charge in a face-to-face interview. Instead, he must state and sign the charge in a mail exchange of questionnaires and documents. We believe that this additional burden on the charging party discourages some individuals from completing a charge.

Furthermore, it is widely known that a person filing a charge with the department is likely to wait several years before his or her charge will be investigated and resolved, especially if the charge is not eligible for federal reimbursement. As things stand, charges of discrimination arising only under state law are almost assured of being put on the back burner.

Over the years, the department's management has argued that it needs more money to perform its various responsibilities, especially to process charges of discrimination in a timely fashion. We believe a good argument can be made for increased resources for the department as well as for many other state agencies. As we said in our 1981 report, the Legislature should consider additional funding because of the problems caused by continued shortfalls in case processing.

Having said this, our standard for judging the Department of Human Rights or any agency is based on an assessment of how well the department is doing with the resources it has, rather than what it wishes it had. In this light, we understand the department's steadfast pleas for more resources but not its unwillingness, once its budget is set, to take the steps necessary to bring the number of charges filed and closed into balance.

In our 1981 report, we suggested a number of ways by which to accomplish this objective. The 1981 Legislature gave the department expanded discretion to categorically dismiss old cases and

review new charges to eliminate those that were frivolous or without merit. However, as we noted in Chapter II, the department has not significantly changed its approach to case processing.

We again recommend that the department take effective action and make major changes in its enforcement program. In our view, whatever else the department does, it needs to establish priorities for investigating, mediating, and resolving charges of discrimination. As we argued in 1981, some discrimination charges have higher potential than others to be resolved in favor of the charging party; to establish precedents which would affect a class of people rather than an individual; and to affect the future practices of a large employer or landlord.

We believe that the proper application of priorities would:

- Increase the percentage of cases closed that affect a large number of people or otherwise have high potential to correct or deter discrimination; and
- Increase the percentage of cases closed that are decided in favor of the charging party by assigning a lower priority to cases without high potential.

If, because of limited resources, the department cannot process all new charges in a timely manner, then it should investigate the 1,000 or 1,400 or 1,700 charges that it considers most important.

In our view the department is operating under the wrong incentives. The department accepts all charges, but concentrates on those which it can close quickly and which qualify for federal reimbursement. This means the department pushes cases that can be closed as lacking probable cause or through predetermination settlements. In turn, the department has an incentive to avoid acting on cases which would support a probable cause finding, since those usually require lengthy investigation and litigation, and do not qualify for federal contract credit until closure.

Cases which are not easily closed or which are not eligible for federal money are accumulated for action at some indefinite, later time. The department points to its growing inventory of charges as evidence that it needs additional resources to do its job.

We recommend that the Legislature take steps to change the department's incentives and replace them with incentives to operate a strong, effective enforcement program. During the 1983 legislative session, we proposed such a change to the House Appropriations and Senate Finance Committees. We recommended that the Human Rights Act (Chapter 363) be amended to require the department to determine, within twelve months after the charge is filed, whether or not probable cause exists. If, in charges filed after June 30, 1984, the department did not meet the twelve month deadline, it would dismiss the charge, without prejudice to the charging party. The charging party could still pursue the case through the courts or even refile

the charge with the department. A respondent could not delay a charge to death, since the commissioner would be empowered to retain jurisdiction of cases where a determination was not reached due to a respondent's failure to cooperate.

The proposal allows the department a year to prepare for the change and to improve its enforcement program so that it gives speedy attention to those charges that it considers most important. To that end, our proposal also requires the department to report to the Legislature on the charge processing policies and priorities it has developed.

In our 1981 report, we conclude that delays in charge processing drastically reduce the chances that a charging party will receive damages or some other remedy. Since the department typically receives more charges than it can process in a timely manner, it accumulates charges for attention at some future date. By holding a charge for a long or even indefinite period, the department does not help charging parties.

We think that implementation of a time limit will yield several benefits. First, it will halt the growth of the case backlog, and provide the department, the Legislature, and the public with a more realistic view of the department's case inventory and its case processing capacity. Second, it will encourage the department to screen out meritless charges and to increase the use of programs, such as mediation, which divert charges from the caseload. Finally, and most importantly, it can improve the state's enforcement of the Human Rights Act. The department will be encouraged to move quickly on those charges that it considered most important. We would not be concerned if the department closed somewhat fewer cases, if it could show that it was devoting added resources to significant cases. At least three other states--Colorado, Illinois, and Oregon--have imposed similar limits on the amount of time allowed to reach a determination of probable cause in a discrimination charge.

Though our proposal was approved by the House Appropriations Committee and the Senate, its most significant feature--the twelve-month limit--was deleted by the conference committee. However, the Legislature expressed its strong concern over the department's performance in two other ways. It directed the Commissioner of Administration to develop action plans to improve enforcement of the Human Rights Act and made the department's appropriation for the second year of the biennium contingent on approval of the Governor.

We think it is unrealistic to expect the Minnesota Department of Human Rights or any other civil rights agency to eliminate illegal discrimination on a case by case basis. Discrimination is widespread, and only a small fraction of victims of illegal discrimination file a charge with the Human Rights Department. Therefore, the department's deterrent effect is as important or more important than a

case by case investigation of alleged acts of discrimination. Of course, the department's ability to prevent and deter discrimination depends on a public awareness of the department as a strong and effective agency. The chronic problem of long delays in case processing and a permanent backlog of cases compromises the credibility of the department and diminishes its effectiveness beyond the immediate problems with individual charges.

As we stated, neither the department nor any other human rights agency is likely to stamp out discrimination on a case by case basis. The department has argued for some years that with more resources it can handle all charges in a timely fashion. And it takes the view that any citizen who believes he or she is a victim of discrimination is entitled to a full investigation of his or her case.

In short, the department's case processing resources are likely to be less than its management would ideally want. We believe that the historic focus on the department's lack of resources by several generations of department management is harmful to the cause the department serves. The department regards the existence of a sizeable case backlog as evidence that it needs more money. Thus, we believe the department is reluctant to solve the problem of the backlog lest it reduce the urgency of its claim for more money.

The Department of Human Rights can and should eliminate the case backlog by setting priorities for cases whenever there are more cases than the department can handle in a reasonable period of time. The Legislature has repeatedly called for the department to do this, and in 1981, included language making it clear that the department is expected to establish priorities. Since stronger and stronger exhortations over the years have not worked, we recommend that the Legislature take steps to make it in the department's own best interest to get rid of its backlog of cases. A simple way of doing this is to set a time limit for a probable cause determination--essentially the proposal that was introduced and seriously considered during the 1983 session.

APPENDIX A

DEPARTMENT BUDGET AND STAFF COMPLEMENT

In our 1981 report, we recommended that the Legislature consider expanding the department's enforcement staff. We also recommended that the department use the additional resources in a strategic effort to reduce its case backlog. Table 10 summarizes the department's budget since 1979, showing funding sources and program expenditures.

The 1981 Legislature voted to add a full case processing unit--supervisor, three enforcement officers, and clerical--during the 1982-83 biennium. However, the department did not fully benefit from the added staff because of budget cuts it suffered during the biennium.¹ Its state appropriations were reduced by a total of \$260,000. In response to these cuts, the department closed its Northern Division office in Duluth, discharged the staff there, and reduced other expenditures.

Despite the budget cuts, the department was still able to expand its case processing staff. In 1981, it had three case processing supervisors and nine enforcement officers. In 1983, the department employs four case processing supervisors and eleven enforcement officers. In April 1983, one additional enforcement officer position was vacant. The department no longer employs law school students through the college work-study program to supplement its staff. Since supervisors do not carry their own investigative caseload, we question whether four case processing supervisors are needed.

The 1983 Legislature provided a significant increase in state appropriations for the department during the 1984-85 biennium. As the governor recommended, the Legislature funded six additional enforcement positions for the biennium--four in case processing and two in contract compliance. The Legislature also provided new funds for accelerated case processing: \$50,000 in 1984 and \$150,000 in 1985. The department's appropriation in 1985 is contingent on recommendation by the Legislative Advisory Commission and approval by the Governor. If the money is released, the department's complement may be increased by six positions. These increases in state funding reverse a trend of growing reliance on federal funding for the department.

¹During the biennium, the Department of Human Rights received supplemental appropriations to cover the cost of maintaining some services in Duluth and of hiring outside attorneys to represent the department in a case against the Department of Corrections.

TABLE 10
DEPARTMENT OF HUMAN RIGHTS BUDGET DATA, 1979 - 1985
(Dollars in Thousands)

<u>Source of Funds</u>	1979	1980	1981	1982	1983 ^a	1984	1985 ^b
State	\$ 864.5 (81.2%)	\$ 935.2 (77.7%)	\$ 965.5 (73.4%)	\$1,099.8 (72.5%)	\$1,176.4 (74.6%)	\$1,363.4 (77.0%)	\$1,440.9 (77.5%)
Federal	\$ 199.6 (18.8%)	\$ 268.4 (22.3%)	\$ 349.0 (26.6%)	\$ 416.5 (27.5%)	\$ 401.2 (25.4%)	\$ 408.0 (23.0%)	\$ 417.5 (22.4%)
TOTAL	\$1,064.1	\$1,203.6	\$1,314.5	\$1,516.3	\$1,577.6	\$1,771.4	\$1,858.4
<u>Program Expenditures</u>							
Enforcement	\$ 657.4	\$ 667.4	\$ 707.8	\$ 890.3	\$ 972.3	\$1,163.3	\$1,251.6
Planning	406.7	536.2	606.7	626.0	605.3	608.1	606.8
TOTAL	\$1,064.1	\$1,203.6	\$1,314.5	\$1,516.3	\$1,577.6	\$1,771.4	\$1,858.4

Source: Proposed Biennial Budget, 1981-1983; 1983-1985.

^a Estimated.

^b State appropriations for FY 85 are contingent on recommendation of the Legislative Advisory Commission and approval of the Governor.

Although the new positions were approved in May and funded on July 1, the department did not act to fill them or other vacant enforcement positions until August. It is using salary savings from these vacancies to cover shortfalls in federal funding, as described in the next section.

RELIANCE ON FEDERAL FUNDING

A significant portion of the department's budget comes from work-sharing agreements with the United States Equal Employment Opportunity Commission (EEOC) and Department of Housing and Urban Development (HUD). The Department of Human Rights contracts with these agencies to close a number of charges which arise under both state and federal statutes. In return, the federal agencies pay the department a set fee for each case, which amounts to between 30 and 40 percent of the department's actual costs of processing a charge.

In the last two years, the department increased the number of federal cases it contracted for. This helped the department to expand its case processing staff even in the light of state budget reductions. During federal FY 1983, the department contracted for 844 EEOC cases and 25 housing charges. This represents about three-fourths of the charges the department will close during that period.

As a result, the department devotes most of its enforcement activity to charges eligible for federal subsidy. Cases which are not eligible do not receive a high priority. Indeed, the department has periodically stopped work on ineligible charges in order to close enough federal charges to meet the contract requirements.

According to the Milwaukee office of the EEOC, the Minnesota Department of Human Rights is seriously behind in meeting its quarterly contract requirements. In April 1983, halfway through the federal fiscal year, the HRD had completed only 26 percent of the cases called for in the largest of its three EEOC contracts. At the end of the third quarter (June 1983), the department had completed only 41 percent of its contract quota. Since the department cannot meet its year-end contract quota, EEOC has amended the contract and reduced its payments to the state.

APPENDIX B

CONTRACT COMPLIANCE

The Human Rights Act provides that no state agency may award a contract to a firm or person who does not hold a certificate of compliance from the Department of Human Rights. In our 1981 report, we identified two key problems with the department's contract compliance program. First, the department enforced the program haphazardly. It had not circulated current lists of certified contractors to state agencies. In the samples of recently awarded contracts that we tested, only a small number of contractors held current certificates.

Second, we concluded that the current program of taking applications and issuing certificates is an essentially worthless shuffling of paper:

The term 'certificate of compliance' is a misnomer, since the department has no power to actually evaluate how well a company complies with the Human Rights Act or to affect the practices of certificate holders and applicants except through voluntary persuasion. A certificate can be obtained by virtually anyone and can be denied only under extremely limited circumstances.

During the 1981 session, the Legislature enacted amendments to the Human Rights Act which were intended to strengthen the contract compliance program. (Minn. Laws 1981, Chap. 326) The amendments provided that no state agency could accept a bid or execute a contract larger than \$50,000 with any business employing more than 20 persons unless the business held a certificate. The amendments take effect on the date that the department promulgates temporary rules to enforce the new statute.

The department moved slowly in implementing the new program. It placed a notice of its intent to promulgate new rules on April 5, 1982--nearly a year after the bill was passed. The department did not publish the temporary rules in the State Register until May 16, 1983. In its 1983-1985 biennial budget request, the department sought two additional positions to carry out the desk audits and on-site compliance reviews expected when the law is "implemented by rules effective January 1983." The Legislature agreed to fund the change level request of \$50,000 for each year of the biennium.

During our 1983 follow-up review, we found that the department had done little to improve its administration of the program. We asked the following questions:

- Does the department regularly distribute lists of certified firms to state agencies?

- Do agencies contract only with firms who hold current certificates?

We found that the department distributes lists of firms who have been certified during the previous two months several times in a year. The department does not publish a cumulative list of all certified contractors. Therefore, an agency would have to check as many as twelve separate monthly updates to determine if a contractor was certified.

In March 1983, we selected and tested three samples of recent state contractors to see if agencies were requiring certificates. The first group consisted of 108 construction and maintenance contracts awarded by the Department of Transportation (DOT). We found significant improvement. More than ninety percent of the firms held current certificates, compared to less than one-half during our first review. DOT staff request that bidders submit a copy of the certificate and do not usually award a contract until a copy is received.

We found no improvement in construction contracts awarded by the Procurement Division of the Department of Administration. In a group of 54 recently awarded construction contracts, we found that only nine were awarded to certified vendors. The rest were awarded to uncertified firms.

In the third sample, we looked at a group of 84 commodity contracts appearing in the most recent list published by the Procurement Division. We found that only six contractors--less than ten percent--were certified and had received twelve contracts. Although the Procurement Division requires a statement about contract compliance in its bid packages, it does not cross-check with the Department of Human Rights to confirm that bidders are actually certified.

STUDIES OF THE PROGRAM EVALUATION DIVISION

Final reports and staff papers from the following studies can be obtained from the Program Evaluation Division, 122 Veterans Service Building, Saint Paul, Minnesota 55155, 612/296-8315.

1977

1. Regulation and Control of Human Service Facilities
2. Minnesota Housing Finance Agency
3. Federal Aids Coordination

1978

4. Unemployment Compensation
5. State Board of Investment: Investment Performance
6. Department of Revenue: Assessment/Sales Ratio Studies
7. Department of Personnel

1979

8. State-sponsored Chemical Dependency Programs
9. Minnesota's Agricultural Commodities Promotion Councils
10. Liquor Control
11. Department of Public Service
12. Department of Economic Security, Preliminary Report
13. Nursing Home Rates
14. Department of Personnel, Follow-up Study

1980

15. Board of Electricity
16. Twin Cities Metropolitan Transit Commission
17. Information Services Bureau
18. Department of Economic Security
19. Statewide Bicycle Registration Program
20. State Arts Board: Individual Artists Grants Program

1981

21. Department of Human Rights
22. Hospital Regulation
23. Department of Public Welfare's Regulation of Residential Facilities for the Mentally Ill
24. State Designer Selection Board
25. Corporate Income Tax Processing
26. Computer Support for Tax Processing

27. State-sponsored Chemical Dependency Programs, Follow-up Study
28. Construction Cost Overrun at the Minnesota Correctional Facility - Oak Park Heights
29. Individual Income Tax Processing and Auditing
30. State Office Space Management and Leasing

1982

31. Procurement Set-Asides
32. State Timber Sales
33. Department of Education Information System
34. State Purchasing
35. Fire Safety in Residential Facilities for Disabled Persons
36. State Mineral Leasing

1983

37. Direct Property Tax Relief Programs
38. Post-Secondary Vocational Education at Minnesota's Area Vocational-Technical Institutes
39. Community Residential Programs for Mentally Retarded Persons
40. State Land Acquisition and Disposal
41. The State Land Exchange Program
42. Department of Human Rights: Follow-up Study

In Progress

43. County Managed Tax-Forfeited Lands
44. Administration of Minnesota's Medical Assistance Program
45. Special Education
46. Minnesota Braille and Sightsaving School and Minnesota School for the Deaf
47. Vocational Rehabilitation
48. State Block Grants to Counties