Minnesota Department of
HUMAN RIGHTS

January 31, 2017

Elizabeth Lincoln, Director
Minnesota Legislative Reference Library
645 State Office Building
100 Rev. Dr. Martin Luther King Jr. Blvd.
Saint Paul, MN 55155-1050

Dear Director Lincoln:

The Minnesota Department of Human Rights (MDHR) submits its semi-annual report to the Legislature summarizing investigation results and the resolution of complaints filed with the Department for the final six months (July-December) of 2016.

Summary:

MDHR continues to see benefits from its multi-year effort to improve its investigation process effectiveness and efficiency, resulting in better services for the Minnesotans who interact with the Department. The Department continues to average well under one year to issue determinations, while taking on increasingly complex cases. Still, challenges remain due to limited resources and historically low staffing to provide services to Minnesotans seeking the Department's assistance.

The Department's average time to reach a determination rose during this period to 290 days. This is an increase from a year ago, but still significantly below the 400 plus days to reach a determination 5 years ago. This recent increase has been primarily driven by an increase in charges being filed and increased time being spent on complex cases. As a small agency, staff turnover also plays a significant role in variability between reporting periods. Turning over even one enforcement officer (investigator) reduces our capacity significantly, while that position is filled and a replacement is trained. The Department's staff is how we provide service delivery to the public, in this case investigations of possible discrimination.

Since the last report, the Department's inventory of cases has held steady at 585 cases, a drop of 3 cases since the July 2016 report. For comparison, at the end of December 2012, the Department had 842 cases in its inventory. In four years, the Department's inventory has dropped 30.5%, helping to ensure that cases are resolved more quickly for Minnesotans.

During the reporting period, the Department settled 28 cases for a total of $188,000 in damages. In the first half of 2016, the Department settled 22 cases for a total of $250,380 in damages. Currently, the Department has no cases in litigation.

Case Inventory:

- 585 cases were pending determination as of December 31, 2016. As of December 31, 2016, MDHR had closed 300 cases and filed new 319 charges. The average caseload for an investigator was 59 cases.
- 91% of cases filed in the last six months are open; 89% of cases are less than a year old.
    - 147 cases less than 90 days old
    - 149 cases between 91-180 days old
    - 111 cases between 181-270 days old
    - 114 cases between 271-365 days old
    - 64 cases over 365 days old

Closures & Determinations:

- 27.34% of closed cases resulted in a favorable outcome or were withdrawn by the charging party: 33 cases resulted in a probable cause determination (11.00%), 23 cases were resolved prior to a formal determination (7.67%), 14 cases were withdrawn by the charging party (4.67%), and in 12 cases the Department reached settlement prior to investigation (4.00%).
- 72.66% of determinations resulted in a favorable outcome for the respondent. The Department closed 211 cases (70.33%) with a no probable cause determination and 7 cases (2.33%) were dismissed by the Department.
- The average time to reach a determination increased 43 days from the prior reporting period to 290 days.
    - Average time to dismiss a case was 234 days (6 cases), an increase of 26 days from the last reporting period.
    - Average time to reach a no probable cause determination was 295 days (227 cases), an increase of 109 days from the last reporting period.
    - Average time to reach a probable cause or split determination was 267 days (38 cases), an increase of 28 days from the last reporting period.

Alternative Dispute Resolution:

- The Department pursued mediation in 111 total cases. Of these, 73 (22.88%) were from the 319 charges filed this reporting period. MDHR successfully scheduled 27 mediations in which 12 cases reached settlement. The average time for a mediation to reach settlement was 58 days. Currently, there are 24 charges in some phase of the mediation process. During this period, 79 cases were returned from ADR for investigation.

Trends:

- Employment charges continue to constitute the largest number of charges filed with the Department. During the reporting period, 247 employment related charges were filed, which constitutes 58.4% of all charges filed. Of this subset of charges, disability (34.41%), race

(23.89%), age (23.08%) and sex (17.00%) were the most common types of employment charges.[1]

- The most common bases of discrimination, without regard to subject area, are disability (28%), race (24%), sex (13%), age (12%) and national origin (8%).

The work of MDHR's staff over the last several years has resulted in the Department reducing its case inventory by 257 cases from December 2012 to December 2016, a 30.5% reduction in the inventory. The Department has also reduced its inventory of cases older than one-year to 64 from 228 (June 2012), and significantly reduced the average length of time to reach a determination. In the past year, average case determination times have risen slightly, but remain several months faster than several years ago. Still, these improvements are tenuous at current staffing levels, even a small increase in case filings or a loss of staff would result in an increased inventory and slower determinations for the Minnesotans who interact with the Department.

The Department has 15 fewer FTEs than the Department did in 1996, when the OLA reported the Department had 56 FTEs, while having added duties including enforcement of Ban the Box, work on school bullying, and the Equal Pay Certificate of Compliance. Even with modest increases to the Department's budget in 2015 and 2016 there are not adequate resources to effectively and sustainably fulfill the Department's primary duties. Durable process improvements have translated into faster determinations and better service provided to the Minnesotans who interact with the Department, but a lack of investment in increasing the Department's capacity while we have also added duties is limiting continued progress and threatening gains made.

Sincerely,

Kevin M. Lindsey
Commissioner

Enclosure: Case Distribution Report

cc:

Senator Warren Limmer
Senator Ron Latz
Representative Sarah Anderson
Representative Sheldon Johnson
Joane McAfee, Office of Governor Mark Dayton

[1] Percentages add up to more than 100% because some charges are filed in with multiple bases.

Minnesota Department of Human Rights
BASIS - AREA - FILING
File Date Range: July 1, 2016 thru December 31, 2016
Total Charges Filed During Date Range: 319

	BASIS												
AREA	Age	Color	Creed	Disability	Familial Status	Marital Status	National Origin	Public Assistance Status	Race	Religion	Sex	Sexual Orientation	Percentage
Aiding, Abetting, or Obstructing (Employment)											2	1	0.6%
Business/Contract				2			1		3		1	2	1.7%
Education				7			1		5	1	1	2	3.1%
Employment - Employer	57	3	1	85	7	19	26	1	59	11	42	5	58.4%
Employment - Employment Agency						1	3		4		1		1.7%
Housing/Real Property				6	2	1	2	6	8	1	2	2	5.5%
Public Accommodations				13			1		11	1	2	1	5.4%
Public Services		1		7			2		7	3			3.7%
Reprisal (Business/Contract)				1					2		1	1	0.9%
Reprisal (Education)				1						1		1	0.6%
Reprisal (Employment)	8			23	2		5		25	2	19	1	15.7%
Reprisal (Employment - Agency)							1		1				0.4%
Reprisal (Housing/Real Property)				3					1				0.7%
Reprisal (Public Accommodations)				1					5				1.1%
Reprisal (Public Services)				1					1	1			0.6%
Percentage	12%	1%	0%	28%	2%	4%	8%	1%	24%	4%	13%	3%	

Note: There can be more than one Area and/or Basis per charge filed, counts of Area and Basis combinations will not reconcile with number of charges filed.