

1                                   TRANSCRIPT OF PROCEEDINGS  
2                                   BEFORE THE  
3                                   COMMISSION ON HUMAN RIGHTS  
4                                   AUSTIN, TEXAS

5 PUBLIC MEETING                                   §  
6 FOR THE COMMISSION ON                           §  
7 HUMAN RIGHTS                                   §

8                                   COMMISSION MEETING

9                                   WEDNESDAY, JANUARY 14, 2009

10  
11                                   BE IT REMEMBERED THAT at 9:01 a.m., on  
12 Wednesday, the 14th day of January 2008, the above-  
13 entitled matters came on for hearing at the Texas  
14 Workforce Commission, TWC Building, 101 East 15th  
15 Street, Room 244, Austin, Texas, before CHAIRMAN  
16 ANDERSON and COMMISSIONERS JOSE E. de SANTIAGO, JOHN  
17 JAMES, ANWAR KHALIFA, VERONICA STIDVENT and DANNY  
18 OSTERHOUT; and the following proceedings were reported  
19 by Elizabeth Davis, a Certified Shorthand Reporter of:  
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P R O C E E D I N G S

WEDNESDAY, JANUARY 14, 2009

(9:01 a.m.)

AGENDA ITEM NO. 1

CHAIRMAN ANDERSON: Good morning

everyone. I'm the chairman on the Commission Of Human Rights and welcome everyone to the January 14th meeting. Welcoming the guests, I think the first thing we would like to do is welcome the new commissioners, and I would like for them to introduce themselves to everyone here.

AGENDA ITEM NO. 2

COMM. STIDVENT: I'm Veronica Stidvent.

I'm from Austin and I'm currently the director of the Center for Politics and Government at the LBJ School of Public Affairs, and I'm very pleased to be here. Thank you.

COMM. OSTERHOUT: My name is Danny

Osterhout. I'm from Andrews, Texas. It's out in West Texas out by Midland, Odessa.

I'm right now I'm in the oil field

business. I own and operate a company called Magnesa (ph) Service and Supply. We started business in 1952. We've survived some ups and downs out in the oil field.

1                   And I'm very pleased to be out here in  
2 Austin and hopefully I can do a good job for everybody  
3 out here.

4                   CHAIRMAN ANDERSON: Of course, we've  
5 got -- we still have Commissioner de Santiago,  
6 Commissioner James and Commissioner Khalifa.  
7 Unfortunately Commissioner Menchaca will not be able  
8 to attend and Commissioner Whip, who we would hoped  
9 would have been here, and she would have been here, so  
10 we could say thanks for all you've done for the Civil  
11 Rights Division, had a death in the family and will  
12 not be attending.

13                   So she may -- we may see her in April  
14 and, if not, we certainly would like to be on record  
15 of thanking her and congratulating her for her service  
16 for many years to the Civil Rights Division.

17                   It doesn't look like there's any  
18 comments this morning unless any of the commissioners  
19 have anything they want to say before we get started  
20 with the meeting. We do have an event after the  
21 meeting and so we want to try to get through this as  
22 quickly as possible, but cover everything in a very  
23 conscientious and diligent fashion.

24                   AGENDA ITEM NO. 3

25                   CHAIRMAN ANDERSON: So Item No. 3 is

1 Mr. Gomez and it's a discussion, consideration and  
2 possible action regarding activities conducted for the  
3 first quarter of 2009, and the rest of the agenda  
4 items on there.

5                   So Mr. Gomez, good morning and welcome,  
6 and would you go ahead and start?

7                   MR. GOMEZ: Yes, sir. Good morning.  
8 For the record, my name is Robert Gomez and I am the  
9 Division Director for the Civil Rights Division.

10                   Again, I would like to welcome  
11 Commissioner Stidvent, Commissioner Osterhout, and  
12 also congratulate Chair Anderson for being reappointed  
13 as chair.

14                   Good morning again. If you would look  
15 at your packets under Director's Report, we have some  
16 bulleted items there: The meetings, expanded presence  
17 project, outreach projects, information and staffing  
18 report, networking contact update, summit conference  
19 attendance, customer service survey evaluation and  
20 future goals. And it -- and during my presentation I  
21 will try to cover all of those bulleted items.

22                   I would at this time also like to  
23 direct you to the director tab in your handout in your  
24 packet, and I will go through the items and elaborate.  
25 I will also give you some general detail on some of

1 those items, and then allow my staff when they come  
2 and you give their report to give you further details  
3 on some of these items that I'm going to present under  
4 the director's report.

5                   The following are the highlights of my  
6 activities since October 15th, 2008 or for the first  
7 quarter of Fiscal Year 2009: Conducted meetings with  
8 my management staff at CRMT, Civil Rights Management  
9 Team, of course, to discuss the internal workings of  
10 the division, and to look at case loads, look at the  
11 number of closures, and so on and so forth, and just  
12 keeping the division going.

13                   Conducted weekly telephonic meetings  
14 with Chair Anderson. That's on Wednesdays. We  
15 conduct conference calls and hold telephonic meetings,  
16 attended team meetings with TWC CRD staff. We have a  
17 couple of meetings. We also had a welcome luncheon  
18 for the new investigators that we had onboard.

19                   Just to bring you up-to-date,  
20 Commissioners Stidvent and Osterhout, a brief history.  
21 We did go through a staff turnover issue that we had  
22 almost at the start of this fiscal year, which started  
23 in September, but we were able to hire investigators.  
24 We had about seven new investigators that came  
25 onboard, and recently we hired an administrative

1 assistant for one of our investigative teams also.

2                   And later on, in my presentation, I  
3 will present them to you-all. It is -- we started  
4 doing that with our investigators, allowing them to be  
5 presented to the Commissioners so they can know who  
6 their commissioners are, Commissioner Osterhout.

7                   Also attend a weekly -- a TWC executive  
8 staff meetings on Mondays with executive staff here at  
9 TWC and also biweekly TWC Commission Meetings.

10                   As I mentioned, we conducted -- and  
11 when I say 'we' Becky Smith, my executive assistant,  
12 and I conducted interviews and selected an individual  
13 to fill the vacant Administrative Two position. This  
14 is the last vacant position that we did have. This  
15 was for Investigative Team 2, and we are fully staffed  
16 and have been fully staffed for now, what, 32 days,  
17 Becky? Something like that. So, we are fully  
18 staffed.

19                   I met with representatives of the Fair  
20 Housing Council of Greater San Antonio to discuss  
21 conciliation efforts in closing housing complaints.

22                   What we did here is, two of the  
23 managers in the enforcement area for the investigative  
24 Teams 1 and 2, we traveled down to San Antonio and we  
25 met with the director of the Fair Housing Council of

1 Greater San Antonio and discussed these cases that we  
2 had.

3                   There were four cases we had developed,  
4 and we had presented four conciliation agreements that  
5 we are just awaiting signatures from both parties,  
6 from the complainant and the respondent, on these  
7 conciliation agreements.

8                   We were able to take a very long  
9 conciliation agreement that was set up and really  
10 condense it into a much shorter one, a much  
11 reader-friendly, if you want to call it, conciliation  
12 agreement, and we're just awaiting those signatures,  
13 like I said, from both the complainant and the  
14 respondent on those cases, so we can close them and  
15 get paid for those cases.

16                   I attended and conducted a presentation  
17 at the Housing Choice Voucher Program, Fair Housing  
18 Workshop in Bryan, Texas. Basically, Mr. Tony  
19 Robertson, who is the manager for our training and  
20 monitoring section, and, also Mr. David Trinidad, who  
21 is our outreach coordinator, we went down to Bryan and  
22 conducted a general Team CRD, who we are and what we  
23 do, presentation, along with information emphasizing  
24 CRT's Housing enforcement and jurisdiction  
25 enforcement.

1                   And we had very good response, very  
2 positive response from the audience, and received  
3 various questions from the audience, and also when I  
4 presented the general information on who we are and  
5 what we do, I also touched on our employment and  
6 mediation programs that we have within the Division,  
7 and there were some suggestions that we go back and  
8 conduct a presentation to concentrate on employment  
9 and/or mediation. So it was a very positive outcome.

10                   Attended the Atlas Legislative Training  
11 Session. This was a training session that was  
12 conducted by TWC along with management support staff  
13 and my executive assistant.

14                   In preparation to respond to the  
15 legislative cost, impact analysis request from the  
16 legislature that just went into session yesterday  
17 and -- in fact, yesterday we did receive our first  
18 cost-impact analysis request from the legislature on a  
19 Bill that's being considered.

20                   I had the opportunity to meet with the  
21 representatives of the U.S. Equal Employment  
22 Opportunity Commission and received a division award  
23 for outreach activities.

24                   And if I could, at this point in time,  
25 I do have a plaque here that you-all can look at. Let

1 me go ahead and read what the plaque says.

2                   This is from EEOC, 2008 Excellence In  
3 Service Award presented to the Texas Workforce  
4 Commission Civil Rights Division in recognition of its  
5 outstanding effort in outreach and education and  
6 partnership with the United States Equal Employment  
7 Opportunity Commission's Dallas District Office.

8                   And basically, what we did was along  
9 with the manager from training and monitoring --  
10 again, Mr. Tony Robertson, and our outreach  
11 coordinator -- we attended and presented information  
12 from the TWC CRD state enforcement point of view,  
13 along with EEOC along the lines of employment  
14 enforcement and investigation. And, so, they were  
15 very nice to give us that award.

16                   I also had the opportunity to attend  
17 and present a workshop at the Texas Workforce  
18 Commission's 12th annual conference held in San  
19 Antonio, Texas, along with two other managers, one for  
20 the training and monitoring under mediation.  
21 Basically his presentation was regarding our mediation  
22 program, ADR Program, and also the -- one of the  
23 investigative or enforcement managers, Vickie  
24 Covington, for -- she's the manager for Employment  
25 Team 1 in Enforcement.

1                   We presented a presentation basically  
2 who we are and what we do again. I did the intro and  
3 then Tony Robertson presented the information on our  
4 Mediation and ADR Program, and then Vickie Covington,  
5 Manager for Team 1 Investigations, presented  
6 information on enforcement, the PCHP Program that we  
7 have through EEOC, in doing enforcement and  
8 investigation for our employment programs and that  
9 was, again, at the 12th annual conference for TWC.

10                   Along with that, the Expanded Presence  
11 Program, as the commissioners that have been here  
12 know, before the new commissioners -- again some  
13 historical information, what I have wanted to do is to  
14 expand outside of Austin, not to be only concentrated  
15 and solely here in Austin.

16                   So, what we did is about a year and a  
17 half ago we initiated the Expanded Presence Program  
18 where we established itinerant offices out in El Paso,  
19 Lubbock, Amarillo, Tyler and San Juan in the valley,  
20 and what this means is we were able to obtain office  
21 space and basically what we do is we go out there and  
22 spend one or two days out there and carry, or take  
23 with us, everything that we do here in Austin along  
24 the lines of housing intake, employment intake,  
25 outreach and networking, and we go out there for two

1 or three days depending on the contacts that we have  
2 made.

3                   The way that we go about doing that is  
4 the weekend before we do send out notices. The  
5 community is advised or not alerted -- I would say  
6 informed of the fact that we're going to be out there  
7 at the location that we're going to be at, and then we  
8 take any walk-ins, calls, so on and so forth. What we  
9 want to do is expand the presence.

10                   Unfortunately we don't have it in the  
11 budget to establish permanent offices out there, so we  
12 have developed a calendar to continue the Expanded  
13 Presence Program, and I will have the outreach  
14 coordinator, Mr. David Trinidad, come up and give you  
15 in more detail what we have been doing along the lines  
16 of outreach in a little bit. But basically that, in a  
17 nutshell, is what that program is for the new  
18 commissioners.

19                   We also, along the lines of the  
20 Expanded Presence Program, developed what we call a  
21 did-you-know email, and we'll put the two new  
22 commissioners on that email distribution list.

23                   What it is, basically -- and I'll let  
24 David go into more detail -- is we send out a email on  
25 a monthly basis because if we're going to round robin

1 these offices, obviously we're not going to be there  
2 month after month, or in consecutive months, so we  
3 don't want those networks or networking to go away,  
4 the outreach contacts to go away, so we keep in  
5 contact with them with this email.

6 We give them example of a current  
7 employment case. We also give them an example of a  
8 current housing case, and then we let them know what's  
9 going on along the lines of Civil Rights, EEO and also  
10 Fair Housing, and that's basically what it is and I'll  
11 make sure David sends it out to the two new  
12 commissioners starting this month.

13 CHAIRMAN ANDERSON: Robert, one of the  
14 things we discussed last meeting was tracking the use,  
15 I guess, if you will, of these different outreach  
16 locations. Has that begun?

17 MR. GOMEZ: We did initially, Chair  
18 Anderson, when you requested it but further  
19 information on the Expanded Presence Program, we kind  
20 of put it on hold for a little bit because of the new  
21 investigators that we got onboard.

22 As you very well remember, David  
23 Trinidad, who is our outreach coordinator, he also has  
24 a slash investigator on his title. That means that he  
25 also does housing investigations. So during this

1 learning-curve period for the new investigators  
2 Mr. Trinidad has kind of put Expanded Presence and  
3 Outreach all together on the back burner and picked up  
4 additional cases because we do need to show additional  
5 closures in houses.

6                   So starting -- in fact, starting  
7 tomorrow -- Mr. Trinidad will probably mention this in  
8 his presentation, he'll be out in El Paso. They  
9 established a new office out there for the Board of  
10 Fair Housing And Economic Justice Center, and so he's  
11 going to look at the new digs out there, the new  
12 office space, and establish the itinerant office out  
13 there. But we did kind of put it sort of on the back  
14 burner.

15                   Another request that came in, through  
16 TWC from the governor's office, is that we do cut back  
17 on travel. So along with that we're kind of putting  
18 it on the back burner but we are going to continue,  
19 and when we do continue we will also, along those  
20 lines, continue obtaining those numbers as to how many  
21 people we contact, the outreach, the networking.

22                   When you do get that email, if you look  
23 at all the individuals on that distribution list,  
24 those are not all but most of the contacts that we  
25 have made, and that's why we want to keep that open

1 line of communication.

2 I believe when David sends out that  
3 email he does get responses or questions from some of  
4 those contacts and networking contacts, that we've  
5 made out there. So that's one of the ways to look at  
6 it but when we do continue, we will continue to also  
7 keep those numbers, yes, sir.

8 I would like to share with you the  
9 customer service evaluation for December just to,  
10 again, bring the commissioners up to speed. There's  
11 five questions or solicitations that we ask of our  
12 customers. This evaluation survey is distributed to  
13 all the customers or stockholders that we have  
14 serviced, whether it be housing investigations,  
15 employment investigations or mediations.

16 The five items on there that are asked,  
17 questions are: Number 1, was staff courteous and  
18 helpful; Number 2, did staff provide accurate  
19 information; and, Number 3, did staff provide timely  
20 responses to inquiries; and, Number 4, was staff  
21 knowledgeable of CRD procedures; and, Number 5, would  
22 you recommend services to others?

23 And we have broken down the responses  
24 into "strongly agree, agree, disagree and strongly  
25 disagree." What we usually do is we put together --

1 couple together the strongly agree and agree and then  
2 we couple together, of course, the disagree and  
3 strongly disagree which are the positive and negative.

4                   And under the strongly agree and agree,  
5 we did received 16 positive responses. Under the  
6 disagree and strongly disagree we received five  
7 responses. So that gives us 76.19 percent positive  
8 response, which as you-all are very well aware of, you  
9 know, the business that we're in, it's almost a 50/50  
10 chance, you know, any time we make a decision on a  
11 case, whether it be housing or employment, or any time  
12 we make a decision on a mediation alone, we like to  
13 look at it as a win/win situation. You're going to  
14 have somebody that's not happy.

15                   So in this type of service that we are  
16 in, when you are hitting 76.19 percent positive, I  
17 think that's pretty good for the division. So those  
18 are the numbers from the customer service evaluation  
19 survey for December, '08.

20                   Future goals. We will continue to send  
21 our investigators to the academy. All our  
22 investigators and, again, Alice Mac Kenna who will  
23 present the housing information and housing updates  
24 will give you further details.

25                   CHAIRMAN ANDERSON: For the new

1 commissioner's benefit you might explain the  
2 universities that you're talking about.

3 MR. GOMEZ: The National Fair Housing  
4 Academy is located in Washington, DC and they have a  
5 program where it's a five-week program, and each week  
6 is an individual week. They go out there for a week  
7 for week one, and then return; and then go out for  
8 week two and apply what they've learned and go back to  
9 week three, and so on and so forth.

10 To date we have one individual who has  
11 completed week five, Cynthia Washington. She is one  
12 of our -- she's a Team 2 supervisor or team lead. She  
13 has completed week five.

14 We have investigators at different  
15 levels. We have some at week 2 and week 3, and all of  
16 the investigators, with the exception of two that for  
17 personal reasons had to cancel for the December 1st  
18 week class, they are attending next month in February,  
19 but we've got all of our investigators -- and the new  
20 investigators that I mentioned that were newly  
21 hired -- they're all onboard with at least week 1.

22 So our goal is to get them all the way  
23 through week five. That's what HUD's desire is and  
24 basically what it is, it's a very intense class for a  
25 whole week. They usually take off on Sundays and come

1 back on a Friday, late Friday, and they go for the  
2 whole week, Monday through Friday, and it's very  
3 intense. The feedback that I've gotten is it's very  
4 intense, very precise, very detailed information that  
5 is shared with them and that they are instructed out  
6 there in the Washington, DC.

7                   And, so, at this point in time, like I  
8 say, with the exception of the two that had to cancel,  
9 we've got everyone on the board. And if you want  
10 further information, just let us know and we'll tell  
11 you further information on that academy.

12                   But basically we are going to send the  
13 investigators that have been to week 1, and the other  
14 investigators that are right at week 2 or week 3,  
15 later on in the fiscal year. When we send our  
16 investigators to Washington, DC this kind of taps into  
17 the cap that we have under TWC as an agency, for  
18 out-of-state travel. So we prefer to keep this  
19 out-of-state travel later on in the fiscal year.

20                   I think we're looking at possibly June,  
21 July and August, and they do offer classes in June,  
22 July and August out there in Washington, DC. And  
23 it'll be a little bit warmer out there too because  
24 right now it's pretty cold out there.

25                   That's basically in a nutshell what it

1 is, and I think Alice Mac Kenna will have additional  
2 information when she gives -- presents her information  
3 regarding housing and what's going on in housing.

4                   Future goals. We will continue to send  
5 our investigators to the academy. Also in meeting  
6 case closures, we're meeting the numbers. We're  
7 meeting the LBB budget numbers, and also to meet the  
8 budget. And those are our future goals to continue  
9 the Expanded Presence Program.

10                   Part of the future goals, and I know  
11 that some of you did receive a copy of the press  
12 release but I would like to just share this with you  
13 and, if I could, just read it for the record so  
14 you-all will be aware of this, and also have it as  
15 part of the record.

16                   TWC Civil Rights Division Investigation  
17 results in \$275,000 settlement. A TWC CRD  
18 Investigation has resulted in a discrimination charge  
19 of \$275,000 judgment against Brazwell's County  
20 landlord in a Fair Housing discrimination lawsuit.

21                   TWC investigated the complaint against  
22 Henry Carter of Bryan who managed more than 30  
23 Brazwell County rental properties. Carter allegedly  
24 violated the state and federal Fair Housing Act for  
25 sexually harassing female tenants including two file

1 complaints dating back to 2003.

2                   Some alleged victims were tenants who  
3 participated in the U.S. Government's Housing Choice  
4 Program, Section 8, and used rental vouchers  
5 designated for low-income families and individuals to  
6 live in the Carter properties.

7                   The lawsuit alleged that Carter made  
8 unwelcome and unwanted verbal and physical sexual  
9 advances before granting or denying housing benefits  
10 in exchange for sexual favors taking adverse action  
11 when female tenants refused sexual advances, and  
12 denying rent based on the sex of potential tenants.

13                   CRD enforces laws to ensure all Texas  
14 residents are given equal access to fair housing as  
15 fairly mandated by the Fair Housing Administration  
16 which prohibits discrimination in the sale or rental  
17 of property based on disability, race, color,  
18 religion, national origin, sex and familial status.

19                   Six Fair House complaints were filed  
20 with CRD by female tenants and housing advocate, the  
21 Austin Tenant's Council. And we would like to thank  
22 the Austin Tenant's Council for sending us that case.

23                   CRD found reasonable cause of  
24 discriminatory housing practices existed and filed  
25 discrimination charges against Carter on behalf of all

1 agreed complainants on September, 2003.

2                   The lawsuit also alleges defendants  
3 violated the Texas Uniform Fraudulent Transfer Act by  
4 attempting to transfer real estate holdings to a  
5 company operated by his three sons, Urban Quest  
6 Properties in attempts to hold or to hide assets.

7                   On December 8th, 2008 the 85th Judicial  
8 District Court entered a consent decree and ordered  
9 dismissing the lawsuit. As part of the dismissal  
10 Carter and Urban Quest Properties agreed to pay  
11 \$275,000 TWC to the female plaintiffs and ATC.

12                   The TWC's portion of the settlement  
13 proceeds will be used to address Fair Housing  
14 initiatives such as education and outreach. The  
15 judgment also permanently prohibits Carter from  
16 managing rental property, any of his sons who remain  
17 in management and supervision of residential rental  
18 properties must attend Fair Housing training provided  
19 by CRD.

20                   And Mr. Robertson has a training module  
21 that he developed for Fair Housing, and I believe he's  
22 already conducted that training that was mandated by  
23 this settlement.

24                   In the Fiscal Year 2008 CRD resolved  
25 more than 300 cases involving allegations of housing

1 discrimination.

2 I just want to thank everybody who was  
3 involved with these cases: The investigator, the  
4 manager, the supervisors and especially our legal  
5 support from TWC, Mr. John Moore and Susanna Holt, who  
6 were instrumental in us obtaining this settlement. I  
7 would like to give them our thanks and appreciation  
8 for that and recognition.

9 At this point in time I would like to  
10 have the -- I would like to have the new investigators  
11 stand up so you can meet them and they can meet you:  
12 Mr. David Pernel and Gloria and Mr. Lester. And these  
13 are our new investigators. The others that I told you  
14 that we hired came at the last meeting so, you know,  
15 the commissioners already know them, and the new  
16 commissioners, hopefully, you'll get to meet them at  
17 our luncheon later on.

18 We also have two new administrative  
19 assistants. One is for Team 1 and one is for Team 2.  
20 As you can see we did go through quite a staff  
21 turnover, and despite that I think we're still doing  
22 pretty good and everything is work out great. Nothing  
23 but positive remarks from these individuals.

24 Paulette is the administrative  
25 assistant for Team 1, and Rickie recently hired --

1 this is the last hire that we did, and she's, what,  
2 about a month old? And that's Rickie, and she's the  
3 executive -- or the administrative assistant for  
4 Team 2.

5 CHAIRMAN ANDERSON: Just a quick -- a  
6 couple of them came in later than from the  
7 introduction. On my left is Commissioner Osterhout  
8 from Andrews, Texas; Commissioner Stidvent from  
9 Austin -- excuse me, I'm Chair Anderson from Houston,  
10 commissioner Khalifa from Tyler, Commissioner James  
11 from Midland, and Commissioner de Santiago from  
12 Houston also.

13 And there will be a test later on to  
14 see if you know where we're from.

15 MR. GOMEZ: Also at this point in time,  
16 I mentioned that we've gone through quite a staff  
17 turnover and we managed to weather that storm and  
18 we're headed towards better days, I think, better  
19 numbers and all of that.

20 But aside from the new staff, we also  
21 have staff that has been with us for 30 years, and I  
22 would like to recognize that staff right now. First  
23 of all, Alice Mac Kenna, please stand Alice, Service  
24 Recognition Award, Texas Workforce Commission wishes  
25 to recognize the 20 years of time, thought and energy

1 contributed by Alice W. Mac Kenna. Our sincere  
2 appreciation for your dedicated service to the people  
3 of Texas, December 1st, 2008.

4 (Clapping)

5 MS. MAC KENNA: Thank you.

6 MR. GOMEZ: And the second  
7 individual -- as you notice the frames are a different  
8 color because she specifically requested a darker  
9 frame so she could put it in her cubicle. Service  
10 Recognition Award, the Texas Workforce Commission  
11 wishes to recognize the 20 years of time, thought and  
12 energy contributed by Cynthia T. Washington. Our  
13 sincere appreciation for your dedicated service to the  
14 people of Texas, November 5th, 2008. Cynthia?

15 (Clapping)

16 MR. GOMEZ: And with that, I finish  
17 with my presentation, and I would like to take any  
18 questions or comments that you might have before I  
19 introduce Jim who will also cover the budget as part  
20 of my presentation, but at this time, over anything  
21 that I have presented, I would like to allow you an  
22 opportunity to ask any questions that you might have.

23 CHAIRMAN ANDERSON: Do any of the new  
24 commissioners have any questions?

25 COMM. JAMES: Mr. Chair, certainly.

1 Thank you. Director Gomez, for our -- for the  
2 benefit, perhaps more of our new commissioners -- and  
3 welcome. The West Texas contention is growing.

4                   But for the benefit of our new  
5 commissioners, I would like to hear you describe a  
6 little bit about the relationship between TWC and CRD  
7 because that -- that certainly could be confusing on  
8 the surface, and I don't know how long I've been here  
9 but it's still confusing. And, so that it might be  
10 beneficial to us all if we talked a little bit about  
11 that.

12                   MR. GOMEZ: Yes, I will, Commissioner  
13 James.

14                   A little bit of background. I don't  
15 know if you're aware, or not aware, but TWC CRD is a  
16 division under Texas Workforce Commission and this  
17 predates me. When TWC CRD was an agency unto itself,  
18 it was the Texas Commission on Human Rights. The  
19 Civil Rights Division was authorized to become an  
20 independent division under TWC as a result of House  
21 Bill 22.93 which was effective March 1st, 2003.

22                   And I came onboard in November of 2004.  
23 It seems much longer than that but it was November of  
24 2004.

25                   But basically what that means all of

1 our support services for our division, as an  
2 independent division, as we have you all as our  
3 commissioners, we do depend on TWC.

4 We receive the legal support which is  
5 vital and important to what we do, also HR support,  
6 travel, budgeting, the external relations --  
7 government relations portion of it. Now that we deal  
8 through TWC with the legislature, we don't deal with  
9 the legislature directly.

10 Like I say, this predates me. I came  
11 on in December of 2004, or November of 2004, and  
12 basically that's a little bit of background.

13 The mission hasn't changed. And I will  
14 make this available to the two new commissioners. I  
15 will update it. This is basically what I use in my  
16 presentation. When I do start my presentation I  
17 basically say this is who we are, this what we do, and  
18 this is what we've done for our stakeholders lately.

19 And so this will give you a snapshot of  
20 who we are, what we do and what we've done lately.  
21 And basically the mission is on there to enforce the  
22 Texas Commission on Human Rights Act, the Texas Fair  
23 Housing Act and, also, we're substantially equivalent  
24 to the federal entities that enforce the similar laws  
25 which is EEOC on the employment side and HUD on the

1 housing side. And basically in a nutshell that's what  
2 we are and who we are and what we do.

3                   Along with enforcement, we also have an  
4 excellent training and monitoring session under  
5 Mr. Robertson, and he will give his presentation  
6 shortly, but basically what we do under that is we  
7 developed -- we develop training modules for  
8 employment and housing.

9                   And as I mentioned before, in most of  
10 these conciliation agreements that we do have in our  
11 housing programs, since we did develop this housing  
12 training module and we had it approved by -- or  
13 through HUD -- then we're the ones that conduct that  
14 training for a price.

15                   We have a -- it's a really bargain  
16 basement price that we have for our trainings and  
17 that's one of the things that when we do some outreach  
18 for soliciting our training we do emphasize that, that  
19 we're a bargain when you compare us to the private  
20 sector out there.

21                   You know when some entities are paying  
22 120, 150 per individual when we charge like \$1,200 for  
23 any number of individuals that you want to send to our  
24 trainings, and I believe ours is a whole lot better  
25 too. It's a better quality. So that's basically what

1 we do.

2                   Mediation, I also mentioned that and  
3 Tony Robertson, manager for T&M, will go into that in  
4 further detail but I will send this to the new  
5 commissioners once I've updated it and put the numbers  
6 for December.

7                   At this point in time I would like  
8 to --

9                   COMM. KHALIFA: Director Gomez?

10                  MR. GOMEZ: Yes. Commissioner Khalifa?

11                  COMM. KHALIFA: Yes. I don't remember  
12 us ever being fully staffed since you've been here.  
13 Do you remember us ever being fully staffed since  
14 you've been here?

15                  MR. GOMEZ: I remember being fully  
16 staffed for a length of about 30 days, 60 days and so  
17 on like that.

18                  COMM. KHALIFA: I mean, every time  
19 we've had a commission meeting I know we've haven't  
20 been fully staffed --

21                  MR. GOMEZ: Yes, sir.

22                  COMM. KHALIFA: -- since I've been  
23 here.

24                  MR. GOMEZ: You're very right.

25                  COMM. KHALIFA: I really congratulate

1 you on getting us to full staff, and since we've been  
2 doing so well before without a full staff, I expect  
3 that the times will become shorter for the cases, and  
4 that we'll be able to do more cases more  
5 expeditiously.

6 MR. GOMEZ: I looked at it positive but  
7 I knew you would point out the negative on that.

8 COMM. KHALIFA: There's no negative.  
9 It was all positive.

10 MR. GOMEZ: It was all positive?

11 COMM. KHALIFA: It was all positive.

12 MR. GOMEZ: So, yes, sir, like I say,  
13 we are fully staffed and we have been for the last 32  
14 days and I don't want to jinx that.

15 In fact, when I attended the executive  
16 staff meeting on Monday I did mention that to  
17 director -- Executive Director Larry Temple, who runs  
18 those meetings, and he said we should put some kind of  
19 a board like they put on -- a board for safety days --  
20 you know, a board for number of days fully staffed,  
21 number of days without an accident. And we're  
22 thinking about doing that maybe. I don't know.

23 COMM. JAMES: Be careful what you wish  
24 for.

25 I do have a follow-up to my earlier

1 question. I'm curious about -- and I've never asked  
2 this question before, and the new commissioners --  
3 with the new commissioners coming onboard it struck me  
4 that I might want to ask this question as well.

5                   Tell me operationally what happens on a  
6 day-to-day basis between CRD and TWC? I mean, is  
7 there constant communication? Is it just the once a  
8 week executive staff meetings that I see here? Are  
9 you always on the phone with them? Are you pretty  
10 much independent and you operate on your own and then  
11 go to a meeting and bring donuts? I mean, what's  
12 the -- how does that all work?

13                   MR. GOMEZ: I think it's a little bit  
14 of everything you just mentioned, Commissioner James,  
15 because I do attend those weekly meeting with  
16 executive staff where we do reports, we share reports  
17 on what we're doing and what's coming up with CRD.

18                   Also in just -- on a day-to-day basis  
19 issues come up. As I stated before, just yesterday we  
20 received an email from the Deputy Executive Director,  
21 Mr. Crump, regarding a cost-impact analysis that has  
22 been requested by one of the legislators for one of  
23 the Bills that has been filed.

24                   So we work with that referral. We work  
25 with legal. We work with Mr. John Moore.

1                   Other issues, such as HR, we work very  
2 closely with Mr. Greg Kelly who is the attorney for  
3 HR, also Jan Thomas and her staff.

4                   And also in training, we send all of  
5 our staff to training.

6                   So it depends -- way I look at this job  
7 is every time that I am driving towards work I never  
8 know, aside from the schedule, what's going to happen.  
9 It's always something different. It's either staffing  
10 issues or work issues, budget issues, case-closure  
11 issues, and we're in constant communication in that  
12 manner, when something comes up then we communicate on  
13 that.

14                   There's been -- everything that we work  
15 on has been cooperative. For example, when we  
16 received the award from EEOC, I called the  
17 communications people and they came out and took  
18 pictures. If you want to see the pictures, we also  
19 have pictures just like they came this morning. So we  
20 work very closely depending on what we need along  
21 those lines of the support.

22                   As I was mentioning before, when we  
23 came over and were placed under TWC, that was  
24 basically what we did inherit was all the support  
25 services. So it's a constant on a day to day.

1                   We also work with certain staff in open  
2 records, travel, so on and so forth. So it's a  
3 constant every day thing depending on what we need  
4 that particular day.

5                   COMM. JAMES: Thank you.

6                   CHAIRMAN ANDERSON: I think also, for  
7 the new commissioners, and both Commissioner James and  
8 you have alluded to it, is that the relationship with  
9 TWC and the staff, the finance, the HR, legal, is  
10 working very well, in my opinion as one commissioner.

11                   In the past, when we were -- we had our  
12 own agency, we had one attorney, one HR person, one or  
13 two finance people, so we have a much more extensive  
14 staff, much more extensive knowledge and experience  
15 about what goes on in state government and how that  
16 works. And, so, I think it's been a very synergistic  
17 and a very effective relationship at least, again,  
18 from my point of view.

19                   MR. GOMEZ: Yes, sir. And the press  
20 release that I read to you is one example that -- just  
21 one example of that because we did work with TWC so  
22 they could put out that press release.

23                   Okay. If there's no further questions  
24 for me, I'll bring up Mr. Jim Dixon from budget and  
25 he'll present the budget slides that are in your

1 packet.

2 AGENDA ITEM NO. 4

3 MR. DIXON: Good morning,  
4 Commissioners. For the record, my name is Jim Dixon  
5 and I'm a budget analyst in the Finance Division of  
6 TWC and we're going to present three slides this  
7 morning that represent the financial position of the  
8 Civil Rights Division as of November 30th, the end of  
9 the first quarter.

10 And if you'll look at the first slide,  
11 it involves a number of cases that have been resolved  
12 as of the end of November, and it points out the first  
13 quarter from the prior two fiscal years, and the first  
14 quarter of this year, how many cases have been closed  
15 and how many cases have been budgeted.

16 If I might point out, if you look in  
17 the comparison between last year, there were more  
18 cases -- employment cases closed in the first quarter  
19 of this year -- I mean, I'm sorry, last year, and  
20 there were more housing cases closed in the first  
21 quarter of this year.

22 If you translate that into revenues, we  
23 get \$2,400 for each housing case closed and 550 for  
24 each employment case. It's running about a \$10,000  
25 difference deficit this year compared to last year's

1 first quarter.

2                   And if we could go to the second slide  
3 where I might tie these two together. The second  
4 slide, the first bar graph on the left, represent the  
5 revenues, and what we have done is we have taken --  
6 I'm going to provide a new report to Mr. Gomez -- we  
7 discussed this yesterday -- on a monthly basis, which  
8 will show cases closed through the current month, and  
9 then anticipate how many cases will be closed,  
10 projected, to the end of the year to get an idea of  
11 how much revenue we anticipate, and then look at  
12 current expenditures and project that out on a  
13 straight line basis also.

14                   And we have done that for the first  
15 quarter, and we're approximately about \$72,000 short  
16 of what have we'd budgeted for revenues for this  
17 fiscal year. If you project that out to an annual  
18 basis, it's about \$288,000.

19                   At the same time, if you will look at  
20 expenditures, we're about \$70,000 lower than what we'd  
21 budgeted in our expenditures in the month. So if you  
22 project all of that out to the end of the year,  
23 currently is of the end of November, we're about  
24 \$11,000 deficit projection for what we've budgeted and  
25 the actual revenue that we're going to receive. And

1 what our -- the reason we're doing this is to just  
2 give a monthly basis to Mr. Gomez, and his staff, a  
3 picture of where we are at that moment.

4 Now, I also want to point out that in  
5 these slides, it does not include the \$100,000  
6 judgment that was received toward the end of December.  
7 So that revenue will show up in the information that I  
8 provide for December and a portion in the next  
9 quarter.

10 CHAIRMAN ANDERSON: Jim?

11 MR. DIXON: Yes, sir.

12 CHAIRMAN ANDERSON: And this is  
13 probably a Robert and a Jim question. Part of that  
14 expenses that are reduced is because we didn't have  
15 staff so those dollars weren't being expended on  
16 salaries and benefits, and the numbers show a real  
17 serious issue going forward.

18 I mean, if we don't have things in  
19 order balanced by the half-year point, you-all -- you  
20 and TWC finance people are going to have to make some  
21 tough decisions about staffing, it would seem to me  
22 because where else are you going to make up the money?

23 MR. GOMEZ: Well, one of the things is  
24 that the staff turnover with the production of staff.  
25 As soon as staff starts producing the cases will start

1 reflecting that as a revenue. Because of the staff  
2 turnover it's directly related to the revenue that we  
3 generate and, so, that has an impact on it.

4                   So, as soon as the investigators go  
5 through their six-month training curve that we  
6 project, then we should be meeting that -- the budget,  
7 and it should be hitting -- the expenditures should be  
8 meeting the -- or the revenues should be meeting the  
9 expenditures.

10                   Another thing, if you recall, what we  
11 did when we hired the new investigators, we hired them  
12 at a lower salary, so that is reflected in the lesser  
13 expenditures as well.

14                   CHAIRMAN ANDERSON: So that's --

15                   MR. GOMEZ: That's one of the things  
16 that we did on our side as far as management. As far  
17 as training staff and making staff, going through  
18 their training process and having them meet their  
19 performance measures, they -- you know, the managers  
20 and staff as well as the investigators know that they  
21 need to meet their performance standards for us to  
22 meet the budget. And this was shared with staff.

23                   And I think what we need to do is, yes,  
24 look at it at the six-month, but along with not only  
25 depending on the \$100,000 settlement that we're going

1 to get, but also I think it will be coming closer as  
2 we go on later into the fiscal year.

3 CHAIRMAN ANDERSON: If we wait the six  
4 months for these new people to get up to speed the  
5 fiscal year will be over, and we'll be behind, unless  
6 something dramatically different changes like more  
7 case closures or generate more dollars or --

8 MR. GOMEZ: We anticipate that --

9 CHAIRMAN ANDERSON: -- more training.

10 MR. GOMEZ: -- sure, Commissioner  
11 Anderson. We do anticipate additional closures not  
12 only on the employment side but also on the housing  
13 side.

14 Just to give you an example on that, I  
15 was going to give you the numbers for the -- the  
16 updated numbers for December, which we compiled just  
17 yesterday for this meeting to share with you.

18 And, of course, I do send out the  
19 performance target measures, which I will also send  
20 out to the new commissioners, but our case closures,  
21 as far as employment, dramatically increased.

22 We go through these, kind of like dips  
23 and peaks and valleys, so to speak, because for the  
24 month of November -- just to give you an example here,  
25 for the month of November we closed 68 employment

1 cases or we showed that we closed 68 employment cases.  
2 You compare that to the month of December, we closed  
3 127 employment cases.

4                   There's a process that's involved for  
5 these investigations both in employment and housing  
6 and, so, we go through these peaks and valleys and so  
7 that's why I feel comfortable in saying that if we  
8 look at the midpoint -- yes, we'll look at the numbers  
9 then, but I feel as the staff and investigators become  
10 more proficient, they'll be closing additional cases  
11 and we'll be a lot closer to where we need to be as  
12 far as the budget is concerned.

13                   COMM. JAMES: I think the good news  
14 there is, and I don't know how this hundred grand gets  
15 spent or anything, but the six months that it's going  
16 to take to get people up to speed is really paid for  
17 by this hundred grand. So that's going to be a wash.  
18 I don't fear -- I don't fear a deficit.

19                   But what I do fear and I would  
20 really -- and I think you have shared this with us  
21 before and, so, maybe it's easy to dig up. The  
22 straight-line approach has a lot of value unless there  
23 is a cyclical nature to your revenue and your expense  
24 stream, and so I would really be interested in -- and,  
25 again, maybe I was asleep when I thought about this,

1 but I thought we had seen something that was kind of a  
2 month-to-month trend line that says, you know, over  
3 the summer period when people are on vacation, nobody  
4 is concerned about housing, or something like that.

5                   But, you know, at Christmastime when it  
6 gets cold, everybody is concerned about housing and,  
7 so, there might be -- there might be a cyclical nature  
8 to the revenue stream that will -- that could allay  
9 the chair, and I would imagine all of our concerns,  
10 about seeing a deficit at the end of this fiscal year  
11 which the straight-line approach is projecting.

12                   MR. GOMEZ: Yes, sir. You're very  
13 right, Commissioner James, because the way that I  
14 would see it also is that, you know, I mentioned the  
15 peaks and valleys or cyclical, as you pointed out, and  
16 basically what happens is the expenditures stay the  
17 same.

18                   COMM. JAMES: Sure.

19                   MR. GOMEZ: We're going to pay  
20 individuals every month, we're going to have certain  
21 expenditures every month and yet our cases, as the  
22 example I just gave you and just comparing November to  
23 December, you know, there are peaks and valleys in the  
24 closures.

25                   So there is also a holiday period.



1 you look at -- and we've talked about it many times.  
2 CRD basically operates on a piece-rate basis. There's  
3 a certain GR corpus that is provided that supports the  
4 EEO case closures, but the HUD cases support  
5 themselves.

6                   And so, as you look at CRD, as opposed  
7 to a cyclical basis, Commissioner, it's really as  
8 Robert talked about at the end. It's really based on  
9 numbers of staff involved. The cyclical nature is  
10 based on the number of staff that's actually closing  
11 cases at any one time in CRD. So, it's not seasonal  
12 but it tracks with number of staff onboard closing  
13 cases, and that would be the cyclical nature.

14                   And so as you work through the holiday  
15 periods of November, December, or as you work through  
16 the summer periods where many of Robert's staff are at  
17 training for a week or so, then you see the case  
18 closure rate goes down.

19                   So returning to Chair Anderson's  
20 question, in fact, because the CRD is its own separate  
21 division, they are, in fact, required to, if you  
22 will -- there's no additional dollars that I can  
23 provide out of the Texas Workforce Commission budget  
24 to offset expenditures within Robert's division. So  
25 Robert is, if you will, a small business entity within

1 TWC and is required to support his expenses to a  
2 case-closure rate.

3                   So as Jim talked about, one of the  
4 things we've always focused on is how much management  
5 information -- or what type of management information  
6 we provide Robert so that he's monitoring case  
7 closures relative to expenses -- relative to expenses  
8 on a monthly basis.

9                   I think what Jim has developed is a  
10 very nice, quick management piece of information as  
11 Chair Anderson talked about. But as you close year  
12 end -- so let's talk about both ends of the continuum.  
13 If things are going well we're going to be in fine  
14 shape.

15                   But as the months go by, as you look at  
16 the last slide that Jim was going to talk about,  
17 there's two -- there's two large sets of expenses that  
18 you can affect. One is salaries and so Robert has  
19 that.

20                   The other, if you look at the other  
21 operating, the large part of that is all of the  
22 support services that are provided by the Texas  
23 Workforce Commission. Part of my salary is supported  
24 by CRD so those dollars can't be affected very  
25 quickly.

1                   To reduce those operating expenses, we  
2 would have to fire -- and this is not necessarily  
3 bad -- huge numbers of attorneys like John Moore --  
4 but large numbers of staff which obviously can't do.

5                   So the real item that can be affected  
6 within CRD budget is salaries. So salaries are tied  
7 directly to case closure rates so we watch that very  
8 closely and try to help Robert understand exactly  
9 where he's at on a monthly basis.

10                   So as Chair pointed out, as we approach  
11 the year end, as we get closer, the ability to reduce  
12 expenditures, your options become very, very slim.  
13 You're focus is strictly on salaries. There is very  
14 little other things that can be done at that time.

15                   COMM. JAMES: And the unfortunate part  
16 of all of that is if you let people go your revenue  
17 goes down, and then if you get a windfall and you can  
18 higher people back, there's a six month learning curve  
19 and --

20                   MR. CRUMP: Yes, sir.

21                   COMM. JAMES: -- you don't do yourself  
22 a service in that scenario that you've described.

23                   MR. CRUMP: Yes, sir. What Robert is  
24 faced with is, and we'll talk about it this way and  
25 this is the way I look at it. You have revenue

1 producers and non-revenue producers. If you're losing  
2 revenue producers, you are not going to make -- you  
3 are not going to close enough cases to support those  
4 other folks.

5                   And in our cases I have often said  
6 here, as you look at the other operating categories,  
7 those dollars aren't going to change. Those dollars  
8 are not going to change on a large scale. They'll  
9 move up and down a little bit. And the allocated  
10 dollar -- the overhead allocated to Robert's division  
11 is based on his salaries to a large extent.

12                   So if his salaries go down, that number  
13 will go down some but on a much smaller proportional  
14 basis. The ratio will be the same but it won't be a  
15 large variance that closing additional cases would  
16 assist at that point.

17                   COMM. STIDVENT: I have a question. I  
18 am not familiar with this type of budgeting where  
19 you're proceeding as -- with the revenue that sort of  
20 fluctuates.

21                   Could you explain to me exactly how you  
22 budget based on your projected case load and how you  
23 actually get money in to cover overhead, and then at  
24 what point, as you close cases, you get revenue based  
25 on the case closures?

1                   MR. CRUMP: Yes, ma'am. Jim, would you  
2 like me?

3                   MR. DIXON: Yes.

4                   MR. CRUMP: First off, I would like to  
5 invite the two new commissioners, you can come over  
6 and Jim and I can go through this in more detail.

7                   But at a high level, the three signs  
8 that you're looking at give you a targeted case  
9 closure rate. It also gives some trim analysis for  
10 the prior two years targeted and then what's been  
11 actually done for the last several months. The same  
12 thing happens as we compare expenses.

13                   So, what we do -- what TWC does behind  
14 the scenes is we manage the cash flow, which is what  
15 your question is about, and so we even that out and  
16 allow that to -- not to impact Robert's -- Robert does  
17 not have to worry about that. We manage the cash flow  
18 behind the scenes.

19                   If, in fact, you think about it on a  
20 straight-line basis or if there was a cyclical match  
21 to a staff on hand then that's what Robert has to  
22 manage too in terms of a monthly case closure rate to  
23 secure enough revenue from the contracts with the  
24 Equal Opportunity Commission and the Fair Housing  
25 Commission so that they can supplement the general

1 revenue that's appropriated by the state legislature.

2                   It gets a little complicated to kind of  
3 go through that without laying --

4                   COMM. STIDVENT: Yeah.

5                   MR. CRUMP: -- it out on a spreadsheet,  
6 but in general that's how it works.

7                   COMM. KHALIFA: Yesterday, Commissioner  
8 Stidvent, when Jim and I were discussing that there's  
9 a whole number of variables, okay?

10                   You've got Investigator III's that have  
11 a certain performance standard that we base our  
12 closures on. You know, housing it's four, \$2,400 per  
13 case, going up to 2,900 based on the number of days  
14 that those cases are going to be open. That's what's  
15 proposed with the Feds, with HUD.

16                   Look at the other side -- well, as long  
17 as in housing also we have Investigator III's and  
18 Investigator V's. Investigators V's performance  
19 standards -- their salary's higher but their  
20 performance standards are higher too. Their case  
21 closures are six per month.

22                   Then you go to the employment side. We  
23 have employment investigators that are all employment  
24 Investigator V's. Their performance standards call  
25 for 11 closures per month but then you have to look at

1 the pay rate for employment cases from EEOC which is  
2 much lower at 550.

3                   So depending on which investigator you  
4 lose, this agency -- just to give you another  
5 example -- when I started looking at the budget and  
6 starting to work with the budget in hiring new  
7 investigators, basically what I've done is I've turned  
8 this agency, which it was a stand alone TCHR Agency,  
9 and also initially coming over to TWC, was basically  
10 an employment enforcement agency.

11                   They had something to the effect of  
12 perhaps -- I believe it was nine -- eight or nine  
13 employment investigators versus two or three housing  
14 investigators. And now we've gone through that shift  
15 simply because -- you know, I'm no Math genius but  
16 when you're going to get paid \$550 for a case versus  
17 \$2,400 for a case, I'm going to go towards the \$2,400  
18 case.

19                   So what we've done is that we have  
20 increased our housing investigators. We now stand at  
21 nine housing investigators, primary house  
22 investigators, versus seven employment investigators.

23                   So for the first time in its, I guess,  
24 history it's become primarily a housing investigator  
25 agency, slash, division. So, it only makes sense in

1 order to meet the budget.

2                   Another thing, as I mentioned before,  
3 when we do hire a new staff, because there is a  
4 learning curve involved, what I -- what we decided to  
5 do is hire at a lower level, a lower pay level, so  
6 when they're not producing the cases that the  
7 investigators producing during the learning curve, we  
8 pay a lessor salary.

9                   After a year, they're producing what  
10 they're supposed to be producing, then we upgrade them  
11 to a Investigator V which is a higher salary but the  
12 performance standard is higher.

13                   So all of this needs to be juggled  
14 along with expenditures and what other expenditures we  
15 have.

16                   Another positive that I see is not only  
17 on settlement such as this, but also our outreach  
18 coordinator, one of his tasks is to go out there and  
19 look for grants, and he'll go into in little bit more  
20 detail when he gives his presentation, we apply for  
21 grants through HUD, EEOC training grants, outreach  
22 grants.

23                   I'll ask him to give you a synopsis of  
24 our grants that we have, special projects regarding  
25 the Katrina-Rita evacuees that we conducted state wide

1 with our partners around the state, and those are  
2 additional grants.

3                   Since I've been here we've received a  
4 \$300,000 grant from HUD, an updated \$100,000 grant  
5 from HUD, and then the Katrina-Rita, two grants for  
6 \$100,000.

7                   So we applied for those. It's  
8 competitive. We do compete for the State of Texas but  
9 basically it's a national competition for these grants  
10 but we've been successful at obtaining those grants  
11 also. So that's additional revenue.

12                   Tony's report from training and  
13 monitoring, when he conducts training -- as I  
14 mentioned to you before, we offer bargain basement  
15 prices for our training, but that also initiates  
16 revenue where we cover their travel, if they have to  
17 go train somewhere, or their salary when they're  
18 actually doing that training. So that's additional  
19 revenue we get not only from the trainings but also  
20 from the reviews that we do of state agencies and  
21 state universities.

22                   So we also look at that. So we put all  
23 of that -- as Jim and I discussed it yesterday -- we  
24 put all of that in a blender and hope that we, you  
25 know, come out with what we need to come out with as

1 far as revenue of meeting the expenditures.

2                   And that's from my side of it, and I  
3 know Gene has presented information from TWC's side of  
4 it as far as the cash flow is concerned but that's  
5 basically from my standpoint.

6                   And I do stress to the managers and  
7 supervisors that we need for staff to be closing their  
8 cases. We need case closures and we need for them to  
9 be meeting their performance measures and that's just  
10 the bottom line.

11                   CHAIRMAN ANDERSON: Well, I think that  
12 all -- even the team managers and the team leaders  
13 need to be closing cases some number, whatever that  
14 number is, to help to contribute that because right  
15 now it shows that we're significantly below -- our  
16 actual is below the budget, which is going to  
17 contribute. Of course, part of that is turnover in  
18 staff, but the numbers are -- we still have to have  
19 the revenues to support the staff. And if we don't,  
20 within the next couple of months, you-all are going to  
21 have to be making -- looking at making some of those  
22 tough decisions.

23                   And I would certainly -- you know, if  
24 you have to make those decisions and I'm not saying we  
25 want to or we should, but at some point if we do, the

1 people who are producing need to stay and the people  
2 that are not producing need to find employment  
3 elsewhere, I guess.

4 MR. GOMEZ: I one hundred percent agree  
5 with you, Chairman.

6 COMM. OSTERHOUT: Excuse me, Mr. Gomez?

7 MR. GOMEZ: Yes, sir.

8 COMM. OSTERHOUT: I have a question to  
9 ask. Are you-all affected by the fact that the  
10 federal government mandates you to do things and then  
11 they do not fund it? Are you-all affected any way by  
12 this?

13 MR. GOMEZ: No, sir. In fact, I  
14 believe now with the legislature that just came into  
15 session yesterday it's sort of like the opposite.  
16 We're considered, both with employment and housing  
17 with EEOC and HUD, to be substantially equivalent.  
18 That means all the laws that are state laws are  
19 reflective of the federal laws.

20 So we cover basically the same  
21 protected classes. And so any case that we either get  
22 waived to us from EEOC or HUD or that we take  
23 ourselves are covered by the same laws and statutes so  
24 we do get paid for those cases.

25 One of the changes that came down

1 yesterday through Mr. Crump is the fact that a Bill in  
2 the state legislature is being considered to make  
3 sexual orientation and --

4 MR. CRUMP: Gender.

5 MR. GOMEZ: -- gender equity -- or  
6 gender identity to be protected classes in the State  
7 of Texas. Well, if we add those to the State of  
8 Texas, those cases are not going to be paid for by the  
9 feds because they don't cover those classes. They  
10 don't have the substantially equivalent laws.

11 In other words, when we submit this  
12 cost-impact analysis we're going to have to submit as  
13 we have, on the last two legislative sessions saying  
14 that we will incur the full cost of staffing, the  
15 overhead and what it takes to process that  
16 investigation because we're not going to get paid by  
17 the feds for those type of cases.

18 So, no, they don't put any  
19 additional -- in fact, Alice will go into this also.  
20 We also have a change in the rules, and in our state  
21 law, that we require housing cases to be submitted at  
22 intake under oath, to be sworn to, and the feds don't  
23 require that.

24 So we are changing the state law to  
25 take that away from the state law requirement as far

1 as having these housing cases filed under oath because  
2 what other states were doing that other FHAPs, as  
3 we're known and our contract or partnership with HUD,  
4 is that they were dismissing these cases because they  
5 wouldn't get the response from the complainant as far  
6 as getting them signed under oath or submitted and  
7 filed under oath, and so HUD doesn't require that so  
8 they are not going to pay for those cases. So we need  
9 to change our law too.

10 COMM. OSTERHOUT: Okay. Thank you.

11 MR. GOMEZ: Anymore questions?

12 CHAIRMAN ANDERSON: Have we beat this  
13 around enough?

14 I think you get the sense of where the  
15 commissioners are coming from and what needs to take  
16 place in the next couple of months, and obviously  
17 that's something between you, your team and Mr. Crump,  
18 and the finance at TWC to keep that on track so when  
19 we meet again in April, we have a rosy picture to  
20 discuss.

21 COMM. JAMES: Let me just -- we  
22 obviously haven't beat it enough because I do have  
23 another question. Sorry about that.

24 CHAIRMAN ANDERSON: That's all right.

25 COMM. JAMES: It's a new year.

1                   Did I understand you to say that this  
2 hundred grand is not included in what we see here or  
3 is it?

4                   MR. CRUMP: Yes.

5                   MR. DIXON: That's correct. It is not  
6 included. We didn't get it until the end of December.

7                   COMM. JAMES: Okay. So what actually  
8 happens to those dollars? Is it Robert's slush fund?

9                   MR. DIXON: Robert, how are you going  
10 to spend those?

11                   COMM. JAMES: The silence was  
12 deafening.

13                   MR. CRUMP: Commissioners, let me  
14 attempt to answer that. Much like we talked about on  
15 the cash-flow analysis, those dollars act just like  
16 general revenue.

17                   COMM. JAMES: Okay.

18                   MR. CRUMP: So they are, in this  
19 particular case, the -- our portion of the allocated  
20 settlement, the Office of Attorney General receives  
21 some. The remaining part that came to the Texas  
22 Workforce Commission was deposited directly into the  
23 Civil Rights Division budget. So it's in essence  
24 plus-up from a revenue perspective that we didn't  
25 expect going into Fiscal Year '09.

1                   So much as you alluded to earlier,  
2 Commissioner, that provides Robert, if you will, some  
3 slack to allow his new staff to train up and become  
4 producing at the particular average monthly rates that  
5 Robert expects them to do.

6                   To the extent that they exceed their  
7 monthly average rates, we will use all of our general  
8 revenue dollars first and carry and -- the federal  
9 dollars we receive from HUD or EEOC, they actually  
10 have a longer life and we can actually --

11                   COMM. JAMES: Sure.

12                   MR. CRUMP: -- carry them over to the  
13 next year. So in those respects it's nice.

14                   As you look at it long term, and kind  
15 of going back to the other commissioner's comment  
16 regarding full employment, it's very important that  
17 the case -- targeted case closure rate on a monthly  
18 basis stays at a fairly high level, stays close to  
19 what's projected because next year we may not  
20 receive --

21                   COMM. JAMES: Sure.

22                   MR. CRUMP: -- this type of thing.  
23 Robert alluded to several of the grants that we'll  
24 certainly try to attempt to get, but you can never  
25 count on those.

1                   COMM. JAMES: Count on those,  
2 absolutely. Thank you.

3                   MR. GOMEZ: Okay. And I know that  
4 we've beat this thing enough, but I want to leave us  
5 on a positive note since we're not counting the  
6 \$100,000, if we look at the printout that Jim gave me  
7 yesterday, we're a negative eleven seven seven two,  
8 counting the \$100,000, and we're a positive  
9 eighty-eight two two eight.

10                  COMM. JAMES: And that was my point  
11 that it's not gloom and doom, but you don't want to  
12 rest on your laurels --

13                  MR. GOMEZ: Right.

14                  COMM. JAMES: -- because it's not gloom  
15 and doom.

16                  MR. GOMEZ: Exactly.

17                  COMM. JAMES: You've got a little bit  
18 of a cushion to get everybody up to speed and working  
19 on all cylinders.

20                  MR. GOMEZ: And I think you're  
21 absolutely correct when you said that this \$100,000  
22 fortunately, this year that we received, covers that  
23 learning curve for the new seven investigators that we  
24 hired.

25                  COMM. JAMES: Okay.

1 MR. GOMEZ: We're fortunate in that  
2 perspective.

3 MR. CRUMP: Commissioners, if there's  
4 no other budget questions or general questions?

5 CHAIRMAN ANDERSON: Okay. Thank you,  
6 Jim and Gene.

7 MR. GOMEZ: Okay. At this point in  
8 time if there's no further questions regarding what I  
9 have presented or regarding the budget, hopefully not,  
10 then I'll have Ms. Vickie Covington who is manager of  
11 Team 1 to present the employment enforcement  
12 information.

13 AGENDA ITEM NO. 5

14 MS. COVINGTON: Good morning  
15 Commissioners, TWC staff. For the record my name is  
16 Vickie Covington, Manager Investigation Team 1.

17 And before I share our employment  
18 information with you this morning, for the benefit of  
19 the new commissioners, I would like to have my team  
20 lead stand, Mr. Ray Manor (ph).

21 During the first quarter of 2009 there  
22 were 298 complaints filed. We resolved 248 cases,  
23 leaving us with an inventory of 540 cases.

24 CHAIRMAN ANDERSON: That's pretty high,  
25 Vickie.

1 MS. COVINGTON: The ending inventory,  
2 if you will remember, Chair, at one point we did have  
3 eight investigators and now we're down to seven, and  
4 so that's one of the explanations of why we have the  
5 ending inventory.

6 What we are attempting to do is, over a  
7 period of time, make adjustments so that the  
8 investigators bill right now they are required to  
9 close 11 cases per month, but we have a few that can  
10 actually close more than 11. So we're -- now that  
11 they're focusing primarily on just employment  
12 investigations, we believe that they'll be able to  
13 close, not all of them, but certainly a good number of  
14 them, more than the 11 cases per month.

15 Are there any questions?

16 CHAIRMAN ANDERSON: Well, if some of  
17 them can close more, why can't all of them close more?

18 MS. COVINGTON: That's a good question,  
19 Chair. If --

20 CHAIRMAN ANDERSON: They all receive  
21 the same training and they all have -- unless there's  
22 a wide disparity --

23 MR. GOMEZ: It's just different  
24 individuals, Chair Anderson.

25 MS. COVINGTON: Different skill sets,

1 different -- I would look at it like students going to  
2 school, you have a grading system, and the reason for  
3 that grading system is that not everyone -- not  
4 everyone can make an A, not everyone can make a B, not  
5 everyone can make a C.

6                   And so that's one of the -- one of  
7 the -- one of the realities of what we face as  
8 supervisors and managers.

9                   CHAIRMAN ANDERSON: We don't need any D  
10 or F students though.

11                   MR. GOMEZ: No, sir. I was going to  
12 say I wish we didn't have any D or F students.

13                   MS. COVINGTON: And that's true also.  
14 Are there any other questions pertaining to this?

15                   What you see here are the types of case  
16 closures, and what I would like to point out on this  
17 particular slide are our merit resolutions. Those are  
18 our no-fault resolutions and our withdrawal with  
19 settlement.

20                   When I look back and compared the data  
21 with the first quarter of 2008, there was a difference  
22 of 3 percent in the no-fault closures, and as far as  
23 the withdrawal with settlements there was a difference  
24 of two percent, and that was an increase when we  
25 compare the information from the last quarter.

1                   Are there any questions?

2                   This is a breakdown of the cases by  
3 categories, ADA, ADEA and Title VII. Our Title VII  
4 cases continue to be the highest category of our cases  
5 and they comprise approximately 50 percent --  
6 57 percent of our cases.

7                   Are there any questions? Next slide.

8                   This is a breakdown of our ADA cases,  
9 and what I would like to do here, again, is point out  
10 the merit resolutions. Those are the no-fault and the  
11 withdrawal with settlements, and there's also been an  
12 increase in this area. Last year our merit  
13 resolutions for this category was approximately  
14 25 percent and this year it's 28 percent.

15                   Are there any questions? Next slide.

16                   This is a breakdown of our age  
17 complaints. And basically there are no -- there was  
18 no change in the merit resolutions for the age  
19 complaint.

20                   Are there any questions?

21                   This is a breakdown of our Title VII  
22 complaints, and we really saw a significant increase  
23 in our merit resolutions for Title VII complaints.  
24 Last year at this time it was at 12, approximately  
25 12 percent and this year we're looking at

1 approximately 21 percent for this category.

2 Are there any questions?

3 This slide shows the age of our pending  
4 cases, and before we discuss the age of the pending  
5 cases, Mr. Gomez pointed out earlier that July we  
6 resolved 127 cases. That gives us an average, through  
7 the state fiscal year, of approximately 93 cases per  
8 month. Our internal goal is to resolve approximately  
9 100 cases per month.

10 So, if we stay on track with the 93  
11 cases per month, that average, we will be able to meet  
12 the budgeted numbers.

13 CHAIRMAN ANDERSON: Of course, the  
14 employment cases is one area that the more we  
15 close the more we -- well, not the more we lose, but  
16 the more we come -- we still need to close a higher  
17 number of cases to satisfy the staffing in the  
18 employment side, right, even though we don't make as  
19 much money as we do in the housing?

20 MR. GOMEZ: Yes, slightly higher number  
21 of cases need to be closed, like Vickie was pointing  
22 out, because the difference is we go through the  
23 general revenue fund that we do receive.

24 Basically for, again, just to reiterate  
25 what Mr. Crump presented, our funding is -- I look at

1 it as a third, a third, a third. Approximately one  
2 third comes from EEOC and approximately one third  
3 comes from HUD case closures that we do have and  
4 projected, and then approximately one third comes from  
5 general revenues.

6                   So in the case closures, where they do  
7 fall short as far as employment paying 550 per case,  
8 that is made up through the general revenue fund. And  
9 then in the housing case, we usually tend to make a  
10 little bit more which assists in supporting along with  
11 the general fund a nonproducing staff that we do have  
12 onboard.

13                   We have total of 36 staff, and of that  
14 36 staff we have a total of 16 that are revenue  
15 producing, if you want to look at the enforcement  
16 side. Again, as I mentioned before, in our training  
17 and monitoring, we also have our reviewers and  
18 trainers that you generate some revenue as far as  
19 trainings and reviews are concerned.

20                   MS. COVINGTON: The information that's  
21 before you now is the age of the pending cases and at  
22 our last meeting there was some discussion on  
23 improving the number of cases that we have that are in  
24 the 251 and over categories.

25                   We were able to make some progress in

1 the 301 to 365 days. We've reduced that -- although  
2 it was not by much -- by one percent, and then the  
3 over 365 days category, we were able to reduce that by  
4 3 percent.

5                   And these cases continue to be our  
6 priority cases, and we will continue to try to make  
7 improvement on those categories so that our next  
8 commission meeting hopefully we will be able to report  
9 a higher percentage drop.

10                   Are there any questions?

11                   CHAIRMAN ANDERSON: Thank you.

12                   MS. COVINGTON: All right. I will be  
13 followed by Ms. Alice Mac Kenna, Manager,  
14 Investigation, Team 2.

15                   AGENDA ITEM NO. 6

16                   MS. MAC KENNA: Good morning Chair  
17 Anderson, Commissioners, staff and guests. For the  
18 record, my name is Alice Wilson Mac Kenna, manager  
19 with the CRD.

20                   The slide that you are looking at shows  
21 the number of cases filed and closed, and as you can  
22 see, for the first quarter we had a monthly average of  
23 24 cases filed, as well as a monthly average of 24  
24 cases closed.

25                   Also, as you can see, our ending

1 inventory in FY '08 is the same as our ending  
2 inventory in the first quarter of FY '09. So we're  
3 keeping a very level inventory at this point.

4 Are there any questions?

5 COMM. KHALIFA: I'm sorry, I do have a  
6 question. Can we go back one, please?

7 We had a big -- I guess that's it.  
8 That's -- forward one, I think, Becky, instead of  
9 back.

10 What I'm looking at is we sure did gain  
11 a lot of inventory of cases in '08 which was 58 cases,  
12 right?

13 MS. MAC KENNA: Uh-huh.

14 COMM. KHALIFA: That's a lot of  
15 increase in inventory in cases.

16 MS. MAC KENNA: Yes.

17 COMM. KHALIFA: And so you're telling  
18 me -- okay, we're keeping it even, but shouldn't we be  
19 working on decreasing that inventory instead of  
20 keeping it even?

21 MS. MAC KENNA: Yes. That's what --

22 COMM. KHALIFA: And what are we doing  
23 about that? Thank you.

24 MS. MAC KENNA: Okay. That's where I  
25 was coming with the next slide.

1                   COMM. KHALIFA:   Okay.

2                   MS. MAC KENNA:   We are -- as everybody  
3   has said, we're already completely staffed.   We  
4   have -- some of our new investigators are coming off  
5   of their six-month learning curve.   We already have  
6   some of our new investigators closing more than their  
7   required cases closed.   And this is very positive for  
8   FY 2009 given that we're going to have a higher case  
9   closure than we are in receipts.   So our age of cases  
10  will go down.

11                  CHAIRMAN ANDERSON:   Are a lot of these  
12  cases fairly simple and that's the reason we're  
13  closing them?   They're either time-barred or they  
14  don't meet the filing requirements?   Are they complex  
15  enough that they're really taking some time and  
16  they're working through them very quickly or is it a  
17  combination?

18                  MS. MAC KENNA:   Our age cases that we  
19  have currently, most of them are design and  
20  construction.   They are complex and that is taking  
21  some more time.

22                  However, unlike employment when a case  
23  is filed in housing, time is told, so it's not  
24  time-bogged while it stays with us.   They still -- the  
25  complainant still has the right to go to state or

1 district or federal court up to two years because it's  
2 added on from the time it's with the administrative  
3 agency.

4 Are there any questions?

5 Slide number two here is a breakdown of  
6 the cases as they are closed. And as you can see, the  
7 most striking thing here is the withdrawal with  
8 settlements in the area. The majority of case  
9 closures for FY '07 and '08 were in the no-cause  
10 category. That takes longer to investigate a case  
11 that's fully investigated and a determination is made.

12 In the withdrawal and the conciliation  
13 cases, of course, it's settled right up front. It  
14 doesn't take as long. And as you can see, we are  
15 getting higher cases closed with conciliation, which  
16 is a win/win situation for everybody. And I can see,  
17 again, that's a positive change for '09. We are going  
18 to be having more cases closed quicker and we won't  
19 have the aged cases.

20 Any questions?

21 This slide shows the age of the housing  
22 inventory and, yes, our houses are still high ut as  
23 I've alluded to with all the positives are coming up,  
24 I can see that in FY '09 we will be having more case  
25 closures and our aged cases will be dropping.

1 Any questions?

2 CHAIRMAN ANDERSON: The investigators,  
3 what's the breakdown as far as experience? Do you-all  
4 have that?

5 MR. GOMEZ: Well, because of the staff  
6 turnover, Chair Anderson, we do have two Investigator  
7 V's currently on staff and the rest -- the remainder  
8 are Investigator III's simply because they reflect the  
9 staff turnover, the new hires.

10 I do want to state that the new hires,  
11 I feel that that staff that we hired is very enthused  
12 about their work, very excited about their work.  
13 Alice alluded to the fact that we have one of our new  
14 hires that's already exceeded his numbers, and we are  
15 attempting to recognize that with that particular  
16 individual, working with HR.

17 But I have a very optimistic, positive  
18 view that not only are we fully staffed but the staff  
19 that we have filled our positions with are, I feel,  
20 very competent, enthused and excited staff, and I feel  
21 as though the numbers are really going to improve.

22 I also want to mention, not only for  
23 the benefit of the commissioners that have been here,  
24 but also for the new commissioners, that when you look  
25 at this snapshot of CRD and as far as housing, as far

1 as the inventory-and-age-pending cases, we're not  
2 isolated. We're one of the FHAPs.

3                   We are known as a FHAP which when he  
4 contract with HUD which is a Fair Housing Assistance  
5 Program. They have state FHAPs and local FHAPs. In  
6 the State of Texas we have local FHAPs in Austin,  
7 Dallas, Corpus Christi and Fort Worth and so they  
8 handle their municipalities.

9                   When we compare ourselves as far as the  
10 inventory in general, and also the age-pending cases,  
11 we are pretty much reflective of what's happening out  
12 there in the whole country. Not only the FHAPs that  
13 contract with HUD but also HUD themselves.

14                   HUD has a similar situation with their  
15 inventory and their inventory-of-age cases. So we're  
16 not isolated in having this particular snapshot of  
17 where we are.

18                   MS. MAC KENNA: What's been happening  
19 in housing since we last met. The contract year is  
20 July 1 through June 30th of each year for housing  
21 closures. The cases closed during that period of time  
22 establishes our budget for next year that we get from  
23 HUD, and the number of cases closed during this time  
24 determines, as I said, the amount HUD gives us.

25                   During the six months of the contract

1 year 2008 CLD (ph) closed and had accepted by HUD 103  
2 cases. During the same period, for contract year for  
3 2009, CLD has closed 127 cases. This is an increase  
4 of 24 cases or \$69,600 if we calculate that at the  
5 \$2,400 per case rate.

6                   However, once HUD's budget is approved,  
7 as of October 1 our case amount will go up to 2,900.  
8 So if you calculate it at 2,900, that's 70,806  
9 increase over this time last year.

10                   As Robert mentioned in his report,  
11 consent decree has been issued and complaints filed  
12 and charged against Henry Carter. In September, 2004  
13 complaints were filed against Henry Carter by some of  
14 his former tenants. The complaints allege that  
15 Mr. Carter had sexually harassed the tenants, all were  
16 female, head of households, who participated in the  
17 Housing Choice Program, Section 8.

18                   When the complainants refused to put  
19 out Mr. Carter found reasons, unauthorized residents,  
20 et cetera, to evict them, and in so doing the  
21 complainants lost their housing assistance.

22                   We actual actually had three complaints  
23 that were filed in 2003 and 2004. Two of those, along  
24 with FHIP Agency, one of the Fair Housing Initiative  
25 Program Agencies here in town, also filed on behalf of

1 one of the complainants. So we had four cases.

2                   One of those four were dismissed  
3 because we could not locate one of the complainants.  
4 Mr. Carter's harassment was so egregious that they did  
5 not follow through. So the consent decree has been  
6 issued on the two cases filed, and the one with ATC as  
7 a intervenor.

8                   Prior to that we had two other cases  
9 filed against Mr. Carter back in the late '90s. One  
10 was closed to failure to cooperate by the complainant,  
11 and one was resolved. So total we've had six cases.  
12 But this consent decree has come out for the two  
13 cases -- by the two complainants, plus ATC. I just  
14 wanted to get that on the record as to where the  
15 discrepancy may come in when we say two cases or three  
16 cases, et cetera.

17                   A memorandum has been received from HUD  
18 wherein it states that HUD will not reimburse the FHAP  
19 Agencies for complaints that have been determined non  
20 jurisdictional under a substantially equivalent Fair  
21 Housing law for failure to meet filing requirements  
22 more burdensome than the federal act.

23                   We have such a requirement. Any  
24 complaint initiated by us must be filed -- must be  
25 signed by a complainant under oath.

1                   If, for one reason or another, the  
2 complainant doesn't file that -- or doesn't sign it  
3 under oath, we can dismiss it for a non jurisdiction  
4 because we can't proceed. If we do that, HUD will not  
5 now pay us for those cases that they have previously  
6 paid us for.

7                   If we don't change our state law --  
8 which we are in the process of going through that  
9 procedure to get that requirement removed -- over the  
10 last four or five fiscal years, I went back to look,  
11 we are looking at an average of a loss of 93,000 and  
12 some change if our state statute is not changed  
13 because that's the number of cases that would have  
14 been affected and, there again, that was calculated at  
15 the high of 2,900 case rate.

16                   Several complaints have been received  
17 by HUD filed by the National Fair Housing Alliance  
18 alleging discriminatory advertising in Craigs List,  
19 and these complaints will be dual filed with TWC CRD,  
20 and we will do the investigation. We're expecting  
21 between ten to 15 complaints initially.

22                   These are going to be somewhat unique  
23 cases because they're filed without knowing who the  
24 respondent is. There has to be quite a bit of legwork  
25 done to find out who the respondent is.

1                   These cases are going to take some more  
2 time to investigate. These cases may age because of  
3 that and HUD -- and Gary Sweeney and Robert have been  
4 in conversation over this and so we are going to see  
5 what happens, but we will be receiving those within  
6 the next couple of weeks.

7                   COMM. JAMES: Let me ask about those.  
8 I'm not sure I was clear on what you said. Somebody  
9 has posted something on Craigs List that suggests I  
10 only want Indian people to apply --

11                   MS. MAC KENNA: Uh-huh.

12                   COMM. JAMES: -- right?

13                   MS. MAC KENNA: Yeah. In housing  
14 they've said house for rent, females only or no  
15 children. These are discriminatory advertisements  
16 because they are a covered bases under the fair  
17 housing law. You cannot say no children. You cannot  
18 say only females.

19                   And so somebody -- the National Fair  
20 Housing Alliance has gone through the Craigs List and  
21 located these cases that have been discriminatorily  
22 filed or advertised in this way, and they are filing  
23 against those. Because of the Fifth Circuit decision  
24 we can't file against Craigs List so we have to file  
25 against the respondent, and we have to locate the

1 respondent. So that's where HUD is with these right  
2 now.

3 MR. GOMEZ: Commissioners, what I am  
4 doing is I'm preparing an email with a synopsis  
5 regarding all of these, the Craigs List cases. I'm  
6 working with Gary Sweeney as Alice pointed out. I  
7 have also been working with John Moore from our legal  
8 support.

9 We have gone back and forth. I've got  
10 here in front of me a chain of emails, four pages of  
11 emails, and I'm going to put them in a synopsis, let  
12 you know what was requested, what we're going to do as  
13 far as TWC CRD to let you know what's impacted. I  
14 will also attach what I put together as far as the  
15 request for the -- request from Gary in as far as what  
16 we're going to do on the cases.

17 What I -- I had an extensive  
18 conversation with Gary yesterday. Basically what he  
19 stated was that he's initially going to send us the  
20 cases that they've already identified the respondent  
21 because, as Alice pointed out, if we get the cases  
22 referred to us from HUD, that those respondents are  
23 not identified, then we have to do extensive searches  
24 to find out who the respondent actually is.

25 A lot of times they don't have anything

1 but an email address or a number that's on there. So  
2 what Gary is going to do initially, so we can get  
3 familiar and kind of hit the water with these cases  
4 initially, is he's going to send us the cases where  
5 he's already identified the respondent, and then we'll  
6 go through the investigative process.

7                   COMM. JAMES: So this is kind of  
8 uncharted waters?

9                   MR. GOMEZ: It's unchartered for HUD.  
10 It's uncharted for the FHAPs that are being solicited  
11 to do this. It's being done in several states. What  
12 Gary shared with me yesterday was that the number in  
13 Texas is not quite as high as in the Chicago area and  
14 Illinois or New York -- or around the New York area,  
15 also in California.

16                   In Texas, basically, the higher number  
17 of referrals that he's going to send to us have  
18 occurred in the Houston area. And, secondly, in the  
19 Dallas, Fort Worth area. We have none in this area in  
20 Austin.

21                   So, initially, I believe he's going to  
22 refer ten of these cases where these respondents have  
23 been identified and we have substantial information to  
24 get started on the investigation, and hopefully these  
25 cases will run the course similar to the other cases

1 that we do have in inventory.

2                   COMM. JAMES: Let me ask about this.  
3 Certainly some of these -- is there something that  
4 gives us or has given them reason to believe that  
5 these are, in fact -- while they do violate the law,  
6 is there some -- oh, I'm a girl, I just want girls  
7 living with me or in my hotel -- in my hotel -- oh, my  
8 god.

9                   Scratch that from the record.

10                   You know, where some of these might be  
11 just people putting an ad on Craigs List. Has that  
12 filter already been done or is that part of the  
13 process?

14                   MR. GOMEZ: That's part of the process  
15 because what Gary shared with me yesterday was the  
16 ones that he -- his staff has been able to kind of  
17 initially investigate. Once they contact the  
18 respondent, or the individual that has placed this ad  
19 they say, well, I didn't know I couldn't do that. I  
20 only had one property.

21                   Well, technically, you know, you can  
22 fall through the cracks because if you have one  
23 property, you can designate, I want to rent it to  
24 so-and-so. I want to rent it to so-and-so, you know,  
25 if you do it on your own. But once you advertise then

1 you're covered by the state law and federal law.

2                   So it's that advertisement that does  
3 it. And that's why when they go through Craigs  
4 List -- yes, I only had this one property, and like  
5 you stated, I want only females to apply because, you  
6 know, there would be roommates or whatever it is, once  
7 you put it on Craigs List you're covered under the law  
8 because you're advertising.

9                   COMM. JAMES: Right. And I guess --  
10 and I know this is kind of unchartered waters, but  
11 surely at some part in the process it's identified  
12 that, oh, this was innocent enough. This person was  
13 just -- there's this filter that says these people are  
14 intending to break the law or maybe not intending, but  
15 they just don't want black folks in their home.  
16 Surely there's some kind of filter. Is that through  
17 the investigation process that we determine --

18                   MR. GOMEZ: Yes, sir.

19                   COMM. JAMES: -- whether or not there  
20 is this overt kind of --

21                   MR. GOMEZ: You obtain that information  
22 and you get that sort of, if you want to call it a  
23 determination on the case, in the course of the  
24 investigation. You especially get that when you're  
25 trying to conciliate the case because a lot of times,

1 you know, the conciliation amount that's -- let's stay  
2 the complainant is looking for -- is nothing that is  
3 overbearing on the respondent but the respondent just  
4 doesn't want to give, and we have those cases already.

5                   So we're going to find all types of  
6 cases. Gary did share with me yesterday also that  
7 they have one where the complainant on it was the Fair  
8 Housing Alliance. And as complainant, originally they  
9 were asking for \$20,000 as damages on a conciliation.  
10 They went through the conciliation process and they  
11 ended up conciliating for \$200.

12                   So, you know, during the conciliation  
13 process which, is a separate and apart from the  
14 investigative process, you see this. They say, well,  
15 you know, I really didn't know. I'll take it off. I  
16 won't advertise. And for your time and effort, you  
17 know, it's conciliated.

18                   Or, on the other hand, you have, well,  
19 I don't have to respond to that. It's my property. I  
20 can rent to whomever I want. You get that --

21                   COMM. JAMES: Sure.

22                   MR. GOMEZ: -- the whole spectrum from  
23 one end to the other.

24                   COMM. STIDVENT: I just have a question  
25 about -- a legal question. Do you have a statute or a

1 judicial opinion that basically says that advertising  
2 on Craigs List is advertising for purposes of the  
3 housing statute or is that something that will have to  
4 be litigated too?

5 MS. MAC KENNA: What's happened here is  
6 there is a Fifth Circuit decision out -- and I haven't  
7 read it so I don't really know, but we can't file  
8 against Craigs List.

9 COMM. STIDVENT: No, I understand that.  
10 But, I mean, for purposes of the news -- you have  
11 something that says a newspaper counts as  
12 advertising --

13 MS. MAC KENNA: Craigs List does.

14 COMM. STIDVENT: Do you have something  
15 that specifically says an online service, such as  
16 Craigs List, counts as advertising and is the  
17 equivalent of classified ads in a newspaper or is that  
18 new territory that you're going to have to litigate?

19 I understand the idea of Craigs List  
20 not being responsible for content posted on its site  
21 but for purposes of the statute that you're enforcing,  
22 is Craigs List considered advertising?

23 MS. MAC KENNA: Yes, the statute  
24 actually states discriminatory advertising can be by  
25 word-of-mouth or in writing, and so they have

1 interpreted that at this point to include Internet  
2 advertising.

3 MR. GOMEZ: And that was some of the  
4 information that Gary did share with me yesterday  
5 also, that they have already passed through that aside  
6 from the Fifth Circuit's decision, kind of taking away  
7 from Craigs List that we can file against Craigs List.  
8 It does apply as far as a media of advertising -- a  
9 medium of advertisement.

10 COMM. STIDVENT: Thank you.

11 MS. MAC KENNA: The uniqueness of these  
12 cases is that if it was in a newspaper we can also  
13 file against the newspaper, but we can't file against  
14 Craigs List on the Internet. So that's the difference  
15 here.

16 COMM. De SANTIAGO: Is this people with  
17 several properties or only one property and that's one  
18 of them? And the other one if they claim ignorance of  
19 the law, what are we going to do with them?

20 MS. MAC KENNA: If they have only one  
21 property they're already covered because they have  
22 discriminatorily advertised. That's how we can file  
23 against them even though normally you have to have  
24 three or more rental properties to be considered  
25 jurisdictional for us to file the complaint, but once

1 you discriminatorily advertise then we have the  
2 jurisdiction to investigate them.

3 Ignorance of the law is not considered  
4 a defense under the Fair Housing.

5 MR. GOMEZ: It's not considered a  
6 defense.

7 COMM. De SANTIAGO: How do you approach  
8 them? How do you approach the people to -- somebody  
9 -- because I think what he was trying to say is  
10 somebody that is innocent completely about having a  
11 property and then saying, okay, I'm going to lease to  
12 this person, and there's only one property and there's  
13 only one person. How do we approach them?

14 MS. MAC KENNA: At this point we  
15 haven't received the cases yet, but normally what's  
16 happened when we had other cases, other advertising  
17 cases, and they say, I didn't know this, we've usually  
18 been able to conciliate it, and that's not been a  
19 problem.

20 But if they go through and they refuse  
21 to conciliate, and they say we weren't aware of that,  
22 the Courts have upheld the fact that if you have  
23 rental property you should be aware of the law that  
24 you're renting under. So that's where we stand with  
25 them.

1                   Are there any further questions on  
2 that?

3                   The Fair Housing Academy that Robert  
4 had mentioned, we do have -- we have sent all of our  
5 investigators to that first week. We have others  
6 staggered weeks, two, three, four. We've already sent  
7 five this fiscal year and two more in February. And  
8 that's about it for the academy. Robert has mentioned  
9 quite a bit about the academy so I don't have anything  
10 more to report.

11                   And if there are no other questions,  
12 I'm going to hand over to Tony Robertson, manager for  
13 training and monitoring and ADR. Thank you very much.

14                   AGENDA ITEM NO. 7

15                   MR. ROBERTSON: Good morning  
16 Commissioners. For the record, Tony Robertson,  
17 Team 3.

18                   I'm going to go ahead and delineate a  
19 little bit from my presentation today to more so help  
20 the two new commissioners and give you guys a good  
21 idea of what it is I exactly -- my particular section  
22 does and how we function.

23                   Let's go ahead and look at the first  
24 slide. The first slide deals with ADR which is our  
25 mediators. The information there is self explanatory.

1 It explains to you exactly what it is that they're  
2 getting in, how they close their cases.

3 But let me give you just a little brief  
4 history on how that took place. My section is what we  
5 call a firewall for the investigators. All the  
6 mediators cannot be associated with the employment  
7 investigators because they have to be that third  
8 neutral party source that deals with mediating those  
9 cases.

10 Back in FY '07 what we did was we  
11 switched from a process of having all of our  
12 complaints come in and all our intake investigations  
13 or intake complaints come in and be distributed to all  
14 the teams. So what happens now is a process.  
15 Whenever a complaint comes in, whether in written  
16 format, verbally and we take it over the phone or take  
17 an intake complaint, it automatically is sent to my  
18 section. And we have first shot at trying to resolve  
19 that complaint through the mediation process.

20 My -- the current inventory of all of  
21 my mediators -- I have three mediators and they're  
22 three outstanding mediators. The key thing with them  
23 is they are not a legal -- or should I say  
24 attorney-type individuals, but they are certified and  
25 trained, as is myself and certain other folks within

1 CRD.

2                   And what they do is they go through a  
3 process of 45 days to get that complaint and resolve  
4 it through the mediation process.

5                   Now, most mediations are done  
6 face-to-face with a third-party and neutral mediator.  
7 We are unique for the simple fact that when we came up  
8 under TWC our travel budget went with it as well, so  
9 we no longer have a travel issue for the all the  
10 mediating.

11                   When we were with the Texas Commission  
12 on Human Rights all the mediators went out to those  
13 locations throughout the State of Texas. If that  
14 travel cap required it. And back then we did have  
15 that travel-cap situation that helped us.

16                   Ninety percent of our mediations now  
17 are done by phone conference which means that these  
18 individuals -- we give them the information needed, we  
19 give them the toll-free number to call us, and then we  
20 all sit down at a table and have all parties call in  
21 and mediate that process.

22                   We've been very successful with that.  
23 As you can look on the record last year, we closed  
24 somewhat of 278 cases, which is well above what we did  
25 in FY 2007, and I'm very proud of those individuals

1 because they work hard, and they are also a key player  
2 in the payment that we receive in our work-share  
3 agreement with EEO, that \$550 that we receive. So  
4 those individuals are key to the budget issue that we  
5 deal with and the revenue that we generate as well.

6 And so that's what we do in ADR and I  
7 just wanted to give you a small snapshot of what they  
8 do and how they do it. They have to be that firewall  
9 for the investigative's side.

10 Now, the mediators do not mediate  
11 housing cases. We only mediate employment cases.

12 We do assist in conciliating on the  
13 housing side. We cannot call it mediation because  
14 there's no such thing, but we do help conciliate on  
15 the housing side.

16 And three of these mediators are all  
17 assigned investigators from both two teams that will  
18 allow them to come in and help them conciliate that  
19 case to an agreement or resolution or so on.

20 So with that said, I just wanted to  
21 give you that brief snapshot and if you have any  
22 questions I'll answer them at this time.

23 Next slide.

24 Okay. EEO Compliance Training which  
25 deals with our -- for our workshops. In my particular

1 shop the statute allows me to deal with two things.  
2 Under Texas Labor Code Chapter 21.010 and Texas Labor  
3 Code Chapter 21.556, two things happen there.

4           The first thing that happens is that I  
5 deal with individuals who have to -- have to -- all  
6 state agencies, or should I say state agencies and  
7 institutions of higher ed, who have to provide what we  
8 call new employment training as well as mandatory  
9 supplemental training every two years.

10           With that said, they do go through this  
11 process and they present -- we are requested in some  
12 cases, and in most cases they can present those  
13 trainings themselves only through the certification of  
14 our office.

15           We don't certify in the neo part of it.  
16 We don't certify any of their staff. We just certify  
17 their lesson plans.

18           Under the 556 where it's mandatory that  
19 they have to do it in every two years, we do certify  
20 certain individuals. But since I am  
21 revenue-generated, we don't certify anyone from that  
22 point. I have two staff that go out, including myself  
23 if needed, and we produce and help present that  
24 training to institutions of higher ed, state agencies,  
25 and even the private sector.

1                   Now, the private sector does not have  
2 anything to do or be enforced under those two  
3 chapters. It is only the public entities which is our  
4 state agencies and institutions of higher ed, as well  
5 as or public colleges and some of our community  
6 colleges as well. They fall up under that realm.

7                   Are there any questions in reference to  
8 that? No.

9                   Next slide, please.

10                  This basic slide just tells you the  
11 requests that I receive when we go out and do EEO  
12 trainings or presentations or housing presentations  
13 two things happen with that. Under the EEO  
14 presentations, you'll see the requests that come out  
15 and people want to just call my office or we'll  
16 advertise through our phone systems or through  
17 education and outreach.

18                  One of my staff members, David, and I  
19 do a lot as well as Mr. Gomez, and even our staff will  
20 advertise exactly what it is that we do and how we can  
21 present this information to them. Some at a cost and  
22 some not at a cost.

23                  Most of our presentations, there are no  
24 costs because we went to go out and get the word out  
25 and the information out and let them know this is what

1 needs to take place and how we can help you in the  
2 future.

3                   Now, our trainings are at a cost and  
4 that's just the way it is. It's set up through the  
5 state auditor's office and set up through our budget  
6 office that we would charge a certain amount of monies  
7 for our two-hour, four-hour and eight-hour  
8 presentation or trainings that we present.

9                   So, this particular slide here just  
10 lets you know exactly who is requesting housing and  
11 employment and training, i.e., the private sector or  
12 through a state agency. Are there any questions?

13                   Thank you. Next slide, please.

14                   This is an LBB target that I have to  
15 deal with in my particular shop, and what it calls for  
16 is I have to record the number of individuals that  
17 receive EEO trainings, as well as the number of  
18 individuals who receive EEO presentations. It has  
19 nothing to do with any of the individuals that receive  
20 housing because it's not a statute situation for my  
21 particular shop.

22                   And the unique thing about this is that  
23 I am asked to train so many individuals within a  
24 fiscal year. My budget number, or should I say my LBB  
25 target number this year is 700 individuals by the end

1 of the fiscal year have to receive what we call EEO  
2 training.

3                   And as you see in the first quarter to  
4 date I've gotten 209 people trained already and these  
5 have been through requests under the statute as well  
6 as outside of the statute from the private sector as  
7 well. And, so, with that said, it allows me to not  
8 only educate the public but educate those employers  
9 and those employees who request such training.

10                   The unique thing that we find when  
11 we're doing all of these trainings is that a lot of  
12 them do not realize the changes that have taken place  
13 in EEO law. More so, one of the unique things we're  
14 revamping and getting together and waiting to present,  
15 hopefully in the February time frame through our EEOC  
16 partners, is the new amendment -- the ADA Amendment  
17 Act of 2009.

18                   That is going to substantially change  
19 the way we look at investigating certain cases but  
20 also the way that we present because it has added a  
21 whole bunch of -- a prong that used to not be a part  
22 of ADA, When you look at that, they are now a part of  
23 ADA.

24                   And so when that information comes out  
25 we will definitely educate you-all and provide you

1 with that information so that you may have the updated  
2 information. It also would help you with your staff  
3 and your businesses that you run as well in the event  
4 someone looks at requesting in a workplace  
5 accommodation or a reasonable accommodation because  
6 the ADA Amendment Act of 2009 has substantially  
7 changed, and it will affect not only Texas but the  
8 country as a whole.

9                   COMM. JAMES: Can you give us an  
10 example of one of those changes?

11                   MR. ROBERTSON: You bet. One of the  
12 key things that we look at and when we look at the  
13 definition under ADA it is that it substantially  
14 limits -- under the definition it defines a person who  
15 has a physical or mentally -- physical or mental  
16 impairment that substantially limits one or more major  
17 activities.

18                   Well, the one or more has gone out, and  
19 now it's substantially limits major activities. And  
20 those major activities considered now deal with  
21 walking, talking, seeing, hearing, working is now  
22 included in it, running, jogging, jumping, whatever a  
23 major function that you do is now included under the  
24 new Act.

25                   And one of the key things that they

1 determined or they redefined was the one or more.  
2 They took out the 'one or more' and what they said now  
3 is a major life function.

4                   And so that's key because when we go  
5 out and present and when we deal with our cases that  
6 we investigate, those are key things that we look at.  
7 Does it substantially limit one or more major life  
8 activities?

9                   And, so, what they have done now is  
10 added more of a major life activities to our -- should  
11 I say to our genere that allows us to go ahead and  
12 apply and say that we may be ADA qualified.

13                   Carpel tunnel. We used to look at  
14 carpel tunnel as a situation, as a condition. Most  
15 people who get carpel tunnel when they're dealing with  
16 keyboards and everything else. You go through  
17 ergonomics assessment and it would just be a  
18 condition. Would you give them an accommodation?  
19 Well, the ergonomics assessment would help that.  
20 Well, now carpel tunnel, under this change, and we  
21 want to make sure we've got that defined correctly,  
22 can be concerned an ADA issue.

23                   They look at seizures and everything  
24 else that come under play.

25                   As you know HIV and AIDS has always

1 been a major ADA-defined issue.

2                   Well, now they're looking at more  
3 things that might do with more cancerous issues, those  
4 type of medical issues that we deal with that can  
5 allow it to be, say, in remission and come back. When  
6 it was in remission you didn't have that -- you didn't  
7 have that right. When it's in remission now, you  
8 still have that right if you can prove that is what is  
9 taking place from your doctor's statements and  
10 everything else.

11                   So those are some of the -- a couple of  
12 the amendments or the changes that have taken place  
13 under the new Act.

14                   MR. GOMEZ: Commissioner James, one of  
15 the interesting changes that I saw in the law, having  
16 gone through the training that TWC provides internally  
17 to supervisors and managers, is the fact of the  
18 mitigating factors, the mitigating issues, such as,  
19 you know, medicinal or adaptive mitigating factors  
20 where once you apply an assistive device then that --  
21 before you were no longer considered disabled or  
22 covered under ADA and now you are. That individual  
23 can still be covered despite those mitigating factors.

24                   COMM. JAMES: So like drinking would be  
25 covered, my drinking alcohol? Joke.

1                   MR. GOMEZ: I believe not. But that's  
2 one of the interesting changes in the law that I  
3 found.

4                   COMM. JAMES: Okay. Thank you.

5                   MR. ROBERTSON: You bet.

6                   Next slide, please.

7                   This is my bread and butter that helps  
8 me allow my budgetary or revenue-generated issues to  
9 help sustain this division. We deal with what we call  
10 personnel policy reviews. Now, personnel policy  
11 reviews deal with six sections, and within those six  
12 sections they include how you hire and fire someone,  
13 the hiring process, your recruitment plan is also  
14 included under that particular section.

15                   The next section would be performance  
16 evaluations, how you deal with your performance  
17 appraisals and how do you appraise your individuals?  
18 Is it fair? And are there no EEO issues with it or  
19 discriminatory issues?

20                   The third part of that is disciplinary  
21 actions. How you discipline an individual and is  
22 there fair parity when you're looking at disciplining  
23 those, whether it's based on race, color, age,  
24 religious, sex, national origin or disability.

25                   The fourth one deals with what we call

1 our EEO and sexual harassment policy.

2                   The fifth one deals with workplace  
3 accommodations.

4                   And the sixth one only deals with  
5 institutions of higher ed which deals with  
6 compensation, how you pay your faculty, non-faculty,  
7 your faculty and nonfaculty, your professors, your  
8 tenured professors and staff and so on.

9                   So those are how we look at our  
10 personnel policy reviews. Now, the average policy  
11 review is about 40 hours and is based on the FTE's or  
12 the size of that agency. We only do state agencies  
13 and institutions of higher ed are the only ones that  
14 we can do policy reviews. That is what the statute  
15 requires under Texas Labor Code Chapter 21.450 through  
16 456.

17                   There is a cost. There is an hourly  
18 cost that I charge. Out of that 40 hours, 15 hours of  
19 that is nonnegotiable because that is something that  
20 we set up through the state auditors and through our  
21 internal budgeting folks that allows us to recoup the  
22 costs for the time that is put in that I deal with it  
23 in reviewing of it, and Mr. Gomez's final signature,  
24 and my administrative staff through the contracts that  
25 we deal with when we have to do that.

1                   These are all conducted through inner  
2 agency contracts and so we must have a contract in  
3 place, which is another perk that we receive from TWC.  
4 When you asked the question how is our relationship  
5 with TWC, well, that is another one that we utilize,  
6 their contracting person, their process and  
7 procedures.

8                   It is very good. We enjoy  
9 tremendously -- the system is called CAP, and so  
10 through that we base our reviews, the average of 40  
11 hours, but this particular fiscal year I've got 30  
12 reviews that I'm dealing with. I have two employees  
13 that go out and do these reviews. Now, out of those  
14 30 reviews, 14 of them are from the Criminal Courts of  
15 Appeal.

16                   And so you have the First Court through  
17 the Fourteenth Court of Criminal Appeals. The average  
18 FTE for those folks is 15. So I'm reasonable. I'm  
19 not going to charge them a 40-hour week based on -- I  
20 can get it done in a day in most cases because we pool  
21 those samples. So we are reasonable to them to an  
22 extent as well.

23                   But it also may affect our budget  
24 because I am budgeted or tasked to put out a budget  
25 every two years, or the year before as well, to show

1 exactly what it is that we bring to the table to cover  
2 the benefits, the compensation and everything else  
3 that I must bring to the table for CRD.

4                   So, it's unique this year. They're on  
5 the road all this year. The majority of all of our  
6 reviews are out of state -- excuse me, out of Austin,  
7 within the State of Texas and so, we have to be very  
8 careful how we look at our travel with that since  
9 there has been a task dealing with us based on the  
10 travel cap, but at the same time it is interesting  
11 working with these judges and attorneys and all of  
12 these different Criminal Court Of Appeals because  
13 truly they have a different mindset than most think,  
14 but we are very helpful to them.

15                   And what we look at more than anything  
16 else is the best practices. What are the best  
17 practices that all state agencies and institutions of  
18 higher ed are doing that prevents litigation? And  
19 that is the key to our policy reviews.

20                   Are there any questions? Thank you.  
21 Next slide.

22                   This last slide -- you're probably  
23 wondering what the heck are fire fighter reviews?  
24 Well, fire fighters reviews are something that was  
25 given to us back in 2005, 2004 by representative Donna

1 Dukes who introduced a Bill that we will now go out  
2 and do what we call a disparity-impact analysis on all  
3 fire departments within the State of Texas that are  
4 paid. We don't deal with the volunteer fire  
5 departments.

6                   And what that only consists of is that  
7 we do a desk audit of their initial written tests on  
8 how they hire fire fighters, not their current fire  
9 fighters or anything else like that or paramedics. We  
10 wasn't to know what is the disparity impact based on  
11 minorities and females when it comes to the written  
12 test, and it's an initial written test and a lot of  
13 them use it throughout the State of Texas, and that is  
14 the key for that one.

15                   Now, with this particular target we do  
16 not get paid for it as well but we conduct 60 fire  
17 fighter reviews a year and they are on a rotating  
18 five-year basis.

19                   Let me back up, with the policy  
20 reviews, they are on a rotating six-year basis. I do  
21 them every six years and so folks will see me in six  
22 years from this year, this fiscal year as well.

23                   The fire fighters, we put them in that  
24 same category, and we rotate them on a five-year  
25 basis. So that's what the fire fighter reviews are.

1                   I would like to close with the tab that  
2 you have -- in your tab you have the annual report.  
3 Let me just share a few things with that because  
4 that's going to require some action and signature from  
5 you-all.

6                   Every year I present what we call the  
7 annual report from the Commission on Human Rights.  
8 Now, I'm tasked to deal with two reports. I deal with  
9 what we call our minority hiring -- EEO and minority  
10 hiring practices report, which gives me three statutes  
11 to deal with that I report on a every two-year basis  
12 and present that to the governor, the lieutenant  
13 governor, the LBB and all the legislature.

14                   Now, that report is assigned and  
15 approved by our TWC Commissioners, our three  
16 commissioners. When they took over -- or when we were  
17 placed under them, that particular rule was placed  
18 under the TWC commissioners for the simple fact that  
19 that was something they wanted to come out of this  
20 office so that they can see show how state agencies  
21 and state institutions of higher ed are doing compared  
22 to the civilian labor force. Now, that's the first  
23 report.

24                   That report has already been completed  
25 and signed, I will be providing to you-all a copy of

1 this next week once we get those -- get that back from  
2 the print shop, and I will send that out to you-all so  
3 that you-all can get a snapshot and a picture of  
4 exactly where state agencies are looking, and state  
5 agencies can compare themselves to the statewide  
6 civilian labor workforce as well.

7                   The second report that you're looking  
8 at is the annual report which comes from the  
9 commissioners on human rights. Now, that is a  
10 snapshot also of state agencies and institutions of  
11 higher ed on their new hiring process as well as their  
12 state agency workforce, but it is also key within that  
13 report that we do a comparison side by side with HUD  
14 and EEOC on the number of cases and the complaints,  
15 the issues, the basis and the closures on how we  
16 compare state-wide as opposed to just comparing with  
17 ourselves.

18                   So, that's the report that you have in  
19 front of you right now, and that's the report that I  
20 hope that if you have any questions, let me know at  
21 this point in time, and that's the report that is in  
22 your tab right now.

23                   Are there any questions?

24                   CHAIRMAN ANDERSON: The report -- is  
25 this the report that goes through legal and do they --

1 MR. ROBERTSON: It's already done, sir.

2 CHAIRMAN ANDERSON: Okay. And we've  
3 obviously checked and rechecked all the numbers --

4 MR. ROBERTSON: Yes, sir.

5 CHAIRMAN ANDERSON: -- to make sure  
6 that two doesn't equal three and et cetera?

7 MR. ROBERTSON: Yes, sir.

8 CHAIRMAN ANDERSON: We're not dealing  
9 new Math here.

10 MR. ROBERTSON: That's taken care of,  
11 Chair. That's what I do all the time.

12 Next I would like to call up David  
13 Trinidad who is my outreach coordinator, and I'm going  
14 to stay up here with David also in the event that  
15 you-all may have some questions in reference to what  
16 he's going to present. He's going to be brief and  
17 just give you an outline of what Mr. Gomez mentioned  
18 earlier in reference to our activities, the expanded  
19 presence, and I think I'll help him with reference to  
20 our Katrina-Rita contracts. They were -- one was  
21 before him and he finished the second one up as well.  
22 So, David?

23 MR. TRINIDAD: Thank you. Good  
24 morning, Commissioners. For the record, my name is  
25 David Trinidad. I am the outreach coordinator for the

1 Texas Workforce Commission, Civil Rights Division.

2                   At our last meeting you were informed  
3 that TWC CRD was not selected for the HUD 2008 Super  
4 NOFA as a recipient, and that TWC CRD was in the  
5 process of requesting a debriefing with HUD officials  
6 to help better determine why the 2008 Super NOFA was  
7 not awarded.

8                   To briefly recap, especially for you  
9 new commissioners, the Housing & Urban Development, or  
10 HUD, puts out a series of grants called the Notice Of  
11 Funding Availability NOFA for short.

12                   These are federal -- these are annual  
13 federal grants and the competition for these funds is  
14 really highly competitive. Each year TWC CRD applies  
15 for one of these grants and last year that application  
16 was for an education and outreach grant.

17                   We have now received word from HUD  
18 officials that they will be conducting a telephonic  
19 conference with CRD on January 20th of this month --  
20 21st of this monthly, excuse me, and only after that  
21 conference will we be able to better understand the  
22 particulars as to why the NOFA was not granted -- was  
23 not awarded to us.

24                   The next item is -- you maybe aware of  
25 the outreach program has an expanded office in

1 Lubbock, Amarillo, El Paso, Tyler and McAllen. Due to  
2 the scaling back of travel of all TWC employees, the  
3 outreach program has had to scale travel back as well.

4                   However, in order to continue to  
5 nurture our relationship in the mentioned outreach  
6 areas, TWC CRD will continue to submit the monthly  
7 did-you-know email to all of our contacts in those key  
8 outreach areas as well as other areas where TWC CRD  
9 continues to make new contacts.

10                   To refresh your memory of the  
11 did-you-know series -- or email I should say -- was  
12 developed as an avenue to help keep the public  
13 informed as to what the current happenings of  
14 development of both employment and housing matters, as  
15 well as current happenings with TWC CRD.

16                   The did-you-know email is meant to be  
17 both informational as well as educational. But the  
18 email also allows CRD to remain foremost and fresh in  
19 the minds of contacts -- of our contacts as well as  
20 help bolster our expanded presence.

21                   The next item, as outreach coordinator  
22 I will be traveling to El Paso later this week to meet  
23 with the director for Borders Fair Housing and  
24 Economic Justice to coordinate activities with CDR  
25 that will partner in the April Fair Housing month.

1 It's the national Fair Housing month, I should say.

2 TWC CRD has had a history of partnering  
3 with Border for Housing on their annual fair housing  
4 summit held in April TWC will also be attending with  
5 Ms. Diana Bustamente out of Houston who also has an  
6 annual fair housing event in April. Both  
7 Ms. Bustamente and Borders Fair Housing & Economic  
8 Justice have been highly respectable partners with TWC  
9 CRD, and we do wish to continue those partnering  
10 efforts.

11 And then the next item that I want to  
12 bring to your attention would be the continuation of  
13 the process of looking for additional revenues. One  
14 of the functions of my job is to continue to keep an  
15 eye open, and an ear out, for new funding sources, and  
16 some of the -- give you just kind of a brief rundown  
17 of some of what we've been doing.

18 We're looking at putting together -- a  
19 package together that we can present to local housing  
20 authorities that we know also receive NOFA funds but  
21 they use those funds for job training and housing  
22 skills. So we think that we might be able, since we  
23 do employment as well as housing, we may be able to  
24 tap into some of that, partner up with some of these  
25 housing authorities and create some more revenue our

1 way.

2                   Also want to let you know that even  
3 though we've scaled back some of our outreach, we  
4 still are recognized through other organizations for  
5 our efforts. As Mr. Gomez has mentioned to you  
6 earlier, EEOC did present our office with recognition  
7 for our outreach efforts in partnering with them. So  
8 we continue to facilitate those efforts as well.

9                   Any questions?

10                   Now, I do understand that Mr. Robertson  
11 is going to mention a little bit about Katrina-Rita.  
12 Fortunately or unfortunately I came in towards the  
13 very end of Rita so I have no expertise knowledge of  
14 Katrina, and my knowledge is very limited with Rita,  
15 but Mr. Robertson will fill you in on those  
16 particulars. Thank you.

17                   AGENDA ITEM NO. 8

18                   MR. ROBERTSON: Just real brief. Tony  
19 Robertson, once again, Team 3, CRD.

20                   Let's go with the calendar year '06 --  
21 or calendar year '05 we received our first what we  
22 call Katrina grant. And what happened -- well,  
23 calendar year '06 is when it took place because  
24 Katrina happened in '05.

25                   The unique thing about that is the

1 special projects manager at that time was Vickie  
2 Covington. I am the new special projects manager  
3 since the previous year.

4                   And with that said, we had an outreach  
5 coordinator, such as David, and what that grant  
6 consisted of -- the very first grant that we dealt  
7 with prior to Katrina was the grant that Mr. Gomez  
8 talked about that was a little over \$300,000. And  
9 that dealt with was testing procedures. It allowed us  
10 to go out and partner with.

11                   MR. MOORE: Diana Bustamente's group  
12 out of Houston to do what we call testing.

13                   Now, if you're not familiar with  
14 testing. Testing in housing means or indicates that  
15 you hire some individuals of different race, and they  
16 go out and look at certain advertisement for rental  
17 property, i.e., apartment complexes. They'll go out  
18 to that one -- say the black male will go to that cite  
19 and look at the advertisement and is say is there an  
20 apartment for rent or availability?

21                   And what they're doing is testing to  
22 see if they treat that individual different than say  
23 their Caucasian counterpart that may come in and  
24 they'll give that individual that vacancy where  
25 they'll tell the black counterpart that it was not

1 vacant and it was based on their race. So that's what  
2 testing dealt with.

3                   Out of that testing, we received  
4 several -- a little over 20 something complaints out  
5 of that and it allowed us to go ahead and process  
6 those complaints and move forward with continually  
7 educating the public in reference to fair housing.

8                   The second grant that we received was  
9 the Super NOFA Number 4 Katrina, the Katrina-Rita  
10 grant. That one also dealt with us partnering with  
11 our two partners, the Border Fair Housing and  
12 Ms. Diana Bustamente's group in going out and  
13 conducting fair housing, education and outreach as  
14 well as putting out PSAs and radio advertisements,  
15 billboards and fliers on -- basically what it is that  
16 had HUD does, and what we do in the State of Texas for  
17 Fair Housing, and anything -- it has nothing to do  
18 with employment. It strictly dealt with educating the  
19 public through presentations, through different  
20 conferences that we attended through invitation, to  
21 educate them on Fair Housing.

22                   So that is what those two grants dealt  
23 with and we were very fortunate with those -- and as  
24 Mr. Trinidad indicated earlier, this is what we're  
25 continually trying to do through the process as well.

1 We're trying to get to Midland eventually to see if we  
2 can do some good work out that way from our last grant  
3 that we did not get last year, but I want Commissioner  
4 James to know we're still working on it, and hopefully  
5 you'll see us out there in the Midland area as well.

6                   COMM. JAMES: It takes a long time to  
7 get to Midland.

8                   MR. ROBERTSON: I understand. I  
9 understand. If there's anything -- if there's nothing  
10 else I'll turn it back over to Mr. Gomez.

11                   COMM. KHALIFA: I have a question,  
12 Mr. Gomez.

13                   MR. GOMEZ: Yes, sir.

14                   COMM. KHALIFA: Is there a reason that  
15 the new employees, besides being introduced to us,  
16 come here? I mean, do they need to see what we do  
17 or --

18                   MR. ROBERTSON: No, I --

19                   COMM. KHALIFA: I noticed the last two  
20 meetings they've been coming and I've noticed -- and  
21 they all just left. If there's no reason for them to  
22 stay after introductions then they should go ahead and  
23 get bet back to work, huh?

24                   MR. GOMEZ: Yes, I agree. I just --

25                   COMM. KHALIFA: Because some of the

1 stuff that's being talked about in the meeting may  
2 not be the best -- I don't know.

3 MR. GOMEZ: Well, what I -- my intent  
4 was to introduce the new staff to you-all and for new  
5 staff to recognize you-all as the commissioners and  
6 see what takes place here on a quarterly basis. That  
7 was my intent with that -- with introducing new staff.

8 And since we did have quite a few new  
9 staff, then that's why we started a couple of meetings  
10 ago to do that. If you remember, last time we had  
11 like five new staff that came out here basically to  
12 just meet you-all. So it's a meet-and-greet and  
13 that's basically what it was intended to be.

14 At this point in time I mentioned the  
15 fact that the monthly performance measures report is  
16 being completed. We are awaiting the information from  
17 budget so we can establish the cost per employment and  
18 housing case, and I will send this to the new  
19 commissioners also this next time.

20 What I would like to do for the two new  
21 commissioners is send you the one that we prepared for  
22 the end of the fiscal year. That will give you kind  
23 of like a snapshot of what we ended up with last year  
24 and how we are headed this year, and if have any  
25 questions, please feel free to call me. So I'll send

1 yours separate from -- so I can include both  
2 attachments.

3                   But basically, again, in the spirit of  
4 wanting to leave you on a positive note, we did meet  
5 or exceed all of our target measures. These are the  
6 LBB target measures that we do have. Just give you a  
7 rundown, and they've been mentioned here through  
8 November, but I do have the updated numbers as of  
9 December.

10                   In December, individuals receiving EEO  
11 training as Tony -- Mr. Robertson reported in the  
12 month of December we had 109 individuals receiving EEO  
13 training which gives us a year-to-date total of 318 in  
14 comparison to the target. At this point in time in  
15 December, our target measure of percentage of the year  
16 is 33.33 percent after the first quarter. So the  
17 target that was reached was 45.43. So we're ahead of  
18 that -- of that particular target measure.

19                   And as the commissioners that have been  
20 here onboard, and in particular Chair Anderson knows,  
21 that this particular target was kind of difficult to  
22 obtain at this particular time of the fiscal year, in  
23 general in the previous years, simply because most  
24 state agencies save all of their training towards the  
25 end of the fiscal year to see if their budgets allow

1 for the EEO training.

2                   So I'm very happy to report that that  
3 number is being not only met but is being exceeded,  
4 and we did change the way that we conducted those  
5 trainings and scheduled those trainings.

6                   Similarly, with the number of on-site  
7 personnel policies reviews conducted and approved  
8 because in the report you can see that I have two  
9 reports on this particular item. I have the conducted  
10 and approved which is reflective in the LBB  
11 performance measures, but also I have a management  
12 performance measures on the bottom of the report which  
13 indicates the number of policy reviews initiated or  
14 conducted and pending approval. That number is  
15 usually higher because there is a process that is  
16 involved in conducting these reviews.

17                   To go back to the numbers, we are at  
18 nine year-to-date, a target measure of 28. So we are  
19 within that variance for the 33.33 percent and we  
20 achieved a 32.14 percent.

21                   The number that we all look at because  
22 of the revenue-producing factor is the number of  
23 employment of housing complaints resolved.  
24 Year-to-date we are at 463. Target measures is 1290  
25 and we are at 35.89 percent. So we are exceeding that

1 percentage.

2                   And, again, these numbers you will  
3 receive them in the table that I will send out. As I  
4 stated before, we are waiting for the information from  
5 budget so we can establish and calculate the cost per  
6 case in employment and housing of complaints resolved.

7                   So with that -- one more, because Tony  
8 just mentioned this, and I do not to congratulate our  
9 mediators, we have new mediators. We have -- that's  
10 not a target measure, per se, from the LBB but we do  
11 keep it as a management performance measure target,  
12 and the target is 180, and as of December the  
13 mediators have closed or completed 82 successful  
14 mediations which renders a 45.56 percent. So they're  
15 way over that 33.33 percent. I just wanted to state  
16 that for the mediators.

17                   And with that, I have no further  
18 information to share with you-all in regards to what  
19 occurred this past quarter and year-to-date so at this  
20 point in time, unless you have any questions, I am  
21 done.

22                   CHAIRMAN ANDERSON: Thank you, Robert,  
23 and the rest of the staff.

24                   We do not want to get quickly into  
25 executive session because we have some items and

1 Mr. Moore, who is the counsel or general director, I  
2 guess, for the Regulatory Enforcement Division has a  
3 busy schedule so we do want to get to that very  
4 quickly.

5 The schedule for the meetings for the  
6 meetings for the remainder of the 2009 are April 15th,  
7 July 15th and October 21st.

8 COMM. KHALIFA: Can we change that to  
9 the 14th?

10 CHAIRMAN ANDERSON: The 14th of what?

11 COMM. KHALIFA: October.

12 CHAIRMAN ANDERSON: I don't know. Was  
13 there a particular reason for doing that?

14 COMM. KHALIFA: I have conflict.

15 CHAIRMAN ANDERSON: Okay. Does anybody  
16 have any problem with the 14th? None. We'll go to  
17 the October 14th.

18 From now until the -- John, do you  
19 know -- or, Robert, do you know when the legislative  
20 session ends?

21 MR. MOORE: It'll be after Labor Day --  
22 Memorial Day, I mean, the 31st.

23 CHAIRMAN ANDERSON: Okay. So at least  
24 until the end of May?

25 MR. GOMEZ: The session is a 140 days?

1 MR. MOORE: A 140 days.

2 CHAIRMAN ANDERSON: Okay. Between now  
3 and then there will be confirmation hearings on the  
4 new commissioners and perhaps some of the old ones. I  
5 don't know what the process is on that. John, do you  
6 have some insight?

7 MR. MOORE: I can get that information  
8 to you later.

9 CHAIRMAN ANDERSON: Okay.

10 MR. MOORE: One thing I think  
11 Mr. Robertson mentioned, which is the report, you do  
12 have one action item that needs your approval. So you  
13 will need a motion and a second and a vote on that.

14 CHAIRMAN ANDERSON: Do I have a motion  
15 by Commissioner Khalifa?

16 COMM. KHALIFA: I make a motion we  
17 approve the report.

18 CHAIRMAN ANDERSON: Do we have a  
19 second?

20 COMM. JAMES: Second.

21 CHAIRMAN ANDERSON: Seconded by  
22 Commissioner James. All in favor of the annual report  
23 say 'aye'?

24 THE COMMISSIONERS: Aye.

25 CHAIRMAN ANDERSON: Opposed? None.

1 It's unanimous.

2 Are there other items on the -- that we  
3 need to take action on?

4 There is a couple of items that I would  
5 like to bring up that are new and then we'll get  
6 quickly into the old action items, and Becky and I  
7 will go through those.

8 For the new commissioners, and maybe as  
9 a refresher for the old commissioners, we need to look  
10 at maybe some training on the Property Code, the Labor  
11 Code and also on the financials because I don't think  
12 the new commissioners have a good understanding of --  
13 it's very complicated, the financials.

14 MR. MOORE: Having done that before,  
15 I'll be happy to take the lead in that. We'll get  
16 with the Office of General Counsel and with Mr. Gomez.  
17 We can do it by phone, however you want to do it. I  
18 know, Commissioner, you're here in Austin, it might  
19 just be easier for you to come over and see us.

20 COMM. STIDVENT: I can just come over.

21 MR. MOORE: But we can do training by  
22 phone and I can provide materials by either mailing  
23 them to you or by email. We've done this before, as  
24 Commissioner James and Commissioner Khalifa earlier,  
25 the relationship is an interesting relationship

1 between the division and the agency and it's something  
2 that we can get your -- your arms around so you'll  
3 understand exactly how it functions and then also your  
4 functions under the Property Code, under the Labor  
5 Code and under the Rules.

6 CHAIRMAN ANDERSON: Okay. So, between  
7 now, I guess, and the next meeting which is in April,  
8 we'll see if we can -- it shouldn't be a problem to  
9 get it accomplished although we're right in the middle  
10 of legislative so it may be a little bit more  
11 stressful.

12 MR. MOORE: So far the legislature's  
13 been kind to us so we may be able to accomplish that.  
14 There has been only one Bill introduced as  
15 commissioner -- or as Executive Director Gomez  
16 indicated, and it's very similar to Bills we've seen  
17 in the past.

18 So we will keep you appraised as  
19 legislation comes in that has any impact on the  
20 Division and its enforcement under the various  
21 statutes.

22 CHAIRMAN ANDERSON: Along with the  
23 training there, have you talked with Jan and training  
24 for your staff for 2009 for any items that -- we've  
25 had in the past, we have new staff onboard, and do we

1 need to get some of those people trained and whether  
2 she that has time to do it?

3 MR. GOMEZ: Yes, we get the  
4 notifications of chaps on the required training that  
5 needs to be taken through TWC and also updated  
6 training. In fact, this Monday at the executive staff  
7 meeting I received a list -- on which I was on also --  
8 of individuals that needed to take updated EEO sexual  
9 harassment training.

10 So I did share that with the  
11 supervisors and managers and they have had staff take  
12 that training. I know my managers that were on that  
13 list have taken that training. I have also reported  
14 it to Gene Crump, and we keep tabs on that as far as  
15 management on staff through the chap's system with HR.

16 So, aside from that also we have some  
17 investigators, the new ones, going through the inside  
18 training that's requested by TWC, and the required  
19 training, of course, that we have through EEOC and  
20 HUD. So training is being kept up-to-date.

21 CHAIRMAN ANDERSON: I would like to  
22 have the next meeting, the April meeting, a status of  
23 what you and HR has worked out as far as some of the  
24 training for 2009, whatever is required. I'm not  
25 sitting here trying to dictate anything. I'm just

1 saying sit down with HR and come up with something,  
2 particularly the new employees who may not have some  
3 of the training that the older more seasoned employees  
4 have.

5 MR. GOMEZ: We'll provide you that  
6 report at the next meeting.

7 CHAIRMAN ANDERSON: The action items  
8 from the last meeting. Robertson, a HUD-draft  
9 proposal regarding a payment to all the commissioners.  
10 Has that be done?

11 COMM. KHALIFA: I haven't gotten the  
12 payment.

13 CHAIRMAN ANDERSON: Not a payment, a  
14 draft. Did you send that draft out?

15 MR. GOMEZ: Yes, sir. We did send it  
16 out.

17 CHAIRMAN ANDERSON: The two new  
18 commissioners probably didn't get it.

19 MR. GOMEZ: We will send it to the new  
20 commissioners.

21 CHAIRMAN ANDERSON: Request to be  
22 provided report of the goals of the Division on a  
23 quarterly basis similar to what the Texas Workforce  
24 Commission do.

25 Is that -- was that included Becky on

1 this one? I don't know if it was or not.

2 MR. GOMEZ: I don't recall.

3 CHAIRMAN ANDERSON: Take a look at that  
4 and see what we need to do to make sure that we've --  
5 I think it was the goal -- measuring the goals, where  
6 we are against kind of a progress goal.

7 Provide data in a spreadsheet form  
8 identifying the cost associated -- I think it was  
9 Mr. James -- costs associated with the other cost,  
10 operating costs, as identified in the budgets. We had  
11 a slide. I don't know if that was accomplished  
12 either.

13 COMM. KHALIFA: Did you get that done?

14 CHAIRMAN ANDERSON: No, it was supposed  
15 to be on the slides.

16 MR. GOMEZ: Was that in relation to the  
17 changing of the slides --

18 CHAIRMAN ANDERSON: Yes.

19 MR. GOMEZ: -- in the way that they  
20 were reported through a budget?

21 CHAIRMAN ANDERSON: Right. Want to see  
22 the aging of the housing employment cases trending  
23 down. That is not trending but there was some  
24 movement.

25 In April we want to see some

1 significant --

2 COMM. OSTERHOUT: Downward trend.

3 CHAIRMAN ANDERSON: -- downward trends  
4 on that.

5 MR. GOMEZ: We'll do.

6 CHAIRMAN ANDERSON: We've got the  
7 meetings set up for 2009, and the performance  
8 appraisal which is what we're getting ready to go into  
9 now.

10 Does anybody have anything before we go  
11 into executive session, any additional items?

12 Just the Civil Rights Division  
13 Commissioners will be going into executive sessions to  
14 discuss the following items: Government Code  
15 Section 551.074, the appointment, employment  
16 evaluation, reassignment, duties, discipline,  
17 dismissal, accomplishments, performance, goals, and  
18 responsibilities of the Texas Workforce Commission  
19 civil Rights Director.

20 Item B. Government Code Section 551.05  
21 -- 071, Section 1, contemplated litigation or the  
22 pending litigation of the Texas Workforce Commission,  
23 Civil Rights Division versus Henry Carter, et al;  
24 Texas Workforce Commission, Civil Rights Division,  
25 Sugarland/Fort Bend Real Estate, Inc., d/b/a RE/MAX

1 Southwest; Marilou Morrison versus the Texas  
2 Commission of Human Rights.

3                   Item C. Section 551.071, Section 2,  
4 All matters identified in this agenda where the  
5 commissioners seek the advice of their attorney as  
6 privileged communications under the Texas Disciplinary  
7 Rules of Professional Conduct of the State Bar of  
8 Texas and to discuss the Open Meetings Act and the  
9 Administrative Meetings Act.

10                   We are now in Executive Session and it  
11 is 11:28.

12                   (Recess taken)

13                   CHAIRMAN ANDERSON: We're back on the  
14 record and the time is 11:42. The Executive Session  
15 closed at 11:40, and the following actions -- do you  
16 want me to start over?

17                   MS. SMITH: Uh-huh.

18                   CHAIRMAN ANDERSON: We're back on the  
19 record and the Executive Session Closed at 11:40 and  
20 the time is now 11:42.

21                   There was no action except that under  
22 Item C -- I'm sorry, under Item A, that the  
23 performance appraisal on the Director of the Civil  
24 Rights Division will continue to be worked on with the  
25 appraisal being discussed with Mr. Gomez by the end of

1 January, 2009.

2                           And with that, the Civil Rights  
3 Division Meetings for January 14th, 2009 is closed.

4                           (Meeting adjourned: 11:42 a.m.)

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## 1 C E R T I F I C A T E

2 STATE OF TEXAS )

3 COUNTY OF TRAVIS )

4 I, Elizabeth Davis, a Certified  
5 Shorthand Reporter in and for the State of Texas, do  
6 hereby certify that the above-mentioned matter  
7 occurred as hereinbefore set out.

8 I FURTHER CERTIFY THAT the proceedings  
9 of such were reported by me or under my supervision,  
10 later reduced to typewritten form under my supervision  
11 and control and that the foregoing pages are a full,  
12 true and correct transcription of the original notes.

13 IN WITNESS WHEREOF, I have hereunto set  
14 my hand and seal this 20th day of January 2009.

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Elizabeth Davis  
Certified Shorthand Reporter  
CSR No. 2351 - Expires 12/31/10

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Firm Certification No. 276  
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