

ANNUAL REPORT

JULY 1, 1993 – JUNE 30, 1994

**HAWAII
CIVIL
RIGHTS
COMMISSION**

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Director, Department of Labor & Industrial Relations

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INTRODUCTION

The Hawai'i Civil Rights Commission (HCRC) was established by the Legislature in 1988 under Act 219. Act 386 passed the next year and defined the composition of the HCRC, its jurisdiction and powers, and authorized it to begin its operation on January 2, 1991.

The law declares that discriminatory practices—based on race, color, religion, age, sex, sexual orientation, national origin, ancestry, or disability*—in employment, housing, public accommodations, or access to services receiving state financial assistance are against public policy. The Commission's mandate is to provide a uniform procedure for the enforcement of the state's discrimination laws.

The Commission is comprised of five (5) members, all of whom are volunteers appointed by the Governor on the basis of their knowledge and experience in civil rights matters and a demonstrated commitment to the preservation of the civil rights of all individuals. The members include persons from private sector business, the University of Hawaii, people with disabilities, and community groups.

The HCRC is attached to the Department of Labor & Industrial Relations (DLIR) for administrative purposes. The Commission oversees a staff of approximately thirty (30) persons who are divided into two separate sections (enforcement and adjudication) to carry out its functions. Pursuant to Hawai'i Revised

Statutes (H.R.S.) § 368-3, these functions are to:

- receive, investigate and conciliate complaints alleging any unlawful discriminatory practice under H.R.S. Chapter 368 (programs and activities receiving state financial assistance), Chapter 489 (public accommodations), Chapter 515 (real property transactions) and part I of Chapter 378 (employment practices);
- issue right-to-sue letters which allow the parties to file actions in circuit court;
- hold administrative hearings on such complaints and order appropriate legal and equitable relief or affirmative action when a violation is found;
- commence civil actions in circuit court to seek appropriate relief, including the enforcement of any commission order, conciliation agreement, or predetermination settlement;
- issue publications, results of investigations, and research that in its judgment will tend to promote goodwill and minimize or eliminate discrimination in employment, housing, and public accommodations.

The accompanying report is submitted pursuant to H.R.S. §§ 368-4 and 515-9, and serves as a review of the major accomplishments and problems faced by the Commission during FY93-94.

* certain bases are not protected under all laws.

ADMINISTRATIVE PROCEDURE

There are two requirements that must be fulfilled before the HCRC can accept a complaint of discrimination under one or more of the anti-discrimination laws it enforces:

- a person must have been treated in an unequal, unfair manner because of his or her "protected basis" (race, sex, ancestry, disability, etc.).
- the complaint must be filed with the HCRC within 180 days of the alleged incident (or the most recent incident if there is a recurring pattern of discrimination).

After a **complaint** is filed, an HCRC investigator begins a neutral, fact-finding **investigation** collecting documents and contacting witnesses from both the complainant's and respondent's sides. The investigator also explores the possibility of settling the complaint prior to a determination (pre-determination settlement).

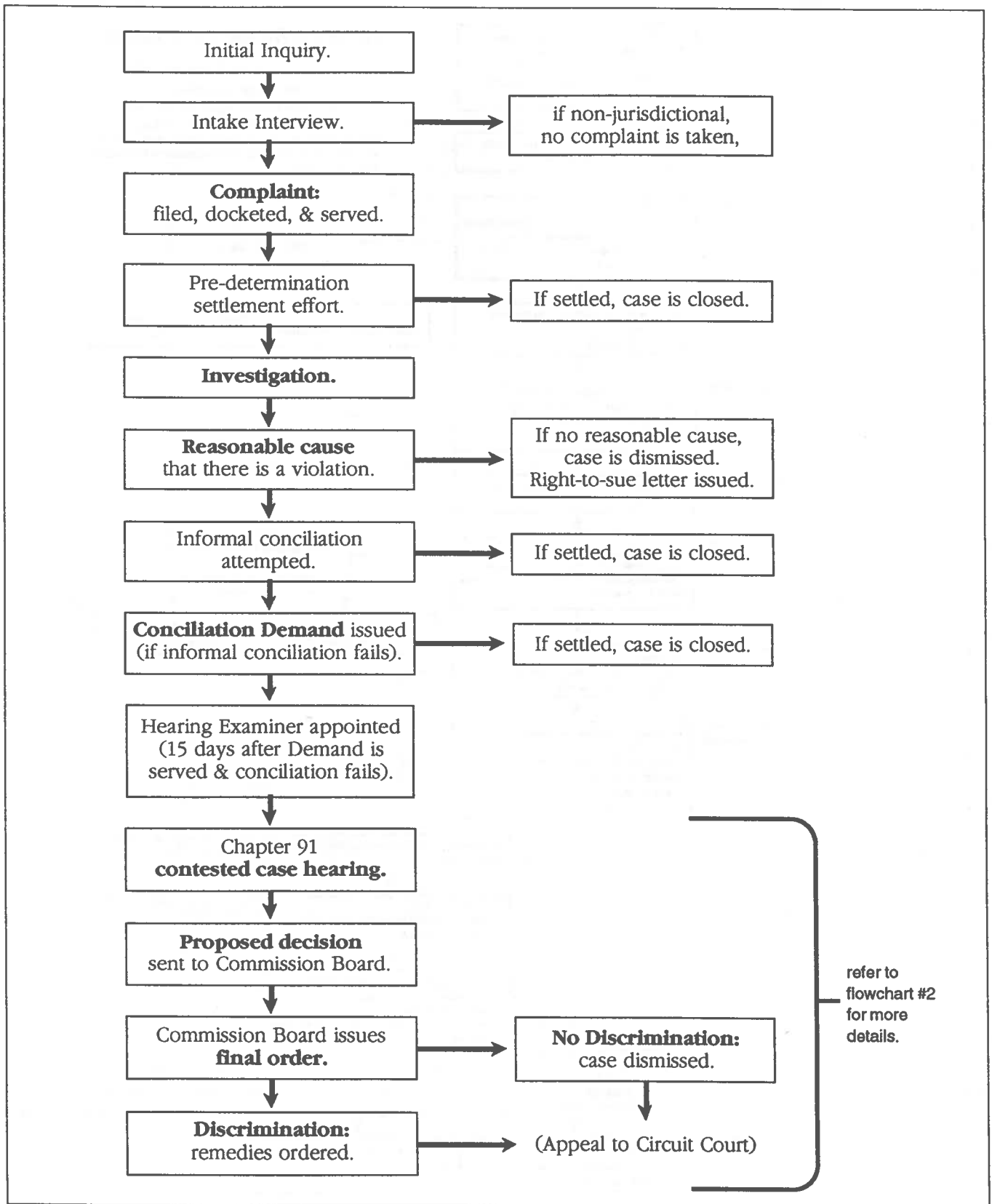
If a preponderance of the evidence shows that there is no "reasonable cause" to believe that discrimination has occurred, the case is closed and a right-to-sue letter is issued. The right-to-sue letter can also be issued to complainants at any time if they wish to file their own civil suit.

If **reasonable cause** is determined, the HCRC enforcement staff attempts to conciliate or settle the complaint. If con-

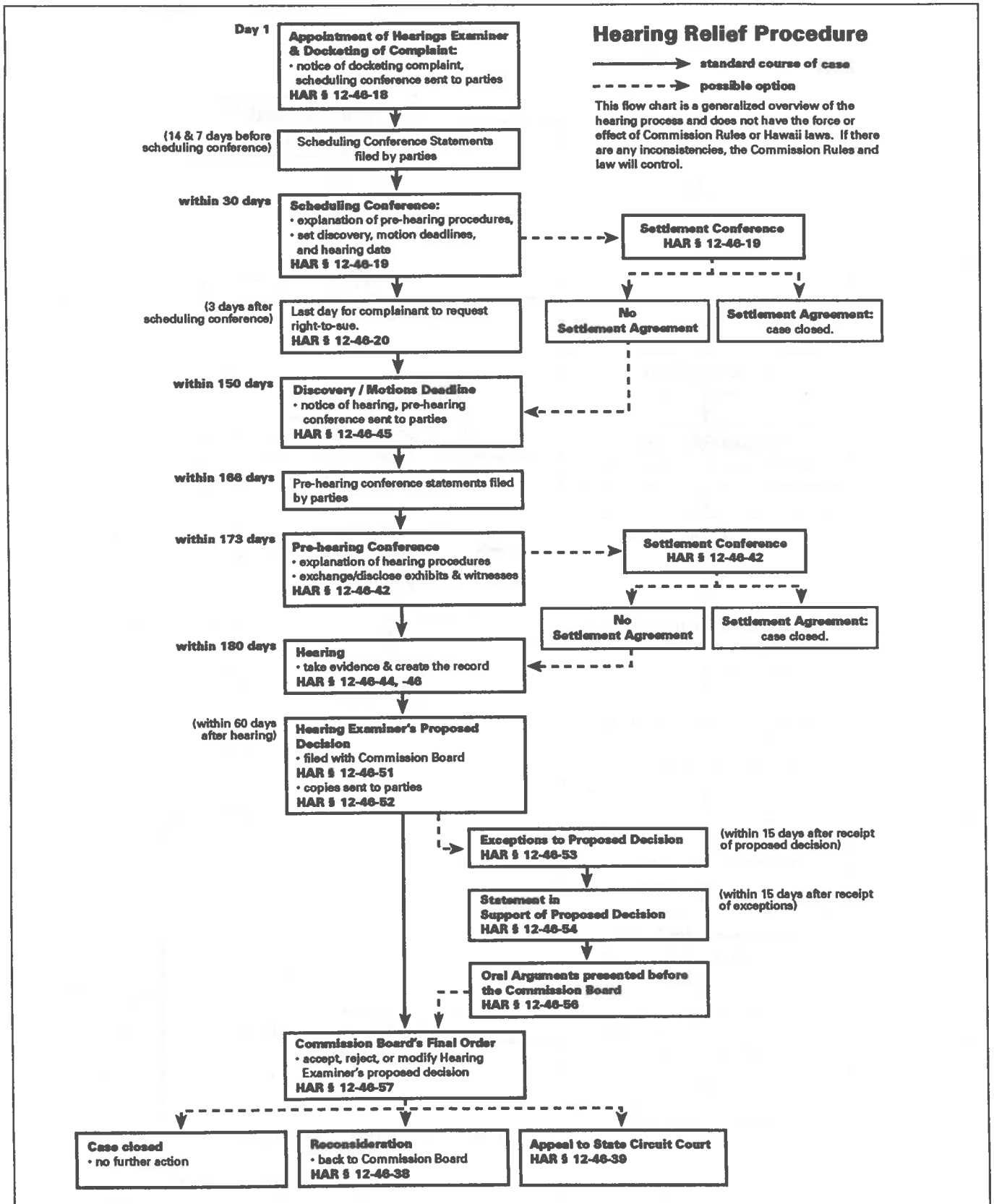
ciliation is unsuccessful, a **hearing** is scheduled. An HCRC enforcement attorney presents the case in support of the complaint before an impartial hearings examiner. The respondent (represented by themselves or counsel of their choice) also presents its case at this time. The complainant may also be represented by counsel or other representative. The hearings examiner issues a **proposed decision** based on the evidence.

The proposed decision and the hearing record is then reviewed by the five-member Commission Board. The parties are able to file written exceptions and support statements and present oral arguments to the Board. The Commission Board then accepts, rejects, or modifies the proposed decision, issues a **final order**, and awards remedies if appropriate. This decision is legally binding. If either party feels that the decision is unfair, they have 30 days to file an **appeal** in the Circuit Court. This procedure is illustrated in flowchart #1 on the facing page.

The hearing relief procedures are presented in greater detail in flowchart #2. The time frames for these administrative procedures are highlighted, as are the Hawaii Administrative Rules that govern these procedures.



Flowchart #1: HCRC administrative procedures.



Flowchart #2: Hearing relief procedures.

CASELOAD DEMOGRAPHICS

There were 5,639 telephone and walk-in inquiries at the HCRC during FY93-94. This led to 765 intake interviews between investigators and complainants, of which 54.0% of those interviewed were women, 43.8% were men, and 2.2% were group complainants.

The intake interviews resulted in 468 new charges of discrimination being actually accepted by the HCRC, averaging 39 new

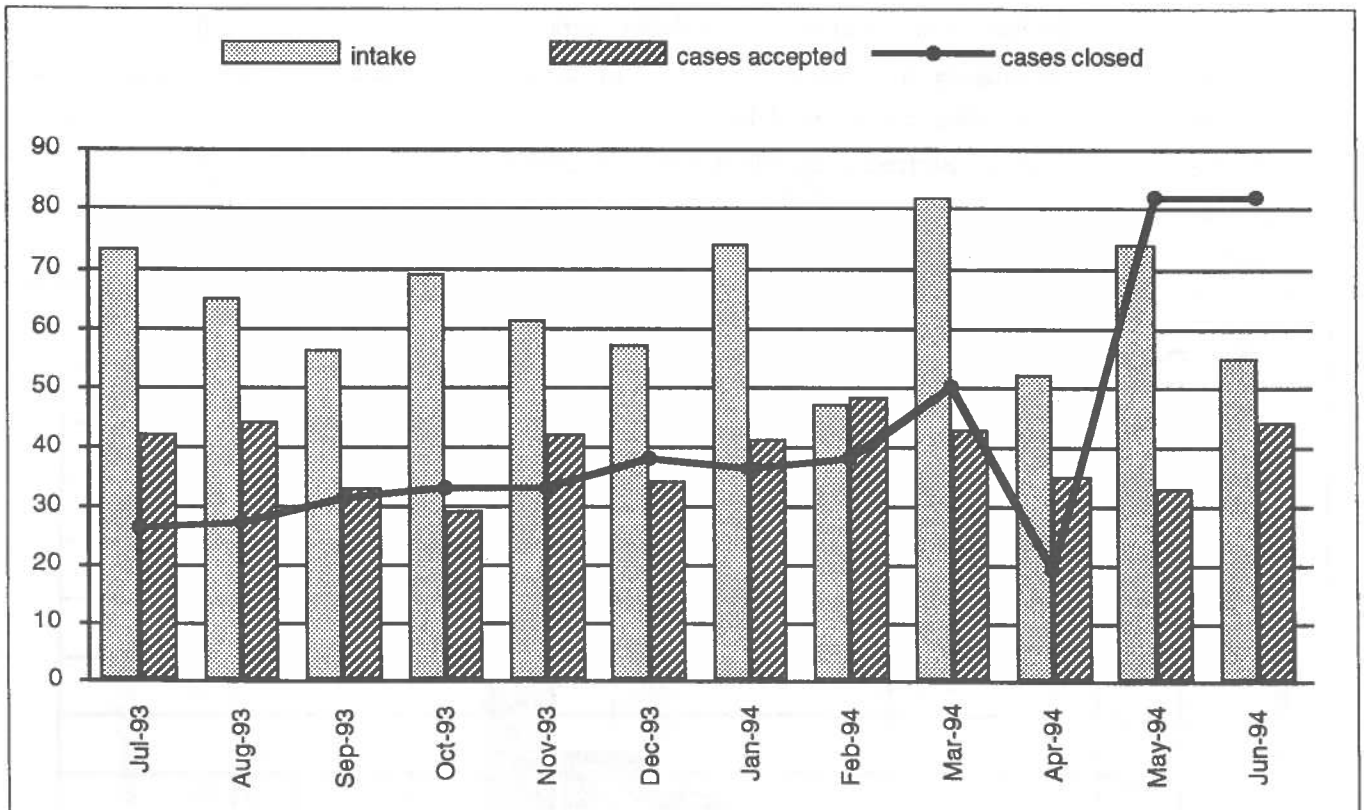
cases per month. The primary reasons that the other intake interviews did not lead to docketing a charge was either the inability to correlate the adverse act(s) with the protected base(s), or the complainant later decided not to pursue the complaint.

HCRC investigators closed 495 cases during this period, for an average closure rate of 41.3 cases per month. There were 17 cause determinations during the fiscal

year, representing a 112% increase compared to the previous year.

Case closures averaged 445 days per closure, but this figure remains skewed due to the fact that the caseload still included some of the 266 backlog cases transferred from the Department of Labor and Industrial Relations on January 1, 1991.

As of June 30, 1994, the active caseload for the agency was 615 cases.



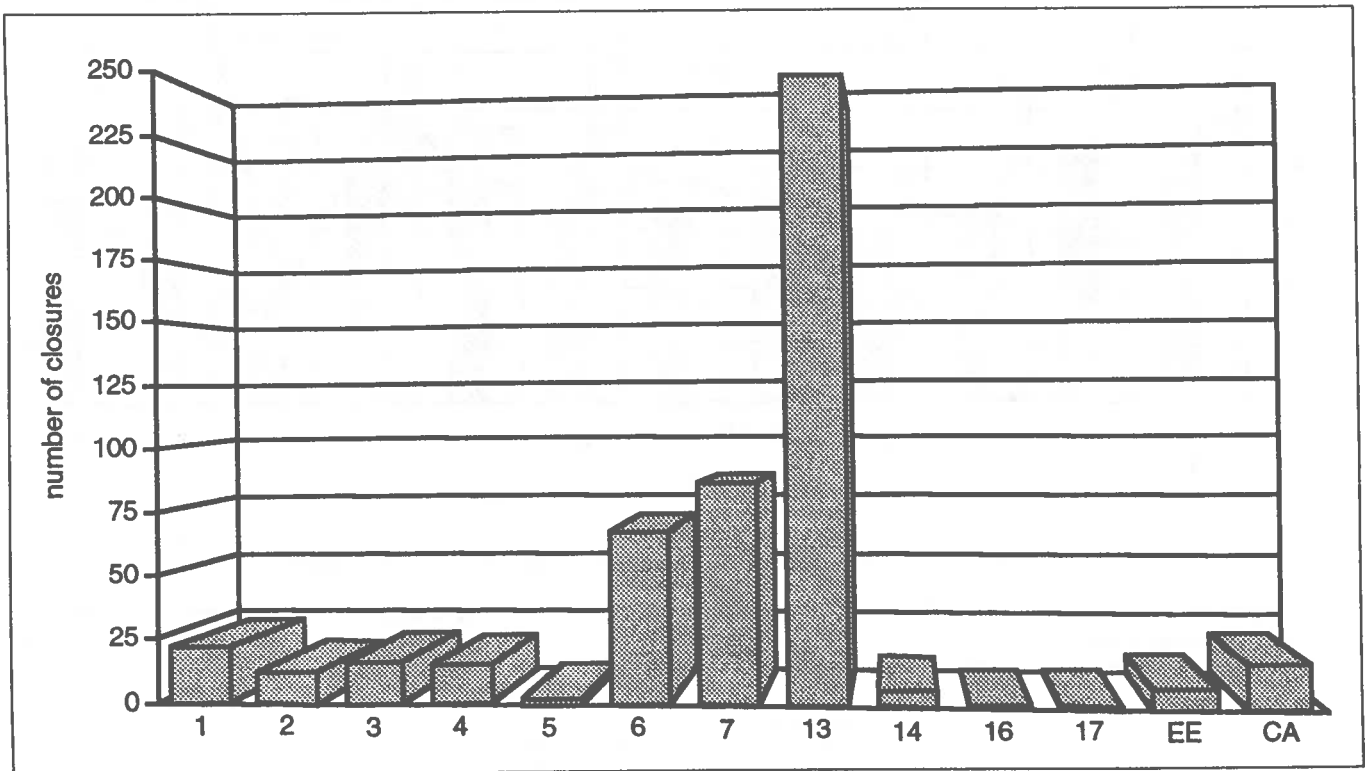
Graph 1: Intake interviews, accepted cases, and closed cases.

The legend abbreviations are: "intake" for initial intake interviews with HCRC investigators (in person or by telephone); "cases accepted" are cases under the jurisdiction of the HCRC and docketed as official charges of discrimination; and "cases closed" represents active cases that were closed by HCRC investigators.

A review of case closures for this fiscal year shows the following reasons for the closures:

<u>code</u>	<u>type of closure</u>	<u>number</u>	<u>% of total</u>
1	no jurisdiction	22	4.4%
2	complaint withdrawn	12	2.4%
3	complainant not available	16	3.2%
4	complainant failed to cooperate	15	3.0%
5	complainant failed to accept a just resolution offer	2	0.4%
6	complaint withdrawn—complainant elected court action	67	13.5%
7	resolution by parties, negotiated settlement, or conciliation	85	17.2%
13	no cause determination	243	49.1%
14	determination by another civil rights agency	6	1.2%
16	bankruptcy of respondent	1	0.2%
17	no significant relief available	1	0.2%
EE	cases transferred to the EEOC for investigation	8	1.6%
CA	cause determination	17	3.4%

The type of case closures during the fiscal year are illustrated below:



Graph 2: Type of case closures.

EMPLOYMENT DISCRIMINATION

H.R.S. Chapter 378, Part I, prohibits discriminatory employment practices based on race, sex, sexual orientation, age, religion, color, ancestry, disability, marital status, arrest and court record, assignment of income for child support obligations, or National Guard participation. Examples of such unlawful practices are listed in H.R.S. section 378-2.

The HCRC has a workshare agreement with the federal Equal Employment Opportunity Commission (EEOC). Where there is concurrent jurisdiction, the case is dual-filed with both agencies, but only the intake agency conducts the investigation. During the fiscal year, 367 employment cases were accepted by the HCRC, of which 286 (77.9%) were dual-filed with

the EEOC.

The primary bases of discrimination, as alleged by individual complainants, are shown below for the total employment caseload. It is important to note that the majority of complaints filed with the HCRC listed two or more bases of discrimination, (i.e., race, sex, and age).

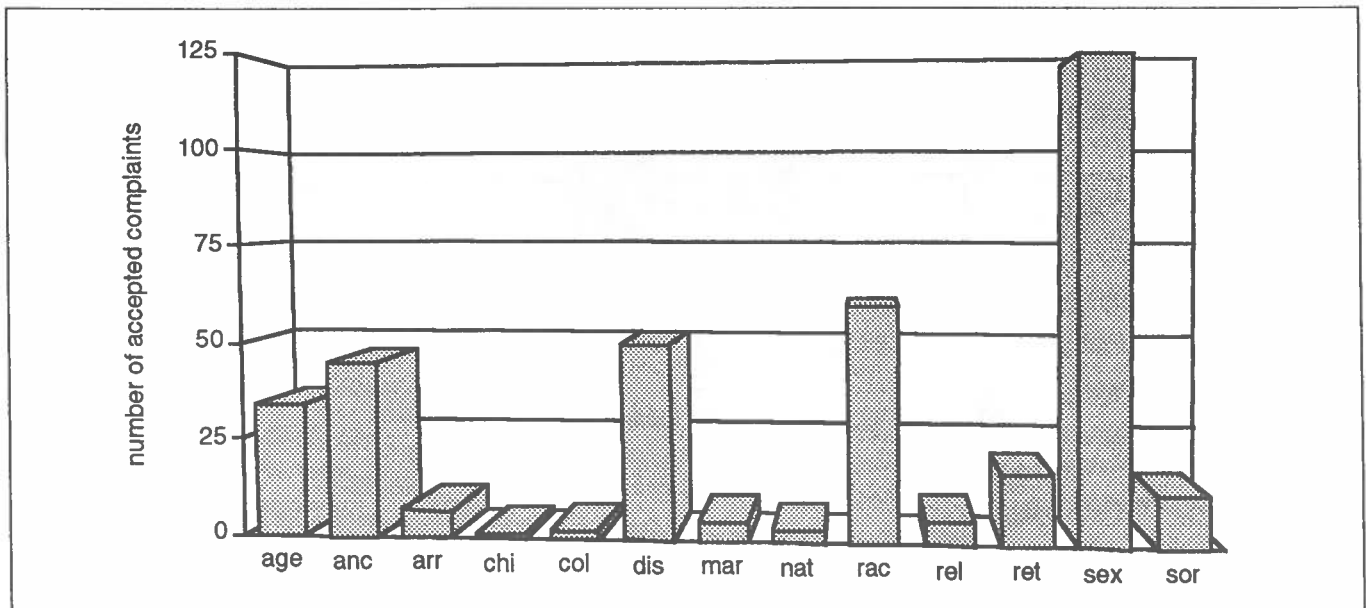
Of new employment cases accepted during the fiscal year, sex was the largest category with 123 cases accounting for 33.5% of all employment discrimination cases. Within the sex category, 35 cases were based on pregnancy (28.5% of all sex cases) and 49 cases (39.8%) alleged sexual harassment.

Race was the second largest basis with 60 cases, representing 16.3% of accepted employment

cases, followed by disability with 50 cases (13.6%). Ancestry/national origin cases numbered 45 (12.3%).

There were 34 age discrimination cases (9.3%); 18 cases of retaliation (4.9%); 13 cases based on sexual orientation (3.5%); seven cases based on arrest & court record (1.9%); six cases based on religion (1.6%); five cases based on marital status (1.4%); three cases based on National Guard participation (0.8%); two cases based on color (0.5%); and one case based on child support obligations (0.3%).

Case closures averaged 508 days for the 400 employment cases that were closed during FY93-94.



Graph 3: Primary basis of discrimination in employment practices.

The label abbreviations are: "age" for age; "anc" for ancestry & national origin; "arr" for arrest & court record; "chi" for assignment of income for child support obligations; "col" for color; "dis" for disabilities; "mar" for marital status; "nat" for National Guard participation; "rac" for race; "rel" for religion; "ret" for retaliation; "sex" for sex (including sexual harassment and pregnancy); and "sor" for sexual orientation.

DISCRIMINATION IN PUBLIC ACCOMMODATIONS

H.R.S. Chapter 489 prohibits unfair discriminatory practices which deny, or attempt to deny, a person the full and equal enjoyment of the goods, services, facilities, privileges, advantages and accommodations of a place of public accommodation on the basis of race, sex, color, religion, ancestry, or disability.

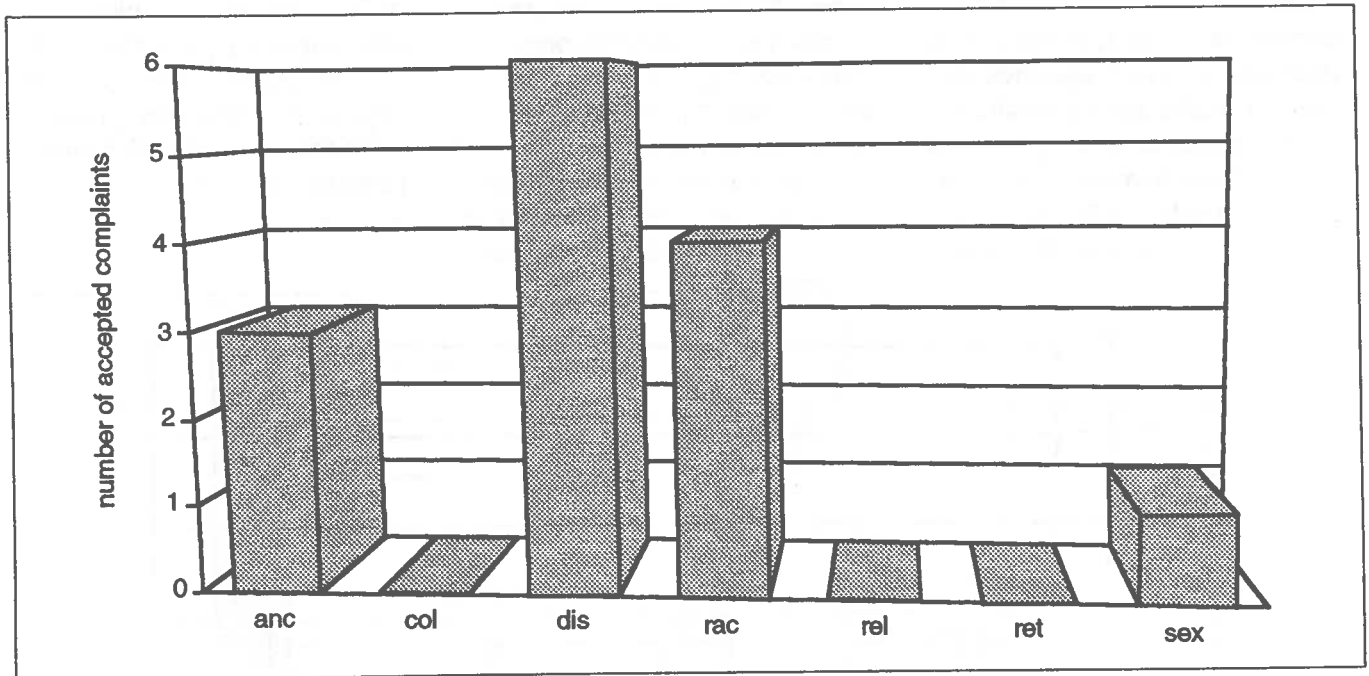
During the fiscal year, 14 new cases of public accommodations discrimination were accepted.

The bases for discrimination are shown below. There were six cases of disability discrimination which accounted for 42.9% of the public accommodation cases; four cases were based on race discrimination accounting for 28.6% of the cases. Three cases were based on ancestry (21.4%). Only one case was based on sex discrimination (7.1%).

These complaints alleged discrimination by financial institutions, medical and health

services, retail establishments, hotels, and government entities.

Public accommodations case closures averaged 430 days for the 12 cases closed during FY93-94.



Graph 4: Primary basis of discrimination in public accommodations.

The label abbreviations are: "anc" for ancestry & national origin; "col" for color; "dis" for disabilities; "rac" for race; "rel" for religion; "ret" for retaliation; and "sex" for sex.

DISCRIMINATION IN REAL PROPERTY TRANSACTIONS

H.R.S. Chapter 515 is Hawaii's fair housing law. It prohibits discriminatory real estate practices based on race, sex, color, religion, marital status, familial status, ancestry, disability, age, or HIV infection. Examples of such unlawful practices are listed in H.R.S. section 515-3 and include actions such as refusing to rent, sell, or enter into financial transactions with an individual because of one or more of the aforementioned bases.

When state law is substantially equivalent to federal law, state agencies can enter into a workshare agreement. The HCRC entered into such an agreement with the Department of Housing & Urban Develop-

ment (HUD) during this fiscal year. HUD now refers most of the complaints filed with HUD to the HCRC for investigation.

During FY93-94, the HCRC accepted 84 cases of housing discrimination. The primary bases for housing complaints are graphed below.

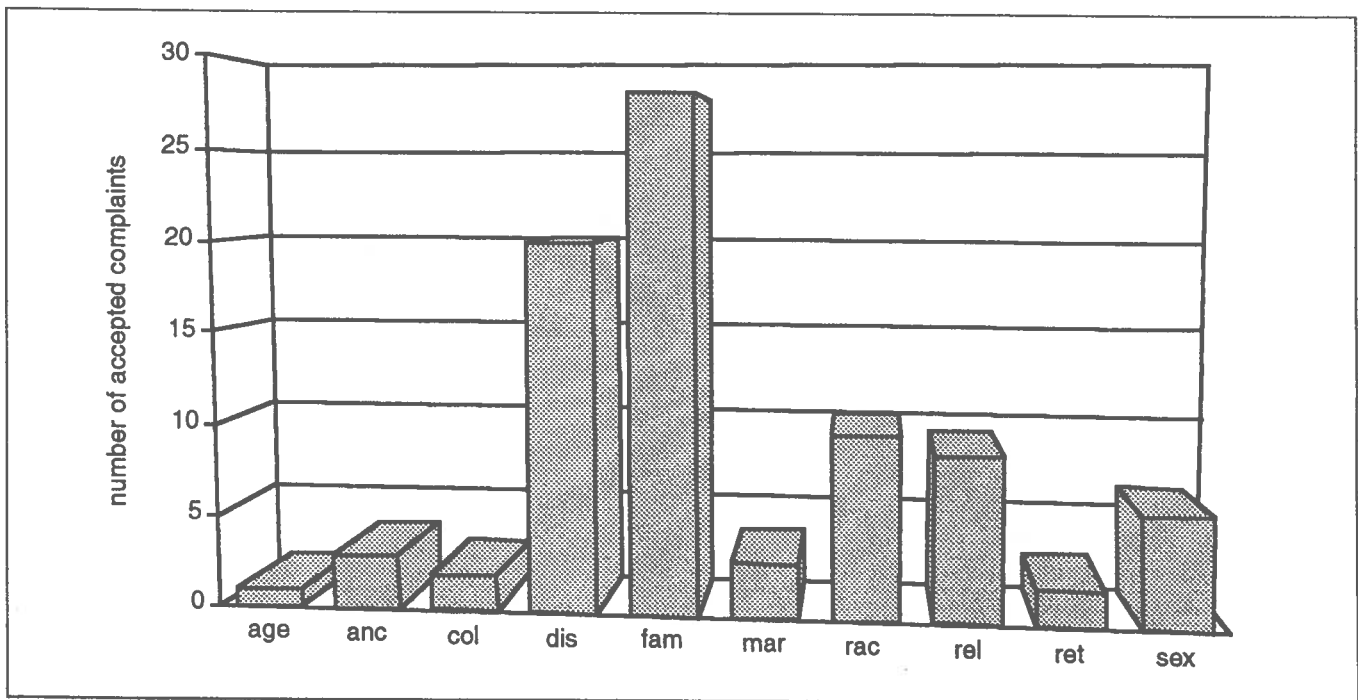
Familial status was the basis for 28 cases (33.3%), followed by 20 disability cases (23.8%), and ten race cases (11.9%). There were also nine religion cases (10.7%), and three cases each of marital status and ancestry discrimination (3.6% each). Two cases each were based on color discrimination and retaliation (2.4%). There was only one case that alleged age discrimina-

tion (1.2%).

Familial status, formerly called "parental" status, is broadly defined as being a parent with legal custody and domiciled with a minor child, a person domiciled with a minor with written or unwritten permission of the legal parent, a person who is pregnant, or a person in the process of securing legal custody of a minor.

The HCRC has seen a 600% increase in familial status complaints (from 4 cases last year to 28), and a 400% increase in disability cases (from 3 cases to 15 this year).

Housing case closures averaged 147 days for the 82 cases closed during FY93-94.



Graph 5: Primary basis of discrimination in housing transactions.

The label abbreviations are: "age" for age, "anc" for ancestry & national origin; "dis" for disabilities; "fam" for familial status; "mar" for marital status; "rac" for race; "rel" for religion; "ret" for retaliation; and "sex" for sex.

ACCESS TO STATE & STATE-FUNDED SERVICES

H.R.S. § 368-1.5 prohibits state agencies, or any program or activity receiving state financial assistance, from excluding from participation, denying benefits or otherwise discriminating against persons with disabilities (the only protected class in this area of jurisdiction).

During the fiscal year, there were three cases filed solely under § 368-1.5.

One case was closed (97 days after filing) during FY93-94.

CASE SETTLEMENTS

There were some noteworthy accomplishments among FY93-94's negotiated settlements and conciliation agreements. The cash value of the remedies obtained for victims of discrimination through this process exceeded \$470,000, with settlements ranging from a letter of reference, or rescinding a housing eviction notice, to individual cash settlements.

Some cases were settled after a determination of cause was made. A sex and race complaint against the University of Hawaii-Hilo was settled for \$250,000. This was the largest single settlement in the HCRC's four year history.

However, the majority were no-fault settlements which were reached at the pre-determination stage. A number of these settlement agreements did not include monetary relief, but were acceptable to both parties. Such agreements resulted in: renting an apartment to a family, adjusting a work schedule to permit an employee to attend religious services, transferring an employee to a different department, etc.

Believing that education is the best way to prevent future occurrences of discrimination, the HCRC advocates management and staff training on anti-discrimination policies and the posting of appropriate anti-discrimination policies. Employment discrimination settlements illustrative of these goals included:

- a major financial com-

pany failed to reinstate an employee following her pregnancy leave. In addition to a negotiated sum of \$22,000, settlement terms included revision and dissemination of the pregnancy leave policy and training for all company managers.

- an employee for a local franchise of a major company was subjected to sexual harassment by a manager. The harassment was both verbal and physical. In addition to a negotiated sum of \$47,000, settlement terms included dissemination of a new anti-harassment policy.
- as part of its job application procedures, a retail store utilized a personality test which made unlawful inquiries about the applicant's arrest record. In addition to a negotiated sum of \$3,500, the company has since corrected its selection procedures and no longer uses this test.
- an employee was terminated because he was activated to National Guard duty. Besides \$1,600 in monetary damages, the company revised its leave policy.

Housing discrimination settlements provided individual relief as well as the development of appropriate policies:

- a single mother, frustrated at being denied apartment rentals because of her three children, finally filed complaints with the HCRC. She received \$1,000 settlements from two landlords.
- several island newspapers published housing advertisements that were deemed discriminatory. As part of the settlement terms, respondents agreed to such actions as correcting their advertising policies, training their staff, and sponsoring a seminar for landlords about housing laws.

A public accommodations settlement served to educate a company about the law:

- a person with a disability wanted to bring a folding wheelchair on a tour to Las Vegas. The travel agency denied that accommodation and would only allow the complainant on the tour if another ticket was bought for an escort.

The settlement was a letter of assurance from the travel agency that they were now familiar with the law, and would accommodate people with disabilities in the future.

LITIGATION & RULINGS

ADMINISTRATIVE HEARINGS:

On November 9, 1993, the Commission Board issued a final decision in IN RE Smith/MTL, Inc., et al., Docket No. 92-003-PA-R-S, which involved allegations of race, color, and sex discrimination by a MTL bus driver against a black female passenger. The MTL bus service is a public accommodation and HRS Chapter 489 prohibits discrimination in places of public accommodation.

The Commission found that the driver operated the bus in an erratic manner causing the complainant to fall, purposely passed the complainant's stop, and made racial slurs to her. She suffered emotional distress and was no longer able to ride TheBus.

The Commission awarded \$30,000 in compensatory damages to the complainant, and a civil penalty of \$10,000 was also imposed. The respondents did not appeal the decision.

DECLARATORY RULINGS:

On March 31, 1994, the Commission issued a declaratory ruling (DR 93-009) stating that the Commission does not have jurisdiction to investigate complaints alleging employment discrimination because of an individual's association with a person who has an arrest and/or court record.

Persons with an arrest and court record are currently protected from employment discrimination. However, the Commission concluded that the law did not protect an individual, without an arrest and court record, who

alleged discrimination because of association with someone having an arrest and court record.

CIRCUIT COURT:

The Third Circuit Court upheld the Commission's final decision in IN RE Santos/Hawaiian Flower Exports, Inc., et al., Docket No. 92-001-E-SH, which was appealed by the respondents. In that case, the Commission found that a female complainant had been sexually harassed for over a year and a half by an agent of the company. The offensive and unwelcome conduct included sexual propositions, comments about her physical features, and physical/sexual harassment. The Court upheld the Commission's award against the company and agent for back pay of \$8,700, compensatory damages of \$80,000, and \$10,000 in punitive damages against the agent (Civil No. 93-88, August 31, 1994).

The Commission was successful in establishing that it has jurisdiction to issue administrative subpoenas, where its investigation has exceeded the 180 day time period through extensions (Linda C. Tseu v. John Doe, Civil No. 94-0038, April 11, 1994).

The First Circuit Court issued an order in Blasting Technology, Inc. v. Hawaii Civil Rights Commission, (Civil No. 93-4055-10, May 20, 1994) which dismissed a lawsuit involving claims that the Commission failed to complete a timely investigation, and failed to prosecute the complaint within a period of 180 days.

In Linda C. Tseu v. John Doe and Doe Corporation, (Civil No. 94-0175, May 25, 1994), the First Circuit Court recognized the Commission's power to issue administrative subpoenas, and has compelled compliance with the Commission's investigation.

Filed in the Third Circuit, Tseu v. University of Hawaii-at Hilo, et al. (Civil No. 92-038, January 24, 1992) involved the failure to hire a professor due to sex, race and ancestry. Extensive discovery was conducted, and just a few months before the case was scheduled for trial, the parties settled. The Stipulation For Dismissal With Prejudice Of All Claims and Parties was filed on August 3, 1994, and the complainant was paid in August 1994 (see settlements on page 11).

In Tseu v. Kinney Shoes, et al., (Civil No. 92-2972-08, August 14, 1992), filed in the First Circuit, the complainant alleged that she was not hired due to retaliation. She filed a sex discrimination complaint and then sought another position with the respondents. Evidence showed that she was rejected from that position because she filed the earlier discrimination complaint. The case is scheduled to go to trial in January 1995.

HAWAII SUPREME COURT:

The Supreme Court issued a decision in Ross v. Stouffer Hotel Company, Ltd., Inc., Supreme Court of Hawaii No. 16486 (August 30, 1994), 1994 WL 465895, involving employment discrimination based upon marital status. The Commission filed an amicus

brief on the issue of whether the administrative complaint was filed within the time limits set by law.

The Commission asked the Court to find that the time to file an administrative complaint begins after an employee is terminated, not when the employee is told that he/she may be terminated in the future. The Commission wanted employees to be provided with clear notice of the timeline for pursuing their legal rights.

The Court agreed with the need for clear time frames and ruled that the time to file begins after an employee is fired, not at notification of the possibility of termination.

FEDERAL COURT:

In federal court, the Commission has litigated the enforcement of its confidentiality statute, H.R.S. §368-4 (amended in 1994), as well as its privileges under the law. The Legislature intended that all information gathered in the investigation must be kept confidential in order for the Commission to perform its duty to investigate discrimination with neutrality as to the parties, and to encourage settlement and conciliation of discrimination cases. After the investigation is complete and the case is closed, certain information in the investigative file must still be kept confidential to preserve the ability and integrity of the Commission to conduct its investigations.

In John F. Lynch v. K Mart Corporation, a Michigan Corpora-

tion (Civil No. 94-00031 DAE), and Robert R. Bumgarner v. Japan Airlines Company, Ltd. (Civil No. 92-00632 DAE), the federal court recognized that the Commission is entitled to keep confidential certain information relating to how the Commission conducts investigations.

ISSUES & RECOMMENDATIONS

CASELOAD ISSUES:

The HCRC caseload consists of discrimination complaints in: employment practices, real property transactions, public accommodations, and access to state and state-funded services.

The pending caseload actually declined for the first time in HCRC history during this fiscal year. At the end of FY92-93, there were 642 cases pending. The pending caseload at the end of FY93-94 was 615, a decline of 27 cases.

Due to caseload reduction strategies and a full staffing level of trained investigators, the individual caseload has declined from approximately 80 to 68 complaints per investigator.

The large caseload has still resulted in longer investigations and dissatisfaction on the part of complainants who must wait up to three years for their complaint to be resolved. The Legislative Auditor in "A Study on Implementation of the Civil Rights Commission for the State of Hawaii" (Report #89-8, Jan. 1989), stated that investigators can handle only 25-35 cases at any given time. The current caseload for HCRC investigators still exceeds that amount.

Compounding this problem has been the passage of additional state and federal civil rights laws (the Americans with Disabilities Act, the Fair Housing Amendments Act, the Civil Rights Act of 1991, and amendments to HRS Chapter 378 regarding sexual orientation discrimina-

tion). These new laws have increased public awareness of civil rights protections which have led to an increase in complaints.

The basis of discrimination affects investigation time. For example, it is usually easier to confirm facts in a pregnancy case than in a race allegation. Also, the complexity of the case affects investigation time. A complaint with multiple bases (i.e., race, age, and sex) takes longer because each basis must be separately investigated. Similarly, each of the multiple alleged adverse acts (i.e., not promoted, harassed, terminated) must be investigated. The vast majority of complaints filed with the HCRC cite multiple bases and multiple adverse acts.

The type of case also affects the investigation time. Employment cases usually take longer to investigate than housing cases.

EXPEDIENT INVESTIGATIONS: House Resolution 217 and House Concurrent Resolution 224 which were introduced (though not adopted) during the 1994 Legislative Session sought to address the issues regarding the HCRC caseload.

Even before the introduction of those resolutions, the HCRC had begun formulating new procedures to expedite investigations. These new procedures were implemented for all ongoing and new investigations during the last two months of the fiscal year. Investigators are now

divided into two separate units.

The first is an intake unit that works mainly on the time consuming job of interviewing new complainants and preparing their formal complaints. In addition, where the case fits appropriate guidelines, it is also investigated and closed by this unit. This is especially important where certain witnesses need to be interviewed (since witnesses often move, and trying to locate them is tedious and often unsuccessful), or certain kinds of evidence need to be established immediately because records may be destroyed.

The second unit focuses on investigating and resolving the oldest docketed cases. This allows the investigator to work on those cases without the interruption and paperwork associated with intake interviews and preparing new complaints.

The HCRC Enforcement Section has also implemented a case closure "streamlined decision process" which has reduced the paperwork, but not the quality, of HCRC investigations. The Enforcement Section will monitor these changes to ascertain the quality and efficiency of these new procedures.

LEGISLATIVE HIGHLIGHTS

NEW LEGISLATION:

The Commissioners and staff of the HCRC testified before the State Legislature on a variety of measures affecting civil rights. Although many bills were introduced, only a few were enacted into law. Legislation was passed to:

- amend the employment and public accommodations laws to prohibit associational discrimination based upon disability (Act 88).

The law now protects a non-disabled person who associates or has a relationship with a person with a disability from being discriminated against because of such an association. The addition of associational disability protections follows the federal Americans with Disabilities Act (ADA).

- amend HRS § 368-4, the Commission's confidentiality statute, to allow disclosure of factual information in closed files to the parties (complainant or respondent) if court action is contemplated or filed. Act 139 enables the Commission to provide relevant factual information to the parties without obtaining court approval when a case is dismissed or a right to sue is issued. Disclosure to non-parties is still prohibited, and

certain parts of the case file are still confidential.

The Legislature, through Act 217, also established the Commission on Sexual Orientation and the Law to examine the legal and economic benefits extended to opposite sex couples but denied to same-sex couples, to determine if there are public policy reasons to extend such benefits to same-sex couples, and to recommend appropriate legislation. One HCRC Commission member and one HCRC staff person sit on this commission.

RECOMMENDATIONS:

The Commission will be proposing the following legislative changes to further the purposes of H.R.S. Chapter 368:

- clarification of the scope of investigatory powers; clarification that the Executive Director is responsible for directing investigatory efforts, and that Commissioners will not be involved in matters related to conciliation of a complaint.
- clarification that the authority to delegate encompasses all of the Commission's powers and functions; clarification that the Commission can seek judicial enforcement to carry out all of its powers and functions; and clarification that complaints which do not allege a discriminatory

practice within the Commission's jurisdiction do not have to be accepted for filing.

- allowing the Commission to receive reimbursement for reasonable expenses related to the presentation of a complaint at an administrative hearing or court if unlawful discrimination is established. This change is recommended because budgetary restrictions have affected the Commission's ability to present cases where reasonable cause has been found.
- allowing a court to assess civil penalties, if appropriate, in cases involving fair housing discrimination when a party elects to have a case removed from the administrative hearing process to circuit court. Such penalties are allowed in federal fair housing cases to vindicate the public interest.
- expanding the Commission's jurisdiction in public accommodations to protect against marital status discrimination. Marital status is already protected under employment and fair housing laws.

EDUCATION & OUTREACH

One of the Commission's major responsibilities is to inform the public of their rights and responsibilities under state law. It is hoped that such educational efforts will prevent or constrain discrimination, resulting in a gradual decline in the number of new complaints filed.

During the fiscal year, commissioners and staff participated in numerous education and outreach activities.

PRINTED MATTER:

- published an informational flyer detailing the state's law prohibiting discrimination in housing.
- developed and printed a poster specifically on the state's laws prohibiting employment discrimination.

CONFERENCE:

- planned and sponsored a public hearing & conference, pursuant to SCR 166, 1993 Legislative Session, on whether to expand the Commission's jurisdiction over all state and state-funded services by adding additional protected bases beside disability.

SEMINARS, WORKSHOPS & SPEAKING ENGAGEMENTS:

- conducted two sexual harassment training sessions for attorneys and administrators at the Office of the Public Defender.
- conducted two sexual harassment training sessions

for the State Senate.

- conducted an employment discrimination workshop for small construction firms which have contracts with the Department of Transportation.
- held a sexual harassment workshop at the I.L.W.U. Labor Institute Conference.
- participated in a panel discussion on disabilities and public accommodations at the Pacific ADA Conference.
- spoke before the staff of the state Office of Consumer Protection about the HCRC's and the OCP's related areas of jurisdiction.
- participated in a fair housing seminar, sponsored by the Honolulu Community Housing Resource Board, for landlords and managers on Kauai.
- addressed a class of police recruits at the Honolulu Police Academy about the history of civil rights and the jurisdiction of the HCRC.
- moderated a conference, sponsored by the Hawaii Council of Apartment Owners, and spoke on employment and housing discrimination laws.
- participated in the Asian Pacific American Labor

Alliance (APALA) workshop regarding pending legislation that would impact immigrant workers and ancestry employment discrimination.

- spoke at the Hawaii Association of Temporary Services luncheon meeting about HCRC jurisdiction and the state's employment discrimination law.
- spoke at an American Diabetes Association meeting about disabilities laws.
- participated in a panel discussion at Windward Community College on the topic of gay rights.
- spoke on an Olelo channel 22 cable TV program about the Americans with Disabilities Act.
- participated as a panelist at a Hawaii Employer's Council meeting about alternative dispute resolution.
- spoke at a Delta Gamma Sorority luncheon about civil rights affecting women.
- participated as a panelist at a Department of the Navy supervisors' training about understanding cultural diversity.

STAFF OF THE HCRC

The HCRC completed its organization during the previous fiscal year, and its Organization Plan was approved by the Governor on January 5, 1993. However, classification of positions subject to state civil service laws is in process.

The HCRC staff* are comprised of the:

Executive Director

Enforcement Staff:

- Deputy Executive Director
- Enforcement Attorneys (3)
- Information Officer
- Investigator VI
- Investigator V Supervisors (2)
- Investigators (11)
- Secretary III
- Legal Stenographer I
- Clerk Typists (4)

Adjudication Staff:

- Chief Counsel
- Hearings Examiner
- Secretary II

Recognizing that ongoing training of the staff is essential to the operations of a civil rights enforcement agency, staff members participated in a wide range of training programs.

Investigators received training during a three-day Department of Housing and Urban Develop-

ment workshop in Honolulu. Staff attorneys attended various seminars and updates concerning Title VII, federal rules of civil procedures, appeal procedures, courtroom evidence, and cross examinations.

Administrators attended the national Equal Employment Opportunity Commission, International Association of Official Human Rights Agencies, Department of Housing and Urban Development conferences, as well as a fair housing conference.

Supervisors and support staff attended various workshops for office productivity including management and health, clerical skills, HIV/AIDS awareness, and software training.

* before budget cuts.

COMMISSION BOARD MEMBERS

The HCRC is guided by its five-member Commission Board. Commissioners are appointed for staggered terms by the Governor with the advice and consent of the state Senate.

**AMY AGBAYANI:
chairperson (term 1993-97).**

Dr. Agbayani was educated at the University of the Philippines and the University of Hawai'i-Manoa. She holds a Ph.D. in political science and is currently Director for Student Equity, Excellence & Diversity at the University of Hawai'i-Manoa. Dr. Agbayani was previously the Director of Operation Manong at the UH, and Chair of the Inter-Agency Council for Immigrant Services.

**DAPHNE BARBEE-
WOOTEN:
commissioner (term 1991-
95).**

Ms. Barbee-Wooten was educated at the University of Wisconsin and the University of Washington, where she received a law degree. She currently is an attorney in private practice. In the past, she worked in the Office of the Public Defender and as independent grand jury counsel for the First Circuit Court. Ms. Barbee-Wooten is a member of the Afro-American Lawyers' Association, the Afro-American Association of Hawaii, and a Board Member of the Hawaii Association of Criminal Defense Lawyers.

**JOSEPHINE EPSTEIN:
commissioner (term 1993-
97).**

Ms. Epstein was educated at the University of Hawai'i and is a retired LPN who worked at Leahi Hospital. In the past, she has served as a member of the Commission on the Status of Women, and the Commission on Persons with Disabilities. She currently is a member of the Coalition of Hawaii State & County Retirees, and the Hawaii AFSCME Retirees Chapter 646.

**JACKIE MAHI ERICKSON:
commissioner (term 1992-
96).**

Ms. Erickson was educated at the University of Denver and the University of Hawai'i where she received her law degree. She is the Vice-President General Counsel, and has been the head of the legal department for Hawaiian Electric Company since 1981. Previous to 1981, she was a deputy attorney general with the Office of the Attorney General, and also worked as a law clerk for the Hawaii Supreme Court.

**RICHARD J. PORT:
commissioner (term 1992-
96).**

Mr. Port was educated at Boston College, Columbia University where he received a Master of Arts degree, and at the University of Hawaii where he received a professional certificate. Recently retired from a position as an

education specialist with the Department of Education, he previously worked for the U.S. Agency for International Development in Nigeria and as a member of the Peace Corps in Ghana. He is an ordained deacon assigned to Saints Peter and Paul Roman Catholic Church in Honolulu.

**HAWAII
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COMMISSION**



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