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**MASSACHUSETTS COMMISSION
AGAINST
DISCRIMINATION**



Dorca I. Gomez, Chairwoman

Cynthia A. Tucker, Commissioner

Walter J. Sullivan, Jr., Commissioner

2002

Message from the Commissioners

Honorable Mitt Romney, Governor
Honorable Thomas M. Finneran , Speaker of the House
Honorable Robert E. Travaglini, President of the Senate

In accordance with chapter 151(B), § 3(10), of the Massachusetts General Laws, we are pleased to present to you the annual report of the Massachusetts Commission Against Discrimination (“MCAD”).

History and Mission of the Agency. The MCAD and its predecessor agency, the Fair Employment Practices Commission, have been charged with the mission of enforcing the laws of the Commonwealth against employment discrimination since 1946. Its writ now runs against discrimination in housing, public accommodation, education and credit services as well as employment. Cases of discrimination on account of race, color, religious creed, national origin, ancestry, sex, sexual orientation, age, marital status, family status (children), disability, receipt of public assistance, genetics and military and veteran status all fall within its jurisdiction. Besides investigating and deciding all such cases, the Commission promulgates rules and regulations; monitors and assists businesses and state and local government agencies in their civil rights compliance efforts; sponsors educational programs for law enforcement officials who have civil rights enforcement responsibilities; and actively promotes broad public understanding of human rights issues. On November 5, 2002, the statute of limitations for filing a complaint with the commission was changed from six months to 300 days, the same as the statute of limitations for discrimination claims filed under federal law. The change means that complainants will have more time from the occurrence of a discriminatory act to file a complaint with the Commission. It also means a significant increase in the commission’s caseload.

Investigation. The theme of the Commission’s activities in 2002 has been “doing more with less”—creatively using available resources in an era of increasing fiscal stringency. Unfortunately, hard times lead to an increase in MCAD filings as workers are laid off. The total number of cases filed with the MCAD increased in 2002 to 4150 from 4006, and employment cases increased from 83.8 to 84.6 percent of the total.

In the course of the year, the Agency suffered a net loss of 11 employees. The Boston office lost four staff members to early retirement and four compliance officers (investigators) resigned. The Boston office also lost two staffers from the Attorney-Assisted Unit—one permanent, one a contract employee. The Springfield office also lost two compliance officers, plus one more who transferred to Boston. Only one new compliance officer was hired. This is in addition to six additional staff who left between July 1, 2001 and January 1, 2002. Only two of these positions have been backfilled.

The difficulties presented by these losses were met by a dedicated staff and by significant technical and organizational changes during 2002. The new Case Management System came on line at the end of 2001, and it was first used for intake in 2002, efficiently generating new complaints and associated correspondence. With the scanning of all case documents, the Agency is moving rapidly toward a “paperless” system.

Cases in which the complainant represents him- or herself (*pro se* cases) were divided between three units by region beginning in February. The new Pro Se-1 Unit covers Southeastern Massachusetts (Norfolk, Plymouth, Barnstable, Dukes counties) and are overseen by Chairwoman Gomez, leaving the rest of Eastern Massachusetts (Middlesex, Essex, Suffolk counties) to the Pro Se Unit, which is overseen by Commissioner Sullivan. The Springfield office continues to handle complaints from Western Massachusetts (Berkshire, Franklin, Worcester, Hampden, Hampshire counties) and is overseen by Commissioner Tucker. Regionalization helped equalize the load among the investigators. The compliance officers and supervisors in these units now divide intake duty (taking complaints from walk-ins) among themselves, with the assistance, particularly during the summer, of law student interns.

The Housing Unit also bore up extremely well despite the net loss of one compliance officer. It met its obligations under the Commission’s Cooperative Agreement with United States Office of Housing and Urban Development (“HUD”) by closing 221 cases. The Unit also distinguished itself by its efforts at community outreach, working closely with Boston Fair Housing, the Greater Boston Civil Rights Coalition, the Cambridge Human Rights Commission and others, and conducting training for several organizations of realtors. Finally, with the help of a HUD Partnership Initiative grant, the Commission extended its award-winning Early Mediation Program, which settles cases prior to determination of probable cause, to cover housing discrimination claims.

In the end, as short-staffed as the Commission was, it closed 4,447 cases during 2002. This number exceeded the number of cases filed by 297. However, the inventory increased slightly from 6,387 to 6,674 due to the resolving of the status of cases thought to be closed but still active during the conversion to CMS. The Commission also met its obligations under its United States Equal Employment Opportunity Commission (“EEOC”) and HUD contracts by strenuous efforts.

Mediation, Conciliation and Settlement. The Commission’s Conciliation Unit enjoyed great success in 2002, settling 168 cases. Mediation was successful in 64 percent of cases in which sessions were held. In May, 2002, the Commission began a new pilot program for the mediation of cases in which both parties are represented by counsel—the AAU Mediation Project. The Project got off to a remarkable start. Sixty-eight mediation sessions resulted in 56 settlements. A number of mediations were conducted by qualified volunteers from the Labor and Employment Section of the Massachusetts Bar Association. In addition, over the course of the year the Commission negotiated settlements in two major class-action complaints against large employers for unlawful sexual harassment and gender discrimination. These settlements included significant compensation for the victims as well as extensive training requirements to ensure that the conduct would never be repeated.

Hearings and Full Commission Appeals. One of the goals of the office for 2002 was increasing output and reducing turn-around time for hearing decisions and Full Commission appeals. Our efforts paid off as the Commission issued 60 hearing decisions representing a 20 % increase from 2001, and 58 appellate decisions, representing a 23 percent increase. In the past year and one-half, we have been successful at reducing the Full Commission docket by 75 percent and reducing the waiting time for both the hearing and Full Commission decisions.

Orders for Relief. Beginning in January 2002, the Commission took several steps towards ensuring that complainants who have suffered discriminatory treatment are fully compensated for their injuries. The Commission implemented a policy requiring that all orders for relief include time limits for compliance, with notice to the Commission concerning performance. Thus, the Commission may monitor compliance more effectively and take action when orders are not satisfied. Since the policy was implemented, the Commission has seen an increase in voluntary compliance and has been much more effective in enforcing its orders.

Public Education. In October 2002, as part of its ongoing efforts to increase awareness regarding the public's right to be free from discrimination, the Commission issued **Sexual Harassment in the Workplace Guidelines**. These Guidelines provide guidance to practitioners, employers, employees and the general public in understanding what constitutes sexual harassment, as well as explain what employees and employers should do to prevent, stop and appropriately respond to sexual harassment. In addition, the Guidelines discuss the circumstances under which employers and individuals may be held liable for sexual harassment in the workplace. The Guidelines are available at the State House bookstore or on the Commission's website at <http://www.mass.gov/mcad/>.

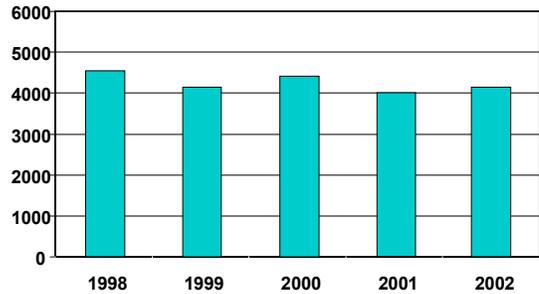
Training. In 2002, MCAD's Training Unit designed and delivered training for investigators from all of the civil rights commissions in the northeast United States, Puerto Rico and the Virgin Islands. The Unit also conducted a train-the-trainer program for state civil rights agency attorneys and managers. Finally, the Unit conducted 71 external training for nonprofit organizations, professional associations and public audiences.

Scholarships and Awards. For the sixth year, the MCAD administered the Edward W. Brooke Scholarship Program, awarding five scholarships of \$2,500 each to deserving high school juniors, based on their performance in an essay contest with a civil rights theme and their successful completion of an internship. The Commission also once more chose a law student interested in discrimination and employment law to receive the George Napolitano Internship.

2002 Facts and Figures

The number of complaints filed in the year 2002 at the MCAD increased slightly from the number filed in 2001. There were 4150 cases filed in 2002.

Cases Filed

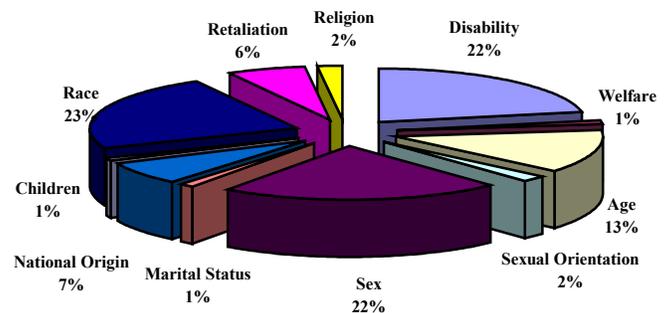


Complaints by Protected Class

The top six categories of complaints filed by protected class were:

Race	23%
Sex	22%
Disability	22%
Age	13%
National Origin	7%
Retaliation	6%

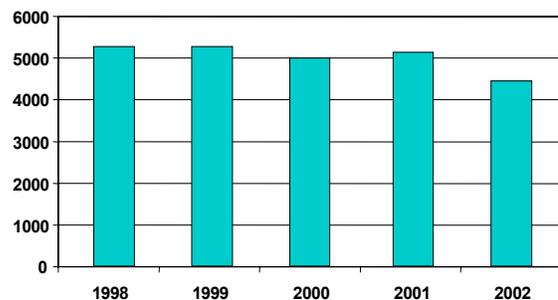
Complaints by Protected Class



Cases Resolved

The number of MCAD complaints resolved in the year 2002 continued to be high. There were 4447 cases resolved.

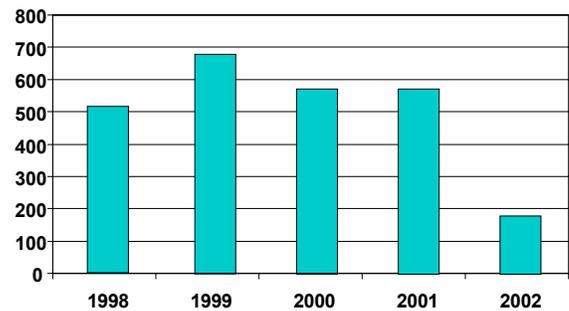
Cases Resolved



Probable Cause Findings

196 cases were investigated that resulted in a probable cause finding during the year 2002. This decrease from last year is in part due to the new program for early resolution of complaints before the investigation has been finalized.

Probable Cause Found

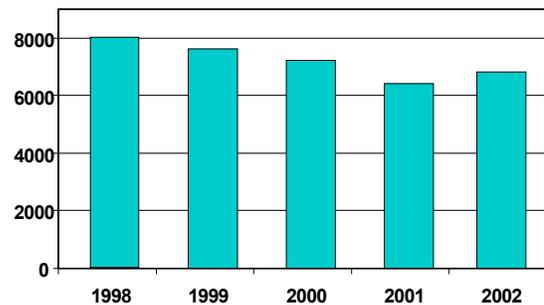


Case Inventory

Even with the early dispute resolution program, and the continued good work of the remaining staff, the case inventory increased* by 297 cases.

*Inventory increased slightly from 6,387 to 6,674 due to resolving the status of cases thought to be closed but still active during the conversion to CMS.

Inventory of Cases

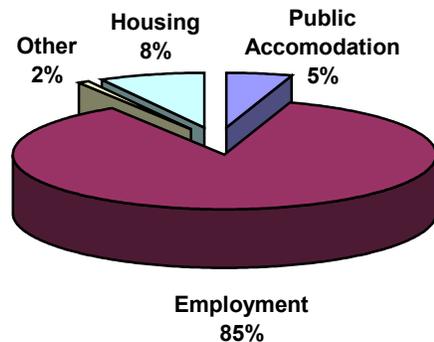


Complaints by Type

In a breakdown of complaints filed by type, employment related claims remained the highest filings at 85%.

Housing claims filed were 8% and public accommodations claims 5%.

Complaints by Type



FACTS AND FIGURES

In October, 2001 the new Case Management System (CMS) was implemented. This computer system tracks cases from the time a complaint is filed through to its closing. Calendar 2002 is the first full year that all new cases and their corresponding documents were scanned and indexed into CMS. Additionally, all data on cases was converted from the prior database into CMS.

With a more modern database, meaningful statistical reports can be generated at any time. These reports enabled individual cases to be better tracked to assure all are treated equally relative to timeliness and completeness. To accomplish these two goals, the CAD staff is required to input event codes that identify when a milestone relative to that case is accomplished. One result is management can more easily monitor the closing of cases and to recognize potential bottlenecks.

Since July 2001, MCAD has lost 18 employees or 20% of its staff and has been able to backfill only three of those positions. With fewer investigators caseloads have soared by 75% per investigator. Despite this, a comparison of the 2002 to 2001 statistics shows only a 10% increase in inventory, which was the result of resolving the status of cases from the former system, a 10% decrease in the number of cases closed, and a 4% increase in the number of cases filed. Eighty-five per cent (85%) of cases are closed in less than three (3) years and Ninety-five per cent (95%) within five (5) years. This strong showing can be attributed to the hard work and professionalism of the entire staff but in particular the investigators.

	2001	2002
Active Cases	6,387	6,674
Cases Closed	5,016	4,447
Cases Filed	4,006	4,150

COMPLAINTS BY TYPE

In a breakdown of complaints by type, employment related claims remained the highest.

	2001	2002
Employment	84%	85%
Public Accommodation	6%	5%
Housing	9%	8%

COMPLAINTS BY PROTECTED CLASS

The top five categories of complaints by protected class were:

	2001	2002
Age	16%	13%
Disability	19%	22%
National Origin	8%	7%
Race, Color	25%	23%
Sex	17%	22%

MCAD Budget 2003 (7/1/2002 – 6/30/2003)

Funding

State Administration	\$2,064,248
Discrimination Prevention Program	\$27,500
Subtotal State	\$2,091,748
Federal HUD Title VII	\$569,020
Federal Equal Employment Opportunity Contract	\$1,560,798
Subtotal Federal	\$2,129,818
Total Commission Funding	\$4,221,566

We cannot conclude our message without mentioning the profound loss suffered by the Agency with the recent passing of Alan Cassella. Alan was for almost 29 years the mind, heart and soul of the Springfield MCAD office. We rededicate ourselves to the mission of the Agency in the devoted spirit shown by Alan throughout his career.

Dorca I. Gómez, Chairwoman
Walter J. Sullivan, Jr., Commissioner
Cynthia A. Tucker, Commissioner