



MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

2003
ANNUAL REPORT



Commissioner Cynthia A. Tucker, Chairwoman Dorcas I. Gomez, Commissioner Walter J. Sullivan, Jr.



A MESSAGE FROM THE CHAIRWOMAN Dorca I. de Gomez

Governor Romney, Administration and Finance Secretary Eric Kriss, members of the Legislative branches, and the people of the Commonwealth – I am privileged to submit to you the Massachusetts Commission Against Discrimination’s (MCAD’s) Annual Report for 2003.

A commentary, written by Patricia Washienko, Esq. and Katherine J. Michon, Esq., of the Massachusetts Discrimination Law Reporter (MDLR) at the end of the last quarter of 2003, summarizes the enormous efforts of the MCAD during the past several years.

“...these cases emphasize three key points about the Commission: *that it takes its obligation seriously in getting the law right and enforcing it, that it is earnest in its role and in using its police powers to eliminate discrimination, and that it will move quickly to assert and preserve its authority.*”

These words are music to my ears. Each and every year, the agency attempts to do its work under challenging circumstances – Each and every year we ask our team members to do more with less and undaunted, our excellent team continue to move the mission of the agency forward.

A review of the MCAD’s 2003 Annual Report illustrates the kinds of successes that we have had. In a nutshell, we are doing more with less, continue to reduce our case inventory by providing a quicker turn-around time for our clients, and through our new Client Management System, are now able to know where in the process each case is and what the current status is. As one of several premier anti-discrimination commissions in the nation, we owe our success to the dedicated efforts of our Commissioners, Senior Managers and the entire agency team. I humbly thank them for their efforts on behalf of our clients.

Of special note in 2003, the legislature, with the support of the executive branch, amended chapter 151(B) to allow the Commission to collect fees (among others) for training. It is our sincere hope that the training will be utilized by smaller organizations, as our target audience are these smaller organizations who usually do not have the resources to keep current with existing laws and who can benefit the most from these educational efforts.

In reviewing our mandate, although we have made progress in our efforts to eliminate discrimination, we still have much more work to do. I feel privileged to have been honored and trusted to enforce such a worthy mission.

In closing I would like to end with the words of Julia de Burgos’ poem, *Moments*:

“Me multiple, as in a contradiction, tied to a sentiment without edges that binds me alternately, to the world. Me universal, drinking life in each shooting star, in each sterile scream, in each sentiment without edges. And all for what? – To go on being the same.”

I dedicate my legacy to my four grandbabies *Emily, David Anthony, Jo-Jo & Taina*.



From the Desk of Steven Locke, General Counsel

The year 2003 saw several changes to the Commission's statutory role, all intended to shore up the Commission's authority and ability to enforce the anti-discrimination laws. In addition, the year provided the Commission the opportunity to take significant affirmative steps in further defining the laws for the public.

In 2003, the Commission's enforcement statute was amended to enhance the Commission's powers to combat discrimination. The first change allows the Commission to charge fees for training services. As a result, the Commission is now able to offer a variety of workplace discrimination prevention programs for employers across the state, including human resources professionals, managers and supervisors, and staff members. In addition, the Commission will offer housing discrimination prevention programs for realtors, landlords, and other housing providers and agents. By instituting fee-based training, the Commission is able to extend its services beyond its ongoing free programs. The Commission adopted training regulations at the end of 2003 to facilitate these services.

The second change in the Commission's statute allows the Commission to recover attorney's fees and costs when it successfully prosecutes a case on behalf of an unrepresented complainant. This was done to create balance in the statute, as the Commission routinely prosecutes complaints on behalf of unrepresented complainants, but had previously not been able to recover attorney's fees, while the statute allowed for fee recovery by private attorneys. All fees recovered by the Commission are paid to the Commonwealth.

The third change in the statute enables the Commission to issue civil penalties in all cases in which it determines that discrimination occurred. The penalties are as follows: up to \$10,000 for a first offense, up to \$25,000 for a second offense, and up to \$50,000 for three or more offenses. This was done to create balance in the statute – the statute already provided for civil penalties in housing cases – and to give the Commission greater enforcement powers in deterring and punishing unlawful practices.

In June 2003, the Commission began the process of creating regulations to address discrimination in places of public accommodation based upon disability. The Commission recognized that there is very little legal guidance with respect to the rights of disabled individuals in places of public accommodation. In September 2003, the General Counsel put together a working group comprised of members of the general public, including affected constituencies and representatives of the business community. The committee has been working with the Commission to publish draft regulations for public comment in the summer of 2004.

Finally, in 2003 the Commission was called upon to assist the Governor's Diversity Council in updating and revising the various Executive Orders (74, 116, 117, 227, 235, 246 and 253) that address the Commonwealth's commitment to affirmative action, diversity and equal opportunity. The Commission assisted the Council throughout the process and a new, complete draft Executive Order was approved by the Council in early 2004. The draft Executive Order will be published for public comment in the summer of 2004.



From the Desk of David Fried, Chief of Enforcement

Productivity was aided by significant administrative reforms and increased training. The agency closed over 3,300 dual-filed cases; more than ten percent over the original goal under our federal contract with the United States Equal Employment Opportunity Commission (EEOC), and equal to new goal standards.

The Pro Set Unit performed well and met case production goals in 2003 despite significant turnover and the arrival of several new investigators who required initiation and training. Changes were made to the Case Management System (CMS) allowing for greater efficiency in the flow of cases.

The Attorney-Assisted Unit benefited during calendar year 2003 from an increase in available personnel resources. In March the unit hired a full-time administrative assistant and in June a new full-time lawyer investigator was hired as a contract employee. In October, the addition of a lay investigator to AAU was a significant innovation and resource. The investigator was assigned cases where discovery was determined not to be needed and the investigator could focus more effort on immediate write-up and disposition of cases. Case backlog has also been reduced by the utilization of the lay investigator in the writing of dispositions in less complex older cases. Any new cases of greater public significance were assigned to the lay investigator from the outset for intensive and pro-active investigation.

Other improvements to the functioning of the Unit carried out during the year included the publishing of the AAU Practice Guide on the MCAD website, improvements to the voice-mail message to provide better information and render it more user-friendly; a new policy strictly limiting the length of LOPC recommendations; and a well-defined policy for the circumstances under which cases may be transferred from Pro-Se to AAU, with procedures for effecting such transfers. Further practice reforms, intended to decrease the burden of motion and discovery practice, will be implemented in 2004.

The Legal Unit's principal enforcement activity of Commission Counsel is representing the Commonwealth in cases in which probable cause has been found, up to and including the administrative hearing. Other enforcement activities of the Legal Unit include serving as legal advisors to the Pro-Se Unit; ruling on most motions submitted to that unit; drafting appropriate orders; hearing and making recommendations upon LOPC appeals, a task also performed by AAU; advising the Review and Appeal Unit on jurisdictional questions and denials of investigation; and reviewing and monitoring settlement agreements. AAU and Commission Counsel heard 466 LOPC appeals in 2003.

The Housing Unit closed 218 cases under the HUD contract in calendar year 2003, even with a slight increase in cases being held with the agency. The unit has also been successful in holding the number of aged cases (those not disposed of within 100 days) well under the contractual maximum of 35 percent of the caseload. Members of the unit have also provided excellent service in closing employment and public accommodation cases as necessary.

At year's end, MCAD, the Attorney General's Office, HUD, and the department of Health had begun an important joint project to identify cases involving discrimination against families with children under six for the purpose of evading the statutory obligation to make dwellings safe from toxic lead, and to increase public awareness of the issue and of their statutory rights.



From the Desk of Rebecca Shuster

Director of Training

This year, the Massachusetts legislature authorized the MCAD to begin charging training fees. A regulation guiding the implementation of training fees will be finalized in early 2004.

The MCAD's Director of Training, Rebecca Shuster, facilitated 27 external training sessions during 2003, including the annual MCAD/Massachusetts Continuing Legal Education Discrimination Prevention Train-the-Trainer Program and two training sessions for facilitators of the City-Wide Dialogues on Boston's Ethnic and Racial Diversity. Other MCAD staff delivered a total of 46 training sessions and presentations.

This year's internal training efforts included initial training for new employees and interns, and a series of one-hour investigative skill training sessions for enforcement staff. In addition, we completed mandatory diversity training for all employees, as well as leadership development training for supervisors and managers.



MCAD ADVISORY BOARD

In a joint effort with the Massachusetts Commission Against Discrimination held the 7th Annual Brooke Scholarship Awards, honoring Senator Edward W. Brooke, at the Edward W. Brooke Courthouse in May 2003.

The following high school juniors were recipients of a \$2,000 cash award and a \$500 internship at the MCAD:

Asaad Bhamla – Weston High School

Morgan Carpenter – North Andover High School

Beth Goldstein – Stoughton High School

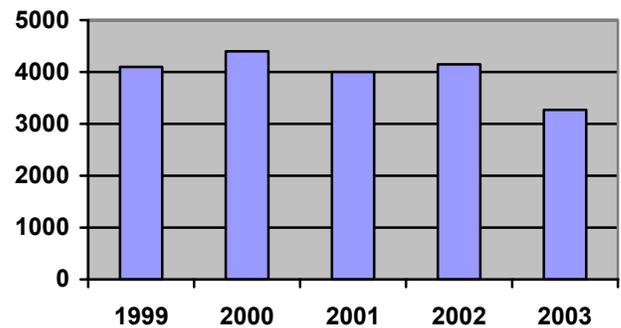
Andrew Knippenberg – Stoughton High School

Ramona McFall – North Andover High School

2003 Facts and Figures

The number of complaints filed in the year 2003 at the MCAD decreased from the number filed in 2002. There were 3,328 cases filed in 2003. This trend of less cases being filed is nationwide.

Cases Filed

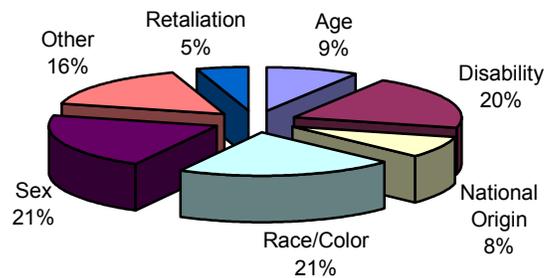


Complaints by Protected Class

The top five categories of complaints filed by a protected class were:

Race	21%
Sex	21%
Disability	20%
Age	9%
National Origin	8%

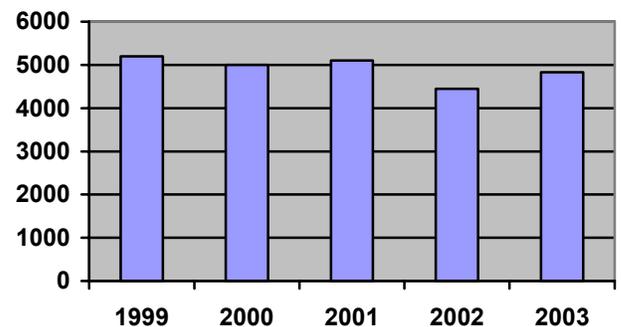
Complaints by Protected Class



Cases Resolved

The number of MCAD complaints resolved in the year 2003 was 4,837; 1,509 cases more than those received. Each and every year the MCAD continues to decrease its case inventory.

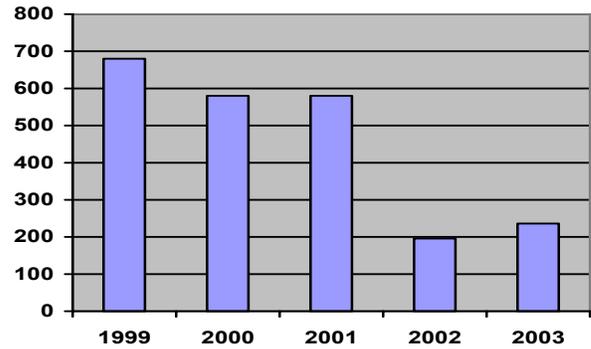
Cases Resolved



Probable Cause Findings

240 cases were investigated that resulted in a probable cause finding during the year 2003. This was an increase from the previous year where 196 cases had a probable cause finding. Through the mediation process, the MCAD has been able to resolve many more cases resulting in a decreased Probable Cause finding.

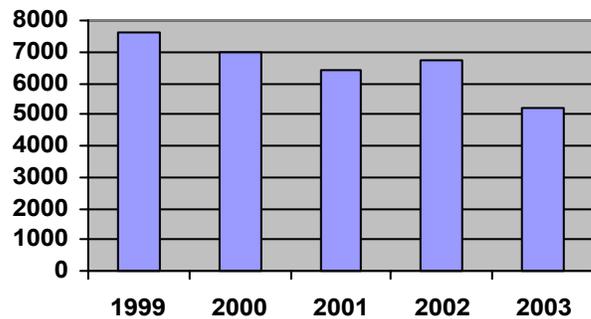
Probable Cause Found



Cases Inventory

The case inventory for 2003 was 5,230, representing a decrease from 2002 figure of 6,674.

Inventory of Cases

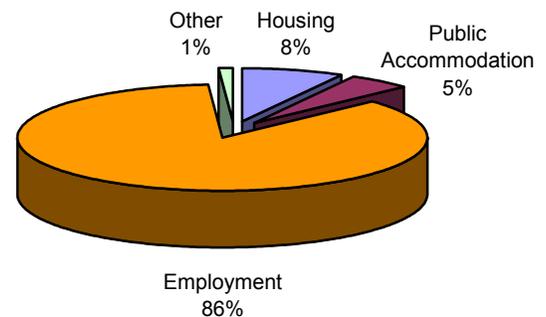


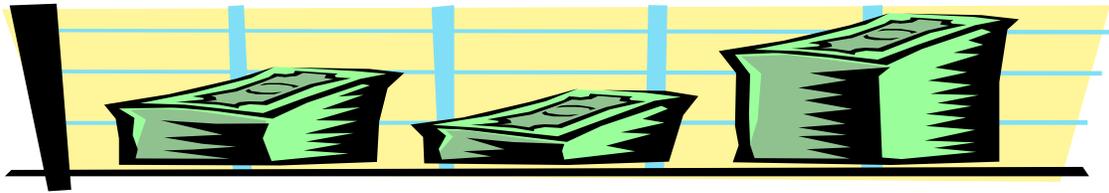
Complaints by Type

In a breakdown of complaints filed by type, employment related claims remained the highest filings at 86%; increasing 1% from 2002.

Housing and Public Accommodations claims remained the same in 2003 as in 2002; 8% for Housing, 5% for Public Accommodations.

Complaints by Type





**MCAD BUDGET
For Fiscal Year 2004
July 1, 2003 – June 30, 2004**

Budgetary Direct Appropriations

State Appropriations:

1150-5100	\$1,494,521
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Retained Revenues:

HUD and EEOC Revenues for Closing Cases

1150-5104	\$2,467,982*
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	<hr style="width: 100%;"/> Total \$3,962,503
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Revenues:

HUD	\$ 703,258
EEOC	\$1,500,600

	<hr style="width: 100%;"/> Total \$2,203,858
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MCAD Budget:

State Appropriations	\$1,494,521
Retained Revenues	\$2,203,858

	<hr style="width: 100%;"/> Total \$3,698,379
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***This account is a retained revenue account in which the MCAD is allowed to retain and spend revenues received from HUD and EEOC. The account is capped at \$2,467,982; allowing the MCAD to retain and spend only up to said amount. Any revenues received in excess of the amount are deposited in the general fund. The MCAD cannot spend more than the monies it receives.**

2003 MCAD EMPLOYEES:

Boston:

Debora A'Vant
Kimberly Boyd
Pamela Brooks
Matthew Buehler
Marlania Bugg
Wendy Cassidy
Diane Chang
Jean Clanton
Ellen Cobb
Peter Connelly
Vanessa Davila
Eleanor Druckman
Robin Edwards
Geraldine Fasnacht
Helene Figman
Brian Flaherty
Elizabeth Forman
David Fried
Lnn Goldsmith
Dorca Gomez
Eugenia Guastaferrri
Marzella Hightower
Allison Hope
Neldy Jean-Francois
Maria Joseph
Judith Kaplan
Shirley Lee
Stephen Lewis
Simone Liebman
Steven Locke
Melanie Louie
Jerome Mack
Katherine Martin
Lynn Milinazzo-Gaudet
Ying Mo
Carol Mosca
Wah Don Ng
Caroln Packard
Yudelka Pena
Victor Posada
Joel Posner
Aileen Quintero

Shawn Reid
Jeannine Rice
Bette Roth
Carolyn Sarrante
Rebecca Shuster
Myrna Solod
Abigail Soto-Colon
Ethel Stoute
Walter J. Sullivan, Jr.
Sunila Thomas George
Wayne Thomas
Jessica Thrall
Nancy To
Jeffrey Turner
Francisco Villalobos
Barbara Walsh
Beverly Ward
Paul Whitman
Glenna Wyman
Franklin Young

Springfield Office:

Melvin Arocho
June Bostick
Maryann Brunton
Lindsay Bryne
Karen Dome
Jerrold Levinsky
Susan Lopiparo Barrett
Gilbert May
Carol Murchison
Marytsa Reyes
Migdalia Rivera
Angela Robertson
Cynthia Tucker
Patty Woods

2003 Fall Interns:

Kristy Case
Sentry Cobb
Cinthia Colon
Lauren Daniel
Aine Durkin
Susan Hart
Jennifer Kimball
Carlos Lagorio
Jenny Pineros
Lindsay McGuire
Lisa Pelligrino

Summer Interns:

Heather Bidulph
Jesse Bless
Benjamin Chang
Jeff Dourgherty
Susan Herriott
George-Marie
Jasmin
Michael Greg
Jones
Stephanie Khalifa
Liz Laxton
Margaux LeClair
Angela Lester
Nolan Lim
Julie Marcal
Paula O'Gilvie
Roy O'Halloran
Jonathan Schechner
John Savage
Bekim Zaganiori

Thank you for all your efforts in 2003!