



OFFICE OF THE INSPECTOR GENERAL

Montgomery County, Maryland



MEMORANDUM OF INVESTIGATION

TO: Richard S. Madaleno
Chief Administrative Officer

FROM: Megan Davey Limarzi, Esq.
Inspector General *ML*

DATE: June 7, 2024

SUBJECT: Office of Human Rights Intake and Complaint Processing

The Office of the Inspector General (OIG) has concluded an investigation into allegations of mismanagement in the Office of Human Rights (Human Rights) in the processing and investigation of complaints of discrimination and worker protection¹ violations. The investigation substantiated that Human Rights was not effectively tracking inquiries and exceeded its established timeframe for completing investigations and issuing determinations. Additionally, the investigation revealed that Human Rights has failed to fully implement recommendations made in a 2020 OIG review.

Background

In December 2023, the OIG received a complaint alleging that Human Rights was not properly tracking contacts with the office (inquires²), allegations were not being appropriately investigated, and investigations were not being completed in a timely manner.

Human Rights was established in 1960 in response to citizen demonstrations against segregation at Glen Echo Park in Maryland. Human Rights enforces the county's worker protection laws, and anti-discrimination laws in employment, housing, commercial real estate, and public accommodations. Human Rights also provides training and public education programs and supports and promotes the efforts of the Human Rights Commission, Commission on Reconciliation and Remembrance, Committee Against Hate Violence, and Interagency Fair Housing Coordinating Group.

In the last fifteen years, the number of individuals employed by Human Rights has declined by more than half. Human Rights is currently budgeted to have 11 employees³, 5 of whom are investigators that work in the Compliance Section. The Compliance Section is Human Rights'

¹ Worker protection laws include Displaced Service Workers Protection Act, County Minimum Wage, Fair Criminal Record Screening Standards, Earned Sick and Safe Leave, and Minimum Work Week for Building Maintenance Workers. See <https://www.montgomerycountymd.gov/humanrights/compliance.html>

² Incidents or matters submitted to Human Rights are considered inquiries until they are formally accepted, after which they are referred to as complaints.

³ Human Rights currently has nine full-time employees and two vacant investigator positions.

civil rights enforcement component and is primarily responsible for investigating allegations of worker protection violations and discrimination. Sixty-five percent of Human Rights' \$1.9 million budget supports the Compliance Section. According to Human Rights staff, the Compliance Section accepts approximately 200-250 complaints a year for investigation.

In addition to receiving inquiries directly from complainants, Human Rights has a work-sharing agreement with the Federal Equal Employment Opportunity Commission (EEOC) in which Human Rights agrees to investigate 60 EEOC complaint referrals annually. Human Rights uses the EEOC's case management system (ARC) to access and manage the complaints referred by the EEOC as well as employment discrimination complaints initially filed with Human Rights that also meet EEOC's jurisdiction.

Complaint Handling Procedures

Human Rights requires individuals alleging discrimination to complete a Claim and Inquiry Intake form and/or meet with an investigator.⁴ An investigator reviews the information provided to determine if the allegations meet the jurisdictional requirements that, if true, support a claim of discrimination or a violation of a worker protection law. Once an inquiry is accepted as a complaint, the parties are offered mediation. If mediation is declined or unsuccessful, the complaint is investigated to determine whether reasonable grounds exist to support a violation of Montgomery County's Human Rights and Civil Liberties statute (Chapter 27). Thereafter, the investigator documents their assessment in a Letter of Determination. The Letter of Determination is reviewed by management and then sent to both the complainant and the respondent.

A complaint may be "terminated" prior to or during an investigation. Reasons to terminate a complaint include the parties reached a resolution, the complainant withdrew their complaint, the complainant failed to provide sufficient evidence to proceed, or the complainant chose to pursue the matter in court.⁵ Human Rights formally closes a complaint by issuing a Termination of Investigation detailing the reason for closure.

Although Human Rights does not have any formal policies and procedures that describe the required steps to take when receiving an inquiry or investigating a complaint, they created a flow chart that generally outlines the process and expected timeframes. According to the flow chart, it may take up to 41 days from the initial receipt of an inquiry to the matter being accepted by Human Rights and approved by the complainant. Thereafter, investigators initially have 75 days to obtain pertinent documentation or evidence and then up to 12 months to complete their investigation. See Attachment – *Office of Human Rights Compliance Flow Process*.

Our investigation focused specifically on Human Rights' tracking of inquiries from potential complainants and its compliance with established complaint processing timelines.

⁴ The Federal Equal Employment Opportunity Commission and the Maryland Commission on Civil Rights have similar intake procedures for prospective complainants.

⁵ The complainant has the right to file an action in court 45 days after the complaint is signed and filed with the Office of Human Rights. MD State Government Code Ann. § 20-1202.

Inquiry and Findings

Intake Process

To assess allegations about the mismanagement of the intake process, we looked at how Human Rights tracks inquiries made to the office. Human Rights had no central repository or process for tracking inquiries received until they implemented a spreadsheet (“intake log”) in late 2022, and it does not appear that the intake log was routinely used until May of 2023. Human Rights has no written guidance outlining how the intake log should be completed, and the log itself does not contain titles or descriptions indicating the information to be included in each column. Similarly, there is no indication on the intake log that investigators are required to include the date they responded to the inquiry or the final disposition of the inquiry (i.e. the inquiry was closed, complaint was filed). In an effort to gauge the impact that the lack of guidance and standardization had on the usefulness of the intake log, we analyzed all entries from May 31, 2023, to March 29, 2024, which contained 575 inquiries received through email, mail, by telephone, in-person, and through MC311.

We observed that investigators typically documented the date an inquiry was received, the individual’s name and contact information, how the inquiry was received, the issue being raised, and initial actions taken by the investigator. We also saw that some investigators included the date they responded to the inquiry or the final disposition of the inquiry (inquiry was closed, complaint was filed, etc.). However, we found that 25% (144) of the fields where we would have expected to find information about the initial action taken, and 83% (477) of the fields where we would have expected to find information on further actions taken were left blank. For those entries (215 out of 575) that included a date in the initial action taken field, investigators responded to 89% of them within one day, but given the lack of dates and information we were not able to assess the time and actions taken to address a majority of inquiries.

The lack of dates and incomplete information also hinders Human Rights’ ability to assess timeliness in responding to inquiries and their ability to evaluate the actions taken by investigators, identify trends, and analyze or query historical data. Maintaining complete and accurate information in the intake log may also aid the office in determining future staffing and budget needs.

Complaint Process

The complainant also raised issues with how long Human Rights took to handle complaints. In an effort to determine whether Human Rights complied with their established timeframes for handling complaints, we selected a sample of 38 from the 74 complaints they closed from July 1, 2023, through March 29, 2024. Human Rights’ timeline allows for 75 days for investigators to collect documentation from the complainant and respondent, and up to 12 months for an investigation, resulting in a total time frame of 440 days (approximately 14.5 months). Twenty-five of the 38 complaints in our sample were terminated prior to or during the investigation, while the remaining thirteen cases were investigated.

We found that Human Rights did not have policies and procedures that dictated how investigative files should be maintained. Although every case has a corresponding paper file, we noted that case related information and documentation was stored using a variety of methods, including paper files, electronic files, and/or the ARC system. Furthermore, each storage method could contain differing case related records. Based on our observations of the different record retention methods, we opted to review the paper files and the ARC's activity logs for each case in order to determine the length of time it took Human Rights to complete each case.

Of the 13 complaints that resulted in the issuance of a Letter of Determination, nine of them exceeded Human Rights' established timeframe of 440 days to process, investigate and issue a determination on a complaint. Three of the nine complaints took more than 800 days to issue a Letter of Determination.

We also found inconsistencies with the type of information contained in the files and how the files were organized. Although most files included the complaint form and a response from the respondent, many did not include information as to what actions the investigator had taken. Proper case documentation is necessary to provide a systematic record of work performed, assists staff members in summarizing the results and preparing the determination, and provides a record of information and evidence supporting the determination. Additionally, documenting actions taken by investigators helps to ensure consistency and equity in how complaints are handled.

Implementation of Previous OIG Recommendations

In June 2020, the OIG issued report 20-010 *EEO Complaint Filing and Investigation Processes Could Disadvantage County Employees*. The report recommended that Human Rights draft, maintain, and train staff on written policies and procedures that govern the full extent of their responsibilities, noting that a "lack of policies and procedures can lead to inconsistent treatment of cases, and staff not knowing how they should handle challenging situations and making incorrect assumptions. . . . The Office of Human Rights' lack of policies and procedures creates a risk not only for County employees, but also for all people who live in the County and/or work for employers in the County, since the Office of Human Rights receives complaints about discrimination by any employer in the County and about discrimination in County real estate and public accommodation." In conducting this investigation, we learned that in 2022 Human Rights began drafting an electronic "handbook" that includes various templates and resources; however, the handbook is incomplete, and they still do not have comprehensive formal policies and procedures to guide staff. Implementing cohesive policies and procedures will improve both the efficiency and effectiveness of the office's work and ensure all staff adheres to requirements.

In the 2020 review, the OIG also recommended that Human Rights establish mandatory training requirements for staff investigating EEO complaints. The report noted that by comparison, the EEOC requires EEO counselors and investigators to take 32 hours of training prior to assuming duties and eight hours of continuing training each fiscal year. We learned that Human Rights still does not have mandatory training requirements for its staff and does not maintain comprehensive training records.

We learned that four of the five investigators hired since 2021 had taken a five-day online course titled “EEO for New Investigators” offered by the EEOC shortly after being hired. The other employee was deemed to have sufficient experience and therefore did not attend the training.

We reviewed training records provided by individual staff members and observed large differences in the amount of training received by staff in general. We noted that one investigator attended hundreds of hours of training in various areas of professional development with a focus on civil rights enforcement, while other investigators took relatively few courses, and none regarding discrimination claim processing and investigation. Having continued education reduces errors, ensures staff is informed in the most up to date investigative techniques and applicable law, and produces more equitable results.

Conclusion

Our investigation substantiated the allegations that Human Rights was not effectively tracking inquiries and exceeded its established timeframe for completing investigations and issuing determinations. Additionally, we found that Human Rights still has not drafted policies and procedures to govern the full extent of their responsibilities or implemented mandatory training requirements or continuing education for staff, as recommended in our 2020 report.

We recommend that Human Rights make improvements to the intake log that will enable them to better track the disposition of inquiries, improve efficiency, evaluate outcomes, and identify trends. As we previously recommended, Human Rights should draft formal policies and procedures covering the full extent of the work done by the office, to include guidance that addresses the receipt and processing of inquiries and standardization of investigative files.

Similarly, we recommend once again that Human Rights establish and implement mandatory training requirements for staff investigating complaints.

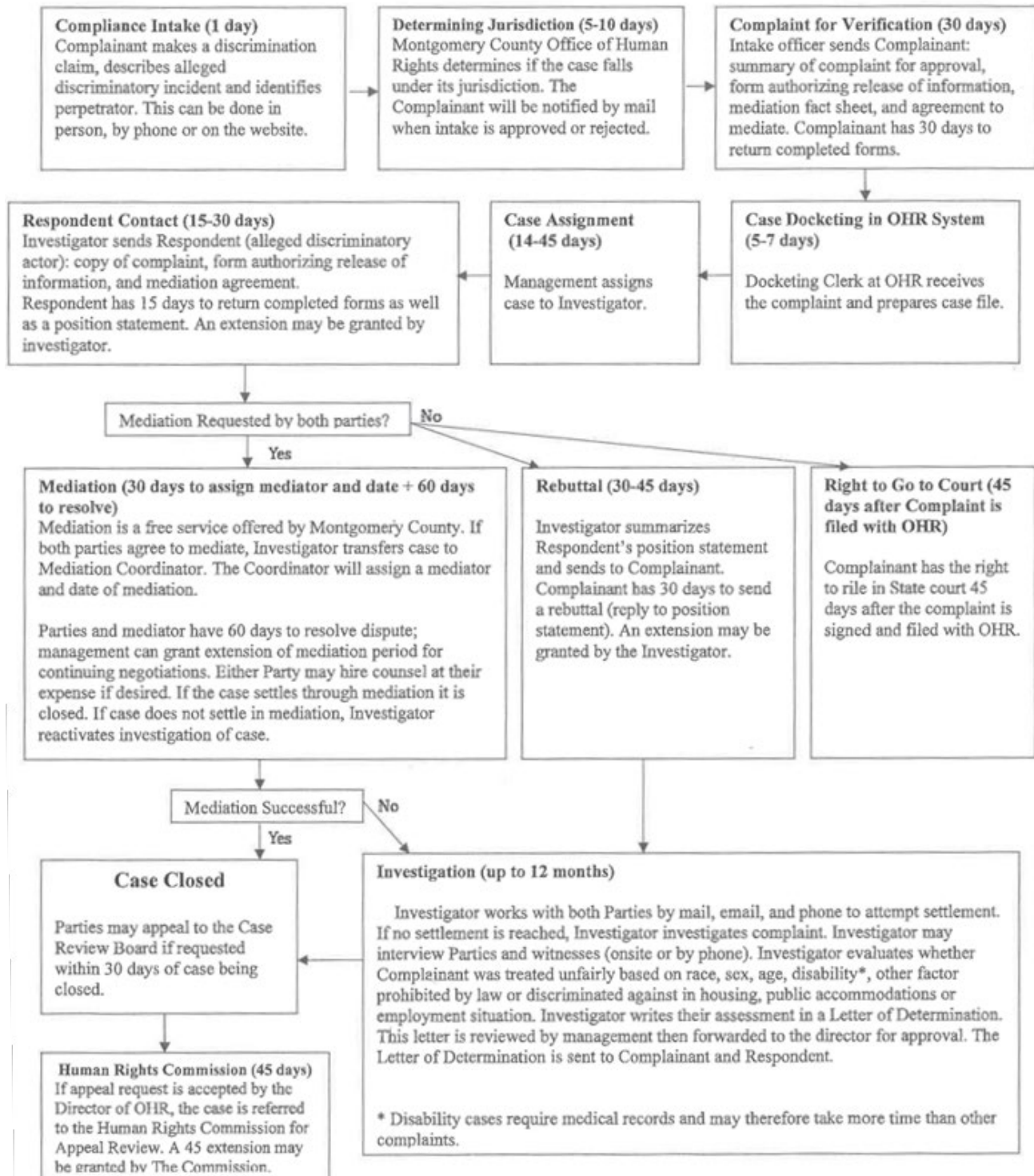
No response to this memorandum is requested, but I ask that you provide my office with copies of communications and/or policy updates upon issuance. Please contact me or a member of your staff can contact Deputy Frank da Rosa, Francisco.darosa@montgomerycountymd.gov, with any questions.

Attachment: Office of Human Rights Compliance Flow Process

cc: Fariba Kassiri, Deputy Chief Administrative Officer
James Stowe, Director, Office of Human Rights

Attachment: Office of Human Rights Compliance Flow Process*

Office of Human Rights Compliance Flow Process



* Obtained from the Office of Human Rights