



Audit of Professional Standards/ Human Rights Section

Office of the County Auditor

Audit Report

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Report No. 22-03
March 24, 2022



OFFICE OF THE COUNTY AUDITOR

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March 24, 2022

Honorable Mayor and Board of County Commissioners

We conducted an audit of the Professional Standards/Human Rights Section (PSHRS).

The objectives of our review were to evaluate PSHRS' effectiveness in handling complaints and investigative reports alleging violations of County policies, sexual harassment, discrimination, whistleblower, and retaliation complaints, etc.; to determine the effectiveness of promoting the function and adequacy of staffing; and to evaluate the adequacy of policies and procedures and training of staff to conduct investigations.

We conclude that PSHRS is not effective in handling complaints and investigative reports alleging violations of County policies, sexual harassment, discrimination, whistleblower, and retaliation complaints. We conclude that the function is not adequately promoted or staffed. We conclude that policies and procedures and staff training to conduct investigations require enhancement.

We conducted this audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We appreciate the cooperation and assistance provided by the PSHRS throughout the course of our audit.

Respectfully submitted,

A handwritten signature in blue ink that reads "Bob Melton".

Bob Melton
County Auditor

cc: Monica Cepero, County Administrator
Andrew Meyers, County Attorney
Kevin Kelleher, Assistant County Administrator
Averill Dorsett, Administrative Manager, Professional Standards/Human Rights Section

Broward County Board of County Commissioners

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EXECUTIVE SUMMARY

The objectives of our review were to evaluate Professional Standards/Human Rights Section (PSHRS) effectiveness in handling complaints and investigative reports alleging violations of County policies, sexual harassment, discrimination, whistleblower, and retaliation complaints, etc.; to determine the effectiveness of promoting the function and adequacy of staffing; and to evaluate the adequacy of policies and procedures and training of staff to conduct investigations.

We conclude that PSHRS is not effective in handling complaints and investigative reports alleging violations of County policies, sexual harassment, discrimination, whistleblower, and retaliation complaints. We conclude that the function is not adequately promoted or staffed. We conclude that policies and procedures and staff training to conduct investigations require enhancement.

PSHRS does not conduct investigations timely. The Human Rights functional area takes an average of 256 days to complete an investigation with a range of 18 to 2,261 days. Approximately 76% of cases are not closed within 100 days as required by County Ordinance. The Professional Standards functional area takes an average of 140 days to complete an investigation with a range of 0 to 1,134 days. Approximately 66% of cases are not closed within established timeframes as required by Code of Ordinances, guidelines outlined on the section's County website, and PSHRS internal policies. In addition, we aged all open cases within the Professional Standards functional area to evaluate how long the cases were open as of the date management provided the data. There were 181 cases which were open an average of 588 days as of February 3, 2021. The County's website, states that the goal of the department is to complete all investigations within 180 days and ADA investigations within 45 days.

We noted four of the 26 open cases reviewed that were open for an average of 565 days, ranging from 442 to 821 days, that were then administratively closed. These four cases were complaints that alleged, a suspected act or improper act of gross mismanagement, wrongdoing, or misconduct by employees, possible violation of Code of Silence Ordinance, alleged acts of gross waste of public funds by management, and alleged complaints of retaliation by a manager toward staff member who filed a Whistle Blower complaint.

Investigations are not consistently completed in compliance with regulations, agreements, and standards. The Human Rights Section does not prepare investigative case plans for alleged discriminatory housing practices or policies as recommended by the U.S. Department of Housing and Urban Development (HUD) for housing discrimination complaints investigated under the Fair

Housing Act (FHA). During our review of 35 closed discrimination (housing, public accommodation, employment) cases investigated by the section, we noted that Twenty-five (71%) respondents were not notified of a complaint within 10 calendar days as required.

PSHRS does not have adequate resources and processes to address all responsibilities prescribed in the Broward County Code of Ordinances. The average caseload per investigator was 33 cases as of September 30, 2020, which appears to be excessive. The Section has not established workload standards to determine the optimal number of cases that can be assigned to an investigator at a specific point in time; however, The Department of Housing and Urban Development (HUD) recommends a caseload of 20 to 25 cases per investigator. Excessive caseloads may lead to increased staff turnover, inadequate investigation of individual cases, and an increase in the time taken to resolve each case. A staffing analysis has not been adequately performed to estimate the number of staff needed to perform all functions required by the Code of Ordinances in a timely and effective manner.

PSHRS does not have adequate procedures to ensure its independence and address potential conflicts of interest. PSHRS is currently organized as a section within County Administration, where the Professional Standards/Human Rights Section's Administrative Manager is appointed by and serves at the pleasure of the County Administrator. As such, it is important that PSHRS implement adequate safeguards to maintain the independence of investigations and ensure that potential conflicts of interest are identified and resolved when cases arise where there is the appearance of a conflict of interest.

The Professional Standards/Human Rights Section (PSHRS) has not developed an Equal Employment Opportunity (EEO) Plan as required by federal regulations (28 C.F.R Section 42.30). An Equal Employment Opportunity (EEO) Plan is a workforce report that some organizations must complete as a condition for receiving Department of Justice (DOJ) funding authorized by the Omnibus Crime Control and Safe Streets Act of 1968. The purpose of the EEO Plan is to ensure that recipients of financial assistance from the Justice Department are providing equal employment opportunities to men and women regardless of sex, race, or national origin. It is used as a tool to identify possible problem areas where discrimination may be occurring.

PSHRS does not adequately track DOJ's Equal Employment Opportunity Program Submission Requirements to ensure compliance. According to information provided by management, PSHRS did not submit the required Annual Certification Form for FY 2019. In addition, according to information provided by management, PSHRS last submitted the required biennial EEO Utilization report for the 2018 fiscal year on January 10, 2019; however, it is unclear when the next EEO Utilization report is due. Broward County is required to submit an EEO Utilization Report every two years and a Certification Form each year. Failure to submit the annual

certification forms result in non-compliance with federal regulations and may jeopardize Broward County's access to current and future DOJ funding.

Annual HIPAA privacy audits of County agencies are not being conducted by the HIPAA Privacy Officer. Failure to perform annual audits results in non-compliance with County policy and may allow privacy concerns or problems to remain unaddressed increasing the risk of fines for non-compliance.

During our review, we observed that physical case files are not adequately stored and protected within the PSHRS area. Active physical files are typically in the custody of the investigator or stored within their office or homework space. In addition, we observed physical files stored within boxes and on top of filing cabinets throughout the office.

Our report contains a total of 15 recommendations for improvement. We appreciate the cooperation and assistance provided by the PSHRS throughout the course of our audit.

INTRODUCTION

Scope and Methodology

The County Auditor's Office conducts audits of Broward County's entities, programs, activities, and contractors to provide the Board of County Commissioners, Broward County's residents, County management, and other stakeholders unbiased, timely, and relevant information for use in promoting government accountability and stewardship and improving government operations.

We conducted an audit of the Professional Standards/Humans Rights Section (PSHRS). Our audit objectives were to determine whether:

1. To evaluate PSHRS' effectiveness in handling complaints and investigative reports alleging violations of County policies, sexual harassment, discrimination, whistleblower, and retaliation complaints, etc.
2. To determine the effectiveness of promoting the function and adequacy of staffing.
3. To evaluate the adequacy of policies and procedures and training of staff to conduct investigations.
4. To determine whether opportunities for improvement exist.

To evaluate PSHRS' effectiveness in handling complaints and investigative reports alleging violations of County policies, sexual harassment, discrimination, whistleblower, and retaliation complaints, we interviewed appropriate agency personnel, reviewed the Code of Ordinances, policies and procedures; contracts with regulatory agencies and organizational charts, and we analyzed complaint records for fiscal years 2016 through 2020.

To determine the effectiveness of promoting the function and adequacy of staffing, we reviewed the County's website, organizational charts, industry standards, job descriptions, and qualifications of individuals conducting investigations. We conducted telephone surveys of complainants, interviewed appropriate agency personnel, and calculated investigator caseloads.

To evaluate the adequacy of policies and procedures and training of staff to conduct investigations, we reviewed industry standards, the Code of Ordinances, and policies and procedures. We evaluated investigative processes and interviewed appropriate agency personnel.

We conducted this audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Our audit included such tests of records and other auditing procedures as we considered necessary in the circumstances. The audit period was October 1, 2018, through March 31, 2021. However, transactions, processes, and situations reviewed were not limited by the audit period.

Overall Conclusion

We conclude that PSHRS is not effective in handling complaints and investigative reports alleging violations of County policies, sexual harassment, discrimination, whistleblower, and retaliation complaints. We conclude that the function is not adequately promoted or staffed. We conclude that policies and procedures and staff training to conduct investigations require enhancement.

Background

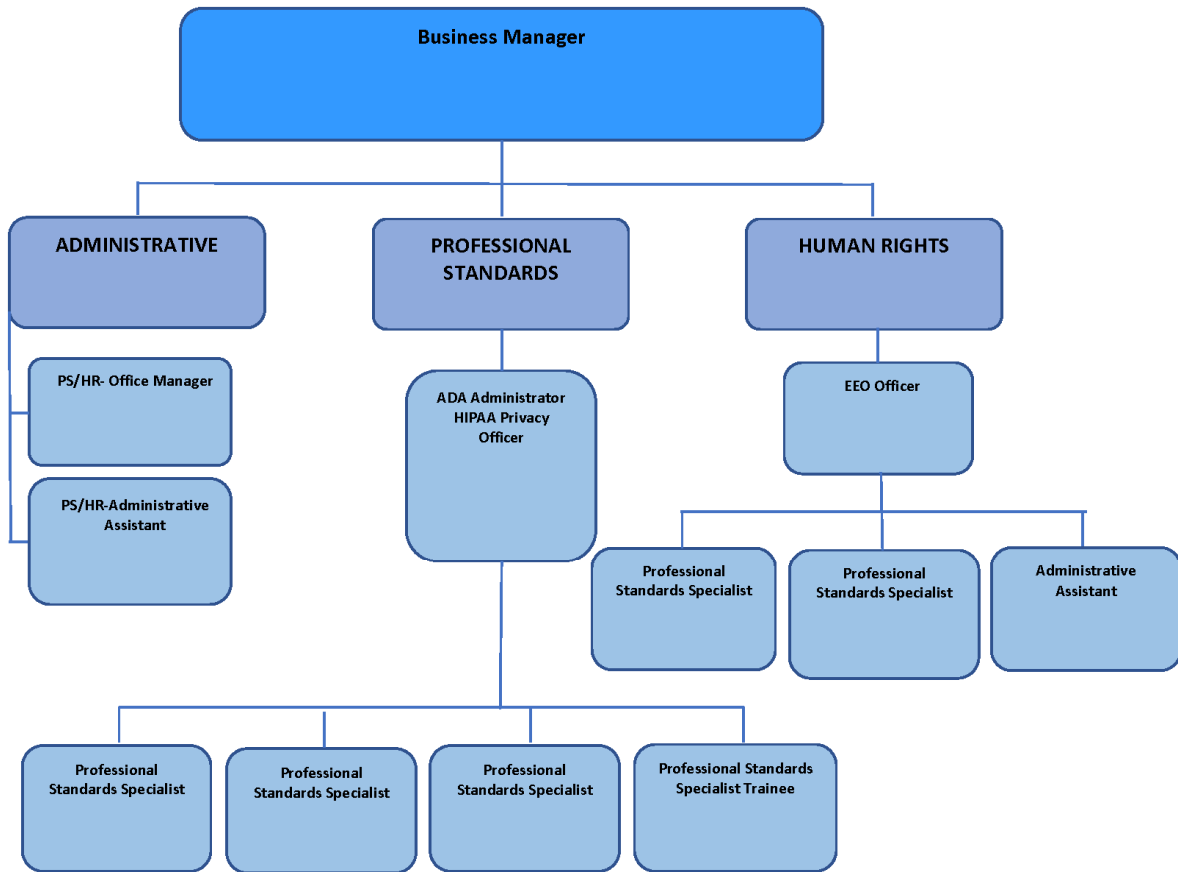
According to the Broward County Administrative Code, The Professional Standards/Human Rights Section (PSHRS) has oversight over Human Rights Grants Coordination and Professional Standards. The Professional Standards/Human Rights Section's Administrative Manager shall be appointed by the County Administrator and shall serve at the pleasure of the County Administrator.

The goal statement for the Professional Standards/Human Rights Section is:

"to provide leadership and professional administration of all aspects of the County's equal opportunity programs and services, ensure compliance with federal laws and regulations related to Americans with Disabilities Act (ADA), Health Insurance Portability and Accountability Act (HIPAA), internal investigations, and Whistleblower complaints; to protect the integrity of Broward County Government services by ensuring accountability and compliance in an effort to promote equity and justice, while limiting County liability. To promote and ensure equal treatment, access, and inclusion for all persons within Broward County in a manner that fosters unity, diversity, and tolerance through quality public service."

The section is divided into three areas, Administrative, Human Rights and Professional Standards.

**Professional Standards/Human Rights Section
Organizational Chart**



The Human Rights area is required to:

- ❖ Carry out the authority and responsibilities mandated by the Broward County Human Rights Act, working to ensure all individuals have the ability to live, work, and enjoy equal access to facilities open to the public in an environment free of unlawful discrimination, harassment, intimidation, and retaliation;
- ❖ Complete and update a countywide Equal Opportunity Plan as required by federal law;
- ❖ Investigate allegations of housing discrimination and fulfill requirements of contracts between Broward County and the United States Department of Housing and Urban Development (HUD); and
- ❖ Act as Broward County's designated investigative entity for violations of the Broward Human Rights Act.

The Professional Standards area is required to:

- ❖ Review and assist in the development of improvements to management controls and procedures of Broward County government;
- ❖ Conduct targeted evaluations of agency programs, operations, or activities, and assist Broward County agencies in identifying and resolving organizational issues;
- ❖ Identify training needs and conduct seminars to educate Broward County personnel and agencies on disability affairs issues related to compliance with the Americans with Disabilities Act (ADA);
- ❖ Oversee the implementation of Broward County's ADA Transition Plan Update and evaluate Broward County's compliance with applicable law;
- ❖ Investigate and resolve complaints filed by individuals with disabilities alleging discrimination by Broward County agencies on the basis of such disabilities;
- ❖ Coordinate employees' requests for reasonable accommodation;
- ❖ Investigate internal cases of alleged employment discrimination, ethics violations, and other violations of Broward County policies;
- ❖ Identify training needs and conduct seminars to educate Broward County personnel and agencies on equal employment opportunity issues; and
- ❖ Coordinate and monitor Broward County's efforts to comply with the Health Insurance Portability and Accountability Act (HIPAA).

Budget, Staffing and Performance

As shown in Exhibit A, the current annual budget for PSHRS is approximately \$1.1 million having increased by approximately 66% since fiscal year (FY) 2017. Budgeted positions also increased by approximately 60%, from 7 to 11 budgeted positions within the same period.

Exhibit A PSHRS Budget and Actuals FY 2017 Through FY 2021

	FY17 Actuals	FY18 Actuals	FY19 Actuals	FY20 Actuals	FY21 Budget
Professional Standards/Human Rights Budget/Actuals	\$691,997	\$717,859	\$852,853	\$977,347	\$1,149,980
Total Positions	7	7	8	11	11

	FY17 Actuals	FY18 Actuals	FY19 Actuals	FY20 Actuals	FY21 Budget
Number of complaints filed and under investigation. (All programs)	159	166	227	251	185
Number of complaints filed and under investigation per employee	37	22	88	53	40
Number of Investigations Completed (all programs)	122	69	75	217	140

Complied by Office of the County Auditor based on Annual Adopted Operating Budget documents 2019 through 2021.

For the fiscal years that actual numbers are available FY 2017 through FY 2019, PSHRS closed an average 88 cases per year with an average of 184 cases remaining under investigation each fiscal year.

[Laws, Regulations, and Responsibilities](#)

The PSHRS is responsible for ensuring that all Broward County Government agencies and its employees comply with Broward County policies, procedures and ordinances set forth by the Broward County Board of County Commissioners, as well as state and federal laws including Equal Employment Opportunity, the Health Insurance Portability & Accountability Act (HIPAA) and the Americans with Disabilities Act (ADA). The Section also investigates employment discrimination complaints involving employers in Broward County who employ 5-14 employees, discrimination in the sale or rental of housing with 4 or more units located in Broward County, discrimination in public accommodations, and violations of the Broward County Wage Recovery and Living Wage ordinances. Exhibit B contains descriptions of the types of regulations investigated by Professional Standards.

Exhibit B **Policies, Regulations with Descriptions**

Policy/Regulation	Description
Equal Employment Opportunity	It is the policy of Broward County, Florida, as established by the Board of County Commissioners, to provide equal opportunity in, and equal access to, County Government employment for all qualified persons regardless of race, color, religion, national origin, gender, age, disability, sexual orientation, marital status, political affiliation, pregnancy, or gender identity or expression.

Policy/Regulation	Description
Health Insurance Portability & Accountability Act (HIPAA)	HIPAA is a federal law that required the creation of national standards to protect sensitive patient health information from being disclosed without the patient's consent or knowledge. The US Department of Health and Human Services (HHS) issued the HIPAA Privacy Rule to address the use and disclosure of individuals' health information (known as "protected health information") by entities subject to the Privacy Rule. The HIPAA Security Rule protects a subset of information covered by the Privacy Rule. This subset is all individually identifiable health information a covered entity creates, receives, maintains, or transmits in electronic form. This information is called "electronic protected health information" (e-PHI).
Americans With Disabilities Act (ADA)	The Americans with Disabilities Act (ADA) became law in 1990. The ADA is a civil rights law that prohibits discrimination against individuals with disabilities in all areas of public life, including jobs, schools, transportation, and all public and private places that are open to the general public. The purpose of the law is to make sure that people with disabilities have the same rights and opportunities as everyone else. The ADA gives civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion.
Employment Discrimination	Professional Standards investigates employment discrimination complaints involving employers in Broward County who employ 5-14 employees,
Discrimination in Public Accommodations	The Title VIII of the Civil Rights Act of 1968 is commonly referred to as the Fair Housing Act (FHA) of 1968. It prohibits discrimination on the basis of race, color, religion, sex or national origin in housing sales, rentals, or financing. FHA is enforced by the United States Department of Housing and Urban Development (HUD).
Wage Recovery	Section 20 1/2 of Broward County Code of Ordinances provides a way for employees of any organization in Broward County (except for those exempted by the ordinance, including the Federal Government, the State of Florida, and Indian Tribes) to file a complaint and receive an administrative hearing by a County hearing officer for non-payment of earned wages.
Living Wage	Article VII, Section 26-100 - 105 of Broward County Ordinance requires private businesses that benefit from public money to pay above-market wages and benefits to their workers, therefore enabling them to support and care for their families.
Cone of Silence	Article XIII, Chapter 1, Section 1-266 of Broward County Code of Ordinances bars potential vendors and vendors' representatives from any

Policy/Regulation	Description
	communication regarding a particular Request for Proposals (RFP), bid, invitation to bid, or other competitive solicitation.
Whistleblower Program & Retaliation Complaints	Florida Whistleblower Act, Florida Statute § 112.3187 Protects public-sector employees who divulge information about suspected violations by their employers that affect the public's well-being. In addition, the statute protects public-sector employees who divulge information about managerial abuses, wrongful actions, or criminal or fraudulent behavior carried out by their employers.

Complied by Office of the County Auditor from various sources.

OPPORTUNITIES FOR IMPROVEMENT

Our audit disclosed certain policies, procedures and practices that could be improved. Our audit was neither designed nor intended to be a detailed study of every relevant system, procedure, or transaction. Accordingly, the Opportunities for Improvement presented in this report may not be all-inclusive of areas where improvement may be needed.

1. Complaints are not Investigated Timely in Accordance with Regulations, Agreements, and Standards.

PSHRS does not conduct investigations timely. We performed data analytics on cases based on the manually maintained spreadsheets provided by management. We analyzed data provided by management for all complaints open and closed within the last 5 years and noted the following:

- A. The Human Rights functional area takes an average of 256 days to complete an investigation with a range of 18 to 2,261 days. Approximately 76% of cases are not closed within 100 days as required by County Ordinance. Exhibit C shows a summary of the average number of days taken to close each type of complaint within the Human Rights functional area and the corresponding ranges versus the established deadlines within the Code of Ordinances.

Exhibit C

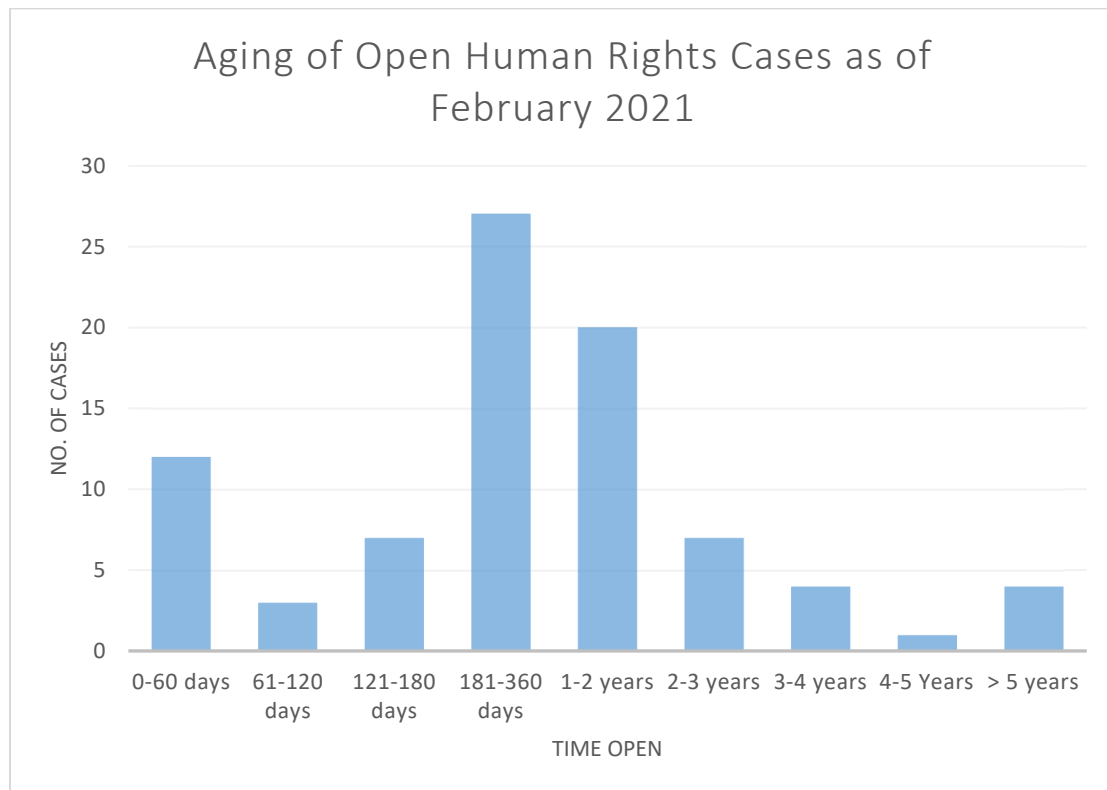
Human Rights Closed Case Statistics as of February 2021

Complaint Type	No. of Closed Cases	Benchmark to Close Case (in days)	Median Time Taken to Close Case (in days)	Average Time Taken to Close Case (in days)	Range of Time to Close (in days)	% of cases Exceeding Benchmark.
Housing	246	100	223	265	18 to 2,261	75%
Employment	8	100	254	374	96 to 1,093	88%
Public Accommodations	2	100	640	640	352 to 927	100%

Compiled by the Office of the County Auditor based on data in spreadsheets provided by management.

In addition, we aged 85 of 116 open cases within the Human Rights functional area to evaluate how long the cases were open as of the date management provided the data. Thirty-one of the 116 cases could not be aged as a result of missing, incomplete, or inaccurate data. Exhibit D shows an aging of 85 open cases based on data provided by management in February 2021.

Exhibit D



Compiled by the Office of the County Auditor based on data in spreadsheets provided by management.

These 85 cases were open an average of 458 days as of February 3, 2021. Section 16 ½-44 (d) of the Code of Ordinances states:

“The Human Rights Section shall complete its investigation within one hundred (100) calendar days after the filing of the complaint. If the Human Rights Section is unable to complete its investigation within such time, the Human Rights Section shall notify the complainant, aggrieved person, and respondent, in writing, of the circumstance(s) prohibiting the timely completion of the investigation. Under that circumstance, the Human Rights Section shall complete its investigation and any administrative proceedings related to the investigation not later than one (1) year after the date the complaint is filed.”

- B. The Professional Standards functional area takes an average of 140 days to complete an investigation with a range of 0 to 1,134 days. Approximately 66% of cases are not closed within established timeframes as required by Code of Ordinances, guidelines outlined on the section's County website, and PSHRS internal policies. Exhibit E shows a summary of the average number of days taken to close each type of complaint within the Professional Standards functional area and the corresponding ranges versus the established deadlines.

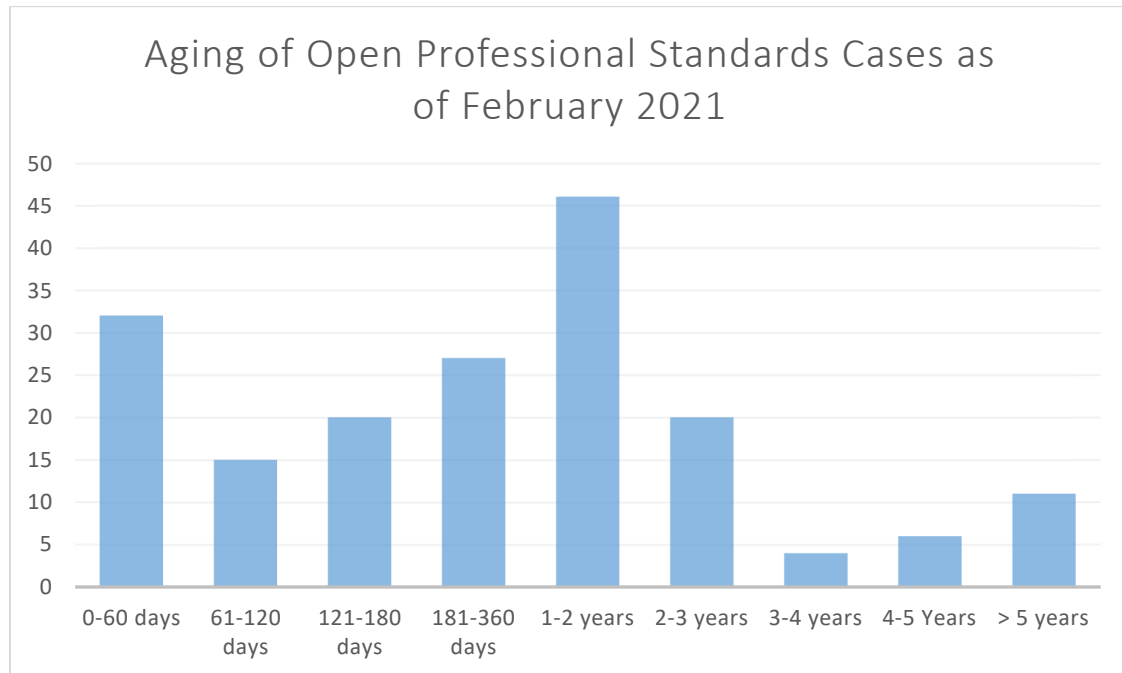
Exhibit E**Professional Standards Closed Case Statistics as of February 2021**

Complaint Type	No. of Closed Cases	Benchmark to Close Case (in days)	Median Time Taken to Close Case (in days)	Average Time Taken to Close Case (in days)	Range of Time to Close (in days)	% of cases Exceeding Benchmark.
ADA	332	45	66	93	0 to 668	67%
Equal Employment Opportunity	85	180	115	244	0 to 1134	56%
Wage Recovery	174	180	136	166	0 to 647	38%
Ethics/Professional Standards	62	180	91	182	0 to 808	56%
Whistle Blower	5	90	78	125	40 to 347	40%
HIPAA	0 (There were 7 Open Cases)	180	*596	*489	*295 to 623	*100%

Compiled by the Office of the County Auditor based on data in spreadsheets provided by management.

**Denotes statistics for open cases as no closed cases were available for review.*

In addition, we aged all open cases within the Professional Standards functional area to evaluate how long the cases were open as of the date management provided the data. Exhibit F shows an aging of all open cases based on data provided by management in February 2021.

Exhibit F

There were 181 cases which were open an average of 588 days as of February 3, 2021. The County's website, states that the goal of the department is to complete all investigations within 180 days and ADA investigations within 45 days. Internal PSHRS internal policies and procedures, requires that EEO investigations be completed within 180 days. The Broward County Administrative Code 19.67 (c), states that Whistle Blower investigations need to be completed 90 days after receiving the allegation.

- C. Case management and investigative steps are not performed timely contributing to the case statistics noted in A. and B. above. We review a sample of 26 open cases and noted the following:
- a. It took an average of 89 days with a range of 0 to 315 days to assign an investigator to the open cases reviewed. There were 22 of 26 cases with sufficient data to calculate the length of time it took to assign an investigator.
 - b. It took an average of 172 days with a range of 8 to 315 days to send a Notification Memo to the complainant for the open cases reviewed. There were 19 of 26 cases with sufficient data to calculate the length of time it took to send a notification memo to the complainant.
 - c. It took an average of 153 days, with a range of 0 to 1,246 days to send Notification Memos to respondent for the open cases reviewed. There were 22 of 26 cases

with sufficient data to calculate the length of time it took to send a notification memo to the respondent.

- d. It took an average of 151 days, with a range of 0 to 931 days between the date the complainants and respondent were notified to documentation of the first investigative activity performed by an investigator. There were 19 of 26 cases with sufficient data to calculate the time between the notification correspondence and the first documented investigative activity.
- e. There was an average of 167 days with a range of 1 to 575 days between documentation of the last work completed on the case and the date we performed our analysis for all 26 open cases reviews.

Cases should be investigated and closed timely. Failure to investigate and close cases timely may result in non-compliance with County Ordinance, County policies, procedures, and County guidelines, and may discourage the reporting of inappropriate activity. In addition, taking an excessive amount of time to investigate cases may allow inappropriate activity to continue to occur for an extended period of time with unknown consequences.

For example, we noted four of the 26 open cases reviewed that were open for an average of 565 days, ranging from 442 to 821 days, that were then administratively closed. These four cases were complaints that alleged, a suspected act or improper act of gross mismanagement, wrongdoing, or misconduct by employees, possible violation of Cone of Silence Ordinance, alleged acts of gross waste of public funds by management, and alleged complaints of retaliation by a manager toward staff member who filed a Whistle Blower complaint. Exhibit G below summarizes each of the 26 cases reviewed with a brief generalized case description.

Exhibit G

Professional Standards Open Case Summary

Sample #	Complaint Date	Case Type	Complaint Description
1	October 2019	Americans with Disabilities Act	Unsafe work conditions
2	June 2020	Americans with Disabilities Act	Unsafe work conditions
3	August 2020	Americans with Disabilities Act	Requested work accommodations due to medical issues.
4	September 2020	Americans with Disabilities Act	Requested work accommodations due to medical issues.

Sample #	Complaint Date	Case Type	Complaint Description
5	September 2020	Americans with Disabilities Act	Requested work accommodations due to medical issues.
6	June 2019	Equal Employment Opportunity	Workplace retaliation and discrimination.
7	February 2019	Equal Employment Opportunity	Supervisor misconduct and lack of safety procedure compliance.
8	January 2020	Equal Employment Opportunity	Workplace harassment.
9	April 2019	Equal Employment Opportunity	Discrimination and retaliation.
10	June 2019	Health Insurance Portability and Accountability Act	HIPAA violation.
11	May 2020	Health Insurance Portability and Accountability Act	HIPAA violation.
12	December 2017	Professional Standards	Gross mismanagement and misconduct.
13	October 2019	Professional Standards	Gross mismanagement and misconduct
14	December 2019	Professional Standards	Gross mismanagement, neglect of duty, misconduct, suspected violation of federal, state, or local law or regulation.
15	October 2019	Professional Standards	Discrimination and retaliation. Gross mismanagement, wrongdoing, or misconduct.
16	October 2019	Professional Standards	Violation of federal, state, or local law regulation. Act or suspected act of gross waste of public funds.
17	August 2020	Professional Standards	Gross mismanagement, wrongdoing, or misconduct.
18	January 2020	Professional Standards	Gross mismanagement, wrongdoing, or misconduct.

Sample #	Complaint Date	Case Type	Complaint Description
19	May 2019	Professional Standards	Gross mismanagement, wrongdoing, misconduct.
20	April 2020	Cone of Silence	Violation of Cone of Silence Ordinance.
21	April 2019	Whistleblower	Gross waste of public funds.
22	November 2020	Whistleblower	Gross waste of public funds, gross mismanagement, wrongdoing, and misconduct.
23	September 2020	Whistleblower	Gross waste of public funds, gross management, wrongdoing, misconduct, or performance of a lawful act in illegal or improper manner.
24	April 2020	Whistleblower	Retaliation, gross mismanagement, safety concerns
25	September 2020	Wage Recovery	Inaccurate Wages
26	September 2020	Wage Recovery	Inaccurate Wages

We recommend management take immediate action to:

- A. Establish internal investigative case milestones and timelines for each case type to assist in identifying and addressing cases timely that are likely to fail in meeting performance benchmarks.
- B. Ensure complaints are investigated timely in accordance with regulations, agreements, and standards.

2. Investigations are not Consistently Completed in Compliance with Regulations, Agreements, and Standards.

We reviewed a selection of cases for compliance with relevant regulations, agreements, and standards and noted the following:

- A. The Human Rights Section does not prepare investigative case plans for alleged discriminatory housing practices or policies as recommended by the U.S. Department of Housing and Urban Development (HUD) for housing discrimination complaints investigated under the Fair Housing Act (FHA). The investigation plan is a road map for an investigation based on careful analysis of the complaint, the known facts, the provisions of the Fair Housing Act, and anticipated steps. It helps the investigator avoid dead ends and keeps the investigation on track and on schedule. Chapter 7 of the HUD Handbook, and the Memorandum of Understanding (MOU) between HUD and the Office of Professional Standards/Human Rights Section recommend that investigative case plans be used for every complaint processed that is cognizable under the Fair Housing Act. Failure to use an investigation case plan might lead to inefficient and ineffective investigations.
- B. During our review of 35 closed discrimination (housing, public accommodation, employment) cases investigated by the section, we noted the following:
- i. Twenty-five (71%) respondents were not notified of a complaint within 10 calendar days. Section 16 ½-44 (c) (2) of the Code of Ordinances states:

“The Human Rights Section shall, not later than ten (10) calendar days after a complaint is filed or an additional respondent is identified, serve on the respondent a notice identifying the alleged discriminatory practice and advising each respondent of his or her procedural rights and obligations under this Act, together with a copy of the original complaint;”
 - ii. Three (9%) investigations were not started within 30 calendar days. Section 16 ½-44 (c) (5) of the Code of Ordinances states:

“Within thirty (30) calendar days after a complaint is filed, the Human Rights Section shall begin an investigation of the alleged discriminatory practice.”
 - iii. One (3%) case was administratively closed without proper supporting documentation such as a Conciliation Agreement or Notice of Dismissal or evidence of supervisory review. This case also lacked evidence of supervisory review. Proper internal controls and quality assurance review standards require that a supervisor review the findings of case before a report is issued and the case is closed.

- C. During our review of 46 closed professional standards cases (EEO, ADA, Wage Recovery, Living Wage Ethics/Professional Standards) investigated by the section, we noted the following:
- i. In two of 10 (20%) ethics/professional standards cases tested, a completed questionnaire or a Complaint Form was not retained.
 - ii. In one of ten (10%) EEO cases tested, a completed questionnaire or a Complaint Form was not retained.

Investigations should be consistently completed in compliance with regulations, agreements, and standards. Failure to consistently follow procedures and retain appropriate investigation documentation may increase the County's legal risk and may reduce management's ability to support investigation results.

We recommend management:

- A. Prepare investigative case plans for housing discrimination complaints investigated under the Fair Housing Act (FHA).
- B. Implement appropriate procedures to ensure cases are consistently completed in compliance with regulations, agreements, and standards.

3. PSHRS Does not Have Adequate Resources and Processes to Address all Responsibilities Prescribed in the Code of Ordinances.

During our review of PSHRS, we noted the following:

- A. PSHRS does not have adequate resources and processes to address all responsibilities prescribed in the Broward County Code of Ordinances. Exhibits H and I show the responsibilities of the Human Rights and Professional Standards functional areas outlined in the Code of Ordinances along with the status showing whether the responsibility is adequately addressed.

Exhibit H Human Rights Responsibilities and Status

Human Rights Responsibilities	Adequately Addressed?	Comment
Carry out the authority and responsibilities mandated by the Broward County Human Rights Act, working to ensure all individuals	No	Policies and Procedures within PSHRS require Enhancement to Adequately Support Internal

Human Rights Responsibilities	Adequately Addressed?	Comment
have the ability to live, work, and enjoy equal access to facilities open to the public in an environment free of unlawful discrimination, harassment, intimidation, and retaliation		Operations and Compliance with the Code of Ordinances. See OFI # 9
Complete and update a countywide Equal Opportunity Plan as required by federal law;	No	Professional Standards/Human Rights Section has not Developed an Equal Opportunity Plan as Required by Federal Regulations. See OFI # 2 and OFI # 3
Investigate allegations of housing discrimination and fulfill requirements of contracts between Broward County and the United States Department of Housing and Urban Development (HUD)	Yes	
Act as Broward County's designated investigative entity for violations of the Broward Human Rights Act.	Yes	

Compiled by the Office of the County.

Exhibit I

Professional Standards Responsibilities and Status

Professional Standards Responsibilities	Adequately Addressed?	Comment
Review and assist in the development of improvements to management controls and procedures of Broward County government;	No	Policies and Procedures within PSHRS require Enhancement to Adequately Support Internal Operations and Compliance with the Code of Ordinances. See OFI # 9
Conduct targeted evaluations of agency programs, operations, or activities, and assist Broward County agencies in identifying and resolving organizational issues;	No	Policies and Procedures within PSHRS require Enhancement to Adequately Support Internal Operations and Compliance with the Code of Ordinances. See OFI # 9
Identify training needs and conduct seminars to educate Broward County	No	Policies and Procedures within PSHRS require Enhancement to

Professional Standards Responsibilities	Adequately Addressed?	Comment
personnel and agencies on disability affairs issues related to compliance with the Americans with Disabilities Act (ADA);		Adequately Support Internal Operations and Compliance with the Code of Ordinances. See OFI # 9
Investigate and resolve complaints filed by individuals with disabilities alleging discrimination by Broward County agencies on the basis of such disabilities;	Yes	
Coordinate employees' requests for reasonable accommodation;	Yes	
Investigate internal cases of alleged employment discrimination, ethics violations, and other violations of Broward County policies;	Yes	
Identify training needs and conduct seminars to educate Broward County personnel and agencies on equal employment opportunity issues;	No	No evidence of formal procedures or activity in this area noted during the audit period. See OFI # 9
Coordinate and monitor Broward County's efforts to comply with the Health Insurance Portability and Accountability Act (HIPAA).	No	No evidence of formal procedures or activity in this area noted during the audit period. See OFI # 7

Compiled by the Office of the County Auditor.

Both management and staff indicated during interviews that PSHRS is currently working through the backlog of cases and does not currently have the resources to perform the additional responsibilities outlined in the Code of Ordinances.

- B. The average caseload per investigator was 33 cases as of September 30, 2020, which appears to be excessive. The Section has not established workload standards to determine the optimal number of cases that can be assigned to an investigator at a specific point in time; however, The Department of Housing and Urban Development (HUD) recommends a caseload of 20 to 25 cases per investigator. Excessive caseloads may lead to increased staff turnover, inadequate investigation of individual cases, and an increase in the time taken to resolve each case.
- C. A staffing analysis has not been adequately performed to estimate the number of staff needed to perform all functions required by the Code of Ordinances in a timely and

effective manner. PSHRS should have sufficient staffing to meet the responsibilities outlined in the Code of Ordinances. Without a staffing analysis, management is unaware of the number of staff needed to perform all required functions.

Management should ensure that formal processes are implemented, and appropriate resources are allocated to ensure all responsibilities outlined in the Code of Ordinances are met. Failure to meet all responsibilities outlined in the Code of Ordinances reduces the ability of PSHRS to meet its organizational objectives.

We recommend management:

- A. Implement processes and allocate the resources needed to adequately meet all responsibilities prescribed in the Code of Ordinances.
- B. Establish workload standards based on an analysis of standards and the average effort needed to investigate each case type and the mix of cases handled by investigators within the section.
- C. Perform a staffing analysis and calculate staffing requirements based on historical and anticipated future case numbers. Once the analysis is complete, management should ensure that staffing within the section is adequate.

4. PSHRS Does not Have Adequate Safeguards to Ensure its Independence and Address Potential Conflicts of Interest.

PSHRS does not have adequate procedures to ensure its independence and address potential conflicts of interest. PSHRS is currently organized as a section within County Administration, where the Professional Standards/Human Rights Section's Administrative Manager is appointed by and serves at the pleasure of the County Administrator. As such, it is important that PSHRS implement adequate safeguards to maintain the independence of investigations and ensure that potential conflicts of interest are identified and resolved when cases arise where there is the appearance of a conflict of interest. During our review we noted that PSHRS does not have conflict of interest policies and procedures that would;

- A. Define formal requirements to refer cases to either the County Attorney's Office, County Auditor's Office, Office of the Inspector General, or other independent entity when the appearance of a conflict of interest cannot be adequately resolved. Such instances may include the investigation of complaints against County Administration to whom the section reports and complaints against the manager or employees of PSHRS.

- B. Require investigators to disclose any conflicts of interest when assigned a case prior to conducting an investigation. Each investigator should be free, both in fact and appearance, from impairments to their independence which can include personal or financial relationships; preconceived biases; or prior involvement with the parties or entities being investigated. The goal is to prevent the appearance of impropriety and undue influence.

According to Section 26-67 of Broward County Code of Ordinances, “

“a conflict of interest policy is essential to the proper operation of government as there is a need for elected and appointed officials and government employees to display independence, impartiality, and responsibility to the people they serve. To achieve this goal, it is necessary that government decisions and policy be made through the proper channels of the governmental structure; that public office and employment is not used for personal gain; and that the people have confidence in the integrity of their government. The public interest, therefore, requires that the law protect against any conflict of interest and establish standards for the conduct of elected and appointed officials and government employees.”

Without a conflict of interest policies, the section and its investigators may appear biased in the investigations of complaints reducing public and employee confidence in the integrity of PSHRS.

We recommend management create conflict of interest policies and procedures that would:

- A. Refer cases to another independent entity when the appearance of a conflict of interest cannot be adequately resolved.
- B. Require investigators to disclose any conflicts of interest when assigned a case prior to conducting an investigation.

5. Professional Standards/Human Rights Section has not Developed an Equal Opportunity Plan as Required by Federal Regulations.

The Professional Standards/Human Rights Section (PSHRS) has not developed an Equal Employment Opportunity (EEO) Plan as required by federal regulations (28 C.F.R Section 42.30). An Equal Employment Opportunity (EEO) Plan is a workforce report that some organizations must complete as a condition for receiving Department of Justice (DOJ) funding authorized by the Omnibus Crime Control and Safe Streets Act of 1968. The purpose of the EEO Plan is to ensure that recipients of financial assistance from the Justice Department are providing equal

employment opportunities to men and women regardless of sex, race, or national origin. It is used as a tool to identify possible problem areas where discrimination may be occurring.

Recipients of DOJ funding must develop a comprehensive EEO Plan and submit an EEO Utilization Report if they meet all of the following criteria:

- ❖ The recipient is a state or local government agency or a business; AND
- ❖ The recipient has 50 or more employees; AND
- ❖ The recipient has received at least a single award of \$25,000 or more.
- ❖ The recipient receives financial assistance through the following Department of Justice programs:
 - Office of Justice Programs (OJP)
 - Office on Violence Against Women (OVW)
 - Office of Community Oriented Policing Services (COPS) under the Omnibus Crime Control and Safe Streets Act of 1968 (Safe Streets Act)
 - Victims of Crime Act (VOCA) or otherwise subject to the civil rights provisions of the Safe Streets Act

Broward County meets the requirements stated in the prior paragraph as a recipient of over \$25,000 in DOJ funding and is required to develop a comprehensive EEO Plan. Failure to develop an EEO Plan results in non-compliance with federal regulations and may jeopardize Broward County's access to current and future DOJ funding.

Our office issued Advisory No. 183 to County Administration on March 18, 2021, to inform management about the lack of an EEO Plan. PSHRS has since contracted with a vendor to complete the FY 2021 EEO Plan. This process is expected to take several months.

We recommend management continue its efforts to develop an EEO Plan as required by federal regulations.

6. PSHRS Does not Adequately Track the Department of Justice's EEO Program Submission Requirements to Ensure Compliance.

PSHRS does not adequately track DOJ's Equal Employment Opportunity Program Submission Requirements to ensure compliance. According to information provided by management, PSHRS did not submit the required Annual Certification Form for FY 2019. In addition, according to information provided by management, PSHRS last submitted the required biennial EEO

Utilization report for the 2018 fiscal year on January 10, 2019; however, it is unclear when the next EEO Utilization report is due.

Recipients of DOJ funding are not all required to submit a comprehensive EEO Plan to the Department of Justice, Office for Civil Rights (OCR). Instead, certain recipients, including Broward County, are required to develop and submit an EEO Utilization Report, a sub-component of their comprehensive plan to OCR every two years. The due date of the initial report is 120 days after the award date of the initial award and subsequent submissions are due two years after the date of the previous approval letter from the OCR. PSHRS is not aware of the due date of this report based on the initial award date.

In addition, all recipients of DOJ Funding are required to submit a Certification Form each year to the OCR. The Certification Form is the way for recipients to acknowledge what their reporting requirements are. It includes information on number of employees, single largest grant amount, and organizational type. The Certification Form allows each recipient to claim an exemption from the EEO Program requirements or to acknowledge their submission requirements to the OCR. This form also requires all direct and sub-recipients to identify any organization they provide at least one award of \$500,000 or more. The EEO Certification Form is due 120 days from the initial award date. For proceeding years, the Certification Form is due on the same date as the initial submission of the form. PSHRS is not aware of the due date of this form based on the initial award date.

Broward County is required to submit an EEO Utilization Report every two years and a Certification Form each year. Failure to submit the annual certification forms result in non-compliance with federal regulations and may jeopardize Broward County's access to current and future DOJ funding.

We recommend management contact the OCR to confirm that all required document submissions have been made and accepted. In addition, we recommend management obtain the initial award agreement and determine the due dates for these required documents based on the initial award date and implement procedures to ensure compliance.

7. HIPAA Privacy Audits are not Conducted as Required by CAPP.

Annual HIPAA privacy audits of County agencies are not being conducted by the HIPAA Privacy Officer. Chapter 30, Section 1.8 of the County Administrative Policies and Procedures (CAPP) states that "the HIPAA Privacy Officer shall perform an annual HIPAA Privacy Audit of each HIPAA Component and utilize the HIPAA Privacy Rule and HITECH Act Audit Tool to document the Privacy Audit." Management indicated that the HIPAA Privacy Officer position was vacant and has been filled as of June 27, 2021. Failure to perform annual audits results in non-compliance

with County policy and may allow privacy concerns or problems to remain unaddressed increasing the risk of fines for non-compliance.

We recommend management conduct annual HIPAA Privacy Audits as required by the CAPP.

8. PSHRS Does not Have a Case Management System to Support Internal Operations and the Adequate Tracking of Cases.

During our audit, we noted that PSHRS uses manually maintained spreadsheet to manage and track cases rather than an electronic case management system. Manual spreadsheets lack access controls and data validation controls that would reduce the risk of error, limit access to appropriate personnel, or reduce the risk of unauthorized changes or deletions of records reducing the integrity of the data. Management is in the process of procuring a case management system.

We recommend management continue its efforts to procure and implement a case management system.

9. Policies and Procedures within PSHRS require Enhancement to Adequately Support Internal Operations and Compliance with the Code of Ordinances.

During our review of PSHRS's policies and procedures against the requirements of the Code of Ordinances as well as in support of internal operations, we noted the following:

- A. Internal procedures to support internal operations are often informal and the written procedures in place require enhancement. Specifically, we noted:
 - i. Management has not documented policies and procedures for investigating employment discrimination and public accommodation complaints received by the Human Rights functional area.
 - ii. Management uses externally developed policies and procedures for investigating housing discrimination complaints received by the Human Rights functional area. The procedures were developed by the United States Department of Housing and Urban Development (HUD) which is not tailored to the agency's operations and contains only 7 of the 10 protected classifications in the County's Human Rights Act.
 - iii. PSHRS has not established a privacy policy to describe how sensitive information (e.g., bank account information) is handled and whether the information is kept confidential when case files are shared with third parties.

B. Formal procedures have not been developed or implemented to ensure the following required of the Code of Ordinances are met:

- i. Review and assist in the development of improvements to management controls and procedures of Broward County government;
- ii. Conduct targeted evaluations of agency programs, operations, or activities, and assist Broward County agencies in identifying and resolving organizational issues;
- iii. Identify training needs and conduct seminars to educate Broward County personnel and agencies on disability affairs issues related to compliance with the Americans with Disabilities Act (ADA);
- iv. Identify training needs and conduct seminars to educate Broward County personnel and agencies on equal employment opportunity issues;
- v. Coordinate and monitor Broward County's efforts to comply with the Health Insurance Portability and Accountability Act (HIPAA).
- vi. Carry out the authority and responsibilities mandated by the Broward County Human Rights Act, working to ensure all individuals have the ability to live, work, and enjoy equal access to facilities open to the public in an environment free of unlawful discrimination, harassment, intimidation, and retaliation.
- vii. Complete and update a countywide Equal Opportunity Plan as required by federal law;

Policies and procedures are an essential part of any organization. Together, policies and procedures provide a roadmap for day-to-day operations, ensure compliance with laws and regulations, give guidance for decision-making, and streamline internal processes. Failure to establish comprehensive policies and procedures increase operational risks and reduces management's ability to consistently achieve organizational objectives.

We recommend management develop and enhance internal policies and procedures to adequately support internal operations and ensure compliance with the Code of Ordinances.

10. Insufficient Space to Adequately Store and Protect Physical Case Files.

During our review, we observed that physical case files are not adequately stored and protected within the PSHRS area. Active physical files are typically in the custody of the investigator or stored within their office or homework space.

In addition, As shown in Figures 1 and 2, we observed physical files stored within boxes and on top of filing cabinets throughout the office.



Figure 1 – Example of unsecured physical files on top of cabinets



Figure 2 - Example unsecured physical files stored in boxes.

Management indicated that there is insufficient storage space to secure these files within the office. While access to the office is restricted using electronic badge access. These files may contain protected health information (PHI) and personally identifiable information (PII) which require special protection and investigators are not the only individuals with access to the office. *(For example, cleaning staff and security personnel)*

Failure to adequately safeguard physical case files increases the risk of unauthorized disclosure, loss of case files, or unauthorized alteration.

We recommend management adequately secure physical case files when not in the direct custody of an investigator.

MANAGEMENT'S RESPONSE



MONICA CEPERO, County Administrator

115 S. Andrews Avenue, Room 409 • Fort Lauderdale, Florida 33301 • 954-357-7354 • FAX 954-357-7360

MEMORANDUM

DATE: March 24, 2022

TO: Robert Melton, County Auditor

FROM: Monica Cepero, County Administrator

RE: Management Response to Office of the County Auditor's Audit of Professional Standards/Human Rights Section

The Broward County Professional Standards/Human Rights Section ("Section") has reviewed the above referenced Office of the County Auditor's Audit ("Audit") of the section and submits the following as Management's response.

In summary, Management acknowledges the Auditor's overall conclusion that in the past, complaints have not been investigated timely in accordance with regulations, agreements, and standards. During the five-year period that the Audit Report covered, the timeliness of investigations can be directly tied to staffing challenges experienced by the Section for the last several years.

It should be noted that Section leadership changed in February 2020 and the Section is now led by a seasoned local government professional with significant legal, human resources, and government operations experience who is a hands-on manager. As a result of this change, there has been an increase in staffing and resources that are focused on more dated investigations such that any delinquent or dated inquiries are being investigated timely and backlogs have been significantly reduced. The number of complaints filed between FY 19 and FY 20 increased 10%; however, the number of investigations completed increased 190%. As indicated in the Audit Report, the annual budget and budgeted positions for the Section increased approximately 66% and 60% respectively since fiscal year 2017. As a result of the additional positions and the focus on staffing, the number of complaints for investigations per investigator decreased by 40% to a more manageable level during this same time-period.

Management responses to the Opportunities for Improvement and Recommendations in the Audit Report are below.

Opportunity for Improvement 1: *Complaints are not investigated timely in accordance with regulations, agreements, and standards.*

As indicated above, the timeliness, or lack of timeliness, of investigations can be directly tied to staffing challenges experienced by the Section for the last several years. The staffing challenges included a more than 40% staff turnover among the investigators. Since the Section has a limited number of investigators, investigations became delayed during various staffing transitions. In addition, there have been multiple changes in the top management of the Section.

Since February 2020, when the current Section manager was hired, there has been a focus on hiring and stabilizing staffing for the entire Section, as well as securing additional resources to have outside assistance to reduce caseloads. To date, the Professional Standards side of the Section is fully staffed, and the Human Rights side has increased staffing by two employees.

Additionally, the Section is in the process of procuring a case management system (CMS). The CMS will increase the Section's ability to track and monitor the various stages of cases as they progress through the Section. The Section anticipates that the new system will be procured and implemented before the end of calendar 2022.

Recommendation A: Establish internal investigative case milestones for each case type to assist in identifying and addressing cases timely that are likely to fail in meeting performance benchmarks.

Management Response: *Management agrees in part* as it already has benchmarks. Specifically, for fair housing cases under Housing and Urban Development (HUD) there is a 100-day benchmark from HUD. For equal opportunity cases, there is an internal goal to conclude investigation within 180 days from the date the complaint was received. Management plans on formalizing these benchmarks and incorporating into the CMS by the end of the calendar year.

Recommendation B: Ensure complaints are investigated timely in accordance with regulations, agreements, and standards.

Management Response: *Management agrees* and will continue to emphasize timely investigations. It should be noted that the Section is still addressing a significant backlog of cases as a result of staffing issues which impacts the timeliness of current and future cases until the backlog is resolved.

Opportunity for Improvement 2: *Investigations are not consistently completed in compliance with regulations, agreements, and standards.*

While there may be some *recommended* steps in documenting investigations that the Section does not complete to not further delay the investigation, the Section does complete investigations in compliance with any *required* regulations, agreements, and standards.

Recommendation A: Prepare investigative case plans for housing discrimination complaints investigated under the Fair Housing Act (FHA).

Management Response: *Management agrees in part.* While the Human Rights Section does not prepare investigative case plans for alleged discriminatory housing practices or policies, the investigators do utilize the Title VIII Complaint, Intake, Investigation and Conciliation Handbook ("Handbook") from the U.S. Department of Housing and Urban Development (HUD) in various facets of the housing discrimination complaint process.

The Handbook details the elements of the discrimination and the direct and indirect evidence that must be present for a prima facie case. Additionally, staff routinely hold case discussion meetings where they review the specific requirements such as the prima facie elements, witnesses, and documents necessary to complete the investigation. Moreover, the use of an investigative plan is "recommended", but not required by HUD. In fact, in recent trainings with HUD, their administrators have noted that the investigative plan template is bulky and overly burdensome and can sometimes slow down the investigative process. To avoid further impacting the timeliness of investigations, the investigative case plan is not completed, but investigators routinely follow the HUD handbook in the complaint process.

Recommendation B: Implement appropriate procedures to ensure cases are consistently completed in compliance with regulations, agreements, and standards.

Management Response: *Management agrees in part.* The Section has procedures to complete cases in compliance with regulations, agreements, and standards. The Section is in the process of reviewing and will update these procedures accordingly.

Opportunity for Improvement 3: *PSHRS does not have adequate resources and processes to address all responsibilities prescribed in the Code of Ordinances.*

Management Response: *Management agrees in part.* While certain activities or duties are covered and prescribed under the Code, this office has primarily focused on and used resources in the investigation of cases and historically has not performed these duties/activities. The Section is reviewing the Code of Ordinances to determine if any revisions would be appropriate.

Opportunity for Improvement 4: *PSHRS does not have adequate safeguards to ensure its independence and address potential conflicts of interest*

Recommendation A: Refer cases to another independent entity when the appearance of a conflict of interest cannot be adequately resolved.

Recommendation B: Require investigators to disclose any conflicts of interest when assigned a case prior to conducting an investigation.

Management Response: *Management agrees in part.* While the Section may not have a formal conflict of interest policy specific to its investigators, the Section has had and addressed conflict of interest issues in the past by referring cases to another independent entity. Notwithstanding, and to address the concern, the Section has created a procedure that mandates that any person who is employed as an investigator in Professional Standards/Human Rights who believes that he/she may have a conflict of interest in the discharge of his/her duties shall immediately notify the Section's Administrative Manager. The Administrative Manager, who reports directly to County Administration, will make a determination regarding the conflict and take any necessary action including, but not limited to reassignment of the case or hiring a neutral third party to investigate the matter. If the Administrative Manager believes he/she may have a conflict of interest in the discharge of his/her duties, he/she notifies the County Administrator and the County Attorney's Office.

Opportunity for Improvement 5: *Professional Standards/Human Rights Section has not developed an Equal Opportunity Plan as required by federal regulations.*

Recommendation: Management continue its efforts to develop an EEO Plan as required by federal regulations.

Management Response: *Management agrees and completed.* The Equal Employment Opportunity Plan (EEOP) Utilization Report, as required by federal regulations, is filed biennially. The previous EEOP was developed and submitted to the Department of Justice on January 11, 2019. More recently, the 2021 report was submitted on January 7, 2022 and the next report will be due in January 2024.

Opportunity for Improvement 6: *PSHRS does not adequately track the Department of Justice's EEO Program submission requirements to ensure compliance.*

Recommendation: Management should contact OCR to confirm that all required document submissions have been made and accepted.

Management Response: *Management disagrees.* As stated previously, the Section does track submission requirements and submit required reports as explained in paragraph 5.

Furthermore, the Section is aware of the Office of Civil Rights' timeframes for submission and all required submissions have been completed. The EEOP Certification Form and EEOP Utilization Report is due annually and biennially, respectively. More specifically, the next EEOP Certification Report is due on or before January 7, 2023, while the EEOP Utilization Report is due on or before January 7, 2024. The required reports are up-to-date.

Opportunity for Improvement 7: *HIPAA Privacy Audits are not conducted as required by CAPP.*

Recommendation: Conduct annual HIPAA Privacy Audits as required by the CAPP.

Management Response: *Management agrees in part.* HIPAA privacy compliance is the process that business associates and covered entities follow to protect and secure Protected Health Information (PHI) as prescribed by the Health Insurance Portability and Accountability Act (i.e., keep people's healthcare data private). While staff has not completed the county's self-mandated annual audit, staff collaborates regularly with covered agencies regarding Business Associate Agreements (BAAs), updating forms, and reviewing and investigating possible HIPAA privacy breaches. This regular collaboration with covered agencies complies with the spirit and intent of the CAPP to have a regular review. Notwithstanding, the Section will review the federal standards and revise the CAPP in order to make the necessary revisions to be consistent with federal regulations and in line with the demands and obligations of the Privacy Officer.

Opportunity for Improvement 8: *PSHRS does not have a case management system to support internal operations and the adequate tracking of cases.*

Recommendation: Management continue its efforts to procure and implement a case management system.

Management Response: *Management agrees.* As indicated in the Audit Report, the Section is in the process of procuring a CMS (case management system). It is estimated that the new system will be procured and implemented by the end of calendar 2022.

Opportunity for Improvement 9: *Policies and procedures within PSHRS require enhancement to adequately support internal operations and compliance with the Code of Ordinances*

Recommendation: Management develop and enhance internal policies and procedures to adequately support internal operations and ensure compliance with Code of Ordinances.

Management Response: *Management agrees in part.* The Section has complaint processing procedures for complaints outlined in the Code of Ordinances. As stated previously, the Section is in the process of reviewing and updating these procedures.

Opportunity for Improvement 10: *Insufficient space to adequately store and protect physical case files.*

Recommendation: Management adequately secure physical case files when not in the direct custody of an investigator.

Management Response: *Management agrees in part.* Physical files of active cases are secured with the investigator or locked in file room cabinets. However, due to the relocation of the County's archives and other priorities, closed case files have not been archived timely. These closed files, which are public records, have been stored in the Section's file and conference rooms which is restricted to staff members.

Thank you for the opportunity to respond and provide Management's comments to the Audit. If there are any additions, deletions/omissions, or other changes or modifications to Management's response, please provide us the opportunity to review prior to issuance. Should you have any questions or require additional information, please do not hesitate to contact me.

cc: Mayor and Board of County Commissioners
Kevin Kelleher, Assistant County Administrator
Averill L Dorsett, Administrative Mgr, Professional Standards/Human Rights Section
Andrew Meyers, County Attorney