

Civil Rights Reporter

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JOURNAL OF THE TEXAS WORKFORCE COMMISSION CIVIL RIGHTS DIVISION



Mission Statement
Our mission is to reduce discrimination in employment and housing through education and enforcement of state and federal laws.

Vision
Our vision is to help create an environment in which citizens of the State of Texas may pursue and enjoy the benefits of employment and housing that are free from discrimination.

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Civil Rights Division

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The Life of a TWC Civil Rights Intern

Julia Cloudt

I start my day the way most twenty-year-olds do: I roll out of bed, make my coffee, and spend five minutes staring off into the abyss, wondering what I am going to do with my life. My name is Julia Cloudt. Some of you may have met me, others maybe not, so I will go ahead and fill you in on who I am and what my experience has been like with TWC. I am currently going into my senior year at The University of Texas at Austin. I am pre-law and double majoring in Philosophy and Psychology, with a minor in Law, Justice, and Society. Before coming to TWC, I was working as a legal assistant at a personal injury law firm. I made great money and had amazing benefits, but every day I found myself growing more and more unfulfilled. One day I realized that no matter how much money I made at a job, if it did not align with my core values, I could not continue to sacrifice my time there. This realization led me to make the change and send in my application to the Civil Rights Division of TWC.

Civil Rights is not for the faint-hearted; in fact, if you are not committed to the mission, you might find yourself feeling depleted as well. Every day we come to work, we are actively fighting against systemic barriers and pursuing equality. Housing and employment are fundamental to the needs of American citizens and humans in general, and when individuals are discriminated against, it creates disparity. Without people like us, there would be no relief for those harmed, and no one to educate those who may be doing the harming, knowingly or unknowingly. Here at TWC, I can be the hand that reaches back to our local Texas citizens, helping them through our process, directing them to who can help, and providing them with resources. Let's be honest, state agencies are renowned for difficult systems that the average person has difficulty navigating. It is our state employees, such as myself, that provide that role of relief and can be a point of contact for our citizens.

I will be the first to tell you that working for the state was far from my expectations. If I am being transparent, I expected a bunch of sixty-something-year-olds giving me odd looks because of my tattoos and piercings. I was also extremely fearful I would be in an environment where I might be micromanaged and given no room for initiative. As a philosophy major, you'd think I would have learned by now how dangerous expectations can be. My experience here at TWC couldn't have been more different than what I had expected. For example, I brought up my concerns about my tattoos and piercings to a manager in HR. I was caught extremely off guard when I received a message from HR, asking for my assistance with updating the dress code to be more modern, diverse, and accepting. Additionally, while I am here at TWC to help in our day-to-day operations, I am overwhelmed with the amount of time that is spent learning. In early July, I visited Criss-Cole, which is a residential rehabilitation center for adults who are legally blind. Towards the middle of July, I visited the Supreme Court of Texas and the Texas Criminal Court of Appeals and spoke with two judges. I even got to see the robes! One of the judges had been told they wore black robes to signify them being coated in darkness, to keep their personal biases at bay. Additionally, I attended a FEPA (Fair Employment Practices Agencies) symposium, where I was the mistress of ceremonies for the first time. I learned a lot about myself, especially that my public speaking is extremely direct and lacking more suave than I had hoped.

Altogether, my experience here at TWC has been an opportunity for me to participate in something bigger than myself. I was able to become competent in Fair Housing Laws, ADA laws, and employment laws. I was able to expand my horizons; instead of sitting at my desk arguing with insurance companies at my previous law firm, I am now helping individuals learn more about their rights. I am gaining a vast array of knowledge about topics I have always been passionate about. I am pleased I got out of my comfort zone and took the leap to work in Civil Rights here at TWC.

Partnerships and Collaboration: A Vital Force in the Fight for Fair Housing

Patrick Williams

The pursuit of fair housing is an ambitious and multifaceted endeavor, demanding a coordinated approach that transcends traditional silos. Partnerships and collaboration are not merely beneficial – they are vital to ensuring equitable access to safe and affordable housing for all. This article explores the crucial role of partnership in achieving fair housing, highlighting the key benefits and essential players.

Breaking Down Barriers, Building Bridges

Fair housing issues often stem from systemic inequalities, ingrained prejudice, and discriminatory practices. Addressing these deeply rooted problems requires a collaborative effort, involving a diverse range of stakeholders:

- **Government Agencies:** Federal, state, and local governments play a pivotal role in establishing legal frameworks, enforcing fair housing laws, and allocating resources to promote equitable housing opportunities.
- **Non-Profit Organizations:** Community organizations, advocacy groups, and legal aid services provide crucial support to marginalized communities, empower residents, and advocate for policy changes.
- **Housing Developers and Providers:** Developers and landlords can actively contribute by implementing fair housing practices, promoting diversity in their projects, and working with community groups to address resident needs.
- **Real Estate Professionals:** Real estate agents, brokers, and lenders have a direct impact on housing access. They can actively promote fair housing principles, avoid discriminatory practices, and ensure equal opportunities for all clients.
- **Financial Institutions:** Banks, credit unions, and mortgage lenders have a significant influence on access to capital for homeownership. Promoting inclusive lending practices and combating redlining are crucial to fair housing goals.

Community Members: Individuals and residents play a crucial role by raising awareness, organizing communities, and advocating for their needs, holding policymakers and stakeholders accountable.

The Texas Workforce Commission-Civil Rights Division (TWCCRD) has been actively engaging with various organizations across Texas to promote fair housing practices. Over the past two years, TWC has forged partnerships with multiple Apartment Associations, the Texas Appraisal and Licensing Board (TALCB), the Association of Texas Appraisers (ATA), and the Texas REALTOR Association. These collaborations have resulted in over 30 educational and training events, reaching more than 1,200 practitioners.

The Tangible Benefits of Collaboration

- **Enhanced Impact:** By pooling resources, expertise, and outreach capabilities, partners can amplify their individual efforts, achieving greater impact and lasting change.
- **Shared Knowledge and Resources:** Collaborative platforms facilitate the exchange of best practices, data, and research findings, informing strategies and strengthening solutions.
- **Multi-Dimensional Solutions:** By drawing upon the diverse perspectives and expertise of partners, complex fair housing issues can be approached from multiple angles, leading to comprehensive solutions.
- **Increased Community Trust:** Partnering with community-based organizations fosters trust and legitimacy, enhancing community engagement and buy-in for initiatives.
- **Improved Efficiency and Effectiveness:** Collaboration streamlines efforts, avoiding duplication, reducing unnecessary expenditures, and optimizing resource utilization.

In November 2023, TWCCRD spearheaded the creation of a Texas FHAP Quarterly Forum. FHAP participants include Austin, Dallas, Fort Worth, and Corpus Christi. The Forum aims to foster collaboration by providing a platform for discussing best practices, addressing challenges, and identifying common trends among FHAPs. Key issues of concern for all FHAPs include personnel turnover, a shortage of trained investigators, and the need for permanently assigned GTMs. These concerns have been communicated to the Region Six GTMs and GTR.

Beyond Collaboration: Cultivating a Culture of Fairness

While partnerships are crucial, fostering a broader cultural shift towards fairness and inclusivity is essential for long-term success. This involves:

- **Raising Public Awareness:** Education and community engagement campaigns can dispel misconceptions, challenge biases, and cultivate empathy for the challenges faced by marginalized communities.
- **Empowering Communities:** Providing communities with access to information, tools, and resources to navigate housing markets and advocate for their needs strengthens their voice and builds their resilience.
- **Holding Stakeholders Accountable:** Developing transparent mechanisms to monitor compliance with fair housing laws and regulations ensures accountability and encourages continuous improvement

The journey towards fair housing requires sustained commitment and collective action. By embracing partnerships and collaboration, we can leverage the collective strength and expertise of diverse stakeholders to create a more equitable and inclusive housing system for all.

For TWC, a key objective is establishing partnerships with the FHIPs in Texas. This will enable the Civil Rights Division to directly communicate with individuals affected by unfair housing practices. We have already partnered with Disability Rights Texas, marking the first of many such collaborations.

Road Trip Through the Heartland

BRYAN SNODDY - DIVISION DIRECTOR

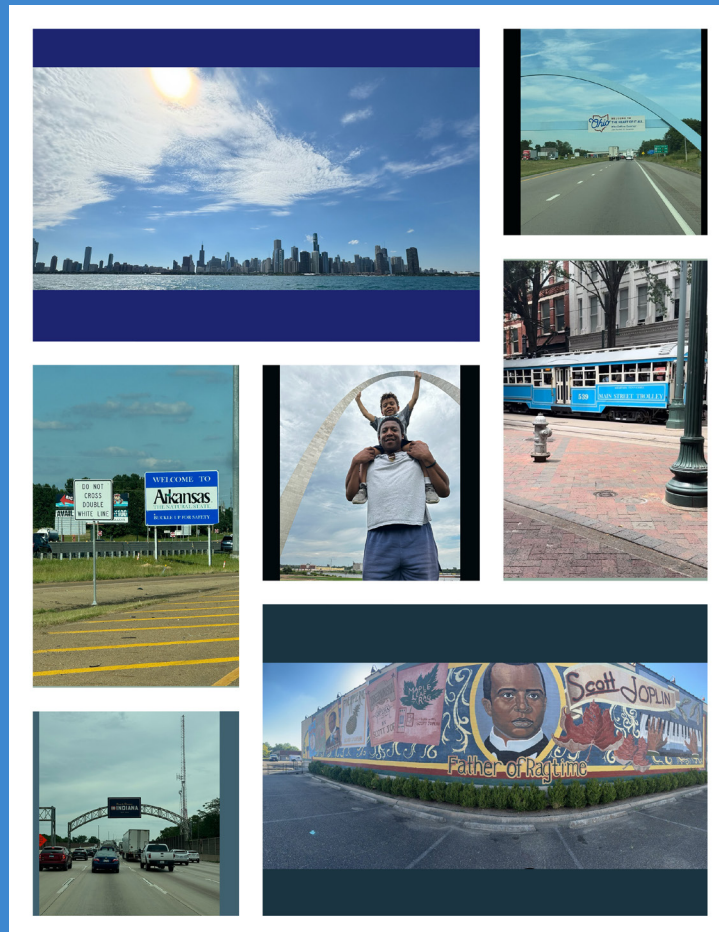
This summer, we packed up the Honda and took it for a 3,000-mile spin. Not endorsing the car manufacturer – just noting that the family SUV got us down the road safely and efficiently. We traveled from Austin to Texarkana to Little Rock to Memphis to St. Louis to Chicago to Indianapolis to Dayton to Columbus, and on the way home, through Cincinnati to Louisville to Paris (Tennessee – never miss a chance to visit my 101-year-old Great Aunt Alice). If it's starting to remind you of that song "I've Been Everywhere" by Johnny Cash – well, that's the point.

Visiting so many different states really helps put things in perspective. I love my Texas BBQ, but I would be remiss not to mention that Memphis knows a thing or two about ribs. Besides, they have great tourist attractions such as BB King's blues club and Graceland, where the King of Rock & Roll once resided. The Arch in St. Louis and the Gateway Park also draw quite a crowd. So many, in fact, that you need reservations for the cable-car ride. Oh well, maybe another day we will have a chance to take that ride. Instead, we spent time at Ted Drewes, right off the original and iconic Route 66, enjoying frozen custard.

Did I mention the deep dish in Chicago or the hot dogs that they serve at Wrigley Field? Indianapolis is surrounded by beautiful cornfields, and Dayton is home to the Wright-Patterson Air Force Base with one of the world's most impressive airplane museums. Downtown Columbus had an amazing fireworks display for over 400,000 people on July 3rd...yes, that is not a mistake. It is entitled Red, White, and Boom!

We could keep going on and mentioning so many other things to see and experience – but it is nearing lunchtime, and this entire trip down memory lane has brought on hunger pangs. The point is simple. The world, and America, is a wonderfully diverse place to live and enjoy unique experiences along life's journey. Seeing so many different faces, cultures, and traditions speaks to the power of ensuring that everybody is included and that everyone feels they belong in their community, state, our country, and our world. If you have time this summer or in the future, the State of Texas and America are incredibly rich in talent, culture, and especially food.

Rest assured, Texas has the best BBQ in the world. But the experiences and uniqueness beyond Texas are worth the ride. Haven't been everywhere yet, but we're going to keep trying.



Determination of Termination Date Regarding Workers' Compensation and Family Medical Leave (FML)

MARVIN CHANEY

Charging Parties sometimes raise the question of when they were discharged after filing a discrimination complaint, which may address reasonable accommodations and discharge.

Example of a case investigated by TWCCRD: The Charging Party complained that he was denied a reasonable accommodation, failed to be promoted, and was discharged based on his age and disability.

The Charging Party stated that he was injured while on the job. His injuries occurred in February. Due to those injuries, he sought the protection of the Family Medical Leave Act (FMLA). The Charging Party received approval and was granted leave under the statute. He remained on leave under both Workers' Compensation and FMLA. In early May of that year, the Responding Party notified him that he would exhaust all leave under FMLA and requested that he return to work with clearance from the medical provider. The Charging Party submitted his medical release, which included several restrictions. The Responding Party reviewed the release and informed him that he was not released because the restrictions included essential parts of his job duties. Therefore, he would not be allowed to return until those restrictions were lifted.

The Charging Party contended that the Responding Party failed to provide the requested accommodation and discharged him without cause. The Responding Party stated that it had notified him that it had made efforts to identify a position that would allow him to continue his employment but was unable to find one that did not require the same essential functions restricted by his physical limitations. The Charging Party also requested as an accommodation that the Responding Party create a position that did not exist and one that the company did not have the financial ability to create so that he could return to work and continue his employment. The Charging Party lamented that he was never informed that he had been terminated and that he learned of his termination when he went to an unemployment hearing. He also stated that based on his workers' compensation documentation, the Responding Party provided an earlier date for his termination.

The complaint filed by the Charging Party with TWCCRD was failure to accommodate, failure to promote, and discharge based on his disability and age.

TWCCRD conducted its investigation, and the case was submitted for closure with a No Cause recommendation. The justifications for the recommendation were as follows:

- The Charging Party exhausted his Family Medical Leave. The Responding Party's policy was that when an employee exhausts their leave and is unable to be released by a medical professional, they are offered the opportunity to resign, which the Charging Party chose not to do.
- The Charging Party no longer had the protection of the FMLA once he had exhausted all his leave, paid or unpaid.
- The Charging Party was never given a release that did not require him to have the identified essential functions as restrictions.
- The only accommodation that the Charging Party requested was to be allowed to work in a non-existent position. The Responding Party was not obligated to create a position for the Charging Party and identified legitimate business reasons for not creating the position.
- The Charging Party contended that he applied for two supervisor positions for which he was qualified. The Responding Party acknowledged that he applied for the positions but stated that he was not qualified for those positions because he could not perform the essential functions of the job due to not having been released to return to work without those restrictions, making him unqualified.
- Although the Charging Party stated that he was never informed of when he was discharged, and based on different documentation presented during an unemployment hearing and a Workers' Compensation hearing, the Responding Party listed the last date of work for the Workers' Compensation as the date his leave expired or was exhausted. For the unemployment hearing, the Responding Party listed the date that the Charging Party submitted his return to work with restrictions as the date of his discharge.

The main points to be taken from this case are that the Charging Party is not guaranteed job protection once his Family Medical Leave (FML) has been exhausted. The Responding Party bears no obligation to create a position to accommodate an employee. A person must be able to perform the essential functions of a job with or without an accommodation. If a current employee who is out due to medical reasons must be cleared to return to work without certain restrictions, it will allow them to perform the essential functions of the job. This gives the Responding Party a legitimate business reason for not hiring or promoting an individual. Lastly, a Responding Party can discharge an individual who has exhausted their leave under FMLA if they are unable to return to work and are unable to perform the essential functions of their job or an alternate position.

Understanding Differences with Black Licorice

Jeffrey Riddle, Editor and Trainer

Do you like black licorice? It's a candy that people usually have a strong opinion about—they either love it or hate it. You don't reach for black licorice if you dislike it, no matter how limited your options are. Let's face it, it's like ordering sweet tea anywhere in Texas. If you're told there is sugar on the table and the tea is unsweetened, just like black licorice (for those that don't like it), you're probably going to order something else, like Dr. Pepper.

So, what does black licorice have to do with people's values and beliefs? It's a simple analogy. If a coworker likes black licorice and you don't, you might give them a funny look or say you don't understand how they can eat it. But ultimately, you let them be because everyone has different tastes. You wouldn't want them to judge your snack choices either.

Here's what wouldn't happen: that coworker isn't going to get fired, passed over for a promotion, or treated unfairly just because they like black licorice and you don't. It sounds silly, right? But think about it: your taste for licorice is a part of who you are, and it probably won't change. The same goes for many aspects of our identities that are protected by law.

Out of the seven, five of those categories are with us from birth. We have a racial category, a skin color, an ethnicity, a sex. We acquire a religious belief (which does not mean only those typically associated with that term, but things like atheism and jedi belong) as we develop. The only two that have specific requirements are the age class, as you need to be over the age of 40 and the disability class.

These characteristics are fundamental to who we are, just like our taste preferences. We shouldn't be treated differently because of these inherent aspects of ourselves.

If we treat people's membership in the protected classes the same way we treat their snack preferences, we can avoid misunderstandings, issues, and complaints. So next time you see someone eating black licorice, remember to treat them just like anyone else.



1st Annual Fair Employment Practices Agencies Symposium

Robert Gonzalez

How many great endeavors were borne from an offhand comment or flippant criticism we'll never know. Last year during the Equal Employment Opportunity Commission's Fair Employment Practices Agencies- Tribal Employment Rights Ordinance (EEOC FEPA-TERO) conference the three Texas FEPAs were talking and one such innocuous comments was made, the kind of non-committal statement we all sometimes make, sounds good but lacks intention. One of us said, "You know, we should all get together and talk about this stuff."

And we did.

Thousands of Texans file allegations every year and the process can be intimidating. Last fiscal year there were 8,522 case closures in the state. Best estimations put this at about 30% of total inquiry submissions. We are talking about approximately 28,406 inquiries submitted! That's a lot of employees and employers engaging with our offices and seeking some resolution. And it is taking upwards of a year to go through the entire process. Let's confound the issue more with four distinctly different EEO offices; and strained resources – people and systems – across the board.

We are faced with a situation. It is a difficult one: too much work and too little resources to get it done. This is government work right...it is what it is. I personally am not one to just accept the status, it's the Texan in me I reckon. The same goes for the rest of our team in the Civil Rights Division as well as the Austin Civil Rights Office and Fort Worth's Diversity & Inclusion Department. On July 11th and 12th all three Texas FEPAs met for the 1st Annual Texas FEPA Symposium in Waco, Texas and together we are changing the paradigm.

Here is our goal: Improve our strategies toward eliminating employment discrimination in Texas. This is an endeavor that has never before been done in Texas at this scale. The three FEPAs are committed to deepening our partnership with each other and working more closely with the EEOC for a consistent experience regardless of what jurisdiction a Texan may file in. We not only talked about what some of the issues were but discussed the solutions. This goes from streamlining forms, sharing processes, joint investigations, and cooperative outreach.

Immediately following the symposium we began laying the groundwork for an actual process to share some key data amongst each other to better analyze trends we are seeing within our jurisdictions. Combined with new resources from the census bureau we are becoming better equipped to meet our customers, employee and employer alike, where they need us to be. These improved insights within the FEPAs and the expanded awareness to issues like systemic employers and complaint deserts will better direct outreach.

It was an intense event with presentations, discussions, and solutions. A Texan is a Texan regardless if they work or own a business in Austin, Fort Worth, Houston, or anywhere else in our great state. We all deserve to be treated with dignity in the workplace and our duty is to ensure that dignity is protected.



CIVIL RIGHTS REPORTER

TEXAS CONFERENCE FOR EMPLOYERS

As I've mentioned we do get out and about. One of the events we participate in is the Texas Conference for Employers. Come out and join us at our booth to talk over our training programs or try your hand at winning one of our fancy coffee mugs.

TWC's Office of the Commissioner Representing Employers sponsors the Texas Conference for Employers, a series of employer seminars held each year throughout the state. Employers who attend the seminars learn about state and federal employment laws and the unemployment claim and appeal process. We assemble our best speakers to guide you through ongoing matters of concern to Texas employers and to answer any questions you have regarding your business.

We encourage every employer to attend at least one of these conferences every year, since the topics are updated whenever there are new laws, regulations or court cases. Each conference is geared toward small business owners, HR managers and assistants, payroll managers, and anyone responsible for the hiring and managing of employees.

All in-person meetings do have a virtual option available that is attended via Zoom. The same material is presented and all informational handouts provided in-person, are provided in a digital format to virtual attendees. The virtual option is also great for companies that are headquartered outside of Texas and have operations within the state or planning to.

[Event Location - Austin, August 9](#)

Austin Southpark Hotel
4140 Governors Row
Austin, TX 78744

[Event Location - South Padre - September 27](#)

Holiday Inn South Padre Island
100 Padre Boulevard
South Padre, TX 78597

EQUAL EMPLOYMENT TRAINING

If you didn't already know and are still reading, our training is provided at no cost to the employer. Take advantage of having our training team do the training for you.

Are you a private employer looking to develop your company on the basics of Equal Employment Opportunity or for a better understanding of how to prevent sexual harassment in the workplace? The Civil Rights Division's Training team can help. We offer numerous EEO training presentations and can tailor training to your needs. Reach out to our training team at CRDTraining@twc.texas.gov to discuss and schedule your training!

Our complete our form found here. <https://forms.office.com/g/2hRSC8xqVU>

FAIR HOUSING TRAINING

Join us on every first and third Tuesday from 10:00 - 11:00 (CST) where we discuss Fair Housing and Housing Accommodations. This is a great webinar for those interested in their rights or those that manage or own properties. Did we mention it is free!

Register Here. <https://forms.office.com/g/ZBm7gtJLjg>

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