

**Overview and Initial Issues Identification  
Seattle Office for Civil Rights**

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**Table 1: SOCR Expenditures/Revenues**

	<b>2012 Adopted</b>	<b>2013 Proposed</b>	<b>% Change '12 to '13</b>	<b>2014 Proposed</b>	<b>% Change '13 to '14</b>
<b>Expenditures by BCL</b>					
Civil Rights	\$2,566,277	\$2,614,197	1.8%	\$2,738,129	4.7%
<b>Total Expenditures</b>	<b>\$2,566,277</b>	<b>\$2,614,197</b>	<b>1.8%</b>	<b>\$2,738,129</b>	<b>4.7%</b>
<b>Total FTEs</b>	<b>22.5</b>	<b>22.5</b>	<b>0.0%</b>	<b>22.5</b>	<b>0.0%</b>

**Introduction:**

The Seattle Office for Civil Rights (SOCR) works to achieve race and social justice in Seattle, and to ensure that everyone in Seattle has equal access to housing, employment, public accommodations, contracting, and lending. SOCR enforces City, state, and federal anti-discrimination and equity laws, including the City’s new Paid Sick and Safe Time Ordinance. The Office also administers the Title VI program of the 1964 Civil Rights Act, which relates to physical access to governmental facilities, projects, and programs. SOCR conducts outreach and public engagement about these issues and proposes policy solutions for equity, in part by supporting the following four Commissions:

- Human Rights Commission
- Women's Commission
- Lesbian, Gay, Bisexual, and Transgender Commission
- People with disAbilities Commission.

SOCR is funded entirely by the General Subfund. Except for technical adjustments (such as for inflation), the Executive has not proposed any changes to the SOCR budget in 2013 or 2014.

**SOCR’s relationship with the business community:**

The only issue that was identified during the Budget Committee discussion at the SOCR budget overview presentation was a concern about SOCR’s relationship with the business community. SOCR has several roles. One is to educate about and advocate for civil rights; a second is to establish administrative rules for programs such as the Paid Sick and Safe Time Ordinance; and the third is to investigate civil rights violation complaints and take enforcement action if necessary. City Councilmembers have heard from business owners who see a conflict between the Office’s enforcement responsibilities and its advocacy role, and who believe that the latter affects SOCR’s ability to conduct impartial investigations and enforcement actions.

**A. Business Liaison Position**

During the Budget Committee discussion, several Councilmembers suggested that a new position could be added at SOCR to address business concerns. While SOCR already holds about six fair housing and employment workshops for businesses annually, a business liaison position could:

- Work with business stakeholders to develop and carry out more robust short- and long-term outreach and engagement strategies;

- Provide focused technical assistance to help businesses become aware of and meet anti-discrimination requirements;
- Work within SOCR to represent the concerns of businesses when administrative rules are developed to carry out programs such as the new Paid Sick and Safe Time program; and
- Expand the engagement of the business community with the Race and Social Justice Community Roundtable.

If the Council adds such a position, it would report to the SOCR Policy and Outreach Manager, who also oversees the Office's public information officer, a policy analyst, and the staff who provide support to the Commissions. The position would not be involved in SOCR enforcement efforts, as this could interfere with a neutral investigation. For example, the position would not provide advice to a business under investigation as this would be incompatible with OCR's neutral fact-finding role.

The appropriate position would likely be a Senior Planning and Development Specialist, because the role would be best filled by someone with experience in the private sector who could work effectively with the business community. The cost of a Senior Planning and Development Specialist position, including benefits, would be approximately \$118,300 in 2013 and \$122,200 in 2014. To maximize the effectiveness of the position, an additional \$30,000 in 2013 and \$30,600 in 2014 would be needed for:

- Creating and printing materials for business-specific trainings and presentations;
- Translation of printed materials;
- Room rentals for community trainings, meetings, and presentations; and
- Advertising the availability of training sessions and other services.

This would bring the total cost to the General Subfund of a new business liaison position to \$148,300 in 2013 and \$152,900 in 2014.

## **B. SOCR enforcement process**

During the Budget Committee discussion of the proposed SOCR budget, Councilmembers also asked about the enforcement process for civil rights complaints. Several pointed out that because SOCR is responsible both for advocating for civil rights and enforcing civil rights violations, it is difficult to present the enforcement process as fair and neutral. Julie Nelson, the Director of SOCR, pointed out that the Office advocates for *civil rights*, not individuals, and that staff act as neutral fact-finders when investigating complaints and working to reach compliance if a violation is found. Ms. Nelson also estimates that over 90% of civil rights agencies in the United States are set up in a similar way to SOCR and have the same advocacy, education, and enforcement responsibilities.

The SOCR enforcement process is briefly described below. Approximately 88% of the complaints received by the Office are about housing and employment discrimination. In both of these areas, the federal government has an oversight role in the process. The Department of Housing and Urban Development (HUD) audits SOCR's investigation and enforcement of housing discrimination cases on an annual basis. The audits have routinely affirmed the high quality of SOCR investigations and outreach efforts, as well as its operational oversight of the process. In addition, both HUD and the Equal Employment Opportunity Commission review and approve SOCR's findings for all housing and employment discrimination cases that the Office investigates, including those that result in finding of reasonable cause, no reasonable cause, settlements, and withdrawals of charges.

## 1. The Enforcement Process

SOCR has provided a flow chart that explains the complaint process (Attachment A), and has also provided a summary of the types and outcomes of enforcement cases between January 2011 and September 2012. SOCR has stated that the 2011 information represents a representative year of enforcement experience. I used the data from 2011 to determine the following:

- Of the 817 complaints received in 2011, 26% of the complaints (209 cases) resulted in a full investigation after SOCR screened them for jurisdictional requirements, such as location in Seattle, timeliness, and whether a protected class was involved.
- In 2011, 196 cases were closed. The difference between the number of cases filed (209) and closed (196) is due to the fact that not all cases filed in a year are closed in that same year.
- Of the 196 cases that were closed in 2011, 52% (101 cases) resulted in the case being closed due to insufficient evidence of discrimination after SOCR conducted interviews and gathered evidence. For these cases, SOCR issued a “no reasonable cause” finding.
- More than a quarter of the 196 cases (55 cases, or 28%) were closed administratively without further action. For example, this can happen if the complainant moves and does not provide updated contact information.
- In 40 cases (5% of the total complaints and 20% of the 196 cases that required a full investigation), SOCR found evidence of illegal discrimination and moved to the next step in the enforcement process, which is to eliminate the unfair practice by negotiating a settlement between the parties.
- SOCR staff negotiated a successful settlement in 36 (90%) of the cases in which evidence of discrimination was found. Examples of settlement remedies include payment of back wages, accommodation of a disability, or provision of a letter of recommendation. The respondent does not admit guilt if a settlement is reached, and the complainant agrees not to sue.
- For the four remaining cases in which a settlement could not be reached, SOCR drafted a “reasonable cause” finding that was reviewed by the City Attorney before issuance. After the finding was issued, either SOCR or the City Attorney was able to reach a settlement.

## 2. Process after SOCR issues a Finding of Fact

After SOCR issues either “no reasonable cause” or “reasonable cause” finding, two additional steps may take place.

### 2a. For the Complainant

If SOCR finds that there is not enough evidence to support a discrimination claim and issues a “no reasonable cause” finding, a complainant can appeal to the Seattle Human Rights Commission (SHRC). A panel of Commission members will then hear the appeal. The panel can only consider whether SOCR’s investigation was adequate, and whether the evidence in the case file supports SOCR’s finding that there is no reasonable cause for complaint. The panel does not have the authority to overturn SOCR’s finding, and is only authorized to uphold SOCR’s finding or to remand the appeal to SOCR for further review based on detailed instructions. The panel does not “re-investigate” the case or look at new information, although it may hold a hearing and invite the complainant, the respondent, and SOCR staff to attend and make oral statements.

On average, about ten percent of SOCR’s “no reasonable cause” findings are appealed by the complainant to the SHRC (there were 27 appeals in 2011). About a third of those cases are remanded by SHRC back to SOCR for further investigation (8 cases in 2011). In the past five years, SHRC review has not resulted in changes to SOCR’s final findings.

2b. For the Respondent

If SOCR issues a “reasonable cause” finding, and a settlement cannot be reached by the parties with the assistance of SOCR or the Law Department, the Law Department then files the case with the Hearing Examiner. The Hearing Examiner holds a hearing in which the City is represented by the Law Department. The SHRC may appoint two members to join the Hearing Examiner in hearing the case. These Commissioners cannot have been previously involved in the case in any way. They have an equal vote with the Hearing Examiner in deciding the case, except that the Hearing Examiner chairs the appeal panel and makes any evidentiary rulings. The Law Department has only filed one case with the Hearing Examiner in the past three years.

3. Options for addressing business perceptions of the enforcement process

a. Given that approximately 5% of complaints reviewed by SOCR lead to a finding of illegal discrimination, and that about 90% of those complaints are settled before formal legal action is required, it may be that more education and outreach to the business community would help resolve their concerns. This could be done by prioritizing the outreach efforts of current SOCR staff, or could be done by creating a new SOCR business liaison position as described on pages 1 and 2.

b. Another way to address the perceptions of the enforcement process is to request that the City Auditor perform an audit. The scope of the audit would be to examine the structure and management of the process and whether any changes should be made. It would not duplicate the reviews and audits of individual cases already performed by federal agencies. For example, it may be that changing the process so that the Hearing Examiner alone hears cases in which the respondent disagrees, rather than including Human Rights Commissioners on the panel, would address some business concerns; or that the City Council could appoint a business representative as one of the seven members of the SHRC appointed by the Council.

Attachment A: Reporting Discrimination—Step by Step

# Reporting Discrimination – Step-by-Step

## 1. Contact us

Call or stop by our office to make an appointment.

## 2. Tell us your story

Explain to our intake investigator why you believe you were discriminated against.

## 3. You file a charge

If the facts of your case call for a full investigation, we will draw up an official charge for you to sign. The final decision to file a charge is up to you.

**Referral:** If your case does not qualify for our investigation, we will refer you to another agency for help.

## 4. We investigate your case

- You sign the charging papers.
- SOCR contacts the “Respondent” – the person or group that you are charging with discrimination.
- An investigator meets with you to go over your case in detail.
- The investigator conducts interviews and gathers evidence.

**Reaching an agreement:** At any time during the investigation, SOCR can help you and the Respondent settle the case through our Facilitated Resolution Process.

## 5. Case outcomes

Ways that your case can close

“Reasonable Cause” – SOCR finds that the evidence supports your charge of illegal discrimination.

### Remedies

If SOCR finds Reasonable Cause, we will work with you to decide the best remedies for your case. Remedies can include payment of back wages, excess rent, mandatory training for management and employees, disability accommodations or modifications, etc.

“No Reasonable Cause” – SOCR does not find enough evidence to support your claim of discrimination.

### Appeal

If SOCR finds No Reasonable Cause, you can appeal the decision within 30 days to the Seattle Human Rights Commission.

Settlement – You and the Respondent sign a negotiated agreement, which can include remedies.

Withdrawal – You withdraw your charge.

Administrative Closure – SOCR closes the case due to lack of jurisdiction, Charging Party’s non-cooperations, etc.