

Nicholas Bader

10-12-17

## I. Introduction

The Connecticut Commission on Human Rights, CHRO, proudly, and rightly affirms that it is one of the oldest human rights organizations in the United States. Its official cause is to eliminate discrimination within the state of Connecticut. An ambitious project, to say the least, but the state Commission makes a great effort to address this societal problem. I spent my internship working at one of the CHRO's four regional offices. The CHRO also provides a department dedicated to fair housing, another to Affirmative Action, and another comprised entirely of attorneys. Public Services, Employment, Housing, and Education are the areas where the CHRO holds legal jurisdiction. Within these societal boundaries, the CHRO provides coverage to areas of life where discrimination is most likely to occur. Understandably, the CHRO does not pretend to be a fix-all organization. The CHRO is concise in its objectives, and the ways it sees fit to pursue them. The CHRO argues in favor of an approach that combines public education and outreach with legal action.

As part of the internship, I was tasked with understanding the CHRO's approach, as well as to consider the ways that their approach might be improved. I had to consider these questions within the CHRO's limited framework of the law. They were limited by state law, as well as manpower, funding, and time. Much of the shortcomings that the CHRO faces with eliminating discrimination cannot be resolved through the legal lens, and this is something that the CHRO acknowledged. The organization has encouraged and sponsored public education and outreach events to make people aware of resources available to them. These included state, local, and private organizations.

## II. The CHRO's Operations

I was first introduced to the legal work the CHRO does, and it is undeniably where most of their time, energy, and workforce are directed. I was taught to either directly handle, or assist in all of the processes that the regional office covers when it handles a discrimination claim. The process is extremely time-consuming, with most cases taking at least a year to even reach a public hearing officer, which can then take months further to set a date in court. The quickest part of the process is the service that the regional office provides. An individual feels that they have been discriminated against, and they call the CHRO to declare that they want to file. An appointment date is given to the complainant where they can come in, and file. For all of the calls that I took these dates were set about a month after the person had called. The statute of limitations on filing these claims is 180 days, which is designed to keep people from bringing up old incidents, as well as encouraging active reporting of discrimination. Every person, regardless of the credibility of their claims is allowed to file with the CHRO.

From there, the complainant speaks with an investigator, who assists them in filing a legal affidavit. There were four investigators working at the Waterbury office. Their names were Bob Moller, Kathy Garassino, Suzanne Westhaver, and Gene Cohen. In addition to these investigators, the office had two secretaries, Sue Mota, and Lori Wheeler. The regional office was managed by Donna Wilkerson-Brillant. Scheduled meetings with an investigator typically took around two hours, and as such an investigator can only get 3 or 4 done in a workday. It was clear how short-staffed the regional office was. Ideally, they would have a few more staff employed there to assist them in taking reports, as well as being an investigator as well to ease the workload. Despite this, the staff was extremely dedicated to processing these discrimination claims and helping the complainants get the earliest possible appointments. The Waterbury office

had no dated material on file for this year, meaning that all of their complaints were filed and moved forward within the 180-day statute.

Once the lawsuit is filed, there is a date set for a mediation. This is a meeting between the complainant, and the respondent (the party being accused of discrimination). The mediation is an attempt to reach a form of settlement to avoid court. The degree of success for mediations can vary greatly. The respondents, if they are companies, can usually afford to hire lawyers. It was very uncommon for the complainants to have hired a lawyer. The respondents can be willing to offer sincere ways to recoup the damages done to the complainant, such as reinstatement, formal letters of apology, or monetary compensation. Alternatively, the respondents often feel that they did nothing wrong, and the mediation reaches a standstill. There have also been cases where the complainants ask for far too much in terms of compensation. The only uniform occurrence in all of the mediations was the fact that the complainants always felt totally wronged, and that the respondents felt that they did not discriminate in any way. If the mediation succeeds, the case is settled. If not, it goes to what is referred to as a 'Fact Finding' where the respondents and complainant give recorded, sworn testimony about the events of the case. The subsequent report is processed by an investigator to determine if there are grounds for discrimination. If not, the case is rejected. If there are, it is sent out of the regional office to a public hearing officer, where both parties wait for their day in court.

I spoke with an attorney named Margaret Nurse-Goodison from the legal department at length to better understand the process once it leaves the doors of a regional office. The state of Connecticut only has a few public hearing officers employed as of now, many were cut due to budget restrictions. As a result, while many of the CHRO's regional offices maintain no dated cases, that is cases that are more than 180-days old, it can take well over two years for a case to be retained by a public hearing officer. The CHRO's active enforcement of the law is a lengthy,

and resource intensive process. Most of its proactive efforts are directed towards making people aware of the legal rights they have within Connecticut.

The way I was instructed to think about the situations complainants brought forward was to think about them as a “reasonable person” might. To understand the validity of the claims a claimant might make, but also be aware of the steep uphill effort they face. To bear in mind that some claimants might be disgruntled employees, or be mentally ill, and their story might be untrue. In the hundreds of calls that I returned over nine weeks, I found totally baseless stories to be exceedingly rare. Moreover, a majority of the people who reported such outlandish claims over the phone, or in person, later confirmed that they suffered from severe mental illnesses. There was one notable instance where a man had filed against a local police department, believing that one of their officers was stalking him under assumed identities, planting things in his apartment and tampering with his furniture. The man was diagnosed with multiple mental illnesses. Positively, the CHRO allows for anyone to file. Though for cases that have no clear evidence or substance, filing can be a waste of time, especially for those in the office. Their hours could be better spent working with someone who had been truly wronged.

The inherent difficulty of the process is in part, why the investigators sometimes press for a form of settlement rather than going for a public hearing. They try to coax the respondents to settle through the allure of saving time and legal fees. They remind the complainants that the respondents have the time, and money to afford a public hearing. Many complainants were out of work since their initial termination, and a settlement was their last chance to get a deal. Even if the regional office finds grounds for discrimination to send to a public hearing, this is no guarantee that the public court will rule in the complainant's favor. In the clear instances when discrimination occurred, the investigators encouraged complainants to maintain their case

knowing that they had a strong chance of succeeding. These instances, although rare, showcased the best case scenario in this system.

Compensation is almost always one of two things: money, or reinstatement (in the case of employment). In some instances, the complainants were looking for the latter, rather than a lump sum. They felt that they were truly wronged, and to simply be given money would feel as if their concerns were being pushed aside. Reinstatement offered not only validation, but valuable security, in that they now had a steady job. Others were extremely hesitant to return to what they felt was a hostile work environment. There was one such instance where a woman was working as a caretaker for the elderly. She had worked in the same position for many years, and had a very personal relationship with many of the seniors living there. Though it was clear that she wanted to work at her old position again, she lost her sense of security in it as a result of the way she had been treated by her manager. She opted to take the case to a fact-finding in order to pursue a financial settlement.

The CHRO cannot reasonably prevent a work environment riddled with biased scrutiny, derogatory remarks, or other manifestations of prejudice. That task ought to be handled by a business' human resources department. I would argue that businesses struggle to resolve these internal conflicts on their own. Human resources can usually police employees, but there were numerous incidents where the manager or owner was committing the abuse. In some instances there were complainants who were angry at their former employers. These emotions were typically a result of frustration at their employer for the wrongdoing, that they had been wholly harmed in some way. There was one case where a young man, a recent immigrant to the United States, accused his employer of discrimination based on his religion. The man, as Muslim had in fact been referred to in Islamophobic terms by a co-worker. His employer had offered to put him in a different job, but to make him financially whole by maintaining his old salary. This was a

very good deal, and I heard the investigator assigned to his case tell him this repeatedly. He affirmed that the deal wasn't good enough, despite the investigator trying to explain that the employer did not have to offer him any reinstatement or a new job offer, they could have simply fired him. His motivation for pursuing a lawsuit instead of taking the job and financial security was never made clear. There is something to be said that the complainant never did anything wrong, or against workplace policy. Though the offer of transfer and financial compensation was generous from an employer, by standards of the CHRO, the fact still remained that he was leaving his job despite doing nothing wrong. The investigators urged him to take the deal not because he was wrong, but that if he did not, he might lose his case and be unemployed. Even if he won, there was no guarantee of a job offer, or a matching salary. His case highlights an unfortunate choice that some complainants had to make between their sense of right and wrong, or to settle and be pragmatic.

Respondents were not keen on reinstating their employees. They felt that they would now have to tread lightly around a troublesome employee to not want to be sued again. They were more in favor of giving out sums of money, but these were usually small amounts that could make no reasonable impact with regards to reparations. The so-named 'Six-Figure Settlements' were usually reserved for respondents that knew that they were in true legal jeopardy, and were trying to keep quiet a person that they had genuinely harmed. There was very little animosity on the side of the respondents. It is possible that they acted cordially while in our office so to appear like a good business being sued for the wrong reason. It is also possible that the respondents sincerely did not feel any personal animosity to their former employees. Rather, they spoke in a way that presented themselves as faultless as possible. They would refer to the complainant as a 'good worker, until they did X', for example. The respondents try to present as many mistakes that the complainants made during their employment.

Money was also a significant barrier to the CHRO's efforts. Money acted as a barrier to the people the CHRO was trying to help. Since most cases were won by respondents, as true discrimination is difficult to prove, the law firms that represented respondents were involved in a lucrative business. The near opposite was true for those that chose to represent complainants, those that could afford to hire an attorney. Moreover, the CHRO itself was under significant attack during every budget debate. Businesses often argued that the CHRO was placing an unjust financial burden on them, by allowing their employees to file lawsuits. These businesses had to continuously pay legal fees for these rounds of lawsuits. In the CHRO's defense, cases that don't have an affirmative cause-finding for discrimination are rejected, and no lawyers need be hired by anyone, unless they choose to hire one for the mediation process.

### III. Understanding the CHRO

Everyone at the office felt that the CHRO ought to do more to prevent discrimination from occurring in the first place. The complainant is not guaranteed anything beyond their right to file, and their appointment dates. Despite the time-consuming process that the CHRO utilizes, everyone at the office saw it as the best method of dealing with discrimination that had already occurred. They also viewed the education as the best preventative measure. No method is ever going to be perfect, but I was interested as to why they believed so strongly in the legal process. Two of the investigators, and the regional manager, are former attorneys. Moreover, all of the investigators keep themselves up to date on new legal statutes that are passed in Connecticut. One recent, official change to the protected classes in Connecticut was the inclusion of Veterans. Part of their confidence came from their understanding and expertise with the legal system, as well as understanding that there are few other ways people can seek compensation for damages that discrimination can incur.

There was not a lot of heavy research or scholarship being conducted by the investigators. Most of them read newspapers, either in print or online, or watched morning news stations such as CBS, or CNN. Books about racism, and discrimination were also read, with two of the investigators reading one that focused on stories about race in New Haven. Most of what they read though were relevant cases to their current workload, amendments to Connecticut Law, and relevant local news. Especially with regards to local laws and regulations, every employee had a strong desire to be up to date on the current status of the law. Whenever there were meetings, notices from the main office in Hartford, or other events, the office was very eager to attend. This summer everyone at the office attended an educational symposium concerning the current state of Connecticut educational protections for transgender, and non-binary students. As I took the project of working on the symposium with other interns, I wanted to understand why the CHRO had their faith in educating the public.

The crux of the CHRO's support for these events is the idea that the CHRO represents a strong legal deterrent. Education represents a much more agreeable alternative. Their feeling is that discriminatory parties can ignore the legal protections that people have, and face lawsuits for violating them. No one wants to get sued, so their other option is to understand the current status of the law, and abide by it. This message is reinforced by the CHRO's ability to affirm that people who are discriminated against do in fact report it. The educational events that the CHRO sponsors almost always involve another, or multiple parties that can assist the CHRO. It sends a comforting message to a concerned person to see multiple organizations who will represent, and support them. It also sends a confident message to those who would discriminate: that the people they would harm have resources to protect themselves.

The CHRO also affirmed that education had a significant impact in their own legal process. Many of the people who call to file with the CHRO are aware of their limited resources,



and the exhaustive process that they are starting. As such, most of them do not expect to win. Particularly in employment, I heard the words “I’m doing this more so this company doesn’t do this to someone else” very often. When I asked the investigators about this, they described that these lawsuits can be learning experiences for the companies. They are often made aware of various employment laws, such as the need to reasonably accommodate an employee with a disability. Moreover, the simple act of bringing suit to the company comes with a cost to the respondent. Even if the company wins, they still need to hire lawyers, and they are simply avoiding damages if they win, rather than winning any money. In Suzanne’s words, “Employers are often a lot more careful after they’ve received a letter from our organization, even if the case gets dismissed.”

To say that most instances of respondents harming their employees due to pure ignorance of the law would be ignoring the very real instances of prejudice, and or discrimination. Most of the employers who were brought in had prepared reasons for firing someone. These more well-prepared employers were a part of established companies, rather than a smaller family business. These companies needed to have a valid, legal reason for firing an employee in order to have any grounds to defend themselves in the first place. In avoiding the question of discrimination all-together by providing a financial, or business-minded reason for firing an employee they could generate doubt concerning a discrimination claim. This type of defense favored the respondents. Not only does a complainant need to prove that they were fired for a discriminatory reason, they need to prove that discrimination was the only reason. Respondents also had to be careful with this method. If they could not cite, or show documentation of incidents where the employee behaved irresponsibly, it would cast doubt on the validity of their claims.

In one case, a man was suing a company for a wrongful termination, which he believed was based on his age. He stressed the fact that he was fired mere months before his pension would be increased. His argument was that he was fired because the company did not want to have to pay his pension and benefits, preferring a younger, and less-costly employee. The company's defense was to show that he was fired along with numerous other employees of various makeups, old and young in particular during a management change. They didn't have to deny any grounds of his argument beyond denying the fact that his firing was wholly discriminatory. For this reason, most of the investigators I spoke to acknowledged the difficulty in proving discrimination, short of a signed letter from your employer stating "I fired you for X legally protected characteristic."

With this in mind, I went back to Suzanne's words concerning the caution that respondents exhibit once they've been sued. I wondered if they had truly learned anything, or if they were simply being careful with future employees so as not to get sued again, not because of any new understanding about prejudice. I considered if that potential difference mattered at all. The idealist would want the respondents and people that the CHRO works with to truly learn and be educated about the legal protections people have from discrimination. The realist would confess that genuinely intolerant, and unyielding people exist in the world. It may be well worth the effort to simply restrict the prejudiced person's means to harm people if the prejudiced viewpoint cannot welcome any moral alternatives.

Consider the CHRO's goal of public outreach. Since attendance of these outreach programs is totally voluntary, it is reasonable to assume that the only people in attendance would be people who were invested in the topic. The CHRO's symposiums are usually focused on a developing area of rights, such as gay marriage a few years ago, or recently the symposium on transgender students. The audience for the CHRO's public outreach would be mostly comprised

of people who were not closed to other moral alternatives. The CHRO is largely focused on having its outreach connect with people who will respond positively to it, saving the legal repercussions for those who act intolerantly. The CHRO hopes that through reaching populations of morally conscious and tolerant people that they can improve the different communities that they serve.

#### IV. Public Outreach as a Major Project

I had the opportunity to work with other CHRO interns who were at the legal department in Hartford on planning that symposium. The planning process took a few weeks, and involved multiple tasks such as finding a room, staff, speakers, and getting school boards and districts to attend. My role involved reaching out to multiple superintendents of public school districts in Connecticut. I split this role with another intern, who took the districts that I did not get in touch with. We were not able to get to every single school district in Connecticut, but out of the nine districts that I reached out to; eight of them responded and had some form of attendance. Those in attendance ranged from a few schools that actually had their superintendents present, school psychologists and counselors, as well as administrators and teachers. To my knowledge, a few schools reached out to their PTA's as well, with parents in attendance as well. The limiting factor for total outreach was the room itself, we only had around 100 seats, and plenty of people who attended were standing.

The other interns were tasked with getting speakers to attend the event. They did well to marry the CHRO's legal framework, and the goal of public outreach that the symposium was designed for. There were five speakers, and all spoke for around 20-30 minutes. The first was the head of True Colors, Robin McHaelen. True Colors is a Connecticut based LGBTQ youth support and advocacy organization. The second was Karla Vasquez, a certified school psychologist, and special education teacher. The third was Dustin Rader, who currently teaches

in Canton, CT, is an openly transgender person, as well as a well-spoken of educator. The last two were both attorneys, Michael Roberts with the CHRO who is actively working to represent LGBTQ populations, and Alexi Simonetti, with the CHRO who has worked extensively with public schools.

The symposium was regarded as a success for a number of reasons. The symposium had the largest attendance of any of their previous events. All of whom were not simply concerned citizens, but administrators, educators, parents, and members of community organizations. These were individuals that could take this information and apply it to how they affect their communities. According to the regional manager of the office I worked at, Ms. Wilkerson-Brillant, this was exactly the sort of audience that the CHRO hopes to get whenever it does any form of advocacy. Reaching regular people and making them aware of organizations that can help them is very valuable, but reaching people that can get involved in their communities in a way to prevent discrimination is what the CHRO aims to do.

That is not to say that the symposium, and this brand of public outreach is without its faults. A single symposium is a good way of making a target audience aware of a problem, and to give them contacts and resources in order to address it. Should a school administrator or faculty member chose to ignore this problem, or contribute to it, then there is little in the way of immediate resolution that can be done. More frequent public outreach, or active encouragement of community involvement would be vital to create the kind of tolerant, active community that the CHRO seeks. Encouraging people to get involved in their local school boards, to be active in their PTA's and such would also have been useful methods to vocalize at the symposium.

## V. Hatred and Discrimination

The internship I was tasked with had charged each intern with focusing on hatred, though I already knew that hatred was not the explicit target the CHRO was addressing. In fact, many of the investigators did not think that the respondents who discriminated against their employees were particularly hateful in the first place. One of the problems I faced in this internship was trying to understand where hatred and discrimination intersected, and if those intersections were significant.

A manager might fire an employee with a physical disability for a utilitarian reason, the disabled employee is not as efficient as a non-disabled one. They may not, however, hate that employee because of their disability, they not even want to see them unemployed. They may simply prefer a non-disabled employee. Though, if the manager in question was made aware of accommodations to make for that disabled employee that would have no effect on how well-run the business is, yet they still preferred to have a non-disabled employee, it would be reasonable to say that the employer is prejudiced. If the alleged defense for the employer making a business decision is purely financial, yet the alleged financial burden is shown to be inconsequential, or even non-existent, then there has to be some other reason motivating that employer to fire the disabled employee. Though prejudice and discrimination may motivate harmful decisions, as well as plain indifference, it would be difficult for me to say that I encountered any hatred in any of the respondents or complainants.

There were, however, worrying trends and patterns. A large number of the complaints that I received, and the cases that I saw come to mediation had to do with three forms of discrimination, predominantly: race, age, and physical disability. The frequency of the latter two could be attributed to numerous societal maladies. Businesses may view disabled or elderly persons as either too expensive, with accommodations for disabilities hindering productivity, and

retirement benefits proving costly. Businesses may also view elderly and disabled employees as risky. Should the elderly person fall, or suffer some injury, or the disabled employee do the same, these businesses often fear lawsuits. Race proved to be more difficult to pin down. There were two calls from one school district. Both were men who were foreign in birth, and recently moved to the United States to teach. They were also people of color, but the cause of their discrimination at work was difficult to assess. It wasn't clear if it was racial, or stemming from xenophobia. Others were people of color in a majority white work environment, who were held to a consistently higher level of scrutiny, faced greater repercussions, or were even fired for, in their eyes, exaggerated incidents. It is difficult to assess if the blame for such incidents should be set on the individual for harboring those prejudices, or society for reinforcing them.

Clearly, the CHRO is not specially equipped to deal with assumptions, prejudices, or intolerance. At times, even discrimination is difficult to tackle if there is not enough legal evidence. The CHRO does not deal with hatred, nor is it noticeably exposed to it. It does however serve to combat the physical effects of systemic problems. I opt to use the word systemic because it seems appropriate in this context. Trends of businesses disregarding the legal rights of older and disabled persons, as well as discriminating against people of color because of unchallenged prejudices read like a systemic problem. Despite their limited resources, I think the CHRO has found one piece of the systemic problem that they can address.

Both Ms. Wilkerson Brilliant and Ms. Nurse-Goodison, the former the regional manager, and the latter an attorney argued about the importance of dialogue, communal involvement, and connectivity. One effort that the CHRO hopes to accomplish with its symposium and other outreach programs is familiarity with those who we perceive to be foreign. Familiarity, not just with the legal protections that minority groups have, but familiarity with the minority groups themselves could serve to alleviate the potential feelings of foreignness, uneasiness, discomfort,

or any other similar feeling that a person might have about a person they bear some prejudice towards. They both felt it would be in the CHRO's best interest to either sponsor, promote, or otherwise assist in communal efforts to discourage prejudices from taking root. Moreover, it would familiarize these vulnerable groups with organizations that can help them, and vice versa. It would give them valuable visibility, and a platform to express their concerns.

Methods that would serve to alleviate systemic prejudices within Connecticut should be a focus of the CHRO's public education arm. Systemic prejudices can result in discrimination, as well as hatred. While no one is born hating any particular group, they can be quickly shown who to hate. They can be shown who to hate by people close to them, but also by their community. If people are denied services from a community, and are thereby expelled from its membership, it sends a message to a community. These instances could manifest as someone's concerns being dismissed in work due to their disability. Someone could be denied a public service based on the notion of religious freedom. Whenever they occur without protest, they produce the same tangible feeling. Whatever vulnerable class is being targeted, their concerns are not important enough to warrant action. A community should be encouraged to protect all its members, as well as those outside it. It should never be a mechanism to provide targets for people's prejudice and anger. If people are alienated, excluded and misrepresented they can easily become targets for people's hatred. The CHRO's efforts to ensure that Connecticut's schools, workplaces, and public spaces remain open and tolerant serves to remind people how important these institutions are for preserving a community's tolerance.

The sort of proactive educational work that the CHRO aims to do, as previously stated, would likely require greater efforts. It is unlikely that the CHRO itself could engage in larger efforts. It would need to make a serious case to the state government to allot more funding, and more staff to this end. Each regional office simply cannot spare any staff, so more would need to

be hired if the CHRO wanted to create a more permanent form of public outreach. If the CHRO wanted to engage in more public outreach, it would need to give up its ability to keep dated material off the shelves, and to process the cases as quickly as they do now.

If the CHRO wanted to mobilize a body for public outreach, it would either need to hire more staff, or work jointly with another organization. The option of hiring more staff seems, for now, unrealistic. This outreach would involve CHRO representatives, and whoever was working collaboratively with the CHRO attending an event in one of Connecticut's cities. They could do them by region, and situate them similarly to the regional offices to save the CHRO representatives travel time. The outreach itself would take the form of presenting information to a concerned body of people. These listeners could be employees, they could be local business owners, educators, or lawyers. One popular example around the office was to expand the CHRO's education of employees in local businesses. I heard from one investigator that such educational programs only happen once every few months. The events focus on teaching employees skills in order to legally protect themselves, especially if they are from a vulnerable class. The CHRO, or another organization, could teach skills like familiarizing oneself with the workplace's Human Resources department, receiving records of employment, contracts, suspensions, and warnings in writing with dates. Encouraging employee and co-worker testimony on behalf of a complainant, or a wrongfully accused respondent could be another strategy. For now, the CHRO has found its role within Connecticut, and is undoubtedly doing good work. Expansions and improvements to its approach are possible. Though not unlike the people they serve, the CHRO would be most helped by a local government that hears its concerns, and understands its importance.