

CALIFORNIA

Department of  
Fair Employment and  
Housing



# Report to the Joint Legislative Budget Committee

## March 2015

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## **Introduction**

The Supplemental Report of the 2014-15 Budget requires the Department of Fair Employment and Housing (DFEH or Department) to submit a report to the Joint Legislative Budget Committee that includes the following information for each calendar year beginning January 1, 2011 through December 31, 2014: (a) each complainant's county of residence and all other available demographic information, such as race, sex, age, and primary language; (b) total number of requests for immediate rights to sue issued; (c) total cases filed by basis and total accusations issued by basis; (d) number of cases referred to department-conducted mediation, number of mediations conducted, number of settlements, and the total value of those settlements; (e) number of cases settled by the Enforcement Division and Legal Division and the total amount of settlements for each Division; (f) number of cases the Department referred to litigation; (g) number of accusations issued and number of civil complaints the Department filed; (h) percentage of cases closed within 100 days of filing and within 365 days of filing, respectively; and (i) average number of cases assigned per investigator and per attorney.

This report provides data requested by the Joint Legislative Budget Committee as well as background information about how changing structures and procedures – including historic changes brought about by SB 1038 in 2012 – have impacted the Department's work over the past four years. Preparing this report has helped the Department critically assess its current information management systems as well as its internal allocation of resources. This assessment will be ongoing as the Department transitions to new leadership.

## **Executive Summary**

The DFEH annually processes more than 19,000 complaints alleging violations of laws enforced by the Department. Each year, a majority of complaints involve allegations of discrimination in employment under the Fair Employment and Housing Act (FEHA). However, the number of complaints alleging discrimination in housing under the FEHA and violations of the Unruh Civil Rights Act, the Disabled Persons Act, and the Ralph Civil Rights Act has increased in each of the years covered by this report and has more than doubled since 2011.

Disability discrimination and retaliation are the most common bases for complaints of employment discrimination in each of the years covered by the report. Similarly, disability discrimination is the most common basis for complaints of housing discrimination.

In the past four years, the Department has conducted 1,644 formal mediations resulting in 1,019 settlements with monetary recovery of \$16,982,408. In the same time period, the Department has negotiated an additional \$22,419,629 in monetary settlements outside formal DFEH mediation. These numbers do not include the societal value of affirmative relief and policy changes resulting from settlements.

A number of factors discussed in this report have led to a sharp increase in investigator caseloads over the time period covered. In 2014, each investigator was assigned an

average of 203 cases over the course of the year compared to 138 in 2011. High caseloads have contributed to ongoing difficulties in closing cases in a timely fashion. The federal Department of Housing and Urban Development (HUD) requires that DFEH complete 50% of its investigations of housing complaints within 100 days of the filing of the complaints. The Department did not meet this target in 2011 through 2013. By making structural, personnel, and system changes, the Department began meeting the target in June 2014. However, continued attention needs to be paid to this issue.

## **Background**

### **Mission, History, and Structure**

The mission of the DFEH is to protect Californians from employment, housing and public accommodation discrimination, and hate violence. The DFEH is the largest state civil rights agency in the country, with 189 authorized positions at this time. It was established by the Legislature in 1959 as the Division of Fair Employment Practices. In 1980, the DFEH was established as an independent department charged with enforcing California's comprehensive employment, housing, public accommodations and public service non-discrimination laws, as well as the State's bias-related hate violence law. The Department is part of the Business, Consumer Services and Housing Agency and is administered by a Director appointed by the Governor.

The DFEH's statutory mandate is to protect the people of California from employment, housing and public accommodations discrimination and hate violence pursuant to the California Fair Employment and Housing Act (FEHA), Unruh Civil Rights Act, Disabled Persons Act, and Ralph Civil Rights Act. The FEHA (Government Code section 12900 et seq.) prohibits workplace discrimination and harassment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, and military and veteran status, or because another person perceives the employee to have one or more of these characteristics.

Included in the FEHA is the California Family Rights Act (CFRA), which requires employers of 50 or more employees to provide protected leave of up to 12 work weeks in a 12-month period to eligible employees to care for their own serious health condition or that of an eligible family member. Included as well is California's Pregnancy Disability Leave Act (PDLA), which requires an employer to provide female employees, disabled by pregnancy, childbirth, or a related medical condition protected leave of up to four months and thereafter returns to work.

With regard to housing, the FEHA prohibits discrimination and harassment on the basis of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, and genetic information, or because another person perceives the tenant or applicant to have one or more of these characteristics. The FEHA also mandates reasonable accommodation of religious beliefs or observances in the workplace, including religious dress and grooming practice, requires employers and housing providers to reasonably accommodate persons with disabilities, and prohibits covered entities from retaliating against any person because he or she has opposed practices

forbidden by the FEHA or filed a complaint, testified, or assisted in any DFEH or court proceeding related to a FEHA claim.

The Unruh Civil Rights Act (Civil Code section 51) prohibits business establishments in California from discriminating in the provision of services, accommodations, advantages, facilities and privileges to clients, patrons and customers because of their sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, and sexual orientation. Similarly, the Disabled Persons Act (Civil Code section 54 *et seq.*) provides that individuals with disabilities or medical conditions have the same right as the general public to the full and free use of streets, highways, sidewalks, walkways, public buildings, medical facilities(including hospitals, clinics, and physicians' offices), and privileges of all common carriers, airplanes, motor vehicles, railroad trains, motorbuses, streetcars, boats, or any other public conveyances or modes of transportation (whether private, public, franchised, licensed, contracted, or otherwise provided), telephone facilities, adoption agencies, private schools, hotels, lodging places, places of public accommodation, amusement, or resort, and other places to which the general public is invited, subject only to the conditions and limitations established by law, or state or federal regulation, and applicable alike to all persons.

The Ralph Civil Rights Act (Civil Code section 51.7) guarantees the right of all persons within California to be free from any violence, or intimidation by threat of violence, committed against their persons or property because of political affiliation, or on account of sex, race, color, religion, ancestry, national origin, disability, medical condition, genetic information, marital status, or sexual orientation, or position in a labor dispute, or because another person perceives them to have one or more of these characteristics.

The DFEH operates out of five offices throughout California. The Department's Enforcement Division consists of investigators (also known as consultants) who receive and investigate employment, housing, public accommodations, and hate violence complaints in each office. The Legal Division operates out of two offices and prosecutes cases referred by the Enforcement Division. A systemic litigation unit within the Legal Division focuses on systemic complaints, meaning complaints that allege a business-wide pattern or practice of discrimination impacting a large number of complainants statewide. The Office of Compliance Programs, also within the Legal Division, monitors state contractors' compliance with nondiscrimination programs. The Dispute Resolution Division mediates complaints and operates out of three offices. The Department maintains a communication center where staff members receive and respond to phone calls, written correspondence and emails from the public and assist with pre-filing inquiries and Public Records Act (PRA) requests.

Since 2013, the Department has housed the Fair Employment and Housing Council, a body that issues regulations interpreting and implementing rights and obligations under the FEHA. In addition, the DFEH tracks and analyzes legislation, routinely engages in public outreach, and provides training and technical assistance to employers, business establishments, and housing providers regarding their responsibilities under the law. The Department has partnered with UC Irvine School of Law, UC Davis School of Law, Pepperdine School of Law's Straus Institute for Dispute Resolution, Southwestern Law

School, CSU Bakersfield, and College of the Canyons to provide students hands-on experience in investigating, mediating and prosecuting FEHA cases.

## **Recent Changes**

On January 1, 2013, SB 1038 went into effect, making sweeping changes to the FEHA and the enforcement role of the DFEH. There has not been a more significant change to California's civil rights law since the 1959 enactment of the Fair Employment Practices Act (FEPA) and the 1980 reorganization of the FEPA and the Rumford Fair Housing Act into the FEHA.

SB 1038 eliminated the Fair Employment and Housing Commission, an entity separate from the DFEH with its own budget that both promulgated regulations and adjudicated FEHA claims in an administrative forum. The law transferred the regulatory functions of the Commission to the DFEH by creating a rulemaking body called the Fair Employment and Housing Council (Council) within the Department. SB 1038 ended administrative adjudication of FEHA claims and, for the first time, authorized the DFEH to file and prosecute civil actions directly in court. But before prosecuting a case, the Department provides free dispute resolution through its in-house Dispute Resolution Division.

To implement SB 1038, DFEH redirected positions to hire more mediators for its Dispute Resolution Division, increasing the ability of the Department to resolve cases without litigation but reducing the number of Enforcement Division positions available to investigate complaints. At the same time, DFEH redirected more resources to its systemic team in the Legal Division in order to increase the number of high impact, systemic discrimination cases the Legal Division could pursue under its strengthened prosecutorial power.

Since its creation, the new DFEH Council has drafted proposed amendments to the California Family Rights Act regulations (currently under review by the Office of Administrative Law); proposed amendments to a number of the former Commission's employment regulations (currently undergoing public review and comment); and is in the process of drafting the first proposed regulations interpreting California laws prohibiting housing discrimination.

Other internal changes have also had significant impacts on the Department's operations. In July 2012, the DFEH launched an electronic complaint filing and case management system. The electronic case management system allows staff in any DFEH office to view and access case files remotely, significantly increasing internal transparency.

Implementation of the system also resulted in changes to the filing process—not only in 2012, but also in subsequent years as the Department responded to feedback from the public and internal needs (see discussion under “Explanation of Data in this Report” on the following page). These changes are ongoing as the Department endeavors to make its processes as responsive and efficient as possible.

## Explanation of Data in this Report

The electronic complaint filing and case management system implemented by the Department in 2012 brought changes in how DFEH tracks and reports data. These changes – along with changes in our processes – have resulted in some challenges in reporting consistent data over the period covered by this report. In particular, tracking of “complaints” has changed over time. Prior to implementation of the electronic system in July 2012, DFEH staff conducted initial interviews with complainants before creating a “complaint.” These interviews did not result in a “complaint” (as the Department uses that term) if DFEH staff determined that the Department lacked jurisdiction over the matter or if the complainant chose not to move forward after being interviewed. These initial interviews were not included in counts of complaints.

The electronic system initially allowed complainants to file complaints online without being interviewed or otherwise discussing their claims with a DFEH investigator. A number of these initial filings were ultimately closed because of lack of jurisdiction or because the complainant chose not to move forward, but they were nonetheless counted as “complaints” under the new system. Subsequently (beginning on January 29, 2013 for housing complaints and on September 21, 2014 for all other complaints), a pre-complaint inquiry (PCI) process was added to the online system for all filings.<sup>1</sup> Under this process, investigators again conduct intake interviews to determine whether the department has jurisdiction before a “complaint” is prepared. The electronic system cannot currently distinguish between open PCIs and complaints, although the system can identify PCIs that have been closed without resulting in a complaint.

In practical terms, this means that the number of complaints or cases reported for 2011 and the first half of 2012 do not include cases where an initial interview of a complainant did not lead to a “complaint.” The number of reported housing cases from July 2012 (when the electronic system was implemented) through January 2013 (when the PCI process began for housing cases) includes all filings, even those ultimately closed for lack of jurisdiction or that otherwise did not result in a full investigation. Similarly, the number of reported non-housing cases from July 2012 through September 2014 includes all filings. For this report, for the time period after the PCI process was created (after January 2013 for housing and after September 2014 for non-housing cases), the Department has excluded cases that did not lead to “complaints,” meaning PCI cases that were closed after an initial interview without further investigation. The reported case numbers do include any open PCIs (because the system cannot distinguish those cases from complaints), some number of which will ultimately be closed without further investigation and will not lead to a complaint. The number of open PCIs included in this report should nonetheless be very small, since the vast majority of PCIs from 2013 and 2014 have been processed and have either been closed without further investigation (meaning they are not counted) or have been accepted for investigation (meaning they are counted as complaints).

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<sup>1</sup> Except verified complaints filed online by individuals who wish to forego the DFEH investigation and receive an immediate Right-to-Sue notice.

DFEH is currently working to modify its case management system to: distinguish between PCIs and complaints. This capability will allow the Department to determine whether a matter in an investigator's caseload is a PCI assigned for intake or a complaint assigned for investigation; to compare the number of PCIs rejected to the number accepted for investigation (and thereby converted to complaints); and to compare the number of PCIs to the number of complaints requesting an immediate Right-to-Sue. This capability will allow the Department to better track and report data over time.



**A. Each complainant's county of residence and all other available demographic information for each calendar year**

The following tables show the total number of employment and housing discrimination complaints based on the county of the complainant. The data is broadly consistent with the state's population demographics, with the largest number of complaints originating in the most populous counties. It is important to note that information such as race, sex, age, primary language, etc. is voluntary self-reporting data and not available for each complaint. For this reason, the Department does not have complete data on the other requested demographic information, including the race, sex, age, and primary language of complainants.

| Complainants' County of Residence<br>Employment Complaints |       |       |       |       |
|--|-------|-------|-------|-------|
|  | 2011  | 2012  | 2013  | 2014  |
| Alameda  | 880   | 785   | 734   | 709   |
| Alpine   | 3     |       | 1     |       |
| Amador   | 14    | 13    | 17    | 10    |
| Butte  | 63    | 47    | 62    | 50    |
| Calaveras  | 22    | 22    | 13    | 16    |
| Colusa   | 5     | 9     | 9     | 8     |
| Contra Costa   | 528   | 499   | 493   | 476   |
| Del Norte  | 4     | 3     | 9     | 18    |
| El Dorado  | 77    | 60    | 66    | 72    |
| Fresno   | 509   | 410   | 364   | 373   |
| Glenn  | 8     | 9     | 11    | 6     |
| Humboldt   | 30    | 28    | 31    | 46    |
| Imperial   | 41    | 51    | 51    | 35    |
| Inyo   | 10    | 6     | 7     | 3     |
| Kern   | 346   | 371   | 335   | 319   |
| Kings  | 59    | 39    | 35    | 53    |
| Lake   | 12    | 19    | 13    | 16    |
| Lassen   | 5     | 11    | 7     | 5     |
| Los Angeles  | 6,043 | 5,099 | 6,236 | 5,889 |
| Madera   | 56    | 58    | 42    | 52    |
| Marin  | 119   | 87    | 74    | 71    |
| Mariposa   | 6     | 6     | 1     | 3     |
| Mendocino  | 15    | 17    | 20    | 20    |
| Merced   | 103   | 97    | 94    | 60    |
| Modoc  | 3     |       | 3     | 6     |
| Mono   | 4     | 2     | 4     | 5     |
| Monterey   | 158   | 124   | 119   | 122   |
| Napa   | 55    | 49    | 45    | 48    |
| Nevada   | 42    | 26    | 38    | 17    |
| Orange   | 1,413 | 1,111 | 1,445 | 1,400 |
| Placer   | 158   | 139   | 159   | 170   |
| Plumas   | 4     | 4     | 7     | 5     |
| Riverside  | 720   | 676   | 744   | 720   |

| Complainants' County of Residence<br>Housing Complaints |      |      |      |      |
|---|------|------|------|------|
|   | 2011 | 2012 | 2013 | 2014 |
| Alameda   | 62   | 51   | 57   | 72   |
| Alpine  |      |      |      |      |
| Amador  | 1    |      |      | 1    |
| Butte   | 3    | 10   | 8    | 11   |
| Calaveras   |      | 2    |      |      |
| Colusa  |      |      |      |      |
| Contra Costa  | 17   | 32   | 33   | 38   |
| Del Norte   |      | 1    | 3    |      |
| El Dorado   | 3    | 2    | 7    | 7    |
| Fresno  | 20   | 25   | 31   | 41   |
| Glenn   |      |      | 1    |      |
| Humboldt  | 6    | 5    | 5    | 9    |
| Imperial  | 2    | 3    | 2    | 3    |
| Inyo  |      |      |      |      |
| Kern  | 20   | 24   | 15   | 26   |
| Kings   |      | 4    | 1    | 6    |
| Lake  |      | 5    | 1    | 4    |
| Lassen  | 3    | 1    |      |      |
| Los Angeles   | 238  | 335  | 351  | 448  |
| Madera  | 1    | 3    | 4    | 2    |
| Marin   | 5    | 17   | 19   | 12   |
| Mariposa  | 1    |      |      |      |
| Mendocino   | 1    | 3    | 2    | 6    |
| Merced  | 3    | 1    | 4    | 4    |
| Modoc   |      |      |      |      |
| Mono  |      |      |      | 1    |
| Monterey  | 3    | 8    | 10   | 20   |
| Napa  | 3    | 1    | 6    | 4    |
| Nevada  |      | 2    | 2    | 1    |
| Orange  | 39   | 68   | 71   | 88   |
| Placer  | 8    | 10   | 2    | 12   |
| Plumas  |      |      |      |      |
| Riverside   | 40   | 61   | 43   | 56   |

|                 | 2011          | 2012          | 2013          | 2014          |                 | 2011       | 2012         | 2013         | 2014         |
|-----------------|---------------|---------------|---------------|---------------|-----------------|------------|--------------|--------------|--------------|
| Sacramento      | 863           | 884           | 831           | 848           | Sacramento      | 23         | 55           | 72           | 94           |
| San Benito      | 36            | 16            | 39            | 28            | San Benito      |            |              | 2            | 3            |
| San Bernardino  | 790           | 694           | 791           | 846           | San Bernardino  | 31         | 51           | 49           | 58           |
| San Diego       | 1,107         | 954           | 1,099         | 1,141         | San Diego       | 62         | 97           | 87           | 105          |
| San Francisco   | 469           | 398           | 496           | 553           | San Francisco   | 17         | 48           | 36           | 37           |
| San Joaquin     | 321           | 298           | 359           | 340           | San Joaquin     | 7          | 19           | 15           | 22           |
| San Jose        |               |               |               | 1             | San Jose        |            |              |              |              |
| San Luis Obispo | 109           | 81            | 81            | 81            | San Luis Obispo | 12         | 7            | 4            | 6            |
| San Mateo       | 256           | 276           | 270           | 234           | San Mateo       | 51         | 69           | 46           | 54           |
| Santa Barbara   | 138           | 193           | 163           | 188           | Santa Barbara   | 5          | 8            | 11           | 10           |
| Santa Clara     | 732           | 533           | 544           | 422           | Santa Clara     | 38         | 47           | 53           | 67           |
| Santa Cruz      | 80            | 54            | 59            | 68            | Santa Cruz      | 6          | 11           | 8            | 13           |
| Shasta          | 54            | 67            | 50            | 59            | Shasta          | 5          | 8            | 16           | 20           |
| Sierra          |               | 2             | 2             | 2             | Sierra          |            |              |              |              |
| Siskiyou        | 14            | 7             | 10            | 9             | Siskiyou        |            | 2            | 1            | 6            |
| Solano          | 284           | 238           | 226           | 188           | Solano          | 12         | 20           | 13           | 22           |
| Sonoma          | 196           | 170           | 172           | 164           | Sonoma          | 12         | 12           | 22           | 22           |
| Stanislaus      | 203           | 179           | 166           | 194           | Stanislaus      | 6          | 15           | 8            | 14           |
| Sutter          | 28            | 33            | 20            | 27            | Sutter          | 2          | 2            | 3            | 2            |
| Tehama          | 15            | 14            | 20            | 16            | Tehama          | 1          | 1            | 2            | 1            |
| Trinity         | 2             | 2             | 3             | 3             | Trinity         | 1          |              |              | 2            |
| Tulare          | 201           | 152           | 157           | 131           | Tulare          | 3          | 12           | 11           | 6            |
| Tuolumne        | 28            | 23            | 22            | 12            | Tuolumne        |            |              | 1            | 1            |
| Ventura         | 297           | 249           | 323           | 281           | Ventura         | 8          | 23           | 19           | 20           |
| Yolo            | 73            | 97            | 85            | 78            | Yolo            | 1          | 5            | 7            | 10           |
| Yuba            | 29            | 22            | 19            | 18            | Yuba            | 1          | 2            | 1            | 2            |
| Not Identified  |               | 3             | 18            | 15            | Not Identified  |            |              |              | 6            |
| Out of State    | 172           | 320           | 535           | 882           | Out of State    | 10         | 35           | 37           | 49           |
| <b>Totals</b>   | <b>18,012</b> | <b>15,836</b> | <b>17,849</b> | <b>17,632</b> | <b>Totals</b>   | <b>793</b> | <b>1,223</b> | <b>1,202</b> | <b>1,524</b> |

The tables on the following page show the total number of Unruh Civil Rights Act, Ralph Civil Rights Act, and Disabled Persons Act complaints based on the county of the complainant. No 2011 data is provided for Disabled Persons Act complaints because the Department began separately tracking those complaints in July 2012 when the DFEH launched its electronic case management system.

| Complainants' County of Residence<br>Ralph Complaints |           |           |           |           |
|---|-----------|-----------|-----------|-----------|
|   | 2011      | 2012      | 2013      | 2014      |
| Alameda   | 2         |           | 7         | 5         |
| Contra Costa  | 2         | 3         | 4         | 2         |
| Fresno  |           |           | 2         | 4         |
| Humboldt  |           |           |           |           |
| Kern  |           | 3         | 5         | 2         |
| Kings   | 1         |           |           | 1         |
| Lake  |           | 1         |           |           |
| Los Angeles   | 3         | 8         | 11        | 21        |
| Madera  |           | 2         |           |           |
| Mendocino   |           |           |           | 1         |
| Merced  | 2         |           | 1         | 1         |
| Monterey  |           |           |           | 1         |
| Napa  |           |           | 1         |           |
| Nevada  |           |           | 1         |           |
| Orange  | 1         | 4         | 4         | 4         |
| Placer  |           |           | 2         | 1         |
| Plumas  |           | 1         |           |           |
| Riverside   | 2         | 7         | 3         | 3         |
| Sacramento  |           | 3         | 6         | 6         |
| San Benito  |           | 1         |           |           |
| San Bernardino  |           | 4         | 2         | 5         |
| San Diego   | 2         | 2         | 4         | 8         |
| San Francisco   | 2         |           | 6         | 2         |
| Salinas   |           |           |           | 1         |
| San Joaquin   |           | 1         | 3         | 2         |
| San Luis Obispo                                       |           |           | 3         |           |
| San Mateo   | 2         | 2         | 2         | 1         |
| Santa Barbara   |           |           |           | 1         |
| Santa Clara   | 3         | 4         | 1         | 1         |
| Shasta  |           |           | 1         |           |
| Sierra  |           |           |           | 1         |
| Solano  | 2         |           | 2         | 2         |
| Sonoma  |           |           | 1         | 2         |
| Stanislaus  |           |           |           | 1         |
| Tulare  |           |           |           |           |
| Ventura   | 2         |           |           | 1         |
| Yolo  |           |           | 1         | 1         |
| Out of State  | 1         | 2         | 4         | 9         |
| <b>Totals</b>   | <b>27</b> | <b>48</b> | <b>77</b> | <b>90</b> |

| Complainants' County of Residence<br>Unruh Complaints |            |            |            |            |
|---|------------|------------|------------|------------|
|   | 2011       | 2012       | 2013       | 2014       |
| Alameda   | 10         | 8          | 13         | 13         |
| Amador  |            | 8          |            |            |
| Butte   |            | 2          | 1          | 1          |
| Contra Costa  | 4          | 7          | 10         | 8          |
| El Dorado   |            |            | 1          |            |
| Fresno  |            | 5          | 7          | 8          |
| Imperial  |            |            | 1          |            |
| Kern  | 5          | 6          | 7          | 3          |
| Lake  | 1          |            |            |            |
| Los Angeles   | 30         | 42         | 54         | 90         |
| Madera  | 1          | 1          |            |            |
| Mendocino   |            | 1          |            |            |
| Merced  | 1          | 2          | 1          | 2          |
| Monterey  |            |            | 3          | 1          |
| Napa  |            |            | 1          | 1          |
| Nevada  |            | 1          |            |            |
| Orange  | 3          | 12         | 5          | 15         |
| Placer  |            | 1          | 2          | 2          |
| Riverside   | 3          | 5          | 4          | 11         |
| Sacramento  | 6          | 15         | 15         | 35         |
| San Benito  | 1          |            |            |            |
| San Bernardino  | 2          | 10         | 2          | 13         |
| San Diego   | 10         | 9          | 17         | 18         |
| San Francisco   | 10         | 4          | 6          | 8          |
| San Joaquin   |            | 5          | 4          | 1          |
| San Luis Obispo                                       |            |            | 1          | 3          |
| San Mateo   | 3          | 8          | 1          | 3          |
| Santa Barbara   |            |            | 2          | 2          |
| Santa Clara   | 7          | 5          | 8          | 18         |
| Santa Cruz  |            | 2          | 2          | 3          |
| Shasta  |            | 1          |            | 1          |
| Siskiyou  |            | 2          |            |            |
| Solano  | 3          | 2          | 4          | 6          |
| Sonoma  | 1          |            | 3          | 3          |
| Stanislaus  | 2          | 2          | 1          | 2          |
| Tehama  |            |            | 1          |            |
| Tulare  | 1          | 2          | 1          | 2          |
| Ventura   | 1          | 1          | 3          | 3          |
| Yolo  |            |            | 1          |            |
| Out of State  | 4          | 20         | 8          | 19         |
| <b>Totals</b>   | <b>109</b> | <b>189</b> | <b>190</b> | <b>295</b> |

| <b>Complainants' County of Residence<br/>Disabled Persons Act Complaints</b> |             |             |             |
|--|-------------|-------------|-------------|
|  | <b>2012</b> | <b>2013</b> | <b>2014</b> |
| Alameda  | 1           | 1           | 4           |
| Contra Costa   |             | 2           | 1           |
| Fresno   | 1           |             | 4           |
| Humboldt   |             |             | 1           |
| Kern   | 2           |             | 1           |
| Los Angeles  | 4           | 5           | 7           |
| Monterey   |             |             | 1           |
| Nevada   |             | 1           |             |
| Orange   | 1           | 2           | 3           |
| Placer   |             |             | 1           |
| Riverside  |             | 2           | 1           |
| Sacramento   | 2           | 2           | 5           |
| San Benito   |             | 1           |             |
| San Bernardino   |             | 1           | 2           |
| San Diego  | 1           | 1           | 2           |
| San Francisco  |             |             | 1           |
| San Joaquin  | 1           |             |             |
| San Mateo  |             |             | 1           |
| Santa Barbara  |             |             | 1           |
| Santa Clara  | 1           | 1           | 1           |
| Shasta   | 1           |             |             |
| Solano   |             |             |             |
| Sonoma   |             | 1           | 1           |
| Stanislaus   |             | 1           | 1           |
| Yuba   |             |             |             |
| Out of State   | 1           | 1           | 4           |
| <b>Totals</b>  | <b>16</b>   | <b>22</b>   | <b>43</b>   |

## **B. Total number of immediate “Right to Sue” notices issued**

The FEHA requires that individuals exhaust their administrative remedies by filing a complaint and obtaining a Right to Sue notice from the Department before filing a lawsuit under the FEHA alleging employment discrimination. Administrative exhaustion is not required for complaints alleging housing discrimination under the FEHA or for complaints alleging violations of the other laws enforced by the DFEH. The Department accepts requests for an immediate Right to Sue notice from persons who have decided to forgo an investigation and proceed directly to court in employment discrimination cases. The complaint must be filed within one year from the last act of discrimination or the complainant may lose his or her right to file a lawsuit under the FEHA.

The DFEH issued the following number of immediate “Right to Sue” notices for each of the below listed calendar years:

| Immediate "Right to Sue" Notices Issued |       |        |        |
|---|-------|--------|--------|
| 2011                                    | 2012  | 2013   | 2014   |
| 11,447                                  | 8,674 | 10,914 | 10,568 |

### C. Total complaints filed by basis and total accusations issued by basis

The tables in this section show the total number of complaints filed by basis. Complainants may file a complaint alleging discrimination on more than one basis. For example, an individual might allege that she has been discriminated against based on both her sex and her race, and that she has suffered retaliation, all in the same complaint. As a result, the number of bases is significantly higher than the number of complaints filed.

The following tables also show the number of "accusations" filed by basis. Prior to 2013, the Department initiated prosecution by filing an "accusation" (administrative pleading) before the former Fair Employment and Housing Commission. Under SB 1038, the Department is now authorized to file civil complaints directly in the state or federal trial courts rather than with the Commission. As a result, the tables for 2013 and 2014 include civil complaints with their bases, rather than accusations.

In 2011, a total of 18,012 employment and 793 housing complaints were filed on the bases shown below.

| Total Employment Complaints Filed by Basis in 2011 = 18,012 | No.           |
|---|---------------|
| Age - 40 or Over  | 3,872         |
| Association - Must be Used with Another Basis               | 530           |
| Disability - Mental and Physical                            | 9,379         |
| Family Care   | 798           |
| Marital Status  | 383           |
| National Origin/Ancestry                                    | 2,021         |
| Other   | 576           |
| Race/Color  | 3,427         |
| Religion  | 492           |
| Retaliation   | 7,728         |
| Sex - Harassment  | 3,713         |
| Sex - Orientation   | 727           |
| Sex - Other Allegations                                     | 2,350         |
| Sex - Pregnancy   | 937           |
| <b>Total Employment Bases</b>                               | <b>36,933</b> |

| Total Housing Complaints Filed by Basis in 2011 = 793 | No.          |
|---|--------------|
| Age - 40 or Over                                      | 4            |
| Association - Must be Used with Another Basis         | 10           |
| Disability - Mental and Physical                      | 444          |
| Familial Status (Children)                            | 146          |
| Marital Status  | 16           |
| National Origin/Ancestry                              | 86           |
| Other   | 7            |
| Race/Color  | 141          |
| Religion  | 8            |
| Retaliation   | 57           |
| Sex - Harassment                                      | 30           |
| Sex - Orientation                                     | 28           |
| Sex - Other Allegations                               | 27           |
| Sex - Pregnancy                                       | 5            |
| Source of Income                                      | 20           |
| <b>Total Housing Bases</b>                            | <b>1,029</b> |

In 2011, a total of 27 Ralph and 109 Unruh complaints were filed on the bases shown below.

| <b>Total Ralph Complaints filed by Basis (27)</b> | <b>No.</b> |
|---|------------|
| Age – 40 or Over                                  | 2          |
| National Origin/Ancestry                          | 7          |
| Disability – Mental and Physical                  | 1          |
| Race/Color  | 6          |
| Religion  | 1          |
| Retaliation                                       | 2          |
| Sex – Harassment                                  | 15         |
| Sex – Orientation                                 | 1          |
| Sex – Other Allegations                           | 2          |
| <b>Total</b>                                      | <b>37</b>  |

| <b>Total Unruh Complaints filed by Basis (109)</b> | <b>No.</b> |
|--|------------|
| Age – 40 or Over                                   | 1          |
| Association – Must be Used with Another Basis      | 2          |
| Familial Status (Children)                         | 2          |
| Marital Status – Married                           | 1          |
| Disability - Mental and Physical                   | 79         |
| National Origin/Ancestry                           | 8          |
| Race/Color   | 20         |
| Retaliation  | 1          |
| Sex – Harassment                                   | 2          |
| Sex – Orientation                                  | 2          |
| Sex – Other Allegations                            | 6          |
| <b>Total</b>                                       | <b>124</b> |

The table below shows the bases included in the accusations filed in 2011.

| <b>Total Accusations Issued in 2011 = 58</b> |                              |            |
|--|------------------------------|------------|
| <b>Type</b>                                  | <b>Basis</b>                 | <b>No.</b> |
| Employment                                   | Age – 40 or Over             | 3          |
| Employment                                   | Disability                   | 21         |
| Employment                                   | Family Care                  | 6          |
| Employment                                   | Marital Status – Single      | 1          |
| Employment                                   | National Origin/Ancestry     | 2          |
| Employment                                   | Race/Color                   | 3          |
| Employment                                   | Retaliation – for Protesting | 9          |
| Employment                                   | Sex – Harassment             | 15         |
| Employment                                   | Sex – Orientation            | 1          |
| Employment                                   | Sex – Other Allegations      | 9          |
| Employment                                   | Sex – Pregnancy              | 6          |
| Housing                                      | Disability                   | 8          |
| Housing                                      | Familial Status (Children)   | 4          |
| Housing                                      | National Origin/Ancestry     | 1          |
| Housing                                      | Race/Color                   | 1          |
| Housing                                      | Religion                     | 2          |
| Housing                                      | Retaliation - for Protesting | 3          |
| Unruh  | Disability                   | 1          |
| <b>Total</b>                                 |                              | <b>96</b>  |

In 2012, a total of 15,836 employment and 1,223 housing complaints were filed on the bases shown below.

| <b>Total Employment Complaints Filed by Basis in 2012 = 15,836</b> | <b>No.</b>    |
|--|---------------|
| Age - 40 and Over  | 3,488         |
| Association with a Member of a Protected Class                     | 606           |
| Disability - Mental and Physical                                   | 8,086         |
| Engagement in Protected Activity                                   | 1,139         |
| Family Care or Medical Leave                                       | 1,301         |
| Marital Status   | 392           |
| National Origin/Ancestry   | 2,125         |
| Other  | 1,259         |
| Race/Color   | 4,030         |
| Religion   | 595           |
| Retaliation  | 7,261         |
| Sex - Gender Identity/Expression                                   | 199           |
| Sex - Genetic Information  | 84            |
| Sex - Harassment   | 3,163         |
| Sex - Orientation  | 681           |
| Sex - Other Allegations  | 2,833         |
| Sex - Pregnancy  | 886           |
| <b>Total</b>   | <b>38,128</b> |

| <b>Total Housing Complaints Filed by Basis in 2012 = 1,223</b> | <b>No.</b>   |
|--|--------------|
| Age - 40 and over  | 44           |
| Association with a Member of a Protected Class                 | 14           |
| Disability - Mental and Physical                               | 586          |
| Engagement in Protected Activity                               | 51           |
| Familiar Status (Children)                                     | 206          |
| Marital Status   | 54           |
| National Origin/Ancestry                                       | 110          |
| Other  | 88           |
| Race/Color   | 305          |
| Religion   | 24           |
| Retaliation  | 166          |
| Sex – Genetic Information                                      | 4            |
| Sex - Gender Identity/Expression                               | 15           |
| Sex - Harassment   | 55           |
| Sex - Orientation  | 45           |
| Sex - Other Allegations  | 91           |
| Sex - Pregnancy  | 5            |
| Source of Income   | 74           |
| <b>Total</b>   | <b>1,937</b> |

In 2012, a total of 48 Ralph and 189 Unruh complaints were filed on the bases shown below.

| <b>Total Ralph Complaints Filed by Basis (48)</b> | <b>No.</b> |
|---|------------|
| Age - 40 and Over                                 | 6          |
| Disability - Mental and Physical                  | 4          |
| National Origin/Ancestry                          | 8          |
| Other   | 12         |
| Political Affiliation                             | 4          |
| Position in a Labor Dispute                       | 8          |
| Race/Color  | 19         |
| Religion  | 5          |
| Sex - Gender Identity/Expression                  | 3          |
| Sex - Genetic Information                         | 3          |
| Sex - Harassment                                  | 1          |
| Sex - Orientation                                 | 9          |
| Sex - Other Allegations                           | 6          |
| <b>Total</b>                                      | <b>88</b>  |

| <b>Total Unruh Complaints Filed by Basis (189)</b> | <b>No.</b> |
|--|------------|
| Age - 40 and Over                                  | 22         |
| Association  | 2          |
| Disability - Mental and Physical                   | 105        |
| Familial Status (Children)                         | 1          |
| Marital Status                                     | 3          |
| National Origin/Ancestry                           | 23         |
| Other  | 23         |
| Race/Color   | 77         |
| Religion   | 10         |
| Sex - Gender Identity/Expression                   | 3          |
| Sex - Genetic Information                          | 2          |
| Sex - Harassment                                   | 2          |
| Sex - Orientation                                  | 9          |
| Sex - Other Allegations                            | 15         |
| <b>Total</b>                                       | <b>297</b> |

The table below shows the bases included in the accusations filed in 2012.

| <b>Total Accusations Issued in 2012 = 57</b> |                              |            |
|--|------------------------------|------------|
| <b>Type</b>                                  | <b>Basis</b>                 | <b>No.</b> |
| Employment                                   | Age - 40 or Over             | 2          |
| Employment                                   | Disability                   | 15         |
| Employment                                   | Family Care                  | 8          |
| Employment                                   | National Origin/Ancestry     | 1          |
| Employment                                   | Race/Color                   | 2          |
| Employment                                   | Religion                     | 1          |
| Employment                                   | Retaliation for Filing       | 2          |
| Employment                                   | Retaliation - for Protesting | 8          |
| Employment                                   | Sex – Harassment             | 8          |
| Employment                                   | Sex – Orientation            | 3          |
| Employment                                   | Sex - Other Allegations      | 3          |
| Employment                                   | Sex – Pregnancy              | 10         |
| Housing                                      | Disability                   | 18         |
| Housing                                      | Familial Status (Children)   | 9          |
| Housing                                      | Marital Status – Single      | 2          |
| Housing                                      | National Origin/Ancestry     | 1          |
| Housing                                      | Source of Income             | 2          |
| Housing                                      | Retaliation - for Filing     | 1          |
| Unruh  | Disability                   | 19         |
| Unruh  | Race/Color                   | 1          |
| <b>Total</b>                                 |                              | <b>116</b> |

In 2013, a total of 17,849 employment and 1,202 housing complaints were filed on the bases shown in the tables on the following page.



| <b>Total Employment Complaints Filed in 2013 =17,849</b> | <b>No.</b>    |
|--|---------------|
| Age 40 and over  | 4,510         |
| Association with a Member of a Protected Class           | 1,530         |
| Disability - Mental and Physical                         | 11,166        |
| Engagement in Protected Activity                         | 5,810         |
| Family Care or Medical Leave                             | 3,789         |
| Marital Status   | 590           |
| Other  | 3,142         |
| Race/Color   | 6,567         |
| Religion   | 766           |
| Retaliation  | 12,537        |
| Sex - Gender Identity or Gender Expression               | 428           |
| Sex – Genetic Information                                | 419           |
| Sex – Harassment   | 4,473         |
| Sex – Orientation  | 881           |
| Sex - Other Allegations                                  | 5,178         |
| Sex – Pregnancy  | 1,163         |
|  |               |
| <b>Total</b>   | <b>66,423</b> |

| <b>Total Housing Complaints Filed in 2013 = 1,202</b> | <b>No.</b>   |
|---|--------------|
| Age - 40 and over                                     | 113          |
| Association with a Member of a Protected Class        | 43           |
| Disability - Mental and Physical                      | 580          |
| Engagement in Protected Activity                      | 60           |
| Familiar Status (Children)                            | 223          |
| Marital Status  | 73           |
| National Origin/Ancestry                              | 139          |
| Other   | 92           |
| Race/Color  | 397          |
| Religion  | 41           |
| Retaliation   | 344          |
| Sex - Gender Identity or Gender Expression            | 13           |
| Sex – Genetic Information                             | 7            |
| Sex - Harassment                                      | 74           |
| Sex - Orientation                                     | 46           |
| Sex - Other Allegations                               | 112          |
| Sex - Pregnancy                                       | 12           |
| Source of Income                                      | 120          |
| <b>Total</b>  | <b>2,489</b> |

In 2013, a total of 77 Ralph and 190 Unruh complaints were filed on the bases shown below.

| <b>Total Ralph Complaints filed by Basis (77)</b> | <b>No.</b> |
|---|------------|
| Age - 40 and Over                                 | 11         |
| Disability - Mental and Physical                  | 21         |
| National Origin/Ancestry                          | 18         |
| Other   | 23         |
| Political Affiliation                             | 2          |
| Position in a Labor Dispute                       | 15         |
| Race/Color  | 35         |
| Religion  | 11         |
| Sex - Gender Identity/Expression                  | 4          |
| Sex - Genetic Information                         | 2          |
| Sex - Orientation                                 | 14         |
| Sex - Other Allegations                           | 24         |
| <b>Total</b>                                      | <b>180</b> |

| <b>Total Unruh Complaints filed by Basis (190)</b> | <b>No.</b> |
|--|------------|
| Age - 40 and Over                                  | 16         |
| Disability - Mental and Physical                   | 92         |
| Marital Status                                     | 7          |
| National Origin/Ancestry                           | 26         |
| Other  | 26         |
| Race/Color   | 131        |
| Religion   | 9          |
| Sex - Gender Identity/Expression                   | 4          |
| Sex - Genetic Information                          | 7          |
| Sex - Orientation                                  | 12         |
| Sex - Other Allegations                            | 30         |
| Sex - Pregnancy                                    | 1          |
| <b>Total</b>                                       | <b>361</b> |

The table below shows the bases included in the civil complaints filed in 2013.

| <b>Total Civil Complaints Filed in 2013 = 27</b> |  |            |
|--|--|------------|
| <b>Type</b>                                      | <b>Basis</b>                               | <b>No.</b> |
| Employment                                       | Age - 40 or Over                           | 1          |
| Employment                                       | Disability – Mental and Physical           | 3          |
| Employment                                       | Engagement in Protected Activity           | 5          |
| Employment                                       | Race/Color                                 | 1          |
| Employment                                       | Retaliation for Filing                     | 3          |
| Employment                                       | Sex – Gender Identity or Gender Expression | 3          |
| Employment                                       | Sex – Harassment                           | 3          |
| Employment                                       | Sex – Orientation                          | 2          |
| Employment                                       | Sex – Other Allegations                    | 5          |
| Employment                                       | Pregnancy                                  | 4          |
| Housing  | Age – 40 and Over                          | 1          |
| Housing  | Disability – Mental and Physical           | 7          |
| Housing  | Familial Status                            | 14         |
| Housing  | Marital Status                             | 1          |
| Housing  | Race/Color                                 | 5          |
| Housing  | Sex – Harassment                           | 1          |
| Housing  | Sex – Orientation                          | 4          |
| Housing  | Sex – Other Allegations                    | 1          |
| Housing  | Source of Income                           | 1          |
| Ralph  | Sex – Orientation                          | 4          |
| Unruh  | Sex – Orientation                          | 1          |
| <b>Total</b>                                     |  | <b>70</b>  |

In 2014, a total of 17,632 employment and 1,524 housing complaints were filed on the bases shown on the following page.

| <b>Total Employment Complaints Filed in 2014 = 17,632</b> | <b>No.</b>    |
|---|---------------|
| Age - 40 or Over  | 4,338         |
| Association with a Member of a Protected Class            | 1,652         |
| Disability - Mental and Physical                          | 11,060        |
| Engagement in Protected Activity                          | 6,238         |
| Family Care or Medical Leave                              | 3,973         |
| Marital Status  | 456           |
| National Origin/Ancestry                                  | 3,421         |
| Other   | 2,440         |
| Race/Color  | 6,488         |
| Religion  | 736           |
| Retaliation   | 12,344        |
| Sex – Gender Identity/Expression                          | 439           |
| Sex – Genetic Information                                 | 447           |
| Sex – Harassment  | 4,312         |
| Sex - Orientation   | 921           |
| Sex – Other Allegations                                   | 5,134         |
| Sex - Pregnancy   | 1,181         |
|   |               |
| <b>Totals</b>   | <b>65,338</b> |

| <b>Total Housing Complaints Filed in 2014 = 1,524</b> | <b>No.</b>   |
|---|--------------|
| Age - 40 or Over                                      | 117          |
| Association with a Member of Protected Class          | 82           |
| Disability - Mental and Physical                      | 773          |
| Engagement in Protected Activity                      | 109          |
| Familiar Status (Children)                            | 252          |
| Marital Status  | 71           |
| National Origin/Ancestry                              | 175          |
| Other   | 74           |
| Race/Color  | 475          |
| Religion  | 69           |
| Retaliation   | 414          |
| Sex –Gender Identity/Expression                       | 17           |
| Sex –Genetic Information                              | 8            |
| Sex – Harassment                                      | 100          |
| Sex – Orientation                                     | 73           |
| Sex – Other Allegations                               | 142          |
| Sex - Pregnancy                                       | 17           |
| Source of Income                                      | 145          |
| <b>Total</b>  | <b>3,113</b> |

In 2014, a total of 90 Ralph and 295 Unruh complaints were filed on the bases shown below.

| <b>Total Ralph Complaints filed by Basis (90)</b> | <b>No.</b> |
|---|------------|
| Age - 40 and Over                                 | 17         |
| Disability - Mental and Physical                  | 34         |
| National Origin/Ancestry                          | 30         |
| Other   | 15         |
| Political Affiliation                             | 9          |
| Position in a Labor Dispute                       | 12         |
| Race/Color  | 39         |
| Religion  | 13         |
| Sex - Gender Identity/Expression                  | 8          |
| Sex - Genetic Information                         | 6          |
| Sex - Orientation                                 | 9          |
| Sex - Other Allegations                           | 30         |
| <b>Total</b>                                      | <b>222</b> |

| <b>Total Unruh Complaints filed by Basis (295)</b> | <b>No.</b> |
|--|------------|
| Age - 40 and Over                                  | 44         |
| Disability - Mental and Physical                   | 150        |
| Marital Status                                     | 8          |
| National Origin/Ancestry                           | 51         |
| Other  | 50         |
| Race/Color   | 164        |
| Religion   | 21         |
| Sex - Gender Identity/Expression                   | 11         |
| Sex - Genetic Information                          | 10         |
| Sex - Orientation                                  | 14         |
| Sex - Other Allegations                            | 46         |
| Sex - Pregnancy                                    | 5          |
| <b>Total</b>                                       | <b>574</b> |

The table below shows the bases included in the civil complaints filed in 2014.

| <b>Total Civil Complaints Filed in 2014 = 18</b> |                                  |            |
|--|----------------------------------|------------|
| <b>Type</b>                                      | <b>Basis</b>                     | <b>No.</b> |
| Employment                                       | Disability – Mental and Physical | 1          |
| Employment                                       | Military or Veteran Status       | 3          |
| Employment                                       | National Origin/Ancestry         | 1          |
| Employment                                       | Race/Color                       | 2          |
| Employment                                       | Retaliation for Filing           | 3          |
| Employment                                       | Sex – Harassment                 | 8          |
| Employment                                       | Sex – Other Allegations          | 9          |
| Employment                                       | Sex – Pregnancy                  | 3          |
| Housing  | Disability – Mental and Physical | 12         |
| Housing  | Familial Status                  | 4          |
| Housing  | Race/Color                       | 1          |
| <b>Total</b>                                     |                                  | <b>47</b>  |

For reference, the chart below shows the total number of complaints filed annually with the DFEH from 2011 through 2014, broken down by law: FEHA employment, FEHA housing, Ralph Civil Rights Act, Unruh Civil Rights Act and Disabled Persons Act. No 2011 data is provided for Disabled Persons Act complaints because the Department began separately tracking those complaints in July 2012 when the DFEH launched its electronic case management system.

| <b>Complaints Filed by Law</b> |               |               |               |               |
|--------------------------------|---------------|---------------|---------------|---------------|
| <b>Law</b>                     | <b>2011</b>   | <b>2012</b>   | <b>2013</b>   | <b>2014</b>   |
| FEHA Employment                | 18,012        | 15,836        | 17,849        | 17,632        |
| FEHA Housing                   | 793           | 1,223         | 1,202         | 1,524         |
| Ralph Civil Rights Act         | 27            | 48            | 77            | 90            |
| Unruh Civil Rights Act         | 109           | 189           | 190           | 295           |
| Disabled Persons Act           |               | 16            | 22            | 43            |
| <b>Totals</b>                  | <b>18,941</b> | <b>17,312</b> | <b>19,340</b> | <b>19,584</b> |

**D. Number of complaints referred to department-conducted mediation, number of mediations conducted, number of settlements and total value of settlements**

In the early 2000's, the DFEH received a one-time budget augmentation to fund a pilot mediation program using contract mediators. After this funding ran out, the Department continued the program with the services of volunteer mediators. For a limited time, the US Department of Housing and Urban Development (HUD) funded two Enforcement Division positions to mediate housing discrimination complaints. The DFEH redirected two positions from Enforcement to continue to provide housing mediations after HUD funding was eliminated. In May of 2010, the Department created a Mediation Division,

using additional redirected investigator positions to hire attorney mediators, and began offering free voluntary mediation services on a regular basis.

Under SB 1038, the Department’s Dispute Resolution Division began mediating complaints referred for mandatory dispute resolution by the Legal Division prior to filing a civil complaint. Additionally, the Dispute Resolution Division continues to provide voluntary early mediation services for complaints referred by the Enforcement Division.

The data below reflects the total number of complaints referred, mediated and settled, and is not broken down by Legal Division vs. Enforcement Division referrals. The Dispute Resolution Division controls the number of complaints it will accept for processing based on the number of mediators available to mediate cases. A majority of the referrals originate in the Enforcement Division and are voluntary, rather than mandatory, mediations. The number of complaints referred exceeds the number of mediations conducted because complaints referred for voluntary mediation cannot proceed to mediation unless all parties agree to mediate.

In 2012, there was a decrease in referrals due to the Department’s transition to an electronic case management system, which, among other functions, was intended to automatically refer complaints for mediation, but could not. The increase in mediations conducted in 2013 and 2014 reflects the hire of additional mediators using investigator positions diverted from the Enforcement Division, and the combined efforts of the Dispute Resolution Division and Legal Division to resolve SB1038 referred cases on behalf of complainants and the State of California.

The reported settlement amounts in this section and in section E below reflect monetary recovery only. Many complaints filed for investigation with the Department have low economic damages and are unattractive to the private bar. However, most Department settlements include “affirmative relief” in the form of injunctions, training and monitoring, and changes in policies that increase fair employment or housing opportunities. Some settlements include only affirmative relief and no economic recovery. The economic and societal value of affirmative relief is not reflected in this data.

| <b>Dispute Resolution Division</b> |   |                                       |                           |                                |
|------------------------------------|---|---------------------------------------|---------------------------|--------------------------------|
| <b>Year</b>                        | <b>No. of Complaints Referred for Mediation</b> | <b>Number of Mediations Conducted</b> | <b>No. of Settlements</b> | <b>Total Settlement Amount</b> |
| 2011                               | 1,133   | 371                                   | 241                       | \$2,629,323                    |
| 2012                               | 858   | 200                                   | 166                       | \$2,257,914                    |
| 2013                               | 1,222   | 453                                   | 265                       | \$3,880,182                    |
| 2014                               | 1,298   | 620                                   | 347                       | \$8,214,989                    |

**E. Number of cases settled by the Enforcement and Legal Divisions and the total amount of settlements for each division**

The table below presents the settlements by the Enforcement and Legal Divisions for 2011 through December 2014, not including affirmative relief. These settlements were reached without the participation of the Dispute Resolution Division, and the data does not include settlements resulting from that Division’s mediations, which are shown in

section D above. Dispute Resolution Division settlements and triaging cases with the Legal Division have lowered the number of settlements reached in the Enforcement Division. Similarly, SB 1038 mandatory dispute resolution has lowered the number of cases reported as settled by the Legal Division.

The amounts listed below are those that respondents or defendants agreed to pay, and complainants or real parties agreed to accept, in order to resolve their discrimination cases.

| Calendar Year | Number of Settled Cases | Enforcement Division | Number of Settled Cases | Legal Division |
|---------------|-------------------------|----------------------|-------------------------|----------------|
| 2011          | 670                     | \$7,818,762          | 55                      | \$2,742,933    |
| 2012          | 470                     | \$5,219,464          | 744 <sup>2</sup>        | \$8,214,458    |
| 2013          | 398                     | \$4,047,606          | 39                      | \$1,721,277    |
| 2014          | 280                     | \$3,470,910          | 32                      | \$9,740,961    |

#### F. Number of complaints referred to litigation

The table below shows the number of complaints the Enforcement Division referred to the Legal Division for litigation for 2011 through December of 2014. The Enforcement Division refers cases to the Legal Division for prosecution after the Enforcement Division makes a determination of cause (finding that the case has merit) and if the case is not resolved by settlement in the Enforcement Division. The Legal Division makes the final determination regarding cause, and refers cases it intends to prosecute to the Dispute Resolution Division for SB 1038 mediation.

| Calendar Year | Employment | Housing | Ralph | Unruh | Disabled Persons Act (CC54) | Total Cases Referred |
|---------------|------------|---------|-------|-------|-----------------------------|----------------------|
| 2011          | 70         | 31      | 0     | 10    | 0                           | 111                  |
| 2012          | 75         | 33      | 4     | 23    | 0                           | 135                  |
| 2013          | 56         | 40      | 0     | 5     | 1                           | 102                  |
| 2014          | 32         | 58      | 1     | 6     | 1                           | 98                   |

#### G. Number of accusations issued and number of civil complaints the Department filed

The tables below show the number of accusations filed in 2011 and 2012 and the number of civil complaints filed in 2011 through December 2014. Prior to 2013, after being served with an accusation, a respondent could require the Department to

<sup>2</sup>The 2012 number of settled cases does not result from the same methodology as the numbers for other years. This figure includes the approximately 685 claimants who received money as the result of the settlement of a group action. The numbers for the other years, in which there were no group or class action settlements, reflect only the number of cases.

withdraw the accusation and file a civil complaint, so the matter could be litigated in court and not before the Commission. Thus, the data presented for 2011 and 2012 also includes civil complaints.

Civil complaints often are filed on behalf of multiple complainants. The number of complainants on whose behalf accusations or civil complaints were filed also is reflected in the numbers reported below.

| Accusations Filed |                                  |                               |                             |                             |                             |                         |                    |
|-------------------|----------------------------------|-------------------------------|-----------------------------|-----------------------------|-----------------------------|-------------------------|--------------------|
| Calendar Year     | Underlying Employment Complaints | Underlying Housing Complaints | Underlying Ralph Complaints | Underlying Unruh Complaints | Total Underlying Complaints | Total Accusations Filed | Total Complainants |
| 2011              | 48                               | 16                            |                             | 1                           | 65                          | 58                      | 78                 |
| 2012              | 37                               | 27                            |                             | 19                          | 83                          | 57                      | 100                |

| Civil Complaints Filed |                                  |                               |                             |                             |                             |                              |                    |
|------------------------|----------------------------------|-------------------------------|-----------------------------|-----------------------------|-----------------------------|------------------------------|--------------------|
| Calendar Year          | Underlying Employment Complaints | Underlying Housing Complaints | Underlying Ralph Complaints | Underlying Unruh Complaints | Total Underlying Complaints | Total Civil Complaints Filed | Total Complainants |
| 2011                   | 17                               | 2                             |                             |                             | 19                          | 19                           | 22                 |
| 2012                   | 17                               | 10                            |                             | 18                          | 45                          | 26                           | 49                 |
| 2013                   | 13                               | 23                            | 4                           | 1                           | 41                          | 27                           | 58                 |
| 2014                   | 12                               | 17                            |                             |                             | 29                          | 18                           | 48                 |

## H. Percentage of complaints closed within 100 days of filing and within 365 days of filing

The federal Department of Housing and Urban Development (HUD) requires that DFEH complete 50% of its investigations of housing complaints dual-filed<sup>3</sup> with HUD within 100 days of the filing of the complaints. As shown in the chart below, the Department did not meet this target in 2011 through 2013. As a result of this and other factors, the Department was placed on a Performance Improvement Plan by HUD. However, by making structural, personnel, and system changes, the Department successfully met HUD's performance expectations in 2014.

As requested by the Legislature, the chart also includes information on the number and percentage of employment complaints closed within 100 days. It should be noted that, for employment complaints, the California Fair Employment and Housing Act requires that, if the Department does not complete its investigation within 150 days of the filing of a complaint, the Department must issue a written notice advising the complainant of his or her right to withdraw the complaint and request a Right to Sue notice.

The chart also provides information on the number and percentage of investigations closed within 365 days of the filing of the complaints. For employment complaints, when

<sup>3</sup>A complaint over which both the Department and HUD have jurisdiction is filed with both entities and is called "dual-filed." In California, the DFEH investigates the complaints that are dual-filed with the DFEH and HUD.

a Right to Sue notice has not been requested earlier, the Department must issue a Right to Sue notice at the completion of its investigation or one year after the complaint is filed, whichever occurs first.

| Employment Complaints |              |                        |                                   |                        |                                   |
|-----------------------|--------------|------------------------|-----------------------------------|------------------------|-----------------------------------|
| Calendar Year         | Total Closed | Closed Within 100 Days | Percentage Closed Within 100 Days | Closed Within 365 Days | Percentage Closed Within 365 Days |
| 2011                  | 6,017        | 1,457                  | 24%                               | 4,472                  | 74%                               |
| 2012                  | 5,366        | 1,684                  | 31.5%                             | 3,455                  | 64.5%                             |
| 2013                  | 8,326        | 2,404                  | 29%                               | 5,727                  | 69%                               |
| 2014                  | 7,013        | 2,332                  | 33%                               | 4,565                  | 65%                               |

| Housing Complaints |              |                        |                                   |                        |                                   |
|--------------------|--------------|------------------------|-----------------------------------|------------------------|-----------------------------------|
| Calendar Year      | Total Closed | Closed Within 100 Days | Percentage Closed Within 100 Days | Closed Within 365 Days | Percentage Closed Within 365 Days |
| 2011               | 804          | 295                    | 37%                               | 480                    | 60%                               |
| 2012               | 771          | 347                    | 45%                               | 390                    | 51%                               |
| 2013               | 1,530        | 557                    | 36%                               | 913                    | 60%                               |
| 2014               | 1,568        | 900                    | 56.5%                             | 618                    | 39.5%                             |

### I. Average number of cases assigned per investigator and per attorney

The average number of case assignments per attorney is represented in the tables below. There are multiple possible methodologies for calculating the average number of case assignments. The numbers below result from dividing the number of open cases assigned to the Legal Division in each calendar year by the number of “personnel years” (PYs)<sup>4</sup> worked by attorneys that year. The number of open cases assigned to the Legal Division does not include cases for which attorneys are leading pre-filing investigations (those cases remain assigned to the Enforcement Unit in the Department’s current electronic system). The number of open cases also does not include cases actually filed in court to enforce discovery obligations during the investigation of a potential discrimination case. The number of open cases does include the total number of complaints underlying a civil action in cases where multiple complaints result in a single filed lawsuit.

The average number of cases assigned does not reflect the fact that multiple attorneys are assigned to most cases, with up to seven attorneys assigned to the most complex litigation handled by the Department. In this way, the numbers undercount the number of cases each attorney is working on at any given time. Further, the numbers are

<sup>4</sup> A personnel year is the actual or estimated portion of a position expended for the performance of work. For example, a full-time position which was filled by an employee for half of a year would result in an expenditure of 0.5 personnel years.



affected by the Department’s creation of a systemic litigation team in 2013, with several attorneys primarily assigned to a smaller number of more complex cases.

Finally, the data below does not reflect legal assignments that are not counted as “cases,” including case grading with the Enforcement Division, participation in anti-discrimination training for public and private groups, teaching and overseeing legal clinics, and internal legal work for the Department, including participation in personnel actions and internal investigations, as well as analysis of legal issues that arise in the operation of the Department’s work.

| <b>Average No. of Cases Assigned per Attorney</b> |             |             |             |
|---|-------------|-------------|-------------|
| <b>2011</b>                                       | <b>2012</b> | <b>2013</b> | <b>2014</b> |
| 16  | 17          | 19          | 13          |

The average number of case assignments per investigator is represented in the tables below. These numbers represent the average number of cases assigned in each year divided by the number of personnel years (PYs) worked in that year by staff in investigator classifications.<sup>5</sup> For purposes of this section of the report, the number of “cases” includes cases where a complaint was generated as well as those cases where staff conducted an intake and determined that the department did not have jurisdiction, meaning no “complaint” was generated, as the Department uses that term (see discussion on page 5). However, information on the number of cases that did not result in a complaint is not available for the month of February 2011 and for the first six months of 2012. Also not included in these numbers are complaints requesting an immediate right to sue, because such requests are not assigned to investigators.

| <b>Average No. of Cases Assigned per Investigator</b> |             |             |             |
|---|-------------|-------------|-------------|
| <b>2011</b>   | <b>2012</b> | <b>2013</b> | <b>2014</b> |
| 138   | 128         | 161         | 203         |

These figures represent the average total number of cases assigned over the course of the year. The actual number of cases assigned at any given point in time varies over the course of the year and depends on the number of filings and available investigators. On March 5, 2015, the average number of cases assigned to each full-time employment investigator was 100, and the average number of cases assigned to each full-time housing investigator was 75. The actual number of employment cases assigned to each full-time investigator ranged from 60 to 144. The actual number of housing cases assigned to each full-time investigator ranged from 57 to 109. In addition, there were 550 cases that had not yet been assigned.

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<sup>5</sup> For 2011 and part of 2012 (before implementation of the electronic case management system), staff in Legal Analyst classifications spent approximately half of their working hours doing work currently handled by staff in investigator classifications. For this reason, the number of PYs for 2011 and 2012 includes time worked by Legal Analysts in investigation duties (6 PYs for 2011 and 2 for 2012).