

West Virginia Human Rights Commission  
Fiscal Year 2021 Annual Report  
July 1, 2020 – June 30, 2021



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## In Honor and Remembrance

Ronald Lee Jones, Jr.

July 3, 1972 – March 26, 2021

Executive Director, West Virginia Human Rights Commission



## A Year of Challenges and Triumphs

The sudden illness and death of Executive Director Ronald L. Jones, Jr., was a devastating loss to the West Virginia Human Rights Commission and to the State of West Virginia. The Commission staff had grown to admire Dr. Jones and thought of him as a friend and mentor. His loss caused tremendous personal grief and presented unexpected operational challenges to the Commission.

However, Dr. Jones left the Commission prepared to face the new challenges of a pandemic-stricken world and ready to tackle (Ron was a football star and coach) the agency's mission with new resources and visibility. After COVID-19 forced temporary shutdowns and major disruptions, the West Virginia Human Rights Commission resumed its work with confidence because of Dr. Jones's reassuring leadership. The Commission adjusted its plans and acquired new equipment and resources that allowed it to perform effectively in a new environment.

The first priority was to keep our employees and guests safe. The Commission started Fiscal Year 2021 with the technology to allow staff to work remotely up to 80% of the time, and report to the office only in small groups to allow for social distancing. The daily presence of a "skeleton crew" at the office and all staff available remotely allowed the Commission to process cases at a rate that equaled or exceeded previous years.

Since traditional methods of outreach such as in-person seminars and presentations were mostly cancelled, the Commission had to find new ways to reach out and educate the public about human rights and the agency's functions. The Commission received robust support from its federal and state agency partners in its outreach efforts. The Commission's Facebook page was developed and improved with the assistance of the West Virginia Department of Health and Human Resources' Communications Office. A \$25,000 Partnership Grant from the U.S. Department of Housing and Urban Development allowed the Commission to secure radio broadcasts of numerous public service announcements on West Virginia Metro News, to contract for production of video public service announcements that appeared on the Commission's Facebook page, and to purchase outreach materials.

Interim Acting Executive Director James A. Spenia guided the Commission through the end of FY 2021 and provided steady leadership and support to the agency's staff. With the help of the West Virginia Department of Arts, Culture and History, West Virginia Public Broadcasting, and numerous other partners, the West Virginia Human Rights Commission was able to present its annual Fair Housing Conference virtually, combined with a celebration of the 60<sup>th</sup> anniversary of the West Virginia Human Rights Act.

## 60<sup>th</sup> Anniversary and Fair Housing Virtual Seminar

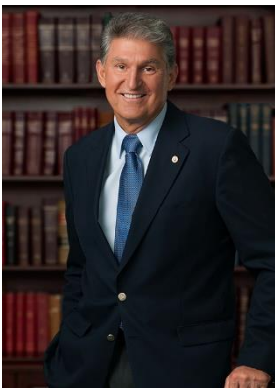
Governor Jim Justice issued a proclamation declaring April 1, 2021, West Virginia Human Rights Day and the month of April as Fair Housing Month for the State of West Virginia. The West Virginia Human Rights Commission held a virtual event in celebration of 60 years of the West Virginia Human Rights Act and our annual Fair Housing Conference. The event may be viewed at <https://fb.watch/9AXfZzJ4p-/>. The digital program may be accessed at <https://bit.ly/3tKnITy/>. The following program excerpt shares speakers from this event.

### **The Honorable Jim Justice, Governor of the State of West Virginia**



James C. Justice, II serves as West Virginia's 36<sup>th</sup> governor and wants to do everything possible to put West Virginia in a positive light. Governor Justice attended Raleigh County public schools, Greenbrier Military Academy, and Marshall University, where he earned both his undergraduate degree and Master of Business Administration. Governor Justice and First Lady Cathy Justice have been best friends since high school and married for more than 40 years. The Governor and First Lady are long-time members of the First Baptist Church in Beckley, WV.

### **The Honorable Joe Manchin, United States Senate**



U.S. Senator Joe Manchin was sworn into the United States Senate on November 15, 2010, to fill the seat left vacant by the late Senator Robert C. Byrd. Senator Manchin currently serves as the Chairman of the Senate Energy and Natural Resources Committee, and serves on the Senate Committee on Appropriations, the Senate Committee on Armed Services, and the Senate Committee on Veterans' Affairs, four critical committees that tackle the important work of addressing our nation's energy needs, overseeing discretionary spending, standing up for our veterans, and defending our nation.

**The Honorable Alex Mooney, United States House of Representatives**



Congressman Mooney grew up with a deep sense of appreciation for the American ideals of individual freedom and personal responsibility. He played football and rugby at Dartmouth College, where he graduated in 1993, and believes in the American values of hard work, faith, and freedom that have made our country great. He was first elected to Congress in 2014 and re-elected in 2016 and 2018 and serves on the House Financial Services Committee which oversees some of the most important economic issues facing West Virginia, such as banking, insurance, housing, and investment policies.

**Danielle Sievers, Program Compliance Branch Chief, Philadelphia Regional Office, Office of Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development**



Danielle Sievers joined the U.S. Department of Housing and Urban Development's Office of Fair Housing and Equal Opportunity (FHEO) in 2011 as a Presidential Management Fellow in the Philadelphia Office of Region III. She then joined the FHEO's Enforcement Division, becoming a team lead investigator in 2014. She currently focuses on ensuring civil rights compliance of recipients of federal funds in the U.S. Department of Housing and Urban Development's programmatic offices and monitoring grant recipients of the Fair Housing Assistance Program. Sievers completed her law degree at Boston College Law School.

**James "Tony" Spenia, Interim Executive Director, West Virginia Human Rights Commission**



James "Tony" Spenia, Interim Executive Director of the West Virginia Human Rights Commission, is a Nicholas County native and graduate of West Virginia University. Throughout his 18-year career, he has been a passionate advocate serving populations with both mental and physical disabilities, as well as those in need of assistance due to racial, low income, and class discrimination. He is very proud of his home state, and when not working, enjoys visiting all areas of West Virginia with his family.

**Jason Bailey, Assistant U.S. Attorney, Southern District of West Virginia**



Jason Bailey, a native of Ripley, completed his undergraduate degrees in political science and international studies at West Virginia University. He went on to earn his law degree at American University Washington College of Law and his Master of Law degree from Monash University in Melbourne, Australia. Prior to joining the Civil Division of the U.S. Attorney's Office in 2018, he served as a law clerk to the Honorable Thomas E. Johnston, Chief Judge of the U.S. District Court for the Southern District of West Virginia.

**Tracy Dorsey Chapman, Victim Witness Specialist, U.S. Attorney's Office, Southern District of West Virginia**



Tracy Dorsey Chapman is the Victim Witness Specialist for the U.S. Attorney's Office, Southern District of West Virginia (SDWV). In this position, she provides notice, information, and services to victims of federal crime within the SDWV. Chapman also establishes and maintains mutual communication between the SDWV and federal, state, and local organizations concerned with promoting the rights of victims and witnesses under applicable law, and advises and provides training for the U.S. Attorney's Office staff regarding victims' rights and services.

**Monica D. Coleman, Assistant U.S. Attorney, Southern District of West Virginia**



Monica Coleman is a 2000 graduate of West Virginia University College of Law. She has been an Assistant United States Attorney in the Southern District of West Virginia for 16 years. She currently serves as the U.S. Department of Justice's Lead Organized Crime Drug Enforcement Task Forces Attorney and as Criminal Civil Rights Coordinator.



**Dr. Darrell Cummings, Chairman, West Virginia Human Rights Commission**



Dr. Darrell W. Cummings is the Pastor of the Bethlehem Apostolic Temple in Wheeling, WV, and Shiloh Apostolic Faith Assembly in Weirton, WV. He also serves in the Chaplain’s Department for two state prisons, one nursing home and two hospitals. His honors include “Man of the Year” by the Wheeling NAACP and the African American Heritage of the Ohio Valley Program; “Civil Rights Leader of the Year” by the West Virginia Educators Association; and the United States Attorney’s Award for his work with the West Virginia Human Rights Commission and community service. Dr. Cummings also is the founder of the Timothy Leadership Conference, Temple Food Pantry Ministry and North Wheeling Community Youth Center.

**Lisa G. Johnston, Acting U.S. Attorney, Southern District of West Virginia**



Lisa G. Johnston is the Acting U.S. Attorney for the Southern District of West Virginia (SDWV) and is responsible for overseeing all federal criminal prosecutions and the litigation of all civil matters in the SDWV in which the federal government has an interest. Throughout her career with the U.S. Department of Justice, Johnston has prosecuted numerous sexual exploitation cases as well as federal cases involving firearms, arson, drugs, and health care fraud. She also organized and led the Northern District of West Virginia’s Crimes Against Children Task Force and completed a detail with the Bureau of Alcohol, Tobacco, Firearms and Explosives Chief Counsel’s Office. Johnston received her law degree from West Virginia University College of Law in 1988.

**J. Robert Leslie, Senior Deputy Attorney General, Office of the West Virginia Attorney General**



J. Robert Leslie serves as the Director for the West Virginia Attorney General’s Office Civil Rights Division and formerly served as a Circuit Court Judge in Putnam County. As Senior Deputy, Leslie implemented Attorney General Morrissey’s policy to combat human trafficking throughout West Virginia and has trained stakeholders across the state to accurately recognize and respond to incidents of human trafficking. Leslie has instructed at the Federal Bureau of Investigation and West Virginia State Police Academy, lectured at West Virginia, Marshall, and Shepherd universities, and delivered opening remarks to the International Law Enforcement Symposium to Combat Human Trafficking. He is a graduate of Marshall University and the Ohio Northern University College of Law.



**Cameron Scott McKinney, General Counsel, West Virginia Human Rights Commission**



Cameron Scott McKinney is a Wyoming County native and graduate of the West Virginia University College of Law. He worked in private practice prior to joining the West Virginia Human Rights Commission as General Counsel in 2015, where he primarily assists investigators in examining allegations of discrimination in employment, housing, and public accommodations. In 2017, he was selected to serve on the first Advisory Board for the Herbert Henderson Office of Minority Affairs and in April 2018, was appointed Acting Executive Director of the Human Rights Commission by Governor Jim Justice, a position he held until a new Executive Director was appointed in May 2019.

**Meshea Poore, Vice President and Chief Diversity Officer for the West Virginia University Division of Diversity, Equity and Inclusion**



Meshea L. Poore, Esq., served in the WV House of Delegates from 2009-2014 and has served as an adjunct professor at West Virginia State University, a faculty member in residence at the Center for American Women and Politics at Rutgers University, and has teaching privileges at WVU College of Law. In 2017, Poore became the first African American woman named president of the West Virginia State Bar. Poore earned her bachelor's degree from Howard University, her law degree from Southern University Law Center, and is a graduate of the Women's Campaign School at Yale University.

**Jeffrey A. Plear, Sr., West Virginia Human Rights Commission**



Jeffrey A. Plear, Sr., Investigator for the West Virginia Human Rights Commission, is a United States Navy veteran and graduate of West Virginia State University and the West Virginia State Police Academy. Prior to joining the West Virginia Human Rights Commission, Plear served as a police officer at West Virginia State University and in the Town of Chesapeake, where he received a mayoral LifeSaver award and a Certificate of Acknowledgement for his professional conduct in a lifesaving event. A strong advocate for healthy living, he was named Boxing Coach of the Year by Hometown Heroes Boxing and Fitness. Plear is a loving husband and a father of three who spends his free time with family and mentoring youth in the community.

### **Jill Upson, Executive Director, Herbert Henderson Office of Minority Affairs**



Jill Upson is the Executive Director of the Herbert Henderson Office of Minority Affairs (HHOMA). She was appointed to this cabinet-level position in December 2018 after serving for four years in the West Virginia House of Delegates. Director Upson holds the distinction of making state history as the first black Republican woman elected to the WV House of Delegates. In response to the COVID-19 pandemic, Upson formed and chairs the COVID-19 Advisory Commission on Racial Disparities which continues to lead statewide equitable vaccine distribution. Director Upson earned a Bachelor of Science degree in Business Administration from Shepherd University.

## **Case Activity for FY 2021**

### **Inquiries and Complaint Forms:**

The Commission receives hundreds of inquiries from citizens and businesses who have a concern about discrimination issues. Many inquiries are simple questions about the law or the Commission's services, and the agency's staff investigators or attorney are available to quickly answer the inquiries. Individuals who are considering filing a complaint are provided with an appropriate Background Information Form to complete and return to begin the complaint and investigation process.

The Commission tracks the number of Background Information Forms mailed to individuals; the forms can also be obtained from the Commission's website.

During FY 2021, the Commission mailed **301** Background Information Forms:

- 270 were mailed to individuals after a telephone inquiry
- 31 were mailed after a website inquiry.

The 301 Background Information Forms mailed were divided as follows:

- 207 employment complaints (69%)
- 48 public accommodations complaints (16%)
- 46 housing complaints (15%)

### **Complaints Docketed:**

After an individual completes and returns a Background Information Form, Commission investigators use the information provided to draft a concise legal complaint that must be approved and signed by the individual alleging discrimination and returned to the Commission to be docketed.

During FY 2021, the Commission docketed **148** legal complaints:

- 102 Complaints alleged discrimination in employment (69%)
- 27 Complaints alleged discrimination in housing (18%)
- 19 Complaints alleged discrimination in public accommodations (13%)
- 0 Complaints alleged violation of the Pregnant Workers' Fairness Act (0%)

### **Cases Closed:**

The majority of the Commission's cases are closed after the Commission completes an investigation and makes a determination of "probable cause" or "no probable cause." However, some cases are closed when the complaining party decides to withdraw the complaint or when the parties reach an agreement to end the case. After a probable cause determination, a case is referred to the Commission's Office of Administrative Law Judge to be decided at a public hearing unless the parties reach a settlement. Some cases alleging housing discrimination are litigated before the state's circuit courts instead of the Commission's administrative law judge after a probable cause determination.

During FY 2021, the Commission closed **143** cases:

- 112 cases alleged discrimination in employment (78%)
- 22 cases alleged discrimination in housing (15%)
- 9 cases alleged discrimination in public accommodations (7%)
- 1 employment case alleged violation of the Pregnant Workers' Fairness Act (<1%)

### **Active Case Load:**

- On July 1, 2020, the Commission had 235 active cases.
- On June 30, 2021, the Commission had 256 active cases (9% increase)

## Federal Workshare Agreements for Case Processing

The West Virginia Human Rights Commission's partnerships with federal agencies provide invaluable support, training, and funding for its efforts to address discrimination in employment and housing. Because West Virginia's anti-discrimination laws remain substantially equivalent to federal anti-discrimination laws, the Commission is eligible to benefit from workshare agreements with the U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Housing and Urban Development's (HUD) Office of Fair Housing and Equal Opportunity (FHEO).

Qualifying cases are "dual filed" with the West Virginia Human Rights Commission and the corresponding federal agency, thus preserving the complainant's rights to pursue litigation under federal or state law. When a West Virginia resident files a housing discrimination complaint with HUD's FHEO, the case is referred to the Commission for investigation. During FY 2021, the EEOC also started referring complaints filed by West Virginia workers to the Commission for investigation, increasing the Commission's active case load. Both EEOC and FHEO review the Commission's investigations to ensure that the work is diligent, thorough, and legally accurate. Each federal agency generally accepts the findings of the Commission's investigations as its own findings.

Additionally, as long as the West Virginia Human Rights Commission continues to effectively process cases of housing discrimination and improve its fair housing outreach/education efforts, the state is able to address some of its identified impediments to fair housing choice. West Virginia (like all jurisdictions that receive HUD funds) is required to eliminate all identified impediments to fair housing and to certify that the state government operates in a way to affirmatively further fair housing. Such certification is required for West Virginia to remain eligible to receive tens of millions of dollars in HUD funds for community development and affordable housing projects.

### **EEOC:**

The fiscal year for the West Virginia Human Rights Commission's workshare agreement with EEOC runs from October 1 to September 30 of each year. In FY 2021, the Commission closed and submitted 125 employment discrimination cases to EEOC for approval under the workshare agreement. All 125 cases were approved by EEOC for payment of \$800 each, resulting in \$100,000 in federal funds to the Commission.

### **HUD/FHEO:**

The West Virginia Human Rights Commission's workshare agreement with HUD/FHEO runs from July 1 through June 30. The Commission completed and submitted 22 housing investigations during FY 2021; each was approved for payment of varying amounts for a total of \$44,300.

Pursuant to the workshare agreement, HUD also pays the Commission various amounts for cases that result in a probable cause determination, and the Commission received an additional \$16,000 for its probable cause cases.

## Pre-Determination Conciliation

During the course of every investigation, the parties to each case are invited and encouraged to participate in conciliation efforts to resolve the dispute before the investigation is completed and a Determination is issued. The Commission's staff are available to help facilitate talks but are not permitted to provide legal advice to either party.

- The Commission facilitated conciliation agreements in six cases during FY 2021; four of those agreements were in employment discrimination cases, two were in housing discrimination cases.
- The total amount paid to complainants pursuant to the conciliation agreements in the four employment cases was **\$20,800.00**.
- The total amount paid to complainants pursuant to the conciliation agreements in the two housing cases was **\$5,300.00**.
- The Commission's staff endeavor to negotiate for relief in the public interest in each conciliation agreement. Relief in the public interest typically includes changes in the respondent's policies, training for managers and staff, and/or posting of employee or tenant rights that include the Commission's contact information.

## Administrative Law Judge Cases

When the Commission's confidential investigation results in a determination of probable cause, the case becomes public and is immediately assigned to the Commission's Office of Administrative Law Judge for disposition. The Office of Administrative Law Judge promptly enters a Notice of Public Hearing setting a date for hearing and other pre-trial deadlines, including a deadline for mediation. Some complainants are represented by private counsel, but the ones who do not have counsel are assisted free of charge by the West Virginia Attorney General's Civil Rights Division. The Office of Administrative Law Judge and the Attorney General's Civil Rights Division have a record of encouraging the parties to resolve cases by settlement, and public hearings are rarely required as a result. The following is an all-inclusive list of the cases resolved before the Commission's Office of Administrative Law Judge during FY 2021.

OFFICE OF ADMINISTRATIVE LAW JUDGE ACTIVITY

FISCAL YEAR 2020-2021

**Public Hearings**

Livingood v Public Defender Corp.  
5<sup>th</sup> Judicial Circuit  
ES-192-18

Hearing held at the office of the Human Rights  
Commission by Zoom on March 10, 2021

**Cases Settled, Issued Notice of Right to Sue, or Withdrawn\*\***

<u>Date Closed</u>	<u>Case Name &amp; Docket Number</u>	<u>Disposition/Settlement</u>
07/01/20	Shannon v. Sunbridge Beckley Health Care d/b/a Pine Lodge EAR-55-19	Requested <i>Notice of Right to Sue</i>
07/01/20	Simmons v. Graycor Industrial EAD-37-18	\$6,000.00
07/01/20	Gonzales v. CAMC PAD-49-19	\$10,000.00
09/08/20	Richardson v. The Cold Spot ERREP-83-19	\$6,000.00
09/28/20	Shannon v. Sunbridge EAR-55-19	Issued Final Dismissal/ Closing Order
09/28/20	Ball v. APC EREL-153-19	Issued Final Dismissal/ Closing Order
10/08/20	Hess v. Club Dud d/b/a Mountaineer Grill ES-105-17	Settlement was issued through the Bankruptcy Court
10/19/20	Clark v. DHHR ERSREP-01-18	\$7,500.00
12/22/20	Justice v. Black Hawk Mining EADREL-34-19	Issued Final Dismissal/ Closing Order



01/26/21	Bell v. Pilgrim’s Pride Corp. EAD-109-19	\$43,500.00
02/23/21	Crabtree v. Monroe County Board of Education EA-101-18	Issued Final Dismissal/ Closing Order
03/22/21	Coen v. Southbridge, LLC HD-80-20	\$6,500.00
05/04/21	Parks v. WV Division of Juvenile Services ERS-173-18	\$776.87
06/04/21	Anitra Coleman v. Charleston Hotel VII d/b/a Quality Inns & Suites EARS-14-20	Order Granting Motions to Withdraw Complaints and Dismissing Complaint

## Circuit Court Cases

Pursuant to the West Virginia Fair Housing Act, any party to a housing discrimination case can elect to have the case litigated in the circuit court of the county where the alleged discrimination took place after the Commission makes a probable cause determination and issues a charge. When a party elects to proceed in circuit court, the Attorney General’s Civil Rights Division files a civil complaint on behalf of the Commission and the complainant, and the circuit court judge presides over the case until trial or settlement. Two cases pending before circuit courts were resolved during FY 2021:

- Reed/NWVCIL v. WinCor Properties, Monongalia County Civil Action No. 18-C-319 (settlement value of \$3,500.00 – closed 10/02/2020)
- Turley-Savage v. Stone, Lincoln County Civil Action No. 19-C-47 (settlement value of \$15,000.00, plus relief in the public interest – closed 06/15/21)

## Appeals

After the Commission’s administrative law judge (ALJ) enters a final decision on the merits of a case, the parties may appeal the decision to the nine Commissioners who must review the ALJ’s decision and promptly decide any issues raised in the appeal. The Commissioners’ decision can then be appealed pursuant to the Administrative Procedures Act to the Kanawha County Circuit Court and the West Virginia Supreme Court of Appeals. There were no appeals for the Commissioners to decide during FY 2021, and there were no appeals from any Commission decision.