

Civil Rights Reporter

ISSUE
04
JULY
2021

Journal of the Texas Workforce Commission Civil Rights Division
Bryan Snoddy - Division Director

Celebrating Independence Edition

Texas Workforce Commission Commissioners

Bryan Daniel - Chairman and Commissioner Representing the Public

Julian Alvarez - Commissioner Representing Labor

Aaron Demerson - Commissioner Representing Employers

It Ought to be Possible

By: Jeffrey Riddle, Trainer



These were the words President John F. Kennedy used in his Civil Rights Address to the nation on June 11th, 1963. A hundred years had passed since President Abraham Lincoln had abolished slavery in 1863 when the 13th Amendment was ratified, and in

those years there had only been a few victories for proponents of civil rights. President Roosevelt issued the Fair Employment Practice in Defense Industries executive order, which prohibited discrimination in defense programs and within government agencies. In 1948, President Truman issued an executive order that ended segregation within the Armed Forces. Now President Kennedy was addressing the issue on a large, nation-changing, scale. In what would be a major boost to equality for African Americans, President Kennedy told the nation he would propose legislation for Congress to approve.

President Kennedy saw the need to address the nation when, earlier that same day, he had sent the National Guard to escort two students into the University of Alabama to ensure their safety. His speech was an impromptu, not preplanned, message to his fellow citizens as he saw the need to take a stand and do everything in his power to affect change. President Kennedy identified the crisis the nation faced as a moral issue, not a legal issue. Many prominent leaders, from Dr. King to Elizabeth Cady Stanton (Seneca Falls Convention on Women's Rights), had used a statement from the Declaration of Independence to argue their position. Of course, that statement is, "all men are created equal". What made this time different was that, instead of some citizen fighting for equality, it was the leader of the United States stating that, "all men," meant all men, without exclusions. In his address to the nation, President Kennedy shared a vision of America that he believed was possible.

Mission Statement

The mission of the Civil Rights Division is to reduce discrimination in employment and housing through education and enforcement.

Vision

The vision of the Civil Rights Division is to help create an environment in which the people of the State of Texas may pursue and enjoy the benefits of employment and housing that are free from discrimination.



"It ought to be possible, therefore, for American students of any color to attend any public institution they select without having to be backed up by troops.

It ought to be possible for American consumers of any color to receive equal service in places of public accommodation, such as hotels and restaurants and theaters and retail stores, without being forced to resort to demonstrations in the street.

It ought to be possible for American citizens of any color to register and to vote in a free election without interference or fear of reprisal."

Finally, Kennedy ended his vision of the way America should and could be with a powerful final statement, "It ought to be possible, in short, for every American to enjoy the privileges of being American without regard to his race or his color. In short, every American ought to have the right to be treated as he would wish to be treated, as one would wish his children to be treated." The simple statement, "this ought to be," is the basis for the Civil Rights Act (the Act) that came to be. The Act guarantees that no one can or will be judged by their race or color but allowed to stand on their own merits.

To this day, we still struggle to ensure equality for all. Just look to



Photo courtesy of Getty Images

last year's Supreme Court ruling which added gender identity and sexual orientation as part of the protected class of sex. But I am reminded of President Kennedy's ought to be world and the question he posed to his fellow citizens:

"The heart of the question is whether all Americans are to be afforded equal rights and equal opportunities, whether we are going to treat our fellow Americans as we want to be treated. If an American, because his skin is dark, cannot eat lunch in a restaurant open to the public, if he cannot send his children to the best public school available, if he cannot vote for the public officials

who will represent him, if, in short, he cannot enjoy the full and free life which all of us want, then who among us would be content to have the color of his skin changed and stand in his place?"

It's been 58 years since President Kennedy challenged the country to make what "ought to be" into what "is": equal treatment for all. We have come a long way in that time, but we still have challenges to overcome. The future will always look brighter as long as we remember that change ought to be possible.

Let Freedom Ring



What do the dates July 4, 1776, March 2, 1836, June 19, 1865, July 2, 1964 and April 11, 1968 have in common? I am glad you asked. They are all rooted in the fundamental fabric of that which spawned America – and that is the evolving and maturing concept of freedom.

America, nor Texas, invented freedom, contrary to well-worn folklore. Recognizing that in many parts of the Lone Star state “them is fightin’ words”, various scholars pontificate that the very notion of freedom and a free society extends back to the Greek city state and has progressed to modern times over several thousand years. Yet, a collective understanding and broad embrace of the universal concept of freedom remains difficult to parse and capture. What we can glean from history is that freedom is evolving and always in need of relative states of care. In 1930, Professor Lutz penned “The History of the Concept of Freedom” and profoundly noted that “...it becomes necessary in each age to restate the case of freedom if it is to be maintained....”

Circling back to the respective dates provided at the outset, from the adoption of the Declaration of Independence, to the Texas Declaration of Independence, to Juneteenth, to the creation of Titles VII and VIII of the Civil Rights Acts that fostered equal employment and fair housing, there is a common refrain. One of the most famous refrains for freedom

in modern times is credited to none other than Martin Luther King Jr. – who addressed a crowd of more than 250,000 people just beyond the shadow of the Lincoln Memorial in Washington D.C. on August 28, 1963. He spoke of a dream envisioning that, “From every mountainside, let freedom ring.” Of course, he was referencing “America (My Country, ‘Tis of Thee)” and the ringing was not necessarily sonic but rather symbolic. It was equally unbounded as he sought to ensure that all Americans, of every class, race, background, and stature, were treated with dignity and respect.

As we approach the country’s seminal celebration of freedom some 245 odd years later, it is worth noting that the freedom which rang out in 1776 has continued to reverberate but not without struggle. Each of the dates mentioned at the outset and untold others were inflection points in reaffirming freedom as a worthy pursuit. The ringing has spawned siren calls across the world to be free in the hearts of people. While it is beyond the place and time to define freedom here, Nelson Mandela probably describes freedom best stating, “For to be free is not merely to cast off one’s chains, but to live in a way that respects and embraces the freedom of others.” This is the true essence of America that we carry the mantle for treating and nurturing the advancement of inalienable rights and a pursuit of life, liberty, and happiness. While celebrating July 4th with appropriate acclaim, let us not forget that every day is an opportunity to advance the cause and spirit of freedom in our workplaces, our homes and in our hearts from one to another.

Mental Health Awareness Month

The U.S. Department of Housing and Urban Development (HUD) commemorated May 2021 as Mental Health Awareness Month.

By: Ellena Rodriguez, OCR Manager



“Individuals with mental health, intellectual, and developmental disabilities are protected under federal fair housing nondiscrimination laws and cannot be denied housing or subjected to other discrimination because of their disability,” said Ellena Rodriguez, Manager of the Civil Rights Division’s (CRD) Outreach, Compliance, and

Resolutions Team. “As May was Mental Health Awareness Month, we are informing the public about the housing rights of persons with mental health disabilities and reminding housing providers of their obligation to comply with laws protecting those rights.”

The nation has repeatedly seen the inequity faced by people with disabilities and have enacted various Act’s to combat the problems. The Fair Housing Act, Section 504 of the Rehabilitation Act, and the Americans with Disabilities Act prohibit housing discrimination against individuals with disabilities, including individuals with mental health, intellectual or developmental disabilities. In the past, people with disabilities were not afforded the same housing opportunities or treated in the same manner as people without disabilities. Individuals with disabilities also have the right to receive reasonable accommodations, which are exceptions, adjustments, or modifications to rules, policies, practices, and services that may be necessary for them to have an equal opportunity to enjoy and use their housing. One common type of reasonable accommodation individuals with mental health disabilities may need is an assistance animal that provides them with disability-related support. Unfortunately, housing providers often fail to understand that they must make exceptions to “no-pets” policies and allow a tenant to have an assistance animal as a reasonable accommodation.

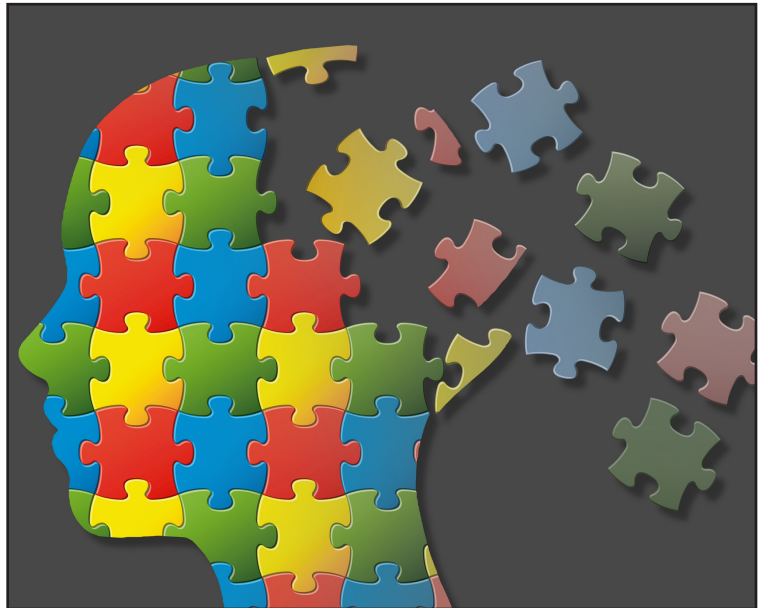


Photo courtesy of Getty Images

The Civil Rights Division is committed to creating an environment for individuals with disabilities to live in a home free of discrimination or bias so they can participate fully in the community in which they are a part of.

Visit <https://www.twc.texas.gov/partners/civil-rights-discrimination> to access educational material about the housing rights of individuals with mental, intellectual, or developmental disabilities.

Persons who believe they have experienced discrimination may file a complaint by contacting housingcomplaint@twc.state.tx.us. Housing discrimination complaints may also be filed by going to <https://apps.twc.state.tx.us/HDISS/hdiss?execution=e1s1>.

A Variety of Colors

As a child, I remember being excited about a new box of crayons. Especially the big box that came with the sharpener and 64 colors. So many colors to choose from. How different they all were, how many things I could draw, pictures I could color. People, just like that crayon box, come in a variety of colors and shades.

During a recent highly televised interview, the topic of how dark the couple's baby would be was asked and discussed amongst the family. The topic of color is often associated with, and confused with, the protected class of race. Color is listed as a protected category under Title VII of the Civil Rights Acts of 1964 and Chapter 21 of the State Labor Code. But what exactly is discrimination based on a person's color?

Colorism, as the term is called, is prejudice or discrimination within a race or ethnic group favoring lighter skin over darker skin. The history of colorism is long and storied and has affected every country and nation around the world. The most notable example in the United States was during slavery where the color of a slave's skin determined what job they held on the plantation. Those with darker skin were relegated to the fields or other outside work,

while those with lighter skin worked inside the house or in positions where they were more apt to be seen by white people. As a result of their placement, those slaves with lighter skin color were able to learn how to read and write. This resulted in lighter-skinned slaves being considered more educated and desirable than their darker counterparts.

When slavery ended, color discrimination did not and it found new avenues to continue. As former slaves now had their freedom, colorism shifted to barring darker African Americans from social circles, fraternities, sororities, employment and other economic and social advantages. During this time, new ways of discriminating against people based only on the complexion of their skin were enacted. The "Brown paper bag test" entailed a brown paper bag being held up to a person's skin and if their skin was darker than the bag they were barred from joining a sorority or a fraternity, or a social club. A variation of this theme was the "Brown Door Test", which compared a person's skin color to a brown door to obtain entrance to a nightclub. And yet another test was the "Blue Vein Test", where a person was not the acceptable shade of brown if



Photo courtesy of CRD

their veins did not show through their skin.

With the passing of the Civil Rights Act of 1964, discrimination based on color became a protected class. This also protects other ethnic groups and nationalities where skin color plays a part in disparaging treatment. Now people can be hired based on their qualifications for the job and nothing more.

It is important to remember that color is separate from race, though discrimination can involve someone who belongs to both protected classes. Much like that crayon box we enjoyed as children, we must celebrate and relish in the numerous shades and colors of people as it serves to enhance the world in which we live.

Autos Of Dallas Sued By EEOC For Race Discrimination

Auto Sales Worker Given Racist 'Trophy' and Subjected to Taunting About Skin Color, Federal Agency Charges

By: Marci Jordon



PLANO — An African American auto salesman was subjected to harassment because of his race and color by Autos

of Dallas (AOD) Ventures, Inc., doing business as Autos of Dallas, the U.S. Equal Employment Opportunity Commission (EEOC) charged in a lawsuit announced today.

Autos of Dallas is a Plano-based retailer of luxury vehicles. Car salesman Jonathon Sellers, who is Black, attended a December 2019 holiday party in which management called him to the front of the room and handed Sellers a trophy labeling him as the employee “Least Likely to Be Seen in the Dark.” Sellers and other employees in attendance found the trophy profoundly offensive. Sellers complained about the trophy to the general manager, who told him the trophy was a joke. No remedial action was taken in response to his complaints. After Sellers returned to work following the holiday party, other employees teased Sellers.

One employee told Sellers he needed to smile to be seen in the poorly lit section of the auto dealership. Sellers could no longer tolerate the work environment and was forced to resign, according to the suit.

Such alleged conduct violates Title VII of the Civil Rights Act of 1964, which prohibits discrimination based on race and color. The EEOC filed suit, Civil Action No. 4:21-CV-00418 in U.S. District Court for the Eastern District of Texas, Sherman Division, after first attempting to reach a pre-litigation settlement through its conciliation process. In this case, the EEOC seeks back pay, compensatory and punitive damages and injunctive relief, including an order barring Autos of Dallas from engaging in discriminatory treatment in the future.

“Autos of Dallas insisted to Mr. Sellers that the trophy handed to him was all a big joke,” said Joel Clark, a senior trial attorney in the EEOC’s Dallas District Office. “Racist objects like this one have a sordid history, one that should never have been dredged up by



Photo courtesy of EEOC

the company. The EEOC will fight to protect the rights of workers who are subject to race and color discrimination.”

EEOC Acting Regional Attorney Eduardo Juarez said, “The defendant should have properly responded to the complaints made by Mr. Sellers about the holiday party. Employers are required to take prompt effective remedial measures in response to complaints about discrimination.

The EEOC advances opportunity in the workplace by enforcing federal laws prohibiting employment discrimination. More information is available at www.eeoc.gov.

Historical July's

Jeff Riddle, CRD Trainer



As people across Texas gear up to celebrate Independence Day this 4th of July, I want to take our readers back to some

historical Julys.

The most obvious and famous event in July, the entire reason we celebrate on the 4th, is the signing of the Declaration of Independence. The Continental Congress voted to declare their independence from Britain on July 2nd and signed the Declaration on the 4th. The Declaration explained why America was separating from the mightiest country at the time. It was used to bind the colonists together under a common cause and to give the Continental troops stationed in New York (a pro-British city) motivation – an idea to rally behind. On July 9th, George Washington had the Declaration read to his nervous soldiers waiting for the advancing British army. The reading of the Declaration so inspired the citizens and soldiers within the city that, after the reading, a crowd stormed the King George III statue on Broadway, tore it down, decapitated it, and melted it down for bullets. Though the Declaration is not a legal document it is the basis for the government that would be created after America separated from Britain.

Perhaps the most famous part of the Declaration is the sentence:

All men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness.

At the time of the writing of the Declaration, the term men and equal would apply only to white men. Women, slaves, indigenous people, and other minority groups were not considered to be equal. Many famous activists throughout history have used this statement in their own fight for equal rights. Which brings me to another July in our march through history.

Now, we jump ahead to 1848. We're again looking to New York, but this time the state instead of the city. The Seneca Falls Convention has gathered; it is the first women's rights convention and it will pave the way for the suffrage movement at the end of the century. The convention was organized by a group of women who were fighting for their right to have equal rights under the law. One of the convention organizers, Elizabeth Cady Stanton, summed up the reason for the movement and meeting, "*We are assembled to protest against a form of government, existing without the consent of the governed – to declare out right to be free as man is free...*"

Sound familiar? It should, as many of the same grievances were used by the Founding Fathers in their

reasons for separating from Britain. Many of the women who attended the convention were supporters of, and active in, the movement to end slavery and racial discrimination. Elizabeth Cady Stanton would go on to form the National Women's Suffrage Association with another famous woman, Susan B. Anthony.

The convention drafted and ratified the Declaration of Sentiments, which detailed the issues and grievances shared by women at the time. This Declaration stated that, "*[w]e hold these truths to be self-evident; that all men and women are created equal.*" Though the convention was only attended by 300 people, its impact was far-reaching: 72 years later, women would gain the right to vote with the ratification of the Nineteenth Amendment.

In the final look into our past, we come to July of 1964 at the White House in Washington DC and the signing of the Civil Rights Act of 1964. What started with President Kennedy and his Civil Rights Address just the year prior (you can read about that in this issue as well) was finally signed into law by his predecessor, President Lyndon B. Johnson.

Getting to this point was a long process as it had been 101 years from the ratification of the 13th Amendment that abolished slavery. Though slavery was no more, segregation and other measures kept minorities, predominately African Americans, from those inalienable



Photo courtesy of Getty Images

rights of life, liberty, and the pursuit of happiness. Getting the Act through Congress was a battle, but one that President Johnson felt was important. After a hard-fought battle against the Democratic filibuster in the Senate, the bill was finally approved by a 73-27 vote.

The Civil Rights Act of 1964 ended government-sponsored segregation in the United States and made

discrimination based on race, religion, and national origin illegal. Title VII of the Act, which is where our Division comes into play, protects people from racial, religious, national origin, and sexual discrimination by employers. Later amendments would add age and disability to the protected classes.

As you have seen, July is an important month in the history of

America's battle for civil rights and freedom. We hope that as you enjoy whatever festivities or activities you plan for your own 4th celebration you can take the time to reflect on some other events that happened in our past. When you are around a picnic table, grill, firepit, or wherever you may find yourself, bring up one of these interesting stories to add flavor to your conversation.

**Texas Workforce
Commission**
**Civil Rights
Division**

Mailing Address:
Texas Workforce Commission
101 E. 15th Street
Guadalupe CRD
Austin, Texas 78778-0001

Physical Address:
1215 Guadalupe
Austin, Texas 78701-1829

Phone:
512-463-2642 or
888-452-4778
Fax:
512-463-2643

Relay Texas:
800-735-2989 (TTY)
and 711 (Voice)