Illinois Human Rights Commission

Fiscal Year
1993

Annual Report

STATE OF ILLINOIS
Human Rights Commission

James R. Thompson Center
100 W. Randolph Street, Suite 5-100
Chicago, Illinois 60601

Jim Edgar
Governor

June 23, 1994

To The Honorable Jim Edgar
Governor of Illinois
and the Honorable Members
of The General Assembly

I hereby transmit to you a report of the activities of the Illinois Human Rights Commission for Fiscal Year 1993.

Respectfully Submitted,

Manuel Barbosa
Chairperson

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IN MEMORIAM

Tribute to Chief Administrative Law Judge Patricia A. Patton

The Human Rights Commission lost one of its most respected, inspirational judges in 1992. Patricia A. Patton, the Commission's Chief Administrative Law Judge, died on February 4, 1992 in her Evanston home after a long illness. Judge Patton dedicated her life to public service. She joined the Fair Employment Practices Commission (FEPC), the predecessor to the Human Rights Commission, in 1976, a time when private practices searched for lawyers with her credentials. She enjoyed her position as Chief Administrative Law Judge because it allowed her "to experience all aspects of life". Judge Patton questioned in an interview, "Where else but here could you get to hear cases involving anything from dog catchers to city planners to mechanics? You get to hear cases involving some very interesting people; people we might not otherwise have a chance to meet".

Judge Patton grew up in Brookfield, Illinois. She graduated *cum laude* from the University of Pennsylvania with a bachelor's degree in Slavic languages. As a Woodrow Wilson Fellow, she continued her education at the University of Washington where she worked toward a doctorate in Slavic languages and gained an interest in human rights. She decided to return to Chicago in 1970 to study law at the University of Chicago. While a law student, Judge Patton worked at the university's Mandel Clinic. After earning her law degree in 1973, Judge Patton worked for the Legal Assistance Foundation until 1976 when she joined the FEPC.

Judge Patton was known by her colleagues as a hardworking, respected, fair-minded judge. She is best remembered for her decision in *Kent Jones* v. *Chicago Transit Authority*. Four-and-a-half years of litigation in this case came to a settlement in January, 1988. The Chicago Transit Authority (CTA) agreed to change 700 Chicago buses to accommodate handicapped people. This 120-page decision, which Judge Patton considered her most notable achievement, established her as a leader in human rights law.

Judge Patton's peers praised her for her many talents. One colleague at the FEPC, Marilyn Kuhr, thought Judge Patton was a Renaissance person who carried her multi-faceted abilities to the job. Kuhr described Judge Patton as a woman with many interests, "who [could] authoritatively discuss grand opera, Russian culture, black history, and the Chicago White Sox, all with equal knowledge and enthusiasm".

Judge Patton will be remembered by the Commission as an exceptional woman and judge with a brilliant legal mind. She will be greatly missed.

IN MEMORIAM

Tribute to Commissioner Nancy B. Jefferson

Commissioner Nancy B. Jefferson died on October 18, 1992, following a courageous battle against cancer. Commissioner Jefferson was appointed May 13, 1991 to the Illinois Human Rights Commission and faithfully served on the Commission despite her illness until her death. She worked untiringly for equal opportunity for all regardless of race, sex, religion, color, disability, marital or economic status. Particularly, she brought a unique outlook to the Commission based upon her years of organizing people for positive action and changes at the community, grass roots level. She was chairperson and Chief Executive Officer of the Midwest Community Council and was often referred to as "the black Mother Teresa of the West Side".

Commissioner Jefferson was born in Paris, Tennessee to sharecroppers. She was the oldest child of thirteen. She attended Philander Smith College and majored in library science and nursing. After moving to Chicago, she became a nurse and certified social worker. She and her husband Norvel lived in the same house for over 45 years in East Garfield Park and reared five children. Her philosophy in life was indicative of her life work. "I believe you have no reason to take up space on this earth unless you have a purpose, and all of us have a particular purpose: to do for mankind what you can while you can."

Although her roots were on the West Side of Chicago, her service on the Commission enhanced the lives of all the people of Illinois. Her wisdom and kindness will be sorely missed by the members and staff of the Illinois Human Rights Commission. In commemoration of her life, the Commissioners and staff rededicate themselves to the cause of civil rights to which Commissioner Jefferson devoted her life.

COMMISSIONERS AND COMMISSION RESPONSIBILITIES

Overview—

On December 6, 1979, the then Governor James R. Thompson signed into law the Illinois Human Rights Act, which created the broadest and deepest civil rights coverage for the people of Illinois in the history of the state. The Act created a bifurcated enforcement apparatus: a Department to investigate charges and a Commission to adjudicate complaints of civil rights violations in housing, employment, public accommodations and financial credit. Such charges may be brought to the Department by individuals, groups and/or in certain circumstances, the Director of the Department of Human Rights. Complaints can come to the attention of the Commission via the Department, or the complainant within a prescribed timeframe.

As of July 1, 1992, the Commission consisted of the following members:

Manuel Barbosa, Chairperson	-	Elgin
G.A. Finch	-	Chicago
Dolly Hallstrom	-	Evanston
Wallace Heil	-	Taylorville
Mathilda Jakubowski	-	Downers Grove
Nancy Jefferson	-	Chicago
Grace Kaminkowitz	-	Chicago
Stephen Morrill	-	Chicago
Sylvia Neil	-	Glencoe
Jane Hayes Rader	-	Cobden
Randall Raynolds	-	Springfield
Jarvis Williams	-	Chicago
Howard Veal	-	Springfield

In October, 1992, Commissioner Nancy Jefferson died after a long battle with cancer.

In January, 1993, the terms of six of the Commissioners expired. Sylvia Neil, Mathilda Jakubowski, Grace Kaminkowitz and Randall Raynolds were reappointed to four year terms. In April, 1993, Reverend Rudolph S. Shoultz of Springfield was appointed in the seat formerly held by Howard Veal, and Bashir Malik of Aurora was appointed in the seat formerly held by Jarvis Williams. The seat of Commissioner Jefferson was not filled throughout the remainder of the fiscal year.

Commission meetings consist of a panel adjudicating settlements, requests for review and recommended orders and decisions which may include oral arguments by attorneys. The most significant of these items are recommended orders and decisions issued by staff administrative law judges, however, the number of ALJs to do this work was significantly decreased in FY93.

In FY93, the appropriation to the Commission was reduced by approximately 26% which resulted in the loss of nine Commission staff: eight due to layoff and one position which could not be filled after the incumbent resigned. The Commission Office located in Springfield was reduced from four administrative law judges and two office support staff to two administrative law judges and one office support staff. The Chicago Commission Office lost one of the two Motions Clerks, the Assistant General Counsel position, the receptionist and four administrative law judges. This loss of one-third of the Commission staff came at a time when the Commission workload was increasing, therefore it had a detrimental impact on the ability of the Commission to adjudicate complaints timely.

THE ADMINISTRATIVE LAW SECTION

The Administrative Law Section of the Illinois Human Rights Commission is charged under Section 8-106 of the Illinois Human Rights Act with the responsibility of conducting public hearings on complaints of discrimination filed by the Department of Human Rights or by individual complainants. The professional staff of 7.6 administrative law judges, all of whom are licensed attorneys, consists of a chief judge, a Chicago motions judge, three Chicago hearings judges, one part-time Chicago judge assisting with motions and two Springfield judges who handle motions and conduct hearings. In accordance with Section 8-106 of the Act, the public hearings are held at a location that is within 100 miles of the place at which the civil rights violation is alleged to have occurred. As a consequence, the administrative law judges traveled in the course of FY'93 to numerous sites throughout the state ranging from Rockford to Carbondale and from Jacksonville to Effingham. Approximately 60% of those hearings were heard by administrative law judges based in the Commission's Chicago office with the majority conducted in Chicago and the remainder in north central and northwestern Illinois. The balance of the hearings were heard by the administrative law judges based in Springfield with about two-thirds of them convened in Springfield and the others at sites distributed throughout central and southern Illinois.

Because of the complex nature of the relevant law, substantial preparation by the parties, including discovery proceedings and motion practice, is generally necessary. As a consequence, all parties are encouraged to obtain legal representation, and at public hearings both parties are generally represented by legal counsel. Public hearings, which are formal and conducted in accordance with the rules of evidence used in the courts of Illinois, typically last two days. They may, however, take less than half a day at one extreme or several weeks at the other.

After the transcripts of the hearing and the post-hearing briefs have been completed, the administrative law judge prepares a recommended decision, which includes findings of fact, conclusions of law, a proposed dispostion, and a discussion of the applicable statutory provisions, court and Commission decisions, and other relevant authority. These recommended decisions then go to the Commission for review; the parties have the opportunity to file written exceptions and to present oral arguments for and against them. The reviewing panel of three Commissioners has the options of adopting, reversing, remanding for further hearing or modifying the recommended decision. A party dissatisfied with a panel's decision has the right to seek rehearing before the full Commission.

In addition to holding hearings on complaints, the administrative law judges may be called upon to hold evidentiary hearings and make factual findings to assist the Commissioners in deciding requests for review of the Department of Human Rights' dismissals of charges for lack of substantial evidence or for lack of jurisdiction or for refusal to accept a full-relief settlement. The administrative law judges may also hear disputes regarding the alleged failure to comply with the terms of settlements.

The production of the Administrative Law Section was amazingly high for FY '93 considering that the number of administrative law judges was reduced by a one-third in the first quarter of the year due to drastic budget cuts. The number of dispositions for FY '93 was, nonetheless, about 1.5 % greater than it had been in the previous fiscal year. Despite this greater productivity, the carryover caseload of the Administrative Law Section continued to increase dramatically in the course of FY'93. Although the administrative law judges disposed of 675 matters, which is more than any year except the 707 dispositions in FY'91 when there were 14 administrative law judges, these dispositions were outpaced by the incoming charges totalling 1100.

The complaint production by the Department of Human Rights is increasingly supplemented by complaints filed under the provisions of Section 7-102(G)(2) of the Act. This statutory section applies to all charges filed after September 16, 1985 and permits an aggrieved party to file a complaint with the Commission between the 301st and 330th days inclusive after the filing of a verified charge if the Department has not sooner filed a complaint or ordered that no complaint be issued. During FY '87, the first fiscal year in which such "300 day complaints" were authorized, 97 complaints containing 107 underlying charges were filed with the Commission. In FY '93, the intake of such were 278, making up approximately one-fourth of the total 1100 intake.

The increase in the administrative law section's caseload that occurred in FY '93 is part of a continuing trend. The steady rise in influx of cases throughout the 1980's became steeper in the 1990's. During the first year of its existence as part of the Human Rights Commission, for example, the Administrative Law Section received 190 incoming charges less than one-third of the 608 incoming charges of FY '88 and less than one-fifth of the total of this last fiscal year. In response to the tremendous growth in caseload, the Commission has over the years made significant administrative changes designed to streamline procedures in the Administrative Law Section. In November of 1984, the Commission opened an office in Springfield in order to increase access of downstate parties to the Commission and to provide a base of operation in central Illinois. The number of administrative law judges assigned to this office grew from one in 1984 to two in 1985 to three in 1990 to four in 1991. Unfortunately, due to our reduced budget, the number of Springfield office judges had to be cut back to two in this last fiscal year. The administrative law judges assigned to the Springfield office are responsible for public hearings in which the alleged discrimination originated from Peoria southward.

The Commission has also altered its precedures regarding handling motions to accommodate the Administrative Law Section's increasing caseload. At the end of FY'85 the Commission's rules and regulations were amended to provide for an oral motion practice for cases in which the site of the alleged discrimination is located in Cook County. An oral motion call greatly expedites the prehearing phase of litigation before the Commission because it often produces immediate responses from the opponent of the motion as well as prompt rulings from the adminstrative law judge hearing the motion call. The importance of the motion call has grown in the course of FY '93 along with the rapid increase in the number of recently filed cases, all of which are initially assigned to the call. In response to

the greatly increased number of prehearing cases, the hours of motion call have been expanded so that more motions may be presented each week.

The data in Table I represents an overview of the caseload within the Administrative Law Section during the last five years of its operation under the Human Rights Act. The statistics are measured in charges rather than complaints. A charge is the working document filed by the complaining party with the Department. A complaint is a formal pleading, incorporating pending charge claims, filed with the Commission by the Department or directly by the aggrieved party if the Department failed to act on his/her charge within 300 days of the date of the charge's filing. The vast majority of the complaints heard in the Administrative Law Section are based upon a single charge; it is not unusual, however, for a complaint to consolidate more than one charge. This may occur when a single complainant has filed more than one charge or because similar charges filed by several different complainants against the same respondent have been merged into a single complaint.

Table I—Overview

	FY'93	**FY'92**	**FY'91**	**FY'90**	**FY'89**
Charges from DHR	788	855	536	676	511
Complainant-filed charges . . .	278	345	249	225	222
Charges remanded by HRC . . .	34	12	9	94	17
Total entering ALS	**1,100**	**1,212**	**796**	**995**	**750**
Carryover from prior FY	2,061	1,514	1,425	992	689
Total charges	**3,161**	**2,726**	**2,221**	**1,917**	**1,439**
Total dispositions	**675**	**665**	**707**	**492**	**517**
Carryover for next FY	2,486	2,061	1,514	1,425	922

Decisions "not on the merits" are those that were rendered without a hearing on the facts underlying the claim of discrimination. These decisions arise in a variety of situations. A frequent cause is the failure by a party to proceed either to prosecute or to defend. A second frequent cause is the Commission's lack of jurisdiction over the complaint. Such lack of

jurisdiction may be found, for example, where a complainant does not fall within a group protected by the Act or where he/she has failed to file a charge within the time limit provided by the statute or where he/she has filed a complainant outside the statutory "30 day window" period. In the last example, the complaint is dismissed without prejudice and the underlying charge remanded to the Department for continued proceedings.

An administrative law judge may close a case by means of a Final Order And Decision (FOD) where charges are withdrawn by the complainant because he/she decided not to pursue his/her claim before the Commission. Such withdrawals may occur for a variety of reasons. The most frequent cause is a decision by the parties to settle without presenting the settlement to the Commission for approval and without making the terms of settlement public. In some instances, the complainant has elected to proceed in federal court rather than to seek a remedy under the Act.

The Administrative Law Section is an effective vehicle for settlement, as well as for resolution by means of hearing. Prehearing conferences have been used extensively at various stages in the processing of complaints. As a consequence, settlements have been reached after the filing of the respondent's answer, after rulings by the administrative law judge on crucial motions, after the completion of discovery, and even during or after preparation of the joint prehearing memorandum. It has also become the practice, whenever a second administrative law judge is available, to have an administrative law judge who will not be hearing the case conduct a voluntary settlement conference with the parties and their attorneys immediately prior to public hearing. These result in settlements just prior to hearing approximately one-fourth of the time. In some cases, the parties have settled after the public hearing has begun or even after the hearing judge has issued a Recommended Liability Decision (formerly called an Interim Recommended Order And Decision).

Sections 8A-104(G) and 8B-104(D) of the Act provide the administrative law judge may recommend an award of reasonable attorneys fees and costs for prevailing complainants. The determination of the amount of these fees and costs may require the participation of the administrative law judge who heard the case. In order to expedite this process, the Commission rules provide for an Interim Recommended Liability Decision to be issued in cases where it is recommended that the complainant prevails. Then after the fees and costs have been determined, a Recommended Order And Decision, which incorporates by reference the Recommended Liability Decision, is prepared and transmitted to the Commission for review. As a result of this procedure, the Commission can review the merits of the Recommended Order And Decision and the fees award at the same time and thus adjudicate the case more expeditiously.

The number of charges entering the Administrative Law Section doubled from 606 in FY '88 to 1212 in FY'92. To cope with this, the number of administrative law judges at the Commission also increased. Recently, however, the number of judges has been cut back although the caseload of the Administrative Law Section has continued to grow dramatically. The vast increase in intake in FY'92 and FY'93 over prior years combined with the drastic reduction in administrative law judges, from a high of 15 during part of FY'91 down to 7.6 in FY'93, has resulted in a dramatic increase in the "judge to caseload" ratio.

Table II—Breakdown of ALS Caseload by ALJ Count

End of FY	ALS Caseload	# of ALJs	ALJ/CASE Ratio
'88	689	7	98
'89	922	7	132
'90	1225	10	143
'91	1514	14	108
'92	2061	12	172
'93	2486	7.6	327

It is important to note that the ALS's caseload at the end of FY'93 was more than triple, indeed nearly quadruple, the caseload at the end of FY'88 while the number of administrative law judges in FY'93 was practically back to the FY'88 level. The vastly increased caseload has necessarily affected the speed at which cases can proceed in the Administrative Law Section. As time passes, the number of cases affected by lack of staff will continue to grow substantially. Despite the staff reduction and reduced resources the productivity of the Administrative Law Section still increased in FY'93; nonetheless, the Administrative Law Section cannot and cannot be expected to keep pace with the increase in caseload without adding new staff. Despite great efforts, the Administrative Law Section cannot continue, much less improve upon, its rate of production without new resources to keep pace with the increased demand for its services. The consequences of losing experienced administrative law judges is already apparent in the face of the substantially increased caseload. Failure to restore needed Administrative Law Section staff can and will result in and perpetuate a substantial delay in hearing cases and rendering recommended decisions on the merits.

ORDERS AND DECISIONS

Charges which come before the Commission through the Administrative Law Section are disposed of through the issuance of Orders and Decisions. In order to provide a consistent standard of measure, the statistics which follow are based on the number of charges disposed of, even though one complaint may contain several charges. By using charges as the standard of measure, it is possible to make valid comparisons between intake and disposition.

The term "disposition" means that after the issuance of the Order and Decision, the case is no longer pending review by the Commission. Charges which were remanded to the Administrative Law Section are counted as "disposed of" in this report. The reason for this is that the Administrative Law Section statistics show charges remanded by the Commissioners as "new" charges entering the Administrative Law Section. In order to give an accurate picture of the disposition of these "new" charges, it is necessary to count remands as "disposition". Otherwise, a number of charges entering the Administrative Law Section would simply "disappear" without being accounted for in this report. Although this method of reporting gives a reliable picture of the workload of the Commission, it can cause confusion unless one understands that one charge filed at the Department of Human Rights may result in two or more dispositions at the Commission level. The total number of charges pending in front of the Commission comes from three sources: Department of Human Rights complaints, complainant-filed complaints, and charges remanded from the Commission. The statistics which follow show the disposition of all three sources of charges at the Commission level.

The total number of charges disposed of by way of Order and Decision in FY'93 was 222. In addition, 4 complainants asked for dismissal of their complaints after the issuance of the Recommended Order and Decisions in their cases. Thus, a total of 226 charges were disposed of during the fiscal year by the Commissioners. All but one of these charges reached the Commissioners by way of Recommended Order and Decision. The lone exception was a matter which had been remanded by the Appellate Court. In that case the previous Order and Decision in the case had been vacated and the matter remanded to the Commission. Thus, the Order and Decision issued during FY'93 is the second time the same charge has been disposed of by the Commission.

Of the 226 charges disposed of, 59 were on the merits. The term "on the merits" means that after consideration of the evidence, a finding was made that there either was or was not discrimination. The 59 charges include cases which were disposed of by summary decision and directed findings after the complainant's case in chief. The figure does not include defaults which were disposed of during the fiscal year. Thus, there were a total of 68 Order and Decisions which determined whether there was discrimination. The defaults are not considered "on the merits" because the findings of discrimination are based on the respondents' failure to defend themselves, not the evidence. In past years, at least some defaults have been counted as decisions for the complainant on the merits.

The 59 charges decided on the merits are grouped three ways in the following charts: first, by whether the decision favored the complainant, respondent, or both; second by the source of discrimination; and finally by whether the Commission decision affirmed or reversed the Administrative Law Judge's recommended order.

ORDERS AND DECISIONS

For Complainant	For Respondent	For Both
11	42	6

ORDERS AND DECISION BY SOURCE OF DISCRIMINATION

	Number	Percentage
Race	19	27.1%
Color	0	0.0%
Religion	0	0.0%
Sex	12	17.1%
Sexual Harassment*	2	2.9%
National Origin	3	4.3%
Ancestry	2	2.9%
Age	10	14.3%
Marital Status	2	2.9%
Physical/Mental Handicap	14	20.0%
Unfavorable Discharge	0	0.0%
Retaliation*	6	8.6%
Familial Status	0	0.0%
Arrest Record	0	0.0%
Citizenship Status	0	0.0%
TOTALS	**70****	**100.0%**

*Although Sexual Harassment and Retaliation are separate violations of the Human Rights Act rather than particular types of "unlawful discrimination," they are listed here because they function much like traditional "bases" such as race or sex.

**The total is greater than the total number of charges on the merits because some charges alleged discrimination on more than one basis.

ORDERS AND DECISIONS

As Related to Recommended Orders and Decisions (RODs)

RODs Affirmed	54
RODs Reversed	3
Affirmed in Part	1
Reversed in Part	1
TOTAL	**59**

The 167 charges disposed of on a basis other than the merits of the charge of discrimination can be broken down as follows:

Non-Merit Order and Decisions by Subject of ROD

Subject of ROD	Number	Percentage
Failure to Proceed	92	55.1%
30-Day Window Problems	30	18.0%
Technical Problems with Complainant-Filed Complaints	11	6.6%
Defaults	9	5.4%
Exempt Respondent or Similar Claims	8	4.8%
180-Day Deadline Problems	6	3.6%
Release or Other Bars to Prosecution	5	3.0%
Other	6	3.6%
TOTALS	**167**	**100.0%**

REPORT OF SIGNIFICANT DECISIONS OF THE COMMISSION

What follows is a summary of a number of important cases decided by the Commission during fiscal year '93. In *Rock and Sisters of Charity*, Charge No. 1988CF1370 (September 16, 1992) the full Commission issued a rare *en banc* decision. The case involved Sections 7A-102(B) and 7-102(C)(4) of the Human Rights Act. The former section requires a respondent to file a verified response to the allegations contained in the charge. The latter

section requires the Department of Human Rights to conduct a fact-finding conference in all cases where the charge is still pending more than 210 days after it was filed.

It was uncontested that the Department of Human Rights had dismissed the complainants' charges in this case without holding a fact-finding conference. Further, the only responses on file with the Department of Human Rights at the time it dismissed the charges were signed by attorneys.

A three-member panel of the Commission had found that the material in the investigation file was sufficient to show that there was no substantial evidence of discrimination in this case. The panel found that the requirements in question were directory, not mandatory. The respondents had set out detailed position statements, with copies of the original documents in issue in the case. The complainants did not dispute any of the information submitted by the respondent. In sum, the panel found no prejudice to the complainants by reason of the failure of the Department of Human Rights to require the respondents to submit verified position statements and to hold a fact-finding conference. *See*, *Rock and Sisters of Charity* (Supplemental Order of March 15, 1991).

On rehearing, the full Commission found that the requirements in question were mandatory. The full Commission pointed out that the law mandates that the Department of Human Rights issue a "show cause" notice to a respondent which has not filed a verified response within 210 days after the date of filing of the original charge. It was the full Commission's conclusion that there would be no need for a "show cause" notice if the Department of Human Rights could ignore the verified response requirement.

The respondents in the case had argued that an attorney's signature on a response is sufficient to consider the response "verified". The full Commission rejected this argument, stating that the person who verifies the response must have knowledge sufficient to verify the accuracy of the response to the allegations in the charge. The full Commission went on to find that the fact-finding conference requirement was also mandatory.

Accordingly, it was the opinion of the full Commission that the dismissals in this case could not stand. The matter was remanded to the Department of Human Rights to determine whether there had been good cause for the failure of the respondents to file a verified response and for other proceedings.

In the case of *Archibald and State of Illinois, Department of Corrections*, Charge No. 1985CN0994 (September 16, 1992), a panel had to consider the inter-relationship between a short-term injury not protected under the Human Rights Act, and a serious underlying condition which constitutes a "handicap". The complainant in the case had a degenerative arthritic condition in his spine. It did not interfere with his ability to do his job, and there was no problem until he was injured in a "slip and fall" type accident at work. The injuries which he sustained were relatively minor, and did not constitute a "handicap" within the meaning of the Human Rights Act. After the complainant recovered from the slip and fall injuries, he presented a release to his employer to go back to work. The employer refused to allow the complainant to go back to work at that time. At hearing, the employer contended that it refused to allow the complainant to go back to work because of the inadequacy of his medical release based on these slip and fall injuries. The Administrative Law Judge found.

however, that this was merely pretext for discrimination based upon the underlying degenerative arthritic condition.

The Commission panel agreed with the Administrative Law Judge. The release in question produced, at best, a minor ambiguity which could have been easily resolved. The Commission found that the failure of the respondent to take simple steps to clarify the release indicated the pretextual nature of the respondent's refusal to allow the complainant to return to work. The respondent had received warnings from doctors that the underlying condition posed a risk of future liability. The doctor's release on the slip and fall injuries clearly returned the complainant to his regular duty and stated that there were no present restrictions. Under these circumstances, the Commission agreed with the Administrative Law Judge that it was unworthy of belief that ambiguities in the doctor's release were the real reasons why the complainant was not returned to work. Rather, there was a clear inference that the real reason for failing to return the complainant to work was the degenerative arthritic condition which did not pose any threat to the complainant's ability to do the job in question at that time. Accordingly, the respondent had engaged in illegal handicap discrimination.

The meaning of a little-used section of the Human Rights Act was explored by a Commission panel in the case of *Kandelman and Caremark Home Care*, Charge No. 1991CF1097 (September 28, 1992). What was unusual about this case is that the respondent was clearly not the complainant's employer. The Department of Human Rights had thrown the case out based upon this fact. A Commission panel reinstated the charge based upon an alternative theory of the case. Although the respondent was not the complainant's employer, the complainant was in fact working for the respondent. The complainant's employer had ordered him to provide certain services for the respondent. In his charge, the complainant had alleged that the respondent had "discharged him" because of his religion. The investigation revealed that while the respondent did not have the ability to actually discharge the complainant, because he did not work for it, the respondent did have the ability to alter the complainant's relationship with his employer by telling the employer that the complainant could not continue to work on the respondent's premises. The panel pointed out that under Section 6-101(B) of the Human Rights Act, it is illegal for any person to coerce another person to commit a violation of the Human Rights Act. Although it was unclear, the complainant's charge could certainly have been interpreted to allege that the respondent had coerced his employer to change the complainant's terms of employment. If this was done based upon the complainant's religion, the respondent would be guilty of a violation of Article 6 of the Human Rights Act, and the employer would be guilty of a violation under Article 2. Thus, the panel ruled that it was improper to dismiss the charge merely because the respondent was not the employer in this situation.

The proper standard to be used in considering allegations of racial discrimination was the issue in the case of *Vidal and St. Mary's Hospital of East St. Louis, Inc.*, Charge No. 1985SF0343 (October 5, 1992). In this case the Appellate Court had ruled that a previous Commission Order and Decision had used the wrong standard. *Vidal* v. *Illinois Human*

Rights Comm'n, 223 Ill. App. 3d 467, 585 N.E.2d 133 (1991). The case was remanded to the panel to issue a second Order and Decision consistent with the Appellate Court ruling.

The complainant in the case worked in a blood bank at a hospital which was a trauma center in East St. Louis. He left the laboratory where he worked in violation of a direct order from his supervisor. This left the hospital blood bank without the ability to do blood typing necessary for transfusions. The complainant had alleged that his discharge had been motivated by his race and national origin because similarly situated individuals of different races and national origins had not been discharged.

After receiving the case on remand, the Commission applied the standard of "unworthy of credence" to the articulated reason for the discharge. Although other individuals had left their posts, the Commission found that there were valid distinctions between the complainant's situation and the alleged deficiencies of other individuals who had not been discharged. Accordingly, the Commission found that the employer's proffered explanation for the discharge was "not unworthy of credence," and therefore not a pretext for discrimination. Thus, the Commission panel sent the case back to the Appellate Court with the same result after the panel considered the standard set forth by the Appellate Court in it first opinion in this case.

An unusual set of facts was presented to a Commission panel in the case *Kelly and Village of Lombard, Police Department*, Charge No. 1988CN3007 (October 5, 1992). In that case the complainant was a patrol officer for the village police department. He had a handicap which did not interfere with most of the duties assigned to patrol officers. The handicap resulted in the complainant being given anticoagulant drugs. The Administrative Law Judge found that because of these drugs, the complainant was susceptible to severe injury and death from trauma to the head or chest. The problem was that the complainant was susceptible to internal bleeding which could threaten brain functions or breathing. It is clear that as long as the complainant did not sustain injuries, his condition was unrelated to his ability to do his job.

The Commission found that it was undisputed that the kind of violent confrontations which could produce internal bleeding were not part of the daily experience of most patrol officers in the village. A sergeant on the same medication had worked for the village in a similar capacity for approximately two years without any problem. On the other hand, there was evidence that one out of ten domestic violence calls in the village involved some kind of physical resistance. The Commission found that although the duty was infrequent, the ability to effect an arrest when there is resistance was an essential duty of the job in question. Therefore, even though it was infrequently needed, the complainant's lack of ability to perform this function in a safe manner rendered his condition unprotected under the Human Rights Act. In other words, a complainant under the Human Rights Act must have the ability to perform an essential duty of the job in question, even if that capacity is not frequently used.

In the case of *Katsiavelos and Federal Reserve Bank of Chicago*, Charge No. 1990CF3438 (October 26, 1992), the full Commission issued an opinion based upon the

certified question whether a federal reserve bank comes within the jurisdiction of the Commission. In a lengthy opinion, the Commission reviewed the authority on the subject. At that time two federal appellate circuits had held that federal reserve banks were not subject to state fair employment practices laws. Although federal reserve banks are not part of the Government of the United States, they are an important part of the federal system for regulation of the money supply. The Commission found that any attempt by the State of Illinois to regulate federal reserve banks would inevitably lead to a conflict with the Supremacy Clause of the United States Constitution. Accordingly, the Commission defined the word *person* in the Human Rights Act to exclude federal reserve banks.

The question in *Whittington and K-Mart Corp.*, Charge No. 1987SF0520 was whether the complainant was an employee, or an independent contractor, who would not be protected against employment discrimination. The complainant performed maintenance functions for the respondent store. He had signed a contract which indicated that he was an independent contractor. Nevertheless, the Commission found that the nature of the complainant's relationship with the respondent was more like that of an employee. The Commission found, for example, that the respondent told the complainant what to do and when to do it. It designated his hours, and provided him with tools and supplies. In fact, there was evidence that the complainant was locked into the store overnight while he performed his maintenance functions. The Commission panel concluded that a respondent cannot escape its obligations under the Human Rights Act by designating employees "independent contractors".

There were two major issues decided in the case of *Zimmerman and Illinois Central Gulf R.R. Company*, Charge No. 1986CN3091 (November 23, 1992). The first was whether "depression" constitutes a "handicap" within the meaning of the Human Rights Act. The complainant had presented evidence that he was suffering from "major depression recurrent", which is found as a mental illness under the DSM-III Revised Manual. According to the manual, the mental condition is not transitory or insubstantial. Over 50% of the people who have an initial episode of major depression will have another major episode. Accordingly, the Commission found no reason why this form of depression could not be considered a handicap.

The second question taken up by the panel was whether the right to pursue a grievance under the Federal Railway Labor Act preempts application of the Human Rights Act. The Commission found that the mere existence of a right to a grievance is not sufficient to preempt state law. It is only where the state administrative law judge must—necessarily—interpret the agreement reached under the Federal Railway Labor Act that preemption occurs.

The Commission issued a major decision on the issue of sexual harassment in the case of *Kauling-Schoen and Silhouette American Health Spas*, Charge No. 1986SF0177 (February 8, 1993). The Commission had been urged to hold that any proven case of sexual harassment necessarily involved severe emotional distress. The complainant and several friends of the court asked the Commission to hold that as a matter of law a complainant who proves sexual harassment is entitled to monetary damages for emotional distress.

The Commission rejected this argument. It held that although the conduct in question must be "unwelcome", the question whether the harassment creates an offensive working environment is not subjective. In other words, the complainant did not have to present evidence of her own personal reaction to the conduct in question. Given this standard of proof, emotional distress damages would not be presumed.

One of the most vexing problems to confront the Commission was addressed by a panel in the case of *Maliszewski* v. *Illinois Department of Transportation*, Charge No. 1992SN0039 (February 8, 1993). Under Section 7A-102(G)(2), a complainant has the right to file a complaint directly with the Commission starting on the 301st day after the filing of the initial charge and ending on the 330th day. The complaint must be verified. The complainant in this case filed a complaint within the "30-day window" period. Unfortunately, that complaint was not verified. On the 331st day after the filing of the charge, one day after the close of the window period, the complainant filed a motion for leave to amend the complaint, attaching a proposed verified complaint. The complaint was identical to the original complaint, except that it was verified.

The Commission panel ruled that the fact that the complainant had missed the deadline by only one day was irrelevant. It was the position of the panel that in order for there to be jurisdiction in front of the Commission a verified complaint must be filed within the window period. The panel declared that no proper complaint was ever filed, and therefore the Department of Human Rights was required to continue investigating the underlying charge in the same way it would have proceeded had no complaint ever been filed.

Finally, in the case of *Brigel and Builder's Heating, Inc.*, Charge No. 1987CN2158 (May 7, 1993), the Commission explored the standards for awarding front pay. Although the normal remedy for most forms of employment discrimination is backpay and reinstatement, in certain cases reinstatement is impossible. In the *Brigel* case, as a result of harassment based upon the complainant's mental handicap, his symptoms were exacerbated. Eventually, the complainant became very depressed and suffered debilitating symptoms from his maniac depressive disorder. Even at the time of the public hearing, several years later, the complainant was unable to work. Because the complainant's inability to work was caused by the illegal harassment, the administrative law judge recommended that the complainant be awarded front pay as compensation for this injury.

The Commission agreed with the administrative law judge that front pay was appropriate in this sort of situation, but disagreed with the administrative law judge's recommendation that the front pay period be five years. The only testimony regarding the expected length of the complainant's disability came from the complainant. The panel held that although the complainant is competent to testify about the effects of the harassment on him, his testimony, standing alone, cannot support a finding that he will be mentally incapable of working for a specific period of time. The matter was remanded to the administrative law judge to take additional evidence on the amount of front pay and future medical costs.

EMPLOYMENT EDUCATION PROJECT

In July, 1991 the Illinois General Assembly approved the Illinois Human Rights Commission's request to administer State Legislation Impact Assistant Grant (SLIAG) for the purpose of reducing discrimination caused by the Immigration Reform and Control Act (IRCA)). The Commission agreed to use these funds to educate employers and the community about anti-discriminatory provisions of IRCA.

IRCA, signed in 1986 by President Reagan, was created, among other reasons, to prevent employers from knowingly hiring undocumented workers, and to stop discrimination of authorized workers on the basis of national origin or citizenship status. In order to deter illegal employment by unauthorized workers, IRCA forced employers to check new employee documents to verify U.S. employment eligibility. After studying employer discrimination following the implementation of IRCA, the General Accounting Office (GAO) discovered that much prejudice against foreign looking and/or sounding people is caused by confusion of IRCA provisions, not intentional discrimination. Employers are not properly informed of the Immigration and Naturalization Service regulations, especially the I-9 form. Four public hearings held by the IHRC on testimonies by employers supported these GAO findings, that employers were unaware of their discriminatory practices prohibited by IRCA. The use of SLIAG funds will enable the IHRC to educate employer and employees, including U.S. citizens, nationals, permanent and temporary residents, refugees, political asylees, and individuals authorized to work in the U.S. on the anti-discriminatory provision of IRCA.

In FY92 the IHRC hired a Project Coordinator, two Employer Education Specialists and an Office Associate to organize the Employer Education Project (EEP).

Five members of the Commission were appointed to a committee to develop policies and strategies for implementing the Employer Education Project.

Community-Based Subcontractors

The IHRC contracted with 12 subcontractors to provide education and outreach to immigrants, refugees and asylees within the State of Illinois. A total $194,000 was awarded to the following community-based subcontractors:

American Refugee Committee	$19,000
Casa Aztlan	$14,000
Centro de Informacion y Progreso	$11,000
El Centro Pan Americano	$13,000
Centro Romero	$14,000
Interchurch Refugee and Immigration Ministries	$27,000
La Voz Latina	$16,000
Polish American Congress/Polish American Foundation	$13,000
Servicios Estudiantiles Profesionales Para Adultos	$12,000
SER Jobs for Progress	$22,000

The Spanish Center	$15,000
World Relief	$18,000

Subcontractors received a one day training on the anti-discrimination provisions of the Immigration Reform and Control Act of 1986 (IRCA), on November 12, 1992. New subcontractors and new staff of SFY 1992 subcontractors received individual training prior to the general training in November. The EEP also organized a financial training for subcontractors in January of 1992. Financial staff who could not attend the general training were invited to schedule individual meetings to receive technical assistance. On May 20 and 21 of 1993 the IHRC acted as co-sponsor along with CCIRP of a midwest regional training conducted by the National Immigration Law Center.

- Several strategies were developed to implement the employed education portion of the project. Contact was reestablished with the Department of Commerce. DCCA invited the EEP to participate in two conferences as exhibitors: 5/17-19, DCCA NASA Conference in Rockford and 6/23-24 DCCA/SBDA Conference in Springfield, IL;

- Each DCCA small business development center received an information packet from the EEP. Additionally DCCA posted information about the EEP on the DCCA/SBDC electronic bulletin board which reaches the Illinois Small Business Development Centers; Corridors of Opportunity Offices; and Regional Assistance Management Offices.

- All employer contacted in 1992 were sent follow-up letters in FY'93 requesting dissemination of EEP information to members and affiliated associations.

- EEP mailed correspondence and press packets to 11 Chicago Chambers of Commerce for publication in organization newsletters.

- The Employer Education Project published its hotline number on all brochures, including it mail correspondence. Approximately 250 calls were received on the hotline. More employers who have been visited by EEP used the hotline to ask follow-up questions and distributed information about the project to their affiliates and fellow employers. Approximately 20 presentations were scheduled due to follow-up on hotline calls.

- EEP scheduled the following visits from referrals:

OSC	1
CCIRP	14
Subcontractors	21
Employers	18

- One hundred seventy-three presentations were made to employers as the result of telephone calls initiated by EEP staff to inform employers about the program.

- Seminars were conducted at the State of Illinois Center on January 28, February 2, and March 24. Announcements were sent to employers within close proximity of the State of Illinois Center. The time and cost efficiency of this strategy was reviewed and it was decided that this strategy will not be continued.

- The staff provided information through press packets to:

  * The Chronicle
  * LULAC News
  * IWIG Newsleter
  * IFBPW Illinois Bulletin
  * Minority Entrepreneur
  * The Lincoln Courier
  * Time-Out
  * Chicago Reporter
  * Illinois Times
  * La Raza
  * Chicago Defender
  * Southtown Economist
  * Chicago Tribune
  * Chicago Sun-Times
  * IDES Newsletter
  * Chicago Enterprise Quarterly Issue
  * Crystal Lake BPW Newsletter
  * Northwest Herald
  * Chicago Tribune (Letter to the Editor)
  * Press Release via Illinois State-Wide wire fax (re: "Nannygate")
  * 65 Asian Print and Broadcast Media Outlets (Packets were forwarded with cover letter from Christine Takada, Governor's Assistant for Asian Affairs)
  * National World Journal
  * Illinois State Chamber of Commerce Newsletter-Executive Report

The Chicago Tribune published a letter to the editor regarding the controversy surrounding the Zoe Baird nomination. The letter written by the EEP Program Manager corrected some erroneous information and published the EEP hotline number. Numerous phone calls requesting information were received following the publishing of this letter.

The EEP was able to solicit the cooperation of one of the network television stations that copied the master PSA VHS Tapes Gratis. The EEP has distributed PSAs to the following stations:

Channel 26 (Spanish)
Channel 9, Nationwide Cable Outlet (English)
Channel 5 (English)

Staff appeared on a Polish-speaking and a Spanish-speaking talk show.

The EEP participated in 15 conferences in FY'93:

* State and Local Coalition on Immigration Policy
* Illinois State Fair in Springfield
* Illinois State Fair in DuQuoin
* CCIRP Annual Conference
* VIVA Chicago
* IWIG Chicago
* Hispanic Alliance for Career Enrichment
* Illinois Association of Hispanic State Employees
* IWIG Springfield
* IFBPW Springfield
* Illinois Human Rights Conference
* League of United Latin American Citizens
* DCCA/NASA Rockford
* Humboldt Park Puerto Rican Festival
* DCCA/Small Business Development Association, Springfield

The EEP developed and received approval from OSC for an employer flyer that is used for distribution at fairs and conferences. The EEP has produced and distributed rolodex cards and magnets which advertise the hotline numbers to the EEP and OSC.

A presentation was conducted for a class of union representatives sponsored by the Chicago Federation of Labor. The Illinois AFL-CIO was contacted and has agreed to send a mailing to its member unions throughout the state. Materials were provided to both the AFL-CIO and the Chicago Federation of Labor for distribution to membership.

EXPENDITURES
GENERAL REVENUE FUND

State Fiscal Year—July 1 through June 30

Line Item	FY93	FY92	FY91	FY90
Personal Services	$ 617.7	$ 840.7	$ 824.4	$ 564.3
Pension Pick-Up	23.8	14.9		
Retirement	24.6	34.7	37.5	25.6
Social Security	46.0	61.8	60.7	40.7
Contractual Services	36.7	56.5	63.7	56.3
Court Reporting	114.8	99.3	113.3	110.6
Travel	22.6	22.3	24.0	25.6
Commodities	5.8	11.9	15.9	12.2
Printing	0.3	1.3	2.9	3.1
Equipment	10.7	17.7	27.9	11.5
Telecommunications Services	7.2	17.6	18.1	13.0
TOTAL GENERAL REVENUE FUNDS	$ 910.2	$1,178.7	$1,188.4	$ 862.9

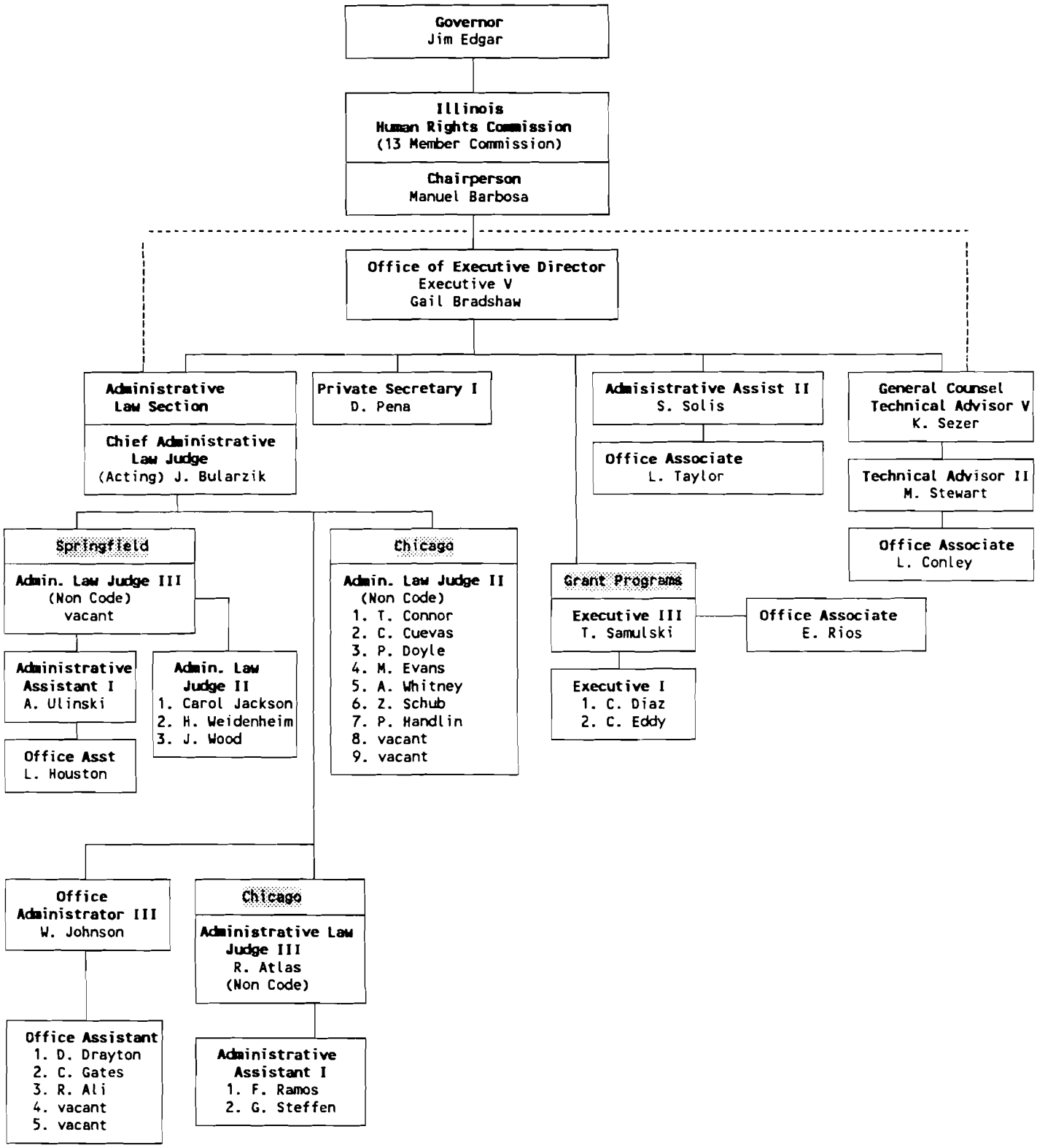
*In FY90 and FY91 the Commission was not responsible for Pension Pick-Up.

EXPENDITURES
SLIAG FUND

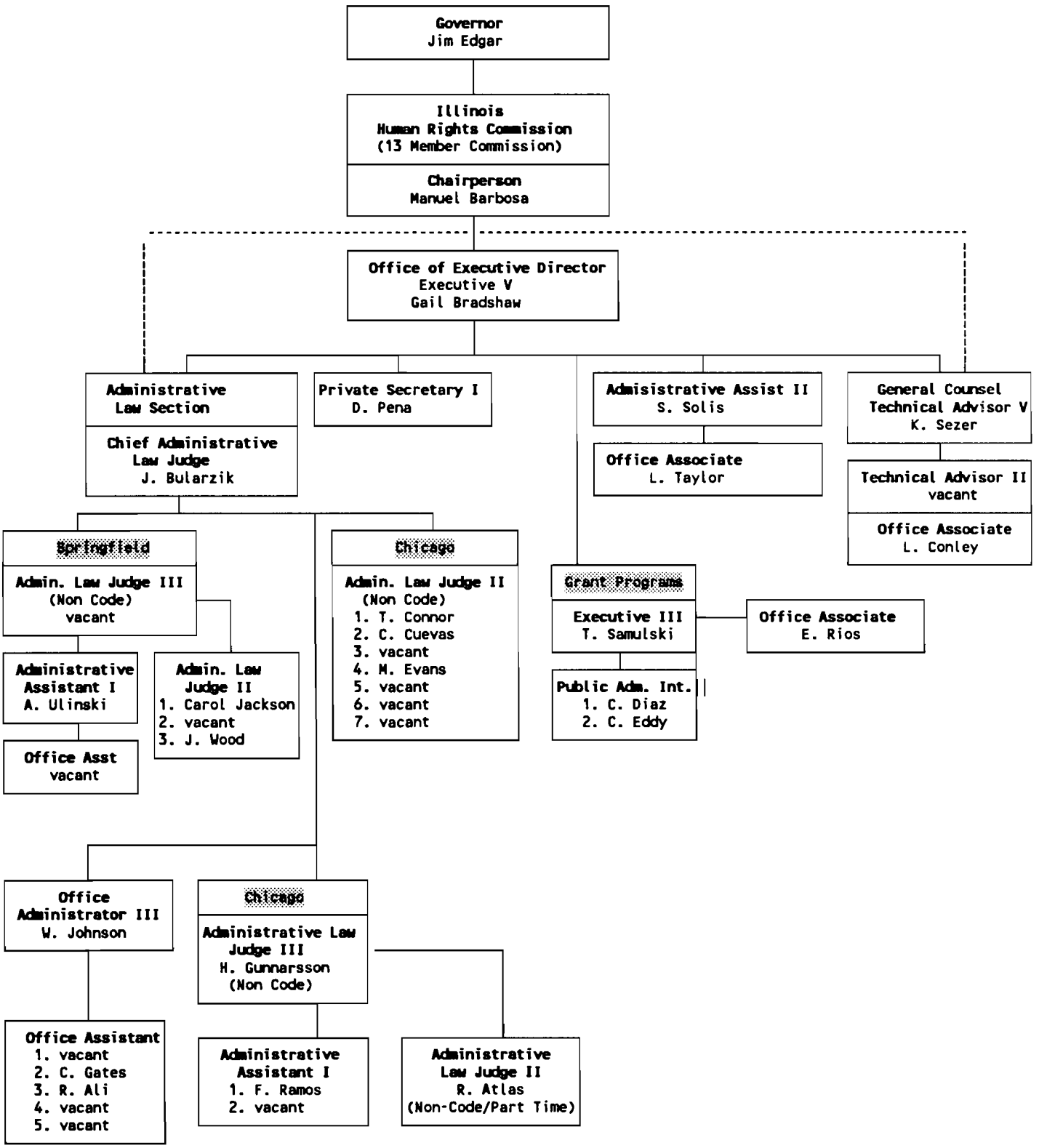
State Fiscal Year— July 1 Through June 30

Line Item	FY93	FY92	FY91**	FY90**
Personal Services	$ 125.5	$ 60.1		
Pension Pick-Up	4.7	1.4		
Retirement	5.2	2.8		
Social Security	9.6	5.4		
Group Insurance	16.0	5.5		
Contractual Services	19.7	24.9		
Travel	14.3	7.2		
Commodities	2.2	1.8		
Printing	3.8	0		
Equipment	14.1	13.4		
Telecommunications Services	3.3	4.8		
Subcontractors	184.8	99.7		
TOTAL SLIAG FUNDS	$ 403.2	$ 227.0		

HRC ORGANIZATION PRIOR TO LAYOFF



HRC ORGANIZATION AFTER LAYOFF



ILLINOIS HUMAN RIGHTS COMMISSION

LIST OF COMMISSIONERS

NAME & ADDRESS	EXPIRATION DATE OF TERM
Manuel Barbosa Elgin, IL	January, 1995
Grace Kaminkowitz Chicago, IL	January, 1993
Wallace Heil Taylorville, IL	January, 1995
Mathilda Jakubowski Downers Grove, IL	January, 1993
Sylvia Neil Glencoe, IL	January, 1993
Jane Hayes Rader Cobden, IL	January, 1995
Dolly Hallstrom Evanston, IL	January, 1995
G.A. Finch Chicago, IL	January, 1995
Randall Raynolds Springfield, IL	January, 1993
Howard Veal, Sr. Springfield, IL	January, 1993
Stephen Morrill Chicago, IL	January, 1995
Jarvis Williams Chicago, IL	January, 1995
Nancy Jefferson Chicago, IL	January, 1995

SCHEDULE FOR COMMISSION MEETINGS
for Fiscal Year 1993
July 1, 1992 - June 30, 1993

Below are the dates scheduled for 3-Member Panel and Full Commission meetings of the Human Rights Commission for the period July 1, 1992 - June 30, 1993. The time and exact location of each meeting will be listed on each agenda.

Date	Panel	Location
July 29, 1992	Full Commission	Chicago
August 5, 1992 a.m.	93-A	Springfield
August 5, 1992 p.m.	93-B	Springfield
August 12, 1992	93-C	Chicago
August 19, 1992	93-D	Chicago
August 26, 1992	Full Commission	Chicago
September 2, 1992 a.m.	93-A	Springfield
September 2, 1992 p.m.	93-B	Springfield
September 9, 1992	93-C	Chicago
September 16,1992	93-D	Chicago
September 23, 1992	Full Commission	Springfield
October 7, 1992 a.m.	93-A	Springfield
October 7, 1992 p.m.	93-B	Springfield
October 14,1992	93-C	Chicago
October 21,1992	93-D	Chicago
October 28, 1992	Full Commission	Springfield

Date	Panel	Location
November 4, 1992 a.m.	93-A	Springfield
November 4, 1992 p.m.	93-B	Springfield
*November 12, 1992	93-C	Chicago
November 18, 1992	93-D and Full Commission	Chicago
December 2, 1992 a.m.	93-A	Springfield
December 2, 1992 p.m.	93-B	Springfield
December 9, 1992	93-C	Chicago
December 16, 1992	93-D and Full Commission	Chicago
January 6, 1993 a.m.	93-A	Springfield
January 6, 1993 p.m.	93-B	Springfield
January 13, 1993	93-C	Chicago
January 20, 1993	93-D	Chicago
January 27, 1993	Full Commission	Chicago
February 3, 1993 a.m.	93-A	Springfield
February 3, 1993 p.m.	93-B	Springfield
February 10,1993	93-C	Chicago
February 17, 1993	93-D	Chicago
February 24, 1993	Full Commission	Chicago
March 3, 1993 a.m.	93-A	Springfield
March 3, 1993 p.m.	93-B	Springfield
March 10, 1993	93-C	Chicago
March 17, 1993	93-D	Chicago
March 24, 1993	Full Commission	Chicago
April 7, 1993 a.m.	93-A	Springfield
April 7, 1993 p.m.	93-B	Springfield
April 14, 1993	93-C	Chicago
April 21, 1993	93-D	Chicago
April 28, 1993	Full Commission	Springfield

* Thursday meeting

Date	Panel	Location
May 5, 1993 a.m.	93-A	Springfield
May 5, 1993 .m.	93-B	Springfield
May 12, 1993	93-C	Chicago
May 19, 1993	93-D	Chicago
May 26, 1993	Full Commission	Springfield
June 2, 1993 a.m.	93-A	Springfield
June 2, 1993 p.m.	93-B	Springfield
June 9, 1993	93-C	Chicago
June 16, 1993	93-D	Chicago
June 23, 1993	Full Commission	Springfield

CHART I - INVESTIGATION

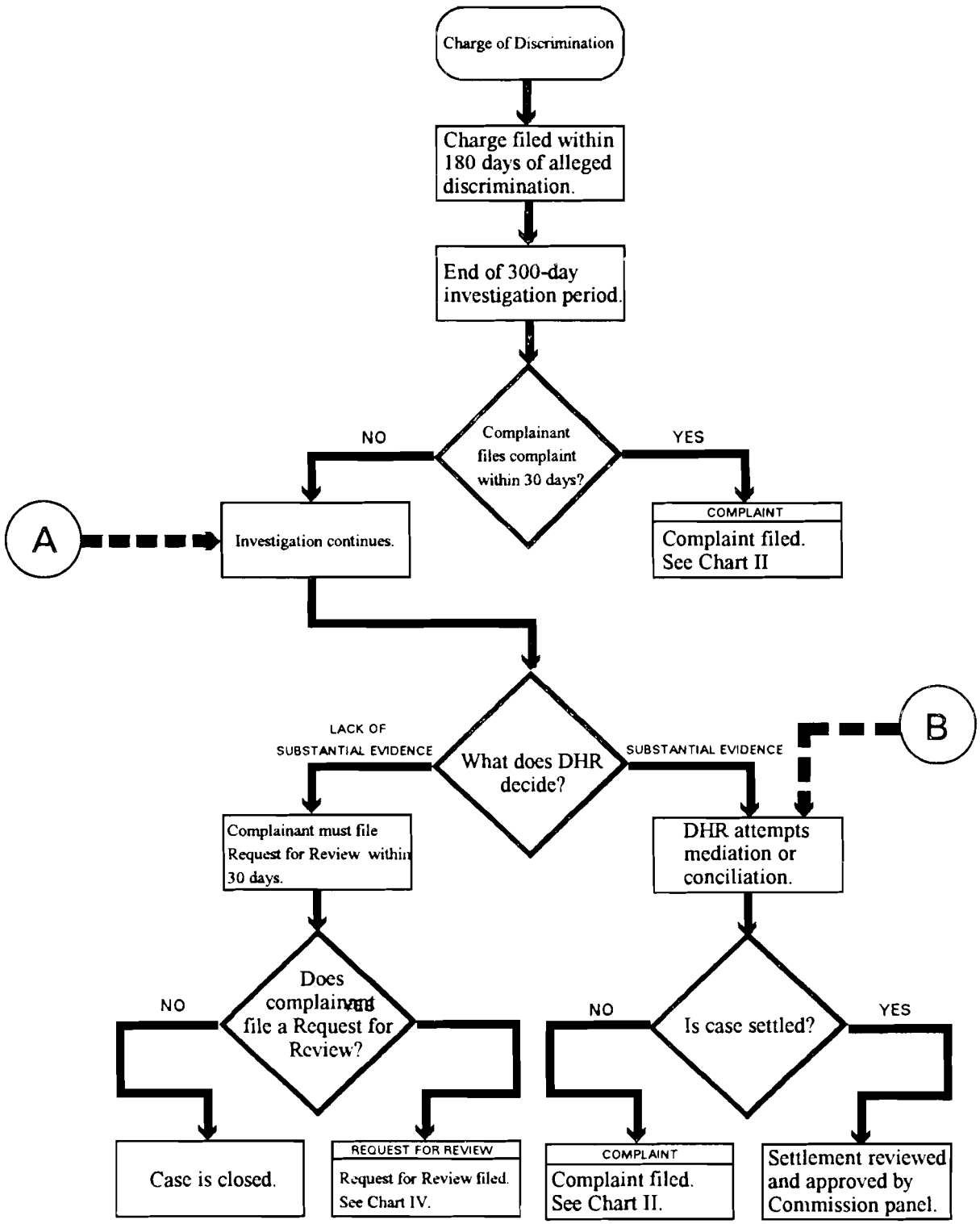
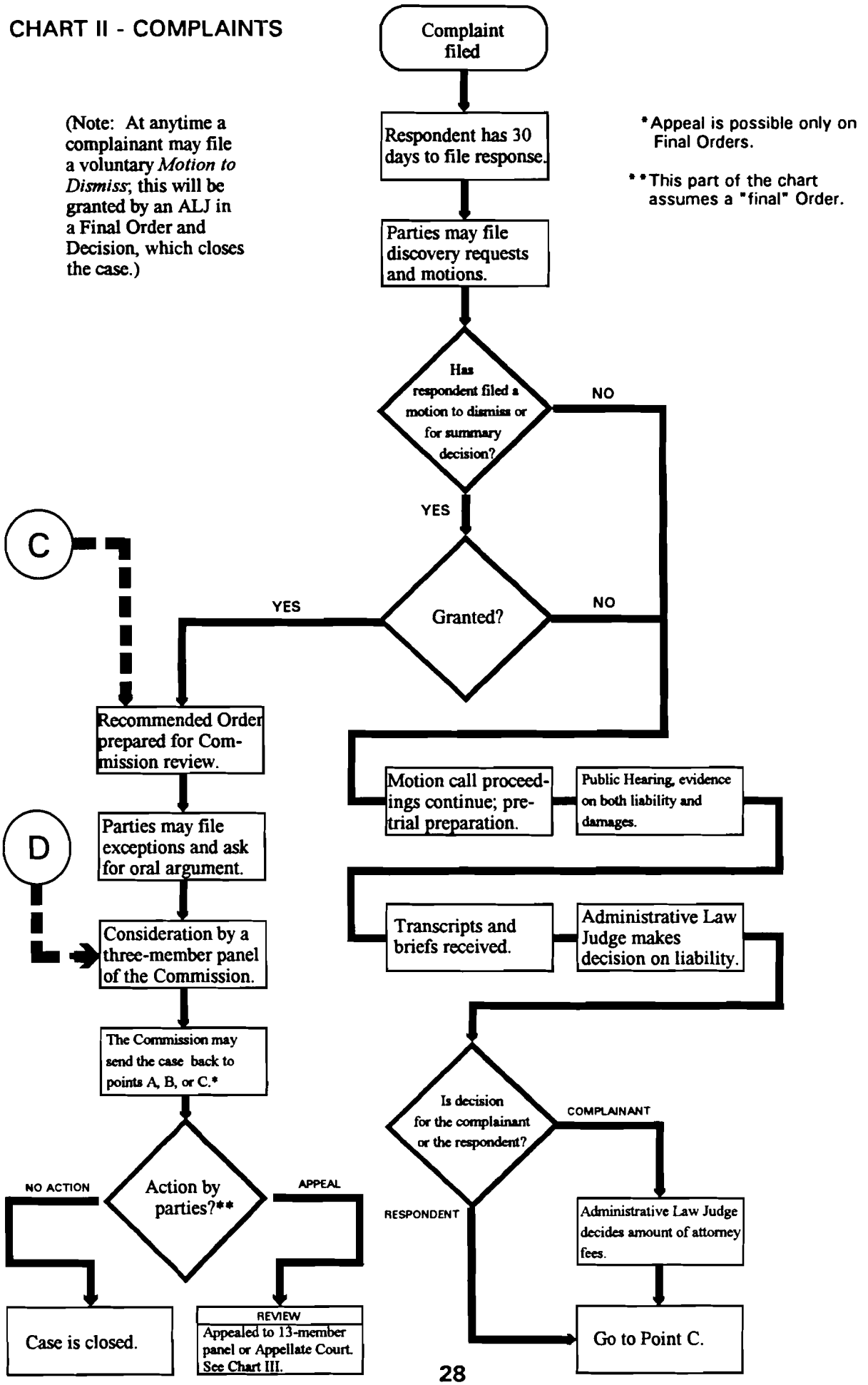


CHART II - COMPLAINTS



(Note: At anytime a complainant may file a voluntary *Motion to Dismiss*; this will be granted by an ALJ in a Final Order and Decision, which closes the case.)

*Appeal is possible only on Final Orders.

**This part of the chart assumes a "final" Order.

CHART III - REVIEW OF FINAL ORDERS OF THREE-MEMBER PANEL DECISIONS

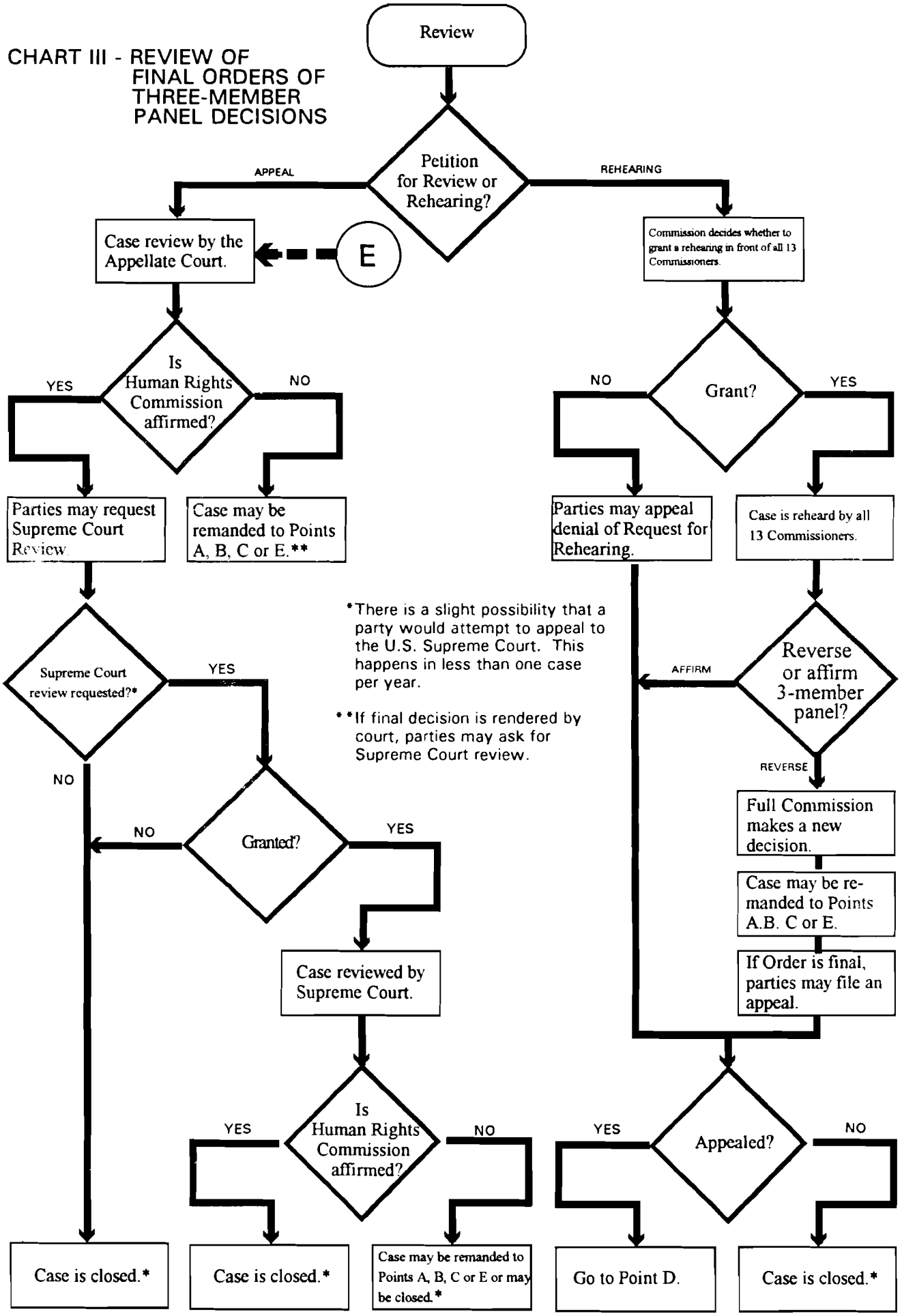
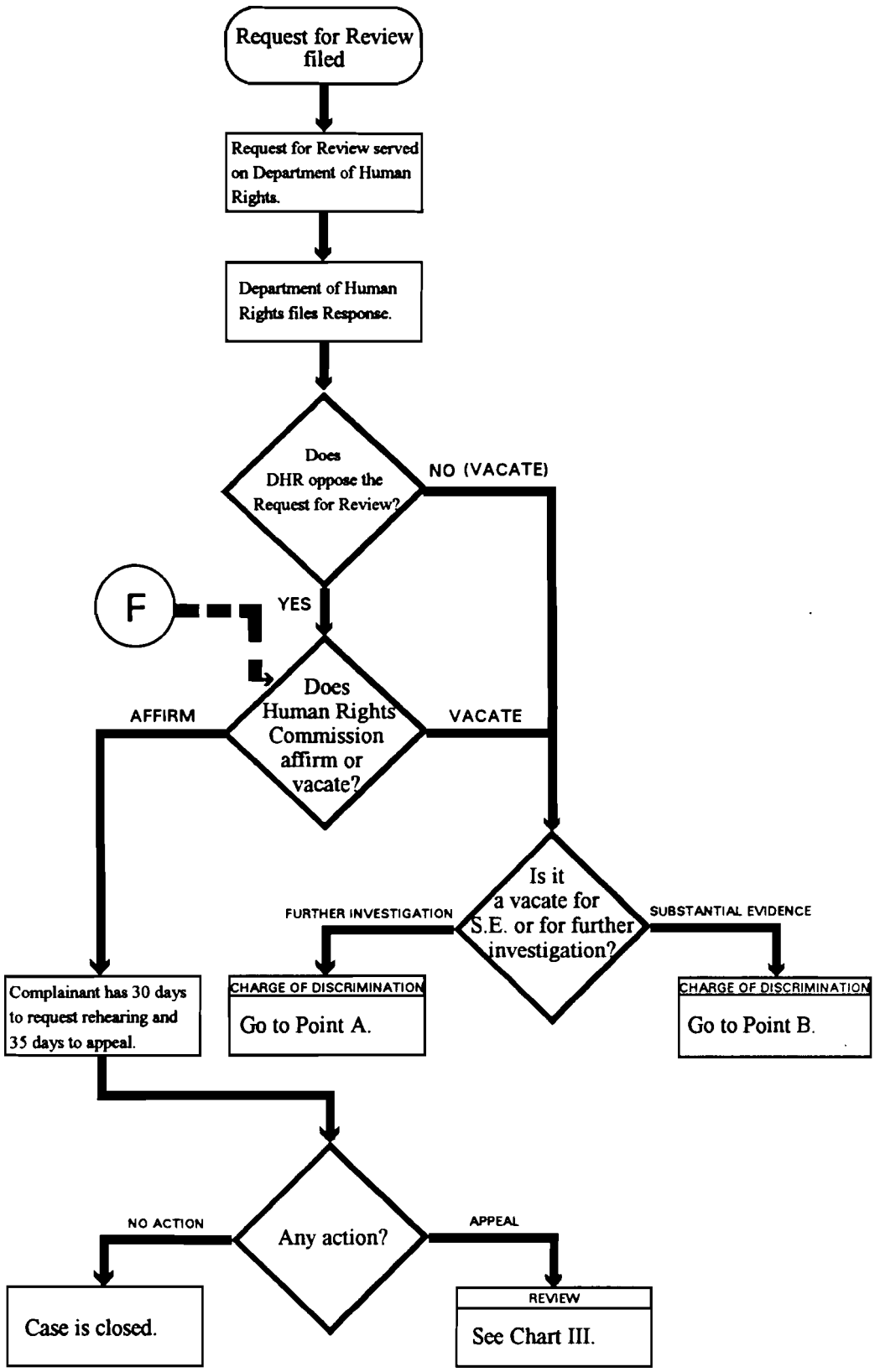


CHART IV - REQUEST FOR REVIEW



DEFINITIONS OF TERMS COMMONLY USED IN HRA PROCEEDINGS

ALJ: Administrative Law Judge

Charge: This is the initial allegation of discrimination. It must be filed within 180 days of the date of the discrimination. It is often confused with a "complaint", which is the document which starts proceedings at the Commission level.

Complainant-Filed Complaint: This is the same as a 300-day complaint.

Complaint: This is the initial pleading at the Commission level. This is the allegation of discrimination after it has gone through the DHR process. It should not be confused with the "charge", which is the initial allegation of discrimination brought to the DHR.

DHR: The Department of Human Rights.

EEOC: The Federal Equal Employment Opportunity Commission. This is the agency which enforces Title VII and other federal anti-discrimination laws.

Final Order and Decision: This is a decision by an ALJ dismissing a case based on the request of the complainant. In most instances the ALJ cannot issue a final decision. The usual role of the ALJ is to make a recommendation to the Commission. Where, however, the complainant asks that his or her case be dismissed, the ALJ has the power to dismiss the case by way of FOD.

FOD: Final Order and Decision.

HRA: The Human Rights Act.

HRC: The Human Rights Commission.

Lack of Substantial Evidence: (*See 'Substantial Evidence'*) If the Department finds after an investigation that the substantial evidence standard has not been met, it will dismiss out the charge without a hearing based on a "lack of substantial evidence".

LSE: *See 'Lack of Substantial Evidence'*

Motion Call: When a complaint is first filed with the HRC, it is not assigned to a hearing judge. Instead, all of the cases that are not ready for hearing are assigned to the motions judge. If a party has a motion, he or she sets it up on a schedule. On the designated day, all of the parties who have motions, argue their motions orally to the motions judge. This is known as the motion call or "the call". Currently, there is about a two-month wait to get a motion heard on the motion call.

O&D: Order and Decision.

Order and Decision: This is the final decision of a three-member panel of the Commission on the merits of a case. In most instances, the O&D is the first enforceable order issued under the HRA.

Petition for Rehearing: Most of the work of the Commission is done by 3-member panels. Final orders of the Commission can be reheard by all 13 Commissioners. The losing party files a "petition for rehearing". There is no right to a rehearing. It is rarely granted. When there is a rehearing, the Commissioners listen to arguments on legal issues. They do not retry the case.

Petition for Review: This is a document which starts an appeal to the Appellate Court. It should be distinguished from a "Request for Review", and a "Petition for Rehearing".

Recommended Order and Decision: This is the title of the recommendation of the ALJ to the Commission as to how the case should be decided. The findings of fact of the ALJ must be given substantial deference, but the legal conclusions are merely advisory.

Request for Review: After the Department has dismissed out a case for lack of substantial evidence, the complainant has 30 days to request a review of the decision. The request for review is directed to the Human Rights Commission. The HRC looks at the request for review, the investigation reports, and the DHR response to the request for review. The decision of the Commission is based on the paper presented. There is no "retrial" of the case. The Commission then decides whether there is substantial evidence. If the DHR issues a notice of default, the respondent has a right to file a request for review of that decision.

ROD: *See 'Recommended Order and Decision'*

SE: *See 'Substantial Evidence'*

Substantial Evidence: Enough evidence of discrimination so that a reasonable person might infer a discriminatory motive. This is the standard used by the Department to decide if a case should be dismissed without a hearing at the Human Rights Commission.

Three-Hundred Day Complaint: This is a complaint filed by a complainant after the DHR has failed to act within 300 days after the filing of the charge. The complainant has 30 days to file his or her own complaint (*See 'Window'*). If the complainant files a proper 300-day complaint, the DHR stops investigating the charge. The HRC treats such complaints in the same way as complaints filed by the DHR.

Title VII: Refers to Title VII of the Federal Civil Rights Act of 1964. This is the main federal law which outlaws discrimination in employment.

Window Complaint: This is the same as a 300-day complaint.

Window: This is the term used to designate the thirty-day period provided for 300-day complaints.