Illinois Human Rights Commission

Fiscal Year
1995

Annual Report

STATE OF ILLINOIS

Human Rights Commission

James R. Thompson Center
100 W. Randolph Street, Suite 5-100
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May 31, 1996

To The Honorable Jim Edgar
Governor of the State 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 1995.

Respectfully submitted,

Manuel Barbosa
Chairperson

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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 violation 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.

The Commission consists of thirteen Commissioners and a staff of nineteen including an Executive Director, a General Counsel, a Chief Administrative Law Judge, Hearings and Motion Judges and support staff. As of July 1, 1994, all of the thirteen Commission seats were filled. The Commissioners were:

Manuel Barbosa, Chairperson	-	Elgin
Dolly Hallstrom	-	Evanston
Wallace Heil	-	Taylorville
Dr. Sakhawat Hussain	-	Frankfort
Mathilda Jakubowski	-	Downers Grove
Grace Kaminkowitz	-	Chicago
Stephen Morrill	-	Chicago
Sylvia Neil	-	Glencoe
Jane Hayes Rader	-	Cobden
Randall Raynolds	-	Springfield
Rev. Rudolph Shoultz	-	Springfield
Vivian Stewart Tyler	-	Chicago
Isiah Thomas	-	Calumet Park

Stephen Morrill resigned from the Commission during the fiscal year and Rose Jennings was appointed on February 1, 1995 to replace him.

There are basically two types of Commission meetings: the Panel Meetings wherein three Commissioners review and rule on Recommended Orders and Decisions, Terms of Settlement and Requests for Review as well as miscellaneous motions from parties whose cases are pending before the Commission; and Full Commission Meetings wherein all the Commissioners consider and rule on requests of review of panel decisions. The Full Commission will only review a panel decision if the case presents a unique issue of law or if two Commission panels have issued conflicting rulings on the same question of law.

In FY95, the General Assembly passed a maintenance appropriation for the Commission which included continued funding of the Assistant General Counsel position through the Equal Employment Opportunity Commission Special Project Fund which is administered by the Department of Human Rights. Ten percent fewer complaints were filed with the Commission in FY95 than were filed in FY94. The Commission output increase slightly by almost 4%. The number of Recommended Orders and Decisions produced by the Commission Administrative Law Judges decreased by 2% and the number of hearings held decreased by almost 36% from the previous fiscal year. At the end of FY95, the waiting period between the time parties are ready for hearing and the actual date of the earliest available hearing date was over eighteen months. This was indicative of the continued impact of the increased caseload from previous fiscal years and the one-third reduction in staff which occurred in FY93.

REPORT OF THE ADMINISTRATIVE LAW SECTION

The Administrative Law Section ("ALS") of the Illinois Human Rights Commission is charged under Sections 8A-102 and 8B-102 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. In FY'95 this mandate was carried out by a professional staff of 7.6 administrative law judges, all licensed attorneys, consisting 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 handled both motions and hearings. In accordance with Sections 8A-102(B) and 8B-102(C) of the Act, the public hearings were 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'95 to sites throughout the state ranging from Dekalb to Mt. Vernon to Champaign. Approximately two-thirds of the hearings were heard by administrative law judges based in the Commission's Chicago office with most of them 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 most 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 for public hearings. 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 disposition, 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 Commission's 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 ALS increased in FY'95 although the number of administrative law judges remained the same as the prior year due to continuing budget restrictions. Moreover, the carryover caseload of the ALS was reduced in the course of FY'95 for a second year in a row; the FY'94 carryover reduction had been the first reduction in the ALS caseload since FY'86. In FY'95 the 7.6 administrative law judges had a total of 825 dispositions, which is more than any year in the history of the Commission, even exceeding the prior record high dispositions of 795 in FY'94. The next highest output year had been the 707 dispositions in FY'91 when there were 14 administrative law judges.

The intake of new complaints was again lower in FY'95 than in the prior year: a drop from 717 charges to 639 charges. This, also again, reflects a continuing reduction in the number of complaints filed by the Department of Human Rights; the intake of charges from Department filed complaints dropped from 788 in FY'93 to 379 in FY'94 to 278 in FY'95. The number of complainant-filed complaints, however, which are complaints filed under the provisions of Section 7A-102(G)(2) of the Act, increased slightly.

Section 7A-102(G)(2), which became effective for all charges filed after September 16, 1985, 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 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 charges was 281, making up approximately one-fourth of the total 1100 intake. In FY'94, the intake of was 319. This meant complainant-filed complaints comprised about 46% of the total number of incoming charges for ALS. In FY'95, the intake of such charges was 323. <u>This meant for the first time ever complainant-filed complaints comprised the majority of the total number of incoming charges for ALS.</u> This trend, however, will not continue. Due to an amendment of the Human Rights Act signed and enacted August 18, 1995, the "30 day window" period for complainants to file complaints between the 301st and 330th days after the filing of their charges will no longer exist for all charges filed on or after January 1, 1996.

Although ALS achieved a slight decrease in the its caseload in FY'94 and '95, there had been a steady rise in influx of cases throughout the 1980's which became steeper in the early 1990's and caused a large caseload carryover. During the first year of

its existence as part of the Human Rights Commission, for example, the ALS received 190 incoming charges, less than one-third of the 608 incoming charges of FY'88 and less than one-fifth of the FY'92 intake which exceeded 1200 charges. In response to the tremendous growth in caseload, the Commission has over the years made significant administrative changes designed to streamline ALS procedures. 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 a reduced budget, the number of Springfield office judges had to be cut back to two in FY'93 and remains at that. The administrative law judges assigned to the Springfield office are responsible for public hearings in which the alleged discrimination originated from Peoria southward.

The ALS has also modified its procedures regarding handling motions to accommodate the its increased 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 administrative law judge hearing the motion call. The importance and efficiency of the motion call continues to grow. In response to the great number of prehearing cases, the hours of motion call were expanded in FY'93 and remain so in order that more motions may be presented each week.

The following data represents a breakdown of the disposition of cases within the Administrative Law Section during the last several years of its operation under the Human Rights Act. The statistics in Table I and Table II 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 ALS 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'95	FY'94	FY'93	FY'92	FY'91	FY'90
Charges from DHR	278	379	788	855	536	676
C-filed Charges	323	319	278	345	249	225
HRC Remanded Charges	38	19	34	12	9	94
Total entering ALS	639	717	1,100	1,212	796	995
Prior FY Carryover	2,408	2,486	2,061	1,514	1,425	922
Total charges	3,047*	3,161	2,726	2,221	1,917	1,439
Total dispositions	825	796	675	665	707	492
Carryover to next FY	2,222*	2,408	2,486	2,061	1,514	1,425

*Due to an inventory conducted in July, 1995, active cases were deleted from the Commission inventory because they had been disposed of. In subsequent annual reports, these numbers will be revised.

Disposition of charges or output for the ALS is done in the forms of i) Final Orders And Decisions (FODs) which are orders dismissing a matter with prejudice based on the complainant's voluntary motion to dismiss; ii) Proposed Settlements which are settlement agreements of the parties sent on to a Commission panel for approval; and iii) Recommended Orders And Decisions (RODs) which are recommended decisions based on substantive motions or after hearings. A ROD may be for the complainant "on the merits", for the respondent "on the merits", for the complainant "not on the merits", for the respondent "not on the merits", or a split decision partially for the complainant and partially for the respondent. Those dispositions designated split decisions consist of complaints in which neither party prevailed on all aspects of the complaint. In some instances, for example, a complainant may have proven that she was denied a promotion because of her sex, yet failed to prove her claim that her discharge violated the Act. Another example of a mixed decision is a case in which race discrimination and retaliation were charged in the same complaint, and the complainant prevailed as to one claim but not the other. In some instances more than one issue could be resolved for the same party in a single complaint based on a single charge, e.g., one complaint based on

one underlying charge alleging both race discrimination and retaliation.

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 ALS 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 more than 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 (RLD; 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 generally 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. Upon issuance of the RLD, the prevailing

complainant is granted time to file a petition for fees and costs and the respondent is granted time to file an opposition to the petition. Then the fees and costs are determined by the administrative law judge who issues a Recommended Order And Decision, which incorporates by reference the Recommended Liability Decision; this ROD is transmitted from the Administrative Law Section to a Commission panel for review. As a result of this procedure, the Commission can review the merits of a matter and the recommended fees award at the same time and thus adjudicate the case more expeditiously.

In FY'95, the total 825 output of the ALS was comprised of 334 RODs, 487 FODs and 4 proposed settlements.

While FY'95 has been a highly productive year, the ALS still has a severe problem of too many cases for the number of staff to handle expediously. The number of charges entering the ALS doubled from 606 in FY '88 to 1212 in FY'92. To cope with this, the number of administrative law judges at the Commission was also increased. Subsequently, however, the number of judges was cut back although the overall caseload of the ALS continued to grow. 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 and thereafter, 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/CASES RATIO
'88	689	7	98
'89	922	7	132
'90	1425	10	143
'91	1514	14	108
'92	2061	12	172
'93	2486	7.6	327
'94	2408	7.6	317
'95	2222*	7.6	292

*Due to an inventory conducted in July, 1995, active cases were deleted from the Commission inventory because they had been disposed of. In subsequent annual reports, these numbers will be revised.

It is important to note that the ALS's caseload at the end of FY' 95 was nearly triple the caseload at the end of FY'88 while the number of administrative law judges in FY'94 was practically back to the FY'88 level. The increased caseload has

necessarily affected the speed at which cases can proceed in the ALS and causes a substantial delay in hearing cases and rendering recommended decisions on the merits. Despite the continued reduced staff as well as reduced resources the productivity of the ALS still increased in FY'95; nonetheless, the ALS cannot and cannot be expected to make any significant reduction in its large caseload without adding new staff. Despite great efforts, the ALS cannot improve upon its amazingly high rate of production without new resources to keep pace with the demand for its services.

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'95 was 338. In addition, 7 complainants asked for dismissal of their complaints after the issuance of the Recommended Order and Decisions in their cases. Thus, a total of 345 charges were disposed of during the fiscal year by the Commissioners. This constitutes a 4% increase over the number of charges disposed of in the previous fiscal year, which was, itself, a 47% increase over FY'93.

Of the 345 charges disposed of, 57 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 76 charges include cases which were disposed of by summary decision and directed findings after the complainant's case in chief. In most cases, the "on the merits" figure does not include situations in which a motion for summary decision was granted because there was no response filed. In a small number of cases, however, administrative law judges made extensive and detailed findings of fact based on uncontested evidence filed in a motion for summary decision. Where there has clearly been an extensive evaluation of the evidence presented, the resulting Order and Decision has been determined to be "on the merits." This report does not count Orders and Decisions in favor of the complainant based on the default of the respondent as decisions on the merits. There were 30 charges which were disposed of in favor of the complainant based on the default of the respondent.Thus, there were 101 charges disposed of during the year in which there was either a finding on the merits of the charge of discrimination, or a finding that discrimination

had occurred based on the default of the respondent. In the remainder of the Orders and Decisions the case turned on a procedural or other non-merit related question.

The 76 charges decided on the merits are analyzed below. Because the "merit" cases lend themselves to such analysis, it might appear that the 262 other decisions are less important. This is not true. A decision based on the 180-day filing period may be longer, more complex, and may affect more people than a decision finding discrimination in a particular case. Although some default cases are easy, other raise complicated questions involving service of the charge and successorship liability. Further, as can be seen elsewhere in this report, a great deal of the work of the Commission involves cases which reach the Commissioners through requests for review, certified questions and petitions for rehearing. At the end of this section is a narrative summary of some of the more significant opinions issued by the Commission during the year.

The charts below group the 76 charges decided on the merits in three ways: first, by whether the decision favored the complainant, respondent or both; second, by the source of discrimination; and finally, by whether the Commission affirmed or reversed the Administrative Law Judge's recommended Order.

ORDERS AND DECISIONS

For Complainant	For Respondent	For Both
8	66	2

ORDERS AND DECISION BY SOURCE OF DISCRIMINATION

	Number		Percentage %	
	FY'95	FY'94	FY'95	FY'94
Race	22	25	20.6	33.8
Color	1	0	0.9	0.0
Religion	3	1	2.8	1.4
Sex	16	10	15.0	13.5
Sexual Harassment	5	0	4.7	0.0
National Origin	13	4	12.1	5.4
Ancestry	1	0	0.9	0.0
Age	15	13	14.0	17.6
Marital Status	2	2	1.9	2.7
Physical/Mental Handicap	12	11	11.2	14.9
Unfavorable Discharge	0	0	0.0	0.0
Retaliation*	16	8	15.0	10.8
Familial Status	0	0	0.0	0.0
Arrest Record	1	0	0.9	0.0
Citizenship Status	0	0	0.0	0.0
Military Status	0	0	0.0	0.0
TOTALS	**107****	**74****	**100.0**	**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 tradition "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	75
RODs Reversed	0
Affirmed in Part and Reversed in Part	1
TOTAL	**76**

The chart below breaks down the 272 charges disposed of on a basis other than the merits by the subject covered in the Order and Decision. The percentage of charges involving failures to proceed went down from 55.1% in FY'94 to 35.9%. Thirteen percent of the

dispositions concerned the question whether the allegations in the charge stated a claim under the Human Rights Act. This was a category that was so small that it was listed as "other" in the FY'94 annual report. The reason for the change was the impact of the Illinois Supreme Court decision in *Board of Trustees of Southern Illinois University* v. *Illinois Department of Human Rights*, 159 Ill.2d 206, 636 N.E.2d 528 (1994). This decision was released by the Supreme Court on May 19, 1994, just before the start of the fiscal year. The case held that public officials were not liable under the Human Rights Act for discrimination with respect to the privileges of their offices unless such privileges related to places of public accommodation, such as parks. The Commission had in front of it quite a few cases in which the allegation was that a public official had discriminated against someone with respect to some aspect of that official's duties. Included in that number were cases in which prisoners alleged that they were being discriminated against by prison officials with respect to the terms and conditions at the prisons. Because prisons are not places of public accommodation, application of the holding in the *Southern Illinois University* opinion meant that those cases had to be dismissed because the complaints no longer stated a cognizable claim under the Human Rights Act.

The category of private settlement is also new this year. There were 13 charges where it was clear that the parties had settled the case, but had not compiled with the provisions in the Commission's rules which would have allowed the administrative law judge to dismiss the case on his or her own authority. Accordingly, these cases were disposed of by way of Order and Decision.

The category labelled remand for further proceedings includes case where the Commission decided a major portion of the allegation raised by the charge, but needed more facts to decide the case on the merits.

It should be remembered that the name of the category merely indicates the subject of the recommended order before the Commission, not the ultimate result. Thus, the Commission did not dismiss all cases in which the subject was the complainant's failure to proceed and did not grant a default in every case where that was the recommendation of the administrative law judge.

Non-Merit Order and Decisions by Subject of ROD

Subject of ROD	Number		Percentage %	
	FY'95	FY'94	FY'95	FY'94
Failure to Proceed	94	150	35.9	55.1
30-Day Window Problems	34	26	13.0	9.6
Technical Problems with Complainant-Filed Complaints	0	2	0.0	0.7
Defaults	27	30	10.3	11.0
Exempt Respondent or Similar Claims	2	0	0.8	0.0
180-Day Deadline Problems	5	5	1.9	1.8
Release or Other Bars to Prosecution	2	3	0.8	1.1
Failure to Respond to Respondent's Motion	35	28	13.4	10.3
Failure to State Claim	34	N/A	13.0	N/A
Res Judicata	5	N/A	1.9	N/A
Remand for Further Proceedings	6	N/A	2.3	N/A
Complainant Dies During Pendancy of Case	3	N/A	1.1	N/A
Private Settlement	13	N/A	5.0	N/A
Failure to Serve Respondent with Complaint	2	N/A	0.8	N/A
Other	0	28	0.0	10.3
TOTALS	**262**	**272**	**100.0**	**100.0**

In addition, the Commission is responsible for reviewing at the request of the complainant the investigation of all or part of any charge which has been dismissed by the Department of Human Rights. This includes an evaluation of the adequacy of the investigation and whether the dismissal of each count of the charge is appropriate. The Commission may sustain the dismissals of all or some of the counts of the charge, remand to the Department for further investigation, or reverse the dismissal, settlement negotiations with the parties. In FY'95, the Commission received 548 requests for review and served 470 request for review orders. That it an 11% increase over the requests for review received in FY'94 and a 20% decrease in the number of orders served in FY'94.

The Commission is also mandated by the Act to review and approve all terms of settlement. The standard for review is that the terms of the settlement are legal and do not abrogate the rights of either party. In FY'95, the Commission received, reviewed, and approved 548 terms of settlement.

REPORT OF SIGNIFICANT DECISIONS OF THE COMMISSION

What follows is a summary of a number of important case decided by the Commission during fiscal year '95. In *Deasel and Electric Energy, Inc.*, Charge No. 1990SF0096 (September 29, 1994), the Commission took up the distinction between "light duty" provided to workers who have had work related injuries and the kind of "reasonable" accommodation necessary to avoid discrimination against individuals with handicaps under the Human Rights Act. The respondent had a policy of giving "light duty" positions to men who had sustained on-the-job injuries. The complainant, a woman, had sustained injuries in an automobile accident which occurred off the respondent's premises and not in the course of her employment. In other words, the injury was not covered under the Illinois Workers' Compensation law. The complainant was not offered a light duty position and she was incapable of performing her regular duties. The complaint alleged that the respondent engaged in sex discrimination and handicap discrimination when it refused to give the complainant a "light duty" position.

The panel said that because of potential workers' compensation liability, it might be advisable to put an employee who was injured in the course of employment on light duty. The reason was that the employer would be faced with the choice of paying the employee to stay home or paying the employee to come to work. Under those circumstances, it would make sense to allow the employee to come to work and receive wages for light duty job which would have a marginal utility. The same analysis would not apply to individuals who had been injured outside of work. Those same "marginal" light duty jobs might not make any sense without the threat of workers' compensation liability. Thus, the fact that men who had been injured on the job received light duty assignments did not prove that the complainant was the victim of sex discrimination.

The Commission went on to find that the failure to provide a light duty job was not handicap discrimination either. The panel pointed out that a "reasonable accommodation" under the Human Rights Act must enable the complainant to do the job in question. In this particular case the "light duty" positions which the complainant desired were clearly of marginal utility to the employer. Because the complainant's condition was related to her ability to perform her job, there was no handicap discrimination in this case.

In the case of *Wilson and R.F.M.S., Inc.*, Charge No. 1988CF3536 (September 29, 1994), the Commission took up the difference between an "articulated reason" for a termination which is "pretextual" and an "articulated reason" which is a pretext for unlawful discrimination. The complainant in that case had been told that she had been fired because of a difference in "management style." The Commission found that this articulated reason for the discharge may have been pretextual, but it clearly was not a pretext for unlawful discrimination. It was undisputed one needed a certain amount of experience to be licensed as a nursing home administrator, which was the position in question in this case. It appeared that the respondent had made up its mind to hire a 38-year-old male to be the administrator despite the fact that he had little or no experience. Apparently, the complainant, who was 60 years old, was hired by the respondent as the nursing home administrator merely to train the 38-year-old man. When the man had sufficient experience, the complainant was fired based on the pretext that there were differences in "management style." The Commission found

that although the complainant might be able to prove pretext, she could not prove pretext for age discrimination. The reason was that the 38-year-old male had been hired first. The respondent never intended to keep on the complainant as a nursing home administrator. It was clear from the fact in the case that anyone, regardless of age, who was hired to be the nursing home administrator would have been fired as soon as the 38-year-old male had sufficient experience to take over as administrator. Thus, although the complainant might have been discharged for a pretextual reason, she was not discharged because of her age; there was never a real "opening" for the nursing home administrator position.

A significant procedural question was the subject of the Commission's Order and Decision in the case of *Ufford and Archer-Daniels Midland Co.*, Charge No. 1992SA0409 (September 29, 1994). In that case the respondent failed to file a verified response to the charge within 210 days after the charge was served upon it. A verified response was required under the Human Rights Act, and the Department of Human Rights had the power to default the respondent for failing to file a response during the statutory period. Instead, the Department of Human Rights filed a complaint with the Commission. The complainant asked the Commission to remand the case to the Department of Human Rights with directions that a default be entered. The Commission refused. The panel said that a default order was a tool which the Department could use to facilitate its investigation. The panel went on to say that the complainant did not have a right to a default. If the Department found that it could complete its investigation and file a complaint in the case, the complainant did not have the right to demand that the respondent be defaulted. The panel said that the most that the complainant is entitled to in the investigation stage of the proceedings is a finding of substantial evidence and the filing of a complaint. Because the complainant in this case had a substantial evidence finding and was proceeding in front of the Commission on a complaint, he had no right to demand that the Department of Human Rights enter a default.

In the case of *Owusu and Illinois Department of Transportation*, Charge No. 1987SF0305 (September 25, 1994), the Commission took up the distinction between separate violations of the Human Rights Act and one, continuing violation. The complainant in the case said that he was denied a series of promotions and upgrades by the respondent on the basis of his race. The Human Rights Act requires a complainant to file a charge of discrimination within 180 days of the date of the alleged violation. Some of the promotions in question had occurred more than 180 days prior to the time that Mr. Owusu filed his charge. He claimed that the Commission had jurisdiction over these claims because the failure to promote was a "continuing" violation. The Commission said that if the challenged promotion denial are products of discreet acts involving different decision-makers, different employees, and different times, then the continuing violation doctrine is not applicable. The Commission said that Mr. Owusu was not alleging a continuing violation because the promotions involved different jobs and different locations involving different parts of a huge bureaucracy. For example, one the jobs in question involved running a cafeteria which served over 1200 employees. Another position involved materials and physical research necessary for building highways. The Commission found that there was no necessary connection between the events in question other than the involvement of the single, large respondent. Accordingly, Mr. Owusu was limited to denials of promotions which had occurred less than 180 days before he filed his charge.

In the case of *Haney and University of Illinois, Bd. of Trustees*, Charge No. 1993SP0431 (September 14, 1994), a Commission panel was faced with a difficult and unique question in a public accommodation case. The complainant claimed that he had been denied the full and equal enjoyment of a University of Illinois football game at Memorial Stadium because the mascot of the University of Illinois King, "Chief Illiniwek," perpetuated stereotypical images of native people that are harmful to them. The complainant said that he was a Native American and that the activities of Chief Illiniwek parodied what was sacred and religious to his culture and his national heritage.

The Commission panel said that there could be two possible meanings to the statutory prohibition against discrimination with respect to the full and equal "enjoyment" of public places of accommodation. The General Assembly could have used the word "enjoy" to mean getting pleasure from the activity, or it could have used the word "enjoy" to mean having the use or benefit of the place of public accommodation. It was clear that the complainant had not been denied the use or benefit of Memorial Stadium. It was equally clear, however, that the display on the field upset him. The panel said that the General Assembly could not have intended to regulate the content of public displays and performances, because such a construction would run afoul of the first amendment. Accordingly, the panel found that it was the intent of the General Assembly to mandate equal access to entertainment and exhibitions of this sort, but not to regulate the content.

On October 28, 1994, the full Commission answered a question certified to it by an administrative law judge. *Farrow and Klinkar, et al.*, Charge No. 1988CP0056, et seq. The question was whether members of the Illinois Prisoner Review Board could be successfully charged with discrimination under the Illinois Human Rights Act by voting not to parole an inmate on the basis of his race and/or handicap. The Commission found that public officials are subject to the Illinois Human Rights Act for official actions only to the extent that those actions affect places of public accommodation or other areas specifically outlined in the Human Rights Act. The Commission affirmed its previous ruling that a prison was not a place of public accommodation, and went on to say that parole was similarly not a place of public accommodation. Although it could be argued that a vote to deny someone parole on the basis of race was a denial of the full and equal "privileges" of the official's care, and thus subject to the Human Rights Act, that reading of the Human Rights Act had been rejected by the Illinois Supreme Court in the case of *Bd. of Trustees* v. *Illinois Department of Human Rights*, 159 Ill.2d 206, 636 N.E.2d 258 (1994). Accordingly, the Commission found that a prisoner who was denied parole had no recourse against the members of the Illinois Prisoner Review Board under the Human Rights Act.

In the case of *Kotte and Dycast, Inc.*, Charge No. 1988CF3688 (November 22, 1994), a Commission panel was confronted with a case very similar to the *Wilson* v. *R.F.M.S., Inc.* matter, which has been previously described. When an opening for the position for quality assurance manager occurred, the respondent had its heart set on Ralph Rose (Rose), who was the quality assurance manager at a competitor. Rose was not available at that time, and the respondent ended up hiring the complainant. Eventually, Rose became available and was hired as one of the complainant's subordinates. Eventually, however, the complainant was eased out and Rose was made the quality assurance manager. The complainant argued that he had been discharged because of his national origin. Even though the reasons given by the respondent for the discharge were pretextual, the

Commission found that there was no discrimination. The reason was that it was clear that the respondent had wanted to hire Mr. Rose all along. This desire predated the complainant's hire. Accordingly, it was impossible for the respondent to have been motivated by the complainant's national origin. Anyone of any national origin who was not Mr. Rose would have been discharged. Accordingly, the complainant's complaint was dismissed.

In the case of *Borling and Wildwood Industries, Inc.*, Charge No. 1988SF0355 (January 6, 1995), the Commission found that several minor incidents did not combine to make a hostile, offensive or intimidating work environment sufficient to create a claim for "sexual harassment" under the Human Rights Act. The Commission found that it was possible that a supervisor asked the complainant on one occasion "what sexually stimulates you the most." It was also possible that on another occasion the same supervisor asked another employee whether she was wearing a black bra underneath her dress. The supervisor's wife was present and instructed the co-employee not to answer that question. The supervisor went over to the employee and pulled on the top of her dress to reveal the presence of a black strap. According to the Administrative Law Judge, both the wife and the employee laughed in response to the supervisor's actions. It was undisputed that the complainant saw this occur.

The Commission found that the combined effects of these two incidents over the months that the complainant worked for the respondent could not create a "hostile, offensive or intimidating" working environment sufficient to create a claim of sexual harassment.

In the case of *Massey and City of Zion, Illinois*, Charge No. 1993CF2237 (January 13, 1995), the question was whether the misleading action of the Department of Human Rights constituted a sufficient excuse for filing a charge more than 180 after the alleged violation. The complainant's attorneys called the Department of Human Rights and asked for advise concerning the charge filing deadline. They were advised that a charge would be timely if it were filed by February 11, 1993. In fact, the date given out by the Department of Human Rights was 181 days after the date of the alleged violation. The complainant followed the advise of the Department of Human Rights, and the Administrative Law Judge recommended that the complaint be dismissed based on lack of jurisdiction. The Commission panel agreed. It said that the Department of Human Rights could not change a statutory deadline by giving out incorrect advice. The panel further said that it was up to the complainant's attorneys to calculate the correct date based upon the clear language of the Human Rights Act.

Allen and Aero Services International, Inc, Charge No. 1987SF0157 (January 20, 1995) involved the unusual situation where no one provided evidence as to the number of employees employed by the respondent. In his complaint, the complainant alleged that the respondent was a "employer" under the Human Rights Act. In most cases, this means that the respondent employs at least 15 employees. The respondent denied this allegation in its answer. This would normally mean that the complainant would be required to provide evidence as to the number of employees employed by the respondent. The respondent went further, however, and added an affirmative defense which stated that it would prove that it was not an employer under the Human Rights Act. Normally, when a respondent pleads an affirmative defense, it has the burden of proof.

At hearing, neither the complainant nor the respondent provided any evidence with respect to the number of employees employed by the employer. At the end of the hearing, the Administrative Law Judge recommended to the Commission that the complaint be dismissed because the complainant did not prove that the respondent was a "employer" within the meaning of the Human Rights Act. The Commission reversed. It found that by pleading an affirmative defense, the respondent indicated that it would take the burden of proof on this issue. Accordingly, the complainant did not have to provide evidence on the number of employees employed by the respondent. The matter was remanded to the Administrative Law Section for further consideration of the record generated in the case. In February of 1995, the Commission answered its second certified question. *Hatch and Illinois Department of Corrections*, Charge No. 1990SF0279 (February 27, 1995). This case also involved a prisoner, but this time the inmate worked as a "law clerk." His charge against the Department of Corrections was not based upon the terms and conditions of his incarceration, but rather was designated as an "employment discrimination" case. Thus, the question certified to the Commission was whether an inmate law clerk who receives remuneration and "employee" of the correctional institution in which he or she is housed for purposes of the Human Rights Act. The Commission answered in the negative. The precedent on this subject stretched back to the 13th amendment to the United States Constitution, which specifically excludes inmates from the prohibition against slavery. The Commission found that the prison had a right to the complainant's labor, which was unrelated to "employment." There was not the necessary bargaining over the amount of labor and the amount of wages to make the relationship between the prison and the prisoner the same as the relationship between an employer and an employee. The opinion points out that the amount of money that the law clerk receives was so low that it could not possibly be considered compensation to the inmate for his or her work in any meaningful sense. Accordingly, the Commission found that a prisoner could not successfully claim discrimination in work assignments by filing an employment discrimination claim with the Department of Human Rights.

In the case *Gunnell and All-American Insurance Co.*, Charge No. 1991CA1671 (May 26, 1995), the Commission announced one of the few exceptions to the 180-day charge filing period. The Commission found in this case that it was possible that the respondent had intentionally misled the complainant as to the true impact of its failure to grant him a transfer. The complainant argued that had he been told the truth, he would have filed a charge of discrimination within 180 days after he was denied the transfer in question. The Administrative Law Judge recommended that this portion of the complaint be dismissed for lack of jurisdiction based upon a summary decision motion filed by the respondent. The Commission found that it was possible to believe based on the documents presented to the Administrative Law Judge that the complainant had, indeed, been intentionally misled. Accordingly, the panel found that it was inappropriate to decide this matter without a hearing on the complainant's contention. The panel did not find that there was jurisdiction in this case, but felt that a lack of jurisdiction determination could not be made without an evidentiary hearing.

The question in *Langa and Senator Richard Kelley* was whether state senators were subject to the Human Rights Act. The Commission found that state senators were not "employees" under the Human Rights Act, and therefore they could not file charges themselves. The panel went on to find, however, that they could be sued in their individual capacities as an agent of an employer if they sexually harassed employees of the State

Senate. The panel which heard this case emphasized that the question in this case was not whether the complainant could sue her employer. She had filed a related charge against the Senate itself. Rather, the question was whether an individual senator could be charged individually, with sexual harassment. As noted, the panel found that such allegations state a claim under the Human Rights Act, and remanded the matter to the Department of Human Rights to find if there was substantial evidence to support the allegations made by the complainant.

The case of *Janik and Chicago Police Department* concerned itself with the way in which a statute which has been amended should be applied. The 1986 version of the Human Rights Act merely prohibited an employer from inquiring on a written application whether a job applicant had ever been arrested. The 1992 version of the Act prohibited an employer from inquiring into or using arrest information with respect to employment. Although the employer in this case has asked about the complainant's arrest record when he applied to be a police officer, the complainant had been hired by the respondent, and thus no charge was filed. More than two years after the complainant filed his application, he filed a charge of discrimination with the Department of Human Rights. The problem was that a charge of discrimination must be filed within 180 days after the date of the alleged violation. The complainant contended that he had been discharged on the basis of his arrest record, but the portion of the Human Rights Act which prohibited discharge on the basis of arrest information was not enacted until after the complainant had been discharged. The Commission found that the complainant was prohibited from using the 1992 version of the Human Rights Act with respect to a discharge which had occurred prior to its enactment. Further, the Commission found that it would be improper to construed the 1986 version of the Human Rights Act to cover the same things prohibited by the 1992 amendment. On that basis, the Commission found that the complainant could not properly allege that he had been terminated based on his arrest record in violation of the Human Rights Act.

EMPLOYMENT EDUCATION PROJECT PHASE-OUT

In Federal Fiscal Year 1990, the amendment to the State of Illinois application to the Department of Health and Human Services for the State Legalization Impact Assistance Grant funds (SLIAG) designated the Illinois Human Rights Commission as the administering agency for the anti-discrimination education and outreach project. The Commission subsequently entered into an interagency agreement with the Illinois Department of Public Aid which is the designated Single Point of Contact for all State of Illinois SLIAG funded programs. Upon final approval of the Illinois General Assembly in July 1991, the Commission initiated the Employment Education Project (EEP).

The Employment Education Project was designed as a dual education program. Under the workplan, funds were designated for both community education and outreach which would be conducted by community-based organizations and monitored by the EEP staff, and for the education of employers in the State of Illinois which would be conducted by the EEP staff.

During the course of the program, twelve community-based organization were subcontracted with and three were awarded limited contracts to conduct the community education and outreach. The EEP staff conducted 110 group presentations and made 500 employer visits to provide consultation as well as providing press packets to newspaper editorial boards and distributing public service announcements to radio and television stations. The EEP published an Illinois specific community brochure in English and Spanish.

The final activity of the Employer Education Project was a mass mailing to 2500 Illinois employers announcing the termination of the project and providing them with a list of other organizations and resources which could assist them in the future. The Employer Education Project ended on September 30, 1995.

HRC EXPENDITURES FOR FY95

EXPENDITURES
GENERAL REVENUE FUND
STATE FISCAL YEAR July 1 through June 30

Line Item	FY95	FY94	FY93	FY92
Personal Services	$690.90	$ 613.50	$ 617.70	$840.70
Pension Pick-Up	26.9	23.8	23.8	14.9
Retirement	27.5	24.6	24.6	34.7
Social Security	51.9	45.8	46	61.8
Contractual Services	35.2	36.6	36.7	56.5
Court Reporting	112.8	102	114.8	99.3
Travel	25.9	25.7	22.6	22.3
Commodities	8.4	11.8	5.8	11.9
Printing	1.2	2.2	0.3	1.3
Equipment	4.2	7.5	10.7	17.7
Telecom Services	18	15	7.2	17.6
TOTALS	**$1,002.90**	**$ 908.50**	**$ 910.20**	**$1,178.70**

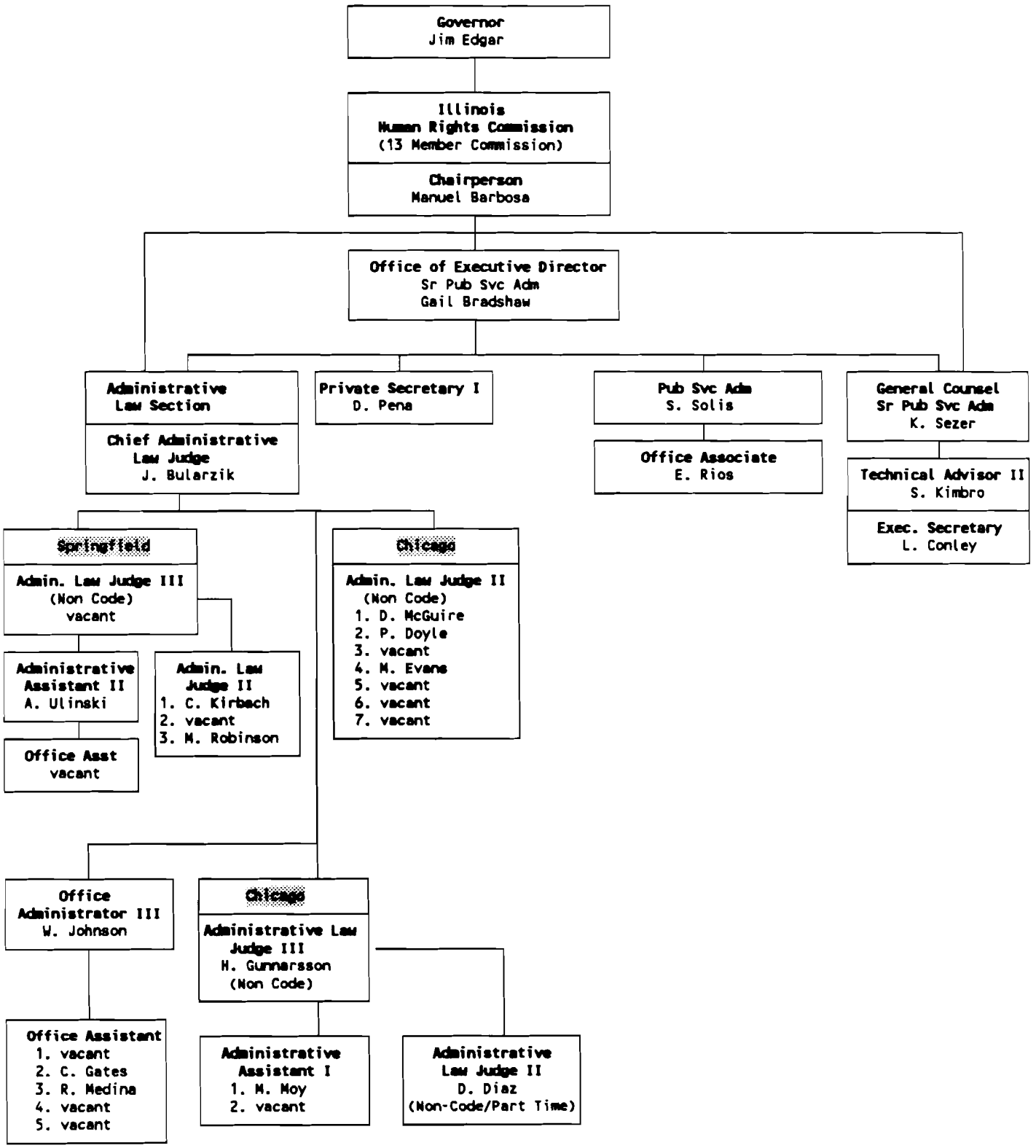
EXPENDITURES
SLIAG FUND
STATE FISCAL YEAR July 1 through June 30

Line Item	FY95	FY94	FY93	FY92
Personal Services	$ 15.50	$ 131.50	$ 125.50	$ 60.10
Pension Pick-Up	0.6	4	4.7	1.4
Retirement	0.5	5.4	5.2	2.8
Social Security	1.2	9.9	9.6	5.4
Group Insurance	3	17.3	16	5.5
Contractual Services	3	9.2	19.7	24.9
Travel	1.4	10.5	14.3	7.2
Commodities	0.5	1.2	2.2	1.8
Printing	0	0.9	3.8	0
Equipment	0	0	14.1	13.4
Telecom Services	1.4	3.3	3.3	4.8
Subcontractors	0	13	184.8	99.7
TOTALS	**$ 27.10**	**$ 206.20**	**$ 403.20**	**$ 227.00**

EXPENDITURES
SPECIAL PROJECTS DIVISION FUND
STATE FISCAL YEAR July 1 through June 30

Line Item	FY 95
Personal Services	$ 27.50
Pension Services	0.3
Retirement	1.7
Social Security	2
Group Insurance	3.4
Contractual Services	0
Court Reporting	0
Travel	0
Commodities	0
Printing	0
Equipment	0
Telecom Services	0
TOTALS	**$ 34.90**

HRC ORGANIZATION



ILLINOIS HUMAN RIGHTS COMMISSION

LIST OF COMMISSIONERS

NAME & ADDRESS	EXPIRATION DATE OF TERM
Manuel Barbosa Elgin, IL	January, 1995
Grace Kaminkowitz Chicago, IL	January, 1997
Wallace Heil Taylorville, IL	January, 1997
Mathilda Jakubowski Downers Grove, IL	January, 1997
Sylvia Neil Glencoe, IL	January, 1997
Jane Hayes Rader Cobden, IL	January, 1995
Dolly Hallstrom Evanston, IL	January, 1995
Dr. Sakhawat Hussain Frankfort, IL	January, 1997
Randall Raynolds Springfield, IL	January, 1997
Rev. Rudolph Shoultz Springfield, IL	January, 1997
Rose Jennings Chicago, IL	January, 1995
Isiah Thomas Chicago, IL	January, 1995
Vivian Stewart-Tyler Chicago, IL	January, 1995

SCHEDULE FOR COMMISSION MEETINGS

for Fiscal Year 1995
July 1, 1994 - June 30, 1995

Below are the dates scheduled for 3-Member Panel and Full Commission meetings of the Human Rights Commission for the period July 1, 1994 - June 30, 1995. The time and exact location of each meeting will be listed on each agenda.

Date	Panel	Location
July 6, 1994 a.m.	95-A	Springfield
July 6, 1994 p.m.	95-B	Springfield
July 13, 1994	95-C	Chicago
July 20, 1994	95-D	Chicago
July 27, 1994	Full Commission	Chicago
August 24, 1994	Full Commission	Chicago
September 7, 1994 a.m.	95-A	Springfield
September 7, 1994 p.m.	95-B	Springfield
September 14, 1994	95-C	Chicago
September 21, 1994	95-D	Chicago
September 28, 1994	Full Commission	Springfield
October 5, 1994 a.m.	95-A	Springfield
October 5, 1994 p.m.	95-B	Springfield
October 12, 1994	95-C	Chicago
October 19, 1994	95-D	Chicago
October 26, 1994	Full Commission	Springfield
November 2, 1994 a.m.	95-A	Springfield
November 2, 1994 p.m.	95-B	Springfield
November 9, 1994	95-C	Chicago
November 16, 1994	95-D and Full Commission	Chicago
December 7, 1994 a.m.	95-A	Springfield
December 7, 1994 p.m.	95-B	Springfield
December 14, 1994	95-C	Chicago
December 21, 1994	95-D and Full Commission	Chicago

Date	Panel	Location
January 4, 1995 a.m.	95-A	Springfield
January 4, 1995 p.m.	95-B	Springfield
January 11, 1995	95-C	Chicago
January 18, 1995	95-D	Chicago
January 25, 1995	Full Commission	Chicago
February 1, 1995 a.m.	95-A	Springfield
February 1, 1995 p.m.	95-B	Springfield
February 8, 1995	95-C	Chicago
February 15, 1995	95-D	Chicago
February 22, 1995	Full Commission	Springfield
March 1, 1995 a.m.	95-A	Springfield
March 1, 1995 p.m.	95-B	Springfield
March 8, 1995	95-C	Chicago
March 15, 1995	95-D	Chicago
March 22, 1995	Full Commission	Chicago
April 5, 1995 a.m.	95-A	Springfield
April 5, 1995 p.m.	95-B	Springfield
April 12, 1995	95-C	Chicago
April 19, 1995	95-D	Chicago
April 26, 1995	Full Commission	Springfield
May 3, 1995 a.m.	95-A	Springfield
May 3, 1995 p.m.	95-B	Springfield
May 10, 1995	95-C	Chicago
May 17, 1995	95-D	Chicago
May 24, 1995	Full Commission	Springfield
June 7, 1995 a.m.	95-A	Springfield
June 7, 1995 p.m.	95-B	Springfield
June 14, 1995	95-C	Chicago
June 21, 1995	95-D	Chicago
June 28, 1995	Full Commission	Springfield

ACCESSIBILITY TO HANDICAPPED

Pursuant to Executive Order Number 5 (1979), all meetings of the Illinois Human Rights Commission shall be held in places that are accessible to disabled individuals. Any disabled persons requiring special services, such as an interpreter for a hearing impaired individual, should contact Ms. Gail Bradshaw, Executive Director of the Commission, at least five working days prior to any meeting listed on this schedule. Such contact should be made at 100 West Randolph Street,
Suite 5-100, Chicago, Illinois 60601, or by phone at (312) 814-6269.

CHART I - INVESTIGATION

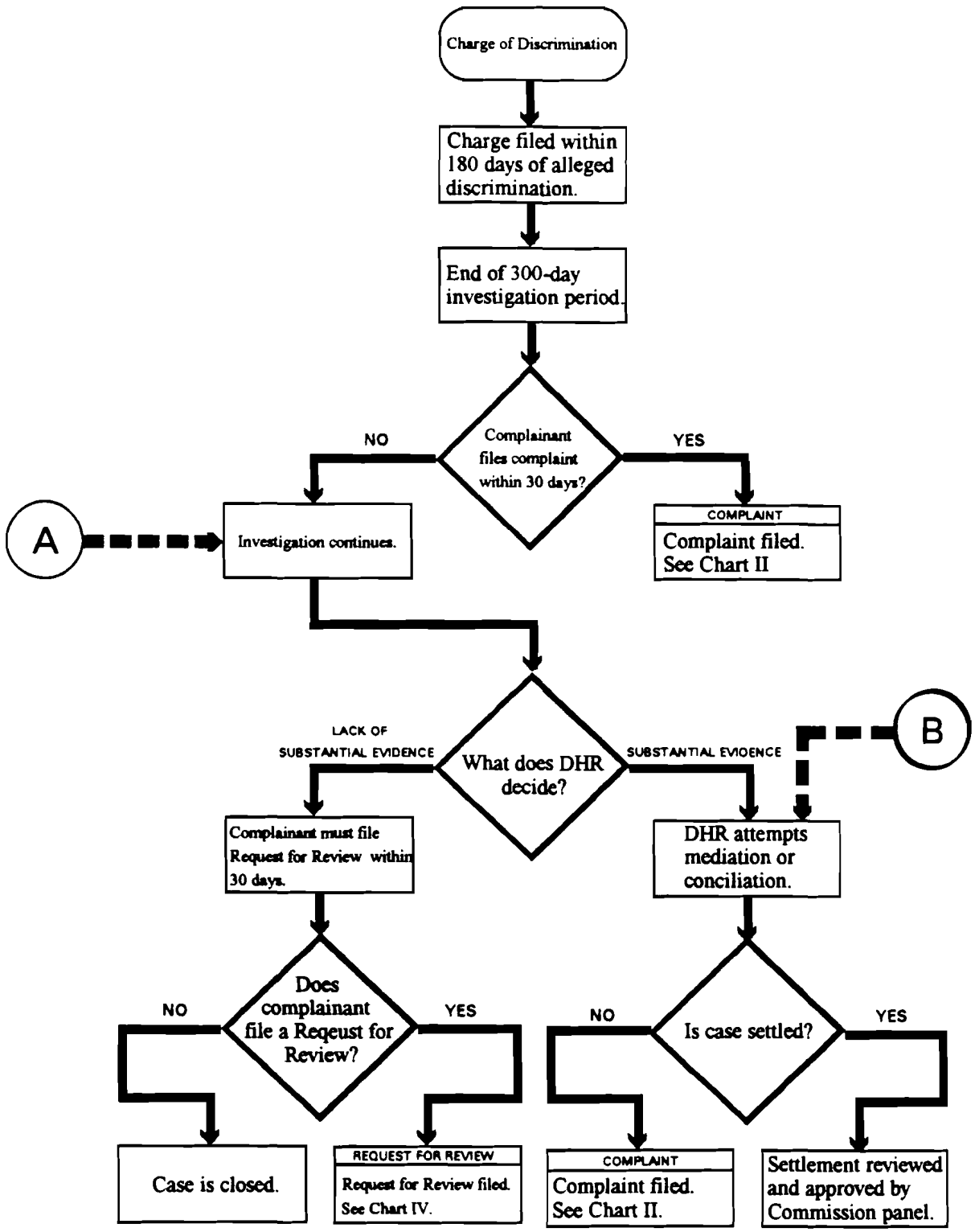
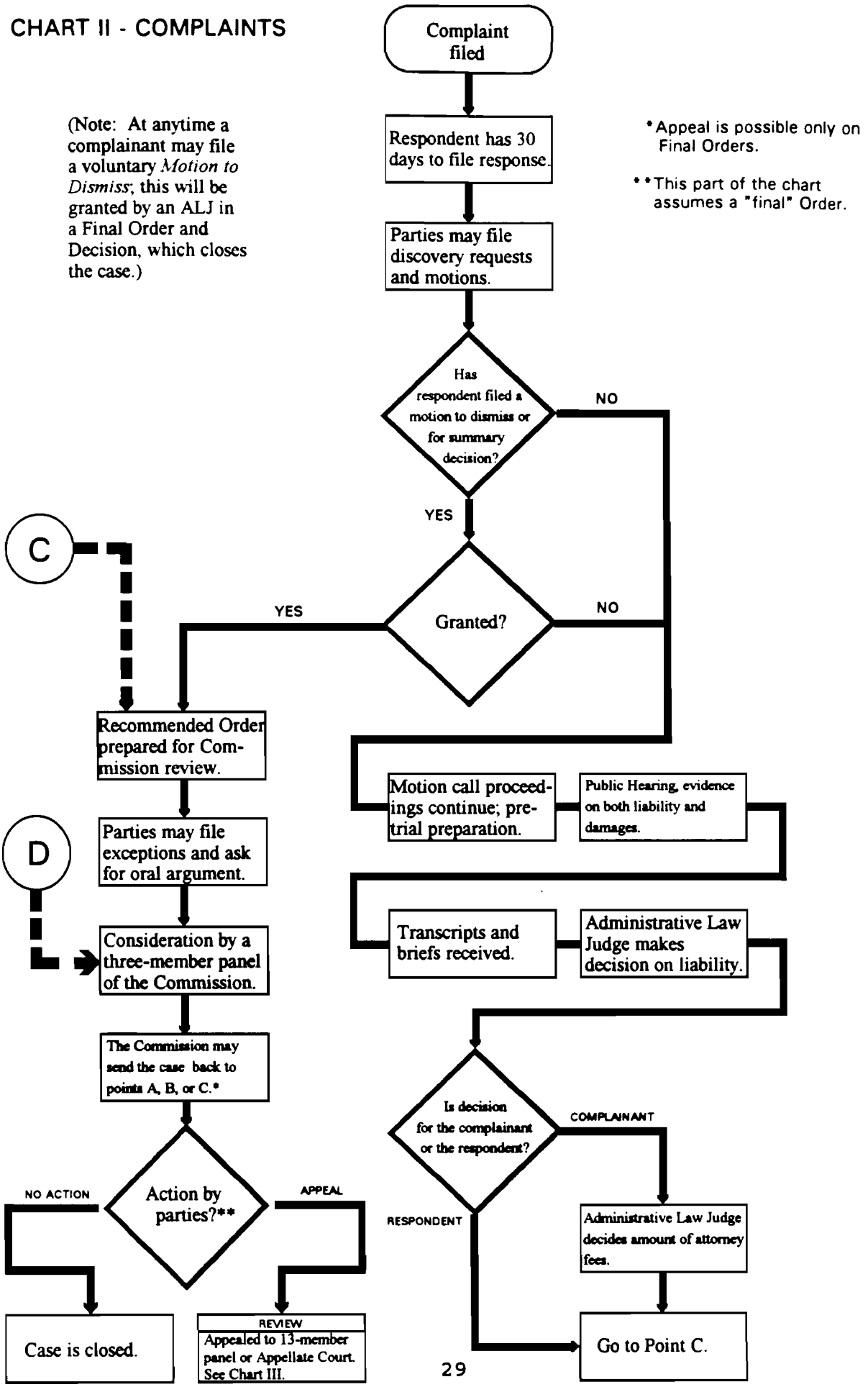


CHART II - COMPLAINTS

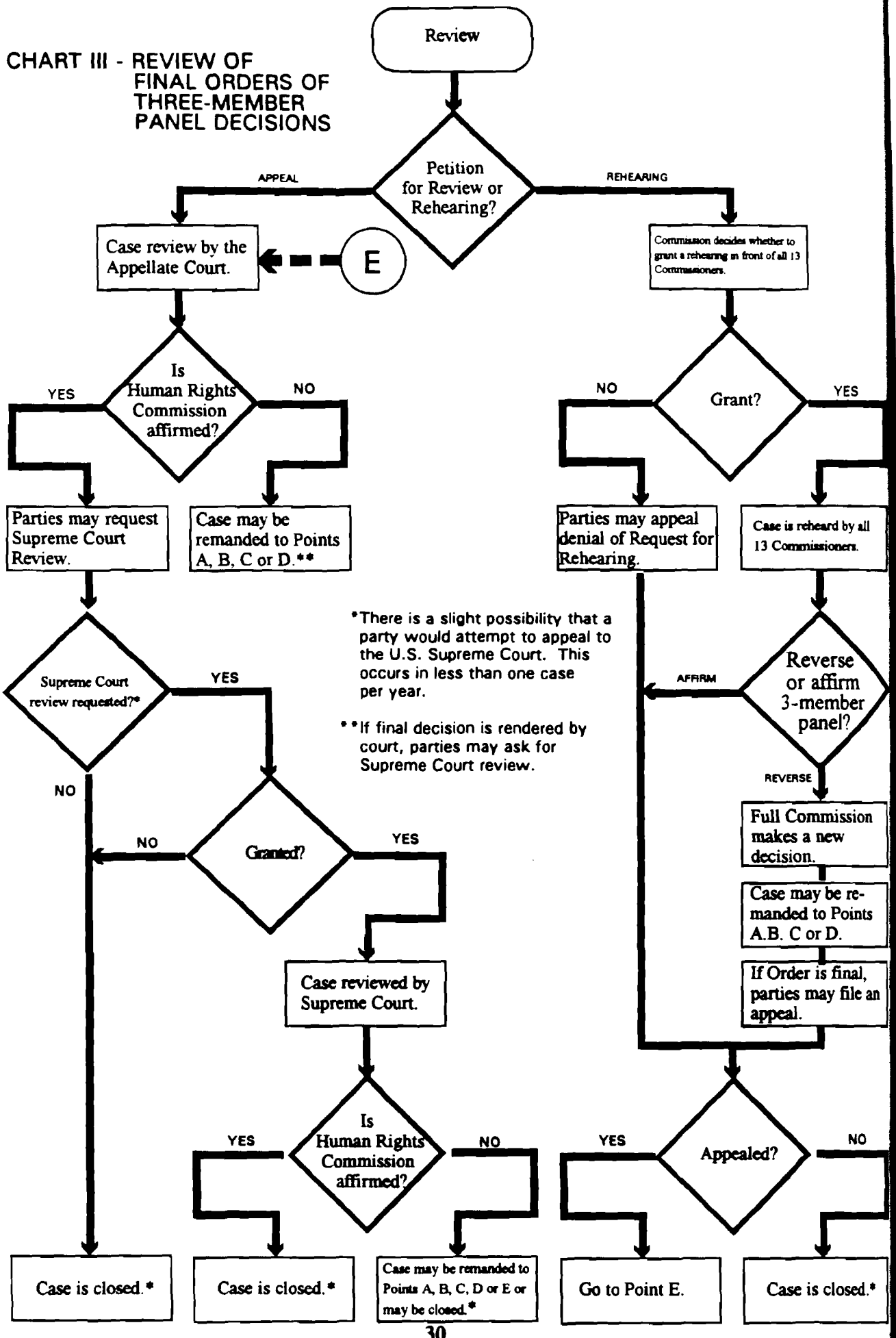


(Note: At anytime a complainant may file a voluntary *Motion to Dismiss*; this will be granted by an ALJ in a Final Order and Decision, which closes the case.)

*Appeal is possible only on Final Orders.

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

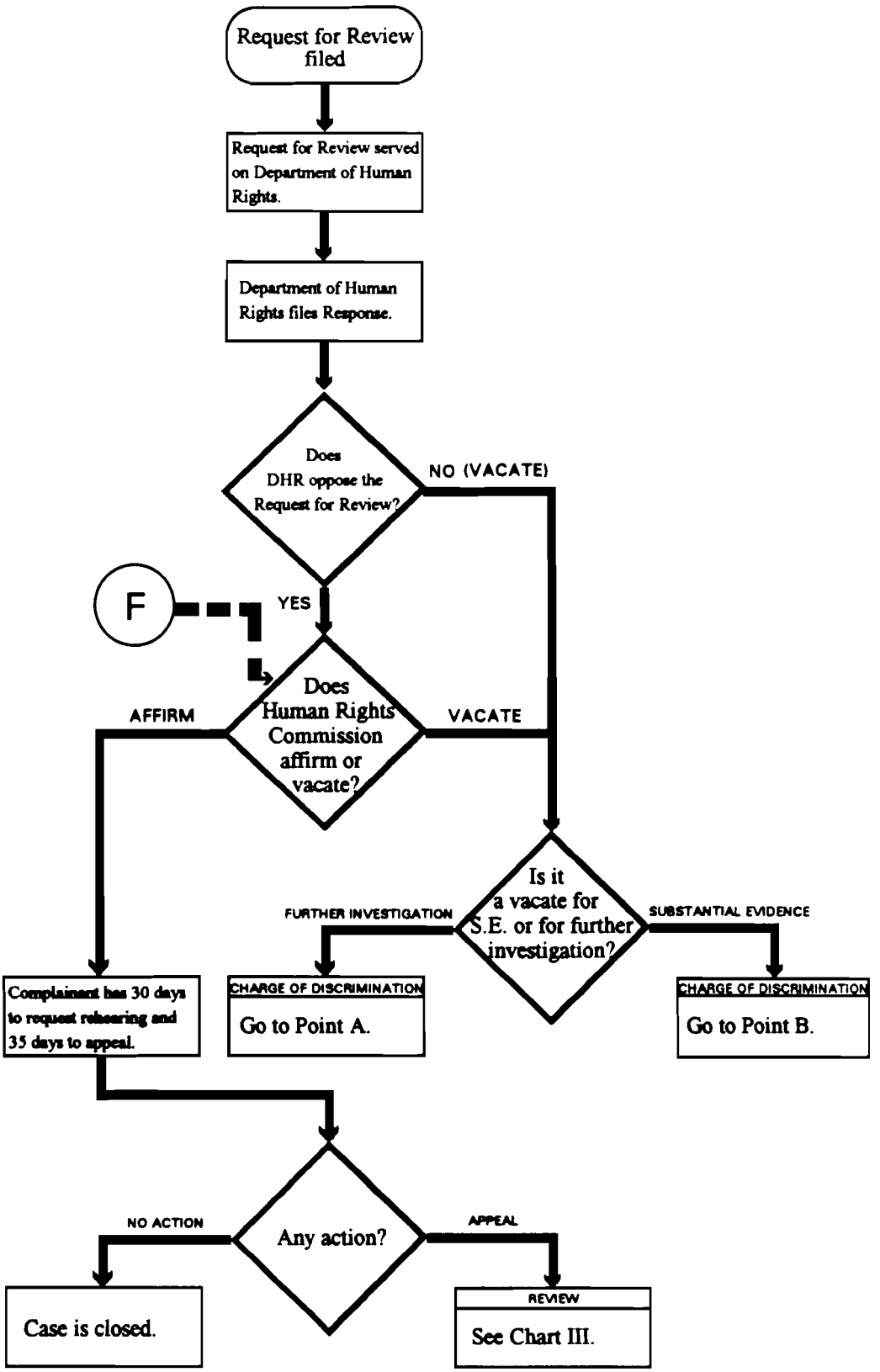
CHART III - REVIEW OF FINAL ORDERS OF THREE-MEMBER PANEL DECISIONS



*There is a slight possibility that a party would attempt to appeal to the U.S. Supreme Court. This occurs in less than one case per year.

**If final decision is rendered by court, parties may ask for Supreme Court review.

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 Liability Determination: This is the title of an order containing the liability recommendation of the ALJ which supports the Complaint or portions thereof and/or which determines that a party is entitled to an award of attorney's fees and costs and directs that party to file a petition for such award. This order is subsequently incorporated into the final Recommended Order and Decision entered in the case by the ALJ. This type of order was formerly called an Interim Order and Decision or IROD.

RLD: *See* **Recommended Liability Determination:**

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.