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Illinois Human Rights Commission

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1997 - 1999 ANNUAL REPORT

ILLINOIS DOCUMENTS



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George H. Ryan, Governor

Rose M. Jennings, Chairman



STATE OF ILLINOIS
Human Rights Commission

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

George H. Ryan
Governor

Rose M. Jennings
Chairman
Chicago

January 24, 2000

Commissioners

Eva Betka
Palatine

Dominic DiFrisco
Chicago

Marylee V. Freeman
Chicago

Dolly Hallstrom
Evanston

Sakhawat Hussain, M.D.
Frankfort

Yvette Kanter
Highland Park

Girvena M. LeBlanc
Olympia Fields

James Maloof
Peoria

Arabel Alva Rosales
Chicago

Rev. Rudolph S. Shultz
Springfield

Daniel C. Sprehe
Chicago

Isiah Thomas
Calumet Park

Irene Cualoping
Executive Director

The Honorable George H. Ryan
Governor of the State of Illinois
and to
The Honorable Members of the
91st General Assembly

I hereby transmit to you our report of the activities of the
Illinois Human Rights Commission for Fiscal Years 1997, 1998
and 1999.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rose M. Jennings".

Rose M. Jennings
Chairman



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HISTORICAL DATA

MISSION STATEMENT OF THE ILLINOIS HUMAN RIGHTS COMMISSION

The Illinois Human Rights Commission is dedicated to promoting freedom from unlawful discrimination as defined by the Illinois Human Rights Act. The Act forbids discrimination based on sex, age, race, color, religion, arrest record, marital status, handicap, citizenship status, national origin, ancestry, unfavorable military discharge, retaliation, and sexual harassment. The Act forbids discrimination in employment, real estate transactions, higher education, public accommodations and access to financial credit.

Our mission is to provide a neutral forum for resolving complaints of discrimination filed under the Illinois Human Rights Act.

Our primary responsibility is to make impartial determinations of whether there has been unlawful discrimination as defined by the Illinois Human Rights Act. We are also responsible for furnishing information to the public about the Act and the Commission.

To fulfill our mission, we strive to provide professional, competent, and considerate service to everyone who seeks information from us or who has a case before the Commission.

HISTORICAL DATA

The Creation of the Human Rights Commission

The Human Rights Commission was created December 6, 1979, with the passage of the Illinois Human Rights Act ("the Act"). The Act, the most comprehensive civil rights legislation in state history, created a two-part enforcement procedure: 1) a Department of Human Rights ("the Department") to investigate charges, and 2) a Human Rights Commission ("the Commission") to adjudicate complaints of civil rights violations in employment, real property transactions, access to financial credit and public accommodations.

Distinguishing the Role of the Department of Human Rights from the Role of the Human Rights Commission

With regard to any claim of discrimination brought under the Act, the Department of Human Rights acts as an investigatory agency. The Department's mandate, in part, is to investigate charges of discrimination and evaluate whether there is substantial evidence that a civil rights violation has been committed. If substantial evidence is found, the Department attempts to conciliate the charge, and if conciliation fails, the Department prepares a written complaint to be filed with the Human Rights Commission.

The Commission functions, in many ways, as a trial court. Upon receiving a written complaint of discrimination, the Commission oversees the adjudication of the claim. Additionally, the Commission approves the terms of settlement agreements submitted by the Department of Human Rights and considers requests for review of Charges filed prior to January 1, 1996.

How a Claim of Discrimination Is Initiated Under the Act

A person initiates a claim of discrimination by first filing a Charge of Discrimination ("Charge") with the Department of Human Rights. After giving notice to the respondent (the party against whom the allegations are being made) of the charge, the Department conducts a full investigation of the allegations. At the conclusion of its investigation, the Department serves the parties with an investigation report that documents the evidence and the Department's findings. The Department's findings include one of the following: (1) notice of dismissal that there is a lack of substantial evidence, and that a violation of the Act has occurred or there is a lack of jurisdiction, if the matter raised is not covered by the Act; or (2) notice that there is substantial evidence that a violation of the Act has occurred.

HISTORICAL DATA

If the charge is dismissed, the complainant (the person who initiated the claim) may file a request for review appealing the dismissal. In cases where the Department of Human Rights has made a determination of substantial evidence, Department of Human Rights attorneys attempt to conciliate the charge.

If conciliation fails, the Department of Human Rights files a "Complaint" with the Commission on behalf of the complainant. As a general rule, the Department of Human Rights is not a party to the complaint and the responsibility for pursuing the matter at hearing before the Commission rests with the complainant. Additionally, where the Department of Human Rights fails to act within its statutory investigation period, a complainant may file a complaint with the Commission on his/her own behalf.

New Initiatives

It is the Commission's goal to provide the most equitable and efficient disposition of all civil rights cases brought before it. To that end, Fiscal Years 1997, 1998 and, most notably, 1999 brought a number of exciting new initiatives to the Commission.

Technology

- All Commission personnel were provided access to the Illinois Department of Central Management Services' ("CMS") main server, enabling Commission personnel to use all state authorized software applications and the CMS Intranet.
- All Commission personnel were provided access to the Internet.
- Personnel were provided access to on-line legal research services, where appropriate.
- The Commission continued to develop its computerized case tracking system, designed to provide efficient case management and to interface with the Illinois Department of Human Rights Case Management Information System.

HISTORICAL DATA

Facilities

- The Commission upgraded its facilities, making the environment more user-friendly and attractive to the litigants. Upgrades included new signage, seating and office organization.

Continuing Legal Education

- The Commission intensified its in-house continuing legal education initiatives.
- The Commission hosted lectures by prominent leaders in the area of employment law including Seventh Circuit Court of Appeals Justice Diane Wood and Vice Chair of the U.S. Equal Employment Opportunity Commission, Paul Igasaki.
- Administrative Law Judges held regular "brown-bag lunch" meetings to discuss topics of current interest.

The Commission continues to explore new initiatives with the goal of improving its practices and the experience of the litigants who appear before it.

THE COMMISSIONERS AND COMMISSION RESPONSIBILITIES

The Composition of the Commission

The Commission is made up of thirteen Commissioners and a staff consisting of an Executive Director, a General Counsel, an Assistant General Counsel, a Chief Administrative Law Judge, Hearing and Motion Judges and administrative operations staff.

On February 1, 1999, Governor Ryan appointed Commissioner Rose M. Jennings Chairman of the Commission. On March 29, 1999, Governor Ryan announced the selection of Irene Cualoping as Executive Director.

Previously, Dr. Sakhawat Hussain had been Interim Chairman and Gail Bradshaw, Executive Director.

THE COMMISSIONERS AND COMMISSION RESPONSIBILITIES

The Commissioners

		Appointment Date	Term Expiration Date
Rose M. Jennings, Chairman	Chicago	February 1, 1995 February 8, 1999 (Reappointed and Designated as Chairman)	January 20, 2003
Eva Betka	Palatine	February 8, 1999	January 20, 2003
Dominic DiFrisco	Chicago	February 8, 1999	January 20, 2003
Marylee V. Freeman	Chicago	March 31, 1999	January 15, 2001
Mary Jeanne "Dolly" Hallstrom	Evanston	September 18, 1991 February 8, 1999 (Reappointed)	January 20, 2003
Sakhawat Hussain, M.D.	Frankfort	May 4, 1994 May 1, 1998 (Reappointed and Designated as Interim Chairman)	January 15, 2001
Yvette Kanter	Highland Park	May 12, 1998	January 15, 2001
Girvena M. LeBlanc	Olympia Fields	February 8, 1999	January 20, 2003
James Maloof	Peoria	May 21, 1997	January 15, 2001
Arabel Alva Rosales	Chicago	January 10, 1999	January 15, 2001
Rev. Rudolph S. Shoultz	Springfield	April 6, 1993 May 1, 1998 (Reappointed)	January 15, 2001
Daniel C. Sprehe	Chicago	February 8, 1999	January 20, 2003
Isiah Thomas	Calumet Park	June 20, 1994 February 8, 1999 (Reappointed)	January 20, 2003

Previously appointed and serving as Commissioners during Fiscal Years 1997-1999 were Manuel Barbosa, Chairman, of Elgin, Rev. Clyde H. Brooks of Mt. Prospect, Mathilda A. Jakubowski of Downers Grove, Grace Kaminkowitz of Chicago, Sylvia Neil of Glencoe, Jane Hayes Rader of Cobden, Randall Reynolds of Springfield and Vivian D. Stewart-Tyler of Chicago.

COMMITTEES

Our Commissioners now head committees with oversight responsibilities for major Commission areas: Budget (Eva Betka); Legislative (Daniel C. Sprehe); Personnel (Isiah Thomas) and Policy and Procedures (Sakhawat Hussain, M.D.).

COMMISSIONERS AND COMMISSION RESPONSIBILITIES

Brief Overview of the Commission's Responsibilities

The Commission was created to adjudicate complaints of civil rights violations in housing, employment, public accommodations and financial credit. In carrying out its mandate, the Commission acts in many ways like a trial court. The work of the Commission can be divided into three primary categories:

(1) Upon receiving a written complaint (and the underlying charge) of discrimination, the Commission oversees the adjudication of the claim.

(2) The Commission approves the terms of settlement agreements submitted to it by the Department of Human Rights or by parties to claims pending at the Commission.

(3) For charges filed at the Department of Human Rights before January 1, 1996, the Commission considers requests for review.

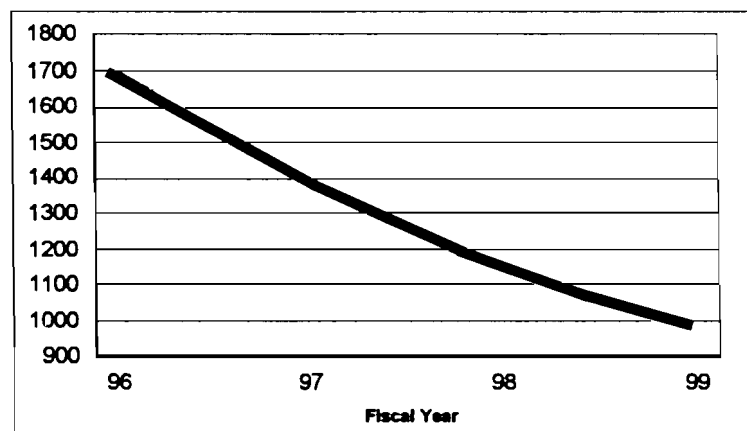
The most significant of these three categories is the adjudication of claims:

When a complaint (and the underlying charge) is filed with the Commission, it is handled by the Administrative Law Section of the Commission. In the Administrative Law Section, Administrative Law Judges oversee the prehearing phase of the litigation, preside over formal administrative hearings, and issue recommended orders. After an Administrative Law Judge issues his/her recommendations, the case then proceeds to what is known as Commission Review. At the Commission Review stage, a panel of three Commissioners reviews the Administrative Law Judge's findings and issues a final order and decision. The panel of Commissioners Administrative Law Section reviews settlements as well as, Requests for Review for cases filed prior to January 1, 1996.

PERFORMANCE FOR FISCAL YEARS 1997, 1998 and 1999

As previously described, the primary work of the Commission is to adjudicate cases. In January 1996, major revisions were made to the Act in order to streamline the process by which cases are reviewed by the Commission. Additionally, beginning in Fiscal Year 1997, funds were appropriated allowing the Commission to hire additional Administrative Law Judges to reduce its inventory of pending cases. The effect of these two changes was immediately apparent. Since Fiscal Year 1997, the Commission's caseload has been on a decline, and the Commission's output has far exceeded the number of new cases filed with the Commission. These two trends are depicted in the charts below.

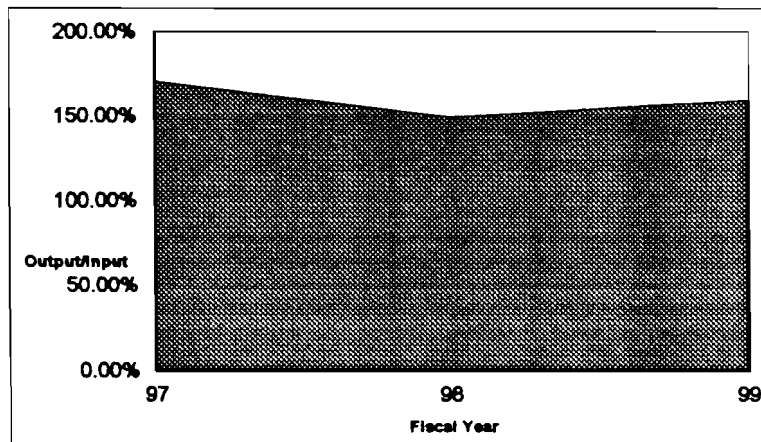
Total Commission Caseload by Fiscal Year



The Commission's carryover load of open cases declined from over 1,700 in Fiscal Year 1996 to less than 1,000 in Fiscal Year 1999. At the end of Fiscal Year 1999, the Commission caseload was the lowest in a decade.

Similarly, throughout Fiscal Year 1997, 1998 and 1999, total Commission output significantly exceeded the number of new cases filed with the Commission. This trend is depicted in the following section.

Percentage of Cases Disposed of Relative to Percentage of New Cases Being Filed



ADMINISTRATIVE LAW SECTION

The Administrative Law Section 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. This mandate was carried out by the Commission staff of Administrative Law Judges, all licensed attorneys, consisting of a chief judge, motions judges, and hearings judges located in both Chicago and Springfield.

Preparing a Case for Hearing

Because of the complex nature of the relevant law, substantial preparation by the parties, including discovery proceedings and motion practice, is generally necessary prior to 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. Throughout Fiscal Years 1997, 1998 and 1999, the Administrative Law Section continued its procedures regarding motions. In the Chicago office, there is an oral motion practice for cases in which the site of the alleged discrimination is located in Cook County. Having an oral motion call greatly expedites the pre-hearing phase of litigation before the Commission because it often produces immediate responses from the opponent of a motion as well as prompt rulings from the Administrative Law Judge hearing the motion. Motion practice for cases located outside Cook County are conducted by telephone conference calls or via mail.

There is no set oral motion practice in the Springfield office due to the greater geographic area covered. It would be inefficient to require attorneys to

ADMINISTRATIVE LAW SECTION

travel to the Springfield office for routine motions; instead, such are ruled based on written motions and written responses. Parties may, at any time, however, request an oral argument, in person or by conference call, on a motion in the Springfield office.

As with any litigation, it can take parties anywhere from months to years to complete needed discovery and engage in pretrial motions.

Settlements

Prehearing settlement conferences have been offered and 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. The parties, in some cases, have settled after the public hearing has begun or even after the hearing judge has issued a Recommended Liability Determination.

During Fiscal Years 1997, 1998 and 1999, the Administrative Law Section has continued the general practice of having 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. Administrative Law Section encourages the parties to participate in a settlement conference because it has proven to be a successful tool for final case resolution. "Eve of trial" settlement conferences result in settlements more than one-fourth of the time. In Fiscal Year 1999, for instance, 300 cases were disposed of by Final Order and Decisions. Many Final Orders and Decisions, which are orders dismissing a matter with prejudice based on the complainant's voluntary motion to dismiss, are issued as a direct result of a settlement conference conducted by an Administrative Law Judge of Administrative Law Section.

Parties who choose to settle can formalize the terms of their agreement in two ways. First, the most common, parties can settle among themselves without presenting the settlement to the Commission and without making the terms public. Second, parties can submit the settlement agreement to the Commission for approval. These settlements will be discussed in the "Commission Review" section below.

ADMINISTRATIVE LAW SECTION

Public Hearings

In accordance with the Act, 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 Fiscal Years 1997, 1998 and 1999 to sites throughout the state as necessary. Approximately two-thirds of the hearings were held by Administrative Law Judges based in the Commission's Chicago office with most of them conducted in metropolitan Chicago. The balance of the hearings were heard by the Administrative Law Judges based in Springfield at sites distributed throughout central and southern Illinois.

The public hearings conducted by the Administrative Law Judges at the Commission are in essence trials; Law Section; they are formal and conducted in accordance with the rules of evidence used in the courts of Illinois. These hearings typically last two to three days. They may, however, take less than a half a day at one extreme or several weeks at the other.

In Fiscal Year 1997 and Fiscal Year 1998, the Commission was able to reduce the waiting period for a hearing date from three to five months down to only two months. In Fiscal Year 1999, the Commission had entirely eliminated the waiting period for parties who were ready for hearing. The elimination of a waiting period has been particularly noticed and appreciated by attorneys who regularly practice before the Commission.

Decisions

After the transcripts of a public hearing have been received from the court reporter and after the post-hearing briefs have been completed by all parties, the Administrative Law Judge who heard the case prepares a written recommended decision. This 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. When the liability recommendation is in favor of the complainant, the Administrative Law Judge will recommend appropriate damages. This may include an award of reasonable attorney's fees and costs.

Parties have the opportunity to file written exceptions to the Administrative Law Judges' recommended orders. If no timely exceptions are filed, the Administrative Law Judge's Recommended Order and Decision becomes the Order and Decision of the Commission. If exceptions are filed, a review panel of three Commissioners has the option of reviewing or declining to review the Recommended Order and Decision. If the panel declines review,

ADMINISTRATIVE LAW SECTION

then the Recommended Order and Decision becomes the Order and Decision of the Commission. If the panel decides to review the Recommended Order and Decision, the panel has the options of adopting, reversing, remanding for further hearing or modifying a recommended decision. A party dissatisfied with a panel's decision has the right to seek rehearing before the full Commission.

Increase in Number of Judges

In Fiscal Year 1997, the number of Administrative Law Judges on staff increased from eight to 17, due to a four-year lump sum increase in the budget to reduce the agency's caseload.

Positive Effects of Increase in Number of Administrative Law Judges

The increased number of Administrative Law Judges had a positive effect on the productivity and output of the Commission. For instance, the following improvements were noted:

The sustained increase in Administrative Law Judges beginning in Fiscal Year 1997 continued to have the positive effect of further decreasing the waiting period for public hearings. In Fiscal Year 1999, there was no wait time for a public hearing.

The work of the Administrative Law Judges in Fiscal Years 1997, 1998 and 1999 resulted in the reduction of the Administrative Law Section carryover caseload for the fifth year in a row. By the end of Fiscal Year 1999, the Administrative Law Section caseload dropped to under 1,000, its lowest level of the decade.

During Fiscal Year 1997 and 1998, the intake of new charges at Administrative Law Section was similar: 518 in 1997, 527 in 1998. In Fiscal Year 1999, the number fell drastically to 370. The combination of the reduction of the Administrative Law Section carryover caseload and the reduction in the number of new charges led to a significant reduction in Fiscal Year 1999 of the Commission's overall caseload.

Downward Trend of the Administrative Law Section Caseload

By the end of Fiscal Year 1999, the Administrative Law Section caseload had dropped to its lowest level of the decade. The downward trend of the overall Administrative Law Section caseload is depicted in the chart below. The following data represents a breakdown of the intake and disposition of cases

ADMINISTRATIVE LAW SECTION

within the Administrative Law Section. (Note that a case that is disposed of by Administrative Law Section may still be pending at the Commission, awaiting Commission Review.)

The following statistics are, as they have been in prior Annual Reports, 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. There must be an existing (open) charge underlying every complaint; no complaint can be pursued without a charge. The vast majority of complaints heard in the Administrative Law Section are based upon a single charge; it is possible, 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.

In the chart below, "Total Entering Administrative Law Section" represents the number of charges underlying any of the following: (1) complaints filed by the Department; (2) complaints filed by the complainants, and (3) complaints remanded to Administrative Law Section after Commission review.

"Total Charges Leaving Administrative Law Section" includes Final Orders and Decisions ("Final Orders and Decisions") which are orders dismissing a matter with prejudice based on the complainant's voluntary motion to dismiss (typically after a settlement has been reached), Proposed Settlements which are settlements sent on to a Commission panel for approval, and Recommended Orders and Decisions ("Recommended Order and Decisions") which are recommended decisions based on substantive motions or after hearings.

ADMINISTRATIVE LAW SECTION

Overview of Administrative Law Section Caseload by Charge

	1996	1997	1998	1999
Intake	571	518	527	370
Previous Fiscal Year Carryover	1,934	1,694	1,393	1,145 *
Total Charges in Administrative Law Section	2,505	2,212	1,920	1,515
Total Charges Leaving Administrative Law Section	811	819	775	535
Carryover to Next FY	1,694	1,393	1,145	980

* This number has been revised following a hard inventory of the Administrative Law Section caseload. In previous annual reports, the caseload was based on projections, not a hard inventory.

COMMISSION REVIEW

Roles and Responsibilities of the Commissioners

Members of the Human Rights Commission have multiple responsibilities under the Human Rights Act. The Commissioners are responsible for hiring the Commission staff, and through the executive director, they are responsible for the administrative functions of the Commission, such as budget, purchasing, space needs, etc. Their most important role, however, is with respect to the adjudication of discrimination claims under the Human Rights Act.

Claims are adjudicated by a panel of three Commissioners. There are three major ways a claim can be presented before a Commission panel for review: 1) after an Administrative Law Judge enters a Recommended Order and Decision (Recommended Order and Decision Cases); 2) when the parties submit a settlement to the Commission for approval (Settlements); and 3) during Fiscal Year 1997 and less frequently in Fiscal Years 1998 and 1999, after the Department of Human Rights either dismissed a charge or held the respondent in default (Request for Review Cases). In limited instances, the Full

COMMISSION REVIEW

Commission will consider and rule on requests for rehearing of panel decisions. However, 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.

Recommended Order and Decision Cases

One of the primary responsibilities of the Commissioners is to issue final orders in cases where an Administrative Law Judge has issued a recommended order. For reasons described below, the action taken by the Commissioners in this regard depends on whether the parties have taken exceptions to the Administrative Law Judge's recommendation.

Fiscal Year 1997 marked a change in the way Recommended Order and Decisions were processed at the Commission Review level. On January 1, 1996, Public Act 89-348 became effective. This law provided that if no exceptions were filed, a Recommended Order and Decision would automatically become the Order and Decision of the Commission without further review by a Commission panel. It also gave Commission panels discretion to summarily affirm Recommended Order and Decisions by declining review. The Commission interpreted the new law to apply to Recommended Order and Decisions which were issued after January 1, 1996.

Public Act 89-348 changed the way a claim pending before the Commission requiring a Recommended Order and Decision can be concluded. Because of the changes brought about by Public Act 89-348, there are now three ways in which a claim pending Commission review by way of a Recommended Order and Decision can be disposed of. In addition, parties will sometimes settle a case after the issuance of a Recommended Order and Decision, but before the matter is disposed of at the Commission review level. Finally, in rare instances, a matter may be disposed of where the complainant asked for dismissal after the issuance of a Recommended Order and Decision.

Below is a chart depicting the number of cases disposed of by Commission Review in Fiscal Year 1997, 1998 and 1999. Before looking at the numbers it is appropriate to define the terminology which will be used.

First, in order to provide a consistent standard of measure *and provide continuity with prior reports*, the statistics which follow are based on the number of charges disposed of, even though one claim may, in a rare instance, contain several charges. By using charges as a standard of measure, it is possible to make valid comparisons between intake and disposition at the Commission.

COMMISSION REVIEW

Second, the phrase "charges disposed of" means that after the issuance of the Order and Decision, the case is no longer pending before the Commission. Note that charges that 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 tracks charges remanded by the Commission as "new" charges entering the Administrative Law Section. In order to give an accurate picture of the disposition of the "new" charges, it is necessary to count remands as "dispositions." 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 may result in two or more dispositions at the Commission level.

Summary of Closed Charges

	1997	1998	1999
Order and Decisions	56	39	35
No Exceptions	248	249	170
Decline Review	49	41	38
Post-Recommended Order and Decision Settlement	3	6	7
Total Number of Closed Charges	356	335	250

As can be seen, no exceptions have been filed in most cases. Because of the new law, Commission panels do not even see cases where the parties do not file exceptions. Although the new law has been in effect for only three years, the trend appears to be that in nearly seventy percent or more of the cases, the parties do not ask the Commission to reverse the recommendations of the Administrative Law Judges.

Settlements

The Commission is Administrative Law Section is mandated by the Act to review and approve all terms of settlements submitted to it. The standard for review is that the terms of the settlement must be unambiguously drawn, not inconsistent with the Act, and knowingly and voluntarily entered into. Settlements may be submitted to the Commission from the Department of Human Rights, and less frequently, from parties in cases where the complaint had already been filed at the Commission level.

COMMISSION REVIEW

The number of settlements submitted to the Commission by the Department of Human Rights for Fiscal Years 1997, 1998 and 1999 were 937, 544 and 358 respectively.

The number of settlements submitted by parties with complaints at the Commission level, for approval by the Commission, for Fiscal Years 1997, 1998 and 1999 were 7, 17 and 9 respectively.

The number of settlements submitted to the Commission varies significantly from year to year. It is unclear why fewer settlements were submitted by the Department to the Commission for approval in Fiscal Year 1998 and 1999 than in Fiscal Year 1997 (a decrease of 42%). In most instances at the Commission, the parties will opt for private settlement, and the case will be considered a withdrawal, not a settlement. Accordingly, the fact that the Commission received less formal settlements does not necessarily mean that fewer parties were settling their cases.

Requests for Review

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 for all charges filed prior to January 1, 1996. This includes an evaluation of the adequacy of the investigation and whether 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 them to the Department for further investigation or reverse the dismissal. Additionally, a respondent may file a Request for Review of an order of default entered by the Department of Human Rights.

Under *Public Act 89-370*, the Commission does not consider requests for review in cases where the charge was filed after January 1, 1996. Because there were a significant number of uninvestigated charges pending at the Department of Human Rights on January 1, 1996, the new law had virtually no impact on the number of Requests for Review received by the Commission in Fiscal Year 1996. It did diminish, however, the number of requests for reviews received by the Commission in subsequent fiscal years.

In Fiscal Year 1997, the Commission received 479 Requests for Review served 601 orders disposing of requests for review. In Fiscal Year 1998, the Commission received 228 Requests for Review served 366 orders disposing of requests for review. In Fiscal Year 1999, the Commission received 154 Requests for Review served 226 orders disposing of requests for review.

COMMISSION REVIEW

There is generally a period of at least 60 days between the time that a request for review is received by the Commission and the earliest time that a Commission order can be issued. Under our rules, the Department of Human Rights has 30 days to file a response, and the party filing the request has 15 days to file a reply to the response. After all of the material has been received, it is mailed to Commissioners approximately 10 days in advance of the meeting at which the request will be considered. Thus, during any given fiscal year, the orders which will be entered will not necessarily relate to the requests which have been received during that same fiscal year. This accounts for the ability of the Commission to dispose of 122 more Requests for Review than were received during Fiscal Year 1997, 138 more in Fiscal Year 1998, and 72 more in Fiscal Year 1999.

Other Commission Review Functions

During the course of any given fiscal year, the members of the Commission will engage in extremely important review functions that do not necessarily result in the disposition of a charge. (Two of the most important functions are the responsibility of all 13 Commissioners sitting *en banc*.) They are: consideration of petitions for rehearing and consideration of questions certified by Administrative Law Judges for interlocutory review. In both instances, the questions presented are considered so important that they should be resolved by all of the Commissioners, not just a three-member panel. Commissioners also resolve requests for subpoena enforcement and disputes over whether there has been full compliance with previous Commission orders. Because much of this work does not lend itself to statistical analysis, a few of the Commission cases are set out below in narrative fashion.

SIGNIFICANT DECISIONS OF THE COMMISSION

A brief overview of significant decisions of the Commission during Fiscal Year 1997, 1998 and 1999 is set forth in chronological order below:

In Lauren and Peer Services, Inc., ___ Ill. HRC Rep. ___ (1991CN2575, October 2, 1996), the full Commission was asked to decide whether it had the same power as a court to compel the disclosure of records that might be subject to a therapist/recipient privilege under the Mental Health and Developmental Disabilities Confidentiality Act. The Commission ruled that although it had the authority to issue subpoenas, if there were a claim of privilege, a circuit court would have to decide whether the therapist would have to disclose the records.

SIGNIFICANT DECISIONS OF THE COMMISSION

In Bonner and AT&T, ___ Ill. HRC Rep. ___ (1989CF1673, October 2, 1996), the full Commission tackled another certified question, this time dealing with the extent to which a complainant can amend a charge to alleged facts which occurred more than 180 days prior to the amendment. Under Section 7A-102 of the Human Rights Act, a charge must be filed within 180 days of the alleged discriminatory event. The Commission held that where the complainant had alleged in his original charge that he had been given 90 days to find a new position, his subsequent amendment which alleged that he was the victim of "constructive" discharge was merely an elaboration on the original charge. Therefore, it did not have to be filed within 180 days of his alleged discharge.

In Gregory and Caterpillar, Inc. & A-I Atmosphere Systems, Inc. ___ Ill. HRC Rep. ___ (1991SA0360, February 4, 1999), the Commission was asked to decide an evidentiary question. A-I had an installation project at Caterpillar, and complainant, who alleged he was handicapped, agreed to do the installation. Prior to being given the necessary information to begin the project, Complainant was terminated by A-I. The Commission found that complainant failed to establish by competent evidence that Caterpillar had coerced anyone into terminating complainant from his relationship with A-I. Contrary to complainant's argument, the Commission held that A-I's settlement and withdrawal of its verified answer did not constitute a judicial admission as against Caterpillar. The Illinois Appellate Court recently upheld the Commission decision in a Rule 23 decision.

In Pietras and The Martin-Brower Company, ___ Ill. HRC Rep. ___ (1990CA1750, April 30, 1999), the Commission analyzed a wrongful discharge claim under a reduction in force analysis. Finding that Respondent's budget cut meant that one of the three positions in a department had to be eliminated and that the supervisor understandably did not eliminate himself, the Commission held that terminating the complainant, age 52, and retaining a younger co-worker on the basis that the other was a better performer than the complainant was not proved to be age discrimination. The record did not support a finding that the complainant's performance was so superior to the retained employee that the respondent's contrary position had to be a pretext.

EXPENDITURES

GENERAL REVENUE FUND (In Thousands of Dollars)

STATE FISCAL YEAR	1996	1997	1998	1999
LINE ITEM				
Personal Services	\$ 719.4	\$ 763.5	\$ 785.6	\$ 767.3
Pension Pick-Up	28.1	29.3	30.2	29.8
Retirement	34.3	37.9	51.1	73.2
Social Security	53.2	56.4	57.6	56.6
Contractual Services	31.7	33.9	28.8	38.7
Court Reporting	87.1	92.6	117.8	95.1
Travel	31.0	31.5	21.1	14.2
Commodities	14.9	12.8	12.3	15.0
Printing	4.9	4.5	2.0	0.0
Equipment	10.7	7.7	9.1	5.0
Telecom Services	19.8	19.9	21.5	19.9
Lump Sum	\$ -----	\$ 554.0	\$ 779.6	\$636.1
TOTALS	\$ 1,035.1	\$ 1,644.0	\$ 1,916.6	\$ 1,750.9

GLOSSARY OF TERMS COMMONLY USED IN HUMAN RIGHTS ACT PROCEEDINGS

Adjudication - Rendering of a decision.

Administrative agency - An agency created to enforce and adjudicate specific local, state or federal laws and charged with developing expertise in that specific area of law. Distinguished from the judicial system.

ALJ - Administrative Law Judge.

Charge - This is the initial allegation of discrimination. It must be filed with the Department of Human Rights within 180 days of the date of the alleged discriminatory event. A charge is often confused with a "complaint," which is the document which starts proceedings at the Human Rights Commission level.

Complaint - This is the initial pleading filed at the Human Rights Commission level by either a complainant or by the Department of Human Rights. The complaint commences adversarial litigation before the Commission. It is the allegation of discrimination after it has gone through proceedings before the Department of Human Rights. A complaint should not be confused with the "charge," which is the initial allegation of discrimination brought to the Department of Human Rights.

Complainant-Filed Complaint - For charges filed prior to January 1, 1996, this is the same as a 300-day complaint. For charges filed after January 1, 1996, this is the same as a 365-day complaint.

Complainant - The one who files a complaint with the Commission.

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 - A decision by an administrative law judge dismissing a case based on the request of the complainant. In most instances the administrative law judge cannot issue a final decision. The usual role of the administrative law judge is to make a recommendation to the Commission. Where, however, the complainant asks that his or her case be dismissed, the administrative law judge has the power to dismiss the case.

HRA - The Human Rights Act.

IDHR - Illinois Department of Human Rights, the state agency where human rights violations are filed and investigated.

IHRC - Illinois Human Rights Commission, the state agency that adjudicates claims filed at the Illinois Department of Human Rights.

Lack of Substantial Evidence - If the Illinois Department of Human Rights 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."

Motion - A plea/request by either party asking for a specific finding.

Motion Call - When a complaint is first filed with the Human Rights Commission, 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 before the motions judge. This is known as the motion call, or "the call." There is no motion call for complaints that will be heard in the Human Rights Commission Springfield office.

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, this is the first enforceable order issued under the Human Rights Act.

GLOSSARY OF TERMS COMMONLY USED IN HUMAN RIGHTS ACT PROCEEDINGS

Petition for Rehearing - Most of the work of the Human Rights Commission is done by three-member panels. If a party is dissatisfied with the Order and Decision of a three-member panel, the party may file a "petition for rehearing." When there is a rehearing, all 13 Commissioners listen to arguments on legal issues. They do not retry the case. Although a dissatisfied party may petition for rehearing by the full Commission, there is no right to rehearing. Rehearing is rarely granted.

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 administrative law judge 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 administrative law judge.

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

Request for Review - After the Illinois Department of Human Rights has dismissed a charge, or issued a notice of default against Respondent, the losing party has 30 days to request a review of the decision. For Charges filed prior to January 1, 1996, the request for review is directed to the Human Rights Commission. After January 1, 1996, the request for review is directed to the Chief Legal Counsel of the Department of Human Rights. The Human Rights Commission looks at the request for review, the investigation report, and the Department Human Rights response to the request for review. The decision of the Human Rights Commission is usually based upon the written materials presented by the interested party. However, on occasion, the Human Rights Commission may hear oral argument or remand the matter for a hearing before an administrative law judge if a factual determination on a specific issue is necessary for the disposition of the request for review. The Human Rights Commission decides whether the dismissal or notice of default was properly entered.

Respondent - One against whom the action is brought.

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

Three-Hundred Sixty-Five Day Complaint- This is a complaint filed by a complainant after the DHR has failed to act within 300 days (for charges filed before January 1, 1996) or 365 days (for charges filed after January 1, 1996), respectively. The complainant has 30 days after the expiration of the 300 day or 365 day period to file his or her own complaint (See "Window"). If the complainant files a proper 300 day or 365 day complaint, then 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 - This is the term used to designate the 30-day period provided for the filing of 300-day complaints or 365-day complaints.

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