



State of Illinois
Human Rights Commission

the **Illinois** **Human Rights** **COMMISSION**

ANNUAL REPORT FISCAL YEAR 2022
(July 1, 2021-June 30, 2022)

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fiscal year 2022 annual report



about the commission

On December 6, 1979, the Illinois Human Rights Act ("the Act"), 775 ILCS 5/1-101 et seq. was signed into law. For more than 43 years, the Act has provided the broadest civil rights coverage for the people of Illinois in the history of the State. The Act created two separate administrative agencies with distinct functions regarding enforcement of the Act: the Illinois Department of Human Rights ("the Department") which investigates charges of discrimination, and the Illinois Human Rights Commission ("the Commission") which adjudicates complaints of civil rights violations in the areas of housing, employment, public accommodations, education, and access to financial credit.

The Commission is dedicated to promoting freedom from unlawful discrimination as defined by the Act. The Act forbids discrimination based on: Age (40+); Ancestry; Arrest Record (with regard to employment); Citizenship Status (with regard to employment); Color; Conviction Record (with regard to employment); Disability (physical and mental); Familial Status (with respect to real estate transactions); Gender Identity; Marital Status; Military Status; National Origin; Orders of Protection Status; Pregnancy; Race; Religion; Sex; Sexual Orientation; Unfavorable Military Discharge; or Work Authorization Status (with regard to employment). The Act also protects individuals from harassment, sexual harassment, and retaliation.

Our primary responsibility is to make impartial determinations as to whether there has been unlawful discrimination as defined by the Act.

Governance – Commissioners

Pursuant to Article 8 of the Act, the Commission consists of seven members – a Chair and six Commissioners – who are all appointed by the Governor. No more than four members from the same political party may sit on the Commission. In panels of three members, Commissioners review dismissals of charges of discrimination by the Department and challenges to the Recommended Orders and Decisions ("ROD") filed by the Commission's Administrative Law Judges ("ALJ").

The Commissioners represent the diversity of the State of Illinois in all of its facets and must meet one of the following qualifications: (1) licensed to practice law in the State of Illinois; (2) have at least three years of experience as a hearing officer at the Commission; or (3) have at least four years of professional experience working for or dealing with individuals or corporations affected by the Act or similar laws in other jurisdictions.

Operations – Agency Staff and Structure

Commission staff includes an Executive Director, who is appointed by the Governor. The Executive Director supervises a small staff tasked with supporting the work of the Commissioners.

Under the leadership of the Chief Administrative Law Judge, the Administrative Law Section (“ALS”) adjudicates complaints of discrimination. In these matters, an ALJ is assigned to manage all aspects of a case, from pre-hearing and discovery through summary decision or trial. Either final event results in the creation of a ROD, which may include a determination of damages when a complainant prevails. Parties may also engage in settlement discussions at any point prior to or after the issuance of a ROD, in which ALJs may participate by the joint request of the parties.

Under the leadership of the General Counsel, the Office of the General Counsel (“OGC”) is responsible for providing expert legal counsel and recommendations to our appointed Commissioners about the applicability of the Act in specific cases, as well as supervising a closely monitored and well-regulated workflow for the requests for review of Department dismissals and other matters requiring action by Commission panels. In addition, the OGC provides guidance to the Executive Director on agency-level policy questions, ethical issues, personnel matters, public records requests, and proposed legislation. Assistant General Counsels support these and other OGC functions.

Across the Commission, a diligent operations staff effectively supports our Commissioners, the ALJs, and the attorneys who serve in the OGC. The Commission’s Fiscal Officer/Personnel Office also provides administrative support to the Torture Inquiry and Relief Commission (“TIRC”) which has its own Executive Director, staff and volunteer, appointed Board. More information about TIRC may be found beginning on page 21 of this report or on their website at: <https://tirc.illinois.gov/>

a letter from the Chair

December 6, 2022

Honorable JB Pritzker, Governor
Members of the Illinois General Assembly
Citizens of Illinois

It is an honor to provide this Annual Report for Fiscal Year 2022 and attempt to capture the incredible work achieved in promoting and protecting the civil rights as defined by the Illinois Human Rights Act.

Governor Pritzker and Lieutenant Governor Stratton's commitment to the protection of our civil rights is evidenced by the creation of the Office of Equity and their support of the Commission and our sister agency, the Illinois Department of Human Rights. We are further appreciative of the work of the Illinois General Assembly to expand protections afforded under the Act during the fiscal year, which you will read more about within this report.

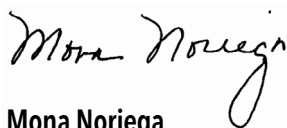
We are excited about Governor Pritzker's recent appointment of Commissioner Gordon, who works with Commissioner Kouri out of the Commission's Springfield office. We said a sad good-bye and thank you to Commissioner Turner for her service, and congratulate Commissioner Barreno-Paschall on her additional role as Vice Chair. Additional information on staffing changes is included herein.

In the following pages, you will see more about how the Commission has adapted to the pandemic and built upon its lessons to improve operations and to identify new ways to deliver on our public obligations. Here at the Commission, that has meant adopting permanent rules on e-filing and increased use of mediation, as two important examples.

The pandemic also forced us to make better use of technology regarding our outreach efforts. During the height of the COVID-19 pandemic, outreach was limited to on-line presentations. Having mastered the technology, we now offer presentations both on-line and, as the public grows more comfortable, in person. Presentations have been delivered across the state to undergraduates, pre-law and law students, at community fairs, and to newly arriving immigrants in their native Spanish language. The number of presentations in the reporting period has increased significantly and we have Vice Chair Barreno-Paschall to thank.

I am grateful to serve as Chair of the Illinois Human Rights Commission and honored to work with my colleagues who serve as Commissioners. I am especially thankful for the opportunity to work with Executive Director Fleming, who is directly responsible for the many improvements here at the Commission that you will next read about. Finally, I am thankful to the Commission staff, who work incredibly hard and are committed to enforcing the Illinois Human Rights Act. We have much work ahead of us, but I am buoyed by all the changes and improvements made in 2022 that you will read about in this report.

Sincerely,



Mona Noriega
Chair

the year in review

Over the past year and with great intentionality, the Commission has worked to be an excellent steward of the Act, and, in collaboration with our partner agencies across Illinois government, to address the complaints coming before our Commissioners and ALJs in as accurate and timely a fashion as possible. While the goal remains perfection in all things, the metric is progress, and of this, there is substantial evidence.

The Illinois Human Rights Act: Evolving with Illinois

The work of the Commission begins with the Act itself. During FY2022, the Illinois General Assembly adopted, and the Governor signed into law, several amendments to the Act. These updates reflect the ever-evolving nature of the Act and help to maintain its preeminence as a state-level protection against discrimination.

Governor JB Pritzker signed the Creating a Respectful and Open Workplace for Natural Hair (“CROWN”) Act into law on June 29, 2022. The statute amends the Act by expanding the definition of “race” to include “traits associated with race, including, but not limited to, hair texture and protective hairstyles such as braids, locks, and twists” for the purposes of combatting unlawful discrimination. The amended definition applies to all areas covered by the Act, including employment, housing, education, access to credit, and public accommodation.

In the past, negative perceptions of hairstyles such as braids, dreadlocks, and twists that were traditionally worn by the Black community resulted in unjust discrimination across industries. These hairstyles have a rich historical significance in the Black community and often serve as a way of protecting or comfortably tying back hair. Illinois joins 18 other states in adopting a law that prohibits discrimination on this basis. The CROWN Act goes into effect on January 1, 2023.

Governor Pritzker also signed into law a bill adding “source of income” as a protected class in real estate transactions, under Article 3 of the Act. This amendment defines source of income as the lawful manner by which an individual supports themselves and their dependents and classifies it as a civil rights violation to discriminate in housing selections based on that income. People with disabilities, those qualifying for housing vouchers, and senior citizens with retirement income have all cited their source of income as being a reason for denial of housing, and many of these vulnerable populations have struggled to find safe and affordable housing as a result. The law goes into effect on January 1, 2023.

New Leadership: New Focus

During FY2022, experienced and dedicated new leaders were identified for both the ALS and the OGC. These, along with changes in FY2021, reflect an entirely new senior management team for the Commission since 2020.

<https://hrc.illinois.gov>

This new team has taken a close look at all aspects of agency operations. We have brought new ideas, new technology and perhaps most importantly, a willingness to do things differently (if warranted) with the goal of providing greater access and expediency to those appearing before the Commission.

Administrative Law Section

During the fiscal year, the ALS has made numerous improvements to its work processes. In part, this was undertaken with support from our partners in the Office of Operational Excellence, which is part of the Department of Central Management Services, and was facilitated by the preparation of a “Current State Value Stream Map” of the ALS. Over the course of several weeks, we analyzed every component of how the ALS worked to understand and map each step involved from when a complaint is filed until the matter is completed. We then asked ourselves a fundamental question: Is what we’re doing both necessary and a value-add to the staff or to the litigants in the ALS?

Examples of some of the refinements implemented in this reporting period include, but are not limited to:

- Posting on the Commission’s website a “Checklist for Judicial Settlement Conferences,” which is a simple summary of the steps litigants need to take to request and participate in judicial settlement conferences.
- Developing a certificate of service by which the ALS staff delivers copies of certain pleadings to the Department. These pleadings include motions to dismiss, motions for summary decision, and motions to amend, all of which are required by the Commission’s procedural rules to be served on the Department. Where a litigant forgets or inadvertently fails to serve the Department with a copy of one or more of the foregoing pleadings, the ALS uses the new certificate of service to ensure that service on the Department is perfected, at which point our administrative law judges can rule on motions in a timely manner, rather than requiring parties to re-serve such motions months after they are filed if such service did not occur at the time of filing.
- Amending its statutorily-required “Notice of Hearing” form, which provides litigants with information on their “initial hearings” in Commission cases (whether assigned to Springfield or Chicago).
- Revising its standard “Complainant of Civil Rights Violation(s)” template for use by litigants who wish to file their own cases before the ALS. Previously, our standard complaint form had required litigants to notarize their initial pleadings (i.e., their complaints), which was an administrative hurdle for pro se parties who did not have immediate access to notary services (which the Commission does not provide). Now, a litigant who appears at the Commission to file a complaint on his or her own behalf no longer needs to take that complaint to a notary public. Instead, the complainant can certify “under penalty of perjury” that the matters contained in the complaint are true (to the best of the complainant’s knowledge, information, and belief).
- Auditing the available database of final decisions that have been issued over the past two decades to ensure that all rulings are available to litigants not only on the Commission’s website, but also in LEXIS-NEXIS under the heading “ILHUM” (or “Illinois Human Rights Commission”). Now, both pro se litigants and attorneys have two available sources from which to obtain important precedents and other authoritative opinions from the Commission as they draft pleadings and make arguments before the ALS.

Early in the pandemic, the Commission adapted its processes to incorporate virtual meetings in its capabilities. The ability to transition many of our status hearings from being held in-person to being conducted online has been

invaluable for both litigants and our ALJs. Now, this capability has become a permanent component of our practice and has been enthusiastically received by almost all parties.

During FY2022, the Commission set about filling multiple vacancies in its ALJ ranks. With more adequate staffing, we returned to a more regular tempo of proceedings. In fact, in FY2022, we held 121% more public hearings than in the prior year.

In April of 2022, the ALS resumed its previously discontinued practice of offering judicial settlement conferences in cases pending before our administrative law judges. A judicial settlement conference—which is a form of court-assisted mediation—allows the parties to request help from the Commission to negotiate and resolve their dispute without the need for further litigation. These proceedings are held “off the record,” and are guided by a new Standing Order for Judicial Settlement Conferences. To read the standing order on Judicial Settlement Conferences, please visit our new website at <https://hrc.illinois.gov>.

Under the Standing Order, the parties to any Commission case can jointly request a judicial settlement conference at any time. Once a request is received, the Chief Administrative Law Judge then assigns an ALJ to act as the “Settling ALJ” (i.e., the mediator) to work with the parties to resolve their case.

To ensure that matters raised at a judicial settlement conference do not later impact the presentation of evidence or testimony in cases that do not settle, the Standing Order ensures that the “Settling ALJ” is a different individual than the ALJ assigned to hear the case. In this manner, the assigned ALJ is not influenced or affected by the parties’ efforts to provide a frank and earnest evaluation of the strengths and weaknesses of their cases.

In addition, consistent with the Illinois Rules of Evidence, a party’s decision to offer or possibly accept a certain amount to settle a case at a judicial settlement conference cannot later be used as evidence at trial to prove liability on disputed issues. For this reason, the ALS believes that offering the option of a judicial settlement conference is one of the best ways to encourage a productive dialogue on a case, while still safeguarding the right to due process that is enjoyed by all parties that appear before the Commission.

At the time of this writing, judicial settlement conferences have been available to litigants at the Commission for approximately six months. During that period, dozens of cases have requested and undergone judicial settlement conferences, the vast majority of which (nearly 85%) have arrived at a negotiated resolution that was acceptable to all parties. These settlements help parties expedite resolution of the case and avoid the costs of a public hearing.

Office of the General Counsel

In addition to providing well-researched and reasoned legal advice to our Commissioners and the senior management team, the OGC plays a critical role in managing the request for review pipeline.

This pipeline was ripe for improvement in 2018, when a backlog of more than 2,500 cases was identified, with some of this number languishing for more than 10 years.

That backlog is long since resolved and the OGC now utilizes its case management system to monitor and track the request for review docket, with the result that the vast majority of such cases are considered by a Commission panel within one year of being filed. The OGC uses the same system to monitor its docket of challenges to an ALJ's decision.

In last year's annual report, we noted the deployment of the Commission's first upgraded case management system in more than 20 years. We further noted our intent to build upon that work by implementing an e-filing platform to create easy on-line filing for documents and pleadings, reduce paper processing and storage, decrease mailing costs, and improve data analytics. To achieve this pledge, the OGC engaged with the Department of Innovation and Technology ("DoIT") in mapping and documenting the Commission's various business functions to create a profile that will inform and guide the build of the future e-filing system. The Commission and DoIT will next investigate potential e-filing solutions to determine how they fit with the Commission's functional, technical, and operational needs.

The OGC also played a critical role during the reporting period in updating the Commission's administrative rules to codify actions taken at the height of the pandemic and formalize our ability to accept electronic filings. This new authority allows the public to access the Commission more easily via mobile device or computer, including filing new cases at the Commission. It also increases the speed and efficiency with which Commission staff can process cases. Another crucial duty for government is to operate ethically. The OGC has continued to manage our compliance with all ethics reporting requirements for both our regular staff and our gubernatorial appointees. Further, the OGC timely responded to all requests for agency information made under the Illinois Freedom of Information Act.

Across the Commission, with leadership from the OGC, we have worked closely with the Office of the Governor to disseminate information and supports for those with Limited English Proficiency or other language access needs. In addition to existing translations in Spanish, Polish, and Modified Chinese, we have begun translating key agency documents into Hindi and Tagalog; we have updated our TTY/TDD telephone number and introduced TTD chat capability for the deaf and hard of hearing; and we have made targeted language supports available to those participating in litigation proceedings here at the Commission.

Agency-wide, this was an especially significant year for the Commission. We implemented a Diversity, Equity, Inclusion and Access ("DEIA") training requirement for all staff and completed our first reporting on accomplishments in this space to date.

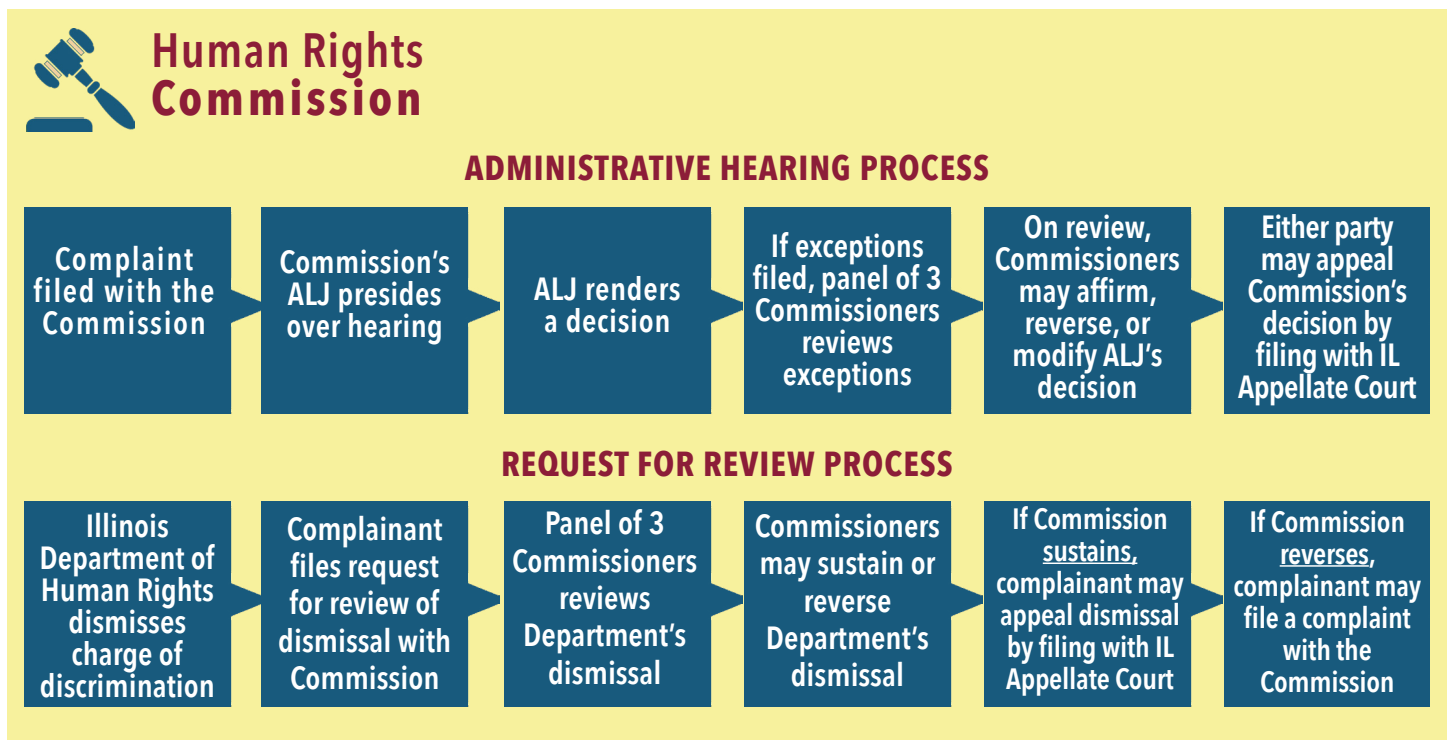
The OGC has supported the outreach initiatives led by our Commissioners. During the reporting period, the Commission participated in more than a dozen outreach events. These varied events involved elementary schools, colleges and universities and well as non-profit organizations statewide and involved both Commissioners and agency staff sharing information about both the Commission and the Act. The Commission was delighted to partner with our colleagues in the Department on several of these activities. We have also continued to disseminate our Quarterly Newsletter and host our "Lunch and Learn" series of continuing legal education programs, both of which provide accurate and valuable information about the Act and related civil rights topics to the public at large and practicing Illinois attorneys. As part of our Lunch and Learn series, Illinois attorneys also receive free continuing legal education credit to comply with their professional development mandates.

In addition, the OGC continues to recruit and supervise law school interns through our Edward Coles Fellowship program, continuing the agency's commitment to educate and support the next generation of attorneys. During the summer of 2022, the OGC hosted five law students from various schools around the Midwest. With a focus on legal research and writing, our interns participated in Commission panel meetings and staff training, and submitted material for our quarterly newsletter.

We also relocated our Chicago office from its home of nearly 40 years, the James R. Thompson Center. The Commission now occupies newly-renovated offices in the Michael A. Bilandic Building at 160 North LaSalle Street and we remain fully accessible to the public by phone, chat, e-mail, or in-person.

process overview

There are two primary processes at the Commission: the administrative hearing process and the request for review process. The graphic below provides a brief, high-level description of key steps in both processes. Our website features numerous additional details, FAQs, and guides in multiple languages for people interested in navigating the process or learning more about our work. While the Commission staff cannot provide legal advice to complainants or respondents, they are available to provide general guidance by phone, by email, or in person.



Administrative Hearing Process (Administrative Law Section)

- A complaint is filed with the Commission by the Department or a complainant.
- An ALJ presides over the hearing.
- After the hearing and the submission of briefs, the ALJ renders a written decision. The parties to a case may request a judicial settlement conference at any time before the ALJ enters a written decision.
- Either party may file exceptions to the ALJ's decision for review by a panel of three Commissioners.
- The panel of Commissioners may affirm, reverse, or modify the ALJ's decision.
- Either party may appeal the Commission's decision by filing with the Illinois Appellate Court.

Request for Review Process (Office of the General Counsel)

- The Department dismisses the charge of discrimination.
- The complainant files a request for review of the dismissal with the Commission.
- A panel of three Commissioners reviews the Department's dismissal.
- The panel of Commissioners may sustain or reverse the dismissal.
 - ❖ If the Commission sustains the dismissal, the complainant may appeal the dismissal by filing with the Illinois Appellate Court.
 - ❖ If the Commission reverses the dismissal, the complainant may file a complaint with the Commission.

case studies

As part of the work of the Commission, decisions made by our Commissioners and ALJs are published on our website for access by the public, and on legal research platforms such as LEXIS-NEXIS.

The following pages highlight a small selection of cases and topics which have been addressed recently at the Commission.

In administrative law proceedings, the aggrieved party is referred to as the complainant, and in request for review matters, the aggrieved party is referred to as the petitioner. For definitions of terms commonly used in Commission proceedings and details on any of the decisions below, please visit our new website at <https://hrc.illinois.gov>.

Case Study: Moutray v. White County Housing Authority

ALS No. 19-0020,

2021 ILHUM LEXIS 163 (Aug. 10, 2021)

This case focused on the question of what a complainant must show to establish that he or she has a qualifying disability under the Illinois Human Rights Act.

Alleging that Respondent had discriminated against him based on a disability, Complainant asserted that his coronary artery disease was the reason for his termination. In answer to this charge, Respondent argued that Complainant had never mentioned his coronary artery disease to any of his supervisors prior to termination, and that even if he had, his coronary artery disease was not a qualifying condition that rose the level of a disability under the Human Rights Act.

During a public hearing, Complainant never testified (nor was he asked) whether he had coronary artery disease. Complainant also failed to present any independent evidence to corroborate the existence of such a disease or the nature or extent of his condition. The ALJ thus recommended that the complaint be dismissed with prejudice based, in part, on Complainant's failure to establish a qualifying condition under the Human Rights Act.

In declining Complainant's exceptions and affirming the ruling of the ALJ, the Commission found that because coronary artery disease is not an outwardly obvious affliction—and because Respondent had contested the issue of whether Complainant had a qualifying disability under the Human Rights Act—Complainant needed to produce medical expert testimony at the public hearing to establish not only the existence of the medical diagnosis of coronary artery disease, but also the sufficient margin of proof necessary to confirm that his diagnosis qualified as a disability under the Act.

As such, Complainant's unsupported contention that he had a qualifying disability was not enough, by itself, to establish a prima facie case of disability discrimination under the Human Rights Act.

Case Study: Cacho v. Cook County Health

ALS No. 19-0241(C)

2022 ILHUM LEXIS 175 (Apr. 5, 2022)

This case considered the question of whether a verbal or written reprimand delivered to an employee from a supervisor is enough to satisfy the statutory definition of an "adverse act" of illegal discrimination under the Illinois Human Rights Act.

Complainant alleged that she was subjected to three employment reprimands due to her national origin. Respondent argued that such action could not be a form of discrimination, as Complainant could not show that a reprimand (verbal or written) was an "adverse employment act."

The Commission has long held that employment "warnings," without more, are not pervasive or severe enough to constitute "adverse" job actions. For example, a verbal warning has been deemed insufficient to constitute an adverse action. Otherwise, an employer would face the prospect of being hauled to court every time the employer suggested ways for an employee to improve his or her performance. This might also apply to any effort to admonish bad behavior.

Here, Complainant did not lose any pay as the result of her reprimands, nor was she demoted, reassigned, or suspended on this basis. Accordingly, without materially adverse consequences, the reprimands issued to Complainant were not "adverse" actions, and Respondent could not be held liable for discrimination on this basis. For the purposes of the Human Rights Act, adverse employment actions include things such as hiring, denial of promotions, reassignment to a position with significantly different job responsibilities, or an action that causes a substantial change in benefits. Reprimands (standing alone) are not sufficient to qualify as a matter of law.

Case Study: Wilk v. Vill. of Buffalo Grove

ALS No. 19-0358

2022 ILHUM LEXIS 78 (June 3, 2022)

Complainant worked for Respondent (a municipal public works department) for over 14 years. Respondent employs various maintenance workers in support of its operations, all of whom are required to work overtime to ensure that emergency situations (such as water main breaks and weather-related casualties) are addressed in a prompt and efficient manner.

After accepting a new position with Respondent as a "Maintenance Worker II," Complainant informed Respondent that he was being treated for post-traumatic stress disorder, which required him to take both a permissive leave of absence and a further leave of absence under the Family Medical Leave Act ("FMLA").

As the expiration of Complainant's FMLA leave approached, Respondent contacted him to find out when he would be cleared to return to work and whether he would require any reasonable accommodations to perform his job upon his return. Complainant failed to come back to work on his projected date of return and instead announced—with documentation from his physician—that his permissive (i.e., non-FMLA) leave would need to be resumed and extended indefinitely. Complainant did not suggest any reasonable accommodation that would otherwise allow him to perform the work of a Maintenance Worker II.

After several months of extended non-FMLA leave, Respondent attempted to engage Complainant in a discussion of how he could return to work. Complainant suggested a part-time, restricted schedule that did not require him to work overtime. Respondent declined this suggestion, noting that overtime was an essential function of the Maintenance Worker II position. Respondent further advised Complainant that it could no longer keep his position vacant due to business needs.

After Complainant informed Respondent that he would be permanently unable to accept any position that required him to work mandatory overtime, Respondent terminated Complainant's employment due to his inability to perform an essential function of his job. Complainant thereafter filed a complaint against Respondent, claiming that he was the victim of disability discrimination under the Illinois Human Rights Act due to Respondent's failure to grant him a reasonable accommodation.

The assigned administrative law judge granted summary decision in Respondent's favor, finding that Complainant could not prove he was "disabled" as that term is defined under the Human Rights Act. Under the statute, the term "disabled" applies to an otherwise qualified individual who can perform the essential functions of a position with or without a reasonable accommodation. Here, Complainant failed to request any reasonable accommodation that would enable him to work mandatory overtime—which Respondent had determined to be an essential function of the Maintenance Worker II position. As such, because the Human Rights Act does not require an employer to eliminate the essential components of a job to accommodate a disabled employee, Respondent was within its rights to terminate Complainant because he lacked the ability (with or without a reasonable accommodation) to fulfill a required qualification of the Maintenance Worker II position (i.e., the ability to work mandatory overtime).

This case serves as an excellent example of what an employee is required to show to prove that he or she is "disabled" as that term is defined under the Human Rights Act. The matter also typifies the primary defense that certain employers may use to justify terminations in the cases in which a reasonable accommodation does not allow an employee to perform an essential component of his or her job.

Case Study: In re Request for Review by: Mark Sanders

ALS No. 22-2047

2022 ILHUM LEXIS 100 (July 26, 2022)

The Petitioner rented an apartment in a large, multi-building complex. The Petitioner filed a charge of discrimination with the Illinois Department of Human Rights, arguing that his landlord subjected him to unequal terms and conditions related to real estate because of his race, Black. The Department dismissed the charge for lack of substantial evidence, and the Petitioner filed a request for review with the Commission.

The Petitioner first argued that the landlord subjected him to unequal terms and conditions when it installed communal barbecue grills for the tenants' use, because the barbecue grills were far away from his apartment, thereby making it impractical for him to use, and closer to non-Black tenants' apartments. The Commission found that the Petitioner did not establish a prima facie case of discrimination because the Petitioner did not offer evidence that the original rental terms and conditions were altered by the placement of the grills. Furthermore, the Petitioner did not offer evidence that the landlord treated similarly situated tenants outside of the Petitioner's protected class more favorably.

The Petitioner next argued that the landlord subjected him to unequal terms and conditions by failing to help him obtain rental assistance after he became unemployed. The Department's investigation revealed, however, that the landlord did assist or attempt to assist with the Petitioner's applications for rental assistance; and that the Petitioner either received assistance or was denied due to factors outside of the landlord's control. In addition, the Petitioner did not offer evidence that the landlord offered more assistance to similarly situated tenants outside of the Petitioner's protected class.

The Commission sustained the dismissal of the Petitioner's charge of discrimination.

Case Study: In re Request for Review by: Benjamin Park

ALS No. 22-0129

2022 ILHUM LEXIS 159 (October 11, 2022)

The Petitioner was a Special Agent for the Illinois State Police in the Medicaid Fraud unit. He filed a charge of discrimination with the Illinois Department of Human Rights, arguing that the Employer subjected him to disability discrimination. The Department dismissed the charge for lack of substantial evidence, and the Petitioner filed a request for review with the Commission.

The Petitioner first argued that the Employer subjected him to harassment because of his mental disabilities, in that the Employer required him to undergo a medical evaluation. The Employer attested that the Petitioner was observed blacking out at work two days in a row. The Petitioner alleged that his black outs might have been caused by a change in his prescriptions or low blood sugar. The Commission found that the ordering of a medical examination was not severe or pervasive harassment that altered the terms and conditions of his employment.

The Petitioner also argued that the Employer banned him from its facilities, revoked his Firearm Owner's Identification card, and placed him on administrative leave because of his mental disabilities. The Commission determined that, even if the Petitioner were able to establish a prima facie case, the Petitioner's claims failed because the Employer articulated a legitimate, nondiscriminatory reason for its actions, which was that the doctor who examined the Petitioner found that he was not psychiatrically fit for active duty as an armed state trooper. The Petitioner did not provide evidence that the Employer's reason was pretext for disability discrimination.

The Commission sustained the dismissal of the Petitioner's charge of discrimination.

Case Study: In re Request for Review by: Piotr Chmiel

ALS No. 21-0220 (January 11, 2022)

The Petitioner was a truck driver for the Employer's delivery trucking company. The Petitioner filed a charge of discrimination with the Illinois Department of Human Rights, arguing that the Employer subjected him to sexual harassment, subjected him to unequal terms and conditions of employment based on his national origin and in retaliation for opposing unlawful discrimination, subjected him to harassment based on his national origin and in retaliation, and discharged him based on his national origin and in retaliation. The Department dismissed the charge for lack of substantial evidence, and the Petitioner filed a request for review with the Commission.

The Petitioner first argued that the Employer subjected him to sexual harassment. He maintained that another driver made sexually suggestive remarks to him and would touch his back, neck, and buttocks about three times per week for over 10 months. The Petitioner stated that he reported the driver's conduct to the dispatcher, but the dispatcher just laughed. The Commission determined that the Department's investigation report was unclear as to when the Petitioner complained to the dispatcher or whether the dispatcher was a manager or supervisor. Such information was relevant to the sufficiency of the Petitioner's claim, because the Employer could only be liable for the driver's sexual harassment if a supervisor became aware of the conduct and the Employer then failed to take reasonable corrective measures. The Commission thus vacated the dismissal of the sexual harassment claim and remanded the count back to the Department for further investigation.

Regarding the Petitioner's claims of discrimination based on national origin, the Commission sustained the dismissal of the counts because the Petitioner either failed to identify a similarly situated employee outside his protected class who was treated more favorably, which would establish the inference that the Employer's treatment of the Petitioner was based on his national origin, or failed to establish that he was subjected to an adverse action. The Commission also sustained the Petitioner's retaliation claims because he either was not subjected to an adverse action or the Employer articulated a legitimate, nonretaliatory reason for its actions.

The Commission vacated the dismissal of the Petitioner's charge in part and sustained the dismissal in part.

what's next? a look ahead

Supporting the work of our Commissioners by providing excellent legal services and maintaining a rigorous timetable for acting on requests for review and other matters for review remains top-of-mind for the OGC.

The OGC will continue to provide leadership on deploying our planned e-filing system with support from DoIT.

We look forward to increased opportunities for engagement with the public at large and the legal community specifically through our outreach efforts, including supporting the Commissioners in their engagement with colleges and universities as well as our Lunch and Learn series.

As the ALS is now substantially better staffed than it has been in years, we anticipate continued progress and greater speed in addressing matters before the ALS. We expect further refinements to our process to take advantage of new technology and we look forward to being aggressive in identifying opportunities to support the litigants who appear before our ALJs.

While all of our legal staff – ALJs and OGC staff – have met their continuing legal education minimum requirements, we look to supplement that training at the agency level to further support them as they build increasingly pertinent legal knowledge and expertise around the Act and employment-related areas of law. This is consistent with our goal of making the Commission the preeminent venue for adjudicating claims of discrimination under the Act.

The State of Illinois continues to evaluate its real estate portfolio. This process, which led to the relocation of our Chicago office in May 2022, and our Springfield office location in November 2022. With both of these relocations, we expect to be better equipped from a facilities standpoint, to serve the residents of Illinois.

As part of our new DEIA plan, developed under the auspices of the Office of Equity within the Office of the Governor, we are excited over the next fiscal year that the Commission has identified goals centered on building on the diversity within the Commission; communicating opportunities to diverse groups; further embedding learning on DEIA topics within our Commission staff; expanding resources to those with accommodation needs (physical and/or language); and increasing the Commission's standing as a resource on DEIA topics for the legal community.

by the numbers

The numbers below provide some framing for the work of the Commission in FY 2022. They do not tell the entirety of the story of the work of the Commissioners or staff.

Description	FY 2022
Complaints filed through the Illinois Department of Human Rights	73
Complaints filed by Complainants	30
Total Cases received (inclusive of (1) requests for review; (2) defaults directly from DHR; and (3) settlements directly from DHR)	383
Total Cases closed/disposed	506
In-person office visits*	205
Phone inquiries	1,902
"Lunch and Learns" Continuing Legal Education (CLE) opportunities	8
Lunch and Learn participants	554
En Banc and Panel Meetings	35
Appellate Court decisions affirming Commission actions**	25 of 27

NOTES

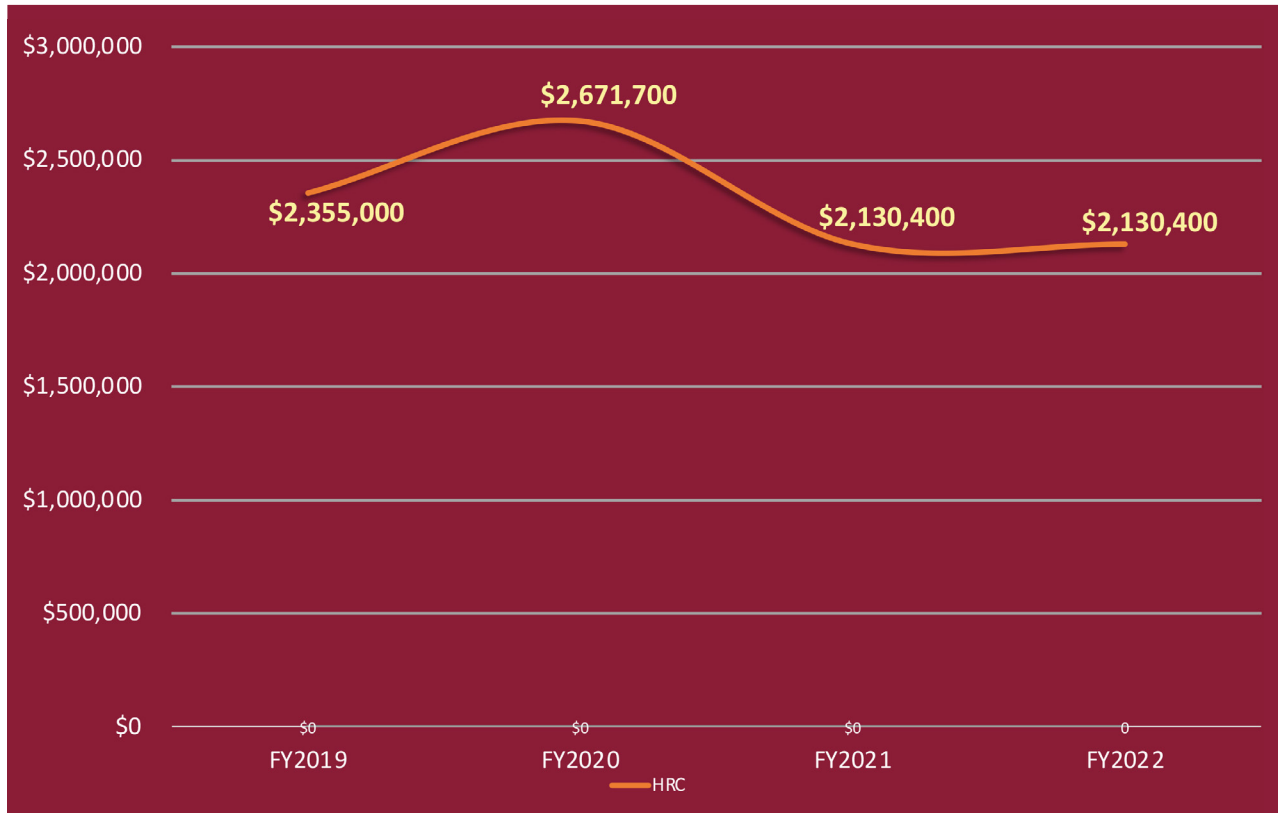
*Office visits reflect instances where individuals visited the Commission offices in Chicago or Springfield on business relating to a specific matter pending or potentially to be filed with the Commission. Multiple visits may be associated with a single matter before the Commission.

**There were two reversals of Commission decisions by the Appellate Courts during the fiscal year. One of these cases was remanded to the Commission for further proceedings.

Human Rights Commission Fiscal Year 2022 Annual Report

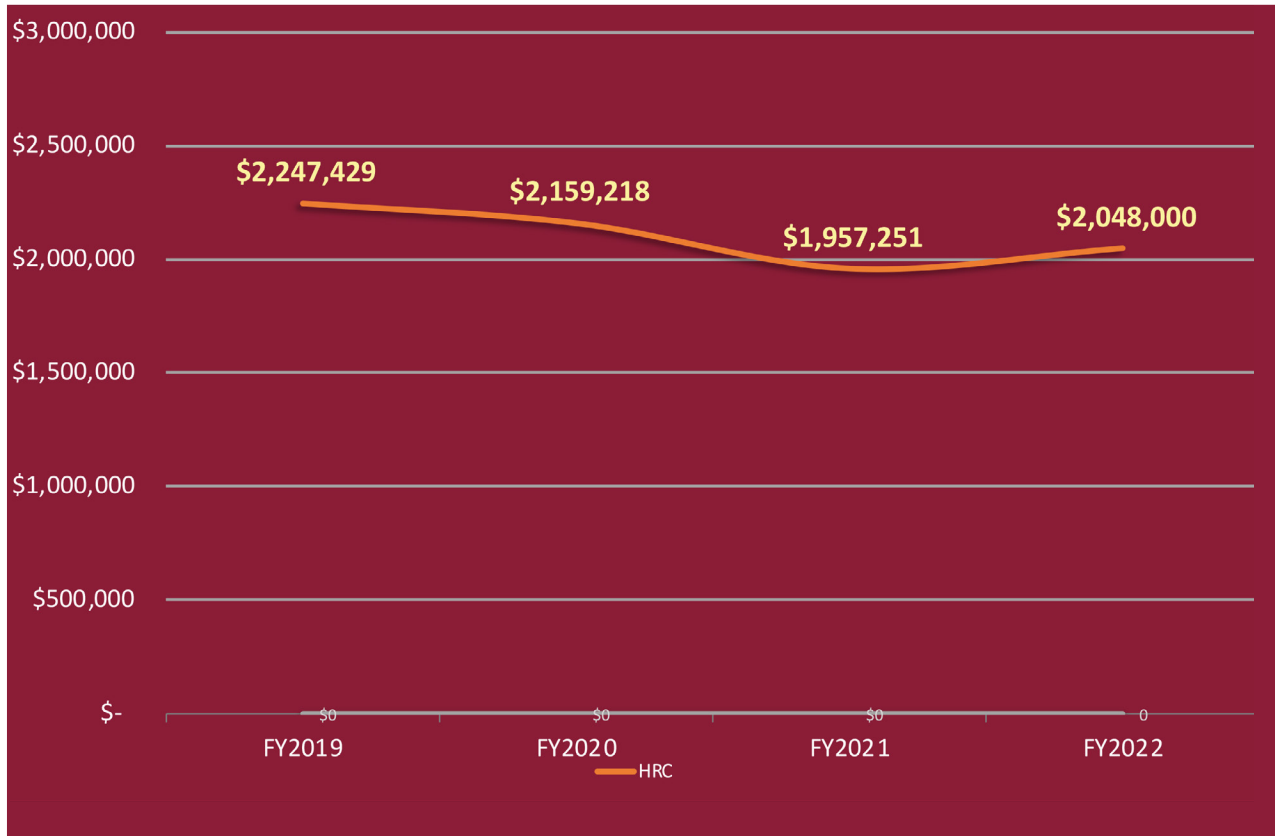
The financial information included on pages 18-19 of this report is for the Human Rights Commission only. While we provide fiscal and administrative support to the Torture Inquiry and Relief Commission, their appropriations and expenditures are not reflected in these charts.

APPROPRIATIONS BY FISCAL YEAR

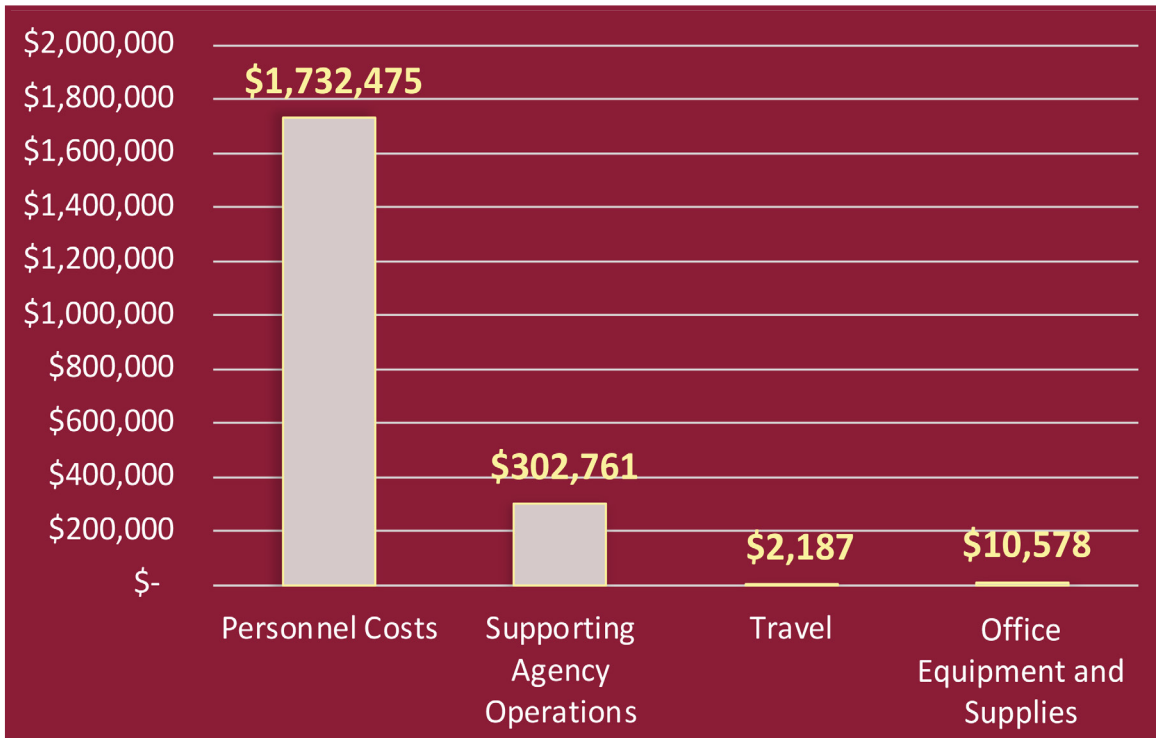


Human Rights Commission Fiscal Year 2022 Annual Report

EXPENSES BY FISCAL YEAR



FY22 EXPENDITURES BY TYPE



commissioners and staff*

To read biographical information on our Commissioners and Senior Staff, please visit the new HRC website at <https://hrc.illinois.gov>

Board of Commissioners

The Hon. Mona Noriega, Chair and Commissioner*
The Hon. Barbara R. Barreno-Paschall, Vice Chair and
Commissioner
The Hon. Robert A. Cantone, Commissioner
The Hon. Elizabeth A. Coulson, Commissioner
The Hon. Janice M. Glenn, Commissioner
The Hon. Demoya R. Gordon, Commissioner*
The Hon. Stephen A. Kouri II, Commissioner

**Pending Senate Confirmation*

Commission Staff

Tracey B. Fleming, Executive Director
David R. Larson, General Counsel
Claudia P. Ortega, Chief Financial and Human
Resources Officer
The Hon. Brian Weinthal, Chief Administrative Law Judge
The Hon. Azeema Akram, Administrative Law Judge
Shantelle Baker, Administrative Assistant I
The Hon. William Borah, Administrative Law Judge
LaNade Bridges, Private Secretary
Graciela Delgado, Administrative Assistant I
Jose Galvez, Office Administrator III
Bricia Herrera, Administrative Assistant I
Denise Hutton, Executive Assistant III
Samantha Judd, Administrative Assistant II
Bonnie Kim, Assistant General Counsel
The Hon. Kathleen McGee, Administrative Law Judge
Evelio Mora, Assistant General Counsel
Jennifer Nolen, Assistant General Counsel
Taylor P. Pierson, Office Specialist II
The Hon. Michael Robinson, Administrative Law Judge
Erica Seyburn, Assistant General Counsel and Ethics Officer
Jessica Torres, Office Associate
Christine Welninski, Administrative Assistant I

Former Commissioners and Staff

LeDeidre S. Turner, Vice Chair and Commissioner
Kelley M. Chube, General Counsel and Ethics Officer

*as of December 6, 2022

Illinois Torture Inquiry and Relief Commission

555 W. Monroe St., Ste. 600-S

Chicago, IL 60661

(312) 814-1094 phone

<https://tirc.illinois.gov>

2022 Annual Report

Alternate/Acting Chair Kathleen Pantle

Executive Director Robert Olmstead

STATE OF ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION HISTORY

The Illinois Torture Inquiry and Relief Commission (“TIRC”) was created by statute in 2009 to address the problem of coerced confessions by the Chicago Police Department that were related to former Chicago Police Commander Jon Burge. The General Assembly was responding to the fact that a number of people convicted in that era were later exonerated, and certain claims of torture that were disregarded at the time had been shown to be true.

The Torture Commission staff members investigate claims of torture and formulate a recommendation to its eight-member, unpaid volunteer Commission. The Torture Commission, which is not bound by the staff’s recommendation, determines whether there is sufficient evidence of torture to merit judicial review of a conviction, or whether the claim should be denied. At least five affirmative votes are necessary to refer a claim to court for further judicial review; a minimum of four negative votes are necessary to deny it.

If the Torture Commission finds that a claim is sufficiently credible to merit judicial review, the claim is referred to the Circuit Court of Cook County where a judge is assigned to hold a hearing on the issue of whether the convicted person’s confession was coerced. This enables convicted persons to get appropriate relief if they were convicted due to a confession that was obtained by torture – even if their appeals and regular post-conviction proceedings would otherwise be exhausted.

If a judge rules a confession was coerced, the judge can order a new trial, at which the prosecution must prove the defendant’s guilt without use of the coerced confession.

Commissioners were first appointed in late 2010. Activities of the Torture Commission were delayed in part by organizational and funding issues. In 2012 and 2013, the Torture Commission was defunded and mothballed for approximately 9 months. Nevertheless, the Torture Commission adopted initial rules, hired staff, obtained the assistance of *pro bono* counsel, and began obtaining documents and reviewing claims. In late 2013, the Torture Commission hired a new Executive Director and a Staff Attorney, who began work in January, 2014. Executive Director Barry Miller resigned at the end of July, 2015, and Staff Attorney Rob Olmstead acted as interim executive director until his formal hiring as Executive Director on January 20, 2016.

In 2016, the legislature and governor passed Public Act 99-688, broadening the Torture Commission’s jurisdiction and extending the claim period until August 10, 2019. The Act removed the requirement that claims of torture had to be related to Burge, and allowed any defendant convicted in Cook County to apply.

At the time of the Act’s passage in 2016, the Torture Commission had remaining approximately 210 adjudicated claims. However, only about 80 were believed to be within the jurisdiction of the original Act. Most of the claims (approximately 130) were non-Burge claims that had been held in abeyance while court cases confirmed the Torture Commission’s jurisdictional reach. The Torture Commission had anticipated that those claims would be subject to summary dismissal under its rules. When, as anticipated, the Illinois Appellate Court ruled that those non-Burge claims were beyond the jurisdiction of the Torture Commission, the legislature and governor passed Public Act 99-688.

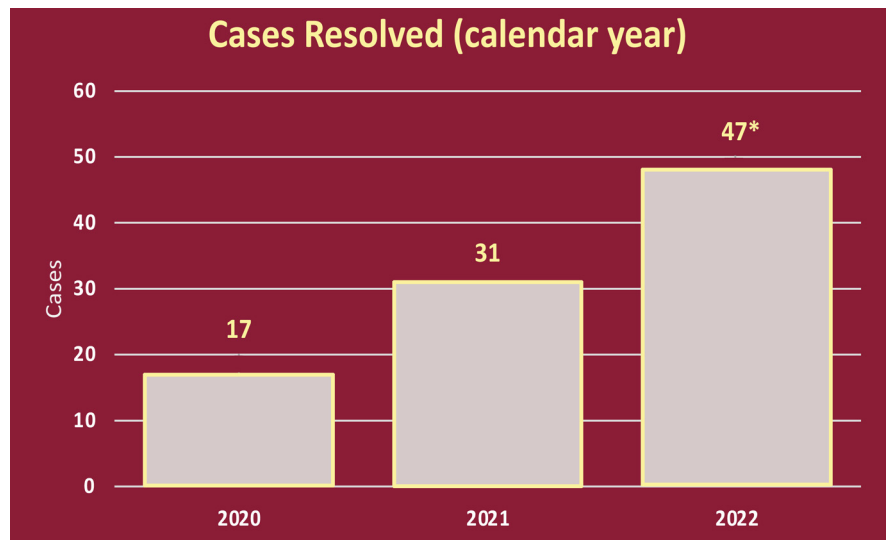
The immediate effect of Public Act 99-688 was to bring those 130 claims within the purview of the Torture Commission. The Act also re-opened the claim period, and the Torture Commission soon received an avalanche of new claims. That claim period closed August 10, 2019. As of November 17, 2022, the Torture Commission had 448 total pending claims, a number expected to be reduced to 441 at its December meeting (press times dictated publication of this report before the meeting).

RECENT DEVELOPMENTS

To deal with the influx of claims, the Torture Commission requested and received an increased FY 2021 budget of \$959,200. The new funds were allocated to bring aboard 5 temporary contract attorneys in December, 2020 and January, 2021 who began working exclusively on the investigation of claims; another attorney to investigate claims, and provide support to the Torture Commission’s pro bono partners (who have taken over investigation of approximately 80 claims) and appoint attorneys to represent claimants; and an additional attorney to investigate claims and to supervise the contract attorneys.

Much of early calendar year 2021 was spent training new staff with standardized investigation guides and templates and increasing TIRC operations with IT efficiencies. With the addition of staff dedicated solely to investigations and analysis, case numbers began rising. However, the temporary contract attorney model resulted in high turnover, and in FY 2023, the Torture Commission sought and obtained a slight budget increase to \$1,110,300 to convert the contract attorney positions to regular staff employee positions. The conversion provided more stability and retention of experienced staff.

Despite hiring difficulties and having fewer case attorneys (3) in calendar year 2022 than 2021 (5 case attorneys), case disposition increased dramatically. A fourth attorney is expected to join staff near the end of calendar year 2022, and the fifth budgeted case attorney should be hired before the end of FY 2023. TIRC case attorneys who completed a second year with the agency were more efficient at investigating cases and resolved, on average, 133% more cases in their second year. The completion of two years of having staff devoted solely to case investigations also provided more clarity on average case completion times. On average, staff attorneys completed cases within 9.5 months of assignment while *pro bono* counsel took 23 months to complete cases. Despite the longer completion times, *pro bono* partners remained a valuable asset for the Torture Commission, accounting for 43% of case dispositions in calendar year 2021 and approximately 50% of dispositions in calendar year 2022.



*Anticipated 2022 cases resolved. As of 11/17/2022, 40 cases were resolved.

In 2022, the Torture Commission:

- Was on pace as of November 17, 2022, to resolve by year's end 47 claims – a 52% increase over calendar year 2021, and 176% more than calendar year 2020. The projected number of cases resolved of 47 was five under TIRC's 2022 goal of 52 cases. TIRC's goal for the 2023 calendar year is 60 resolved cases. If the Torture Commission meets anticipated case disposition rates (that assume increased efficiency and low staff turnover), all claims may be resolved by April, 2029.
- Continued to monitor Covid-19 case rates to hold in-person Torture Commission meetings when appropriate, and virtual meetings when not.
- Worked collaboratively with the Public Defender's Office, the Cook County State's Attorney's Office, the Presiding Cook County Criminal Court Judge and volunteers to ensure that claimants referred to court by TIRC were represented by competent counsel. TIRC became involved after discovering that the Public Defender's Office determined its statutory mandate did not allow it to represent TIRC-referred claimants in post-conviction proceedings.
- Had its interpretation of the TIRC Act affirmed by the Illinois Court of Appeals in the case of *People v. Jerome Johnson*, 2022 IL App (1st) 201371. The Court affirmed that the Torture Commission has jurisdiction over cases where claimants pled guilty without a trial due to a confession allegedly extracted by torture. The Court also affirmed the Torture Commission's interpretation of the TIRC Act that use of an allegedly tortured confession that prevents a defendant from taking the stand in his own defense at trial also imbues the Torture Commission with jurisdiction to investigate a claim. In addition to endorsing those interpretations by the Torture Commission, the court also ruled that, unless a trial court can show that the Torture Commission was factually wrong in its decision, the court must hold a hearing on the issue of torture once the Torture Commission refers the claim to the courts.
- Filed, through the Illinois Attorney General's Office, a friend-of-the-court brief in an appeal by former TIRC claimant Abdul Muhammad. The Torture Commission did not argue in support or opposition of the claimant, but rather argued in defense of its interpretation of the TIRC Act that it has jurisdiction over cases in which an allegedly tortured confession incriminates a defendant in any fashion, rather than the trial court's interpretation that the statement must specifically admit to every element of a crime. *People v. Abdul Muhammad* remains pending in the Illinois Appellate Court.
- Was working at press time with the Illinois Attorney General's Office to file a friend-of-the-Court brief in an Illinois Supreme Court case that may make significant rulings interpreting the TIRC Act. TIRC felt it important to provide the Court with its interpretation of the statute to make its views known to the Court as it works to define the contours of the Act. That matter remains pending.
- Resolved dozens of cases, including the following representative cases:
 - ❖ **Arthur Edmonson:** Referencing its earlier cases defining torture, the Torture Commission determined that, in certain circumstances, a single punch to the chest could constitute torture when accompanied by sufficient mental suffering caused by a legitimate fear of further physical abuse. The Torture Commission referred the case to court for further proceedings.

- ❖ **Dante Brown:** The Torture Commission determined that the claimant's somewhat diminished mental capacity was not enough to credibly explain his failure to claim torture until approximately a decade after his arrest. The Torture Commission ruled that the claimant's trial attorneys' notes and statements to the Torture Commission showing Brown had not claimed torture before trial were more credible than the claimant's later assertion that he had told his original trial attorney that he had been physically abused by police. The Torture Commission denied the claim.

TIRC has referred a total of 55 claims to court for further proceedings and denied 137 claims. Another 69 claims or attempted claims were withdrawn by claimants or were administratively dismissed due to being filed late or other jurisdictional bars. Of the 55 claimants that TIRC has referred to court for further proceedings:

- 4 had torture hearings and had their confessions suppressed and charges against them dropped;
- 1 had a torture hearing and had his confession suppressed and will be retried without introduction of the coerced confession;
- 5 had charges dropped either before or during their hearing, or before a hearing ruling was issued;
- 8 reached a plea agreement to shorten their sentences;
- 1 had a torture hearing that determined his confession was admissible and did not appeal that ruling;
- 2 had torture hearings that determined their confessions are admissible and are currently appealing those rulings;
- 32 are still awaiting their torture or new suppression hearings;
- 1 claimant died in prison while awaiting his torture hearing; and
- 1 claimant was denied a torture hearing after a Circuit Court judge ruled TIRC did not have jurisdiction to refer the claim to court; he is appealing that ruling.

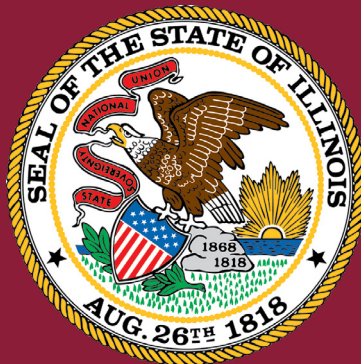
Of the nine claimants who had their charges dropped, at least five have received Certificates of Innocence.

The Torture Commission denied another claimant's torture allegation, but only because it lost jurisdiction when charges against the claimant were dropped after DNA tests that TIRC had sought implicated another suspect in a decades-old murder. The claimant also went on to receive a Certificate of Innocence, and the new suspect was charged and pled guilty, receiving a 50-year prison sentence.

LOOKING FORWARD

Despite the increased case dispositions in 2022, more can and will be done to increase TIRC's disposition rates and overall numbers in the coming year. Although greater case numbers per Case Attorney and in total were achieved in 2022, staff vacancies continued to prevent the Torture Commission from maximizing its resources and spending its existing budget. In 2023, the Torture Commission is focused on maximizing budget utilization through eliminating position vacancies. With full staff utilization in 2022, the Torture Commission expects case disposition rates to grow further, and is setting a goal of resolving 60 cases in calendar year 2023.

The Torture Commission does not anticipate that its work in 2023 will require additional funding for other agencies.



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REQUESTS FOR REASONABLE ACCOMMODATIONS: Services at the Illinois Human Rights Commission are accessible to and usable by persons with disabilities in compliance with the Illinois Human Rights Act. A person with a disability needing an accommodation to participate in any Commission activities should contact the Commission Disability Access Coordinator at 312-814-6269 or (TTY) 217-557-1500 or at HRC.NEWS@illinois.gov. The Commission requires five (5) business days to review any reasonable accommodation.