

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

**Fourth Annual Report
July 1, 1983 - June 30, 1984**



**Manuel Barbosa
Chairperson**

**The Honorable
James R. Thompson
Governor**

TABLE OF CONTENTS

Chairperson's Transmittal Letter.....	1
Overview of Commissioners and Commission Responsibilities.....	2
The Administrative Law Section.....	3
Statistical Overview.....	3
Breakdown of Disposition of Charges.....	4
Disposition of Complaints on the Merits.....	5
Breakdown of Disposition.....	6
The Commission.....	7
Summary of Decisions.....	8
Chart on Requests for Review.....	8
Chart on Settlements.....	9
Report of Significant Orders and Decisions.....	9
Charts of Orders and Decisions.....	12
Expenditures for FY83 - FY84.....	13



STATE OF ILLINOIS
Human Rights Commission

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Governor

Commissioners
Wallace L. Heil
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Aloysius A. Mazewski, Jr.
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Lillian A. Mitchell
Carlyle
Randall Raynolds
Springfield
Rebecca Sive-Tomashefsky
Chicago
Howard R. Veal, Sr.
Springfield
Alfred C. Whitley
Chicago
Oscar S. Williams
Chicago

David Strauss
Executive Director

TO THE
HONORABLE JAMES R. THOMPSON
GOVERNOR OF ILLINOIS
AND THE
HONORABLE MEMBERS OF THE
ILLINOIS GENERAL ASSEMBLY

I hereby transmit to you a report of the activities of the
Illinois Human Rights Commission for Fiscal Year 1984.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Manuel Barbosa".

Manuel Barbosa
Chairperson

December 1, 1985

HUMAN RIGHTS COMMISSION ANNUAL REPORT JULY 1, 1983 - JUNE 30, 1984

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

The nine-member Commission was appointed by the Governor to begin serving on July 1, 1980. In January, 1981, Governor Thompson re-appointed four Commissioners to serve until January, 1985. They are;

RANDALL RAYNOLDS	SPRINGFIELD
HOWARD R. VEAL, SR.	SPRINGFIELD
ALFRED C. WHITLEY	CHICAGO
MARION N. BARUCH	CHICAGO

In 1983, Governor Thompson re-appointed attorney MANUEL BARBOSA of ELGIN as Chairperson to a term ending in January, 1987. Additional re-appointments for the same term were made for the following members:

WALLACE L. HEIL	TAYLORVILLE
LILLIAN A. MITCHELL	CARLYLE
REBECCA SIVE-TOMASHEFSKY	CHICAGO

The Governor also appointed a new member, OSCAR S. WILLIAMS, a CHICAGO resident, to a term ending January, 1987.

The Commission is charged with three main functions: approving settlements agreed to by the parties, considering charging parties' requests for review (appeals) of dismissals of charges by the Department of Human Rights, and adjudicating complaints of discrimination filed with the Commission by the Department of Human Rights. The Commission also considers appeals of default orders recommended by the Department against respondents and claims of settlement order violations. The Commission receives all its work from the Department's activities - it has no public intake.

In Fiscal Year 1983 (FY83) the Commission staff consisted of five administrative law judges (ALJs), four clerical support staff, and an executive assistant. In FY84, the staffing level was increased by one when the Commission hired Kent Sezer, formerly with the Illinois Attorney-General, to serve as full-time General Counsel. All staff are totally devoted to supporting one or more of the functions listed above. The Commission held more public hearings on complaints in FY84 than it did in any of the preceding three years.

Commission meetings consist of a panel adjudicating settlements, requests for review and recommended orders and decisions, including oral arguments by attorneys. Perhaps the most significant of these items are recommended orders and decisions issued by staff administrative law judges. In the following section, Chief Judge Patricia A. Patton describes how the public hearings, which result in recommended orders, are conducted and the comparative data of the Administrative Law Section for FY81, FY82 and FY83.

ANNUAL REPORT OF THE ADMINISTRATIVE LAW SECTION OF THE ILLINOIS HUMAN RIGHTS COMMISSION

The Administrative Law Section of the Illinois Human Rights Commission is charged under section 8-106 of the Illinois Human Rights Act with the responsibility of conducting public hearings on complaints of discrimination filed by the Department of Human Rights. A staff of five Administrative Law Judges, all of whom are licensed attorneys, conduct hearings throughout the State of Illinois. In accordance with Section 8-106 of 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 FY'84 to numerous sites throughout the state ranging from Chicago to Carbondale and from Jacksonville to Urbana. Fifty-four per cent (54%) of all public hearings were conducted in Chicago and were devoted to charges originating in Cook County and adjacent counties. Twenty-nine per cent (29%) of the hearings took place in central Illinois and seventeen per cent (17%) of the hearings were convened in the southern part of the state. The total of 90 hearings was the highest in the history of the Commission.

Because of the complex nature of the relevant law, substantial preparation by the parties, including discovery proceedings and motion practice, is generally necessary. As a consequence, both parties are almost invariably represented by legal counsel. Public hearings, which are formal and conducted in accordance with the rules of evidence used in the courts of Illinois, typically last a day and a half. They may, however, consume less than half a day at one extreme or more than three weeks at the other.

After the transcripts of the hearing and the post-hearing briefs have been completed, the Administrative Law Judge prepares a recommended decision, which includes findings of fact, a proposed disposition, and a discussion of the applicable statutory provisions, court and Commission decisions, and other relevant authority. These recommendations are then referred to the Commission for review, during which the parties are given the opportunity to present argument for and against them. A panel of three Commissioners has the option of adopting, reversing, remanding for further hearing or modifying the recommended decision. Parties dissatisfied with a panel's decision have the right to seek rehearing before the full Commission.

In addition to the duties outlined above, the Administrative Law Judges may be called upon to assist the Commissioners in deciding requests for review of the Department of Human Rights' dismissals of charges for lack of substantial evidence or for refusal to accept a settlement. They may also hear disputes regarding the failure to comply with the terms of settlements.

The following data represents a breakdown of the disposition of cases within the Administrative Law Section during the first four years of its operation under the Human Rights Act. With the exception of the last two sections the statistics reflect charges rather than complaints. A charge is the working document filed by the complaining party with the Department. A complaint is a formal pleading drafted by the Department incorporating meritorious charges. The vast majority of the complaints heard in the Administrative Law Section are based upon a single charge; it is not unusual, however, for a complaint to consolidate more than one charge. This may occur when a single complainant has filed more than one or because similar charges filed by different complainants against the same employer have been merged into a single complaint.

1. OVERVIEW:	FY'81	FY'82	FY'83	FY'84
Charges carried over from the previous fiscal year	244	274	294	377
Charges entering Administrative Law Section.	190	222	289	353
Total number of charges	434	496	583	730
Number of Dispositions	160	202	206	272
Balance carried over to next FY	274	294	377	458

The above statistics indicate that the caseload of the Administrative Law Section increased significantly in the course of FY'84. The number of charges entering the section was 22% greater than it had been in FY'83. The number of Administrative Law Judges, however, remained the same. As a consequence, the quantity of cases carried over to the next fiscal year increased despite the fact that production increased by 32%.

Cases from the "new jurisdictions", those areas added by the Human Rights Act to the scope of the Fair Employment Practices Act, increased modestly in FY'84. Twenty-five charges based upon alleged discrimination in housing and public accommodations entered the Administrative Law Section in the last fiscal year; the prior year produced only 22 charges in these areas.

II. BREAKDOWN OF DISPOSITIONS OF CHARGES:	FY'81	FY'82	FY'83	FY'84
1. Decisions for Complainants—on the merits	44	25	31	28
2. Decisions for Respondents—on the merits.....	11	26	28	38
3. Decisions for Complainants— not on the merits	1	1	0	2
4. Decisions for Respondents— not on the merits.....	24	25	9	17
5. Decisions for Complainant and Respondent— on merits	3	9	3	0
6. Settlements.....	38	63	69	65
7. Final Orders and Decisions by Administrative Law Judges.....	39	50	64	95
8. Damages/Fact Finding Decisions (Commission Remands).....	0	0	2	27
TOTAL	160	202	206	272

Decisions “not on the merits” are those that were rendered without a hearing on the facts underlying the claim of discrimination. These decisions arise in a variety of situations. A frequent cause is the failure by a party to proceed either to prosecute or to defend. A second frequent cause is the Commission’s lack of jurisdiction over the complaint. Such lack of jurisdiction may be found, for example, where a complainant does not fall within a group protected by the Act or where he/she has failed to file a charge within the time limit provided by the statute. The number of dismissals based upon jurisdictional grounds may be expected to diminish because of a ruling by the United States Supreme Court in **Logan v. Zimmerman Brush Co., 453 U.S. 422 (1982)**, wherein the Court held that a claim could not properly be dismissed because of the failure of an administrative agency to comply with statutory time limits. Thus, a complaint cannot be dismissed in instances where the Department fails to file a timely complaint, as was the case under earlier rulings by the Illinois Supreme Court.

These dispositions designated “Decisions for Complainant and Respondent” in Table III consist of complaints in which neither party prevailed on all aspects of the complaint. In some instances, for example, a complainant may have proven that she was denied a promotion because of her sex, yet failed to prove that her discharge violated the Act. Another example of a mixed decision is a case in which race discrimination and retaliation were charged in the same complaint, and the complainant prevailed as to one claim but not the other. As a consequence of the mixed nature of these decisions, their disposition has not been set forth in Table IV.

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

Section 8-108 of the Act provides for the award of reasonable attorneys fees and costs to prevailing complainants. Often the determination of the amount of these fees and costs requires the participation of the Administrative Law Judge who heard the case. In order to expedite this process the Commission promulgated new rules at the end of FY'83, according to which an Interim Recommended Order and Decision is issued in cases where it is recommended that the complainant prevail. After the fees and costs have been determined, the Recommended Order and Decision is prepared and transmitted to the Commission for review. As a result of the new regulations, the Commission can review both the merits of the Recommended Order and Decision and the fees award at the same time and thus adjudicate the case more expeditiously. Seventeen (17) Interim Recommended Orders and Decisions were entered near the end of FY'84. This figure has not been included in Sections II, III, or IV because these cases will not be removed from the Administrative Law Section until the determination of fees is completed.

The statistics cited in Section II above indicate that the Administrative Law Section is an effective vehicle for settlement, as well as for resolution by means of hearing. The Administrative Law Judges have continued to improve their performance in this regard. Prehearing conferences have been used 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, and after the completion of discovery. In some cases settlements have been effected after the hearing has begun or after the Interim Recommended Order and Decision has issued.

III. DISPOSITION OF COMPLAINTS ON THE MERITS

	FY'81	FY'82	FY'83	FY'84
1. Decisions for Complainants.....	10	25	23	23*
2. Decisions for Respondents.....	11	24	28	37
3. Decisions for Complainant and Respondent	3	6	3	0
TOTAL	24	55	54	60

In the five years of its operation under the Fair Employment Practices Commission the Administrative Law Section consistently demonstrated its impartiality in the balance of its decisions between complainants and respondents. The first four years of its operation under the Human Rights Commission have shown that same balance when Interim Recommended Order and Decisions are included as decisions in favor of complainants. It is important to analyze such statistics in terms of complaints, rather than charges, because a decision on one large multi-charge complaint can radically skew the total number of charge dispositions in favor of one side or the other. A finding of discrimination in a single complaint can, for example, result in 25 charges in favor of complainants where the complaint consolidates as many charges. In FY'84 the statistics relating to dispositions on the merits for charges and for complaints are quite similar. This is true because there were no large multi-charge dispositions in a single complaint.

***Seventeen Interim Recommended Order and Decisions were also issued in FY'84, in which complainants prevailed.**

IV. BREAKDOWN OF DISPOSITIONS OF COMPLAINTS ON THE MERITS

A. Employment	FY'81		FY'82		FY'83		FY'84	
	C	R	C	R	C	R	C	R
Race.....	3	3	11	9	10	12	8	18
Sex.....	5	4	8	4	6	6	7	7
Handicap.....	1	2	6	9	5	6	5	8
National Origin.....	0	1	1	2	1	1	0	2
Age.....	1	0	0	0	0	4	1	3
Retaliation.....	0	1	1	3	0	1	0	1
Religion.....	0	0	0	1	1	0	0	0
Sex and Marital Status.....	0	0	0	0	0	0	1	0
TOTAL	10	11	28	27	23	30	22**	39

B. Housing	FY'83		FY'84	
	C	R	C	R
Exclusion of Children	1	1	1	0
Race	0	1	0	1
TOTAL	1	2	1	1

The number of dispositions exceeds the number of complaints because in some instances more than one issue was resolved in a single complaint.

****This figure does not include the seventeen Interim Recommended Order and Decisions issued in favor of complainants in FY'84 for which Recommended Order and Decisions were not completed within this fiscal year. It also does not include cases in which settlements were executed after issuance of the Interim Recommended Order and Decision.**

THE COMMISSION

The Commissioners dispose of cases primarily through meetings of three member panels. Each panel meets once a month, as does the full Commission. One panel meets regularly in Springfield, the others and the full Commission meet in Chicago in Suite 920 of 32 West Randolph Street¹. Thus, as in FY83, a panel or full Commission meeting took place nearly every Wednesday of Fiscal Year 1984.

A typical panel meeting included a routine approval of up to twenty settlements sent up by the Department; ten or more requests for review (appeals) by complainants of Department dismissals; and two recommended orders and decisions, one of which required an hour of oral argument involving attorneys for each party. Additionally, a panel would usually have a variety of motions, usually requests for extensions of time, to consider. Decisions requiring special research or commentary were assigned to the Commission's general counsel.

¹The Commission moved (in January, 1985) to the State of Illinois Center, Suite 5-100, 100 West Randolph Street, Chicago.

Below is a statistical summary of the Commission's activities for FY84 with comparative data for the previous three fiscal years. It should be noted that the Commission received more settlements and requests for review in the housing and public accommodations area in FY84 than previously. However, employment remained the area where over 95% of Commission work was generated. Financial credit appears to be an almost non-existent source of discrimination charges—at least, for those charges which reach the Commission.

SUMMARY OF DECISIONS OF THE ILLINOIS HUMAN RIGHTS COMMISSION

	FY'84	FY'83	FY'82	FY'81
Settlements Approved	665	446	512	375
Requests for Review Decided.....	351	274	340	227
Orders and Decisions Issued.....	45	55	49	43

FY84 was clearly the Commission's most productive year. This is primarily due to the increase in intake experienced by the Department of Human Rights. There is always some lag between DHR intake and Commission action, since all charges must first go through at least some processing by Department investigators. Thus, the dramatic increases experienced by DHR's intake division (depicted in the Department's section of this annual report) from mid-FY83 through FY84 resulted in much higher activity at the Commission for most of the year. The addition of the full-time general counsel also assisted in increasing Commission productivity.

REQUESTS FOR REVIEW

The Department will dismiss a charge if, after investigation, the Director believes there is no substantial evidence (probable cause) of a civil rights violation. Additionally, a dismissal may occur if the Department believes it has no jurisdiction over the charge or if the complainant fails to comply with duly promulgated rules and regulations. If a respondent fails to appear or be properly represented at a fact-finding conference, the Department can issue a default order. In any of the above situations, the aggrieved party can ask the Commission, through a request for review, to vacate the dismissal or default order. After a timely request for review is filed with the Commission the Department, which is the "respondent" during the request for review process, prepares a response. If the Department's legal division believes that the request for review has merit, a DHR attorney will ask the Commission to vacate the dismissal or default order. The Commission, through its executive assistant, always complies with this request. In FY84, the Commission's executive assistant vacated eighty-seven dismissals at the Department's request. In the remaining cases, the Department opposes the request for review and a three-member panel of Commissioners must decide what course of action to take. The data for FY84 and prior years is presented in the following chart:

	FY'84	FY'83	FY'82	FY'81
Total requests for review ¹	351	274	340	227
DHR Dismissal Affirmed ²	294	211	283	201
DHR Dismissal Vacated.....	57	63	57	26
Percentage of Dismissals Affirmed	83.8%	77%	83.2%	88.5%
Percentage of Dismissals Vacated	16.2%	23%	16.8%	11.5%

¹Only those cases in which the Department opposed the request for review are included.

²Over 98% of requests for review were from DHR dismissals.

Defaults are infrequent.

SETTLEMENTS

The parties to a charge are encouraged to settle the case at all stages, from Department intake through Commission public hearing. Once such an agreement is reached, they are further encouraged to submit the settlement to the Department and Commission. If both agencies approve the terms of the settlement, they are enforceable should either party violate the agreement. During FY84, the Commission approved 665 settlements. Not all of them involved financial transactions; some complainants sought neutral letters of reference, the clearing of their personnel files, the ability to rent a particular apartment, or the guaranteed access to a public accommodation. However, most settlements did involve money being paid to the complainant. The amounts negotiated at different stages of proceedings and the grand total appear below.

Stage at which agreement signed	Number of Settlements	Amount	Average amount per settlement
During investigation	573	\$ 949,126	\$1,656
During conciliation	36	99,907	2,775
During Public Hearing	53	372,354	7
After ROD issued	3	58,000	19,333
	665	\$1,479,387	\$2,225

Computer-generated data also suggest that a complainant is likely to receive a better financial settlement if he or she is represented by an attorney.

FY84 HUMAN RIGHTS COMMISSION ORDERS AND DECISIONS

What follows is a summary of a number of important cases decided by the Human Rights Commission during FY84. These are Orders and Decisions rendered by three-member Commission panels, pursuant to Recommended Orders and Decisions issued by staff Administrative Law Judges. After Orders and Decisions are issued, they are placed in volumes which are printed by Tower Records of Illinois, 323 S. Franklin Street, Chicago, IL 60606. Where the opinions discussed in this report have been collected into volumes, a citation to the volume and the page is included. The first number in the citation refers to the volume of the Commission decisions, and the second number in the citation refers to the page on which the decision begins. Thus, 10 Ill. HRC Rep. 175 would be found on page 175 of the tenth volume of the Orders and Decisions of the Illinois Human Rights Commission.

In FY84 the Commission issued many decisions interpreting the Human Rights Act's prohibition against handicap discrimination. On the first day of the fiscal year (July 1, 1983) the Commission issued **Coleman and Illinois Bell Telephone Company**, 10 Ill. HRC Rep. 2 (1983). In that case the Commission was faced with the question whether alcohol abuse was a "handicap" within the meaning of the Human Rights Act. The Commission, relying on its Interpretive Rules on Handicap Discrimination in Employment, stated that alcohol abuse is a "handicap" if it arises from or is the equivalent of a disease. The Complainant in each case has the burden of proving this through competent evidence. The Complainant must also prove that the condition is unrelated to his or her ability to perform the job in question. In this particular case the Commission ruled that the Complainant had failed to prove that her condition was unrelated to her ability to perform her job at Illinois Bell, and the complaint was dismissed.

A different question involving the area of handicap discrimination was discussed by the Commission in the case of **Brink and Montgomery Ward & Company**, 10 Ill. HRC Rep. 65 (1983). At the public hearing in this case the complainant presented testimony from his treating physician and his treating neurologist that the Complainant's records of seizures resulting from reactive hypoglycemia and chemical diabetes was unrelated to his current ability to perform the tasks involved in his work. The Respondent presented no medical evidence to the Commission. Instead, the Respondent argued that the Complainant was a danger to himself and others because of his past history of having seizures on the job. It was the Commission's ruling that Mr. Brink's condition was controllable through the use of Dylantin, and thus he qualified for protection under the Human Rights Act. The complainant was reinstated to his job as a security guard, with full back pay.

A third case involving alleged handicap discrimination was decided by the Commission in **Johnson and City of Evanston, City of Evanston Water and Sewer Department**, 10 Ill. HRC Rep. 84 (1983). In that case the Commission ruled that the Respondent was unaware of the Complainant's handicapping condition. The Respondent was able to show that its assessment of the Complainant had absolutely nothing to do with any perception of impairment. Thus, the complaint was dismissed.

The issue of "reasonable accommodation" for a handicapped individual was considered by the Commission in the case of **Johnson and Madison Maintenance Corporation**, 10 Ill. HRC Rep. 105 (1983). The Administrative Law Judge in this case found that the Respondent had provided a reasonable accommodation to the Complainant by allowing fellow employees to perform certain functions which would normally be associated with the Complainant's job. This accommodation was withdrawn by the Respondent. Although counsel for the Respondent argued in front of the Commission that the previous accommodation was placing an economic burden on the Company, there was absolutely no evidence in the record to support this argument. Once the Complainant has shown that he can do the essential duties of a job with a reasonable accommodation, it is up to the employer to show that the accommodation is unduly burdensome. In view of the lack of evidence on this issue, the Commission ruled that the Respondent had failed to grant the Complainant a reasonable accommodation. The Complainant was ordered reinstated, with full back pay.

In the case of **May and Kenall Manufacturing Company**, 10 Ill. HRC Rep. 144 (1983), the Commission reaffirmed its position that the definition of "handicap" under the Human Rights Act differs in a significant way from the definition of the same term as used in the now-repealed Equal Opportunities for the Handicapped Act. The Respondent had argued that under the prior statute, a condition could only be a "handicap" if it limited an individual's ability to work. See generally, **Advocates for the Handicapped v. Sears, Roebuck and Co.**, 67 Ill.App.3d. 512 (1978). The Commission found that the Respondent's argument would result in virtually no protection of individuals under the Human Rights Act. Since a person's condition must be unrelated to his or her ability to perform the duties of a particular job in question, the Commission reasoned that the legislature could not have meant to limit the definition of the word "handicap" to conditions which severely limit a person's ability to work. The Human Rights Act protects not only persons who are "handicapped", but persons who are perceived as handicapped. Mr. May was ordered put back to work by the Commission, with full back pay.

The question of the proper amount of attorney's fees was a question which reoccurred throughout FY84. In the case of **Podgurski and Rackow**, 10 HRC Rep. 55 (1984), one of the questions presented was whether the Complainant's attorney was entitled to a "multiplier" under the facts of that particular case. Normally, attorney's fees are figured by multiplying the reasonable hourly rate for attorney's services by the number of hours reasonably spent on successful issues. In the **Podgurski** case, however, the Administrative Law Judge recommended that this figure be multiplied one and one-half times. The Commission found that under special circumstances it may be necessary to adjust the figure arrived at by multiplying the reasonable fee times the reasonable number of hours expended. It was the Commission's position, however, that increased awards would only be ordered in exceptional cases; this particular case did not meet the "exceptional" standard, and therefore, the multiplier was removed.

The question of reasonable accommodation in handicap cases was raised once again in the case of **Bruss and Bishop Hardware & Supply, Inc.**, 11 HRC Rep. 205. In that case the Complainant was not allowed to return back to work after an illness which had left him hearing-impaired. The Complainant had proposed an accommodation which would allow him to work at the Respondent's hardware store. The Respondent had presented evidence to the Administrative Law Judge which showed some of the flaws with the Complainant's reasonable accommodation. The Respondent had not shown, however, that it had attempted to work with the Complainant in order to arrive at some solution to the problem. The Commission ruled that it is the duty of the employer to either provide an accommodation or show that any adequate accommodation would be prohibitively expensive. Since the employer in the **Bruss** case had not worked with the Complainant in an attempt to find some reasonable accommodation, the Commission found that it could not rule in favor of the Respondent. At the same time, the Commission found that it could not rule in favor of the Complainant, because it was not clear that the Complainant could perform the essential duties of the job in question. Accordingly, a final Commission decision was deferred in order to give the parties time to test out proposed accommodations which would allow the Complainant to perform essential duties of the job in question.

In the case of **Duffy and State of Illinois, Department of Labor, Bureau of Employment Security**, 11 Ill. HRC Rep. 227 (1984), it was the Commission's task to determine whether the Complainant's attorney's fee petition was adequate. The Commission held that an adequate fee petition must present the Administrative Law Judge with sufficient evidence to allow the judge to make an objective determination as to the value of the services performed and the number of hours reasonably expended. Since the Complainant's petition in the **Duffy** case was inadequate, even after the Complainant had been given leave to amend the petition, an attorney's fees' award was denied.

Attorney's fees were also a major part of the decision of the Commission reached in the case of **Griffin and State of Illinois, Department of Law Enforcement Merit Board, and Department of Law Enforcement**, 11 Ill. HRC Rep. 246 (1984). In that case the Commission ruled that, except in extraordinary circumstances, the hourly rate requested by an attorney should set the maximum bound for what can be considered a reasonable rate. The Commission also considered the question of prejudgment interest in the **Griffin** case. The Complainant had asked that he be awarded interest on his back pay award from the time it would have accrued to the time it was actually paid. The Commission Panel ruled in this case that the Human Rights Act did not authorize the payment of prejudgment interest. It should be noted that a different panel of the Commission has reached an opposite result regarding the prejudgment interest question. See **Friedman and Signal Products Company**, below. This case has now been settled. Mr. Griffin is employed by the City of Chicago as a police officer.

The Commission was once again faced with a case arising under the handicap provisions of the Human Rights Act in the case of **Holuj and Stauffer Chemical Company**, 11 Ill. HRC Rep. 266 (1984). The Complainant's physician in that case had restricted the Complainant to work on the "ground" level. The Complainant argued that this restriction meant that he could work on any floor of the job site, as long as he was on the "floor". The Administrative Law Judge found that the words "ground" and "floor" were not synonymous. She found that the Complainant was restricted to the first level of the job site, and that the Complainant's physician did not want the Complainant climbing stairs to get to the upper levels of the job site. The Commission ruled that this finding of the Administrative Law Judge was not against the manifest weight of the evidence. Accordingly, the case was dismissed.

In the case of **Friedman and Signal Products Division, Amerace Corporation**, ___ Ill. HRC Rep. ___ (Charge No. 1983CF0236 May 2, 1984), the Commission was faced with a number of procedural questions. In a previous Order and Decision the Commission had ruled that the Complainant had been discriminated against because of his religion. The Complainant asked the Commission to modify the order to allow for prejudgment interest. In a split decision, the Commission Panel found that prejudgment interest was appropriate because it was necessary to make the Complainant "whole". Since the Human Rights Act contains the power to make the Complainant "whole", the majority of the Commission Panel determined that the Commission had the power to award prejudgment interest. The Commission was also presented with a petition for attorney's fees in the **Friedman** case. It was the ruling of the Commission panel that attorneys who do not charge their clients for their services are still entitled to an award of attorney's fees under the Human Rights Act. In addition, the Commission affirmed its previous ruling that time spent by law students on the Complainant's case would be compensated as part of the Complainant's reasonable attorney's fees.

Another question involving attorney's fees was raised by the case of **Brewington and State of Illinois, Department of Corrections**, ___ Ill. HRC Rep. ___ (Charge No. 1980CF0113 May 17, 1984). The Commission had previously found for Ms. Brewington on the merits of her case. See 6 Ill. HRC Rep. 110 (1982). The Commission had found in that case, however, that although the Complainant had proved she was the victim of sex discrimination, she had not produced evidence of substantial damages. Thus, the question presented before the Commission was whether the Complainant was entitled to a substantial attorney's fee, even though she had not received a significant pecuniary benefit. It was the Commission's ruling that Complainants are entitled to a reasonable attorney's fee, even if they do not receive a great deal of money. The decision of the Administrative Law Judge to reduce the Complainant's attorney's fee by 10% in light of the Complainant's failure to show monetary damages was, in the opinion of the Commission, not against the manifest weight of the evidence.

The case of **Turner and Galesburg Mental Health Center**, ___ Ill. HRC Rep. ___ (Charge No. 1981CF0585 June 29, 1984), presented a classic case of disparate treatment. The Complainant, who is black, was involved in an altercation with a white employee. It was the Complainant, however, who was discharged. The white employee was not disciplined in any way for her role in the altercation. The decision of the Administrative Law Judge that the reason for the disparity in treatment was the Complainant's race was, in the opinion of the Commission, not against the manifest weight of the evidence. Ms. Turner was ordered reinstated with full back pay.

DATA SUMMARIES

The forty-five orders and decisions issued during FY84 are grouped three ways in the following charts: first, by whether the decision favored the complainant, respondent, or both; second, the source of discrimination, with FY83 comparative data, and finally, whether or not the Commission decision affirmed or reversed the administrative law judge's recommended order.

ORDERS & DECISIONS FOR COMPLAINANT

17

ORDERS & DECISIONS FOR RESPONDENT

26

ORDERS & DECISIONS FOR BOTH

2

ORDERS AND DECISIONS BY SOURCE OF DISCRIMINATION

	FY'84 NUMBER	PROPORTION OF TOTAL	FY'83 NUMBER	PROPORTION OF TOTAL
RACE	18	33.9%	22	37.2%
COLOR	0	.0%	0	.0%
RELIGION	1	1.9%	2	2.2%
SEX	7	13.2%	19	32.2%
NATIONAL ORIGIN	1	1.9%	3	5.1%
ANCESTRY	2	3.8%	0	.0%
AGE	3	5.7%	0	.0%
MARITAL STATUS	0	.0%	1	1.7%
PHYSICAL/MENTAL HANDICAP	20	37.7%	8	13.6%
UNFAVORABLE DISCHARGE	0	.0%	0	.0%
RETALIATION	0	.0%	0	.0%
CHILDREN UNDER 14 (RENTAL HOUSING)	1	1.9%	0	.0%
	53*	100%	59*	100%

NOTE: Some cases involve more than one source of alleged discrimination.

O & Ds AS RELATED TO RECOMMENDED AND DECISIONS (RODs)

	FY'84	FY'83	FY'82	FY'81
RODs AFFIRMED	37	48	40	39
RODs REVERSED	3	5	8	4
AFF. IN PART & REV. IN PART	5	2	1	0
	45	55	49	43

The Commission also affirmed eleven RODs not dealing with the merits of discrimination.

THE FUTURE

The Commission will have to expand its staff of administrative law judges in order to meet the challenge posed by the dramatic increase in complaints filed by the Department of Human Rights. In addition, the Commission hopes to open a Springfield office and staff it to a level which will enable all central and southern Illinois cases to be handled from Springfield.

HUMAN RIGHTS COMMISSION EXPENDITURES STATE FISCAL YEAR - JULY 1-JUNE 30

Funds for Operations	FY'84 Expenditures	FY'83 Expenditures
TOTAL GENERAL REVENUE FUNDS	\$436,900	\$355,400
Personal Services	270,000	219,200
Retirement Contributions	14,000	9,400
Social Security	18,500	14,400
Contractual Services	95,700	85,200
Travel	25,600	19,500
Commodities	2,300	1,200
Printing	1,200	700
Equipment	1,700	1,800
Telecommunication Services	6,800	4,000

The increase in expenditures compared to FY83 resulted partly from increased costs for court reporting associated with the dramatic increase in the number of public hearings completed during FY84. The increase in personal services was due to the addition of a general counsel combined with no staff turnover.