



State of Illinois  
Human Rights Commission

# Illinois Human Rights Commission

## **2015 ANNUAL REPORT**





## OUR MISSION

The Illinois Human Rights Commission is dedicated to promoting freedom from unlawful discrimination as defined by the Illinois Human Rights Act and to provide a neutral forum for resolving complaints of discrimination filed under the Act.

## The Act forbids...

discrimination with respect to employment, financial credit, public accommodations and real estate transactions on bases of race, color, religion, sex (including sexual harassment), national origin, ancestry, military status, age (40 and over), order of protection status, marital status, sexual orientation (including gender-related identity), pregnancy, unfavorable military discharge, and physical and mental disability. The Act also prohibits sexual harassment in education, discrimination because of citizenship status and arrest record in employment, and discrimination based on familial status in real estate transactions.

Also the *Joint Rules of the Human Rights Commission and the Department of Human Rights: Rules on Pregnancy Discrimination and Accommodation in Employment*, 56 Ill. Admin. 2535 et al. were approved.

Public Act 99-0152, created the **Veterans Preference in Private Employment Act**, and amended the HRA at 775 ILCS 5/2-104 to allow private employers to maintain veterans' preferences employment policies.

Public Act 99-0196, amended the HRA at 775 ILCS 5/3-102, by expanding prohibitions against publications of intent to discriminate, by making it explicitly unlawful to publish any intent to discriminate based on familial status.

## Our primary responsibility...

is to make impartial determinations of unlawful discrimination as defined by the **Illinois Human Rights Act**, and to furnish information to the public about the **Act** and the **Commission**.

**The core values** of the Commission are to provide professional, competent, efficient and effective service to everyone who seeks information from or who has a case before the Commission.





## ILLINOIS HUMAN RIGHTS COMMISSION

January 18, 2016

**Honorable Bruce Rauner**  
**Members of the Illinois General Assembly**  
**Citizens of Illinois:**

The Illinois Human Rights Commission hereby submits to you its Annual Report for the Fiscal Year 2015.

The Commission has continued to successfully meet our mandate to ensure that all Illinoisans have a fair and impartial forum to address the claims of those who have suffered or have been accused of discrimination as defined in the Illinois Human Rights Act. We thank Governor Rauner, the members of the General Assembly, the Illinois Department of Human Rights, and the general public for its support of our efforts.

The Commission's role under the Act in addressing discrimination complaints filed by Illinois citizens grows in importance due to the rise in racial tensions across the land. The impartial forum provided by the Commission to complainants and respondents alike, along with our outreach efforts to the larger community allow us to be arbitrators of peaceful solutions in Illinois. We are proud of our record and will continue to perform to our maximum capacity.

"Pregnancy" in employment was added as a new protected category under the Act this year. The Commission is working to ensure that the rights of pregnant women and women with conditions related to pregnancy and childbirth are enforced, and will also continue to educate the public on this valuable addition to the Human Rights Act.

Fiscal constraints have forced the Commission to further streamline its process in 2015, which we have done without impacting the quality of our service. We remain committed to serving the people of Illinois with a renewed emphasis on educating the public, the General Assembly, and other potential partners on the resources available to resolve discrimination claims in Illinois.

Rose Mary Bombela-Tobias

A handwritten signature in cursive script that reads "Rose M. Bombela Tobias".

*Chairman, Illinois Human Rights Commission*

**CASE STUDY NO. 1  
CONTESTED MATTER  
RACE AND AGE DISCRIMINATION IN  
EMPLOYMENT  
COMPENSATORY DAMAGES AWARD OF  
\$453,274.08 AND ATTORNEY FEES AND COSTS  
AWARD OF \$173,166.97 AFFIRMED ON APPEAL**

**Illinois Human Rights Act, 775 ILCS § 5/2-101**

**Carolyn Walker Richardson v. West Paces Hotel  
Group, LLC, d/b/a Hotel 71**

The Complainant, an African-American woman in her 50s, filed a race and age discrimination complaint with the Commission against the Respondent, her former employer. The Complainant was a salesperson for Hotel 71, which at the time of her termination was managed by the Respondent. Twenty years earlier, the Complainant had been initially hired by the prior owner of Hotel 71 as its travel industry sales manager. Over the next 20 years, the Complainant received numerous promotions. In 2004, the Complainant held the position of group sales manager and in that same year, she received the "Million Dollar Club" award from the former owner, recognizing her as one of its top salespeople.

In late 2004, ownership of Hotel 71 was in process of changing. The new owners completed the purchase of Hotel 71 in April 2005. A 24-year-old white female (the "Comparable") was hired to serve as a group sales manager. At that time, the Complainant and the Comparable served as the only group sales managers for the hotel. A 37-year-old white male was hired to assist with management of the sales team (the "Sales Manager").

The new Sales Manager ordered the Complainant to turn over all of her accounts to the Comparable. The Complainant objected, and was told that she could leave if she did not like it. The Complainant was then ordered to develop a new market of clients needing 30 or more rooms per night plus meeting space. The Comparable was assigned to sales of groups needing 10 to 30 rooms.

In September 2005, the Respondent began a multi-million dollar renovation project which impacted the entire hotel. During this time period, both the Complainant and the Comparable had difficulty meeting sales expectation, with both indicating

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## THE ILLINOIS HUMAN RIGHTS COMMISSION

On December 6, 1979, former Governor James R. Thompson signed into law the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. The Act created the broadest civil rights coverage for the people of Illinois in the history of the state. The Act created a bifurcated enforcement apparatus: a Department to investigate Charges of Discrimination, and a Commission to adjudicate Complaints of Civil Rights Violations in housing, employment, public accommodations, education, and financial credit. Charges of Discrimination may be brought to the Department by individuals, groups and/or in certain circumstances, the Director of the Department of Human Rights. Either the Department or the Complainant may file a Complaint of Civil Rights Violation with the Commission. Such complaints are adjudicated pursuant to Sections 8A-102 and 8B-102 of the Act.

The Human Rights Commission (HRC) maintains offices in Chicago and in Springfield. The HRC consists of thirteen Commissioners; the Executive Director; the Chief Administrative Law Judge, Deputy Chief Administrative Law Judge and seven Administrative Law Judges; the Chief Fiscal Officer; the General Counsel, Deputy General Counsel, and Assistant General Counsel, and Administrative Support Staff.

## REQUEST FOR REVIEW

When the Illinois Department of Human Rights (DHR) dismisses a charge for lack of substantial evidence of discrimination, the Complainant may file a Request for Review with the HRC or file a Complaint in the Circuit Court within 90 days after receipt of the Notice of Dismissal. When the DHR dismisses a charge for failure to attend a fact-finding conference the Complainant may either file a Request for Review with the HRC or file a complaint in the Circuit Court within 90 days of receipt of the Notice. The HRC's decision may be appealed in the appropriate Appellate Court.

## FILING A COMPLAINT

If the DHR finds substantial evidence of discrimination and issues notice, in order to advance the case, the Complainant must either: (1) File a complaint in the appropriate Circuit Court within 90 days of receiving the notice, or (2) Request the DHR file a complaint with the HRC on the Complainant's behalf within 30 days of receiving the notice. If the DHR does not complete its investigation within 365 days, or any agreed extension, the Complainant then has 90 days to either: (1) File a Complaint with the HRC or (2) File a Complaint in the appropriate Circuit Court.

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that the hotel renovations were impacting their ability to make sales. As a result the Respondent changed its evaluation of their performance.

The Complainant and the Comparable each were placed on a 90-day probationary plan ("the Plan"), which extended from September 2006 through November 2006. Both were given identical sales related goals, which were documented in writing: monthly revenue, prospecting calls, and entertainment calls. The Plan provided that failure to meet any one of the three goals would result in further performance review up to, and possibly including termination. Further, the Complainant and the Comparable were verbally warned that failure to meet all goals would result in termination.

At the end of probationary period, neither the Complainant nor the Comparable had satisfied all three prongs of the Plan. The Complainant had met 4 of 9 total monthly goals; the Comparable had met 2 of the 9. On December 1, 2006, the day after the probationary period closed, the Respondent terminated the Complainant's employment.

At the time of her termination, the Complainant had a pending \$ 172,000 contract that closed on December 12, 2006, and that would have caused her to have exceeded all of her revenue goals, had it been attributed to her during the probationary period. However, the Sales Manager said this was not possible due to the language of the Plan. He believed she should have closed the contract before December 1st.

In contrast, although the Comparable had met her revenue expectations each month, in December 2006, the Respondent booked a cancellation of \$45,000 for rooms previously sold by the Comparable during the probation period, which resulted in a total revenue of negative \$ 28,970 for her in December. Despite her failure to meet all goals, and the loss of this revenue, the Respondent retained the Comparable.

The Complainant was replaced by a 32-year-old white male.

Subsequently, the Complainant commenced proceedings pursuant to the Illinois Human Rights Act against the Respondent, alleging race and age discrimination. A public hearing on the Complaint

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was held before a Commission Administrative Law Judge (“ALJ”), during which various witnesses, including the Complainant, testified.

The ALJ determined the Complainant had proven unlawful race and age discrimination by a preponderance of the evidence by way of indirect evidence of discrimination. Ultimately, the ALJ determined that the legitimate, non-discriminatory reason given by the Respondent for its action—failing to meet her revenue goals after being placed on the Plan—was a pretext for discrimination.

The ALJ determined that this articulated reason was pretextual because: (1) the Complainant and the Comparable were not evaluated even-handedly under the same standard; (2) if revenue were important, then the Complainant should have been retained because the Complainant performed better in actual revenue than the Comparable during 2006; (3) the ALJ found it suspicious that the Comparable’s cancellation of the \$ 45,000 sale came conveniently a few weeks after the Comparable had barely exceeded her probationary revenue goal, especially because the Complainant testified credibly that the Comparable had admitted failure to meet her goals under the Plan; (4) following the completion of the hotel purchase, all newly hired salespeople were white and under the age of 40, and (5) given the Complainant’s extensive positive work history up until the purchase of the hotel, the ALJ found the facts supported a conclusion that the Complainant was targeted for separation from the hotel for reasons having nothing to do with her performance.

Therefore, the ALJ determined that the Respondent’s proffered reason was not worthy of belief, was insufficient to motivate the Complainant’s discharge, and did not actually motivate its decision, and that in fact the Complainant’s age and race which were the reasons behind her termination.

Subsequently, the ALJ issued a Recommended Order and Decision (“ROD”) recommending an award of \$123,788.65 in back pay, \$329,486.08 in front pay, prejudgment interest, attorney fees in the amount of \$167,223.75 and \$5,943.22 in costs. The Commission adopted the ROD as its Order and Decision. The Respondent filed a timely appeal of

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## STANDING ORDER RELATING TO PREHEARING MEMORANDA

All parties will jointly prepare and submit a prehearing memorandum to the presiding Administrative Law Judge (ALJ) of the HRC not less than 14 days before the hearing is scheduled to commence. The Complainant should prepare the first draft and submit it to the Respondent at least 14 days prior to the filing deadline. The presiding ALJ may waive the preparation of the prehearing memorandum if any litigant is not represented by counsel. Attorney representation is strongly advised.

## THE HEARING

The matter is set for hearing before an ALJ within 30 to 90 days after the complaint has been filed with the HRC. After the hearing, the ALJ issues a Recommended Order and Decision (ROD). If either party objects to the ROD, exceptions may be filed and the ROD will be reviewed by a three-member panel of Commissioners. The panel may adopt, reverse or modify the ROD, or remand the ROD back to the ALJ. If the ROD is adopted, it becomes the HRC’s final decision. The HRC’s final decision may be appealed in the appropriate Appellate Court.



## JUDICIAL REVIEW

A petition for review of the final order of the Commission must be filed with the appropriate Appellate Court of Illinois within 35 days from the date that a copy of the decision sought to be reviewed was served on the party affected.

## SETTLEMENTS

When a settlement is submitted by the Department, the Commission via a panel of 3 Commissioners shall determine whether or not to approve. Parties may settle matters with or without Commission approval. However, if they wish the Commission to retain jurisdiction for enforcement, the agreement must be reduced to writing and submitted to the Commission for approval. Approval is accomplished by an order approving the settlement and dismissing the case.

## PUBLICATION OF OPINIONS

Decisions of the Commission or panels thereof, whether on requests for review or complaints, shall be published within 120 calendar days of the completion of service of the written decision on the parties. Decisions of the Commission are available on the Commission's website at [www.state.il.us/ihr](http://www.state.il.us/ihr).

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the Commission's Order with the Illinois Appellate Court, which affirmed the Commission's Order in its entirety.

The Respondent argued on appeal that the Commission had committed various evidentiary, legal, and factual errors. However, the Court found no support for these arguments.

As for the evidentiary claims, the Court determined that either the ALJ had not relied on the evidence in question, or that the Respondent had failed to object to these evidentiary issues during the public hearing. Having failed to object, the Respondent failed to preserve the alleged errors for review and forfeited its right to challenge those evidentiary rulings on appeal.

The Court rejected the Respondent's argument that the Commission had improperly substituted its business judgment for that of the Respondent. The Court determined that the ALJ properly considered evidence of the Complainant's 20-year spotless career and the Complainant's overall revenue generation for 2006 for purposes of addressing the Complainant's burden to prove the Respondent's articulated non-discriminatory reason was pretextual. This evidence called into question the Respondent's truthfulness and credibility, which were within the ALJ's purview to assess.

The Court also found that the Commission had applied the correct legal standard for analyzing pretext. The Respondent argued that the Commission had to make a separate finding of intentional discrimination. However, the Court held that the employee does not always need to introduce additional, independent evidence of discrimination. Rather, the proof of the *prima facie* case and evidence sufficient to justify rejection of the employer's explanation permits the trier of fact to infer the ultimate fact of intentional discrimination, which is what the ALJ did, and the Commission adopted.

Finally, the Court found that the Commission's Order was not against the manifest weight of the evidence. The Court found that there was an abundance of evidence to support the ALJ's conclusions. The Court stated the Respondent could not set forth a disciplinary policy, only to change the policy, and pick and choose elements of the policy to apply so as to result in race and age discrimination.

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The Respondent subsequently filed a Petition for Leave to Appeal to the Illinois Supreme Court. The PLA was denied.

As a result, the Commission's award, totaling \$453,274.08 in compensatory damages, and \$173,166.97 in attorney fees and costs, was undisturbed. This appears to be one of the largest damages awards made by the Commission under the Human Rights Act.

## **CASE STUDY NO. 2** **DEFAULT AND DAMAGES HEARING** **RACE DISCRIMINATION IN A PUBLIC ACCOMMODATION**

**Illinois Human Rights Act, 775 ILCS § 5/5-101**

### **Katrina Miles v. Windsor Clothing Store**

The Complainant, an African-American woman, was a customer in the Respondent, a clothing store. The Complainant was the only African-American customer in the store. During the 30 minutes she spent in the store, a sales associate followed her around the entire time. The associate was never more than a few feet away from her, and she never asked the Complainant if she needed assistance. Meanwhile, loud and rowdy white teenagers in the store were never approached by this or any sales associates. Non-black customers were not followed.

Before leaving the store, the Complainant spoke to a manager and described what had occurred. The manager apologized and said she would inform the district manager of the situation. When the Complainant asked the sales associate for an explanation, the associate's only response was, "I'm sorry." The Complainant was left distraught and shaken by what had occurred.

The district manager did contact the Complainant. The district manager apologized, but only in the context of the Complainant having a "mistaken perception" of what had occurred. There was no acknowledgement that the Complainant had been racially profiled and targeted because she was African-American.

Subsequently, the Complainant filed a charge of discrimination with the Illinois Department of Human Rights, alleging race discrimination in the provision of a public accommodation. The Respondent was served with the charge. Pursuant to the Illinois Human Rights Act ("Act"), the Respondent was required to file a verified response to the charge. The Department contacted the Respondent numerous times about its obligation under the Act and gave it additional time to file its response; however, the Respondent failed to do so.

After giving the Respondent an opportunity to show cause for its failure to file the verified response, the Department issued the Respondent a Notice of Default. The Respondent had 30 days to file with the Commission a Request for Review of the Notice of

Default. Under the Act, the Commission could have vacated the Notice of Default, if the Respondent had shown good cause for its failure to file the verified response. However, the Respondent did not file a Request for Review with the Commission.

Thereafter, upon a petition filed by the Department for entry of a default order, the Commission entered a Default Order against the Respondent.

The Respondent filed with the Commission a Motion to Vacate the Default Order. The Commission denied the Motion for lack of jurisdiction, and the matter proceeded before a Commission Administrative Law Judge ("ALJ") for a damages hearing.

The ALJ issued a Recommended Order and Decision ("ROD") in which she determined, based on the Complainant's testimony concerning the impact of the racial discrimination on her psyche, that the Complainant was entitled to \$ 25,000 in emotional distress damages. No other monetary award was recommended.

The Respondent filed Exceptions to the ROD. A panel of three Commissioners declined review and adopted the ROD as the Commission's Order. The Respondent then filed a Petition for Rehearing En Banc, which was also declined. Thereafter, the Respondent filed a timely Notice of Appeal with the Illinois Appellate Court.

On appeal, the Respondent argued that the Department's Notice of Default was improper because the Department failed to show the Respondent had demonstrated a "contumacious disregard for the Department's authority." The Respondent conceded, and the Court agreed, that the Commission properly determined it had no jurisdiction to vacate the Default Order because the Respondent had failed to file a Request for Review with the Commission. The Court also agreed, however, that it could review the Department's Notice of Default for error.

Thereafter, the Court determined the Respondent failed to show good cause for its failure to file the verified response to the charge. The Court rejected the Respondent's argument that it had acted with due diligence to respond to the verified charge because the argument failed to account for the repeated extensions of time the Department had given. Further, the record showed that the Department had communicated directly with one of the Respondent's representatives, who was responsible for responding to the charge, and who had ample time — 5 months — to submit a verified response to the charge to the Department prior to going on her maternity leave. The Court found that the Respondent's failure to provide a verified response, failure to show cause why it could not provide a verified response, and failure to file a timely Request for Review of the Notice of Default, constituted a deliberate and contumacious disregard for the Department's authority, thus justifying the entry of default.

The Respondent also argued that the Commission erred in awarding emotional distress damages, or, in the alternative, that the \$ 25,000 amount was excessive. The Appellate Court rejected these arguments and affirmed the Commission's emotional distress award in its entirety.

First, the Appellate Court found that the evidence at the damages hearing supported the finding that the Complainant was entitled to an emotional damages award. The Complainant did not present medical evidence. However, she testified as to how she felt immediately after the incident, and how she continued to feel in the months following the incident, such as experiencing difficulty sleeping, defensiveness, and heightened self-consciousness when she was the only African-American in a public place, to the extent that she was always looking around to see if someone was following her. The Court also found notable that not only did the Respondent fail to present any evidence to rebut the Complainant's testimony, but also that the Complainant's emotional distress was compounded by the Respondent's refusal to acknowledge a problem with the sales associate's behavior, instead characterizing the incident as a "mistaken perception" on the Complainant's part.

Second, the Appellate Court determined that the \$ 25,000 amount was not excessive and it was not an abuse of discretion. A damages award will not be disturbed on appeal unless it is arbitrary or capricious, or unless no reasonable person would agree with the Commission's position. In upholding the Commission's emotional damages award, the Court pointed out that the Human Rights Act... "seeks to promote Illinois' public policy of securing for all individuals within Illinois freedom from discrimination on the basis of race in places of public accommodation." The Court stated, "The ALJ found that Miles suffered emotional distress and that distress was compounded by Windsor's failure to acknowledge its sales associate's discriminatory conduct. The Commission adopted those findings and the recommended award of \$25,000 in damages. We cannot say that an award of this amount contravenes legislative intent, fails to consider a critical matter, or is outside the agency's expertise."



The Appellate Court's Order was initially an unpublished and non-precedential ruling. By motion of the Commission, the Order was made published and thus available to be cited as Illinois legal precedent by future litigants.

#### CASE SYNOPSIS NO. 1

**Agustina Sanchez v. Wal-Mart, et al.**

**Request for Review: Voluntary Dismissal with Prejudice**

The Complainant was represented by an attorney. Generally, under the Illinois Human Rights Act ("the Act" or the "HRA"), once the Illinois Department of Human Rights completes its investigation of a charge and issues a notice of dismissal of the charge, the Complainant may elect to either file a Request for Review of the dismissal with the Commission, or the Complainant may file a civil lawsuit in the Circuit Court and litigate the HRA claim in the Circuit Court, thus treating the notice of dismissal as a "right to sue" letter.

In this case, the Complainant elected to file a request for review with the Commission. Prior to the Commission's determination of the request for review, the Complainant informed the Commission that she wished to join this matter with a related case then pending in the Circuit Court, and that she wanted confirmation from the Commission of the dismissal of the request for review.

In March of 2012, the Commission entered an order dismissing the Complainant's request with prejudice, and served the dismissal order on the Complainant. When the Complainant attempted to join the dismissed matter with the matter pending in the Circuit Court, following a motion by the opposing party, the Circuit Court dismissed the matter. Apparently, the Circuit Court found that the Complainant had elected to have that matter determined as a request for review, and therefore waived her right to have it determined by the Circuit Court.

Over a year after the Commission had dismissed the request for review with prejudice, the Complainant filed a motion with the Commission to reinstate the request for review. The Commission denied the motion, citing the Commission's lack of jurisdiction. The Complainant sought review of the Commission's order before the Illinois Appellate Court.

In upholding the Commission's order on review, the Court first rejected the Complainant's attempt to challenge the validity of the original March 2012 dismissal order, finding that the appeal as to that order was untimely because the Petition for Review had been filed more than 35 days after service of the March 2012 dismissal order on the Complainant.

Second, the Court found no error in the Commission's order denying the Complainant's motion to reinstate, holding that the Commission's order was not against the manifest weight of the evidence. An agency decision is against the manifest weight of the evidence only when the opposite conclusion is clearly evident.

The Court found ample evidence in the record to support the Commission's determination that the Complainant had effectuated a voluntary dismissal of her request for review. In particular, if the initial dismissal order, which clearly stated the request for review was being dismissed with prejudice, was contrary to the Complainant's intentions, then she could have filed an appeal within 35 days after its entry.

Further, the Court found that the Complainant, through her counsel, had voluntarily and knowingly entered into a voluntary dismissal of her request for review.

**CASE SYNOPSIS NO. 2****S. L. D. vs. Mercury Sightseeing Boats, Incorporated*****Request for Review: Sexual Orientation Discrimination in Employment***

The Complainant was employed as a Deck Hand by the Respondent. The Complainant informed the Respondent that one of its employees, a boat Captain, had made a disparaging comment regarding the Complainant's sexual orientation. The Respondent reprimanded the Captain, and informed the Complainant of the reprimand.

Approximately 3 weeks later, the Complainant was working on a charter boat with a large group of passengers. Two days after that, the Respondent received a letter from a customer who complained about his experience, specifically referring to the Complainant's conduct, which he characterized as "unprofessional." The customer suggested that the Complainant's behavior would cause him and his law firm to reconsider using the Respondent for any future cruises. Four days after receiving that letter, and following an investigation, the Respondent terminated the Complainant. Subsequently, the Respondent sent a letter to the customer, informing him that it no longer employed the Complainant and assuring him no similar incidents would occur in the future.

The Complainant thereafter filed a charge of discrimination with the Illinois Department of Human Rights, alleging harassment and termination due to his sexual orientation, and retaliation for complaining about the harassment. Following an investigation, the Department dismissed the charge for lack of substantial evidence. The Complainant filed a request for review of the dismissal with the Commission.

Reviewing the matter de novo, the Commission sustained the dismissal for lack of substantial evidence. Regarding the harassment claim, the Commission determined this claim was based on a single, isolated incident, which was not sufficiently severe or pervasive to rise to the level of actionable harassment under the Human Rights Act. Regarding the unlawful discharge claim, the Commission found no substantial evidence that the Respondent was motivated by the Complainant's sexual orientation. Rather, the evidence showed that the Complainant's termination followed on the heels of the customer's complaint the Respondent had received about the Complainant's "unprofessional" conduct, and the customer's threat to withdraw any further business from the Respondent if the Complainant remained in the Respondent's employ.

For similar reasons, the Commission found no substantial evidence of retaliation. The Respondent put forth a legitimate reason for terminating the Complainant, and there was no substantial evidence of pretext. In fact, the Complainant's termination followed four days after the Respondent received the customer's complaint and veiled threat of suspension of further business, which did not support a conclusion that the Respondent was motivated by retaliation for the Complainant's opposition to discrimination three weeks earlier.

**CASE SYNOPSIS NO. 3****M. N. and C. N. vs. The State Parkway Condominium Association*****Request for Review: Disability Discrimination in Real Estate***

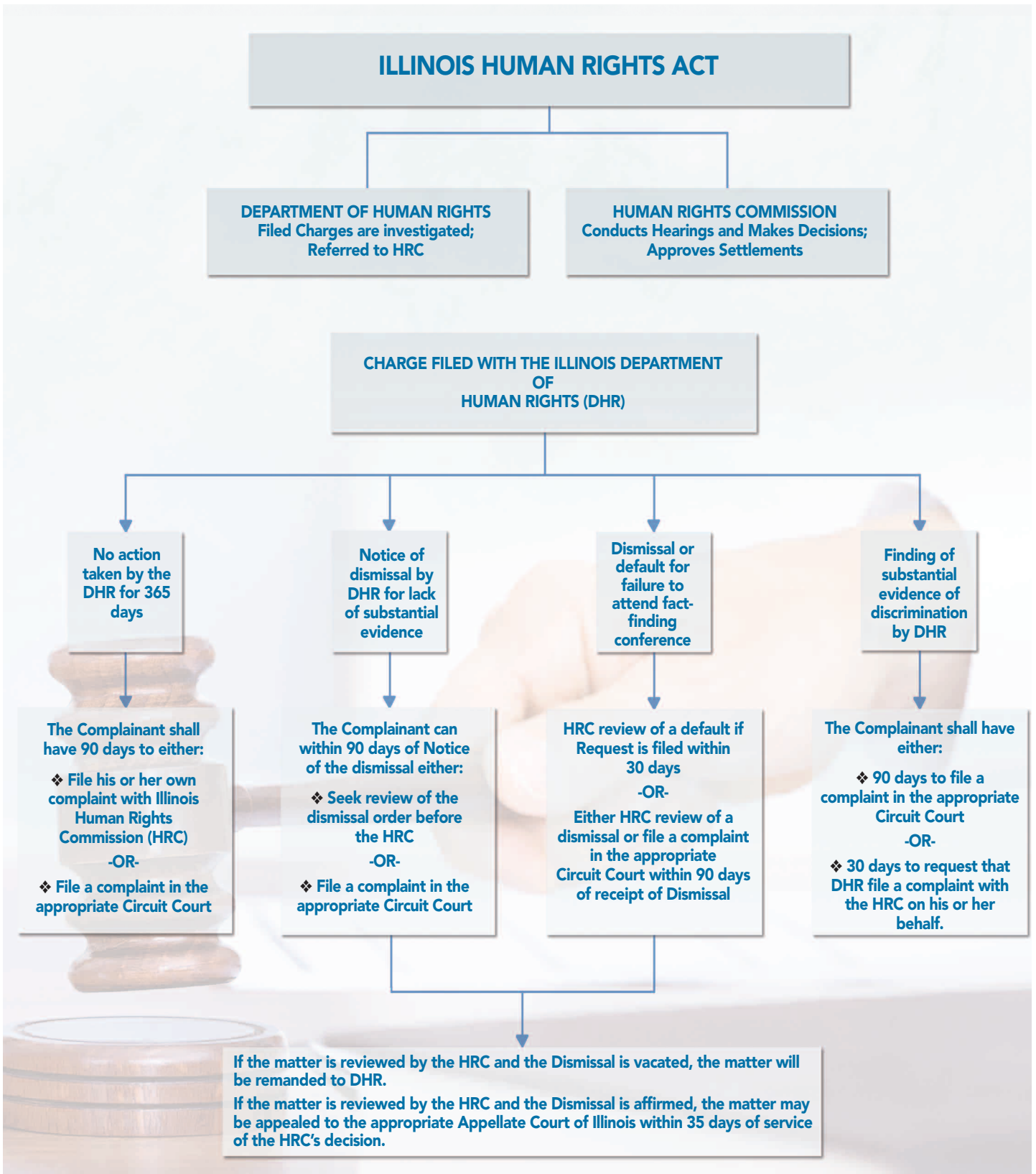
The Complainants, who are hearing-impaired, reside in a condominium unit in a complex managed by the Respondent. In November 2010, the Complainants filed a charge of discrimination with the Illinois Department of Human Rights ("DHR"), alleging the Respondent subjected them to discriminatory terms, conditions, privileges, or services and facilities by attempting to terminate Complainants' use and occupancy (Count A), issuing them a notice of noise violation (Count B), failing to make a reasonable accommodation for their physical disability (Count C), and failed to recognize the Complainant's dog as a service animal (Count E) in retaliation for filing a previous charge with the DHR, and failed to make a reasonable accommodation for Complainants' physical disability (Count D).

Following an investigation, the Department dismissed the charge in its entirety for lack of substantial evidence. The Complainants filed a Request for Review of the dismissal with the Commission. Reviewing the matter de novo, a panel of three Commissioners sustained the dismissal for lack of substantial evidence and lack of jurisdiction.

The Commission sustained the dismissal of Counts A and E, alleging retaliatory notice of termination of tenancy and retaliatory refusal to acknowledge the Complainants' service dog, for lack of jurisdiction and, in the alternative, lack of substantial evidence. Regarding jurisdiction, the Commission stated that charges of discrimination relative to real estate must be filed within one year after the date of the alleged civil rights violation. The Commission determined that the actionable date was October 30, 2009; thus, the charge had to have been filed by October 30, 2010 to be timely. The Commission determined the Complainants filed this charge on November 4, 2010, which was over one year after the actionable date. In the alternative, the Commission found a lack of substantial evidence because there was no substantial evidence of either an adverse action, or of a causal connection between the alleged adverse actions and the protected activity, which had occurred two years earlier.

The dismissal of Count B, retaliatory issuance of notice of noise violation, and Count C, retaliatory refusal to pay for CART Services, were sustained for lack of substantial evidence. As to both Counts, the Commission determined the passage of three years between the Complainants' protected activity and the alleged adverse actions was too long to give rise to a causal connection and inference of retaliation.

Finally, the Commission sustained the dismissal of Count D, failure to reasonably accommodate a disability, for lack of substantial evidence. The Complainants requested that CART Services be provided at a hearing regarding the noise violation notice at the Respondent's expense. The Respondent agreed to ensure CART Services would be available at the hearing, but at the Complainants' expense. The Complainants alleged that the refusal of the Respondent to agree to pay for the CART Services constituted a failure to reasonably accommodate their disability. The Commission found no substantial evidence that the Respondent's refusal to pay for the CART Services deprived the Complainants of equal opportunity to use and enjoy the dwelling. The Respondent agreed to accommodate the Complainants' disability by ensuring that CART Services would be available during the hearing. Had the hearing taken place, CART Services would have been available, thus affording the Complainants equal opportunity to participate in the proceedings.

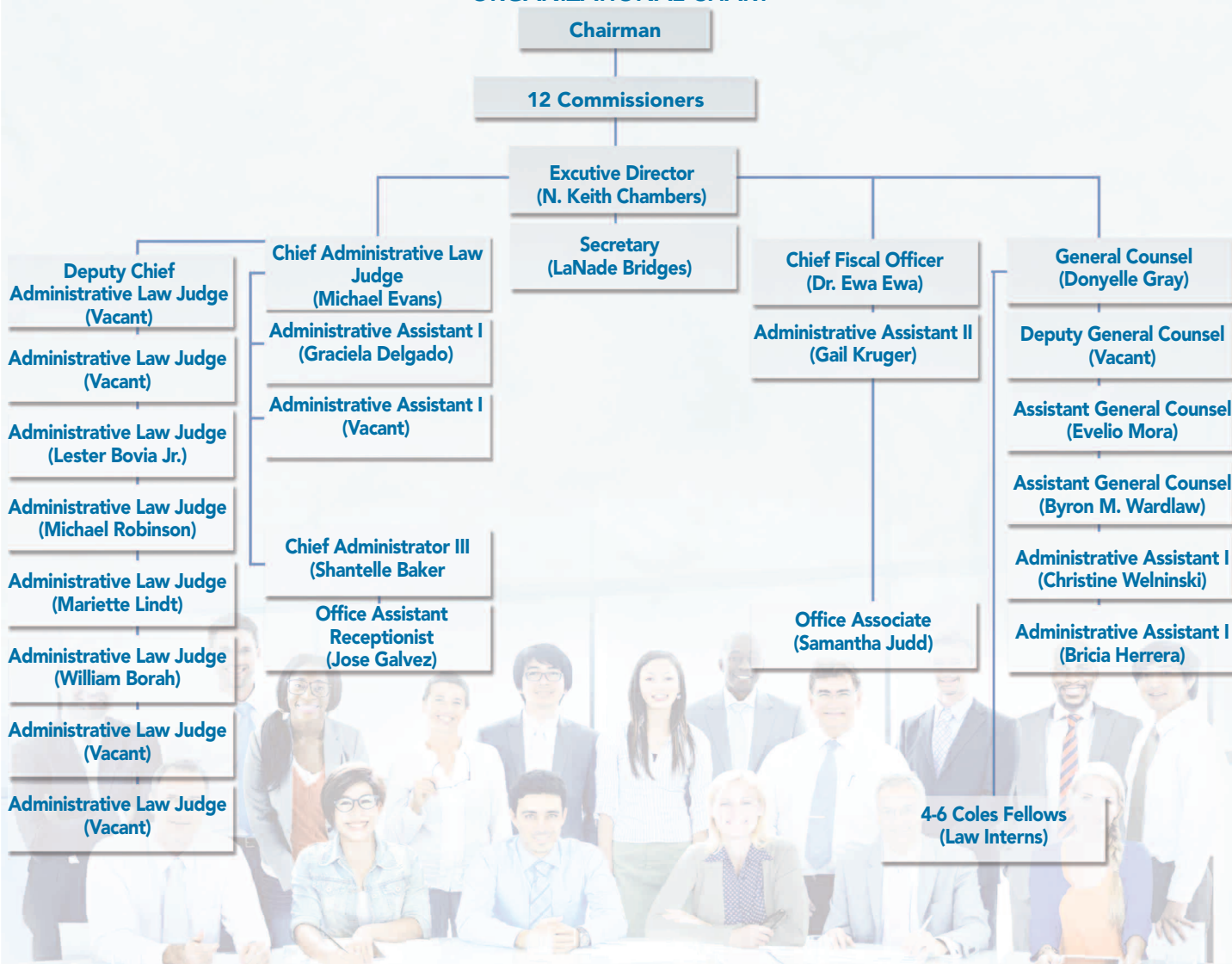


## THE COMMISSION PROVIDES A NONPARTISAN FORUM TO RESOLVE COMPLAINTS OF UNLAWFUL DISCRIMINATION

The Commission consists of a staff of 20 and thirteen Commissioners. The Commissioners are appointed by the Governor, with the advice and consent of the Illinois State Senate, and no more than seven Commissioners may be appointed from the same political party. The Governor designates one of the Commissioners as Chairman.

The staff and Commissioners reflect the rich diversity of the State of Illinois. The Commissioners come from a variety of professional backgrounds and from different parts of the State. The Commissioners are diverse in race and ethnicity, religious faiths, gender and sexual orientation. By maintaining a diverse and non-partisan body of Commissioners, as well as a diverse staff, the Commission strives to serve all people and entities throughout the State who seek a fair forum for the adjudication of complaints pursuant to the Illinois Human Rights Act.

### ORGANIZATIONAL CHART



## FY 2015 COMMISSIONERS

### Proud To Serve the Public

#### 1. Rose Mary Bombela - Tobias, Chair

Appointed 2015

Hon. Rose Mary Bombela – Tobias is currently the principal of the Global Diversity Solution Group, which specializes in diversity consulting and multi-cultural workforce dynamics. Mrs. Bombela – Tobias has worked to improve diversity and treatment of minorities. Prior to this, she was Director of Central States for SER – Jobs for Progress, the nation’s largest Latino direct services organization.

#### 2. Duke Alden

Appointed 2015

Hon. Duke Alden is currently the global leader of Information Governance for Aon. Mr. Alden oversees risk assessment and policy development to drive business efficiency, mitigate risks and reduce spending. Prior to joining Aon, he was a strategy consultant for Huron Consulting Group, where he assisted some of the world’s largest companies in the areas of discovery strategy, process design and cost savings.

#### 3. Hamilton Chang

Appointed 2015

Hon. Hamilton Chang is the Vice Chair of U.S. Senator Mark Kirk’s Asian-American Advisory Committee and has been recognized in the Chinese community for his contribution. Mr. Chang has more than 25 years of experience in finance and management. He led groups specializing in risk management. He is currently the Managing Partner of Ballparks of America-Branson, which is a youth baseball facility for 10-12 year olds. Mr. Chang also serves as a Trustee for New Trier Township.

#### 4. Robert A. Cantone, J. D.

Appointed 2011

Hon. Robert A. Cantone is an attorney with his own law firm, where he concentrates in representing individuals who have sustained personal injuries as a result of an accident. He also serves as an Arbitrator for the Cook County Mandatory Arbitration Program, and is a member of the Chicago Bar Association, the Illinois State Bar Association and the Illinois Trial Lawyers Association.

#### 5. Terry Cosgrove

Appointed 2011

Hon. Terry Cosgrove is President & CEO of Personal PAC, which supports access to the full range of reproductive health care for everyone in Illinois. He served as Chair of the Urbana, Illinois Human Relations Commission from 1976-1979. He has played a major role in promoting public awareness about the importance of Human Rights. He was one of two plaintiffs in a precedent-setting legal action successfully challenging discriminatory practices based on sexual orientation in public accommodations.

#### 6. Nabi R. Fakroddin, P. E., S. E.

Appointed 2010

Hon. Nabi R. Fakroddin is a Licensed Professional and Structural Engineer; Fellow of American Society of Civil Engineers; Past President of the Illinois Engineering Council and the Illinois Association of County Engineers; Board Member, St. Charles Zoning Board of Appeals; Former Member, Western Illinois Regional Manpower and Planning Commission; Recipient of numerous awards including the APWA’s Top Ten Public Works Leaders in the U.S. and a Distinguished Service Award from the National Council of Examiners for Engineering and Surveying.

### 7. Lauren Beth Gash, J. D.

Appointed 2013

Hon. Lauren Beth Gash is an attorney (Georgetown University Law Center, '87, where she served as Associate Editor of the American Criminal Law Review). She served four terms in the IL House of Representatives, where she chaired the Judiciary Committee. She was also Vice-Chair of the Elections and Campaign Reform Committee. She has worked on Capitol Hill in Washington, D.C., and served on the staffs of Senators Alan Dixon and Paul Simon. A life-long community organizer, she has founded and/or served on numerous not-for-profit boards, including the Anti-Defamation League, the PTA, and the League of Women Voters. She is a former volunteer attorney at Prairie State Legal Services.

### 8. Hermene Hartman

Appointed 2015

Hon. Hermene Hartman is currently the Publisher of NDIGO, a successful weekly newspaper in Chicago started in 1989 targeting the black middle class. NDIGO was the first newspaper to profile President Barack Obama as a young Illinois Senator. She has been an on air radio personality for Clear Channel/IHeart Radio since 1997.

### 9. Steve Kim

Appointed 2015

Hon. Steve Kim is currently a managing partner at RKJ Legal, which is an international law firm with offices in seven countries. He also serves as General Counsel to several other international companies. Prior to this, Kim was General Counsel for Coils, Inc., directing all legal, regulatory and governmental affairs activities.

### 10. Diane M. Viverito

Appointed 2005

Hon. Diane M. Viverito is an Administrator in student development at Moraine Valley Community College; Founding member and past Chair of Study Illinois Consortium; and Advocate for community college international and diversity education.

### 11. David J. Walsh

Appointed 2011

Hon. David J. Walsh joined Mark J. Walsh & Company in 2011 as the head of business development. He worked as the Senior Vice President of advertising for the Minneapolis Star Tribune from 2008-2010. Prior to joining the Star Tribune, Walsh worked in a variety of positions within the Tribune Company, where his last position was as Vice President of advertising for the Los Angeles Times. Before joining the Times in 2005, he served as Vice President of Tribune Interactive, overseeing print and online classified strategies for 10 Tribune newspapers.

### 12. Patricia Bakalis Yadgir

Appointed 2011

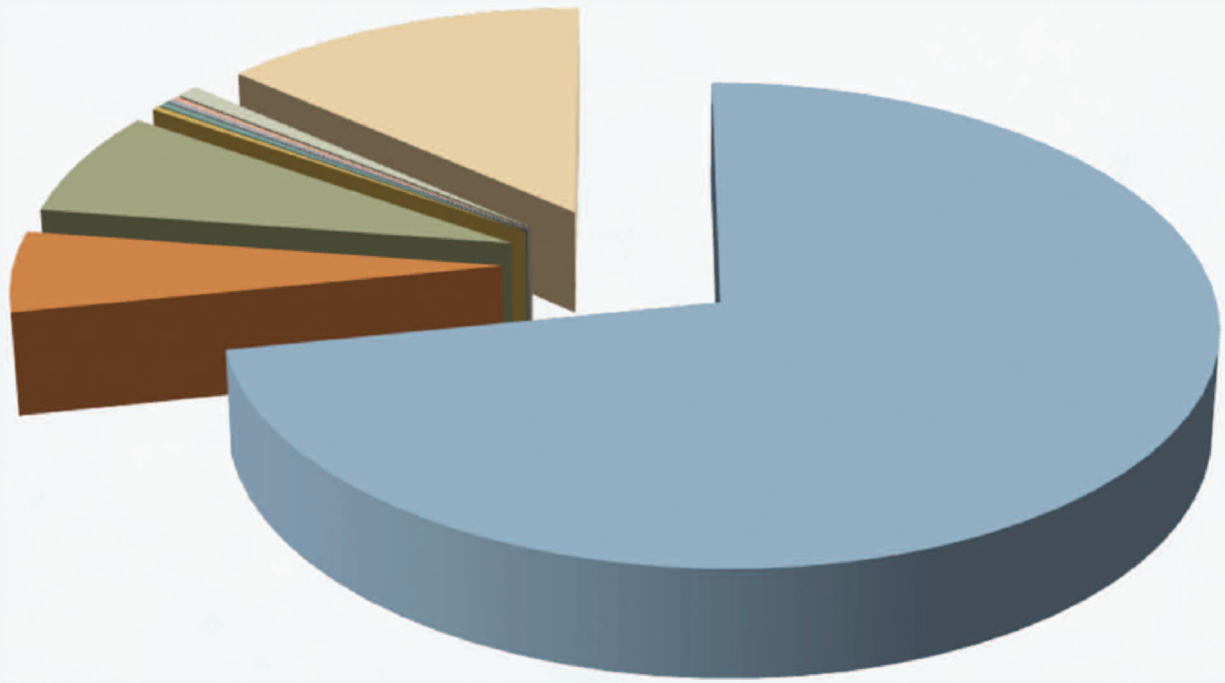
Hon. Patricia Bakalis Yadgir is Vice President of School Programs at American Quality Schools, an Educational Management Organization that runs 13 charter schools in the Midwest. She has worked over 25 years in the field of education as a counselor, instructor, and in administration within the Illinois Community College system.



**STATE OF ILLINOIS  
HUMAN RIGHTS COMMISSION**

**BUDGET APPROPRIATIONS FOR FISCAL YEAR 2015**

Personnel Services.....	\$ 1,588,100
Retirement – Contribution.....	\$ 0.0
Retirement – Pension Pick-Up.....	\$ 0.0
Social Security.....	\$ 121,500
Contractual Services.....	\$ 159,000
Travel.....	\$ 6,500
Commodities.....	\$ 7,000
Printing.....	\$ 2,000
Electronic Data Processing.....	\$ 2,500
Equipment.....	\$ 5,200
Telecommunications.....	\$ 18,000
Total Appropriations...(HRC).....	\$ 1,909,800
Torture Inquiry and Relief Commission.....	\$ 300,000
Total Appropriations.....	\$ 2,209,800

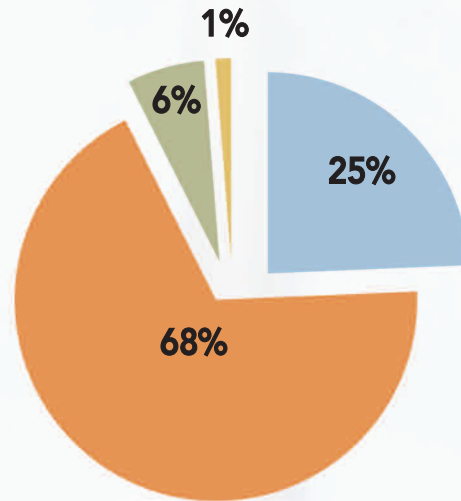


- Personnel
- Social Security
- Contractual
- Travel
- Commodities
- Printing
- EDP
- Equipment
- Telecom
- ITRC

Funding is appropriated annually from the state budget to cover all of the Human Rights Commission's statewide services to the people of Illinois.

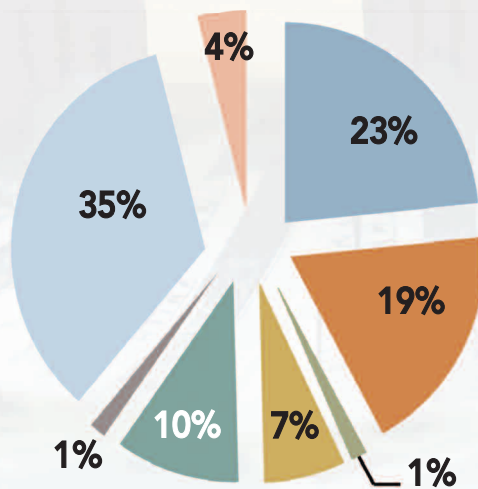
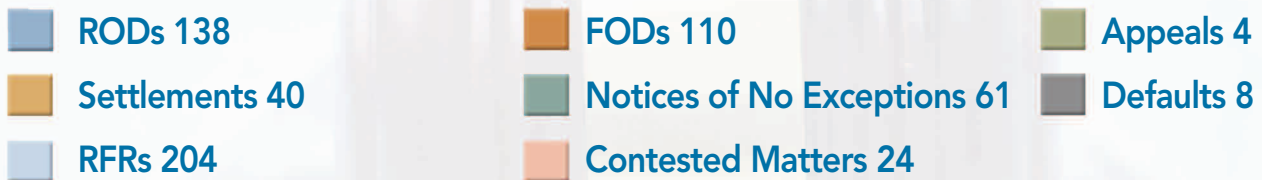
## COMMISSION OUTPUTS AT A GLANCE

### Commission Total Incoming Docket 2015



RFRs-Requests For Reviews

### Commission Decisions 2015



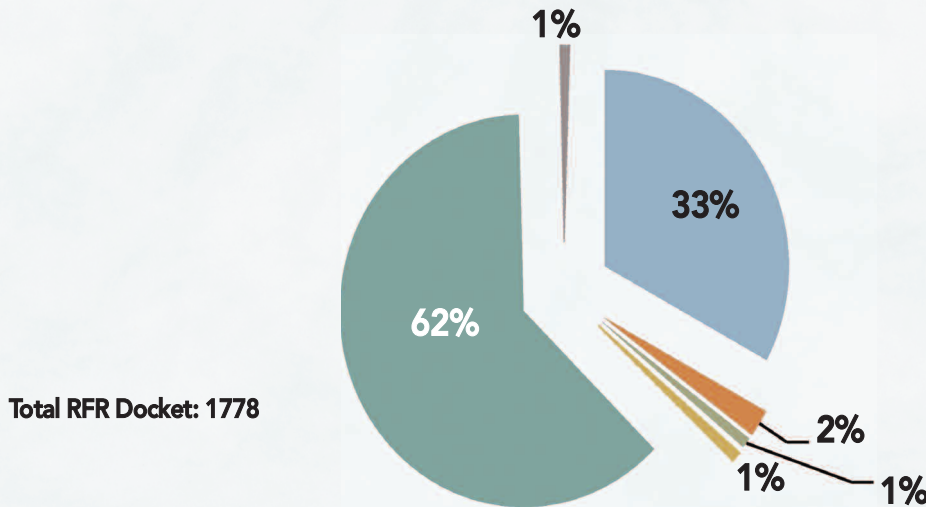
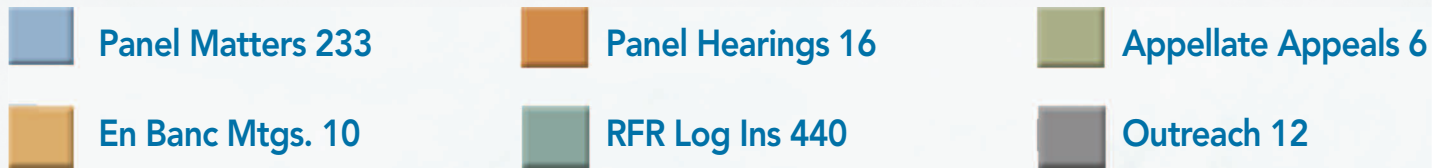
RODs-Recommended Orders and Decisions

FODs-Final Orders and Decisions

RFRs-Requests For Reviews

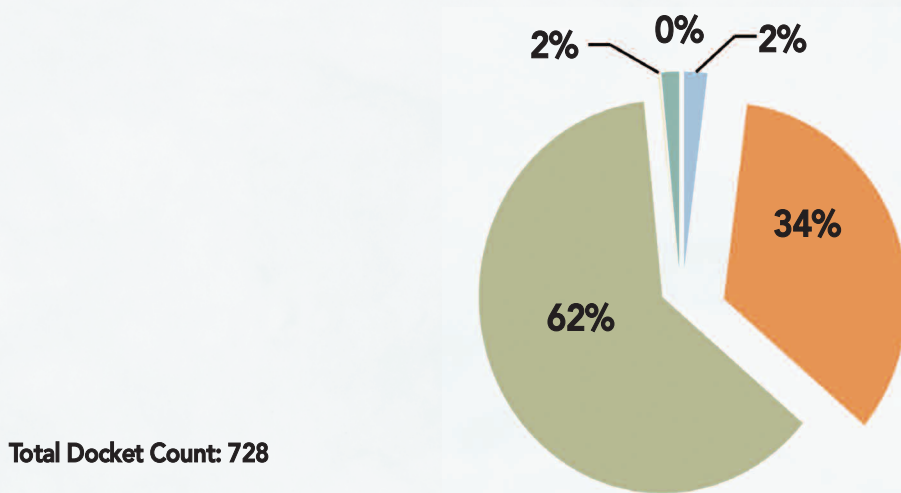
Total Disposition Rate: 62%

### Office of the General Counsel-Services 2015



- PANEL MATTERS**
- \* Contested 24
  - \* RFRs 104
  - \* Motions 59
  - \* Defaults 8
  - \* Settlements 40
- ENBANC MATTERS**
- \* Petition Rehearings 3
  - \* Certified Questions 0
- RFRs-Requests For Reviews

### Administrative Law Section Services 2015



ALJ- Administrative Law Judge

## OUTREACH ACTIVITIES

### Donyelle L. Gray, General Counsel

April 2, 2015 – Speaker at Chicago Bar Association’s Civil Rights and Constitutional Law Committee on the Illinois Human Rights Commission and the Illinois Human Rights Act

August 12, 2015 – Addressed students at City Hall (Chicago) who were participating in the Just the Beginning Foundation legal diversity pipeline summer program.

September 15, 2015 – Presenter at Chicago Bar Association’s Real Property Law/Condominium Subcommittee, surveying condominium cases decided by the Commission.

October 17, 2015 – Panelist at the Public Interest Law Initiative program entitled, “Explore the Possibilities: Public Interest Law Opportunities for Law Students.”

### Byron M. Wardlaw, Assistant General Counsel

January 6, 2015 – Annual Careers in Public Service at University of Illinois College of Law.

February 7, 2015 – Interviewer at 27th Annual Midwest Public Interest Law Career Conference, Northwestern University School of Law in Chicago.

February 18, 2015 – Panelist, Career in Public Interest Law, The John Marshall Law School Black Law Student Association.

April 2, 2015 – Speaker at Chicago Bar Association Civil Rights and Constitutional Law Committee on the Illinois Human Rights Commission and the Illinois Human Rights Act.

May 28, 2015 – Guest lecturer at the DePaul University School of Public Service, graduate school level, on administrative law and the functions of the Illinois Human Rights Commission.

August 14, 2015 – Facilitator, Professionalism Orientation Program, Illinois Supreme Court Commission on Professionalism at The John Marshall Law School.

August 19, 2015 – Facilitator, Professionalism Orientation Program, Illinois Supreme Court Commission on Professionalism at DePaul University College of Law.

### **Evelio Mora, Assistant General Counsel**

February 7, 2015 – Interviewer at 27th Annual Midwest Public Interest Law Career Conference, Northwestern University School of Law in Chicago.

November 10, 2015 – Chicago Area Law School Consortium Meet the Public Service Organizations Reception.

### **Michael Robinson, Administrative Law Judge**

April 2015, participated in – Illinois State Bar Association’s Ask a Lawyer Day.

April 2015, Tutored during the school year under a local literacy program.

March 2015, participated in – Illinois State Bar Association’s state finals of high school mock trials.

### **William Borah, Administrative Law Judge**

November 14, 2015 – Trial Judge at the American Bar Association’s Annual Employment Law Trial Advocacy competition, held at the USNDI federal court.

March 19, 2015 – Speaker at the Illinois State Bar Association, “Litigating, Defending and Preventing Employment Discrimination Cases: Practice Updates and Tips Concerning the Illinois Human Rights Act,” and “Surviving Summary Judgment Motions.”

March 13, 2015 – Moderator and Facilitator at the Illinois State Bar Association’s Seminar on Preliminary Injunctions.

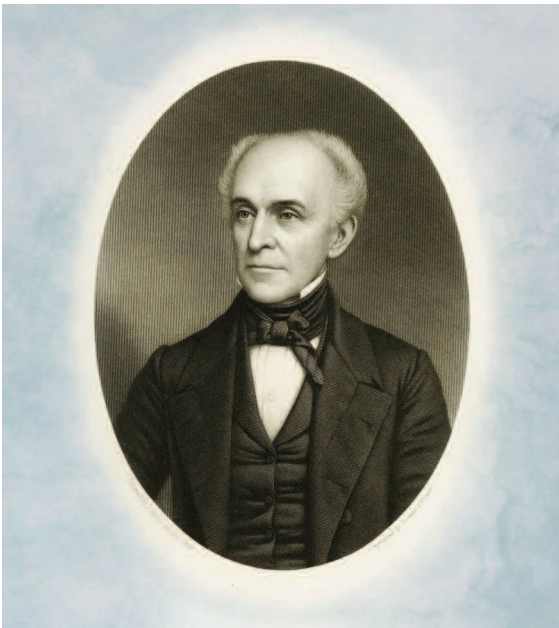
March 11, 2015 – Speaker on employment law, at Illinois State Bar Association’s Seminar for Executive Directors of Bar Associations.

February 21, 2015 – Evaluator for the South Suburban High School Moot Court Competition, held in Cook County’s Sixth District – Markham

February 5, 2015 – Trial Judge at the Midwest Regional Invitational Trial Competition of Law Schools, held in Cook County’s Daley Center.

November 15, 2014 – Trial Judge at the American Bar Association’s Annual Employment Law Trial Advocacy competition.

September 23, 2014 – Speaker at St. Thomas More Society of Northwestern Law School, spoke on “Eight Rules for a Young Attorney.”



## 2015 COLES FELLOWS AND VOLUNTEERS

### Holly Pope

Coles Fellow, Summer 2015  
Chicago-Kent College of Law

### Holly Sanchez-Perry

Coles Fellow, Fall 2015  
DePaul University College of Law

### Brooke Marie Sartin

Coles Fellow, Fall 2015  
DePaul University College of Law

### Alexa Castillo

Law and Public Safety Academy Intern  
Spring 2015  
Mather High School

### Sylvana James

Law and Public Safety Academy Intern  
Spring 2015  
Mather High School

### Emma Wilson

Volunteer / Summer 2015  
Downers Grove High School

## COLES FELLOWSHIP

### PROMOTING CIVIL RIGHTS LAW PRACTICE

## GOVERNOR EDWARD COLES FELLOWSHIP

The Governor Edward Coles Fellowship is named in honor of Edward Coles, (1786-1868), who served as the second Governor of Illinois from 1822 until 1826.

Decades before the Civil War, the new State of Illinois was a political battleground in the fight to end slavery. Illinois' second Governor, Edward Coles, defeated a hotly contested effort to change free Illinois into a slave state. Although his abolitionist positions meant political suicide, Coles passionately expounded the proposition that all people are created equal, regardless of race. Governor Coles was primarily responsible for Illinois remaining a free state before the Civil War.

The Illinois Human Rights Commission Governor Edward Coles Fellowship is a year-round internship program for first (summer only), second and third year law students interested in Civil Rights and Administrative Law. Fellows assist the HRC in advancing the anti-discrimination protections and policies of the Illinois Human Rights Act. Fellows are uncompensated.

The program is modeled after traditional summer associate programs found at many major law firms. The program offers students the opportunity to work on complex civil rights litigation under the guidance of subject matter experts and gives students the opportunity to view the inner workings of the state's tribunal system.

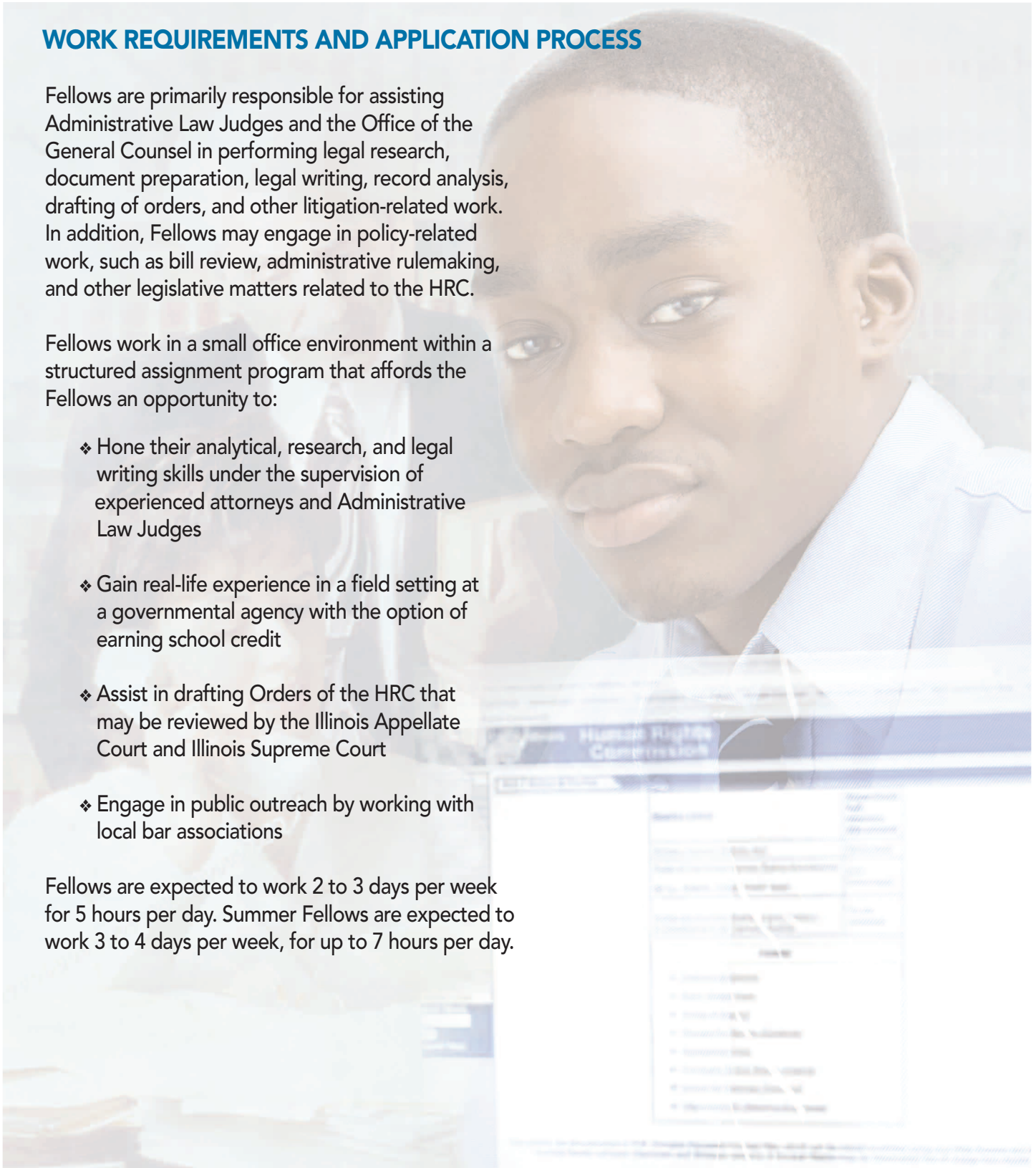
## WORK REQUIREMENTS AND APPLICATION PROCESS

Fellows are primarily responsible for assisting Administrative Law Judges and the Office of the General Counsel in performing legal research, document preparation, legal writing, record analysis, drafting of orders, and other litigation-related work. In addition, Fellows may engage in policy-related work, such as bill review, administrative rulemaking, and other legislative matters related to the HRC.

Fellows work in a small office environment within a structured assignment program that affords the Fellows an opportunity to:

- ❖ Hone their analytical, research, and legal writing skills under the supervision of experienced attorneys and Administrative Law Judges
- ❖ Gain real-life experience in a field setting at a governmental agency with the option of earning school credit
- ❖ Assist in drafting Orders of the HRC that may be reviewed by the Illinois Appellate Court and Illinois Supreme Court
- ❖ Engage in public outreach by working with local bar associations

Fellows are expected to work 2 to 3 days per week for 5 hours per day. Summer Fellows are expected to work 3 to 4 days per week, for up to 7 hours per day.





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# Illinois Torture Inquiry and Relief Commission

## ***2015 ANNUAL REPORT***



## STATE OF ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

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 convicted former Chicago Police Commander Jon Burge. The General Assembly was responding to the fact that a number of people convicted in that era were exonerated, and certain claims of torture that were disregarded at the time had been shown to be true.

Defendants who had claimed torture by Burge and officers who had been supervised by Burge had, in most cases, exhausted their regular appeal rights, as well as their automatic post-conviction remedies. The General Assembly empowered the Commission to investigate claims of torture related to Burge and those officers he had supervised. If the Commission finds that claims are sufficiently credible to merit judicial review, they are referred to the Circuit Court of Cook County for further proceedings. 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.

The Commission began work in late 2010. Activities of the Commission were delayed in part by organizational and funding issues. Nevertheless, the Commission adopted initial rules, hired staff, obtained the assistance of *pro bono* counsel, and began obtaining documents and reviewing claims. In late 2013, the Commission hired a new Executive Director and a Staff Attorney, who began work in January, 2014.

This report summarizes the work done by the Commission in 2015. Among the key activities this year:

- 1) The Commission addressed concerns that it accepted claims that may not have been within its jurisdiction. The Commission had, since its beginning, accepted the filing of claims of torture from any person convicted within Illinois. In 2014, the Commission formally determined that it likely did not have jurisdiction over claims of torture that were not against officers who had been supervised by Jon Burge. It issued an order to that effect, and notified the more than 100 claimants affected that their claims would likely not be processed by the Commission, unless there is an unexpected appellate ruling or a change in the statute.
- 2) The Commission addressed concerns that it had not always provided proper notice to crime victims of Commission proceedings. To address this issue, staff modified its practices to guarantee adequate notice. Staff also used due diligence to notify victims who had not been previously notified of Commission cases that were summarily dismissed or referred to Court by the Commission.

- 3) The Commission amended its rules, based on its experience during the first years of its existence. The amendments were approved by JCAR. In addition to procedural changes, the amendments:
  - ❖ Clarified that the Commission had jurisdiction over claims of torture against officers who were then supervised by Jon Burge, or had previously been supervised by Jon Burge.
  - ❖ Clarified procedures for notification to crime victims of Commission proceedings and appropriate participation by them.
- 4) Commission staff and the Chair have met with stakeholders concerning the Commission's activities, including the following:
  - ❖ The Chicago Law Department and Chicago Police Department. This has led to expediting the production of records from the City of Chicago.
  - ❖ The Illinois Attorney General's office, which represents the Commission in court.
  - ❖ The Illinois State Police, which may provide DNA testing in certain cases.
  - ❖ The Circuit Court Clerk's Office.
  - ❖ The Special Master appointed by Presiding Judge Paul Biebel of the Circuit Court of Cook County, Criminal Division. The Special Master is attempting to identify certain possible victims of torture, who may be entitled to appointment of counsel for the purpose of court proceedings. (This has no effect on the Commission's activities.)
- 5) Cases have been processed by the Commission and its staff. This effort has included re-investigating certain cases that were referred back to the Commission by the Circuit Court, investigating additional cases, and presenting new matters to the Commission for decision.
- 6) The Commission has recruited counsel to represent without charge claimants who are unrepresented. These attorneys will represent the claimants before the Commission.
- 7) The Commission has also renewed and expanded its relationships with large law firms who are serving as counsel to the Commission in investigating individual cases.
- 8) The statutory period for filing new claims of torture with the Commission expired in August, 2014. As of October, 2015, there were 24 cases pending before the Commission of persons who claimed that they were tortured by Burge, or people then under his supervision. Thirteen of these

*continued on page 27*

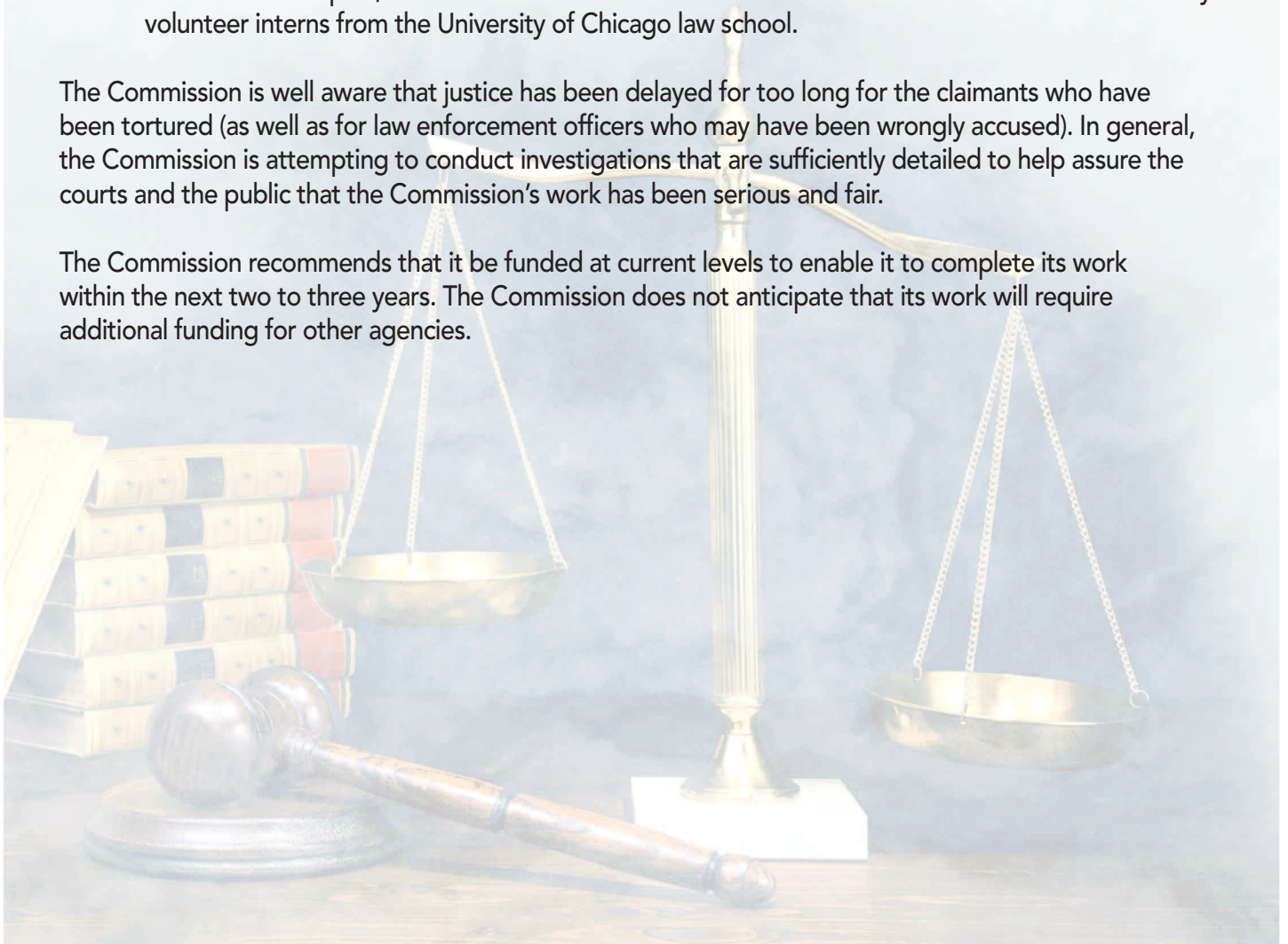
*Torture Inquiry and Relief Commission, continued from page 26*

claimants are still in custody and are entitled to statutory priority under the law creating the Commission because they are in prison solely because of a conviction for which they have a claim of torture against Burge himself, or officers who Burge directly supervised at the time. Commission staff are actively working on these claims. The Commission is assigning counsel, gathering documents, and investigating these priority cases.

- 9) We are assigning counsel and beginning to investigate the cases of persons who are in prison because of claims of torture against officers who were formerly supervised by Burge. There are approximately 61 of these cases remaining. Almost all of the claimants are still in custody.
- 10) The Commission has retained a retired federal law enforcement agent as a part-time investigator, and a medical expert, to review records in certain claims. The Commission also has been aided by volunteer interns from the University of Chicago law school.

The Commission is well aware that justice has been delayed for too long for the claimants who have been tortured (as well as for law enforcement officers who may have been wrongly accused). In general, the Commission is attempting to conduct investigations that are sufficiently detailed to help assure the courts and the public that the Commission's work has been serious and fair.

The Commission recommends that it be funded at current levels to enable it to complete its work within the next two to three years. The Commission does not anticipate that its work will require additional funding for other agencies.

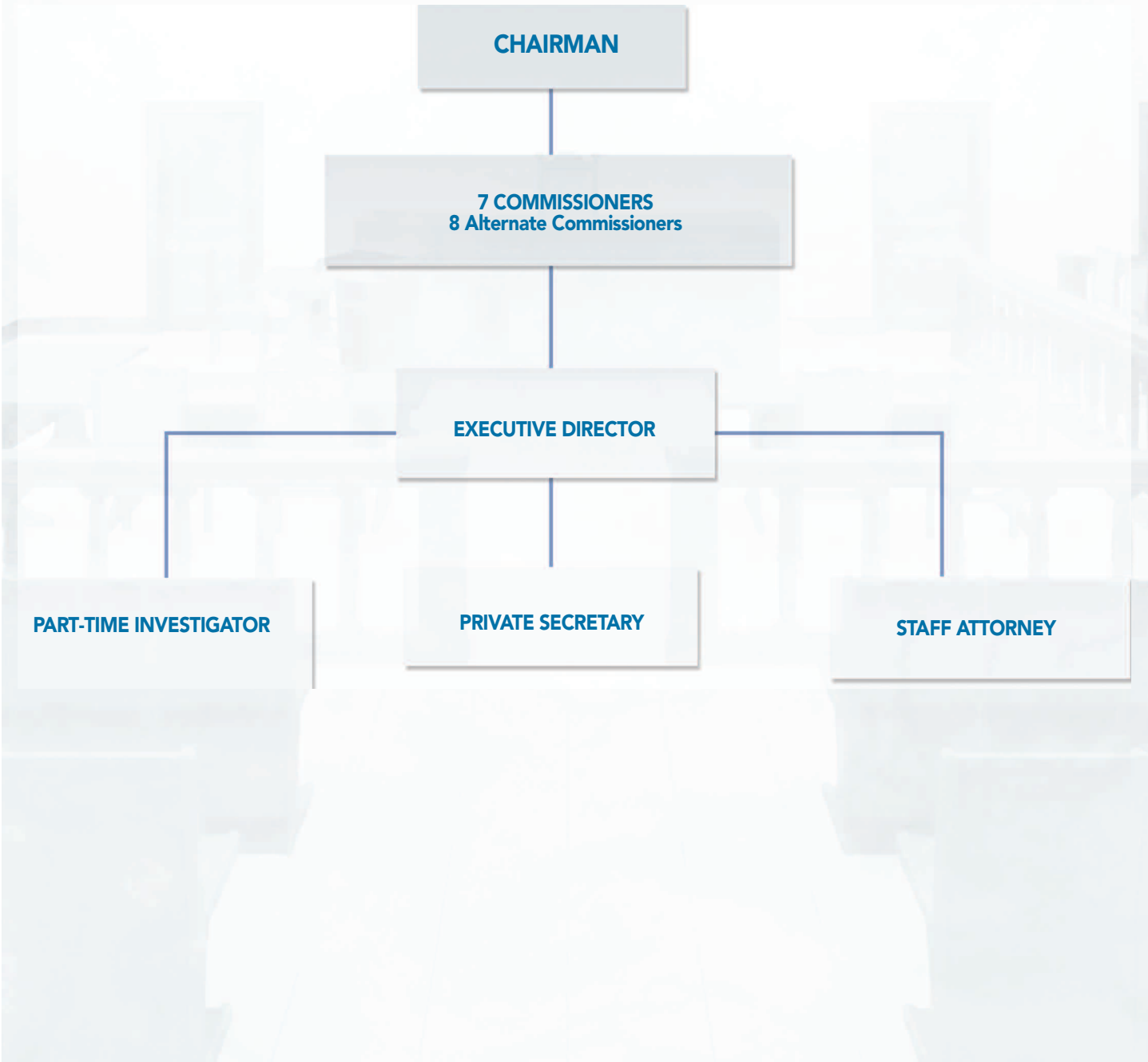


### ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION BOARD MEMBERS

Commissioners	Category	Date of Appointment
Cheryl Starks (Chair)	Former Judge	February 14, 2012
Robert Loeb	Law School Professor	May 8, 2015
Marilyn Baldwin	Public	June 26, 2015
Steven Miller	Criminal Defense Attorney	May 8, 2015
Hippolito (Paul) Roldan	Public	July 31, 2010
Marcie Thorp	Former Prosecutor	September 20, 2013
Shahram Dana	Former Public Defender	May 8, 2015
Rob Warden	Public	July 31, 2010

Alternate Commissioners	Category	Date of Appointment
Vacant Former	Judge	
Craig Futterman	Law School Professor	February 25, 2013
Doris J. Green	Public	July 31, 2010
Vacant	Criminal Defense Attorney	
Vacant	Public	
Vacant	Former Prosecutor	
Vacant	Former Public Defender	
Vacant	Public	

### ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION ORGANIZATIONAL CHART





**WE ARE HERE TO SERVE YOU. PLEASE CONTACT US ANYTIME.**

**ILLINOIS HUMAN RIGHTS COMMISSION**

James R. Thompson Center  
100 West Randolph Street, Suite 5-100  
Chicago, IL 60601  
Ph (312) 814-6269  
Fax (312) 814-6517

OR

**ILLINOIS HUMAN RIGHTS COMMISSION**

William G. Stratton Building  
Room 802  
401 South Spring Street  
Springfield, IL 62706  
Ph (217) 785-4350  
Fax (217) 524-4877  
Web ([www.state.il.us/ihrc](http://www.state.il.us/ihrc))

Rose Mary Bombela - Tobias, Chair  
N. Keith Chambers, Executive Director

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