



State of Illinois
Human Rights Commission

Illinois Human Rights Commission

2016 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 **Public Act 99-0758** amended the HRA at **775 ILCS 5/2-101** to allow “domestic servants in private homes” to be considered employees within the meaning of the HRA, and thus subject to protection under the HRA.

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

December 15, 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 2016.

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. The men and women of the Commission perform this task with great pride and integrity, meeting the needs of what we believe to be some of the most vulnerable constituencies in our State: those that have been either victims or have been falsely accused of discrimination under the Act.

We thank Governor Rauner, the members of the General Assembly, the Department of Human Rights and the general public for their support of our efforts.

This year the Commission's annual intake was 640 cases with a disposition rate of 59%. At the end of fiscal year 2016, the Commission had 1,946 Requests for Review pending, which constitutes an increase of 17% to the docket. We are also pleased to highlight the quality of service by staff and commissioners, as the Commission has maintained a 95% plus affirmation rate within the appellate court system of Illinois.

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
RACE AND AGE DISCRIMINATION IN
EMPLOYMENT**

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

**Kevin Williams v. Jacobsmeyer-Mauldin
Construction Company.**

In his Complaint of Civil Rights Violation, the Complainant, who is African American, alleged employment discrimination based on race. The Complainant was employed by the Respondent as a Journeyman Ironworker to work on an outdoor building project. The Complainant was terminated, allegedly because he had engaged in a verbal altercation with a co-worker. However, the Complainant alleged that Caucasian co-workers who had also engaged in verbal altercations with co-workers had not been terminated. Under the Illinois Human Rights Act, employees cannot be subjected to race-based differential treatment in the assessment of discipline. The Respondent failed to answer the Complaint. As a result, it was held in default and thus liable for a civil rights violation under the Illinois Human Rights Act. The Complainant was represented by an attorney at a damages hearing before the Commission. In addition to back wages, attorney fees and costs, the Complainant also sought an award for emotional distress in the amount of \$ 7,500.00. The Complainant testified that he felt disrespected and frustrated due to the double-standard in the treatment of the Respondent's employees. He further testified that he feared retaliation in the form of an "accident" at other work sites because it was common knowledge in his industry that he had sued the Respondent for discrimination. The Commission determined the Complainant had established a viable claim for emotional distress damages and that his suggested amount was reasonable. In total, the Complainant was awarded \$ 158,260.88 in back wages, plus pre-judgment interest, \$ 7,500.00 in emotional distress damages, and \$ 4,378.00 in attorneys' fees.

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, Assistant General Counsel, and Administrative Support Staff.

REQUEST FOR REVIEW

When the Illinois Department of Human Rights (DHR) dismisses a charge of discrimination, the Complainant may either file a Request for Review with the HRC or file a Complaint with the appropriate circuit court within 90 days following issuance of the DHR's Notice of Dismissal. When a Request for Review results in the HRC sustaining the DHR's dismissal, the Complainant may appeal the HRC's decision in the Illinois Appellate Court. When the DHR issues a Notice of Default against a Respondent to a charge of discrimination, the Respondent has 30 days to file a Request for Review. If the HRC sustains the default, the Complainant may ask the Commission to schedule a damages hearing before an Administrative Law Judge or the Complainant may commence a civil action in the appropriate circuit court.

FILING A COMPLAINT

If the DHR finds substantial evidence of discrimination and issues notice, or if the DHR fails to complete its investigation of the charge within 365 days, then within 90 days thereafter the Complainant must either: (1) File a Complaint of Civil Rights Violation with the HRC, or (2) Commence a civil action in the appropriate circuit court.

CASE STUDY NO. 2 SEXUAL HARASSMENT AND CONSTRUCTIVE DISCHARGE

Illinois Human Rights Act, 775 ILCS § 5/2-102(B)

Tina Loosa v. Hammer Financial Corporation & Joseph Hammer

The Complainant worked in the Respondent's office. The Complainant alleged her supervisor, the individual Respondent Hammer, engaged in egregious behavior amounting to sexual harassment. During the single incident, the supervisor blocked her in a seat and attempted to kiss her; licked her face; informed her that because of his size and the fact that he was an ex-body builder, he could do anything he wanted to her, and that she should just "go along with it"; prevented her from getting out of the seat in her attempt to evade his unwanted advances; physically pinned her arm down so she could not leave; and continued to lick her face, while threatening that he could do whatever he wanted. The Complainant was able to escape from the chair when the supervisor was distracted by a ringing telephone; she was able to push his arm away and run out of the room. She did not return to the job. The Complainant at the time was five foot five inches, and she weighed 120 pounds. The supervisor was 220 pounds. During a damages hearing, the Complainant testified that she suffered emotional distress, in that she had nightmares, she felt terrified and trapped, and she continued to feel uncomfortable and scared around male authority figures who stood too close to her. She was left with feelings of shame and unworthiness. In addition to back pay and other make-whole relief, the Complainant sought an award of \$ 65,000.00 for emotional distress. After reviewing prior Commission cases in which litigants had been subjected to harassment and discrimination of a short duration, but of an egregious nature, the Commission determined that the facts of this case warranted an emotional distress award of \$ 95,000.00. The Complainant was also awarded \$ 40,832.63 in back pay and \$5,159.00 for attorney fees.

**CASE STUDY NO. 3
EMPLOYMENT DISCRIMINATION BASED ON
PERCEIVED DISABILITY, HIV POSITIVE
STATUS; EQUITABLE ESTOPPEL**

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

Charles Hughes v. Andersen's Cafe

The Complainant filed a complaint against the Respondent, a local restaurant, alleging harassment and constructive discharge based on perceived disability, HIV-positive status.

Rumors began circulating among the Respondent's patrons that the Complainant was HIV-positive. The Respondent demanded the Complainant present proof of his negative status to combat the rumors, which the Respondent believed was affecting its business. The Complainant provided the Respondent with a medical report indicating his negative status.

One day the Complainant came into work and noticed patrons snickering at him. He discovered that the Respondent had posted his medical report on the Respondent's wall where all of the Respondent's patrons could view the report. The Complainant left before the end of his shift, embarrassed by the ridicule he was being subjected to by the patrons. He did not return to the workplace. He thereafter filed a charge of discrimination with the Illinois Department of Human Rights on September 26, 2008, alleging harassment and constructive discharge based on perceived disability.

The Complainant agreed to the Department's request to extend its investigation time by 300 days. The Respondent did not agree to extend the investigation time. Both parties must agree to extend the Department's time to investigate a charge. However, a 300-day extension was entered into the Department's system.

Thereafter, the Department sent the Complainant a letter informing him that his 90-day timeframe to file a complaint with either the Commission or the circuit court would run from 7/24/10 to 10/21/10.

On July 29, 2010, the Department sent the Complainant a letter informing him that its time to

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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.

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investigate had expired and he could file a complaint. On August 9, 2010, the Department discovered that the Respondent had never agreed to the extension of time. Thereafter, the Department sent the Complainant a new letter, which informed the Complainant his complaint had to be filed between 9/27/09 and 12/25/09, which dates had already passed.

On August 17, 2010, the Complainant filed his complaint with the Commission.

Once before Commission Administrative Law Judge ("ALJ") Michael Robinson, the Respondent filed a motion to dismiss the complaint, arguing that the Commission lacked jurisdiction because the Complainant failed to file the complaint within 90 days following the expiration of the Department's time to investigate the charge. Applying the theory of equitable estoppel, the ALJ denied the motion.

Generally, equitable estoppel applies to prevent a litigant from being deprived of a right when the litigant has been misled by the other party. The timeframes in the Human Rights Act are jurisdictional and usually equitable principles cannot be applied to extend the timeframes set forth in the HRA. A narrow exception to this rule is applicable when a charge is untimely filed because of a party's misleading conduct.

The matter subsequently proceeded to a public hearing.

Following the public hearing, the ALJ issued a Recommended Order and Decision ("ROD") in favor of the Complainant. He addressed in detail the equitable estoppel issue. He determined that the Illinois appellate courts were split on the issue of whether or not equitable tolling principles should apply to the 90-day statutory timeframe in the HRA for filing complaints. ALJ Robinson determined that based on U.S. Supreme Court case law, the Complainant had a protectable property interest in his discrimination complaint. He further determined that the case law cited by the Respondent in support of its position that equitable estoppel was inapplicable to the HRA did not take that property interest into consideration. ALJ Robinson

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found the case law in support of the applicability of equitable tolling to the 90-day timeframe to be more compelling and also suggestive of the ultimate direction of courts and of the Commission's position. Therefore, he determined that equitable estoppel applied and, after considering other factors relevant to the equitable estoppel analysis, determined the Commission had jurisdiction over the complaint.

ALJ Robinson further determined that the Complainant had proven the merits of his complaint by a preponderance of the evidence. ALJ Robinson recommended an award of \$ 1,650.00 in back wages, \$ 20,000.00 for emotional distress, reinstatement to the Complainant's position, clearing of the Complainant's personnel record, and that the Respondent cease and desist from any further discrimination.

The Respondent filed exceptions to the ROD. A panel of three Commissioners declined review, making the ROD the Order of the Commission.

The Respondent filed a timely Notice of Appeal with the Illinois Appellate Court. The Respondent's primary argument concerned the applicability of equitable estoppel to the HRA's 90-day timeframe for filing a complaint with the Commission. If the appellate court agreed with the Respondent that equitable estoppel did not apply, that would mean the Commission had never acquired jurisdiction over the complaint and the Commission's Order would be vacated.

However, that issue never reached the Appellate Court because the Respondent-Appellant failed to timely file its opening brief. As such, the Appellate Court dismissed the appeal for want of prosecution.

Therefore, the Commission's Order in the Andresen matter stands as undisturbed Commission precedent regarding the applicability of equitable estoppel to a situation where error by the Department causes a litigant to be misled into missing a jurisdictional filing deadline under the Illinois Human Rights Act.

CASE STUDY NO. 4 **RACE AND DISABILITY DISCRIMINATION IN REAL ESTATE** **REQUEST FOR REVIEW**

Illinois Human Rights Act, 775 ILCS §§ 5/3-102(B) & 3-102.1(B)

Carol Butcher-Brack v. Twelve Oaks at Morningside Condominium Association, Inc.

Carol Butcher-Brack, the Petitioner, who is African American, was a lessee of a condominium located at Twelve Oaks at Morningside Condominiums ("Morningside"). The Petitioner lived in the condominium unit with her daughter, who has a mental disability.

Morningside attempted to terminate the Petitioner's tenancy because it contended it had received complaints that residents were fearful due to the Petitioner's daughter sleeping in the lobby. Morningside also claimed the Petitioner had been belligerent to a maintenance man and that she had failed to provide a copy of her current lease to the Respondent's Board of Directors. It was the duty of the unit owner to provide the Board with a copy of the lease, which the unit owner subsequently did do.

The resident complaints were based on at least two instances where the Petitioner's daughter had fallen asleep while sitting on furniture in the building lobby and while sitting on a lounge chair by the swimming pool.

The Petitioner filed a charge of discrimination with the Illinois Department of Human Rights. The Petitioner alleged that Morningside subjected her to discriminatory terms and conditions of tenancy because of her race, and because of her association with her disabled daughter (Count B). The Department dismissed the charge for lack of substantial evidence, and the Petitioner filed a request for review of the Department's determination with the Commission.

In her Request, the Petitioner argued that the record showed that she and her daughter had suffered heightened hysteria because of their race and her daughter's disability. The Petitioner argued that she was not treated the same as similarly situated residents outside her protected classes who had a complaint lodged against them: those tenants were issued notices and given the opportunity to take corrective action, while she was immediately served with two notices of termination of tenancy. Additionally, the Petitioner presented evidence that the complaining residents based their complaints on her daughter's manner of dress and appearance (on one occasion, she was wearing a hooded-sweatshirt), and that they made reference to her daughter's mental disability. The complaining residents also attempted to thwart her daughter's presence in the common areas by seeking to have the furniture removed.

In request for review proceedings before the Commission, the Department is the Respondent. The Department filed a response with the Commission, asking that its dismissal of the charge be sustained for lack of substantial evidence. The Department argued there was no substantial evidence of a nexus between the adverse action (notices of termination of tenancy) and either the Petitioner's race or her daughter's disability.

The Commission reviews requests for review de novo, and decides independently, based on the evidence presented, whether or not substantial evidence of discrimination exists. "Substantial evidence" is evidence which a reasonable mind accepts as sufficient to support a particular conclusion and which consists of more than a mere scintilla, but may be somewhat less than a preponderance.

In this case, the Commission found no substantial evidence of race discrimination. However, the Commission found that there was substantial evidence to support the allegations of disability discrimination. The Commission found it notable that the resident complaints which Morningside acted upon referenced the Petitioner's daughter's mental state in relation to her conduct. There was no proof that the Petitioner was otherwise in violation of the terms and conditions of her lease. The Commission found that there was substantial evidence that the lawful reason articulated by Morningside for Issuing the notices were pretextual, and that there was substantial evidence that the adverse action was in fact motivated in response to the Petitioner's daughter's mental disability.

Therefore, the Commission vacated the Department's dismissal of Count B of the charge and directed the Department to enter a finding of substantial evidence as to the Petitioner's disability discrimination claim.



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***

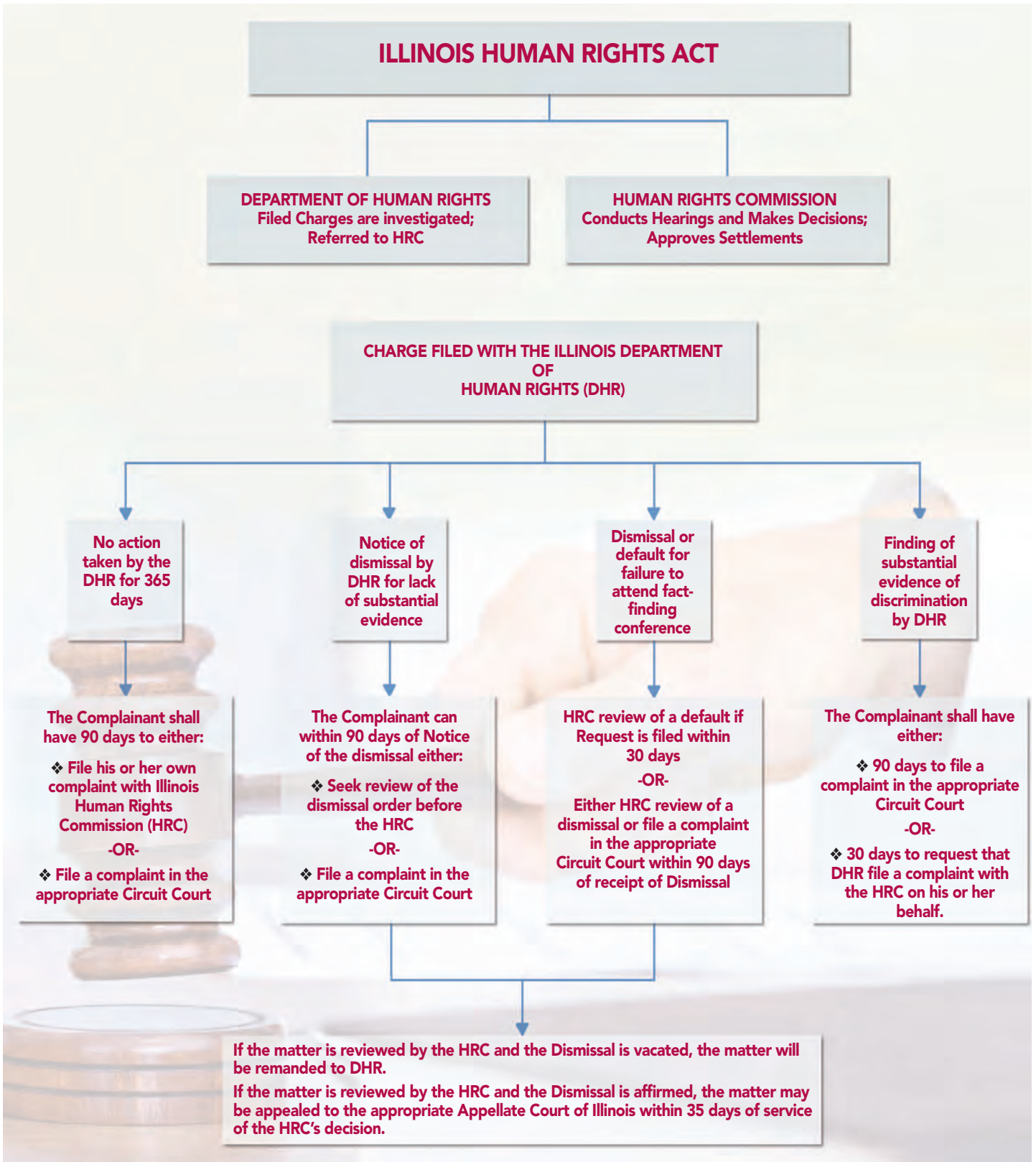
The Complainants, who are hearing-impaired, reside in a condominium unit in a complex managed by the Respondent. In November 2010, the Complainants filed a charge of discrimination with the Illinois Department of Human Rights ("DHR"), alleging the Respondent subjected them to discriminatory terms, conditions, 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.

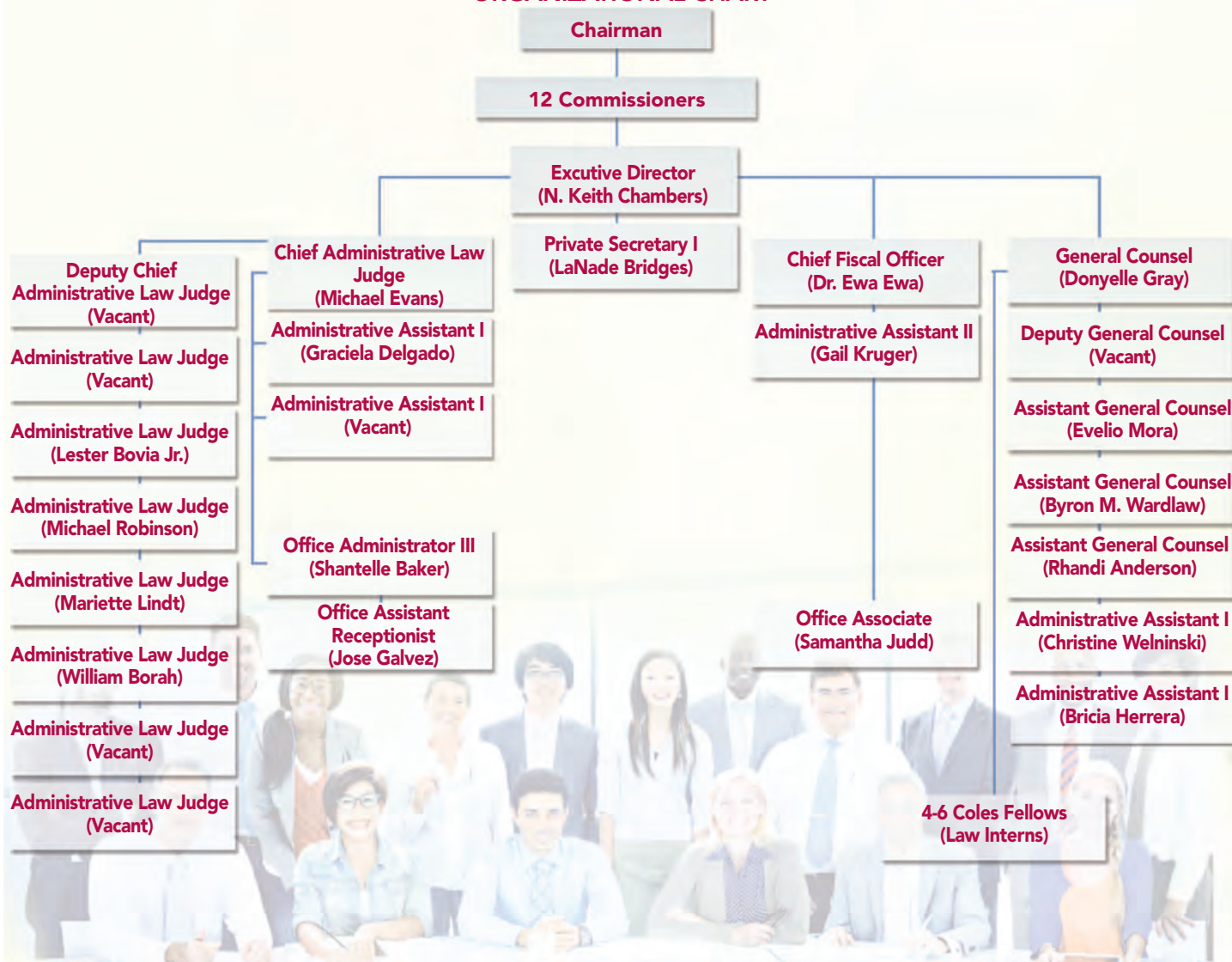


THE COMMISSION PROVIDES A NONPARTISAN FORUM TO RESOLVE COMPLAINTS OF UNLAWFUL DISCRIMINATION

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 2016 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. Michael Bigger

Appointed 2015

Hon. Michael Bigger has been a State Farm Insurance Agent for 35 years operating the only full time State Farm Insurance agency ever in Stark County, Illinois with an office in Wyoming, Illinois. In addition to Mr. Bigger’s extensive small business ownership experience, he has also had significant civic and community experience. Mr. Bigger is the former Chairman of the Stark County Board having served on the Board from 2000-2012, and serving as Chairman 2004-2012. Mr. Bigger also founded and chaired the Stark County Economic Development Partnership Group, a public private collaborative county wide economic development apparatus serving all of Stark County, Illinois. Mr. Bigger is also the former President of the Wyoming Chamber of Commerce, and Wyoming Lion’s Club.

5. 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.

6. Amy Kurson

Appointed 2016

Hon. Amy Kurson, an attorney, is a managing partner at the law firm of Reyes Kurson, Ltd. Ms. Kurson has extensive experience in real estate development, municipal law, and environmental compliance. Ms. Kurson previously served as a Commissioner on the Illinois Liquor Control Commission. Ms. Kurson was appointed a Commissioner of the Illinois Human Rights Commission in March 2016.

7. 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.

8. 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.

9. 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.

10. 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.

11. 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, Mr. Kim was General Counsel for Coils, Inc., directing all legal, regulatory and governmental affairs activities.

12. 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.

13. Patricia Bakalis Yadgir

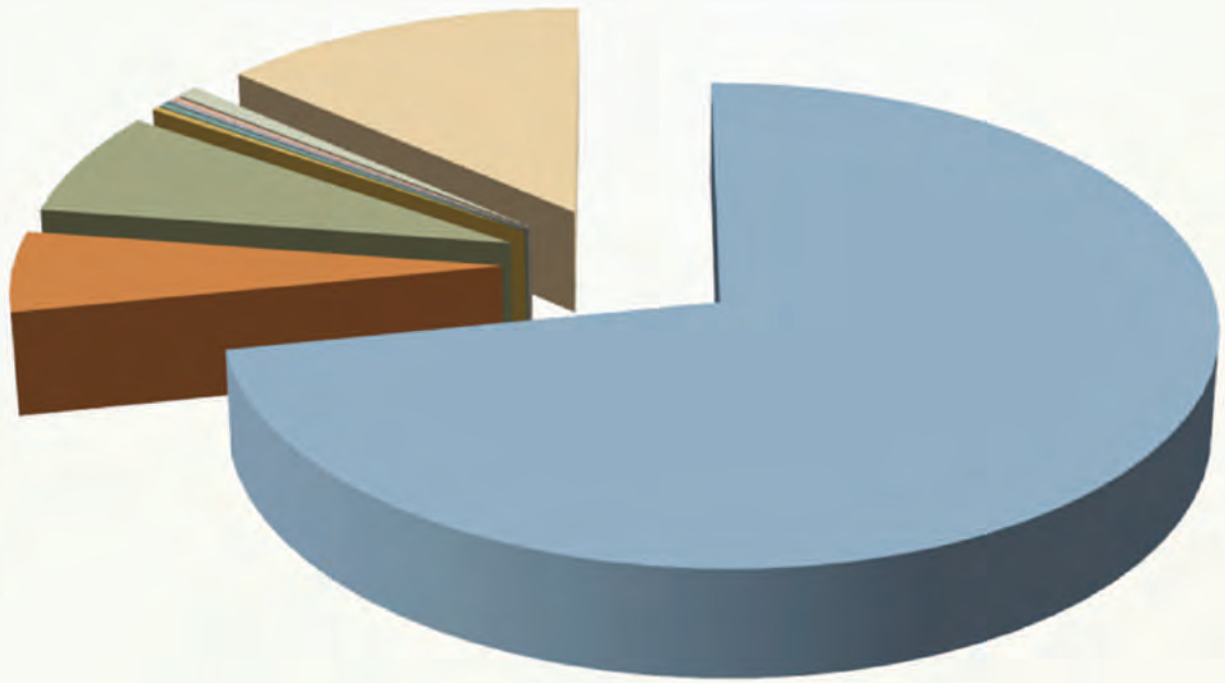
Appointed 2011











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 2016

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

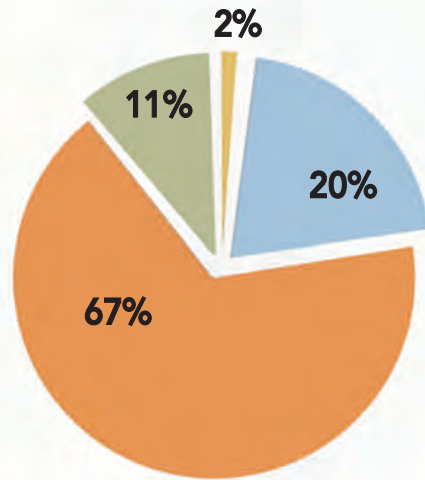


-  Personnel
-  Social Security
-  Contractual
-  Travel
-  Commodities
-  Printing
-  EDP
-  Equipment
-  Telecom
-  ITRC

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

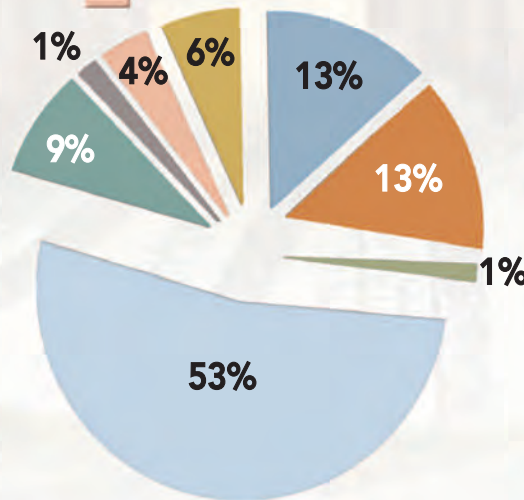
COMMISSION OUTPUTS AT A GLANCE

Commission Total Incoming Docket 2016



R4Rs-Requests For Review

Commission Decisions 2016



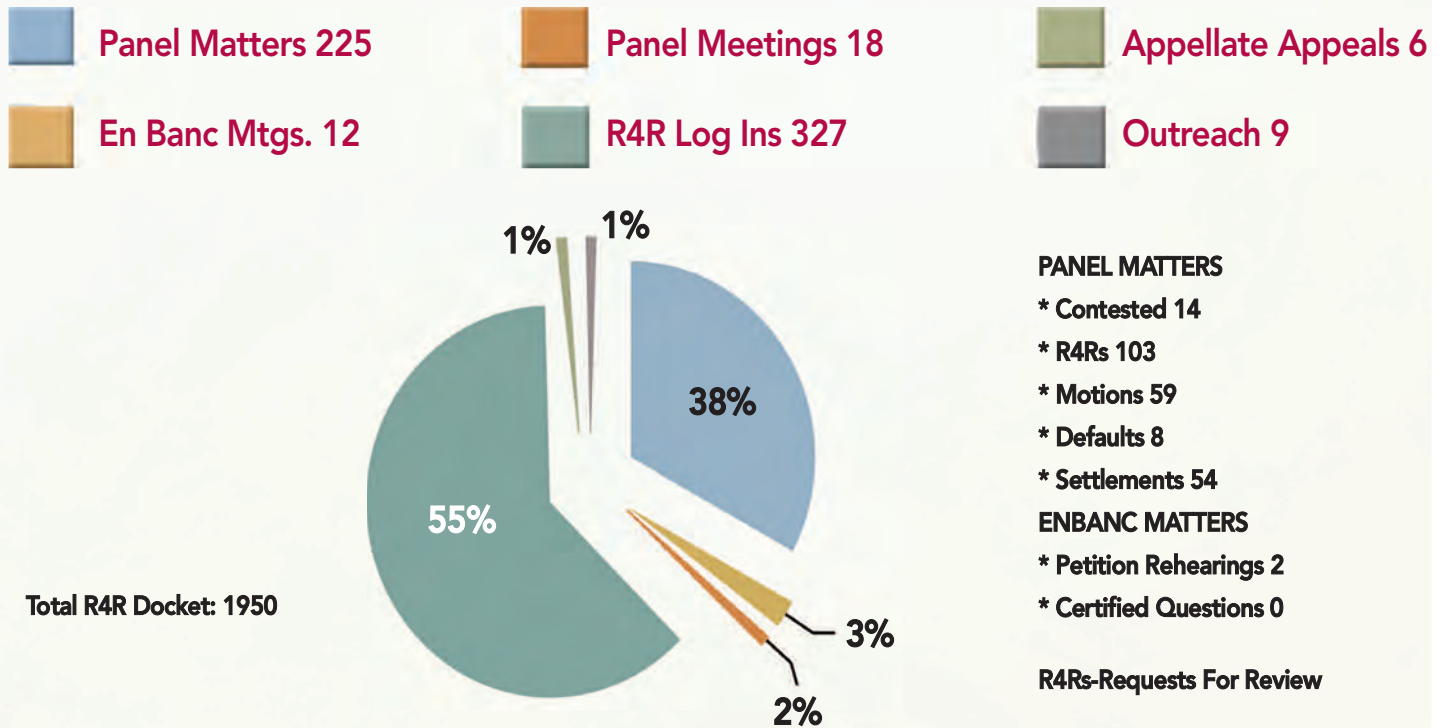
RODs-Recommended Orders and Decisions

FODs-Final Orders and Decisions

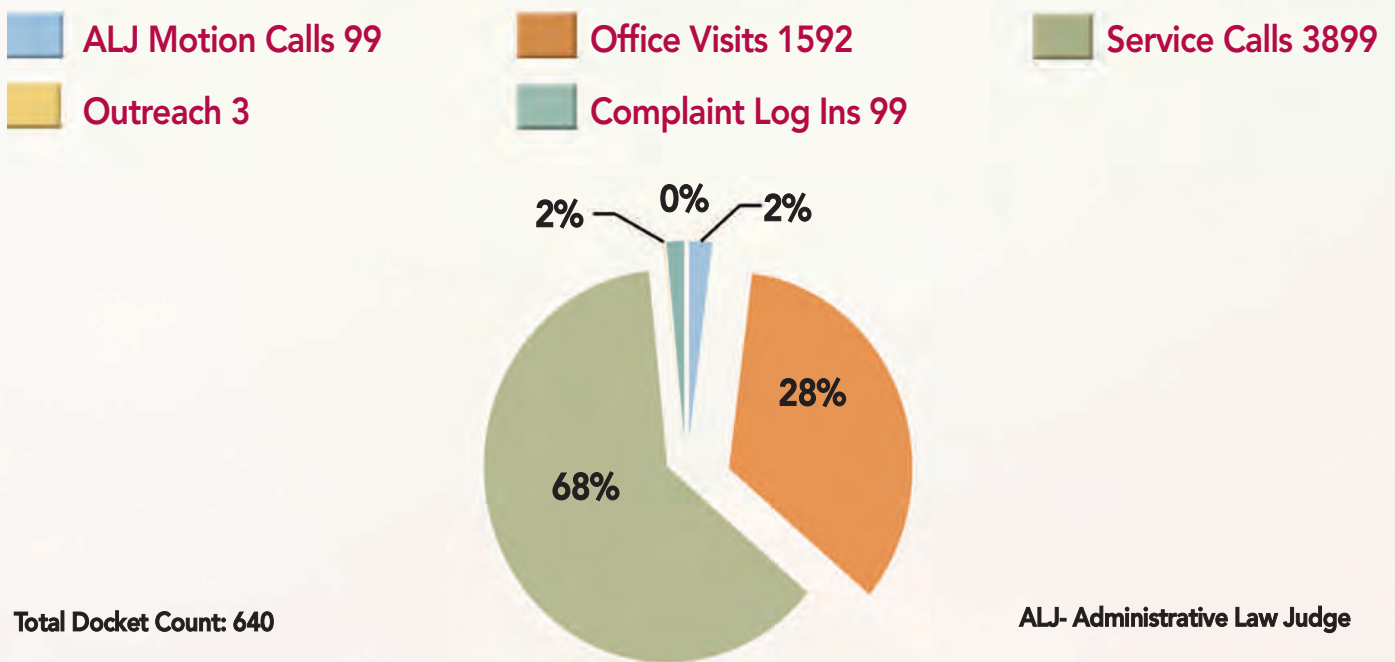
R4Rs-Requests For Review

Total Disposition Rate: 59%

Office of the General Counsel-Services 2016



Administrative Law Section Services 2016



OUTREACH ACTIVITIES

Donyelle L. Gray, General Counsel

January 21, 2016 — Panelist at a roundtable assembled by the Black Women Lawyers Association, focused on public sector African-American female general counsels in the State of Illinois.

April 13-15, 2016 — Host Committee member for the American Bar Association's 2016 Litigation Section Annual Conference.

July-August 2016 — Led legal content review, as pertaining to Illinois state law, of the United States Breastfeeding Committee's publication: *"Guide to the Rights of Breastfeeding Employees in Illinois."*

October 27-28, 2016 — Panelist at the National Bar Association Labor and Employment Section Annual Conference, addressing the topic: *"Same-sex marriage, Religion, and the Workplace: Accommodating Constitutionally Protected (and Potentially Competing) Rights."*

December 2, 2016 — Panelist at the 32nd Annual Illinois Public Sector Relations Law Conference, addressing the topic: *"LGBT Rights: Gender Identity and Sexual Orientation in the Workplace."*

Byron M. Wardlaw, Assistant General Counsel

January 5, 2016 — Attended the *5th Annual University of Illinois College of Law Careers in Public Service* reception on behalf of the Commission and informed students who were interested in public interest and government work about the work of the Commission and its Coles Fellowship program.

January 31, 2016 — Panelist addressing *"State of Black LGBTQ Same Gender Loving: Chicago 2016,"* where he spoke about Civil Rights protections.

February 6, 2016 — Interviewer at the *2016 Midwest Public Interest Law Career Conference*, Northwestern University School of Law in Chicago.

Evelio Mora, Assistant General Counsel

February 6, 2016 — Interviewer at the *2016 Midwest Public Interest Law Career Conference*, Northwestern University School of Law in Chicago.

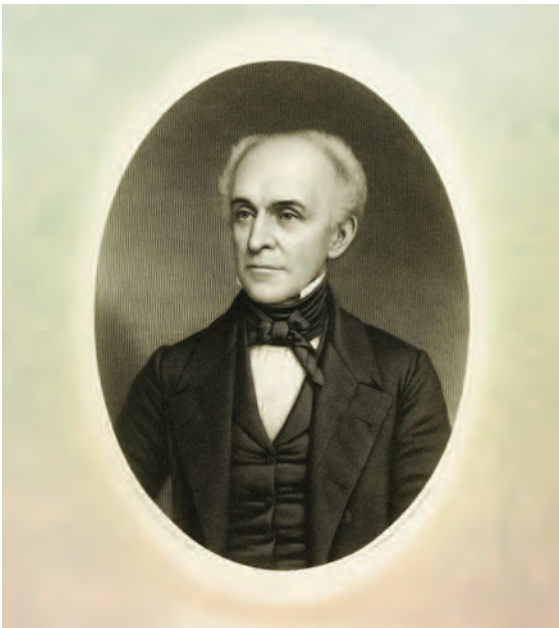
William Borah, Administrative Law Judge

November 14, 2016 — Trial Judge for American Bar Association's Annual Law Trial Advocacy Competition.

Michael Robinson, Administrative Law Judge

April 2016 — Participated in the Illinois State Bar Association's "Ask a Lawyer Day."

March 2016 — Judge for Illinois State Bar Association's high school mock trial finals.



2016 COLES FELLOWS AND VOLUNTEERS

Sarah-Joël Privert

Coles Fellow, Summer 2016
The John Marshall Law School

Manpreet Kaur Teji

Coles Fellow, Summer 2016
The John Marshall Law School

Janet Kolaparan

Law and Public Safety Academy Intern
 Spring 2016
Mather High School

Michael Romero

Law and Public Safety Academy Intern
 Spring 2016
Mather 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.

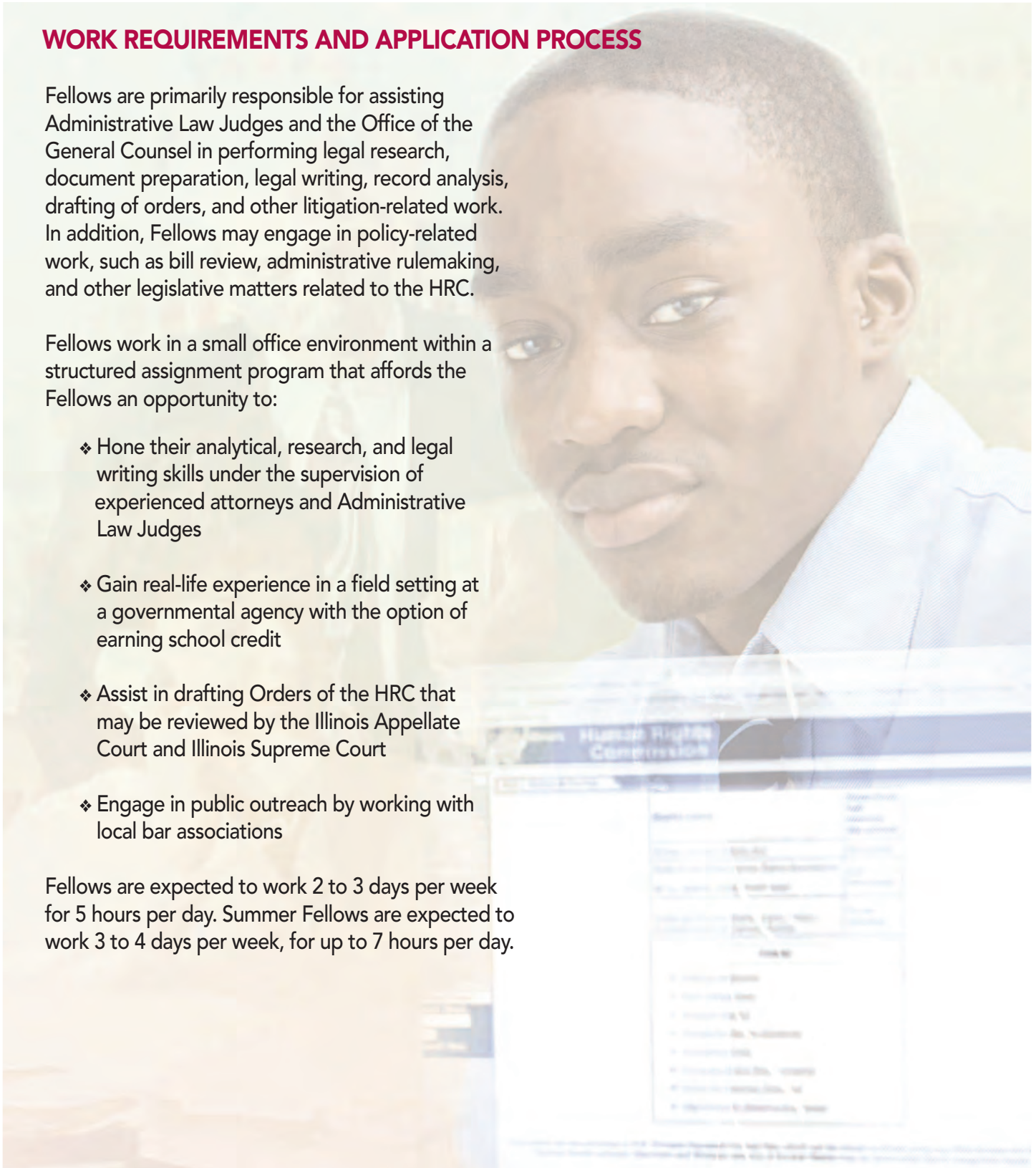
WORK REQUIREMENTS AND APPLICATION PROCESS

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.



Illinois Torture Inquiry and Relief Commission

2016 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.

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. Executive Director Barry Miller resigned at the end of July, 2015, and Staff Attorney Rob Olmstead acted as interim executive director until his formal hiring as Executive Director on January 20, 2016. Private Secretary Roxana Malene was hired in late September, 2015. She brings to the Commission experience with the Chicago Law Department and with the Extraordinary Chambers in the Courts of Cambodia.

Calendar year 2016 heralded a sea change in the jurisdiction of the Commission. In 2014 and 2015, the Commission worked to clarify its rules and issued its decision in *In re Claim of Jaime Hauad*, making clear that it had jurisdiction only in those cases where Jon Burge was actively supervising the accused officers (Core Burge cases) or where the accused officers had been previously supervised by Jon Burge (Former Burge Cases). Previously, the Commission had taken the view that it had jurisdiction over any claim of torture in the state.

On March 25, 2016, the Illinois Appellate Court issued *People v. Harvey Allen, Jr.*, 2016 IL App (1st) 142125, confirming that the Commission had no jurisdiction in cases unrelated to Burge. Six days later, the Court issued the combined opinion of Scott Mitchell and Darrell Fair v. *People of the State of Illinois*, 2016 IL App (1st) 141109, over-ruling a trial court and adopting the Commission’s view that the Commission did, in fact, have jurisdiction over Former Burge cases.

In apparent response to the Allen decision, the legislature on May 25, 2016, passed Senate Bill 392, removing the TIRC Act’s requirement that Jon Burge be involved in the claim of torture and expanding jurisdiction to all claims of torture in Cook County. Governor Bruce Rauner signed the bill into law July 29, 2016 (Public Act 99-688). The Act also re-opened the period in which people could file claims, which had closed on August 10, 2014. The new legislation allows claims to be filed until August 10, 2019.

At the time of the Act’s passage, the Commission had remaining approximately 210 unadjudicated claims. However, only 80 were believed by the Commission to be within its jurisdiction under its 2014 rules and the Hauad decision. Most of the claims (approximately 130) were non-Burge claims that had been held in abeyance while the Allen case worked its way through the courts. The Commission had anticipated that those claims would be subject to summary dismissal under its rules.

The immediate effect of Public Act 99-688 was to make clear that those 130 claims are now within the purview of the Commission and not subject to summary dismissal for lack of jurisdiction. In addition, as of the Commission's November 16, 2016, meeting, an additional 101 claims had been filed under the new claim period, with more arriving every day.

Amidst the new legislation, the Commission staff accomplished the following in 2016:

- Resolved more cases (16) than in any year since 2013. The dispositions occurred despite the vacancy of the staff attorney position for the first half of the year.
- Resolved, among those 16 cases, the claim of Mark Maxson, for which the Commission had pursued DNA testing in order to evaluate the credibility of his claim of torture. In addition to providing the Commission with needed information regarding the credibility of his claim, the DNA testing led the Cook County State's Attorney to drop charges against Maxson and bring charges against another man implicated by the DNA testing and the State's Attorney's investigation.
- Interviewed and hired a new staff attorney, Michelle Jenkins, who brings experience as a former defense attorney, a former State's Attorney intern, and a judiciary staff attorney.
- Responded to Public Act 99-688 by revising the Commission's administrative rules to both interpret an ambiguous passage in the new act and to revise rules no longer consistent with the new act. The Commission achieved First Notice of its proposed rules on October 14, 2016, and anticipates presentation to JCAR in early 2017. The Commission additionally extensively outlined the legal reasoning for its interpretation of the ambiguous portion of the new Act in one of its decisions, *In re: Claim of Ernest Hubbard*. The new rules also provide for automatic re-instatement of claims that the new act encompasses but the Commission or the courts had previously dismissed as outside TIRC's jurisdiction. The revised rules also provide for the automatic reconsideration of those attempted claims that came after the now-revised deadline of August 10, 2014.
- Notified approximately 130 claimants whose cases were previously held in abeyance because of a likely lack of jurisdiction that the new act now provided for review by the Commission.
- Coordinated with the Illinois Department of Corrections to post notice of the new Act and its parameters in every prison in Illinois.
- Worked with the governor's staff to complete the appointment of two alternate commissioners (O'Neill and Thurston) to ensure that Commission determinations would not be delayed due to lack of a quorum due to primary commissioners' absences. The Commission also addressed this potential problem by clarifying in its rules that public-member commissioner alternates may vote in place of any of the three primary public member commissioners.
- Monitored and prepared to intervene in police union litigation that threatened the destruction of police complaint records necessary to the Commission's investigation of claims.
- Used its small staff to assist the Cook County Circuit Court Clerk's office with copying of required court files when that office asserted it did not have the staff to respond to subpoenas for such files.
- Responded to more than 40 FOIA requests as of mid-November, 2016.

While much was accomplished in 2016, the additional cases added by the new legislation make clear that more resources are necessary if the remaining claims are to be decided in a timely fashion. Public Act 99-688, however, gives the Commission no new funding or staff. The Commission operates on an annual budget of \$300,000 that provides for just an executive director, a staff attorney and a private secretary¹. A part-time investigator works on an as-needed, contractual basis.

Torture Inquiry and Relief Commission, continued from page 26

Unlike a judge, who is presented with materials and the facts of the case by adversarial parties, TIRC must itself obtain court and police records, investigate both sides of a claim, and reach an objective determination. It is also responsible for crime-victim notification responsibilities, which a 2015 audit showed TIRC is now performing flawlessly.² In short, TIRC is, at once, investigator; both defense and prosecutor; judge; and crime-victim advocate.

Mindful of the TIRC Act's mandate to seek out grants and donations, the Commission in late 2015 recruited several law firms to assist it on a pro bono basis. Pro bono assistance, however, has drawbacks in that outside firms need close monitoring to familiarize them with the Commission's work and standards of decision, and the firms must frequently put aside Commission work in favor of paying engagements.

The Commission has also explored available government grants, but its need to be an objective, quasi-judicial governmental body disqualifies it from most funding, which is most often geared toward private advocacy groups. The Commission, however, has not given up on grants and donations, and is currently utilizing a volunteer to continue to search for grants or donations for which the Commission would be eligible.

The Commission has taken full advantage of extending internships to law school students, and has even utilized high school interns to perform less-skilled clerical work. Again, however, these partnerships have drawbacks in the form of frequent intern turnover and the need for close supervision.

While the law's expansion of jurisdiction provides for review of a greater number of cases, the expansion will be effectively meaningless if cases cannot be decided within a reasonable timeframe. Public comment at Commission meetings has included complaints that the process moves too slowly. Current staffing allows neither current attorney position to be dedicated solely to case investigation and analysis full time. The executive director, staff attorney and executive secretary split additional administrative duties, such as responsibility for FOIA responses, subpoena responses, Open Meeting Act compliance, Ethics Officer duties, enforcement of issued subpoenas, pro bono attorney recruitment for the Commission, pro bono attorney recruitment for the claimants, intern and staff training and supervision, crime-victim notification, compliance with numerous court filing requirements such as personal identifier redactions, monthly reports to the governor's office, administrative rule revision and publishing, coordination with the Attorney General for Administrative Review Law appeals and other administrative tasks.

Accordingly, in order to complete the mission given to it by the legislature, the Commission is requesting the addition of three attorneys – or two attorneys and a paralegal – and the space and equipment to house them. TIRC's CFO estimates this will require an annual budget of \$500,000. Such an addition would allow those three new staffers to focus on nothing other than investigational and analytical case work. It is estimated that annual case disposition would rise from the current 16 case resolutions to approximately 40 as additional staff become experienced in the job.

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

¹ In addition to clerical duties, the "private secretary" position serves as a confidential assistant to the executive director and aids commissioners and the commission in general by handling special projects as needed. In 2016 that has included responding to FOIA requests, tracking and organizing Commissioners Ethics filings, responding to subpoenas and assisting in the enforcement of subpoenas, intern supervision and training, crime-victim notification and preparing court filings.

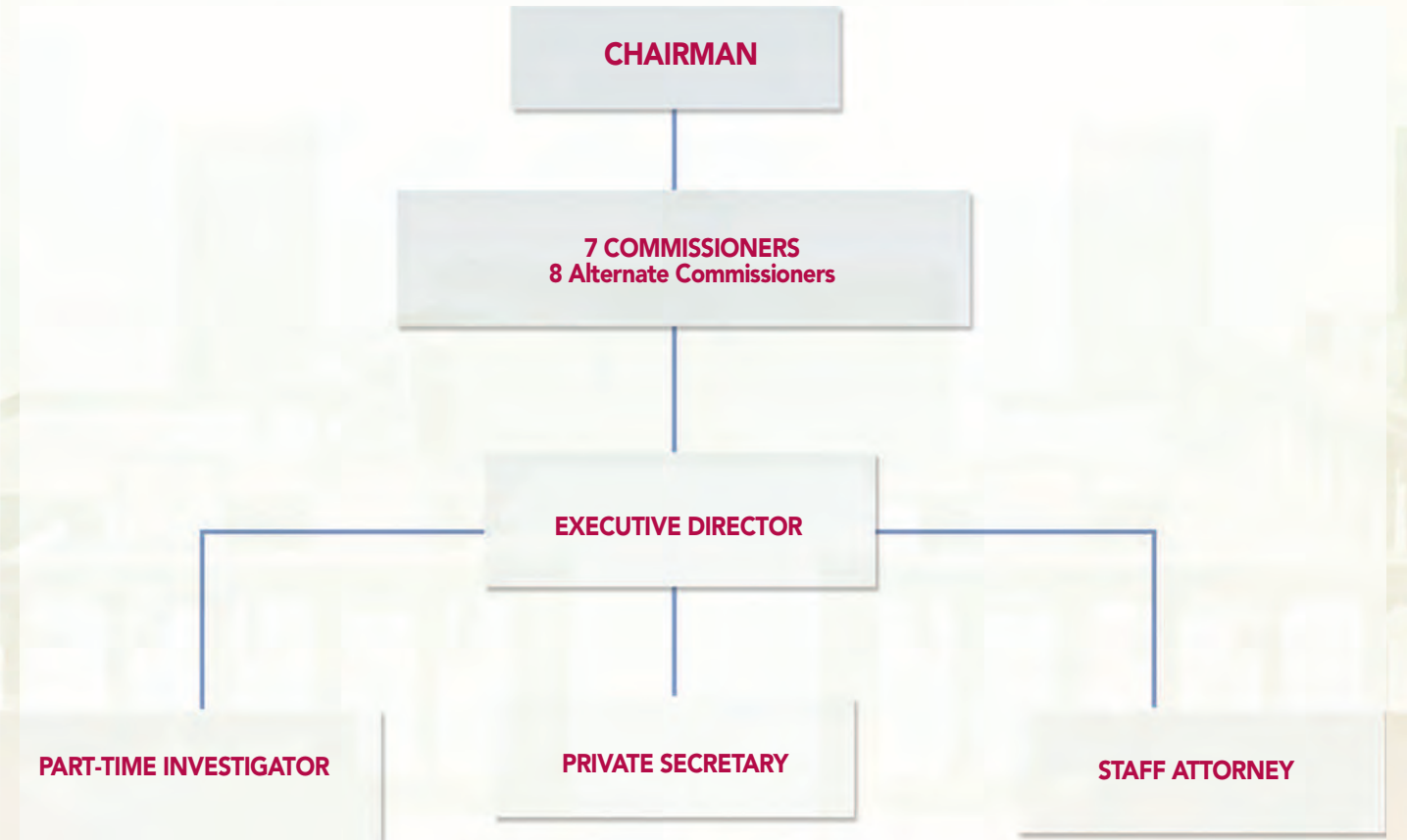
² See State of Illinois, Human Rights Commission, Compliance Examination, For the Two Years Ended June 30, 2015, page 21.

ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION BOARD MEMBERS

Commissioners	Category	Date of Appointment
Cheryl Starks (Chair)	Former Circuit 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
James Mullenix	Former Public Defender	November 13, 2015
Rob Warden	Public	July 31, 2010

Alternate Commissioners	Category	Date of Appointment
Vacant	Former Circuit Judge	
Craig Futterman	Law School Professor	February 25, 2013
Doris J. Green	Public	July 31, 2010
Vacant	Criminal Defense Attorney	
Rev. Stephen Thurston	Public	January 11, 2016
Vacant	Former Prosecutor	
Timothy O'Neil	Former Public Defender	August 26, 2015
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)

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

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