



State of Illinois
Human Rights Commission

ILLINOIS HUMAN RIGHTS COMMISSION 2019 ANNUAL REPORT

ILLINOIS WELCOMING



THE WORLD

OUR MISSION

The Illinois Human Rights Commission (IHRC or Commission) is dedicated to fighting discrimination by promoting freedom from unlawful discrimination as defined by the Illinois Human Rights Act (Act), resolving complaints by making impartial determinations by providing a neutral forum for resolving complaints of discrimination filed under the Act, and educating and informing the public by providing information about the Act and the Commission.

The Act forbids...

discrimination with respect to employment, financial credit, public accommodations and real estate transactions on the basis 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. Furthermore, the Act prohibits retaliation against those who report unlawful discrimination.



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 13, 2019

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

I am honored to submit the Illinois Human Rights Commission Annual Report for Fiscal Year 2019.

This year's report highlights a successful journey for the Commissioners, staff and all those involved in the multi-agency effort to eliminate the Request for Review backlog that has plagued the Commission for many years. It, also, significantly improves the wait time for those people who look to the Commission to adjudicate their discrimination complaints as filed under the Human Rights Act.

The enactment of Executive Order 2018-08 on June 20, 2018 required the elimination of the backlog within 18 months. We are pleased to report that the Request for Review backlog, which numbered 2,287 cases, has been eliminated four months ahead of schedule as of August 31, 2019. The work plan design called for streamlining of system processes, leveraging of technology platforms, the addition of human resources and continuously monitoring reporting, and adapting our performance, without sacrificing due process or quality of decisions.

This goal could not have been accomplished without the work of the many people involved in forging the plan and its implementation. Special thanks to the IHRC Commissioners, the staff both old and new, and the team members from the Illinois Department of Human Rights, Central Management Services and the Office of the Governor who contributed to this work.

The end of the Fiscal Year 19 also marks the change in the role of the Human Rights Commissioners from part-time to full-time members as required under Public Act (100-1066) and Senate Bill 20. Special recognition needs to be given to Commissioners Patricia Yadgir, Robert Cantone, Michael Bigger, Steve Kim and Cheryl Mainor who worked in the transition and kept the momentum going in the backlog elimination project.

Consequently, the newly reconstituted Commission will be better focused on its mission of enforcing the state's Human Rights Act and ensuring that all Illinoisans are protected from discrimination. The Commission's commitment to quality, service and partnerships will continue to grow in the coming year.

Sincerely,

Rose Mary Bombela-Tobias

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

FY2019 Chair, Illinois Human Rights Commission

THE ILLINOIS HUMAN RIGHTS COMMISSION

On December 6, 1979, Governor James R. Thompson signed the Act into law, 775 ILCS 5/1-101 et seq. The Act created a bifurcated enforcement apparatus: a Department of Human Rights (IDHR or 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. Either the Department or the Complainant may file a Complaint of Civil Rights Violation with the Commission. Such complaints are adjudicated pursuant to Section 8A-102 and 8B-102 of the Act.

The IHRC maintains offices in Chicago and in Springfield. During FY2019 the IHRC consisted of thirteen part-time Commissioners, the Executive Director, the Chief Administrative Law Judge, four Administrative Law Judges, the Chief Fiscal Officer, the General Counsel, Deputy General Counsel, four Assistant General Counsels, and administrative support staff.

**Effective January 19, 2019, the IHRC board of Commissioners was reconstituted to include seven full-time Commissioners.*

CASE STUDY NO. 1 SEXUAL ORIENTATION AND DISABILITY DISCRIMINATION IN A PUBLIC ACCOMMODATION

Illinois Human Rights Act, 775 ILCS § 5/5-102

Michael S. and Andrea E. on behalf of P.S., a minor v. Komarek School District #94

In their complaint, the Complainants alleged that the Respondent, a school district, discriminated against P.S., a minor student at one of the Respondent's schools, on the basis of his sexual orientation, as related to his gender-related identity, male, and disability, gender-related identity dysphoria. Specifically, the Complainants alleged that the Respondent denied P.S. access to his school's communal boys' restrooms because of his gender-related identity and disability. The Complainants also alleged that the Respondent failed to provide P.S. with a reasonable accommodation by denying him access to his school's communal boys' restrooms.

P.S. first discussed being a boy with Andrea E., his mother, in late 2013, when he was seven years old. In January 2014, Andrea E. contacted his school's social worker. At that time, P.S. began to outwardly manifest his gender-related identity at school by dressing and grooming as a boy, while still preserving his female name and birth sex affiliation.

A year later, on January 14, 2015, Andrea E. requested that the Respondent use P.S.'s male name along with its corresponding masculine pronouns. The Respondent soon agreed, knowing that the issue before it was P.S.'s gender-related identity, and not a dress code matter or a student being delusional, as exemplified by the social worker describing P.S. as a "gender-related identity non-conforming student," and on at least two known occasions the Respondent's superintendent emailing to numerous personnel about "our second grade transgender student."

On February 11, 2015, the desire of P.S. to use the communal boys' restrooms was communicated to the social worker. After some delay, a meeting was called by the Respondent for March 6, 2015. Andrea E. and a multitude of administrators attended the meeting, where she was told by the superintendent that P.S. would not be allowed access into the communal boys' restrooms. P.S. was limited to the adult male faculty and staff restrooms, unless assigned to a classroom with its own unisex restroom. When the parents asked the Respondent to reconsider P.S.'s request to use the communal boys' restrooms, both the superintendent and the school board president, independent of each other, denied their requests. The decision was understood to be "final."

REQUEST FOR REVIEW

When the IDHR dismisses a charge of discrimination, the Complainant may either file a Request for Review with the IHRC or file a Complaint with the appropriate circuit court within 90 days following issuance of the IDHR's Notice of Dismissal. When a Request for Review results in the IHRC sustaining the IDHR's dismissal, the Complainant may appeal the IHRC's decision in the Illinois Appellate Court. When the IDHR 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 IHRC sustains the default, the Complainant may ask the IHRC to schedule a damages hearing before an Administrative Law Judge (ALJ) or the Complainant may commence a civil action in the appropriate circuit court.

FILING A COMPLAINT

If the IDHR finds substantial evidence of discrimination and issues notice, or if the IDHR fails to complete its investigation of the charge within 365 days, the Complainant has 30 days to ask the IDHR to file a complaint with the Commission. Otherwise, within 90 days, the Complainant must either: (1) file a Complaint of Civil Rights Violation with the IHRC, or (2) commence a civil action in the appropriate circuit court.

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On March 4, 2015, P.S. was formally diagnosed by his doctors with gender dysphoria. The diagnosis did not modify the Respondent's ban. No other student, whose gender-related identity was male or who had his disability, was banned from the communal boys' restroom.

ALJ William Borah entered a recommended order finding that the Respondent discriminated against P.S. on the basis of his sexual orientation and disability and granting summary decision in the Complainants' favor. After a damages hearing, ALJ Borah recommended that the Commission: 1) award the Complainants

emotional distress damages in the amount of \$55,000.00; 2) order the Respondent to allow P.S. to use its communal boys' restrooms; 3) order the Respondent to cease and desist from further acts of unlawful discrimination; 4) award the Complainants attorneys' fees in the amount of \$100,000.00; and 5) award the Complainants \$3,610.00 in litigation costs.

The Respondents filed no timely exceptions in this case, making ALJ Borah's recommended order the final order of the Commission. Moreover, the Respondent's failure to file timely exceptions foreclosed their ability to appeal the Commission's decision. In short, this decision is final and stands as Illinois law.



STANDING ORDER RELATING TO PREHEARING MEMORANDA

All parties will jointly prepare and submit a prehearing memorandum to the presiding ALJ of the IHRC 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. Those time frames may be altered by order of the presiding ALJ. 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 IHRC. Hearings can be delayed to allow the parties to take discovery. Hearings are conducted using the same procedures and evidentiary rules used in the circuit court. After the hearing, the ALJ issues a Recommended Order and Decision (ROD). If neither party objects to the ROD, it becomes the IHRC's final order after 30 days. 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 IHRC's final decision. The IHRC's final decision may be appealed in the Illinois Appellate 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.



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 IDHR, the Commission via a panel of three Commissioners shall determine whether or not to approve it. Parties may settle matters with or without Commission approval. However, if they wish the Commission to retain jurisdiction for enforcement, the settlement 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 made available on the Commission's website and to online legal research companies within 14 calendar days after publication by the Commission. Decisions of the Commission are available on the Commission's website at www.illinois.gov/ihr.

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

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

C. H. 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 IDHR on September 26, 2008, alleging harassment and constructive discharge based on perceived disability.

The Respondent did not agree to extend the investigation time. Both parties must agree to extend IDHR's time to investigate a charge. However, a 300-day extension was entered into IDHR's system.

Thereafter, IDHR 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, IDHR sent the Complainant a letter informing him that its time to investigate had expired and he could file a complaint. On August 9, 2010, IDHR discovered that the Respondent had never agreed to the extension of time. Thereafter, IDHR sent the Complainant a new letter, which informed the Complainant his

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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 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 IDHR'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 Act are jurisdictional and usually equitable principles cannot be applied to extend the timeframes set forth in the Act. 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 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 Act 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 Act did not take that property interest into consideration. ALJ Robinson 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 final 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 Act'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 final 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 final order in the Hughes matter stands as undisturbed Commission precedent regarding the applicability of equitable estoppel to a situation where error by IDHR causes a litigant to be misled into missing a jurisdictional filing deadline under the 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 Morningside'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 IDHR. The Petitioner alleged that the Morningside subjected her to discriminatory terms and conditions of tenancy because of her race (Count A), and because of her association with her disabled daughter (Count B). IDHR dismissed the charge for lack of substantial evidence, and the Petitioner filed a request for review of the IDHR's determination with the Commission.

In her request for review, 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 class 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, IDHR is the Respondent. IDHR filed a response with the Commission, asking that its dismissal of the charge be sustained for lack of substantial evidence. IDHR 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 (Count A) race discrimination. However, the Commission found that there was Substantial Evidence to support the allegations of (Count B) 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 the Morningside for issuing the notices was 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 IDHR's dismissal of Count B of the charge and directed IDHR to enter a finding a Substantial Evidence as to the Petitioner's disability discrimination claim.



CASE SYNOPSIS NO. 1**John Smith v. Archer Daniels Midland Company*****Request for Review: Age Discrimination in Employment***

On July 19, 2016, the Complainant was the operator-on-duty for railway track 4 at the Respondent's rail yard. As such, the Complainant was responsible for granting permission to third-party rail groups to enter the rail yard and connect to empty railcars on track 4.

On that day, the Complainant received a radio call while in the Respondent's lunchroom from a third-party rail group seeking permission to enter track 4. Although he was nowhere near track 4 and thus could not see or inspect it, the Complainant nonetheless granted the rail group permission to enter track 4. As the rail group approached track 4, its operator saw workers and equipment on the track. The operator sounded his emergency alarm, applied his emergency brakes, and stopped the train only 15 feet short of the workers and equipment.

After its investigation, the Respondent determined that the Complainant's decision to grant access to track 4 from the lunchroom was grossly negligent and discharged him. The Complainant then filed a charge of discrimination alleging that the Respondent discharged him due to his age.

IDHR dismissed the charge for lack of substantial evidence, and the Commission sustained the dismissal. The Commission determined that the Complainant could not establish, as he must, that the Respondent treated a similarly situated employee outside his protected class (i.e., a younger employee) more favorably under similar circumstances. In other words, the Complainant did not identify anyone whose conduct was nearly as outrageous as his was but was not discharged. The Commission also determined that there was no evidence suggesting that the Respondent's decision to discharge the Complainant was based on anything other than its good-faith investigation surrounding the June 19, 2016 incident. Under the law, in the absence of any evidence suggesting that an employer's alleged reason for discharging an employee was a pretext, it is improper for the Commission to second-guess the employer's decision or to substitute its judgment for the good-faith business judgment of the employer.

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.

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The Complainant thereafter filed a charge of discrimination with IDHR, alleging harassment and termination due to his sexual orientation, and retaliation for complaining about the harassment. Following an investigation, IDHR 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 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 IDHR, 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 failing to recognize the Complainant's dog as a service animal (Count E) in retaliation for filing a previous charge with the DHR, and failing to make a reasonable accommodation for Complainants' physical disability (Count D).

Following an investigation, IDHR 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.

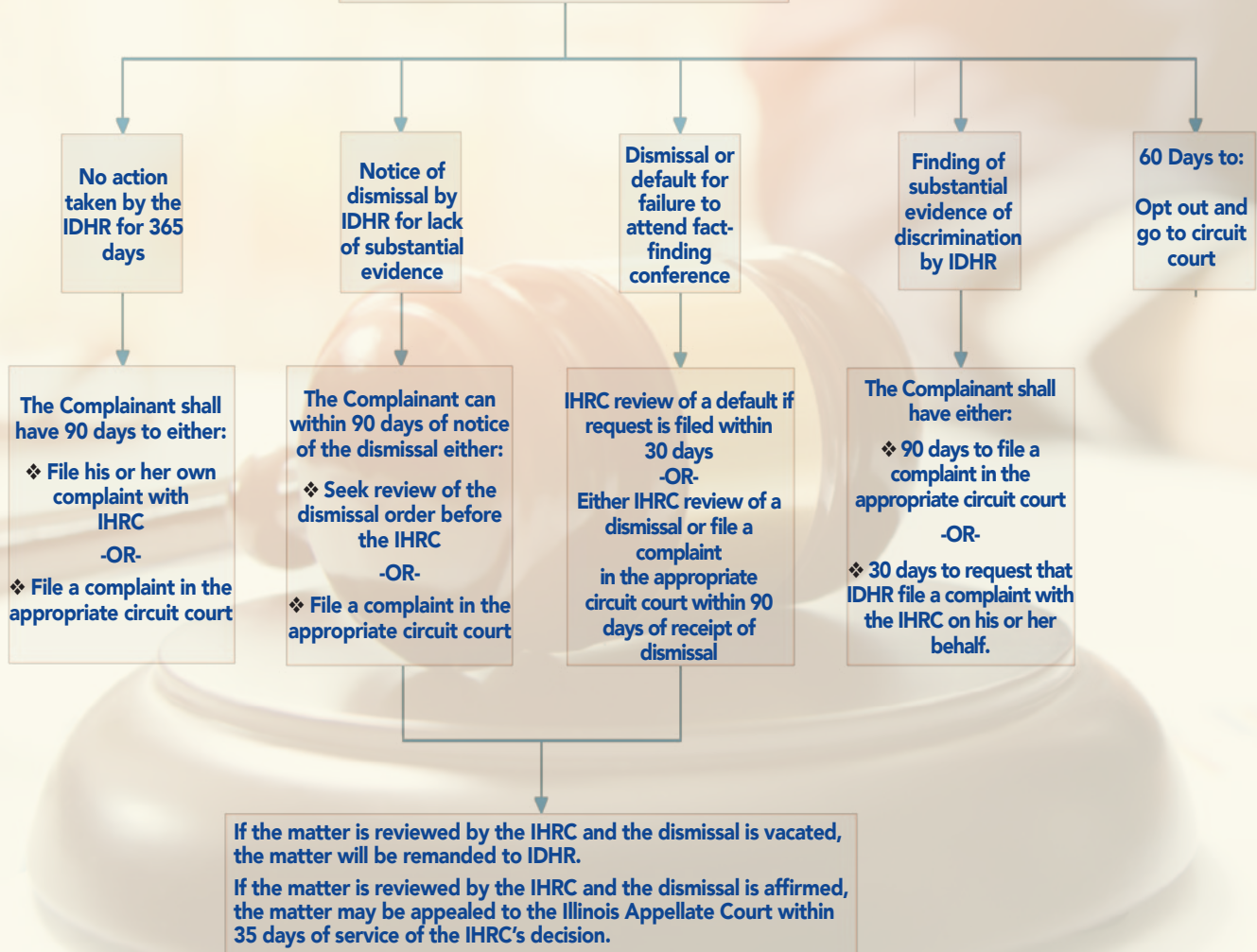
The dismissal of Count B, retaliatory issuance of notice of noise violation, and Count C, retaliatory refusal to pay for CART Services, was sustained for lack of substantial evidence. As to both Counts B and C, the Commission determined the passage of three years between the Complainants' protected activity 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.

ILLINOIS HUMAN RIGHTS ACT
One Act - Two Agencies



**CHARGE FILED WITH
 IDHR**



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

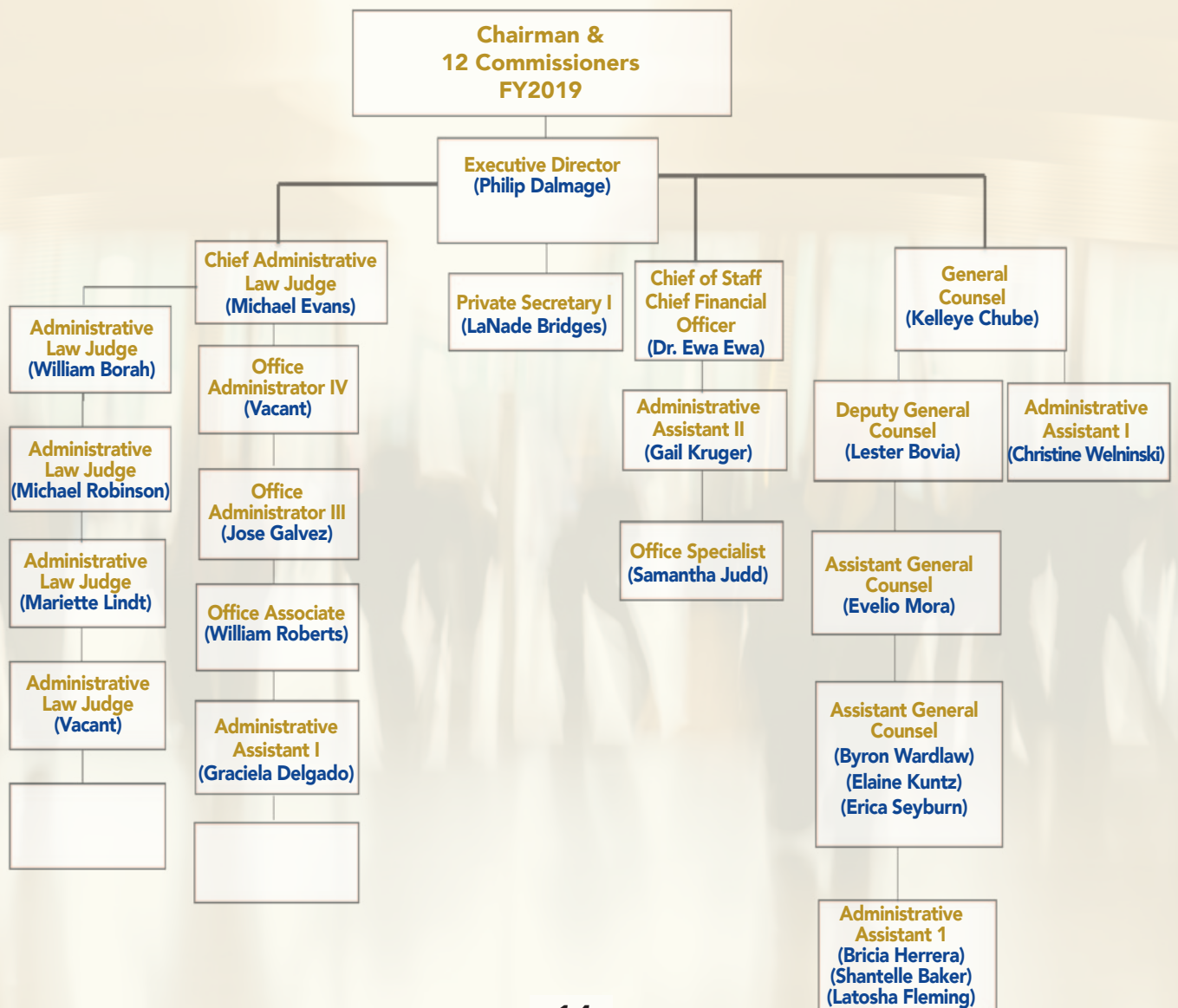
For Fiscal Year 2019 the IHRC consists of a staff of 20 and thirteen Commissioners. The Commissioners are appointed by the Governor, with the advice and consent of the Illinois State Senate, and no more than seven Commissioners may be appointed from the same political party. The Governor designates one of the Commissioners as Chair.

For Fiscal Year 2019 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 IHRC strives to serve all people and entities throughout the State who seek a fair forum for the adjudication of complaints pursuant to the Act.

Beginning with FY2020, the reconstituted board of Commissioners consists of seven full-time Commissioners appointed by the Governor and confirmed by the Illinois Senate.

*Currently the Commissioners are pending Senate confirmation.

ILLINOIS HUMAN RIGHTS COMMISSION ORGANIZATIONAL CHART



FY 2019 COMMISSIONERS

Proud To Serve the Public

1. Rose Mary Bombela-Tobias, Chair - Appointed 2015-2019

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 2015-2019

Hon. Duke Alden was 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 2015-2019

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 2015-2019

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 2011-2019

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 2016-2019

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.

7. Eleni D. Bousis - Appointed 2017-2019

Hon. Eleni D. Bousis is the wife of prominent entrepreneur, Dimitri (Jimmy) Bousis, mother of Michael, Victoria, Evangelo and George, daughter of Angelo and Bessie Palivos and sister of Louis, Peter and George Palivos. Born in Greece, Eleni has often said that when she came to America as a young girl with her family, they instilled in her not only a sense of pride in her Greek heritage, but also a duty to help others in need. She is a founding member of The Dimitri and Eleni Bousis Orphanage in Kakamega, Kenya.

Currently, Eleni serves as Chairman of the Board of Directors for the Greek American Rehabilitation and Care Centre and in 2015 established, and is Chairman of the Founding Board of the Hippocratic Cancer Research Foundation for the Robert H. Lurie Comprehensive Cancer Center of Northwestern University.

8. Nabi R. Fakroddin, P. E., S. E. - Appointed 2010-2019

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. **Hermene Hartman** - Appointed 2015-2019

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.

10. **Steve Kim** - Appointed 2015-2019

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.

11. **Cheryl N. Mainor** - Appointed 2017-2019

Hon. Cheryl N. Mainor is President of The Mainline Group Consulting, a full-service consulting firm, specializing in Issue Advocacy, Coalition Building including Stakeholder Identification, Community

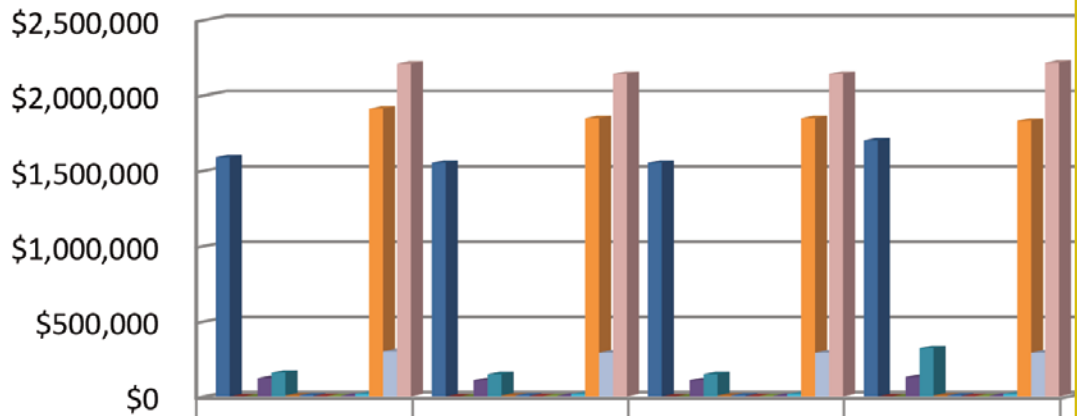
Outreach, Third-Party Engagement, Association Management and Event Management. Formerly, Mainor also served as President and Publisher at MainLine Media Group, LLC which was founded in 2001 in Alexandria, VA. In 2014, she stepped aside from MainLine Group Consulting to take on the role of President and Publisher of the historic Chicago Defender Newspaper. As the first woman to hold the position, Mainor led a professional team dedicated to ensuring that the legacy of the iconic brand continues to live on, and positioned it to lead in the field of print and digital communications.

12. **Patricia Bakalis Yadgir** - Appointed 2011-2019

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.



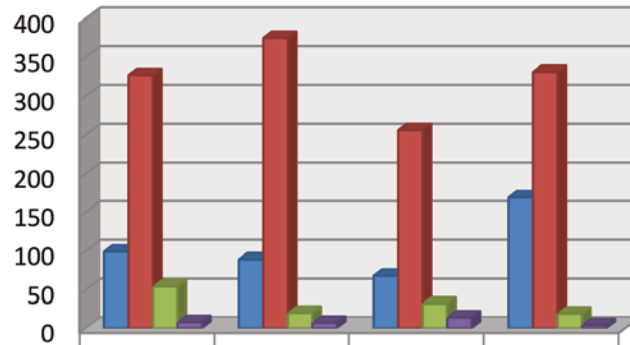
BUDGET APPROPRIATIONS



| | 2016 | 2017 | 2018 | 2019 |
|---|-------------|-------------|-------------|-------------|
| ■ Personnel Services | \$1,588,100 | \$1,552,100 | \$1,552,100 | \$1,700,248 |
| ■ Retirement - Contribution | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| ■ Retirement - Pension Pick-Up | \$0.00 | \$0.00 | \$0.00 | \$0.00 |
| ■ Social Security | \$121,500 | \$107,900 | \$107,900 | \$130,069 |
| ■ Contractual Services | \$159,000 | \$149,200 | \$149,200 | \$320,769 |
| ■ Travel | \$6,500 | \$6,100 | \$6,100 | \$6,100 |
| ■ Commodities | \$7,000 | \$6,500 | \$6,500 | \$6,500 |
| ■ Printing | \$2,000 | \$1,900 | \$1,900 | \$1,900 |
| ■ Electronic Data Processing | \$2,500 | \$2,300 | \$2,300 | \$2,300 |
| ■ Equipment | \$5,200 | \$4,900 | \$4,900 | \$4,900 |
| ■ Telecommunications | \$18,000 | \$16,900 | \$16,900 | \$16,900 |
| ■ Total Appropriations..HRC | \$1,909,800 | \$1,847,800 | \$1,847,800 | \$2,189,686 |
| ■ Torture Inquiry and Relief Commission | \$300,000 | \$293,000 | \$293,000 | \$293,000 |
| ■ Total Appropriations | \$2,209,800 | \$2,141,100 | \$2,141,100 | \$2,482,686 |

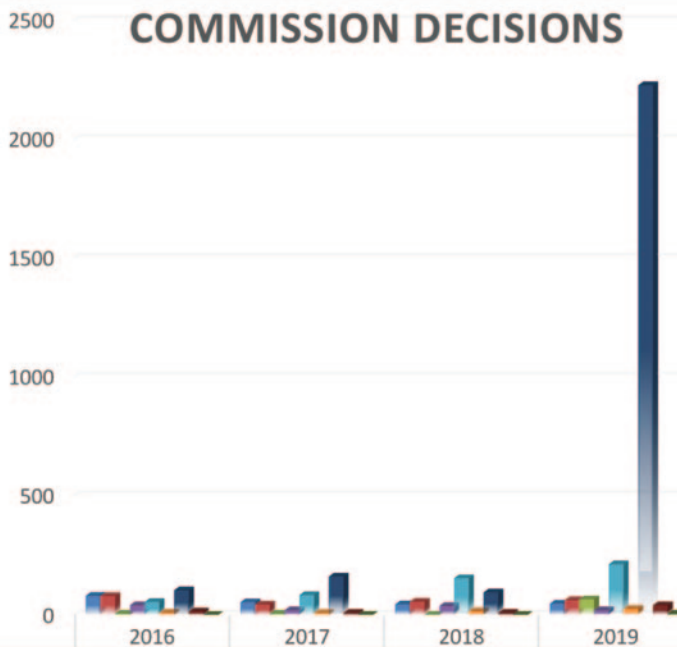
Funding is appropriated annually from the state budget to cover all of the Human Rights Commission’s statewide services to the people of Illinois.

Commission Total Incoming Docket (FY 2019)



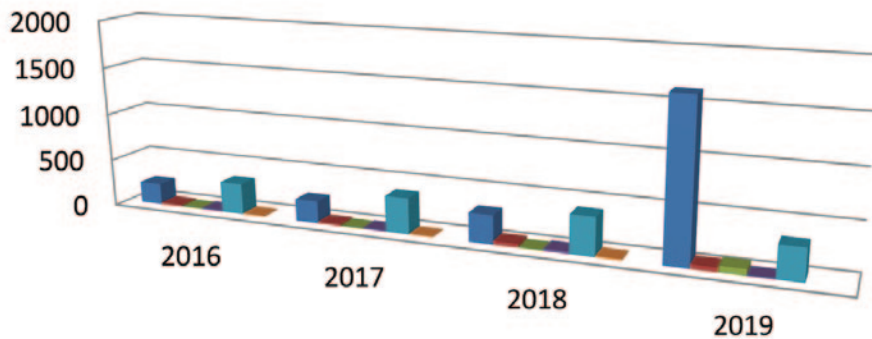
| | | | | |
|---------------------------|-----|-----|-----|-----|
| Complaints | 99 | 89 | 68 | 168 |
| R4R - Requests For Review | 327 | 375 | 256 | 331 |
| Settlements | 54 | 20 | 32 | 19 |
| Defaults | 8 | 7 | 14 | 4 |

COMMISSION DECISIONS



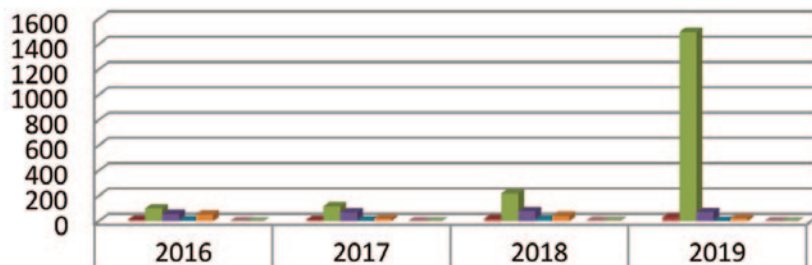
| | | | | |
|--|-----|-----|-----|------|
| RODs- Recommended Orders and Decisions | 80 | 53 | 44 | 47 |
| FODs-Final Orders and Decisions | 79 | 43 | 55 | 61 |
| Appeals | 5 | 5 | 1 | 65 |
| Settlements | 40 | 19 | 37 | 19 |
| Notices of No Exceptions | 54 | 83 | 154 | 213 |
| Defaults | 8 | 7 | 15 | 25 |
| R4Rs-Requests for Review | 103 | 161 | 94 | 2226 |
| Contested Matters | 14 | 8 | 8 | 40 |
| Total Disposition Rate | 59% | 82% | 95% | 489% |

Office of the General Counsel-Services



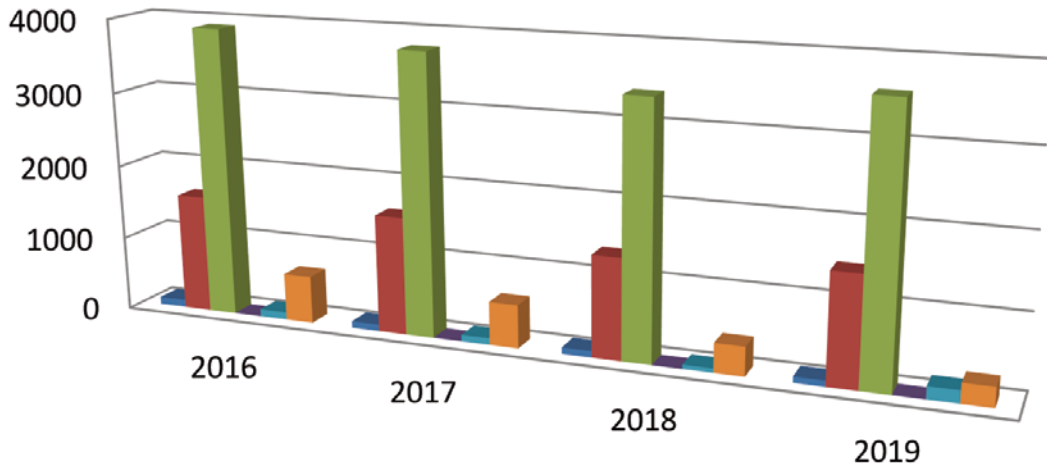
| | 2016 | 2017 | 2018 | 2019 |
|-------------------|------|------|------|------|
| Panel Matters | 225 | 233 | 300 | 1631 |
| Panel Hearings | 18 | 19 | 40 | 46 |
| Appellate Appeals | 6 | 5 | 10 | 65 |
| EnBanc Mtgs. | 12 | 12 | 24 | 10 |
| RFR Log Ins | 327 | 375 | 400 | 331 |
| Outreach | 9 | 8 | 15 | 0 |

General Counsel Panel and EnBanc Matters



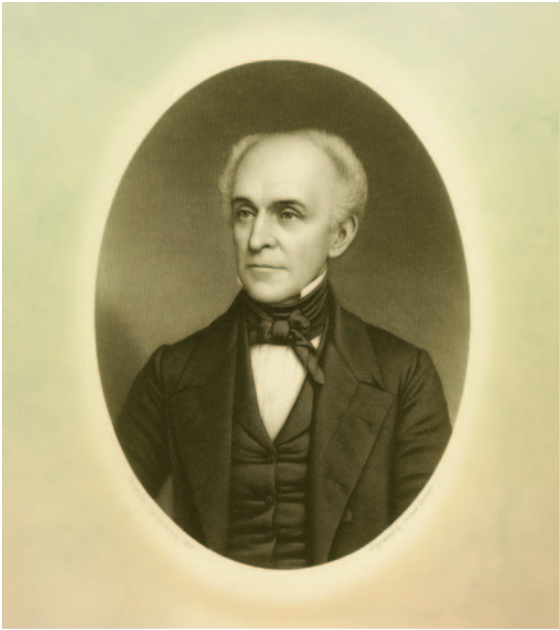
| | 2016 | 2017 | 2018 | 2019 |
|-------------------------|------|------|------|------|
| PANEL MATTERS | | | | |
| Contested | 14 | 12 | 22 | 32 |
| R4R-Requests For Review | 103 | 119 | 220 | 1498 |
| Motions | 59 | 70 | 80 | 72 |
| Defaults | 9 | 7 | 14 | 4 |
| Settlements | 54 | 23 | 43 | 25 |
| ENBANC MATTERS | | | | |
| Petition Rehearings | 2 | 1 | 5 | 1 |
| Certified Questions | 0 | 1 | 6 | 0 |

Administrative Law Section Services



| | 2016 | 2017 | 2018 | 2019 |
|--------------------|------|------|------|------|
| ALJ Motion Calls | 99 | 89 | 87 | 81 |
| Office Visits | 1592 | 1583 | 1352 | 1463 |
| Service Calls | 3899 | 3775 | 3396 | 3588 |
| Outreach | 3 | 4 | 1 | 4 |
| Complaint Log Ins | 99 | 89 | 57 | 168 |
| Total Docket Count | 640 | 581 | 390 | 264 |





2019 COLES FELLOWS AND INTERNS October 2018 - May 2019

Melinda Hermiz
High School Intern

Adamary Chavez
High School Intern

Sarika Doppalapudi
High School Intern

Summer 2019

Madeline Weinreb
Coles Fellow

Shuman Zhou
Coles Fellow

Kacie Hollins
Coles Fellow

Robert Meglei
Coles Fellow

Camille Branch
College Intern

Sydney Taylor
College Intern

Chloe Lin
Summer High School
Intern

Stella Ervin
Summer High School
Intern

Dylan Cha
Summer High School
Intern

Gziel Keith Barrios
Summer High School
Intern

Aliyah Chand
Summer High School
Intern

Skyler Cepek
Summer High School
Intern

Jennifer Zavala
Summer High School
Intern

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.

IHRC 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 IHRC in advancing the anti-discrimination protections and policies of the 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.

THE IHRC'S HANDLING OF THE BACKLOG

Executive Order No. 18-08 (EO 18-08), and The First Progress Report Implementing Executive Order 8 (2018), directed the IHRC to enter into a multi-agency collaborative effort, along with Central Management Services (CMS), Illinois Department of Human Rights (IDHR) and Department of Innovation and Technology (DoIT) to eliminate, within 18 months, the growing backlog of cases pending before the IHRC. Through the efforts of EO 18-08 and legislation introduced by the General Assembly through Senate Bill 20 (SB-20) collectively, the Commission processed some 2,314 cases for the period July 2018-June 2019, an amazing 90% of the backlog of cases pending before the Commission, all without sacrificing due process or the quality of written decisions.

The backlog consisted of several different types of cases pending before the Commission, the majority of which were request for review cases. Request for review cases involve a three-member panel, meeting on pre-assigned Wednesdays during each month, to review and rule on the propriety of the dismissals of charges of discrimination and notices of default by IDHR. IHRC panels also rule on exceptions to an ALJ's RODs, motions for Enforcement of Commission Orders, as well as a variety of other miscellaneous motions from parties whose cases are pending before the IHRC. Other cases referenced as part of the overall backlog identified in The First Progress Report Implementing Executive Order 8 (2018) included Contested Matters, Certified Questions of Law, Notice of No Exceptions, Petitions for Rehearing En Banc, Proposed Settlements, Appellate Court Appeals and Default Matters. As of June 30, 2019, only 244 cases, of the 2,558 cases identified as backlog in The First Progress Report Implementing Executive Order 8 (2018), remain pending as part of the overall backlog.

In summary, to address the IHRC's decade long backlog, the following steps were taken:

1. Hiring a new Executive Director to address the growing backlog;
2. Implementing a multi-agency strategic plan to address the backlog issue;
3. Approving a supplemental budget for additional resources-A new General Counsel was hired, a new Deputy General Counsel position was created and filled, seven contractual attorneys were hired to prepare cases to present to the panel of Commissioners, two new Associate General Counsel positions were created and filled to present cases to Commissioner panels;
4. Introducing metrics to allow for resolution of newly filed request for review cases to be reviewed within 12 months of receipt by the IHRC;
5. Procuring an upgrade to IHRC's case management system;
6. Developing a revamped, user-friendly website featuring informative frequently asked questions;
7. Implementing planned outreach activities;
8. Creating a new IHRC brochure and frequently asked questions in multiple languages with the hopes of reaching more residents in the State of Illinois;
9. Publishing IHRC decisions, dating back to 2015, to eliminate another audit finding, and more importantly to provide the community a body of law with the intent to eradicate discrimination within Illinois;
10. Proposing new rules for implementing SB-20;
11. Increasing IHRC panel meetings from two per month to four, sometimes five per month;

12. Requiring attorneys to prepare no less than twenty request for review cases per month without sacrificing due process or the quality of written decisions;
13. Streamlining orders for efficiency and consistency purposes;
14. Implementing efficiency processes (i.e. team meetings, attorney training, new Commissioner training, preparations for mock panel review);
15. Developing a formalized summer program for law students, college students and high school students;
16. Creating a Quarterly Newsletter highlighting agency developments;
17. Implementing a monthly Lunch & Learn series regarding new developments in human rights law;
18. Allowing agency staff to work longer hours to handle the increased work load;
19. Creating an IHRC Diamond Awards program to honor advocates who live, work and fight in Illinois for human rights issues for all Illinoisans; and
20. The Governor appointed a Special Panel, provided for by SB-20, in addition to the seven Commissioners statutorily appointed, to address the backlog.

The initiatives identified above were implemented to address the backlog dilemma, but more importantly were created and developed to ensure that the IHRC eliminates the re-occurrence of another backlog situation.

It has been a busy year at the Commission, and we look forward to next year, and the year after that.

OUTREACH ACTIVITIES

William Borah, Administrative Law Judge

[November 2018](#): Served as a Trial Judge at the American Bar Association’s National Law School Trial Court Competition

[December 2018](#): Spoke at the Chicago Bar Association Administrative Law Committee’s seminar on Litigating before the Illinois Human Rights Commission

Michael Robinson, Administrative Law Judge

[November 2018](#): Spoke on sexual harassment at a seminar sponsored by the Illinois Municipal Human Relations Association and co--sponsored by the Illinois Department of Human Rights

[March 2019](#): Served as a Judge at the Illinois State Bar Association’s high school mock trial finals

Michael Bigger, Commissioner

[April 2019](#): Guest Speaker on the role of the IHRC at the annual student honors night program at the Wyoming Illinois Lions Club

Cheryl Mainor, Commissioner

[June 2019](#): Guest Speaker and panelist regarding the role of the IHRC at the Saper Law Immersion Program for Illinois public school students

The background of the page features a series of silhouettes of people walking, overlaid on a light, hazy image of a city skyline. The silhouettes are dark and semi-transparent, creating a sense of movement and human presence. The city skyline in the background is also semi-transparent, showing various buildings and structures.

Illinois Torture Inquiry and Relief Commission

2019 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 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.

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

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

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

Commissioners were first nominated in late 2010. Activities of the Commission were delayed in part by organizational and funding issues. In 2012 and 2013, the Commission was defunded and mothballed for approximately 9 months. 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.

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

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

continued on page 26

Torture Inquiry and Relief Commission, continued from page 25

The immediate effect of Public Act 99-688 was to bring those 130 claims within the purview of the Commission. In addition, the Act also re-opened the claim period, and the Commission soon received an avalanche of new claims. That claim period closed August 10, 2019. As of November, 2019, the Commission had 536 total pending claims.

In 2019, the Commission:

- Was on pace as of November, 2019, to resolve by year's end more claims (21 or more) than in any prior year.
- Received favorable commentary in the March, 2019 Illinois Appellate Court Opinion regarding the claim of James Gibson, which the Commission referred to the courts in July 2015. The appellate court noted the evidence of torture unearthed by the Commission included "photos depicting trauma to defendant's chest, taken three days later in bond court; and * * * medical records from Cermak Hospital, documenting the same. Defendant had tried for years to obtain this documentary evidence, but he was unable to do so; it first became available when it was produced in response to subpoenas issued by the TIRC. And lastly, the TIRC also retained Dr. Michael Kaufman, an anatomic and forensic pathologist, who rendered an expert opinion that the photos and medical records were 'consistent with' defendant's core allegations." The Court reiterated that "all of the documentary evidence – the OPS complaint, bond-court photos and medical records from Cermak Hospital was first obtained by the TIRC." The appellate court ultimately suppressed Gibson's statement that was used to convict him, overruling the Circuit Court Judge who had not. The court wrote, "It is arbitrary and manifestly wrong, to reject those core allegations without some plausible explanation of how the evidence unearthed by the TIRC is not what it appears to be. * * * But no such explanation is forthcoming. That un rebutted evidence, considered in light of two law-enforcement officers' invocations of the fifth amendment, thus supports defendant's claim of torture by a preponderance of the evidence." See *People v. Gibson*, 2019 IL App (1st) 182040-U.
- Bid farewell at the end of 2018 to Cheryl Starks, who had served as Commission chairwoman for nearly 7 years. Starks stepped down as required by the TIRC Act after serving the maximum number of terms allowed. On July 23, 2019, the Chicago Bar Foundation awarded Starks, a former Cook County Circuit Court Judge, its prestigious Richard J. Phelan award for her work in the public sector, including her nearly 7 years of unpaid work with the Commission.
- Welcomed Alternate Chair Kathleen Pantle, who was appointed in December, 2018. Pantle, also a former Cook County Circuit Court Judge, took over as acting chair when Judge Starks stepped down.
- Welcomed newly-appointed Commissioners Barry Miller and Alternate Commissioner Autry Phillips. Miller, a former director of the Commission and a former Assistant United States

continued on page 27

Torture Inquiry and Relief Commission, continued from page 26

Attorney, filled the Former Prosecuting Attorney Commissioner position. Phillips, the executive director of the Target Development Corporation, serves as the Alternate Public Member Commissioner. Commissioners Touhy, Thurston and Baldwin were also reappointed to the Commission in 2019. The Chair Commissioner position and five Alternate Commissioner positions remain vacant.

- Hired in July an attorney for its vacant grant/claim attorney position. That position is tasked with not only issuing recommended determinations, but with securing grants to bring aboard more staff in order to further increase the pace of dispositions. Unfortunately, the position became vacant again in October with a personnel departure. However, during that time, the attorney identified and investigated 42 various grant opportunities, most of which the Commission was not eligible for or was rejected for. The attorney identified some additional grant opportunities for which the Commission may be eligible during the the organizations' next grant cycles. As of November, 2019, the Commission had not received permission to refill this vacant position.
- The Commission responded to more than 30 FOIA requests and 5 subpoena requests as of November, 2019.
- Closed the re-opened claim period on August 10, 2019, as required by the TIRC Act.

While much was accomplished in 2019, the additional cases added by the new legislation in 2016 make clear that more resources are necessary if the remaining claims are to be decided in a timely fashion. 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 2015 and 2017 audits showed TIRC is performing flawlessly. 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 has 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 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. As noted above, 42 separate grants were researched or requested, but as of November, 2019, none of those inquiries or requests were successful. As a quasi-judicial, government agency that does not provide direct legal services to claimants, the Commission is severely limited in those grants for which it is eligible.

continued on page 28

While the law's 2016 expansion of jurisdiction provides for review of a broader category 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 none of the attorney positions to be dedicated solely to case investigation and analysis. The executive director, current 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.

TIRC has experienced severe difficulty in recruiting attorneys to volunteer to advise claimants before a formal inquiry can begin. The lack of volunteers has slowed progress on claims. Accordingly, in Calendar Year 2020, TIRC will begin a pilot program of paying attorneys a nominal fee for advising claimants in order to increase availability of Claimant attorneys and to speed claim determinations.

With the unsuccessful pursuit of grants in FY 2020, TIRC is accordingly making a significantly increased request for funds and staffing for FY 2021 from the legislature. At the same time, it has identified several operational efficiencies it can undertake (some requiring additional staff, some not) to also wisely administer taxpayer funds and further increase case dispositions. If the Commission is successful, the addition of staff who can focus solely on claim investigation and disposition would greatly increase case dispositions.

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



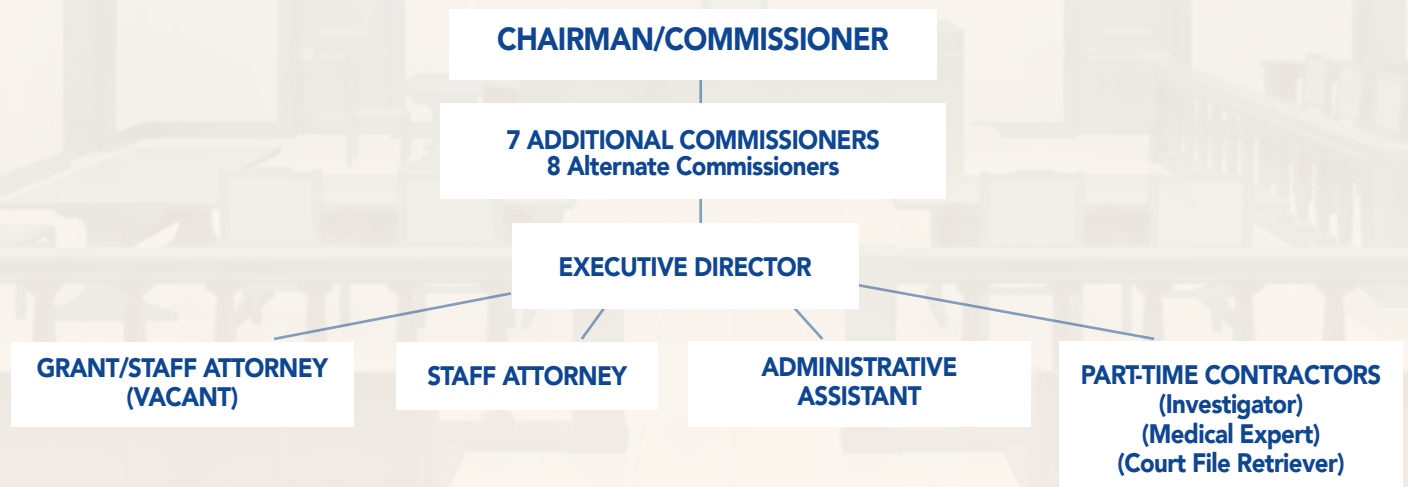
**ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION
BOARD MEMBERS**

| Commissioner Positions [°] (775 ILCS 40/20) | Official Filling Position |
|--|-------------------------------|
| Retired Circuit Court Judge | (vacant) |
| Former Prosecuting Attorney | Barry Miller ⁺ |
| Law School Professor | Robert Loeb [◊] |
| Practicing Criminal Defense Lawyer | Steven Miller [◊] |
| Member of the Public | Stephen Thurston ⁺ |
| Member of the Public | Marilyn Baldwin ⁺ |
| Member of the Public | Tim Touhy ⁺ |
| Former Public Defender | Jim Mullenix [◊] |

| Alternate Commissioner Positions | Official Filling Position |
|------------------------------------|------------------------------|
| Retired Circuit Court Judge | Kathleen Pantle ⁺ |
| Former Prosecuting Attorney | (vacant) |
| Law School Professor | Craig Futterman [◊] |
| Practicing Criminal Defense Lawyer | (vacant) |
| Member of the Public | Autry Phillips ⁺ |
| Member of the Public | (vacant) |
| Member of the Public | (vacant) |
| Former Public Defender | (vacant) |

[°] All Commissioners are unpaid, ⁺ Commissioner awaiting Senate Confirmation, [◊] Commissioner serving after expired term

**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
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OR

ILLINOIS HUMAN RIGHTS COMMISSION

1000 E. Converse, Suite 1232N
Springfield, IL 62702
Ph (217) 785-4350
Fax (217) 524-4877
Web (www.illinois.gov/hrc)

2019

Rose Mary Bombela -Tobias, Chair
Philip Dalmage, Executive Director

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DECEMBER 2019

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