

STATE OF ILLINOIS
SECOND ANNUAL REPORTS
July 1, 1981 through June 30, 1982

DEPARTMENT OF HUMAN RIGHTS

Joyce E. Tucker, Director

HUMAN RIGHTS COMMISSION

Manuel Barbosa, Chairperson



The Honorable James R. Thompson

Governor of Illinois



STATE OF ILLINOIS

Department of Human Rights

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James R. Thompson
Governor

Joyce E. Tucker
Director

To the Honorable James R. Thompson
Governor of Illinois, and the Honorable
Members of the General Assembly

In accordance with Section 25 of the Civil Administrative Code, I am pleased to provide a report of the activities of the Department of Human Rights for the fiscal year 1982.

A handwritten signature in cursive script that reads "Joyce E. Tucker".

Joyce E. Tucker
Director

December 1982
Chicago, Illinois

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ABOUT THE DEPARTMENT OF HUMAN RIGHTS

The Illinois Department of Human Rights is the civil rights enforcement agency for the State of Illinois with responsibility for enforcing the 1980 Illinois Human Rights Act.

The major responsibilities of the Department are to:

Receive or initiate, and investigate charges of illegal discrimination in the areas of employment, housing, financial credit and public accommodations.

Promulgate interpretative rules and regulations.

Monitor the equal employment opportunity/affirmative action compliance of executive State agencies and Illinois public contractors.

Provide a program of community relations and education.

DEPARTMENT JURISDICTIONS

The Illinois Department of Human Rights enforces the Illinois Human Rights Act, which became law on July 1, 1980. The law prohibits discrimination in the areas of employment, housing, financial credit and public accommodations on the basis of RACE, COLOR, RELIGION, SEX, NATIONAL ORIGIN, ANCESTRY, AGE between 40 and 70, MARITAL STATUS, UNFAVORABLE MILITARY DISCHARGE and PHYSICAL or MENTAL HANDICAP.

Employment:

Illinois workers are protected from discrimination in all conditions and terms of employment including recruitment, selection, promotion, transfer, pay, tenure, discipline, discharge and privileges.

The law applies to:

All Illinois employers of 15 or more employees, labor organizations and public and private employment agencies.

State or other governmental units without regard to the number of employees.

Employers of one or more employees in charges alleging mental or physical handicap discrimination.

Illinois public contractors without regard to the number of employees.

Housing:

Discrimination in the sale or rental of housing is prohibited. The law applies to an owner or any other person engaging in a real estate transaction, and to real estate brokers and salespersons, licensed or unlicensed.

The Act further prohibits discrimination in the rental of housing against families with children under the age of fourteen or against blind or hearing impaired persons who keep or use guide dogs.

Financial Credit:

Discrimination in the granting of, withholding of financial credit, or in the fixing of rates, standards, terms or conditions, or consideration of dependable income in connection therewith is prohibited. Both mortgage and personal loans are covered.

The law applies to the lending practices of all financial institutions doing business in the State of Illinois, including banks, savings and loans, insurance companies and credit card or charge card issuers.

Places of Public Accommodation:

Discrimination is prohibited in any place of public accommodation, i.e. any business, accommodation, refreshment, entertainment, recreation or transportation facility, licensed or not, whose goods, services, facilities and privileges are extended, offered, sold, or otherwise made available to the general public.

In addition, State and local public officials are required to provide equal enjoyment, advantages, facilities or privileges of their offices and services.

DEPARTMENT DIVISIONS

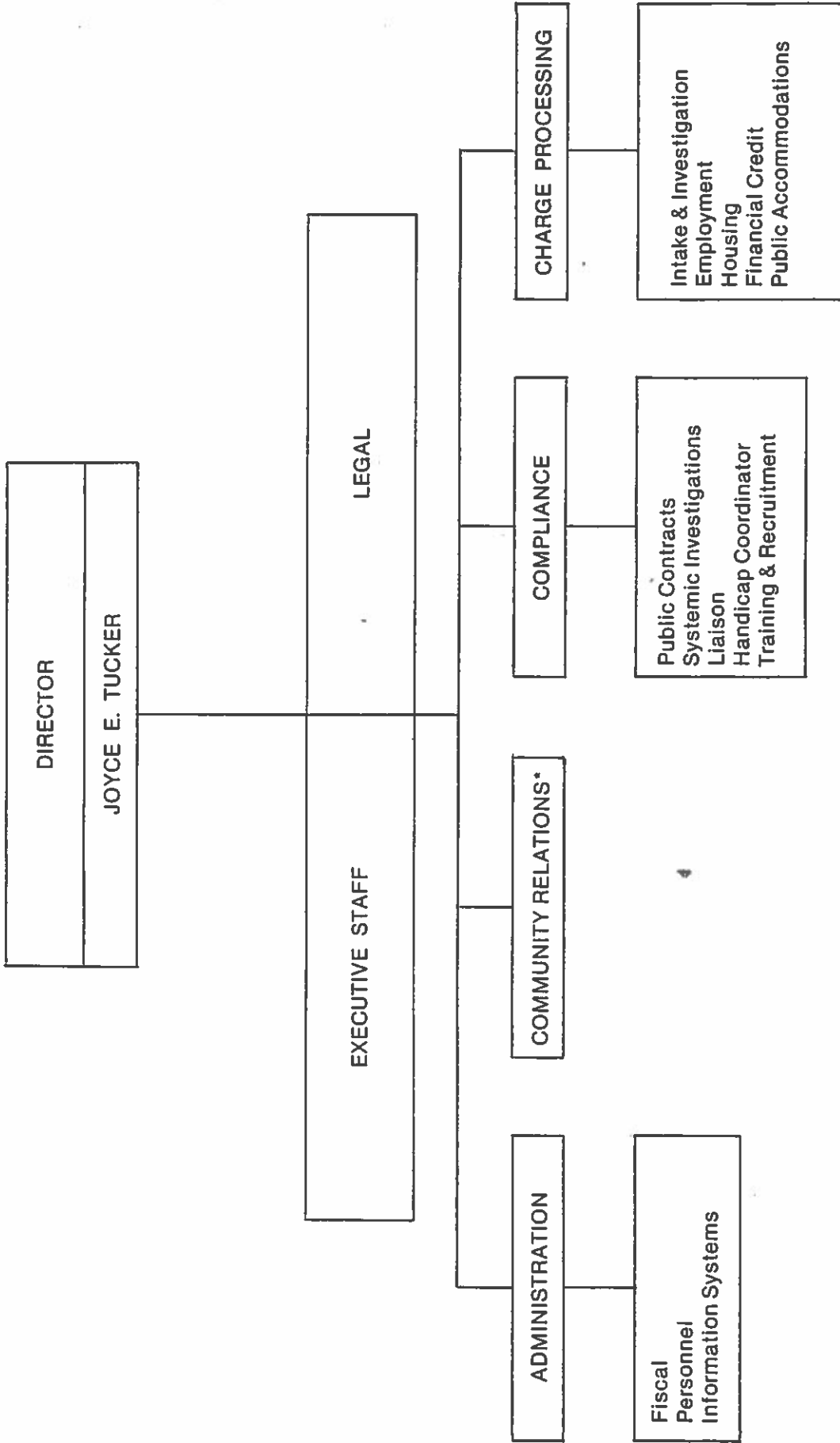
During fiscal year 1982, the Illinois Department of Human Rights had four major divisions, each with its own manager:

Administration
Charge Processing
Community Relations
Compliance

On July 1, 1982, Community Relations ceased to be a division. Community Relations activities were integrated into the Administrative Division as a support function. The Department Director, division managers, and key executive staff comprise the Executive Council, the Department's policy making body.

Chart a

DEPARTMENT OF HUMAN RIGHTS



* On July 1, 1982, Community Relations ceased to be a division. Community Relations activities were integrated into the Administrative Division as a support function.

ADMINISTRATION

The Administrative Division provides administrative support for Department operations, develops and administers management and fiscal controls, performs personnel functions and transactions, and operates the computerized case tracking system.

Public information activities are carried out as a support function within this division.

Fiscal Report

The Department's state appropriation for fiscal year 1982 was \$2,597,400. In October 1981, the Department negotiated its worksharing contract renewal with the Federal Employment Opportunity Commission, (EEOC), and, for the first time, received a charge reimbursement contract with EEOC under the Age Discrimination in Employment Act, thereby expanding the Department's federal funding contracts to three. At the end of the fiscal year, the Department had received the following EEOC awards:

Table a

FY 81 Age Discrimination	\$ 25,500
Backlog Contract	\$ 96,500*
New Charge Contract	\$424,875
FY 82 Age Discrimination	<u>\$ 56,250</u>
Total EEOC Awards	\$603,125

* Eighteen month contract from October 1, 1981 to March 31, 1983

Table b

ADMINISTRATION DEPARTMENT FUNDING SOURCES FISCAL YEAR 1982 (\$ thousands)

	FY 82
State Appropriated Funds	\$2,597.4
Other Resources	
EEOC	<u>858.0</u>
Total Resources	\$3,455.4
 Divisions:	
Administration	813.9
Charge Processing	1,942.9
Community Relations	144.3
Compliance	553.3

Table c

ILLINOIS DEPARTMENT OF HUMAN RIGHTS

Summary
 Financial Report for Period Beginning July 1, 1981
 and
 Ending June 30, 1982.

FY 82 Appropriation Item	Total Appropriation	Total Expenditures
Personal Services.....	\$2,387,000.00	\$2,024,386.72
Retirement	103,600.00	91,966.24
Social Security	159,800.00	133,163.76
Group Insurance.....	29,900.00	13,548.75
Contractual Services	502,600.00	458,969.78
Travel.....	113,200.00	79,289.09
Commodities	25,600.00	16,438.74
Printing	32,100.00	12,142.41
Equipment.....	10,000.00	691.50
E.D.P.....	- 0 -	- 0 -
Telecommunication.....	90,600.00	106,639.61
Operation Auto, Equipment	1,000.00	- 0 -
TOTALS.....	**\$3,455,400.00	\$2,937,236.60

** Total appropriation reflects monies appropriated by The General Assembly, but due to modification of Federal EEOC Contract, total monies received were \$331.0 less than appropriation. This accounts for about 66% of the lapse.

Table d

ILLINOIS DEPARTMENT OF HUMAN RIGHTS

Income & Expenditure Statement
FY 82
(Rounded to Nearest 1000)

INCOME	General Revenue Funds	Federal
Appropriations	2597.4	858.0*
Reserve		
Availability for Expenditure	2597.4	527.0**
EXPENDITURES:		
Salaries	1709.6	314.8
Fringe Benefits	189.2	49.5
Contractual Services:	398.4	60.6
Rental Real Property	265.9	33.3
Registration & Conference	7.5	.1
Rental Office Equip.	60.0	9.2
Rental Motor Vehicle	3.4	-
Repair & Maintenance	8.2	-
Statistical & Tabulating	12.9	12.7
Freight, Express & Drayage	1.5	-
Professional & Artistic Service	2.2	-
Electricity	15.5	-
Postage	8.3	5.2
Subscription & Info. Service	6.6	-
Copy Photographic & Printing	1.1	-
Contractual Services Misc.	5.2	.1
Travel Cost	78.1	1.1
Commodities	14.0	2.4
Printing	12.1	-
Equipment	1.0	-
Telecommunications	86.2	20.3
Total Expenditures	2488.5	448.8
Lapsed Appropriation	108.9	78.2
Plus Reserve		-
Total Lapse	108.9*	78.2**

* A hiring and spending freeze imposed on all State agencies accounts for approximately 32% of the lapse.

** Total Federal funds appropriated by General Assembly, but due to modification of contracts actual funds received only totaled 527.0 of which 126.0 was a carry over from FY 81 contract.

Personnel

The Department's fiscal year 1982 end-of-year headcount was 106, compared to a fiscal year 1981 end-of-year headcount of 126. The decrease in the number of staff was due mainly to a state imposed hiring freeze. Through concerted staff effort and management improvements, the Department was able to maintain its productivity level in processing discrimination charges, one that exceeds the national average for state fair employment practices agencies.¹

Table e

END-OF-YEAR HEADCOUNT FY 81-82

	FY81	FY82
Administration	18	18
Charge Processing	85 ^a	63 ^b
Community Relations	4	5
Compliance	19	20
Total	<u>126</u>	<u>106</u>

a Total Investigations Staff — 38

b Total Investigations Staff — 33

¹ Department investigators complete an average of 8 cases per month, 2.5 above the national standard of 5.5 per month for fair employment agencies according to reports from the Equal Employment Opportunity Commission.

Electronic Data Processing Unit

The Electronic Data Processing Unit operates the Case Management Information System (CMIS) for tracking charges of discrimination, which monitors the movement and progress of charges through the system from docketing to closing. A computer readable complement of information is maintained on each charge. Weekly and monthly reports generated by this unit enable managers to (a) intervene appropriately in the charge processing cycle to prevent bottlenecks, (b) systematically review agency progress in processing charges, (c) prepare the various reports required for record keeping and Department decision making, and (d) provide information to Department investigators and attorneys to assist them in carrying out their responsibilities efficiently and effectively.

Public Information

The Department's program of public information is a support function in the Administrative Division. Utilizing a speaker's bureau, radio and television guest and news appearances, and printed material, the Department provided detailed information and interpretation on the Illinois Human Rights Act and other timely civil rights issues.

In fiscal year 1982, Department staff appeared on 31 radio and television news and talk shows, and made 337 speaking appearances throughout Illinois. Efforts to increase public awareness of the Department included displaying public service advertisements on the public transit systems of nine major metropolitan transit systems.

COMPLIANCE DIVISION

The Compliance Division monitors State agencies, boards, commissions, colleges and universities, and Illinois public contractors to ensure their compliance with their legal obligations as equal employment employers. Through this division, the department exercises its authority to initiate charges of discrimination that come under its jurisdiction. The Division has four special function units:

- Public Contract** Reviews and monitors the equal employment opportunity and affirmative action posture of private firms contracting with State and local government.
- Liaison Unit** Reviews the affirmative action plans of State executive agencies and assists State agency equal employment opportunity/affirmative action personnel in complying with the Illinois Human Rights Act and Section 504 of the federal 1973 Rehabilitation.
- Systemic Unit** Investigates charges of discriminatory practices and practices that appear to be systemic in nature.
- Training Unit** Provides equal employment opportunity and affirmative action training to State agency supervisors and managers, and in-service training and development to Department staff.

The Division also houses and administers the Department's Affirmative Recruitment Program, a service that assists minorities, women, and the handicapped seeking employment in State government, and aids State agencies in meeting their affirmative action goals. The program is funded by the Illinois Department of Commerce and Community Affairs through the Governor's Special Grant Program.

COMPLIANCE DIVISION HIGHLIGHTS

The Handicap Program Coordinator developed affirmative action standards for handicapped persons. The standards will be included in a compliance manual for public contractors which is expected to be available in early 1983.

** Fifty-three State executive agencies submitted affirmative action plans for Department review. This represents 81.5 percent of the agencies required to submit such plans in accordance with the Illinois Human Rights Act. Directors of agencies that did not submit plans received written notice of noncompliance and of the sanctions that could be invoked under Department rules and regulations. The names of all noncomplying agencies were reported to the Office of the Governor.

** The Liaison Unit conducted statewide seminars for State EEO/AA Officers. The seminars addressed affirmative action progress review procedures, the issue of reasonable accommodation for the handicapped, and Department investigation procedures for charges of discrimination.

** The Systemic Unit commenced a total of thirty-four investigations in fiscal year 1982, combining seventy-four charges filed by individuals and ten initiated by the Department. Nine systemic investigations were completed. Respondents in the completed investigations included a large retailer, two newspapers, a manufacturing firm, three municipal departments, and a State agency. Department rules and regulations prohibit public disclosure of the identities of parties involved or information on the charge itself prior to the filing of a complaint of discrimination with the Human Rights Commission or unless the matter is the subject of court proceedings.

** The investigatory responsibility of the Systemic Unit was expanded in November 1981 to include Systemic investigations for all four of the Department's enforcement jurisdictions; housing, financial credit and public accommodations in addition to employment for which the unit already had responsibility.

** The employment profiles of the one hundred-six financial institutions that participated in the State Treasurer's Mortgage Program were analyzed. Each institution employing fifty or more persons was requested to submit a copy of its affirmative action plan to the Department for analysis and review.

** Full compliance reviews were completed on fifty large public contractor companies. On-site visits and off-site document analysis are included in such a review examining for each company: (a) the representation of minorities and women in the total workforce and in each job category, (b) any changes in representation since the last compliance review, (c) all hires, promotions, and terminations, (d) wages and salaries of minorities as compared to non-minorities, (e) its affirmative action plan and progress in

meeting affirmative action goals, and (f) its personnel policies, practices and procedures impacting minority/female selection and retention. In each case a summary report was prepared listing all deficiencies and recommending corrective action.

** Settlement negotiations stemming from a major audit of Eastman Kodak Company's Oakbrook, Illinois facility were completed. Kodak agreed to make major revisions in its affirmative action methodology. This agreement concluded lengthy litigation which has led to an Illinois Supreme Court ruling in *Eastman Kodak Co. v. FEPC*, 86 Ill. 2d 60, 426 N.E. 2d 877 (1981).

** One thousand, five hundred thirty-eight (1,538) State agency employees received EEO/AA and/or sexual harassment prevention training conducted by the Division's Training Unit.

** Responsibility for coordinating in-service training of Department staff was given to the Training Unit. One of the highlights of the in-service training was a series of education seminars conducted by the Department's staff attorneys. A wide range of topics was presented; sexual harassment, age discrimination, housing discrimination, handicap discrimination, and continuing violations. Additionally, the training unit coordinated external training designed to improve staff work skills.

Chart b

Disposition of Systemic Inquiries/Referrals¹

	FY 81	FY 82
Inquiries/Referrals received	4	55
Disposition of inquiries/referrals		
a. No systemic implications	2	12
b. Lack of jurisdiction		3
c. Retained for systemic investigations		8
d. Charges initiated as a result of inquiries		6
e. Carried forward	2	28

Chart c

Disposition of Systemic Investigations²

	FY 81	FY 82
Charges docketed		74
Total department-initiated	1	10
Investigations completed		9 ³
a. Substantial evidence recommendations		9
b. Settled		5
c. Failure to proceed or withdrawn by complainant ⁴		3
d. Lack of substantial evidence		20
e. Lack of jurisdiction		0
f. Carried forward		37
Number of potentially affected protected class members		5438 ⁵

¹ The workload of the Systemic Unit is comprised of referrals from within the Department, from the Human Rights Commission, inquiries from the public, and research initiated by the systemic staff. The systemic staff reviews such inquiries and referrals to determine jurisdictional authority and whether or not systemic implications are present.

² A systemic investigation may consist of a single charge or a number of charges consolidated into one single investigation.

³ Totalling 37 separate charges

⁴ A complainant has the right to withdraw or fail to pursue a charge for whatever reason. In such instances, the Department reviews such charges to determine whether a Department-initiated charge is indicated.

⁵ The protected class persons were either directly or indirectly affected by the nine substantial evidence recommendations and the five settlements.

NEW PROGRAMS/MAJOR PROGRAM CHANGES

** The Liaison Unit initiated a new approach to reviewing the affirmative action progress of State executive agencies. The review analyzes for each agency: (a) its workforce data, (b) discrimination charges filed against it with the Department, (c) its progress in meeting program and numerical affirmative action goals, and (d) interview responses of the agency's employees regarding their perceptions of the agency affirmative action program and achievements. Based on a random sampling, reviews utilizing this approach were conducted for thirty agencies between January and June 1982, the close of the fiscal year. The remaining agencies will be reviewed in fiscal year 1983.

** Procedures were developed and implemented for the referral of charges with systemic implications to the Systemic Unit from other divisions within the Department and externally from the Human Rights Commission. The referral procedures were also presented and explained to municipal human rights agencies to assist them in identifying systemic charges and referring such charges to the Department.

** The Public Contracts Unit initiated a program of review for all charges filed with the Department against companies which are public contractors. The process became more formalized when public contractors unit specialists were assigned responsibility for conducting the initial complainant interview, attempting settlement resolution, and developing respondent interrogatories, addressing both the charge itself and the issue of public contract compliance. This program is expected to improve the monitoring of the EEO/AA performance of public contractors. Eight companies were targeted for an in-depth review of their EEO/AA performance as a result of the review procedures.

** Two standardized compliance review formats were developed: one for construction contractors, the other for non-construction contractors. Standardizing this process established uniform guidelines for compliance review officers' use in conducting reviews and reporting the findings.

** A process that includes the preparation and review of interrogatories for charges alleging handicap discrimination was developed and implemented by the Department Handicap Coordinator. This process is expected to decrease investigation time for such charges by ensuring that needed documentation is obtained prior to these charges being assigned to an investigator.

** On July 1, 1982, the Department's **Equal Employment Opportunity/Affirmative Action Rules and Regulations Governing State Executive Agencies** went into effect marking a first for the State and the nation.

For Illinois the adoption of the rules marked the first time that State executive agencies would have written guidelines spelling out their EEO/AA obligations. For the nation, the rules' adoption made Illinois the only state to require affirmative action based on national origin.

The rules implemented Public Act 82-709, an amendment to the Illinois Human Rights Act which became law on July 1, 1982. The amendment mandated the inclusion of national origin groups as affirmative action protected classes subject to criteria required by Department rules.

The Department was faced with the difficult and challenging task of implementing this new law without benefit of federal or state precedent.

Federal affirmative action categories, (as well as that of most states having affirmative action requirements), are race, sex, and handicap. The lack of existing models and the paucity of precedent data on national origin as an affirmative action consideration prompted the Department to convene public hearings to elicit public comment in addition to the legislatively required 45 day public comment period following the publishing of all proposed rules.

THE ILLINOIS AFFIRMATIVE RECRUITMENT PROGRAM

The Illinois Affirmative Recruitment Program (IARP) was established to aid State agencies in meeting their affirmative action goals, and to assist minorities, women, and the handicapped in finding employment in State government. It is also an effort to adequately disseminate knowledge of job vacancies to protected class members.

The Illinois Affirmative Recruitment Program uses a broad coalition of State agencies and community based organizations to assure appropriate support and direction in conducting the project.

The program provides several services to applicants:

- COUNSELING:** Counselors are available to advise clients about opportunities and assist them in the preparation of State employment application forms.
- JOB BANK:** A current listing of employment opportunities in State agencies, Boards, and Commissions is maintained.
- APPLICANT SKILL BANK:** Applications are received and entered into a cross-referenced skill bank with a summary of the applicants' training and experience, their preferences, and their job objectives. As vacancy announcements are received, Illinois Affirmative Recruitment Program counselors match the individual skills with the various job openings.
- REFERRAL SERVICE:** Applicants' names are referred to the State agencies for consideration in conjunction with those positions for which they appear qualified.
- TRACKING SYSTEM:** A progress record is maintained on all phases of the application/selection process.

Chart d

ILLINOIS AFFIRMATIVE RECRUITMENT PROGRAM PLACEMENTS OCTOBER 1, 1980 TO JUNE 30, 1982

DIRECT PLACEMENTS

The IARP has directly placed 155 clients during the course of the program, 125 of these placements occurring in fiscal year 1982.
Total (October 1, 1980 - June 30, 1982)

	White	Black	Hispanic	American Indian	Handicapped	Total
FEMALES	9	18	16	0	(2)	43
MALES	<u>3</u>	<u>55</u>	<u>52</u>	<u>3</u>	<u>(3)</u>	<u>112</u>
TOTAL	12	73	68	3	5.155	

All figures for the handicapped are recorded in parenthesis and not included in the total, having already been counted by race.

INDIRECT PLACEMENTS

The Illinois Affirmative Recruitment Program has provided technical assistance to government agencies, community based organizations, and the private sector in their recruitment related efforts, to assist them in soliciting qualified minority candidates. The number of placements attributable to these efforts cannot be established, but is substantial.

By way of example, in December 1981, the Illinois Affirmative Recruitment Program assisted the Chicago Department of Health in its effort to find employment for one hundred seventy-three employees, predominantly minorities, targeted for layoff. The Illinois Affirmative Recruitment Program organized two applicant orientations with panel members representing the State, Veterans Hospitals, Cook County, The Illinois Hospital Association, the Illinois Nurses Association and the private sector. The orientations resulted in the placement of over thirty of the participants, according to information provided by the Chicago Department of Health.

The Illinois Affirmative Recruitment Program also assisted State agencies in the re-employment of employees targeted for layoff. These agencies included the Department of Administrative Services, Conservation, Mental Health, Personnel, Public Aid and Public Health, the Arts Council and the Law Enforcement Commission.

STATISTICAL SUMMARY RESULTS

Skills Bank: 1,238 individuals were added to the Illinois Affirmative Recruitment Program Skills Bank in FY82. These are by Race and Sex as follows:

Chart e

Sex	White	Black	Hispanic	Asian	Am. Ind.	Handi-capped	Total
FEMALE	113	252	209	11	3	(17)	588
MALE	<u>24</u>	<u>327</u>	<u>289</u>	<u>6</u>	<u>5</u>	<u>(20)</u>	<u>650</u>
TOTAL	<u>137</u>	<u>579</u>	<u>498</u>	<u>17</u>	<u>8</u>	<u>(37)</u>	<u>1238</u>

All figures for the handicapped are recorded in parenthesis and not included in the total, having already been counted by race.

PLACEMENT BY EEO CATEGORY

Illinois Affirmative Recruitment Program placements were made in the following EEO categories by position, title, race, sex and handicap for fiscal year 1982.

Chart f

EEO CATEGORY	MALE					FEMALE					TOTAL
	Whites	Black	Hispanic	Am. Ind.	Handicapped	Whites	Black	Hispanic	Am. Ind.	Handicapped	
Officials/Managers	2	4	1a			2	4	4			1
Professionals		2	8		2b	1	2	3			24
Technicians		38	6		1	4	4				14
Protective Services	1	1	24	3							70
Para-Professionals			2								3
Office/Clericals						2	5	5			12
Skilled Craft			1						2		0
Service Maintenance											1
											<u>125</u>

a. Exempt positions.

b. All figures for the handicapped are recorded in parenthesis and not included in the total, having already been counted by race.

COMMUNITY RELATIONS DIVISION

The Community Relations Division provided a wide range of services in furthering the Department's mission to eliminate illegal discrimination. Its principal role was targeting civil rights issues to enable the Department to better plan the direction of its resources. Beginning fiscal year 1983, Community Relations ceased to be a division. Community Relations activities were integrated into the Administration Division as a support function.

DIVISION HIGHLIGHTS

** The Division instituted the convening of quarterly meetings between fair housing advocacy groups and key Department staff. These quarterly discussions are expected to significantly enhance operations in the housing jurisdiction by:

Identifying major housing issues of mutual interest;

Educating the fair housing community on the Department's enforcement authority in housing discrimination;

Achieving greater uniformity in referral procedures among fair housing advocacy groups;

Establishing an early warning network between fair housing advocates and the Department in communities that may experience racial tension.

Organizations and agencies participating in quarterly meetings during the fiscal year 1982:

Oak Park Housing Center

Beverly Area Planning Association

LaGrange Area Branch — NAACP

Far South Suburban Branch — NAACP

PLUS, Inc.

Leadership Council for Metropolitan Open Communities

Urbana Human Relations Commission

Elgin Human Relations Commission

Illinois Housing Development Authority

Illinois Municipal Human Relations Association

South Suburban Housing Center

UNITE

Minority Economic Resources Corporation

HOPE Fair Housing Center

Lawyers' Committee for Civil Rights

United Neighbors in Action

** The Division began the preliminary groundwork leading to a pilot program of cooperative agreement between the Department and five municipal agencies that administer human rights ordinances. The formal pilot agreement will be implemented in fiscal year 1983.

CHARGE PROCESSING DIVISION

The primary function of the Charge Processing Division is to receive, investigate, and resolve charges of discrimination in the areas of employment, housing, financial credit and public accommodations.

A charge must be filed with the intake unit within 180 days of the date the discriminatory act is believed to have occurred. The Department has 300 days from the filing of a charge to either dismiss a charge or issue a complaint of discrimination with the Illinois Human Rights Commission.

DIVISION HIGHLIGHTS

- ** Six bases of discrimination allegations comprised 94% of the total charges filed; race (31%), multiple issues (28%), sex (12%), physical or mental handicap (10%), national origin (7%), and age (7%). Color, arrest record, retaliation and marital status comprised 6%.
- ** The number of charges filed in the housing, financial credit and public accommodations jurisdictions during fiscal year 1982 tripled the number of such charges taken during the previous year, the Department's first year of existence. Of the 166 charges taken in FY82 117 (70%) were housing charges, 48 (29%) public accommodations and one was a financial credit charge.
- ** Of the 117 housing discrimination charges filed, 39% alleged race discrimination and 38% alleged illegal exclusion of children in rental housing.
- ** The Department had a 100% success record in obtaining temporary restraining orders in those instances where injunctive relief was sought in order to keep a housing unit available during the course of the Department's investigation. In each such instance a restraining order was obtained or the case was settled to the Complainant's satisfaction before trial.
- ** Employment discrimination charges continued to comprise by far the majority of all charges filed with the Department (94%). During fiscal year 1982 the number of employment charges increased by nearly 5%, 2,480 charges compared to 2,367 the previous year.
- ** The largest single increase in any type of charge taken was in the area of age discrimination, a 61% increase from the previous year. A significant number of multiple issue charges also included age discrimination as one of the bases.
- ** The number of charges investigated and completed by the employment section remained steady at 2,035.
- ** A single age discrimination in employment charge was settled during investigations for \$100,000 in relief.

MANAGEMENT IMPROVEMENTS

Late in the fiscal year the Department instituted the Preliminary Investigations Program (PIP) designed to increase production by having both the Complainant and the Respondent contacted to discuss settlement possibilities prior to a charge being assigned to an investigator. Under the program's procedures if settlement attempts are unsuccessful, the investigator prepares a questionnaire tailored to the specific charge and sends it to the Respondent so that when the charge is assigned to an investigator there will already be information on hand. The early settlement results suggest that the program will be a successful one.

In addition, general guidelines to be used in the investigation of charges were instituted during the year. They include the time frames within which investigators must complete the various phases of an investigation from the initial contact with the Complainant to the completion of the investigation report. Early indications show that turnaround time (the length of time between assignment of a charge and its completion) is being reduced.

STATISTICAL TABLES AND CHARTS

The data in the following charts and tables are derived from output statistics generated by the Department's Case Management Information System and are based on computer input information submitted by Department staff.

Chart g

CHARGES DOCKETED AND DISPOSITION OF COMPLETED INVESTIGATIONS FISCAL YEARS 1980-82

	Fair Employment Practices Commission FY80 ^b		Department of Human Rights	
			FY81	FY82
Inquiries Received ^a	18,924		20,575	15,441
Charges Docketed	2,220		2,432	2,646
Complete Investigations	1,931		2,064	2,195
Disposition of Completed Investigations:				
Substantial Evidence	199	10.3%	221	10.7%
Settlements	628	32.5%	538	26.1%
Withdrawn by Complainant	213	11 %	345	16.7%
Lack of Jurisdiction	32	1.7%	46	2.2%
Lack of Substantial Evidence	602	31.2%	758	36.7%
Failure to Proceed by Complainant	257	13.3%	156	7.6%
			162	7.4%

a Inquiries received applies to employment only.

b Employment jurisdiction only.

ALLEGED BASES OF DISCRIMINATION CHARGES FILED BY SEX AND DEPARTMENT JURISDICTION

Fiscal Year 1982

(July 1, 1981 through June 30, 1982)

JURISDICTION	Number of Cases	Race	Religion	National Origin	Sex	Color	Retaliation	Physical Handicap	Mental Handicap	Military Discharge	Age	Marital Status	Coercion	Arrest Record	Multiple Bases	Exclusion of Children	Other
EMPLOYMENT	Female	1191	306	4	52	255	-0-	35	97	10	66	1		-0-	361		4
	Male	1289	476	9	109	34	1	45	142	9	110	2		2	346		4
HOUSING	Female	77	32		2	1			14			3				25	
	Male	40	14		6	-0-										20	
FINANCIAL CREDIT	Female	1										1					
	Male	-0-															
PUBLIC ACCOMMODATIONS	Female	26	9		12	4			1	-0-							
	Male	22	12		-0-	6		2	1	1							
TOTALS	2646	849	13	181	300	1	82	255	20	0	176	7		2	707	45	8

**TYPE OF RESPONDENT: ALL JURISDICTIONS
FY80 - FY82**

JURISDICTION	Fair Employment Practices Commission		Department of Human Rights	
	FY80	FY81	FY82	FY82
	Number of Charges	Number of Charges	Number of Charges	Percent of Total
EMPLOYMENT	2220	2367	2480	
Private Employers	1908	2135	2254	90.9%
Public Employers	260	208	137	5.5%
Unions	52	20	35	1.4%
Employment Agencies	0	4	54	2.2%
HOUSING				
Private Owners		39	117	
Bank or Saving and Loans	NO JURISDICTION	9	36	31%
Management Companies	" "	8	23	20%
Home Owners Associations	" "	13	19	16%
Companies or Corporations	" "	0	11	9%
Others	" "	2	11	9%
		7	17	15%
PUBLIC ACCOMMODATIONS				
Public Officials		24	48	
Retail Stores	NO JURISDICTION	3	15	31%
Others*	" "	5	8	17%
		16	25	52%
FINANCIAL CREDIT				
Savings and Loans		3	1	
Retail Stores	NO JURISDICTION	2	1	
	" "	1	-0-	

*includes several other types of respondents, none of which involves more than four charges.

Chart j

**CHARGES DOCKETED BY AREA OF JURISDICTION
FY80 - FY82**

	Fair Employment Practices Commission		Department of Human Rights	
	FY80	FY81	FY81	FY82
Employment	2,220	2,367	97.2%	2,480
Housing	No Jurisdiction	39	1.6%	117
Financial Credit	"	3	.3%	1
Public Accommodations	"	24	.9%	48
TOTALS	<u>2,220</u>	<u>2,433</u>	<u> </u>	<u>2,646</u>
				<u>93.7%</u>
				<u>4.4%</u>
				<u> </u>
				<u>2.8%</u>

Chart k

Number of Charges Filed and Basis of Charge

EMPLOYMENT JURISDICTION
FISCAL YEARS 1980-82

Number	12 Months FY80	12 Months FY81	Months FY82
Avg. #/month	185	197	206
Avg. #/week	42.69	45	48
Avg. #/day	8.40	9	10
Total #docketed	2,200	2,367	2,480

Types	12 months FY80		12 months FY81		months FY82	
	#	%	#	%	#	%
Race	799	36	718	30.3	782	31.5
Color	-0-	-0-	-0-	-0-	1	-0-
Ancestry	-0-	-0-	-0-	-0-	-0-	-0-
Sex	544	25	305	12.8	289	11.65
Retaliation	101	5	65	2.7	80	.3
Physical Handicap	335	16	331	13.9	239	10
Mental Handicap	17	1	19	-0-	19	-0-
Military Discharge	-0-	-0-	-0-	-0-	-0-	--
Age	No jurisdiction		109	4.6	176	7
Marital Status	No jurisdiction		3	-0-	3	-0-
Arrest Rec./Con. Rec.	-0-	-0-	-0-	-0-	2	-0-
Coercion Interference	-0-	-0-	-0-	-0-	-0-	-0-
Religion	20	1	9	-0-	13	-0-
National Origin	174	8	187	7.9	161	6.4
Other	21	1	10	-0-	8	-0-
Multiple	209	9	605	25.5	707	28.5
TOTALS:	2,220		2,367		2,480	

Chart L

HOUSING, FINANCIAL CREDIT AND PUBLIC ACCOMMODATIONS
 BASIS OF CHARGE AND TYPE OF DISCRIMINATORY ACT ALLEGED
 FISCAL YEAR 1982

	Housing							Public Accommodations				Financial Credit		
	Sale, Rental, Lease	Terms	Offer	Representations	Other	TOTAL	Denial of services	Modification of Services	Public Officials	Enjoyment of Facilities	TOTAL	Lending Standard	TOTAL	CUMULATIVE TOTAL
RACE														
COLOR	32	4	1	9		46	10	1	2	8	21			67
RELIGION														
NATIONAL ORIGIN/ANCESTRY	8					8			12		12			20
AGE														
SEX		1				1	5	2		3	10			11
MARITAL STATUS	3					3						1	1	4
PHYSICAL HANDICAP	14					14			1	1	2			16
MENTAL HANDICAP							1				1			1
RETALIATION										2	2			2
EXCLUSION OF CHILDREN					45	45								45
TOTAL	57	5	1	9	45	117	16	3	15	14	48	1		166

SIGNIFICANT COURT DECISIONS

During FY82, several notable court decisions were rendered affecting the Human Rights Act and practice thereunder.

A. Mandatory Retirement. In November 1981, the Illinois Supreme Court upheld a Ruling that the Human Rights Act forbade the compulsory retirement of 65-year old employees, even where the practice was permissible under the federal age discrimination law. The Court affirmed an order of the Human Rights Commission upon complaints brought by the Department and three affected employees. *Board of Trustees of Community College Dist. No. 508 v. Human Rights Commission*, 88 Ill. 2d 22.

The Human Rights Act prohibits age discrimination in employment against persons between 40 and 70 years old. It permits employers, however, to vary standards of compensation or other conditions of employment pursuant to bona fide merit or retirement systems. In this case, a community college board argued that the exemption sanctioned its rule forcing tenured faculty members to retire at age 65, a practice specifically permitted in college settings under a temporary federal exemption. But the Court agreed with the Department and Commission that the Human Rights Act was not so easily circumvented. The college board was ordered to cease efforts to compel faculty members to retire before age 70.

B. Statutory Time Limits and Backlogged Charges. In a series of decisions beginning in 1978, the Illinois Supreme Court announced that time limits governing the processing of charges under the Fair Employment Practices Act (a predecessor to the HRA) were mandatory and compelled the dismissal of claims which were not processed in compliance with them. See, *Zimmerman Brush Co. v. FEPC*, 82 Ill. 2d 99 (1980); *Board of Governors v. FEPC*, 78 Ill. 2d 143 (1979); *Springfield Sangamon County Regional Plan Comm. v. FEPC*, 71 Ill. 2d 61 (1978). In response to the earliest of these cases, the General Assembly in 1978 amended the FEPA to enable the complainants whose cases had been adversely affected by FEPC delays to pursue their claims in the State courts. When the Human Rights Act replaced the FEPA, it contained this authority.

In November 1981, the Illinois Supreme Court declared the FEPA amendment invalid, on the dual grounds that it revived claims which had previously become barred, and irrationally preferred a special class of litigants. *Wilson v. All-Steel, Inc.*, 87 Ill. 2d 28. The ruling came in an appeal brought by the Department from a trial court order dismissing an individual's lawsuit. Only three months later, the United States Supreme Court reversed one of the Illinois decisions which had interpreted an FEPA time limit as mandatory; the high court declared that the FEPC's failure to process a case within the timeframe could not constitutionally deprive the complainant of his right to have his claim considered. *Logan v. Zimmerman Brush Co.*, _____ U.S. _____, 102 S. Ct 1148, 71 L.Ed 2d 265 (1982).

The Supreme Court's decision in *Logan* has brought into question the continuing validity of the ruling in *Wilson v. All-Steel, Inc.* If the FEPC's inability to timely process a claim could not operate to prejudice the claimant's rights, the General Assembly's 1978 legislation could not be said to have revived barred causes of action. In at least one such case, however, an appellate court has resolved this issue by ordering that a suit filed pursuant to the 1978 legislation be remanded to the Department for reinstatement. *Lott v. Governors State University*, 106 Ill. App. 3d 851 (April 27, 1982).

C. Handicap Discrimination. In February 1982, the Illinois Supreme Court resolved a dispute between panels of the appellate court regarding the sorts of conditions which qualified an individual for protection from discrimination under the Equal Opportunities for the Handicapped Act. The EOHA was another of the Illinois statutes replaced by the Human Rights Act. The EOHA did not attempt a definition of what constituted a "handicap" for its purposes, and the Court concluded that it was intended only to reach serious disorders interfering with an individual's major life activities. *Lyons v. Heritage House Restaurants, Inc.*, 89 Ill. 2d 163 (1982).

In so holding, however, the *Lyons* court specifically noted that the Human Rights Act incorporates a definition of the term "handicap," and that definition — rather than the *Lyons* formulation — will control in HRA cases.

D. Local Human Rights Agencies. Section 7-108 of the Human Rights Act authorizes local governments in Illinois to enact their own ordinances protecting civil rights within their borders, and encourages cooperation among the Department and local agencies administering such ordinances. Several Illinois communities have adopted such ordinances, and many resulting local agencies have extensive experience in the field.

A recent appellate court decision, however, questions the authority of local communities to establish rights and protections which exceed those already provided under the Human Rights Act. *Hutchcraft Van Service, Inc., v. City of Urbana*, 104 Ill. App. 3d 817. There, the court held that the HRA preempts the area of civil rights in Illinois such that local jurisdictions may not establish additional protections. The City of Urbana, joined by the Department and several other organizations, petitioned for the Illinois Supreme Court to review the ruling, but the Supreme Court declined to do so.

E. Pregnancy Discrimination. A recent decision has cast additional doubt over the question whether Illinois law prohibits discrimination in employment against females who become pregnant. Doubt on this question initially arose with the Illinois Supreme Court's holding, in *Illinois Bell Telephone Co. v. FEPC*, 81 Ill. 2d 136 (1980), that an employer did not violate the FEPA in excluding pregnancy disabilities from coverage under its benefit plan. But that decision contained language indicating it might be limited to its peculiar facts.

In February 1982, however, an appellate court applied *Illinois Bell* to reach the same result in another case. *Illinois Consolidated Telephone Co. v. FEPC*, 104 Ill. App. 3d 162. These decisions suggest that Illinois law does not require that pregnancy be accorded equal protection with other disabilities under employers' benefit programs. Federal law required equal treatment since a 1978 amendment.

F. Investigation Procedures. In another decision, an appellate court has upheld a Department regulation governing its conduct of investigative "fact-finding" conferences. In *Board of Education, Hawthorne Schl. Dist. No. 17 v. Eckmann*, 103 App. 3d 1127 (1982), a school board refused to attend a duly-scheduled fact-finding conference unless permitted to bring a court reporter. The Department's rules preclude the recording of such conferences, and the board sued to invalidate the rule. The court ordered the suit dismissed, finding that the Department had discretion to control the proceedings at the investigation stage and that a party is not entitled to convert the investigation prematurely into a trial.

AMENDMENTS TO ILLINOIS HUMAN RIGHTS ACT

A. P.A. 82-340. Effective August 21, 1981, Section 7-108(D) of the Human Rights Act was amended to expressly prohibit counties, municipalities and other units of local government from adopting ordinances or regulations which limit or restrict the housing choices of any persons. The amended provision specifically recites, however, that it does not forbid special outreach efforts by local governments to inform minority group members of housing opportunities in areas of majority concentration, and vice versa.

B. P.A. 82-634. Effective September 24, 1981, Section 2-103 of the Act (Prohibiting employers from inquiry into job applicants' arrest record) was amended to clarify that it does not prohibit local governments and school districts from utilizing criminal conviction information obtained from the Department of Law Enforcement regarding employees and applicants, in evaluating their fitness for employment. Section 2-103 has never forbidden the collection or consideration of conviction records in such contexts.

C. P.A. 82-222. Effective January 1, 1982, Section 1-103(l) of the Act, defining the term "handicap," was amended to explicitly reach conditions which may necessitate a person's use of a guide or hearing dog. This effectively entitles such persons to the Act's protections against discrimination based on any such conditions. In addition, the same bill added a provision to the Act prohibiting discrimination against any person in the rental of housing accommodations because of the person's reliance upon and accompaniment by a guide or hearing dog.

D. P.A. 82-709. Effective July 1, 1982, Section 2-105(B) of the Act was amended to prescribe that national origin groups, if certified by Department rulemaking as having experienced chronic and pervasive discrimination, may be added to the list of groups for whom State agencies are required to undertake affirmative action in employment.

DEPARTMENT RULE AMENDMENTS

A. Purchasing Rules. Effective September 15, 1981, the Department adopted Purchasing Rules and Regulations in place of the purchasing rules it had inherited from the former Fair Employment Practices Commission. 5 *Illinois Register* 9457.

B. Cooperation with Local Human Rights Agencies. Effective February 8, 1982, the Department adopted new regulations setting forth the nature of the cooperative arrangements it will enter into with local agencies administering human rights ordinances. The regulations also prescribe the procedures whereby charges of discrimination may be transferred or coordinated between the Department and a local agency. These regulations are pursuant to Section 7-108 of the Human Rights Act. 6 *Illinois Register* 2125.

C. Unperfected Charges. The Department's regulations, like those of the F.E.P.C. before it, permit it to accept charges of discrimination as "unperfected" where the charges satisfy some but not all of the elements which the rules require for a valid charge. Generally, this process is invoked where the charge must be sworn under oath, or additional details provided, for it to meet all requirements. Section 3.5(b) of the Department's rules provides that the complainant in such a case be afforded a reasonable opportunity to perfect the charge, but prescribes that the charge will be dismissed if the complainant fails to satisfy the requirements.

During its review of existing Department rules, the Joint Committee on Administrative Rules recommended that the Department expand Rule 3.5(b) to enunciate the criteria by which it will determine whether to dismiss an unperfected charge where additional information has been requested of the complainant. Effective March 15, 1982, the Department adopted amendments to Rule 3.5(b) clarifying that it will dismiss such a charge if it finds that the additional detail was within the complainant's ability to obtain and articulate, but nonetheless is not supplied. 6 *Illinois Register* 3076.

D. Affirmative Action by State Agencies. Section 2-105(B) of the HRA requires all entities in the executive branch of State Government to practice equal opportunity and affirmative action in employment. It also directs the Department to promulgate regulations governing these requirements. Effective July 1, 1982, Public Act 82-709 provided for the inclusion of national origin minorities among affirmative action groups if they meet criteria to be spelled out in Department rules.

Effective July 1, 1982, the Department adopted an extensive set of regulations fleshing out in detail the substance and procedures applicable to the State's EEO and affirmative action obligations. 6 *Illinois Register* 8090. Public hearings on the rules were convened in Chicago and Springfield before their adoption, and public input was substantial. The Department has begun training State EEO officers in the provisions of the new rules.

E. Interpretative Rules on Handicap Discrimination in Employment. In October 1981 the Department, jointly with the Human Rights Commission, proposed for adoption a set of guidelines interpreting the statutory provisions prohibiting handicap discrimination in employment. 5 *Illinois Register* 9664. This has been an area fraught with questions and uncertainty over the application of the Act to diverse fact situations.

Extensive public comments were received in response to those proposals. The Department and Commission made several changes in the proposals in response to the public input, and published them again for additional comment and a public hearing. 6 *Illinois Register* 2647. Final adoption of handicap interpretations should occur early in fiscal year 1983.



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

In accordance with Section 25 of the Civil Administrative Code, I hereby transmit to you a report of the activities of the Illinois Human Rights Commission for Fiscal Year 1982.

Respectfully submitted,

Manuel Barbosa
Chairperson

February 16, 1983
Chicago, Illinois

**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

ANNUAL REPORT JULY 1, 1981 — JUNE 30, 1982

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

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

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

MANUEL BARBOSA, an attorney from ELGIN, ILLINOIS, is the appointed Chairperson of the Commission. The remaining four members are:

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

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

The Commission staff consists of five administrative law judges (ALJs), four clerical support staff, and an executive assistant. All are totally devoted to supporting one or more of the functions listed above. Although FY82 was an extremely difficult year budgetarily for all state agencies, the Commission was able, through prudent management, to actually increase its productivity in most measurable areas. However, due to lack of sufficient funds, Chairperson Barbosa cut back on the number of Commission meetings devoted to public education in various sections of the state. In spite of the cutback, three member Commission panels were able to hold educational sessions with Department staff in Joliet, Cairo, and Blue Island, in addition to a special Springfield community meeting.

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

**ANNUAL REPORT OF THE ADMINISTRATIVE LAW SECTION
of the
ILLINOIS HUMAN RIGHTS COMMISSION**

The Administrative Law Section of the Illinois Human Rights Commission is charged under Section 8-106 of the Illinois Human Rights Act with the responsibility of conducting public hearings on complaints of discrimination filed by the Department of Human Rights. A staff of five Administrative Law Judges, all of whom are licensed attorneys, conduct hearings throughout the State of Illinois. In accordance with Section 8-106 of the Act public hearings are held at a location that is within 100 miles of the place at which the civil rights violation is alleged to have occurred. As a consequence, the Administrative Law Judges traveled in the course of FY'82 to numerous sites throughout the state ranging from Rockford to Carbondale and from Quincy to Urbana. Fifty-eight percent (58%) of all public hearings were conducted in Chicago and were devoted to charges originating in Cook County and the counties adjacent thereto. Of the hearings convened outside of Chicago, 30% were conducted in Springfield and 33% in southern Illinois; the remainder were distributed throughout the rest of the state.

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

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

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

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

I. Overview:	FY'81	FY'82
Charges carried over from the previous fiscal year	244	254
Charges entering Administrative Law Section	<u>190</u>	<u>222</u>
Total number of charges	414	476
Number of Dispositions	<u>160</u>	<u>202</u>
Balance carried over to next FY	254	274

FY'82 has witnessed an increase in productivity by both the agencies created by the Human Rights Act. The number of charges included in complaints filed by the Department increased 17% between FY'81 and FY'82. During that same period of time the number of dispositions produced by the Administrative Law Section of the Commission increased 26%. There are also qualitative changes that

are of interest. In the previous fiscal year no complaints were filed based upon charges of discrimination in the new jurisdictions which the Human Rights Act added to its predecessor statute, the Fair Employment Practices Act. In FY'82, however, 10 charges, or 5% of the charges entering the Administrative Law Section, were based upon these added jurisdictions. Eight of these contained allegations of housing discrimination, and two alleged violations of discrimination with regard to public accommodations.

II. Breakdown of Dispositions of Charges:	FY'81	FY'82
1. Decisions for Complainants — on the merits	44	25
2. Decisions for Respondents — on the merits	11	26
3. Decisions for Complainants — not on the merits	1	1
4. Decisions for Respondents — not on the merits	24	25
5. Decisions for Complainant and Respondent — on the merits	3	9
6. Settlements	38	63
7. Final Orders and Decisions by Administrative Law Judges	39	50
8. Remands	—	3
Total	160	202

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

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

The statistics cited in Section II above indicate that the Administrative Law Section is an effective vehicle for settlement, as well as for resolution by means of hearing. The Administrative Law Judges have continued to improve their performance in this regard. Prehearing conferences have been used extensively at various stages in the processing of complaints. As a consequence, settlements have been reached after the filing of the respondent's answer, after rulings by the Administrative Law Judge on crucial motions, and after the completion of discovery. In some cases settlements have been effected after the hearing has begun.

If the trends encountered in FY'82 continue, it is apparent that a systematic effort at settlement will become even more important in the functioning of the Administrative Law Section. The overall rate of increase in the number of charges entering the section was 17%. It is significant to note, however, that the influx of charges in the second half of FY'82 was 67% greater than it had been in the first half. Data from the early months of FY'83 indicates that the increased productivity of the latter part of FY'82 is continuing. If the staffing level of the Administrative Law Section is forced to remain constant as a consequence of present budgetary constraints, increased efficiency in settling cases is the only hope for minimizing, if not avoiding, the formation of a substantial backlog.

III. Disposition of Complaints on the Merits:	FY'81	FY'82
1. Decisions for Complainants	10	25
2. Decisions for Respondents	11	24
3. Decisions for Complainant and Respondent	3	6
Total:	24	55

In the five years of its operation under the Fair Employment Practices Commission the Administrative Law Section consistently demonstrated its impartiality in the balance of its decisions between complainants and respondents. The first two years of its operation under the Human Rights Commission have shown that same balance. It is important to analyze such statistics in terms of complaints, rather than charges, because a decision on one large multi-charge complaint can radically skew the total number of charge dispositions in favor of one side or the other. A finding of discrimination in a single complaint can, for example, result in 25 charges in favor of complainants where the complaint consolidates as many charges.

In FY'82 the difference between the statistics relating to disposition on the merits for charges and complaints are quite similar. This is true because there were no large multi-charge dispositions in a single complaint. As a consequence, the number of decisions rendered on individual complaints on the merits in FY'82 was more than twice the number produced in FY'81, even though the total number of charges decided was approximately the same in both years.

IV. Breakdown of Dispositions of Complaints on the Merits — Employment

	FY'82		FY'82	
	C	R	C	R
Race	3	3	11	9
Sex	5	4	8	4
Handicap	1	2	6	9
National Origin	0	1	1	2
Age	1	0	0	0
Retaliation	0	1	1	3
Religion			1	0
Total:	10	11	28	27

All of the above decisions dealt with issues of employment discrimination. The number of dispositions exceeds the number of complaints because in some instances more than one issue was resolved in the complaint.

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

One charge decided in FY'82 was based upon the Commission's jurisdiction outside of the employment area. This recommended decision, which was in favor of the complainant and the respondent, addressed allegations of discrimination in rental of housing on the basis of marital status and the unlawful exclusion of children under the age of 14. The balance of the non-employment charges that entered the Administrative Law Section were either settled or presently await decision.

The caseload of the Administrative Law Section has both increased and diversified in the course of FY'82. Not only have cases from the added jurisdictions begun to enter the section, but also the Commission has begun to refer matters for fact finding in connection with requests for review of charges dismissed by the Department of Human Rights. The challenge that faces the Administrative Law Judges in FY'83 and the years to follow is both quantitative and qualitative. They must master the law relevant to the expanded jurisdictions and at the same time continue to keep abreast of the decisions in the employment area, which are in a constant state of flux. In addition they must increase their productivity to keep pace with the increasing volume of complaints. In so doing, they will be able to produce decisions that are high in quality, impartial, and prompt.

THE COMMISSION

The Commissioners dispose of cases primarily through meetings of three member panels. Each panel meets once a month, as does the full Commission. One panel meets regularly in Springfield, the others and the full Commission meet in Chicago in Suite 920 of 32 West Randolph Street. Thus, as in FY81, a panel or full Commission meeting took place nearly every Wednesday of Fiscal Year 1982.

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

Below is a statistical summary of the Commission's activities for FY82, including graphs highlighting the source of discrimination in employment. It should be noted that the Commission received many more settlements and requests for review in the housing and public accommodations areas in FY82 than in FY81. However, employment remained the area where over 95% of Commission work was generated. Financial credit appears to be an almost non-existent source of discrimination charges — at least, for those charges which reach the Commission.

SUMMARY OF DECISIONS OF THE ILLINOIS HUMAN RIGHTS COMMISSION

	FY82	FY81
Settlements Approved	512	375
Requests for Review Decided	340	227
Motions Decided	142	105
Orders and Decisions Issued	49	43

An analysis of summary data shows a significant increase in Commission output of decisions from FY81 to FY82. This is largely due to increased activity by the Department of Human Rights: most settlements were reached in the investigation stage; also, the jump in requests resulted from increased activity by DHR, since a charge must first be dismissed by the Department before an appeal can be filed with the Commission. Some of the increase in settlement figures came from more intensive pre-hearing work by ALJs, resulting in settlement of several cases just prior to hearing. The statistic on orders and decisions requires a closer look. In FY81, many of the 43 orders and decisions involved cases in which the issue was whether or not the Department (or its predecessor, the FEPC) had issued the complaint within the statutory deadline; thus, only a handful of FY81 orders and decisions went to the merits of whether or not discrimination occurred. In FY82, nearly all of the 49 decisions issued by the Commission dealt with substantive matters contained in the Human Rights Act, rather than technical or procedural questions. Thus, the 49 decisions of FY82 represent far greater output than the 43 of the prior year.

DATA SUMMARIES

A breakdown by source of discrimination is not available for FY81. However, in FY82 the Commission tracked its output by source, and a table below shows the data for settlements, requests for review, and orders and decisions. Immediately after the tables are pie graphs depicting the same data.

FY82

	Settlements ¹	Requests for ¹ Review	Orders & Decisions ²
Race	184	128	14
Color	0	0	0
Religion	13	18	1
Sex	114	80	14
National Origin	39	24	1
Ancestry	9	9	0
Age	35	48	0
Marital Status	3	5	0
Physical/Mental Handicap	90	100	13
Unfavorable Military Discharge	0	0	0
Retaliation	<u>32</u>	<u>22</u>	<u>3</u>
	519	434	46

1. Some cases involved more than one alleged source of discrimination.

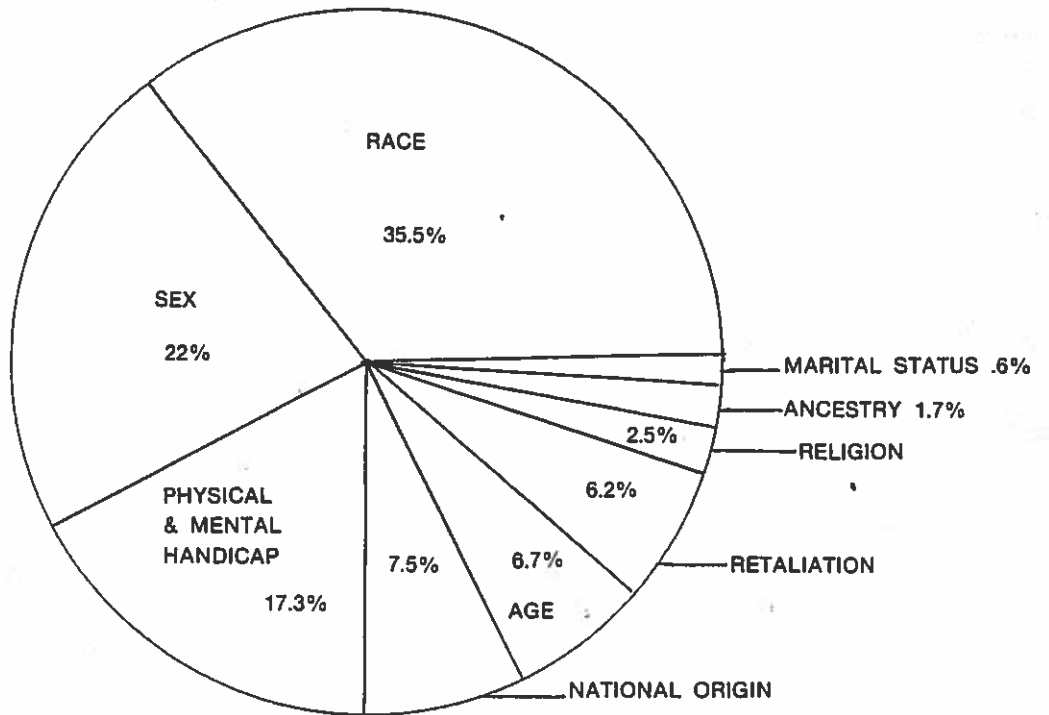
2. Only orders and decisions on the merits are included. Some cases involved more than one alleged source of discrimination.

FY82

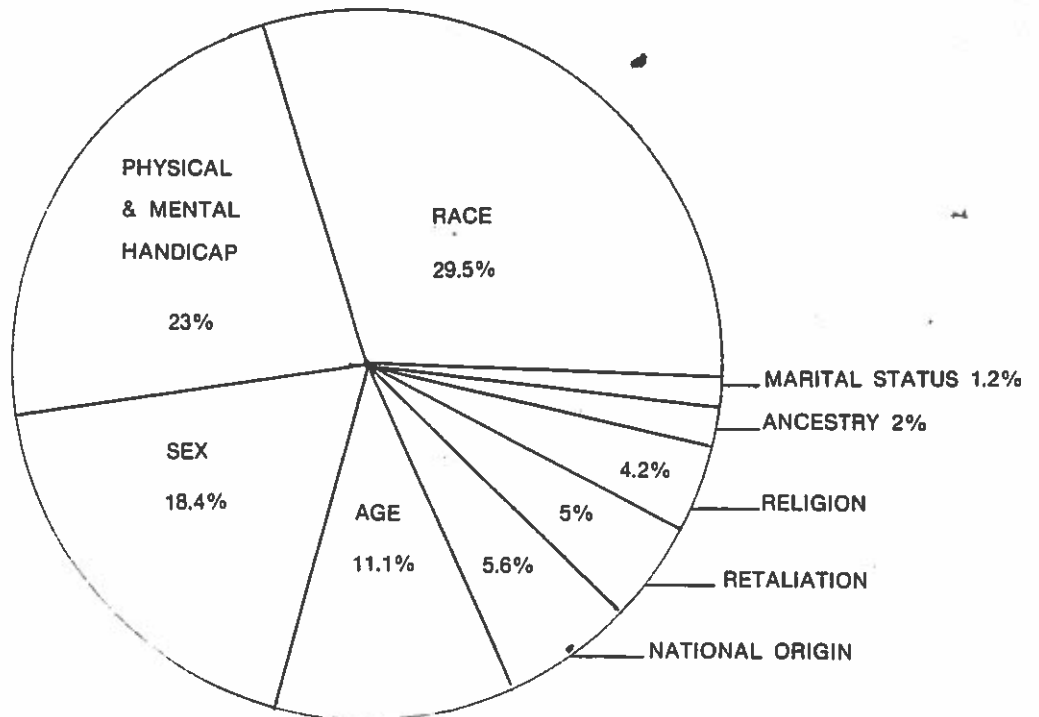
SUMMARY DATA BY SOURCE OF DISCRIMINATION

Race	326
Color	0
Religion	32
Sex	208
National Origin	64
Ancestry	18
Age	83
Marital Status	8
Physical/Mental Handicap	203
Unfavorable Military Discharge	0
Retaliation	57

TERMS OF SETTLEMENT*

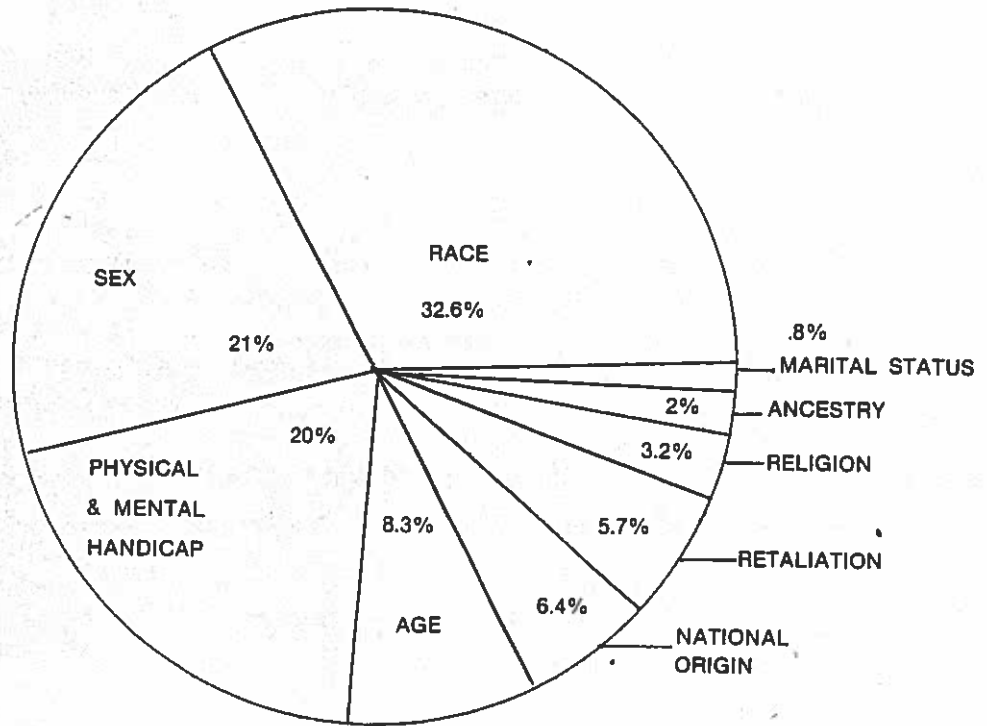


REQUEST FOR REVIEW*



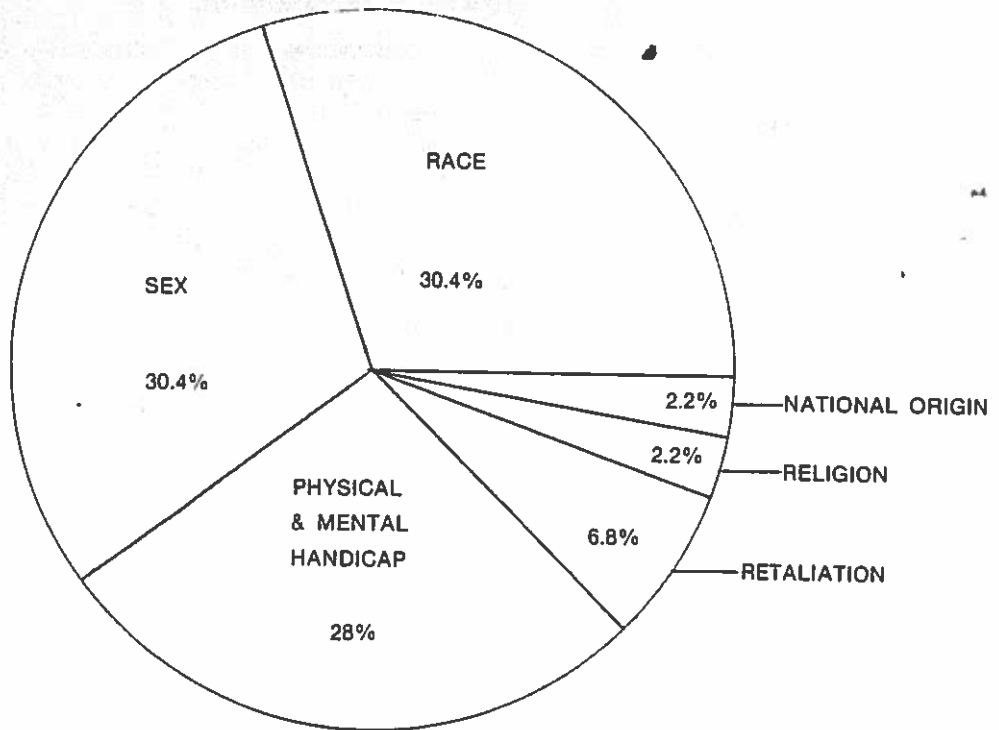
*No charges of discrimination on the basis of color or unfavorable military discharge reached the commission in FY82.

**SUMMARY DATA BY SOURCE OF DISCRIMINATION
FOR FY82***



*No charges of discrimination on the basis of color or unfavorable military discharge reached the commission in FY82.

ORDERS AND DECISIONS**



**No orders and decisions were rendered in FY82 on complaints alleging discrimination on the basis of age, ancestry, marital status, color or unfavorable military discharge.

Race remains the leading source of alleged discrimination followed by sex and handicap. Age appears to be a rapidly increasing source, perhaps in part because more people are becoming aware of the Act's coverage and in part due to the enormous impact of the recession, causing companies to lay off workers who sometimes perceive their age as a reason for losing their jobs.

Another area of interest is the frequency with which the Commission grants complainants' appeals in requests for review. The comparative data from FY81 to FY82 follows:

	Y82	FY81
Total requests for review.....	340*	227*
DHR Dismissal Affirmed.....	283	201
DHR Dismissal Vacated.....	57*	26*
Percentage of Dismissals Affirmed.....	83.2%	88.5%
Percentage of Dismissals Vacated.....	16.8%	11.5%

* In cases where the Department does not oppose the request for review the Commission automatically vacates the dismissal by having the Executive Assistant issue a form order. Those cases are not included in this tabulation.

In FY82, a complainant had a better statistical chance of having his/her charge reinstated by the Commission than in FY81. However, in both years the Commission upheld the Department's action in well over 80% of the cases in which the Department requested affirmance of the dismissal.

A final statistical item of interest involves the review of recommended orders and decisions:

	FY82	FY81
Affirmed.....	36	39
Affirmed but Modified.....	3	0
Remanded.....	1	0
Affirmed in part, reversed in part.....	1	0
Reversed.....	8	4

Thus, the Commission reversed recommended orders and decisions in more than 16% of cases in FY82, up from 9.3% in FY81. The increase is probably due to the greater number of RODs that concentrated on the merits of discrimination rather than technical or procedural matters.

COMMISSION ORDERS

In FY82, the Commission dramatically increased its output of decisions dealing with substantive coverages under the Human Rights Act; all decisions concerned allegations of employment discrimination. The Commission also fulfilled its obligation to publish its decisions pursuant to Section 8-102(J) of the Act; Commission decisions rendered in FY81 and FY82 are available via a private vendor, Tower Records of Illinois, 323 South Franklin Street, Chicago, 60606. In the following section, several decisions are discussed and many more are listed; the citations refer to the volumes of Commission decisions published by Tower, followed by the page number on which the decision begins. Thus "3 Ill. HRC Rep. 52" would be found on page 52 of volume 3 of Orders and Decisions of the Illinois Human Rights Commission.

In FY82, the Commission conducted three rehearings en banc in which the full nine member Commission reheard a case from which a decision of a three member panel had been appealed. In *Gary Ryker v. Yellow Freight Systems*, 3 Ill. HRC Rep. 21, the Commission concluded that an allegation of race discrimination brought by a white job applicant should have the same basic standards applied to it as one brought by a member of a racial minority. However, they also held that the Yellow Freight Company adequately rebutted Mr. Ryker's prima facie case by showing that the company was obliged to hire a black individual for the open position pursuant to a consent decree entered in federal district court. The other rehearings, although heard in FY82, will not result in decisions until early FY83.

Four panel decisions dealt with matters the Commission believes significant. In *Jo Ann Anderson v. National Railroad Passenger Corporation (AMTRAK)*, 2 Ill. HRC Rep. 124, the Commission held that an employee who had not been promoted because of unlawful sex discrimination was entitled to be promoted to the position even though it meant displacing an incumbent employee. In *Steven Matthews v. Chicago Export Packing Company*, 3 Ill. HRC Rep. 147, the Commission held that the employer is

liable for the racial slurs and insults of its supervisory personnel. In this case, the complainant's discharge was found to be racially motivated in part because the white plant manager used racial slurs toward complainant on a continuous basis and immediately prior to discharging complainant. The racial slurs combined with other actions, were found by the ALJ and the Commission to constitute a per se violation of the Act.

In *Rickey R. L'Hote v. Missouri Pacific Railroad Company*, 4 Ill. HRC Rep. 51, the Commission held that respondent violated the Fair Employment Practices Act when it prevented the complainant from taking a pre-employment physical exam because four years prior to applying for the job of trackman Mr. L'Hote had been a victim of Hodgkin's Disease. The Commission concluded that rejection solely on the basis of a history of a handicap, without current documentation that the person cannot now perform the job, is discriminatory. Further, the ALJ found, and the Commission agreed, that employment in Illinois, not residency, is the touchstone for coverage under the Fair Employment Practices and Human Rights Acts.

Bernadine Amerson v. Carson Pirie Scott & Company, 4 Ill. HRC Rep. 123, is a case of disparate impact. Respondent maintained an executive training program which recruited primarily from college graduates. While this practice was not overtly discriminatory, that is, did not recruit only whites and exclude blacks, it did result in a management group which was disproportionately white. The Commission found that the complainant, a black female, was a victim of disparate impact when she was denied entry to the executive training program because she had no college degree.

At the time of hearing, Carson's had a workforce of more than 40% black workers at its State Street Store in Chicago, yet an executive training group just over 5% black.

These cases represent some of the most important decisions of FY82. The remainder of the Commission's FY82 precedent cases are listed below, classified by source of discrimination.

FY82 HUMAN RIGHTS COMMISSION ORDERS AND DECISIONS

TYPE OF DISCRIMINATION	CASE NAME AND DATE DECISION WAS ISSUED	CHARGE #	CITATION #
Retaliation	Iona Hendricks v. City of Galesburg July 14, 1981	1974CN0348	1 Ill. HRC 103
Race	Venida Flint v. United States Steel Corporation July 14, 1981	1976CF1214	1 Ill. HRC Rep 112
Sex	Kathy Hay, et al., v. Canton State Bank July 14, 1981	1979SF0119, 1979SF0120, 1979SF0124, 1979SF0168, 1979SF0178	1 Ill. HRC Rep 128
Race	Jonathan Taylor v. Illinois Central Gulf Railroad August 27, 1981	1980SF0249	1 Ill. HRC Rep 161
Race	Vearlee Cockrell v. CNA Insurance Company September 11, 1981	1979CF1278	1 Ill. HRC Rep 170
Sex	Vivian Chelette v. Plastipak Packaging Division of Beatrice Foods Company October 1, 1981	1979SF0098	1 Ill. HRC Rep 184
Sex	Geraldine Satterthwaite v. Red Hill Community Unit School District #10 October 1, 1981	1978 SF0141	2 Ill. HRC Rep 1
Procedural-Conciliation	Jan Blaylock v. ATI, Inc. October 7, 1981	1979SF0433	2 Ill. HRC Rep 27

Sex-Equal Pay	Teresa Merickel v. Benton Consolidated High School October 7, 1981	1978SF0032	2 III. HRC Rep 34
Race	Melvin Patterson v. Sundstrand Corporation October 28, 1981	1979CF0635	2 III. HRC Rep 47
Sex	Fanny Schellhardt v. Waterloo Community School District #5 November 2, 1981	1979SF0019	2 III. HRC Rep 61
Sex-Retaliation	Mary A. Zabroski v. United States Steel Supply Division, United States Steel Corporation November 2, 1981	1975CF0740, 1976CN0694	2 III. HRC Rep 75
Race	Dwight Golden v. Clark Oil Refining Company November 20, 1981	1978CF0703	2 III. HRC Rep 95
Sex-BFOQ	Vera Norwood v. Dale Maintenance Systems, Inc. December 17, 1981	1980CF0126	2 III. HRC Rep 114
Sex	Judith A. Walsh v. Village of Oak Lawn Police Department and Oak Lawn Board of Police and Fire Commissioners December 17, 1981	1979CF0342	2 III. HRC Rep 149
National Origin	Sak Onkvisit v. Board of Regents, Illinois State University December 18, 1981	1980CF0117	2 III. HRC Rep 175
Sex-Equal Pay	Frances Slawin v. State of Illinois, Attorney General's Office December 18, 1981	1979CF0803	2 III. HRC Rep 182
Race	Walter Clifton v. Burnham City Hospital January 8, 1982	1980SF0117	3 III. HRC Rep 1
Handicap	Howard Laws v. Board of Trustees of the University of Illinois February 22, 1982	1979SN0089	3 III. HRC Rep 35
Sex-Equal Pay	Lorraine Campea, et al v. Bremen School District No. 228 February 22, 1982	1978CN0518 0516, 0539, 0523, 0510, 0525, 0508, 0514, 0519, 1051, 0527, 0504, 0521, 0533, 0522, 0520, 0509, 0513, 0506, 0542, 0524, 0503, 0512, 0507, 0529, 0517, 0511, 0505	3 III. HRC Rep 51
Race	Penny Dawson v. City of Quincy Quincy Water Works February 22, 1982	1980SF0232	3 III. HRC Rep 92
Handicap-Reasonable Accommodation	Maura Burche v. Caterpillar Tractor Company March 4, 1982	1979SF0220	3 III. HRC Rep 106
Sex	Ann Smiley v. Sundstrand Corporation March 25, 1982	1979CF1089	3 III. HRC Rep 137

Race	Mary Ann Johnson v. Frey Blinding Company March 25, 1982	1979CF0803	4 III. HRC Rep 1
Handicap-BFOQ	Randall Sellers v. Commonwealth Edison Company April 2, 1982	1976CN0512	4 III. HRC Rep 22
Handicap	Patrick Minogue v. Commonwealth Edison Company May 10, 1982	1976 CN0647	4 III. HRC Rep 33
Handicap	James A. Darfler v. City of Aurora May 10, 1982	1980CN0351	4 III. HRC Rep 42
Race and Retaliation	Benjamin Long v. Procter and Gamble Company May 14, 1982	1979CF1258	4 III. HRC Rep 74
Handicap	Richard Walsh v. Danville Community Consolidated School District #118 May 14, 1982	1980SN0002	4 III. HRC Rep 99
Handicap-Mental	Daniel Hiler v. City of Decatur & Board of Trustees of the Fireman's Pension Fund of Decatur May 14, 1982	1979SN0395	4 III. HRC Rep 112
Religion	Jerry Korshak v. City of Chicago June 11, 1982	1980CF1267	4 III. HRC Rep 155
Race	Belinda Cronin v. Community Unit School District No. 5 June 11, 1982	1979CF0175	4 III. HRC Rep 169
Handicap	Richard Borgman v. Illinois Department of Vocational Rehabilitation June 11, 1982	1978TN0030	4 III. HRC Rep 184

THE FUTURE

The Commission intends to work closely with the Department and concerned groups throughout the state to develop rules interpreting various coverages afforded by the Human Rights Act. The process used in producing rules on handicap discrimination in employment worked well and will be applied to the other protected classes in employment and the other areas of protection.

The Commission will continue to streamline its procedures and utilize modern methods of legal management to meet the challenge presented by declining state revenues and a deepening economic recession.

FUNDS FOR OPERATIONS	FY82 EXPENDITURES	FY81 EXPENDITURES
TOTAL GRF	\$370,000	\$310,200
Personal Services	213,500	179,700
Retirement Contributions	9,600	13,400
Social Security	13,900	11,400
Contractual Services	105,000	75,100
Travel	18,400	19,200
Commodities	2,200	3,100
Printing	2,700	2,700
Equipment	0	2,500
Telecommunication Services	4,700	3,100

The significant increase in expenditures for FY82 is mainly due to the fact that FY81 was the start up year for the Commission. Several staff positions were phased in, keeping personal services expenditures low; also, fewer than anticipated public hearings were held because of staff phase-ins, resulting in less expenditures from contractual services. In FY82 the Commission was at full staff for almost the entire year.

