

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF HUMAN RIGHTS

Christine Hernandez,
Charging Party,

**ORDER TO THE DEPARTMENT OF
HUMAN RIGHTS TO PRODUCE FILE**

v.

Minnesota Correctional Facility –
Oak Park Heights,
Respondent.

Charging Party filed a Charge of Discrimination against Respondent on September 20, 2002. By letter of April 1, 2003, Charging Party requested a hearing pursuant to Minn. Stat. § 363.071, subd. 1a. On April 21, 2003, the Department referred the charge to the Office of Administrative Hearings for a hearing pursuant to that statute.

Minn. Stat. § 363.071, subd. 1a, provides that upon receipt of a request for hearing, the Commissioner of Human Rights shall review documents and information held in the Department's files concerning the charge and release to the Charging Party and Respondent all documents and information that are accessible to the Charging Party and Respondent under Minn. Stat. Ch. 13. Charging Party and Respondent have requested copies of the Department's files.

The Department does not contest production of its files so long as it is not required to produce data in its files that are not accessible to the Charging Party or Respondent, namely, internal memoranda of a procedural nature, communications that are protected by the attorney-client privilege, and information concerning settlement negotiations.

Minn. Stat. § 13.03, subd. 4(c) requires that government data disseminated to other state agencies shall have the same classification in the hands of the agency receiving it as it had in the hands in the entity providing it.

NOW, THEREFORE, pursuant to authority granted by Minn. Stat. §§ 14.60, subd. 2, and 363.071, the Administrative Law Judge makes the following:

ORDER

1. The Department of Human Rights shall, by September 5, 2003, provide counsel for Charging Party and Respondent with copies of the Department's investigative case file number 40421 in this matter at a copy fee of \$.33 per page to be paid to the Department by the parties.

2. The Department of Human Rights may withhold from the parties and their counsel any internal memoranda of a procedural nature that do not contain factual information pertaining to the issues underlying the claims of discrimination, any communications between members of the Attorney General's Office and Charging Party, any communications between the Department and the Attorney General's Office in which the Attorney General's Office was acting as the Department's attorney, and any information concerning settlement negotiations.

3. Any not public data contained in the data and information provided by the Department pursuant to this Order shall be subject to the Protective Order in this matter issued August 27, 2003.

Dated this 27th day of August, 2003.

/s/ Steve M. Mihalchick
STEVE M. MIHALCHICK
Administrative Law Judge