

**Ontario  
Human Rights Commission**

**Commission ontarienne des  
droits de la personne**



**Annual Report**  
2006-2007



June 29, 2007

The Honourable Michael J. Bryant  
Attorney General  
720 Bay Street  
Toronto ON M5G 2K1

Dear Minister:

Under section 31(1) of the Ontario *Human Rights Code*, the Ontario Human Rights Commission is required to submit a report on the Commission's activities for the previous fiscal period by June 30th of each year, to be tabled in the Legislature.

In this regard, it is my pleasure to provide you with the Commission's Annual Report 2006-2007. This report reflects the activities of the Commission from April 1, 2006 to March 31, 2007.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Barbara Hall".

Barbara Hall, B.A, LL.B, Ph.D (hon.)  
Chief Commissioner



# **Ontario Human Rights Commission Annual Report 2006-2007**

Ontario Human Rights Commission  
180 Dundas Street W. 7th Floor  
Toronto ON M7A 2R9

<b>MESSAGE FROM THE CHIEF COMMISSIONER</b>	<b>1</b>
<b>THE COMMISSION AND THE <i>HUMAN RIGHTS CODE</i></b>	<b>4</b>
Promoting and Protecting the Public Interest	4
<b>MOVING FORWARD</b>	<b>6</b>
Remaking the Human Rights System in Ontario	6
Transforming the Commission	6
Strategic Planning	8
Transition	8
Getting Underway	9
<b>COMMISSION ACTIVITIES 2006-2007:</b>	<b>11</b>
<b>Promoting, Protecting and Advancing Human Rights</b>	<b>11</b>
<b>Public Contact with the Commission</b>	<b>12</b>
<b>Research and Policy</b>	<b>12</b>
Human Rights and the Family	12
Human Rights and Rental Housing in Ontario	13
Updated Policy on Discrimination Against Older Persons because of Age	13
Race-Based Data Collection	14
<b>Education and Partnership</b>	<b>14</b>
Public Education	14
Outreach to Aboriginal Communities	16
Canadian Coalition of Municipalities Against Racism and Discrimination	16
Seneca College Partnership	17
National and International Cooperation	18
www.ohrc.on.ca	19
<b>Monitoring, Inquiry and Advice</b>	<b>19</b>
Police Records Checks and Mental Health	20
Amendments to Ontario's <i>Human Rights Code</i>	20
Restaurant Accessibility	21
Discriminatory Effect of the Change of Name Act	22
Equal Treatment in Education for Students with Disabilities During a Strike	22
Return to Work Policies of the WSIB	22
Accessibility of Driving Schools	23
Other Matters	23

<b>Commission-Initiated Complaints</b>	<b>23</b>
Discriminatory Effect of School Discipline Legislation and Policies	24
Restaurant Accessibility	24
Drug and Alcohol Testing	24
<b>Human Rights Complaints from the Public</b>	<b>25</b>
Police Complaints Initiative	25
Case Management	25
Intake of Complaints	26
Cases Dismissed on Preliminary Objections (s. 34)	26
Mediation and Settlement	27
Withdrawn Complaints	27
Investigation and Referral of Complaints	27
Caseload Overview 2006-07	28
<b>Litigation</b>	<b>28</b>
<b>Organizational Development</b>	<b>29</b>
<b>APPENDICES</b>	<b>31</b>
<b>List of Commissioners</b>	<b>32</b>
<b>Tables</b>	<b>37</b>
Table 1: New Complaints Filed by Social Area and Grounds Cited	37
Table 2: Monetary Damages in Settlements by Ground	38
Table 3: Cases Completed or Referred, by Disposition and Grounds	39
Table 4: Cases Completed or Referred, by Disposition and Social Area	40
Cases Completed or Referred by the Commission	41
<b>Case Summary Highlights</b>	<b>42</b>
COMMISSION SETTLEMENTS	42
DECISIONS AT THE HUMAN RIGHTS TRIBUNAL OF ONTARIO	43
SETTLEMENTS AT THE HUMAN RIGHTS TRIBUNAL OF ONTARIO	48
CASES IN HIGHER COURTS	58
<b>List of Decisions, Settlements, Judicial Reviews and Appeals</b>	<b>63</b>
<b>Select List of Publications</b>	<b>75</b>
<b>Financial Statement</b>	<b>79</b>
<b>ENDNOTES</b>	<b>80</b>



June 2007

This has been a year of debate, dialogue and development at the Ontario Human Rights Commission. We have been given the opportunity to reshape and improve the state of human rights in Ontario, which is both an exciting and challenging endeavour. As we embark on a strategic planning process to set our future course, I feel more and more confident about the impact the Commission will be able to have.



In April 2006, the Attorney General introduced legislation to renew Ontario's human rights system. The bill will change the way individual complaints of discrimination are handled, by shifting responsibility for dealing with such complaints from the Commission to the Human Rights Tribunal of Ontario (the "Tribunal") and the newly created Human Rights Legal Support Centre. In December 2006, *the Human Rights Code Amendment Act*, received Royal Assent. As I write, a date for the new *Act* to come fully into effect has not been set.

This change, along with others, will have a profound impact on the way the human rights system in Ontario works, including big changes to the role of the Commission and our relationship with our partners in the system. As responsibility for individual complaints moves away from the Commission, we will concentrate our efforts on "the big picture" through proactive research, policy development, public education, and outreach to address systemic and public interest matters. These have long been important aspects of our work, but we will be able to do more in the future. Some examples of how Ontarians can benefit from these initiatives include:

- Families, employers and service providers across the province will now have clarification about how Ontario's *Human Rights Code* (the "Code") protects them, following the release of the Commission's consultation report and a new policy on family status this spring.
- People seeking and living in rental housing, and those who provide it, can learn more about their rights and responsibilities and speak out this spring with the launch of the Commission's public consultation on this fundamental area of human rights.
- A new agreement reached with Toronto's police services will address systemic change through cooperative work and lead to quicker resolution of individual complaints, better community-police

relationships, and serve as a model for the Commission's outreach with police services across the province.

Under our new mandate, we will continue to have an opportunity to monitor and intervene in individual cases, and to use this information to guide our broader efforts, as we have done this past year with restaurant accessibility and other areas:

- Following our intervention at the Supreme Court of Canada, Ontarians can now expect administrative bodies, such as the Workplace Safety and Insurance Appeals Tribunal, to give primacy to the *Code* in their decisions. The Commission has recently begun to liaise with a number of these agencies, offering to work cooperatively with them to address human rights issues.
- As a result of advice provided by the Commission, unions and education providers should be aware of their shared responsibility to ensure that appropriate accommodation is provided to students with disabilities during work stoppages involving educational assistants.

Moving forward, we also retain our powers to initiate complaints and pursue public interest remedies. One such Commission-initiated complaint was resolved recently through an agreement with the Ministry of Education. It provides that, as of this fall, school safety measures will benefit all students equally, regardless of race, and incorporate accommodation for students with disabilities.

We are pleased that the new legislation explicitly recognizes the Commission's independence, and its role in reporting directly to the people of Ontario, in the spirit of international principles.<sup>1</sup>

Through our expanding mandate, we aim to empower people and communities, and advocate for the full realization of human rights. This is a challenging agenda, but we are committed to our statutory responsibility to the people of Ontario. With the help of these same people – in the community, in government, and in the other pillars of the human rights system – we will work to promote, protect and advance human rights throughout the province.

In the pages that follow, you will read of our many achievements of the past year, and our plans for the future. As you do so, please consider where and how we might improve our work. As part of the strategic planning process, I have been speaking with groups and individuals across the province, seeking input on our new direction. I would

welcome your contribution too. Please look for links on our Web site [www.ohrc.on.ca](http://www.ohrc.on.ca) or write directly to me.

In closing, I would like to thank all those who assisted us in the past year. In particular, the staff and managers of the Commission have once again shown their steadfast commitment to serving the public and the cause of human rights. Their perseverance through change and uncertainty is remarkable, and fuels my hope that the human rights system will continue to benefit from their knowledge and expertise. I am also fortunate to have a remarkable group of fellow commissioners who bring diverse experience and wisdom to our work. I particularly want to thank Evangelista Oliveira, Jeanette Case, Vivian Jarvis and Reginald Stackhouse for their considerable contribution during their tenure on the Commission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Barbara Hall', with a stylized, cursive script.

Barbara Hall, B.A, LL.B, Ph.D (hon.)  
Chief Commissioner

The Ontario Human Rights Commission (the “Commission”) is an independent, arm’s length agency of the provincial government. Canada’s oldest commission, it was established in 1961 to protect, promote, and advance human rights, as set out in Ontario’s *Human Rights Code* (the “Code”). The Commission has broad functions and powers under the *Code* and acts independently on behalf of the public interest.

The *Code* sets out the right of individuals in Ontario to be free from discrimination in the social areas of employment; housing accommodation; goods, services and facilities; contracts; and membership in vocational associations and trade unions. These protections relate to fifteen prohibited grounds: race, ancestry, place of origin, colour, ethnic origin, citizenship, creed (religion), sex (including gender identity, pregnancy and breastfeeding), sexual orientation, disability, age (18 and older, or 16 and older in housing), marital status (including same-sex partners), family status, receipt of public assistance (in accommodation only) and record of offences (in employment only).

### ***Promoting and Protecting the Public Interest***

Through its work, the Commission represents the public interest in the protection, promotion and advancement of human rights. Both in proactive and cooperative projects, and in resolving or litigating Commission-initiated and individual complaints, the Commission consistently seeks and obtains commitments from organizations relating to matters such as:

- internal policies and complaint mechanisms to address discrimination, accommodation, and harassment
- training programs on human rights issues and policies
- data collection, monitoring and reporting obligations to identify problems and track progress
- appointment of monitors or hiring of consultants to ensure that the remedies are carried out

When Ontario organizations make commitments such as these, they help to create a culture of human rights, eliminate systemic discrimination and prevent harassment and discrimination from occurring in the future.



***The Commissioners as of March 2007:***

*Top row (from left): Fernand Lalonde, Bhagat Taggar, Barbara Hall, Albert Wiggan, Raja Khouri, Maggie Wentz. Front row: Kamala-Jean Gopie, Patrick Case, Ruth Goba, Ghulam Abbas Sajan, and Richard Théberge. Not pictured: Alana Klein, Pierre Charron and Christiane Rabier*

The Commissioners are appointed through the Lieutenant Governor in Council, and come from a variety of personal and professional backgrounds, reflecting the diversity of the population they serve. Each brings experience and human rights expertise to decision-making, and provides leadership in setting the direction and promoting the work of the Commission.

### ***Remaking the Human Rights System in Ontario***

The Commission has begun a process of transformation that will fundamentally alter the way it works. This will be one of the biggest changes at the Commission since its inception in 1961.

The need to bring better balance to the overall system - between remedies for individuals who have experienced discrimination, and effecting broader change in society as a whole – is one of the key goals of the changes underway in Ontario. The *Human Rights Code Amendment Act* (2006) (the “Act”) begins to address that goal by transferring responsibility for processing individual human rights complaints to the Human Rights Tribunal of Ontario (Tribunal). A new body, the Ontario Human Rights Legal Support Centre (OHLSC) will offer legal services to individuals who wish to make an application to the Tribunal.

Some things, of course, will not change. The *Human Rights Code* will continue to be at the very heart of all the Commission does; it is the foundation for Ontario’s human rights system and has provided a model for other human rights systems in this country and around the world.

### ***Transforming the Commission***

Significant changes will occur at the Commission as a result of the new legislation. Once the new Act is proclaimed, the Commission’s emphasis will shift toward proactive approaches to tackling discrimination.

Under the new *Act*, the role of the Commission in preventing discrimination and promoting and advancing human rights in Ontario will be strengthened. The Commission will expand its work in promoting a culture of human rights in the province. It will have the power to conduct public inquiries, initiate its own applications (formerly called ‘complaints’), or intervene in proceedings at the Tribunal involving important cases and those concerning the broader public interest. It will engage in proactive measures such as research, policy development, public education, cooperation and outreach. This will include a continuing role in dealing with “tension and conflict”, and bringing people and communities together to help resolve differences.

The new law will enhance the Commission’s independence. This is particularly important because the Government itself may be a respondent in complaints initiated by the Commission. The Commission will file its annual reports directly to the Speaker of the Legislative

Assembly, instead of through the Attorney General, as is currently done<sup>2</sup>. It will have the power to monitor and report on anything related to the state of human rights in the Province of Ontario. For the first time, the legislation will specify that the Commission reports directly to the people of Ontario.

The Commission's powers to review legislation and policies will be very broad. The new law refers to the Commission's ability to consider whether legislation is inconsistent with the intent of the *Code* – a wider net than mere 'compliance'.

The Commission's current role as a developer of public policy on human rights is made explicit in the new legislation, as is the way those policies can be used in issues that are before the Tribunal. As before, the Commission will continue to work proactively with employers, service providers and government bodies to resolve Commission-initiated inquiries, and engage in dialogue over issues of discrimination and accommodation. However, where this is unsuccessful, the Commission's litigation function will continue to be instrumental in its ability to advance human rights policy and facilitate positive change.

To help the Commission carry out its role, it will have a broad power to conduct an inquiry in the public interest. The Commission can appoint any person to conduct an inquiry: that person can request documents (with an obligation that documents be provided), question people and apply for search warrants through a Justice of the Peace. The Commission can then use any evidence gathered in a proceeding before the Tribunal. The Tribunal may also conduct inquiries, or may request the Commission to do so on its behalf.

The Commission can also initiate applications at the Tribunal in systemic matters or in the public interest, be added as a party to an application from an individual, or intervene in applications. The Tribunal will provide certain documents to the Commission so that it can continue to monitor trends and problem areas in individual complaints, to determine priority areas.

The relationship among the Tribunal, the Legal Support Centre and the Commission must be a coordinated one. Each will develop ways of working to meet its mandate and establish the nature of its relationship to the other 'pillars' of the human rights system. There are more decisions to be made about "who does what – and where", and much work to be done before the system is up and running in accordance with the new *Act*.

### ***Strategic Planning***

Since the new *Act* was passed, Commissioners have been leading a Strategic Planning process to determine how to best accomplish these tasks and fulfil the new mandate. As the basis of this process, the Commissioners have developed a new vision statement of “an Ontario in which everyone is valued, treated with dignity and respect, and where human rights are nurtured by us all.” As the Commission works toward this vision, it is guided by its new Mission statement:

The Ontario Human Rights Commission, an independent statutory body, provides leadership for the promotion, protection and advancement of human rights, and builds partnerships across the human rights system. In pursuit of our vision, we will:

- Empower people to realize their rights
- Ensure those responsible for upholding human rights do so
- Advocate for the full realization of human rights
- Work with our independent partners at the Human Rights Tribunal of Ontario and the Human Rights Legal Support Centre
- Develop and encourage the implementation of human rights policies
- Conduct research
- Monitor developments, trends, problem areas and case law involving human rights issues.
- Use our legal powers to pursue remedies in the public interest.
- Carry out public inquiries where appropriate
- Educate and build capacity
- Report on the state of human rights to the people of Ontario

In the spring of 2007, the Commission began public consultations to inform its deliberations. Public meetings are being held across the province, and roundtable discussions and surveys are available in order to hear the views of the public, Commission staff and others working in the human rights system. The Commission will continue to gather this information throughout the process, as it identifies strategies that will best deliver its goals and objectives under the new system.

The result of this strategic planning process will be clear Commission priorities for the next three to five years, and concrete plans to achieve them.

### ***Transition***

The timing for all of these changes is yet to be announced. Until the new *Act* is proclaimed, the system will continue to operate in its current form – the Commission will process individual complaints, and the

Tribunal will conduct hearings on cases referred by the Commission. At proclamation, the Commission will stop taking individual complaints but will continue, for six months, to process complaints already in the system. An Enhanced Complaints Process<sup>3</sup>, which began as a pilot this spring, will assist the Commission to resolve complaints expeditiously.

During the six months after proclamation, the Commission will work with applicants to transfer complaints in its system over to the Tribunal. But some aspects – especially for legal cases underway – could continue to be dealt with by the Commission for some time.

Although planning has been underway for months, the transition period will present challenges, as the Commission both prepares for the future and maintains its current work. As well, there will no doubt be growing pains as the new duties of the Commission, the Legal Support Centre and the Tribunal are taken up. However, there is a clear commitment among the parties to work together to deliver a high quality human rights system to the people of Ontario.

### ***Getting Underway***

The strategic planning and transition processes currently underway will be a significant part of Commission efforts in the next year. However, until the *Act* is proclaimed, the Commission is aggressively continuing its ongoing work with both complaints and proactive initiatives, to fulfill its mandate to promote, protect, and advance human rights in the province.

In 2007-08, the Commission will address complaints both efficiently and comprehensively, ensuring that, where resolution is possible, settlements are in keeping with human rights policy and the public interest. As the changes of the new *Act* come into effect, the Commission will ensure that unresolved cases being transferred to the Tribunal benefit as much as possible from the legal, policy, and investigative expertise of Commission staff.

The Commission also has policy and public education initiatives underway for 2007-08. It has released consultation and policy documents on human rights and the family, and will launch a public campaign to raise awareness about family status rights. The Commission has also begun a public consultation across the province toward development of a policy on human rights issues in rental housing, and is continuing systemic initiatives, including cooperative work with police services and municipalities to address racism.

This type of work – broad public campaigns, consultations, and cooperation toward prevention and enforcement – will gain greater emphasis as the changes to the human rights system come into place. The Commission has already been moving in this direction, with projects such as the restaurant initiative and the Commission-initiated complaint relating to “safe schools” provisions of the *Education Act*. The Commission will also look for new ways to fulfill its mandate as it plans future projects. In particular, it will strive to make its presence felt and offer its services more widely than it has been able to in the past. Reaching out to underserved communities and considering new areas of work is integral to the Commission’s way ahead, and to fostering a culture of human rights throughout the province.

**COMMISSION ACTIVITIES 2006-2007:**

**Promoting, Protecting and Advancing Human Rights**

## Public Contact with the Commission

As the first point of contact for members of the public, the Commission's inquiry service delivers important public education about human rights and responsibilities under the *Code*, and provides information about the Commission's policies and guidelines, as well as relevant external resources. The Commission is often able to assist individuals and organizations to prevent or resolve problems so that a complaint is not necessary.

In 2006-07:

- The Commission dealt with 40,391 telephone inquiries<sup>4</sup>
- 1,921 inquiries were received by letter
- 625 persons attended the Commission's office
- Of these contacts, 2,337 resulted in formal complaints filed with the Commission (for more information, see "Human Rights Complaints from the Public," below)

## Research and Policy

Conducting research and developing policy positions, documents and guides, are central to the Commission's work to eliminate discrimination and to protect, promote, and advance human rights. Commission policies and guidelines advance a broad and progressive understanding of *Code* rights, and set standards for how individuals and organizations should act to ensure compliance with the *Code*. These documents are often given great deference in tribunals and courts, applied to the facts of cases, and quoted in the decisions of these bodies.

The Commission undertook a number of policy initiatives in 2006-07.

### ***Human Rights and the Family***

In March 2007, the Commission approved both a consultation report and a ground-breaking new policy on human rights and the family, for release in Spring 2007.

*The Cost of Caring: Report of the Consultation on Discrimination on the basis of Family Status* outlines key human rights issues related to family status, such as the *Code's* under-inclusive definition of family status, and the difficulties families with children experience in accessing adequate,

affordable housing. It also addresses the barriers faced by people with significant care responsibilities for parents, children and other loved ones, in finding and maintaining employment.

The new *Policy and Guidelines on Discrimination on the Basis of Family Status* is the first of its kind in Canada. It provides guidance to employers, housing providers, service providers and the public on their rights and responsibilities under the *Code* related to family status. For example, it addresses the duty to accommodate the needs of employees, tenants, and service-users related to caregiving, limitations on adults-only housing, and common workplace practices that create barriers relating to care responsibilities.

Both documents were developed following extensive public consultation, initiated with the 2005 release of the discussion paper, *Human Rights & the Family in Ontario*.

### ***Human Rights and Rental Housing in Ontario***

In 2006-07, the Commission developed background and consultation papers entitled *Human Rights and Rental Housing in Ontario*. These will form the basis for public consultations beginning in spring 2007, leading to the development of a new policy.

The *Background Paper* is the product of extensive research into the legal, social and international context with regard to this important human rights issue. The paper discusses access and barriers to affordable rental housing, and highlights some of the ways in which people experience housing discrimination and harassment based on *Code* grounds. There is also a discussion of homelessness and economic and social rights. *The Consultation Paper* sets out the major issues and questions on which the Commission will be seeking public input in spring 2007.

### ***Updated Policy on Discrimination Against Older Persons because of Age***

The Commission updated its *Policy on Discrimination Against Older Persons because of Age* in February 2007 to reflect an important legislative change providing greater rights for older persons in employment. On December 12, 2006, *Code* amendments came into force so that all persons aged 18 and over are protected from discrimination in all social areas on the basis of age. These amendments removed previous exceptions that allowed for mandatory retirement and other age-based employment decisions about hiring, promotion, training,

or termination affecting workers who are 65 or over. The changes reflect Commission recommendations to the Government, based on concerns identified through research and consultation set out in the Commission's report *Time for Action*, and its *Policy on Discrimination Against Older Persons because of Age*.

### ***Race-Based Data Collection***

In 2006-07, the Commission began development of a new *Guide to Collecting, Analyzing and Acting on Race-Based Data*. The *Guide* is intended to support organizations, such as employers and service providers, in their efforts to comply with the *Code* obligation to prevent and address discrimination, using data collection as a tool. It will set out a model to help organizations: identify issues; decide whether, when and how to collect data; and analyze and act on the information gathered.

The *Guide* will build upon the Commission's *Policy and Guidelines on Racism and Racial Discrimination*, which recommends forms of data collection and analysis, such as ongoing monitoring, surveys and evaluation, as key elements of solid anti-racism organizational change programs. It is anticipated that the *Guide* will be released in 2007-08.

### **Education and Partnership**

The Commission engages in a wide range of educational activities, including partnership initiatives, public awareness campaigns, presentations, workshops and conferences. It also receives delegations from around the world, and engages in national and international cooperation.

#### ***Public Education***

In deciding whether it can accept a request for a public education presentation, the Commission focuses its resources on events and initiatives that have the potential to:

- promote broad-scale prevention of *Code* violations and advancement of human rights
- significantly enhance the Commission's relationship with a strategic or underserved sector
- "train trainers" to have a sustainable "multiplier" effect in the organization

- reduce discrimination across a sector and/or to decrease the incidence of formal human rights complaints

When it cannot accept an invitation, the Commission tries to work with the organization or individual to ensure that their needs are met in some other way, through Commission resources or referral to another organization.

During the 2006-07 fiscal year, the Commission:

- received 157 invitations and requests
- had the resources to accept more than 70% of invitations
- again exceeded its goal of an 80% satisfaction rate among participants at evaluated public education events

The Commission focuses its public education activities on issues that are associated with current Commission initiatives or concerns. The Commission made presentations to various police services and school boards that are attempting to address issues of racial discrimination and racial profiling. Topics addressed also reflect continued interest in such issues as harassment, disability, mandatory retirement and concerns around the "safe schools" provisions of the *Education Act*.

During this past year the Chief Commissioner made approximately 47 presentations to members of the general public and visiting delegations. Some of her activities included:

- facilitating discussions amongst international delegates at the XVI International AIDS Conference in Toronto on how HIV and AIDS is impacting women in various countries
- speaking to several business and legal audiences about the impacts of Bill 107, An Act to Amend the Ontario Human Rights *Code*
- several events introducing the Coalition of Municipalities Against Racism and Discrimination to a wide variety of government and community stakeholders, encouraging them to learn more about the Coalition and become involved
- meetings and ongoing work with representatives of various municipal police services
- speaking publicly through editorial letters on issues causing tension in the community, such as Islamophobia and a Windsor public lecture series (Windsor Star), gender identity rights (Toronto Star), and the hijab and religious accommodation in soccer (Ottawa Citizen)
- delivering a paper at the Ontario Bar Association's 5th Annual Charter Conference on the role of human rights commissions in advancing

social and economic rights

- speaking on a number of occasions with students and working youth about human rights issues they face in employment, housing and in the community
- involvement in the majority of the 7 presentations that the Commission made to visiting international delegations during this fiscal year

### ***Outreach to Aboriginal Communities***

Although much more work needs to be done, the Commission continues to reach out to a number of individuals and groups in Aboriginal communities, in order to build awareness of the *Code*, enhance access to Commission services, and involvement in its initiatives.

This past year, the Commission continued its positive and productive relationship with the Union of Ontario Indians (UOI), raising awareness about the *Code* rights of Aboriginal persons living in urban settings and on reserve. In February, the Chief Commissioner met with Grand Chief John Beaucage of the Anishinabek Nation to discuss how the Commission could work with that body to further the rights of Aboriginal people in the province. UOI has cooperated with the Commission in a number of community-based initiatives, most recently the Windsor Forum for the Coalition of Municipalities Against Racism and Discrimination.

In November, the Commission again participated at the Canadian Aboriginal Festival and pow-wow in Toronto and greeted hundreds of attendees who stopped by the booth to chat and exchange information.

### ***Canadian Coalition of Municipalities Against Racism and Discrimination***

In 2006-07, the Commission continued to lend its expertise and support to the Canadian Commission for UNESCO (United Nations Educational, Social and Cultural Organization) in promoting a Canadian Coalition of Municipalities Against Racism and Discrimination. The purpose of the Coalition is to establish a network of municipalities interested in sharing experiences and expertise about addressing racism and discrimination, and committed to adopting a Plan of Action for their jurisdictions.

The Commission was involved in a number of activities to promote the Coalition this past year:

- Created of a planning group to promote the Coalition in Ontario. Members include the Association of Municipalities of Ontario, the Canadian Race Relations Foundation, the Centre of Excellence for Research on Immigration and Settlement, the cities of Hamilton, Toronto and Windsor, the Department of Canadian Heritage and the Ontario Federation of Labour
- In June 2006, the Chief Commissioner facilitated a session at the World Urban Forum in Vancouver where Canadian and international participants exchanged best practices for addressing racism, and discussed how to improve the democratic governance of municipalities determined to respect diversity
- Provided briefing sessions in January for representatives of approximately 13 community organizations with province-wide mandates, and in February for community representatives from across Ontario at a symposium in North Bay
- Hosted a one-day Forum in March with the City of Windsor, applying the Commission's participatory-based program manual. The forum, was attended by representatives of approximately 16 different municipalities
- The Commission also gave an update on the Coalition to the Canadian Association of Statutory Human Rights Agencies (CASHRA) which had endorsed the Coalition the previous year

To date, four Ontario cities have joined the Coalition – Windsor, Toronto, Thunder Bay and Oshawa – totalling 13 municipalities across Canada. A similar coalition has been established in Europe under the leadership of UNESCO with new coalitions underway in South Asia and Africa.

### ***Seneca College Partnership***

The Commission continued its working relationship with students and faculty from Seneca College's graphic design program at York University to develop human rights awareness campaigns.

This innovative venture began in support of a Toronto Police Service initiative with Seneca to address elder abuse, in partnership with the Ontario Seniors' Secretariat and CARP (Canadian Association for the 50+). This culminated in joint sponsorship of a poster launched by the Ontario Network for the Prevention of Elder Abuse at a Queens Park ceremony in October 2006.

Subsequently, this time as the client, the Commission worked with Seneca College to develop creative designs for campaigns addressing racial profiling and racism, and, in spring 2007, on human rights and the family, in support of its new consultation report and policy. The Commission is currently working on securing partners for marketing the designs.

### ***National and International Cooperation***

The Commission cooperates at both the national and international levels in the promotion and advancement of human rights. The Commission is a member of the Canadian Association of Statutory Human Rights Agencies (CASHRA), and contributes through CASHRA's policy, education and legal sub-committees as well as its annual conference, which took place in Fredericton in June 2006, and will take place in Yellowknife this coming June.

The Commission is also a member of the International Association of Official Human Rights Agencies (IAOHRA) and makes contributions to provincial or federal reports with regard to Canada's obligations under international human rights conventions. The Commission works to support its national and international partners in human rights advancement, hosting delegations and visitors from across Canada and abroad, and by participating in international conferences and symposia.

In 2006-07 the Commission:

- Hosted seven international delegations, including educators from Shanghai as well as the Human Rights Commission of Korea regarding sexual harassment
- Made a submission toward Canada's 6th and 7th Reports to the United Nations on the Convention on the Elimination of All Forms of Discrimination Against Women
- Provided information and advice to the New Zealand Human Rights Commission in support of their Transgender Inquiry
- Participated in Ontario Justice International's consultation marking the UN's March 21st anti-racism day with a delegation of Muslim organizations from Britain on the topic: identity, extremism and modernisation; challenging stereotypes and building networks with civil society partners
- Hosted a joint CASHRA meeting with Rights and Democracy, Equitas International Centre for Human Rights Education, and the Canadian International Development Agency to explore opportunities for international cooperation in capacity building.

**[www.ohrc.on.ca](http://www.ohrc.on.ca)**

The Commission's Web site provides the public with a wealth of accessible information about human rights issues as well as changes to Ontario's human rights system.

In March of 2007, the Commission launched a new Web site sporting a cleaner interface with clearly defined publication categories. Theme-based pages, on issues such as racism and sexual harassment, now connect interrelated resources by topic across the site including Commission policies, guides, reports, public education resources, news releases, fact sheets, case summaries, and annual reports.

Web sites play an integral and growing role in the way information is conveyed. As the Commission moves forward under its new mandate, we plan to continue to develop our Web site to serve as an accessible and content-rich resource for the discourse around human rights in Ontario.

## **Monitoring, Inquiry and Advice**

The Commission uses its broad mandate under section 29 of the *Code* to provide advice to organizations, review legislation for compliance, and inquire into situations that may be discriminatory. In 2006-07, the Commission engaged in a number of these activities:

*Supporting Police Services to be Exemplary Institutions in Combatting Racism and Discrimination*

This past year, the Commission continued its efforts to reach out to policing services across the province.

In July 2006, the Commission met with the Ipperwash inquiry into the Ontario Provincial Police shooting of protestor Dudley George to discuss the Commission's *Policy and Guidelines on Racism and Racial Discrimination*. The Commission provided clarification of concepts of racism, systemic racism, and anti-racist organizational change.

As a next step in its partnership with the Ontario Police College, the Commission gave a workshop at the December 2006 conference of the Ontario Association of Chiefs of Police Diversity Network on dealing with human rights complaints against police, and moving forward with

human rights organizational change. The College and police services from Toronto and Windsor also participated in the Commission's program at the March forum promoting the Coalition of Municipalities against Racism and Discrimination, where policing was a key component addressed.

Also in March, the Commission reached an agreement with Toronto Police Service (TPS) and Toronto Police Service Board (TPSB) on a framework to support TPS initiatives to eliminate racism and other forms of discrimination in its activities. The agreement, set out in a detailed Project Charter, establishes a joint Working Group with representatives from each organization, who will identify human rights issues, design response plans and direct initiatives, and measure and report publicly on progress. To address concerns relating to both employment and service-provision, the Commission will be providing comment and support in various police-led initiatives in areas such as community outreach, hiring and retention of staff, staff education, policies and accountability. Nothing in the agreement prevents the Commission from continuing to enforce Ontario's *Human Rights Code* and seek public interest remedies in resolving complaints filed against the TPS or TPSB. The agreement came out of discussions among the three organizations relating to human rights complaints filed against the TPS and TPSB. (For more information on how this project addresses individual complaints, see "Police Complaints Initiative", under "Human Rights Complaints from the Public", below.)

### ***Police Records Checks and Mental Health***

The Commission contacted the Ontario Association of Chiefs of Police (OACP), and chiefs and boards of police services across Ontario, regarding the need to ensure police disclosure of non-criminal information does not have a discriminatory impact on persons with disabilities. Specifically, persons who have had non-criminal contact with police relating to mental illness have found that police services may disclose this information through employment and volunteer-related police records searches, limiting their ability to find work. The Commission provided advice about more appropriate assessment and disclosure practices.

### ***Amendments to Ontario's Human Rights Code***

In April 2006, the Minister of the Attorney General introduced Bill 107 (*An Act to amend the Human Rights Code*), as had been announced in 2005-06. In its initial response to the Bill later that month, the

Commission welcomed the vision of a strengthened Commission more focused on prevention and systemic issues, inside a re-balanced system for enforcing and promoting human rights.

However, the Commission also raised a number of questions and concerns about key provisions in the Bill. In the following months, the Commission met with stakeholders and recommended improvements and amendments to Bill 107 to the Ministry of the Attorney General. In its November 2006 submission to the Standing Committee on Justice Policy regarding Bill 107, and its subsequent letter regarding the premature closing of the hearings, the Commission recognized the importance of seeking consensus and common ground in moving towards a stronger, more effective human rights system for Ontarians.

The final version of the Bill, passed by the Ontario Legislature on December 5, 2006, reflected a number of recommendations made by the Commission and community groups.

### ***Restaurant Accessibility***

In July 2006, the Commission released *Moving Toward Barrier-Free Services*, the final report on the outcomes of its 5-year restaurant accessibility initiative. The 26 participating restaurant chains had previously committed to:

- Develop an accessibility policy and customer complaints procedure;
- Review and identify accessibility barriers across corporate-owned and franchised premises;
- Develop a standardized accessibility plan for future locations;
- Develop a plan for existing facilities and begin removing barriers; and
- Monitor progress towards achieving accessibility and report back to the Commission in one year's time.

The Commission's first report on the subject, *Dining Out Accessibly* (2004) contained the results of accessibility surveys carried out at the initial 7 participant restaurant chains. A further 19 restaurant chains subsequently joined the initiative. The 2006 report details the advancements of all the participant chains toward meeting their accessibility commitments, and makes recommendations for moving forward.

The Commission also reached a resolution of the complaint that it initiated against one restaurant chain.

### ***Discriminatory Effect of the Change of Name Act***

The Commission, together with the Information and Privacy Commissioner/Ontario (IPCO), took further steps to advise the Ministry of Government Services regarding the discriminatory impact on transgendered persons of public disclosure requirements of the name change process. In December 2006, the Commission made a submission to the Standing Committee on Social Policy regarding Bill 152, the *Ministry of Government Services Consumer Protections and Service Modernization Act*, which amended the *Change of Name Act*. In its submission, the Commission commended the government for addressing the concerns relating to publication of name changes, while noting outstanding concerns relating to public records searches. The Bill received Royal Assent, and the Commission continues to work with the Ministry regarding development of the associated regulations.

### ***Equal Treatment in Education for Students with Disabilities During a Strike***

Based on media reports and human rights complaints, the Commission became concerned that students with disabilities may be denied access to education and accommodation during strikes involving educational assistants. In November 2006, the Commission met with representatives of three key organizations involved in providing educational services, emphasizing the importance of contingency planning so that students with disabilities receive the same services as other students in such situations. The Commission subsequently provided advice to a school board pending a strike, and posted information on its Web site about the shared responsibilities of government, school boards and unions in such situations. The Commission will continue to monitor and address this issue in 2007-08.

### ***Return to Work Policies of the WSIB***

The Workplace Safety and Insurance Board has prepared, and is consulting on, draft policies on the Early and Safe Return to Work. The Commission met with the WSIB to discuss these policies, and in December 2006 prepared submissions to the WSIB outlining the Commission's concerns regarding provisions of the draft policies that contradict the *Code* and the *Commission's Policy and Guidelines on Disability and the Duty to Accommodate*.

### ***Accessibility of Driving Schools***

The Commission continued to work closely with the Ministry of Transportation and industry partners toward a system-wide solution to the barriers faced by persons who are deaf, deafened and hard-of-hearing in accessing driving school programs, and will be seeking resolution of this matter in 2007-08.

### ***Other Matters***

In 2006-07 the Commission also:

- Inquired into allegations of systemic discrimination affecting promotion opportunities for African Canadian nurses working in Toronto nursing homes. The City responded with information that indicated some progress in the hiring of racialized and African Canadian nursing staff into senior positions in City nursing homes
- Made a submission in December 2006 to the Ministry of Community and Social Services' Customer Service Standards Development Committee on harmonizing the Initial Proposed Customer Service Standard under the *Accessibility for Ontarians with Disabilities Act* with the *Human Rights Code*
- Provided input to the College of Nurses of Ontario in development of its draft document "Becoming a Nurse in Ontario – Information for Students"
- Met with General Motors to discuss ongoing human rights concerns raised by the company's use of a medical surveillance questionnaire
- Wrote to the Minister of Community Safety and Correctional Services regarding draft regulations under the *Private Security and Investigative Services Act* (not yet proclaimed) reiterating advice that the draft code of conduct be strengthened with a statement of principle referring to the *Code*

## **Commission-Initiated Complaints**

The Commission favours a voluntary and cooperative approach to protecting and promoting human rights, and where it has raised concerns with a company or organization, it attempts to resolve them in this manner. However, where these efforts have proven ineffective, the Commission may choose to initiate a complaint and use its broad powers to investigate, resolve or decide whether to refer the matter to the Human Rights Tribunal of Ontario.

### ***Discriminatory Effect of School Discipline Legislation and Policies***

This past year, the Commission continued its efforts to resolve its complaint against the Ministry of Education, which alleges that the “safe schools” provisions of the *Education Act* have a disproportionate impact on racialized students and students with disabilities. The complaint was initiated July 2005, following considerable research and the release of a public submission raising these concerns. While it is essential to ensure schools are safe, disciplinary measures must be fair, effective and non-discriminatory. Although the complaint remained unresolved at fiscal year-end, a comprehensive settlement was reached in April 2007, which led the Ministry of Education to introduce amendments to the *Education Act*.

### ***Restaurant Accessibility***

In May 2006, the Commission reached a settlement with Select Sandwich, resolving the complaint initiated by the Commission in 2004 in association with its restaurant accessibility initiative. The Commission is pleased to report that the significant commitments made by Select Sandwich will greatly enhance the accessibility of its locations.

Notably, the chain committed to amend its Offer to Lease Agreement and Franchisee Agreement, develop and post an accessibility policy and complaints resolution procedure, train all existing and new franchisees, develop a barrier removal plan, contact landlords regarding accessibility barriers under the landlords’ sole control (and report to the Commission in regards to those who do not respond) and conduct accessibility reviews annually. The Commission will continue to receive barrier removal reports from this chain annually until 2016.

### ***Drug and Alcohol Testing***

In April 2006, the Commission initiated a complaint against Goldcorp Inc. alleging that sections of the company’s Drug and Alcohol Testing Policy violate the *Code*. The Commission’s *Policy on Drug and Alcohol Testing* recognizes that the law identifies dependence on drugs or alcohol as a form of disability. In a 2004 settlement of an individual complaint, Goldcorp had agreed to work with the Commission to update its policies.

The Commission worked for more than a year to encourage Goldcorp’s compliance with the *Code*, the *Policy*, and current case law, which recognize that pre-employment and random drug tests do not indicate an employee’s current level of impairment or ability to perform their duties, but show only past use. However, the complaint was initiated

because, despite considerable Commission advice, Goldcorp's policy continued to permit random and pre-employment drug testing of all employees, as well as pre-transfer drug testing for select employees.

## **Human Rights Complaints from the Public**

Each year, a number of individuals turn to the Commission for help by filing a formal complaint. Under the *Code*, the Commission is required to receive all complaints filed by individuals.

All complaints are received and assessed individually. However, where the Commission is aware of a pattern of complaints within an organization or sector, or if similar complaints recur after decisions or settlements that were meant to resolve an issue, the Commission may undertake additional measures.

### ***Police Complaints Initiative***

In 2006-07, the Commission finalized a working agreement with the Toronto Police Services on a project charter to address both individual complaints and the underlying issues that lead to complaints. Responding to concerns about the existing police complaint mechanism and patterns in complaints to the Commission, the initiative tracks and monitors incoming complaints against police services to determine the most effective course of action in handling them. It allows the personal remedies associated with complaints to be more quickly resolved, while broader public interest concerns are addressed through the ongoing cooperative work between the agencies. The agreement is the first of its kind in Canada and will serve as a model for systemic change throughout the sector.

### ***Case Management***

In 2006-07, the Commission undertook two Special Case Inventory Projects to improve caseload management.

In May 2006, the Strategic Case Management Project was implemented to reduce the backlog of complaints awaiting investigation. The project provided early investigation expertise by assessing each case and encouraging conciliation. In addition, the Project prepared files for a full investigation by obtaining legal assessments, amending complaints where necessary, and obtaining documents and other information from the parties. In all, 598 cases were reviewed and assessed, reducing the

backlog by at least 101 files, and preparing a further 310 for investigation.

In February 2007, the Commission introduced a pilot project to improve its efficiency and timeliness in handling all incoming complaints. The Enhanced Complaints Process sets more stringent timelines for meeting dates and production of documents, provides early assessment of complaints, and incorporates fact-finding meetings as an investigative tool.

The benefits to parties will be important. Because there will be fixed mediation dates, it is anticipated that more cases may be resolved before an investigation takes place, helping the Commission address older cases and reduce its caseload. Shorter timeframes will facilitate collection of evidence, as documents and the memories of witnesses should still be fresh. In addition, there will be greater emphasis on cooperation from parties to produce requested documents more quickly. It is anticipated that this process will reduce the average time for a complaint to make its way through the Commission's process.

### ***Intake of Complaints***

In 2006-07:

- Of almost 43,000 contacts with Inquiry services, 2,337 resulted in formal complaints filed with the Commission. This compares with 2,399 complaints filed in the 2005-2006 fiscal period

### ***Cases Dismissed on Preliminary Objections (s. 34)***

The Commission may decide not to proceed with a complaint for reasons set out in section 34 of the *Human Rights Code*. In 2006-07, of all cases completed at the Commission or referred to a Tribunal, 7.1 % were dismissed based on such preliminary objections, on average at 10.5 months. Using the parties' written submissions, the Commission determined that:

- 2.4 % of cases could have been dealt with by another legislated body, such as through a union grievance procedure under labour legislation or at the Workplace Safety and Insurance Appeals Tribunal
- In 1.6 % of cases there was evidence the complaint was frivolous, vexatious, or made in bad faith
- In less than 0.5% of cases the matter was outside the Commission's jurisdiction
- In 2.1 % of cases the events occurred outside the *Code's* six month filing requirement
- 1% of cases contained some combination of the above objections

### ***Mediation and Settlement***

The *Code* requires the Commission to endeavour to settle complaints, and parties may agree to settle at any stage in the Commission's process or at the Tribunal. Year after year, the Commission is able to settle or resolve at least 69% of cases where parties agree to early mediation, more than half of all the cases it completes, and over 80% of cases at the Tribunal.

In 2006-07, of all cases completed at the Commission or referred to a Tribunal, 58.9% were settled by the Commission or resolved between the parties, on average at 13.7 months:

- 30.9% of cases (655) were settled through early mediation without investigation, on average at 8.3 months (69.2% of the 946 cases in which parties agreed to mediation).
- 11.5% were settled at the investigation stage, on average at 25.3 months
- 16.5% were resolved between the parties, on average at 15.7 months

### ***Withdrawn Complaints***

In 2006-07, of all cases completed at the Commission or referred to a Tribunal, 18.5 % were withdrawn by the complainant, some due to settlements between parties outside the Commission's process, on average at 6.1 months.

### ***Investigation and Referral of Complaints***

If cases are not resolved through early mediation, the Commission conducts a neutral investigation, and determines whether there is sufficient evidence to warrant referral to the Tribunal for a hearing.

In 2006-07, of all cases completed at the Commission or referred to a Tribunal, 15.5% received a Commission decision based on the merits (s.36 of the *Code*), on average at 29.4 months. Of this 15.5%:

- 8.9% of cases were dismissed because of insufficient evidence to warrant a Tribunal hearing, on average at 26.5 months
- Less than 0.5% of cases were dismissed because of lack of cooperation by the complainant, on average at 26.0 months
- 6.6% or 140 cases were referred to the Tribunal for a hearing, on average at 33.4 months (143 cases were referred in 2005-06)

- 3 additional cases were referred to the Tribunal after reconsideration by the Commission of a previous decision

### ***Caseload Overview 2006-07***

- The Commission began the fiscal year with an active caseload of 2,880 cases
- 2,337 new complaints were received and added to the caseload
- 1,978 complaints from the caseload were completed at the Commission, on average at 14.6 months
- Over the last few years, the Commission has received more cases than it has the resources to complete, resulting in a backlog of 762 cases at year-end
- The Commission ended the fiscal year with an active caseload of 3,099 cases, 219 or 7.6% more cases than the beginning of the year
- 169 cases (5.5% of its active caseload) were over three years old at year-end
- The average age of the active caseload was 16.4 months. This is up from 12.9 in 2005-06, and exceeds the target of less than 14 months. The rising case age relates to the significant increase in voluntary staff turnover and secondments because of uncertainty around the upcoming changes to the human rights system. There was also an increase in staff leaves during the year.

### **Litigation**

The Commission's litigation of cases before the Tribunal and at higher courts has been instrumental in representing the public interest in enforcing the *Code*, promoting the Commission's policies, and advancing human rights jurisprudence. The Commission has been involved in a number of high profile cases that have added to this important body of case law (see Appendix: *Case Summary Highlights*). The resulting settlements and decisions may create precedents and directions for advancing human rights law in Ontario, across Canada, and internationally.

In 2006-07, of the 88 complaints resolved at the Tribunal, 77 or 87.5% were settled with the active involvement of Commission counsel. The Commission obtained strong public interest remedies in almost all of these settlements. In the future under the new human rights system, the Commission may seek to intervene as a party in appropriate cases so as to negotiate public interest remedies when cases are settled.

In 2006-07, the Commission was involved in many cases at the Tribunal and in higher courts that resulted in:

- 77 settlements at the Tribunal
- 11 final decisions, 6 further decisions and 30 interim decisions from the Tribunal
- 1 decision from the Superior Court of Justice
- 2 decisions on appeal from the Divisional Court
- 6 judicial review decisions from the Divisional Court
- 4 decisions (including 3 on leave to appeal) from the Court of Appeal
- 4 decisions (including 2 on leave to appeal) from the Supreme Court of Canada

As of March 31, 2007 the Commission is currently litigating:

- 469 complaints before the Tribunal
- 14 cases before the Divisional Court (9 judicial reviews and 5 appeals)
- 2 cases at the Court of Appeal
- 2 cases at the Supreme Court of Canada

## Organizational Development

The Commission plans and implements ongoing organizational improvement and staff training initiatives in order to better serve the people of Ontario. In 2006-07, Ontario Human Rights Commission staff and Commissioners participated in a two-day Race Policy Training Program in December. A number of experts and community representatives were invited to present their work and perspectives and to lead participatory workshops.

The program, designed by an internal committee, was to enhance the understanding of current issues and best practices in human rights work addressing racism and racial discrimination. The program built on introductory training provided in July 2005 upon the public release of the Commission's *Policy and Guidelines on Racism and Racial Discrimination*.

The Commission continues to provide staff with training to increase their skills and knowledge of human rights.



## APPENDICES

## List of Commissioners

### **BARBARA HALL**

#### *Chief Commissioner*

Barbara Hall was appointed Chief Commissioner of the Ontario Human Rights Commission in November 2005, after 40 years as a community worker, lawyer and municipal politician. She served three terms as a city councillor, and as Toronto's mayor from 1994 to 1997. From 1998 to 2002 she headed the federal government's National Strategy on Community Safety and Crime Prevention. Ms. Hall also practised criminal and family law, was a member of the Ontario Health Ministry's Health Results Team, and lectured nationally and internationally on urban and social issues. She has a strong record of bringing diverse groups together to build healthy communities.

### **JEANETTE CASE**

Jeanette Case is a former member of the Assessment Review Board of the Ministry of the Attorney General, where she served as a part-time adjudicator on matters relating to property assessment. For years she has worked as a conveyancer and title searcher and has conducted orientation and training of community college students in title searching. She has volunteered with Silent Voice, the Canadian Cancer Society, St. Christopher House, Meals on Wheels and the Baycrest Centre for Geriatric Care. Ms. Case served as Commissioner from April 2003 until August 2006.

### **PATRICK CASE**

Patrick Case is the Director of the University of Guelph's Human Rights and Equity Office. A lawyer by training, his previous roles include Chair of the Canadian Race Relations Foundation, and Co-Chair of the Equality Rights Panel of the Court Challenges Program. Mr. Case teaches human rights courses at the University of Guelph and Osgoode Hall Law School. He was appointed to the Commission in November 2006.

### **PIERRE CHARRON**

Pierre Charron is a barrister and solicitor who is senior counsel in his own firm and also president of Charron Human Resources Inc, working in the field of harassment prevention and conflict resolution. Mr. Charron is a member of the Canadian Bar Association, Law Society of Upper Canada, l'Association des juristes d'expression française, Le Club Richelieu de Rockland, the Rockland Optimist Club, the Knights of Columbus, the Chamber of Commerce and the Royal Canadian Legion.

He is also a former municipal councillor. Mr. Charron was appointed to the Commission in June 2005.

### **RUTH GOBA**

Ruth Goba is Women's Program coordinator and staff lawyer for the Centre for Equality Rights in Accommodation (CERA). She has taught disability issues at Ryerson University, and she clerked at ARCH: A Legal Resource Centre for Persons with Disabilities. Ms. Goba also worked in India on housing and land rights with both the Habitat International Coalition and the United Nations Special Rapporteur on the Right to Adequate Housing. She was appointed to the Commission in October 2006.

### **KAMALA-JEAN GOPIE**

Kamala-Jean Gopie is an educator with more than 30 years of experience as a teacher, librarian and education officer addressing anti-racism and ethno-cultural equity. She recently served as a member of the federal Immigration and Refugee Board. Her community service includes being President of the Board of the Urban Alliance on Race Relations. Ms. Gopie also sat on the Provincial Task Force on Race Relations and Policing, the City of Toronto Mayor's Committee on Race and Ethnic Relations and received the Order of Ontario. She was appointed to the Commission in October 2006.

### **ALANA KLEIN**

Alana Klein is a Senior Policy Analyst with the Canadian HIV/AIDS Legal Network. She is a former lecturer and Associate-in-Law at Columbia University. Previously she was Law Clerk to Justice Louise Arbour at the Supreme Court of Canada and a volunteer at the Chez Doris Day Shelter for Women in Montreal. She was appointed to the Commission in September 2006.

### **VIVIAN JARVIS**

Vivian Jarvis is a founding member and past-president of her local chapter of the Canadian Mental Health Association. She has served as president of the Women's Auxiliary at Stratford General Hospital, Neighbourlink, and conducted pastoral prison visitations in Ottawa and Hamilton and as Warden of her Church. Ms. Jarvis is a former City Councillor for Stratford and has worked in the Constituency Offices of MPs and MPPs. She has also stood for election to the Ontario Legislature. Ms. Jarvis served as Commissioner from April 2003 to August 2006.

## **RAJA KHOURI**

Raja G. Khouri is managing consultant at The Knowledge Centre, specializing in organizational effectiveness, community development and human resources. He is former president of the Canadian Arab Federation where he advocated against discrimination and the erosion of civil liberties. Mr. Khouri directed a study of the Canadian Arab community and authored the book *Arabs in Canada: Post 9/11*. He has chaired conferences, given lectures and media interviews, and written commentaries in a variety of Canadian dailies and magazines. Mr. Khouri completed an appointment to the Hate Crimes Community Working Group before being appointed to the Commission in September 2006.

## **FERNAND LALONDE**

Fernand Lalonde retired from the federal public service in 2001 after serving in many roles including General Secretary of the National Joint Council, Executive Director of Appeals and Investigations for the Public Service Commission of Canada, and Director of Personnel Services, Parks Canada. Mr. Lalonde is a former President of the Canadian Public Personnel Management Association, and is currently a consultant providing services in union-management relations and dispute resolution. He was appointed to the Commission in May 2005.

## **EVANGELISTA (IVAN) OLIVEIRA**

Mr. Oliveira is a realtor and educator who has been with the Brampton Real Estate Board for over 25 years, chairing many of its committees and serving as the Board's president in 1987. He is the founder of the Portuguese Community School of Brampton where he supervises and implements curriculum. Mr. Oliveira is also a part-time adjudicator with the Assessment Review Board of the Ministry of the Attorney General. Mr. Oliveira was awarded the 2002 Queen's Golden Jubilee Medal. He served as Commissioner from April 2003 until August 2006, and as Interim Chief Commissioner in October and November 2005.

## **CHRISTIANE RABIER**

Christiane Rabier is currently Chair of the Department of Political Science and Vice-Dean of Social Sciences and Humanities at Laurentian University in Sudbury. Ms. Rabier is active within the francophone community in Sudbury and has worked on a program for francophone women to attend post secondary studies. She served as a consultant with TV Ontario on Continuing Education, and as a volunteer with Canada's Special Olympics in 1998 and Operation Red Nose in 1999. Ms. Rabier was appointed to the Commission in April 1999.

## **GHULAM ABBAS SAJAN**

Ghulam Abbas Sajan served as a senior management auditor with the Management Board Secretariat of Ontario and was awarded a “Lifetime Achievement Award” in 2005. Previously, he was employed by KPMG in Uganda and the United Kingdom. An active member of the Shi’a Islamic Community, he was president of the Jaffari Islamic Centre and currently, amongst many other involvements, is involved with Mosaic Interfaith Group, Markham Race Relations Committee and Jaffari Islamic Housing Corporation. In 2001, he was honoured with a Government of Canada award for outstanding service and contribution as a volunteer. Mr. Sajan was appointed to the Commission in May 2005.

## **REGINALD STACKHOUSE**

Prolific author of books and articles, Dr. Stackhouse is Principal Emeritus and research professor at Wycliffe College, University of Toronto. A former M.P., Dr. Stackhouse served in the House of Commons, chairing the Standing Committee on Human Rights. He was a Canadian representative to the United Nations General Assembly and a delegate to the United Nations Human Rights and Refugee Committee. He also served as a Commissioner with the Canadian Human Rights Commission, and received the Queen’s Golden Jubilee Medal in 2002. Dr. Stackhouse served as Commissioner from April 2003 until August 2006.

## **BHAGAT TAGGAR**

Bhagat Taggar is a Chartered (UK) and Professional (Ontario) Engineer with diverse international community experience. He served as a vice chair of race relations, and a city and regional Councillor in England, and as an Engineer in Zimbabwe. In Canada, he was the chairperson of Panorama India, Lion’s club member, Professor of Engineering at Centennial College and a business owner. Mr. Taggar was appointed by the Governor General of Canada (1996) as chairperson of the Employment Insurance Board for the Ontario regional division (Scarborough). He was awarded the Queen’s Golden Jubilee Medal for community service 2002. Mr. Taggar was appointed to the Commission in May 2005.

## **RICHARD THÉBERGE**

Richard Théberge is a lawyer by training, a policy analyst and accessibility consultant. Previously with the federal government, he has analyzed and developed policies in connection with business and corporate law. He has volunteered with youth and disability communities and currently serves as President of the Ottawa Independent Living Resource Centre.

Mr. Théberge has been recognized as a patron of deaf youth by the Jules Leger Centre in Ottawa, and was awarded for his years of work with the Canadian Council of Independent Laboratories. He was appointed to the Commission in February 2002.

### **MAGGIE WENTE**

Maggie Wente is a lawyer with Olthius Kleer Townshend, representing First Nations and Band Councils. She has also worked with the Ontario Federation of Indian Friendship Centres and the University of Toronto Community Legal Clinic. Currently she is a Board member of the Aboriginal Legal Services of Toronto and formerly Board Co-Chair of the Women's Counselling, Referral and Education Centre. She is a member of both the Canadian Bar Association and the Indigenous Bar Association. She was appointed to the Commission in October 2006.

### **ALBERT WIGGAN**

Albert Wiggan has been a Chef and business owner for over 20 years and has received several Community Service Awards. He is a frequent speaker to young people at secondary schools on behalf of literacy and people with learning disabilities. He was appointed to the Commission in September 2006.

**Table 1: New Complaints Filed by Social Area and Grounds Cited**  
(Total = 2337)

	Percent (%) of All Complaints Filed	Percent (%) of Grounds Cited	Total Grounds <sup>1</sup>	Vocational Associations	Services	Employment	Contracts	Accommodation
Age	9.41	5.03	220	4	27	181		8
Ancestry	6.25	3.34	146	1	26	115		4
Association	0.81	0.43	19		4	13		2
Breach of Settlement	0.64	0.34	15	2	3	10		
Citizenship	0.98	0.53	23		6	15		2
Creed	4.58	2.45	107	2	23	80		2
Disability	56.31	30.09	1316	20	249	1014	4	29
Ethnic Origin	14.16	7.57	331	5	52	267	1	6
Family Status	6.55	3.50	153	1	16	96		40
Marital Status	3.04	1.62	71	1	12	51		7
Place of Origin	9.84	5.26	230	3	33	186		8
Public Assistance	3.25	1.74	76		60	3		13
Race & Colour	35.82	19.14	837	17	136	659	3	22
Record of Offences	0.68	0.37	16	2	3	11		
Reprisal	10.06	5.37	235	4	20	207	1	3
Sex <sup>2</sup>	12.11	6.47	283	3	35	229	2	14
Sexual Harassment	9.71	5.19	227		5	218	1	3
Sexual Orientation	2.91	1.55	68		14	51		3
Sum of Categories		100	4373	65	724	3406	12	166
Total Complaints Per Social Area			2337	28	393	1820	7	89
Percent (%) of all Complaints Filed			100.00	1.20	16.82	77.88	0.30	3.81

<sup>1</sup>Because complaints can involve multiple grounds, the sum by grounds exceeds the total for all complaints filed, and the corresponding percentages of total complaints exceed 100%.

<sup>2</sup>"Sex" includes pregnancy, breastfeeding, and gender identity.

**Table 2: Monetary Damages in Settlements by Ground**

Ground	Mediated			Conciliated			Total Cases Settled		
	Cases	Monetary Damages	Average	Cases	Monetary Damages	Average	Cases	Monetary Damages	Average
Age	33	\$274,013.00	\$8,303.42	13	\$34,700.00	\$2,669.23	46	\$308,713.00	\$6,711.15
Ancestry	37	\$286,690.35	\$7,748.39	16	\$35,920.00	\$2,245.00	53	\$322,610.35	\$6,086.99
Association	9	\$66,000.00	\$7,333.33	3	\$6,000.00	\$2,000.00	12	\$72,000.00	\$6,000.00
Citizenship	2	\$16,400.00	\$8,200.00	3	\$21,700.00	\$7,233.33	5	\$38,100.00	\$7,620.00
Creed	29	\$149,750.00	\$5,163.79	5	\$15,300.00	\$3,060.00	34	\$165,050.00	\$4,854.41
Disability	339	\$2,839,843.54	\$8,377.12	110	\$744,952.74	\$6,772.30	449	\$3,584,796.28	\$7,983.96
Ethnic Origin	74	\$626,942.88	\$8,472.20	17	\$108,445.40	\$6,379.14	91	\$735,388.28	\$8,081.19
Family Status	30	\$174,827.50	\$5,827.58	11	\$32,750.00	\$2,977.27	41	\$207,577.50	\$5,062.87
Marital Status	14	\$75,100.00	\$5,364.29	7	\$23,000.00	\$3,285.71	21	\$98,100.00	\$4,671.43
Place of Origin	52	\$432,235.99	\$8,312.23	20	\$87,426.86	\$4,371.34	72	\$519,662.85	\$7,217.54
Public Assistance	1	\$165.00	\$165.00	1	\$1,500.00	\$1,500.00	2	\$1,665.00	\$832.50
Race & Colour	167	\$1,284,395.96	\$7,690.99	57	\$485,013.57	\$8,509.01	224	\$1,769,409.53	\$7,899.15
Reprisal	83	\$734,760.84	\$8,852.54	19	\$64,000.00	\$3,368.42	102	\$798,760.84	\$7,830.99
Sex <sup>1</sup>	147	\$885,834.34	\$6,026.08	51	\$250,550.00	\$4,912.75	198	\$1,136,384.34	\$5,739.31
Sexual Harassment	40	\$177,420.84	\$4,435.52	18	\$90,700.00	\$5,038.89	58	\$268,120.84	\$4,622.77
Sexual Orientation	25	\$218,599.23	\$8,743.97	4	\$25,000.00	\$6,250.00	29	\$243,599.23	\$8,399.97
Total for All Grounds <sup>2</sup>	1082	N/A	N/A	355	N/A	N/A	1437	N/A	N/A
<b>Total Cases</b>	<b>514</b>	<b>\$3,731,291.58</b>	<b>\$7,259.32</b>	<b>184</b>	<b>\$1,502,324.47</b>	<b>\$8,164.81</b>	<b>698</b>	<b>\$5,233,616.05</b>	<b>\$7,498.02</b>

<sup>1</sup>"Sex" includes pregnancy, breastfeeding, and gender identity.

<sup>2</sup>Because complaints can involve multiple grounds, the sum by grounds exceeds the total for all complaints filed, and the corresponding percentages of total complaints exceed 100%.

**Table 3: Cases Completed or Referred, by Disposition and Grounds**  
(Total = 2118)

	Percentage (%)	Total <sup>3</sup>	Withdrawn	Settled	Resolved	Referred to Human Rights Tribunal	Dismissed on preliminary objections (Sec. 34)	Dismissed on the merits (s. 36) <sup>1</sup>
Age	4.75	190	33	71	37	14	23	12
Ancestry	3.58	143	16	49	26	16	14	22
Association	0.55	22	5	5	1	5		6
Breach of Settlement	0.30	12	2	2	4	1	2	1
Citizenship	0.53	21		6		6	3	6
Creed	2.58	103	8	51	18	8	9	9
Disability	28.75	1150	238	504	193	58	78	79
Ethnic Origin	7.25	290	43	110	43	26	29	39
Family Status	2.53	101	23	47	10	10	6	5
Marital Status	1.45	58	7	22	14	5	7	3
Place of Origin	4.93	197	17	83	31	19	13	34
Public Assistance	0.50	20	11	1	2	2	3	1
Race & Colour	16.58	663	103	281	81	50	53	95
Record of Offences	0.15	6	4	1			1	
Reprisal	6.55	262	34	112	42	26	24	24
Sex <sup>4</sup>	15.53	621	107	262	121	50	31	50
Sexual Harassment	1.90	76	5	25	18	13	1	14
Sexual Orientation	1.63	65	11	28	16	3	3	4
Sum of Categories	100.00	4000	667	1660	657	312	300	404
Total for All Complaints		2118	391	898	349	140 <sup>2</sup>	151	189
Percentage of all Complaints (%)		100.00	18.46	42.40	16.48	6.61	7.13	8.92

<sup>1</sup>Complaints dismissed under section 36 of the Code include cases where the evidence did not warrant a hearing, or the procedure was not appropriate. This includes 6 cases (less than 0.5%) that were closed by the Commission that were dismissed because the complainant did not participate in the Commission's investigation or the Commission was unable to contact the complainant.

<sup>2</sup>140 complaints were referred to the Human Rights Tribunal of Ontario under section 36 of the Code. A further 3 complaints, which had previously been closed by the Commission, were referred to the HRTO after reconsideration under section 37 of the Code.

<sup>3</sup>Because complaints can involve multiple grounds, the sum by grounds exceeds the total for all complaints filed.

<sup>4</sup>"Sex" includes pregnancy, breastfeeding, and gender identity.

**Table 4: Cases Completed or Referred, by Disposition and Social Area**  
(Total = 2118)

Withdrawn by the Complainant <sup>1</sup>	12	1	320	54	4	391	18.46
Settled by the Commission	34	1	769	92	2	898	42.40
Resolved between Parties	15		279	48	7	349	16.48
Dismissed based on Preliminary Objections (s.34) <sup>2</sup>	7	2	111	27	4	151	7.13
Referred to Human Rights Tribunal (s. 36)	8		95	37		140 <sup>3</sup>	6.61
Dismissed on the merits (s. 36) <sup>4</sup>	6	1	137	40	5	189	8.92
<b>Total</b>	<b>82</b>	<b>5</b>	<b>1711</b>	<b>298</b>	<b>22</b>	<b>2118</b>	<b>100</b>
Percentage (%)	3.87	0.24	80.78	14.07	1.04	100	
	Accommodation	Contract	Employment	Services	Vocational Associations	Sum of Categories	Percentage of all complaints (%)

<sup>1</sup>Some as a result of a term of settlement.

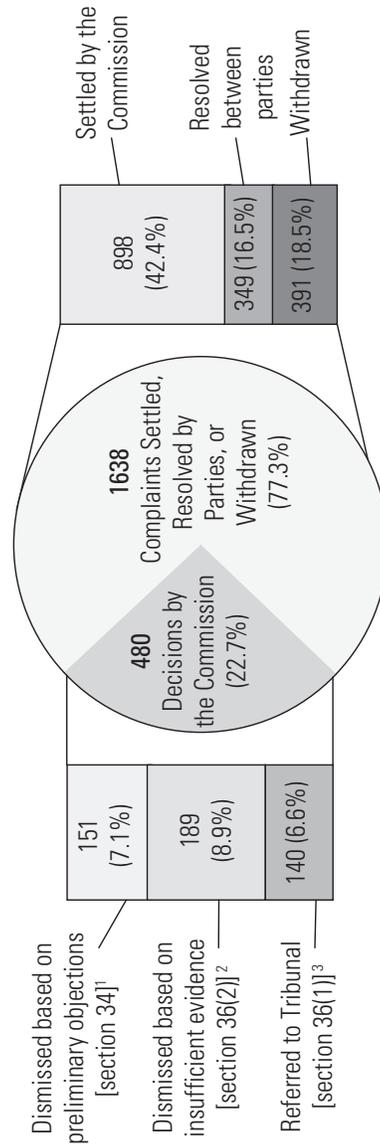
<sup>2</sup>These cases were dismissed after a Commission decision based on written submissions.

<sup>3</sup>140 complaints were referred to the Human Rights Tribunal of Ontario under section 36 of the Code. A further 3 complaints, which had previously been closed by the Commission, were referred to the HRTO after reconsideration under section 37 of the Code.

<sup>4</sup>Includes cases where the evidence did not warrant a hearing, the procedure was not appropriate, or, in 6 cases (less than 0.5%), those where the complainant did not participate in the Commission's investigation or the Commission was unable to contact the complainant.

**Cases Completed or Referred by the Commission  
2006-2007**

(Total = 2118)



<sup>1</sup>These cases were dismissed after a Commission decision based on written submissions.

<sup>2</sup>Complaints dismissed under section 36(2) of the Code include cases where the evidence did not warrant a hearing, or the procedure was not appropriate. Also included are the 6 cases (less than 0.5%) where the complainant did not participate in the Commission's investigation or the Commission was unable to contact the complainant.

<sup>3</sup>140 complaints were referred to the Human Rights Tribunal of Ontario (Tribunal) under section 36(1) of the Code. A further 3 complaints, which had previously been closed by the Commission, were referred to the Tribunal after reconsideration under section 37 of the Code.

## Case Summary Highlights

The following are highlights of some of the significant settlements, decisions and court cases over the past year in which the Commission was involved. Important public interest remedies were sought and obtained by the Commission in these cases.

### ***Commission Settlements***

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#### **Nursing and Discrimination based on Colour**

Commission staff mediated a complaint containing allegations of discrimination based on colour against an organization specializing in nursing outreach. In this complaint, the complainant, who identifies as a Brown person, alleged that she was treated unequally and subjected to harassment in her employment, which ultimately caused her to leave her position.

In settling the complaint, the corporate respondent agreed to write a letter of regret to the complainant, provide a letter of reference, and to modify her record of Employment.

The corporate respondent also committed to a number of public interest remedies, including:

- providing staff education
- incorporating a component on discrimination and harassment in training for new employees and management.
- disseminating links to its Discrimination and Harassment Policy, Human Rights Policy, and Grievance Policy and Procedure, to all staff across Ontario
- providing its management and supervisory staff with a copy of the Commission's *Policy and Guidelines on Disability and the Duty to Accommodate*

#### **School Board**

Commission staff conciliated a case concerning allegations of discrimination based on ancestry, disability and race against a school board. The complainant's litigation guardians indicated that the complainant experienced discrimination at school based on his Aboriginal heritage, and stated that he was subjected to unfair discipline under the "safe schools" provisions of the *Education Act* for behaviour that was directly related to his disability.

This settlement, facilitated by the Commission, integrated culturally-specific personal and public interest remedies. The school board and the family agreed to participate in a Talking Circle, and to engage with an Aboriginal youth counsellor to mediate issues between the family and the school as they arose.

The school board agreed to take into account the recommendations of medical specialists in determining any disciplinary consequences for the complainant. Board staff were given permission to consult with medical specialists about the complainant's accommodation needs, and the board invited the family to collaborate in the accommodation process on an ongoing basis through case conferences and consultations with the principal. Other personal remedies included a payment for extra-curricular activities and an investment into a Canada Savings Bond.

Public interest remedies included the board's agreement to review its race and ethno-cultural policy and the anti-racism component of its various bullying programs and curriculum, and written assurance that it will continue to ensure that its approach to suspensions and expulsions takes into account the human rights of students in accordance with the *Code*, and will continue to take into account mitigating factors.

### ***Decisions at the Human Rights Tribunal of Ontario***

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#### **Renata Braithwaite and Robert Illingworth v. Attorney General for Ontario and Chief Coroner of Ontario (Tribunal Decision)**

Renata Braithwaite's mother and Robert Illingworth's brother died while they were being involuntarily detained in psychiatric facilities. Requests that the Coroner conduct inquests into these deaths were denied. Under s.10(2) of the *Coroners Act* the Coroner has a discretion to decide whether to order an inquest into the death of an involuntary patient in a designated psychiatric facility. Where a person dies in prison, however, the Coroner must hold an inquest. He has no discretion to refuse to do so.

The Tribunal held that s.10(2) violated the *Human Rights Code* because under s.10(4) of the *Coroners Act*, members of a group comparable to involuntary psychiatric patients, prisoners, were automatically given an inquest upon death. The families of prisoners were given the right to know how their loved ones died. In contrast, the families of patients in psychiatric facilities, for many of whom the loss of liberty is similar, were denied the finality and closure that an inquest brings.

The Tribunal ordered that s.10(2) of the *Coroners Act* not be applied in this case. It directed the Chief Coroner to hold inquests into these two deaths and awarded \$5,000 in damages to the family members.

The Attorney General and the Chief Coroner have appealed this decision to the Divisional Court.

### **Rosalyn Forrester vs. Regional Municipality of Peel Police Services Board (Tribunal Decision)**

Ms. Forrester was strip-searched by Peel Police on several separate occasions. As a pre-operative transsexual woman she repeatedly asked to have female officers conduct these searches, but her requests were denied. Peel Police policy at the time required a male officer be involved in the search because the complainant had not yet had sex reassignment surgery.

Finding the previous policy discriminatory, the Tribunal ordered that a transsexual detainee who is going to be strip-searched must be given three options: the use of male officers only; the use of female officers only; or a split search involving both. It provided direction on how such searches should be conducted, including a requirement that the officer-in-charge be informed and authorize the strip search. Direction was also given on how to resolve the situation where an officer has serious reason to doubt a detainee's self-identification as a transsexual person. The Tribunal order also states that officers are not allowed to "opt out" of performing strip-searches of a transsexual person except in limited circumstances where the officer has significant *Human Rights Code* or *Charter of Rights and Freedoms* interests of his or her own to protect. Finally, the order requires Peel Police to produce a training video on transsexuality for all members of its force, in conjunction with experts, and with input from the transsexual community. The Commission must approve the video prior to its release.

### **Michelle Hogan, Martine Stonehouse, A.B. and Andy McDonald v. Her Majesty the Queen in Right of Ontario as represented by the Minister of Health and Long-Term Care (Tribunal Decision)**

Before October 1, 1998, the provincial government provided public funding for sex reassignment surgery to persons who were approved for that surgery by the Gender Identity Clinic (the "Clinic") at what is now

the Centre for Addiction and Mental Health ("CAMH"). The Clinic would grant its approval if satisfied that, among other things, the person had successfully completed a real-life test by living publicly in the desired gender role for two or more years.

Effective October 1, 1998, the government removed public funding for sex reassignment surgery for all persons who had not already received Clinic approvals for surgery.

Four complainants who received Clinic approvals for sex reassignment surgery after October 1, 1998, challenged the government's decision to remove public funding. The Commission and the complainants argued before a three-member panel of the Tribunal that the government's decision to remove funding amounted to discrimination with respect to services because of sex and/or disability.

A majority of the panel held that the government's removal of public funding for sex reassignment surgery was not itself discriminatory. However, it held that the government did discriminate on the basis of sex and disability against persons who had started medically-supervised transitions before October 1, 1998, and who received approvals for surgery from the Clinic within six years of having started their transitions. These persons should have received public funding for surgery, to allow them to complete the gender transitions they had begun at a time when public funding for surgery was still available.

Applying these criteria, the Tribunal majority held that three complainants had been subjected to discrimination, and ordered the government to provide them with funding for surgery, and with general damages ranging from \$25,000 to \$35,000 per person.

One dissenting member of the Tribunal would have held that the government's decision to remove public funding for sex reassignment surgery was discriminatory, arbitrary, reckless and an abuse of power. She would have ordered the government to fund sex reassignment surgery for all four complainants, since all four met the criteria for funding that had existed prior to October 1, 1998.

The Commission has filed an appeal to the Divisional Court.

**Eleanor Iness v. Caroline Co-operative Homes Inc., Canada Mortgage and Housing Corporation (Tribunal Decision)**

Until 1994, Caroline Co-operative Homes Inc. ("Caroline Co-op") had a formula for setting tenants' rents at 25% of a tenant's income. In May of 1994, Canada Mortgage and Housing Corporation ("CMHC") did a review of Caroline Co-op, and advised Caroline Co-op that the Co-op was not setting rents as called for in the agreement between Caroline Co-op and CMHC.

Eleanor Iness ("Iness") moved into the Caroline Co-op in 1981. Before January 1, 1995, Iness' rent was calculated as a percentage of her monthly income, as was the rent for all tenants whose rents were geared to income. Effective January 1, 1995, for tenants in receipt of social assistance benefits, including Iness, Caroline Co-op set the rent according to the maximum available shelter allowance that each was eligible to receive. Before this, Iness was able to receive a shelter allowance that covered not only her rent, but also her utilities and insurance, but as a result of the 1995 change, she could no longer "add" her utilities and insurance costs to her rent. The Tribunal found that the Co-op ought to have set Iness' rent so as to allow her to meet her rent, hydro costs and insurance costs out of the shelter component of her benefit. It made the following orders with respect to the Co-op's future practice:

- Set the housing charge for its members who are in receipt of public assistance in such a way that they may pay the sum of their housing charge, hydro costs and insurance costs out of the amount they receive as the shelter component of their public assistance benefits.
- Respect the dignity of its members who are in receipt of public assistance by treating their source of income in the same way they would if their income were derived from paid employment.
- Refrain from having unauthorized direct dealings with the social benefits' authorities to discuss the quantum of benefits pertaining to housing available to persons in receipt of public assistance.

The case has been appealed by the Co-op to the Divisional Court.

**Clive R. Stephens and Joseph O. Symister v. Lynx Industries Inc., et al. (Tribunal Further Decision)**

This decision dealt with a request by the Commission that the Tribunal reconsider its earlier decision ordering that the Commission pay costs, rendered in an earlier *Stephens* decision of November 7, 2005 (2005 HRTO 47). The Tribunal found that in this particular case, the failure to have the parties exchange written submissions (or otherwise exchange arguments) beforehand, coupled with the one-day timeframe for the hearing which was limited to submissions only, and no opportunity for the parties to provide oral evidence, made it difficult, if not impossible, for the parties to know the case they were expected to meet at the hearing and to respond adequately to it. Accordingly, the Tribunal was able to reopen its own proceeding since there had been a breach of natural justice, and vitiate the earlier decision.

**Michael McKinnon v. Her Majesty the Queen in Right of Ontario (Ministry of Correctional Services), and Geswaldo, Simpson, James and Hume (Tribunal Further Decision)**

This is the third major decision (the previous two being in 1998 and 2002) involving a finding of significant racism in the province's jails. In this most recent decision the Tribunal ordered further remedies in an effort to implement its earlier orders.

Commission counsel made extensive submissions to the Tribunal regarding the urgent need for training to take place amongst all staff members. The Tribunal made a number of orders, including:

- a requirement that an evaluation be done to determine if there is a need for an Aboriginal issues co-ordinator,
- clarifying the types of recommendations that can be made by external investigators looking into discrimination in the prisons,
- creation of a province-wide tracking system of discrimination complaints
- importantly, requiring that the Ministry ensure that its managers and other employees participate in, and comply with, the requirements of training programs and that such participation shall be enforced by appropriate action, involving discipline up to and including removal from positions of power and discharge.

**Arzem, et al v. Her Majesty the Queen in Right of Ontario (as represented by the Minister of Community and Social Services, the Minister of Education, and the Minister of Children and Youth Services) (Tribunal Interim Decision)**

Between August 12, 2003 and December 15, 2005, the Commission referred 245 cases to the Tribunal. All complainants are minors who are afflicted with Pervasive Developmental Disorders, which includes Autism Spectrum Disorder (“autism”), and Asperger’s Disorder. The Commission and the complainants allege that they had been subjected to discrimination in services because of disability, in that services for these disorders are not provided after the age of six. The definition of “age” in subsection 10(1) of the *Code* defines age to mean “an age that is eighteen years or more”.

This was a decision on a motion under the *Canadian Charter of Rights and Freedoms*. The Tribunal granted the motion and, in an extensive and far-reaching decision, held that for the purpose of these proceedings—the definition of “age” in subsection 10(1) of the *Ontario Human Rights Code*, infringes subsection 15(1) of the *Charter* and that the limit on the right cannot be demonstrably justified in a free and democratic society as required by section 1 of the *Charter*.

**Settlements at the Human Rights Tribunal of Ontario**

Because the Commission has carriage of the complaint at the Tribunal, settlements almost invariably involve the inclusion of strong public interest remedies. Since the Commission must sign the Minutes of Settlement, it can negotiate for these remedies, particularly in cases that may initially appear to affect only the individual, but which, in fact, have a broader public interest component. Under the terms of each of these settlements, there was no admission of liability, nor was there a withdrawal of the allegations.

**Nadia Abel, Lee Middleton, Christa Provo & Rob Provo v. Royal Steter Ltd. and Cosby (Tribunal Settlement)**

The four complainants went to a Burger King location in Niagara Falls in January 2002. They alleged that, while they waited in line to make an order, the security guard on duty, without any valid reason, told them that they had to leave the restaurant. After they questioned him, the

situation escalated and it was alleged that the complainants and two of their friends were ultimately all made to leave the restaurant. The complainants claimed that they were the only black customers out of over 40 persons at the restaurant at the time and that security guard targeted them because they were black. They also allege that subsequent complaints to Burger King management were not taken seriously.

Royal Steter Ltd. agreed to pay compensation to each of the complainants. More importantly, the Commission sought and obtained a number of public interest remedies designed to address future behaviour. Royal Steter Ltd. agreed to require that all security companies, currently retained or who bid for contracts, must train their officers on human rights and racial profiling, and acknowledge an obligation by the security company and its officers to comply with human rights legislation. Failure to do so could result in the termination of the contract between the corporate respondent and the security company.

Royal Steter Ltd. also agreed to establish a clear customer complaint policy that is posted at the Burger King location involved in this case. That policy, as posted, shall identify a designated manager or other representative as the contact person for a complaint. It agreed to develop and implement a written anti-discrimination and anti-harassment policy by March 1, 2007. The policy addresses employee responsibilities under the *Code* in dealing with the public, and discusses the phenomenon of racial profiling. Royal Steter Ltd. will provide copies of the policy to all current and future employees and post it in a prominent location accessible to all employees. It will also provide human rights training to all current and future managers, and ensure that future training includes a discussion of the policy.

**Nafis Anwar, Fatin Nasir, Jamil Malik, Nazir Sheikh, Muhammad Tariq, v. Choice Taxi Inc., Leishman, McMurray, Thompson, Leishman, Blanchard, Brunet, Duperron, Vervoort, Ayotte, Jerou, St. Denis, Simpson, Anderson, Menzies, Nakic, Huygen, Sauv , St. Denis, Lalonde, MacInnes (Tribunal Settlement)**

This is a systemic case involving five South Asian cab owner/drivers who allege that the respondents marketed themselves as an all-white taxi company and only allowed white, Canadian-born owners/drives to join them. The complainants further allege that the respondents' marketing and hiring practices have incited members of the public to discriminate against South Asian taxi drivers which has led to harassment and a poisoned work environment.

Some compensation was provided to the complainants. More importantly, Choice Taxi has agreed to provide a letter of offer to all South Asian taxi license owners, who receive dispatch service from it and who are currently non-shareholders, to become equal shareholders of the corporate respondent. Choice Taxi has agreed to develop and implement an Equity policy and an Anti-Racism policy. It has agreed to place an advertisement in the Cornwall Standard-Freeholder that clearly indicates that Choice Taxi is an “equal opportunity employer and encourages applications for owners, drivers, dispatchers and employees or contractors from qualified Aboriginal people, people with disabilities, racialized persons and women” and to include the same language on all job postings. It will also provide training on the aforementioned anti-racism and equity policies and to retain a human rights consultant to assist them in the development of the policies and training.

**Kimberly Altenburg, Kimberly Brehm, Meenakshi Chail, Kathy Delarge, Sharon Dunbar, Irene Hein, Jacqueline Herold, Jean Hewer, Theresa Kaufman, Betty Knott, Narinjan Lamba, Penny Lang, Arlene Lupton, Judy Maerten, Vicki McMahon, Genevieve Phillips, Cathy Riddell, Sandra Rollerman, Virginia Schlotzhauer, Lynda Swan, Sheila Thomas, Colleen Tiemens, Debbie Tulloch, Linda Van Arkel, Doreen Waldron. v. Johnson Controls Limited (Partnership) and Johnson Control Inc. (Tribunal Settlement)**

The complainants were all formerly employed with Johnson Controls, a large corporation, at their Stratford Plant location (the “Plant”), until its closure on December 14, 2001. They allege discrimination based on disability in relation to their pension benefits, which were set out in an agreement between Johnson Controls and the union. The agreement allowed employees to apply for early retirement, prior to age 65, if they: (1) had more than 30 years of service, regardless of age; (2) were between 60 and 64 and had 10 years or more of service, and (3) were either permanently or totally disabled and had 10 years or more of service.

In anticipation of the final closure of the Plant, Johnson Controls and the union negotiated a closure agreement, which included a term that allowed able-bodied employees in the first category to receive an early retirement pension and benefits after the plant closure date. Employees with 30 or more years of service did not have to formally apply for early retirement prior to the Plant closure date. They could make that election, after the Plant closed, if they chose to retire. However, the parties did not negotiate a similar provision in the closure agreement for employees in the second and third categories.

On December 11, 2001, employees of the Plant received a notice with respect to the pension windup, which did not include a warning to those in the second and third categories that they needed to make an application for a pension prior to the Plant's closure on December 14, 2001. In fact, most of the disabled workers were off work on extended disability benefits and/or workplace safety and insurance benefits. They were not aware of the need to make their early retirement applications prior to Plant closure. Consequently they made their applications after the Plant closure date.

Johnson Controls granted an indulgence and extended the right to apply for early retirement after closure date to employees that fell within the second category and employees who were very close to 30 years of service, (between 27 to 29 years). However, the disabled employees in the third category did not receive this extension.

Under the settlement, negotiated by Commission counsel, the closing agreement will be amended to allow the complainants to apply for pension and retiree health care benefits with different options, including a provision for now deceased employees. Johnson Controls also acknowledged its obligations to keep disabled employees fully advised of their rights and entitlements to any and all changes with respect to their employment related benefits, specifically with respect to retirement health care benefits and pension benefits. This extends to employees not actively employed but absent from the workplace on account of sick leave, WSIB, LTIP and /or any other disability related paid or unpaid leave.

### **Gurcharan Dran v. Paramount Canada's Wonderland Inc. (Tribunal Settlement)**

Gurcharan Dran is Sikh and as part of his religious beliefs he is required to wear a turban. On July 21, 2001, he bought tickets for a go-kart track ride at Paramount Canada's Wonderland. However, he was not allowed on the ride as regulations under the *Technical Standards and Safety Act*, 2000 require all patrons to wear a helmet.

Canada's Wonderland stated that they would like to accommodate the individual requirements of patrons wearing a turban or other religious headgear, but they are currently statutorily required to mandate that all persons wear helmets when operating a go-kart.

Canada's Wonderland agreed to pay some compensation to Mr. Dran. More importantly, it agreed to request a variance from the Director of the Technical Standards & Safety Authority (the "TSSA") and an exemption from the responsible Minister to allow Sikh patrons to ride Speed City Raceway without a helmet where those patrons are required, as part of their faith, to wear a turban. In addition, the Commission, as part of the settlement, also agreed to write a letter to the Director and the Minister. The Commission has done so and is following up with both in an effort to secure this exemption province-wide.

**Marcos Henriquez, Constanza Reyes, Dean Mills and Arthur Viglianti v. General Motors Defense, a division of General Motors of Canada Limited (Tribunal Settlement)**

These were complaints based primarily on the complainants' citizenships. General Motors Defense ("GMD") was a division of the respondent, General Motors of Canada Limited ("GMCL"). Located at a plant in London, GMD manufactured military vehicles for various governments, including that of the United States.

Sometime before August 19, 2002, GMD began to produce "light armoured vehicles" for the United States government. In order to produce these vehicles, GMD received material and data that was exported from the United States. Federal Canadian laws set out rules concerning access to some of this military technology. Among other things, the Canadian law incorporates rules from American export control laws stating that no person who holds a citizenship other than Canadian or American can have access to certain information, unless a security clearance has been obtained from the U.S. State Department.

The complainants are Canadian citizens or landed immigrants who also hold citizenships from countries other than Canada or the United States. They all started working at GMCL in 2001 or 2002 on a contract basis after being recruited by personnel agencies that supplied workers to GMD. They were not in a union.

The complainants alleged that on August 19, 2002, GMCL called them and other workers with citizenships other than Canadian or American to a group meeting, where it told them that they were being sent home with pay for reasons relating to their citizenship. The complainants say that GMCL did not apply for security clearances on their behalf, and that while unionized workers were later returned to work, albeit with

restrictions on their former duties, they were never allowed to return.

Monetary remedies were provided to the complainants. In addition, the Commission is proceeding with other complaints, brought by unionized members, against GMD, concerning, among other things, its alleged failure to apply for security clearances for affected workers. The Commission will be able to seek public interest remedies, if appropriate, in those cases.

### **Matt Kurrek v. Ministry of Health and Long-Term Care and Ontario Medical Association (Tribunal Settlement)**

In April 2000, the Ministry of Health and Long-Term Care (MOHLTC) and the Ontario Medical Association (OMA) entered into an agreement whereby the MOH would fund, and the OMA would administer, a Maternity Leave Benefits Program (MLBP). The stated purpose of the MLBP was to provide an opportunity for physicians who wish to spend time with their child after birth by reducing the financial hardship of being away from their practice. The MLBP provided benefits of a maximum of \$880.00 per week to eligible physicians for 17 weeks. Eligibility for the MLBP was restricted to female physicians.

Prior to the birth of his second child, Dr. Matt Kurrek applied for benefits under the MLBP in August 2000. It was his intention to stay at home with his newborn while his wife returned to work. Dr. Kurrek's application was rejected and he was advised that he was ineligible to receive benefits under the MLBP as benefits were available to female physicians only. Dr. Kurrek subsequently filed a human rights complaint. The Commission took the position that the denial of benefits to the complainant was a violation of section 1 of the *Code* – discrimination with respect to services because of sex. The respondents took the position that the MLBP was a "special program" within the meaning of section 14 of the *Code*.

In 2005, the OMA and the MOHLTC replaced the MLBP with a Pregnancy and Parental Leave Benefits Program. Under this program, female physicians are entitled to receive a pregnancy leave benefit, in order to allow them to take time away from their practice to recover from the physical and psychological aspects of pregnancy and childbirth and to establish breastfeeding. In addition both male and female physicians are entitled to a parental leave benefit to provide an opportunity for these physicians to spend time with their child following

birth or adoption. Subsequently, the parties agreed to settle the complaint upon payment of compensation on account of legal fees.

### **Gerard Loisel v. The Niagara Regional Police Service (Tribunal Settlement)**

The complainant, Gerard Loisel, is deaf. In April 2002, he was involved in a dispute when police officers were called. Mr. Loisel was later arrested. At the police station, the police took Mr. Loisel's personal items, including his glasses and hearing aid, and placed him in a cell. During the night, the respondent proceeded to complete the formalities of the arrest. Mr. Loisel did not have his glasses or hearing aid nor was he provided with an interpreter. The Commission's investigation alleged that the policy of removing communication devices from detained individuals was problematic and that there was a lack of clear procedures to ensure that Mr. Loisel's disability needs were properly accommodated. The case was referred to the Tribunal.

The police agreed to pay some compensation to Mr. Loisel. More importantly, it agreed to review and amend its policies relating to the confiscation of personal property belonging to persons in custody and access to interpreters where the detained individual has a disability. In particular, it agreed to amend its General Order-018.06 in respect of "Persons in Custody" by adding a new section (6.1.0) entitled, "Compliance with the Ontario *Human Rights Code*", which stated that although it may be reasonable to remove a walking stick from an aggressive detainee, it may not be reasonable to relieve a person of his/her hearing aid when required for communication purposes.

### **James Lyons, Jim Westwood v. City of Toronto and Toronto Professional Firefighters Association – Local 3888 (Tribunal Settlement)**

Mr. Lyons and Mr. Westwood complained that the City of Toronto and the Toronto Professional Firefighters' Association discriminated against them because of age, by failing to permit them to work past the age of 60. When the various boroughs amalgamated their fire services in 1998, firefighters who came from boroughs where the retirement age was 65 were permitted to remain in employment until that age. By contrast, firefighters such as the complainants, who had been employed by boroughs with a retirement age of 60, were required to retire at that age.

Since that time the policy changed so that all firefighters may stay on until the age of 65. Since these complaints arose at a time when the *Code* did not allow complaints based upon age discrimination for over-65 year olds, there was no public interest remedy needed for the resolution of these complaints. The *Human Rights Code* has since been amended to prohibit discrimination past the age of 65.

In January 2007 the parties reached a resolution of all outstanding matters such as salary, service and benefits. By this time, the complainants had been returned to the workplace.

**Michael McKinnon v. Ontario Public Service Employees Union, Dewar, Keilty, Spencer, Sellick, DeFreitas, Johnson, Casselman (Tribunal Settlement)**

The complainant, Michael McKinnon, alleged that the Ontario Public Service Employees Union (“OPSEU”) and the named personal respondents either launched or supported reprisal actions against him for previously filing a human rights complaint with respect to his racially poisoned work environment.

The Commissioners referred only two portions of the complaint to the Tribunal, namely that OPSEU should not have removed the complainant from the union and that OPSEU should not have supported the personal respondents’ actions in filing a work refusal against the complainant pursuant to the *Occupational Health and Safety Act*.

OPSEU maintained that Mr. McKinnon’s membership was suspended for less than a month at a time when there was real disagreement as to whether McKinnon, who was then an Acting Manager, could remain part of the union. It also maintained that the work refusals, against Mr. McKinnon as an Acting Manager, were not unusual and alleged that they rose out of legitimate concerns.

Amongst other things, OPSEU agreed that it would not take any steps to terminate the complainant’s membership solely by reason of his status as an Acting Manager. OPSEU also committed to take all reasonable steps to ensure that no legal process is used by any OPSEU member or employee in the bargaining unit, either as a reprisal against the complainant for having exercised his rights under the *Code* or as a means of otherwise violating the *Code*. OPSEU also agreed that where it lacked the legal authority to terminate a process pursued by one of

its members against the complainant, which constitutes a reprisal or a violation of the *Code*, it will not provide any support to the process and will take all reasonable steps to oppose the party with carriage of that process. OPSEU confirmed its intention to continue funding Mr. McKinnon's representation with respect to his separate complaints against the Ministry of Correctional Services, which are currently before the Tribunal.

### **Jessica Reynolds v. Toronto Transit Commission (Tribunal Settlement)**

Jessica Reynolds is a person with a disability who uses a walker as a mobility aid. On March 5, 2005, she asked a TTC bus driver to lower a ramp that is used to assist people with mobility difficulties. The driver refused, stating, incorrectly, that TTC policy only allowed deployment of the ramp for people in wheelchairs and scooters.

Since the incident, the TTC cautioned their driver and reminded him of their policy that all operators should be proactive in deploying the lift or ramp to accommodate customers with any mobility issue. This driver was also sent for re-training. The TTC has also re-posted their policy at least twice to remind drivers of their obligations. A notice was also sent to all drivers in their paycheques.

The TTC agreed to provide some compensation to Ms. Reynolds. More importantly, it agreed that, before December 31, 2007, it will enact an advertising campaign, similar to other normal advertising campaigns, which will positively advertise its current policy on accessible transit (including that TTC drivers should be proactive in deploying the lift or ramp to accommodate customers with any mobility issue, in accordance with the policy) and the availability of accessible lift/ramp-equipped and low-floor buses to patrons. This advertising campaign will consist of the placement of "car card" posters and "dangler" leaflets on randomly selected buses. The advertising campaign is scheduled to run for 4 to 6 weeks. The Commission will comment and provide feedback on the proposed campaign and it will also be posted on the TTC's Web site.

### **Adam Pukas v. Halton District School Board (Tribunal Settlement)**

The complainant, Adam Pukas, is a student who sought accommodation from the Halton District School Board. Among other things, he wished to be in a regular classroom with supports from an educational assistant (an "EA").

The allegation was that the Board rejected the requests by saying that EAs could only be assigned to students with physical, as opposed to developmental or behavioural, disabilities. The Board did issue a memorandum in 2003 stating that priority for EAs “must be given to students requiring support to meet significant health and safety needs”; and that students with behavioural issues will only be considered for support with special consultation, “and where the safety of the individual or others is at risk”.

The Board provided general compensation. With respect to the public interest, the Board agreed to provide copies of the Commission’s *Guidelines on Accessible Education* to its Trustees. Importantly, it agreed to issue memoranda to its principals and vice-principals saying that:

- it does not have a policy of restricting the allocation of EAs solely to physically-disabled students who have significant health, safety or personal care needs;
- it will assign EA support to students, whether in self-contained classes or otherwise, where doing so is appropriate to meet disability-related needs, and will not cause undue hardship within the meaning of the *Code*; and
- before disciplining students with disabilities, it will assess whether the behaviour in question was a manifestation of the student's disability, for example by considering whether the student is receiving appropriate accommodation.

### **Jeffrey Van Gorp v. Her Majesty the Queen in Right of Ontario as Represented by the Minister of Transportation (Tribunal Settlement)**

Jeffrey Van Gorp used to have a driver’s licence. In 1997, he was diagnosed with bitemporal hemianopia, which affects his peripheral vision. The Ministry suspended his licence. Under the old regulations, to get a “G” licence, a person needed to have a horizontal field of vision of at least 120 degrees as measured by confrontation tests. Van Gorp’s peripheral vision was less than the required minimum. Under the old regulatory scheme, the Ministry could not waive the requirements.

As of May 29, 2005, the regulations were amended, to provide as follows:

- 18 (2) An applicant for or a holder of a Class G, G1 or G2 driver's licence must have,
  - (a) a visual acuity as measured by Snellen Rating that is not poorer than 20/50 with both eyes open and examined together with or without the aid of corrective lenses; and
  - (b) a horizontal visual field of at least 120 continuous degrees along the horizontal meridian and at least 15 continuous degrees above and below fixation, with both eyes open and examined together,
- 21.2 (1) The Minister may waive the qualification set out in clause 18 (2) (b) for an applicant for or a holder of a Class G, G1 or G2 driver's licence if,
  - (a) the applicant or holder provides evidence that he or she has successfully completed the tests, procedures and examinations that the Minister may require

As a result of the change to the regulations, a person with less than 120 degrees of peripheral vision can obtain a licence if the person is tested, and found able to drive safely.

Van Gorp went through the testing procedure (which took some time, as the Ministry had to set up testing procedures and had a number of applicants), and he has obtained his licence again. The change in the regulations is a systemic remedy obtained in the public interest.

### ***Cases in Higher Courts***

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#### **Gary Malkowski v. Ontario Human Rights Commission and Her Majesty the Queen in right of Ontario as represented by the Minister of Municipal Affairs and Housing (Divisional Court)**

The Commission dismissed Gary Malkowski's human rights complaint against the provincial government and the Ministry of Municipal Affairs and Housing. In his complaint he alleged that the failure by these respondents to include a requirement in the Ontario *Building Code* that theatres in the province be equipped with Rear Window Captioning (a device that provides captioning to hearing impaired patrons) amounts to discrimination in the provision of a service on the ground of disability. He sought judicial review of the Commission's decision.

The Divisional Court dismissed the application. It held that the *Human Rights Code* could not be used to “read in” or add words to legislation that were not put there by the legislature. A Human Rights Tribunal could direct that a government body ignore text in a statute that is contrary to the *Code*. This is due to the primacy of the *Code* over other legislation. However, the Tribunal cannot itself add words to a statute that are not already there. The Tribunal concluded: “The Legislature is sovereign and it would take clear language to establish any tribunal with authority to add language to what the Legislature has done. The *Charter* is such a document, but the *Code* is not. To read the *Code* as the applicant asks is to grant to the Tribunal the power to amend legislation to bring it into conformity with the *Code*. I cannot find that power in this language.”

**Hamilton Street Railway Company, London Transit Commission, Toronto Transit Commission, and Transit Windsor v. Ontario Human Rights Commission (Divisional Court, Single Judge)**

A “special program” under section 14 of the *Code* is immunized from a claim of discrimination. The Ontario Human Rights Commission exercised its power under section 14 of the *Code* and declared that the specialized paratransit services operated by the London Transit Commission, the Hamilton Street Railway, the Toronto Transit Commission and Transit Windsor, are not “special programs”. These transit service providers asked the Court to strike down these declarations and to prohibit the Commission from reconsidering these decisions on the ground that it was biased. The Court dismissed the application. It first held that the application was premature and that the Commission’s reconsideration decision should be decided, first. In addition, it held that the public comments of one member of the Commission, even if it can be said that they demonstrated some bias, could not be said to taint the other members.

**Weyerhaeuser Company Limited, carrying on business as Trus Joist v. Ontario Human Rights Commission et al. (Divisional Court)**

The Commission had referred a case involving pre-employment drug testing to the Tribunal. Weyerhaeuser brought a motion to dismiss at the Tribunal arguing that the complainant was not dismissed because of a failed drug test, but because he had allegedly lied when asked whether or not he smoked marijuana. The Tribunal dismissed the motion on the basis that these were factual issues that required evidence to be

called and could not be decided based on mere written submissions. The Divisional Court overturned the Tribunal's decision. It held that the complainant was not dismissed because he was perceived to have a disability. Rather, it was because he had lied when asked whether he smoked marijuana. This factual conclusion was based on the Court's interpretation of the complainant's description of the question asked of him, and his answer, as set out on the complaint form that he filed with the Commission.

The Court also decided that pre-employment drug testing in Ontario was permissible where the consequence of a failed test was not automatic dismissal. Weyerhaeuser's policy required a person that failed its initial test to report to a substance abuse professional, to subsequently provide a negative drug re-test and to sign a Commencement of Duty Agreement, which states that the person "may" be terminated if he or she engages in "Prohibited Conduct" within the next five years. "Prohibited Conduct" includes being at work with a blood alcohol concentration of 0.001, using alcohol within 8 hours of performing a safety sensitive task, using alcohol within 8 hours of an accident, possessing and consuming alcohol while on duty, using or possessing controlled substances (including marijuana) at any time, and refusing to submit to an alcohol or drug test. The Court concluded that, as these sanctions were not as severe as dismissal, it could not be said that Weyerhaeuser perceived of persons that had failed an initial drug test as having a disability.

The Commission, and the Tribunal, have sought leave to appeal from this decision to the Ontario Court of Appeal.

**Kevin Keays v. Honda Canada Inc. operating as Honda of Canada Mfg. (Court of Appeal, leave to appeal to the Supreme Court of Canada, granted)**

The Commission intervened in this case in the Court of Appeal, and will be seeking leave to intervene when the case is argued in the Supreme Court of Canada. Keays was absent from work due to a disability, chronic fatigue syndrome. Honda had a requirement that Keays had to get a doctor's note validating each absence before he could return to work. This requirement was not imposed on workers with "mainstream illnesses". Having to go to the trouble of obtaining these notes had the effect of lengthening each of Keay's absences and worsening his condition. The company doctor also doubted the nature and extent of

his disability. He was eventually terminated. Keays sued for wrongful dismissal.

At trial, the judge found in Keays favour. At issue was whether Keays could also receive punitive damages. At common law, such damages are available where the employer has also committed an “independent actionable wrong”. The trial judge held that Honda had failed in its duty to accommodate Keays, contrary to the *Human Rights Code*, and that this met that test. On appeal, Honda argued that as there is no tort of discrimination known to law and that the *Human Rights Code* cannot be considered “actionable”, as that term is reserved for civil actions. The Court of Appeal disagreed holding that a broad view of what is “actionable” should be adopted. The punitive damages are appropriate because of the high handed and discriminatory manner in which Keays was terminated. Discriminatory conduct, the Court held, can support an independent action for wrongful dismissal, even though that same conduct might also happen to be a breach of the *Code*.

**Council of Canadians with Disabilities v. Via Rail Canada Inc., Canadian Transportation Agency, Canadian Human Rights Commission, Ontario Human Rights Commission, Commission des droits de la personne et des droits de la jeunesse, Manitoba Human Rights Commission, Saskatchewan Human Rights Commission, Transportation Action Now, Alliance for Equality of Blind Canadians, Canadian Association for Community Living, Canadian Hard of Hearing Association, Canadian Association of Independent Living Centres and Disabled Women’s Network Canada (Supreme Court of Canada)**

The Commission intervened in this appeal and was permitted by the Court to make written submissions. The position adopted by the majority of the Court reflects the Commission’s policies on the duty to accommodate persons with disabilities. VIA rail had purchased railway cars from Britain that were not wheelchair accessible. VIA engaged in a multi-million dollar retrofit of the cars, but still did not address all of the inherent barriers to access in their design.

The majority of the Court rejected the “network analysis” adopted by Federal Court of Appeal. The Federal Court looked at the fact that some trains on some routes were accessible. The Supreme Court held that the mere fact that there are accessible trains travelling along only some routes does not justify inaccessible trains on others. “It is the global network of rail services that should be accessible. The

*ad hoc* provision of services does not satisfy Parliament's continuing goal of ensuring accessible rail services". In addition, the Commission (and others) argued, and the Court accepted, that there was a higher obligation on service providers to not create new barriers when initiating a new structure or service. It held that "human rights law includes an acknowledgment that not every barrier can be eliminated, it also includes a duty to prevent new ones, or at least not knowingly to perpetuate old ones where preventable". The Court found that VIA did not seriously investigate the possibility of reasonably accommodating the use of personal wheelchairs or to provide access for persons with disabilities. The Court upheld that original decision of the National Transportation Agency ordering VIA to properly retrofit the railway cars.

## List of Decisions, Settlements, Judicial Reviews and Appeals

<b>HRTO Final Decisions</b>	<b>Grounds</b>
Braithwaite, Illingworth v. The Attorney General for Ontario and the Chief Coroner <i>(complaint successful, appeal filed by respondents in the Divisional Court)</i>	association
Cugliari v. Teleefficiency Corporation, Clubine <i>(complaint successful)</i>	race
Forrester v. Regional Municipality of Peel, Police Services Board <i>(complaint successful)</i>	sex
Hogan, Stonehouse, A.B., McDonald v. Ministry of Health and Long-Term Care <i>(complaint partially successful; appeal filed by Commission in the Divisional Court)</i>	disability, sex
Iness v. Caroline Co-operative Housing Inc., Canada Mortgage and Housing Corporation <i>(complaint successful – appeal filed by respondents in the Divisional Court)</i>	receipt of public assistance
Jackson v. M. Butler Insurance Brokers Ltd., Butler <i>(complaint successful)</i>	disability
Lestage v. Rénozone Express Inc., Labre <i>(complaint successful)</i>	disability
Modi v. Paradise Fine Foods Ltd., Aycha, Omarbach <i>(complaint successful)</i>	creed, ethnic origin, place of origin
Murchie a.k.a. McIntyre v. JB's Mongolian Grill, Conyers, McQueen, Odd <i>(complaint successful)</i>	sex, harassment, reprisal
Pridham v. En-Plas Inc., Rosario <i>(complaint successful)</i>	disability
Tweedle v. Orlick Industries Limited, Paduano <i>(complaint dismissed)</i>	sex, sexual solicitation, harassment, reprisal

<b>Further HRTO Decisions</b>	<b>Grounds</b>
Stephens, Symister v. Lynx Industries Inc., Schram, Morris <i>(decision vacating earlier decision on costs)</i>	colour, race
Iness v. Caroline Co-operative Housing Inc., Canada Mortgage and Housing Corporation <i>(explanatory aspect of final decision)</i>	receipt of public assistance
McKinnon v. Her Majesty the Queen in Right of Ontario (Ministry of Correctional Services), Geswaldo, Simpson, James, Hume <i>(further decision on remedy and on report of the 3<sup>rd</sup> party consultants to the HRTO)</i>	race, ancestry, ethnic origin, harassment
Naraine v. Ford Motor Company and The Ford Motor Company of Canada Limited <i>(quantum of damages)</i>	race
Glover v. 571566 Ontario Inc. o/a Cadillac Tavern, Perin Jr., Perin Sr. <i>(refusal to reopen on the merits in light of binding settlement )</i>	sex, sexual solicitation, reprisal
Glover v. 571566 Ontario Inc. o/a Cadillac Tavern, Perin Jr., Perin Sr. <i>(confirmation of settlement )</i>	sex, sexual solicitation, reprisal
<b>Interim HRTO Decisions</b>	<b>Grounds</b>
Altenburg et al. v. Johnson Controls Limited – Partnership and Johnson Control Inc. <i>(request for adjournment)</i>	disability
Arzem et al. v. Her Majesty the Queen in Right of Ontario <i>(as represented by the Minister of Community and Social Services, the Minister of Education, and the Minister of Children and Youth Services) (2 int. decisions: adding school boards as respondents; and, constitutional challenge to definition of age in the Code)</i>	disability

Interim HRTO Decisions	Grounds
Barker, Malkowski, Simser v. Alliance Atlantis Cinemas, Cineplex Galaxy LP & Famous Players, a division of Viacom Canada Inc. (now Cineplex Entertainment LP), Universal Studios Canada Inc., AMC Entertainment International Inc., and Rainbow Centre Cinemas Inc. <i>(motion for production)</i>	disability
Brown v. Trebas Institute Ontario Inc., Hood, Schreiner, Brandt, Bulmer <i>(3 int. decisions: 1. unreported decision re production of documents; 2. request for adjournment &amp; compliance of decision #1; and, decision on remaining respondents and request for adjournment)</i>	disability
Chard v. Newton <i>(2 unreported decisions re filing of materials)</i>	sex
Chorny v. Trus Joist, a Division of Weyerhaeuser, Argue <i>(2 int. decisions: Tribunal's jurisdiction - amending corporate name, removing personal respondent; and, decision on production)</i>	disability
Domingues v. Fortino, Varbaro <i>(allowing for written hearing)</i>	sex, sexual solicitation
Earhart v. Nutritional Management Services Limited, Thompson, Burns, Lyonnais <i>(admission of evidence)</i>	sex, sexual harassment, reprisal
Giguere v. Popeye Restaurant, Landry <i>(adding ground of discrimination)</i>	association
Greenhorn v. 621509 Ontario Inc. o/a Belleville Dodge Chrysler Jeep, Belch <i>(motion to add respondent)</i>	sex, sexual harassment
Ishabid v. Fitzgerald, (d.b.a. Personal Touch Janitorial Services) <i>(unreported decision re amendment of respondent name)</i>	ancestry, race, reprisal

LIST OF DECISIONS, SETTLEMENTS, JUDICIAL REVIEWS AND APPEALS

Lestage v. Rénozone Express Inc., Labre (2 int. decisions, both on request for written hearing)	disability
Nassiah v. Peel Regional Police Services Board, Elkington (motion for production and qualification of expert witness)	race
Nelson v. Lakehead University, Dodgastar, Phillip (particulars, production)	age
OHRC v. 571566 Ontario Inc. o/a Cadillac Tavern, 1528433 Ontario Ltd. c.o.b. Cadillac Tavern, Perin Jr., Perin Sr. (request to add party to breach of settlement complaint )	sex, sexual solicitation, reprisal
Romano v. 1577118 Ontario Inc. o/a La Luna by the Lake Restaurant, Piemontese (request for written hearing)	sex, sexual solicitation
Seguin v. Great Blue Heron Charity, Thompson, Balfour, Anderson, Smoke, Woodcock (unreported decision re adjournment)	sex
Sicheri v. Her Majesty the Queen in Right of the Province of Ontario as represented by The Ministry of Community and Social Services Windsor-Essex Children's Aid Society (preliminary issues involving notice of constitutional question)	disability, family status
Sinclair, Craig, Fawcett, Coubrough, Gordon, Faysal v. General Motors Defence, a division of General Motors of Canada Limited (3 int. decisions on interventions)	citizenship, place of origin
Tubbs v. Universal Workers Union, Labourers' International Union of North America, Averó, Quinn, Dionisio (reconsideration of previous decision on production)	colour, race
Wang v. York Regional Police Services, Muir, Graham. (production issue)	ancestry, ethnic origin, race

<b>HRTO Settlements</b>	<b>Grounds</b>
Abel, Provo K., Provo R., Middleton v. Royal Steter Ltd. o/a Burger King Restaurants of Canada Inc. Cosby	colour, race
Alfaleh v. Meadowlands Preschool Inc., Payne-Tate, Currie	disability
Altenburg, Brehm, Chail, Delarge, Dunbar, Hein, Herold, Hewer, Kaufman, Knott, Lamba, Lang, Lupton, Maerten, McMahan, Phillips, Ridell, Rollerman, Schlotzhauer, Swan, Thomas, Tiemens, Tullock, Van Arkel, Waldron v. Johnson Controls Limited (Partnership) and Johnson Control Inc.	disability
Amid (now Bakeshlou) v. 3458954 Canada Inc. (c.o.b. Infotel Publications), Tasopoulos, Dienesch	race, ethnic origin
Amoah v. G4S Cash Services (Canada) Ltd., Maloney	colour, race
Anwar, Nasir, Malik, Sheikh, Tariq, v. Choice Taxi Inc., Leishman, McMurray, Thompson, Leishman, Blanchard, Brunet, Duperron, Vervoort, Ayotte, Jerou, St. Denis, Simpson, Anderson, Menzies, Nakic, Huygen, Sauv�, St. Denis, Lalonde, MacInnes	citizenship, colour, ethnic origin, place of origin, race
Canadian Auto Workers, National Union and its Local 1325 et al. v. Johnson Controls Limited	disability
Brasch v. Medi+Plus #503 (Gascoigne's), Munshaw	sex
Burman v. Mister Keys Limited o/a Key Man Engravable, Gins	sex
Carr-Kartash v. Main Street Daycare Services Inc., Simpson	disability
Christie v. Waterloo Regional Police Services	disability
Dadas v. Prizm Brands	disability
Deacon, Huber v. Metro Credit Union Limited (now Alterna Savings and Credit Union Limited), First Canadian Title	marital status, sexual orientation
Delsey v. City Chevrolet Ltd., Payne, Burroughs	disability

<b>HRTO Settlements</b>	<b>Grounds</b>
Desai Y., Desai V., Desai M., Desai P., v. Del Condominium Rentals Inc.	ancestry, citizenship, ethnic origin, place of origin
DiGiacomo v. University Health Network	disability
Donnan v. Investors Group Financial Services Inc., Carson	sex, reprisal
Dran v. Paramount Canada's Wonderland Inc.	creed
Duran v. Ontario Corporation No. 000621753, Grocery Ventures (Westway) Inc. v. Mallia, Galati	age, ancestry, citizenship, disability, ethnic origin, place of origin
Faiz v. Harper Detroit Diesel Limited, Teodoro, Strathern, Dibiasio	disability
Frampton v. Regency Care Corp. o/a The Waterford, Paradine, Scully	disability
Garrelhas v. ICE Consultants Inc., Bain, Wright	disability
Gault v. The Canadian Corps of Commissionaires (Great Lakes), Kedzierski	disability
Goselin v. General Motors of Canada Limited, Bos, Bantam	disability
Goulet v. Her Majesty the Queen in Right of Ontario as represented by the Attorney General, Hayashi	sex
Graziano v. K.A.S. Personal Services Inc.	disability
Henriquez, Reyes, Mills, Viglianti v. General Motors Defense, a division of General Motors of Canada Limited	citizenship, place of origin
Hill v. Orion Bus Industries Ltd., Haswell	disability, age
Hogan v. Durham Regional Police Services, Gibson	sex
Ishabid v. Fitzgerald (c.o.b. Personal Touch Janitorial Services)	ancestry, race, reprisal

<b>HRTO Settlements</b>	<b>Grounds</b>
Jakubcova v. Pusateri's Ltd. o/a Pusateri's Fine Foods, Quesenberry, Mastroianni	sex
Joseph v. Wray Energy Controls Ltd. o/a Energy Management Systems, Gibson, McKinnon	ancestry, colour, race, sex
Kalintsis v. Stone Tile International Inc., Sherman, Hesse, Bencimol	disability, sex
Kerr v. Howard Family Shelter, Hyman, Ford, Smith, Summerfield, Gordon, Latchford, Watt, Trautmann, Pearson, Yorke, Caine-Comrie, O'Donohue	race
Khan v. The Carpet Department Inc., Shears, Metcalfe	disability
Kiessling v. The Corporation of the Town of Kirkland Lake, Day	disability, family status, harassment
Kinsella v. York Condominium Corporation No. 3	disability
Kurrek v. Ministry of Health and Long-Term Care and Ontario Medical Association	sex
Larocque v. 943118 Ontario Inc. o/a Bank Street Hyundai, Clouthier	disability
Lecky v. CPI Plastics Group Ltd., Lindsay	colour, race
Logan v. Cerase Holdings Limited, Cerase	age, colour, family status, marital status, place of origin, race, sex
Loisel v. The Niagara Regional Police Service	disability
Lyons, Westwood, v. City of Toronto and Toronto Professional Fire Fighters Association – Local 3888	age
MacDonald v. Royal Ottawa Health Care Group and Brookfield Lepage Johnson Controls	disability
Malkowski v. Ontario Association of Former Parliamentarians	disability

<b>HRTO Settlements</b>	<b>Grounds</b>
McGregor v. John Bruce Village Co-operative	association, family status, marital status, sex
McKay v. Bardoel	family status
McKinnon v. Ontario Public Service Employees Union, Casselman, Sellick, Dewar, Spencer, Kielty	reprisal
Medwid v. The Brick Warehouse LP (formerly known as The Brick Warehouse Corporation), Viveiros	sex, sexual solicitation, reprisal
M M v. Roberts/Smart Centre	disability
Morton/Roberts v. National Hockey League, Van Hel- lemond	age
Niyongabo and Ndayrubaha v. Dollco Printing, Moreau	race
Okbat v. On-Line Film Services Inc., Fox, Hall	ethnic origin
Othmer v. Cornerstone Courier Inc., Green	sex, reprisal
Passarelli v. Yacobi	sex, family status
Perritt v. Standard Life Mutual Funds Ltd., Standard Life Assurance Company, Lombardi, Mitchell	disability
Pisano-Costa v. Pure Simple Beaturity Inc., Eng	place of origin, sex, harass- ment
Poff v. 706877 Ontario Inc. o/a Pinnacle Property Management	disability
Potter v. Serrador A., Serrador P.	race, ethnic origin
Pukas v. Halton District School Board, Bartnicki, Trigg	disability
Raguin v. Overcomers of Sudbury Inc., Lamarre, Base, Craig	marital status
Reynolds v. Toronto Transit Commission	disability

<b>HRTO Settlements</b>	<b>Grounds</b>
Richards v. Enbridge Home Services, a division of Enbridge Services Inc., Fortin	disability
Rill v. Kashruth Council of Canada, Levin	creed
Roberts v. Beatrice House, Chaisson	sex, sexual orientation
Robinson v. CHEP Canada Inc., Paterson, Adlam	colour, ethnic origin, place of origin, race, reprisal
Scarth v. Dolco Printing	disability, creed, reprisal
Schneider v. Gesco Industries, Dudomaine, Moncik, and Mandrake Management Consultants Inc., Jay	age
Shehab v. Citadel General Assurance Company	creed, ethnic origin
Sparks v. Martin House Corporation, Gatten	sex
Spyropoulos v. Don Mills Dental Office, Kodama	disability, family status
St. Croix v. Marvin Starr Pontiac Buick Cadillac Inc., Starr, Staley, Tekneian, Holbiski, Starr	sex, sexual harassment, sexual solicitation
Styles v. Mason Windows Limited, Proctor, Carly, Mason	harassment, colour, place of origin, race
Szkok v. Senior Link, Lipsett, McGowan	disability
Teehan v. Meadowbrook Golf and Country Club Association	sex
Van Gorp v. Her Majesty the Queen in right of Ontario as represented by the Minister of Transportation	disability

Vancamp v. 548465 Ontario Inc., Williams	sexual orientation, harassment
Wilson v. Char-Mar Developments Inc. o/a Pelee Island Hotel and Pub, Pingue, Derring	ancestry, perceived disability

<b>Superior Court of Justice</b>	<b>Grounds</b>
In the matter of the proposal of Century Circuits Inc. of the City of Toronto in the Province of Ontario <i>(decision in bankruptcy court)</i>	colour, place of origin, race

<b>Divisional Court (Appeal)</b>	<b>Grounds</b>
Quereshi v. OHRC and Board of Education for the City of Toronto and Central High School of Commerce and AG <i>(damages reduced but appeals and cross-appeals otherwise dismissed)</i>	race, creed, sex, age
OHRC v. Lynx Industries Inc., Schram, Morris <i>(HRTO decision on reopening appeal regarding costs dismissed on consent – settlement reached re costs)</i>	race, colour

<b>Divisional Court (JR)</b>	<b>Grounds</b>
Baldassaro v. OHRC and The City of Toronto <i>(application dismissed)</i>	disability
Hamilton Street Railway Company, London Transit Commission, Toronto Transit Commission, and Transit Windsor v. OHRC <i>(application dismissed)</i>	special programs
Jazairi v. OHRC <i>(application dismissed)</i>	race
Malkowski v. OHRC and her Majesty the Queen in right of Ontario as represented by the Minister of Municipal Affairs and Housing <i>(application dismissed)</i>	disability

Weyerhaeuser Company Limited c.o.b. as Trus Joist v. OHRC and Chornyj <i>(application granted, leave to appeal to Ontario Court of Appeal filed Mar. 23/07)</i>	disability
Tubbs v. Universal Workers Union, Labourers Int'l Union of North America, Local 183, Avero, Quinn, Dionisio <i>(decision on costs)</i>	race, colour

<b>Court of Appeal</b>	<b>Grounds</b>
Keays v. Honda Canada Inc. <i>(intervention and submissions on merits; leave to appeal to the Supreme Court of Canada granted)</i>	disability
Jazairi v. OHRC <i>(motion for leave denied)</i>	race
Losier v. OHRC <i>(motion for leave denied)</i>	disability, sex, reprisal
McLean v. OHRC and Peel Regional Police Services Board <i>(motion for leave denied)</i>	race

<b>Supreme Court of Canada</b>	<b>Grounds</b>
Tranchemontagne v. Director of the Ontario Disability Support Program of the Ministry of Community, Family and Children's Services, and between Werbeski v. Director of the Ontario Disability Support Program of the Ministry of Community, Family and Children's Services <i>(OHRC as intervener, OHRC's position on appeal upheld – appeal granted)</i>	disability
Losier v. OHRC <i>(2 motions for leave to appeal denied)</i>	disability, sex, reprisal

<p>Council of Canadians with Disabilities v. Via Rail Canada Inc., Canadian Transportation Agency, Canadian Human Rights Commission, Ontario Human Rights Commission, Commission des droits de la personne et des droits de la jeunesse, Manitoba Human Rights Commission, Saskatchewan Human Rights Commission, Transportation Action Now, Alliance for Equality of Blind Canadians, Canadian Association for Community Living, Canadian Hard of Hearing Association, Canadian Association of Independent Living Centres and Disabled Women’s Network Canada  <i>(OHRC as intervener- OHRC’s position on appeal upheld, appeal granted)</i></p>	<p>disability</p>
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**Select List of Publications**

***All documents available in English and French: additional languages where noted.***

	<b>Publications Ontario</b>	<b>Web Site</b>
<b>Plain Language Documents</b>		
Aboriginal People & the Ontario <i>Human Rights Code</i> (available in English, French, Cree, Mohawk, Ojibway) (12/05)	√	√
Age Discrimination: Your Rights & Responsibilities (7/03)	√	√
Female Genital Mutilation: Questions and Answers (available in English, French, Amharic, Arabic, Somali, Swahili) (8/99)	√	√ (English & French only)
Guide to the <i>Human Rights Code</i> (5/99)	√	√
Guide to Mediation Services (5/97)		√
Guide to Releases with Respect to Human Rights Complaints (5/06)		√
Hiring: Your Rights & Responsibilities * (11/01)	√	√
Hiring? A Human Rights Guide (3/99)		√
Human Rights at Work (1/04)		√
Human Rights in Ontario: A Complainant's Guide (available in English/French; Bengali, Chinese, Gujarati, Hindi, Punjabi, Somali, Spanish, Tagalog, Tamil, Urdu, Vietnamese) (7/00)	√	√

\*Available in English, French, Chinese, Punjabi, Somali, Spanish, Tagalog, Urdu, Vietnamese

If You Receive a Human Rights Complaint – A Respondent’s Guide (5/99)		✓
Pregnancy and Breastfeeding (11/01)	✓	✓
Ontario Human Rights Commission – Complaint Process Service Guide (3/07)		✓
Pregnancy – Before, During and After: Know Your Rights (5/99)		✓
Protecting Religious Rights (1/00)	✓	✓
Racial Harassment: Your Rights & Responsibilities * (11/01)	✓	✓
Racial Slurs and Harassment and Racial Jokes (6/96)		✓
The Commission: What you need to know * (11/01)	✓	✓
Sexual Harassment: Your Rights & Responsibilities * (11/01)	✓	✓
Sexual Harassment and Other Comments or Actions About a Person’s Sex (11/96)		✓
Sexual Orientation: Your Rights & Responsibilities (11/01)	✓	✓
<b>Policies and Guidelines</b>		
Guidelines on Accessible Education (9/04)		✓
Guidelines for collecting data on enumer- ated grounds under the <i>Code</i> (9/03)		✓
Guidelines on Special Programs (11/97)		✓
Policy and Guidelines on Disability and the Duty to Accommodate (11/00)		✓
Policy and Guidelines on Discrimination Because of Family Status (4/07)		✓

Policy and Guidelines on Racism and Racial Discrimination (6/05)	✓
Policy on Creed and the Accommodation of Religious Observances (10/96)	✓
Policy on Discrimination Against Older Persons Because of Age (2/07)	✓
Policy on Discrimination and Harassment Because of Gender Identity (3/00)	✓
Policy on Discrimination and Harassment Because of Sexual Orientation (1/06)	✓
Policy on Discrimination and Language (6/96)	✓
Policy on Discrimination Because of Pregnancy and Breastfeeding (10/01)	✓
Policy on Drug and Alcohol Testing (9/00)	✓
Policy on Employment-Related Medical Information (6/96)	✓
Policy on Female Genital Mutilation (FGM) (11/00)	✓
Policy on Height and Weight Requirements (6/96)	✓
Policy on HIV/AIDS Related Discrimination (11/96)	✓
Policy on Requiring a Driver's Licence as a Condition of Employment (6/96)	✓
Policy on Scholarships and Awards (7/97)	✓
Policy on Sexual Harassment & Inappropriate Gender-Related Comments and Conduct (9/96)	✓

<b>Other Publications</b>		
Annual Reports	✓	✓
Developing Procedures to Resolve Human Rights Complaints Within your Organization (6/96)		✓
<i>Human Rights Code</i>	✓	✓
<i>Human Rights Code</i> Card (11" x 17")	<b>Contact the Commission</b>	
Human Rights Policy in Ontario (2001)	Contact CCH Canadian Ltd. 90 Sheppard Avenue East Suite 300, Toronto, ON M2N 6X1 Toll Free: 1-800-268-4522 E-mail: <a href="mailto:cservice@cch.ca">cservice@cch.ca</a>	

**Except as noted, publications are only available through Publications Ontario**

**1-800-668-9938 or via the Commission's Web site: [www.ohrc.on.ca](http://www.ohrc.on.ca)**

**FINANCIAL POSITION AS AT MARCH 31, 2007 (\$'000)**

	2006-07 Printed Estimates	Revised Budget Mar. 31, 2007	Actual Expenditure Mar. 31, 2007	2006-07 Year-End Variance	
				\$	% of Revised Budget
<b>Salaries &amp; Wages</b>	9,966.8	10,378.4	10,378.4	411.6	(3.97)
<b>Employee Benefits</b>	1,247.9	1,187.1	1,187.1	(60.8)	5.12
<b>Other Direct Operating Expenses (ODOE)</b>	2,208.7	2,031.3	2,031.3	177.4	8.73
<b>TOTAL EXPENSES</b>	<b>13,423.4</b>	<b>13,596.8</b>	<b>13,596.8</b>	<b>173.4</b>	<b>(1.28)</b>

**Endnotes**

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- 1 See the UN's Paris Principles on human rights, which calls for reports be made "to the Government, Parliament and any other competent body...[with] opinions, recommendations, proposals and reports on any matter concerning the promotion and protection of human rights" [Principles Relating to the Status of National Institutions, annex to National Institutions for the Promotion and Protection of Human Rights, CHR Res. 54, UN ESCOR, 1992, Supp. No. 2 of UN Doc. E/1992/22, chap. II, sect. A; GA Res. 48/134, UNGAOR, 1993, Annex.]
- 2 Ibid.
- 3 The Enhanced Complaints Process (ECP), launched in spring 2007, was in planning for more than a year before the new Act was passed. For more information on the ECP, please refer to "Case Management" under "Human Rights Complaints from the Public".
- 4 The Commission responded to 40,391 (or 80 %) of the 50,831 telephone calls received. The rate of "abandoned" calls does not account for individuals who call back again successfully and are able to speak with an inquiries representative.

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