



FREEDOM FROM DISCRIMINATION • EQUALITY OF OPPORTUNITY



The Manitoba Human Rights Commission

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Cover

*Photo: "Assiniboine Art Action"
Photographer Lily Rosenberg*

The Commission would like to thank the anonymous person or persons who took the time to both notice the beauty in the shapes formed on the banks of the Assiniboine River, and to add colour to the mosaic.

HUMAN RIGHTS CODE (MANITOBA)

The Code prohibits unreasonable discrimination in employment, housing, contracts and services available to the public, on the following grounds:

- Ancestry
- Nationality or national origin
- Ethnic background or origin
- Religion or creed, or religious belief, religious association or religious activity
- Age
- Sex, including pregnancy, or circumstances related to pregnancy
- Gender-determined characteristics
- Sexual orientation
- Marital or family status
- Source of income
- Political belief, political association or political activity
- Physical or mental disability



ANNUAL REPORT
2007

Members of other historically disadvantaged groups may also be able to file a complaint. Publicizing a sign or statement that indicates or advocates discrimination is also prohibited.

Most employers, landlords or service providers that are located in Manitoba are regulated by provincial law and so are bound by Manitoba's *Human Rights Code*. Some private businesses, such as airlines, banks, and telecommunication enterprises, as well as the federal civil service and many First Nations governments and organizations, however, are regulated by federal law. Complaints against them must, therefore, be filed with the Canadian Human Rights Commission under federal human rights law.

The Manitoba Human Rights Commission enforces the anti-discrimination provisions of *The Code*. It is authorized to mediate and investigate complaints of discrimination, to refer matters to adjudication, and to educate the public and promote human rights issues.



**ATTORNEY GENERAL
MINISTER OF JUSTICE**

Room 104
Legislative Building
Winnipeg, Manitoba, CANADA
R3C 0V8

His Honour
The Honourable John Harvard
Lieutenant-Governor of Manitoba

Sir:

May it please your Honour, it is my pleasure to present to you, the Annual Report of The Manitoba Human Rights Commission for the year 2007.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dave Chomiak".

Dave Chomiak
Minister

THE MANITOBA
HUMAN RIGHTS
COMMISSION



LA COMMISSION DES
DROITS DE LA PERSONNE
DU MANITOBA

The Honourable Dave Chomiak
Minister of Justice and Attorney General
Legislative Building
Winnipeg, MB R3C 0V8

Sir:

We are pleased to forward to you, the Minister responsible for administration of *The Manitoba Human Rights Code*, the Annual Report of the Manitoba Human Rights Commission for the calendar year ending December 31, 2007.



Jerry Woods
Chairperson

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MESSAGE FROM THE CHAIRPERSON

It is an honour to be appointed Chairperson of the Manitoba Human Rights Commission. I would like to take this opportunity to offer my reflections on the path we are on, and my thoughts regarding our future commitments to fight discrimination.

When *The Human Rights Code* was first legislated in Manitoba in 1987, there was broad support for the advancement of human rights. It is time to renew those sentiments and give voice to those who are still marginalized.

To accomplish this, we must listen to Manitobans. In the past we have valued the input of those most affected by such issues as social condition, hate speech and, most recently, on Racialized Communities and Police Services. Regarding the latter, we will forge ahead with the project, initiated in 2005, and strategize and plan with the hope of improving communication and trust between the two.

We will also continue to expand our youth initiatives. For the past seven years, the Commission has hosted youth conferences in Winnipeg, Brandon, Thompson and The Pas. I am extremely proud of the success of these events, and am committed to exploring new avenues of human rights education such as online youth bulletins and a new website. The education on the rights and responsibilities of youth remains one of our top priorities.

The face of discrimination has changed over the years, as has the way we enforce *The Human Rights Code*. In the past, discrimination was often blatant and unfortunately, at times, accepted. Although some of this persistent behaviour endures, discrimination today can be more subtle and is often systemic. Finding a resolution not only involves more research, it also requires education on the part of those involved. These changes have made human rights work more complicated and time intensive. During mediation, for example, the parties may need to understand the intricacy of reasonable accommodation and the systemic nature of many discriminatory actions, or lack of action.

The complexity surrounding systemic issues also necessitates a different type of investigation, taxing already limited resources. The results however, are gratifying. A case in point is the successful settlement between the Elizabeth Fry Society and the Government of Manitoba. The Society believed that women incarcerated at the Portage Correctional Centre (PCC) were being treated differently than men in similar circumstances, on the grounds of sex, ancestry and disability. The settlement includes facilitating contact between incarcerated women and their children, and accommodating the special needs of Aboriginal women, women with disabilities and pregnant women.

***“Hearing is one
of the body’s five
senses. But listening
is an art.”***

Frank Tyger

The Commission is proud of Manitoba's strong tradition of protecting human rights. We will continue to provide human rights information at seminars, through printed material, on our website and during public presentations. The Commission will also listen to and learn from the community and our youth, and be diligent in working towards preventing discrimination.

I would like to acknowledge and thank former Chairperson Janet Baldwin and Commissioner Fausto Yadao for their hard work, insight and dedication and wish them both continued success in their future endeavours. I would also like to welcome Joan Hay and Leo Aniceto, our newly appointed Commissioners. Finally, I want to thank Vice Chairperson Yvonne Peters and Executive Director Dianna Scarth for their guidance, and the staff of the Commission for their efforts enforcing *The Human Rights Code* on behalf of the people of Manitoba.

EXECUTIVE DIRECTOR'S REPORT

2007 was a busy year for the Commission as it carried out activities related to the three major aspects of its mandate: enforcement of *The Code*, public education and the promotion of human rights.

One trend noted in the past decade, which continued in 2007, was the high proportion of complaints submitted on the basis of physical and mental disabilities (41%). This figure was more than double the next two highest grounds of complaints, those based on "sex, including pregnancy" (19%) and "ancestry/ethnic origin" (17%).

It is, however, gratifying to note the progress being made towards advancing the rights of persons with disabilities at several different levels in 2007. Canada became a signatory to the United Nations Convention on the Rights of Persons with Disabilities, and a decision by the Supreme Court in the VIA Rail Case, in which the Commission intervened, confirmed the rights of persons with physical disabilities to receive dignified access to rail cars when they travel throughout the country. And at a local level, the Commission was very pleased that the City of Winnipeg announced on International Human Rights Day its plan to implement an "Announce Next Stop" program on all city bus routes. Winnipeg transit drivers are now required to announce the next stop, which assists visually impaired riders in particular, as well as those with other disabilities. The Commission was particularly pleased to learn that the City had agreed to move forward with this initiative on a voluntary basis after the Commission had drawn its attention to recent rulings in Ontario, which had found that the failure to announce stops by several Ontario public transit services was discriminatory.

The second highest number of complaints dealt with during the year was filed on the basis of "sex, including pregnancy." A systemic complaint filed on behalf of incarcerated women in Manitoba by the Elizabeth Fry Society against the Government of Manitoba was settled following a lengthy mediation. (More detailed information about this settlement is located elsewhere in this annual report.) Additionally, a complaint filed by a group of women alleging an under-representation of women in faculty and senior administrative positions at the University of Manitoba was also settled and the first monitoring report has been included in this annual report.

Many important gains in the area of women's rights have been achieved during the past 30 years. It appears, however, that barriers to full participation in society continue in some areas, such as amateur sports, despite sweeping changes to social attitudes, which have occurred in the past three decades.

In October 2007, the Manitoba High Schools Athletic Association's application for judicial review of the *Pasternak v MHSAA* decision was heard in the Manitoba Court of Queen's Bench. In January 2008, Madame Justice McKelvey released her decision in which she upheld the adjudicator's ruling that a regulation which prevented

***"Progress lies not
in enhancing what
is, but in advancing
toward what
will be."***

Kahlil Gibran

Amy and Jesse Pasternak from trying out for their high school boys' hockey team constituted discrimination on the basis of sex. It is interesting to compare the Pasternak case with a settlement reported thirty years ago in the 1977 Manitoba Human Rights Commission Annual Report. A 15 year old girl had been denied the opportunity to participate in a calf scramble contest at a winter fair. She had participated in similar competitions for 4 years, had been an award winner and had been chosen by the local AG representative to compete at the fair. She was told, however, that the competition was for "boys only", although she qualified in every aspect except for the fact that she was a girl. The organizers referred to their perceived "moral obligation" not to accept girls in the competition because of risk of injury, although medical experts said that there were no physical or mental reasons to deny girls the opportunity to participate.

Similarly, Amy and Jesse Pasternak had played on boys' school hockey teams for many years. They had received support from their principal and school division in their request to be allowed to try out for the boys' team. The eligibility rules, however, precluded girls from trying out for the boys' team. When looking back at the evolution of human rights since the early years of human rights legislation in Manitoba, there are areas in which significant progress towards equality for women has been made. In some activities, however, it still appears that the "glass ceiling" has remained firmly in place, and will continue to be the subject of future complaints.

On the education front, the Commission continued to hold a successful series of seminars for employers. Over 700 people attended half or full day seminars, which provide very practical advice about rights and responsibilities of employers under human rights legislation. The Commission encourages respondents to participate in its educational activities after they have resolved a human rights complaint. In that regard, as part of the Elizabeth Fry settlement, a significant number of corrections staff have attended the seminars since the settlement agreement was signed in 2007.

As noted in last year's Annual Report, one of the Commission's major goals has been to establish connections with community groups and to obtain feedback about human rights issues they are experiencing. In partnership with the University of Winnipeg, the Commission held three community consultations during the year in connection with its Racialized Communities and Police Services (RCAPS) Research Project. An initial report was released in early December, which summarizes the perceptions of some members of racialized communities of the policing services. The report of Phase I of this project has been posted in its entirety on the Commission's Website (www.manitoba.ca/hrc).

Jerry Woods became the new Chairperson of the Commission in July 2007 and Yvonne Peters assumed the role of Vice-Chairperson. Both Jerry and Yvonne have been members of the Board for many years so there has been a smooth transition and all of the staff look forward to working with them in their new roles. Former Chairperson Janet Baldwin and Commissioner Fausto Yadao retired in July, both having made many contributions to human rights in Manitoba during their terms. Staff member René Ouellette, also resigned in November 2007 and we wish him well in his new career.

COMMITTEE REPORTS

Executive Committee

Chair: Jerry Woods (Chairperson)
Yvonne Peters (Vice-Chairperson)
Ajit Kaur Deol (Commissioner)
Robin Dwarka (Commissioner)
Elliot Leven (Commissioner)
Dianna Scarth (Executive Director)
Sarah Lugtig (Legal Counsel)
Debra Beauchamp (Policy and Program Analyst)
Janet Baldwin: Chair until July 2007

Issues & Communications Committee

Chair: Robin Dwarka (Commissioner)
Jerry Woods (Chairperson)
Mzilikazi (Mzi) Ndlovu (Commissioner)
Dr. M.V. Naidu (Commissioner)
Joan Hay (Commissioner)
Dianna Scarth (Executive Director)
George Sarides (Assistant Executive Director)
Debra Beauchamp (Policy & Program Analyst)
Patricia Knipe (Communications Director)
Beatrice Watson (Outreach Liaison Officer)
Janet Baldwin: Committee Member until July 2007
Fausto Yadao: Committee Member until July 2007

Policy & Legislative Review Committee

Chair: Yvonne Peters (Vice-Chairperson)
Jerry Woods (Chairperson)
Elliot Leven (Commissioner)
Sheena Rae Reed (Commissioner)
Leo Aniceto (Commissioner)
Dianna Scarth (Executive Director)
Sarah Lugtig (Legal Counsel)
Debra Beauchamp (Policy & Program Analyst)
Janet Baldwin: Committee Member until July 2007

***“It is difficult to say
what is impossible,
for the dream of
yesterday is the
hope of today and
the reality
of tomorrow.”***

Robert H. Goddard

Executive Committee

The Executive Committee met five times in 2007. In addition to reviewing financial and personnel matters, it dealt with the reconsideration of complaints and provided direction to staff on ongoing concerns, strategic planning, matters relating to the Canadian Association of Statutory Human Rights Associations (CASHRA) and to international human rights agreements, interventions by the Commission in human rights cases, media releases, correspondence and emerging issues. Committee members also met with the Minister of Justice regarding proposed changes to *The Human Rights Code*.

The Committee continued to correspond with Manitoba Health on the issue of continued access to Cholinesterase Inhibitors medication, such as Aricept, for residents of personal care homes with Alzheimer's disease or related dementia.

Correspondence and meetings with a public school division regarding concerns about references to the church and Christian principles in the Division's belief and mission statements led to an amicable resolution, with the Division altering its belief and mission statements. Considerable media attention led to staff consultations with other school divisions on issues relating to religion in schools.

The Committee also corresponded with a school division with respect to the application of its "School of Choice" policy to students with disabilities.

Issues & Communications Committee

The Issues & Communications Committee held three meetings in 2007. It considered matters relating to the Commission's communications, such as its monthly bulletin "Connections," its education initiatives, including youth conferences and employment seminars, and the promotion of human rights, including events to mark International Human Rights Day and to acknowledge individual and group commitment to human rights.

The Committee oversaw the Commission's role in the Racialized Communities and Police Services Project (RCAPS), a joint initiative with the University of Winnipeg, to examine racial profiling in policing in Manitoba and to develop strategies to support bias-free policing. Four community consultations on police services to members of racialized communities were held in the centre and north areas of Winnipeg between October 19, 2006 and August 8, 2007.

The Committee continued to look for innovative ways to fulfill the commission's mandate with respect to human rights education and promotion, despite the lack of a dedicated education staff position. Initiatives included the development of a "Toolkit for Educators," a resource for teachers.

Policy & Legislative Review Committee

The Policy and Legislative Review Committee, chaired by Yvonne Peters, met once this year. Committee representatives also met with the Minister of Justice and his staff to review and discuss legislative proposals for amendments to *The Human Rights Code*.

In addition to discussing matters related to the status of the legislative proposals to *The Code*, the Committee also considered issues with respect to the Commission's policy on family status as a protected ground of discrimination and with respect to pregnancy-related leave and human rights protections.

COMPLAINT PROCESS -OVERVIEW

Pre-Complaint Resolution Process

This is a voluntary, without prejudice process whereby the Commission mediators attempt to resolve an issue between a complainant and a respondent prior to the filing of a formal complaint of discrimination under *The Code*. In 2007, 52 were resolved successfully in the pre-complaint process.

Mediation

The Commission encourages parties to attempt to resolve a complaint if they wish to do so, at any stage of the process, whether prior to or during an investigation. In 2007, 205 files were assigned to the three staff mediators at the pre- and mid-investigation stages. Fifty four (54) complaints were resolved successfully in 2007 at these two stages of the process (36 in pre-investigation and 18 at mid-investigation).

Investigation

Each complaint that is not resolved in the mediation process is assigned to the investigation team that collects, interviews and analyzes evidence. Upon completion of the investigation, a comprehensive Investigation Assessment Report is prepared, making a recommendation to the Board of Commissioners for determination pursuant to *The Code*. In 2007, the investigation team was assigned 225 formal complaints to investigate and the team completed Investigation Assessment Reports on 199 complaints, some of which were filed prior to 2007. During 2007 the average length of an investigation, including the written report was 10.28 months. In addition to the investigation reports, the team prepared 48 reports with respect to complaints that were either withdrawn or abandoned.

Board Directed Mediation

Pursuant to s. 29 (2) of *The Code*, the Board of Commissioners may cause mediation to be undertaken between the parties where the evidence obtained during the investigation is sufficient to substantiate a contravention of *The Code*. In 2007, 25 files were referred to directed mediation. In 2007, 16 cases were voluntarily resolved at this stage and in four other cases, the Board determined that the offer made by the respondent in the mediation process was reasonable, however, the complainant rejected the offer and the file was closed.

Adjudications

Pursuant to s. 29 (3) of *The Code*, the Board of Commissions can refer complaints to adjudication, either directly or after board directed mediation is not successful. In 2007, three files were referred to adjudication and one adjudication hearing was completed. In addition, 11 files which were referred to adjudication were resolved by legal counsel in advance of the hearing scheduled to take place in 2007.

**“Dreams are the
touchstones of our
character.”**

Henry David Thoreau

SETTLEMENTS

The following are examples of cases from the pre-complaint, mediation and board directed mediation processes.

Pre-Complaint

Pre-Complaint resolution is a voluntary process allowing mediators at the Manitoba Human Rights Commission to attempt to resolve an issue before a formal complaint has been filed.

Employment – Sex - Sexual Harassment – Pre-Complaint

An eighteen year old female assistant manager said that her store manager, a married man in his thirties, sexually harassed her. She said it began with staring and touching her inappropriately. One evening after work when she went out with her co-workers and the manager, he made improper remarks to her and when she rebuked him, he kissed her on the cheek. She said she also overheard him tell other female co-workers that just because he was married it didn't mean that women didn't want him and all he had to do was hide his wedding ring.

When she reported his actions to another manager, she said she was told to discuss it with him and then write him a letter explaining in detail what she considered wrong behaviour and where he could get training to determine what was appropriate inside and outside of work. Since she was not comfortable making direct contact with him, she resigned and contacted the Commission.

The matter was resolved by the company providing her with \$1,200.00 in wages, \$800.00 in general damages and a letter of reference. The company also agreed to review and revise its anti-harassment policy and implement any necessary changes including an investigation process and educating its staff.

Services – Ancestry – Pre-Complaint

The complainant, who is an Aboriginal man, contacted the Commission after he had been refused service at a restaurant based on allegations that he had previously caused a disturbance. He believed that this was a case of mistaken identity and the action was discriminatory based on his ancestry.

The mediator obtained information from the Director of SAFE Hospitality, an injury and illness prevention strategy administered by the Manitoba Tourism Education Council (MTEC), regarding the appropriate procedure for keeping an incident book to avoid future instances of mistaken identity and provided this information to the owner.

The matter was resolved on the basis the owner agreed to implement these rules regarding identification. He also provided a letter of apology and a \$50.00 gift certificate to the complainant.

Housing – Disability – Reasonable Accommodation – Pre-Complaint

The complainant is a 40 year old disabled woman. Her apartment building was converted to 55+ housing and she said she was told, that since she was 40, she would have to move to a unit in another building. She believed she was being discriminated against on the basis of her age and failure to reasonably accommodate her disability.

The complainant had friends in the building and found it convenient for her doctor's appointments as the medical facility was only one block away. She also felt safe in the building and appreciated such amenities as a medical alarm in the bedroom and grab bars in the washroom.

The matter was resolved before a formal complaint was filed. The parties met with a Commission mediator and it was agreed that the complainant could remain in her present suite.

Service – Disability – Reasonable Accommodation – Pre-Complaint

A complainant believed that the rules and procedures of an appeal board failed to accommodate his special needs. The appeal board had rules regarding those who could attend a hearing. Those rules limited attendance to the party involved and their counsel or representative.

The complainant believed that this was discriminatory to those with reduced abilities, whether physical or mental, since they are not allowed to bring with them a personal attendant; someone to talk on their behalf or someone to take notes.

A commission mediator, with the permission of the complainant, contacted the Secretary to the Board and within a few months the appeal board amended the rule. It is now possible for those attending an appeal hearing to request, based on a disability, the attendance of additional support persons.

Employment – Age – Pre-Complaint

The complainant is a teenage "computer whiz." Although only 15, he applied for and received a job offer from a computer company. When a company human resource person discovered his age and the fact that he did not have a child employment work permit in place, his job was terminated.

This matter was resolved before a formal complaint was filed by having the complainant complete the Child Employment Permit Application, getting the signature of his parent and school principal and Employment Standards issuing a work permit. The company then put him back on the work schedule.

"Experience is a hard teacher because she gives the test first, the lesson afterwards."

Vernon Sanders Law

Mediation

Mediation is a voluntary process of dispute resolution offered after a complaint is received. If mediation takes place before or during the investigation process, it is conducted on a confidential basis. It is important to note that during mediation, no assessment of the validity of the complaint is made. Mediation can result in an acceptable resolution of the issues in a shorter time frame than a more formal investigation, and usually involves the individuals directly affected.

Employment – Disability – Pre-Investigation Mediation

The complainant injured his shoulder, neck and upper back at work and was placed on compensation. Within six months he was given medical clearance to return to work. That same day he was laid off based on a shortage of work. He said however, that he had been replaced by a new employee one week earlier.

He contacted the Commission believing that he was discriminated against on the basis of a perceived disability.

The respondent was interested in a voluntary settlement so mediation began before an investigation was initiated.

The complaint was resolved with the complainant receiving \$7,000 in general damages. The company agreed to implement an anti-discrimination policy in the workplace and the branch manager attended one of the Commission's educational seminars, Human Rights in the Workplace.

Board Directed Mediation

Board directed mediation takes place after an investigation by a human rights officer. In these cases, the Board has determined that the complaint has enough support in the evidence to proceed further.

Services – Sex (including pregnancy), Ancestry, Disability, Family Status – Board Directed Mediation – Public

Although the majority of Human Rights complaints are confidential, when both parties agree, a settlement may be made public. This was the case in the Elizabeth Fry Society of Manitoba and the Government of Manitoba.

The Society believed that women incarcerated at the Portage Correctional Centre (PCC) were being treated differently than men in similar circumstances, on the grounds of sex, ancestry and disability. It also alleged that the Government of Manitoba had failed to reasonably accommodate the women at PCC on the grounds of ancestry, sex (including pregnancy), family status, disability and ancestry.

An investigation took place and the Board of Commissioners directed that mediation take place, and if unsuccessful, an adjudicator would be appointed to hear both sides.

The parties, however, achieved a good working relationship and mediation was successful. The agreement revealed a commitment by both to work towards the goal of accommodating the special needs of women incarcerated at PCC. The settlement included facilitating contact between incarcerated women and their children, and accommodating the special needs of Aboriginal women, women with disabilities and pregnant women.

Both parties agreed to a series of principles acknowledging that the needs of women in the corrections system differ from the needs of men, and that these differences have significant implications for the delivery of services.

A number of future initiatives also were identified, including addressing the increased demand for Aboriginal spiritual and cultural services, abuse and trauma counselling, library and recreation enhancements, improvements in dealing with mental and physical disabilities, and further staff training in responding to women who harm themselves. Manitoba Justice will work with the Manitoba Human Rights Commission to develop and deliver human rights training and material for Correctional staff and inmates.

Services – Disability- Investigation and Board Directed Mediation

The complainant has a mobility disability and can only walk a short distance with a cane. For longer distances he uses a three wheeled-scooter.

The complainant's doctor's office, hearing centre and pharmacy are located in the same building and he found it very difficult to open the doors as there was not automatic access for disabled people. He contacted the property management company who told him there were no plans to make the building accessible. The company believed that since the building was not new, nor being renovated, it was not required to install an automatic door opening device. The man filed a complaint with the Manitoba Human Rights Commission citing disability and failure to reasonably accommodate his disability.

During the investigation, the respondent company believed that it was in compliance with *The Building Code* but nonetheless advised the human rights officer that it was "committed" to obtaining pricing for an automatic door. It did not, however, provide details, nor did it show that the cost would pose undue financial hardship.

The Human Rights Code states that it is paramount over most other legislation, including building regulations. *The Code* states that, "Unless expressly provided otherwise herein or in another Act of the Legislature, the substantive rights and obligations in this Code are paramount over the substantive rights and obligations in every other Act of the Legislature, whether enacted before or after this Code."

After face-to-face mediation, the company agreed to install automatic doors at the entrance/exit closest to the disabled parking area and agreed to deal with any maintenance issues on a timely basis.

Service – Source of Income – Investigation – Board Directed Mediation

The complainant is an exotic dancer who believed she was treated differently and denied a service by not being allowed the opportunity to purchase life insurance based on her source of income.

The insurance company stated that the complainant’s application for insurance was denied based on her declared occupation and an assessment of “acceptable risks” and the “law of averages,” given her lifestyle and work environment. During the investigation, however, no evidence was provided to back up this claim. The evidence offered by the company appeared to support that the complainant was denied coverage based on impressionistic assumptions and stereotypes about women in this particular type of work.

After Board directed mediation a settlement was reached. The complainant received \$12,000 in general damages for injury to feelings, self respect and dignity and was advised that subsequent life insurance applications would be welcomed and based on her current age and assessment as per normal processes.

LEGAL PROCEEDINGS

Adjudications

A caretaker filed a human rights complaint alleging that her employer had failed to reasonably accommodate her needs arising from her physical disability, cancer. Failure to make reasonable accommodation for disability-related needs of employees is a form of discrimination prohibited by *The Human Rights Code*. After surgery and a two month recovery time, she had tried to return to her job and was told that she was no longer employed. She subsequently was informed that she could re-apply for her former position.

An investigation took place and the Board of Commissioners directed that mediation should take place. When this was not successful, a hearing date was set and Lyle Smordin was appointed as the independent Adjudicator by the Attorney General.

The Vietnamese Non-Profit Housing Corporation owner (the respondent) originally argued that this did not qualify as discrimination based on disability. By the conclusion of the hearing, however, he conceded that she should have been accommodated.

Adjudicator Lyle Smordin awarded the sum of \$3,000 for general damages and one month's pay to the former caretaker. Adjudicator Smordin also ordered the Corporation to adopt and post a suitable accommodation policy acceptable to The Manitoba Human Rights Commission.

Court of Queen's Bench Judicial Review

In October 2006, the Manitoba High Schools Athletic Association (MHSAA) filed for a judicial review of an Adjudicator's ruling. The review was heard by Madame Justice McKelvey of the Court Queen's Bench.

In her original ruling Adjudicator M. Lynne Harrison found that the MHSAA was not justified in refusing to let two female high school students, Amy and Jesse Pasternak, try out for the boys' high school hockey team. Although the MHSAA argued during the hearing that women's hockey would suffer should the girls be allowed to play on a boys' team, Adjudicator Harrison found that there was no objective evidence that women's hockey would suffer, that boys would take over girls teams or that boys would end up being disadvantaged as a group when it comes to opportunities to play hockey.

Madame Justice McKelvey released her Judicial Review decision in January 2008 and ruled that the MHSAA was not able to establish errors in how the adjudicator interpreted the case, her jurisdiction and the fairness of the process. Madame Justice McKelvey wrote that the MHSAA was unable to establish a single justification, based on objective evidence, for refusing the girls the opportunity to try out.

“Discovery consists of seeing what everybody has seen and thinking what nobody has thought.”

Albert Szent-Gyorgyi

Supreme Court of Canada Intervention

The Manitoba Human Rights Commission received intervener status (“friend of the court”) in *Honda v. Keays* at the Supreme Court of Canada. The case is expected to be heard in early 2008 at which time the Commission’s Legal Counsel Sarah Lugtig will present oral arguments. The case involves a long and bitter struggle between Honda Canada and an employee who worked in an Ontario plant, and suffered from chronic fatigue syndrome. The Supreme Court will decide whether or not to uphold a \$500,000 award for damages to Mr. Keays. This is one of the largest awards ever in Canada but was reduced to \$100,000 on appeal. This case may also have an impact on the role of human rights commissions in today’s society. The Commission was one of nine interveners who were given permission to address the court.

Supreme Court of Canada Decision

A 2007 Supreme Court of Canada Decision affirmed the universal application of human rights principles and the right to equality for people with disabilities.

Last year, The Manitoba Human Rights Commission, with its Saskatchewan counterpart, intervened in the *Council of Canadian with Disabilities v. Via Rail* appeal before the Supreme Court of Canada. In a written submission the Prairie-based Commissions argued that human rights principles must be applied and applied consistently, by all government agencies entrusted to protect them.

The Commissions also emphasized that service providers have an obligation to engage in an appropriate process to assess accommodation issues for people with disabilities, including the obligation to gather concrete information of any cost, safety or other hardships that they later allege prevent them from implementing measures to ensure equal access to their service.

Finally, the Commissions directed the Court’s attention to the harm to disabled travellers on the prairies if VIA Rail was allowed to justify lack of access in some of its routes by offering equal access elsewhere in its network.

Judicial Reviews

There were two applications for judicial review filed during the year. One was subsequently abandoned.

MONITORING REPORT - UNIVERSITY OF MANITOBA

The University of Manitoba submitted information to the Commission, pursuant to a settlement agreement, that included a summary of hiring data and recent initiatives which the University has developed to encourage qualified women to apply for academic, middle and senior management positions within the University. The settlement focused on the representation of women in ranks noted above. Similar information will also be provided and summarized in the Commission's next two Annual Reports.

Recognizing the importance of implementing recruitment strategies that will attract qualified women, the University has created an Academic Recruiting Handbook which highlights opportunities to advertise on websites that will specifically target women. Although equity training had previously been provided for all chairs of search committees for academic staff, this training was expanded as per the agreement to include chairs of search committees for management positions as well. The Equity Services Office holds a minimum of 6 workshops yearly and an Equity Officer attends the first meeting of search committees to discuss best practices, potential biases, and strategies to further equity in the hiring process.

***“If an idea is worth
having once, it’s
worth having twice.”***

Tom Stoppard

Hiring data provided to the Commission by the University outlined the representation rate of women in each department, their academic rank, and type of appointment. Similar information referenced the representation rate of women in management and support positions. Although it is difficult to draw conclusions from statistics which reflect the hiring practices throughout the University, it is interesting to note that within the year prior to April 1, 2007, 40% of the new hires for full time academic positions were female. One area in which a clear gap can be noted is the 3-1 ratio of males to females who have achieved tenure within the full time academic ranks. This would appear to reflect an earlier gender imbalance in a number of faculties; it is unlikely to change quickly due to the requirements, including the length of time required to achieve tenure. That figure will be examined again in the next monitoring report.

When a comprehensive statistical analysis was undertaken in the late 1990's, concerns were raised because there were no women in the faculty of the Political Studies Department, despite a fairly high availability rate of qualified women in the workforce. It is encouraging to note, therefore, that women comprised 6 out of 13 of the academic positions as of April 1, 2008.

This is the first of three reports which have been provided by the University and this initial data will provide a baseline for tracking progress in the next two years. In that regard, the University has developed an equity module within a new human resource information system which generates reports which contain detailed information concerning the representation of women. They are made available to faculties, schools and administrative units and are used to assist in the development of employment equity targets for future hiring.

RAISING AWARENESS

Knowledge is one of the primary tools in the prevention of discrimination and the Commission has developed a wide range of activities in an effort to fulfill its mandate concerning the education and promotion of human rights. These activities include seminars, conferences, outreach, presentations, print and electronic information, partnerships, human rights awards and the Racialized Communities and Police Services (RCAPS) Project.

“Recent Developments in Human Rights Law” was added to the Commission’s very successful Education Programs, bringing the number of public seminar topics offered to five. Approximately 720 people registered for these seminars, which were held in Winnipeg and Brandon. Those who participated in three or more seminars received a Human Rights Certificate of Achievement.

The Youth Awareness Conferences continue to be the centre of the Commission’s youth initiative. To ensure their continual success however, and to consider other avenues for human rights youth education, a committee was struck to review, revamp and design the Commission’s programs for youth and to develop a program to celebrate the 60th anniversary of the Universal Declaration of Human Rights in 2008.

Outreach presentations were delivered to more than two thousand people. The Commission also provided an information booth at such public events as Gay Pride, International Women’s Day and Law Day in Winnipeg. The Brandon office held an open house on International Human Rights Day, December 10th.

In Winnipeg, the Commission, along with its valued partners, the Canadian Human Rights Commission and the Manitoba Association for Rights and Liberties, hosted the International Human Rights Day Award Luncheon in December. The 2007 Commitment Award recognized activities which have advanced human rights by overcoming discrimination based on mental disability. The Dr. Sybil Shack Memorial Youth award recognized a youth group or young person who has promoted respect for human rights and fundamental freedoms within Manitoba. The recipients of the Commitment Award were the teachers, principal, and students involved in the Bridges FASD Intermediate Program at David Livingstone Community School. The Youth Award went to Krupa Kotecha, a grade 12 student at Balmoral Hall School for her work and dedication to multiculturalism and diversity.

The Commission released the final report on the first phase of the Racialized Communities and Police Services Project (RCAPS Project). This project, which began a year and a half ago, is a partnership with researchers from the University of Winnipeg and the Manitoba Human Rights Commission. During 2007 three community consultations took place in three Winnipeg inner city areas; the West Broadway Neighbourhood, the Centennial Neighbourhood and the Lord Selkirk Park Neighbourhood.

“We cannot always build the future for our youth, but we can build our youth for the future.”

Franklin D. Roosevelt

At these consultations, participants shared stories and observations with respect to the provision of police services to themselves and others in racialized communities. At the community based consultations, individual stories were not investigated by the Commission and the confidentiality and anonymity of the participants were respected. The report documents these stories and observations.

The underlying message received was that most people want to feel safe in their communities and develop a mutually respectful relationship with the police.

The major themes that emerged from these community consultations include the lack of police services to the Aboriginal community, the abusive treatment by police based on Aboriginal ancestry, the need for community-based policing, the systemic nature of racial bias in the Winnipeg Police Service, the perception by police and media that groups or members of racialized groups are gang members, and sexually abusive treatment of Aboriginal women by police.

The RCAPS Project continues with the Commission and the University of Winnipeg developing the second phase of the project.

COMMISSIONERS

Chairperson

Jerry Woods is a proud member of the Couchiching First Nation and hosts all the Commission's youth conferences. His background in the labour movement and his expertise as a negotiator serve him well as a strong advocate for Aboriginal employment and human rights issues. He continues to work in the community as an activist and strives for equitable outcomes with a dedication to improving the quality of life for all people. Jerry's passion is golf, and his joy is his family, wife Cathy, their six children, and eight grandchildren.

Vice-Chairperson

Yvonne Peters has a Bachelor of Arts and a Bachelor of Law from the University of Saskatchewan and a Bachelor of Social Work from the University of Regina. She practices equality rights law in Winnipeg, providing legal consultation and advice to unions, community groups, human rights organizations, the corporate sector and governments. Her community work includes serving on the Council of the Manitoba Bar Association, the Board of Directors of the Canadian Women's Health Network and chairing the Human Rights Committee of the Council of Canadians with Disabilities.

Commissioners

Robin Dwarka is the Director of Administration for Legal Aid Manitoba. She is a Certified Management Accountant (CMA) and has a Bachelor of Commerce (Honours) from the University of Manitoba. Robin is a founding member of the Manitoba Pan Handlers, a local steel band. Currently, she is active in the Caribbean community primarily through the Building Sub-Committee of the Council of Caribbean Organizations of Manitoba and The Caribbean Folklorama Pavilion. Robin is a Board Member of the Manitoba Association for Rights and Liberties (MARL) and is currently its Treasurer.

Elliot Leven is a lawyer by profession and his preferred areas of practice are labour and employment law and Aboriginal law. He is an active member of Winnipeg's gay and Jewish communities. He is the Immediate Past President of Camp Massad of Manitoba, a Board Member of the Community Unemployed Help Centre, a member of the Law Society of Manitoba's Committee on the Independence of the Legal Profession, and a member of the Winnipeg Folk Festival's Communications Committee.

"A great many people think they are thinking when they are merely re-arranging their prejudices."

William James

Sheena Rae Reed was born and raised in Flin Flon and her love of the North resulted in her returning to her hometown after receiving her Arts Degree from the University of Manitoba and studying two years of law. Once she returned to Flin Flon, she began working in social services and today she works with Child and Family Services for the Government of Manitoba. For the last seventeen years Sheena has coached girls' gymnastics and has been involved in Big Brothers/Big Sisters. She is also a Board Member of the Northern Women's Resource Centre in Flin Flon, the President of the Flin Flon Friendship Centre's Board of Directors and the President of the Manitoba Association of Friendship Centres.

M. V. Naidu has been a political science professor at Brandon University and was recently awarded the status of Professor Emeritus. He is the recipient of many honours such as the Canadian Government's Citation for Citizenship and the Fulbright Scholarship Grant. He founded the West Manitoba Multicultural Council, the Citizen's Committee for Medicare and the Civic Affairs Association of Brandon. He is also the past president of the Canadian Peace Research and Education Association and the Canadian Asian Studies Association. Professor Naidu was recently invited to the University of Rajasthan (Jaipur, India) for eight months and Delhi University for one-year, as a visiting Political Science Professor. He is editor of *Peace Research*, the Canadian Journal of Peace studies.

Ajit Kaur Deol, O. M. is an educator, a committed activist and forward thinking multicultural leader. She was a teacher at Edward Schreyer High School in Beausejour and Maples Collegiate in Winnipeg for many years. Ajit is credited with developing the Caroline McMorland School for the mentally disabled in Ontario. She has been on the Board of Directors of countless organizations and is currently a member of the Advisory Committee Punjab Foundation and a member on the Cabinet Committee on Agencies, Boards and Commissions. She is also a member of the Manitoba Citizenship Council, and a Director on the Board of the Seven Oaks School Education Scholarship Foundation and Seven Oaks General Hospital Foundation.

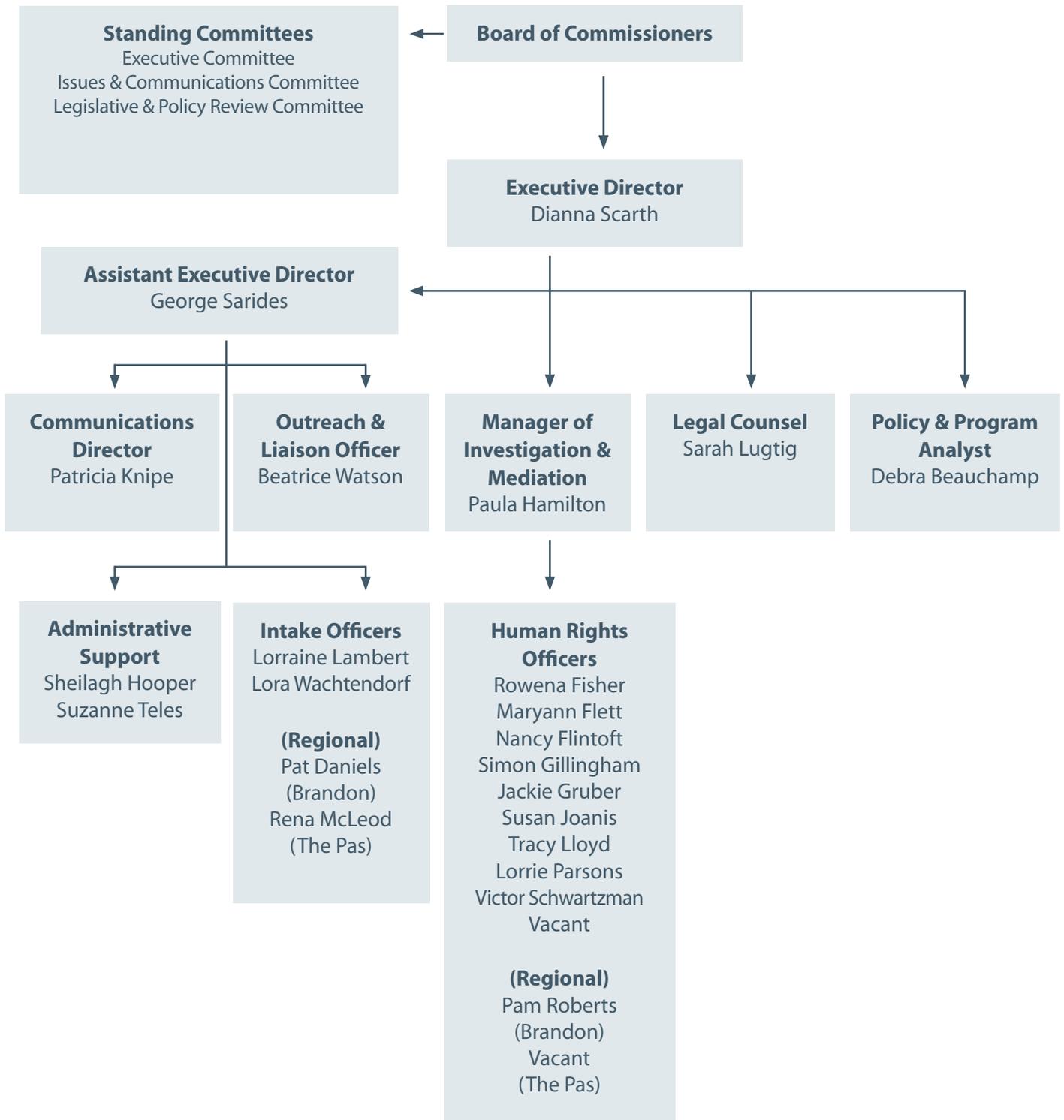
Mzilikazi (Mzi) Ndlovu was born and raised in Matshetsheni Tribal Trust Land, a reserve community near the town of Gwanda in Zimbabwe. After arriving in Winnipeg, he studied at the University of Winnipeg to pursue a liberal arts education, where he was instrumental in the *Food Bank and Safe Walk Program* initiatives and elected Vice President of the African Student Association. For many years he produced and hosted *The African Summit* on CKUW, the community radio station at the University of Winnipeg. He has freelanced for CBC, the Society for Manitobans with Disabilities and the Manitoba Association for Rights and Liberties. Mzilikazi currently works for Winnipeg Child and Family Services.

Joan Hay has lived in Winnipeg's inner city for over twenty years. She was a Research Assistant/Community Interviewer for two books on community development, *In Their Own Voices: Urban Aboriginal Community Development (2006)* and *Doing Community Development (2007)*. Joan co-hosts a radio show called "Inner City Voices" on CKUW, the University of Winnipeg's community station, and is the founding member and original Chair of the Inner City Aboriginal Neighbours (I-CAN) group. She also is involved with many inner city boards and committees and currently works at the Ma Mawi Wi Chi Itata Centre Inc. as a Community Helper/Emergency Services Worker. Joan is of Ojibwe/Dakota descent from Waywayseecappo First Nation in Manitoba.

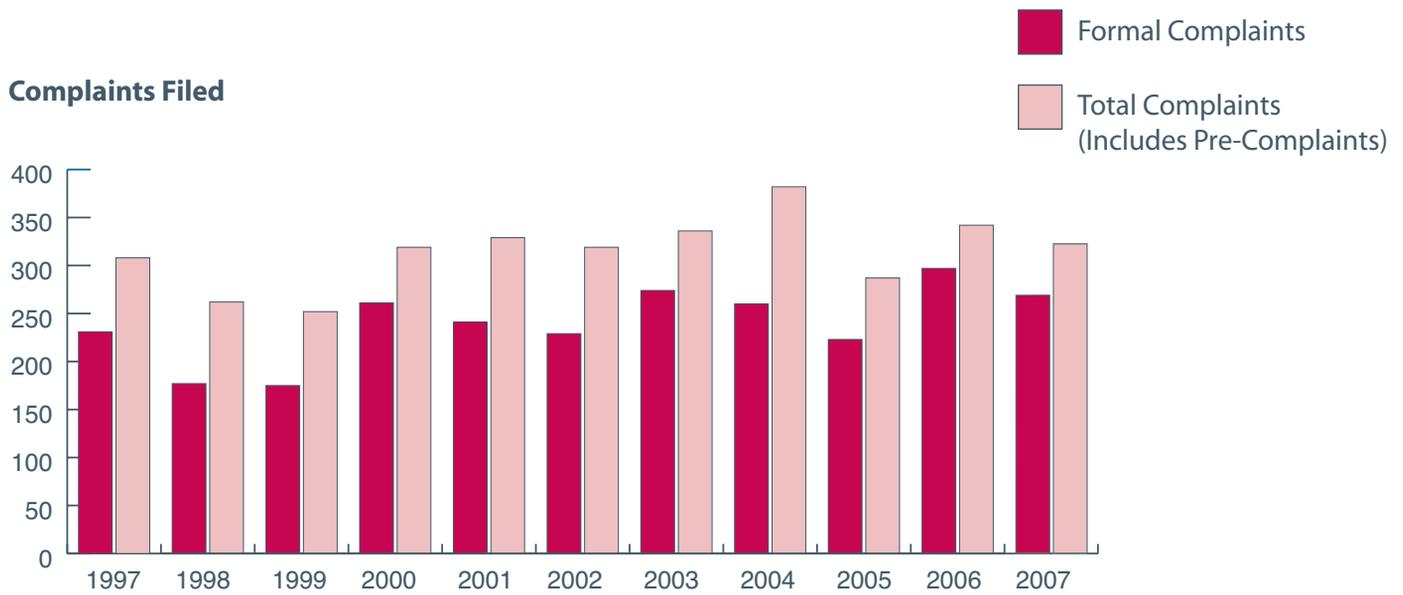
Leo Aniceto started working as a staff lawyer for Somerset Law Office, Family Unit, Legal Aid Manitoba in November of 2007. Prior to this, he practiced on his own for about five years helping clients in the areas of family law, criminal law, child protection and real estate. Leo has three children. He is a member of the Filipino community and enjoys helping fellow Filipinos with their legal problems whenever he can.

MANITOBA HUMAN RIGHTS COMMISSION

Organization Chart 2007



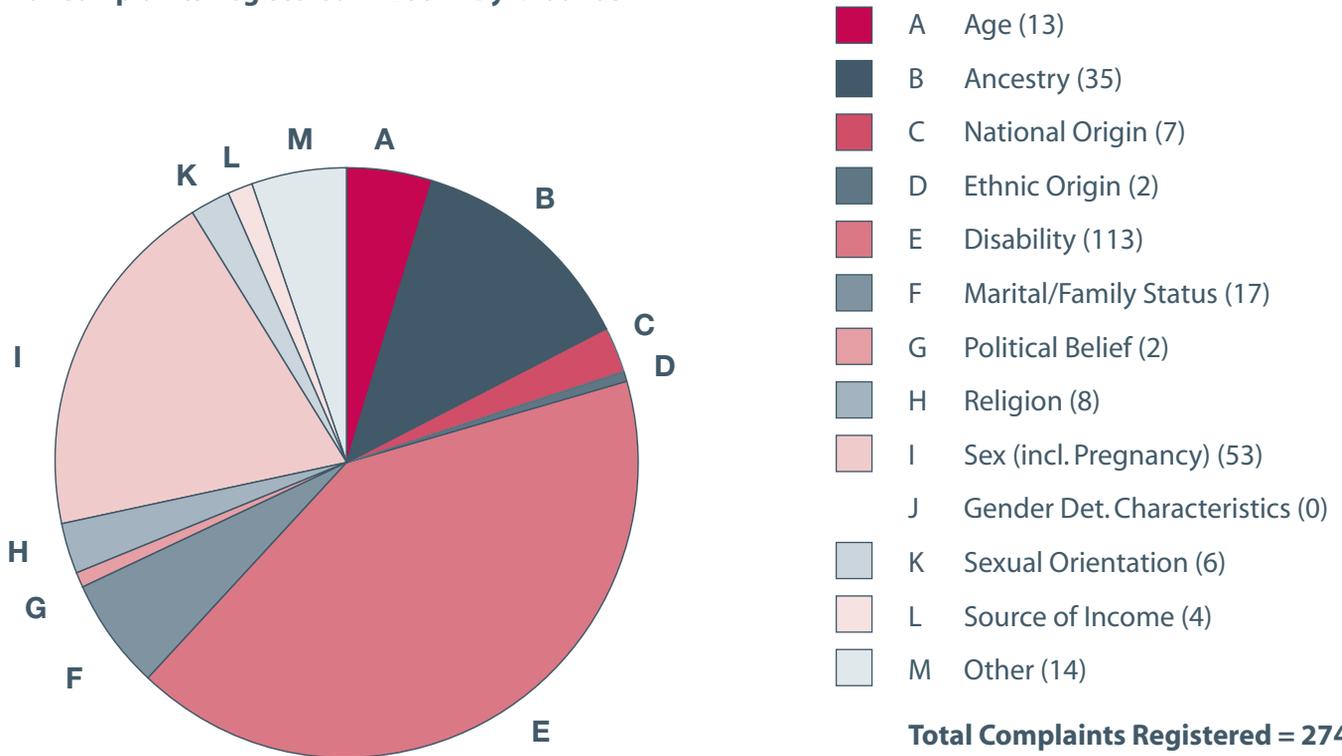
STATISTICS



Number of Complaints

Year	Formal Complaints	Total Complaints (Includes Pre-Complaints)
1990	245	n/a
1991	265	n/a
1992	216	n/a
1993	149	n/a
1994	150	n/a
1995	169	n/a
1996	218	n/a
1997	231	308
1998	177	262
1999	175	252
2000	261	319
2001	241	329
2002	229	319
2003	274	336
2004	260	382
2005	223	287
2006	297	342
2007	270	322

Formal Complaints Registered in 2007 - By Grounds

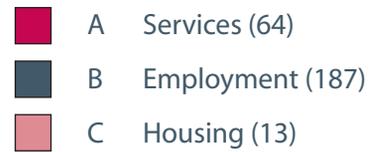
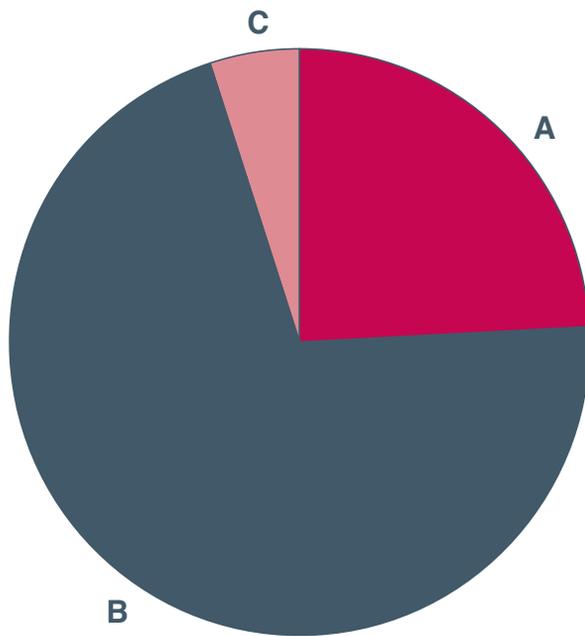


Files Closed by Grounds in 2007

Area	Pre-complaint Resolution	Pre-Board Settlements	Withdrawn / Abandoned	Dismissed by Board	Terminated / Offer Found Reasonable	Settled By Board Directed Mediation	Referred to Adjudication	Settled Prior to Adjudication
Age	8	5	4	10	0	1	0	2
Ancestry	5	9	8	35	0	2	0	0
National Origin	0	2	1	6	0	0	0	0
Ethnic Origin	0	0	1	0	0	0	0	0
Disability	22	19	18	59	3	7	2	3
Marital/Family	5	3	1	12	0	0	1	0
Political Belief	0	1	1	3	0	0	0	0
Religion	0	0	0	3	1	0	0	0
Sex (including Pregnancy)	8	14	13	30	0	6	0	6
Gender Determined Characteristics	0	0	0	0	0	0	0	0
Sexual Orientation	1	0	1	0	0	0	0	0
Source of Income	2	1	0	4	0	0	0	0
Other	1	0	0	5	0	0	0	0
TOTALS	52	54	48	167	4	16	3	11

Total Complaints by Grounds 2007 355

Formal Complaints Registered in 2007 - By Area



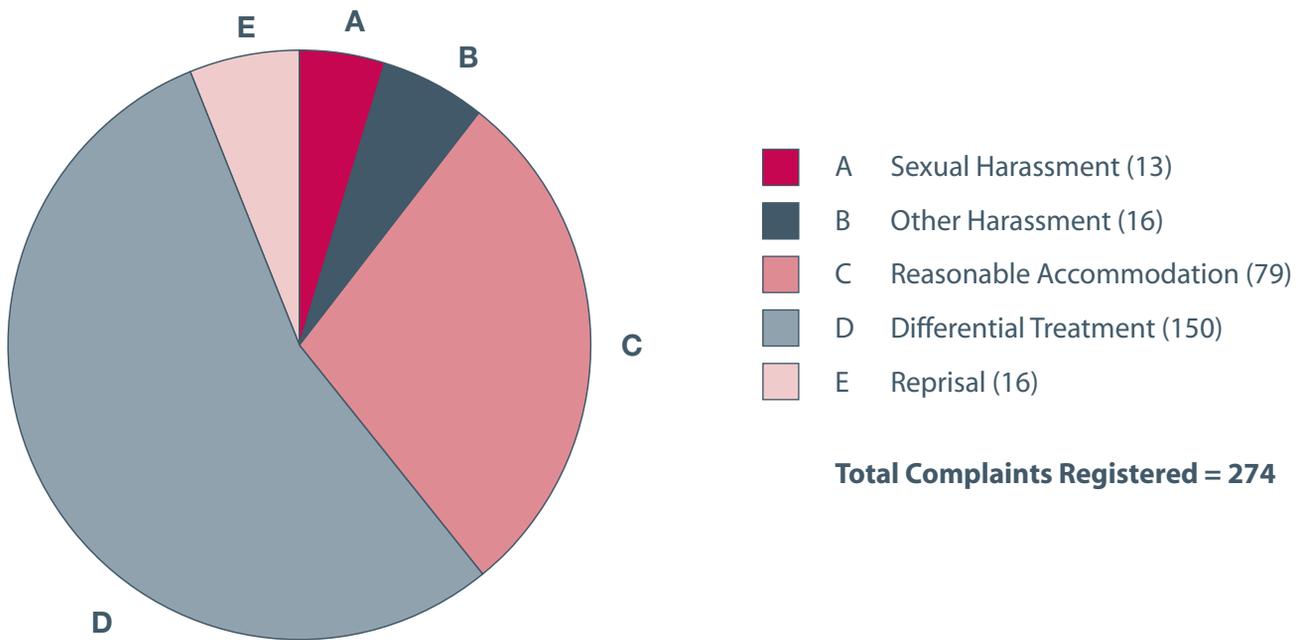
Total Complaints Registered = 274

Files Closed by Area in 2007

Area	Pre-complaint Resolution	Pre-Board Settlements	Withdrawn / Abandoned	Dismissed by Board	Terminated / Offer Found Reasonable	Settled By Board Directed Mediation	Referred to Adjudication	Settled Prior to Adjudication
Services	16	11	9	41	2	5	0	2
Employment	28	41	36	118	2	10	3	9
Contracts	0	0	0	0	0	0	0	0
Housing	8	2	3	8	0	1	0	0
Other	0	0	0	0	0	0	0	0
TOTALS	52	54	48	167	4	16	3	11

Total Complaints by Area 2007 355

Formal Complaints Registered in 2007 - By Nature of Allegations



Files Closed by Nature of Allegation in 2007

Nature of Allegation	Number of Complaints
Sexual Harassment	25
Other Harassment	16
Reasonable Accommodation	99
Differential Treatment	204
Reprisal	11

Total Complaints by Nature of Allegation 355

ENGLISH