



Your ***RIGHTS*** Start Here



# YOUR HUMAN RIGHTS IN MANITOBA

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The underlying principle of *The Human Rights Code* (Manitoba) is the recognition of the individual worth and the dignity of every person.

Discrimination under the *Human Rights Code* (“*The Code*”) is treating someone differently, to their disadvantage and without a valid reason, or failing to take reasonable steps to accommodate special needs that are based on the characteristics covered under *The Code*. *The Code* prohibits unreasonable discrimination in areas such as employment, housing, public services or contracts, and signs and notices.

*The Code* prohibits unreasonable discrimination on the following grounds, called “protected characteristics:”

- Ancestry
- Nationality or national origin
- Ethnic background or origin
- Religion or creed, or religious belief, religious association or religious activity
- Age
- Sex, including sex-determined characteristics, such as pregnancy
- Gender identity
- Sexual orientation
- Marital or family status
- Source of income
- Political belief, political association or political activity
- Physical or mental disability
- Social disadvantage

Members of other historically disadvantaged groups not listed in this section of *The Code* may also be protected.

In determining whether discrimination has occurred, it is the effect, not the intention that counts.

Most employers, landlords and service providers that are located in Manitoba are regulated by provincial law and so are bound by *The Code*. Other 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.

In most cases *The Code* overrides other provincial laws.



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**ATTORNEY GENERAL  
MINISTER OF JUSTICE**

Room 104  
Legislative Building  
Winnipeg, Manitoba CANADA  
R3C 0V8

His Honour The Honourable Philip S. Lee, C.M., O.M.  
Lieutenant-Governor of Manitoba  
Room 235 Legislative Building  
Winnipeg, MB R3C 0V8

May it Please Your Honour:

I have the privilege of presenting for the information of your honour the Annual Report of The Manitoba Human Rights Commission for the year 2013.

Respectfully submitted,

A handwritten signature in purple ink that reads "Andrew Swan".

Honourable Andrew Swan  
Minister of Justice  
Attorney General



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

Dear Minister:

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, 2013.

Sincerely,

Yvonne Peters  
Chairperson



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## CHAIRPERSON'S MESSAGE

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This has been a year of change, transition and renewal for the Commission. In September we said good-bye to our highly respected Chairperson Jerry Woods. Jerry served on the Board of Commissioners for 13 years, over six of which were as the Chairperson. We sincerely thank Jerry for his years of service and for the way in which he guided the Board of Commissioners with his passion, dedication and extraordinary good sense. I would also like to thank departing Commissioners Robin Dwarka, Ajit Deol and Sheena Reed for their many years of service on the Board. We wish them well and look forward to crossing paths with them in the community.

In December I was honoured to be appointed as the new Chairperson and pleased that my colleague Elliot Leven was appointed as the Vice-Chairperson. I would also like to welcome our new Commissioners John Burchill, Anne Lacquette and Loretta Ross.

What has not changed is our commitment to addressing and eliminating discrimination. In this regard, I would like to highlight a couple of important complaints that were settled this year that have significant systemic impact.

The first complaint involved Deaf children and young people who wished to access American Sign Language (ASL) interpretation services so that they could participate in organized amateur sport. Without ASL services, Deaf athletes found it difficult to follow instructions and benefit fully from amateur sport activities. The parties to the complaint, the parents of the Deaf children and the Manitoba Government's Sport Secretariat through its agency, Sport Manitoba, voluntarily agreed to a mediation process which resulted in an agreement to provide funding for ASL services for Deaf athletes. The lack of ASL services for Deaf children created a systemic barrier which the settlement of this complaint was able to remove.

The second complaint I wish to highlight dealt with the sexual harassment of a young woman by a customer. The woman's employer did not take reasonable steps to stop the harassment. The complaint was sent to a public hearing. Human Rights Adjudicator Robert Dawson awarded the woman \$7,750.00 for damages to her dignity, feelings and self-respect. It is the highest damage award in the history of Manitoba human rights adjudications.

The decision in this complaint clarifies that an employer has a duty to protect employees from sexual harassment by a customer. The amount of the award also recognizes that Manitoba has some catching up to do with the rest of the country in terms of understanding the seriousness of discrimination and its impact on individuals.

Finally, although the Commission faced many challenges this year and I would like to thank Acting Executive Director George Sarides for being an instrumental part in its many successes.

## 2013 Highlights



The Manitoba Human Rights Commission is authorized to mediate and investigate complaints of discrimination, to refer matters to adjudication, to educate the public and promote human rights.

### Highest award in history:

A Human Rights Adjudicator found that a customer sexually harassed a young woman, and her employer did not take reasonable steps to stop the harassment. The woman was awarded \$7,750.00 for damages to her dignity, feelings and self respect. It is the highest damage award in the history of Manitoba Human Rights adjudications. The remedy included an order that the owner complete a workshop on harassment in the workplace within one year and provide every new and future employee the business policy on harassment in the workplace.

### Perceived disability case:

A Human Rights Adjudicator has found an employer discriminated against an employee on the basis of a perceived addiction to alcohol. In the written decision the Adjudicator stated that it has long been established that an addiction to alcohol constitutes an illness and falls within the meaning of a disability under *The Human Rights Code*. She was not convinced however, based on the evidence, that the woman had an addiction to alcohol, but that her employer perceived that she had one. The complainant received \$1,894.20 in lost wages, \$4,000.00 for damages for injury to dignity, feelings or self respect. Also included in the remedy was an order allowing the Manitoba Human Rights Commission to monitor the employer's employment practices for a period of two years.

### Judicial reviews and a settlement offer:

The Board of Commissioners referred a complaint of sexual harassment to adjudication. The respondent requested a judicial review of the Board's decision suggesting that the investigation report on which the Board based its decision had not been neutral or sufficiently thorough. A Master of the Court ordered the Commission to hand over its entire investigation file so the respondent could argue that the Board erred. The Commission appealed the Master's order in an effort to maintain the integrity of its confidential investigation process and was successful. The respondent has since made an offer of settlement in the amount of \$5,250.00, which the Adjudicator determined to be reasonable.

This decision terminated the possibility of an adjudication of the merits of the complaint of harassment. The Commission, however, has in turn requested a judicial review believing that the settlement amount was not sufficient to remedy the complaint.

### Power of mediation:

A human rights mediated settlement provided additional American Sign Language (ASL) funding for young athletes participating in organized amateur sport. This settlement is extremely important for two reasons. First, it removes possible discrimination against Deaf young athletes and second, it brought the difficult concept of systemic discrimination to the public's attention in a way that is easily understood.

### Major changes to Board of Commissioners:

2013 not only saw the departure of Chairperson Jerry Woods but also of three other long term Commissioners: Robin Dwarka, Ajit Deol and Sheena Reed.

### Youth Conferences and Rallies:

The Commission continued its youth initiative with the Action Changes Everything (ACE) youth conferences in Winnipeg and Brandon and School Human Rights Rallies in Northern Manitoba communities. The Rights Rally team visited École Riverside School, and Deerwood School in Thompson, Opaskwayak Oscar Lathlin School and The Pas École Scott Bateman Middle School.

# THE COMPLAINT PROCESS

If you believe that you have been discriminated against you should contact the Manitoba Human Rights Commission. The Commission employees, including Intake Officers, Mediators and Investigators are impartial and do not advocate on behalf of either the complainant or the respondent (the person or organization that is subject to the complaint).

Any person may file a complaint that alleges that discrimination has taken place. Complaints must generally be filed within one year of the alleged incident(s). There is no charge for filing a human rights complaint or for seeking information about a human rights issue. If a complaint is filed in time, the Commission must accept the complaint. Accepting a complaint does not mean the Commission believes the complaint has merit.

## Intake

The intake staff is often the first contact the public makes with the Manitoba Human Rights Commission. During 2013 the Commission had intake staff in its Winnipeg and Brandon offices.

In 2013 over 4200 requests for information were dealt with by the intake staff. Many of these calls resulted in referrals to other agencies. Approximately 9 per cent of the contacts were matters that directly related to *The Code*, while a further 19 per cent were requests for literature or information relating to human rights. As a result of these contacts, 382 files were opened.

## Pre-complaint

Before a formal complaint is filed, the intake staff may recommend pre-complaint mediation, which is a voluntary, without prejudice, process. The Commission mediators attempt to resolve an issue prior to the filing of a formal complaint of discrimination. In 2013, 28 matters were resolved successfully using this process. If pre-complaint mediation does not resolve the matter the person may at that time choose to pursue a formal complaint.

### Example:

*A woman applied for a job when she was six months pregnant. She was the successful applicant. Once she started, she told management that she would need to take maternity leave in three months. She was fired, the company stating that she was dishonest because she hadn't disclosed her pregnancy. She contacted the Commission and a mediator dealt with the issue in a pre-complaint resolution. The woman received \$1,800.00 in general damages.*

## Pre-Investigation Mediation

Pre-investigation Mediation involves a mediator contacting the parties to see if they can work out a voluntary settlement of the complaint. Mediation is voluntary and either party or the mediator may end the mediation at anytime. During mediation no decision about the complaint is made.



### Example:

*A woman with spina bifida who requires leg braces, crutches and a wheelchair put in an offer to buy a condominium. Her offer included a condition that an automatic door opener be installed on both the main floor and the third floor. The seller made an amendment to the offer including a slightly lower price, removed the condition and stated that buyer would have to negotiate alterations to common elements with the condominium corporation. Once she moved in, she requested accommodation for accessibility. That request was not approved. She filed a complaint with the Commission and in a pre-investigation mediation, the condominium corporation agreed to grade the step at the front of the building to allow for easy access for any person with mobility difficulties, installed an easy access button for entering and exiting the building and panic hardware on both sides of the third floor doors.*

### Fast Fact:

# 1

In 2013, 42 per cent of the complaints filed were based on disability. Of these, 64 percent dealt with physical disabilities and 36 percent dealt with mental disabilities.

### Fast Fact:

# 2

In 2013, 69 complaints were successfully mediated during the pre-complaint process, the pre-investigation stage or during the investigation.

# THE COMPLAINT PROCESS

## Investigation

Each complaint that is not resolved in the mediation process is assigned to the seven person, full and part time, investigation team (for part of 2013 this was a six member team). During 2013 the average length of an investigation was 9.67 months. This time is calculated from the date the file is assigned to an investigator to the finalization of the investigation and the writing of the investigative report.

Before an investigation begins a preliminary assessment may be done to determine if the complaint, as filed, is within the jurisdiction of the Commission and/or whether the complaint or complainant has disclosed a reasonable ground to support the alleged contravention of *The Human Rights Code*. This Preliminary Assessment Report is sent to the Board of Commissioners with a recommendation.

Complaints are investigated in an impartial manner. The investigator interviews witnesses and obtains documents and information to thoroughly explore the positions of both parties. A formal report called an Investigation Assessment Report, which includes a recommendation to proceed or dismiss the complaint, is written for consideration by the Board of Commissioners.

## Withdrawn or Abandoned

The team of investigators and mediators prepared 29 reports with respect to complaints that were either withdrawn or abandoned during 2013.

## Dismissed

Where there is insufficient evidence to support a complaint, or no contravention of *The Code* is found, or the Board is satisfied that the complaint is frivolous or vexatious, the Board will dismiss it. Once a complaint has been dismissed it does not go any further.

### Example:

*A complainant alleged that her employer failed to accommodate her special needs related to her disabilities. The employer (the respondent) denied allegations of discrimination saying that there were a number of performance related issues. While the complainant was on leave, numerous errors in her work were discovered that breached confidentiality with clients. The respondent decided to wait until she returned to work from her medical leave prior to terminating her employment.*

*After a full investigation, there was insufficient evidence to establish that the complainant's disabilities were factors in the respondent's decision to terminate her employment and the respondent had reasonably accommodated the complainant's special needs. The Board of Commissioners found insufficient evidence to establish that the respondent subjected the complainant to discrimination on the basis of her disabilities within the meaning of *The Code*.*



### Fast Fact:

# 3

In 2013, the investigation team was assigned 167 formal complaints to investigate and the team completed 11 Preliminary Assessment Reports and 110 Investigation Assessment Reports on 121 complaints.

### Fast Fact:

# 4

In 2013, 85 of the complaints investigated were dismissed by the Board.

# THE COMPLAINT PROCESS

## Board Directed Mediation

Where the Board finds that there is enough evidence in support of the complaint to proceed further and not be dismissed, it may provide the parties with the opportunity to discuss settlement with the help of a mediator. This is referred to as Board Directed Mediation.

### Example:

*The complainant alleged that by not considering her for employment, the employer discriminated against her on the basis of her family status.*

*The respondent alleged that the complainant was not considered for a position because she was related to another employee, her common law sister-in-law. According to the respondent, the situation was reviewed and it was found that this relationship would objectively create an actual or a reasonable perception in the minds of others of such things as collusion, favouritism, and breach of confidentiality, conflict of interest or other issues that could be detrimental to the workplace.*

*The Investigation Assessment Report concluded that not only was the complainant denied the opportunity to compete for a position as a result of her family status, the respondent's discriminatory actions were not justified nor were they based upon bona fide and reasonable requirements or qualifications.*



*After the Board directed mediation the parties entered into an agreement which included the payment of One Thousand Five Hundred Dollars (\$1,500.00) in respect of general damages to the complainant. The respondent also agreed to review and revise its "Employment of Relatives" policy to ensure compliance with The Human Rights Code and provide a copy of this new policy to the Manitoba Human Rights Commission. As well, senior level management from the respondent attended the Manitoba Human Rights Commission seminar entitled "The Business of Human Rights in the Workplace."*

### Referred to Adjudication

When the Board directs that mediation should be attempted, it lets the parties know that if mediation is not successful, an adjudicator will be requested to

determine the complaint during a public hearing. In 2013, seven complaints were referred to adjudication.

### Legal Proceedings Settled prior to adjudication

The Commission's legal counsel will make a final attempt to settle the complaint before adjudication. Three files, which had been referred to adjudication, were resolved by legal counsel in 2013, before the hearing took place.

Five decisions were issued, three of which were regarding complaints that had been heard prior to 2013.

Two adjudication hearings were held, one of which was a hearing to determine if the respondent's settlement offer was reasonable under the new section 37.1 of *The Code*.

One application for judicial review was filed with the Court of Queen's Bench regarding a review of the decision of the Board to refer a complaint to adjudication.

The Commission continued to monitor the terms of two systemic complaints that had been settled in previous years.

All legal decisions can be found on the Commission's website.

### Fast Fact:

# 5

In 2013, 27 files were referred to Board Directed Mediation and 14 were resolved at this stage.

# AWARENESS OF HUMAN RIGHTS AND RESPONSIBILITIES

Early in the New Year, a federal court upheld a Canadian Human Rights Tribunal decision against the Canada Border Services Agency (CBSA). It found the federal agency discriminated against a former Toronto airport customs inspector on the ground of family status when it denied her request for regular hours so she could make child-care arrangements.

Media coverage of the decision was intense with a focus on impending lack of day care spaces; the dire changes to the employment landscape; and eventually the question of whether having children was a lifestyle choice.

The Manitoba Human Rights Commission was flooded with calls of concerns from employers. The Commission responded by announcing a workshop on the protected ground of family status and the rights and obligations of employers and employees. The workshop was so popular it was scheduled for a second time.

Many areas of family status were covered, but perhaps the most important point for Manitobans to understand is that protection from discrimination on the basis of family and marital status has been part of human rights legislation in Manitoba since 1976 – or ever since this province has had human rights legislation. According to *The Human Rights Code*, employers are expected to consider requests for accommodation, to the point

of undue hardship, where the employee can demonstrate a special need based on their family obligation.

The CBSA has appealed to the Federal Court of Appeal.

Some of the staff from the Brandon and Winnipeg offices headed north in early March. One of the activities was to offer a human rights seminar to employers and supervisors in and around Thompson. The *Business of Human Rights in the Workplace* education program was a huge success with many of the thirty participants asking the Commission to return. The Commission will make every effort to include the North in its education programs but acknowledges that resources dictate that this type of activity is limited due to budget restraints.

The other Northern activity was youth human right rallies. At the same time as the human rights seminar in Thompson, staff also went to four northern schools to promote human rights and responsibilities. The Rights Rallies took place in Thompson École Riverside School, Deerwood School Thompson, Opaskwayak Oscar Lathlin School, Wednesday, and The Pas École Scott Bateman Middle School.

Our youth initiative continued in the spring when the *Action Changes Everything (ACE)* Youth Conferences were held in Winnipeg and Shilo. Once again the Commission focused on junior high students.

International Human Rights Day was once again celebrated with five Manitobans receiving Human Rights Awards.

The Annual Human Rights Commitment Award of Manitoba recognizes those who have promoted respect for human rights and fundamental freedoms and have advanced the rights of Manitobans.

The Recipients of the 2013 Human Rights Commitment Award of Manitoba were Dr. Joan Durrant, Professor of Family Social Sciences, University of Manitoba; Betty Hopkins, Chair of the Women's Legal Education and Action Fund (LEAF); and The Manitoba League of Persons with Disabilities (MLPD), which is celebrating its 40th anniversary in 2014.

The Annual Sybil Shack Human Rights Youth Award recognizes the work of a person or group of people, 25 years old and under that has had an impact on the advancement of human rights as guaranteed in the Canadian Charter of Rights and Freedoms and human rights legislation in Manitoba.

The recipients of the Sybil Shack Human Rights Youth award for 2013 were: Megan Fultz University of Winnipeg Students' Association President and Gray Academy of Jewish Education Student Gay Straight Alliance Group.

## Fast Fact:

# 6

Approximately 140 people attended Commission seminars, which were held mainly in Winnipeg and Brandon. In addition, another 375 people attended on-site Commission seminars. Outreach presentations about human rights protections and the Commission by the outreach officer and other staff were delivered to an additional 2,225 people.

# REPORT FROM THE EXECUTIVE DIRECTOR

We are often asked how many complaints we receive on specific grounds such as ancestry, age, sex or religion. Although these numbers are provided to those who ask, we always explain that the numbers we provide should not be used as a way to measure how much discrimination is happening in our province. Rather, the numbers reveal a snapshot of the type of discrimination that continues to exist. By looking at the number of complaints on certain grounds over the years we can, however, be alerted to trends.

Bringing trends to the attention of the public is one of our strongest tools in fighting discrimination.

Last year the Commission voiced concern over the number of sexual harassment cases going forward to adjudication. We were, and still are, concerned, not only with the unusually high number, but also the nature of the sexual harassment itself. The continued existence of sexual harassment in the workplace is unacceptable and worrisome.

A new concern is complaints based on ancestry. Over the last three years, complaints based on ancestry have gone up from 8 percent (2011) and 14 percent in 2012 to 17 per cent (2013) of our total number of complaints. It is a number to watch as we determine how many of these complaints are substantiated or settled in mediation.

Some of these complaints are filed by Aboriginal people, but more than half are not. The increase in complaints is somewhat disturbing as the existence of racism in Canada is frequently denied.

Another interesting increase is in the area of reprisal. In past years the number of complaints has hovered around the five to eight range. In 2013 that number jumped to 14.

In its broadest meaning, reprisal is retaliation. Under *The Code*, reprisal is an actual or threatened, harmful act, which is linked to the enforcement of any person's rights under *The Code*. As well, unlike other sections of *The Code*, reprisal must be intentional. Reprisal not only involves penalizing someone, it could also be withholding a benefit. Those who participate in an investigation, testify at a human rights hearing, or refuse to contravene *The Code* and suffer from some form of reprisal as a result, can also file a human rights complaint.

Another fast developing concern of the Commission, recognized through our complaint process and contact with intake officers, is the growing confusion of the public with regard to service animals.

Designating what animals are actually service animals is becoming more difficult.

Next year we will be embarking on public consultations to hear from both users of service animals and those who provide services to individuals who ask for accommodation because of a service animal. These discussions should allow the Commission to assess what else can be done to ensure that the public is aware of both the rights and the responsibilities involving individuals who use service animals.

The Manitoba Human Rights Commission is considering what, if anything, we can do to increase awareness of rights and responsibilities regarding the use of service animals, so as to reduce barriers that interfere with the accommodation of those who require service animals and to clarify what is considered a service animal.

My last words are about our staff that is dedicated to the protection of human rights in Manitoba. Thank you for your hard work during difficult times. In 2013 we said goodbye to long time intake officer Lora Wachtendorf who retired. I would like to also take this opportunity to thank former Chairperson Jerry Woods for his leadership and to welcome our new staff and Commissioners.

George Sarides  
Acting Executive Director

## Fast Fact:

# 7

Commission received 49 complaints based on ancestry; 30 were in the area of employment; 15 in services; and 4 in rental. Just under one half of the 49 complaints were from Aboriginal people.

## Fast Fact:

# 8

In 2013 complaints based on reprisal were up to 14. In both 2011 and 2012 that number was 5 each year. This is an increase over the last three years from 8% to 17% of all complaints. Of these complaints, ten were in the area of employment, four in services and one in rental.

## 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. She serves as the Vice-Chair of the Accessibility Advisory Council appointed by the Honourable Jennifer Howard, Minister Responsible for Persons with Disabilities. Her community work includes serving as a council member of the Manitoba Bar Association, as a member of the Council of Canadians with Disabilities' Human Rights Committee and as a board member of the Winnipeg Folk Festival.

## Vice-Chairperson

### 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 the Community Unemployed Help Centre, a member of various Law Society of Manitoba committees, and a member of the Canadian Association of Labour Lawyers. He has been a Manitoba Human Rights Commissioner since 2002.

## Commissioners

### Joan Hay

has lived in Winnipeg's inner city for over twenty-five years. Joan co-authored a book on community development titled *In Their Own Voices: Building Urban Aboriginal Communities*, and is the current President of the Spence Neighbourhood Association. She is also 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 and at the Native Women's Transition Centre as a Residential Support Worker. Joan is of Ojibwe/Dakota descent from Waywayseecappo First Nation in Manitoba.

### Leo Aniceto

is a staff lawyer for Agassiz Community Law Centre, Family Unit, Legal Aid Manitoba. 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.

### Karen Banuga

is Executive Assistant, Vice President Academic, Copyright Officer and Access and Privacy Coordinator for Assiniboine Community College. She has a Bachelor of Arts Degree from Brandon University and is a member of the Islamic Community. Karen is a strong advocate of women's rights and is an active member of the Manitoba Government Employees Union and Chief Steward. She loves to travel and finds it helpful in understanding other cultures and belief systems. Karen is married with four children.

# BOARD OF COMMISSIONERS

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## Commissioners

### André Doumbè

was born in Cameroon, Africa and studied Business Administration. He was Purchasing Manager at Champs Food Systems from 1986 to 1998. He is currently working as a Market Information Officer at the Market Analysis Group, Grain and Oilseeds Division, Agriculture Canada. Mr. Doumbè has over twenty years community involvement at the grassroots level. He is currently serving as the President of the African Communities of Manitoba Inc. (ACOMI), a coalition of African grassroots organizations. He is a member of the Manitoba Immigration Council. He volunteers at United Way of Winnipeg, as a member of the education Committee. He is past President of Sous le Baobab, a Cameroonian grassroots organization in Winnipeg.

### John Burchill

has a Bachelor of Arts in Criminal Justice from Athabasca University and a law degree (JD) from the University of Manitoba. He is currently a member of the Manitoba Bar and is employed by the University of Manitoba in the Office of Risk Management. Prior to joining the University he was a Winnipeg police officer for 25 years, with six of his last years spent as the supervisor of the Hate Crimes Team. He has specific training in hate crimes and human rights through Dalhousie University, the University of Manitoba, the California State University (Santa Barbara) and the United Nations Institute for Training and Research. He recently received his Diploma in International Environmental Law through the United Nations Environmental Law Programme.

### Anne Lacquette

was born and raised in Ebb and Flow, Manitoba where she received her education. She has resided in the community of Mallard for over 52 plus years and is a very active member of her community. She is on the local school committee and on the Mallard Council, serving as Deputy Mayor and Mayor. Anne is the current Chair of Northern Association of Community Councils Western Region and a member of the Cancer Care Aboriginal Board. She was past Chair of the Provincial Aboriginal Advisory Committee and has served on the Parkland Regional Health Authority Board. She and her husband Norman raised seven children.

### Loretta Ross

is a member of the Hollow Water First Nation in Manitoba and obtained her law degree from Queens' University. Loretta has been a practicing lawyer for over 20 years and has served as legal counsel to numerous First Nation governments and organizations. Loretta's legal practice has ranged from child and family matters, trust and corporate law, land claims and residential school claims. Loretta strives to balance her work with her husband and four children. In her spare time, Loretta loves to curl, golf and watch her children participate in their extra-curricular activities.

### Vacant

# RÉSUMÉ EN FRANÇAIS DU RAPPORT ANNUEL DE 2013 DE LA COMMISSION DES DROITS DE LA PERSONNE DU MANITOBA

La Commission des droits de la personne du Manitoba a pour mandat d'offrir des services de médiation, d'enquêter sur les plaintes relatives à de la discrimination, de renvoyer des dossiers à l'arbitrage, de renseigner le public et de faire la promotion des droits de la personne.

## Faits saillants de 2013

Les dommages-intérêts les plus élevés de l'histoire : Un arbitre des droits de la personne a conclu qu'un client a harcelé sexuellement une jeune employée et que l'employeur de celle-ci n'a pas pris de mesures raisonnables pour mettre fin au harcèlement. La jeune femme a obtenu 7 750 \$ en dommages-intérêts pour atteinte à la dignité, aux sentiments et à l'estime de soi. Ce sont les dommages-intérêts les plus élevés de l'histoire des arbitrages relatifs aux droits de la personne au Manitoba. L'arbitre a également exigé de l'employeur qu'il suive un atelier sur le harcèlement au travail dans un délai d'un an et qu'il fournisse à tout employé, actuel et futur, la politique de l'entreprise concernant le harcèlement au travail.

Dossier concernant une perception d'incapacité : Un arbitre des droits de la personne a conclu qu'un employeur a fait preuve de discrimination envers une employée en raison d'une perception de dépendance à l'alcool. Dans sa décision écrite, l'arbitre a rappelé qu'il est établi depuis longtemps qu'une dépendance à l'alcool constitue une maladie et donc une

incapacité visée par le *Code des droits de la personne*. Toutefois, d'après la preuve, l'arbitre n'était pas convaincue du fait que l'employée avait une dépendance à l'alcool, mais elle a conclu que l'employeur croyait que l'employée en avait une. L'employée a obtenu 1 894 \$ pour perte de salaire et 4 000 \$ de dommages-intérêts pour atteinte à la dignité, aux sentiments et à l'estime de soi. L'arbitre a également prévu dans sa décision la possibilité pour la Commission des droits de la personne du Manitoba de surveiller les pratiques de l'employeur en matière d'emploi pendant une période de deux ans.

Examens judiciaires et offre de règlement : Le Conseil des commissaires a renvoyé une plainte de harcèlement sexuel à l'arbitrage. L'intimé a demandé un examen judiciaire de la décision du Conseil en disant que le rapport d'enquête sur lequel le Conseil fondait sa décision n'était pas neutre ni suffisamment approfondi. Un conseiller-maître du tribunal a ordonné à la Commission de remettre le dossier d'enquête au complet à l'intimé pour que celui-ci puisse soutenir que le Conseil avait commis une erreur. La Commission a porté en appel l'ordonnance du maître-conseiller afin de préserver la confidentialité de son processus d'enquête et a obtenu gain de cause. L'intimé a par la suite présenté une offre de règlement d'une valeur de 5 250 \$, un montant que l'arbitre a jugé raisonnable. La décision de l'arbitre a mis fin à la possibilité d'un arbitrage en fonction du bien-fondé de la plainte de

harcèlement. La Commission a alors à son tour demandé un examen judiciaire en soutenant que le montant du règlement était insuffisant.

Le pouvoir de la médiation : Un règlement en matière des droits de la personne issu d'une médiation a permis d'obtenir de nouvelles subventions pour le langage des signes destinées aux jeunes athlètes qui participent à des sports amateurs. Le règlement obtenu est extrêmement important pour deux raisons. Premièrement, il écarte la discrimination possible envers les jeunes athlètes sourds et, deuxièmement, il a donné l'occasion de vulgariser le concept complexe de discrimination systémique auprès de la population.

Grands changements au Conseil des commissaires : En 2013, le président Jerry Woods, ainsi que trois commissaires de longue date, Robin Dwarka, Ajit Deol et Sheena Reed, ont quitté le Conseil.

Des conférences et des rencontres pour les jeunes : La Commission a continué son travail auprès des jeunes en tenant des conférences jeunesse Action Changes Everything (ACE) à Winnipeg et à Brandon et des rencontres des élèves axées sur les droits de la personne dans des collectivités du nord de la province. L'équipe des rencontres axées sur les droits de la personne a visité l'École Riverside School et la Deerwood School à Thompson, l'Oscar Lathlin School de la Nation des cris de Opaskwayak et l'École Scott Bateman Middle School, à The Pas.

# RÉSUMÉ EN FRANÇAIS DU RAPPORT ANNUEL DE 2013 DE LA COMMISSION DES DROITS DE LA PERSONNE DU MANITOBA

## Le processus relatif aux plaintes

Si vous croyez avoir été victime de discrimination, communiquez avec la Commission des droits de la personne du Manitoba. Les employés de la Commission, à savoir, le personnel de la réception, les médiateurs et les enquêteurs, sont impartiaux et ne prendront parti ni pour le plaignant ni pour l'intimé (la personne ou l'organisme qui est visé par la plainte).

Toute personne peut déposer une plainte pour dire qu'elle croit avoir été victime de discrimination. Les plaintes doivent généralement être déposées dans un délai d'un an après l'incident ou les incidents. Il n'y a aucuns frais associés au dépôt d'une plainte en matière de droits de la personne ni à la demande de renseignements sur une question relative aux droits de la personne. Si une plainte est déposée dans le délai prescrit, la Commission doit l'accepter. L'acceptation d'une plainte ne signifie pas que la Commission juge qu'elle est fondée.

Au cours de l'exercice, 42 pour cent des plaintes déposées concernaient une incapacité. Parmi ces plaintes, 64 pour cent concernaient une incapacité physique et 36 pour cent étaient liées à une incapacité mentale.

En 2013, 69 dossiers ont été réglés au moyen d'une médiation soit au cours du processus préalable au dépôt officiel d'une plainte, à l'étape précédant l'enquête ou en cours d'enquête.

L'équipe d'enquête a reçu le mandat d'enquêter sur 167 plaintes officielles et a rédigé 11 rapports d'évaluation préliminaire et 110 rapports d'enquête sur 121 plaintes.

En 2013, parmi les plaintes qui ont fait l'objet d'une enquête, 85 ont été rejetées par le Conseil.

En 2013, 27 dossiers ont fait l'objet de séances de négociations de règlement ordonnées par le Conseil et 14 dossiers ont été réglés à ces séances.

Trois dossiers renvoyés à l'arbitrage ont été réglés par les avocats avant la tenue de l'audience.

Cinq décisions ont été rendues, dont trois qui concernaient des plaintes qui ont été entendues avant 2013.

Deux audiences ont eu lieu, dont une qui visait à déterminer si une offre de règlement proposée par des intimés était raisonnable en vertu du nouvel article 37.1 du *Code*.

La Commission a reçu 49 plaintes fondées sur l'ascendance, parmi lesquelles 30 étaient liées à un emploi, 15 portaient sur des services et 4 concernaient la location. Un peu moins de la moitié des 49 plaintes ont été déposées par des Autochtones.

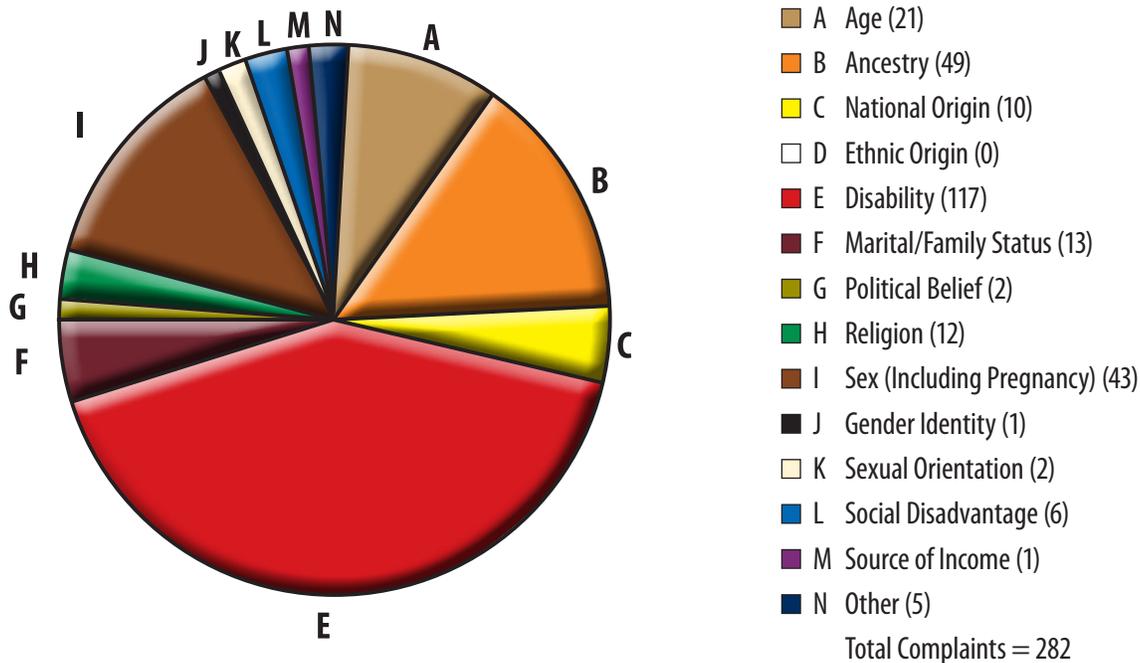
En 2013, il y a eu une augmentation des plaintes concernant des représailles. La Commission en a reçu 14. Il y en avait eu 5 en 2011 et 5 aussi en 2012. Par rapport à l'ensemble des plaintes, le pourcentage des plaintes concernant des représailles est donc passé de 8 à 17 % au cours des trois dernières années. Parmi ces plaintes, 10 étaient liées à un emploi, 4 portaient sur des services et 1 concernait la location.

## Sensibilisation aux droits de la personne et responsabilités

La Commission a continué la mise en œuvre de son initiative pour la jeunesse au printemps en présentant la conférence Action Changes Everything (ACE) à Winnipeg et à Shilo. Encore une fois, la Commission s'est concentrée sur la sensibilisation des élèves du premier cycle du secondaire.

Environ 140 personnes ont participé à des séminaires de la Commission, qui ont eu lieu principalement à Winnipeg et à Brandon. De plus, 375 personnes ont assisté à des séminaires aux bureaux de la Commission. Des exposés de sensibilisation sur la Commission et la protection des droits de la personne ont été présentés par l'agent de sensibilisation et d'autres membres du personnel à plus de 2 225 autres personnes.

Formal Complaints Registered in 2013 By Grounds

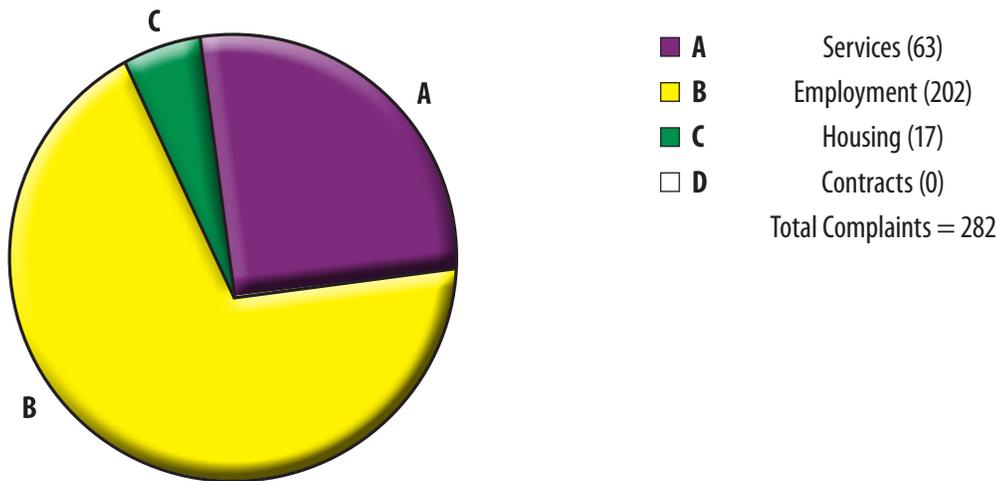


Files Closed by Grounds up to December 31, 2013

Area	Pre-complaint Resolution	Pre-Board Settlements	Withdrawn / Abandoned	Dismissed by Board	Terminated Other / Offer Found Reasonable	Settled By Board Directed Mediation	Referred to Adjudication	Settled Prior to Adjudication
Age	3	4	1	3	0	0	0	0
Ancestry	4	4	5	15	2	1	0	0
National Origin	0	0	0	3	0	0	0	0
Ethnic Origin	0	0	0	1	0	0	0	0
Disability	17	19	17	38	0	8	4	0
Marital/Family	0	5	2	4	0	3	3	0
Political Belief	0	0	0	5	0	0	0	0
Religion	0	2	0	3	0	0	0	0
Sex (including Pregnancy)	3	7	12	10	0	2	0	3
Gender Identity	0	0	0	2	0	0	0	0
Sexual Orientation	0	0	1	1	0	0	0	0
Social Disadvantage	1	0	0	0	0	0	0	0
Source of Income	0	0	0	0	0	0	0	0
Other	0	0	2	0	0	0	0	0
<b>TOTALS</b>	<b>28</b>	<b>41</b>	<b>40</b>	<b>85</b>	<b>2</b>	<b>14</b>	<b>7</b>	<b>3</b>
<b>Total Complaints by Grounds December 31, 2013</b>								<b>220</b>

# STATISTICS

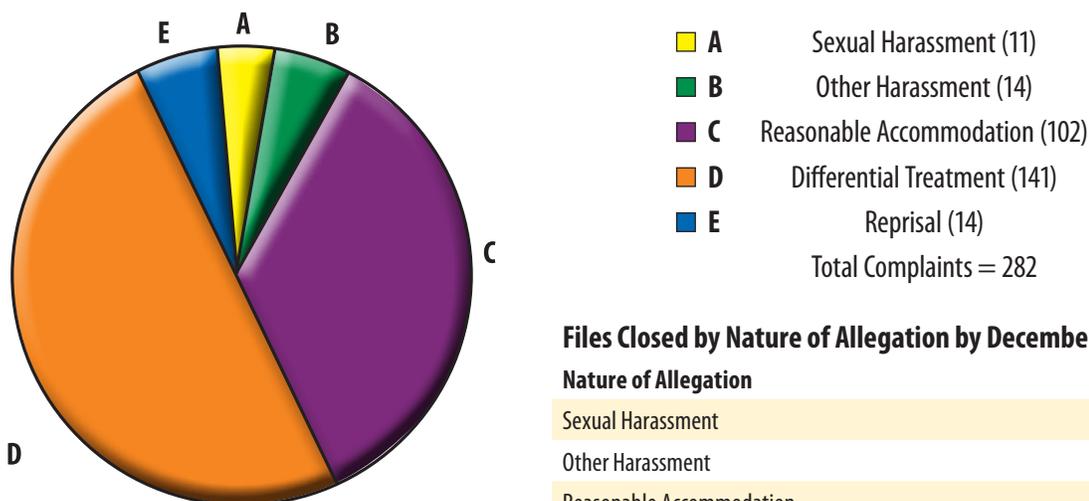
## Formal Complaints Registered in 2013 By Area



## Files Closed by Area up to December 31, 2013

Area	Pre-complaint Resolution	Pre-Board Settlements	Withdrawn / Abandoned	Dismissed by Board	Terminated Other / Offer Found Reasonable	Settled By Board Directed Mediation	Referred to Adjudication	Settled Prior to Adjudication
Services	3	11	7	31	0	1	2	0
Employment	21	28	32	51	2	11	4	3
Contracts	0	0	0	0	0	0	0	0
Housing	4	2	1	3	0	2	0	0
Other	0	0	0	0	0	0	1	0
<b>TOTALS</b>	<b>28</b>	<b>41</b>	<b>40</b>	<b>85</b>	<b>2</b>	<b>14</b>	<b>7</b>	<b>3</b>
<b>Total Complaints by Area December 31, 2013</b>								<b>220</b>

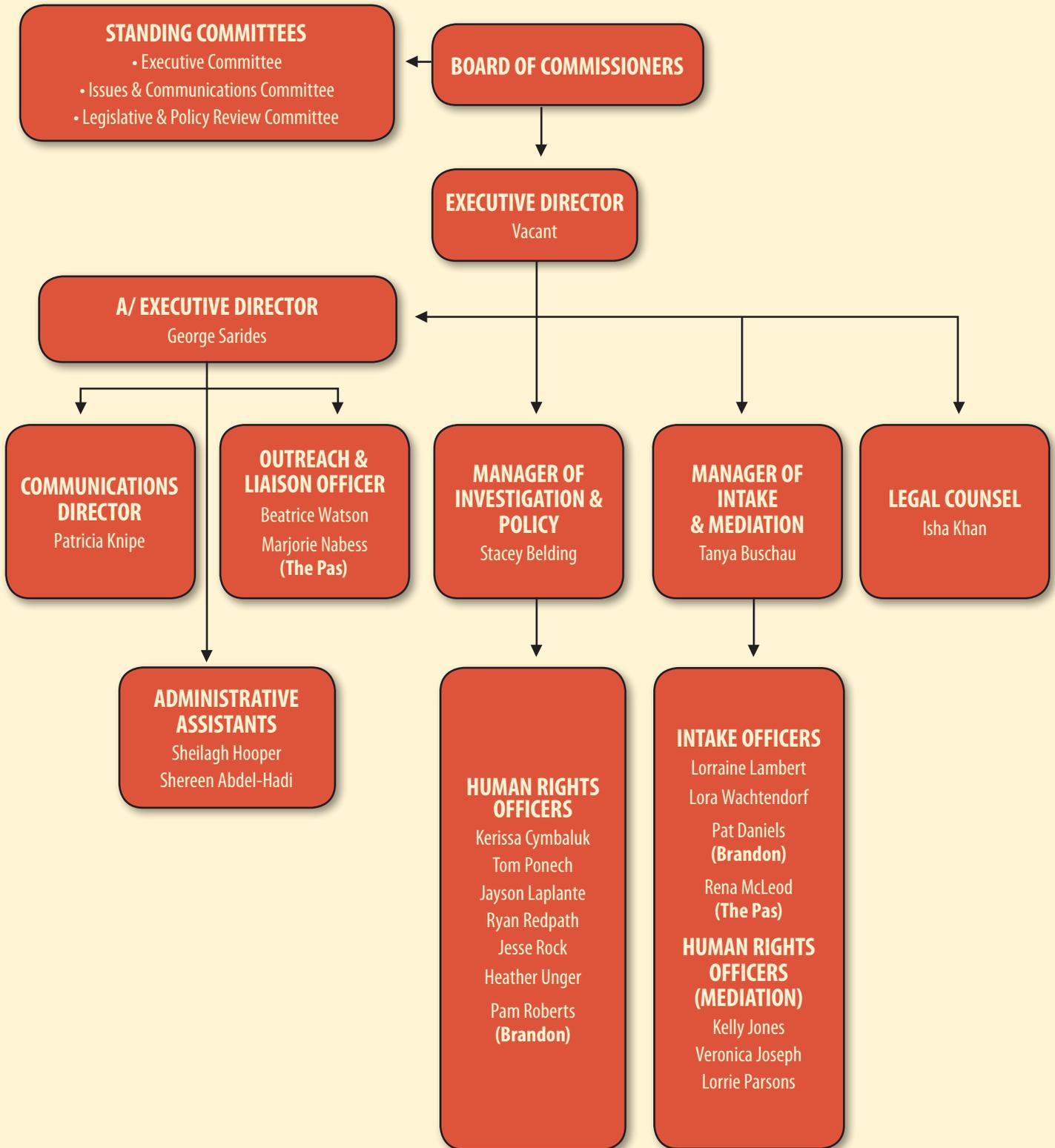
## Formal Complaints Registered in 2013 by Nature of Allegations



## Files Closed by Nature of Allegation by December 31, 2013

Nature of Allegation	Number of Complaints
Sexual Harassment	11
Other Harassment	8
Reasonable Accommodation	66
Differential Treatment	133
Reprisal	2
<b>TOTAL</b>	<b>220</b>

# MANITOBA HUMAN RIGHTS COMMISSION ORGANIZATION CHART 2013



THE MANITOBA  
HUMAN RIGHTS  
COMMISSION



LA COMMISSION DES  
DROITS DE LA PERSONNE  
DU MANITOBA

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