

Ontario  
Human Rights Commission  

---

Commission ontarienne des  
droits de la personne



# Annual Report

2004-2005



Published by the Ontario Human Rights Commission  
Province of Ontario, Toronto, Canada  
© 2005, Government of Ontario  
ISSN 0702-0538 6/05  
ISBN 0-7794-7967-X

## Table of Contents

<b>MESSAGE FROM THE CHIEF COMMISSIONER</b> .....	<b>4</b>
<b>PART I: THE COMMISSION: A DECADE OF EVOLUTION</b> .....	<b>6</b>
What We've Accomplished.....	7
Corporate Restructuring .....	7
Centralized Services.....	7
Registrar's Office .....	8
Technology .....	8
Web site.....	9
Integration Protocol.....	9
Mission Statement and Code of Ethics .....	10
Accountability Framework.....	10
Operational Effectiveness.....	10
Staff Training .....	11
Inquiry and Intake .....	11
Mediation and Settlement.....	12
Investigation and Referral.....	13
Litigation .....	14
Tribunal Decisions .....	15
Divisional Court, Court of Appeal & Supreme Court of Canada Decisions ..	17
Judicial Review Decisions.....	17
Interventions .....	18
Settlements.....	19
Commission Initiated Complaints.....	19
Policy Development .....	20
Consultation.....	20
Policy Highlights 1995-2005 .....	20
Policy Review and Advice.....	22
Policy and Litigation.....	22
Public Education .....	23
National and International Liaison.....	25
What We've Learned .....	26
Maximizing Resources and Mandate.....	26
Relevance of Human Rights Commissions Today.....	27
Role of the Commission Going Forward .....	28
Appendix – Part I.....	30
OHRC Comparative Indicators 1995-2005 .....	31
<b>PART II: COMMISSION ACTIVITIES 2004-2005</b> .....	<b>32</b>
About the Commission.....	33
Caseload Management .....	33
Caseload .....	33
Inquiry and Intake .....	34
Mediation .....	34
Investigation.....	35
Policy Development.....	35

Racial Discrimination and Racism Policy Dialogue .....	35
Racial Profiling Report – One-Year Follow-up .....	36
Disability and Education .....	36
Restaurant Accessibility Initiative.....	37
Family Status Discussion Paper .....	38
Advice on Human Rights Matters .....	38
Discriminatory Effect of School Discipline Legislation and Policies .....	38
Police Complaints Review Submission.....	39
Mandatory Retirement .....	39
Regulation of the Private Security Industry.....	40
Accessibility for Ontarians with Disabilities Act.....	41
Other Matters.....	41
Public Education, Partnership and Promotion .....	41
Aboriginal Human Rights Program .....	43
Call for a Canadian Coalition of Cities Against Racism .....	43
www.ohrc.on.ca .....	44
Legal Services.....	44
Case Summary Highlights .....	45
Accountability Framework .....	49
Appendices – Part II .....	53
List of Commissioners .....	54
Branch Descriptions.....	59
List of Publications .....	61
Human Rights Tribunal of Ontario Decisions & Settlements.....	63
Financial Statement.....	68
Tables.....	69
<b>ENDNOTES.....</b>	<b>74</b>



June, 2005

The Honourable Michael J. Bryant  
Attorney General  
Minister Responsible for Native Affairs  
Minister Responsible for Democratic Renewal  
720 Bay Street  
Toronto ON M5G 2K1

Dear Minister:

Pursuant to Section 31(1) of the Ontario *Human Rights Code*, we are required to submit a report on the Ontario Human Rights Commission's activities for the previous fiscal period by June 30<sup>th</sup> of each year.

In this regard, it is my pleasure to provide you with a copy of the Commission's Annual Report 2004-2005. This report reflects the activities of the Commission from April 1, 2004 to March 31, 2005.

Yours sincerely,

A handwritten signature in black ink, appearing to read "K. Norton".

Keith C. Norton, Q.C., B.A., LL.B.  
Chief Commissioner

## MESSAGE FROM THE CHIEF COMMISSIONER

June 2005

In this, my final report, I am pleased to report on the Ontario Human Rights Commission's activities for the April 1, 2004 to March 31, 2005 fiscal year.



During 2004-2005, the Commission accomplished several significant achievements including key legal settlements on a variety of human rights issues. In particular, the Commission:

- conducted a Policy Dialogue as part of policy development on the ground of race;
- released guidelines on the application of the Ontario *Human Rights Code* related to issues of disability in the education sector;
- followed up on recommendations set out in its 2003 Disability and Education Consultation Report;
- followed up on recommendations in its Racial Profiling Report released in December 2003;
- released a report on restaurant accessibility, *Dining Out Accessibly*, and expanded the restaurant initiative to other chains; and,
- developed a Discussion Paper on discrimination because of family status.

This past year, the Commission opened 2,399 cases and closed 2,215 cases. The active caseload on March 31, 2005 was 2,733 cases, which represents an increase of 184 cases (or 7.3%) over last year's caseload of 2,549 cases. The Commission also referred 150 cases to the Human Rights Tribunal of Ontario.

I am also pleased to look back and report on the Commission's many accomplishments in all areas of its mandate over the past ten years. During this time, key reforms and corporate initiatives undertaken by the Commission have enhanced its ability to process complaints and carry out its compliance function under the *Code*. As well, significant initiatives in the Commission's policy, education and legal work, and in its mediation and investigative services, have helped position Ontario as a leader in the protection and advancement of human rights.

I have had the privilege now of overseeing the work of the Commission and being associated with its truly dedicated staff for the past nine years. As I complete my term as Chief Commissioner, I wish the Commission much future success as it builds on past achievements and forges ahead in advancing human

rights for all Ontarians. I feel very fortunate to have been part of an organization that continuously challenges itself to deliver more effectively on its mandate, and does so with such a high degree of commitment and professionalism.

A handwritten signature in black ink, appearing to read 'K. Norton', with a long horizontal flourish extending to the right.

Keith C. Norton Q.C., B.A., LL.B  
Chief Commissioner

## **PART I: THE COMMISSION: A DECADE OF EVOLUTION**

## What We've Accomplished

Over the past ten years, the Ontario Human Rights Commission has experienced an evolution, one focused on continually finding new ways to be efficient and effective, with the goal of enhancing its capacity to deliver on its mandate. In the face of a mounting caseload and restrictions in its budget, the Commission embarked on a decade of change that ultimately has led to significant success and a strengthened institution. Taking time to look back and review its accomplishments, as well as the challenges it has faced, will help the Commission remain relevant and effective as it carries out its mandate into the 21<sup>st</sup> Century.

### ***Corporate Restructuring***

In the early to mid 1990s, there was a renewed emphasis within the public sector on the use of public resources in a sustainable, cost-effective, and responsive manner with the goal of increasing effectiveness through sound reforms. In response, the Commission implemented a series of organizational improvement initiatives that aimed to increase the effectiveness and the efficiency of the Commission. They included:

- Quality and Quantity Assurance program and increased accountability
- Reformed customer service program
- Streamlined enforcement procedures
- Enhanced technology and training, and
- Leaner and more cost-effective organizational structure

Since their implementation, these initiatives resulted in improvements in the numbers of cases closed and in the quality of the work of the Commission.

Throughout the mid 1990s, the Commission was subject to review by several government bodies, which in part, led to many of the reforms that occurred over the past decade.<sup>1</sup> In response to these reviews, as well as its own evaluative efforts, the Commission has gone through a period of reform that has significantly changed the Commission's structure, increased its transparency and accountability, and strengthened its capacity to deliver on its human rights mandate.

### ***Centralized Services***

Beginning in 1996-97, the Commission consolidated its regional offices throughout the province into one head office in Toronto, covering two specialized functions: mediation and investigation, with some staff continuing to work in

regions through shared office arrangements. Job duties for these specialized functions were re-aligned into two separate positions: mediation officers and investigation officers.

The Commission also established a centralized call centre in 1997, offering one-window service, five days a week from its head office in Toronto. Given that the majority of people contact the Commission by telephone, the centralization of inquiry and intake services has significantly improved access to the Commission.

In 1999-2000, the Commission faced the challenge of having to find additional savings as part of government-wide budget restrictions. In response, it introduced new working arrangements for Commission staff located in regional areas of the province through teleworking. The project has helped the Commission to continue to operate within its funding allocation while maintaining a presence in the regions outside of Toronto.

### ***Registrar's Office***

In 1996-97, a newly formed Registrar's Office consolidated responsibilities that had formerly been spread among the Chief Commissioner's Office and three other Branches. This Office has provided clients with a central point of access to the Commission on cases after investigation has taken place. It is responsible for processing reconsideration requests, co-coordinating all functions related to Commission and Panel Meetings, and responding to Freedom of Information and Ombudsman issues.

### ***Technology***

In 1995, the Commission began a major upgrade of its technology infrastructure linking all parts of the Commission by computer, allowing for a more effective workflow and improved internal communications. By 1997, the Commission introduced the Case Management Information System (CMIS), and one year later, won the Ontario Government's Amethyst Award for outstanding achievement by Ontario's Public Servants for designing this time and money-saving technology. The system has helped the Commission manage all of its case documents and procedures electronically from the first phone call through to a final resolution, with modules developed for handling inquiries, intake, mediation, case allocation and investigation, referral decisions, and litigation. Importantly, it integrates policy and legal considerations into every stage of complaint processing.

CMIS has been essential to the Commission in achieving its case management objectives. It has drawn wide attention nationally and internationally, becoming a model for similar organizations that manage complaint or case processing systems.

Given funding realities, the Commission decided to capitalize on the value of the original CMIS through a long term license of the intellectual capital of CMIS in exchange for significant and ongoing upgrades to the software. In 2004, the Commission entered into an agreement with WorkGroup Designs Ltd., which is now globally marketing the CMIS technology.

### ***Web site***

Since launching its Web site, [www.ohrc.on.ca](http://www.ohrc.on.ca), in 1996, the Commission has progressively used the Internet as a resource for public education and to share information on human rights issues. It immediately became a cost effective and indispensable tool for the Commission to reach Ontarians by providing quick access to news releases, reports and policies, as well as a wide variety of other publications, including information about the *Code* and the Commission, the complaints process, plain language guides, case summaries and public education resources.

In recent years, the Commission has made more creative use of its Web site as a unique tool in support of the policy process. During its 2003 Racial Profiling Inquiry, the Commission collected submissions from the general public through its Web site. This resulted in a public consultation process that not only was more accessible for the public, but also more efficient and ultimately more effective for the Commission's policy process.

During the fiscal year 2004-2005, the Commission recorded over half a million (523,878) unique visits to the Web site, marking the fifth consecutive year the Commission has recorded an increase in Web site visits. Substantial redevelopment of the site is in progress and a new Commission Web site will be launched in 2005 to increase capacity and address the growing demand on this medium.

### ***Integration Protocol***

Over the last several years, the Commission implemented protocols to improve the investigative process by integrating legal and policy perspectives throughout. This integration has allowed the mediation and investigation branch to draw on the combined expertise from the legal and policy branches when mediating, investigating and analyzing, or settling a complaint. This has enhanced the quality of the Commission's work and permits shorter and more focused resolution of cases.

The integration of Commission functions also gives the policy branch access to the pragmatic perspective of the other two branches in undertaking research, inquiring into matters, developing policy, as well as in the delivery of public education and communication activities. The legal branch's involvement in the

development of Commission policies in turn better promotes the advancement of human rights jurisprudence.

### ***Mission Statement and Code of Ethics***

In 1997, the Commission developed a new mission statement and a Code of Ethics. Drawn directly from the Commission's mandate as defined by the Ontario *Human Rights Code*, the Mission Statement says,

*The Ontario Human Rights Commission is committed to the elimination of discrimination in society by providing the people of Ontario with strong leadership and quality service:*

- *in the effective enforcement of the Human Rights Code; and,*
- *in the promotion and advancement of human rights.*

Within this framework, the Commission introduced a new Code of Ethics the following year, to build on the Commission's existing improvements, enhance its internal capacity as a professional and accountable institution, and to be more transparent about its operations. The Code of Ethics formalizes the Commission's commitment to uphold the spirit and principles of the Ontario *Human Rights Code* in its daily work and helps to define what the Commission is, what it stands for, and how it should conduct its business. It also offers an internal assessment tool, setting a bar of excellence against which the Commission measures and improves on the quality of its work and the level of its service to the public. To support the Code of Ethics, the Commission appointed an external Ethics Advisor to provide guidance to Commissioners and staff regarding ethics-related issues.

### ***Accountability Framework***

The Commission first introduced an Accountability Framework in its 1996-1997 Annual Report to report to the public and the Legislature on its activities. The Accountability Framework acts as a reference to help the Commission monitor its progress, review its plans, and assess its successes and shortcomings over the course of the year, as well as set out commitments for the following year.

### ***Operational Effectiveness***

In 2002, the Executive Director's Office championed a number of initiatives aimed at increasing both employee satisfaction and operational effectiveness of the Commission. These included employee-led reviews of the Commission's operations and services, as well as new performance management, organizational health, and learning plan processes for Commission staff.

## ***Staff Training***

Staff training has remained an important component of the evolution of the Commission over the past ten years and has been instrumental in ensuring that Commission staff is aware of changes in Commission protocols, research and consultation initiatives, new policies, as well as relevant human rights tribunal and court decisions.

Training initiatives have focused on key skills required by staff and addressed topics such as: advanced mediation; systemic investigation; techniques for effective casework; writing case analyses and reasons; conducting conciliations; Code interpretation and jurisdiction, application of section 34; customer service; performance management; and the Code of Ethics. Commission staff also receives training on new Commission policies and initiatives, such as on disability issues, training on the Aboriginal Human Rights Program and, more recently, sessions on the Racial Profiling Inquiry and the Disability and Education initiative. As well, the Commission regularly delivers public education sessions to private, non-profit and government agencies throughout Ontario.

Over the past ten years, the Commission has increasingly developed and led both in-house and external training on Commission policies when significant changes in policy occur. For example, the Commission provided substantial staff training with the 2001 release of the revised *Policy and Guidelines on Disability and the Duty to Accommodate*. Additionally, leading to the launch of the inquiry into racial profiling in 2003, the Commission provided in-house training for staff on this large-scale initiative.

## ***Inquiry and Intake***

The Commission's Inquiry and Intake Service is the first point of contact for members of the public who want to learn more about their human rights and responsibilities or are considering filing a human rights complaint.

In the mid 1990s, the inquiry and intake function of the Commission underwent a restructuring that centralized the service in the Toronto office and in turn created a single point of first contact and consistent advice to people calling the Commission. Prior to this, the responsibility for this function was divided across regional offices, which sometimes resulted in inconsistent case management and application or interpretation of operational policy. Centralizing the inquiry and intake function addressed this issue and has become a key aspect of the Commission's continued commitment to increasing its quality of service to Ontarians.

Restructuring of inquiry and intake has included standardized and ongoing training for staff on the policies and procedures of the Commission as well as

customer service to ensure they are equipped with current skills and knowledge in human rights.

Since 1997, the inquiry and intake staff has successfully handled a steady increase in the number of calls to the Commission. Furthermore, they have become more proactive in their efforts to provide top quality service to Ontarians. For example, in 1997, the Commission introduced a linguistic services tool so that Commission staff could refer callers to non-official language interpreter services where needed. And, in 1998, in response to the Theresa Vince Inquiry<sup>2</sup>, the Commission introduced a new procedure to help victims of sexual harassment identify potential situations of violence and refer them to appropriate community services including the police.

Additionally, in 2002-2003, the Inquiry Office became more proactive in educating complainants and respondents about their rights and responsibilities under the *Code* on their first contact with the Commission. This has helped empower potential complaints to try and resolve their matter before filing a complaint. It also provides potential respondents with resources to help them prevent or address complaints of discrimination within their organization. Inquirers whose issues are not human rights-related are immediately referred to more appropriate organizations for help. The result has allowed the Commission to better focus its resources on complaints that are filed.

In 2004, the Commission implemented a new process for self-drafting human rights complaints to streamline the complaints process in light of an increasing caseload and limited funding. Under the old process, complainants were required to fill out a 7-page questionnaire in order to file a complaint. Close to 50% of the intake questionnaires sent to complainants were never returned. In the new self-drafting process, individuals are asked to provide the particulars of their allegations directly onto a 4-page complaint form. The new approach speeds up the processing of complaints and gives individuals more control over their complaint. It has also allowed the Commission to redeploy resources to mediation and investigation services.

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

In September 1997, the Commission introduced voluntary mediation services as an alternate approach towards resolving a complaint to the satisfaction of both parties and the Commission.

Since its inception, mediation has been an extremely successful aspect of the Commission's work, with an overall average settlement rate of 73.5% in cases where mediation was attempted. On average, close to 40% of cases closed by the Commission have settled through mediation or through conciliation at a later

stage in the complaint process. In a client survey, over 87% stated that they would use mediation again if they had another human rights complaint.

The growing use of mediation, by parties on each side of a complaint, has helped to reduce the number of cases needing to proceed through a more lengthy investigation process. This in turn has enabled the Commission to focus its investigative resources on unsettled cases and older cases, particularly those that had been active files for more than 12 months, and help manage the overall average age of complaints in the system.

An example of a successfully mediated settlement occurred in 2004 with Mattamy Homes with regard to their policies and procedures, which initially did not appropriately consider accessibility changes for homebuyers. Rather than proceed to investigation or referral to the Human Rights Tribunal, the parties decided to resolve the issue in a direct and positive manner.

### ***Investigation and Referral***

As Canada's province with the largest and most diverse population, it is not surprising that the Ontario Human Rights Commission has the highest caseload per capita in the country. Both the size and the age of the caseload continue to be challenges for all human rights commissions. The Commission has little control over the size of its caseload since the number of complaints in the system depends to a large extent on the number of complaints filed in any given year. The Ontario *Human Rights Code* requires that the Commission accept all complaints individuals wish to file, even those where the Commission has informed an individual that the matter does not fall under the *Code*, such as a dispute between two individuals that is not based on a ground or social area under the *Code*.

The last ten years have included an emphasis on reducing the size and age of the caseload through effective restructuring of the investigation function of the Commission. In 1996, the Commission committed to achieving a current caseload (one that is 12 months or less), and investigation staff were instrumental in achieving this goal by 2000-2001. A comparison with past caseload statistics shows the consistent progress the Commission has made in this area.

<b>Caseload Statistics / History</b>					
<b>YEAR</b>	<b>Cases Opened</b>	<b>Cases Closed</b>	<b>Caseload</b>	<b>Tribunal Referrals</b>	<b>Average age of caseload (months)</b>
1995-96	2,560	1,374	2,899	37	15
1996-97	1,916	2,058	2,775	28	18.4
1997-98	1,368	1,460	2,771	30	19.9
1998-99	1,850	2,218	2,386	92	16.2
1999-00	1,861	2,305	1,952	92	13
2000-01	1,775	1,941	1,781	73	10.4
2001-02	2,438	1,932	2,300	60	11
2002-03	1,776	1,954	2,137	58	11.5
2003-04	2,450	2,038	2,549	288	10.8
2004-05	2,399	2,215	2,733	150	11.2

It is important to note that in years where significant increases have occurred in the number of complaints filed (i.e., in 2001-2002, 2003-2004, and again 2004-2005), the Commission has been able to close the same number of cases (averaging approximately 2,000) and maintain the average age of the caseload below 12 months. This suggests that, within its current funding allocation, without other changes, the Commission has capacity to resolve a maximum of 2,200 to 2,300 cases yearly. In this context, the rising demand on Commission services is having an impact. In the fiscal year 2003-2004, 2,450 new complaints were filed at the Commission, representing a 38% increase over the number of complaints filed in 2002-2003, and a general rise in complaints across most grounds of discrimination. In 2004-2005, the Commission received 2,399 new complaints, a modest 2% decrease over 2003-2004. In the same period, the average age of active cases increased from 10.8 months in 2003-2004 to 11.2 months in 2004-2005. Steps are now being taken to manage this situation.

### ***Litigation***

When the Commission refers a complaint to the Human Rights Tribunal of Ontario (HRTO), a separate body from the Commission, its role changes. The Commission becomes a separate party before the Tribunal and has carriage of the complaint representing the public interest during the proceedings. When complaints are referred to the Tribunal or are appealed to higher courts, the resulting decisions can create precedents and directions for human rights law in Ontario and beyond. In the last decade, the Commission has been involved in a number of high profile cases that have added to this important body of case law.

Generally, the decisions are of several types: those that identify whether or not a human rights violation has occurred and what the remedy will be; decisions that significantly advance our understanding of human rights law; and judicial review decisions that determine the scope of the Commission's discretionary powers and rule on how it handles complaints. Public interest settlements, and sometimes Commission initiated complaints, have also been fundamental to the Commission's litigation history over the past ten years.

This decade has shown remarkable advancement in human rights protections through the Courts and Tribunals. In the past ten years, the approach to human rights litigation has been markedly altered by ground-breaking Supreme Court of Canada decisions and a series of decisions in Ontario have helped to promote and advance human rights in this province.

### ***Tribunal Decisions***

A number of key cases have been litigated by the Commission over the past decade before what is now the Human Rights Tribunal of Ontario.

In *Brillinger and the Canadian Lesbian and Gay Archives v. Imaging Excellence Inc. and Scott Brockie* the complainant, Ray Brillinger, sought printing services from the respondent Imaging Excellence Inc. for business cards and letterhead for the Canadian Lesbian and Gay Archives (the "Archives"). The president of Imaging Excellence, Scott Brockie, denied the service on the basis of his religious belief that homosexuality is contrary to the teachings of the Christian Bible. Brockie argued that his right to freedom of religion under section 2(a) of the *Canadian Charter of Rights and Freedoms* (the "*Charter*") was a defence to the complaint. The tribunal held, and the Divisional Court affirmed, that Brillinger was denied printing services contrary to section 1 of the *Code* and rejected the defence under the *Charter*. The case was significant because it involved a balancing of individual religious rights and individual rights to protection from discrimination in the marketplace.

A case in which the Commission explored the liberal interpretation of several of the *Code*'s existing prohibited grounds was *Kearney v. Bramalea Ltd. et al.* The case involved three complainants who alleged the use of minimum income criteria or rent-to-income ratios by several landlords when assessing applications for tenancy. The Tribunal ruled that the landlords' use of such criteria had a disparate impact on individuals based on their sex, race, marital status, family status, citizenship, place of origin, age and the receipt of public assistance. The landlords could not establish a defence as they could not demonstrate that the use of the criteria was reasonable and *bona fide* or that stopping the use of the criteria would cause undue hardship.

The Tribunal's July 1996 decision in *Naraine v. Ford Motor Co. Ltd.* represented a significant step forward for cases involving race discrimination. Mr. Naraine, an East Indian man originally from Guyana, worked for the Ford Motor Company in Windsor for over nine years. He alleged that, during that time, his working environment was poisoned by racist graffiti and by racist verbal comments that were directed at him and, in some instances, directed at other visible minority employees. Mr. Naraine also alleged that he was given inferior work assignments and training, and that he was subject to a higher level of scrutiny and discipline than were other employees. In the latter three years of his employment, Mr. Naraine was subject to progressive discipline, ultimately resulting in his termination for an alleged altercation with a co-worker. The Tribunal held that harassment poisoned the complainant's work environment and was responsible, in part, for the discipline he received at Ford. It also held that Mr. Naraine's ultimate dismissal was improper because Ford had failed to consider the effect the poisoned environment was having on the complainant.

In the labour law context, the decision in *Bubb-Clarke v. The Toronto Transit Commission and ATU Local 113* is of great significance in finding liability on both an employer and a labour union for having agreed to a collective agreement that was discriminatory. Bubb-Clarke was a bus driver with the TTC. He was diagnosed as having narcolepsy, and could no longer drive a bus. Under the Collective Agreement, the seniority he had gained as a driver (transportation group) could only be used in the transportation or collectors' groups. That Agreement prevented him from transferring his 10 years of transportation seniority into the maintenance group. During the hearing, the TTC settled with the OHRC, and did not oppose the remedy requested. The Tribunal found that the Collective Agreement itself breached the Code because it prevented the transfer of seniority when an employee moved from one group to another because of disability. It held that barriers to the fullest range of employment opportunities for employees with disabilities should be eliminated. Both Bubb-Clarke, and other similarly situated employees, were granted full seniority for all the time employed by the TTC, transferable to his or her present position or any other position he or she may occupy as a result of the disability.

Also of tremendous significance are the Tribunal's 1998 and 2002 decisions in *McKinnon v. Ministry of Correctional Services*. The Tribunal, and later the Divisional Court, found that "outrageous discrimination continued unabated for a period of approximately fifteen years" and further found that the Tribunal's original remedies, set out in its 1998 decision, "appear to have been at least in part, subverted". Accordingly, in 2002, on the basis of the Commission's submissions, the Tribunal set out extremely wide-ranging remedies requiring fundamental change at the Ministry including: training for all managers, including senior management of the Ministry; revision of performance appraisal forms to include responsibility for compliance with the Tribunal's decision for the Deputy Minister, Assistant Deputy Ministers, Regional Directors, Superintendents and Deputy Superintendents of the Ministry, as well as the Superintendent, Deputy

Superintendents, and Managers of the Toronto East Detention Centre; external investigation and mediation of all Workplace Discrimination and Harassment Protection policy complaints; and appointment by the Ministry of a competent third party, nominated by the Commission, to develop and oversee the delivery of training programs ordered.

These cases and others<sup>3</sup> illustrate the strides that the Commission has made over the past ten years in advancing human rights through its litigation function at the tribunal level.

### ***Divisional Court, Court of Appeal & Supreme Court of Canada Decisions***

When basic principles of human rights law are challenged, the Commission takes quite seriously its obligation to defend the liberal, purposive interpretations of the *Code*. A number of cases have made their way through the appellate courts over the last ten years. In *Quereshi v. The Board of Education for the City of Toronto*,<sup>4</sup> the Court held that section 5 of the *Code* prohibits unintentional discrimination. In *Velenosi v. Dominion Management et al.*,<sup>5</sup> the Court affirmed the principle that a prohibited ground of discrimination need only be *one* of the reasons *not the only* reason, or even a primary reason, for an action to constitute a *Code* violation. In *Entrop v. Imperial Oil*, the Court of Appeal held that substance abuse, including alcoholism, is a disability and random drug testing is illegal.<sup>6</sup>

The Court of Appeal's decision in *McKinnon* was important because it confirmed the power of the Tribunal to order additional remedies when its first set of remedies have been disregarded or thwarted. The more recent decision of the Divisional Court in *Smith v. Mardana Ltd.*, is of particular significance in advancing cases involving racial discrimination rejecting the myth that a company which hires and promotes racialized persons cannot, for that reason, discriminate. The Court recognized the subtle and indirect ways in which racial discrimination can occur.

In the Supreme Court of Canada, the Commission was successful in greatly expanding the scope of family status protection and ensuring that a broad, liberal, interpretation of the *Code* be adopted in *B. v. Ontario (Human Rights Commission)*.<sup>7</sup> That Court also confirmed that communications between Commission counsel and the Commission were protected by solicitor-client privilege in the recent decision in *Pritchard v. Ontario (Human Rights Commission)*.<sup>8</sup>

### ***Judicial Review Decisions***

Parties to a complaint may apply to the Divisional Court for judicial review of certain Commission decisions. Specifically, they may ask for a review of decisions made under certain sections of the *Code*: s. 34 (whether or not to deal with a complaint); s. 36 (whether or not to refer the subject matter of a complaint

to a human rights tribunal); and s. 37 (reconsideration by the Commission of its original decision under either section s. 34 or s. 36).

These Court rulings help to clarify the scope of the Commission's discretionary powers and handling of complaints. In *Gismond v. Ontario Human Rights Commission*,<sup>9</sup> the Court held that the standard of review to be applied on judicial review of the Commission's decisions under sections 34, 36, and 37 of the *Code* is that of "patent unreasonableness". In coming to this conclusion, it noted the finality of decisions under section 37, the lack of an appeal route from the Commission's decisions, the Commission's investigative and screening (as opposed to quasi-judicial) role under sections 34, 36, and 37, and the well-recognized expertise of the Commission in fact-finding and processing complaints in the human rights context.

Key decisions have also determined the scope of damages awarded in human rights cases. For example, in *The Shelter Corp. v. OHRC and Kearney et al.*,<sup>10</sup> the court held that the Board of Inquiry "...is entitled to award non-pecuniary intangible damages arising out of the infringement of the *Code*...it is compensation for the loss of the right to be free from discrimination and the experience of victimization. There is no ceiling on the amount of general damages." More recently, in *Losenno v. Ontario (Human Rights Commission)*<sup>11</sup> the Divisional Court agreed that a rejection of a "reasonable settlement offer" by a complainant was a sufficient basis for not referring the complaint to the Tribunal on the basis that the procedure was not appropriate.

### ***Interventions***

During the mid-1990s, the Commission adopted an active approach to intervening in precedent-setting cases, and since then has intervened in a number of key cases at the Supreme Court of Canada. One such landmark case for the Commission was *M v. H*.<sup>12</sup> Following the breakdown of their twelve-year relationship, the respondent "M" went to court to obtain an order of support against "H", her former same-sex partner. At the outset of her support motion, "M" argued that the opposite-sex definition of "spouse" in section 29 of the *Family Law Act*, which precluded an application for support in the context of a lesbian common law relationship, constituted a denial of the equality rights in section 15 of the Charter. The Commission supported the position of "M" and argued that the opposite-sex definition of "spouse" in the *Family Law Act* was discriminatory and violated principles of equality under section 15 of the Charter. In May 1999, the Supreme Court held that the opposite-sex definition of "spouse" contravened the Charter.

The Commission's active approach to using interventions to advance human rights can be seen in several other key Supreme Court of Canada cases that have occurred over the past decade including, but not limited to: *Gibbs v. Battlefords and Dist. Co-operative Ltd.*,<sup>13</sup> *Blencoe v. British Columbia (Human*

*Rights Commission*);<sup>14</sup> *Parry Sound (District) Social Services Administration Board v. O.P.S.E.U., Local 324*<sup>15</sup>; *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Quebec (Attorney General)*<sup>16</sup>; *Syndicat Northcrest v. Amselem*<sup>17</sup>; and *Reference re Same-Sex Marriage*.<sup>18</sup>

### **Settlements**

Additionally, the Commission settles many complaints prior to the complaint ever being sent to the Human Rights Tribunal. A number of key settlements have occurred over the last ten years. For example, in 1999, a settlement was reached in a complaint against Markham-Stouffville Hospital by seven of its nurses who objected to participating in abortion procedures due to their religious convictions. Following an investigation, the Commission decided that the case should go before a human rights tribunal. Before a hearing took place, the parties and the Commission reached a mediated settlement.

In 2002, another key settlement was reached between six complainants with disabilities and the Toronto Transit Commission (TTC). The complaints arose out of the TTC's decision in 1996, following cuts to its operating budget, to change the eligibility criteria and application process for Wheel-Trans service. Those who applied for Wheel-Trans were required to attend an in-person eligibility interview and if they were found eligible to receive Wheel-Trans service, they were required to pay a one-time \$25 fee. In settling the complaint, the TTC ceased charging the \$25 fee and agreed to refrain from charging any fees associated with determining eligibility.

In 2004, a key settlement was reached with the para-transit provider in Hamilton, ensuring faster pick-ups of disabled passengers and greater equalization with the mainstream service. And in 2005, the Commission obtained a very significant settlement with the Toronto Police Services Board following police raids of a bathhouse hosting an event for lesbian patrons. The settlement includes sensitivity training for all police officers on gay and lesbian issues.

### **Commission Initiated Complaints**

While the Commission favours a voluntary and cooperative approach to resolving human rights complaints, under subsection 32(2) of the Ontario *Human Rights Code*, the Commission can initiate a complaint where the evidence warrants such action. The Commission investigates and then prepares a written report of its findings. If no settlement is reached, the Commission can decide whether to refer the matter to the independent Human Rights Tribunal of Ontario.

Since 1995, the Commission has used this mechanism to enforce the *Code* in a number of cases.<sup>19</sup> For example, in 1997, the Commission initiated a complaint against the City of Toronto and the Toronto Firefighters Association<sup>20</sup> on the basis of several complaints regarding discrimination in recruitment practices for

firefighters, particularly with respect to women and racial minorities. More recently, in 2004, the Commission announced that it had initiated a complaint against a restaurant chain with regard to accessibility issues for people with disabilities.

### ***Policy Development***

The Commission has the responsibility to promote and advance human rights in both policy and practice. This responsibility gives the Commission opportunities to inform social policy issues through a human rights lens. For this reason, its public policy statements and guidelines are some of the most important documents used by the Commission other than the *Code* itself.

In 1996, the Commission undertook a comprehensive review of its entire policy framework in order to ensure that staff and the general public had up-to-date information about the *Code* and the Commission's policy decisions. A key feature emerging from that review was the commitment to include reference to legislation and international conventions that are relevant in the context of policies as well as to key human rights tribunal or court decisions. In this way, the Commission is clear about the context in which its policy positions are developed.

In the late 1990s, the Commission further refined its approach to policy development through a process of research, public consultation, public reporting, and policy drafting for approval by the Commission. The resulting Commission policies and guidelines are approved public statements that set out the Commission's interpretation of specific provisions of the *Code*. The purpose of these policies and guidelines is to help the Commission, members of the public and those involved in human rights work to interpret and understand how the *Code* is applied.

### ***Consultation***

Commission consultations have taken different formats over the years. The Commission has worked to coordinate opportunities for experts and key stakeholders, as well as the general public, to contribute to the work of the Commission and to the advancement of human rights in general. The Commission's 2003 public inquiry into racial profiling, for example, was an extensive process that took place over several months. It involved public hearings, focus groups, an on-line consultation that resulted in feedback and written submissions from over 400 individuals and organizations relating personal experiences, and expert opinions. Other recent consultations have included the Commission's consultation on accessible education for students with disabilities and a Policy Dialogue on Racial Discrimination and Racism.

### ***Policy Highlights 1995-2005***

The past ten years also mark a landmark decade for public consultation and policy work at the Commission. Throughout this time, all of the Commission's current policy documents were developed and/or revised. These policies and guidelines are used extensively by the private sector, non-profit and government agencies, and are also recognized nationally and internationally. The Commission has been invited to present its leading edge work at conferences and forums across Canada and abroad. The Government of Ontario formally recognized the Commission's policy work in 2001-2002 when it awarded an Amethyst Award to Commission staff for Outstanding Achievement by Ontario Public Servants for the development of the Commission's *Policy and Guidelines on Disability and the Duty to Accommodate*. The following list highlights some of the other key accomplishments of the Policy branch over the last ten years:

- Policy on Creed and the Accommodation of Religious Observances (1996)
- Policy on Discrimination and Harassment because of Sexual Orientation (1999-2000)
- Discussion paper and consultation on gender identity (1998-99); Policy on Discrimination and Harassment because of Gender Identity (2000-2001)
- Policy on Discrimination Because of Pregnancy; updated to include breastfeeding (2000-01)
- Policy and Guidelines on Disability and the Duty to Accommodate (2000-2001)
- Policy on Drug and Alcohol Testing (revised 2000-2001)
- Research paper, *Human Rights Commissions and Economic and Social Rights* (2001)
- Discussion paper, *An Intersectional Approach to Discrimination: Addressing Multiple Grounds in Human Rights Claims* (2001)
- Discussion paper on public transit accessibility (2001); Consultation report (2002)
- Discussion paper and public consultation on age discrimination (2000-2001); consultation report, *Time for Action: Advancing Human Rights of Older Ontarians* (2001); *Policy on Discrimination Against Older Persons Because of Age* (2002-2003)
- Public inquiry on racial profiling (2002); consultation report, *Paying the Price: The Human Cost of Racial Profiling* (2003)
- Consultation paper, *Human Rights Issues in Ontario's Education System* (2002); public consultation held across Ontario (2002-2003); consultation report, *The Opportunity to Succeed: Achieving Barrier-free Education for Students with Disabilities* (2003-2004)
- Restaurant accessibility audit (2002-2003); achieved cooperative commitments from restaurant chains and released report *Dining Out Accessibly* (2003-2004)
- Policy Dialogue on racial discrimination and racism; proceedings published in *Canadian Diversity*, a journal of the Association of Canadian Studies (2004-2005)

## ***Policy Review and Advice***

Another key area of policy work for the Commission involves reviewing and commenting on new or proposed legislation or other government initiatives for compliance with the *Code*. Such reviews have often led to the development of Commission positions on pending or actual legislation, and to research, consultation and policy development. For example, in 1996-1997, the Commission undertook a review of 65 different Ontario statutes and wrote to Government about discriminatory spousal provisions regarding same-sex partners. This analysis was helpful to the Commission when it later intervened in the precedent-setting Supreme Court of Canada case, *M. v. H.*, and to the Government when it subsequently sought the Commission's input after the Court ordered that all legislation in Ontario be amended to remove the discriminatory spousal provisions.

In 1997, the Commission reviewed and opposed certain proposals in the draft *Tenant Protection Act, 1997* and was successful in obtaining some protections for tenants against income screening when the legislation was passed in 1998. The Commission has also been active in reviewing and making recommendations with respect to barriers for Ontarians with disabilities. In 1998, the Commission formally responded to the Government's consultation document that preceded the *Ontarians with Disabilities Act* (ODA), and following its passage, continued to stress the need for a strengthened Act. The Commission provided a written submission to the Ministry of Citizenship and Immigration's public consultation on strengthening the *Ontarians with Disabilities Act* in the spring of 2004 and in early 2005 provided comments on Bill 118, the *Accessibility for Ontarians with Disabilities Act*.<sup>21</sup>

In 2002, on a related issue, the Commission made a submission to the Ministry of Municipal Affairs & Housing regarding reform of the barrier-free access requirements in the *Ontario Building Code* and has commented publicly on *Building Code* issues several times since, such as in its 2004 report on *Dining Out Accessibly: An Accessibility Audit of Select Restaurant Chains in Ontario*.

## ***Policy and Litigation***

The Commission's litigation function has been instrumental in reinforcing the role of the Commission's policy work in the advancement of human rights in Ontario. The Human Rights Tribunal decision in *Quesnel v. London Educational Health Centre*,<sup>22</sup> applied the United States Supreme Court's decision in *Griggs v. Duke Power Co.*, 401 U.S. 424 (4th Cir. 1971) to conclude that Commission policy statements should be given "great deference" if they are consistent with *Code* values and formed in a way that is consistent with the legislative history of the *Code* itself.

Additionally, decisions rendered can have the effect of putting into practice key human rights concepts. More recently, the decision of the Human Rights Tribunal in *Baylis-Flannery v. Walter DeWilde c.o.b. as Tri Community Physiotherapy (No. 2)*,<sup>23</sup> represents the first time the Tribunal explicitly recognized and applied the concept of intersectionality with respect to both liability and remedy. This was particularly important for the Commission given the release of its discussion paper, *An Intersectional Approach to Discrimination Addressing Multiple Grounds in Human Rights Claims* (2001) and its subsequent application of the concept in its work.

### **Public Education**

Throughout the past decade, the Commission has witnessed a steady increase in demand for its public education services. In 1996-97, the Commission reported that it had received more than 1,200 requests for advice, information, and guidance on the *Code*, double the number from the previous year. The Commission responded by renewing its commitment to public education and developing a strengthened public education strategy in the late 1990s. Two public education strategies have occurred since with continuous and increasing successes, as illustrated below in the Commission's public education statistics:

<b>Number of Public Education Events Conducted and Persons Reached</b>											
<b>Year</b>	94-95	95-96	96-97	97-98	98-99	99-00	00-01	01-02	02-03	03-04	04-05
<b>Events</b>	6	38	39	75	81	108	103	104	80	105	96
<b>Persons</b>	311	1,384	1,715	3,497	4,638	8,600	9,300	9,000	6,200	9,000	7,500

These statistics indicate that the strategies implemented since 1997 have had a dramatic effect in bolstering the Commission's capacity to reach out and provide human rights education throughout Ontario and beyond. To understand the effectiveness of its work, the Commission measures the quality of its presentations with participant surveys and has consistently maintained an 80% or more satisfaction rate among participants for all public education activities.

The Commission's public education work is diverse and aims to deliver human rights education in various ways. One of its most successful ventures was the release in 1996 of *Teaching Human Rights in Ontario* followed by a revised edition in 2001. This educational resource, aimed primarily at Ontario high school students, provides information on the provisions of the Ontario *Human Rights Code* and the work of the Commission.

During the past ten years, the Commission has also launched a number of key public awareness campaigns that have garnered widespread attention to the human rights issues at hand. For example, in 1999 and 2000 following the Theresa Vince Inquiry, the Commission launched two consecutive province-wide public awareness campaigns against sexual harassment featuring posters on public transit vehicles and in LCBO outlets throughout Ontario.

In 2000-2001, following a key human rights case regarding breastfeeding, the Commission partnered with the Infant Feeding Action Coalition (INFACT) Canada and Toronto Public Health to promote children's health and breastfeeding as human rights issues.

In the summer of 2003 as a part of the Commission's work on age discrimination, the Commission led a province-wide campaign in partnership with CARP (Canada's Association for the 50-plus) and Shoppers Drug Mart, to counteract myths and stereotypes about older Ontarians.

Most recently, in December 2004, the Commission implemented a province-wide newspaper ad campaign to mark the one-year anniversary of the Commission's inquiry report on racial profiling.

In its efforts to increase public awareness about human rights and the Commission's services across different communities, the Commission has successfully partnered with a number of agencies over the past ten years to deliver information in innovative ways. For example, in partnership with the Réseau des femmes du sud de l'Ontario, the Commission developed a brochure on preventing female genital mutilation (FGM) in English, French, Arabic, Somalian, Swahili and Amharic. The Commission has since partnered with COSTI to develop and distribute multi-lingual guides on sexual and racial harassment, non-discriminatory hiring, how to file a complaint and other Commission services. Brochures dealing with these issues are available in the following languages: Chinese, Punjabi, Somali, Spanish, Tagalog, Urdu, Vietnamese, French and English. In 2003, in partnership with HRPAO (Human Resources Professionals Association of Ontario), the Commission launched a revised and expanded version of *Human Rights at Work*, a plain language guide for employers. Through such diverse partnerships, the Commission has been successful in expanding its capacity to inform the public about human rights in Ontario.

In recent years, the Commission has also coordinated the development and evaluation of its Aboriginal Human Rights Program in partnership with GREAT (Grand River Employment and Training), the Ontario Federation of Indian Friendship Centres and the Native Canadian Centre of Toronto (NCCT) to increase awareness of the *Code* among Aboriginal communities and enhance their access to the Commission's services. It included research on best practices for public education and awareness in Aboriginal communities, a needs

assessment, the establishment of formal partnerships with Aboriginal organizations, the hiring of an Aboriginal human rights liaison officer for a period of two years, training workshops for Commission staff and community agencies, a pilot community-based awareness campaign, the development of quality service standards and a program evaluation of the project. The evaluation identified a need to reach out more broadly to agencies serving Aboriginal communities. This led the Commission to begin partnering with the Union of Ontario Indians (UOI) to develop and distribute a brochure about the *Code* and the Commission to Aboriginal communities in several Aboriginal languages, planned for release later in 2005.

### ***National and International Liaison***

The Commission cooperates at both the national and international levels in the promotion and advancement of human rights. The Commission is a member of the Canadian Association of Statutory Human Rights Agencies (CASHRA) and the International Association of Official Human Rights Agencies (IAOHRA). Since 1996-97, members of the Commission's senior management have held the positions of President, Secretary and Treasurer for CASHRA. In 1997, the Commission presided over CASHRA, taking responsibility for organizing and hosting the annual conference. In 1999-2000, the Commission worked with CASHRA members to develop a human rights poster "Human Rights are Everyone's Business/Les Droits de la personne, c'est l'affaire de tout le monde". And in 2002, the Commission prepared a submission, on behalf of CASHRA, to the Government of British Columbia in response to that province's introduction of legislation to abolish its human rights commission. Commission staff are also active in CASHRA's policy, education and legal sub-committees.

The international side of the Commission's work occurs through contributions it makes to provincial or federal reports with regard to Canada's obligations under international human rights conventions. For example, in 1998-99, the Commission provided comment in response to questions regarding Canada's Fourth report from the Committee on Economic, Social and Cultural Rights. In 2002-2003, the Commission provided information to the Ministry of Labour in preparation of Ontario's comment for Canada's report responding to questions from the International Labour Organization regarding measures taken to prevent discrimination in employment and to promote employment of women, older workers, people with disabilities, and other categories of people subject to discrimination. In 2003-2004, the Commission commented on the U.N. *Draft Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities*.<sup>24</sup>

Finally, the Commission has, over the past ten years, worked to support its national and international partners in human rights advancement by hosting delegations and visitors from across Canada and abroad. These included the Canadian Human Rights Review Panel, the United Nations High Commission for

Human Rights as well as representatives from human rights commissions and related agencies and/or groups from the following countries: Sri Lanka; India; Japan; Chile; South Africa; Nigeria; Thailand; China; Malawi; Norway; Uganda; Northern Ireland; Ethiopia; New Zealand; Ghana; Vietnam; Greece; Burma; the Philippines; Norway; Vietnam; Korea; Albania, and Bermuda.

## What We've Learned

### ***Maximizing Resources and Mandate***

The past decade has seen significant challenge and change in the operations of the Ontario Human Rights Commission. These took place in a context of dynamic external circumstances including changes in government and new legislative agendas, budget constraints, and reviews of government agencies along with a number of significant human rights tribunal and court decisions, shifts in the public policy landscape, and growing demand for the Commission's varied services.

In the face of an increasing number of complaints being filed, and within a relatively flat funding allocation during this period, the Commission has deployed a number of creative strategies and initiatives to greatly improve the efficiency and effectiveness of its operations and services, while not compromising on the broad exercise of its mandate.

These initiatives have included: internal restructuring of different branches and offices of the Commission; centralization of the Commission's Inquiries and Intake services; cost-saving tele-work arrangements for Commission staff working in different regions of the province; effective use of information technology for both case management and public education; and most recently, the introduction of a new self-draft complaint process to speed up the filing of complaints.

Endorsed by Canada in 1993, the United Nations' *Paris Principles* on the status of domestic human rights commissions and related guidelines recognize that "operational efficiency" is one of the key elements, along with "adequate resources", for the effective functioning of commissions. Operational efficiency includes: effective working methods and rules of procedure for service delivery to clients; personnel practices that encourage retention of efficient, representative, impartial and well-trained staff; and, self-evaluation by institutions with a view to continuously improving their effectiveness. These have all been central in the Ontario Human Rights Commission's restructuring initiatives.

At the same time, the pursuit of operational efficiency in the exercise of a commission's compliance function should not compromise the institution's ability to engage in its other mandated functions for the promotion and advancement of

human rights. Moreover, the Commission's compliance function is strengthened by the complementary roles the Commission plays through its policy development, legal services and public education functions. Policies adopted by the Commission are integrated into the complaints process to ensure a consistent approach. The Commission's policies have been critically acclaimed across Canada, as well as beyond Canada's borders. These policies, together with case law, form the submissions of Commission counsel at the Human Rights Tribunal of Ontario and before the courts, effectively promoting human rights, and result in sector-wide remedies. The Commission's litigation function has also included advancing human rights through the Court system, on important appeals or interventions in the appellate courts. And the Commission's regular exercise of its ability to speak out on human rights matters and deliver public education is enhanced by its compliance role.

Striking a balance between its compliance, promotion and advancement functions, with limited resources, and all the while remaining relevant and accountable to the public – this has been both the Ontario Human Rights Commission's greatest challenge and greatest achievement over the past ten years.

### ***Relevance of Human Rights Commissions Today***

The Ontario Human Rights Commission's experience in the promotion and protection of human rights is a testament to the fact that human rights commissions in Canada, and abroad, have a very relevant role to play in today's society, one that is important and distinct from other government institutions and non-government organizations.

Throughout the past decade, several studies have echoed this sentiment. In 2000, the Canadian Human Rights Review Panel clearly identified the continued need for human rights commissions in Canada and recommended in particular that the Canadian Human Rights Commission be strengthened to carry out a host of functions involving both promotion and protection of human rights.<sup>25</sup>

In December 2001, the Standing Senate Committee on Human Rights gave a similar message. They acknowledged that the mandates of human rights commissions in Canada are important in preventing future discrimination and human rights violations. They further stated that commissions have the mandate to review proposed legislation and policies, and, when they are able to conduct these analyses and publicize their findings, this aspect of their work can be invaluable not only for the general public, but also for parliamentarians<sup>26</sup>.

Furthermore, recent court decisions, including *McKenzie Forest Products Inc. v. Tilberg*<sup>27</sup> and *British Columbia (Human Rights Comm.) v. British Columbia (Human Rights Tribunal) and Shannon*<sup>28</sup> have echoed the importance of this role.

The Canadian Association of Statutory Human Rights Agencies (CASHRA) has also publicly commented, in the context of the UN *Paris Principles*, on the importance of human rights commissions with broad mandates:<sup>29</sup>

...there is a need for independent human rights commissions with broad mandates...the capacity to identify issues and to speak out is an important part of a commission's mandate to promote awareness of and respect for human rights. At the same time, an ability to receive and investigate individual complaints is also recognized as an important and common function of a commission.<sup>30</sup> Particularly important as well...is its capacity to initiate, join in or intervene in human rights cases before a tribunal or at a higher court as an expert and independent body representing the public interest.

As well, international bodies have recognized the significance of human rights in Canada and the institutions that enhance and promote them. In its August 2002 review of Canada's 13<sup>th</sup> and 14<sup>th</sup> Reports with respect to the *International Convention on the Elimination of all Forms of Racial Discrimination*, the UN Committee on the Elimination of Racial Discrimination acknowledged the continued commitment to human rights throughout Canada. In its Concluding Observations, the UN Committee noted:

"the strong and steadfast commitment to human rights manifested by Canada through, in particular, the existence of numerous federal, provincial and territorial instruments and institutions aimed at enhancing human rights, such as the Canadian Charter on Human Rights and Freedoms, the *Canadian Human Rights Act*, and the provincial and territorial Human Rights Acts" (emphasis added).<sup>31</sup>

Other recent studies and reports examining the role of human rights commissions in Canada include: The Praxis Research Report (2001); The Canadian Centre for Policy Alternatives, "Rolling Back Human Rights in BC", (Shelagh Day, 2002); Nova Scotia Human Rights Commission, "Moving Forward with Human Rights in Nova Scotia: The Path for the Future" (November 2002).

Together, these reports reiterate that there is an important role for commissions to have responsibility for ensuring compliance, promoting and advancing rights. Commissions are the foundation of a formidable human rights system across Canada, one that is lauded, envied and modeled around the world. As Canada's first commission, established in 1961, the Ontario Human Rights Commission has been a significant part of this history and continues to be recognized today as a leader among commissions in Canada and abroad.

### ***Role of the Commission Going Forward***

The Ontario Human Rights Commission believes it is important that government and non-government organizations, as well as individuals with an interest in Ontario's human rights system, be resolved to the goal of ensuring this system be made stronger and more effective.

For its part, the Commission is committed to this goal and understands the importance of continuing to grow and evolve as an institution. It has proven over the years that it can be creative in finding ways to improve on its processes and services without compromising the delivery of its broad mandate. At the same time, the Commission has stated that without procedural changes to the *Code* or additional funding, it is reaching a limit in its ability to maximize resources and effectively address an increasing demand on its services.

However, in striving to understand what works well and what changes or improvements could be made, it should be noted that Ontario's current human rights system has many strengths that are consistent with the United Nation's *Paris Principles* relating to the status of domestic human rights commissions. It is the Commission's strong belief and experience that certain key principles should continue to be at the core of Ontario's human rights system: the need to have an independent human rights body with adequate resources and a broad mandate to enforce human rights, undertake research and policy development, speak out on human rights matters, engage in cooperative initiatives, and deliver public education. Other important features and considerations include: continuing a gate-keeping function to ensure the system is not overwhelmed; ensuring continued access to legal assistance for vulnerable complainants; creating more access to alternative dispute resolution; ensuring the hearing process not be overly judicialized and remains financially accessible; and, ensuring sector-wide public interest remedies are being pursued.

These principles have been the foundation of the Commission since its inception and have guided the evolution of its processes and services over the past ten years. And, they continue to be central to its work as the Commission's 2004-2005 activities demonstrate.

## Appendix – Part I

## OHRC Comparative Indicators 1995-2005

	2004-05	2003-04	2002-03	2001-02	2000-01	1999-00	1998-99	1997-98	1996-97	1995-96
<b>Public Contacts</b>										
Written Inquiries	1,648	2,275	2,324	n/a						
Visitors	886	843	902	n/a						
Calls Received	60,698	67,216	69,817	64,154	65,207	60,977	n/a	n/a	n/a	n/a
Calls Responded To	46,429	42,650	46,127	48,732	52,848	52,030	40,112	32,579	n/a	n/a
Unique Visits to www.ohrc.on.ca	523,878	461,365	330,131	233,090	158,971	n/a	n/a	n/a	n/a	n/a
<b>New Complaints Filed</b>	2,399	2,450	1,776	2,438	1,775	1,861	1,850	1,368	1,916	2,560
<b>Voluntary Mediation Settlement Rate</b>	73%	71%	73%	74%	73%	74%	69%	81%	n/a	n/a
<b>Complaints Closed by Disposition</b>										
Dismissed	290	265	311	284	298	462	403	169	176	248
Not deal with (s. 34)	196	245	185	218	351	281	180	304	343	331
Referred to Human Rights Tribunal	150	286	58	60	73	92	92	30	28	37
Settled	998	778	909	851	727	897	867	379	314	359
Withdrawn / Resolved	581	464	491	519	492	573	676	578	499	399
Total Cases Closed	2,215	2,038	1,954	1,932	1,941	2,305	2,218	1,460	1,360	1,374
<b>Year-End Active Caseload</b>	2,733	2,549	2,137	2,300	1,781	1,952	2,386	2,745	2,800	2,899
<b>Average Age of Active Caseload (months)</b>	11.2	10.8	11.5	11	10.4	13	16.2	19.9	18.4	15
<b>Public Education</b>										
Events	96	105	80	104	103	108	81	75	39	38
People reached	7,500	9,000	6,200	9,000	9,300	8,600	4,638	3,487	1,715	1,384
<b>International Visiting Delegations</b>	12	12	3	6	7	6	7	n/a	n/a	n/a
<b>OHRC Budget (millions)</b>	\$12.519	\$12.189	\$12.135	\$11.873	\$11.650	\$11.658	\$11.919	\$12.144	\$10.818	\$11.306

## **PART II: COMMISSION ACTIVITIES 2004-2005**

## **About the Commission**

*The Ontario Human Rights Commission (the "Commission") is an arm's length agency of the government, accountable to the Legislature of Ontario through the Attorney General. The Commission's principal functions are set out in the Ontario Human Rights Code (the "Code") and include the promotion and advancement of human rights and the investigation, mediation, settlement and litigation of complaints.*

## **Caseload Management**

Under the *Code*, the Commission is required to receive all complaints that fall within its jurisdiction. The *Code* obligates the Commission to endeavour to effect a settlement of a complaint. The Commission's Mediation and Investigation Branch assists the parties to reach mutually agreeable resolutions in approximately 57% of complaints through mediation and conciliation. Complaints that cannot be resolved through mediation are referred to investigation.

At any stage in the process parties may reach a settlement and the complaint will then be considered completed and closed. Cases are also closed where the complainant has withdrawn or abandoned the complaint. The Commissioners might also decide to not deal with a complaint because: the circumstances occurred outside the *Code*'s six month filing requirement; there is another more appropriate forum that might first address the complaint; the subject matter of the complaint is not within the Commission's jurisdiction, or, there is evidence that the complaint was frivolous, vexatious or made in bad faith. Cases are also considered completed and closed once the Commissioners make a decision as to whether or not there is sufficient evidence, and the procedure is appropriate, to warrant referral to the Human Rights Tribunal of Ontario for a hearing.

### **Caseload**

In the fiscal year 2004-2005, 2,399 new complaints were filed at the Commission. While this amounts to a decrease of 51 cases (or 2%) over complaints filed in the 2003-2004 fiscal period, it is still 16.5% higher than the 2,060 new complaints per year average filed over the five-year period from 1999-2004.

The Commission closed 2,215 cases in 2004-2005 compared to the 2,038 complaints closed in 2003-2004, which represents an increase of 8.7%. On average, the Commission closed 2,034 complaints per year over the five-year period from 1999-2004.

On March 31, 2005, the Commission's active caseload was 2,733 cases. This represents an increase of 184 cases (or 7.2%) over last year's active caseload of 2,549. As well, the average age of the Commission's active caseload increased

from 10.8 months to 11.2 months. In the five-year period from 1999-2004, the Commission's caseload averaged 2,144 active cases per year, while the average age of active cases for this period was 11.3 months.

In 2004-2005, the Commission also referred 150 cases to the Human Rights Tribunal of Ontario. By comparison, in 2003-2004, it made 288 referrals (of which 200 cases dealing with autism were being heard together).

### ***Inquiry and Intake***

In 2004-2005, the Commission's Inquiry and Intake Office received 1,648 written inquiries, attended to 886 visitors and responded to 46,429 (or 76%) of the 60,698 telephone calls it received.<sup>32</sup> Staff sent out 4,329 complaint packages, and received back 2,544 completed complaint packages in return. The Inquiry and Intake Office opened 2,399 formal complaints, and closed 49 of the total 2,215 formal complaints closed.

In October 2004, the Commission implemented a new process for self-drafted human rights complaints. In the new "self-draft" process, individuals who wish to file a complaint will receive a *Human Rights Complaint Form* from the Commission along with a sample complaint and Guidelines. Individuals are asked to complete the form and send it back to the Commission.

Commission staff continue to provide direct assistance to clients, and in some cases, draft complaints for individuals who are unable to draft complaints because of a language barrier, a disability, or other legitimate reasons. The Commission has established a dedicated telephone help line to assist individuals drafting their own complaints. The new help line provided assistance to more than 457 callers. Commission staff review the draft complaint for quality standards and will advise the complainant or representative of any insufficiencies or additional information needed.

In the months following the implementation of the new process, the average number of complaints filed remained the same, while complaint forms are being returned faster with the average time to file a complaint reduced to below 30 days from 90-120 days. As well, only three percent of self-drafted complaints were returned to clients for re-drafting. And in a subsequent survey to clients, 95 percent of responses were positive about the new process.

### ***Mediation***

During 2004-2005, the Mediation Office closed 1,300 of the total 2,215 cases closed that fiscal year. Of those who opted for attempting mediation, the mediation settlement rate was 73% (70% was the target).

## ***Investigation***

The total number of cases closed through Investigation (including the Investigation Office and through special projects) was 866 of the total 2,215 cases closed.

## **Policy Development**

In keeping with its mandate to promote understanding of human rights and to conduct research to eliminate discriminatory practices, the Commission undertook a number of policy development initiatives in 2004-2005. Commission policies and guidelines are approved public statements that set out the Commission's interpretation of the *Code* at the time of their publication. Developing policy statements is a key function of the Commission's mandate to eliminate discrimination and advance human rights protections.

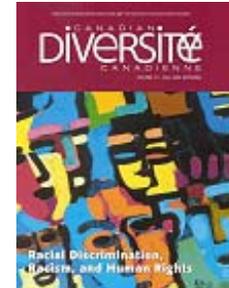
### ***Racial Discrimination and Racism Policy Dialogue***

In October 2004, the Commission convened a Policy Dialogue on Racial Discrimination and Racism in partnership with the Association of Canadian Studies. The three-day Dialogue gave experts and key stakeholders a unique opportunity to consult and share ideas with Commission staff on social, legal and policy trends and developments in the field of racism and racial discrimination. Papers were developed and presented on a number of significant issues that need to be considered by the Commission in developing its policy statement on racism and racial discrimination, which it plans to release in the first part of the 2005-2006 fiscal year.

In addition to the Policy Dialogue, the Commission has undertaken public consultation geared to the development of the policy. Numerous focus groups have been held with stakeholders representing a diversity of interests and perspectives. In December 2004, papers generated by speakers at the Policy Dialogue were published in a dedicated issue of *Canadian Diversity*. The edition was a collaboration between the Association for Canadian Studies and the Commission, and featured a number of the key articles that were written for the Policy Dialogue event. The articles, which are the independent views and perspectives of the authors, represent a significant contribution to the public discussion of the role that human rights principles and legislation can and should play in the ongoing struggle to overcome racism and racial discrimination.

The public was invited to comment on the issues and ideas presented by the authors of the papers. In addition, respondent-oriented stakeholders were asked for input on specific issues that would be addressed in the policy.

*Canadian Diversity* is distributed on a regular basis to 400 individual and institutional members of ACS both nationally and internationally. In addition, the Commission sent copies of this publication to over 700 of its stakeholders. The articles are also available on the Commission’s Web site. It is partnerships such as this one that enhance the Commission’s efforts in promoting and advancing human rights.



*Canadian Diversity Magazine – Fall 2004 Issue*

### **Racial Profiling Report – One-Year Follow-up**



*Public awareness campaign marking one-year anniversary of Racial Profiling Report release*

One year after the release of its report, *Paying the Price: The Human Cost of Racial Profiling*, and on the eve of International Human Rights Day, the Commission renewed its call for efforts to address the phenomenon of racial profiling. In an opinion editorial published in the Toronto Star, Chief Commissioner Keith Norton noted that while some positive steps have been undertaken, many individuals in leadership positions still have not acted to address racial profiling. In particular, the opinion editorial noted that little response or action has been seen with regard to priority areas identified in the report, including establishing a racial diversity secretariat, addressing the application of Ontario’s *Safe Schools Act* and increasing the regulation and accountability of private security services.

The Commission also launched a province-wide ad campaign in mainstream and community media on racial profiling to increase public awareness of the need to eliminate racial profiling. The Commission will continue to act assertively to address this issue.

### **Disability and Education**

Following through on its commitment to help educational institutions, teachers, and parents better understand the duty to accommodate students with disabilities in Ontario's schools, colleges and universities, the Ontario Human Rights Commission released *Guidelines on Accessible Education* to the public on November 30, 2004.

The *Guidelines* set out the Commission's interpretation of how Ontario's *Human Rights Code* applies to the provision of educational services for students with disabilities. They outline steps in the accommodation process and clarify a number of issues including: principles of accommodation, creating a welcoming environment, guidance on determining the most appropriate accommodation for students with disabilities, benefits of accommodation planning, and roles and responsibilities of parties to the accommodation process.

Also in November 2004, the Chief Commissioner wrote to the Minister of Education and the Minister of Training, Colleges and Universities to inquire into the progress being made on the recommendations made by the Commission in its 2003 consultation report, *The Opportunity to Succeed: Achieving Barrier-free Education for Students with Disabilities*.

### ***Restaurant Accessibility Initiative***

In April 2004, the Commission published *Dining Out Accessibly*. The report outlined the results of an independent accessibility audit of seven major restaurant chains, and the significant commitments made by those chains to remove barriers to customers with disabilities.

During the summer and fall of 2004, the Commission contacted an additional 19 restaurant chains, seeking similar commitments. The Commission has received commitments from 17 of these restaurant chains. Including the original seven chains, a total of 24 chains have now committed to:

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

The Commission has now commenced a review of the progress of those restaurant chains with which it reached agreements in early 2004. The Commission has also launched an investigation, through a Commission initiated complaint against one restaurant chain, Select Sandwich, which did not respond to the Commission's request for cooperation.

## ***Family Status Discussion Paper***

In 2004-2005, the Commission prepared a discussion paper on discrimination because of family status as part of the Commission's mandate to develop policy on each of the grounds in the *Code*. The paper explores human rights issues facing individuals because of their family status in the areas of employment, housing, services and facilities. The paper reviews case law, international human rights standards, demographic trends, the Commission caseload, and social and economic issues related to family status. As well, it sets out specific issues on which the Commission is seeking public input. The paper will form the basis for public consultations leading to the development of a formal Commission policy on discrimination because of family status.

## **Advice on Human Rights Matters**

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

In April 2004, the Commission made a submission to the Toronto District School Board's Safe and Compassionate Schools Task Force raising concerns that the application of school disciplinary legislation, regulations and policies may be having a discriminatory effect on students from racialized communities and students with disabilities. The submission set out a number of recommendations for the Ministry of Education and school boards across the province. Key among these was the recommendation to collect data on suspensions and expulsions in order to monitor and safeguard against discriminatory application of safe school legislation.

A few months later in July, the Commission released a comprehensive research report prepared for the Commission entitled, *The Ontario Safe Schools Act: School Discipline And Discrimination*, which reviewed empirical evidence in other jurisdictions and recounted the experiences of students, educators and front-line community workers in Ontario. In a public statement in December 2004, Chief Commissioner Keith Norton expressed his disappointment that little has been done so far to acknowledge or remedy this situation.

Complaints against various school boards continue to be filed with the Commission. During the fiscal year, the Commission referred two complaints to the Tribunal dealing with allegations of racial harassment, bullying, streaming, and discrimination arising from the application of discipline in a school.

## ***Police Complaints Review Submission***

During the Commission's Racial Profiling Inquiry, one of the recurrent themes was a lack of faith in the current police complaints process. Participants claimed that they were prevented or discouraged from filing complaints. They described a lack of confidence in the current police complaints process and a perception that it lacks independence, often described as "police investigating the police". Those who had filed complaints found the result unsatisfactory, further compounding their sense of mistrust and injustice.

Consequently, one of the recommendations in the Commission's Inquiry Report *Paying the Price: The Human Cost of Racial Profiling* was to change the current police complaints mechanism to one that would be independent, accessible and effective.

In September 2004, the Commission wrote to the Hon. Patrick J. LeSage, Q.C., who was leading the Review of the System for Complaints by the Public Regarding the Police established by the Government of Ontario in June 2004. The Commission addressed key issues from a human rights perspective that should be considered in any review of the police complaint mechanism; in particular, what recourse should be available for complaints that allege discrimination or harassment.

In keeping with the Commission's commitment to public accountability and its duties in serving the people of Ontario, the submission was made public on the Commission's Web site.

## ***Mandatory Retirement***

Under the Ontario *Human Rights Code*, in the area of employment, the legal definition of "age" is limited to people between the ages of 18 and 65. This means that the Commission cannot receive a complaint of age discrimination in employment from someone who is 65 or older. During the Commission's consultations on age discrimination in 2000, many participants singled out mandatory retirement as a key area of concern because of the profound implications that it can have on their sense of worth, their dignity and their economic security. The Commission has since recommended publicly on a number of occasions that the *Code* be amended to remove the upper limit of age 65.

In September 2004, the Commission made submissions to the Ministry of Labour's public consultations on mandatory retirement. The submission outlined human rights concerns that mandatory retirement:

- is a form of age discrimination because it involves making an employment decision solely on the basis of age, and not the person's ability to do the job
- undermines older Ontarians' independence, participation, and ability to make choices, which is contrary to the values of the *Code*; and,
- can have serious financial impacts on certain groups, such as women, recent immigrants, racialized communities and persons with disabilities.

At the time of writing, the Commission is still waiting for the introduction of an Act to end the practice of mandatory retirement.

### ***Regulation of the Private Security Industry***

Racial profiling in the security industry was one of the significant issues that surfaced during the Commission's racial profiling inquiry as well as through human rights complaints filed with the Commission. As such, Chief Commissioner Keith Norton publicly called for immediate steps to improve the accountability of the private security industry and its compliance with human rights obligations.

In January 2005, Chief Commissioner Keith Norton wrote to the Minister of Community Safety and Correctional Services to commend the Minister on the introduction of Bill 159, the *Private Security and Investigative Services Act, 2004* and to offer the Commission's input on how the Bill could be strengthened to better ensure compliance with the Ontario *Human Rights Code*. The Chief Commissioner had further opportunity to provide input into the proposed regulation of the private security industry in a meeting with the Minister in February 2005.

The Commission also reached a very positive systemic settlement in a case referred to the Human Rights Tribunal involving a complainant who alleged he was racially profiled by a security guard and ordered off the premises while he was waiting for a bus. In resolving the complaint, the private security company agreed to develop an anti-harassment and anti-discrimination policy, and train security guards on their responsibilities under the *Code* in dealing with members of the public, including a discussion of the phenomenon of racial profiling. For its part, the transit facility operator agreed to require all security companies who bid for contracts to agree they will comply with all human rights legislation in the performance of the contract, provide human rights sensitivity training to their security officers, display the Commission's *Code Cards* in plain view of staff and customers, and provide business cards to security officers to give to customers when concerns are raised.

## ***Accessibility for Ontarians with Disabilities Act***

In February 2005, the Chief Commissioner wrote to the Legislative Assembly's Standing Committee on Social Policy regarding Bill 118, the proposed *Accessibility for Ontarians with Disabilities Act*. The Chief Commissioner expressed support for several provisions of Bill 118, such as the inclusion of the private sector and the emphasis on the development and implementation of clear, measurable and reviewable standards for accessibility, to be developed in consultation with both persons with disabilities and those who will be implementing the standards. He expressed concerns about other aspects of the proposed *Act*, including insufficient harmonization with the *Code*, the omission of a complaint mechanism, and insufficient requirements for reporting on activity and progress.

## ***Other Matters***

The Commission also:

- worked closely with a major employer in the mining industry to develop appropriate policies and procedures for employee drug and alcohol testing;
- wrote to the Ontario and Toronto Homebuilders Associations seeking cooperation in raising awareness in the homebuilding industry about the requirements of the *Code* and Commission policy with respect to customers with disabilities. This initiative resulted from a positive settlement reached between Mattamy Homes and a home buyer who uses a wheelchair and required design modifications;
- wrote to City of Toronto Building Code enforcement officials to provide information regarding the accessibility requirements of the *Code* and Commission policy;
- wrote to a housing development regarding age-based occupancy restrictions and discrimination based on family status;
- wrote to the Attorney General to request that they compel public officials who are licensed to conduct marriage ceremonies to perform this service for same-sex couples (In March 2004, the Ontario Government passed legislation that amends more than 70 Ontario statutes, including the *Code*, bringing them in line with court decisions that found same-sex marriage to be constitutional); and,
- wrote to General Motors to raise human rights concerns over the use of a medical surveillance form in its operations.

## **Public Education, Partnership and Promotion**

The Commission has a significant responsibility to conduct public education throughout the Province. Public education is delivered primarily through its publications, Web site, public awareness campaigns and through the provision of speakers or displays.

In evaluating requests for speakers, the Commission uses the following criteria to determine which requests allow for a potential to:

- promote broad-scale prevention of *Code* violations and advancement of human rights;
- significantly enhance the Commission's relationship with a strategic sector identified in its public education strategy;
- "train trainers" and to have a sustainable "multiplier" effect in the target business or organization; and,
- reduce discrimination in a client sector and/or decrease incidence of formal human rights complaints.

This past year, the Commission had resources and capacity to accept just over 60% of the requests it received. In instances where an invitation is not accepted, the Commission tries to work with the organization or individual to ensure that their needs are met in some other way, either through Commission resources or referral to another organization.

During the 2004-2005 fiscal year, the Commission received 157 invitations and participated in a total of 96 public education events reaching over 7,500 individuals. The majority of these presentations were balanced throughout the educational, business and public sectors.

The Commission focuses its public education activities on issues that are associated with current human rights concerns. Following on the December 2003 release of the Report of the Racial Profiling Inquiry, Commission staff made eight presentations in 2004-2005 on this topic to various groups and organizations. There was also a great deal of public education activity around the release of the *Guidelines on Accessible Education*, much of which will carry on through the fiscal year 2005-2006. In addition to the above, presentations on such topics as "Human Rights in the Workplace", "Sexual Harassment" and "Mandatory Retirement" were made to community groups, employer groups, law offices and educators.



*Staff at OHRC booth during the Human Resources Professionals Association of Ontario (HRPAO) Conference*

In 2004-2005, the Chief Commissioner made a number of presentations to members of the general public. Other presentations were made to police groups explaining the results of the Commission's Racial Profiling Inquiry. The Chief Commissioner was also involved in the majority of the 12 presentations made to international delegations visiting the Commission during this fiscal year.

And, as a member of the Canadian Association of Statutory Human Rights Agencies (CASHRA), as well as the International Association of Official Human Rights Agencies (IAOHRA), the Commission cooperates with other commissions in Canada and abroad. The Commission shares its expertise through CASHRA's policy, education and legal sub-committees as well as its annual conference.

### ***Aboriginal Human Rights Program***

The Aboriginal Human Rights Program (AHRP) has now been in existence at the Commission for five years. The purpose of the AHRP is to create and build on awareness of the *Code* among Aboriginal communities and to enhance their access to the Commission's services. The Commission has worked with partners in the Aboriginal community to implement this project.

Following a successful partnership with the Native Canadian Centre of Toronto, a need was identified for more public awareness about human rights, the Commission and the *Code* in the Aboriginal community and the agencies and organizations that serve them. The Commission has been working with the Union of Ontario Indians on two initiatives. The first involved the development of an information brochure directed to First Nations individuals and organizations that will be distributed broadly later in 2005. The second initiative led to the drafting of an article that provides information on the Commission and the *Code*, which will be published in the *Anishinabek News* by summer 2005. The article focuses on some specific cases that the Commission has dealt with which involved Aboriginal persons. As well, a representative of the Union of Ontario Indians also participated on a panel discussion during the Commission's Race Policy Dialogue in October 2004.

### ***Call for a Canadian Coalition of Cities Against Racism***

In the Fall of 2004, the Commission communicated with the United Nations Educational, Social and Cultural Organization (UNESCO) to explore the possibility of a Coalition of Cities. The purpose of this coalition is the establishment of a network of cities interested in sharing experiences and expertise, and committed to adopting a Plan of Action to address racism.

A similar coalition has been developed in Europe with several large European cities signing on to the initiative. In January, representatives of the Commission attended a public forum in Ottawa organized by the Canadian Commission for UNESCO (CCU) to discuss the possibility of a coalition of cities against racism in Canada. In March 2004 at CCU's Annual General Meeting in Toronto, the OHRC and the CCU issued a joint press release announcing that they and other partners were setting up a working group of government and non-government organizations to develop and promote a national proposal to Call for a Canadian Coalition of Cities Against Racism. The Commission has already begun championing the concept in Ontario with some cities and organizations including the City of Toronto, the Canadian Race Relations Foundation and the Union of Ontario Indians.

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

The Commission's Web site provides the public with direct access to a wide array of information including: an overview of the *Code*, the Commission, its mission; policies and plain language guides, case summaries, public education resources, key public reports and submissions; news releases; and information on complaint procedures. During the fiscal year 2004-05, the Commission recorded over half a million (523,878) unique visits to the Web site, marking the fifth year in a row that the Commission has seen an increase in the number of visits to its site. Due to this increasing demand, redevelopment of the Web site is ongoing and a new Commission Web site will be launched in 2005.

## Legal Services

During the 2004-2005 fiscal year, the Legal Services Branch was involved in the following resolutions: 6 final decisions and 17 interim or ancillary decisions at the Human Rights Tribunal of Ontario (H.R.T.O.), 43 settlements at the H.R.T.O., 3 judicial review decisions at the Divisional Court, 1 decision from the Superior Court of Justice, 6 decisions from the Court of Appeal, 1 decision on an appeal to the Divisional Court, and 6 decisions from the Supreme Court of Canada.

As of March 31, 2005 fiscal year, ongoing litigation in the Legal Services Branch comprised: 423 complaints before the Human Rights Tribunal of Ontario (242 of these are autism cases and are being heard together, 200 of which were referred in the previous fiscal year), 10 judicial review applications before the Divisional

Court, 1 case before the Superior Court of Justice, 3 appeals before various Ontario Courts, and 2 cases at the Supreme Court of Canada.

The following are highlights of some of the significant decisions, settlements, and cases over the past year.

### ***Case Summary Highlights***

#### **1. Settlement with the Ministry of Transportation, City of Hamilton and Disabled and Aged Regional Transit System DARTS (Settlement, H.R.T.O.)**

A settlement was reached between the Commission, two complainants with disabilities, the Ministry of Transportation, the City of Hamilton, and the Disabled and Aged Regional Transit System (“DARTS”), a transit service for persons with disabilities provided by the City of Hamilton.

The complaints arose out of differences between conventional transit service provided by the City of Hamilton and the specialized DARTS transit services for persons with disabilities provided by the City of Hamilton. These differences included an annual \$15 registration fee for those who were eligible for and registered with DARTS. As part of the resolution of the complaints, the City of Hamilton agreed to cease charging the \$15 registration fee. The City also agreed to certain goals to minimize unaccommodated trip requests on the DARTS system and late arrivals when picking up DARTS passengers. The City agreed to establish a revised policy regarding registrants with DARTS who are “no shows” after having booked a trip, or who cancel a scheduled trip too late. These situations are a concern to all parties because “no shows” and “late cancellations” mean that trips on DARTS may be unnecessarily denied to others who want them. The City agreed to implement a confirmation and cancellation booking number system. The City further agreed to work in consultation with the City's Advisory Committee for Persons with Disabilities in designing a complaints process regarding transportation services for persons with disabilities.

#### **2. Settlement with Pembroke Police Service regarding Recruitment Questions (Settlement, H.R.T.O.)**

A settlement was reached between the Commission, a police force and a complainant in a complaint dealing with discrimination on the ground of “record of offences”. The complainant, who had applied for the position of police officer, had a prior criminal conviction for which he had been granted a pardon. During interviews, the respondent asked all candidates, “Is there anything in your background that would be detrimental to yourself, or embarrassing to this Service?”. The complainant replied “No” to this question. The respondent subsequently discovered the complainant's conviction and pardon, and

terminated his employment, on the basis that he had been untruthful in his answer. The complainant alleged that his employment was terminated because of his pardoned conviction.

**3. Linda Saxon v. Corporation of Town of Amherstburg (Settlement, H.R.T.O.)**

A settlement was reached between the Commission, the complainant and the respondent Town. The complainant made an initial complaint, on the basis of disability, because she was unable to access the Town's library, which could only be entered via a number of stairs. The library has been renovated since the complainant filed her complaint. The Town has created a lobby at ground level with an elevator and automated doors. It also attempted to make modifications to a washroom to make it accessible. The Commission's barrier-free design expert reviewed the renovations and found some remaining barriers, but approved of the elevator itself. The Town has agreed to implement a number of the Commission's expert's recommendations to improve accessibility at the Town library, namely:

- install handrails on either side of a ramp of a specified thickness;
- make level the threshold at an entrance;
- request the County Library to create an accessible after-hours book depository;
- install lever hardware on a door to the accessible washroom;
- remove a vanity unit to provide sufficient clearance in the accessible washroom;
- relocate the light switch, side grab bar, mirror, and paper dispenser in the accessible washroom; and,
- replace push buttons with push plates of a larger diameter that are easier to manipulate.

As part of the settlement, the respondent has also agreed to retain a qualified consultant to provide a mandatory training session for the members of the town council on the accommodation of individuals with disabilities.

**4. Toronto Women's Bathhouse Committee et al. v. Toronto Police Services Board et al. (Settlement, H.R.T.O.)**

A settlement was reached in a complaint alleging discrimination on the basis of sex and sexual orientation when the personal respondents raided a bathhouse in which a number of lesbian women were partially clad. The settlement provides for a comprehensive training program of all officers, and requires the corporate respondent's training unit to consult with the Commission, complainants and knowledgeable members of the community. The training program also includes time frames for the development and delivery of the program, as well as clear objectives and reporting requirements.

**5. Mark Smith and Ontario Human Rights Commission v. Mardana Ltd. (c.o.b. as Mr. Lube), Keelestaff Enterprises Inc. (c.o.b. as Mr. Lube), Iswood Holdings Ltd. (c.o.b. as Mr. Lube), et al. (Ontario Divisional Court)**

The Commission appealed the Tribunal's decision on this complaint, on the basis that a legal error had been made in not finding that race was at least a factor in Mr. Smith's dismissal and in not finding that the respondents behaved willfully or recklessly in subjecting Mr. Smith to harassment and a poisoned environment. The Tribunal's decision is summarized in the Commission's 2002-03 Annual Report.

The Divisional Court wrote a unanimous decision agreeing with the Commission. It allowed the appeal on all grounds. Further, the Court substituted its opinion for that of the Tribunal, and found that Smith's race was a factor in his dismissal. The Court awarded significant monetary remedies to Mr. Smith. Moreover, the Court ordered the respondent to implement a series of public interest remedies, which had been recommended by the expert commissioned by the Commission and the Complainant, including a workplace anti-harassment policy, staff training, implementation of an internal complaint process, and education of management. The Court also ordered that the implementation of these public interest remedies were to be subject to the Commission's supervision.

**6. Losenno v. Ontario Human Rights Commission (Ontario Divisional Court)**

The applicant sought judicial review of the Commission's decision not to refer his complaint to the Human Rights Tribunal of Ontario for a hearing, due to the reasonableness of the employer's settlement offer when assessed against the likelihood of the applicant's demands being granted by the Tribunal. The Divisional Court, in dismissing the application for judicial review, held that the Commission was correct in considering the resolution proposed by the employer and deciding that referral to the Tribunal was not an appropriate procedure. Furthermore, the Court held that the Commission, in assessing the adequacy of the employer's offer, was acting squarely within its core function and area of expertise. The case is currently under appeal.

**7. Ministry of Public Safety and Security v. Michael McKinnon (Ontario Court of Appeal)**

The Court of Appeal has dismissed an appeal by the Ministry of Public Safety and Security (formerly the Ministry of Correctional Services) of the Divisional Court and the Human Rights Tribunal of Ontario's decisions arising out of the complaint filed by Mr. McKinnon. The Tribunal decision is summarized in the Commission's 2002-03 Annual Report. The Divisional Court decision is summarized in the Commission's 2003-04 Annual Report.

The appeal concerned the scope of the remedial jurisdiction of the Tribunal to order Ministry-wide remedies after its finding of racial discrimination in the corrections workplace, and the subsequent failure of the Ministry to abide by the Tribunal's first remedial order. The Court of Appeal held that the Tribunal had extensive supervisory jurisdiction over its orders. The Tribunal could remain seized of a matter and had an ability to recast its orders to deal with ongoing chronic, systemic, racism at correctional facilities. The Court of Appeal agreed with the observations of the Tribunal and the Divisional Court that system-wide remedies were required in order to address the racial discrimination in the workplace, as well as the Ministry's failure to implement the Tribunal's first orders in good faith.

**8. Syndicat Northcrest v. Amselem, League for Human Rights of B'nai Brith Canada v. Syndicat Northcrest et al. (Supreme Court of Canada)**

The Ontario Human Rights Commission participated as an intervener in this appeal. The appellants, all Orthodox Jews, had built succahs on the balconies of their condominium units in observance of their religious beliefs. The building corporation requested their removal. The succahs violated by-laws within a co-ownership agreement signed by the appellants. The Supreme Court of Canada, in a 5 to 4 decision, held that the appellants' freedom of religion under the Quebec Charter was infringed by the co-ownership agreement that they had entered into for the condominium units. The Court found that the interference with the property rights of the other owners was not significant enough to warrant a limitation of the appellants' freedom of religion. The appellants did not contract out of, or waive their religious freedoms by signing the co-ownership agreement as, even assuming that such waiver were possible, it would require clear and explicit language in the agreement to do so.

The majority noted that freedom of religion under the Quebec and Canadian Charter required only that an individual demonstrate he or she sincerely believes or is sincerely undertaking [a practice] in order to connect with the divine or as a function of his or her spiritual faith. The majority held that a religious freedom analysis did not require the individual to demonstrate the objective validity of his or her beliefs, such as showing that a majority of the members of their faith followed the same practice.

**9. Reference regarding Same Sex Marriage (Supreme Court of Canada)**

The Ontario Human Rights Commission participated as an intervener in this appeal. The federal government asked the Supreme Court of Canada to answer four questions: (1) was its proposed legislation extending the capacity to marry to persons of the same sex within the exclusive jurisdiction of the Parliament of Canada; (2) if so, was the legislation consistent with the *Charter*; (3) does the *Charter* guarantee of freedom of religion protect religious officials from being

compelled to perform a marriage between two persons of the same sex that is contrary to their religious beliefs; and (4) is the common law opposite sex requirement for marriage for civil purposes consistent with the *Charter*.

The Supreme Court held that the legislation was within the exclusive jurisdiction of Parliament. The legislation was also consistent with the *Charter*. Recognizing the s. 15 equality rights of one group, in this case same sex couples, could not, in itself constitute a violation of the equality rights of others. As for a potential conflict with s. 2(a) of the *Charter*, freedom of religion, conflicts of rights do not imply conflict with the *Charter*, but rather, require internal balancing and delineation. The Court was not satisfied that conflicts incapable of resolution under s. 2(a) would arise. Absent unique circumstances with respect to which the Court would not speculate, the guarantee of religious freedom in the *Charter* was broad enough to protect religious officials from being compelled by the state to perform civil or religious marriages contrary to their religious beliefs.

The Court declined to answer question 4. The government had stated its intention to proceed with the legislation regardless of the Court's opinion. As a result of lower court decisions in five provinces and one territory, which the government had accepted, the common law definition no longer imported an opposite sex requirement for marriage. The parties in the previous litigation had relied upon the finality of these decisions.

## Accountability Framework

The Commission's Accountability Framework establishes targets for the organization's performance in the coming year and reports on achievements against previously-established targets.

The following is a summary of achievements against targets in the 2004-2005 fiscal year.

<b>SERVICE AREA</b>	<b>2004-2005 COMMITMENTS</b>
<b>Enforcement</b>	<ul style="list-style-type: none"><li>• For complaint inquiries, the "call abandoned rate" will be less than 30%.</li><li>• Achieve a settlement rate of at least 70% in cases in which mediation is attempted.</li><li>• Average age of case inventory will be less than 12 months.</li></ul>
<b>Promotion</b>	<ul style="list-style-type: none"><li>• In partnership, develop one public awareness campaign</li></ul>

---

**SERVICE AREA****2004-2005 COMMITMENTS**

---

and related public education activities.

- Review framework for Aboriginal Human Rights Program.
  - Achieve a satisfaction rate of 80+% among participants at public education events.
- 

**Advancement**

- Initiate work on phase one of the family status project.
- Release guidelines on application of the *Code* related to issues of disability in the education sector.
- Conduct a Policy Dialogue as part of policy development on the ground of race.
- Follow up on recommendations set out in the Disability and Education Consultation Report.
- Follow up on recommendations in the Racial Profiling Report.
- Expand Restaurant Initiative to other chains.

---

**SERVICE AREA****2004-2005 ACHIEVEMENTS**

---

**Enforcement**

- For complaint inquiries, the “call abandoned rate” was 23.8%.
  - Achieved a 73% settlement rate in cases in which mediation was attempted at the Commission.
  - The average age of case inventory was 11.2 months on March 31, 2005.
- 

**Promotion**

- Implemented province-wide ad campaign on racial profiling in mainstream and community media and in collaboration with the Association for Canadian Studies published articles originating from the Commission’s Policy Dialogue event in the Fall 2004 issue of *Canadian Diversity*.
  - Initiated new partnership with the Canadian Commission for UNESCO to develop and promote a proposal to Call for a Canadian Coalition of Cities Against Racism.
  - Evaluated the Aboriginal Program and began new partnership activities with the Union of Ontario Indians.
  - Met and exceeded an 80% satisfaction rate among participants at public education events.
-

---

**SERVICE AREA****2004-2005 ACHIEVEMENTS**

---

**Advancement**

- Developed Discussion Paper on Discrimination because of Family Status.
- Released guidelines on the application of the *Code* related to issues of disability in the education sector.
- Conducted a Policy Dialogue as part of policy development on the ground of race.
- Followed up on recommendations set out in the Disability and Education Consultation Report.
- Followed up on recommendations in the Racial Profiling Report.
- Released report on the restaurant accessibility, *Dining Out Accessibly*, and expanded restaurant initiative to other chains.

The following are the Commission's public commitments for the 2005-2006 fiscal year.

---

**SERVICE AREA****2005-2006 COMMITMENTS**

---

**Enforcement**

- For inquiries, the "call abandoned rate" will be less than 25%.
- The Mediation Office will achieve a settlement rate of at least 72%.
- Average age of case inventory will be less than 12 months.

---

**Promotion**

- Develop one public awareness campaign.
  - In partnership, launch an Ontario version of the UNESCO program *A Call for a Coalition of Cities Against Racism in Canada*.
  - Expand community partnerships to support OHRC Aboriginal Human Rights Program; release new brochure targeted to Aboriginal communities in multiple languages; promote human rights awareness through Aboriginal media.
  - Launch new OHRC Web site.
  - In partnership, develop new model for next editions of OHRC publications *Human Rights at Work* and *Human Rights Policy in Ontario*.
-

- 
- Achieve a satisfaction rate of 80+% among participants at public education events.
  - Review the Commission's public education strategy.

---

**Advancement**

- Release Discussion Paper on Discrimination because of Family Status, followed by targeted consultations.
- Release *Policy and Guidelines on Racism and Racial Discrimination*.
- Intervene in leading appeal court cases involving important human rights issues.

## Appendices – Part II

## **List of Commissioners**

### **KEITH C. NORTON, Q.C., B.A., LL.B.**

#### *Chief Commissioner*



Keith Norton was appointed Chief Commissioner of the Commission on July 17, 1996. He is an educator and a lawyer by training, having studied law at Queen's University in Kingston, as well as having received a diploma in education from the Ontario College of Education. He practiced criminal and family law in Kingston, Ontario, and taught at the secondary and post-secondary levels.

Mr. Norton is a former Minister of Community and Social Services and served as Parliamentary Assistant to the Treasurer of Ontario and Minister of Economics and Intergovernmental Affairs. He has also served as Minister of Health, Minister of Education and Minister of Colleges and Universities.

As Minister of the Environment between 1981 and 1983, Mr. Norton became the first Canadian cabinet minister to testify before a Committee of the United States Senate. Throughout his career, Mr. Norton has championed issues related to persons with disabilities, senior citizens and the disadvantaged. He has also been involved in a number of business ventures.

Mr. Norton is a former President of the Canadian Human Rights Tribunal.

### **JEANETTE CASE**



Jeanette Case was appointed to the Ontario Human Rights Commission in 2003. She is also a part time member of the Assessment Review Board of the Ministry of the Attorney General, where she serves as a part-time adjudicator on matters relating to property assessment. Ms. Case received certificates in Economics, Economic History and British Constitution at Leicester College of Arts and Technology in England, and studied Sociology and Psychology at the University of Leicester Extramural Department. For years she has worked as a conveyancer and title searcher and has

conducted orientation and training of community college students in title searching. She has volunteered with Silent Voice, the Canadian Cancer Society, St. Christopher House, Meals on Wheels and the Baycrest Centre for Geriatric Care.

### **VIVIAN JARVIS**



Vivian Jarvis is a founding member and past-president of her local chapter of the Canadian Mental Health Association. She is an active member of her community, having served as president of the Women's Auxiliary at Stratford General Hospital, Neighbourlink, conducting pastoral prison visitations in Ottawa and Hamilton and as Warden of her Church. Ms. Jarvis has served as a City Councillor for the City of Stratford and has worked in the Constituency Offices of MPs and MPPs. She has also stood for election to the Ontario Legislature. She was appointed to the Ontario Human Rights Commission in 2003.

### **JUDITH-ANN MANNING**



Judith-Ann Manning was appointed to the Commission in February 2000. Ms. Manning is President of Manning Consultants, a barrier-free consulting company specializing in accessibility and disability issues. She majored in Criminology and Law while at university. A lifelong volunteer, she is currently Co-ordinator of the University of Toronto's Wheelchair Access Committee and has held the positions of Chair of the North York Advisory Committee For Persons With Disabilities, co-Chair of the Board of Directors of the Centre for Equality Rights in Accommodation, and vice-Chair of the Toronto Transit Commission's Advisory Committee on Accessible Transportation. As well, she is a friend on Transport Canada's Accessible Transportation: A1E09 – Committee on Transportation Accessibility and Mobility.

## **EVANGELISTA (IVAN) OLIVEIRA**



Ivan Oliveira is a realtor and educator by trade. He has been associated with the Brampton Real Estate Board for over 25 years and has chaired many of its committees, including Public Relations, Discipline, Political Affairs, Arbitration, Membership, Finance, Ethics and Appeals and served as the Board's president in 1987. He is a committed member of the Portuguese community and is the founder of the Portuguese Community School of Brampton where he supervises and implements curriculum. He has taught the Portuguese language in Ontario Secondary schools and he was responsible for the supervision and evaluation of 14 different language instructors under the International Languages Program. Mr. Oliveira is also a part-time adjudicator with the Assessment Review Board of the Ministry of the Attorney General, where he has chaired hearings dealing with property assessment matters. He has served on the executives of several organizations. Mr. Oliveira a recipient of several awards including the 2002 Queen's Golden Jubilee Medal. He was appointed to the Ontario Human Rights Commission in 2003.

## **MARNIE PAIKIN, CM**



Marnie Paikin was appointed to the Commission in September 1996. She is a past President of the Canadian Council of Christians and Jews, and a recipient of the Province of Ontario's "Outstanding Woman Award" and of the Human Relations Award of the Canadian Council of Christians and Jews. She has been inducted into the Hamilton Gallery of Distinction and has been appointed a Member of the Order of Canada. Ms. Paikin is currently a Director of Atomic Energy of Canada Ltd.

## **ABDUL HAI PATEL**



Abdul Hai Patel was appointed to the Commission in April 1999. Mr. Patel received his primary education in India, secondary education in Barbados and post-secondary education at York University.

Mr. Patel is a recipient of the Canada 125 commemorative medal from the Governor General for Community Service. He

is a recipient of the Volunteer Service Award from the Ministry of Citizenship, Culture and Recreation, a member of the South & West Asian consultative committee of the Toronto Police, and a coordinator of the Islamic Coordinating Council of Imams-Canada. Mr. Patel is also the Vice-Chair of the Association of Employees for Employment Equity with New Horizon Solutions Inc., a division of Ontario Power Generation Company and serves as a member of the Provincial Committee of Power Workers Union on Employment Equity and Diversity.

### **CHRISTIANE RABIER**



Christiane Rabier was appointed to the Commission in April 1999. Ms. Rabier received her PhD from the University of Nice-Sophia-Antipolis; she received her Masters from the University of Montreal and studied public law at the University of Montpellier in France. She is currently Chair of the Department of Political Science and Vice-Dean of Social Sciences and Humanities at Laurentian University in Sudbury.

Ms. Rabier is active within the francophone community in Sudbury and has worked on a program for francophone women to attend post secondary studies, as well as served as a consultant with TV Ontario on Continuing Education. She also served as a volunteer with Canada's Special Olympics in 1998 and Operation Red Nose in 1999.

### **MAE RADFORD**



Mae Radford was appointed to the Commission in April 1999. Ms. Radford received a diploma in nursing from the Toronto Western Hospital and a Bachelor of Arts in health administration from York University. She is currently the manager of volunteer services, overseeing operations of a team of 1700 volunteers who deliver friendly visiting, palliative care volunteer visiting, transportation, and Meals on Wheels for the VON Hamilton-Wentworth.

Ms. Radford is a member of the Coalition of Community Health and Support Services, which advocates for community-based health care. She is a member of the Ontario Community Support Association and the Chair of District B. Ms. Radford is

the vice-chair of the Citizen Committee for Violence Against Women for the City of Burlington.

## **REGINALD STACKHOUSE**



Author of nine books and over 400 articles in newspapers, magazine and journals, Dr. Stackhouse is Principal Emeritus and research professor at Wycliffe College, University of Toronto. He holds a Ph.D. in historical theology from Yale University, an M.A. in Political Economy from the University of Toronto and is an honorary graduate of three colleges as well as canon of St. James Cathedral in Toronto. A former M.P., Dr. Stackhouse served two terms in the House of Commons, chairing the Standing Committee on Human Rights, was a Canadian representative to the United Nations General Assembly and a delegate to the United Nations Human Rights and Refugee Committee. He also served as a Commissioner on the Canadian Human Rights Commission and Chair of the founding Board of Governors of Centennial College of Applied Arts and Technology and later a member of the Ontario Council of Regents. He is a recipient of several awards including the 2002 Queen's Golden Jubilee Medal. Dr. Stackhouse was appointed to the Ontario Human Rights Commission in 2003.

## **RICHARD THÉBERGE**



Richard Théberge was appointed to the Commission in February 2002. He is a lawyer by training, a policy analyst and accessibility consultant. He has held senior posts in the federal government analyzing and developing policies in connection with business and corporate law. He has volunteered with many organizations that work with the youth and disability communities and currently serves as Vice-President of the Ottawa Independent Living Resource Centre. He has been recognized as a patron of deaf youth by the Jules Leger Centre in Ottawa, Ontario, as well as awarded a lifetime honorary membership in the Canadian Council of Independent Laboratories for his years of work on behalf of the independent testing industry.

## ***Branch Descriptions***

### **Office of the Chief Commissioner**

The Office of the Chief Commissioner provides leadership and guides the Commission in carrying out its statutory functions in a way that ensures that, at both the government and community levels, human rights are protected in the province. The Chief Commissioner and Commissioners set policy direction and make decisions about complaints relating to the *Code*.

### **Office of the Executive Director**

The Office of the Executive Director provides leadership and direction to senior management staff of the Commission in carrying out its statutory mandate; directs the development and implementation of corporate and operational plans; and leads the planning and implementation of ongoing organizational improvement initiatives within the Commission. The Registrar's Office, attached to the Office of the Executive Director, is responsible for processing Reconsideration requests, co-ordinating all functions related to Commission and Panel Meetings, and Freedom of Information and Ombudsman issues.

### **Mediation and Investigation Branch**

The Mediation and Investigation Branch handles all the enforcement functions of the Ontario Human Rights Commission.

The public's first contact with the Commission is through the centralized Inquiry and Intake Unit, which handles all inquiries and sends out complaint packages to those who wish to file a complaint. The Mediation Office provides mediation services as well as processes section 34 requests which give the Commission discretion not to deal with a complaint, if it could have been resolved elsewhere, is filed in bad faith, is out of time or is outside the Commission's legal authority. The Investigation Office undertakes investigation and conciliation of complaints.

The Branch also develops multi-year strategies to effectively manage the Commission's caseload and procedures for the mediation and investigation of complaints. In addition, the Branch assists in carrying out the Commission's public education mandate.

### **Policy and Education Branch**

The Policy and Education Branch provides leadership and direction for the promotion and advancement of human rights and supports the enforcement of the *Code*.

The Branch ensures the promotion of human rights through compliance with the *Code* and with international human rights obligations. This includes the development of public policy statements, formal guidelines and research on a broad range of human rights and social justice issues. The Branch is responsible for national and international liaison, issues management, media and stakeholder relations, the Web site and publications. It also conducts public consultations and focus groups and represents the Commission on intergovernmental task forces and delegations.

The Branch is responsible for the strategic planning function for public education and communications at a corporate level and for implementing a wide range of educational programs and partnership initiatives, such as public awareness campaigns, presentations, workshops and conferences. The Branch also provides communications and policy support to the Offices of the Chief Commissioner and the Executive Director.

### **Legal Services Branch**

The Legal Services Branch assists the Commission in fulfilling all aspects of its mandate, including compliance, public education and litigation. Its activities include providing legal advice to senior management, mediation and investigation managers and officers concerning investigation and conciliation of cases, providing legal opinions requested by the Commission, and serving as legal counsel to the Commission before the Human Rights Tribunal of Ontario and the courts (on matters of judicial review and appeals).

## List of Publications

	Publications Ontario	Web Site
<b>Plain Language Documents</b>		
Age Discrimination: Your Rights & Responsibilities (07/03)	√	√
Female Genital Mutilation: Questions and Answers (available in English/French, Arabic/Somali, Swahili/Amharic) (8/99)		√
Guide to the <i>Human Rights Code</i> (5/99)	√	√
Guide to Mediation Services (5/97)		√
Hiring: Your Rights & Responsibilities (available in English/French, Punjabi/English, Spanish/English, Tagalog/English, Urdu/English) (11/01)	√	√
Hiring? A Human Rights Guide (3/99)		√
Human Rights at Work (2/05)		√
Human Rights in Ontario: A Complainant's Guide (available in English/French; Bengali/Urdu; Hindi/Punjabi; Gujarati/Tamil, Spanish/English, Tagalog/English) (7/00)	√	
If You Have a Human Rights Complaint – A Complainant's Guide (5/97)		√
If You Receive a Human Rights Complaint – A Respondent's Guide (5/99)		√
Pregnancy and Breastfeeding (11/01)	√	√
Pregnancy – Before, During and After: Know Your Rights (5/99)		√
Protecting Religious Rights (1/00)	√	√
Racial Harassment: Your Rights & Responsibilities (available in English/French, Punjabi/English, Spanish/English, Tagalog/English, Urdu/English) (11/01)	√	√
Racial Slurs and Harassment and Racial Jokes (6/96)		√
The Commission: What you need to know (available in English/French, Punjabi/English, Spanish/English, Tagalog/English, Urdu/English) (11/01)	√	√
Sexual Harassment: Your Rights & Responsibilities (available in English/French, Punjabi/English, Spanish/English, Tagalog/English, Urdu/English) (11/01)	√	√
Sexual Harassment and Other Comments or Actions About a Person's Sex (11/96)		√
Sexual Orientation (11/01)	√	√
<b>Policies and Guidelines</b>		
Guidelines on Accessible Education (09/04)		√
Guidelines for collecting data on enumerated grounds under the <i>Code</i> (09/03)		√
Guidelines on Special Programs (11/97)		√
Policy and Guidelines on Disability and the Duty to Accommodate (11/00)		√
Policy on Creed and The Accommodation of Religious Observances (10/96)		√

Policy on Discrimination Against Older Persons Because of Age (03/02)	√
Policy on Discrimination and Harassment Because of Gender Identity (3/00)	√
Policy on Discrimination and Harassment Because of Sexual Orientation (1/00)	√
Policy on Discrimination and Language (6/96)	√
Policy on Discrimination Because of Pregnancy and Breastfeeding (5/99)	√
Policy on Drug and Alcohol Testing (9/00)	√
Policy on Employment-Related Medical Information (6/96)	√
Policy on Female Genital Mutilation (FGM) (11/00)	√
Policy on Height and Weight Requirements (6/96)	√
Policy on HIV/AIDS Related Discrimination (11/96)	√
Policy on Racial Slurs & Harassment & Racial Jokes (6/96)	√
Policy on Requiring a Driver's Licence as a Condition of Employment (6/96)	√
Policy on Scholarships and Awards (7/97)	√
Policy on Sexual Harassment & Inappropriate Gender-Related Comments and Conduct (9/96)	√

#### **Other Publications**

Annual Reports	√	√
Developing Procedures to Resolve Human Rights Complaints Within your Organization (6/96)		√
<i>Human Rights Code</i>	√	√

<i>Human Rights Code Card (11" x 17")</i>		
Human Rights Policy in Ontario (2001)		
	<b>Contact the Commission</b>	
	Contact CCH Canadian Ltd. 90 Sheppard Avenue East Suite 300, Toronto, ON M2N 6X1 Toll Free: 1-800-268-4522 E-mail: cservice@cch.ca	

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

## ***Human Rights Tribunal of Ontario Decisions & Settlements***

<b>Final Decisions</b>	<b>Grounds</b>
Colvin and Jackson v. Hillcrest Variety, Gillies <i>(complaint successful)</i>	sex, sexual solicitation, harassment
Henry v. Mrs Beasley's Bake Shop Inc., Kuntz <i>(complaint dismissed)</i>	creed, race, colour, harassment
Howard v. de Ruiter <i>(complaint dismissed)</i>	harassment, marital status, family status
Jeffrey v. Dofasco Inc. <i>(complaint dismissed)</i>	disability
King v. Bura and the Estate of Matthew Bura by his Estate Trustee <i>(complaint successful)</i>	race, colour
Tilberg v. McKenzie Forest Products Inc. <i>(complaint dismissed)</i>	disability

<b>Settlements</b>	<b>Grounds</b>
Adore v. City of Toronto, Pritchard, Kolbe	disability
Alexander v. Woodbine Entertainment Group, Green, Saito	colour, race
Ali v. Axia Netmedia Corporation, Sanderson	creed, harassment
Alinas v. Royal Trust Corp.	age, disability
Andrucko v. Environmental Services Inc., Davidson	disability, age
Briggs v. Sun Media (Toronto) Corporation, Sun Media Corporation	sex, reprisal, disability
Brunetto v. Nella Cutlery (Toronto) Inc., Nella	disability
Clancy v. Kleinburg Rotary Non-Profit Housing Corp. (now The Gables of Kleinburg)	age
Cohen, Davies, Choy, Ting, Cheng, Kimber v. Cornerstone Properties Inc., Vanboxtel, St. Clair, Richmill Development Corp.	age
Cook v. 633490 Ontario Inc. o/a	disability

<b>Settlements</b>	<b>Grounds</b>
Chatterson-Long Funeral Home, Southwell	
Craig v. Tri-Ad Graphic Communications Ltd., Revesz, McCreary, McIlwham	disability, harassment
Jane Doe v. A Police Service, Ms. F, Ms. G, Mr. H	marital status
Edberg v. Ultramatic Sleep of Canada Inc., Patterson	race
Ehimika v. North Kingston Community Health Centre (Better Beginnings for Kingston Children), Webb, Beeler, Rosenbaum	ancestry, ethnic origin, reprisal, harassment
Fearon v. Primtech Institute/Argosy Education Group, Fisher, Meadowcroft, Dr. Markovitz	colour, race, reprisal
Finkers v. Lason Canada Management Company, Crowell	disability
Forbes v. 1210478 Ontario Inc. o/a Ottawa Marriott Hotel	disability, harassment
François v. Rudan Holdings Ltd. o/a Sundowner Inn, Piche	colour, place of origin, race, sex
Gregor v. 848347 Ontario Ltd., o/a Solid Gold Inn, Rudan	family status
Hill v. Blimpie International Inc., Frid	services
Hutchings v. Roy Foss Motors, Foss, Pederson & Mraz	sex, sexual harassment, sexual solicitation
Jopling v. Kember Store Metals, Kember	disability
Kemp v. Szczepski & Piccinin	disability
Kitchen v. Teleperformance Canada	disability
Labine v. The Perfect Cut Property Maintenance and Landscaping Inc., Wilson, Wilson	sex
Lakich v. Union Energy Limited Partnership	sex, sexual harassment, reprisal
Lang v. Her Majesty the Queen in right of Ontario as represented by the Ministry of Community and Social Services and Enfants en Péril (Children at Risk)	ancestry, ethnic origin
Liard v. Brims Enterprises Limited, Brims	disability
Leung v. Combined Insurance Company of	age, ancestry, ethnic origin, race, sex

<b>Settlements</b>	<b>Grounds</b>
America, Iozzo, Petrini	
Mailloux v. MBT Insurance Brokers Limited, Bergeron	disability
Manoll v. Pembroke Police Service, MacIssac	record of offences
McBride v. Ray Michaels Health & Fitness Club, Slaney, Dennett	sex, harassment, sexual solicitation, reprisal
Neusch, Fox v. Ministry of Transportation, City of Hamilton, Disabled and Aged Regional Transportation System	disability
Ranoute v. Royal Capital Stamping and Tooling Ltd.	disability
Saxon v. The Corporation of the Town of Amherstburg	disability
Searle v. The Partners' Film Co. Ltd., Marin	disability
Sinclair v. J.C. Trailers & Equipment Ltd.	disability
Smith v. Roy Ross Motors Ltd., Devo, Bone, Rizzutto	colour, race
Taylor (Russell) v. Dr. Neiman and Associates, Dr. Weingarten	sex, sexual solicitation
Toronto Women's Bathhouse Committee, Gillis, Jansen, Rowe, Gallant, Hamilton, Chan, Thames v. Toronto Police Services Board, Wilson, Greenaway, Petrie, Demkiw, Christie	sex, sexual harassment, sexual orientation
Waters v. Harrietha	sex
Yu v. Morrison Hershfield Limited, Pappas	race, ethnic origin, place of origin, reprisal
Zanatta v. Fourier Pharma Inc., Charron	harassment, sex, reprisal

<b>Divisional Court (Appeal)</b>	<b>Grounds</b>
Smith and OHRC v. Mardana Limited (c.o.b. as Mr. Lube), Keelestaff Ltd. (c.o.b. as Mr. Lube), Iswood Ltd. (c.o.b. as Mr. Lube), Strynadka, Neal <i>(appeal granted)</i>	race

<b>Divisional Court (Judicial Review)</b>	<b>Grounds</b>
Ervine v. OHRC, Royal and Sun	disability
Alliance Insurance Company of Canada, Eva  <i>(application dismissed)</i>	
Dr. Hassaram v. OHRC, St. Michael's Hospital, Dr. Sugar <i>(application dismissed)</i>	disability
Losenno v. OHRC, and Metroland Inc. (intervenor) <i>(application dismissed)</i>	disability
<b>Superior Court of Justice</b>	<b>Grounds</b>
A v. B, and OHRC <i>(interim publication ban in effect)</i>	sexual harassment
<b>Court of Appeal</b>	<b>Grounds</b>
(including leave to appeal)	
Campbell v. OHRC  <i>(application for leave to appeal dismissed)</i>	race, ancestry, disability, place of origin
Gurofsky v. OHRC, Fanshawe College of Applied Arts and Technology, Middleton, Rozell, Rundle <i>(application for leave to appeal dismissed)</i>	disability
Her Majesty the Queen in Right of Ontario v. McKinnon and OHRC <i>(appeal dismissed)</i>	race, ancestry, ethnic origin, harassment
Layzell v. OHRC <i>(application for leave to appeal dismissed)</i>	sex, disability, reprisal
O.N., A Minor, by this litigation guardian, N.N., A Minor, by this litigation guardian, and C.K. v. OHRC <i>(application for leave to appeal withdrawn)</i>	disability, association
Tranchemontage v. Director of the Ontario Disability Support Program of the Ministry of Community, Family and Children's Services v. Social Benefits Tribunal	disability

*(OHRC was intervenor)*

<b>Supreme Court of Canada</b> (including leave to appeal)	<b>Grounds</b>
Syndicat Northcrest v. Amselem <i>(OHRC was intervenor)</i>	creed
Iness v. Caroline Co-operative Housing Inc., Canada Mortgage and Housing Corp., and OHRC <i>(application for leave to appeal dismissed)</i>	receipt of public assistance
Pritchard v. OHRC and Sears Canada Inc. <i>(appeal dismissed)</i>	sex, sexual harassment, reprisal
Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Quebec (Attorney General)  <i>(OHRC was intervenor)</i>	age
Same-Sex Marriage Reference <i>(OHRC was intervenor)</i>	sexual orientation
Gurofsky v. OHRC, Fanshawe College of Applied Arts and Technology, Middleton, Rozell, Rundle <i>(application for leave to appeal dismissed)</i>	disability

**Financial Statement**

**2004-2005 Actual Year-End Financial Position (\$'000)**

	2004-05 Printed Estimates	Revised Budget Mar. 31, 2005	Actual Expenditure Mar. 31, 2005	2004-05 Year-End Variance	
				\$	% of Revised Budget
<b>Salaries &amp; Wages</b>	9,132.1	8,681.0	8,860.0	(179.0)	(2.1)
<b>Employee Benefits</b>	1,166.2	1,227.1	1,051.5	175.6	14.3
<b>Other Direct Operating Expenses (ODOE)</b>	2,172.7	2,611.3	2,478.4	132.9	5.1
<b>Fees</b>			(1.0)	1.0	
	<b>12,471.0</b>	<b>12,519.4</b>	<b>12,388.9</b>	<b>130.5</b>	<b>1.0</b>

**Note: The OHRC 2004-05 year-to-date expenditure of \$12,389.9 was decreased by the year-to-date revenue of \$1.0, for a net actual expenditure of \$12,388.9.**

## Tables

**Table 1: New Complaints Filed by Social Area and Grounds Cited  
Total Number of New Complaints: 2,399**

	Percent of Total Complaints Filed	Percent of Grounds Cited	Total Grounds	Vocational Associations	Services	Employment	Contracts	Accommodation
Age	7.67%	4.01%	184	2	27	146	1	8
Ancestry	5.96%	3.12%	143	2	32	101		8
Association	1.17%	0.61%	28	1	8	14		5
Breach of Settlement	0.29%	0.15%	7		2	5		
Citizenship	1.38%	0.72%	33	1	4	24	1	3
Creed	4.38%	2.29%	105	4	24	70		7
Disability	55.94%	29.24%	1342	24	201	1067		50
Ethnic Origin	13.09%	6.84%	314	13	73	218	1	9
Family Status	4.46%	2.33%	107	1	19	63		24
Marital Status	2.21%	1.15%	53	1	12	34		6
Place of Origin	11.05%	5.77%	265	11	54	189		11
Public Assistance	0.33%	0.17%	8		1			7
Race & Colour	30.64%	16.01%	735	15	205	494	1	20
Record of Offences	0.21%	0.11%	5			5		
Reprisal	12.42%	6.49%	298	6	11	274	1	6
Sex & Pregnancy	27.84%	14.55%	668	3	47	602	1	15
Sexual Harassment	8.71%	4.55%	209		11	194		4
Sexual Orientation	3.58%	1.87%	86	2	16	64		4
Sum of Categories		100%	4590	86	747	3564	6	187
<b>Total Complaints Per Social Area</b>			<b>2399</b>	<b>43</b>	<b>369</b>	<b>1885</b>	<b>2</b>	<b>100</b>
<b>Percentage of all Complaints</b>			<b>100.00%</b>	1.79%	15.38%	78.57%	0.08%	4.17%

\*Note: Because complaints can involve multiple grounds, the sum by grounds exceeds the total for all complaints filed, and the corresponding percentages of total complaints exceed 100%.

**Table 2: Settlements by Ground in Cases Mediated and Conciliated in 2004/2005**

Ground	Mediated			Conciliated			Total Cases Settled		
	Cases	Monetary Damages	Average	Cases	Monetary Damages	Average	Cases	Settlements	Average
Age	37	\$366,810.00	\$9,913.78	9	\$40,500.00	\$4,500.00	46	\$407,310.00	\$8,854.57
Ancestry	26	\$113,569.37	\$4,368.05	4	\$13,908.56	\$3,477.14	30	\$127,477.93	\$4,249.26
Association	5	\$19,900.00	\$3,980.00	0	0	n/a	5	\$19,900.00	\$3,980.00
Breach of Settlement	1	\$24,000.00	\$24,000.00	0	0	n/a	1	\$24,000.00	\$24,000.00
Citizenship	2	\$3,250.00	\$1,625.00	0	0	n/a	2	\$3,250.00	\$1,625.00
Creed	18	\$91,565.37	\$5,086.97	3	\$2,590.15	\$863.38	21	\$94,155.52	\$4,483.60
Disability	328	\$2,245,744.81	\$6,846.78	56	\$289,416.00	\$5,168.14	384	\$2,535,160.81	\$6,601.98
Ethnic Origin	54	\$334,626.37	\$6,196.78	7	\$55,908.56	\$7,986.94	61	\$390,534.93	\$6,402.21
Family Status	22	\$177,650.00	\$8,075.00	8	\$18,400.00	\$2,300.00	30	\$196,050.00	\$6,535.00
Marital Status	14	\$88,400.00	\$6,314.29	3	\$28,800.00	\$9,600.00	17	\$117,200.00	\$6,894.12
Place of Origin	47	\$250,242.00	\$5,324.30	6	\$27,658.56	\$4,609.76	53	\$277,900.56	\$5,243.41
Public Assistance	1	\$750.00	\$750.00	1	\$1,000.00	\$1,000.00	2	\$1,750.00	\$875.00
Race & Colour	127	\$857,174.83	\$6,749.41	18	\$146,567.12	\$8,142.62	145	\$1,003,741.95	\$6,922.36
Record of Offences	1	\$15,000.00	\$15,000.00	0	0	n/a	1	\$15,000.00	\$15,000.00
Reprisal	51	\$390,993.67	\$7,666.54	13	\$74,508.56	\$5,731.43	64	\$465,502.23	\$7,273.47
Sex & Pregnancy	150	\$884,443.51	\$5,896.29	38	\$147,214.92	\$3,874.08	188	\$1,031,658.43	\$5,487.54
Sexual Harassment	66	\$523,501.67	\$7,931.84	16	\$51,935.00	\$3,245.94	82	\$575,436.67	\$7,017.52
Sexual Orientation	19	\$84,770.00	\$4,461.58	7	\$15,000.00	\$2,142.86	26	\$99,770.00	\$3,837.31
Total for All Grounds*	969	N/A	N/A	189	N/A	N/A	1158	N/A	N/A
<b>Total Cases</b>	<b>546</b>	<b>\$3,558,600.65</b>	<b>\$6,517.58</b>	<b>102</b>	<b>\$424,729.63</b>	<b>\$4,164.02</b>	<b>648</b>	<b>\$3,983,330.28</b>	<b>\$6,147.11</b>

\*Note: Because complaints can involve multiple grounds, the sum by grounds exceeds the total for all complaints filed, and the corresponding percentages of total complaints exceed 100%.

**Table 3: Complaints Closed by Disposition and Grounds**  
**Total Number of Complaints Closed: 2,215**

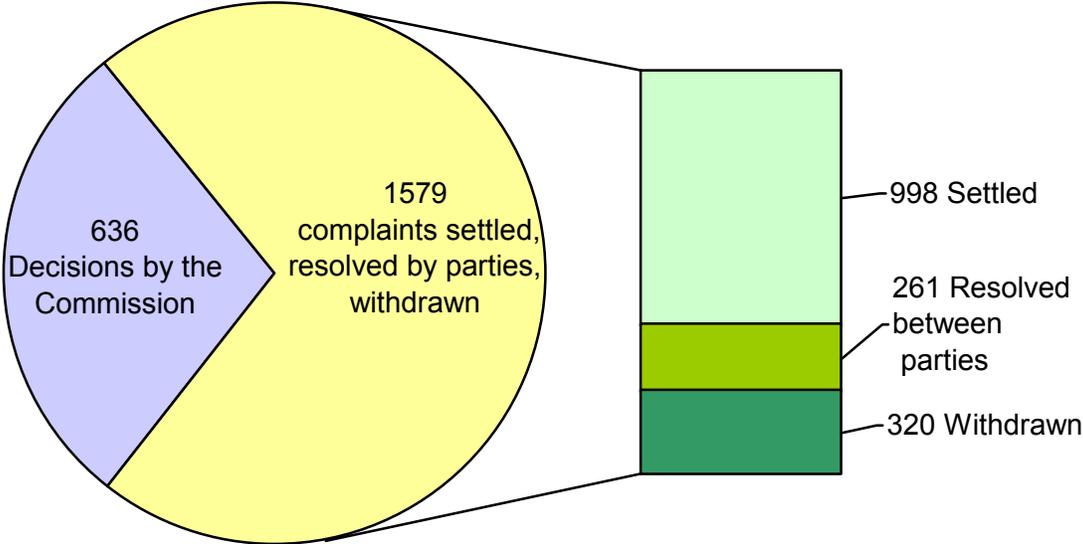
	Percentage	Total	Withdrawn	Settled	Resolved	Referred to Human Rights Tribunal	Not Deal With (Sec. 34)	Failure to Provide Evidence	Dismissed (Sec. 36(2))
Age	4.05%	163	25	66	22	8	16	1	25
Ancestry	3.18%	128	13	46	20	2	13	2	32
Association	0.70%	28	2	8	6	4	4		4
Breach of Settlement	0.10%	4		1	2				1
Citizenship	0.47%	19	3	6	2	1	1		6
Creed	2.16%	87	11	36	12	2	13		13
Disability	32.31%	1299	189	585	154	88	128	14	141
Ethnic Origin	5.92%	238	24	87	25	14	31	4	53
Family Status	2.61%	105	22	43	11	6	10	1	12
Marital Status	1.22%	49	4	20	6	3	3	1	12
Place of Origin	5.27%	212	29	82	20	14	22	4	41
Public Assistance	0.30%	12		7	2		1		2
Race & Colour	13.78%	554	58	233	58	44	48	14	99
Record of Offences	0.02%	1		1					
Reprisal	5.67%	228	38	92	32	10	17	1	38
Sex & Pregnancy	15.42%	621	108	290	83	43	31	5	61
Sexual Harassment	5.00%	201	27	117	25	6	8	2	16
Sexual Orientation	1.82%	73	10	33	8	11	4	3	4
Sum of Categories	100%	4022	563	1753	488	256	350	52	560
<b>Total by disposition</b>		<b>2215</b>	<b>320</b>	<b>998</b>	<b>261</b>	<b>150</b>	<b>196</b>	<b>28</b>	<b>262</b>
Percentage of all Complaints		<b>100.00%</b>	14.45%	45.08%	11.79%	6.73%	8.85%	1.26%	11.83%

Note: Because complaints can involve multiple grounds, the sum by grounds exceeds the total for all complaints filed.

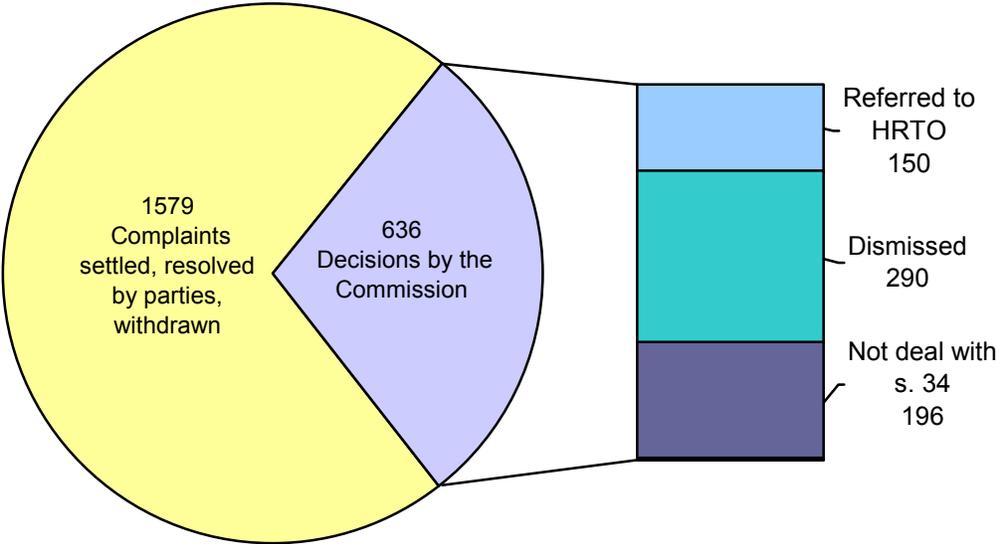
**Table 4: Complaints Closed by Disposition and Social Area**  
**Total Number of Complaints Closed: 2,215**

Dismissed (Sec. 36(2))	15	1	161	83	2	<b>262</b>	11.83%
Failure to Provide Evidence	2		24	2		<b>28</b>	1.26%
Not Deal With (Sec. 34)	8	2	145	35	6	<b>196</b>	8.85%
Referred to Human Rights Tribunal	4		60	84	2	<b>150</b>	6.73%
Resolved	11	2	205	35	8	<b>261</b>	11.79%
Settled	42	1	859	85	11	<b>998</b>	45.08%
Withdrawn	18		275	25	2	<b>320</b>	14.45%
<b>Total</b>	<b>100</b>	<b>6</b>	<b>1729</b>	<b>349</b>	<b>31</b>	<b>2215</b>	<b>100.00%</b>
Percentage	4.52	0.27	78.09	15.72	1.40	<b>100.00</b>	
	Accommodation	Contract	Employment	Services	Vocational Associations	<b>Sum of Categories</b>	Percentage of all complaints

**Resolved Cases: Details on Settlements**



**Breakdown of Commission Decisions**



## ENDNOTES

<sup>1</sup> For example, the Red Tape Review Commission identified the need for “refinement of enforcement procedures and processes”. Citing time and costs associated with investigation and resolution of complaints and the number of complaints in the system that respondents’ groups identified as being unrelated to the *Code*, a key recommendation of the Red Tape Commission was an amendment that would require a person to establish reasonable grounds in support of the belief that a right under the *Code* has been infringed. The Agencies, Boards and Commissions Task Force identified three principles for reform and administrative justice, including the standardization of agency hearing procedures, coordinating or sharing service delivery, and requiring agencies to manage their own performance in a publicly accountable way. Finally, a government committee of Caucus also examined the longer-term reform of the *Code* and the Commission.

<sup>2</sup> The Theresa Vince Inquiry, (1997-98) was an Ontario Coroner’s inquest into the deaths of Theresa Vince and Russell Davis. Theresa Vince was sexually harassed then killed by her manager Russell Davis. Davis subsequently committed suicide. Both individuals were employees of Sears Canada. The Coroner’s Jury made recommendations, including some specific to the Ontario Human Rights Commission, to prevent sexual harassment and promote public awareness of this issue.

<sup>3</sup> For example, see *Luis Espinoza v. Coldmatic Refrigeration of Canada Inc. et al.* (Board decision - March 31, 1995); *Dr. Juanita Crook v. Ontario Treatment and Research Foundation and Regional Cancer Centre* (Board decision - August 26, 1996); *Michael McKinnon v. Her Majesty the Queen in Right of Ontario* (Ministry of Correctional Services), *Frank Geswaldo, George Simpson, P. James and Jim Hume* (Board decision – April 28, 1998 and November 29, 2002); *John Leonis v. Metropolitan Toronto Condominium Corporation Nos. 741 (Trillium); 742 (Vista); and 634 (Skypark)* (Board decision – June 10, 1998); *Nicole Curling v. The Victoria Tea Company Ltd., A. Torimiro and The Torimiro Corporation* (Board decision - December 22, 1999); *Moffatt v. Kinark Child and Family Services* (Board decision - May 26, 2000); *Metsala v. Falconbridge Ltd, Kidd Creek Division* (Board decision - February 15, 2001); *Kearsley v. City of St. Catherines*, (Board decision - April 2, 2002; *Ketola v. Value Propane Inc. et al.*, (Board decisions - July 16, 2002 and August 7, 2002); *Barbara Turnbull, Marilyn Chapman, Domenic Fragale, Ing Wong-Ward and Steven Macaulay v. Famous Players Inc.*; (Board decision - September 10, 2001, Tribunal decision - May 9, 2003); *Payne v. Otsuka Pharmaceutical Co. Ltd., Minoru Okada Canadian Ophthalmological Society, Intertask Group of Companies Inc., and Leeanee Akehurst*, (Tribunal decision - October 15, 2002); *Racheal Baylis-Flannery v. Walter DeWilde c.o.b. as Tri Community Physiotherapy*, (Tribunal decision - December 16, 2003).

<sup>4</sup> *Quereshi v. Toronto Board of Education et al.* (Court of Appeal Decision - January 15, 1997).

<sup>5</sup> *Velenosi v. Dominion Management et al.* (Court of Appeal Decision - March 27, 1997).

<sup>6</sup> *Entrop v. Imperial Oil Limited* (21 July 2000), (Ont. C.A.), online: Court of Appeal for Ontario <http://www.ontariocourts.on.ca>

<sup>7</sup> *B v. Ontario (Human Rights Commission)* [2002] 3 S.C.R. 403

<sup>8</sup> *Pritchard v. Ontario (Human Rights Comm.)* (2004), 49 C.H.R.R. D/120, 2004 SCC 31

<sup>9</sup> *Gismondi v. Ontario Human Rights Commission* (Divisional Court Decision - February 14, 2003)

<sup>10</sup> *The Shelter Corp. v. OHRC and Kearney et al.* (Divisional Court Decision - February 1, 2001),

<sup>11</sup> *Losenzo v. Ontario (Human Rights Commission)* (Divisional Court Decision - June 21, 2004)

<sup>12</sup> *Attorney General of Ontario v. M. and H.*, [1999] 2 S.C.R. 3.

<sup>13</sup> *Gibbs v. Battlefords and Dist. Co-operative Ltd.*(1996), 27 C.H.R.R. D/87 (S.C.C.)

<sup>14</sup> *Blencoe v. British Columbia (Human Rights Commission)*, [2000] 2 S.C.R. 307, 2000 SCC 44

<sup>15</sup> *Parry Sound (District) Social Services Administration Board v. O.P.S.E.U., Local 324*, [2003] 2 S.C.R. 157

<sup>16</sup> *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Quebec (Attorney General)*, [2004] 2 S.C.R. 185

<sup>17</sup> *Syndicat Northcrest v. Amselem*, [2004] 2 S.C.R. 551, 2004 SCC 47

<sup>18</sup> *Reference re Same-Sex Marriage*, [2004] 3 S.C.R. 698

<sup>19</sup> For example, the Commission initiated the following complaints: O.H.R.C. v. College of Nurses of Ontario; O.H.R.C. v. Ontario Ministry of Health (1997); O.H.R.C. v. Westpark Hospital; O.H.R.C. v. Ministry of Health (2001).

---

<sup>20</sup> *O.H.R.C. v. City of Toronto; O.H.R.C. v. Toronto Firefighters Association*

<sup>21</sup> Bill 118, the *Accessibility for Ontarians with Disabilities Act*; Third Reading carried on division May 10, 2005.

<sup>22</sup> (1995), 28 C.H.R.R. D/474 (Ont. Bd. Inq.).

<sup>23</sup> (2003), C.H.R.R. Doc. 03-296 (H.R.T.O.)

<sup>24</sup> The Commission's comments are currently available on the UN Enable website at [www.un.org/esa/socdev/enable/rights/ahc3ohrc.htm](http://www.un.org/esa/socdev/enable/rights/ahc3ohrc.htm).

<sup>25</sup> Report of the Canadian Human Rights Review Panel, 2000, Canadian Human Rights Review Panel (under the authority of The Minister of Justice and the Attorney General of Canada).

<sup>26</sup> *Promises to Keep: Implementing Canada's Human Rights Obligations*. Report of the Standing Senate Committee on Human Rights, December 2001.

<sup>27</sup> *McKenzie Forest Products Inc. v. Tilberg* (2000), 37 C.H.R.R. D/316 (Ont.C.A.)

<sup>28</sup> *British Columbia (Human Rights Comm.) v. British Columbia (Human Rights Tribunal) and Shannon* (2001), 40 C.H.T.T. D/95 (B.C.S.C.)

<sup>29</sup> *Submission by the Canadian Association of Statutory Human Rights Agencies Regarding The Government of British Columbia's Draft Human Rights Code Amendment Act Bill 53*. Page 16, September 2002 (Source: [www.albertahumanrights.ab.ca/whatsnew/Archive/2002/CASHRA\\_Subm\\_Oct02.pdf](http://www.albertahumanrights.ab.ca/whatsnew/Archive/2002/CASHRA_Subm_Oct02.pdf)).

<sup>30</sup> United Nations Centre for Human Rights, Professional Training Series No. 4. *National Human Rights Institutions: A Handbook on the Establishment and Strengthening of National Institutions for the Promotion and Protection of Human Rights*. HR/P/PT/4 (United Nations Publication: Geneva, 1995) at para. 49.

<sup>31</sup> *Concluding Observations of the UN Committee on the Elimination of Racial Discrimination: Canada*. 1/11/2002, at para. 319. (Source: [www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/A.57.18,paras.314-343.en?Opendocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/A.57.18.paras.314-343.en?Opendocument)).

<sup>32</sup> The rate of "abandoned" calls does not account for individuals who call back again successfully and are able to speak with an inquiries representative.