



**Alberta Human Rights
and Citizenship Commission**

Annual Review

April 1, 2008 – March 31, 2009

**Government
of Alberta ■**

Upon request, the Commission will make this publication available in accessible multiple formats. Multiple formats provide access for people with disabilities who do not read conventional print.



Alberta Human Rights
and Citizenship Commission

Annual Review
2008–09

Contents

Message from the Chief Commissioner	iv
Executive summary	vii
The Alberta Human Rights and Citizenship Commission	vii
Protection from discrimination under the Human Rights, Citizenship and Multiculturalism Act	ix
Results	x
Education and community initiatives: summary of results	x
Resolution and adjudication of human rights complaints: summary of results	xiii
Results in detail	1
Results achieved through education and community initiatives.	1
Working with municipal partners to combat racism and discrimination	1
Recognizing champions of diversity leadership	2
Supporting Albertans with educational resources	3
Educating Albertans through workshops, presentations and policy consultations.	5
Communicating through the website albertahumanrights.ab.ca	7
Informing Albertans through the online newsletter.	7
Informing Albertans through displays	8
Helping Albertans make a difference in building welcoming and inclusive communities	8
Celebrating the 60th anniversary of the Universal Declaration of Human Rights	9
Marking significant days.	10
Engaging in government and community initiatives.	10
Contributing to national and international initiatives	12
Human Rights, Citizenship and Multiculturalism Education Fund	13



Results achieved through the complaint resolution and settlement process provided by the regional offices and director’s office	13
Confidential inquiries	13
Process improvements	13
Complaint forms received and complaints accepted.	14
Complaint files opened and closed	14
Grounds of discrimination cited in complaint files opened	14
Sections of the Act cited in complaint files opened	15
Disposition of closed complaint files	16
Conciliated files	16
Investigated files.	17
Dismissed files	17
Discontinued files	18
Withdrawn files	18
Time frame for closed complaints.	20
Results achieved through the complaint review and adjudication processes	21
Appeals reviewed by the Chief Commissioner.	21
Disposition of complaints scheduled for or heard by panels	22
Measuring public perception of the protection of human rights in Alberta	23
Appendix 1	25
Alberta Human Rights and Citizenship Commission	25
Appendix 2	26
Overview of the complaint resolution and settlement process provided by the regional offices and director’s office	26
Confidential inquiries and referrals	26
Submitting a human rights complaint	26
Determining whether to accept a human rights complaint.	26
Next steps	26
Two methods for resolving human rights complaints	27
Conciliation	27
Investigating human rights complaints	27
Settling a human rights complaint when merit is found	28
Dismissing or discontinuing a complaint.	29
Withdrawn or abandoned complaints.	29



Alberta Human Rights
and Citizenship Commission

Annual Review
2008–09

Appendix 3	30
Overview of the complaint review and adjudication processes.	30
Referral to the Chief Commissioner when parties are unable to settle a complaint	30
Appeals to the Chief Commissioner	30
Human rights panels	30
Appendix 4	32
Panel decision summaries	32
Preliminary matters panel hearings on the validity and enforceability of the severance agreement	37
Appendix 5	38
Supreme Court of Canada: Application for leave to appeal.	38
Court of Appeal: Appeals of panel decisions.	38
Court of Queen’s Bench: Appeals of panel decisions	39
Court of Appeal: Judicial reviews of the Chief Commissioner’s decision.	41
Court of Queen’s Bench: Judicial reviews of the Chief Commissioner’s decision.	43
Contact information	46



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

Message from the Chief Commissioner

It is an honour to be appointed Chief Commissioner of the Alberta Human Rights and Citizenship Commission and to report on the Commission's activities for the period April 1, 2008 to March 31, 2009.

Diversity continues to thrive in Alberta. Along with a diverse population come many benefits as well as challenges. The Commission relies on its staff and its partnerships and collaborations with many and varied community organizations, businesses, educational institutions, levels of government, and individuals to meet the challenges of building a province that recognizes that "the inherent dignity and the equal and inalienable rights of all persons is the foundation of freedom, justice and peace in the world."¹

I acknowledge the hard work and dedication of the Commission staff and the appointed commissioners who all make a valuable contribution toward creating a welcoming and inclusive province where all Albertans have the opportunity to participate in the social, economic and cultural life of the province without discrimination. In particular, I would especially like to recognize Charlach Mackintosh's considerable contribution toward the advancement of human rights in Alberta during his 14 years of service as Chief Commissioner, which ended in March 2008. I also recognize the contribution of Brenda Scragg, who took on the role of Acting Chief Commissioner from March 2008 to February 2009. And last but far from least, I acknowledge the support of the Commission's many partners, including the Human Rights, Citizenship and Multiculturalism Education Fund, which shares the Commission's goal of protecting human rights and promoting fairness and access.

In 2008-09, the Commission continued its focus on human rights education. In addition to helping Albertans understand their rights and responsibilities under human rights law through its publications, website, newsletter, workshops and presentations, the Commission actively engaged in community initiatives and partnerships on the local, provincial, national and international levels. This annual review includes a summary of the Commission's many and varied educational and community engagement activities as well as detailed descriptions of the individual initiatives. The following highlights of a few of these initiatives provide a snapshot of some of the innovative projects that the Commission was involved in during 2008-09.

¹From the Preamble of the *Human Rights, Citizenship and Multiculturalism Act*



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

The Commission launched a plain language newspaper-style publication called *Human rights in Alberta*. Available in print, online and audio formats, this publication was developed for adults who are improving their English literacy skills, including literacy and ESL (English as a second language) students, many of whom are immigrants and Aboriginal people. The only Canadian publication on human rights law presented in a low literacy newspaper format, it was showcased at a UNESCO (United Nations Educational, Scientific and Cultural Organization) exhibition of educational resources, held in December 2008 in Paris.

The Commission continued its work in support of the Canadian Coalition of Municipalities Against Racism and Discrimination (CMARD). A highlight of the year was the second Pan-Canadian meeting of the coalition, which took place in Calgary in March 2009. I am proud to report that as of March 31, 2009, eight Alberta municipalities were members of CMARD. This represents the largest number of municipalities that have joined the coalition in any Canadian province and is equal to the number of municipalities that have joined in Ontario.

The Commission continues to engage in community initiatives to promote human rights. Some examples are the Alberta Hate Crime Committee, the Ethnocultural Gang Strategy, the Calgary Urban Aboriginal Initiative, and Racism Free Edmonton.

In addition to its educational services and activities, the Commission offers complaint resolution services. In 2008-09, the Commission opened 799 complaint files and closed 668 files. As in the previous three years, physical disability and gender continued to be the two most common grounds on which complaints were made. Complaints most frequently cited discrimination in the area of employment, followed by the area of goods, services, accommodation and facilities.

The vast majority of complaints closed this fiscal year — 646 files (97 per cent of all closed files) — were dealt with through the Commission's complaint resolution processes, meaning they were resolved through conciliation, settled through investigation, dismissed or discontinued by the director, or withdrawn by the complainant. The remaining 22 files (three per cent) closed through the panel hearing process. This process is independent from the work of Commission staff in resolving and settling complaints. Human rights commissioners, appointed by Order in Council, are assigned to independent human rights panels by the Chief Commissioner.

The body of this annual review provides details of the Commission's complaint resolution activities as well as the activities of the human rights panels.



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

The appendices include an overview of the Commission's organizational structure and complaint resolution processes as well as summaries of human rights panel decisions, court decisions related to appeals of panel decisions, and judicial reviews of the Chief Commissioner's decisions.

The Commission had a busy and successful 2008-09, as demonstrated in this review. In addition to carrying out its regular functions, the Commission gave input to the government's review of the *Human Rights, Citizenship and Multiculturalism Act* in 2008-09. Commission staff and commissioners provided input on the proposed changes to the *Act* to the Minister of Culture and Community Spirit, who is responsible for the policy and legislative framework for human rights in Alberta.

As I look ahead to the coming year, I welcome the opportunity to work with the upcoming changes to the legislation in the continuing effort to strengthen human rights in the province. I also look forward to continuing accomplishments as the Commission and its partners work together to meet the goals of fostering equality and reducing discrimination in Alberta.

[Original signed by]

D. Blair Mason
Chief Commissioner



Alberta Human Rights
and Citizenship Commission

Annual Review
2008–09

Executive summary

The Alberta Human Rights and Citizenship Commission

In Alberta, the *Human Rights, Citizenship and Multiculturalism Act* (the *Act*) protects Albertans from discrimination in certain areas based on specified grounds. The purpose of the *Act* is to ensure that all Albertans are offered an equal opportunity to earn a living, find a place to live, and enjoy services customarily available to the public without discrimination.

The *Act* establishes the Alberta Human Rights and Citizenship Commission to carry out functions under the *Act*.² The Commission is an independent commission created by the Government of Alberta, which reports to the Minister of Culture and Community Spirit. The Commission has a two-fold mandate:

- to foster equality
- to reduce discrimination

It fulfills this mandate through public education and community initiatives, through the resolution and settlement of complaints of discrimination, and through human rights panel and court hearings.

A Chief Commissioner and part-time commissioners are appointed by Order in Council. As the head of the Commission, the Chief Commissioner is responsible for keeping the Minister informed on human rights issues, providing the commissioners with guidance regarding their panel hearings and other functions, and providing the director with guidance regarding the overall goals and direction of the Commission. In addition, the Chief Commissioner undertakes other related activities.

² Section 16(1) of the *Act* outlines the functions of the Commission:

- to forward the principle that all persons are equal in: dignity, rights and responsibilities without regard to race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, or family status, [Note that sexual orientation is also a protected ground as it has been “read in” to the *Act* since 1998.]
- to promote awareness and appreciation of and respect for the multicultural heritage of Alberta society,
- to promote an environment in which all Albertans can participate in and contribute to the cultural, social, economic and political life of Alberta,
- to encourage all sectors of Alberta society to provide equality of opportunity,
- to research, develop and conduct educational programs designed to eliminate discriminatory practices related to race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, or family status, [Note that sexual orientation is “read in” to this list as well. See bullet one above.]
- to promote an understanding of, acceptance of and compliance with this *Act*,
- to encourage and co-ordinate both public and private human rights programs and activities, and
- to advise the Minister on matters related to this *Act*.



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

The Chief Commissioner reviews appeals of decisions made by the director to dismiss or discontinue complaints. The Chief Commissioner also appoints commissioners to serve on human rights panels (administrative tribunals) that hold public hearings into human rights complaints. The primary purpose of the panels in relation to complaint resolution and settlement is adjudicative.

The Acting Chief Commissioner from April 1, 2008 to February 28, 2009 was Brenda Scragg. Effective March 1, 2009, the Honourable David Blair Mason, Q.C. was appointed Chief Commissioner. The part-time commissioners in 2008-09 were:

- Lori Andreachuk, Q.C.
- Beth Bryant
- Brenda Chomey
- Diane Colley-Urquhart
- Delano Tolley

An appointed director and employees handle the administrative responsibilities related to the resolution and settlement of complaints made under the *Act*. This work is separate and distinct from the work of the Chief Commissioner in reviewing appeals and the work of commissioners in adjudicating human rights complaints. In keeping with the purposes of the *Act*, the director and employees also provide public information and education and consultation services, engage in community initiatives, and undertake other related activities.



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

Protection from discrimination under the Human Rights, Citizenship and Multiculturalism Act

The *Human Rights, Citizenship and Multiculturalism Act*³ protects Albertans from discrimination in the following areas:

- publications and notices
- goods, services, accommodation and facilities
- tenancy
- employment practices
- applications and advertisements regarding employment
- membership in trade unions, employers' organizations or occupational associations

Within the areas listed above, it is a contravention of the *Act* to discriminate against any person on the basis of race, religious beliefs, colour, gender, physical disability, mental disability, ancestry, place of origin, marital status, source of income or family status. As of April 2, 1998, sexual orientation was read into the *Act* as a protected ground in all areas. Age is also a protected ground, except in two areas: goods, services, accommodation and facilities; and tenancy.

In addition to the areas and grounds discussed above, the *Act* protects Albertans in the area of equal pay. This provision requires that employees who perform the same or substantially similar work for an employer must be paid at the same rate, regardless of gender.

The *Act* also prohibits a person from retaliating against any person who has made a complaint, given evidence about a complaint, or assisted anyone else in making a complaint. In addition, the *Act* does not allow a person to make a frivolous or vexatious complaint with malicious intent.

³ In 2008-09, the Government of Alberta initiated a review of the *Human Rights, Citizenship and Multiculturalism Act*. The review resulted in amendments to the *Act*, including a change in the name of the *Act*, which will take effect in 2009-10. In 2008-09, the *HRCM Act* remained in force throughout the fiscal year.



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

Results

Education and community initiatives: summary of results

Education and the promotion of human rights are core functions of the Commission, which help to meet its mandate to foster equality and reduce discrimination. Awareness and education are the foundations for creating communities and organizations free of discrimination. The Commission is a valuable source of information and education for Albertans and Alberta communities and organizations that want information about human rights law and about building welcoming and inclusive communities. In 2008-09, the Commission built awareness and educated Albertans about the application and interpretation of human rights principles and legislation, and supported the capacity of Albertans to implement change. Educational resources such as the Commission website and publications, and educational programs such as workshops, displays and consultations with organizations were the primary tools for awareness building and education. The Commission also engaged in a wide variety of community initiatives at the local, provincial and national levels in its efforts to foster equality and reduce discrimination.

The Commission continued its commitment to providing current information to help Albertans learn more about human rights law. The Commission released a new plain language publication called *Human rights in Alberta*, which was developed in print and audio versions for adult audiences with low English literacy skills. *Human rights in Alberta* was showcased at a UNESCO (United Nations Educational, Scientific and Cultural Organization) exhibition of educational resources, held in December 2008 in Paris. The publication was featured with other learning materials from over 50 member states. The Commission also released a new interpretive bulletin titled *Obtaining and responding to medical information in the workplace* and two new information sheets titled *Drug and alcohol dependencies in Alberta workplaces* and *Racial Profiling*. The Commission partnered with Alberta Employment and Immigration to update their major joint publication, *Becoming a parent in Alberta: What you need to know about human rights, maternity and parental leave, and benefits*. In addition, the Commission conducted an evaluation of its online newsletter, *Alberta Human Rights Information Service*.

The Commission's website continues to be an effective educational resource that helps the Commission respond efficiently to the inquiries it receives each year. In 2008-09, the site received over 280,000 visits, a monthly average of over 23,000 visits. The number of subscribers to the Commission's online newsletter was approximately 3,500 on March 31, 2009.



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

In 2008-09, the Commission continued to educate Albertans and raise awareness through workshops, presentations and displays. The Commission's Human Rights in the Workplace workshops continued to be well received across the province. In 2008-09, the Commission offered 94 workshops to a wide range of audiences. A total of 2,014 employers and employees participated in these programs. In addition, Commission staff made presentations to various local, provincial and national organizations throughout the year. As well, the Commission built awareness of human rights legislation and Commission programs and services through displays that reached approximately 6,600 people at 36 events across the province.

Collaboration and partnership with other organizations working on similar goals continued to be key strategies for the Commission in its education work and its work with communities. For example, the Commission continued to partner with the Alberta Chambers of Commerce to recognize organizations that are working to enhance diversity and inclusion in Alberta. The Alberta Human Rights and Citizenship Commission Diversity Leadership Award of Distinction, one of the Alberta Business Awards of Distinction, was presented to the Lethbridge-based Western Canada Operations of Frito Lay Canada at a gala awards ceremony in Edmonton.

Throughout 2008-09, the Commission was engaged in government- and community-based initiatives to combat racism and discrimination, and support the outcome of a more inclusive, fair and respectful society. The Commission was also engaged in working with and supporting organizations and communities in developing organizational and community capacity initiatives to address issues such as harassment, GLBT (gay, lesbian, bisexual and transgendered) discrimination, race incidents, and building intercultural capacity. Initiatives that the Commission participated in include the Alberta Hate Crime Committee, the 2009 Metropolis Conference in Calgary, the Ethnocultural Gang Strategy, the Calgary Urban Aboriginal Initiative, the Circle of Alberta Gathering, the Aboriginal Human Relations Index and Database Project, the Government of Alberta Welcoming and Inclusive Communities initiative, and Racism Free Edmonton.

In partnership with human rights commissions across the country, the Commission developed and launched an interactive human rights website targeted to youth, in commemoration of the 60th anniversary of the Universal Declaration of Human Rights.

Strategic collaboration with municipalities and other partners to combat racism and discrimination continued to show significant results in 2008-09. The Commission continued to serve on the Pan-Canadian working group that has guided the development of the



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

Canadian Coalition of Municipalities Against Racism and Discrimination (CMARD) and provided input to a national plan for the coalition. The Commission and the Canadian Commission for UNESCO co-hosted the reception to welcome participants to the second Pan-Canadian meeting of CMARD municipalities in Calgary and helped to organize the meeting. Another highlight in 2008-09 was the development of a partnership with Alberta Urban Municipalities Association to increase the capacity of municipalities to develop welcoming and inclusive communities. This partnership was highlighted at a session on collaboration at a national immigration and diversity conference. The Commission continued to promote CMARD to stakeholders within Alberta and to develop and support the network of Alberta CMARD communities. By the end of the year, eight Alberta municipalities were members of CMARD, giving Alberta the largest number of member municipalities in any province, equal to the number of member municipalities in Ontario, which also had eight members. The Alberta CMARD municipalities participated in a planning meeting to set priorities for the next year. The Commission also helped develop the national CMARD website, and strengthened understanding of CMARD through conference presentations in various Alberta locations and in Saskatoon, Ottawa, and Paris. The Commission provided advice and consultation to Alberta member municipalities and served on the advisory committee for the GlobalFest (an annual multicultural festival in Calgary) week-long CMARD-focused Human Rights Forum.

In November 2008, the Commission organized and chaired a conference of lawyers from human rights commissions across Canada. The Commission also co-hosted Calgary events to honour Zimbabwe Lawyers for Human Rights as the recipients of the 2008 John Humphrey Freedom Award, which recognizes exceptional commitment to the promotion of international human rights and democratic development.

The Commission shares the goal of protecting human rights and promoting fairness and access with the Human Rights, Citizenship and Multiculturalism Education Fund, which provides financial assistance to various organizations, as well as to the Commission for its educational programs. The Chief Commissioner serves as vice-chair of the Education Fund Advisory Committee.



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

Resolution and adjudication of human rights complaints: summary of results

In 2008-09, the Commission opened 799 complaint files, an increase from the 680 files opened in 2007-08. As in the previous three years, physical disability and gender continued to be the two most common grounds on which complaints were made. Many complaints alleged discrimination on multiple grounds. Complaints most frequently cited discrimination in the area of employment, followed by the area of goods, services, accommodation and facilities.

In 2008-09, the Commission closed 668 files, a decrease from 733 files that closed in 2007-08. The number of open files in the system at year-end was higher than at the previous year end. As of March 31, 2009, there were 941 complaint files open in the system. This compares to 810 files open on March 31, 2008.

The vast majority of complaints closed this fiscal year — 646 files (97 per cent of all closed files) — were dealt with through the Commission's complaint resolution processes, meaning they were resolved through conciliation, settled through investigation, dismissed or discontinued by the director, or withdrawn by the complainant. Of the files that closed in 2008-09, 57 per cent were resolved through conciliation, exceeding the Commission's performance target to close 50 per cent of files through conciliation. This is an important performance target because files that close at this stage do not move on to the more time- and labour-intensive investigation stage or to the panel stage.

The remaining 22 files (three per cent) that closed in 2008-09 closed through the panel hearing process. This process is independent from the work of Commission staff in resolving and settling complaints. Human rights commissioners, appointed by Order in Council, are assigned to independent human rights panels by the Chief Commissioner.

In 2008-09, the parties settled six of the 22 complaints scheduled for panel hearings prior to a hearing. Of the remaining 16 complaint files, human rights panels found merit in three of the complaints and no merit in five complaints. Human rights panels held preliminary matters hearings on the validity and enforceability of four severance agreements. Three agreements were found to be valid and enforceable and therefore the files were closed. One was found to be not valid and enforceable, and the decision was appealed to the Court of Queen's Bench where it was overturned, and therefore the file was closed at the panel stage. Three complaints were withdrawn by the complainants at the panel stage and therefore the files were closed. In the remaining



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

case, the Court of Queen’s Bench determined that the Commission had no jurisdiction to proceed.

The overall time frame for completing the complaint resolution services provided by the regional offices and the director’s office decreased from an average of 438 days in 2007-08 to an average of 404 days in 2008-09. The median time decreased from 304 days in 2007-08 to 270 days in 2008-09. The Commission’s performance target is to complete the complaint resolution processes within 435 days from the date a complaint is accepted. The Commission achieved this target for 65 per cent of the files closed in 2008-09. When all files closed in 2008-09 are considered, including those that were reviewed by the Chief Commissioner and went through the panel process, the average number of days it took to close a file decreased from 468 days in 2007-08 to 436 days in 2008-09, and the median was 279 days.



Alberta Human Rights
and Citizenship Commission

Annual Review
2008–09

Results in detail

Results achieved through education and community initiatives

Working with municipal partners to combat racism and discrimination

The Commission continued to champion and promote the Coalition of Municipalities Against Racism and Discrimination (CMARD), an international UNESCO (United Nations Educational, Scientific and Cultural Organization) coalition of cities combating racism and discrimination. In 2008-09, CMARD helped to advance increased municipal involvement and capacity to combat racism in Alberta and nationally. As of March 31, 2009, eight Alberta municipalities were members of CMARD: Brooks, Calgary, Drayton Valley, Edmonton, Grande Prairie, Lethbridge, St. Albert and the Regional Municipality of Wood Buffalo. This represents the largest number of municipalities that have joined the coalition in any Canadian province and is equal to the number of municipalities that have joined in Ontario.

The Commission continued to serve on the Pan-Canadian Working Group that has guided CMARD's development, and provided input to the development of a national strategic plan for the coalition. The Commission also made presentations about the initiative at international, national and provincial conferences, including the Alberta Urban Municipalities Association annual convention in Edmonton in October 2008 and the Canadian Commission for UNESCO annual conference in Saskatoon in May 2008.

In collaboration with the Canadian Commission for UNESCO and the City of Calgary, the Commission helped organize the second national meeting of signatory municipalities, which took place on March 19, 2008. On March 18, the Commission and the Canadian Commission for UNESCO co-hosted a reception to welcome participants to the meeting. The Chief Commissioner of the Alberta Human Rights and Citizenship Commission, the Honourable David Blair Mason, Q.C., and the Minister responsible for the policy and legislative framework for human rights in Alberta, the Honourable Lindsay Blissett, Minister of Culture and Community Spirit, both spoke at the reception. Commission staff participated on one of the panels and also participated in sessions by facilitating sessions and recording outcomes.

The Ministry of Culture and Community Spirit and the Commission developed the Welcoming and Inclusive Communities partnership with the Alberta Urban Municipalities Association to support municipalities in their efforts to combat racism and discrimination and to become more welcoming and inclusive. This is the only municipal partnership



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

of this kind in Canada, to the knowledge of the partners. In 2008-09, the partners developed terms of reference, established a steering committee, hired a project coordinator, and developed a project plan. In addition, the project coordinator conducted a needs assessment and consulted with Alberta members of CMARD and municipalities working on initiatives to become welcoming and inclusive. The partners also organized a session on collaboration at the 11th National Metropolis Conference, *Frontiers of Canadian Migration*, held in Calgary from March 19 to 22, 2009.

Within Alberta, the Commission continued to distribute the Alberta versions of the CMARD booklet and brochure, which were produced by the Commission. The booklet outlines the importance of the coalition and explains how municipalities and other organizations and individuals can become involved; provides a 10-point action plan that outlines common commitments and sample actions that municipalities can undertake to counter racism and discrimination; includes a model declaration that municipalities can adopt; and outlines the international, national and provincial legal framework for human rights obligations, which is the foundation for CMARD.

Recognizing champions of diversity leadership

The Commission continued its partnership with the Alberta Chambers of Commerce to offer the Commission's Diversity Leadership Award of Distinction as part of the Alberta Business Awards of Distinction. The award recognizes and honours organizations that embrace diversity in their workforce, encourage respect and inclusion, and work toward eliminating discrimination and barriers to fair employment practices. Businesses, not-for-profit organizations, and public sector organizations are eligible to apply. In sponsoring this award, the Commission publicly recognizes those employers who create a corporate culture that values the diverse abilities, experiences and perspectives of their employees and demonstrate the benefits of a workplace striving to reduce discrimination.

In addition, the Commission envisions that the nominees will serve as role models for other organizations wishing to develop similar strategies.

The 2009 Alberta Business Awards of Distinction were presented at a gala award ceremony in Edmonton on February 27, 2009 with approximately 460 guests in attendance. Western Canada Operations of Frito Lay Canada, located in Lethbridge, received the Alberta Human Rights and Citizenship Commission Diversity Leadership Award of Distinction. Other finalists recognized for their commitment to diversity and inclusion were Chrysalis: An Alberta Society for Citizens with Disabilities, located in Edmonton, and Cobra Group of Limited



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

Partnerships, located in Peace River. Each organization was recognized at the event for its efforts to build more inclusive and diverse workplaces. Each of the nominees demonstrated how positive, inclusive work environments help to attract and retain employees, increase customer satisfaction, and enhance corporate citizenship within their communities.

Supporting Albertans with educational resources

In 2008-09, the Commission continued to provide current information to help Albertans learn more about human rights law. Educational resources such as information sheets and interpretive bulletins supported the educational efforts of both human rights officers and educational presenters. Educational resources were available at the Commission's offices, on the Commission's website, through printed order forms, at educational presentations and special events, and through other agencies. Major initiatives completed in 2008-09 are described below.

- The Commission released a new plain language newspaper-style publication called *Human rights in Alberta*. This publication is a special issue of the Government of Alberta newspaper *English Express*, which is published by Alberta Advanced Education and Technology for adults who are improving their English literacy skills. The only Canadian publication on human rights law presented in a low literacy newspaper format, it will be of particular interest to immigrants learning English as a second language and to adult literacy students. An audio version of the publication is also available for those who want to listen as they read along.
- With assistance from the Ministry of Advanced Education and Technology, the Commission launched *Human Rights in Alberta* at events that were co-hosted by Norquest College in Edmonton and Immigrant Services Calgary in Calgary. The Commission undertook various promotional activities to increase target audience awareness of *Human rights in Alberta*. For example, the Commission promoted the publication through e-mail to umbrella literacy, ESL (English as a second language), and immigrant-serving organizations and to 200 learning centres across Alberta, including Community Adult Learning Councils, Family Literacy Programs, Aboriginal Family Literacy programs and Volunteer Literacy Tutor programs. The Commission also released an information bulletin and published a special issue of its online newsletter to promote the publication.
- The Commission released *Obtaining and responding to medical information in the workplace*, an interpretive bulletin that explores the topic of medical information in the workplace from a human rights point of view. This publication includes a sample *Medical Absence Form* and a sample *Medical Ability to Work Form*. It was developed in response to the many inquiries that the Commission



Annual Review 2008–09

receives from both employers and employees about medical information issues related to medical absences and an employee's medical ability to work. The publication will help employers, employees, and physicians achieve good communication and effective workplace accommodations for employees. The development process for the bulletin included external stakeholder consultation. The sample forms were developed in consultation with the Alberta Federation of Labour, Alberta Medical Association, Alberta Workers' Health Centre, and the College of Physicians and Surgeons of Alberta. In 2008-09, the Commission began development of three information sheets to complement the interpretive bulletin, one sheet for each of the target audiences: doctors, employers and employees. The Commission will promote the medical information bulletin and the information sheets in 2009-10.

- The Commission also released a new information sheet called *Drug and alcohol dependencies in Alberta workplaces*, which clarifies the Commission's role in preventing discrimination against employees who have drug and alcohol dependencies. The information sheet outlines the situations in which an employee may have the basis to make a human rights complaint related to drug and alcohol dependencies; provides information about the responsibilities of the employer and the employee in the accommodation process; and informs the public that the Commission does not have jurisdiction to tell an employer when or whether they can require a drug or alcohol test.
- The Commission also released the information sheet *Racial Profiling*. It includes a definition of racial profiling and provides clarification on how individuals are protected under the *Human Rights, Multiculturalism and Citizenship Act* when racial profiling leads to discrimination. The information sheet also provides examples and consequences of racial profiling and suggestions on how to handle discrimination as a result of racial profiling.
- In 2008-09, the Commission worked in partnership with Alberta Employment and Immigration to update their joint publication, *Becoming a parent in Alberta: What you need to know about human rights, maternity and parental leave, and benefits*. Written for expectant and new parents, this much-requested publication is an integrated and comprehensive resource on the topics of human rights related to pregnancy, childbirth and adoption; maternity and parental leave; and Employment Insurance benefits related to maternity and parental leave.
- The Commission also provided input to the new Alberta Employment and Immigration publication *Employing a Diverse Workforce: Making it work*, which was released in 2008-09. It replaces the previous publication called *Diversity: A strategy to meet*



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

your need for skilled workers, which focused mainly on diversity. The new publication also addresses inclusion and the difference between diversity and inclusion. *Employing a Diverse Workforce: Making it work* offers tips to small and medium-size business owners and managers on how to retain and engage a diverse workforce.

Educating Albertans through workshops, presentations and policy consultations

Workshops

The Commission's workshops on human rights in the workplace continued to be well received across the province. The workshops are organized into six modules, which can be customized for organizations and can be offered in presentations to the general public. The module topics are: a respectful and inclusive workplace; human rights legislation in the workplace; discrimination and harassment in the workplace; the duty to accommodate; human rights and the employment process; and the human rights complaint process.

In 2008-09, the Commission hired a full-time education coordinator and a half-time administrative assistant to support its work in reaching out to businesses, community organizations, and public institutions through educational workshops.

A total of 94 workshops were offered to 2,014 participants in 2008-09. Workshops were delivered to a diverse range of businesses and organizations from all sectors: business, public, not-for-profit and education. Participants included management and non-management staff, boards of directors, members and students. The workshops were customized to meet the needs of the organizations and to deal with emerging human rights issues in their respective workplaces.

Employers are using the program to help them create positive work environments and to foster understanding between employers and employees. As in previous years, some large organizations sponsored multiple workshops to ensure all their employees were able to participate. For example, the Commission partnered with one major employer in Calgary to deliver 10 workshops to 161 employees, including human resource and management representatives. The Alberta Gaming and Liquor Commission, which is a major provincial government commission, continued its comprehensive initiative to ensure employees are aware of human rights responsibilities in the workplace by offering 11 workshops to 170 employees. Post-secondary institutions also requested educational presentations on preventing harassment and discrimination in the workplace for their staff.



Annual Review 2008–09

In addition to employers, service providers such as non-profit organizations that offer programs to immigrants and refugees continued to request workshops for their staff to increase their understanding of human rights law in Alberta.

In addition to the workshops being well received in Alberta, a commission in another Canadian jurisdiction is adapting the modules to be suitable for delivery within their own jurisdiction.

The workshop series generated revenues of over \$24,000 in 2008-09. The revenue helps to support the development and delivery of the Commission's education programs. The policy that guides the fee structure for the educational workshops and policy reviews was updated in 2008-09.

Presentations

Commission staff also make educational presentations to various organizations and at various seminars and conferences as requested. In 2008-09, presentations of note included:

- "The Duty to Accommodate: An update on what educators need to know," presented to the Canadian Association of Professional Statutory Legal Educators in Edmonton on May 22, 2008;
- "An introduction to the Alberta Human Rights and Citizenship Commission," presented to the Aboriginal Women's Program of the Elizabeth Fry Society of Edmonton on September 23, 2008;
- A legal update on human rights issues and cases from across Canada, co-presented with the Saskatchewan Human Rights Commission at the Western CASHRA (Canadian Association of Statutory Human Rights Agencies) conference in Saskatoon on October 7, 2008;
- "Transportation services for the disabled," presented to the Transportation Advisory Council in Edmonton on October 29, 2008;
- "Where Angels Fear to Tread: An analysis of judicial review in Alberta," paper and presentation presented to the Canadian Bar Association's National and Administrative Law Labour and Employment Law Conference in Ottawa on November 20 and 21, 2008;
- "Balancing employee's rights in managing employees affected by stress or mental health concerns," presented to the Alberta Western Canadian Forum on Employment Law in Calgary on January 22, 2009;
- "Human Rights Complaints: Administrative Practices and Policy Concerning Complaints of this Nature," presented at the McLennan Ross LLP Workplace Drug and Alcohol Programs Seminar in Edmonton on February 3, 2009;



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

- “Status and Standing of Administrative Tribunals: A review of the jurisprudence and the practicalities of tribunal participation in judicial reviews,” co-presented to the Canadian Bar Association in Edmonton on February 17, 2009; and
- “Rehabilitation of workers and drug testing in the workplace,” presented at the Canadian Institute seminar on Drug Testing in the Workplace in Edmonton on March 19, 2009.

Commission staff also meet with law students in Edmonton and Calgary each year to discuss human rights legislation and recent important human rights cases.

Policy consultations

When requested, the Commission consults with businesses and community organizations on their anti-discrimination and inclusion policies. In 2008-09, two policy consultations were completed.

Communicating through the website albertahumanrights.ab.ca

The website remained an important source of information about human rights in Alberta. In addition to the public accessing the website on their own, human rights staff frequently referred the public to the website. In 2008-09, the site received over 280,000 visits, a monthly average of over 23,000 visits.⁴

To raise awareness of its new website, which was launched in March 2008, the Commission developed a promotional magnetic bookmark in 2008-09. It includes information about the content of the new website and contact information for the Commission.

Informing Albertans through the online newsletter

The Commission produces an online newsletter called *Alberta Human Rights Information Service*, which provides Commission news and other information about human rights and diversity. In 2008-09, the Commission published 12 issues of the online newsletter. The number of subscribers increased over the year by 13 per cent, from 3,100 subscribers on March 31, 2008 to 3,500 subscribers on March 31, 2009.

⁴ The site received a monthly average of 23,357 visits in 2008-09. This is a decrease of 17 per cent compared to a monthly average of 28,064 visits in 2007-08. In 2007-08, the Commission was developing its new website, which was launched on March 28, 2008. As part of the development process in 2007-08, Commission staff and the contracted site builder made many visits to the old site, which may explain the higher numbers of visits in 2007-08. In addition, an upgraded version of Webtrends (the program that tracks website statistics) was introduced in 2008-09. The upgraded program more accurately reflects traffic levels than the previous version.



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

The Commission conducted an evaluation of its online newsletter in 2008-09. In general, the response to the newsletter was very positive. The majority of respondents indicated that they were interested in the topics that are typically covered in the newsletter, and that they would be interested in more information about human rights and the workplace, aboriginal issues, and sexual orientation. The majority of respondents indicated that they were satisfied with the length of the newsletter and frequency of publication. The majority of respondents also indicated that it was important to receive information about panel decisions and related court decisions immediately upon their release. The Commission will use the results of the survey to ensure it continues to meet the needs of its subscribers.

Informing Albertans through displays

In 2008-09, the Commission built awareness of human rights legislation and the Commission's programs and services through displays that reached approximately 6,600 people at 36 events, including meetings and conferences throughout the province. The number of events attended in 2008-09 increased 44 per cent above 2007-08 with a resulting 35 per cent increase in the number of people reached through the display program.

Helping Albertans make a difference in building welcoming and inclusive communities

Help Make a Difference continued to reach Albertans through the Help Make a Difference website, www.helpmakeadifference.com. The initiative was developed a number of years ago to encourage Albertans to make a difference in building more welcoming and inclusive communities. Help Make a Difference was the result of a partnership between the Commission; Global TV Alberta; the Human Rights, Citizenship and Multiculturalism Education Fund; the Human Rights, Citizenship and Multiculturalism Education Fund Advisory Committee; and the Human Rights and Citizenship Branch of the then Ministry of Tourism, Parks, Recreation and Culture (now Culture and Community Spirit). The initiative includes: a series of 60-second and 30-second public service announcements featuring Albertans speaking about their experiences and perspectives related to diversity and human rights; a booklet on 34 ways to build stronger relations; and a discussion guide. Over 24,000 visits were made to the Help Make a Difference website in 2008-09, a 30 per cent increase from 2007-08.

In 2008-2009, the Commission supported the Ministry of Solicitor General and Public Security with its Crime Prevention Week campaign by providing 2,000 copies of the Help Make a Difference booklet for inclusion in the Crime Prevention Week guide. The Commission continues to promote the Help Make a Difference initiative through its display program.



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

Celebrating the 60th anniversary of the Universal Declaration of Human Rights

December 10, 2008 marked the 60th anniversary of the signing of the Universal Declaration of Human Rights (UDHR). The Commission was involved in a number of activities to raise awareness of the significant anniversary.

Understanding the importance of reaching out to youth, the Commission partnered with educators from other human rights commissions across Canada to develop an interactive website to engage young Canadians in learning and dialogue about human rights. The website includes information about contemporary human rights issues, the work of human rights commissions, the legislative frameworks underlying human rights, practical ideas for youth wanting to promote and protect human rights, and interactive features such as discussion boards, an online art gallery, and calls to action. The initiative was developed in collaboration with the youth-interest organization TakingITGlobal, which operates an online youth forum, and the Edmonton-based John Humphrey Centre for Peace and Human Rights.

In addition to leading the committee that developed this initiative, the Commission coordinated the national launch and promotion of the website. The campaign was introduced on June 16, 2008 at the CASHRA conference in Niagara. A pan-Canadian launch of the website took place on September 8, 2008 in coordination with other commissions across the country. Several strategies have been implemented to promote the site to Alberta's youth, and the Commission continued to work with education partners from other commissions to maintain the website and sustain momentum in engaging youth in the site.

In collaboration with the City of Calgary and other Calgary-based organizations, the Commission helped plan the 2008 International Human Rights Day celebration in Calgary marking the 60th anniversary of the UDHR. The Commission brought greetings to the celebration held on December 8, 2008 at the John Dutton Theatre. The Commission also brought greetings to an International Human Rights Day event held in Calgary on November 25, 2008, which was organized by the Alberta Civil Liberties Research Centre and the Sheldon Chumir Foundation for Ethics in Leadership.

The Commission's display booth was set up and staffed at three events marking Human Rights Day and the 60th anniversary of the UDHR.

As well, the Commission released an information bulletin and published a special issue of its online newsletter to raise awareness of the



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

anniversary and to encourage Albertans to recognize the significance of the anniversary.

Marking significant days

Each year is marked by internationally and nationally recognized days that have significant human rights and diversity implications. In addition to raising awareness of the 60th anniversary of the signing of the Universal Declaration of Human Rights on December 10, 2008, the Commission helped promote other significant days to Albertans.

March 21 is the International Day for the Elimination of Racial Discrimination. The Commission participated in eight events in Alberta by including its display at events in Calgary, Edmonton and Fort McMurray. This included participation at three school-based events where the Commission staffed a display booth. As well, the Commission brought greetings to one school.

Also in recognition of March 21, the Commission released an information bulletin and published a special issue of its online newsletter.

Other significant days were recognized in the regular issues of the Commission online newsletter. Information about significant days was also available at www.helpmakeadifference.com.

Engaging in government and community initiatives

Throughout 2008-09, the Commission was engaged in government- and community-based initiatives to combat racism and discrimination, and support the outcome of a more inclusive, fair and respectful society. The Commission was also engaged in working with and supporting organizations and communities in developing organizational and community capacity initiatives to address issues such as harassment, GLBT (gay, lesbian, bisexual and transgendered) discrimination, race incidents, and building intercultural capacity. Major initiatives in 2008-09 included:

- The Commission continued to work with the Alberta Hate Crime Committee, a multi-sectoral partnership that works with community stakeholders to address crimes and other incidents motivated by hate and bias. The committee involves federal and municipal government agencies, police services and affected communities. It met in May 2008 and October 2008 and continued to work toward initiatives that will support the development of a provincial strategy and greater awareness of issues.
- The Commission facilitated a workshop on policing immigrant communities at a pre-conference session that took place before the start of the 2009 Metropolis Conference in Calgary in March 2009. The day-long session, hosted by the Calgary Police Service and the



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

Alberta Hate Crime Committee, focussed on justice and policing issues in an increasingly diverse Western Canadian context. The session included a series of workshops designed to provide practical information and tools to assist front-line policing personnel and justice workers in meeting the increasing complexity of policing diverse communities.

- The Commission assisted service organizations in Calgary who work with youth at risk of being gang members to help ensure that their services are culturally appropriate. This initiative has led to the development of the Ethnocultural Gang Strategy and the inclusion of diverse voices in the provincial and local justice gang strategies.
- The Commission continued to serve as a member of the Calgary Urban Aboriginal Initiative (CUAI) Human Rights Domain in 2008-09. During the year, the Human Rights Domain helped developed initiatives to increase awareness of human rights within urban Aboriginal communities. For example, the Domain guided the development of a human rights skit designed to help the urban Aboriginal community understand their rights under international, federal and provincial human rights legislation.
- The Commission participated in the “Circle of Alberta Gathering” in October 2008 in Edmonton. The Commission took part in dialogue sessions to explore strategies and solutions for building meaningful relationships between Aboriginal and non-Aboriginal peoples and participated in discussions of three core issues: social development, economic engagement, and capacity building. The Commission display was also set up at the conference.
- The Commission provided advice and consultation on the Aboriginal Human Relations Index and Database Project. This project, which is being led by the provincial Aboriginal Commission on Human Rights, will increase Albertans’ awareness of the types of discrimination or perceived discrimination that Aboriginal people experience in urban centres. A database is being developed to track human rights, discrimination and race-related incidents in urban centres. The database will help to initiate dialogue, create better understanding, and guide policy.
- The Commission collaborated with Alberta Employment and Immigration on their Welcoming and Inclusive Communities initiative in northern Alberta communities, including Cold Lake, Lac La Biche, and Bonnyville.
- The Commission was a member of the Racism Free Edmonton Advisory Committee, which is part of the City of Edmonton’s broader CMARD strategy. In 2008-09, Edmonton City Council approved an action plan for addressing racism and discrimination, which was developed by the committee.



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

Contributing to national and international initiatives

In 2008-09, the Commission contributed to or led a variety of national initiatives and participated in national and international events to promote equality and reduce discrimination:

- The Commission was involved in a number of Canadian Commission for UNESCO (CCU) initiatives. The Commission:
 - represented both the Alberta Commission and the Canadian Association of Statutory Human Rights Agencies on the Canadian Commission for UNESCO's (CCU's) national sectoral commission for the natural, social and human sciences.
 - participated in the CCU's consultation meeting on International Adult Learners' Week 2009.
 - made a presentation at and participated in the UNESCO roundtable discussion "Putting human rights into practice: the role of education" at UNESCO headquarters in Paris from December 10 to 11, 2008. The roundtable was part of UNESCO's commemoration of the 60th anniversary of the signing of the Universal Declaration of Human Rights.
- The Commission organized and chaired a conference of approximately 15 lawyers from human rights commissions across Canada in Calgary on November 7 and 8, 2008. Sessions covered a variety of topics, including a legal update on recent human rights case law, human rights issues related to insurance, determining jurisdiction for First Nations organizations, and proving systemic discrimination. The keynote speaker, the Honourable Madame Justice Sheila Greckol, presented a speech titled "Dilemmas of Multiculturalism in a Secular Society."
- As part of its contribution to the national human rights community, the Commission chaired the Public Education Partners, which is the education network of the Canadian Association of Statutory Human Rights Agencies (CASHRA).
- On November 26 and 27, 2008, the Commission co-hosted a series of events and meetings in Calgary with Rights and Democracy (the International Centre for Human Rights and Democratic Development) to recognize the recipient of the 2008 John Humphrey Freedom Award, Zimbabwe Lawyers for Human Rights. The John Humphrey Freedom Award honours an organization or individual for their exceptional commitment to the promotion of international human rights and democratic development.



- The Commission led the development of a proposal for CASHRA to collaborate with The Canadian Council on Learning's Adult Learning Knowledge Centre and the Canadian Commission for UNESCO (CCU) on an initiative to develop three posters promoting human rights and life-long learning. While CASHRA did not pursue the proposal on a Canada-wide basis, the Alberta Human Rights and Citizenship Commission is exploring options for producing and distributing the posters in Alberta.

Human Rights, Citizenship and Multiculturalism Education Fund

The *Human Rights, Citizenship and Multiculturalism Act*, which established the Commission, also established the Human Rights, Citizenship and Multiculturalism Education Fund. The Education Fund receives an annual allocation from the Alberta Lottery Fund as well as a small amount of income from other sources such as interest. The Education Fund provides financial support for the Commission's education programs and services as well as grants to community organizations for educational programs and services that are in keeping with the purposes of the *Act*. The Chief Commissioner serves as vice-chair of the Human Rights, Citizenship and Multiculturalism Education Fund Advisory Committee, which provides the Minister with advice on the overall use of the fund and on specific grant applications. In 2008-09, Mr. Thomas Lukaszuk, MLA (Edmonton-Castle Downs), chaired the advisory committee.

Results achieved through the complaint resolution and settlement process provided by the regional offices and director's office

Confidential inquiries

Commission staff assisted Albertans by providing verbal and print information about human rights issues, suggestions on steps they could take to resolve situations themselves, suggestions on how to avoid discrimination, guidance on how to complete a human rights complaint form, and referrals to the Commission website. When inquiries fell outside the Commission's mandate, staff referred callers to other agencies.

Process improvements

In 2008-09, the Commission introduced a new version of the respondent's response form to its website. Respondents can complete the form on a computer and either fax or mail the signed form to the Commission. Previously, respondents could only print the form from the website and complete it in handwriting or on a typewriter.



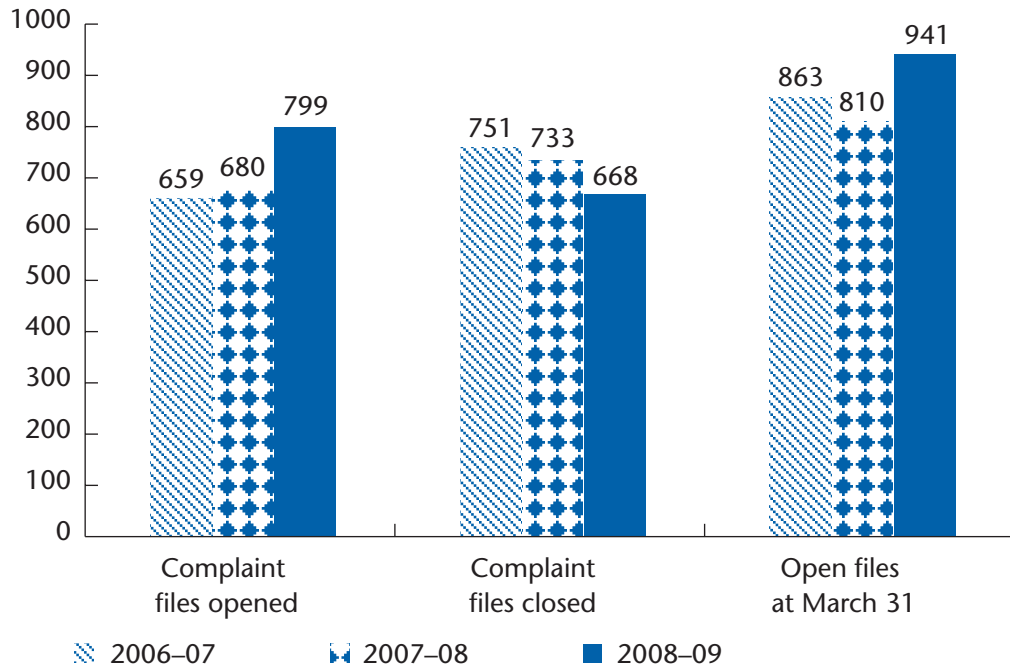
Complaint forms received and complaints accepted

Commission staff review human rights complaint forms to determine if they may be accepted as complaints under the *Human Rights, Citizenship and Multiculturalism Act*. Complaints must fall within the Commission’s jurisdiction, be made within one year after the alleged incident of discrimination, and demonstrate reasonable grounds. In 2008-09, 1,245 parties submitted complaint forms, and the Commission accepted 799 complaints as being within the jurisdiction of the Commission. In 2007-08, 1,016 parties submitted complaint forms, and the Commission accepted 680 complaints as being within its jurisdiction.

Complaint files opened and closed

In 2008-09, the Commission opened 799 complaint files, 119 files more than in the previous fiscal year.

Complaint files opened and closed and in the system in 2006–07, 2007–08 and 2008–09



Grounds of discrimination cited in complaint files opened

A total of 2,031 grounds were cited in the 799 complaint files that opened from April 1, 2008 to March 31, 2009. Continuing the pattern from the previous year, physical disability and gender were the two most frequently cited grounds, followed by mental disability and race/colour.



**Grounds cited in files opened from
April 1, 2008 to March 31, 2009**

Ground	Number of times ground cited	Ground as a % of total number of grounds cited (2,031* grounds)
Physical disability	721	35%
Gender	416	20%
Mental disability	301	15%
Race/Colour	161	8%
Ancestry/Origin	137	7%
Religious beliefs	68	3%
Age	66	3%
Family status	52	3%
Marital status	45	2%
Sexual orientation	29	1%
Other	23	1%
Source of income	12	1%
Totals	2,031	99%**

*Figures represent grounds cited in 799 complaints opened from April 1, 2008 to March 31, 2009.
** Percentages have been rounded.

Sections of the Act cited in complaint files opened

As in previous years, most grounds were cited in complaints of discrimination in the area of employment practices, followed by complaints of discrimination in the area of publicly available goods, services, accommodation or facilities. Of the 2,031 grounds cited in 2008-09, the majority of grounds (1,714 grounds, or 84 per cent) were cited in complaints of discrimination that fell under section 7 of the *Act* (the area of employment practices). Section 4 (publicly available goods, services, accommodation or facilities) was cited 217 times (11 per cent) and was the second most commonly cited section. All remaining sections of the *Act* that address areas of discrimination were cited less frequently. When grounds in the area of employment practices are combined with grounds in the area of employment applications and advertisements (section 8), grounds cited in these combined sections totaled 85.8 per cent. (Note that the numbers on the following chart are rounded. Thus, adding the numbers on the chart for both employment areas equals 85 per cent, but adding the actual unrounded numbers equals 85.8 per cent.)



Percentage of complaint grounds cited by section in files opened from April 1, 2008 to March 31, 2009

2,031 grounds cited in the 799 files opened

Employment practices (Section 7)	84%
Goods, services, accommodation, facilities (Section 4)	11%
Tenancy (Section 5)	2%
Applications and advertisements re: employment (Section 8)	1%
Retaliation (Section 10.1)	1%
Equal pay (Section 6)	less than 1%
Membership in trade union, etc. (Section 9)	less than 1%
Frivolous or vexatious complaints with malicious intent (Section 10.2)	less than 1%
Publications, notices (Section 3)	0%
Total	99%*

Note: This table provides information on the percentage of complaint grounds cited under different sections of the *Act*. The table is based on the total number of grounds cited, not the number of complaint files opened. For example, of the 2,031 grounds cited in 2008–09, 1,714 grounds, or 84% of the total number of grounds cited, were in the area of employment practices (Section 7).

*Percentages have been rounded.

Disposition of closed complaint files

The Commission closed 668 complaint files in 2008-09, a decrease of 65 files when compared with 2007-08. The vast majority of complaints — 646 files (97 per cent) — were dealt with through the Commission’s complaint resolution and settlement process. This means that they were settled by the parties through conciliation or investigation, dismissed or discontinued by the director, or withdrawn by the complainant. The remaining 22 files (three per cent) were handled through the Commission’s panel process. They are discussed later in this review.

Conciliated files

The majority of complaint files were resolved by the parties with the help of a conciliator provided by the Commission. The number of complaints that were resolved through conciliation in 2008-09 (378 of 668 files, or 57 per cent) exceeded the Commission’s goal of closing 50 per cent of files through conciliation. Conciliation is a voluntary, non-adversarial way of resolving disputes. The conciliator is an impartial person who works with the complainant and respondent to generate possible solutions to the complaint.



Annual Review 2008–09

Investigated files

In 2008-09, 12 per cent of the complaint files (77 of 668 files) were settled through investigation. This compares to 14 per cent of the complaint files settled through investigation in 2007-08 and 12 per cent in 2006-07. If conciliation does not resolve the complaint, Commission staff conduct an investigation to establish the facts of the case and determine whether or not there is merit to the complaint. If the investigator believes there is merit to a complaint, Commission staff try again to help the parties reach a settlement.

Dismissed files

The director may dismiss a complaint if she believes that the complaint has no merit. “No merit” means that there was no discrimination as defined by the *Human Rights, Citizenship and Multiculturalism Act*, or if there was discrimination, it was reasonable and justifiable under the circumstances. Complainants may appeal to the Chief Commissioner if they disagree with a dismissal.

In 2008-09, 151 complaint files were closed as dismissed. In 141 of the 151 cases, the complainant did not appeal, and the file was closed after the appeal period ended. In the remaining 10 cases, the complainant appealed to the Chief Commissioner, but the dismissal was upheld, and the files were closed.

The 151 complaint files that closed as dismissed represent 23 per cent of the total number of files closed in 2008-09. This is one per cent more than in 2007-08 and 11 per cent more than in 2006-07. The increase from 2006-07 reflects the director’s decision to dismiss complaints where a complainant has not maintained contact, whereas prior to 2007 such complaints were closed as abandoned. Dismissing the complaints ensures that complainants have the right to ask the Chief Commissioner for a review.

In addition to the 151 files that were closed as dismissed, the director dismissed another four files in 2008-09. However, the Chief Commissioner overturned the director’s decision on these four files. With the complainants’ consent, these files remained open and proceeded to panel.



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

Discontinued files

The director may discontinue a complaint if a complainant refuses to accept a settlement offered by the respondent that the director believes is fair and reasonable. Complainants may appeal to the Chief Commissioner if they disagree with the director's decision to discontinue. In 2008-09, the director did not discontinue any complaints.

Withdrawn files

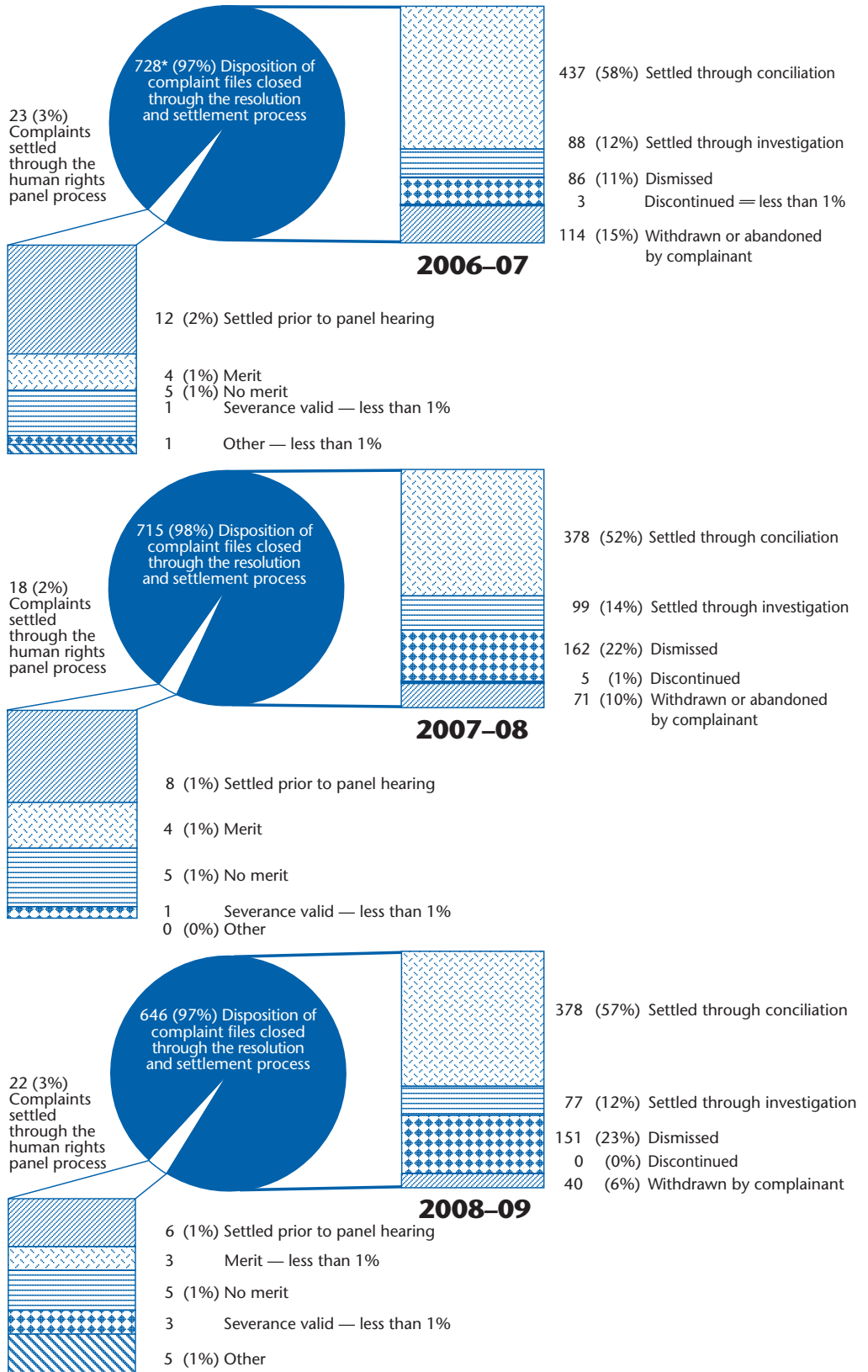
In 2008-09, six per cent of the complaint files (40 of 668 files) were closed because complainants withdrew their complaints, compared to 10 per cent of complaint files that were either withdrawn or abandoned in 2007-08. Complainants withdraw their complaints for a variety of reasons. They may do so when they agree there is no merit to their complaint, or when they settle the dispute in another forum such as a grievance procedure or civil court action, and withdrawal of the human rights complaint is part of the settlement agreement. No complaints were closed as abandoned in 2008-09 as a result of the director's decision to dismiss complaints where a complainant has not maintained contact, whereas in the past such complaints were closed as abandoned. Dismissing the complaints ensures that complainants have the right to ask the Chief Commissioner for a review.



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

Disposition of complaint files closed in 2006–07, 2007–08 and 2008–09



* This number was incorrectly reported as 751 in the corresponding pie chart in the 2006–07 Commission Annual Review.

Note: The percentages in these charts are rounded.

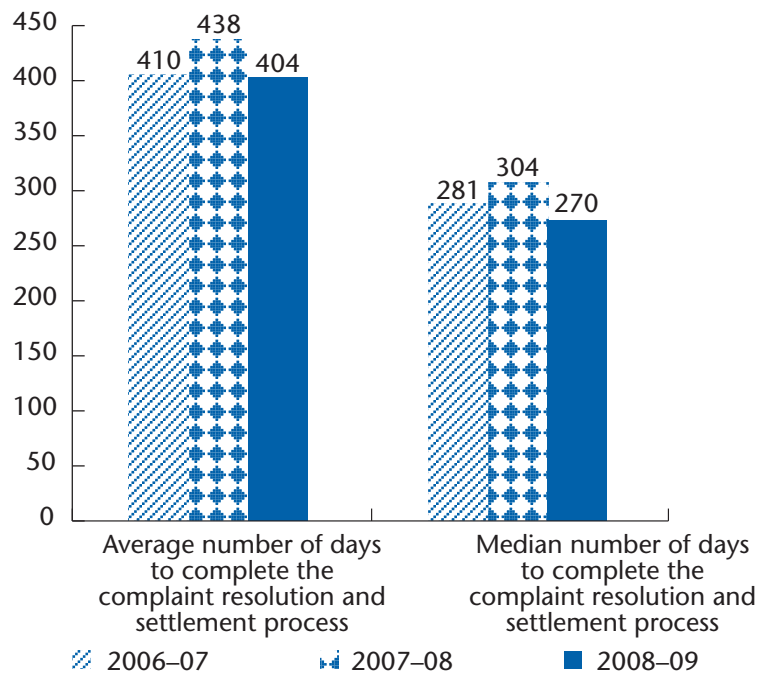


Time frame for closed complaints

The Commission’s performance target for completing the complaint resolution and settlement process provided by the regional offices and director’s office is a maximum of 435 days from the day the complaint is accepted. Included in this target is the time it took for each file to be settled by the parties at the conciliation or investigation stage, dismissed or discontinued by the director, withdrawn by the complainant, or forwarded by the director to the Chief Commissioner for a panel hearing.

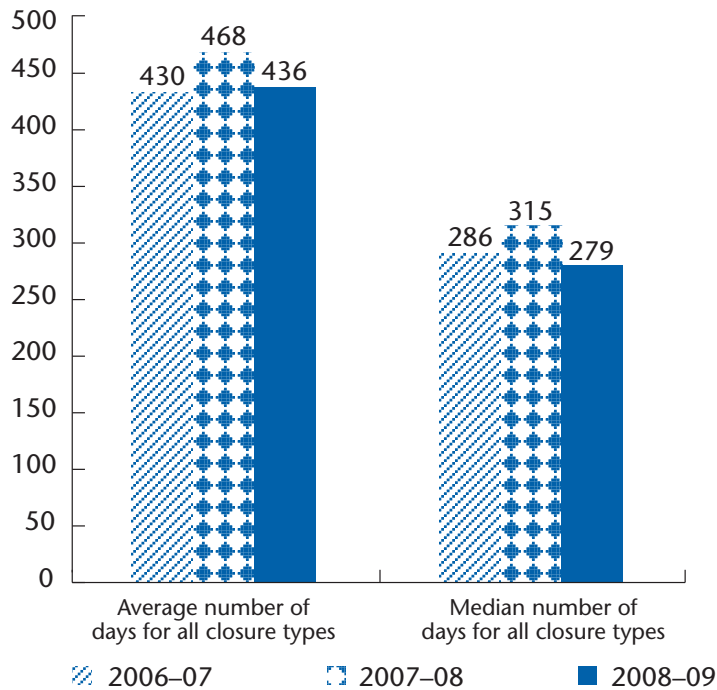
The files that closed in 2008-09 required less time on average to close than in the previous year. The average time it took to complete the complaint resolution and settlement process provided by the regional offices and director’s office was 404 days. The median time was 270 days. The Commission met its performance target of completing this process within a maximum of 435 days for 65 per cent of the files (437 of the 668 files that closed in 2008-09). In 2007-08, 59 per cent of files met this target.

Average and median number of days to complete the complaint resolution and settlement process provided by the regional offices and director’s office for files that closed in 2006–07, 2007–08 and 2008–09



Some files go through the review and panel processes provided by the Chief Commissioner and commissioners. If the time it took to complete the review and panel process is added to the time it took to complete the complaint resolution and settlement process provided by the regional offices and director's office, the above time lines increase somewhat as shown in the following table. The figures show that the average and median number of days for all files to close have decreased when compared with the previous two years.

Average and median number of days for all closure types for files that closed in 2006–07, 2007–08 and 2008–09



Results achieved through the complaint review and adjudication processes

Appeals reviewed by the Chief Commissioner

In 2008-09, the Acting Chief Commissioner completed reviews on 14 files, 29 fewer than reviewed in 2007-08. In 2008-09, the Commission operated with an Acting Chief Commissioner who carried out the Chief Commissioner's duties on a full-time basis for much of the year and on a part-time basis for the remainder of the year. Thus, there were fewer Chief Commissioner reviews completed than in the previous year when the Commission was operating with a full-time Chief Commissioner all year. The Acting Chief Commissioner's 2008-09 decisions are summarized in the table on page 22.



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

Appeals reviewed by the Chief Commissioner in 2008–09

Type of Appeal	Number of decisions upheld	Number of decisions overturned	Total number of appeals
Dismissal	10	4	14
Discontinuance	0	0	0
Totals	10	4	14

Appeals reviewed by the Chief Commissioner in 2007–08

Type of Appeal	Number of decisions upheld	Number of decisions overturned	Total number of appeals
Dismissal	37	2	39
Discontinuance	4	0	4
Totals	41	2	43

Appeals reviewed by the Chief Commissioner in 2006–07

Type of Appeal	Number of decisions upheld	Number of decisions overturned	Total number of appeals
Dismissal	25	7	32
Discontinuance	0	1	1
Totals	25	8	33

Disposition of complaints scheduled for or heard by panels

Twenty-two (three per cent) of the files that closed in 2008-09 were dealt with through the panel process, which is one per cent more than the per cent of files closed through the panel process in 2007-08. The director refers complaints to a panel when she believes that there is merit to the complaint, but the complainant and respondent are unable to settle. The Chief Commissioner refers complaints to a panel when a complainant asks for a review of the director's decision to dismiss or discontinue their complaint, and the Chief Commissioner decides that the complaint should not have been dismissed or discontinued. The panel process is independent from the work of Commission staff in receiving and resolving complaints. Human rights panels are composed of human rights commissioners and are appointed by the Chief Commissioner.



The 22 files that closed after being referred to a panel had the following outcomes:

- Six files were settled by the parties prior to the panel hearing.
- Three files went through a panel hearing where the panel found merit to the complaints and ordered an appropriate remedy.
- Five files went through a panel hearing where the panel found no merit and dismissed the complaints.
- Three severance agreements were found to be valid and enforceable, and the files were closed.
- Five files were closed at the panel stage for other reasons. Three of the complaints were withdrawn. In one case, the Court of Queen’s Bench determined that the Commission had no jurisdiction to proceed. The remaining file was related to a severance agreement, which the panel found to be not valid and enforceable. The panel decision was appealed to the Court of Queen’s Bench where the panel decision was overturned, and therefore the file was closed at the panel stage.

See the charts Disposition of complaint files closed in 2006-07, 2007-08 and 2008-09 on page 19 for comparative statistics of complaints closed through the human rights panel process over these three years. Summaries of panel decisions can be found in Appendix 4.

Measuring public perception of the protection of human rights in Alberta

An independent province-wide telephone survey of 1,000 adult Albertans is undertaken annually to determine how well adult Albertans believe human rights are protected in the province. The Commission, the Ministry of Culture and Community Spirit, and the government use the results as a performance measure relating to the government’s goal of protecting human rights and promoting fairness and access for all Albertans.

In the survey, respondents were asked, “Thinking about human rights, overall, how well do you feel human rights are protected in the province of Alberta?”

In the 2008-09 survey, which took place in February and March 2009, 91.1 per cent of Albertans surveyed believed that human rights were “fairly well” or “very well” protected in Alberta, up from 88 per cent in 2007-08, and exceeding the 2008-09 target of 89 per cent. Since 2004, there has been a significant 6.3 per cent increase in the percentage of Albertans who feel that human rights are well protected in the province (91.1 per cent very or fairly well protected in 2008-09, compared to 84.8 per cent in 2003-04).

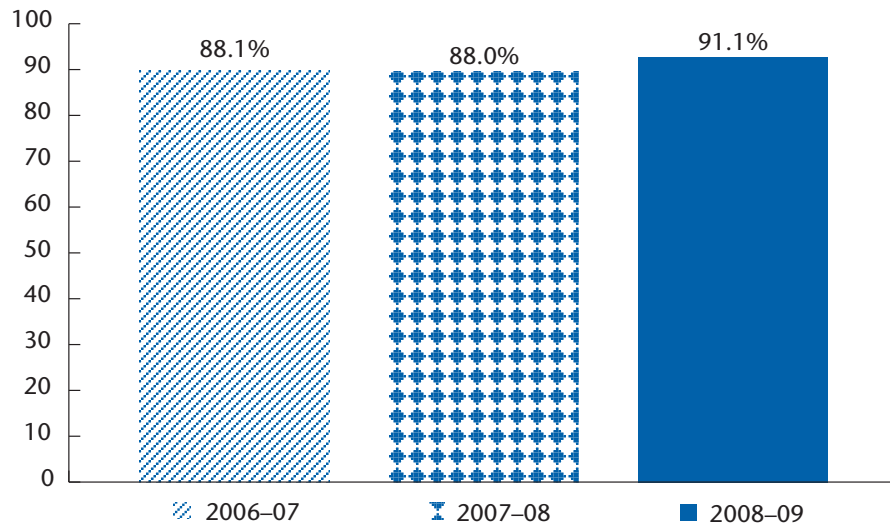


Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

While the results may be influenced by the work of the Commission, many other influences also contribute to these results. Given that this is a public perception survey, results may be influenced by respondents' personal characteristics such as age, interests, gender, race, employment status, and educational level. Media coverage of human rights, particularly legislative and judicial matters, can also have an impact. The media's presentation of human rights issues, including provincial, national and international issues, may influence Albertans' perceptions.

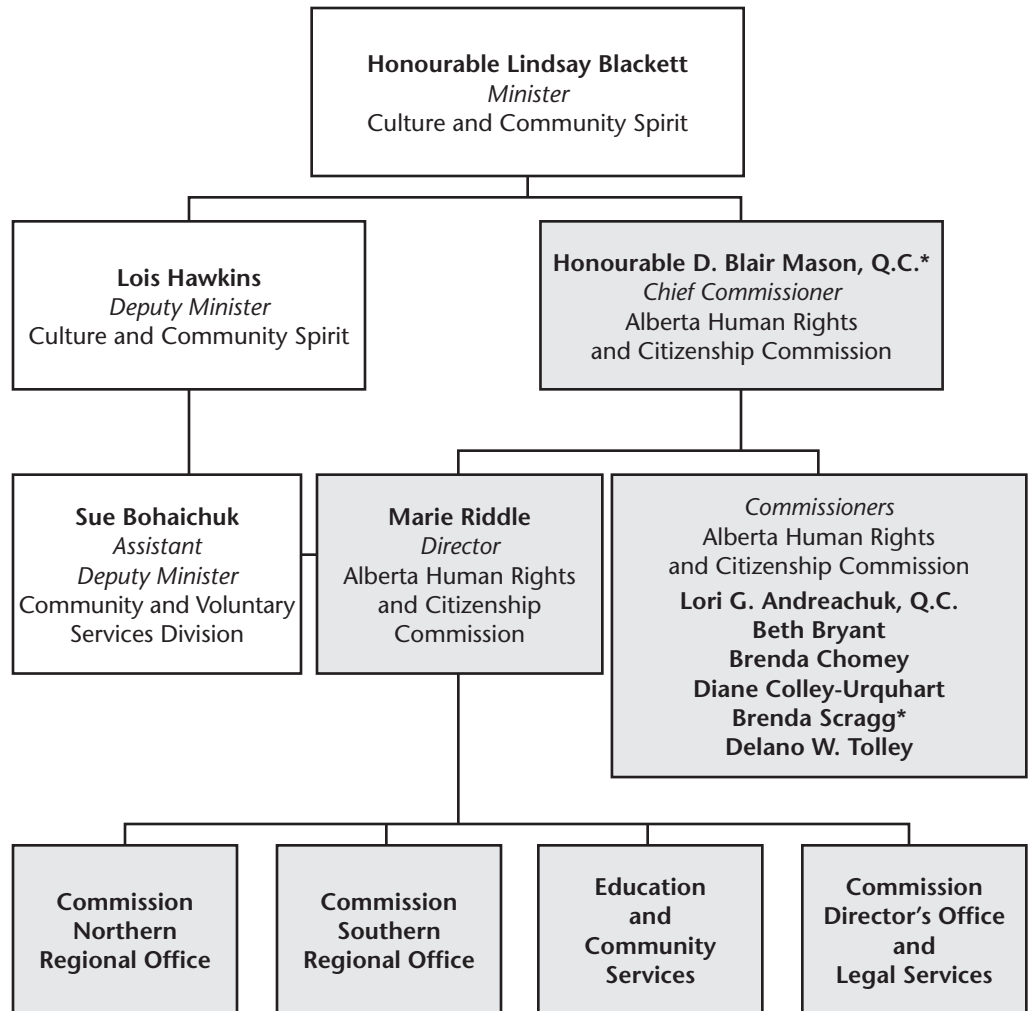
Percentage of Albertans who believe human rights in Alberta are very well or fairly well protected





Appendix 1

Alberta Human Rights and Citizenship Commission



*The Acting Chief Commissioner from April 1, 2008 to February 28, 2009 was Brenda Scragg.
Effective March 1, 2009, the Honourable David Blair Mason, Q.C. was appointed Chief Commissioner.



Appendix 2

Overview of the complaint resolution and settlement process provided by the regional offices and director's office

Confidential inquiries and referrals

The Commission provides information on a confidential and free-of-charge basis to people who believe they may have experienced discrimination in Alberta, who are responding to a human rights issue, or who are seeking more information about human rights in Alberta. Commission staff provide information, not legal advice, and remain impartial on all inquiries. In addition to obtaining more information about the *Act* and its interpretation, people who inquire about a human rights issue can consult with a human rights officer who can suggest how they might try to resolve the situation. People whose inquiries are outside the Commission's mandate are referred to other agencies. Inquiries come from a broad spectrum of people, including employers, landlords, educators and people who believe they have been discriminated against in some way.

Submitting a human rights complaint

If an individual's efforts fail to resolve a situation where they believe they experienced discrimination and they want the Commission to become directly involved, they may make a human rights complaint to the Commission. A complainant (the person making the complaint) has the legal obligation to show that they have reasonable grounds for believing that discrimination has occurred. Complaints must be made to the Commission within one year after the alleged incident of discrimination.

Determining whether to accept a human rights complaint

Commission staff review human rights complaints to determine if they may be accepted. Complaints must fall within the Commission's jurisdiction, be made within one year after the alleged incident of discrimination, and demonstrate reasonable grounds. A third party may make a complaint on behalf of another individual with the individual's consent.

Next steps

If the Commission accepts the complaint, then the respondent (the party being complained about) is asked to respond to the complaint. Their response is then shared with the complainant.



Two methods for resolving human rights complaints

When the Commission accepts a human rights complaint, two methods are used to resolve the matter. The first is conciliation; the second is investigation.

Conciliation

If both parties agree to conciliation, the case is assigned to a conciliator, who attempts to resolve the complaint by helping the parties find a mutually acceptable solution. Conciliation is a voluntary, non-adversarial approach to resolving disputes. An impartial person, known as a conciliator, helps the complainant and the respondent identify the issues, discuss the factors surrounding these issues and generate possible solutions. The objective of conciliation is to reach a resolution that is acceptable to both parties without an investigation.

During conciliation, it is the parties themselves who make any decisions to resolve the dispute. The conciliator simply helps them understand the issues and come to a mutually acceptable solution. The conciliator remains impartial during the process and does not judge the issues. The conciliator does not have the authority to impose any solution or decision on the parties. The Commission recognizes the rights of both parties to the complaint and, during conciliation, does not act on behalf of either party. The conciliator also helps the parties prepare a written agreement.

Conciliation is often successful because it leads to an understanding between the parties. The decision about how to resolve a complaint is made jointly by both parties who share ownership of the decision and respect the outcome. To ensure the parties are as forthright as possible, all discussions and information supplied by the parties are on a without-prejudice basis. The Commission informs the parties that the information is not to be used for any purpose other than the conciliation. If conciliation is successful, the file is closed. If the complaint proceeds to an investigation, information arising during the conciliation is kept confidential and cannot be used during the Commission's investigation.

Investigating human rights complaints

If conciliation is unsuccessful or declined by either party, the complaint is assigned to an investigator. Investigation is the collection and impartial examination of facts about the complaint by an investigator. The objective of investigation is to determine whether discrimination occurred. The investigator investigates the complaint and analyzes the evidence in relation to human rights law. During the investigation, the parties are encouraged to provide any evidence that they believe is important to a decision on whether or not there has been



discrimination. At any time during the investigation, Commission staff will try to help the parties reach a settlement if they request assistance.

If the evidence supports a finding that there has been discrimination and there is no legitimate defence for the discrimination, the complaint is described as having merit. At this point in most investigations, Commission staff share a written investigation report with the parties. The report includes a recommended remedy.

If the evidence shows that there is no merit to the complaint, the director dismisses the complaint. The complainant may appeal the director's decision to dismiss the complaint to the Chief Commissioner.

Settling a human rights complaint when merit is found

When merit is found, Commission staff work with the parties to attempt to settle the complaint by securing a remedy for the complainant. Remedies may include financial and non-financial compensation for actual losses and/or suffering that occurred as a result of discrimination.

The objective of a remedy is to restore the complainant to the position that he or she would have been in if the discrimination had not occurred. It is not the purpose of the *Act* to punish anyone. Recommended remedies are based on Canadian and Alberta legal precedents in human rights cases.

For example, if a complainant has lost his or her job because of racial discrimination, the recommended remedy may call on the employer to do one or more of the following:

- provide a job reference for the complainant;
- commit to not repeating the behaviour or to ensuring the behaviour will not be repeated in the workplace;
- re-instate the complainant to his or her former job;
- make financial compensation to the complainant for lost income; and/or
- make financial compensation for injury to dignity and self respect.

The recommended remedy may also call on the employer to:

- participate in human rights education;
- offer human rights education in the workplace;
- introduce a non-discrimination policy into the workplace;
- stop a behaviour or practice found to be discriminatory; and/or
- set up internal processes to deal with any future complaints that may arise.



The nature of the discrimination influences the recommended remedy. Each complaint is assessed individually.

Complainants have a responsibility to minimize (mitigate) the losses they experienced through discrimination. For example, complainants have a responsibility to look for work and accept work if they lost a job as a result of discrimination.

Dismissing or discontinuing a complaint

The director dismisses a complaint if it has no merit. The director may discontinue a complaint if a complainant refuses to accept a settlement offered by the respondent that the director believes is fair and reasonable.

In both cases, where the director dismisses or discontinues a complaint, the complainant can request that the Chief Commissioner review the director's decision. This request must include the complainant's reasons for requesting the review and must be made within 30 days of the complainant receiving the director's decision.

The director may also dismiss a complaint if the complainant has not maintained contact with the Commission. Previously, when a complainant failed to maintain contact with the Commission, for whatever reason, their file was closed as "abandoned." In 2007-08, the director made a decision to dismiss complaints where a complainant had not maintained contact. Dismissing the complaints ensures that complainants have the right to ask the Chief Commissioner for a review.

Withdrawn or abandoned complaints

Complainants may withdraw their complaints at anytime. This usually occurs when they believe there is no merit, or when they settle the dispute in another forum such as a grievance procedure or civil court action, and withdrawal of the human rights complaint is part of the settlement agreement.

Previously, when a complainant failed to maintain contact with the Commission, for whatever reason, their file was closed as "abandoned." In 2007-08, the director made a decision to dismiss complaints where a complainant had not maintained contact. Dismissing the complaints ensures that complainants have the right to ask the Chief Commissioner for a review.



Appendix 3

Overview of the complaint review and adjudication processes

Referral to the Chief Commissioner when parties are unable to settle a complaint

When parties are unable to settle a complaint that the director believes has merit, the director reports this to the Chief Commissioner. The Chief Commissioner then appoints a human rights panel to adjudicate the case.

Appeals to the Chief Commissioner

If the director dismisses or discontinues a complaint, the complainant may appeal the decision by writing to the Chief Commissioner within 30 days of receiving the director's decision. The Chief Commissioner conducts a documentary review of the file, investigation report, and information from the parties. If the Chief Commissioner decides that the complaint should not have been dismissed or that the proposed settlement was not fair and reasonable, the Chief Commissioner appoints a human rights panel to decide the matter. If the Chief Commissioner decides that the complaint should have been dismissed or that the proposed settlement was fair and reasonable, the Chief Commissioner denies the appeal.

The Chief Commissioner's decision on the appeal is final and binding on the parties, although it is subject to judicial review by the Court of Queen's Bench. A judicial review is a review of the process used in making the decision and must be requested within six months of the date of the Chief Commissioner's decision.

Human rights panels

Human rights panels are quasi-judicial administrative tribunals that are appointed by the Chief Commissioner. Panels adjudicate complaints where the Chief Commissioner receives a report from the director that the parties are unable to settle a complaint where merit has been found, or where the Chief Commissioner decides that a complaint should not have been dismissed or discontinued by the director.

The Chief Commissioner appoints one or three commissioners to sit as the panel. The panel receives submissions from the parties and hears evidence under oath about the situation that resulted in a complaint



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

being filed. After hearing the evidence, the panel makes a decision about whether or not the complaint has merit. If the panel decides that the complaint has merit, the panel orders a remedy. If the panel finds that the complaint is without merit, then it will dismiss the complaint.

Where the panel finds that the complaint has merit, it will order a remedy that may result in one or more of the following outcomes:

- stopping the discrimination that the complaint is about;
- stopping the respondent from contravening the *Act* in the same or any similar manner in the future;
- providing the complainant with the rights, opportunities or privileges that were denied because of the discrimination;
- compensating the complainant for any lost wages, income, expenses, or injury to dignity and self-respect because of the discrimination; and/or
- any other action that the panel decides would place the person discriminated against in the position they would have been in if the discrimination had not occurred. This might include, for example, ordering the respondent to pay the complainant damages or ordering the respondent to implement new policies.

The panel can also make an order concerning the responsibility for paying the costs involved in bringing the matter before the panel.

All parties receive the panel's decision. Once a decision is filed with the Court of Queen's Bench, it has the same force and effect as a court decision. All parties can appeal the panel's decision to the Court of Queen's Bench within 30 days of receiving the decision.



Appendix 4

Panel decision summaries

Summaries and full panel decisions can be found on the Commission's website at www.albertahumanrights.ab.ca.

1) **Meseret Workeneh v. 922591 Alberta o/a Community Comfort — Grounds — Race/Colour, Area — Employment Practices (Decision date — May 14, 2008)**

The complainant alleged employment discrimination on the grounds of colour and race. The complainant, who is black, noted that other employees who were white received substantially higher wages. The panel dismissed the complaint. The panel held that the complainant provided considerable hearsay and circumstantial evidence, and it was difficult for the panel to substantiate the evidence. The complainant appealed the panel decision to the Court of Queen's Bench. Counsel for the director of the Commission assisted the complainant at Court because the complainant was representing herself and English is her second language. The Court of Queen's Bench overturned the panel decision. The Court of Queen's Bench referred the matter back to a differently constituted panel to assess damages.

2) **Lynne Karch v. Appeals Commission, Workers' Compensation Board — Ground — Retaliation, Area — Employment Practices (Decision date — May 23, 2008)**

The complainant alleged employment discrimination on the ground of retaliation. The complainant filed a retaliation complaint against the Appeals Commission of the Workers' Compensation Board (WCB) alleging that she was denied the opportunity to be a part-time appeals commissioner because of a previously filed human rights complaint against the WCB. The complainant filed a human rights complaint against the WCB in the area of employment practices on the grounds of physical and mental disability. Several months later, the complainant successfully applied for a position as an appeals commissioner, and she subsequently withdrew her human rights complaint. Shortly thereafter, the chief appeals commissioner indicated that he would be seeking to revoke her appointment as a reasonable apprehension of bias existed, and the complainant subsequently resigned. The panel dismissed the complaint. The panel held that there were other issues between the complainant and the WCB; that the ultimate decision of "perceived bias" by the chief appeals commissioner was based on these other factors and not the human rights complaint; and that the fact that the human rights complaint had been withdrawn before the chief appeals commissioner made his decision to revoke the appointment negated a finding of retaliation. The complainant has appealed the panel decision to the Court of Queen's Bench.



3) **Darren Lund v. Stephen Boissoin and The Concerned Christian Coalition Inc. and Canadian Civil Liberties Association and Attorney General of Alberta — Ground — Sexual Orientation, Area — Statements, Publications, Notices, Signs, Symbols, Emblems or Other Representations that are Published, Issued or Displayed Before the Public (Decision on Remedy — May 30, 2008)**

The complainant university professor made a human rights complaint alleging discrimination on the ground of sexual orientation in the area of publications and notices after the respondent Boissoin, as executive director of the respondent Concerned Christian Coalition, wrote a letter titled “Homosexual Agenda Wicked,” which was published in a local newspaper. The complainant argued that the contents of the letter went beyond freedom of expression and freedom of religion and political speech by inciting hatred and contempt against homosexuals. The respondent Boissoin argued that he wrote the letter in hope of spirited debate in the community, and to educate youth and promote political action. He said that he did not intend to discriminate against homosexuals and that his letter did not promote discrimination or hatred against homosexuals. Boissoin also argued that the human rights panel lacked jurisdiction to hear the complaint.

The intervenor Attorney General addressed the jurisdictional issue raised by Boissoin, arguing that published opinion was not exempt from human rights scrutiny. The intervenor Canadian Civil Liberties Association, while finding Boissoin’s message abhorrent, supported Boissoin’s right to freedom of expression and freedom of religion, arguing that the effects of the impugned letter could be countered by published rebuttal.

The panel found merit to this complaint, as outlined in the panel decision dated November 30, 2007. The panel decision found Stephen Boissoin and The Concerned Christian Coalition Inc. had contravened section 3(1) of the *Human Rights, Citizenship and Multiculturalism Act* by causing to be published in the local newspaper a publication which was likely to expose homosexuals to hatred and contempt because of their sexual orientation. The panel issued a comprehensive remedy ordering the respondents to: pay general damages for injury to dignity and self respect; pay expenses to one of the witnesses; provide an apology for the written article; and refrain from publishing disparaging remarks about homosexuals, and about the complainant and the complainant’s witnesses relating to their involvement in the case. The respondent Boissoin has appealed the panel decision to the Court of Queen’s Bench.



4) Emil Webber v. Canadian Forest Products Ltd. — Ground — Age, Area — Employment Practices (Decision date — May 30, 2008)

The complainant alleged employment discrimination on the ground of age. Pursuant to the respondent employer's mandatory retirement policy, the complainant was forced to retire at age 65 years after 24.5 years of employment. The respondent argued that the retirement scheme was reasonably justified for economic reasons and that it was a provision of the collective agreement between the complainant's union and the respondent. The panel found merit to the complaint. The panel found that no empirical evidence was presented to suggest a connection between the threats to the economy and the elimination of the policy; the evidence showed the complainant suffered both psychologically and economically; and the effect on the collective agreement and bargaining relationship of allowing the complainant to work past age 65 would be minimal compared to the effect on the complainant of forcing his retirement at that age. The parties settled the matter prior to the panel hearing on remedy. The panel decision was not appealed.

5) Trevor Fitzhenry v. Dave Schemenauer — Ground — Physical Disability, Area — Tenancy (Decision date — August 6, 2008, Addendum — September 26, 2008)

The complainant, who had a vision disability, alleged discrimination on the ground of physical disability in the area of tenancy. The complainant, who had a guide dog, asked the respondent landlord to show him a rental property. The respondent denied this request, stating that dogs were not allowed in the rental accommodation. The complainant explained that the dog was a guide dog and was needed to assist the complainant with daily life activities. The panel found merit to the complaint. The panel found that it was discriminatory to deny the complainant the opportunity to view the rental property based on his physical disability, specifically the fact that he used a guide dog. The panel awarded \$2,500 plus interest in general damages for injury to dignity and self respect. The panel directed the respondent to participate in a human rights education seminar conducted by the Commission. The respondent's request for a reconsideration of the decision was denied. The panel stated that the respondent did not meet the legal tests required for reconsideration. The panel decision was not appealed.



**6) Istvan Stein v. City of Calgary — Grounds — Ancestry/
Place of Origin, Area — Goods, Services, Accommodation or
Facilities Customarily Available to the Public (Decision date —
August 13, 2008)**

The complainant alleged discrimination on the grounds of place of origin and ancestry in the area of services customarily available to the public. The respondent ordered the complainant to remove a fence and shrubs that the complainant had placed on city property adjacent to the complainant's property. The complainant alleged that during telephone conversations regarding the removal order, the respondent's bylaw officer made insulting and disparaging comments to the complainant regarding the complainant being an immigrant to Canada and made comments about the complainant's poor grasp of English. The panel dismissed the complaint. The complainant failed to provide sufficient evidence to establish a prima facie case of discrimination. The panel decision was not appealed.

**7) Shelley Weimer v. Richards Packaging Inc. — Ground — Gender/
Pregnancy, Area — Employment Practices (Decision date —
August 26, 2008)**

The complainant alleged employment discrimination on the ground of gender after her employment as general manager with the respondent was terminated, allegedly because she was pregnant. The respondent argued that the complainant's employment was terminated because of her poor performance and that the respondent became aware of the complainant's pregnancy after the decision was made to terminate her employment. The panel dismissed the complaint. The complainant failed to show evidence that her pregnancy was a factor in her dismissal from employment. The panel found that there was significant evidence to indicate that the decision to terminate her employment was made the day prior to the complainant's termination. She failed to establish that someone within the company knew that she was pregnant prior to the company making the decision to terminate her. The panel decision was not appealed.

**8) Khalid Alibhai v. Tequila Bar & Grill Ltd. — Grounds — Race/
Colour/Ancestry/Place of Origin/Religious Beliefs, Area — Goods,
Services, Accommodation or Facilities Customarily Available to the
Public (Decision date — September 12, 2008)**

The complainant alleged discrimination on the grounds of race, colour, ancestry, place of origin and religious beliefs when he and four friends were denied entry into the respondent's nightclub. The complainant alleged that other patrons, mostly Caucasian, were admitted to the premises. The complainant argued that the respondent's doormen made a number of excuses for the denial, including stating that the age for entry was 25 years, and that the



Annual Review 2008–09

club's dress code resulted in anyone wearing sneakers not being allowed into the premises. The complainant stated that other patrons below the age of 25 years were admitted and, further, patrons wearing sneakers were admitted. The complainant also argued that the respondent deliberately or negligently erased its surveillance video, which would show evidence of the alleged discrimination.

The respondent said that patrons of all races had been admitted to the club, and further stated that age and dress restrictions were in effect at the time. The panel dismissed the complaint. The complainant failed to provide evidence that his denial of entry was based on race, religious beliefs, colour and place of origin. Regarding the alleged lack of availability of the surveillance video, the panel was satisfied that the respondents reviewed the video recording and found nothing incriminating. The respondent, as a private club, was entitled to impose age restrictions at certain times in the day. Evidence showed that the respondent allowed a variety of patrons into the premises and did not prohibit entry on the basis of race. Further, the respondent employed an ethnically diverse staff. The panel found that many patrons were turned away during the same evening when the complainant and his friends were denied entry. The director and complainant appealed the panel decision to the Court of Queen's Bench.

9) **Andre (Bill) Jodoin v. City of Calgary — Ground — Physical Disability, Area — Employment Practices (Decision date — November 24, 2008)**

The complainant, a driver/labourer in the waste and recycling department, alleged employment discrimination on the ground of physical disability. The complainant injured his back at the workplace and then required surgery. The injury left him able to perform only sedentary duties. When the complainant's WCB benefits ceased, the respondent argued that the complainant had lost his employee status and that there were no sedentary positions available for him, and therefore they terminated his employment. The panel found merit to the complaint. The respondent knew of the disability and failed to accommodate the complainant's disability to the point of undue hardship. The panel awarded the complainant \$5,000 in general damages for injury to dignity and self respect, and \$17,307.69 for lost wages plus interest. The panel decision was not appealed.



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

10) Meseret Workeneh v. 922591 Alberta Ltd. — Grounds — Race/ Colour, Area — Employment Practices (Decision on Remedy — February 20, 2009)

The complainant alleged employment discrimination on the grounds of colour and race. The complainant, who is black, noted that other employees, who were white, received substantially higher wages. The panel dismissed the complaint. The panel held that the complainant provided considerable hearsay and circumstantial evidence, and it was difficult for the panel to substantiate the evidence. The complainant appealed the panel decision to the Court of Queen’s Bench. Counsel for the director of the Commission assisted the complainant at Court because the complainant was representing herself and English is her second language. The Court of Queen’s Bench overturned the panel decision. The Court of Queen’s Bench referred the matter back to a differently constituted panel to assess damages. In response to Court direction to assess damages, a human rights panel reviewed the submissions of the director and complainant and ordered additional wage loss for a period of 20 months in the amount of \$28,944.50, general damages for injury to dignity and self respect in the amount of \$8,000, and overtime and holiday pay as well as benefit loss and interest. The complainant has appealed the panel decision on remedy to the Court of Queen’s Bench.

Preliminary matters panel hearings on the validity and enforceability of the severance agreement

In the 2008-09 fiscal year, four preliminary matters on the validity and enforceability of the severance agreement were referred to panels. The panels found three agreements to be valid and enforceable and therefore the complaint files were closed. A fourth severance agreement was found to be not valid and enforceable. The panel decision was appealed to the Court of Queen’s Bench where the panel decision was overturned, and therefore the file was also closed at the panel stage.



Appendix 5

Supreme Court of Canada: Application for leave to appeal

Director of the Alberta Human Rights and Citizenship Commission and John Chiasson v. Kellogg Brown & Root (Canada) Company (Alta.) (Civil) (By Leave) Supreme Court of Canada File No.: 32505 (S.C.C. Bulletin of Proceedings, May 30, 2008, p. 883)

The director and the complainant, Mr Chiasson, filed an application for leave to appeal to the Supreme Court of Canada from the Court of Appeal decision in *Director of the Alberta Human Rights and Citizenship Commission and Chiasson v. Kellogg Brown and Root (Canada) Company*. The Court of Appeal decision was given on December 28, 2007. Leave to appeal to the Supreme Court of Canada was denied on May 29, 2008. The Supreme Court does not give reasons for the decision to deny leave.

Court of Appeal: Appeals of panel decisions

- 1) **Syncrude Canada Ltd. v. The Alberta Human Rights and Citizenship Commission and Devinder Wadhwa (Decision date — June 10, 2008)**

Respondent Syncrude appealed a preliminary decision of the human rights panel, which had concluded that Syncrude was an appropriate respondent to the human rights complaint. The Court of Appeal dismissed the appeal. This decision confirms a lower court decision that held that appeals of human rights panel decisions can occur only after the panel has issued a final order dealing with the merits of the case.

- 2) **Delorie Walsh v. Mobil Oil Canada (also known as ExxonMobil Canada Ltd.) (Decision date — August 5, 2008)**

The complainant had been employed since 1984 by Canadian Superior Oil, which later merged with Mobil. The complainant eventually worked her way up in the company to become a land agent in the field. In August 1991, the complainant filed a human rights complaint alleging discrimination based on gender, specifically that despite her abilities, she had been prevented from advancing and did not receive appropriate designation or compensation similar to that provided to her male colleagues with equivalent qualifications and experience. On August 15, 1995, the complainant filed a second human rights complaint, alleging that Mobil retaliated against her for filing the original human rights complaint. A human rights panel held that some of Mobil's actions (related to compensation and



designation) were discriminatory, but that certain other actions did not constitute discrimination or retaliation.

The complainant appealed the panel decision to the Court of Queen’s Bench. The Court of Queen’s Bench allowed the appeal. The Court found that Mobil had both discriminated and retaliated against the complainant. The Court also gave the panel specific direction with respect to damages and ordered Mobil to pay the complainant’s costs for retaining a solicitor.

The respondent appealed the Court of Queen’s Bench decision to the Court of Appeal. The Court of Appeal upheld the substantive findings of discrimination and retaliation but enunciated a different test for retaliation. A majority of the Court of Appeal stated that while it will be a “rare day” that a respondent will admit to retaliating against a complainant, there must be an element of intention by the respondent (inferred by the circumstances) in order to prove retaliation. Additionally, the Court of Appeal overturned the Court of Queen’s Bench decision on the damage award, saying that the matter of damages must be left to the human rights panel. Also, a majority of the Court of Appeal overturned the award of costs, stating that these types of costs are only awarded when the behaviour has been reprehensible or scandalous.

Court of Queen’s Bench: Appeals of panel decisions

1) **Robert Baum and the Director of the Human Rights and Citizenship Commission v. City of Calgary (Decision date — December 22, 2008)**

The complainant millwright was employed by the City of Calgary and suffered from bursitis, osteoarthritis and gout. The complainant alleged that the respondent discriminated against him on the ground of physical disability. A panel dismissed the complaint, finding that the complainant had not established a prima facie case of discrimination and the respondent had accommodated the complainant’s disability to the point of undue hardship. The director of the Commission and the complainant appealed the panel decision to the Court of Queen’s Bench. The director and complainant argued that the panel did not apply the appropriate test to determine whether a prima facie case of discrimination was established, and, further, the panel failed to give sufficient reasons for its decision. The Court of Queen’s Bench dismissed the appeal. The Court found that the employer made appropriate efforts to find another position to accommodate the complainant and treated the employee reasonably without any evidence of discrimination. The decision was not appealed.



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

2) **The Director of the Alberta Human Rights and Citizenship Commission and Khalid Alibhai v. Tequila Bar and Grill Ltd. o/a Tequila Nightclub (Oral judgment — February 25, 2009)**

The Court of Queen’s Bench overturned a panel decision finding of no discrimination, sending the matter back to be heard by a new panel. The complaint involved an allegation of discrimination on the grounds of race and colour by a group of Canadians of East Indian ancestry who were refused entry to the respondent nightclub. The Court held that the director presented fresh and highly relevant evidence that was not obtainable prior to the hearing, which seemed to contradict the position of the nightclub respondent. Further, the Court held that if it was wrong to admit the fresh evidence, the matter must have a new hearing because of errors on the face of the record with respect to factual findings, and unreasonable evidentiary rulings that resulted in breaches of natural justice. The decision was not appealed.

3) **Meseret Workeneh v. 922591 Alberta Ltd. o/a Community Comfort and Joe Starr (Decision date — March 27, 2009)**

The complainant appealed the human rights panel decision to the Court of Queen’s Bench because the panel found that there was no discrimination. The Court of Queen’s Bench overturned the panel decision and found discrimination in the area of employment on the grounds of race and colour. The Court found that the two factual findings made by the panel relating to Blue Cross benefits and cleaning duties were not supportable on the face of the record. Further, the Court held that the panel erred in law in its failure to draw certain inferences from the facts. The complainant was black, she was paid substantially less than her white co-workers, and when she attempted to determine what her fellow coworkers were paid, the respondent sent out a letter advising employees not to disclose salary details. The complainant was as qualified for the same type of employment as many of her fellow employees, if not better qualified. The panel further erred in law when it failed to require the respondent to provide a reasonable explanation for the huge discrepancy in salary between the complainant and the other employees. The Court drew the inference on the evidence available and found that the complainant’s discrimination complaint had merit. The matter was referred back to a new panel for an assessment of damages. The decision was not appealed.



Alberta Human Rights
and Citizenship Commission

Annual Review
2008–09

Court of Appeal: Judicial reviews of the Chief Commissioner's decision

- 1) **Janice Brewer v. Fraser Milner Casgrain LLP &/or FMC Services Limited Partnership and the Chief Commissioner of the Alberta Human Rights and Citizenship Commission (Decision date — May 1, 2008)**

This was a preliminary issue on whether the Chief Commissioner can appeal a Court of Queen's Bench judicial review quashing his decision. The Court concluded that the Chief Commissioner has no right to appeal. The Court equated the decision of the Chief Commissioner with that of a tribunal, and said that there is binding precedent that a tribunal cannot appeal its own decision that has been quashed on judicial review.

- 2) **Gilles Caron v. Chief Commissioner of the Alberta Human Rights and Citizenship Commission and The City of Edmonton (Decision date — August 5, 2008)**

The complainant sought to dismiss the appeals of the Chief Commissioner and the City of Edmonton as they appealed a Court of Queen's Bench order requiring the Commission to pay for interpreter services for the complainant regarding the judicial review process. The application for judicial review regarding the City's appeal was dismissed; the application for judicial review regarding the Chief Commissioner's appeal was allowed. The City had little or nothing to add to an appeal and was not affected since the order was not directed against it. As for the Chief Commissioner, the issue raised on appeal (whether the director should have to bear the costs of an interpreter for the judicial review hearing) was substantive, and the Chief Commissioner was entitled to have it heard. Regarding the complainant's arguments against the appeal being allowed to proceed because an appeal would delay the resolution of the real question of whether the complainant was entitled to be rehired by the City, his concerns about delay were legitimate but could be accommodated by an expedited appeal, if one were requested. The Chief Commissioner had already filed a factum and if the complainant filed his response quickly, it was possible for the appeal to be heard soon. As for the complainant's concerns regarding the language used in the Court of Appeal, the Court stated that he would be heard in French in the Court of Appeal just as he was on the motions.



3) **Janice Brewer v. Fraser Milner Casgrain LLP &/or FMC Services Limited Partnership and the Chief Commissioner of the Alberta Human Rights and Citizenship Commission (Decision date — December 19, 2008)**

The respondent employer appealed a Court of Queen’s Bench decision overturning the Chief Commissioner’s decision, which upheld the dismissal of the complaint. The appeal was allowed.

Regarding the complainant’s duty to cooperate, there are two aspects of the failure to cooperate on this record that should be kept distinct. The first is the obligation of a complainant to cooperate with the Commission investigation process. The second is the obligation of a complainant to cooperate with his or her employer’s attempts to accommodate a disability.

Once a complainant puts a matter in the hands of the Commission, the Commission is entitled to expect full cooperation in the resulting investigation. The Commission is entitled to conduct an independent and even-handed inquiry into the complaint. The complainant cannot legitimately assert a right to screen the evidence available to the Commission, nor direct how the investigation is to be conducted. Specifically, the Commission was entitled to take the view that the complainant could not legitimately control contact between the investigator and her doctors with respect to relevant and material matters.

The second aspect of cooperation arising on this record is that a complainant has a duty to cooperate with an employer’s attempt to accommodate a disability. The willingness of a complainant to try the accommodation proposed by the employer is something that the Chief Commissioner is entitled to take into consideration and weigh when deciding whether to refer a complaint to a hearing. An employer has a duty to accommodate a disabled worker to the point of undue hardship. An employer under an obligation to accommodate is not precluded from making changes to its business and its premises within the limits of that obligation. The Chief Commissioner was entitled to infer that the appellant employer would have followed through on its expressed intention to continue to seek an appropriate level of accommodation for the complainant. It was not unreasonable for the Chief Commissioner to conclude that when the appellant re-assigned the respondent to a new workspace, it was reasonable to expect that she would at least test the new work environment.

The Court concluded that the Chief Commissioner had ruled that symptoms that did not yield a specific medical diagnosis do not qualify as a “disability” under the *Human Rights, Citizenship and Multiculturalism Act*. Even if the Chief Commissioner fell into this error, it did not affect the result of his review. The Chief Commissioner noted that the appellant had attempted to accommodate the respondent.



The Chief Commissioner then examined whether those attempts to accommodate were sufficient. The conclusion that they were sufficient is not affected by any mistaken assumption the Chief Commissioner may have made about what constitutes a “disability.” The Chief Commissioner agreed that the duty to accommodate had been discharged, and stated, “I see no reasonable basis to advance this case to the panel hearing stage and hereby dismiss the appeal.” This decision is “within the range of possible, acceptable outcomes.” The reasons of the Chief Commissioner, particularly when read with the reasons of the investigator, disclose the basis for the conclusion and provide “justification, transparency and intelligibility.”

Court of Queen’s Bench: Judicial reviews of the Chief Commissioner’s decision

1) **Laura Marie Chartrand v. Alberta Human Rights and Citizenship Commission and MacLachlan and Mitchell Homes Inc. (Decision date — April 7, 2008)**

The complainant sought judicial review of the Chief Commissioner’s dismissal of her complaint. The complainant alleged gender discrimination in employment arising from the employer’s refusal to hire her as a service technician/carpenter. During her employment, she was offered the position on a temporary basis, pending the hiring of someone to fill the position permanently. The employer subsequently hired a journeyman carpenter to fill the position. The Commission investigated the complaint and found the position was filled by someone with better credentials than the complainant and that gender was not the basis for refusing to offer the position to the complainant. The complainant alleged that the investigator failed to interview all relevant witnesses, was biased, and rendered an incomplete investigation report. The complainant argued that the Chief Commissioner’s decision was unreasonable and breached the rules of procedural fairness.

The application for judicial review was dismissed. The record before the Court of the conduct of the investigator in this case does not raise a reasonable apprehension of bias on the part of the investigator. The Chief Commissioner’s task was to decide whether there was a reasonable basis in the evidence for proceeding to the next stage. The Chief Commissioner determined on the basis of the evidence that the complainant was not as well qualified for the job as the successful applicant. This conclusion was entirely reasonable. According to the successful applicant’s resume, he had at least 20 years of related experience. The complainant had two years of experience framing, with no formal training. Given the evidence as to the qualifications of potential candidates required by the employer and the discrepancy between the complainant’s relevant qualifications and those of the successful applicant, the Chief Commissioner’s decision that



the matter should not go to the next stage was not unreasonable. The Chief Commissioner's finding that there was "no evidence in support of the complainant's contention that her gender was the reason or part of the reason she did not get the position she wanted" was not unreasonable as there was no evidence to support the complainant's allegation of gender discrimination. The complainant was apprised prior to the appeal of the results of the investigation and had an opportunity to provide further evidence before the Chief Commissioner made a decision. The duty of fairness was not breached. The decision was not appealed.

2) Salem Soliman Ahmed v. Edmonton Public School Board and L.B. Yaniw (Decision date — July 24, 2008)

The complainant sought judicial review of the Chief Commissioner's dismissal of the complaint. The complainant alleged religious discrimination arising from his daughter's denial of admission to a senior high school. He asked the Court to: overturn the Chief Commissioner's decision, find religious discrimination, award damages for religious discrimination, and award costs. An investigation of the complaint found admission to the school was based on academic performance or merit and that there were more applicants annually than there were available seats in the school. The application for judicial review was dismissed. Courts have no jurisdiction in matters of discrimination within the exclusive domain of human rights commissions. In Alberta, discrimination due to religious beliefs and family status is within the exclusive domain of the Human Rights and Citizenship Commission. Judicial review is a discretionary remedy. Any potential discretion on the part of the Court pursuant to Rule 753.04(3) to amend or re-interpret the complainant's pleadings into a conventional judicial review framework should not be exercised here where the complainant has not alleged any error by the Commission and has provided evidence of only "a sense" or a "feeling" for his conclusion that his daughter's rejection from admission to the school was based on religious reasons. The Supreme Court of Canada has recently confirmed that discrimination is not an independent actionable wrong. The complainant's application was bound to fail. The decision was not appealed.

3) Cephas Coward v. Chief Commissioner of the Alberta Human Rights and Citizenship Commission (Decision date — July 29, 2008)

The complainant sought judicial review of the Chief Commissioner's decision upholding dismissal of the complaint. The complainant alleged that he was discriminated against on the basis of race by a police officer. He argued that he was stopped on the street on the basis of racial profiling. The officer questioned, detained and searched the complainant on the basis of a report of someone matching the



Annual Review 2008–09

complainant's description waving a knife in public. The complainant was released after being searched by the police officer. The complainant stated that he was handcuffed after refusing to consent to a search. The police officer stated that the complainant backed away from him and put his hands into his pockets, which caused the officer to be concerned for his own safety. It was this concern that resulted in the officer handcuffing the complainant.

The investigation of the complaint resulted in a finding of no merit and a recommendation to dismiss the complaint. The director of the Commission accepted the recommendation.

The application for judicial review was dismissed. The Court said that the Commission does not have the authority to determine the legality or constitutionality of the complainant's arrest, detention and search. The main issue is whether there are grounds to judicially review the Chief Commissioner's independent decision that there was insufficient evidence to warrant the appointment of a panel. The role of the Chief Commissioner is to determine whether there is a reasonable basis in the evidence for proceeding to the next stage based upon an independent review of all facts and documents before the Chief Commissioner. The line of analysis in the Chief Commissioner's decision in rejecting the discrimination claim is clear and intelligible: while race is a prohibited ground of discrimination, it may also operate as a relevant descriptor. As such, it was reasonable for the Chief Commissioner to determine that there was no generalized heightened suspicion of the complainant on the grounds that he was black. The police received specific information that a described person of a particular race was engaged in dangerous conduct and they narrowed their search accordingly. The Chief Commissioner's decision was supported by a tenable explanation. The decision was not unreasonable. The decision has not been appealed.

4) **Qufei Ji v. Alberta (Human Rights and Citizenship Commission)** **(Decision date — September 18, 2008)**

The complainant applied for judicial review of the Chief Commissioner's decision not to accept her appeal due to the reason that the complainant had not filed the appeal in time. The Chief Commissioner's office confirmed that they did not have the statutory authority to expand the time period for an appeal, which is set out in the *Human Rights, Citizenship and Multiculturalism Act*. The complainant accepted that she was four days late in filing her appeal under Section 26 of the *Act*. The reviewing Court confirmed that the judiciary does not have the jurisdiction to relieve against non-compliance of statutory requirements. Therefore, the application for judicial review was dismissed. The decision was not appealed.



Alberta Human Rights
and Citizenship Commission

Annual Review 2008–09

Contact information

For more information, please contact the Alberta Human Rights and Citizenship Commission.

Chief Commissioner and Human Rights Panels

800 Standard Life Centre
10405 Jasper Avenue
Edmonton, Alberta T5J 4R7
Phone: 780-427-3116
Fax: 780-422-3563

Director's Office

800 Standard Life Centre
10405 Jasper Avenue
Edmonton, Alberta T5J 4R7
Phone: 780-427-3116
Fax: 780-422-3563

Northern Regional Office

800 Standard Life Centre
10405 Jasper Avenue
Edmonton, Alberta T5J 4R7
Confidential Inquiry Line: 780-427-7661
Fax: 780-427-6013

Southern Regional Office

Suite 310, 525 – 11 Avenue SW
Calgary, Alberta T2R 0C9
Confidential Inquiry Line: 403-297-6571
Fax: 403-297-6567

To call toll-free from other Alberta locations, dial 310-0000 and then enter the area code and phone number.

For province-wide free access from a cellular phone, enter *310 (for Rogers Wireless) or #310 (for Telus and Bell), followed by the area code and phone number. Public and government callers can phone without paying long distance or airtime charges.

TTY service for persons who are deaf or hard of hearing

Edmonton: 780-427-1597
Calgary: 403-297-5639
Toll-free within Alberta: 1-800-232-7215

E-mail humanrights@gov.ab.ca for general inquiries.

E-mail educationcommunityservices@gov.ab.ca for inquiries related to education and community services.

Website: albertahumanrights.ab.ca



Alberta Human Rights
and Citizenship Commission

The Alberta Human Rights and Citizenship Commission is an independent commission of the Government of Alberta. Our mandate is to foster equality and reduce discrimination. We provide public information and education programs, and help Albertans resolve human rights complaints.

Annual Review 2008–09