



**The Saskatchewan Human Rights Commission  
Annual Report 2008-2009**

## Mission Statement and Goals

The Saskatchewan Human Rights Commission promotes and protects the individual dignity, fundamental freedoms and equal rights of all members of the human family.

The Commission's goals, derived from *The Saskatchewan Human Rights Code*, are to:

- Discourage and eliminate discrimination;
- Investigate and resolve discrimination complaints quickly and effectively;
- Support and seek remedies for individuals and groups who suffer discrimination;
- Promote, approve and monitor equity programs;
- Promote research and education strategies to advance the principles of equality and diversity, and to encourage understanding of human rights issues;
- Promote leadership on public policy development and implementation related to human rights; and
- Promote advances in human rights legislation and protection.

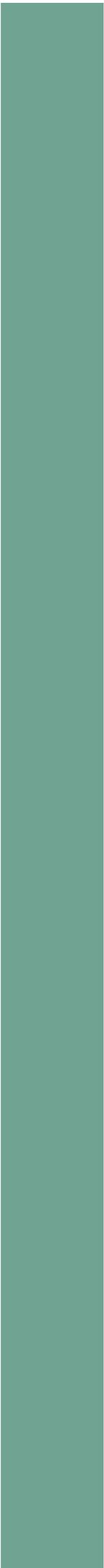
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## Letter of Transmittal

The Honourable Don Morgan, Q.C.  
Minister of Justice  
Legislative Building  
Regina, Saskatchewan  
S4S 0B3

Dear Minister Morgan,

In accordance with section 49 of *The Saskatchewan Human Rights Code*, it is my privilege to submit to you the 2008-2009 annual report of the Saskatchewan Human Rights Commission.

This report reflects the activities of the Commission from April 1, 2008 to March 31, 2009.

Sincerely,



Judge David M. Arnot  
Chief Commissioner



## Message from the Chief Commissioner

Saskatchewan's motto, "From Many Peoples Strength," denotes a powerful vision for our province. It speaks to inclusiveness, diversity, and harmony which reflect the core values of Saskatchewan people, values that are very much at the heart of *The Saskatchewan Human Rights Code*.

It was an active year at the Commission in 2008-2009. We were busy connecting with employers, unions, human resource professionals, and members of the public across the province to help them understand their rights and responsibilities under the *Code*. We developed new policies to discern trends in discrimination; we developed new resources for employers and human resources professionals who want to develop their own anti-discrimination policy; and we increased the resolution of complaints through mediation rather than the more time-consuming investigative process.

It was also a year of celebration. In December we celebrated the 60<sup>th</sup> Anniversary of the United Nations Universal Declaration on Human Rights and throughout 2009 we are honouring the 30<sup>th</sup> anniversary of *The Saskatchewan Human Rights Code*.

Our Equity partners are working every day to champion diversity in employment and education. Several municipalities have joined us in working toward the end of racism and discrimination. Employers are increasingly coming to us for direction on how they can create inclusive and welcoming workplaces.

Saskatchewan has always been at the forefront of building communities which flourish. Respect for one another and working towards respect for one another are integral components of every successful community and every successful human endeavour. Human rights, and the universal respect and responsibility those rights engender, are the foundation on which our province is built. These values which truly represent the future of Saskatchewan are reflected in the beautiful faces gracing the front of this report.



Judge Arnot and Chief Clive Weighill at the Saskatoon Police Service's breakfast for the International Day for the Elimination of Racial Discrimination 2009.



Judge Arnot with Cree Elder/musician Joseph Naytowhow at the photo shoot for "All One People."

Judge David M. Arnot

## Connecting With Our Communities

In 2008-2009, the SHRC reached more than 3,000 people through some 90 educational seminars or workshops, as well as community outreach & partnership events.

### Persons with Disabilities

On May 12, 2008, the United Nations celebrated the entry into force of the *UN Convention on the Rights of Persons with Disabilities and its Optional Protocol*. The Convention is a “major milestone in the effort to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms of persons with disabilities, and to promote respect for their inherent dignity.”

In Regina, this year’s celebrations for International Day of Persons with Disabilities on December 3<sup>rd</sup> took place at the Core Ritchie Neighbourhood Centre. Education & Equity Advisor, Heather Monus, addressed this year’s theme, “Dignity and Justice For All” in her presentation.



Inspirational humorist David Roche, who has turned living with a facial disfigurement into a compelling message about appearance, acceptance and diversity, was featured at Regina’s December 3<sup>rd</sup> celebrations.

### Reaching New Canadians

Judge Arnot attended the graduation ceremonies of the Moving Young Women’s Aspirations to Reality (MYWAY) program of the Saskatchewan Intercultural Association. MYWAY is an eight-month employment program designed for immigrant and refugee women between the ages of 17 to 30 who live in Saskatoon. Among other things, the program provides participants with the opportunity to develop their employment skills in a two-part process which includes short-term and longer-term work placements.



Judge Arnot joins the graduates of the MYWAY program.

The Saskatoon Open Door Society welcomes and assists refugees and immigrants to become informed about Canadian society and to become involved in the Saskatoon community. The organization uses a holistic approach in its delivery of services and programming in the areas of settlement and integration, language training, and employment services. In June, Bill Rafoss, Supervisor of Mediations and Investigations, spoke to members of the Open Door’s For Men Only Program about their rights in employment, housing, and public services.



Participants of the Saskatoon Open Door Society’s For Men Only program with Bill Rafoss.

## Understanding the Duty to Accommodate

Employers have a legal duty to reasonably accommodate characteristics identified in *The Saskatchewan Human Rights Code* unless doing so creates an undue hardship on the employer. It is a key aspect of human rights law on which employers and employees continue to look for guidance from the Commission. During 2008-2009, our Education Advisors presented 24 seminars on the Duty to Accommodate to more than 680 people.

In the fall of 2008, a series of free, half-day seminars on the Duty to Accommodate were presented by Commission staff to audiences in Prince Albert, Yorkton, North Battleford, Saskatoon and Regina. More than 190 employers, human resource professionals, and health care and education providers were introduced to the topics of duty to accommodate and undue hardship, as well as emerging trends in case law.

The duty to accommodate was one of the issues Bill Rafoss addressed when he spoke with members of the Canadian Pensions and Benefits Institute (CPBI) in Regina and Saskatoon at their monthly seminar series in February. Institute members work in the pension, benefits and investment sectors and are looking to address how cultural diversity impacts the industry. Participants also learned about the human rights complaint process and the basics of human rights investigations.

## SHRC partners with PLEA Saskatchewan

With their similar mandates to provide the public with legal information, the Commission and the Public Legal Education Association (PLEA) joined forces in May 2008 to present a full-day seminar in Saskatoon on Human Rights at Work for employers and union representatives. Some 80 participants attended the session which addressed rights and responsibilities under the *Code*, the complaint process, and took an in-depth look at harassment, discrimination prevention, and the duty to accommodate.



Judge Arnot, organizer Kay Robertson of the Saskatchewan Healthcare Employees Pension Plan, and Bill Rafoss at the CPBI monthly seminar series in Saskatoon.



The duty to accommodate was one of the issues the Commission's senior staff solicitor, Janice Gingell, touched on in her luncheon address, "Coming of Age - Recent Changes to *The Saskatchewan Human Rights Code*," to members of the Canadian Bar Association in March.

l to r: Janice Gingell, Judge Arnot, Connie Den Hollander and Erin Connick.



Patrick McDougall from SaskTel speaks with Joel Janow, Executive Director of PLEA, and Genevieve Leslie, Supervisor of Public and Special Programs, at the PLEA seminar.

## International Women's Day 2009

On March 8<sup>th</sup>, International Women's Day, people around the world celebrate the economic, social, cultural and political achievements of women. Rooted in women's quest for equality, this day commemorates historic events such as the tragic 1911 Triangle Shirtwaist Factory fire in New York which ended the lives of more than 140 women due to substandard working conditions. There were many activities and events marking International Women's Day in 2009.

Commissioner Mike Bacon and staff members attended the Business and Professional Women of Saskatoon's International Women's Day Dinner on March 3<sup>rd</sup>. A surprise guest speaker was Maria Daro, an Afghani writer and refugee who fled Afghanistan with her four sons in 1997 when the Taliban was in power. Under the Taliban, education for girls was banned, wide restrictions were put on women and their activities, and violence against women was condoned.

As guest speaker at the International Women's Day Lunch on March 8<sup>th</sup> in Saskatoon, Judge Arnot addressed the crowd, praising women for their strength of spirit and the many traditional and non-traditional roles they play. The event was organized by the Saskatoon Women's Community Coalition.

In Regina, an International Women's Day conference was held on March 6<sup>th</sup> at the University of Regina. The conference theme was, "Women's Rights as Human Rights – Stop Gender-Based Violence," with participants considering the issue of violence against women in local, regional, national, and international contexts. Heather Monus, Education & Equity Advisor, spoke on "Women's Rights as Human Rights in Saskatchewan."

The message of the Commission's ad in the Saskatoon Star Phoenix and Regina Leader-Post special feature on International Women's Day was: "Let Us Celebrate Generations of Strong Women – Powerful Hands and Open Hearts Working Towards Equality and Peace."



Afghani refugee Maria Daro speaks at BPW Saskatoon's IWD 2009 Dinner.

Photo courtesy of Freeborn Photography.



Judge Arnot joins Saskatoon event organizer Ferron Olynyk and Commissioner Dr. Judy White at the International Women's Day Lunch.

## Cultural Diversity Month

March is one of the busiest months of the year for the Commission. At the request of Judge Arnot, the Minister of Justice declared March 21<sup>st</sup> as International Day for the Elimination of Racial Discrimination, as did the municipalities of Regina, Saskatoon, North Battleford, Yorkton, Moose Jaw, Melfort, and Prince Albert.

March 2<sup>nd</sup> was busy for Judge Arnot who spoke at the opening of the City of Saskatoon's Cultural Diversity and Race Relations month and then made a special trip to Swift Current to meet with Mayor Sandy Larson and City Council. At Judge Arnot's request, Swift Current declared March 15 to 21 as Cultural Diversity Week.

Regina staff members attended the 10<sup>th</sup> annual Spring Free from Racism Family Day on March 15<sup>th</sup>. This all-day event celebrates ethnic diversity and addresses the need to foster respect, dignity, equality, and justice within the Regina community. It was attended by more than 4,000 participants who were treated to entertainment from 38 ethnic performances and food from around the world.

The Saskatoon Police Service held its third annual breakfast on March 16<sup>th</sup> in recognition of International Day for the Elimination of Racial Discrimination. Chief Weighill sits on the City of Saskatoon's Cultural Diversity and Race Relations Committee and initiated the breakfast as one way of reaching out to the community, and acknowledging and supporting diversity on the police force. This year, some 100 attendees were on hand for the event.

Staff members attended the City of Saskatoon's annual "Living in Harmony" art and literary awards ceremony at Marion Graham Collegiate on March 20<sup>th</sup>. The awards acknowledged the positive efforts of local organizations/individuals in promoting intercultural harmony.

Judge Arnot fielded questions from the Saskatoon StarPhoenix and Regina Leader-Post for special features on the International Day for the Elimination of Racial Discrimination and why the Commission recognizes March 21<sup>st</sup>.



Judge Arnot visits with Swift Current Mayor Sandy Larson.



Jennifer Matts, Community Investment Consultant for Casino Regina & Moose Jaw, Heather Monus, and Intake Officer Laurena Daniels attend Regina's Spring Free from Racism Family Day.



Judge Arnot joins in the raising of the Cultural Diversity flag with Saskatoon Mayor Don Atchison, Cultural Diversity and Race Relations Committee Chair Dr. Shakeel Akhtar, Gordon Martel of the Greater Saskatoon Catholic School Division, and Patricia Prowse from the Saskatoon Public School Division.

## Prince Albert Joins Coalition of Municipalities Against Racism and Discrimination

The City of Prince Albert annually declares March 21<sup>st</sup> as the Day for the Elimination of Racial Discrimination. This year, however, was made special when the city signed on as the 30<sup>th</sup> Canadian municipality to join the United Nations Educational, Scientific and Cultural Organization's (UNESCO) Coalition of Municipalities Against Racism and Discrimination (CMARD).

CMARD is an international movement to establish networks of cities around the world interested in sharing experiences and resources to assist them in fighting racism, discrimination, and xenophobia. Launched in 2005, the Canadian efforts are based on the European model adapted for the Canadian reality. Each municipality develops their own action plans based on 10 common commitments in three areas of responsibility:

1. The Municipality as a guardian of public interest;
2. The Municipality as an organization in the fulfillment of human rights;
3. The Municipality as a community sharing responsibility for respecting and promoting human rights and diversity.

Commission staff attended a Meet and Greet Tea on February 25<sup>th</sup> which brought together stakeholders of the CMARD project. Based on the common commitments, attendees completed a questionnaire which provided CMARD organizers with opinions on how the community and agency are currently doing. The results will provide the city with a set of indicators to help them measure the success of their strategy.

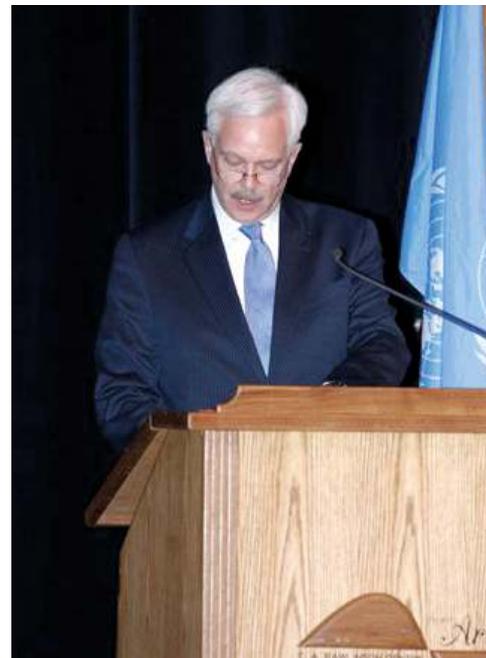
Prior to the CMARD signing ceremony on March 20<sup>th</sup>, Judge Arnot and Commission staff attended the "Building Bridges Between Us" event at Riverside Community School. The occasion celebrated "A Cultural Day in a Multicultural Way" and was one of many special events during the City of Prince Albert's Elimination of Racial Discrimination Week. Students attended a powwow in the gymnasium which featured a teepee and drumming by student drummers.



City of Prince Albert Mayor Jim Scarrow and Councillor John Swystun, Chair of the City's Race Relations & Social Issues Advisory Committee, attend the Meet and Greet Tea in support of CMARD.



Student drummers at the powwow during the Building Bridges Between Us event at Riverside Community School.



Judge Arnot addresses the audience attending the signing of the CMARD agreement at the E.A. Rawlinson Centre in Prince Albert.

Secretary-General for the Canadian Commission for UNESCO, David Walden, and Prince Albert Mayor, Jim Scarrow, officially signed the Declaration to join CMARD at a special ceremony at the E.A. Rawlinson Centre on March 20<sup>th</sup>. Speaking to an audience of about 400, Judge Arnot supported the initiative and challenged Prince Albert to become a model for Saskatchewan. Other special guests included Lieutenant Governor, the Honourable Dr. Gordon Barnhart; the Honourable Darryl Hickie, Minister of Corrections, Public Safety and Policing, who represented the Premier; FSIN Chief Lawrence Joseph; Métis Nation of Saskatchewan President, Robert Doucette; Member of Parliament for Prince Albert, Randy Hoback; and Grand Chief Ron Michel and Vice Chief Don Deranger of the Prince Albert Grand Council.



Judge Arnot with teacher Linda Greyeyes and Linda Nosbush, Social Development Manager for the City of Prince Albert, at the Building Bridges Between Us event.

## Human Rights, Education, and the Arts

In March, music educator/producer Richard Dubé approached the Commission about a curriculum project he was working on with Cree Elder and musician, Joseph Naytowhow. Dubé thought the Commission might be interested in Naytowhow's song, "All One People," which echoes the same principles of equity and inclusion that the Commission promotes. As music curriculum, the project gives students the opportunity to learn the song in English and Cree, as well as to play it on a number of instruments. Richard also invited Judge Arnot to attend the photo shoot for the CD cover that featured Naytowhow with some 30 children dressed in their heritage clothing. The final image is the powerful image seen on the cover of this report that speaks to Saskatchewan's multicultural heritage and a future that embraces the values of diversity and living in harmony.



FSIN Chief Lawrence Joseph and UNESCO's David Walden witness Mayor Scarrow signing the Declaration as the City of Prince Albert joins CMARD.



Judge Arnot on the sidelines of the photo shoot for the cover of Joseph Naytowhow's curriculum project, "All One People."

## Reaching New Audiences Through the Media

An unexpected result of a partnership with the Saskatchewan Police College was the Commission's involvement in the television series, *A Few Good Men and Women*, co-produced by Regina-based Zima Junction Productions and Calgary-based Agitprop Films. Education & Equity Advisor Heather Monus is briefly featured outlining *The Saskatchewan Human Rights Code* to new recruits in this program broadcast by the Saskatchewan Communications Network (SCN).



Education & Equity Advisor Heather Monus addresses new police recruits in "A Few Good Men and Women."

The Commission reached its largest audience ever in March when it partnered with Citizenship and Immigration Canada, SCN, CTV, and Global Television to broadcast "Celebrate Our Differences," an anti-racism PSA created by the students of George Vanier Catholic School in Saskatoon. The message reached regional viewers throughout the month who tuned into broadcasts from Saskatoon, Regina, Prince Albert and Yorkton.

## Fact Sheet Series Expanded

The Commission expanded its information services over 2008-2009 through the development of two new fact sheets:

- "Human Rights of Transgender Individuals" was developed after the Gay, Bisexual, Lesbian, Transgender, and Queer community requested more information around the issue. Case law from a number of jurisdictions has determined that individuals who are discriminated against because of gender identity are legally protected under the protected category of "sex." In certain instances, discrimination based on gender identity falls under the protected category "disability" when, for example, an individual is in transition and discriminated against because of his or her preoperative state. No cases on gender identity have gone to a Tribunal hearing for adjudication in Saskatchewan.
- Most employers know they cannot refuse to hire someone because of their ancestry, but many don't know that the *Code* also stops employers from asking certain questions on application forms or in interviews which might allow them to eliminate candidates based on nationality or place of origin. To assist employers and human resource professionals to determine which questions are acceptable to ask prospective employees, the Commission developed the fact sheet, "Discrimination in Employment on the Basis of Nationality or Place of Origin for Employers and Human Resource Professionals."

In acknowledging the active role the Fransaskois community plays in the economic, cultural, and social development of the province, the Commission was able to translate its human rights fact sheet series into French with the support of the Francophone Affairs Branch of the Office of the Provincial Secretary. This branch provides free translation services to provincial departments, crown corporations and agencies.

## Welcoming Workplaces and Educational Institutions

The Commission welcomed one new Employment Equity and three new Education Equity Sponsors in 2008-2009.

The Commission uses section 47 of *The Saskatchewan Human Rights Code* to approve education and employment equity programs for four groups which have traditionally been denied equality of opportunity and benefit in important areas of public life: Aboriginal people, people with disabilities, visible minorities/racialized groups, and women in under-represented occupations. These broad diversity initiatives address the particular barriers or disadvantages experienced by each designated equity group.

A plan can help employers, service agencies and educational institutions:

- recruit and retain a diverse, qualified workforce;
- become “employers of choice” in a competitive labour market;
- take advantage of the creativity, skills and knowledge of a diverse workforce;
- ensure equality of educational benefit to all students;
- provide better services to an increasingly diverse clientele;
- promote human rights values of equality, individual dignity and mutual respect; and
- create an inclusive environment, in which all participants can contribute, achieve their full potential, and make a valuable contribution.

The Commission’s new Equity website was unveiled in November 2008 at <http://www.shrc.gov.sk.ca/equity/index.html>.

### Employment Equity

This year the Commission was energized by the kinds of initiatives our employment equity partners undertake to create inclusive workplaces. Their best practices make it clear why some of them are considered the best employers in the province.

- Many employment equity partners have developed Diversity Representative Workforce strategies to ensure that every individual at every level of their organization has a role to play in the support of diversity and in creating a culture of inclusion. This includes numerous equity partners who are developing policies and strategies related to business and recruitment initiatives designed to build relationships with Aboriginal employers, educational institutions and communities.
  - Some employers request that new employees undertake an Aboriginal cultural awareness program to help them examine how assumptions, values and stereotypes affect their perceptions of Aboriginal peoples, to discuss the impact of history on Aboriginal culture(s) today, and to explore current impacts/trends affecting Aboriginal people.
  - Many organizations have embraced the duty to accommodate principles as one way to ensure that persons with disabilities can find a place for themselves in the workplace. The recruitment and retention of persons with disabilities often includes a consultation service and skills



The Commission welcomed MicroAge Regina, part of MicroAge Network of IT solution providers, as an Equity Sponsor in March 2009.

assessment to help them find and keep jobs. One employer has developed and delivered a *Persons with Disabilities Awareness* workshop as a pilot program to managers and hiring supervisors.

- Many equity employers contribute funding and human resources to support diversity initiatives provincewide. They also support employee attendance at conferences put on by the Saskatchewan Visible Minority Employees Association (SVMEA) and the Aboriginal Government Employees Network (AGEN).
- From internships to leadership conferences, becoming youth friendly has been a priority for some equity employers who are promoting career opportunities to the youth of Saskatchewan.
- Equity employers have developed their own policies around anti-discrimination and anti-harassment to provide employees with Respectful Workplaces workshops/training.

Equity employers are proving that equity works and that it can be effective in drawing under-represented groups into various levels of the workplace, thereby increasing Saskatchewan's labour pool of qualified employees.

## Education Equity

The Commission's Education Equity Program is designed to benefit Saskatchewan students by developing inclusive classrooms and overcoming the barriers faced by certain groups of students.

This year, the program was bolstered through the support of the Initiatives Fund established by the First Nations and Métis Education branch of the Ministry of Education in support of the Aboriginal Employment Development Program. Some \$1,725,000 was earmarked beginning July 1, 2008 for funding to encourage those school divisions which are developing education equity plans approved by the Commission.



Education & Equity Advisor Lorraine Pura (r) witnesses Judge Arnot and Lloydminster Catholic School Division Superintendent Aubrey Patterson sign the SHRC Equity partnership agreement.

The Commission welcomed three new K-12 school divisions as Equity partners in 2008-2009.

- The Lloydminster Catholic School Division became an Education Equity partner to promote the values the school had deemed important on a local level, which includes the success of Aboriginal students within the school and community.
- Good Spirit School Division signed on as an Equity sponsor in October 2008. Their Equity program is designed to benefit Aboriginal students. The school division has also established a Caring and Respectful Schools (CARS) Committee, with representation from each of the schools within the school division, to enhance the caring and respectful environment for which it strives.
- Holy Trinity RCSSD No. 22, with schools in Moose Jaw, Swift Current, and Shaunavon, designed their Equity program to benefit Aboriginal people, people with disabilities, and visible minorities.

## Resolving Complaints

In 2008-2009, the Commission received 2,621 inquiries and opened 191 complaint files. The Mediations and Investigations Unit concluded 202 investigations files in 2008-2009, a 14% increase in the number of investigations it handled over the previous year.

### Systemic Focus

Systemic discrimination occurs when structural barriers or widespread stereotypes and assumptions bar members of certain groups from full participation in activities for which human rights protection is afforded under the *Code*.

Public education on the important role of service animals continues to be necessary as Darlene Smith discovered when she was turned away from the Bentley Retirement Residence in Yorkton because she was accompanied by her guide dog, Duffy. The manager of the residence believed that the guide dog violated their “no pets” rule. However, in this case, Duffy is not a pet but a working dog trained to serve as a travel tool for his owner who is blind. In settling the complaint, the residence agreed to adopt a “Policy on Working Dogs in the Retirement Residence” to prove that it is fully committed to accommodating persons with disabilities who rely on working dogs for support. The policy includes a set of guidelines for staff and residents to follow.

In February, the Commission settled a complaint from a man who could not vote at his provincial polling station because it was not accessible to persons who use wheelchairs. John Brown alleged in his complaint to the Commission that he had been discriminated against because of disability under Section 12 of the *Code*, as well as Section 8, the right to vote in elections, when he was unable to vote independently during the last provincial election. In settling the complaint, the Province’s Chief Electoral Officer agreed to review all existing facilities for accessibility and to make recommendations for alternative locations for the next general election.



Darlene Smith and Duffy, a working dog, visit with Investigator Julie Powell at the SHRC offices in Regina.



### Accommodating Disabilities Remains #1 Complaint

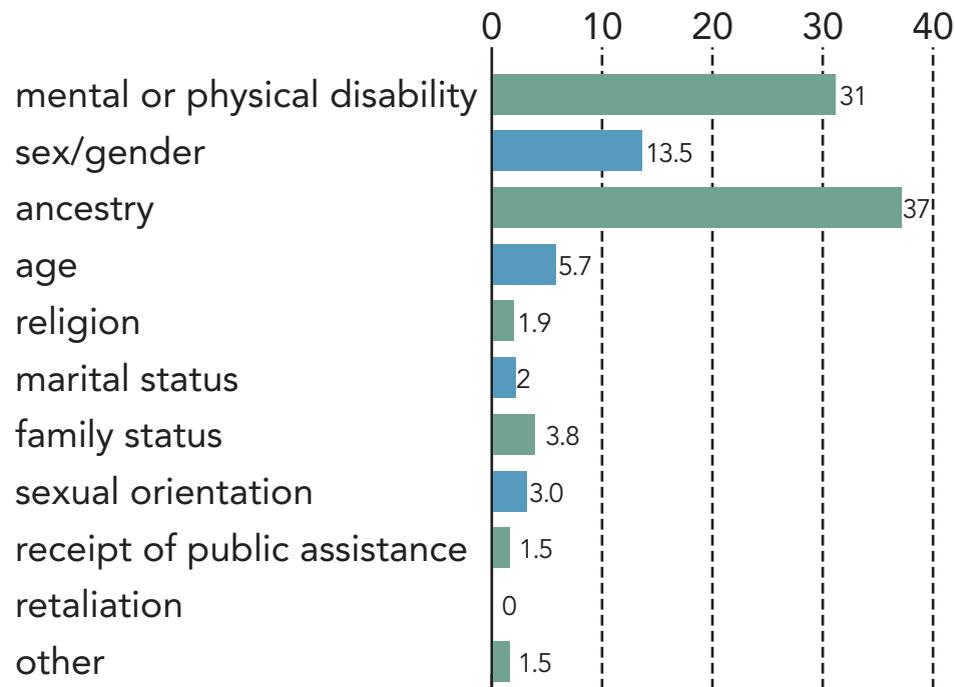
Almost 43% of the grounds cited in complaints to the Commission raise the issue of accommodating disabilities. This number surpasses all other grounds cited significantly, including complaints based on racism, gender discrimination, and pregnancy discrimination. Employers are becoming increasingly aware of their obligations to make accommodations in the workplace for persons with disabilities.

Unions also share with the employer obligations to assist with the accommodation process. In 2008, the Supreme Court of Canada revisited the duty to accommodate in a case entitled *Hydro Quebec and SCFP-FTQ Local 2000*, finding that although employers have a duty to accommodate employees by re-arranging their workplace and duties to enable them to work successfully, that obligation does not

extend to fundamentally altering working conditions. Through the Commission's case management deliberations, it has become clear that employers and unions generally take the duty to accommodate seriously, with very few workplaces refusing to accommodate at all.

### Grounds of Discrimination

Percentages of files opened in the 2008-09 fiscal year



## Settlements

In 2008-2009, some 27% of the complaint files disposed of were settled at some point in the complaint process. All parties to a complaint are initially asked to consider mediation as a way to resolve the dispute to the satisfaction of all. Investigators, intake staff and the Commission's solicitors also resolve disputes, thereby reducing the number of investigations. All settlements are made without admission of liability.

### Disability

#### Casino shuttle service not wheelchair accessible

A man with a disability which requires him to use a motorized wheelchair alleged that he was discriminated against when he attempted to take a public shuttle service to a casino but discovered that the buses were not wheelchair accessible. When he reported the incident to the establishment, he received no response. The complainant alleged that the respondent failed to provide him with reasonable accommodation, thereby discriminating against him on the basis of his disability in the provision of services customarily offered to the public. In settling the complaint, the establishment agreed to pay the complainant \$750 for expenses and injury to dignity. It also devised a transportation policy for patrons requiring accessible transport and agreed to develop a promotion plan directed towards disabled patrons. The company agreed to continue the dialogue with advocates of the disabilities community around alternative services and the improvement of ongoing services. The company will also provide training to staff to increase their understanding of the needs of patrons with disabilities.

#### Woman denied accommodation for disability

A woman with a disability that affects her writing and speech was employed by a community-based organization as a family support worker. She alleged in her complaint that she was discriminated against because of disability when she requested a tool to help her in her work but had the request denied. In settling the complaint, the respondent agreed to pay the complainant \$10,000 for injury to self-respect and \$1,680.95 for legal fees she had already paid her lawyer. The respondent

also agreed to provide a letter of regret to the complainant in acknowledgement of injury to self-respect.

#### Child care centre develops policies regarding children with disabilities

The parents of a child with a disability which requires accommodation were informed that their child could not attend the child care centre full time because accommodating him was taking up too much of the educator's time. The parents alleged that their son was discriminated against in accessing services available to the public because of his disability. The complaint was settled after the parents received and accepted an apology from the child care centre. The centre agreed to adopt and implement guidelines which lay out the specific rights, responsibilities, and roles of all caregivers, the centre manager, and parents whose children are in the child care program. A policy was developed to ensure that parents would be informed if there were any behavioural problems with their children and it was agreed that there would be no discontinuance or threat of discontinuance in this regard until the parents were informed and had a reasonable opportunity to change the child's behaviour. The respondents also agreed to conduct an in-service learning opportunity for all centre staff on the challenges they may face in integrating children with certain disabilities into their programs.

### **Man suffering a seizure is handcuffed and locked in hospital room**

A man who suffers from epilepsy-related seizures went with his wife to a hospital when she had a medical concern. While he was there, he suffered a seizure which was misinterpreted as disruptive behaviour. He was then handcuffed and locked in a room by security personnel who subjected him to unreasonable force and medicated him against his will. Although his wife told staff he was having a seizure, she was forced to stay in her room and not allowed to help her husband. His seizures increased after the episode and his wife's mental health was negatively impacted by the incident. In filing their complaint, the husband and wife alleged that they were discriminated against on the basis of his disability in services customarily offered to the public. They also alleged that their rights to be free from arbitrary arrest and detention were interfered with contrary to Section 7 of the *Code*. In settling the complaint, the respondents agreed to pay each of the complainants \$2,500 for injury to dignity and self-respect. The respondents also provided the complainants with a verbal apology for any stress which may have affected them as a result of the incident. The respondent has agreed to review materials pertaining to seizures and will work with a local organization which specializes in this medical condition to provide educational sessions to the hospital's security and emergency department staff. It will reiterate to staff the importance of accessing support staff, such as care providers and social workers, in crisis situations. It will also remind staff of the organization's values regarding the importance of involving family members in patient care.

### **Ancestry**

#### **Employee alleges discrimination based on ancestry**

An employee who worked for a housing organization alleged that he was terminated in August 2006 but given no reason. In filing his complaint, the man alleged he was fired from his job because he is non-Aboriginal and that there was a campaign to remove any non-Aboriginal staff from the organization. The complaint was

settled when the complainant agreed to accept \$10,952.04 as compensation for loss or damage. The respondents also agreed to post a workplace anti-discrimination policy in an area visible to all employees.

### **Ancestry/Family Status**

#### **Father and son allege discrimination by electronic store manager**

When a man of Caucasian ancestry and his grown son, who is of Aboriginal ancestry, entered an electronics store, they were allegedly accused by a store manager of being intoxicated and asked to leave. The son was also allegedly accused of being the same intoxicated person who had been in the store earlier that day and was involved in an incident. In filing their complaint, the two men alleged that the son was wrongfully accused and that the manager of the store discriminated against them because of the son's ancestry and on the basis of their family status. In settling the complaint, the respondents agreed to pay the son \$1,000 as compensation for injury to feelings. The respondents also agreed to provide training to their employees which covers offensive behaviour and harassment, and contains a substantial focus on anti-racism, especially racism against Aboriginal peoples. The respondents also provided a written apology to the complainants, acknowledging their embarrassment at being wrongfully accused of being intoxicated in the store.

### **Sexual Harassment**

#### **Corporate respondent settles complaint for \$41,009**

A woman who worked in the healthcare field alleged that she was subjected to the unwanted and unsolicited sexual attention of her direct supervisor. Although she reported the situation to her employer, she felt not enough was done to stop his actions or ensure her safety, thereby discriminating against her on the basis of her gender and failing to provide her with a workplace free from sexual harassment. In settling the complaint, the corporate respondent agreed to pay the complainant the sum of \$27,579 as a retiring allowance, plus accrued benefits, \$10,000 for

injury to self-respect, and \$3,429.75 for pension contributions. The corporate respondent will provide the complainant with a letter of reference and deal with all reference inquiries.

### Sexual Orientation

#### Same-sex couple denied DJ services for their wedding

When a woman tried to book a DJ service for her same-sex marriage, she was told by the owner of the service that she could not be accommodated. In her complaint, the woman alleged that she had been discriminated against in the provision of services that are offered to the public on the basis of her sexual orientation. The complaint was settled when the complainant agreed to accept \$600 for loss or damages.

### Sex (Pregnancy)/Perceived Disability

#### Pregnant woman with undiagnosed medical condition terminated from job

A woman working for a newspaper as a sales executive suffered two undiagnosed seizures which led to the suspension of her driver's license resulting in her probationary period being extended for one month. Days after her probation was complete, she met with her manager and told her she was pregnant. One hour later she was terminated from her job for not meeting performance expectations although she had never received a performance review or had reason to doubt her performance. The complainant alleged that she was discriminated against because of her sex/pregnancy and a perceived disability when her employer refused to continue her employment. The complaint was settled when the respondent agreed to pay the complainant \$1,013.46 less deductions and provide one week's salary and car allowance.

### Marital Status

#### Woman terminated without just cause alleges discrimination based on marital status

A woman and her husband both worked at the same farm machinery manufacturer. Ten days after her husband was terminated from the company, the woman was terminated as well without just cause. She alleged in her complaint to the Commission that the company discriminated against her because of her marital status. In settling the complaint, the woman agreed to accept \$5,144 as compensation for injury to feelings.

## Legal Highlights

The Commission participated in 12 hearings and appeals in 2008-2009.

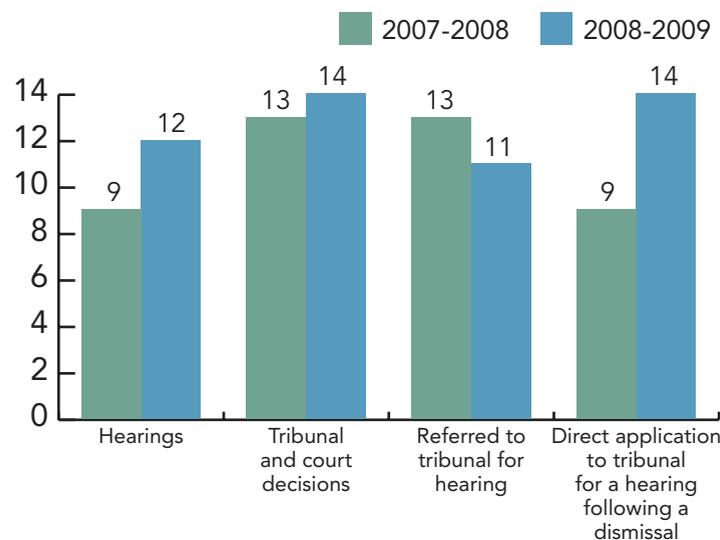
### Striking the Right Balance

This year, the Commission continued to be involved in the litigation of cases involving distinct and sometimes competing rights under *The Saskatchewan Human Rights Code*. At times, the rights claimed by one individual may appear to be in conflict with those claimed by another. However, rights are rarely absolute. The law has many ways of clarifying and reconciling competing claims in order to develop fair, consistent and predictable standards of behaviour. Sometimes a statute itself will provide qualifications or explanations. For example, the *Code*'s prohibition against hate literature states that it is not intended to restrict the right to "freedom of expression under the law." At other times, it is necessary to seek help from the courts in striking a fair balance and clarifying legal principles.

Freedom of speech, freedom of religion and freedom from discrimination are all fundamental rights protected by *The Saskatchewan Human Rights Code*. In *Whatcott v. Komar, Wallace, Taylor and Hamre*, the Saskatchewan Court of

Appeal reserved its decision in an appeal from a tribunal finding that anti-gay statements contained in pamphlets authored and distributed by William Whatcott violated the *Code*. Mr. Whatcott asserted his right to freedom of expression; the complainants argued that his pamphlets incited hatred against gay men and lesbians. In *M.J. v. Nichols*, the Saskatchewan Court of Queen's Bench reserved its decision in an appeal by a Saskatchewan marriage commissioner against a finding that he violated the *Code* when he declined to perform a marriage ceremony for a same-sex couple. The marriage commissioner argued that his right to religious freedom would be breached if he was required to perform a same-sex marriage. The complainants argued that they were denied a public service for discriminatory reasons. The decisions in these cases will clarify the appropriate balancing of rights in the many fact situations the Commission is asked to consider.

### Legal Activities



## Reconciling Interests

Human rights statutes are considered quasi-constitutional and generally take precedence over inconsistent legislation because of the fundamental importance of human rights protections.

Nevertheless, human rights law contains many “built-in” safeguards to protect other compelling social interests, such as the right to safety. The duty to accommodate an employee’s disability, for example, only extends up to the point of undue hardship.

In 2008-2009, the Human Rights Tribunal decided two separate complaints in which individuals sought accommodation for addiction-related disabilities. Both employers argued that accommodating the complainants would unduly interfere with their legitimate interest in ensuring public safety and safety in the workplace. In one complaint, a steelworker with a substance dependency successfully argued that his employer failed to fulfill its obligation to accommodate him in its safety-sensitive workplace. The tribunal found that the employer should have looked for alternatives prior to terminating the employee for failing a drug test. In another case, a medical doctor was awarded compensation after his approval for a residency program was withdrawn because of his history of drug dependency. The tribunal determined that the university failed to fully explore strategies to ensure public safety before it decided to withdraw its approval.

These cases illustrate the important balancing of interests in human rights cases. *The Saskatchewan Human Rights Code* allows appeals on questions of law from tribunal decisions to the court system. This broad right of appeal ensures that the principles evolving in human rights cases are subject to judicial scrutiny.

## Mandatory Retirement

The Saskatchewan Human Rights Commission did not appeal the Court of Queen’s Bench decision in the case of *Louise Carlson v. Saskatchewan Public Library Board and the Canadian Union of Public Employees*. The Carlson complaint was the first

mandatory retirement complaint referred by the Commission to the Saskatchewan Human Rights Tribunal. Ms. Carlson alleged that mandatory retirement at age 65 was a violation of her right to equality because the *Code* must be consistent with the *Canadian Charter of Rights and Freedoms* and the *Charter* does not place similar limits on protection from age discrimination.

Legislative changes to the *Code* in November 2007 changed the restrictive definition of age to “18 and more.” In light of the changes, the Court of Queen’s Bench found the appeal unnecessary and dismissed it. Based on the decision of the Court of Queen’s Bench, the Commission dismissed the pending complaints. Some complainants, however, have decided to exercise their right to have the Commission’s dismissal decision reviewed by the Saskatchewan Human Rights Tribunal in the hope that the Tribunal will order a hearing.

## Settlements Increase at Tribunal Stage

This year saw the Commission settling a number of complaints at the Tribunal stage of the complaint process. This is in part due to an increased utilization of Tribunal mediated settlements. After a complaint has been directed to a hearing it is still possible for the parties to request that a Tribunal member be appointed to act as a mediator. This process is similar to the pre-trial settlement conferences conducted in the Court of Queen’s Bench. If a settlement is not reached the hearing is conducted by a different Tribunal member.

## Vogan v. Weidner Investment Services Inc.

Mr. Vogan’s complaint was settled to the benefit of both the complainant and others before it proceeded to a Tribunal hearing. Mr. Vogan is the tenant of an apartment building who uses a wheelchair and requires the use of a mechanical lift to transfer him in and out of the chair. He asked to store his lift in the pool area because it was difficult for him to transport it back and forth from his apartment. This request was denied by the

manager who said it posed a liability. Mr. Vogan then filed a complaint alleging discrimination based on disability. In settling the complaint, Weidner Investment Services Inc. agreed to install a permanent pool lift in the pool area for use by all wheelchair-reliant residents and guests.

**Juliany Cornejo and Jamie Rogina v. JKT Holdings Ltd., carrying on business under the name Memories Fine Dining & Lounge-Memoire and Kelly Selimos**

Rogina and Cornejo each filed separate sexual harassment complaints against their employer. Cornejo was employed as a server at Memories Restaurant in Regina from June 2004 until January 2006. Rogina was also employed there as a server from December 2004 until January 2006. In January 2006 Rogina and Cornejo together with Lara Abu-Ghazaleh resigned. They alleged they had been subjected to both physical and verbal sexual harassment by their employer. After the Abu-Ghazaleh hearing the parties reached an agreement. JKT Holdings Ltd. and Kelly Selimos agreed to pay to Cornejo and Rogina \$6,000 each for injury to dignity and self-respect. The employer also agreed to pay lost wages and to reimburse one complainant for her cost of counseling. JKT Holdings Ltd. agreed to adopt and post an anti-discrimination policy approved by the Commission.

The complainants in the Memories case decided to come forward and file complaints after one of the women attended a SHRC educational on sexual harassment in the workplace.

**Neff v. City of Moose Jaw**

Robert Neff, a transit driver, filed his complaint after the City of Moose Jaw insisted he be required to perform duties, other than driving, that were in conflict with restrictions he had for a medical condition. The complainant believed he could have been accommodated in a position restricted to only driving and that the City had discriminated against

him by failing to accommodate his disability. The complaint was dismissed in May 2005 after Neff refused what the Chief Commissioner believed was a fair formula for calculating the settlement.

Following his death, the complaint was pursued by Mr. Neff's widow. The hearing was held under a section of *The Saskatchewan Human Rights Code* which enables persons whose complaints have been dismissed by the Commission to apply directly to the Tribunal for a review of the Chief Commissioner's dismissal decision. If successful the Complainant can proceed to a formal hearing of his or her complaint. Midway through the hearing, the parties reached a settlement which was incorporated into a consent order. The order provided that the City of Moose Jaw pay to Mr. Neff's estate \$15,000 for lost wages and benefits and \$5,000 for injury to feelings and dignity. The city also agreed to arrange, in consultation with the Human Rights Commission, a one-day seminar on *The Saskatchewan Human Rights Code* for all of its out-of-scope managers and supervisors.

**Tribunal & Court Decisions**

**[Accommodating Workplace Addictions](#)**

**Dale Merrick v. IPSCO Saskatchewan Inc. and United Steelworkers Local 5890**

Dale Merrick, a 24-year employee for IPSCO, was terminated from his position because of his alcohol and drug dependency disability. Merrick had worked for IPSCO for 24 years and was considered an excellent employee but the company determined it could not accommodate him any further due to the safety-sensitive nature of its steel manufacturing business. Merrick had disclosed his addiction to the head of the

Employee Assistance Program and to the head of Human Resources in September 2003. He then attended a residential treatment program but left early. He met with his employer and asked to be reinstated. Merrick and his union representative agreed to sign a Conditional Reinstatement Agreement (CRA), a term of which provided for random drug testing with automatic termination should he show a positive result for drugs. In June 2004 Merrick used cocaine again on one occasion and he was terminated after a positive test. Merrick filed a complaint with Commission alleging employment discrimination because of his substance dependency. The Tribunal found that the Employer and the Union had discriminated against Merrick when he was subjected to harsher discipline than that imposed upon recreational drug users who could have been returned to work without signing a CRA. The Tribunal found that IPSCO did not turn its mind to accommodation of Merrick's drug use in June 2004. The Union was held jointly responsible for the discrimination because it did not advise Merrick of alternatives to the imposition of the CRA. Its co-operation in signing the CRA amounted to participation in the imposition of a discriminatory term governing Merrick's return to work. The Tribunal ordered IPSCO to revise its drug and alcohol protocol so that it responds to the needs of employees with addictions. The employer and the union were each ordered to pay \$4,000 as compensation for the injury to Merrick's dignity. Merrick was reinstated in his position and compensation for the four years of lost wages and benefits was ordered.

#### **Das v. University of Saskatchewan**

Dr. Shounak Das is a medical doctor with a history of chemical dependency. In 2002 he applied for a residency at the University of Saskatchewan. He disclosed his addictions history in his application and he advised the University that he was agreeable to ongoing testing to ensure that he was abstaining from using drugs. Dr. Das was initially accepted into the residency program but later advised by University officials that they were unable to offer him a position. In its decision, the Tribunal found that Dr. Das' chemical dependency was a disability. The Tribunal determined that

the University's concern for public safety did not negate its obligation to accommodate Dr. Das' disability to the point of undue hardship. Based on the expert testimony about the risk of relapse and the safeguards available to monitor Dr. Das for drug usage, the Tribunal found that the University should have more fully explored accommodating Dr. Das in the program. Its failure to do so was a violation of the *Code*. The Tribunal awarded Dr. Das \$6,000 for injury to dignity and \$80,937 for lost wages.

#### **Ancestry/Race or Country of Origin**

##### **Annette Martel v. Docker's Nightclub operated by United Enterprises Ltd**

Annette Martel, a woman of Aboriginal heritage, alleged that she and a friend tried to enter Docker's Nightclub in North Battleford but were told by two male employees that there was a dress code in effect and they were denied admission. The two women then watched as a group of non-Aboriginal people were allowed into the club even though their clothing did not fit the dress code. The complainant believed that the dress code was being used as an excuse to keep Aboriginal people out of the nightclub, contrary to the *Code*. The Tribunal found that discrimination did take place and awarded Martel \$4,000 for contravention of the *Code*. It also ordered the respondent to institute an anti-discrimination policy and/or provide additional human rights training to its staff.

##### **Tataquason v. Empire Investments Corporation and John Pontes**

In June 2006 Leslie Tataquason, an Aboriginal person, was having coffee at a business now known as the Northwood Inn and Suites. This business is owned and operated by John Pontes and Empire Investments Corporation. Tataquason alleged that Pontes approached his table, demanded to know who he was and why he was there and then demanded that he leave the restaurant, telling him in a raised voice that "This is not the Friendship Centre." Tataquason was deeply hurt by the remark which triggered feelings of worthlessness in him akin to those feelings he felt as a result of the emotional, physical,

and sexual abuse he had suffered at residential school and foster homes in his childhood. In its decision, the Tribunal found that the business and John Pontes had denied Tataquason a service customarily offered to the public on the basis of his ancestry. It also found that Tataquason had suffered severe depression as a result of how Pontes treated him. The Tribunal awarded Tataquason \$7,000 for injury to dignity.

#### **Ghulam Mustafa Peroz v. Pete Yaremko and Rhonda Yaremko**

Ghulam Peroz filed a complaint alleging that he and his family experienced housing discrimination because of his race and place of origin. The incident complained of occurred after the family had moved out of their rental home. Peroz alleged that the landlords became angry and insulting when he met them to discuss their allegation that he had damaged the home. He said the landlords told him to “get out of our place and get out of our country.” The Tribunal found that these comments together with the landlords’ stereotypical comments about the family’s cooking and their inflated claim for damages were discriminatory. The landlords’ action was responsible for Peroz’s decision not to seek the return of the damage deposit which had been wrongfully withheld. In its decision, the Tribunal noted that “it is important that all new residents of Canada feel welcome here, be they refugees, immigrants or of another status. [...] There is no place for such comments in our multicultural society and a strong message needs to be sent.” The Tribunal ordered the respondents to repay the complainant’s \$1,000 security deposit, as well as \$3,500 for injury to dignity.

#### **Receipt of Public Assistance**

##### **Nash v. Town of Wolseley**

Jacqueline Nash filed a complaint with the Commission alleging that she was discriminated against when three of her dogs were picked up by the Animal Control Officer for the Town of Wolseley and euthanized without notifying her. She alleged that they did so because she was

receiving social assistance benefits and town officials thought she could not afford the fees associated with getting her dogs out of the pound. In its decision, the Tribunal concluded that the town’s treatment of Nash with respect to her dogs was different from how it treated other pet owners. It determined that Nash had been subjected to “negative differential treatment” when she was not notified that her dogs had been impounded. In acknowledging the mental suffering Nash experienced as a result of the loss of her dogs, she was compensated \$1,500 as replacement cost of her dogs and \$5,000 under section 31.4 of the *Code* for injury to dignity and respect.

#### **Sexual Harassment**

##### **Lara Abu-Ghazaleh, v. JKT Holdings Ltd., carrying on business under the name Memories Fine Dining & Lounge-Memoire, Kelly Selimos, Nikita Selimos, and Thomas Siarkos**

Lara Abu-Ghazaleh bussed tables at Memories Restaurant in Regina for eight months from mid-2005 through January 2006 at which time she resigned alleging sexual harassment by the two owners of the restaurant and one employee. Abu-Ghazaleh said that the sexual harassment she experienced was both physical and psychological in nature, causing her to feel inferior and powerless both as a woman and an employee. The Tribunal concluded that Kelly Selimos and Nikita Selimos were individually responsible for the harassment. JKT Holdings Ltd. was responsible as their employer. The complaint against Thomas Siarkos was dismissed. The Tribunal ordered JKT Holdings Ltd., Kelly Selimos and Nikita Selimos to pay Abu-Ghazaleh \$6,000 for injury to dignity and self-respect and \$1,269 as compensation for lost wages. It also ordered that JKT Holdings Ltd. adopt and post an anti-discrimination policy approved by the Saskatchewan Human Rights Commission.

#### **Sexual Orientation**

##### **M.J. v. Orville Nichols**

In May 2008, the Saskatchewan Human Rights

Tribunal upheld the complaint of M.J. against Orville Nichols in which it was alleged that M.J. had experienced discrimination when Marriage Commissioner Nichols declined to marry him and his same-sex partner because of his personal religious beliefs. Nichols argued that he should have the right to be accommodated for his beliefs by declining to officiate at a same-sex marriage. Consistent with the Commission's conclusion, the Tribunal found that Saskatchewan's legislation does not grant its marriage commissioners the right to decline to perform same-sex marriages. The Tribunal ordered Nichols to pay M.J. \$2,500 for contravention of s. 31.4(b) of the *Code* and ordered Nichols to cease contravention of s. 12 of the *Code*. Nichols has appealed this decision to the Saskatchewan Court of Queen's Bench.

## Appellate Decisions Court of Queen's Bench

### Mark Scott v. Capital Cabs D & G Taxi Ltd. and Kuldip Sahota

Mark Scott, who requires a wheelchair for mobility, filed a complaint with the Commission after he had trouble getting a taxi at the Regina Airport. Kuldip Sahota, the second driver to refuse Scott service, claimed he did not have enough room in his van for Scott's wheelchair and suggested that he wait for a wheelchair-accessible van. When the next vehicle arrived, it was a regular car and the driver had no problem putting the wheelchair in the trunk. In an October 18, 2006 Tribunal decision, Sahota was ordered to pay Scott \$2,400 for injury to dignity and \$4,000 in costs. The award of costs was based on the Tribunal finding that Sahota was responsible for unnecessary delay in the proceedings. Sahota appealed the decision saying the Tribunal had erred in law on numerous points. He said that taxicabs operating at the airport were subject to federal jurisdiction and that the Tribunal did not have the power to award costs. On December 22, 2008, the Court of Queen's Bench dismissed Sahota's appeal. The Court determined that the Tribunal had been correct in finding it had jurisdiction to deal with the complaint and to award costs.

### Mahussier and Mahussier v. Prince Albert Roman Catholic School Division No. 6

In accordance with the school's discipline policy, a child with a serious intellectual disability was suspended for using profanity in the classroom. The child's disability made it difficult for him to understand that such language was inappropriate. His parents complained that the suspension for behaviour related to the child's disability was discriminatory. The parents alleged that the school failed to accommodate their son's disability and thus interfered with his right to receive full educational benefits. In its decision, the Tribunal noted that the respondent school board had made extensive efforts to accommodate the child and had not simply pursued a suspension-alone strategy to deal with his behaviour. It determined that, due to a breakdown of the relationship between the parents and the school, any continued efforts to come up with more effective accommodations could not move forward. The Tribunal dismissed the complaint, stating that it found that no prima facie case of discrimination had been made out. The Commission appealed the decision to the Saskatchewan Court of Queen's Bench and to the Saskatchewan Court of Appeal. Both appeals were dismissed. The Court of Appeal held that there was no link established between the child's offending behaviour and the disability. The court stated further that since the child continued to attend school in the same school division there was no longer an issue.

## Limitations on Speech Appeal

### Whatcott v Komar, Wallace, Taylor and Hamre

Komar, Wallace, Taylor and Hamre complained that pamphlets written and distributed by Whatcott violated the *Code* provisions against publications by exposing gay men and lesbians to hatred. Whatcott argued that he has a constitutional right to express his religious views. The complaint was upheld by the Saskatchewan Human Rights Tribunal and the Saskatchewan Court of Queen's Bench. Whatcott appealed further to the Saskatchewan Court of Appeal. The appeal was heard in September of 2008. The decision has been

reserved. The Canadian Civil Liberties Association and the Canadian Constitution Foundation intervened in support of Whatcott. The Attorney General of Saskatchewan intervened to argue the constitutionality of the legislation.

In 2008-2009, human rights agencies across the country came under fire for accepting complaints seeking to limit speech. Under Section 14(1)(b) of the *Code* communications “that expose(s) or tends to expose to hatred, ridicules, belittles or otherwise affronts the dignity of any person or class of persons on the basis of a prohibited ground” are prohibited. Alberta, British Columbia, Ontario and the Canadian Human Rights Commission have similar provisions.

The Saskatchewan Court of Appeal in past rulings has determined that the threshold necessary to support a constitutional limit on free speech is very high. The offending publication must objectively be capable of creating “unusually strong and deep-felt emotions of detestation, calumny and vilification”. This is based on the Supreme Court ruling in *Canada (Human Rights Commission) v. Taylor* (1990).

The Court of Appeal’s decision in the Whatcott complaint will assist the Commission in assessing complaints in which religious and/or expressive freedoms conflict with other freedoms.

## Exemptions

There were seven exemptions granted in 2008-2009 for a total of 197 active exemptions.

Section 48 of *The Saskatchewan Human Rights Code* gives the Chief Commissioner the authority to grant exemptions from the anti-discrimination provisions of the *Code* in situations where it is considered “necessary and advisable” to do so. The following examples reflect the kind of exemptions granted this year.

- The Many Nations Cooperative Ltd. was granted an exemption to operate pursuant to its by-laws, and to limit membership in the Co-op to Aboriginal organizations. The Co-op is sole owner of Many Nations Financial Services Ltd. which offers and administers products and services to primarily Aboriginal organizations. As supporters of Many Nations Financial Services, the Co-op wanted their further involvement and to reward them for their patronage.
- The Saskatoon Health Region was granted an exemption to preferentially advertise for and hire a male recreation therapist. The youth who attend the SHR’s therapeutic recreation programs are predominantly male and all male in some specific programs. Because a key piece of the therapy is role modeling and outreach, the organization has had greater success with a male therapist.
- International Women of Saskatoon was granted an exemption to hire male persons for the positions of Project Coordinator and Assistant/Activity Coordinator for a summer program for immigrant/refugee male teenagers in Saskatoon high schools. This unique program will benefit from having males in both project and activity coordinator roles; will assist to ensure active participation by the teens; and will provide support when dealing with gender-sensitive program topics.

- The First Nations Agricultural Council of Saskatchewan Inc. was granted an exemption to preferentially recruit and hire people of Aboriginal ancestry. As an organization geared to assist First Nations producers specifically on First Nations land, the Council felt that it would be an asset to have skilled First Nations persons delivering its programs and services.

### Exemption upheld by Court of Queen’s Bench

The Saskatchewan Court of Queen’s Bench handed down a ruling dealing with procedural fairness in the granting of an exemption to the Orcadia Youth Residence (OYR), a young offender facility operated by the Government of Saskatchewan, Ministry of Corrections, Public Safety and Policing. The residence applied for a gender exemption for the Parental Care Supervisor night shift position in 2006, at which time a copy of the exemption request went to the Saskatchewan Government Employees Union (SGEU) which represents the workers. After the exemption was granted in December 2006, SGEU asked the Court of Queen’s Bench to quash the exemption as it wished to make submissions on the matter. In August 2007, the Commission suggested that the parties meet to clarify the proposed process however the SGEU representative did not respond. In September 2007, the Acting Chief Commissioner rendered his decision confirming the exemption order of December 2006. The SGEU motion to quash the exemption order was dismissed in October 2008.

## The Commissioners

The Chief Commissioner and three part-time Commissioners set policy, liaise with community partners and organizations, give human rights presentations, and make programming decisions. They bring expertise to the Commission on issues pertaining to its mandate.

**Judge David M. Arnot, Chief Commissioner,** received his Bachelor of Law degree in 1975 from the University of Saskatchewan and was called to the Bar in 1976 after articling with Mr. R. Dennis Maher, Q.C. in North Battleford. After practicing law as a Crown Prosecutor between 1976 and 1978, he was appointed Senior Crown Prosecutor for the Battlefords Judicial Centre. In 1981, he was appointed a Judge of the Provincial Court of Saskatchewan, sitting at North Battleford. In 1994, Judge Arnot accepted a secondment to the federal Department of Justice as Director General of the Aboriginal Justice Directorate. He was promoted to the position of Special Advisor to the Deputy Minister of Justice and Deputy Attorney General of Canada in May 1996. Judge Arnot was appointed by the federal government as Treaty Commissioner for the Province of Saskatchewan for a five-year term in 1997. His term was extended twice, once in 2002 and again in 2005. His work on the “Teaching Treaties in the Classroom Project” was specifically cited as a model for Canada by the United Nations Special Rapporteur on Racism in his 2004 report. In 2005, the Office of the Treaty Commissioner received the Canadian Race Relations Foundation biennial Award of Excellence for education programs in the public and government sector. Judge Arnot’s final report to the Treaty Table in 2007 was the 246-page book, “Treaty Implementation: Fulfilling the Covenant.” He returned to the Provincial Court of Saskatchewan sitting in Saskatoon in April 2007. The Canadian Bar Association Saskatchewan Branch honoured him that year with the “Distinguished Service Award.” Judge Arnot is the Past Chair of the Canadian Judges Forum, which is the judges’ section of the Canadian Bar Association; a Past President of the Saskatchewan Provincial Court Judges Association, serving on the Association’s executive from 1989 to 1994;



and served as the Chair of the CBA Liaison Committee of the Canadian Association of Provincial Court Judges from 1992 to 1997. Judge Arnot has produced and directed a number of video education projects. He has been involved in education for the judiciary through the National Judicial Institute, the Western Judicial Education Centre, the Canadian Association of Provincial Court Judges, and the American Judges Association.

**Deputy Chief Commissioner John C. Hill** is a member of the Oneida Nation of the Thames near Southwold, Ontario. He received his LL.B. from the University of Saskatchewan and was called to the Bar in Saskatchewan in 1997. John has served

as a senior advisor to the Saskatchewan Indian and Métis Affairs Secretariat on interjurisdictional and Aboriginal affairs, and assisted in the development of the provincial Aboriginal framework policy and the First Nations self-government policy. As well, he represented Saskatchewan as a negotiator in the tripartite self-government negotiations with the Meadow Lake Tribal Council. A member of the Regina Bar Association, John practiced law with two private firms before establishing his own practice in 2004. He is recognized as a Mediator, having completed the Saskatchewan justice program on mediation. He has represented a number of First Nations governments and individuals on governance, treaty rights, economic development and residential school claims. John has also served as a sessional lecturer in Aboriginal Studies at the Saskatchewan Indian Federated College. Appointed to the Commission in July 2002, John was made Deputy Chief Commissioner in October 2003. He served as Chief Commissioner (Acting) from May through October 2007 and June 2008 through January 2009.

**Judy White, Ph.D.** is an associate professor with the Faculty of Social Work at the University of Regina's Saskatoon campus. Dr. White was born and raised in Trinidad. She is a member of the Social Justice Committee of the Saskatchewan Association of Social Workers, and is Saskatchewan's 2009 recipient of the Canadian Association of Social Workers (CASW) National Social Work Award. She sits on the board of International Women of Saskatoon and is a member of the Board of Governors of the Prairie Metropolis Centre. Judy is also a board member and President Elect of the Canadian

Research Institute for the Advancement of Women (CRIAOW), and a board member of the Vanier Institute of the Family. She is involved in collaborative work with other immigrant and refugee serving organizations. Dr. White was appointed to the Commission in February 2005.

**Mike Bacon**, who was born and raised in Saskatoon, graduated from the University of Saskatchewan with a Bachelor of Arts Honours degree in psychology in 1991. Mike is one of Saskatchewan's better known athletes and, although retired from the Canadian Wheelchair Rugby Team, remains on the Board of Directors for the Canadian Wheelchair Sports Association. He is also involved with AccessExperts Consultants, a business concentrating on accessibility audits, awareness training, and pre-employment training for persons with disabilities. This year, Mike became a Clean Air Champion for HSBC Clean Air Achievers. His role as a Champion is to help students from grades six to nine become engaged in active modes of transportation like walking, biking, and blading, to help reduce greenhouse gas emissions and to gain a healthier lifestyle. Appointed to the Commission in 2003, Mike is also in demand as a speaker to Grade 6-12 students for Think First Saskatchewan, a foundation dedicated to preventing brain and spinal cord injury through education.

## Appendix A: Community Outreach & Partnerships

### SHRC Seminars

The Duty to Accommodate half-day seminars:  
Saskatoon, Regina, Prince Albert, Yorkton &  
North Battleford  
SHRC/PLEA Human Rights at Work seminar,  
Saskatoon

### Educational Institutions & Organizations

Saskatchewan Institute of Applied Science &  
Technology (all four locations) (5)  
Aden Bowman High School, Saskatoon  
E.D. Feehan High School, Saskatoon  
Bedford Collegiate, Saskatoon  
University of Regina, Faculty of Social Work,  
Regina (2)  
University of Regina, Faculty of Social Work,  
Saskatoon  
Northlands College – Faculty of Social Work, La Ronge  
Saskatoon Indian Institute of Technology – Saskatoon &  
Prince Albert campuses (2)

### Professional, Business & Labour Organizations

Saskatchewan Construction Safety Association,  
Regina (2)  
Saskatchewan Teachers' Federation, Saskatoon  
Canadian Pension & Benefits Institute, Regina &  
Saskatoon  
Saskatchewan Government Employees Union (SGEU)  
Canadian Bar Association, Saskatoon

### Employers & Government

Trade Fair with Ombudsman, Privacy Commissioner  
and  
Children's Advocate, Regina (2)  
Staples Call Centre, Regina  
Saskatchewan Ministry of Highways and Infrastructure  
SaskPower  
Saskatchewan Police College, Regina (2)  
Great Canadian Oil Change, Regina  
Saskatoon Fire Department  
City of Moose Jaw

### Community-Based Organizations

Community Legal Assistance Services for Saskatoon  
Inner City (CLASSIC), Saskatoon  
Immigrant Settlement Committee, Regina  
International Women of Saskatoon (3)  
Iskwewuk and Amnesty International, Saskatoon  
Regina Housing Committee  
Saskatchewan Anti-Racism Network (2)  
Saskatchewan Deaf & Hard of Hearing Services  
Association  
Saskatchewan Intercultural Association (4)

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Saskatchewan Visible Minority Employee Association  
Saskatoon Open Door Society (5)  
Saskatoon Indian & Métis Friendship Centre  
Senior Power, Regina  
South Saskatchewan Independent Living Centre, Regina  
United Nations Association in Canada, Saskatoon

### Conferences

Aboriginal Government Employees Network, Regina  
Canadian Association of Statutory Human Rights  
Agencies (CASHRA), Niagara-on-the-Lake  
Canadian Commission for UNESCO Annual General  
Meeting, Saskatoon  
Community Legal Assistance Services for Saskatoon  
Inner City (CLASSIC) Poverty Law Forum,  
Saskatoon  
International Women's Day, Regina  
Saskatchewan Association on Community Living,  
Saskatoon  
Western CASHRA, Saskatoon

### Community Outreach

Building Bridges Between Us, Riverside Community  
School, Prince Albert  
Coalition of Municipalities Against Racism and  
Discrimination (CMARD):  
City of Saskatoon signing ceremony  
City of Prince Albert Meet and Greet Tea  
City of Prince Albert signing ceremony  
International Human Rights Day, Regina & Saskatoon  
International Women's Day, Regina & Saskatoon (4)  
Living in Harmony Awards, City of Saskatoon  
National Aboriginal Day, Regina & Saskatoon  
Opening ceremonies, Cultural Diversity and Race  
Relations Month, City of Saskatoon  
Youth Action Gathering, Saskatoon  
Community Development Society  
Saskatchewan Intercultural Association MYWAY  
Graduation, Saskatoon  
Saskatoon Police Service Breakfast

### National Affiliations

Canadian Commission for UNESCO

## Appendix B: Equity Sponsors

### Equity Employers

	Date Approved
City of Prince Albert	May 1997
City of Regina	February 1987
City of Saskatoon	February 1987
Community (Saskatoon) Health Services Association	June 1996
Crown Investments Corporation	March 1995
Government of Saskatchewan	
Out of Scope	June 1987
Saskatchewan Government Employees Union	November 1988
Canadian Union of Public Employees	July 1989
John Howard Society	June 1996
Information Services Corporation of Saskatchewan	November 2004
Law Society of Saskatchewan	November 1999
MicroAge Regina	March 2009
Northlands College	September 1995
Parkland Regional College	March 2002
Prince Albert Co-operative Health Centre	October 1991
Regina Police Service	March 1992
Regina Public School Division	March 1994
Regina Women's Community Centre	March 1998
Saskatchewan Apprenticeship and Trade Certification Commission	March 2006
Saskatchewan Communications Network	February 1996
Saskatchewan Crop Insurance Corporation	May 1997
Saskatchewan Gaming Corporation	January 1999
Saskatchewan Government Insurance	February 1984
Saskatchewan Human Rights Commission	January 1980
Saskatchewan Institute of Applied Science & Technology (SIAST)	March 2001
Saskatchewan Legal Aid Commission	March 1994
Saskatchewan Liquor and Gaming Authority	January 1999
Saskatchewan Opportunities Corporation	November 1996
Saskatchewan Research Council	December 1992
Saskatchewan Teachers' Federation	January 1991
Saskatchewan Transportation Company	August 1994
Saskatchewan Water Corporation	August 1994
Saskatchewan Watershed Authority	August 1994
Saskatchewan Workers' Compensation Board	February 2006
Saskatoon Police Service	October 2002
SaskEnergy	March 1994
SaskPower	August 1995
SaskTel	October 1992
University of Regina	October 1997
University of Saskatchewan	September 1992

### Pre-Kindergarten to Grade 12 School Divisions

Good Spirit	Holy Trinity RCSSD
Prince Albert RCSSD	Living Sky
Regina RCSSD	Lloydminster RCSSD
Saskatchewan Rivers	North West RCSSD
Saskatoon	Northern Lights
St. Paul's RCSSD	Prairie Valley

(Approval dates are not given in this section because many school division boundaries were changed by the process of amalgamation.)

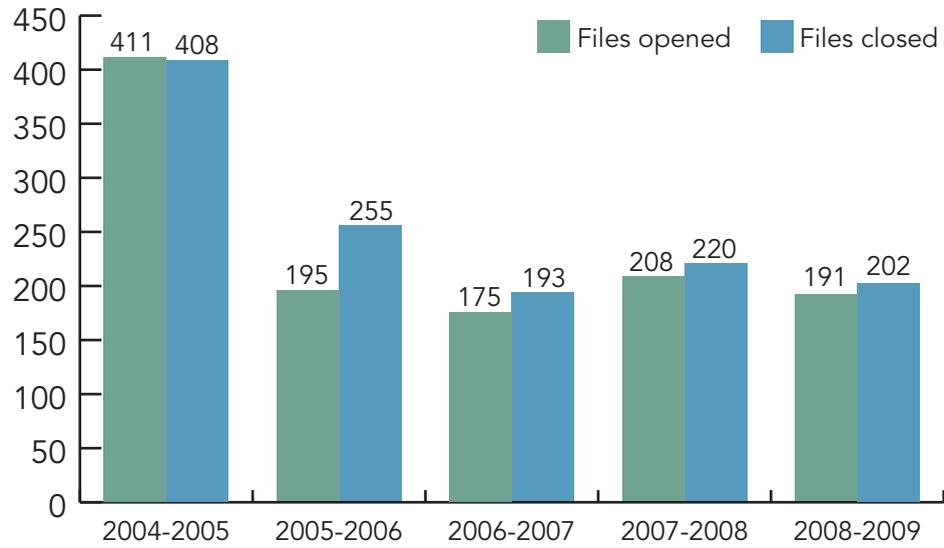
## Tables

**Table 1**  
**Summary of Complaints Received April 1, 2008 to March 31, 2009**  
**by Ground and Category**  
 The total number of complaint files: 191

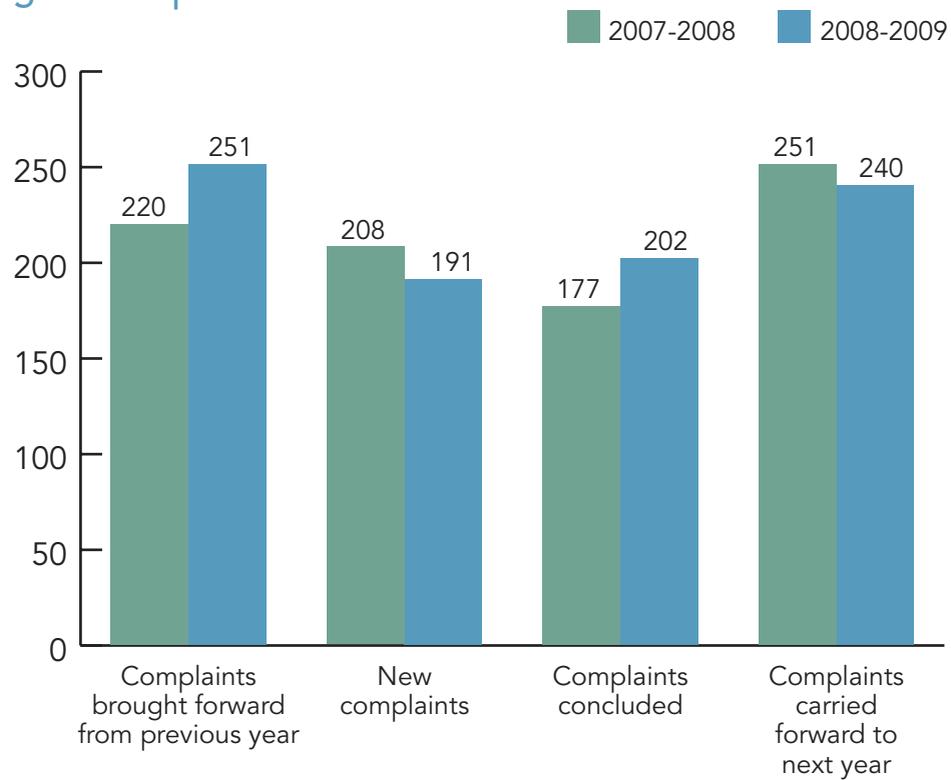
Category	Age	Aboriginal Ancestry	Other Ancestry <sup>1</sup>	Marital Status	Mental Disability	Physical Disability	Religion <sup>2</sup>	Sexual Harassment	Sex/Other	Sex/Pregnancy	Family Status	Sexual Orientation	Public Assistance	N/A	Relatiation	Total Grounds	Grounds Cited
Education			4			3	1										
Employment	14	12	47	2	1	61	3	16	11	8	7	4		2		8	3.0
Housing		1	11			3	1						2			188	70.9
Occupations			6													18	6.8
Public Services	1	9	7	1		12		1	1		3	1	2	1		6	2.3
Publications												3				38	14.3
Professional Assoc.			1													3	1.1
Trade Unions						1										1	.4
N/A						1								1		1	.4
Total Grounds	15	22	76	3	1	81	5	16	12	8	10	8	4	4		2	.8
% of Grounds Cited	5.7	8.3	28.7	1.1	.4	30.6	1.9	6.0	4.5	3.0	3.8	3.0	1.5	1.5		265 <sup>3</sup>	
% Total Complaints	7.9	11.5	39.8	1.6	.5	42.4	2.6	9.9	6.3	4.2	5.2	4.2	2.1	2.1			100%

1. Other Ancestry includes colour, nationality, place of origin, and race or perceived race.
2. Religion includes creed.
3. Some complaints allege several kinds of discrimination. For this reason, the total number of grounds cited (265) exceeds the total number of complaints filed.

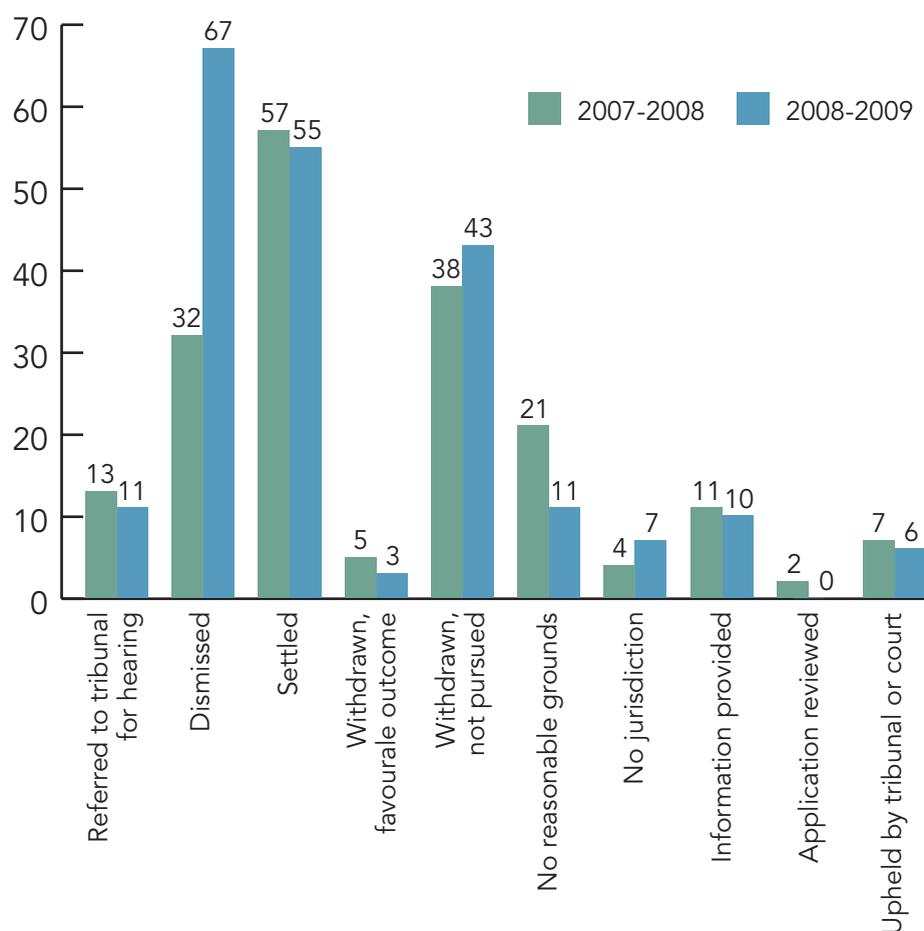
**Table 2**  
Files Opened and Closed



**Table 3**  
Processing of Complaints



**Table 4**  
Disposition of Complaint Files



### Financial Expenditures

In 2008-2009, the Commission operated with a budget of \$1,697,000 and a staff of 20.3 full-time equivalents (FTEs).

	2004-2005	2005-2006	2006-2007	2007-2008	2008-2009
FTEs	17.8	20.3	20.3	20.3	20.3
Salaries, benefits and honouraria	\$1,112,000	\$1,300,000	\$1,382,000	\$1,477,000	\$1,564,000
Operating expenses	\$194,000*	\$194,000*	\$157,000	\$132,000	\$133,000
<b>Total</b>	<b>\$1,306,000</b>	<b>\$1,494,000</b>	<b>\$1,539,000</b>	<b>\$1,609,000</b>	<b>\$1,697,000</b>

\* includes \$37,000 for the CASHRA conference

## Commission Staff

The work of the Commission is carried out by its professional human rights staff. In 2008-2009, the Commission had the equivalent of 20.3 full-time employees, including individuals who worked on a full-time, part-time, casual, or temporary basis.

### Saskatoon

Laurie Adrian Rude – Investigator  
Jan Cadman – Legal Secretary  
Linda Charlton – Education & Equity Advisor  
Arif Chowdhury – Summer Student  
Dianne Derkson – Secretary  
\*Lewanna Dubray – Investigator/Facilitator  
Janice Gingell – Senior Staff Solicitor  
Chantelle Johnson – Policy Analyst & Researcher  
Tim Korol – Investigator/Facilitator  
Ryan Kennedy – Investigations Secretary  
Genevieve Leslie – Supervisor of Public & Special Programs  
Andrew Livingston – Investigator  
Marci Macomber – Investigator/Facilitator  
Lorraine Pura – Education & Equity Advisor  
Bill Rafoss – Supervisor of Mediations & Investigations  
Fiji Robinson – Communications Coordinator  
Carol Riekman – Investigator/Facilitator  
Brenda Rorke – Human Resources Coordinator  
Karen Ross – Secretary to the Commission  
Norma Shier – Staff Solicitor  
\*Karen Topolinski – Investigator/Facilitator  
Sonne Udemgba – Investigator/Facilitator  
Kathy Upton – Intake Consultant  
Shandel Wilson – Summer Student

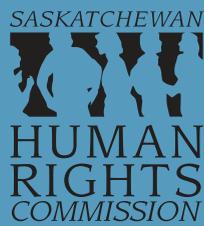
### Regina

John Abraham – Investigator/Facilitator  
Grace Ahl – Secretary/Receptionist  
Holly Bressler – Investigator  
Heidi Chan – Secretary  
Laurena Daniels – Intake Consultant  
Lisa Donovan – Administrative Secretary  
Sue Lake – Budget Coordinator  
Rebecca McLellan – Manager of Operations  
Robin McMillan – Investigator/Facilitator  
Heather Monus – Education & Equity Advisor  
Reginald Newkirk – Education & Equity Advisor  
Julie Powell – Investigator/Facilitator  
Evelyn Romero – Secretary/Receptionist  
\*Mirjana Topalovic – Secretary

\* On leave







## Saskatchewan Human Rights Commission

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