



British Columbia
Human Rights Commission

00/01 ANNUAL REPORT



equality

EQUALITY THROUGH ACCESS

equality through access

Chief Commissioner's Report

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Chief Commissioner Mary-Woo Sims

Access: It's a relatively simple idea but it is one of the most challenging issues facing people working in the field of human rights.

The world has changed: at one time, human rights work was synonymous with independence and the right to make choices. But now, as globalization and the technology that drives it accelerate, there are other issues entering human rights discussions. Inclusion and access are now part of almost every human rights case; whether the subject is equity in the workplace or in elementary schools, these two qualities are fundamental.

"Although we have made great strides over the past few years, our traditional fight for the rights of every person to live in a province free from harassment and discrimination must continue," comments Mary-Woo Sims, the Chief Commissioner of the B.C. Human Rights Commission. "The future of B.C. depends on it."

That need for a more equitable society is why 2000/01 was a period in which we continued and, in some areas, increased our efforts to promote human rights by reaching out to the community.

The Commission focused its energies in the past 12 months on reaching out to those British Columbians who may not know the difference the Commission or *the B.C. Human Rights Code* can make in their lives. In the Education Report (page 18) you can find out more about our

partnership efforts with people in rural areas – people who, as we found out in our 1999 public opinion poll, are much less aware of the work of the Commission than those residing in the Lower Mainland and Victoria.

With a staff of 50 and limited funding, increasing awareness is a tough task for the Commission to take on by itself. "By nurturing relationships with community groups and educators, the Commission hopes to spread a basic understanding of human rights and the role of the Commission in protecting those rights," explains Sims.

The efforts to reach out to the community included working with the Human Rights Advisory Council to hold public forums that both inform the people of B.C. of the Commission's mandate and gets their input on how it can improve the way it goes about achieving that mandate. The Human Rights Advisory Council was established in 1998 to act as the "eyes and ears" of the Commission and it did an excellent job in fulfilling its responsibilities in 2000/01.

Improving the way it protects human rights has always been a driving force behind the Commission's work – a force that led to the development of the Compliance Reform Project. By seeking alternatives and other approaches to the current complaints process, the Commission is enhancing



CASE STUDY

No Room for Discrimination

one of its most important public services. For more information about the Compliance Reform Project, see the Compliance Program Report (page 16).

The need to see what the concept of human rights can mean in our daily lives is especially important in local communities and in the schools.

The Commission continues to focus its efforts on working with the provincial school system both to educate young people about diversity and to identify population-specific barriers to success. Children with learning disabilities and Aboriginal children are just some of the people our education system fails every day.

“People always say that schools should concentrate on the so-called three Rs of reading, writing and arithmetic, but few can talk about the addition of a fourth R: Respect,” Sims notes. “That means respect for people, regardless of cultural background, skin colour, religion, sexual orientation or any other factor that seems to make some people more different than others.”

The Commission’s involvement in both the Moore and Jubran cases highlight the importance of making human rights a priority in B.C. schools.

After reading about the Commission’s approach to human rights over the past 12 months, it would make sense that “renewing vigilance” was a theme

of its work. Renewing vigilance was also the theme of the International Association of Official Human Rights Agencies conference, held in Vancouver August 20-24. In addition to acting as host of the meeting of 167 human rights agencies, the Commission had the honour of receiving the International Award for its success in raising awareness of human rights issues. “The award has special meaning because it is an acknowledgement from our peers across the globe of the strides we have made in B.C,” says Sims. “The reduced caseload, faster processing times and innovative education strategies are all reasons the Commission and province as a whole can be proud.”

“The B.C. Human Rights Commission has become one of the leading organizations of its kind by always seeking to enhance its programs and services. Within that spirit of constant improvement is an acknowledgement that there is always more to do and a better way to do it,” Sims says. “By working with residents, community groups, business, labour and government, we look forward to giving more people equality through access.”

Case: Rose DesRosiers and Lorraine James filed a complaint against Mahinder Manhas alleging that she refused to rent a suite to them because they are of First Nations ancestry and because DesRosiers was on social assistance.

Details: In April 1998, DesRosiers viewed a three-bedroom unit with the husband of the homeowner, who explained that DesRosiers could leave a deposit if she was interested in renting the suite.

On the day of the move, DesRosiers and James stated that Manhas asked them about their nationality and, upon learning they were of First Nations ancestry, told them she did not rent to “natives”. DesRosiers and James testified that Mrs. Manhas made additional comments about DesRosiers’ source of income through social assistance.

Result: The Tribunal awarded Rose DesRosiers and Lorraine James \$2,000 as compensation for the humiliation, hurt feelings and injury to their dignity and self-respect. DesRosiers was awarded an additional \$1,000 as compensation for the disparaging comments made with respect to her source of income.

equality through education

Unfortunately, research and statistics show that Aboriginal children are not receiving an equal education.

Equality and Education

Education is a fundamental human right of all people. For the Aboriginal community education is also an important tool for overcoming historic disadvantages and rebuilding their culture and communities. Ninety-one per cent of Aboriginal children in British Columbia attend public schools, so what happens in public schools has a tremendous impact on Aboriginal communities.

Unfortunately, research and statistics show that Aboriginal children are not receiving an equal education. For example, only 38 per cent of Aboriginal students graduate from high school, compared to 77 per cent of non-Aboriginal students. Provincial test results show that as early as Grade Four Aboriginal students are losing ground in literacy and mathematics.

Another goal of the Project is to work with the education system to promote a society where there is understanding and mutual respect – a society where all Aboriginal and non-Aboriginal people are equal in dignity and rights.

Shortly after the current Commission was established in 1997, a number of Aboriginal organizations brought forward their concerns about the barriers Aboriginal students face in the provincial education system. Based on these concerns, Aboriginal education was identified as a priority in the Commission's five-year plan.

Preliminary research stressed that racism and systemic discrimination continue to affect Aboriginal students and teachers, and to limit the involvement of parents. The need for Aboriginal communities to have more input and control over education of their children was highlighted. Another issue was that school curriculum does not provide enough opportunity for students to learn about the first peoples of our province – little is taught about the history or culture of Aboriginal peoples or their status as recognized in the Constitution. The full research report is available on the Commission web site.

In the fall of 2001, the Commission will hold public hearings to learn more about the barriers that prevent Aboriginal students from full participation in our education system. The Commission hopes that these hearings will involve a wide range of people, from communities across the province, in learning about the problem and generating ideas for improvement. The schedule of hearings can also be found on the Commission web-site. One outcome of the hearings will be a report that the Commission will table in the BC Legislature. The report will make recommendations to government, partners in the education system, community groups, Aboriginal organizations and to the Commission itself.



First Nations groups protesting in Vancouver.



CASE STUDY

Human Rights Workshops: Making a Difference

Reaching beyond the city limits of Vancouver and Victoria has long been a priority for the Commission.

In 2000/2001, the Commission made the vision a reality – and it did so by working with local groups throughout the province that want to make a difference in the ongoing fight to increase understanding of human rights issues.

In late 2000, the Commission worked with community groups to deliver workshops that showed the value of involvement at the grassroots level. The groups involved included the Canadian Human Rights Commission, Immigrant and Visible Minority Women (B.C.), the Canadian Jewish Congress, and the Affiliation of Multicultural Societies and Service Agencies of British Columbia, the Trail and District Multicultural Society, the Kamloops Cariboo Immigrant Society and the Terrace Multicultural Association.

The workshops in Trail, Kamloops and Terrace were designed to reach out to two audiences. The first target was people who work in non-profit groups who may be approached by people needing help in filing a complaint. Secondly, the workshop was designed to act as a forum for the public to hear about the work of the Commission and to find out what they can do to promote human rights in their community.

Deirdre McEwan falls into the latter group. McEwan saw the advertisement

in the Terrace Standard and thought it sounded like it might be an interesting way to spend an evening. What she found out, however, was that the problem of bullying isn't simply something that happens to people in schools in other communities.

“When a local woman talked about how her son had been bullied, I was shocked,” explains McEwan. “We have to nurture respect in people throughout their childhood or we end up with some very troubled adults – both the bullies and their victims.”

McEwan suggested at the workshop that Terrace hold a community meeting to address the problem of bullying in the school. Two weeks later, the meeting happened, paid for with money out of McEwan's pocket.

It was money well spent. More than 60 people showed up including the school board superintendent and some of the children who had been bullied. Everyone in attendance got a much better understanding of how bullying starts and how it could be stopped. Now the school board is evaluating its bullying policy, a local anti-racism group is working on a brochure and the public health nurse is working on an information package for parents.

“I think the workshop and the community did a lot to raise awareness of the problem,” she explains. “Plus, those kids who are being bullied found out that we do care about them.”

Turning Away a Volunteer

Case: Kimberly Nixon filed a human rights complaint alleging that the Vancouver Rape Relief Society (VRRS) discriminated against her by refusing to employ her as a volunteer.

Details: Because Nixon is postoperative male to female transsexual, she is now medically and legally a woman. In 1995, Nixon responded to a publicly advertised request for volunteers at the VRSS by attending a training session organized by the Society. Nixon, however, was not permitted to continue with the training program.

The VRSS has a 1977 exemption from *the Human Rights Code* so that it may hire women only. The VRSS cited several reasons for refusing to allow Nixon to continue as a volunteer, including the belief that only a person who has grown up as a girl and a woman would have the “attending insights” to counsel women in crisis as a result of male violence. The VRSS added that some of its clients might not be comfortable with a counsellor whom they believe is not or may not be a woman.

The Commission supports Nixon's position that *the Code* requires that transsexual women treated equally, without discrimination, in all areas covered by the legislation.

Result: The complaint has not been resolved.

equality through education

IAOHRA 2000: Renewing Vigilance

The BC Human Rights Commission was proud to receive the International Association of Official Human Rights Agencies' highly coveted International Award at the 52nd annual conference, held in Vancouver in August 2000.

The International Association of Official Human Rights Agencies (IAOHRA) is an umbrella organization of over 160 groups from around the world, but its members are primarily from North and South America.

IAOHRA's goals are to promote civil and human rights around the world by providing leadership at all levels of government that protect the civil and human rights of all people – effectively fostering links and

partnerships to enhance human rights practices under the law.

The International Award is presented to an individual, a private organization or a government agency that has successfully raised international awareness about human rights issues and furthered human rights for everyone.

While winning the award was exciting, the content of the sessions and the connections made at the conference were even more rewarding for the Commission's staff. The conference focused on "Renewing Vigilance – Human Rights in the World Community", giving human rights workers the opportunity to



Reverend Irene Munroe following her presentation that discussed race, religion and rights.



Betty Williams

Irish Nobel Peace Prize Winning Activist

“Flag-waving is an awful thing. If you truly love your country, then you make sure that the fellow next door to you has a loaf of bread to eat. We've got our priorities wrong.”



Aziz Khaki asks a question during a session on racism.



CASE STUDY

explore current practices and communicate challenges, while establishing networks and partnerships that strengthen their efforts to prevent and eliminate discrimination.

The conference included presentations by Betty Williams, who was awarded a Nobel Peace Prize for her work to stop violence in Northern Ireland, and Stephen Lewis, former Canadian ambassador to the United Nations.

The workshops focused on the need to re-examine local structures and practices to further human rights and explored ways organizations can work together to identify and eliminate human rights abuses locally and globally. Each identified and explored

an array of solutions to international human rights issues the global community faces. These included: youth human rights issues, gender and transgender issues, sexual orientation and religion, disabilities, partnerships between business, labour and human rights agencies and hate crime.



Stephen Lewis

Former Ambassador to the United Nations and Executive Director of UNICEF

“There I was a representative of Canada being asked to chastise other countries about human rights and they would reply by reading from newspaper articles and reports about the high mortality of aboriginal infants, the poverty among the native people and our reservation system.”



Wei Jingsheng discusses individual rights vs. state rights with the media.

Learning About Abilities

Case: In 2000, Frederick Moore launched a complaint against a North Vancouver school district on behalf of his son, Jeffrey. Moore alleges that the district discriminated against his son, who has dyslexia, by not providing an appropriate education program.

Details: The School Act states that school boards must provide a level of education that will allow students to graduate.

A school psychologist diagnosed Jeffrey as having severe dyslexia in 1994. Dyslexia makes recognizing and understanding written words difficult.

While the school took steps to meet Jeffrey’s needs, but he continued to perform below the level of his classmates. In 1994, the psychologist recommended that Jeffrey enter a program at the Learning Assistance Program. Unfortunately, the program was discontinued weeks later by the school board because of budget constraints.

The school district then suggested a private school that would be better able to meet the Moores’ needs. Since enrolling in 1995 – a year that saw him leapfrog from Grade One to Grade Three – Jeffrey has been making great strides.

The Commission became a party to the complaint to argue that by ending the Learning Assistance Program the school board was, in effect, discriminating against people with learning disabilities.

Result: A hearing is expected in 2001.

equality at work

Name of report on employment equity says it all

“The government has the chance to put the systems and structures in place that will make a real difference to the public service over the next decade.”

The Commission's report about the provincial government's efforts to increase the representation of aboriginal people, persons with disabilities and visible minorities in the public service resulted in a clear message: it's not good enough.

Not Good Enough – Representation of Aboriginal People, People with Disabilities and Visible Minorities in the B.C. Public Service summarizes the information the Commission gathered at public forums. People told the Commission that many barriers stand between under-represented groups and public service employment, including:

- employment equity is policy and not enforced by law;
- supervisors are not properly trained in employment equity issues;
- hiring panels are often unfamiliar with other cultures;
- managers and supervisors are unaware of their duty to accommodate;
- many government buildings are not accessible by wheelchair;
- the workplace structure is a barrier to many Aboriginal people because they are more comfortable in a co-operative and supportive atmosphere;
- many Aboriginal people want to learn, work and reside close to their home community; and
- people often assume they can't do the job if they speak with an accent.

How big is this problem? The numbers tell the whole story. For example: between 1994 and 2000, the percentage of public service employees with disabilities decreased from 6.7 to 5.7 per cent, despite making up over 8 per cent of the population; visible minorities make up nearly 20 per cent of the B.C. population and 22 per cent of university graduates, yet they are only 6.4 per cent of public service employees.

Talking about the barriers and statistics is one thing, creating a climate of equity in the workplace is quite another. *Not Good Enough* makes recommendations on actions that will improve the situation. The report calls for a renewed employment equity strategy that includes a detailed implementation and monitoring plan.

As Chief Commissioner Mary-Woo Sims explained when the report was released, the time for action had come. “The government has the chance to put the systems and structures in place that will make a real difference to the public service over the next decade.”



C A S E S T U D Y

Promoting human rights in print

Much of the work of the Commission is carried out through human rights cases and face-to-face interactions in workshops and presentations.

However, research studies and other publications (including the Annual Report) are having an increasingly positive impact by informing people of their human rights.

The publications released in 2000/01 include:

Jumping Through Hoops: Stories From British Columbians with Disabilities Accessing Government Programs and Services highlights the difficulties people face when applying for disability discounts and benefit programs. The research shows that the system is often costly, bureaucratic and inaccessible.

It's Time to Act: Improving Access to Government Information for People with Sensory Impairments and Other Disabilities shows how difficult it is for some people to get information from the government in an acceptable format.

The Factors Affecting the Economic Status of Older Women in Canada: Implications for Mandatory Retirement report reviews the causes and effects of poverty for older women and the programs or policies that are designed to address their poverty.

The response to the publications from B.C. residents and other concerned organizations has been outstanding. Preventing Harassment in the Workplace has become the most popular download from Commission's web site and It's Time to Act resulted in direct action from the Government of B.C. A guide to alternative formats and communication supports has now been distributed to every government communications department.

To get a copy of any Commission publication, visit bchumanrights.org or contact the Vancouver or Victoria office at the phone numbers listed on the back cover.

Politics, Professors and the Public Good

Case: In 1995, Fariba Mahmoodi stated that University of British Columbia professor Donald Dutton sexually harassed her. In October 1999, the B.C. Human Rights Tribunal concluded that Dutton discriminated against the student on the basis of sex.

Details: In February, a B.C. Supreme Court hearing was held where Dutton sought a judicial review for an order that would quash the decision of the Tribunal. During the hearing Dutton argued that the Tribunal applied the legal test for sexual harassment incorrectly and reached the wrong result. As well, the B.C. Civil Liberties Association intervened in the hearing, arguing that the human rights law concerning sexual harassment should be applied differently in a university environment due to the high level of interaction between students and professors.

Because of its role in upholding the *B.C. Human Rights Code*, the Commission had no choice but to intervene in the case because the arguments have the potential to impact the application of *the Code* in future proceedings.

The Commission believes that a workplace is a workplace – and that university campuses should be under the same laws that apply to businesses.

Finally, despite arguments to the contrary, the Commission believes that personal repercussions are not a reason to overturn a complaint

Result: Ruling expected in 2001.

equality through education

VLAP 2000: Together for Equality

Bullying. It's a hot topic on television talk shows, in newspapers, in coffee shops and in schools. In an effort to prevent further cases of bullying and discrimination that can lead to tragic consequences, the Visual Language and Arts Program invited young people to submit works of art that show how promoting human rights can help.

The program's objectives worked in conjunction with the United Nation's International Year for the Culture of Peace. The aim of the year is to kick-start a global movement to transform from cultures of war, of violence, of oppression and of discrimination to cultures of non-violence, tolerance, celebration of diversity and solidarity.

It gave young people in schools throughout B.C. the opportunity to learn about their human rights and responsibilities. The artwork submitted included poetry, story telling, video, music and various other art projects.

The Commission also partnered with students at Thomas Haney Secondary in Maple Ridge. Together with the commission, students developed a poster titled, Together for Equality.

The poster was distributed to over 3,000 schools and community centres throughout the province. The goal was to encourage as many students as possible to work together in achieving equality and in



Mary-Woo Sims speaks to the students.



Over 250 students participated.



Students in a workshop focusing on human rights in schools.



CASE STUDY

recognizing the United Nations International Year for the Culture of Peace and International Human Rights Day.

On International Human Rights Day, in December, the conference, YOUth for P.E.A.C.E. (People Educating And Creating Equality) was held at Thomas Haney Secondary, where the students' artwork was recognized and there were further discussions about discrimination in our schools and communities.

The conference, which focused on prevention, brought young people from all over the region together to talk about their experiences with discrimination and ways to address

it. Over 250 students participated in workshops that focused on hate activity, combating homophobia and what youth can do to take action against discrimination.

"We are giving youth a chance to explore ways of making a difference for themselves and for others who live around them, in order to maintain a culture of peace," said Ricardo Amezcuita, a Pitt Meadows Secondary school student and the conference master of ceremonies.

Harassment in the Halls

Case: In 1996 Azmi Jubran, a student at Handsworth Secondary School in North Vancouver, filed a complaint against School District #44 alleging he had been discriminated against.

Details: From the time of his entry into Handsworth Secondary School in 1993 until his graduation in 1998, Jubran was harassed by other students. The offences included name calling, threats and physical harassment centering on his sexuality. On one occasion, his shirt was set on fire. He feels the school district did not do enough to stop the harassment.

For its part, the school took steps to reduce and prevent harassment and bullying during this period, including disciplinary actions against some of the students involved and the adoption of a formal Code of Student Conduct. However, the harassment continued and, at times, increased.

In addition to taking what it believes were appropriate steps to address the situation, the school district argues that the complaint falls outside of the B.C. Human Rights Code because the students harassed the complainant, not its staff. In essence, the school district argued that it is not responsible for student-to-student harassment.

The Deputy Chief Commissioner became a party to the complaint because of the widespread bias against gay, lesbian, bisexual, transgendered people or, as in this case, those simply believed to be gay or lesbian. The Commission believes that school districts have a responsibility to provide a safe and positive environment for all students and staff.

Result: Ruling expected in 2001.



Mary-Woo Sims presents a framed Together for Equality poster to Principal Ian Strachan and Stephanie De Winter.



Students perform a play about stereotypes in schools.

equality through education

Anti-Harassment guide being put to work

To get a copy of the guide, call the Commission or download a copy from www.bchumanrights.org.

The best way to eliminate workplace harassment is to stop it before it starts.

A prevention program may seem like a simple idea, but its implementation is anything but. That's why the Commission has worked with business people and labour representatives to create Preventing Harassment in the Workplace, a guide designed to help everyone – employees, employers and union representatives – understand what harassment is and how to stop it.

One of the keys to the success of the guide, which was created with the input of the Commission's Employers' Advisory Group, is that it provides step-by-step instructions to employers in developing and implementing anti-harassment policies. It also covers how to recognize harassment and what to do if it happens.

Some of the tips in the guide include:

- Involve staff in the creation of the policy. It gives them a personal interest in the program and being involved will give them a better understanding of what is included in the policy.
- Corrective action for harassers [can include a written reprimand, suspension (with or without pay), a transfer, demotion or dismissal.
- An anti-harassment program should be thorough and include a list of employees' rights and responsibilities, a definition of harassment, a description of the *BC Human Rights Code*, education of all workers and ongoing monitoring of the plan.

Preventing Harassment in the Workplace was created to help make the workplace better for everyone. To get a copy of the guide, call the Commission or download a copy from www.bchumanrights.org.

Calendar of Human Rights Days

February

Black History Month

February 19-25

B.C. Multiculturalism Week

March 8

International Day for Women's Rights

March 21

International Day for the Elimination of Racial Discrimination

April 16-22

Prevention of Violence Against Women Week

May

Asian Heritage Month

May 21-28

National Access Awareness Week

June 21

National Aboriginal Day

July 1

Canada Day

First Sunday in August

Gay and Lesbian Pride Day

August 9

International Day of the World's Indigenous People

October 1

International Day of Older Persons

October 17

International Day for the Eradication of Poverty

November 16

UNESCO International Day for Tolerance

December 3

International Day for Disabled Persons

December 10

Human Rights Day



C A S E S T U D Y

staff photos

Operating Under Fire

Case: The Tribunal heard the case of 101 communications operators who alleged that the Vancouver Police Board had discriminated against them on the basis of sex.

Details: The communications operators, who are almost exclusively female, are paid less but perform the same or similar duties as fire dispatchers, who are exclusively male.

The Tribunal found that the Vancouver Police Board, not the City of Vancouver, was the Complainants' employer, even though the City had overall financial responsibility for the Complainants' position. The fire dispatchers, on the other hand, were employed by the City of Vancouver.

Although the Tribunal accepted the evidence that the Complainants at the Com 1 level performed substantially similar work to the fire dispatchers at the FD 1 level at a lower rate of pay, their employers were not the same.

Results: Section 12 of *the Human Rights Code* states that a claim of wage discrimination based on sex requires that the different rates are paid by the same employer. Because the Complainants were comparing their wages to those of employees of a different employer, their complaints were dismissed. The Commission is now considering a recommendation to the provincial government that would make equal pay legislation more effective.

equality through access

Public Interest Program

Over the past four years, the Public Interest Program has worked hard to protect human rights by representing the Commission in court and tribunal hearings. Many gains have emerged from this process – and they are victories in which all British Columbians can take pride.

The mission of the program is to eliminate discrimination and further the purposes of *the B.C. Human Rights Code*, something the Public Interest Program has achieved through landmark cases that have set legal precedence for B.C. and, in some cases, the entire country. However, legal arguments alone will not encourage citizens, business leaders, community group representatives and government officials to work together in creating a society that values equity and harmony.

“The Public Interest Program, while continuing to seek human rights justice via legal means, was always intended to take a more proactive role,” explains Harinder Mahil, the Commissioner of the Public Interest Program. “By conducting research and forums, people from all sectors will gain a better understanding of the barriers that stand between our communities and workplaces and a truly equitable experience for all.”

Not Good Enough – Representation of Aboriginal People, People with Disabilities and Visible Minorities in the B.C. Public Service report

summarizes the results of forums on employment equity in the public sector (page 8). Learning more about the experiences and barriers currently faced by those in under-represented groups lays the foundation for fundamental changes to the way public sector employees are treated.

Simply having a policy is not good enough; real change requires action. It’s a theme that can also be found in two other research reports that prompted much discussion in the past 12 months. *Jumping Through Hoops* (a report that outlines the experiences of 14 people with disabilities in their struggle to access government services) illustrates just how demeaning, frustrating and costly the bureaucracy can be. *It’s Time to Act*, the other major research report, calls for government action in making its information accessible to people with visual and hearing disabilities.

The reports themselves are important, but it should also be noted that they have led to action. The provincial government has responded with new policies and standards that will make government services and information more accessible for people with disabilities.

The issues in the reports represent significant problems. Imagine, for example, having no access to government documents simply because of the format of a web site. “Both reports come with relatively



Public Interest Program Commissioner
Harinder Mahil



CASE STUDY

Working in Isolation

simple recommendations that ask for consideration of the needs of all British Columbians,” Mahil says. “Whether it be the creation of a booklet that lists all of the programs and services available to people with disabilities or offering text-only sites so that software can read the information to people who have difficulty seeing, little changes can make a significant difference.”

In addition to the program’s increased concentration on research reports and forums, Mahil became a party to 30 complaints in 2000/01 and took part in 15 cases at the hearing stage. In Jubran (page 11) the Commission took action because the school board says it is not responsible for the actions of students who harass their peers. While different, the Moore case (page 7) is similar in the sense that the school board is alleged not to have lived up to its responsibility of providing the education required by a student who suffers from a learning disability.

Both the Jubran and Moore Tribunal decisions are expected early in the new fiscal year. If the complaints are upheld, the judgments will likely improve service delivery in schools and other publicly-funded institutions for many years to come.

And while some schools may be failing people with learning disabilities or those suffering from harassment,

Aboriginal education is another issue that the program will concentrate on over the next year. With graduation rates nearly 50 percentage points below the provincial average, constructive and long-lasting solutions are essential – the costs of letting this situation continue are far too great. Through the Aboriginal Education Project (page 4), the Commission is planning to work with members of the Aboriginal community, Aboriginal leaders, educators and other interested parties to find a solution that will lead to better results.

The Aboriginal initiative, the Moore and Jubran cases and the research reports on under-represented groups are perfect examples of the role the Public Interest Program plays in the province. “All people deserve the highest quality of life as possible,” Mahil says. “The education system, employers and service providers have a shared responsibility to meet individual needs and provide an inclusive environment that is free of harassment. We’re here to help them do that.”

Case: Charles Kennedy filed a complaint alleging that the provincial government discriminated against him because of his race, colour and ancestry.

Details: In 1992, Kennedy began working as an Industrial Hygiene Specialist and as the Acting Manager of the Occupational Health Section and Safety Inspections Branch. In 1995, a permanent manager was hired and Kennedy continued to serve as an Industrial Hygiene Specialist.

In 1995 Kennedy’s job description was changed, prompting him to file appeals, grievances and complaints under the B.C. Government Sector Employees Union Collective Agreement. A year later, Kennedy was informed that his job would be eliminated and that he had a new position with the B.C. Gaming Commission, requiring him to move from Vancouver to Victoria.

A union investigation revealed that Kennedy, who is of Italian/Jordanian heritage, was isolated in the workplace and that concerns were raised about his accent. Finally, it was found that Kennedy had the skills and knowledge to be a manager; he did not, however, have the respect of colleagues.

The evidence suggests that prejudices of other people in the workplace led to decisions about Kennedy’s employment – including one that forced him to change his city of residence.

Results: A Tribunal ruled that there was a lack of evidence to suggest that anyone in the Ministry commented on Kennedy’s heritage.

equality through access

Compliance Program

Serving the best interests of the public requires that everyone involved be willing to review the way the system currently works or, in some cases, doesn't work.

Finding innovative alternatives to protect human rights has been a common theme over the past few years. While increased education and communications efforts will prevent some cases of discrimination, improvements to the Compliance Program translate into a major step forward for human rights in the province.

Compliance is the area within the Commission that handles complaints, conducts investigations, helps people resolve disputes and, finally, recommends whether or not a complaint should be referred to the B.C. Human Rights Tribunal for a hearing.

The decision as to whether or not a complaint should proceed to a hearing is based on the nature of the complaint and whether or not pursuing a resolution would serve the best interests of B.C. residents. Serving the best interests of the public requires that everyone involved be willing to review the way the system currently works or, in some cases, doesn't work.

When the Commission inherited the B.C. Human Rights Council's backlog of cases, it discovered a complicated and sluggish complaint system. And now, with significantly reduced processing times – the median time for investigation, for example, has been cut in half – the Compliance Program is concentrating on further enhancing the way it deals with complaints and seeks resolutions.

The Case Management Review Project was one of this year's most significant undertakings for the Compliance Program. A specialist put the Commission's system for handling complaints under a microscope, looking for strengths and weaknesses.

The recommendations of the report include accelerating the complaints process, seeking ways to increase the use of mediation and creating a more



Commissioner of Investigation Mary Beeching meeting with Joan Harbison of the Equality Commission for Northern Ireland.



CASE STUDY

Driving Human Rights Home

fair and friendlier relationship with clients. It is hoped that this report, which is currently being reviewed by Compliance Program staff, will allow the program to make decisions and implement concrete changes that will allow it to continue its record of becoming more efficient and effective with each passing year.

The Commission has also undertaken the Compliance Reform Project, a pilot project designed to look beyond the way the Commission currently does its job and allow Commission staff to consider other ways human rights complaints could be investigated. It is hoped that the Compliance Reform project will provide a new perspective on human rights investigation and define a more flexible role for the Compliance Program. Currently, people come forward with complaints and Commission staff members conduct an investigation to uncover the facts of the case. However, that is not the only way to pursue the protection of human rights.

“In some cases, the current method of investigation and adjudication actually does further harm to victims and widens the emotional gulf between complainants and

respondents,” explains Chris Finding, the Interim Executive Director of the Compliance Program.

The challenge is to eliminate or, at least, reduce the damage done by human rights violations and the ensuing complaints process. Staff who work exclusively as mediators could prove to be one such innovation of the pilot project. Currently, human rights investigators continue to work on cases throughout the process, including acting as mediators – a situation that some people believe leads to a bias. In the pilot project, mediators will be among the first staff members with whom complainants come into contact. They will attempt to arrange mediation as soon as possible, reducing processing times and ensuring mediators are impartial as possible.

“What’s even more exciting about the pilot project is that it will make the process much easier for everyone involved,” Finding says. “We may discover that the sooner we get people to mediation, the more willing they will be to seek a resolution. And I hope that this streamlined process will encourage more individuals to bring their complaints forward.”

Case: Terry Grismer, who suffers from homonymous hemianopsia (H.H) as a result of a stroke, was refused a driver’s license despite having passed all of the required sight tests.

Details: Terry Grismer suffers from H.H, which eliminated almost all of his left-side peripheral vision in both eyes after a 1984 stroke. His license was cancelled on the ground that his vision no longer met standard requirements.

Grismer filed a complaint after being repeatedly denied a license, regardless of having passed the requisite test. The case was brought before the Supreme Court of Canada and the Commission was granted intervener status.

The Supreme Court of Canada ruled that the B.C. Superintendent of Motor Vehicles discriminated against Grismer.

Grismer established a case of discrimination, which shifted the responsibility to the Motor Vehicle Branch to show a reasonable justification for the discriminatory standard.

Result: The court confirmed that people with disabilities must be assessed based on their individual abilities, not on the assumptions about the risks caused by their disabilities.

The Motor Vehicle Branch conceded that significant redevelopment of the medical assessment program is warranted and it has committed to undertaking this redevelopment.

equality through access

The Education and Communications Program

Far too often, people see human rights education simply as telling people what not to do. The approach of the Commission, especially after seeing the results of the Commission's 1999 public opinion poll on discrimination, has been to find ways to give people the tools they need to spread the word about human rights and to take action to prevent discrimination. This approach sends people the message that change happens one person at a time and that all British Columbians have a role to play.

To that end, Commission partnered with other agencies to present Human Rights Workshops in Trail, Kamloops and Terrace (page 3).

These workshops are an example of where the Commission can have its greatest impact. By bringing together the public, community group representatives, parents, teachers and school administrators, people can talk about the problems their community faces, share ideas about how they can be solved and develop plans of action.

As Therese Boulard, the acting manager of the Education and Communications Program, explains, the Commission simply worked with local groups to set up the meeting; the rest was up to those who participated. "During the workshops, we encouraged people to talk about alternative responses to discrimination and that's when it got interesting," comments Boulard. "Parents who are concerned about bullying in the school, for example, had the opportunity to connect with a school and other people with an interest in creating a local solution to a local problem."

In the Commission's Strategic Plan, encouraging and enabling people to take responsibility for human rights is one of the fundamental principles being pursued. By helping to organize these workshops, the Commission



Therese Boulard speaks to international business students during a human rights workshop.



CASE STUDY

Proclaiming Discrimination

is providing the forum for people to gain a new understanding of the human rights issues in their community and what they can do to protect the rights of all local people.

Giving people the tools they need to take responsibility for human rights was also a key to the Visual Language and Arts Program. Beyond the publication of the guide that finds its way to more than 2000 schools across the province, the Commission worked with a youth advisory group to create the program for a full-day human rights forum at Thomas Haney Secondary School. “Everyone was enthusiastic about being involved and the students seemed to learn a great deal,” says Boulard. “It is definitely an area we would like to expand in the next year – it’s through young people that the Commission can really have a lasting impact.”

Another highlight over the past year – as it is every year when dealing with human rights complaints – was the issue of harassment in the workplace. In addition to dealing with these issues through the activities of the Public Interest Program (nearly 80 per cent of complaints filed with the

Commission are employment related), the Education and Communication Program collaborated with other program areas to produce the Preventing Harassment in the Workplace guide (page 10). The guide has proven to be extremely popular and the Commission has received feedback from the businesses for which the guide is most useful and practical. The guide is an example of a project that included many different departments within the Commission, ranging from policy to education.

“The key to the success of Preventing Harassment in the Workplace, the annual report or any of the other documents that the Commission creates is that they give people accessible information,” Boulard says, adding that providing alternative formats for documents is especially important. “To have an impact, the material needs to be easy to understand and it needs to take into account the everyday experiences of British Columbians. The development of accessible materials is something the Education and Communication Program will continue to focus on.”

Case: The Okanagan Lesbian and Gay Pride Week committee filed a complaint alleging that the refusal to issue a proclamation of “Lesbian and Gay Pride Week” in Oliver constitutes discrimination on the basis of sexual orientation.

Details: On May 11, 1998 the coordinator of the Gay Pride Week committee requested that the Town of Oliver proclaim June 22-28 as “Lesbian and Gay Pride Week”. On June 1, 1998 the Mayor declined the request, as it did not fall within the Council’s policy guidelines on special event proclamations.

The policy, which was adopted after the request was made, provides that certain events shall not be proclaimed, including:

- Any event that overtly promotes distinct sectors of the community on the basis of race, religion, sex or sexual orientation.
- Other events, which may serve to divide or create conflict, rather than unify the community.

The respondents took the position that the policy does not discriminate because it treats all groups protected by *the Human Rights Code* equally. The policy intended to avoid the promotion of any group which identifies itself on the basis of a particular race, religion, sex or sexual orientation.

Results: Subsequent to the filing of the complaint, Oliver adopted a policy not to issue any mayoral proclamations. The complainants then dropped the case.

equality through action

Knowledge and legislation for a better society

Social condition

In popular culture, they are negatively stereotyped; in politics, their voices are rarely heard; and they are routinely denied housing and services.

Not many groups would be forced to tolerate this type of discrimination, but that's exactly what happens to people who live in poverty. Statutory human rights agencies in Canada can play a critical role in advancing equality rights for the poor. Despite not being guaranteed under the various human rights statutes across Canada, poverty is closely linked to inequality. If social condition is declared a ground of discrimination, people of all economic backgrounds will be better protected.

As a broad mandate, social condition deals with the full range of human rights to protect people from all aspects of discrimination, including social, cultural and economic biases. This addition to legislation would ensure that all citizens enjoy adequate social conditions and it would protect Canadians in all jurisdictions from social and economic discrimination.

Assistive animals

The Assistance Animal Act, proposed in 1999, aims at ending the discrimination faced by people who benefit from the use of assistive animals. Last year, in following with *the Human Rights Code*, the B.C. Human Rights Commission submitted recommendations about the act to the provincial government.

The term “assistive animal” includes the full range of service and therapy animals – service dogs, seizure response dogs, therapy utility animals and guide or seeing eye dogs. Through introduction to legislation, a person with a disability benefiting from a guide dog – or another animal trained to help them lead a more active life – is protected against discrimination.

Transgendered people

Chief Commissioner Mary-Woo Sims is part of the newly-formed working group on transgendered issues that includes transgendered individuals and representatives of groups serving women. For transgendered people, as in so many other areas of discrimination, the major hurdle seems to be a lack on knowledge.

“Most people don't even know what transgendered means,” comments Sims, explaining that many people probably work with transgendered people without knowing it. “It's similar to the situation years ago if you were gay or lesbian: you were treated perfectly well until people found out.”

The group is now working with a number of women's agencies to help them develop transgender-inclusive policies as well as working with the Justice Institute to provide training for people who need to know the issues. Finally, the Commission is working on a biography project to educate people about the barriers transgendered people face.



Courtenay Madic with her assistive animal Piper.



Complaints Process

Filing a complaint

When a person feels they have been discriminated against, they can contact our office to file a formal complaint (contact information is on the back of the annual report). A Complaints Analyst will advise the person if their complaint is covered by the *B.C. Human Rights Code*. If it is, the Complaints Analyst explains how to write a complaint and explains the steps in the complaint process. If the complaint is not something the Commission can help with, the Complaints Analyst will refer the person to another agency.

Decision to Investigate:

Once a complaint has been received and a file created for the complaint, the complaint will be assigned to a Human Rights Officer (“Officer”) to investigate. Sometimes the Commission may dismiss a complaint shortly after it has been filed. This usually occurs after the complaint has been reviewed more closely either by the Officer or the Complaints Analyst, or after the complaint has been sent to the person alleged to have committed the discrimination (“Respondent”) and the Respondent’s answer to the complaint has been reviewed by the Officer. A closer review of both the complaint and response may show that it is not necessary to proceed to investigation.

Early Resolution

The Officer will contact both parties to discuss how the complaint may be resolved, either by negotiation or

mediation. These processes are voluntary and can occur at any point up until a human rights tribunal hearing. The Officer is available to act as a mediator or is available to relay terms of negotiation between the person who filed the complaint (“Complainant”) and the Respondents. The Officer will write the terms of settlement into an agreement for the parties to sign, ending the process.

Investigation

The investigation includes statements from the Complainant, Respondent and witnesses and documents such as letters, records of employment, procedure manuals, medical records etc. The Officer then writes a report that examines the human rights issues and makes a recommendation that the complaint be dismissed or referred to a human rights tribunal for a hearing. The parties receive a copy of the report and can provide more information or their own analysis to the Officer. The report and the information provided by the parties is then reviewed by the Commissioner of Investigation and Mediation (or the Commissioner’s delegate) who makes a decision to dismiss or refer the complaint to a human rights tribunal.

Reconsideration

If either party believes an error has been made, that party can bring their concern to the attention of the Commissioner of Investigation and Mediation by asking for the decision

to be reconsidered. Reconsideration is available to correct clear errors, unfairness, or injustice without making people go to court to ask for a judicial review of a decision.

During investigation parties are not required to have a lawyer, but may wish to hire one at their own cost. Parties who are mediating or negotiating a settlement may be eligible for Legal Aid. Complainants are entitled to representation by Legal Aid at a human rights tribunal hearing.

Complaints Process

- Complaint receives initial review by Commission
- Complaint accepted by Commission, or Complaint not accepted by Commission
- Complaint may be mediated or negotiated and settled
- Complaint may be dismissed upon initial review of facts, or Complaint investigated
- Complaint may be mediated or negotiated and settled
- Complaint investigation report disclosed with recommendation to either dismiss or refer to tribunal
- Complaint dismissed by Commissioner/delegate, or Complaint referred to human rights tribunal
- Complaint may be mediated or negotiated and settled
- Complaint heard by human rights tribunal

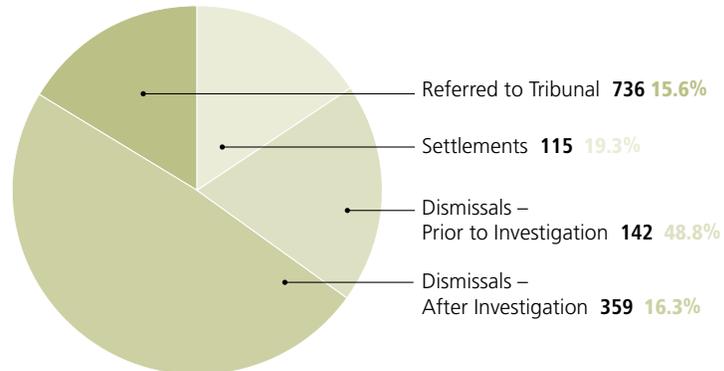
Statistics for 2000/2001

Resources 2000/01

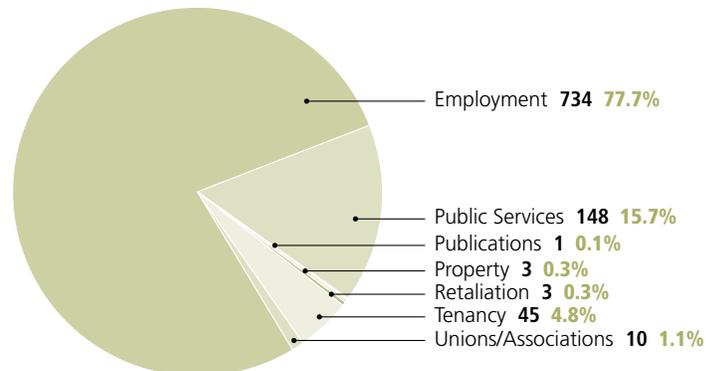
The Commission operated on a budget of \$4,556,000 in 00/01, and with 47 full time equivalent staff members.

Outcomes for Complaints Closed in 00/01

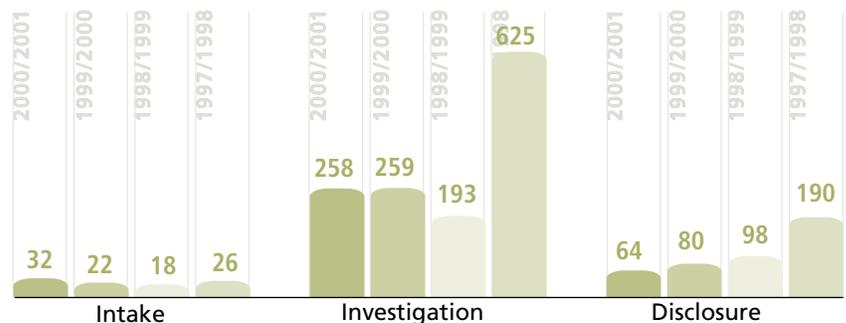
Numbers taken from the "Statistical Summary Fiscal 2001". Numbers reflect case dispositions and their individual breakdown.



Distribution of Complaints

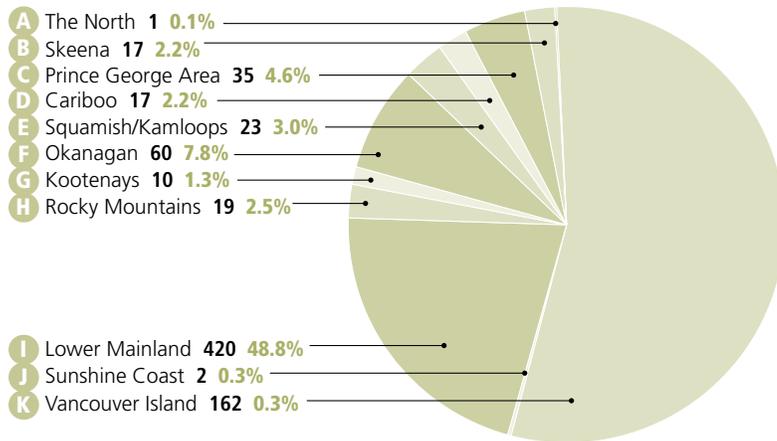


Median Processing Time

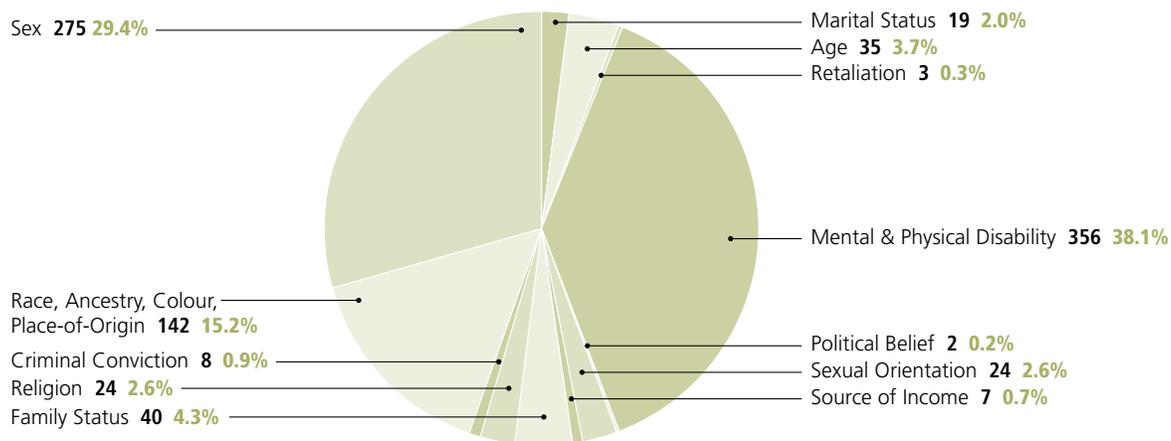




Complaints by Region



Grounds for Complaints



INTAKE the number of days between the case being filed to being assigned to an investigation

INVESTIGATION the number of days from being assigned to an investigator to referral to the Commissioner of Investigation for a decision

DISCLOSURE the number of days the Commissioner of Investigation or a delegate takes to review the file and make the decision

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