Annual Report 2008-2009

JUSTICE

FAIRNESS

IMPARTIALITY

RESPECT

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Québec City
May 2009

Yvon Vallières
President of the National Assembly

Dear Sir:

In accordance with section 28 of the Public Protector Act, and section 38 of the Act respecting the Health and Social Services Ombudsman, I have the honour of submitting the 39th Annual Report of the Québec Ombudsman for fiscal year 2008-2009.

The annual report on the management of this institution for the same period is also part of this document.

Yours sincerely,

Raymonde Saint-Germain
Québec Ombudsperson

Message from the ombudsperson

This year, more than 21,000 citizens from every region of Québec contacted the Québec Ombudsman.

Their reasons for doing so included obtaining access to services or proper information, complaining about undue delays, requesting faster file processing, and reporting unfair situations, negligence or abuse of third parties by a Government department or agency or a health and social service institution under the Québec Ombudsman's jurisdiction.

The Québec Ombudsman intervened on their behalf with 60 Government departments and agencies, and with 180 health and social service institutions.

In many cases, the Québec Ombudsman explained the basis for certain decisions made by the Government, which had been contested because the people concerned had not understood them. This lack of understanding was due to the fact that the decisions in question were not clearly communicated or adequately explained to people who were unfamiliar with the concepts and workings of the public service. The Government, at every level, often fails to fulfill its responsibility of expressing and explaining its decisions clearly, and an additional effort is required to provide better service in this respect.

As I review our conclusions concerning the complaints, reports and requests for service received from citizens, I am happy to report many satisfactory and encouraging outcomes. Unfortunately, however, there are also a number of very worrying situations. This report presents both the positive and the negative aspects for the principal public agencies and for the health and social service institutions in respect of which we received the largest number of *substantiated* complaints and reports.

The positive aspects include the number and quality of the outcomes in which mistakes were corrected, wrong decisions were changed, and citizens finally received the monies or services to which they were entitled. With regard to the negative aspects, I am particularly concerned about the situations in which an apology – even if late and not always completely sincere – may have helped to dissipate a person's dissatisfaction, because the prejudice suffered could no longer be remedied.

Once again this year, the Québec Ombudsman was able to obtain the cooperation of many public services, which accepted its recommendations, resolving 99% of the individual and collective issues addressed.

In particular, I would like to mention the encouraging results obtained by some of the authorities that I denounced in my last two annual reports for their failure to uphold citizens' rights and comply with the law. The Société de l'assurance automobile du Québec and Revenu Québec have both made significant efforts in this respect.

For example, they followed up on the Québec Ombudsman's recommendations in individual files and for issues with a significant collective impact, resolving several fundamental problems identified in investigations and other interventions on our part. I believe the direct and sustained commitment of their managers was a significant contributing factor in achieving this positive outcome.

When I first took office, I began the practice of making recommendations to the managers of public agencies, as the law permits me to do, in order to remedy situations that cause prejudice to citizens. In many cases, a substantial effort is required to implement these recommendations. This report follows up on my past recommendations. Clearly, given their scope, it is not always possible to implement the recommendations fully in the space of a single year. Generally, however, the managers concerned have taken some major steps forward in the implementation process. The information provided in some of their progress reports allows me to believe that the situations in question will be resolved within a reasonable time.

While encouraged by these results, I nevertheless assure the general public and their elected representatives that the Québec Ombudsman will continue to be vigilant, and will take nothing for granted.

The outcomes of the complaints and reports processed in the last year show that more than one citizen in every four who contacted the Québec Ombudsman was a victim of prejudice on the part of a public service.

Our examination of the applications received and the causes of dissatisfaction and unsatisfactory treatment revealed a number of basic trends. It is important to understand the roots of these trends, so as to improve stewardship and encourage public services to adjust their practices. At a time when the Government and its members are continuing and intensifying their reflections on the payment of fees for public services, I would like these trends to be examined in detail, so that their impact on performance can be properly understood.

A broader notion of performance in the public service

The term "performance", when applied to the public service, raises a number of questions. For example, what connotation does this term have, from the standpoint of an ombudsman? As far as I am concerned, I believe it has the usual connotation, that of the *relationship between the result obtained and the means used to produce that result*, but combined with a broader connotation, that of *compliance with the spirit underlying the law and regulations and, in every circumstance, the need to serve all citizens in a way that is respectful of their rights*.

So, while our examination of the public services and their *performance* must cover the basic rules and best practices in the field of management, it must also take into account another, more specific element, namely the fact that the public interest – which includes the notions of fairness and ethics – forms the very basis of these services' existence. To uphold the public interest, it is not enough simply to apply the same parameters as the private sector; a combination of economic parameters (best performance at best possible cost, for maximum profit) and social parameters (satisfaction at the best possible cost for the provision of services to all citizens, even if satisfaction is not necessarily associated with optimal performance) also needs to be considered, and it is here that the evaluation process must take into account the *broader notion of performance* applicable to every public service, regardless of who provides it.

This Annual Report, like its two predecessors, details a number of government malfunctions that go beyond the individual component entities. These malfunctions are due among other things to the complexity of government systems and a fragmented vision of certain problems that ought not to be addressed separately. I believe three of these problems are key, namely the failure to adapt certain programs and services to non-standard needs, the lack of flexibility available to managers who must make decisions on non-standard files, and the lack of proper transitional measures during administrative reforms and transfers of services to new service providers.

The complaints received and the results of our investigations clearly show the impacts of these malfunctions for citizens. For example, some individuals, upon being discharged from hospital, were unable to begin rehabilitation treatment because the hospital and the rehabilitation centre did not coordinate their waiting lists. In other cases, citizens who were discharged from hospital and were assigned a certain number of hours of home support service actually received significantly fewer hours of service. In addition, places in social reintegration programs remained vacant because the local manager did not have the authority to accept non-standard applicants who would have benefited from the service. And lastly, some significant – and increasing – delays were observed in the certification of private residences, in a context where residential resources for seniors are in short supply.

The Québec Ombudsman, in protecting citizens' rights and ensuring fair treatment, is aware of the impacts of adapting public services in order to determine the adjustments and corrections required.

Although there have been some satisfactory results this year, I nevertheless note that much still remains to be done to achieve the best possible balance between the needs of citizens and the performance requirements of the Public Service.

Raymonde Saint-Germain
Québec Ombudsperson

Validation Report from the External Auditor

Raymonde Saint-Germain
Québec Ombudsperson

We have conducted an examination of the results, explanations and information presented in the annual report of the Québec Ombudsman for the fiscal year ending on March 31, 2009. The Québec Ombudsman is responsible for making sure that the annual report discloses information that is accurate and complete. We are responsible for evaluating the plausibility and consistency of the information, based on the work we have done.

Our examination, which did not constitute an audit, was performed in accordance with internal auditing standards. It consisted in obtaining information and supporting documentation, using analytical procedures, documenting the operation of compilation mechanisms, revising calculations and discussing the information provided. Our work did not include examining comments submitted by Government departments and agencies that were the subject of reports by the Québec Ombudsman, since they were responsible for those comments.

Based on our examination, we conclude that the results, explanations and information contained in the annual report of the Québec Ombudsman appear to be plausible and consistent in every important respect.

Jacques Dumas
External Auditor
April 27, 2009

LE PROTECTEUR DU CITOYEN
Assemblée nationale
Québec

Visual identifier

The Québec Ombudsman's logo symbolizes the quest for balance between the rights of different people. It is a variation on the scales that serve as the emblem of justice. The plate on the left-hand side of the logo evokes the theme of justice, while the "P" (for "Protecteur du citoyen") on the right-hand side refers to the highest level of justice: equity.

Values

The Québec Ombudsman has served the general public since 1969, defending the fundamental values of justice, equity, respect, transparency and impartiality.

The Québec Ombudsman is independent of the Québec Government, and is appointed by and accountable to the National Assembly. It is therefore neutral, independent and impartial – all essential qualities in the performance of its duties. Its role is to examine situations objectively, without prejudice in favour of individual citizens or the Government authority.

Mandate

The Public Protector Act and the Act respecting the Health and Social Services Ombudsman charge the Québec Ombudsman with the task of protecting citizens' rights. It does this by intervening with departments and agencies of the Québec Government, including those in the health and social services network, to correct any prejudicial situations affecting natural or legal persons, individually or as a group. When necessary, it makes recommendations to the authority concerned to correct errors, negligence, abuse or unfair treatment. It accepts complaints submitted on behalf of third parties who may have witnessed an error, abuse or injustice, and may also intervene on its own initiative if it has reasonable grounds to believe that an individual or group has been wronged. After an investigation, the Québec Ombudsman submits its conclusions to the authority in question, along with recommendations and remedial measures in some cases.

The Québec Ombudsman fields, studies and processes complaints from individuals. For the health and social services network, it performs these duties as a second or final recourse, with certain exceptions, following a first review by local or regional commissioners. The Québec Ombudsman does not have jurisdiction over questions relating to the quality of medical, dental or pharmaceutical acts.

The law gives the Québec Ombudsman the necessary power to examine complaints and conduct its investigations. It may demand access to any documents held by a Government department, agency or health and social service establishment, and it may also question any individual whose testimony it feels is essential to its functions.

The Québec Ombudsman is also called upon to take collective actions following a series of complaints that confirm the existence of a systemic problem across several different sectors and sometimes involving several different programs. After examining the elements in question, it makes recommendations for remedial action that will correct the problem for everyone concerned.

The Québec Ombudsman also has a preventive mission. It can, for the purpose of correcting a prejudicial situation and preventing repetition, draw the attention of Government departments, agencies or health and social service establishments to the need for legislative, administrative or Government reform, thereby acting on behalf of the public good. It may examine bills or draft regulations. If it sees fit, it may make suggestions or propose amendments to improve the draft legislation.

Under this mandate, the Québec Ombudsman attaches particular importance to the basic human rights granted to citizens by the charters of rights, the Public Service Act, the Act respecting administrative justice, the Act respecting health services and social services, and other legislation. In the performance of its duties, it pays special attention to situations that may harm citizens who are particularly fragile or vulnerable as a result of their mental, physical or psychological health or the socio-economic conditions in which they life. It also intervenes directly in cases where people are afraid of reprisals if they complain.

The Québec Ombudsman acts by issuing recommendations. As it has no power of enforcement, its capacity to effect change depends on its ability to influence and persuade. Once a recommendation has been made and the Québec Ombudsman believes that the department or agency concerned has failed to remedy the situation in a timely fashion, it may advise the Government. If it sees fit, it may also make the case public in a special report or in its annual report to the National Assembly.

The Québec Ombudsman contributes to the strengthening of democracy and the rule of law, and promotes the improvement of services for all citizens. Its action differs from that of the courts, and often helps to avoid long and onerous judicial or administrative recourse.

Highlights

The three main grounds for complaint in 2008-2009

Most of the complaints received were concerned with delays, monies owed by the State, and failure to coordinate programs and services. P. 113

Complaint statistics

- The Québec Ombudsman intervened with 60 Government departments and agencies, and with 180 health and social service institutions.
- 21,330 citizens contacted the Québec Ombudsman this year, which constitutes a 5.7% increase of the total number of applications in comparison with last year.
- The number of applications relating to health and social services increased (+ 68,27%).
- The number of applications relating to the public service decreased (- 0.92%). P. 109

Penalty and interest charges

A number of collective gains were obtained from Revenu Québec. P. 30

Tax credit for home care of seniors

Unacceptable delays were eventually corrected. P. 32

Directeur de l'état civil

Thanks to two interventions by the Québec Ombudsman, the registers used to issue birth certificates are now more complete. P. 33

Social reinsertion of inmates

There is still a gap between the words and actions of the Ministère de la Sécurité publique. P. 18

Société de l'assurance automobile du Québec

This year, the SAAQ resolved some major problems, but the time taken to issue medical opinions is still unreasonable. P. 37

Commission de la santé et de la sécurité du travail

The Québec Ombudsman observed an increase of 27% in the number of substantiated complaints about processing delays for compensation payable to workplace accident victims. P. 45

Child and youth protection

Domestic and international adoption: Double standards were observed in the services available to parents. P. 57

Rehabilitation centres

Users on waiting lists no longer receive services, and wait times can be up to four years. P. 60

Residential and long-term care facilities

There are a number of unacceptable situations, in particular with regard to user care. P. 63

Certification of private residences providing accommodation for vulnerable individuals

There is an urgent need for mandatory certification. Otherwise, there is no guarantee that residence owners will comply with quality standards. P. 70

Excessive delays in hospital emergency rooms

The Ministère de la Santé et des Services sociaux must find solutions other than hospital emergency rooms to meet the needs of users whose condition is not urgent. P. 73

Pilot agreement for the provision of public professional services in a private clinic

Users must have the same rights and receive the same quality of care regardless of whether they are treated in a public institution or a private clinic. P. 76

Payment of dental care expenses during cancer treatment

Starting on April 1, 2009, the health and social services network's ten radiation oncology centres will pay all fees relating to the treatment of mouth and throat cancer. P. 78

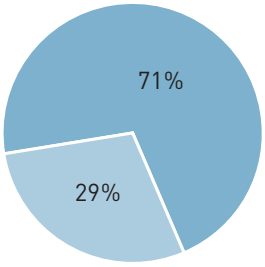
Mental Health Action Plan

The rights of people suffering from mental health problems are not always upheld in all institutions. P. 86

The Curateur public du Québec

It takes an average of 111 days to open a protective program for incapacitated individuals. P. 93

JUSTICE AND PUBLIC SECURITY



Unsubstantiated complaints: 1,243

Substantiated complaints: 506

		Uncompleted investigations		Completed investigations		
Government departments and agencies	**Complaints received**	**Complaints referred**	**Complaints interrupted**	**Unsubstantiated complaints**	**Substantiated complaints**	**Total**
Commission québécoise des libérations conditionnelles	27	1	11	9	1	22
Ministère de la Sécurité publique						
Correctional Services	3,703	1,344	1,076	884	412	3,716
Revenu Québec						
Taxation	688	20	197	328	87	632
Services Québec						
Directeur de l'état civil	41	1	15	22	6	44
Total	**4,459**	**1,366**	**1,299**	**1,243**	**506**	**4,414**

Inmates submitted 3,703 complaints to the Québec Ombudsman this year, down from 3,826 in 2007-2008. The percentage of substantiated complaints also declined, from 33% last year to 32% in 2008-2009.

However, the number of complaints concerning Revenu Québec (taxation) fell from 697 in 2007-2008 to 688 this year. Most of the substantiated complaints referred to file processing delays (22%), delays in processing requests for reimbursements (16%), loss of files or file management errors (15%) and collection methods (10%). The complaints mentioned in this annual report concerning Revenu Québec related to fair treatment, which is an important principle of social justice.

Administrative justice: Encouraging signs, but much still remains to be done

In its last annual report, the Québec Ombudsman mentioned the tenth anniversary of the Act respecting administrative justice and spoke about the key importance of its basic principles, which serve as the basis for tens of thousands of individual decisions made every year by the Government authority. Overseeing compliance with this Act, and with the Act respecting health services and social services, is a core element of the Québec Ombudsman's everyday task.

The Québec Ombudsman observed a lack of familiarity with the principles set out in the Act respecting administrative justice and the Act respecting health services and social services concerning the duty to act fairly, and noted that as a result, the Government authority did not always understand or uphold that duty.

The Québec Ombudsman believes this problem is fundamental, since a significant percentage of substantiated complaints relate specifically to the sense of not having been treated fairly (37% of admissible complaints in 2008-2009). Some individual situations were described in the Québec Ombudsman's 2007-2008 annual report, relating among other things to the Government's failure to inform and communicate with members of the public, and denial of their right to make comments or be heard before a decision was made.

The Québec Ombudsman encouraged the leaders of Government departments, agencies and health and social service network authorities to ensure that their personnel understood the principles and rules set out in these two Acts. It also recommended measures to raise awareness of and ensure compliance with these principles, including training for new employees, regular upgrading for staff, the formulation of specific expectations for supervisory staff and consideration of these expectations during performance assessments.

The Québec Ombudsman has already observed some real and positive impacts from these recommendations, in the form of measures applicable to all authorities and in the processing of certain specific cases.

IN GOVERNMENT DEPARTMENTS AND AGENCIES

The **Secrétariat du Conseil du trésor**, which coordinates the recruitment and development of human resources in the civil service, has agreed that the rules and principles of administrative justice will be included in its training for new managers and new permanent staff. The Québec Ombudsman will contribute support and expertise to this initiative.

Several government departments and agencies have also taken steps to ensure compliance with the provisions of the Act respecting administrative justice as a result of the Québec Ombudsman's interventions in specific cases:

- **The Régie des rentes du Québec** now systematically mentions the recourses available to citizens wishing to contest its decisions. In addition, between now and the fall of 2009, it intends to ensure that all its personnel are aware of the importance of applying administrative justice principles. All vice-presidents and directors have already been given related training in February 2009.

- **The Commission des transports du Québec** changed its website in the fall of 2008 to include more details of certain conditions for permit exemptions and review mechanisms. The Commission also acknowledged the need to provide special training for its customer service representatives so that they are in a better position to inform the general public about bus transportation permit exemptions. The new training was introduced in November 2008, soon after the Québec Ombudsman's intervention.

- **The Financière agricole du Québec** also responded positively to the Québec Ombudsman's request that more detailed reasons be given for the decisions made by its harvest insurance review committee. The managers concerned were made aware of this requirement in September 2008, and subsequent verification by the Québec Ombudsman has revealed that the reasons for the committee's decisions are now explained more fully.

- **The Ministère des Transports** undertook to bring the provisions of the Act respecting administrative justice to the attention of staff from its local admission committees and the adapted transportation review board. This was done in March 2009, with emphasis on the importance of meeting deadlines and providing detailed reasons for the decisions made.

- **The Commission de la santé et de la sécurité du travail** responded positively in November 2008 to the Québec Ombudsman's request that it include a statement in its decisions to the effect that requests for review must be made in writing in order to be admissible. Failure to stipulate this fact may be prejudicial to members of the public who are not aware of the requirement.

- **Revenu Québec** has taken steps to improve the consistency and transparency of applications for cancellation of the interest, penalties and charges stipulated in Québec's tax legislation. A description of the recourse procedure has been published on the Revenu Québec website since January 2009, and a special brochure was printed in December 2008. In addition, letters informing citizens of the department's decisions now give more detailed reasons, so that people know why their requests have been refused.

IN HEALTH AND SOCIAL SERVICES INSTITUTIONS

The Québec Ombudsman welcomes the steps taken or proposed by the Ministère de la Santé et des Services sociaux (MSSS) in response to its recommendation concerning the application of the administrative justice principles set out in the Act respecting health services and social services:

- At the Network Management Committee meeting of January 22, 2009, the MSSS informed regional agency Chief Executive Officers of the importance of understanding and applying the rules and principles set out in the Act respecting health services and social services and the Act respecting administrative justice. The intervention applied to the agencies' existing personnel and all new employees.

- In 2009-2010, the reception procedures for new MSSS employees will be revised to include a review of users' rights and the rules and principles of administrative justice. A similar review will also be sent to the department's current employees.

- Lastly, in the fall of 2009, the MSSS will prepare a leaflet on this subject, for distribution internally and throughout the network, for all existing and new employees and subcontractors.

THE QUÉBEC OMBUDSMAN CONTINUES TO BE VIGILANT

Although the Québec Ombudsman has observed some significant progress in many government departments and agencies during the last year, it nevertheless notes that much still remains to be done by the Government authorities and by the health and social services network to ensure that citizens' rights are upheld. This topic will continue to be a major concern in 2009-2010. If necessary, and in light of the complaints received, the Québec Ombudsman will take further steps with the authorities concerned to ensure that services to citizens continue to improve.

Ministère de la Sécurité publique – Direction générale des services correctionnels

The Québec Ombudsman, in its two previous annual reports, once again emphasized the fact that reintegration of offenders into society is central to the Act respecting correctional services, adopted in 2002 and brought into force in 2007. The Québec Ombudsman made recommendations to improve social integration services in the correctional system.

GOVERNMENT ACTION PLAN FOR SOCIAL REINTEGRATION AND CONTRACTING FOR THE LOCAL SOCIAL REINTEGRATION SUPPORT FUND

In its 2006-2007 report, the Québec Ombudsman recommended that the relevance and efficiency of social reintegration measures be reviewed. At that time, the Ministère de la Sécurité publique (MSP) made a commitment to prepare a discussion and guidance document on the execution of its social reintegration mission. However, it was not until the following year, in September 2008, that the MSP finally delivered a document describing its accountability priorities and guidelines for correctional services clients. The same document also addressed access to specialized resources and delivery of services in partnership with other departments. The Québec Ombudsman recognizes that, however belatedly, the MSP has at least taken the first step.

Meanwhile, given the delay in defining precise guidelines and principles for the development of social reintegration support programs, services and activities in detention facilities, the Québec Ombudsman's 2007-2008 report called on the Québec Government to introduce an interdepartmental action plan for the creation and coordination of social reintegration services. It had become obvious by then that implementing this recommendation would require interdepartmental action. The Government asked the MSP to lay the foundations for this plan.

The MSP published its action plan in October 2008, and after identifying the departments and the Government and community agencies involved in social reintegration, undertook to produce a working document dealing in particular with the problem sets and challenges affecting the reintegration of offenders, and their needs. It also agreed to compile an inventory of social reintegration services in detention centres. The MSP expects to complete and deliver this document in the spring of 2009.

As a result, the interdepartmental committee that was to be responsible for coordinating subsequent work was not created as scheduled in January 2009. The Québec Ombudsman is concerned about the negative impact of this delay on the social reintegration action plan, which was to be submitted to departmental authorities in June 2009. In addition, the Québec Ombudsman is astonished to learn that the MSP does not already have an inventory of the programs available in its detention facilities.

Moreover, the MSP has opted to include follow-up action to another recommendation from the Québec Ombudsman in the mandate it received from the Government. As a result, it has undertaken to create a working committee that will define the rules governing contracts between Local Social Reintegration Support Funds, the private sector and other Government departments and agencies. The Local Social Reintegration Support Funds, through the work and services they deliver in detention centres, play a key role in reintegrating offenders into society. The Québec Ombudsman is concerned that delays in implementing the action plan will further postpone the enactment of these structural rules for contracts entered into by the Funds.

In accordance with the spirit of the Act respecting the Québec correctional system, the MSP, in its response to the Québec Ombudsman's 2007-2008 recommendations, stipulated that a social reintegration action plan "could incite the various government agencies involved to truly appropriate the social problems experienced by this sector of the population while also actively searching for effective solutions[1]". Nevertheless, one can only conclude, based on the MSP's actions in the last two years, that there is a significant gap between the department's words and actions.

RECOMMENDATION

Whereas, in its 2007-2008 report, the Québec Ombudsman called on the Gouvernement du Québec to implement an interdepartmental action plan for the creation and coordination of social reintegration services;

Whereas the Government entrusted the Ministère de la Sécurité publique with responsibility for laying the foundations of this plan;

Whereas the Ministère de la Sécurité publique undertook to produce a working document dealing in particular with the problem sets and challenges for the reintegration of offenders into society and with the needs of those affected, and to compile an inventory of social reintegration services in detention centres;

Whereas submission of this document to the Québec Ombudsman, scheduled for December 2008, has been postponed due to delays in compiling an inventory of social reintegration services in detention facilities;

The Québec Ombudsman recommends that the Ministère de la Sécurité publique give high priority to this task and increase its efforts to meet the stated deadline and, as such, asks the Ministère de la Sécurité publique to submit the government action plan on social reintegration no later than June 30, 2009.

COMMENTS FROM THE MINISTÈRE DE LA SÉCURITÉ PUBLIQUE

The Ministère de la sécurité publique, through its Deputy Minister, made the following comments:

"First of all, the Ministère de la Sécurité publique confirms that social reintegration is one of its priorities. Its Correctional Services are working closely with the other government departments and community resources involved in this issue. A government plan of action for social reintegration will be introduced to improve and reinforce the everyday efforts of the Correctional Services and community resources in this area.

The MSP notes the Québec Ombudsman's recommendation concerning the need for a government plan of action by June 20, 2009, and undertakes to submit a working document by the requested date."

[1] The Québec Ombudsman, *Annual Report 2007-2008*, p. 99.

PROFILE OF THE PRISON POPULATION

This year, the MSP has begun the task of preparing a profile of its correctional services clientele, in response to a recommendation made by the Québec Ombudsman in its 2006-2007 report. This profile should be available in the spring of 2009.

INSTITUTIONAL SANITARY CONDITIONS

Following its observations in 2006-2007, the Québec Ombudsman asked the MSP to establish a mechanism for sanitary inspections. Two years later, however, the Québec Ombudsman notes that there are still no uniform health standards in place for detention facilities. Although the MSP has acknowledged the need to monitor health and sanitary conditions in order to prevent the transmission of disease and to control the risks of contamination, it has been slow to take any significant steps aimed at dealing with this major deficiency. The Québec Ombudsman does not believe the current negotiations on the eventual transfer of responsibility for health services in detention facilities to the Ministère de la Santé et des Services sociaux are sufficient to justify the MSP's failure to act.

In February 2009, in response to an intervention by the Québec Ombudsman questioning the MSP's inaction, the MSP undertook to cooperate with the Société immobilière du Québec and the Ministère de la Santé et des Services sociaux in order to establish standards for sanitary conditions, and develop and deliver a directive on this subject to the Québec Ombudsman no later than November 30, 2009. In the meantime, the MSP plans to set up interim procedures aimed at improving conditions in all its facilities by June 1, 2009, including disinfection of segregation cells and maintenance of admission cells and showers.

REGISTER OF THE USE OF SEGREGATION AND ISOLATION CELLS

As recommended by the Québec Ombudsman, in May 2008 the MSP undertook to maintain a standard register for recording the use of segregation and isolation cells in all detention facilities by March 31, 2009. It was difficult to assess these practices in the absence of such a register. The new mechanism will increase transparency by recording information on the use of isolation and segregation measures, the reasons for such measures, and their duration. It will also allow for better monitoring of these practices and of the segregation and isolation conditions for inmates. In addition, it will help ensure that the MSP's health care directive is applied and that segregated inmates receive daily visits from nursing staff.

PROCESSING OF WRITTEN REQUESTS FOR HEALTH SERVICES

In its previous annual report, the Québec Ombudsman drew the MSP's attention to the processing of inmates' written requests for health services in detention facilities. The Québec Ombudsman recommended that the MSP look into the possibility of amending this procedure in order to improve it and protect the confidentiality of information exchanged by inmates and medical personnel.

In the fall of 2008, the Québec Ombudsman notified the MSP of problems relating to the selection of priority service requests, stemming from the fact that many inmates find it hard to request services in writing. While the MSP has undertaken to study this problem and has initiated preliminary discussions with the MSSS, the Québec Ombudsman is nevertheless concerned about the slow pace of the work being done to find a solution. It therefore asks the MSP to institute an immediate review of the methods for dealing with written health service requests in detention facilities. To speed up this task, the Québec Ombudsman encourages the MSP to collaborate more closely with the health and social services network and to emulate practices used by other prison systems.

OTHER INTERVENTIONS BY THE QUÉBEC OMBUDSMAN IN 2008-2009

New housing structures and overcrowded prisons

During visits to seven detention facilities in the past year, the Québec Ombudsman paid particular attention to facilities in which new temporary modular buildings have been installed. These quarters will provide up to 324 new spaces in the Québec, Trois-Rivières, Sherbrooke and Amos facilities[2].

The Québec Ombudsman believes these units will temporarily ease the pressure placed on the correctional system due to overcrowding in certain facilities. However, this temporary solution must be viewed in the context of prison overcrowding and repeated transfers of inmates between facilities. According to the selection criteria for occupancy of these modules, only inmates with the lowest danger rating, who do not have physical or mental problems, and who display acceptable behaviour, can be considered. The MSP recognizes that, in order to fill these new spaces, inmates meeting the required conditions will have to be brought in from facilities where modular buildings are not available. These transfers may have detrimental impacts (distance from family, friends and community resources in the region of origin, discontinuity in medical care, etc.) on the conditions of affected inmates.

The institutions in question have adjusted some of their surveillance practices to the specifics of these new structures. They have also made adjustments to work procedures to reflect their limited human resources. The Québec Ombudsman is monitoring the occupancy of the temporary facilities, paying particular attention to the maintenance of basic services and the impact of these facilities on overcrowding and transfers.

Mental health and correctional services: Special report being prepared

In the wake of a research contract granted to a team from the International Centre for Comparative Criminology at the Université de Montréal, the Québec Ombudsman has continued its analysis of mental health problems in prisons. The results of this work will be published in a special report in 2009, which will also contain a series of recommendations to improve the organization of mental health services in prisons and patient management for inmates with mental problems.

[2] The Amos facility, which has used this type of structure for 17 years, will be visited at a later date.

PROCESSING OF COMPLAINTS

Substantiated complaints reviewed	2008-2009
Health care	30%
Loss of rights or privileges	8%
Living conditions	7%
Transfers and transportation between facilities	4%
Loss of personal effects	19%
Inmate classification	2%
Services and activities	8%
Officer behaviour and abuse	2%
Sentence management and calculation	8%
Security measures	2%
Procedures for temporary absence requests	2%
Discipline	2%
Complaint processing system	6%
Nature of interventions	**2008-2009**
Individual interventions	81%
Collective interventions	19%

Between April 1, 2008 and March 31, 2009, the Québec Ombudsman reviewed 412 substantiated complaints from inmates in detention facilities in the Québec correctional system. The breakdown of causes remains basically unchanged from previous years, and the variation in the number of substantiated complaints concerning transfers is due primarily to a change in the Québec Ombudsman's methodology for this problem. The majority of these complaints are now classified or processed according to the impacts of the transfers (loss of personal effects, lapses in medical care, living conditions, etc).

Access to health care remains the most common cause of dissatisfaction, as well as the type of complaint most likely to be substantiated. The Québec Ombudsman has intervened frequently in a preventive capacity for this type of complaint. In addition, in several cases involving complaints, the Québec Ombudsman chose to warn the detention centre in question of a potentially risky situation, rather than launching an investigation to assess whether practices were in compliance with current rules and standards.

In most cases where an appropriate recourse or method was available to inmates in order to protect their rights or defend their point of view, the Québec Ombudsman directed them to use that solution first. On the other hand, when a decision by the prison authorities had an immediate impact, for example solitary confinement without apparent cause or an unreasonable denial of an inmate's right to speak with counsel, the Québec Ombudsman intervened immediately.

For substantiated complaints reviewed as of March 31 2009, the Québec Ombudsman recommended and obtained corrective measures from the detention facilities concerned in 90% of cases; 81% were individual cases, and 18% were collective cases where the results benefited more than one inmate. This represents an increase in the proportion of collective interventions over the last three years, from 9% of the measures requested and granted in 2006-2007 to 11% in 2007-2008.

Substantiated complaints relating to health care and the loss of personal effects accounted for 28% and 19% respectively of complaints for which the Québec Ombudsman's intervention led to the implementation of individual or collective corrective measures. For example, following receipt of a complaint, the Québec Ombudsman recommended to the authorities of a detention facility that admission officers should ensure that the medical files of all newly admitted inmates are properly filled out. The facility accepted the recommendation, and the ensuing measure simplified follow-up and screening of inmates requiring immediate or urgent medical care upon admission.

Finally, the Québec Ombudsman has continued to intervene systematically with a view to ensuring that preventive measures are introduced to address problems identified during the processing of individual complaints. As a result, the Québec Ombudsman has strengthened its monitoring of collective corrective measures during visits to houses of detention. In addition, it regularly checks with the facilities to ensure that measures which were proposed and adopted are still being applied several months after introduction.

Acting in its capacity as correctional ombudsman, the Québec Ombudsman has increased the number of corrective and preventive interventions with staff and management in the correctional system. This report identifies some specific actions that were required to protect and defend the rights of inmates. All these interventions have had an overall impact on the correctional system and have resulted in new recommendations from the Québec Ombudsman to the appropriate authorities.

COMPLAINT HANDLING SYSTEM: MAJOR DEFICIENCIES

A complaint registry that presents an inaccurate picture of the situation

During the past year, the Québec Ombudsman once again evaluated the system used to process complaints from inmates in detention facilities. In addition to the recurrent problems of complaint form availability and failure to respond to complaints within prescribed deadlines, in respect of which it intervenes regularly, the Québec Ombudsman also some noted major deficiencies in the maintenance of a provincial registry to record inmate complaints.

In theory, the registry is a tool that allows each facility to document information about the sources of complaints, their frequency, grounds, and processing delays. However, in practical terms the current registry contains only partial data that provide little useful information for the evaluation of services and actually present an inaccurate picture of the situation in detention centres. For example, some facilities do not provide complete information even though the MSP only requires that it be submitted twice a year. In acting in this way, the authorities are depriving themselves of valuable data that could be used to improve practices and to manage certain risks.

Since September 2005, the MSP has been planning to acquire a software tool that would allow for more effective use of the data produced by the complaint processing system. Unfortunately, it continues to delay the delivery of the system. The MSP has recently informed the Québec Ombudsman that the implementation of this system, originally scheduled for April 2009, has been deferred to the fall due to lack of resources.

RECOMMENDATIONS

Whereas such an information management tool is important in the context of loss of freedom for those filing complaints, and taking into account that over 15% of complaints received by the Québec Ombudsman deal with the complaint processing system implemented at its request in all detention facilities in 1992, the Québec Ombudsman believes the Ministère de la Sécurité publique cannot postpone action until a computerized registry of complaints has been created;

Whereas the correctional system is still dealing with many problems linked to overcrowding and access to health care, the Québec Ombudsman finds it regrettable that the Ministère de la Sécurité publique deems it acceptable to delay the implementation of a mechanism that would help improve its knowledge of its client base and make informed choices as to the best options for resolving at least some of these difficulties. In addition, the Québec Ombudsman does not feel the lack of resources can justify the fact that the authorities of certain facilities do not make use of the existing registry;

The Québec Ombudsman recommends to the Ministère de la Sécurité publique:

That, with immediate effect, it require management to use the register on a regular basis and that the collected data be examined with a specific focus on improving respect for the fundamental rights of inmates and correcting, once and for all, the recurrent problems with the application of the complaint processing system in detention centres;

That, as of August 2009, it submit quarterly reports to the Québec Ombudsman on its progress in using the register.

COMMENTS FROM THE MINISTÈRE DE LA SÉCURITÉ PUBLIQUE

The Ministère de la sécurité publique, through its Deputy Minister, made the following comments:

"The MSP's Correctional Services already have a complaints register. However, they are aware that the register could be improved, and are currently working on the development of a computerized complaint processing system. The new system will make it easier to compile statistical data on complaint processing and analysis.

The Correctional Services Development and Advisory Directorate has reviewed the complaint processing system for 2007-2008. Its findings will be submitted to the ministerial authorities in the near future, and will then be forwarded to the Québec Ombudsman.

Lastly, we have reminded the correctional network of the importance of maintaining an up-to-date register of complaints, and of forwarding the information to the computer centre. This will allow for regular monitoring. The MSP undertakes to report on a quarterly basis to the Québec Ombudsman concerning the use of the register, beginning in August 2009."

MEDICAL ESCORTS: RECONCILING SECURITY REQUIREMENTS AND RESPECT FOR RIGHTS

Whenever health care or medical examinations cannot be performed in the detention facilities, correctional services must set up medical appointments and escorted transportation to health and social services institutions. The Québec Ombudsman regularly receives complaints from inmates concerning the conditions under which these activities are performed.

Many appointments must be rescheduled because detention facilities are unable to keep up with the demand. Naturally, appointments deemed to be urgent take precedence, and the Québec Ombudsman has not been notified of any cases where such appointments were postponed or cancelled. On the other hand, transportation for health appointments is routinely rescheduled. In some facilities, appointments are only organized for examinations deemed to be urgent.

Use of physical restraints

The Québec Ombudsman is also concerned about the physical restraints imposed while waiting for hospital services or even during hospitalization. It goes without saying that security is critically important. Nevertheless, the rules governing the use of physical restraints in a hospital setting are particularly stringent. An inmate waiting for emergency service is usually chained hand and foot to a stretcher or wheelchair, and a hospitalized inmate will be chained 24 hours a day by at least one limb to his or her bed or wheelchair. This procedure is applied systematically, without consideration for the actual risk presented by the individual or the degree of discomfort inflicted.

The Québec Ombudsman has received statements from citizens who prefer to refuse treatment rather than be guarded under such conditions. The Québec Ombudsman is aware that certain situations warrant this type of rule, but nevertheless questions their systematic application. It has notified some detention facilities of this issue and hopes that the correctional system authorities will reconsider the automatic use of these practices.

RECOMMENDATION

Whereas the Québec Ombudsman is concerned about the use of physical restraints during waiting times in hospitals and even during periods of hospitalization;

Whereas some citizens have stated that they prefer to refuse treatment rather than be guarded under such conditions;

The Québec Ombudsman recommends that the Ministère de la Sécurité publique review the internal directives of detention facilities so that, in accordance with provincial guidelines, the use of physical restraints is based on the level of risk represented by the inmate and on the security context in the health facility.

COMMENTS FROM THE MINISTÈRE DE LA SÉCURITÉ PUBLIQUE

The Ministère de la sécurité publique, through its Deputy Minister, made the following comments:

"The MSP's Correctional Services are currently carrying out an in-depth review of their provincial instruction on custodial methods in hospitals, and will clarify the use of physical restraints to include a better assessment of the flight risk and level of danger presented by each individual inmate."

Confidentiality of information exchanged by inmates and medical staff

Lastly, the Québec Ombudsman has received complaints, notably from physicians, about the lack of respect for the confidentiality of information exchanged by healthcare professionals and inmates, due to the presence of correctional officers during consultations. It is normal for procedures to be applied rigorously, in order to prevent escapes. However, when conditions allow it, the standard procedure should be for the officer to maintain visual contact with the inmate but remain out of hearing range.

RECOMMENDATIONS

Whereas the principle of confidentiality of information exchanged by users and medical staff is extremely important, the Québec Ombudsman recommends to the Ministère de la Sécurité publique:

That it reassess the internal directives of individual institutions;

That, in its directives, it emphasize the importance of respecting confidentiality and stipulate how this may be done;

That it identify the necessary material conditions to allow for confidential consultations while limiting any security risks, and that it report to the Québec Ombudsman by December 31, 2009, on the steps taken;

That it undertake discussions with the health and social service institutions that most often receive inmates, in order to determine the conditions required to allow confidential medical consultations in a secure environment.

COMMENTS FROM THE MINISTÈRE DE LA SÉCURITÉ PUBLIQUE

The Ministère de la sécurité publique, through its Deputy Minister, made the following comments:

"First of all, the MSP supports the principle of confidentiality between inmates and caregivers.

In their review of the provincial instruction on custodial methods in hospitals, the Correctional Services will have an opportunity to establish guidelines for the supervision of inmates during medical consultations. Clearly, these guidelines will need to take the principle of confidentiality into account, but the level of risk and danger must also be considered.

The Québec Ombudsman may rest assured that it will be informed of developments in the review of the provincial instruction on custodial methods in hospitals by December 31, 2009, and will also be notified of the measures introduced to allow for confidentiality during consultations while limiting the security risks."

Unacceptable conditions for physician and patient

A physician working outside the correctional system contacted the Québec Ombudsman with regard to the problems he experienced during a consultation with an inmate concerning follow-up for methadone treatment. The inmate was escorted to the physician's office by correctional officers. In spite of the doctor's request, the officers refused to leave the consulting area.

According to the physician, the inmate was not able to provide all the information required for a full assessment of his condition. The physician was convinced that the inmate wanted to speak more fully but did not dare to do so in the presence of the officers. The physician also expressed concern about the quality of the health care services available to inmates under these conditions.

The Québec Ombudsman suggested that the physician try to negotiate with the facility's authorities for the officers to maintain visual contact with the inmate while remaining out of hearing range. The Québec Ombudsman also notified the authorities of the facility about the importance of confidentiality and underscored the need to seek solutions to provide confidentiality while ensuring a secure environment.

Following the Québec Ombudsman's intervention, the physician is now able to perform confidential consultations, using a windowed office in those cases where he is notified of specific security risks.

COMMISSION QUÉBÉCOISE DES LIBÉRATIONS CONDITIONNELLES, MINISTÈRE DE LA SÉCURITÉ PUBLIQUE, MINISTÈRE DE LA JUSTICE, DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS

Release on parole: Chronic postponement of hearings

Following a number of complaints from inmates, the Québec Ombudsman investigated the causes for postponements of hearings by the Commission québécoise des liberations conditionnelles (CQLC). The percentage of hearings postponed by the CQLC has increased substantially since the implementation of Act respecting the Québec correctional system, which imposed strict rules for the constitution of files to be sent to the Commission. For parole release hearings alone, the postponement rate increased from 21% in 2006-2007 to 28% in 2007-2008, and the same trend has continued in 2008-2009. Obviously, many postponements are legitimate and justified, but others unduly prolong time spent in custody and delay, if not compromise, inmate participation in social reintegration programs.

The Québec Ombudsman has observed that the number of postponements and the reasons for them vary between detention facilities and administrative regions in the corrections system. A large number of stakeholders from the correctional, judicial and community environments are involved in building the files that are submitted to the CQLC. In some cases, postponements are caused by the absence of documents usually contained in the files of the Director of Criminal and Penal Prosecutions. In other cases, they are due to delays in obtaining the necessary evaluations from correctional services. Approval from a community organization for the inmate's candidacy may also be missing.

The Québec Ombudsman believes the large number of stakeholders reflects the complexity of the process of preparing files for the CQLC. Lack of resources and accumulated delays by one party, or lack of coordination and communication among other parties, is sufficient to delay the delivery of certain files required by the commissioners, who then postpone the hearing.

Because of the short average duration of prison terms, stakeholders have very little leeway. In addition, some offenders lose interest in parole programs due to the excessive number of postponements. However, many of these offenders really need the programs, among others things to reduce the chances of re-offending, to counter spousal abuse, or to treat addiction problems. It is important to ensure that all these inmates participate in the programs prior to release, and that those whose cases justify it have access to supervised release on parole. It is all the more important to strengthen the conditions underlying access, since the number of inmates who give up on parole has increased steadily over the years. In 2007-2008, 1,198 out of 3,362 eligible inmates gave up on parole release, compared to 501 out of 3,618 eligible inmates in 2000-2001. Overall, the percentage of eligible inmates who gave up on parole release increased from 13.8% in 2000-2001 to 35.6% in 2007-2008.

RECOMMENDATION

Whereas the parole program is a fundamental element of the social reintegration of inmates;

Whereas the tendency of inmates to give up on release on parole has increased over the last few years;

Whereas such a high rate of postponements two years after implementation of the new regime indicates that the system must be adjusted in order to ensure that the processes in place truly serve the letter and the spirit of the Act;

The Québec Ombudsman recommends that the Ministère de la Justice, the Ministère de la Sécurité publique, the Director of Criminal and Penal Prosecutions and the Commission québécoise des liberations conditionnelles work together to analyse bottlenecks in the current parole release system, in order not only to improve existing practices but also to make suitable changes to the rules and simplify their operation, if possible. It also asks that they report to it on the changes made by January 31, 2010.

COMMENTS

The **Commission québécoise des libérations conditionnelles**, through its President, made the following comments:

"The Commission agrees on the need for mechanisms to ensure that all documents stipulated in section 19 of the Act are in fact provided. The decision-making process must uphold the principles of public protection and social reintegration. The Commission is therefore willing to collaborate in every initiative in this area."

The **Ministère de la sécurité publique**, through its Deputy Minister, made the following comments:

"We agree with the comments made by the President of the Commission des libérations conditionnelles."

The **Ministère de la Justice**, through its Deputy Minister and Deputy Attorney General, made the following comments:

"I confirm that the Ministère de la Justice agrees with this objective, and is prepared to collaborate fully."

The **Director of Criminal and Penal Prosecutions** made the following comments:

"I confirm that the Director of Criminal and Penal Prosecutions agrees on the recommendation made by the Québec Ombudsman."

Social reintegration: Ignoring the spirit of the law

An inmate contacted the Québec Ombudsman to complain that the Commission québécoise des libérations conditionnelles had been slow to examine his request for release on parole.

The Québec Ombudsman's investigation revealed that the initial hearing was postponed because two documents from the Director of Criminal and Penal Prosecutions had not yet been added to the inmate's file.

A second hearing was scheduled a month later, but was also postponed because one of the documents, which the Director of Criminal and Penal Prosecutions is obliged to supply, was still missing. Following an intervention by the Québec Ombudsman, the missing document was finally sent to the detention facility. Because of legal delays in setting a new hearing date, the inmate had to wait almost another month before being able to submit a complete file to the Commission québécoise des libérations conditionnelles, so that it could review his request for release on parole.

Ministère de la Sécurité publique – Investigation processes for incidents involving police officers

SERIOUS INCIDENTS INVOLVING POLICE OFFICERS

On August 9, 2008, a citizen of Montréal-Nord died during an intervention by City of Montreal Police Force. The following day, the Ministère de la Sécurité publique asked the Sûreté du Québec to investigate the actions of the police officers concerned, in accordance with departmental policy on police investigate or detentions involving fatalities.

The circumstances surrounding the death of the citizen, as well as the fact that the investigation was entrusted to another police force, generated extensive debate and raised many questions about the investigation process for incidents involving police officers and resulting in death. The Québec Ombudsman paid close attention to this case, and decided to review the investigation process used for such incidents in Québec, adding to its previous interventions on this topic.

The Québec Ombudsman's thoughts are based on the assumption that, in investigations of incidents involving police officers, the process must reassure both the general public and the police officers themselves that there is not only the appearance of justice, but also true justice that takes into account the realities of police work and the circumstances of the event being investigated. The Québec Ombudsman has therefore identified a number of criteria that must be met during any investigation of police actions. Departmental policy in Québec has been reviewed in light of these criteria and compared to practices used in the rest of Canada and in the United Kingdom.

The Québec Ombudsman's report will be available on www.protecteurducitoyen.qc.ca, in 2009.

Revenu Québec: A question of fairness

APPLICATIONS TO CANCEL STATUTORY INTEREST, PENALTIES AND CHARGES

The Act gives the Minister of Revenue discretionary power to cancel interest, penalties, or charges relating to a tax debt[3]. The criteria allowing for cancellation are described in a Revenu Québec interpretation newsletter.

Last year, the Québec Ombudsman said it had intervened systemically following complaints from citizens whose applications for cancellation of interest or penalties on their tax debt had been refused by Revenu Québec, even though their situation met the criteria set out in the interpretation newsletter. The goal of the Québec Ombudsman's intervention was to ensure that the process implemented by Revenu Québec to review these applications gave equal treatment to all citizens, regardless of where they might live and regardless of the Revenu Québec authority contacted.

More specifically, the goal of the intervention was to check that the Revenu Québec process:

- Ensured that, in all cases, the citizen's arguments and personal situation were fully reviewed, and that the analysis of cases was consistent in all regional offices and directorates;
- Ensured transparency in how decisions were made, especially in writing;
- Ensured impartial treatment of applications though independent recourse.

The Québec Ombudsman noted the following deficiencies:

- As far as transparency was concerned, the recourse was not well-known to tax payers as it was not widely advertised;
- The officers who processed applications for cancellation did not have access to the tools they needed to ensure consistent decisions between the various Revenu Québec authorities;
- The reasons given were not satisfactory, since they did not allow the citizen to understand why the application had been refused and, as a result, to determine the grounds on which to base a request for review;
- The mechanism used to process requests for review following a refusal did not guarantee an independent recourse. In fact, the same person was likely to be involved in both the initial processing of an application and its review.

[3] Section 94.1 of the Act respecting the Ministère du Revenu (s. 94.1)

Following its intervention, the Québec Ombudsman issued five recommendations to Revenu Québec, in order to correct these deficiencies. In summary, these recommendations are:

- That Revenu Québec publish information concerning this recourse on its website and in its public documents, along with the justification criteria from the interpretation newsletter;
- That a form for cancellation applications be provided to citizens, on the website, so that they are able to provide all relevant information for assessment of their situation;
- That the measures introduced by the *Direction principale des services à la clientèle des particuliers* to assess applications for cancellation[4] be applied to all Revenu Québec units that process such requests, except for applications based on the inability to pay[5];
- That Revenu Québec be more transparent in giving the reasons for its decisions to the population;
- That reviews be entrusted to a different regional office than the one that processed the initial application for cancellation, or to a centralized team within each general directorate.

Revenu Québec has agreed to the first four recommendations.

COLLECTIVE GAINS

Since December, 2008, the recourse has been published in the Revenu Québec brochure entitled "Recourse for Your Tax-Related Problems" since December 2008, and has appeared on the Revenu Québec website since January, 2009.

Three application forms for cancellation have also been available to the general public on Revenu Québec's website since December 2008. They are *MR-94.1* (for applications related to personal income tax), *MR-94.1.A (Application for the Evaluation of a Financial Situation)*, and *FP-4288 (Application for the Cancellation of Interest, Penalties or Charges Related to the GST or the QST)*.

Since September 2008, all general directorate branches that process applications for cancellation have set up teams of officers specifically appointed for that task. These officers received structured training in January 2009, and new work instructions have been put online for their use.

To ensure greater transparency regarding the grounds for refusal of applications, the tax collection centre, along with the Direction générale des particuliers, has reviewed the decision letters in order to explain the reasoning more clearly, to the Québec Ombudsman's satisfaction. The new letter templates and the list of different possible grounds for refusal were published online in October 2008 for the tax collection centre and in January 2009 for the Direction générale des particuliers. Their use will be subject to ongoing quality control.

[4] These are measures that were implemented during the Québec Ombudsman's investigation with the goal of ensuring more consistent decisions. Request processing has been centralized in four administrative regions where officers have been appointed to perform this task. These officers have received structured training and are assisted by five resource people. A communication network will be set up, and periodic meetings between the resource people are also planned to improve exchanges of information, under the responsibility of a coordinator.

[5] Applications for cancellation based on inability to pay are processed by Revenu Québec's tax collection centre. Since inability to pay is an objective criterion that can be confirmed after assessing the taxpayer's financial situation, the Québec Ombudsman feel it is necessary to extend its third recommendation to the processing of these requests.

Revenu Québec did not agree to the Québec Ombudsman's fifth recommendation. Given the expertise that the general directorates have built up with respect to their respective clienteles, Revenu Québec prefers to process requests for review within the same unit that processed the initial application. Review requests will continue to be assessed by a person at a higher hierarchical level than the person who made the initial decision. However, in light of the Québec Ombudsman's concern about the independence of the recourse, Revenu Québec has agreed to add the names of the people consulted to the assessment reports for cancellation applications, so as to ensure that they are not consulted again in the event of a request for review.

The Québec Ombudsman believes the measures implemented by Revenu Québec to process applications for cancellation in a more consistent manner and to improve transparency will result in applications being processed more fairly. It therefore concludes that the measures implemented by Revenu Québec in response to its intervention meet the intent of its recommendations. These improvements, which will benefit taxpayers, have been achieved thanks to the collaboration of Revenu Québec.

AN UNFAIR SITUATION FOR MEMBERS OF THE PUBLIC SERVICE

An amendment to section 12.0.2 of the Act respecting the Ministère du Revenu, adopted by the National Assembly on November 7, 2007, stipulates that a citizen's fiscal debt can be deducted from any sums owed to him or her by a department or public agency. This deduction can be performed within 90 following the issuing of the notice of assessment.

The Québec Ombudsman noted that this amendment to the Act does not have the same impact for Government staff as for private sector employees. The Act allows Revenu Québec to immediately repay a debt incurred by a public servant through deductions from that employee's salary. In the case of an employee in the private sector, however, Revenu Canada must seize the employee's wages, 90 days after the notice of assessment has been issued. Employees in the private sector therefore benefit from breathing space which is not available to Public Service staff.

COLLECTIVE GAIN

Following the Québec Ombudsman's intervention, Revenu Québec issued a directive to collection officers on June 18, 2008, instructing them not to deduct sums of money from the wages of a Government employee until the 91st day following the issuing of the notice of assessment.

HOME MAINTENANCE TAX CREDIT FOR SENIORS

Unacceptable delays in payment: The Québec Ombudsman intervened

In March 2008, the Ministère des Finances introduced an analysis grid stipulating the expenses that are eligible for the home maintenance tax credit for seniors. It also required mandatory justification of these expenses to obtain early payment.

To apply the grid introduced by the Ministère des Finances, Revenu Québec established a set of administrative guidelines for the tax credit. However, a backlog of applications soon accumulated due to the significant increase in the number of verifications required as a result of the new standards. Accordingly, in May 2008, Revenu Québec decided only to process monthly early payment requests, and to leave aside all applications for reimbursement of expenses for occasional services.

The Québec Ombudsman, alerted by a complaint from a citizen, approached Revenu Québec in September 2008, and asked for members of Revenu Québec's personnel to be assigned to the processing of applications for early payment of occasional expenses. Revenu Québec agreed to this request and assigned ten employees (out of a total of 80) to this task.

By December 2008, Revenu Québec had eliminated its backlog of applications for early payment of the home maintenance tax credit for seniors.

Services Québec – Directeur de l'état civil

NEW PROCESSES TO MEET THE NEEDS OF CITIZENS

In 2006-2006 and again in 2007-2008, the Québec Ombudsman issued the following two recommendations concerning the powers of the Directeur de l'état civil:

- "That the Civil Code of Québec be amended so that a person born in Québec can ask the Directeur de l'état civil for a certificate of change of designation of sex even if he or she is no longer domiciled in Québec";
- "That it also be amended to take into account the traditions and customs of new immigrants and members of cultural communities with regard to patronymics upon registration of a birth in the register of civil status."

With regard to the first recommendation, the Ministère de la Justice, in the winter of 2008, said it was willing to reopen this issue in order to introduce legislation concerning gender change certificates at the earliest possible opportunity. In February 2009, the Québec Ombudsman was informed that a draft bill would be prepared on the basis of its recommendation. The Québec Ombudsman draws the attention of MNAs to the urgency of this change, which has already been delayed too long.

As for the family names of certain cultural communities, the Ministère de la Justice is still reviewing the situation. The Superior Court of Québec has determined that the grounds for masculinizing family names have merit and are not capricious. Nevertheless, in 2008-2009, the Directeur de l'état civil still requires that the parents of a newborn pay a fee of at least $350 to make this change.

MAINTAINING THE REGISTERS OF THE DIRECTOR OF CIVIL STATUS

In 2008-2009, two interventions by the Québec Ombudsman helped to improve the integrity of the registers maintained by the Directeur de l'état civil for delivery of birth certificates. A third intervention led to the relaxation of a practice dating back to 1994.

It is extremely important for citizens to be able to obtain a birth certificate. A birth certificate is usually required to obtain a driver's licence, a health insurance card, and a Canadian passport. The certificate, along with the birth registration itself, also give access to various government services, such as childcare programs and the retirement pensions of the Régie des rentes du Québec. The obligations and duties of the Directeur de l'état civil therefore carry an enormous weight.

The results of the Québec Ombudsman's three interventions are described below.

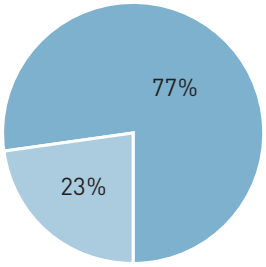
Following a ruling affecting the patronymic and given names of a newborn, the Director issued a new birth certificate at the request of a child's father, contrary to the law. Because the ruling was being appealed, the law did not allow the birth certificate to be changed. The Ombudsman was assured that, in future, the Directeur de l'état civil will check with the court in question that the ruling he receives is truly final and without appeal.

COLLECTIVE GAIN

The Directeur de l'état civil issued a document that did not correspond to the birth certificate as amended by an adoption ruling in the 1980s. At that time, civil status registers were kept by parishes and municipalities, which all had their own individual processes. In particular, rulings amending birth certificates were not always kept with the amended instrument. Therefore, if an error occurred, the Directeur was not able to recognize it. The Québec Ombudsman showed that a citizen, in one such case, received a birth certificate that changed her patronymic and thus her identity. At the Ombudsman's request, the Directeur modified the process in order to obtain access to rulings made before January 1, 1994, for all new applications. He will act on the basis of those rulings whenever the document request does not correspond to the birth certificate as amended following a ruling.

The Directeur de l'état civil changed a third practice related to declarations of birth made by parents more than 30 days after the birth of the child. Since 1994, under the regulation concerning fees payable for acts of civil status, changes of name and changes of gender, the Directeur imposes a fine for late registration of a child. If this fine is not paid, the birth is not registered. This process has resulted in approximately 200 denied registrations. The Québec Ombudsman intervened, deeming it unreasonable for the Directeur to make the registration of children conditional on payment of a fine when his primary duty is to register births without delay. The Directeur de l'état civil, who himself had questioned the validity of this practice, introduced changes while still respect the wording of the rule, and corrected the pending cases. Since the summer of 2008, all new reported births are registered without waiting for payment of the fine. Parents who are late in declaring births are required to pay these fees at a later date.

BENEFITS AND COMPENSATION



Unsubstantiated complaints: 1,115

Substantiated complaints: 341

		Uncompleted investigations		Completed investigations		
Government departments and agencies	**Complaints received**	**Complaints referred**	**Complaints interrupted**	**Unsubstantiated complaints**	**Substantiated complaints**	**Total**
Commission administrative des régimes de retraite et d'assurances	40	-	20	19	9	48
Commission de la santé et de la sécurité du travail						
Worker compensation and rehabilitation	675	11	356	216	51	634
Compensation for victims of criminal acts	109	2	59	42	13	116
General	56	1	15	6	5	27
Régie des rentes du Québec	265	2	91	147	30	270
Société de l'assurance automobile du Québec						
Compensation for road accident victims	804	3	153	449	175	780
Highway Safety Code	375	5	71	236	58	370
General	47	-	-	-	-	-
Total	**2,371**	**24**	**765**	**1,115**	**341**	**2,245**

The time taken to process files, rule on claims or pay amounts owing were the reasons given for a significant percentage of substantiated complaints concerning the Commission administrative des régimes de retraite et d'assurances (33%), the Commission de la santé et de la sécurité du travail (worker compensation and rehabilitation, 53%, compensation for victims of criminal acts, 61%) and the Société de l'assurance automobile du Québec (compensation for road accident victims, 39%).

Problems relating to the information given to citizens were also the source of several interventions by the Québec Ombudsman with the Commission administrative des régimes de retraite et d'assurances (56% of substantiated complaints), the Régie des rentes du Québec (17% of substantiated complaints) and the Société de l'assurance automobile du Québec (Highway Safety Code, 17% of substantiated complaints).

Lastly, a significant percentage of substantiated complaints related to refusals or interruption of income replacement benefit or compensation payments, as well as disputes concerning the calculation of amounts paid: 17% in the case of the Régie des rentes du Québec, 10% in the case of the Commission de la santé et de la sécurité du travail (worker compensation and rehabilitation) and 33% in the case of the Société de l'assurance automobile du Québec (compensation for road accident victims).

One complaint in every five concerns benefits and compensation

The agencies responsible for paying benefits and compensation (e.g. the Société de l'assurance automobile du Québec, the Commission de la santé et de la sécurité du travail, the Régie des rentes du Québec and the Commission administrative des régimes de retraite et d'assurances) account for only a small percentage of all the government departments and agencies (4 out of 86) over which the Québec Ombudsman has jurisdiction in the area of public administration but were involved in nearly 20% of the complaints received in 2008-2009.

This is not difficult to understand, given that the agencies in question serve a large percentage of the population, manage complex plans and make decisions that impact upon the very delicate matter of personal income. Nevertheless, the complaints received by the Québec Ombudsman reveal a number of deficiencies in the management of the plans in question, including unreasonable file processing times and information that is incomplete or difficult for the general public to understand.

COLLECTIVE GAIN

In its 2006-2007 annual report, the Québec Ombudsman recommended that the Société de l'assurance automobile du Québec and the Commission de la santé et de la sécurité du travail should coordinate their actions when examining the files of citizens who are involved in a second incident after being compensated by either authority for the first incident. The Ombudsman is satisfied with the follow-up action taken as a result of this recommendation, and in particular with the special file process introduced for such cases, which will help avoid situations where individuals suffer due to a lack of coordination and harmonization between the two agencies.

Société de l'assurance automobile du Québec

The Société de l'assurance automobile du Québec (SAAQ) is one of the authorities that generates the largest number of complaints for the Québec Ombudsman. These complaints relate to the two main components of the SAAQ's mission, namely compensation for victims of road accidents and application of the Highway Safety Code.

In 2008-2009, the Québec Ombudsman observed that many of the major problems identified in its previous reports, and in respect of which recommendations had been made, were settled satisfactorily, including the following: delays in submitting files to the Tribunal administratif du Québec, illegal interruptions of compensation payments, processing of pardons for drivers, incorrect interpretation of the Highway Safety Code in respect of the holders of learner's licences and reimbursement of overpayments made by the owners of motorcycles wrongly classified as being high risk.

However, the Québec Ombudsman is still working with the SAAQ on certain other problems that are prejudicial to the general public. For example, the Ombudsman is concerned about the application of the law in multiple accident cases, and is still dissatisfied with the time taken to issue medical reports.

The Québec Ombudsman continues to work on an acceptable outcome for these and other issues involving the SAAQ.

COMPENSATION FOR ROAD ACCIDENT VICTIMS

ISSUING OF MEDICAL REPORTS: UNACCEPTABLY LONG DELAYS

In its last four annual reports, the Québec Ombudsman has denounced the time it takes the SAAQ to issue medical reports. This aspect has some important consequences for road accident victims because it delays compensation payments.

The situation described in the box on the following page clearly shows the hardship this can cause for road accident victims who must wait several months before receiving the money to which they are entitled.

In 2006, the SAAQ drew up a three-year action plan aimed at changing its compensation application processing methods. Ultimately, these changes are expected to shorten the time required to issue medical reports. The Québec Ombudsman has monitored the situation carefully, emphasizing in successive annual reports how important it is for the plan, once implemented, to have a real impact on processing times.

In 2007, an improvement was observed in this respect. In 2008, however, the Québec Ombudsman observed that times had remained virtually unchanged, at an average of 82 days compared with 85 in 2007, for all categories of medical reports. It also observed an increase in average times for most categories of medical reports with financial impacts for the people concerned (e.g. delays in paying income replacement benefits or lump sum compensation for after-effects).

Although the SAAQ believes the introduction of its action plan in 2009 will help reduce the time taken to issue medical reports, the Québec Ombudsman is nevertheless concerned because no specific improvement target has been set. The steps taken in the coming year will be of key importance, and must produce a substantial improvement in medical report processing times.

The Québec Ombudsman will continue to monitor the situation, and will intervene during the year if the new measures do not improve the situation.

RECOMMENDATION

Whereas the time taken by the Société de l'assurance automobile du Québec to issue medical reports continues to be unacceptably long;

Whereas this results in prejudice for the victims of road accidents;

Whereas, despite the SAAQ's action plan, no specific target for improvement has been set;

The Québec Ombudsman recommends that the SAAQ should set targets for improvement so as to be able to assess the impacts of its reorganization on the time taken to issue medical reports, and that it inform the Québec Ombudsman of those impacts by June 30, 2009.

COMMENTS FROM THE SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

The Société de l'assurance automobile du Québec made the following comments, through its President and Chief Executive Officer:

"The SAAQ welcomes the Québec Ombudsman's recommendation and undertakes to provide goals and targets for improving the time taken to issue medical opinions, by June 30, 2009. Work is currently underway on this issue, and it has already been agreed that a meeting will be arranged with the Québec Ombudsman's representatives before that date, to present the results."

One year and five months to obtain a medical report

A woman contacted the Québec Ombudsman because she was dissatisfied with the time taken by the Société de l'assurance automobile du Québec to decide whether or not she was entitled to receive lump sum compensation for after-effects. In June 2007, the compensation officer requested a medical report from one of the SAAQ's consultant physicians in order to assess the additional after-effects suffered by the citizen due to an amputation resulting from her accident.

Although the SAAQ asked for this matter to be given priority, the report was not obtained until November 2008. The applicant therefore had to wait a year and five months to receive the sum of $30,366.95 to which she was entitled as compensation for her sequelae.

DELAYS IN FORWARDING ADMINISTRATIVE RECORDS OF ROAD ACCIDENT VICTIMS TO THE TRIBUNAL ADMINISTRATIF DU QUÉBEC

A domino effect for the Tribunal administratif du Québec

In its 2007-2008 annual report, the Québec Ombudsman noted that the SAAQ had failed to comply with the mandatory thirty-day period stipulated in the Act respecting administrative justice for sending files to the Tribunal administratif du Québec. In 2007-2008, the SAAQ took an average of 155 days to forward files. This long timeframe, by delaying the resolution of disputes, causes prejudice to citizens. The SAAQ promised that it would solve this problem in 2008, and it has done so.

COLLECTIVE GAIN

In September 2008, the SAAQ informed the Québec Ombudsman that it was now able to comply with the thirty-day period prescribed by law. The Ombudsman checked with the Tribunal, which confirmed that this was in fact the case.

The Québec Ombudsman is satisfied with the steps taken by the SAAQ to eliminate processing delays. They have resulted in a significant improvement for road accident victims who take their cases before the Tribunal.

However, the Québec Ombudsman notes that this improvement, combined with the efforts made to overcome the delay in processing applications for administrative reviews, has led to a considerable increase in the number of automobile insurance cases before the Tribunal administratif du Québec. As a result, the Tribunal has had to take steps to avoid its own processing delays and maintain its ability to achieve the goals of accessibility, diligence and quality set by the Act respecting administrative justice. The Québec Ombudsman will continue to monitor the situation in the coming year.

ILLEGAL INTERRUPTION OF COMPENSATION ON AN ADMINISTRATIVE BASIS

An illegal practice, now corrected

In its last annual report, the Québec Ombudsman described a worrying practice by the SAAQ, which sometimes interrupted compensation payments without rendering a formal decision, on grounds not provided for in the Automobile Insurance Act. This practice resulted in immediate, unannounced interruptions of compensation payments that were often the main source of subsistence income for the victims concerned. In the wake of the Québec Ombudsman's recommendations, the SAAQ introduced an action plan to terminate this practice.

In 2008-2009, the Québec Ombudsman received a number of new complaints about this practice, and notified the SAAQ, which quickly amended its action plan. The Québec Ombudsman believes these latest measures are sufficient to ensure that compensation payments are not interrupted in the future, thereby terminating an illegal and extremely unfair practice. It will nevertheless continue to monitor the situation for any recurrence of the problem.

APPLICATION OF THE ACT TO MULTIPLE ACCIDENTS

Can a person be fit and unfit at the same time?

According to the Automobile Insurance Act, the SAAQ, three years after the date of an accident, may determine the type of employment that a road accident victim capable of returning to work is fit to hold. The individual then receives income replacement benefits for one additional year, to give him or her the time to find a job.

However, some victims may still be unfit for work. This would be the case, for example, of someone who has been involved in a second road accident, when the SAAQ identifies a type of employment based on the information contained in the original file. In such a case, the victim would still be unfit at the time the additional year of benefits begins, and this would cause considerable prejudice because the person would be unable to take full advantage of a measure designed to facilitate the return to work.

The Québec Ombudsman has recommended that, in the case of multiple accidents, employment should be determined only after an exhaustive analysis of the victim's state of health, and only when the evidence clearly shows that he or she is fit for work.

Discussions between the Québec Ombudsman and the SAAQ are ongoing, and the two authorities are working together to find an acceptable solution to this problem.

Absence of information

In June 2006, a citizen sent a claim to the Société de l'assurance automobile du Québec for treatment required as a result of a road accident. In April 2008, the SAAQ, although it felt the treatment was appropriate, refused to reimburse the cost because the specialized nurse who provided the treatment was no longer a member of her professional order, contrary to the regulation. The compensation agent responsible for the file had apparently been aware of this fact since October 2006.

The Québec Ombudsman felt the compensation agent's decision was unreasonable because it could have been made in October 2006, seventeen months earlier. Because of the delay, the citizen in question had been deprived of vital information that would have allowed her to hire another nurse who was a member of the order, and qualify for reimbursement of the cost.

The Québec Ombudsman felt this was unfair, and asked the SAAQ to reimburse the cost of all the treatments received by the citizen. The SAAQ acknowledged its mistake and agreed to pay her an amount of $1,035.

Cancellation of a demand for more than $17,000

Following a road accident, a citizen informed the Société de l'assurance automobile du Québec that, had it not been for the accident, he would have obtained a job. He was granted income replacement benefit in accordance with the Automobile Insurance Act. After an investigation, however, the SAAQ found that the individual did not have a guaranteed job at the time of the accident, and demanded that the citizen reimburse $17,130.45.

After examining the file, the Québec Ombudsman concluded that the SAAQ could not in fact recover this amount. The citizen had made the declaration in good faith, convinced that an employer had guaranteed him a job prior to the accident, and had presented credible evidence to support this claim. Because there had been no fraud, the law did not allow the SAAQ to recover the benefits paid. Given the credibility of the evidence presented by the citizen, the Québec Ombudsman approached the SAAQ's administrative review department, which agreed to change the compensation agent's decision and stipulate that it was not entitled to recover the amount of $17,130.45 paid to the citizen.

A refusal that caused significant prejudice

In February 2008, the Société de l'assurance automobile du Québec rendered a decision refusing to acknowledge the connection between a road accident and an injury suffered by a citizen. The citizen did not agree with this decision, and approached the Québec Ombudsman. Several months later, the SAAQ terminated the citizen's income replacement benefit, judging that he was fit for work.

Following an investigation, the Québec Ombudsman noted that new medical evidence had been presented, but had not been taken into account by the SAAQ. It asked the SAAQ to have the file reviewed by a consulting physician.

After a lengthy discussion, the SAAQ agreed to the Québec Ombudsman's request. The file was reviewed by a consulting physician, who felt the injury had in fact been caused by the road accident. The SAAQ therefore rendered a new decision authorizing the payment of income replacement benefit. In addition, the citizen received a backdated payment of $9,024.43.

THE SAAQ REIMBURSES AMOUNTS OVERPAID BY THE OWNERS OF MOTORCYCLES WRONGLY CLASSIFIED AS HIGH RISK

A citizen objected to the fact that his motorcycle had been classified as high risk, when it had the same characteristics as an ordinary motorcycle. The Québec Ombudsman was informed about this complaint, and asked the SAAQ to examine the citizen's arguments. Several months later, it learned that the SAAQ had revised the list of high-risk motorcycles and had removed the model driven by the citizen in question. The Québec Ombudsman therefore asked it to reimburse the additional premiums paid by all the owners of that particular model.

In 2008, public automobile insurance premiums were adjusted to reflect the level of risk presented by certain categories of motorcycles. As a result, the cost of registering a motorcycle rose from $416 for an ordinary motorcycle of 401 cubic centimetres or over to $667 for a high-risk motorcycle (i.e. an increase of nearly 40%).

The SAAQ refused, and the Québec Ombudsman reiterated its request to the Complaints Office, which was already aware of the problem since it, too, had received complaints on the same grounds. Less than a month later, the SAAQ's chief executive officer informed the Québec Ombudsman that the amounts in question would be reimbursed, so as to be fair to those concerned. The Québec Ombudsman is satisfied with this decision.

A MUCH-NEEDED OVERHAUL OF THE COMPUTER SYSTEM

In 2008-2009, following interventions by the Québec Ombudsman, the Société de l'assurance automobile du Québec undertook to make certain changes to its computer systems. However, given its other priorities and the scope of the changes, it was forced to delay the introduction of remedial measures, as the following examples show.

The Société de l'assurance automobile du Québec agrees to review the method for disclosing driver's records following a conditional pardon, pardon or absolution

In Canada's judicial system, citizens found guilty of criminal acts can obtain a conditional pardon, pardon or absolution from the National Parole Board between three and five years after serving their sentence or paying their fine. Generally speaking, this means that the person's prior criminal record is no longer accessible to the general public, thereby mitigating the impacts of a criminal conviction over time.

The Québec Ombudsman was able to note the SAAQ's new position regarding pardons in a complaint made by a citizen whose request to remove information from her driver's record concerning a criminal conviction for impaired driving in 2004 was refused by the SAAQ. Shortly before the citizen made her request, the SAAQ had decided that pardons would no longer be

recognized in its records. Although this position was entirely legal, because the law applies only to files kept by the federal government, the Québec Ombudsman nevertheless questioned its pertinence, especially since provincial and municipal agencies normally cooperate by limiting access to information concerning criminal convictions where the offenders have obtained rehabilitation.

COLLECTIVE GAIN

The Québec Ombudsman learned that, as a result of its questions, the SAAQ decided that when citizens were able to provide evidence of pardon, it would no longer display the criminal conviction in its files. Not only did it agree to rectify the complainant's file, but it also undertook to do the same thing for roughly 50 other drivers.

Implementation challenge

However, the Québec Ombudsman notes that the SAAQ has delayed the application of these remedial measures. The SAAQ says it has encountered some problems in removing all references to pardoned convictions when producing record reports, but still retaining access to the information, which it needs in the case of a second offence within a ten-year period, at which point it is entitled to consider new convictions. This situation is covered by section 76 of the Highway Code, among.

The Québec Ombudsman has been informed that the SAAQ has introduced a temporary administrative solution. The Ombudsman does not consider this temporary measure to be satisfactory, however, since it does not guarantee that conditional pardons, pardons and absolution will always be given full effect in all circumstances. The SAAQ should certainly be able to find a more effective administrative solution until such time as it is able to make the required changes to its computer systems.

Suspending a licence ... but not the fee

Last year, the SAAQ agreed to display information on its website concerning the possibility of requesting reimbursement of fees paid in advance for periods during which a driver's licence is suspended. This year, following a complaint received from a citizen whose licence was suspended for a 34-month period for medical reasons, the Québec Ombudsman observed yet another potential prejudice. In the case in question, when the licence suspension was lifted the SAAQ invoiced the citizen for the fees not paid for part of the suspension period, plus a penalty for late payment. Thanks to an intervention by the Québec Ombudsman, the invoice was cancelled and steps were taken to find out why it was issued in the first place, so that other drivers are not subjected to this type of claim in the future.

The investigation revealed that an invoice is automatically generated by the SAAQ's computer system whenever a licence is suspended, but not when the SAAQ revokes the right to drive following a criminal conviction.

The SAAQ is currently seeking a temporary solution to this problem, until its computer system can be reviewed.

The Québec Ombudsman does not consider this response to be satisfactory, because citizens are still being invoiced for amounts that they do not owe.

Learner's licence holders: Repeating the theoretical portion of a proficiency examination passed more than three years ago

Before taking the practical session of the proficiency examination and obtaining a probationary or regular driver's licence, a person must have passed the theoretical session and held a learner's licence for at least eight months if he or she took a driving course, or twelve months without a driving course. Under the Highway Safety Code, the SAAQ may require a person who has not obtained a valid driver's licence three years after taking the theoretical and practical proficiency examinations for the first time, to repeat them in order to obtain a new licence.

The SAAQ used this provision as its basis for stipulating that learner's licence holders who had taken the theoretical examination more than three years previously must repeat that examination before taking the practical session, even if their learner's licence was still valid. This was an illegal application of the Highway Safety Code. The Québec Ombudsman asked the SAAQ to terminate this practice for all learner's licence holders. As a result, the SAAQ undertook to change its administrative directives and to adjust its computer systems by June 2009. The SAAQ has had to delay the implementation of corrective measures because of the scope of the task and the fact that it also has other priorities at this time. The necessary changes will be made in the fall of 2009.

Although satisfied with the SAAQ's undertakings, the Québec Ombudsman is once again concerned by the amount of time taken by the agency to implement the proposed changes. In the meantime, according to the SAAQ's own figures, approximately 4,000 drivers are asked to repeat their theoretical examination every year, contrary to the law.

This is not the first time the Québec Ombudsman's interventions have required changes to the SAAQ's computer systems. For example, the Ombudsman asked the SAAQ to ensure that when it is notified of a change of address, the change is implemented in all its files, including vehicle co-ownership files where applicable. The computer system has not yet been adjusted to do this, however, and an administrative measure is still in force. Similarly, the Québec Ombudsman has also approached the SAAQ on several occasions to ensure that citizens who make transactions at service centres can obtain information on their entire file, including the validity of their driver's licence and the status of their vehicle registration. Improvements such as these often require a complete overhaul of the computer systems.

The SAAQ has long expressed concern about this matter, which affects its ability to provide quality service and reliable information to users in accordance with its Declaration of Services to Citizens. Despite its concern, it is still unable to proceed because of other priorities and the scope of the task. It does not expect further computer development work to begin before 2011.

RECOMMENDATIONS

Whereas, every year, citizens are adversely affected by the limitations of the SAAQ's computer system;

Whereas it is important for citizens to obtain full and accurate information on their files when they contact the SAAQ for a transaction;

Whereas the limitations of the computer systems should never cause omissions that mislead citizens as to the validity of their driver's licence or vehicle registration;

Whereas the limitations of the computer systems should never, in any circumstance, justify requirements or billings that are contrary to law;

The Québec Ombudsman recommends:

That the SAAQ should overhaul its computer systems so as to allow for a quick review of the licence and registration files of every citizen who effects a licence or registration transaction at a service centre, and also to avoid requirements that are contrary to the Act;

That the SAAQ should treat the overhaul as a priority, and inform the Québec Ombudsman of the outcome of its timeframe review by September 30, 2009;

That, in the meantime, the SAAQ should introduce the necessary administrative measures, regardless of the constraints involved;

That the SAAQ should submit an action plan to the Québec Ombudsman by June 30, 2009, detailing these measures.

COMMENTS FROM THE SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

The Société d'assurance automobile du Québec made the following comments through its President and Chief Executive Officer:

"The SAAQ accepts the first recommendation. As for the second, concerning a timeframe review, given the scope and complexity of the task, the SAAQ will inform the Québec Ombudsman of the progress made as it occurs, rather than committing to a specific date.

The SAAQ accepts the third and fourth recommendations, and undertakes to produce the requested action plan by June 30, 2009."

Commission de la santé et de la sécurité du travail

WORKER COMPENSATION AND REHABILITATION

UNACCEPTABLE DELAYS

Of the 86 government departments and agencies over which the Québec Ombudsman has jurisdiction in the area of public administration, the Commission de la santé et de la sécurité du travail (CSST) ranked fifth in terms of the number of complaints received in 2008-2009, with a total of 840. Of these, 675 were concerned with the application of the Act respecting industrial accidents and occupational diseases, and 109 with the application of the Crime Victims Compensation Act. Most of the substantiated complaints concerned processing times.

Although the number of substantiated complaints relating to workers' compensation has declined in the last few years, the percentage of complaints relating to delays has increased this year to 64.7%, from 37.7% last year. The most frequent causes of long processing times are changes to the agent in charge of the file and delays in processing essential documentation. Eight of the nine complaints relating to compensation for victims of crime also concerned processing times.

Unreasonable processing times can cause financial hardship for injured workers and crime victims. For example, an injured worker who is forced to wait several weeks for a decision on his or her entitlement to income replacement benefits must still pay rent and electricity bills, buy food and fulfill other obligations.

The Québec Ombudsman is extremely concerned by the impacts of long processing times, and has launched an investigation to determine the causes of the problem and identify potential remedial measures. It hopes to reduce these unacceptably long times, which can have serious impacts for the vulnerable people who suffer the consequences.

COLLECTIVE GAIN

Missing information causes prejudice

A worker expressed verbal disagreement to an agent of the Commission de la santé et de la sécurité du travail who responded negatively to his claim. However, it was only when the period for objections had expired that he learned of the need to submit applications for review in writing. As a result, he was deprived of his recourse. To avoid ambiguity, the Québec Ombudsman asked the CSST to include a statement in the wording of its decisions to the effect that applications for review must be made in writing to be admissible.

The CSST agreed to change the wording of its decisions, and did so very quickly. The new wording was introduced on November 27, 2008, and since then all letters concerning decisions about workers' compensation now mention the need to apply in writing for a review.

GRADUAL COLLECTION IS PERMITTED BY LAW

If a worker receives compensation to which he or she is not entitled, or if the amount paid is more than the amount to which he or she is entitled, the CSST may recover the amount in question within three years of payment. However, if the person is still entitled to income replacement benefits, it may instead deduct a percentage of the benefit payment, ranging from 25% if the recipient has no dependents to 20% in the case of one dependent or 15% in the case of more than one dependent. This percentage continues to be deducted until the debt is extinguished.

A worker received benefits during a period when he was attempting a gradual return to work. The CSST, informed of this fact, decided to recover the equivalent of the salary paid by the employer during the period in question. However, to ensure that the debt was repaid quickly, it deducted 100% of the worker's income replacement benefit, thereby depriving the worker of all his compensation, when according to law the deduction could not exceed 20% because he had a dependent. Thanks to the Québec Ombudsman's intervention, the worker was able to receive immediate payment of the portion of the income replacement benefit that had been deducted erroneously by the CSST. He then repaid the debt gradually, by means of 20% deductions from his benefit payments until the debt was extinguished.

PROTECTION OUTSIDE QUÉBEC

The employer pays the premium but the employee is not insured

In the last year the Québec Ombudsman approached the CSST regarding the insurance coverage available to workers domiciled outside Québec but working for a Québec company. It had received complaints to the effect that these people were not "insured" when they sustained employment injuries outside Québec, since the Act respecting industrial accidents and occupational diseases did not allow for them to be compensated. They therefore found themselves with no insurance coverage, no income and no recourse during their period of disability. Conversely, the law requires Québec employers to pay their contributions to the CSST based on their total payroll, regardless of where the work is actually performed. As a result, both the employers and the workers concerned wrongly thought they were "covered". The Québec Ombudsman feels it is unreasonable to charge a premium without providing the related coverage.

It therefore asked the CSST to examine this situation and find a fair solution. The CSST chairman and chief executive officer replied that the Act did not allow for this. However, he promised to raise awareness among the people concerned.

Although this is clearly an improvement over the current situation, the simple fact of informing the people concerned will not remedy the contradiction. The Québec Ombudsman has therefore brought this situation to the attention of the Minister responsible, in the hope that a legislative solution can be found that is fair to the workers concerned.

CRIME VICTIMS COMPENSATION DIRECTORATE

TELEPHONE ACCESS

An average wait of seven minutes

Several citizens contacted the Québec Ombudsman concerning the long wait to speak to a representative of the CSST's Crime Victims Compensation Directorate. The Québec Ombudsman verified the complaints by measuring the waiting time for 50 calls to the Directorate over a ten-day period in December 2008. The average wait was seven minutes from pick-up by the automatic answering machine to transfer of the call to an agent. On several occasions, however, the wait exceeded 15 minutes.

These unacceptably long waiting times are made worse by the eminently fragile nature of the people concerned, who often find themselves in dramatic or desperate circumstances and already feel overwhelmed by the Directorate's procedures.

The Directorate's authorities were informed of the situation and acknowledged the problem, which they said was due to a steady growth in the number of calls received but no corresponding increase in the number of agents available to deal with them. It had encouraged its agents to provide as complete a service as possible, and this, too, had caused waiting times to increase.

The Directorate has informed the Québec Ombudsman that it will pay special attention to this problem in the coming year. However, the Ombudsman would have preferred a firm commitment and specific measures to help improve the situation.

RECOMMENDATION

Whereas the wait before speaking to an agent at the Crime Victims Compensation Directorate is very long;

Whereas this long wait can have serious consequences for a particularly vulnerable client group;

Whereas the Centre d'expertise des grands organismes, of which the Commission de la santé et de la sécurité du travail is a member, recommends an average wait of 20 seconds for 80% of the calls received;

The Québec Ombudsman recommends that the Crime Victims Compensation Directorate should provide it with a plan of action by June 30, 2009, which should then be implemented without delay to bring the average waiting time as close as possible to the standard recommended by the Centre d'expertise des grands organismes.

COMMENTS FROM THE COMMISSION

The Commission de la santé et de la sécurité du travail made the following comments via its Board Chair and Chief Executive Officer:

"We have noted the observations and recommendations concerning the telephone services of the Crime Victims Compensation Directorate. First of all, I agree that delays such as this are unsatisfactory. Please be assured that we share your concern with providing the best possible service to our clients.

The Crime Victims Compensation Directorate was informed of your comments on December 9 last, and since then has explored a number of different solutions. However, although there has been some improvement, the measures have not yet had the desired effect because they have only just been, or have yet to be, implemented.

Service access is an essential value and a major factor in achieving ongoing improvements in the quality of our relationship with our clients. We will therefore continue our efforts in this regard in 2009, and will monitor the situation closely."

Commission administrative des régimes de retraite et d'assurances (CARRA)

INSUFFICIENT AND UNSUITABLE INFORMATION

In fulfilling its mission, the CARRA communicates in several different ways with citizens in their capacity as contributors to and beneficiaries of the public and para-public sector pension plans that it administers. Among other things, it calculates contributor participation levels, proposes buy-back plans and estimates pension levels. One of the most common types of complaint relating to the CARRA concerns the poor quality of the written information it provides. The information provided often contains mistakes, even though citizens use it to make important decisions about their retirement, among other things. In other cases the information was insufficient, or no information at all was forthcoming, meaning that citizens were unable to understand their rights and obligations. And even when the explanations were complete, it was often virtually impossible to decipher them because the subject was so complex. The following examples clearly illustrate the impacts of these deficiencies.

An undisclosed number of citizens took an early Québec retirement pension and early Old Age Pension based on information that was not sufficient for them to make an informed decision. The information provided by the CARRA suggested that the early pension benefits were a form of "loan" that participants would reimburse from age 65 onwards, until the debt was extinguished. In reality, however, after early payment of a certain amount, the program reduces the pension for life, as a means of "recovering" the early payments. In some cases, and to their surprise, people found they had repaid more than the amount received as early payment, and would continue to "reimburse" until they died. The problem was not so much the nature of the program, which is no longer in force, but a complete lack of understanding about the consequences of joining it. The CARRA, after consulting the bodies concerned, will inform the Québec Ombudsman of the steps it intends to take, and the Québec Ombudsman will assess whether the proposed solution is fair to these people, who clearly were not adequately informed.

The Québec Ombudsman also took action in cases where the CARRA had sent incorrect estimates of pension payments. At the Ombudsman's request, the CARRA sent explanations and apologies to a woman whose annual pension had been overestimated by more than $5,000. In this particular case, the woman was able to minimize the damage by postponing her retirement before it was too late.

Generally speaking, there was plenty of room for improvement in the quality, accuracy and transparency of the information sent by the CARRA to members of the general public.

RECOMMENDATION

Whereas the information processed and provided by the CARRA is highly complex;

Whereas the impacts of the decisions made by citizens based on this information, and the potential prejudice arising from those decisions, are considerable;

Whereas, in its Declaration of Service to Citizens, the CARRA undertakes to provide full and accurate information and to accurately calculate the value of the pension or reimbursement to which a person is entitled;

The Québec Ombudsman recommends that the CARRA should inform it of the results of the steps taken to improve the quality of the information provided when it implements its 2009-2010 action plan.

COMMENTS FROM THE CARRA

The Commission made the following comments, through its Chief Executive Officer:

"The CARRA agrees with the Québec Ombudsman that the information processed and provided on the subject of its pension plans is highly complex. The information in question is determined by an impressive legislative framework governing the various plans. However, the CARRA regards the quality of the information given to its clients as being an important issue, and has made this aspect into an organizational priority, even though a recent survey confirmed that the CARRA's clients, generally speaking, are satisfied with its services. The CARRA reports on the results obtained in this respect to its board of directors, as follow-up to its annual action plan. In addition, the modernization project currently underway will include a review of the CARRA's communications.

Lastly, with regard to the early pension program, the CARRA will be submitting the file to the RREGOP Retirement Committee, and will inform the Québec Ombudsman of the results of this consultation."

Régie des rentes du Québec

BETTER, MORE ACCESSIBLE INFORMATION

The Régie des rentes du Québec (RRQ) manages the Québec Pension Plan and is responsible for overseeing private pensions plans, a task that involves rendering decisions and issuing orders that can have important consequences for private pension plan contributors and recipients. In a recent intervention on behalf of a contributor, the Québec Ombudsman observed that the RRQ did not always mention the available recourses in its decisions and orders, and in addition, decisions and orders were not always distributed to all the people concerned. For example, pension recipients who no longer had legal representation with their employers or plan administrators had no way of knowing about the decisions. The Québec Ombudsman felt this approach was inconsistent with the principles of the Act respecting administrative justice.

COLLECTIVE GAIN

The Québec Ombudsman asked the RRQ to ensure that information on available recourses was included in all its decisions and orders, and to devise a distribution method for decisions and orders so that everyone concerned was properly informed and able to react as necessary. The RRQ was open to improvements and agreed to the Québec Ombudsman's suggestions. It has undertaken to ensure, in the coming months, that every decision or order is posted in a public place to which those concerned have access, and also mentions potential recourses, as required by law. Indeed, its website has already been changed as a result of the Québec Ombudsman's intervention, and now displays information on recourses.

COMBINATION OF BENEFITS WITH NO NEGATIVE EFFECTS

An addition ... or a subtraction ...

A citizen's only source of income was the income replacement benefit, which had been reduced by the SAAQ, and his surviving spouse's benefit from the RRQ, totalling approximately $1,100 per month. When he turned 60 years old he hoped to improve his standard of living by requesting his retirement pension from the RRQ. Instead, the RRQ agent encouraged him to apply for a disability benefit, which is normally more advantageous. However, in this particular case, because the disability was due to a road accident, the RRQ was required by law to pay the pension to the SAAQ, which in turn paid the beneficiary the higher of the income replacement benefit or the disability benefit. The law also provides for the surviving spouse's benefit to be combined with the disability benefit, thereby reducing the amount. As a result, the citizen, who was expecting to receive more, in fact received approximately $200 per month less than before, because the supplement received through the SAAQ did not compensate for the reduction in his surviving spouse's benefit. Moreover, the RRQ claimed $2,070 in overpayments, since the benefit combination was retroactive to the date on which the disability benefit began to be paid.

The Québec Ombudsman asked the RRQ to find a solution that would be fairer to the citizen. Although the law had been applied correctly, the result was clearly not fair or reasonable. The RRQ acknowledged the validity of this position and the citizen's debt was cancelled after a review. Unfortunately, however, based on the law as it currently stands, it was not possible to restore the citizen's benefits to their previous level.

RECOMMENDATION

Whereas situations involving a combination of benefits from the Régie des rentes du Québec and the Société de l'assurance automobile du Québec can produce unfair outcomes;

Whereas, in practice, citizens who find themselves in these circumstances have no recourse since the authorities are simply applying the law as it currently stands;

The Québec Ombudsman recommends that, as part of the pension plan review that will take place in the fall of 2009, steps should be taken to ensure that the rules applicable to benefit combinations paid to citizens receiving compensation from the Société de l'assurance automobile du Québec do have the effect of reducing their income from its original level.

COMMENTS FROM THE RÉGIE DES RENTES DU QUÉBEC

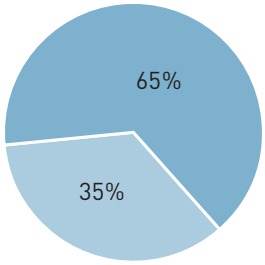
The Régie des rentes du Québec made the following comments, through its Chief Executive Officer:

"The consultation document entitled *Toward a Stronger and Fairer Québec Pension Plan*, tabled in the National Assembly in June 2008, provides for a number of measures aimed directly at the combination of disability and surviving spouse's benefits under the Québec Pension Plan, and by extension these changes will also require harmonization with benefits paid by the Société de l'assurance automobile du Québec. The proposed measures include one that will correct the benefit reduction that can occur under the present rules."

CLARIFICATION BY THE QUÉBEC OMBUDSMAN

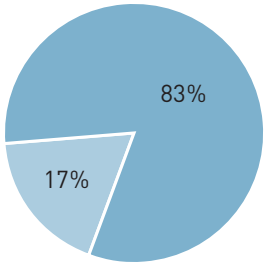
The consultation document to which the RRQ refers does in fact cover the question of benefit combinations. However, the measures it proposes are not precise enough to conclude that the problem will be solved. The Québec Ombudsman awaits further clarification of the proposed changes, and will react accordingly in the forthcoming consultations.

HEALTH AND SOCIAL SERVICES



Health and social services network missions

- Unsubstantiated complaints and reports: 483
- Substantiated complaints and reports: 258



Government departments and agencies

- Unsubstantiated complaints: 154
- Substantiated complaints: 32

		Investigations not completed		Investigations completed		
Health and social services network missions / Government departments and agencies	**Complaints and reports received**	**Complaints and reports referred**	**Complaints and reports interrupted**	**Unsubstantiated complaints and reports**	**Substantiated complaints and reports**	**Total**
Hospitals	480	29	164	163	147	503
Residential and long-term care centres	136	8	36	51	26	121
Local community service centres (CLSCs)	162	15	57	70	41	183
Rehabilitation centres	75	2	15	23	14	54
Child and youth protection centres	174	7	69	105	9	190
Health and social services agencies	92	14	20	37	12	83
Community organizations	5	-	-	4	2	6
Private nursing homes	4	-	2	12	5	19
Prehospital emergency services	25	-	2	18	2	22
Not identified	21	-	-	-	-	-
Sub-total	**1,174**	**75**	**365**	**483**	**258**	**1,181**
Régie de l'assurance maladie du Québec	318	-	34	145	29	208
Ministère de la Santé et des Services sociaux	20	3	10	9	3	25
Sub-total	**338**	**3**	**44**	**154**	**32**	**233**
Total	**1,512**	**78**	**409**	**637**	**290**	**1,414**

The number of complaints relating to the health and social services network increased considerably to 1,174 this year, compared with 689 in 2007-2008. Despite this increase in dissatisfaction levels, however, the percentage of substantiated complaints fell from 38% in 2007-2008 to 35% this year.

Dissatisfaction with clinical aspects accounted for 44% of substantiated complaints concerning child and youth protection centres, 35% of complaints concerning residential and long-term care centres, 30% of complaints concerning hospitals and 27% of complaints concerning local community service centres.

Nineteen percent of the Québec Ombudsman's interventions with residential and long-term care centres were concerned with the living environment, while 9% of the substantiated complaints relating to hospitals were concerned with the attitude, behaviour and competency of staff members.

Lastly, 27% of the substantiated complaints relating to local community service centres were concerned with access to health care, health services and social services, and 62% of the substantiated complaints relating to the Régie de l'assurance maladie du Québec were concerned with telephone waiting times.

Ministère de la Santé et des Services sociaux

Since 2006, the Québec Ombudsman has regularly approached the MSSS concerning the handling of numerous complaints addressed to the Ministry as the authority in charge of the proper functioning of Québec's health and social services system. These discussions have focused mainly on service quality control, the complaint examination system, the certification of private resources for vulnerable persons, and the rights of people with intellectual disabilities or mental health disorders.

Following efforts made in 2007-2008, the Québec Ombudsman has noted some progress, but the haphazard, temporary nature of the changes has been disappointing. It notes, for example, that the MSSS, which confers full responsibility for the implementation of policies, programs and guidelines to the regional health and social services agencies, has no systematic way of evaluating the results obtained.

The Québec Ombudsman is aware that the MSSS relies on the cooperation of a great many stakeholders who work in the health and social services network, but feels that persistent inequities among different regions and different institutions must be addressed and that consistency must be reinforced. The current management method is not adequate to define and implement permanent solutions for the underlying problems.

In 2008-2009, in addition to its interventions on the ongoing issues mentioned above, the Québec Ombudsman examined other issues related to the MSSS and to individual health and social service establishments.

These actions and the related results are described in this report under the headings of the various types of institution. The major areas of concern this year were the pilot agreement for professional services between a hospital and a private medical clinic, the reimbursement of mandatory dental costs incurred in relation to cancer treatments, medical care in detention centres, accessibility and continuity of home support services, risk management in residential and long-term care centres, and the management of local and international adoption services.

RESPONSE TO RECOMMENDATIONS: NOTEWORTHY EFFORTS, RESULTS PENDING

In 2008-2009, the Québec Ombudsman followed up on the recommendations issued to the MSSS in the 2007-2008 Annual Report. Although most of the follow-up information is included under the specific headings presented below, the recommendations that affect most or all institutions are covered here.

INTRODUCTION OF QUALITY INDICATORS

In light of the MSSS's role and obligations in the matter of care and service, the Québec Ombudsman recommended that quality indicators be introduced in every institution. The MSSS accepted this recommendation. To help ensure that the appropriate indicators are selected to attest to the quality of the health and social services offered, the MSSS has launched three activities in cooperation with the agencies: an inventory of quality indicators used by health and social services institutions, a review of the quality indicators used by recognized bodies, and an implementation and operations report on the various management mechanisms used to assess and improve service quality in these institutions. The MSSS has been asked to report back to the Québec Ombudsman on this process no later than December 31, 2009.

The Québec Ombudsman also recommended that the MSSS report annually on the progress of the quality indicators developed and retained by these institutions, and the MSSS agreed to this request. It has informed the Québec Ombudsman that it will start by setting up a mechanism to track and report on the progress of the quality indicators by December 31, 2009. This mechanism will be developed in cooperation with the regional health and social services agencies.

END OF A SERVICE AGREEMENT CONTRACT: REQUIRED INFORMATION AND CONTINUITY

The Québec Ombudsman recommended to the MSSS that health and social services centres properly inform users and their agents or legal representatives of the reasons for ending a service agreement with public or private institutions, as well as the measures taken for providing ongoing services to the users. The MSSS acknowledged that reasons related to service quality or the health and wellbeing of the users should be explained diligently and clearly to the users involved or their representatives. The Québec Ombudsman will pay special attention to the Ministry's practical follow-up with the network on this subject. We may also take action with regard to non-compliant institutions.

PROTECTION OF ESPECIALLY VULNERABLE USERS: THE OMBUDSMAN'S CONCERNS NOT ASSUAGED

Seniors

In April 2006, the MSSS announced that it would ensure certification of all private seniors' residences. Owners were given until February 2009 to obtain their certification. At the time of writing, there are several findings that raise concerns for the Québec Ombudsman. First, the MSSS added four months to the deadline that had been agreed and duly sanctioned by law nearly three years ago. Furthermore, while nearly all (99.7%) the owners of private residences submitted their certification applications within the required time, only 31% received certification (686 of the 2,199 applicants). Yet the Conseil québécois d'agrément informed the Québec Ombudsman on April 8, 2009, that it had visited every targeted residence by April 7, 2009.

Other vulnerable citizens

The Québec Ombudsman's findings from last year, presented in the section on residential and long-term care centres and private residences, are not reassuring.

Moreover, we have been asking for more than three years that other types of private resources also be subject to certification, especially those for people with addictions, mental health problems or intellectual disabilities. The MSSS confirms that it is preparing an omnibus bill for the certification of private residences serving vulnerable client groups.

Before the bill is presented to the National Assembly, the Québec Ombudsman feels an analysis of the situation is in order, to correct the problems encountered in the certification of private seniors' residences:

- Does the MSSS plan to change the procedures that led to delays in certification?
- Will the Québec Ombudsman be given guarantees that the certification process for private residences serving vulnerable client groups will not encounter the same problems that occurred in the certification system for private seniors' residences, in order to ensure service quality?
- Does the MSSS plan to use a more detailed definition of requirements based on the size and volume of the residences while still safeguarding service quality and resident safety?

The Québec Ombudsman urges the Members of the National Assembly to understand the need to move quickly in order to correct current errors and avoid the recurrence of prior problems.

The overall response by the Ministry and the network of health and social services institutions to the Québec Ombudsman's 2007-2008 recommendations is presented in a detailed chart on page 125 of this report. New recommendations arising from actions taken in 2008-2009 are set out in the appropriate sections of this chapter, along with descriptions of the problems to be resolved.

This chapter explores the Québec Ombudsman's major efforts over the last year with the authorities of:

Health and social services institutions:

- Child and youth protection centres (including international adoption of children in Québec)
- Rehabilitation centres (including family-type resources)
- Residential and long-term care centres (CHSLDs) (including private residences for vulnerable persons)
- Hospital centres (including the reimbursement of fees related to cancer treatments and public professional service agreements in a private clinic)
- Local community care centres (CLSCs) (including home care and services)
- Pre-hospital emergency services

and the Régie de l'assurance maladie du Québec (RAMQ).

Specific issues of importance to the Québec Ombudsman are examined next:

- Progress of the complaint management system for institutions in the health and social services network
- Follow-up on the Plan d'action en santé mentale 2005-2010

Child and youth protection centres

THE DECISION TO LEAVE CHILDREN IN THEIR FAMILY ENVIRONMENT

About 80% of the youth protection complaints concluded this year came from parents whose children were taken from the family home. These people believe their role as the children's parents was not respected or that they did not receive proper support with parental responsibilities in order to prepare for bringing their child back home. Most of these complaints relate to the execution of the Youth Court order concerning the removal of a child from the family environment and the institution of supervised contact between the child and parents. A great many of these complaints report a disrespectful attitude toward the parents on the part of resource workers. Finally, nearly 10% of the complaints examined relate to parental dissatisfaction with the services given to children, such as access to health care, gaps in the intervention plan or poor quality services in rehabilitation centres or foster families.

The Québec Ombudsman concluded that 5% of the complaints were substantiated. Interventions led to corrective measures, such as apologies from the institutions, improvement in record keeping at youth centres, appointment of a new resource worker for parents, better information given to parents concerning their child's situation and plans, restoration of health care services for the child, and renewed contact between the child and the parents.

Following up on the recommendation made in the Québec Ombudsman's 2007-2008 report, the Ministère de la Santé et des Services sociaux enforced the youth centres' obligation to adopt a policy concerning the removal of children from the family environment. The MSSS review of health and social services agencies this year confirmed that the 16 youth centres have adopted terms of reference based on the ministerial guidelines. The Québec Ombudsman is satisfied with the results of the review.

On a related topic, the very particular situation of babies born into situations of neglect is one of the biggest challenges in the implementation of the Programme-services Jeunes en difficulté, launched by the MSSS in early 2008. This challenge stems largely from the extreme vulnerability of these children and the lack of criteria for rapidly detecting children whose family homes cannot provide the protection, safety and care they need and are entitled to receive. The urgency of upholding these rights makes the protection of these children a high-priority collective responsibility.

As part of its regular monitoring efforts, the Québec Ombudsman has unfortunately observed that some babies slip through the cracks of the safety net set up for their protection. This year, the media reported the suspicious deaths of two babies just a few months old, while a third suffered multiple fractures from abuse inflicted in the family environment. These events occurred in three different health regions. Furthermore, in all three cases, both the staff of the health and social services centre and the Director of Youth Protection had provided or were still providing health or social services to family members.

Concerned about events such as these, which occurred within months of each other in three different regions, the Québec Ombudsman decided to launch a systematic investigation that would shed light on the organization of services and the operation of the facilities and resources responsible for intervening in negligent families.

The Québec Ombudsman is currently comparing individual situations to find similarities and differences, draw lessons and find solutions to prevent repeat occurrences wherever possible.

Through its investigation, the Québec Ombudsman hopes to answer the following questions:

- Can the events in any of these regions be attributed to a lack of resources in the institutions involved and to coordination problems between them?
- Was the risk for these children assessed in accordance with current rules and recognized neglect prevention practices?
- How can service agreements among institutions help provide a stronger safety net and more adequate protection for children who remain in their family environment?
- How is the complementarity of roles and responsibilities put into practice among partners in the evaluation and supervision of negligent families and the provision of assistance and support?
- How are staff members guided and supervised in decisions that are particularly demanding and weighty due to their potential consequences?

INTERNATIONAL ADOPTION IN QUÉBEC

In 2007-2008, the Québec Ombudsman investigated a situation in which applicants for international adoption apparently did not receive adequate support during the adoption process. This situation reflects concerns about the effective coordination of the authorities involved in the international adoption process, the sharing of responsibility and the obligation to report problems when they occur.

Our investigation found that applicants for foreign adoption do not have access to the same services as people who adopt a child from Québec. Disparities between regions were also observed.

More specifically, the Québec Ombudsman determined that:

- Since the information given to citizens by the Secrétariat à l'adoption internationale includes highly complex legal aspects, it must be simplified and adapted to the audience. The Secrétariat should also ensure that applicants fully understand this often-crucial information. As these essential criteria are not met, applicants do not necessarily grasp all the implications of their status. For example, in certain cases the applicants are not recognized as parents until they receive a placement order or judgment. Whether the child is from Québec or abroad, there must first be a placement order before the adoption judgment is rendered. The placement order confers parental authority on the adoptive parents, but not filiation.
- The support mechanisms offered by youth centres and the health and social services available to local adoption applicants are not available to those involved in the international adoption process. And yet these people may have a need for psychosocial support during the child's integration period, and even throughout the child's development. If they were to receive the same services as those available to parents who adopt children from Québec, the parents of children adopted abroad would have a better chance of success in the adoption and family integration process.

- There are also gaps in coordination and cooperation among the various bodies in Québec and service providers for international adoption applicants. The specialized resources are not widely known and referrals are not systematic.

In following up on the improvements announced by the MSSS and the youth centre, the Québec Ombudsman was informed of the following actions:

- In 2008, the Secrétariat à l'adoption internationale began the process of preparing a guide for resource workers in order to harmonize the services offered to local and international adoption applicants. The Secrétariat expects to complete the guide by June 2009. A training program for resource workers in health and social services centres is also being developed, to ensure greater consistency across all regions of Québec. The outline has been approved and training is expected to begin in 2010. Lastly, an advisory committee is working to improve the quality of the information given to international adoption applicants, which will be presented in a document that should be available by June 2009.

- The youth centre in question has ensured that its personnel are receiving the supervision and training they need and are making good use of the available tools to track local and international adoptions.

In light of the response to our earlier interventions with regard to these issues, the Québec Ombudsman recommends the following to the MSSS:

RECOMMENDATIONS

Whereas the Ministère de la Santé et des Services sociaux announced its new guidelines for local and international adoption and post-adoption services in 2008;

Whereas this new service offer demands complementarity of services between youth centres and health and social services centres for the evaluation and preparation of applicants, situational follow-up and support of the adoptive parents;

Whereas the MSSS wants all resource workers involved to receive pre- and post-adoption training based on the needs of the children, the adoptive parents and the conditions of international adoption;

Whereas these guidelines must be implemented in all regions of Québec by 2012;

The Québec Ombudsman recommends:

That services for parents of children adopted from Québec or from abroad be harmonized, to achieve equity;

That the MSSS submit a progress report and share the results for each region of Québec in order to harmonize the services availalbe to local and international adoption applicants;

That the MSSS report to the Québec Ombudsman no later than January 2010.

COMMENTS FROM THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

These are the comments from the Ministère de la Santé et des Services sociaux, as expressed by the Deputy Minister:

"In 2004, the Secrétariat à l'adoption internationale set up a coordination committee made up of representatives of youth centres, certified organizations and professional orders. For the sake of consistency, fairness and accessibility, the committee defined a number of priorities for international adoption, including training for professionals, information and preparation sessions for international adoption applicants, and the harmonization of practices. The training program was finalized in September 2008. A deployment program for the network is under development."

The Ministry did not respond to the second and third recommendations.

Rehabilitation centres

Rehabilitation centres work with people who have physical or intellectual disabilities or pervasive developmental disorders. Rehabilitation centres have agreements with family-type resources and intermediary resources to accommodate their users when necessary.

In its 2007-2008 annual report, the Québec Ombudsman asked the Ministère de la Santé et des Services sociaux (MSSS) to take the steps required to implement special access mechanisms so that speech therapy services would be available within a reasonable timeframe.

According to the MSSS, the *Plan d'accès aux services pour les personnes ayant une déficience* published in June 2008 fulfills the Québec Ombudsman's request, in that it defines standards for service access and continuity. The plan introduces a measure for institutions that cannot meet the demand for service, which promotes resource sharing, agreements with other institutions or, if necessary, recourse to private sector services under certain conditions.

This access plan stipulates that general services and services for people with specific temporary or acute and reversible problems be offered by local institutions or physicians' offices (primary care). Specialized services are to be offered by rehabilitation centres (secondary care). However, the access plan does not specify which activities come under the purview of which of these two levels of intervention. As far as mental impairment is concerned, the vast majority of services have been traditionally offered by mental rehabilitation centres. Due to the transformation of the network, it has become crucial to guarantee service continuity before making a transfer to a primary care resource.

Several complainants had their files closed after being transferred from their original institution, which had closed down, and were put on a waiting list at the new institution to which they were transferred. The Québec Ombudsman feels that wait times in this situation are currently unacceptable and that they contravene the principle of continuity that must be upheld in the provision of user services. Ongoing service must be guaranteed until the new institution takes over.

REHABILITATION WAIT LIST

When patience is tested!

Again this year, the Québec Ombudsman received many complaints about wait times for initial service in a physical or mental rehabilitation centre. These long wait times, up to four years in some cases, are extremely detrimental, especially to children, for whom delays have impacts on learning, school integration and the ability to develop autonomy. Furthermore, the failure to maintain contact with the parents during these prolonged waiting periods is perceived as a lack of interest on the part of the institution.

The Québec Ombudsman intervened again this year to remind rehabilitation centres of the importance, even in situations of resource scarcity, of regular follow-up with users on the waiting list, who often feel forgotten and abandoned. We endorse the initiatives launched by institutions offering services to users on the waiting list, especially social skills activities for children and group meetings to help parents support their children.

Contact must be maintained with parents on waiting lists

Pierre is 16 and has been waiting for a spot at a mental rehabilitation centre since he was 12. His parents, who always have to initiate contact to find out how their application is progressing, feel abandoned, and they are losing confidence in the institution's reliability and its interest in their son's situation. The Québec Ombudsman has asked the institution to communicate with the family more regularly in order to maintain contact and inform them of the latest developments.

SUPPORT FOR NATURAL CAREGIVERS OF DISABLED PEOPLE

The natural caregivers of disabled people have access, through their CLSCs, to financial assistance for respite and caretaking services. To receive this assistance, they must prove that the person meets the legal definition of *disabled person*. But for some children with non-specific general developmental delays, the diagnosis of disability cannot be confirmed until they are older. To ensure that these parents are not left without support, some institutions provide assistance on a temporary basis that may last for up to several years. Admission is conditional on confirmation of a diagnosis of disability, which often occurs around the age of six. Although this practice is fair to the families in question, it may also be detrimental if information on the temporary and conditional nature of the admission is not communicated clearly. This is illustrated by the following example from a complaint filed this year with the Québec Ombudsman, which resulted in a recommendation to improve the management practice for this kind of admission, especially in terms of the information given to users.

The right information at the right time: no surprises for the parents

The mother of a six-year-old boy with a general developmental delay enjoyed five years of natural caregiver support, but her most recent request for renewal was refused because her son, having reached the age of six and having been re-evaluated, does not meet the legal definition of disabled person. The mother, who had not been told that his admission was conditional, had always believed she met the requirements for the assistance measure, which had been granted every year for the five preceding years. The Québec Ombudsman recommended that the management guide for this measure should stipulate the need to officially inform temporary admission recipients that the assistance is exceptional, temporary and conditional on obtaining a diagnosis of disability. It was also recommended that a notice of cessation of assistance be issued, to give the families a reasonable time to organize their situation and avoid sudden and unpleasant surprises.

Sometimes, during the analysis of a complaint, the Québec Ombudsman concludes that no law, guideline or policy has been broken, but that the specific circumstances justify accommodation. This is the case in the following example.

Helping can be so simple

A four-year-old child with pervasive developmental delay is being served by a mental rehabilitation centre under an intensive behavioural intervention program. Initially, the child was receiving program services at a local daycare centre. When the daycare facilities became inadequate, however, it was decided that the services would be dispensed in the local mental rehabilitation centre. The child had to be transported back to the daycare centre after the intensive behavioural intervention sessions. Since the resource workers from the mental rehabilitation centre had to go to the daycare centre after the work session with the child in order to continue the intervention, it seemed natural to the mother that they take the child with them in the car. Her request was refused by the mental rehabilitation centre because the facility's mission is not to provide transportation to users; this is the parents' responsibility. The facility was afraid that granting this privilege to this particular user would set a dangerous precedent.

The Québec Ombudsman first ascertained that the provision of transportation for a user would not create any specific insurance issues for the facility or staff. Once this was established, it was determined that in this case it was not a question of creating a new transportation service, which is clearly not part of the mission of a mental rehabilitation centre. It was simply a matter of allowing a user to take advantage of transportation that was already in place, since the resource workers had to make the journey in any case. As far as parental responsibility is concerned, the Québec Ombudsman is of the opinion that it may reasonably be shared with a public facility when circumstances permit. The Québec Ombudsman feels that this case lends itself well to this shared responsibility. Given the overall situation, it was felt that the parent's request was reasonable since the cost and repercussions for the organization of services were inexistent and the facility had the capacity to grant this request at no additional cost. We therefore recommended that the facility authorize, exceptionally, the transportation of this user by the resource workers. The mental rehabilitation centre accepted the Québec Ombudsman's recommendation.

ACCESS TO RESIDENCES: RESPECTING RIGHTS

Many disabled people live in non-institutionalized residences. These family-type resources first appeared after deinstitutionalization was introduced in the 1980s. Rehabilitation centres enter into contact with individuals who agree to offer safe and appropriate accommodation for the people they house, in exchange for compensation. The vast majority of families want to maintain close ties with their disabled relatives placed in these residences, but sometimes the host family feels that the natural family is too intrusive. Given the scarcity of this kind of resource and the difficulty of recruiting new resources, rehabilitation centres must uphold the rights of users while ensuring that the working conditions of the residential resources are acceptable.

The presence of family: grounds for agreement

The mother of an intellectually disabled youth called on the Québec Ombudsman because the mental rehabilitation centre forbade her access to her daughter's residence. When she went to pick her daughter up, she was obliged to remain on the doorstep. The institution justified its decision because relations between the mother and the host family were very tense. It was feared that the situation would degenerate to the point that the head of the host family would refuse to keep the disabled girl.

The Québec Ombudsman's investigation established that these restrictions contravene the agreement between the mental rehabilitation centre and the residential resource, which stipulates that the host family must admit people who are important to the user at reasonable times and facilitate their relationship. In exchange, the resource's obligation to offer services authorizes it to regulate the conduct of the visitors. We recommended that the mental rehabilitation centre hold a meeting between the girl's mother and the head of the host family, in order to come to an agreement that would give the mother access to her daughter under conditions that are respectful of the living and working situation of the host family.

In 2009-2010, the Québec Ombudsman plans to exercise particular vigilance with regard to waiting times and service disruptions, drawing on the *Plan d'accès aux services pour les personnes ayant une déficience* to formulate its recommendations. In handling complaints, we will ensure that the clients targeted by this plan are treated fairly, no matter what type of disability they have or where they live.

Residential and long-term care centres

Residential and long-term care centres (CHSLDs) are the final homes of most of the people who live there, many of whom require careful and sustained attention, in addition to specific care and services. The task of ensuring that CHSLDs provide a quality living environment requires constant vigilance and effort because of the serious cognitive losses of many of the residents.

In its last two annual reports, the Québec Ombudsman noted several shortcomings in CHSLDs. Some of these shortcomings were related to inadequate care and services or inadequacies in the physical environment, including cleanliness and healthiness. We also mentioned interpersonal problems between staff and members of the residents' families and between some staff members and the residents themselves, as well as failures to respect residents' rights in certain circumstances.

Because CHSLD residents are so vulnerable, vigilance is particularly critical to their safety and well-being. The MSSS has been carrying out service quality assessment visits in CHSLDs since 2003-2004. These visits take place every year from September to June. The objective for 2008-2009 was the same as in previous years, namely to visit 12% of CHSLDs. The data we received from the MSSS in March 2009 indicate that it is meeting its progressive objective for assessment visits this year.

MINISTERIAL GUIDELINES CONCERNING THE QUALITY OF THE LIVING ENVIRONMENT

In 2007-2008, after learning of certain shortcomings, the Québec Ombudsman approached the MSSS once again on the topic of implementing the ministerial guidelines concerning the quality of living environment in CHSLDs. Various issues were raised with the MSSS, including privacy and respect for people at the end of life, controlling violent and aggressive behaviour in the centres, and the staff's ability to whistle-blow confidentially and with no fear of reprisals.

The MSSS response demonstrates why the implementation of these guidelines has been insufficient for the last five years – in other words, ever since the guidelines were instituted.

After publishing the guidelines in 2003, the MSSS began quality assessment visits in 2004, increasing the number of visits from 10% to 12% per year. In June 2004, a review of visits to 47 CHSLDs led to the formulation of 29 recommendations and an action plan was prepared for local, regional and provincial facilities. At the end of 2009, the MSSS plans to issue a province-wide report on the quality assessment visits carried out in 2004-2005, 2005-2006 and 2006-2007. A review of the recommendations addressed to the institutions will also be produced, outlining priorities for action.

At this pace, the MSSS will have visited just over 60% of the resources five years after starting the assessment process. The first report, expected at the end of 2009, will cover only 30% of all CHSLDs. Given the low percentage of resources visited and the scope of the review, the Québec Ombudsman is not surprised that there are problems with the implementation of the ministerial guidelines.

To raise awareness of the MSSS guidelines, training programs will continue to be offered to board members, executives and the 35,000 user care attendants. Every regional health and social services agency has the responsibility to work with the institutions in its territory on a deployment plan for the training.

Although this process is both relevant and logical, the Québec Ombudsman has once again found gaps in the system for implementing the ministerial guidelines. Implementation is conditional on the commitment and capacity of all the stakeholders involved. The Québec Ombudsman is still concerned about this matter and will continue to monitor the implementation of the guidelines.

PRIVACY AND RESPECT FOR RESIDENTS AT THE END OF THEIR LIVES

The Québec Ombudsman noted that residents and families do not always receive the privacy to which they are entitled at the end of the resident's life. In some facilities, space restrictions mean that families are obliged to attend the death of a relative in the presence of another resident.

In response to this deplorable situation, the MSSS 2005-2010 action plan for services to seniors with loss of autonomy includes renovations valued at $500 million. The Québec Ombudsman acknowledges the extent of the investments required, but feels that respecting the need for privacy in these circumstances is not primarily a question of money; it is up to the institutions themselves to provide their residents with privacy. The Québec Ombudsman is aware, however, that the remedial measures required to provide privacy depend on the decisions and priorities of the individual institutions, and that as such, appalling situations such as these may recur.

The MSSS has informed the Québec Ombudsman that the quality assessment visits look specifically at this aspect. We will remain on the alert and take steps immediately if such events recur.

MANAGING VIOLENCE AND AGGRESSIVE INDIVIDUALS

Last year, the Québec Ombudsman learned that some mandataries and legal representatives behave uncivilly and disrespectfully toward CHSLD staff, make threats or demonstrate physical or verbal violence. It was therefore suggested that the CHSLDs inform mandataries and legal representatives of their code of conduct.

The MSSS reports that during quality assessment visits, all groups are questioned about the information they receive concerning the code of ethics. The Québec Ombudsman believes that by meeting with users, their families and the user committee, the quality assessment visits will help make mandataries and legal representatives aware of the need to comply with the code of conduct. Since this recommendation is addressed to the CHSLDs, the Québec Ombudsman will carry out additional checks during its next investigation of these centres.

We also pointed out to the CHSLDs that mandataries and legal representatives must know who to contact for information, especially regarding the complaint procedure. This would prevent certain conflicts from arising. To follow up on this point, the MSSS asked the local complaints and service quality commissioners and user committees to help develop the appropriate measures for the institutions. Over the next year, the Québec Ombudsman will ensure that the MSSS fulfills this commitment during its ongoing investigation of the CHSLDs.

FINDINGS FOR 2008-2009

The Québec Ombudsman found that the CHSLDs which were the subject of complaints this year carried out our recommendations within the agreed timelines.

Among the complaints processed in 2008-2009, the Québec Ombudsman discovered some unacceptable situations, including resident transfer conditions, the capacity of some residences to house and care for their residents, hygiene and healthiness, the quality of care, and mixed facilities.

There is extensive pressure to free up beds in hospitals. Close management of hospital beds means that discharged patients must leave as soon as a place can be found that provides the services their condition requires. This practice has advantages and disadvantages. The health and social services network can be compared to a huge corporation with a great many branches, each with its own performance objectives.

The CHSLDs are not isolated from the rest of the network. They have a very specific role to play, namely accommodating and satisfying the needs of people with serious loss of autonomy.

To meet the legitimate expectations for sound management of specialized services, the public sector is calling increasingly on the private sector, as permitted by the Act respecting health services and social services. As such, regional agencies and certain categories of institutions have budgets to purchase places in self-financed private CHSLDs, seniors' residences, intermediary resources or family-type resources. Demand is so great that new resources are being created to meet it, and this, in turn, has increased the number and diversity of partners involved in the supply of residential and long-term care.

One emerging phenomenon is a matter of concern to the Québec Ombudsman, however: the speed at which these new resources are opening. This is worrisome in terms of the quality of the transition, transfer conditions and continuity of care required, especially after hospitalization. Protecting citizens' legal rights is also a matter of concern. The complaints received generally relate to situations where the urgency of placement means that new residents are not informed of their rights ahead of time. It is up to the agencies and institutions entering into agreements with these private residences to ensure that all the patient's legal rights are respected, regardless of the resource to which they are sent.

RESIDENT TRANSFER CONDITIONS

Section 14 of the Act respecting Health Services and Social Services stipulates that an institution may cease to provide accommodation to a resident who has been discharged only if, based on their condition, the person can return home or be transferred to other accommodations. This section stipulates that no transfer can be made unless a place is guaranteed to the user in another institution, an intermediary resource or a family-type resource where the appropriate care and service is available. The Québec Ombudsman discovered this year, however, that despite this legal obligation, some facilities are not able to adequately care for their residents for reasons that include lack of equipment, defective equipment, lack of qualified personnel or staff shortages.

Distressing situation due to defective equipment

An elderly tracheotomy patient transferred from a short-term care facility to a long-term care unit ended up in a distressing situation because of equipment failure. The personnel were not able to suction off the patient's tracheal secretions, leading to respiratory distress.

The Québec Ombudsman recommended that the facility adopt a resident transfer procedure and a preventive maintenance procedure to ensure the availability of the equipment required by users after transfer to their care. Both procedures are now in place.

CAPACITY

Every institution is obliged to have the staff, equipment and supplies required to meet the needs of the dependent people in their care. It is also critical to ensure that the equipment is functional at all times. It is up to the originating institution to communicate the user's special or ordinary personnel and equipment needs. It is incumbent on the accepting institution, if it does not have the required staff or equipment, to refuse admittance to the user under section 14 of the Act respecting Health Services and Social Services. This is in the best interests of the user.

CHSLD FOLLOW-UP

CHSLDs house highly dependent users who sometimes return to the centre after a hospitalization. These people often require post-hospital care, and sometimes come back with wounds or nosocomial infections. Can we be assured that every unit of every CHSLD has enough skilled personnel to provide wound care, take steps to prevent infections and manage patient isolation for a nosocomial infection? With regard to wound care and follow-up care for nosocomial infections, the personnel need professional development, must maintain their skills and be available to take action as needs arise. The Québec Ombudsman has found that despite the application of prevention measures in hospitals, nosocomial infections cannot be completely avoided. Even for isolated cases, the consequences can be significant in human terms.

CHSLD personnel overwhelmed by the situation

An elderly man is discharged from the hospital, where he contracted two nosocomial infections. He also has bedsores. Although his condition seems difficult for the staff to handle, he is nevertheless admitted to a CHSLD. An occupational therapist prepares for his arrival and sets up a mattress as well as special cushions in the bed and on the wheelchair.

After a while, the CHSLD personnel are completely overwhelmed by the situation: the man's bedsores get worse despite medical follow-up, changes in treatment and the use of all the centre's resources.

The Québec Ombudsman's investigation revealed that the regular procedure was not followed in the assessment of the user's condition and that the deterioration of his condition was not reported. In addition, his urinary incontinence and the effects of Clostridium difficile made it necessary to change the dressings more often. This, along with the fact that the man was having trouble eating, exacerbated the condition of his bedsores.

In concluding that there was a shortfall in the follow-up care offered to this resident, the Québec Ombudsman noted that he needed care and attention that the CHSLD was not able to provide. It was also recommended that the CHSLD acquire the expertise to prevent and treat bedsores and provide appropriate care and follow-up for this type of infection.

A resident falls three times in one year

The Québec Ombudsman conducted an investigation after a resident fell three times on the same floor of a CHSLD. The report was substantiated, but the facility had implemented four mechanisms with the principal purpose of preventing various incidents and accidents, including falls.

Although each of the falls was properly reported, no thorough analysis of the circumstances was ever carried out. Such an analysis may have prevented subsequent falls. After the resident fell for the third time, disciplinary measures were taken against the employee at fault.

Following the Québec Ombudsman's intervention, the director of the facility made a commitment to place more emphasis on the fall prevention program and provide the staff with training on control measures.

Insufficient risk management: 21% increase in falls among residents at a CHSLD

An investigation by the Québec Ombudsman in a CHSLD revealed that the institution had adequate physical and material facilities. A summary examination of the fall report for the last two years, however, showed that there had been a 21% increase in 2007-2008 compared to the previous year, that many falls (46%) occurred between 11 AM and 6 PM, and that numerous incidents (39%) occurred during meal times.

These observations led to an examination of the work organization, oversight, training and supervision of the staff. To correct the situation, the Québec Ombudsman recommended that within three months, an individualized intervention plan be created, taking into account the safety needs of every resident and the actions required to meet them. We also recommended that within three months the CHSLD establish a fall prevention program and that the staff be trained on its application. Finally, we asked that the institution file monthly reports concerning accidents, their consequences and the prevention measures applied.

MIXED CLIENTELES

User needs in the health and social services network differ based on the user's physical and mental health, lifestyle habits, degree of autonomy, and psychosocial and economic situation. Institutions that house users try to group them together by characteristics to make it easier to provide care and services. But some adults who require permanent placement and have serious behavioural problems have trouble finding care suited to their needs in regular CHSLD units. "Specific" units have been developed to provide them with the support, supervision and services they need.

The vocation, programming, organization and functioning of these specific units differ in different CHSLDs and different regions. The issues stemming from serious aggressivity or agitation problems are quite varied. This means that adults of all ages who may have serious cognitive disabilities caused by intellectual disabilities, mental health problems, cranial trauma, strokes or vascular dementia may end up living together. These people often have different needs, and some say they do not feel comfortable in their living environment. Analysis of one particular situation brought to our attention led to the formulation of recommendations for group and individual applications to provide adequate and optimal orientation for every resident, on a continuous basis. To follow up on this intervention, user needs were reassessed and the mechanism used to determine access to accommodations was reviewed in partnership with network stakeholders.

An inappropriate place of residence

A 50-year-old stroke victim with behavioural problems was living in a unit located more than 250 km from his home. He reacted violently to the placement. He contested the choice of the resource he was assigned to, rejected his intervention plan and claimed that his rights were not being respected because he was grouped with people less lucid than himself. He asked to be placed in the CHSLD of his choice, but was refused because of his behavioural problems. The Québec Ombudsman recommended a re-assessment by a team of experts to provide him with services and accommodation that were better suited to his condition.

PRIVATE SENIORS' RESIDENCES

Of the 2,199 private seniors' residences targeted, only 686 had obtained certification by April 7, 2009. And yet 99.7% of the owners applied within the deadline. The certification process serves to prove to the residents that these residences comply with the regulations or have made a commitment to achieve compliance within a certain timeframe. Certification also guarantees that the residence operator has and maintains liability insurance.

False representation: a private residence claims to be equal to a CHSLD

The Québec Ombudsman investigated a private residence that had begun its certification process with a regional health and social services agency. It was noted that the vocabulary and explanations used by the owner in presenting the residence's services suggested that it could accept highly dependent residents and care for them until the end of life.

One of the facility's residents fell repeatedly, also injuring an employee, and as a result specific safety measures were implemented. For example, some furniture had to be removed from the room to facilitate the use of a patient lift, and restricted use of the walker was recommended because of the architectural constraints and the limited number of personnel.

The institution was neither suited nor authorized to offer all the services needed by the resident in question, a 98-year-old woman. The Québec Ombudsman therefore recommended that the regional agency ask the directors of this private residence to stop claiming that they could fulfill the role of a CHSLD and immediately correct the content of their advertisements.

QUALITY ASSURANCE REQUIRED

RECOMMENDATIONS

Whereas residents are extremely vulnerable and there is the potential for isolation and the risk of abuse;

The Québec Ombudsman recommends:

That the Ministère de la Santé et des Services sociaux step up the pace of its quality assessment visits in order to offer CHSLD residents a quality living environment;

That private seniors' residences be included in the resources that must undergo priority ministerial assessment visits;

That quality indicators be included in management agreements between agencies and institutions, and that the contracts made with private resources explicitly set out the level of quality expected and the means of quality control;

That the capacity of the resources to meet the specific needs of their residence be ascertained.

COMMENTS FROM THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

These are the comments from the Ministère de la Santé et des Services sociaux, as expressed by the Deputy Minister:

"It can be confirmed that the target of 12% of facilities to be visited will be achieved by the end of this current year (June 2009).

In 2009-2010, the MSSS will draw up, for each region, a portrait of the current situation concerning accommodations resources that have a purchase agreement for places or services, and analyse the conditions of the agreements concluded between the health and social services agency, the health and social services centre and the private promoter."

LEGISLATIVE OVERSIGHT

In February 2009, the Québec Ombudsman intervened with the Office des professions with regard to the proposed Regulation to amend the Regulation respecting the activities engaged in and described in sections 39.7 and 39.8 of the Professional Code. This draft regulation, published in the Gazette officielle du Québec on January 14, 2009, concerns activities carried out under certain conditions by the operator or staff of a private seniors' residence which would otherwise be reserved for professionals. The activities in question are the invasive care involved in assistance with activities of daily living that is required on a sustained basis for the maintenance of health and the administration of prescribed, ready-to-administer medications. The Québec Ombudsman raised concerns about the training of people authorized to carry out these activities, the maintenance of their knowledge, quality control, and the liability insurance of residences in the event of staff errors. To this end, it was recommended that the regulation specify the minimum level of training required to carry out these activities and include a provision that the CHSLD in the residence's territory must establish ongoing professional development and quality control mechanisms for the activities in question. We also asked that a provision be included requiring that the residence hold a valid compliance certificate so that the users will have liability insurance coverage.

The Québec Ombudsman also took the opportunity to state its concerns about the application of the regulation on free access and continuity of services for seniors in residences, which it had also brought to the attention of the Minister of Justice responsible for professional laws, the Minister of Health and Social Services, and the Minister responsible for Seniors. The Québec Ombudsman's aim in doing this was to ensure that health and social services centres are still prepared to offer these services free of charge to all seniors who need them, whether or not the residential facility offers them, so that vulnerable people will not have to assume the cost of these services themselves or go without because the cost surpasses their financial capacity.

PRIVATE RESIDENCES FOR OTHER VULNERABLE PEOPLE

WHAT ABOUT MANDATORY CERTIFICATION?

In 2008-2009, the Québec Ombudsman once again received complaints concerning private residences not certified by the MSSS and providing services mainly for people with addictions. The complaints involved addiction resources and the care and services offered to users, as well as the environment in which those services are provided.

Since this type of private non-certified residence is not subject to the complaint examination system and does not fall under the jurisdiction of the Québec Ombudsman, we had to call on a number of ministries and bodies such as the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation du Québec (MAPAQ), the Ministère de l'Emploi et de la Solidarité sociale (MESS), and the municipal health and social services agencies to ensure that these residences meet certain standards. These government bodies are able to verify whether or not the resources comply with their laws and regulations, but do not have the expertise to assess the quality of care or the risks to the users. They were unable to provide answers or suggest corrective measures for the complaints filed by users of private residences.

In the spring of 2001, the MSSS launched a certification program for private and community organizations providing addiction services and offering accommodation. The program is voluntary, not mandatory. As of February 24, 2009, 46 of the 95 known residences had received compliance certificates for the standards deemed necessary and sufficient to provide users with quality services and physical and psychological security.

NEED TO ACT

The Québec Ombudsman reiterates the recommendation made in our 2007-2008 annual report, to the effect that private residences accepting addicts with mental problems or intellectual disabilities should be certified and subject to the application of the complaint examination system under the Act respecting Health Services and Social Services. Without mandatory certification, there is no guarantee of adequate intervention and treatment in a safe and healthy environment. Furthermore, the users – or third parties acting on their behalf – have no recourse to the complaint examination system in case of dissatisfaction.

In its December 2008 action plan, in response to the Québec Ombudsman's recommendations, the MSSS states that it is preparing an omnibus bill to provide for the certification of private residences serving various vulnerable client groups. This bill would also provide oversight for private or community resources offering accommodation to these clients. The Québec Ombudsman notes that no date has been proposed by the MSSS for the adoption of this omnibus bill.

Given the importance of guaranteeing the quality of the care and services offered to vulnerable people, the Québec Ombudsman would like to emphasize the urgent need for this new legislation.

Hospital centres

Given the scope of its actions and the resources at its disposal, it is not surprising that the hospital sector is the source of the most health and social services related complaints received by the Québec Ombudsman. The continuity of care and services, wait times, backlogs in emergency rooms and the risk of infection continue to be matters of concern or dissatisfaction for users.

CONTINUITY OF CARE AND SERVICES

A user's journey through the complex health network to obtain care, either personally or for a relative, is sometimes torturous and full of obstacles. The complaints received by the Québec Ombudsman indicate the existence of problems when users move from one service to another within the same CLSC, from one facility to another within the same health and social services centre, or from one institution to another via an existing service corridor. The Québec Ombudsman notes that the lack of continuity is evident in emergency wards, during hospitalization and on the patient's return home.

A social resource worker would have been of valuable assistance

A user who regularly suffered intense headaches due to a deformity often went to the emergency room. He would spend a few days there, be discharged and return home when he felt better. And then the cycle would repeat. As the years went by, he was increasingly fearful of returning home alone because he was afraid of falling and wanted a convalescence period before being sent home. This user would have benefited from the support of a patient navigator, but no one thought of asking the emergency ward social worker to evaluate his temporary care needs and match him with the most appropriate resource.

Information that would have made all the difference

During a stay in the hospital, an elderly woman fell on her way to the bathroom, fracturing her hip and undergoing orthopaedic surgery as a result. The nurse's aid who went with her to the bathroom had not been informed by the nurse in charge that the woman suffered from a significant weakness on her right-hand side which limited her ability to walk independently. The nurse's aid was also not told how to keep the woman safe during displacements. Continuity of service relies on specific factors, and this lack of information could have led to dire consequences.

After waiting fifteen months, he only had the wheelchair for five days

An elderly man with seriously impaired autonomy due to chronic obstructive pulmonary disease needed an electric wheelchair. The multidisciplinary team at the hospital that assessed his functional needs and the required changes to his home passed this information along to the CLSC. The man had to apply for the wheelchair through the occupational therapist at the CLSC, but it was the rehabilitation centre that would actually provide the equipment. After a series of misunderstandings and delays in obtaining the wheelchair, the family finally approached the rehabilitation centre directly. Fifteen months passed before the user was finally given the wheelchair he needed. If a patient navigator from the CLSC had been working with the user and his family, he would have received the wheelchair much more quickly. Unfortunately, he died just five days after receiving the wheelchair. In this case, gaps in service continuity occurred after he was discharged from the hospital.

ACCESS MECHANISM FOR SPECIALIZED MEDICAL SERVICES: AN ATTEMPT TO REDUCE WAIT TIMES

The complaints received by the Québec Ombudsman reveal lengthy wait times for initial appointments with specialists to undergo prescribed tests, surgery or treatment. At every step, the user's name is added to a waiting list for appointments. Surgeries are also deferred at the last minute, sometimes repeatedly for the same patient. A number of the complaints handled by the Québec Ombudsman revealed that appointments are often given to people on the waiting list based on the date on which they registered, with no consideration for the urgency of the situation. The health problems of some users may become worse as the wait time increases.

To reduce wait times, the MSSS has established an access mechanism for specialized medical services, especially non-emergency surgery. The Government made a commitment that, as of June 1, 2007, surgery for complete knee or hip replacement and for cataracts would be completed within six months for patients registered in the access to specialized services information system. If the institution has valid reasons for not meeting this timeline, it must, jointly with the attending surgeon, make a second offer to the patient. This offer consists of one of the following options:

- Have the operation performed by another physician in the same hospital
- Have the operation performed by a physician in another hospital in the same region
- Have the operation performed by a physician from outside the region
- Have the operation performed in a specialized medical centre

The patient has the right to refuse the second offer. A patient who refuses will remain on the hospital's wait list but the wait time may be longer than six months. If the patient accepts, the transfer will be arranged and the wait time for treatment will be no more than six months in total, including that related to the second offer.

This year, the Québec Ombudsman heard complaints which suggested that this access mechanism requires further refinement.

Back to the beginning after a refusal

The access mechanism was triggered following a complaint from a woman awaiting hip surgery since September 2006 (twenty months at the time the complaint was filed). Since the expected wait time for the surgery was over six months, the institution made a second offer which the patient refused, for valid reasons. However, she was told her name would be placed at the end of the waiting list as a result. The Québec Ombudsman considers this practice, which is clearly punitive to the user, to be unacceptable.

Waiting for more than two years for surgery

A user awaiting surgery complained to the Québec Ombudsman about the long wait time and the lack of access to information. In April 2006, the orthopedist determined that the man needed an operation to reconstruct a ligament. In December of the same year, the man was called to a pre-operatory appointment for certain tests, and was told he would be contacted in January 2007 to set a date for the surgery. In October 2007, with still no word from the hospital, the man decided to inform the local complaints and service quality commissioner. In December 2007, he was called to a second pre-operatory appointment, because the test data originally gathered had become obsolete.

In January 2008, nearly two years after having been told he needed orthopedic surgery, the man still had received no news and was no longer able to participate in any sports. He had missed several work opportunities because he dared not leave his region, in case the hospital called during his absence and he missed the opportunity to have the operation. This considerably reduced his quality of life. He eventually had the operation in March 2008. Our investigation concluded that the wait time and lack of information were unreasonable, and the institution has made a commitment to take steps to improve the situation.

EMERGENCY SERVICES: AN ONGOING CHALLENGE

The state of emergency rooms is an indicator of the overall state of the health service network. Overuse of stretchers and corridors in emergency rooms reflects a shortage of beds on the floors, which in turn reflects the shortage of residential placements, convalescence beds and home care. There is also the question of whether the wait time to see a physician in the emergency room is indicative of the lack of access to front-line medical services.

Despite financial investments and efforts to improve the functioning of emergency rooms in recent years, wait times were still the primary reason for complaints about hospital centres in 2008-2009.

Most of the complaints filed with the Québec Ombudsman with regard to emergency services came from patients whose state of health was evaluated at level 4 or 5 treatment priority, mostly in the Montreal region. The professional practice guide entitled *Le triage à l'urgence* states that the permitted time for level 4 patients, considered "less urgent," is 60 minutes, while for level 5 "non-urgent" patients, it is 120 minutes. However, the complaints received suggest that these wait times are commonly exceeded without the users being re-evaluated or informed of the situation. On the other hand, there were few complaints from patients whose state of health was evaluated at level 1, 2 or 3. When these patients did complain, it was also because of the wait time. Sometimes patients whose state of health was evaluated at priority level 4 were actually more critical.

Pregnant, bleeding and in pain, the user waited for 15 hours!

On the recommendation of her family doctor, a woman who was ten weeks pregnant, with spotting and abdominal pain, went to the emergency room with her husband. The triage nurse evaluated the treatment priority at level 4, which requires re-evaluation every hour.

Although the woman and her husband asked to see the nurse again because of increased pain and bleeding, the woman was only re-evaluated 12 hours later and did not see a doctor until 15 hours after first arriving at the emergency room. The Québec Ombudsman found that the nursing staff did not provide the couple with any information and did not reassure the woman or make her more comfortable, even though the couple was facing a difficult emotional situation, given the risk of losing the baby.

With no family doctor, the user went to emergency

A woman and her husband went to the emergency room of a regional hospital. She had felt exhausted for some time, and wanted to see a doctor for a specific diagnosis of her condition. According to the file notes, the woman arrived at emergency at 10:05 AM. She was seen in triage immediately and her condition was assessed as being level 4. The file notes specify that the woman was tired, was no longer able to sleep, had been feeling sad for two weeks and was having problems with her daughter, who was using drugs. She was not in pain and wanted to see a social worker. Around 1 PM her husband asked the reception staff why there was such a long delay. He was informed that a patient had arrived in cardiac arrest. It was not until 4:50 PM, after nearly seven hours, that the woman was finally able to see a physician.

The day the woman came to the emergency room, a single physician was on duty. According to the standard established by an MSSS / Fédération des médecins omnipraticiens du Québec parity committee, only a single physician is required at this emergency ward. These standards take traffic and activity volume into account. However, with only a single physician on duty, patients evaluated at priority level 4 or 5 will automatically be made to wait if people needing immediate care are admitted.

In this example, the woman should obviously have gone to a family doctor or the local CLSC to meet a social worker. Why did she go to the emergency room? What were her options? According to the institution, people evaluated at priority level 4 or 5 are often forced to go to the emergency room because they have no family physician.

After its investigation, the Québec Ombudsman determined that the health and social services centre in question has been working actively to try to reduce the public's use emergency services. For example, it has set up a walk-in consultation service, and has established group prescription protocols to allow the emergency ward nurse, in certain circumstances (emergency contraception, thrush in infants, broken wrists or hips, etc.) to prescribe medication or x-rays without waiting for the patient to see the physician. It has also eased access to the technical support centre in order to accelerate diagnostic tests (radiography, laboratory tests, etc.) for users sent in by physicians in the community, and set up a follow-up clinic (outpatient services) for users seen by the emergency room nurse the day before.

In addition to illustrating inappropriate use of an emergency room, this example shows that solutions exist and that institutions have the capacity to take initiatives that will help them assume their responsibility towards the public. The Québec Ombudsman strongly encourages them to do this.

Last year, the Québec Ombudsman hailed certain new actions by the Ministère de la Santé et des Services sociaux to improve the performance of emergency rooms. Examples include easier access to front-line services and hospital medical equipment. The Québec Ombudsman also acknowledges the $15 million spent in 2007 on measures to facilitate the transition of hospitalized individuals to CHSLDs or convalescence centres, and the publication, in 2006, of the second edition of the Guide de gestion de l'urgence.

On March 4, 2009, the Québec Minister of Health and Social Services set up a round table on access to family medicine and front-line services. The round table, which will meet three times a year, has three main goals: to increase the number of family medicine groups from 180 to 300 within four years, to increase to 50% the proportion of medical students who choose family medicine over specialties, and to provide more people with access to the services of a general practitioner. The Québec Ombudsman feels that any initiative to this end is a step in the right direction, as long as it results in concrete solutions that can be applied in the short term and that will help reduce wait times in emergency rooms.

In light of the fact that wait times persist despite the measures proposed by the MSSS in recent years, the Québec Ombudsman is asking for a statement concerning the extent of implementation of the measures outlined in the last few years. We have also asked the MSSS to provide a report on the difficulties encountered and the actions planned to relieve congestion in emergency rooms and monitor the quality of the services for users whose state of health is evaluated at priority level 4 or 5 upon arrival in emergency. Finally, the Québec Ombudsman wants to be informed of the measures that the MSSS intends to adopt to ensure adequate application of the *Guide de gestion de l'urgence*.

RECOMMENDATION

Whereas the situation in the emergency wards that the Québec Ombudsman investigated continues to be problematical;

Whereas emergency services are used extensively by people whose state of health is evaluated at a priority level of 4 or 5;

Whereas a round able has been set up to examine access to family medicine and front-line medical services, and expects to take four years to produce results;

The Québec Ombudsman recommends that the Ministère de la Santé et des Services sociaux plan temporary solutions for the interim period, so that users whose state of health is evaluated at priority level 4 or 5 can gain access to front-line services.

COMMENTS FROM THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

These are the comments from the Ministère de la Santé et des Services sociaux, as expressed by the Deputy Minister:

"The key to the solution is access to primary care. In the meantime, certain steps can be taken to partly improve the situation:

- Conclude agreements between emergency rooms and the existing primary care network for patients with level 4 or 5 priority, in order to redirect them during triage. This cooperative approach should be supported by collective protocols and prescriptions and bolstered by quality control measures.
- Support innovative work organization projects that seek to improve the efficiency and effectiveness of the teams in place.
- Apply collective prescriptions during triage that accelerate processes and initiate therapeutic or diagnostic actions.
- Develop mechanisms such as clinical windows to allow family doctors to direct their patients to the right place."

NOSOCOMIAL INFECTIONS

The Québec Ombudsman observed progress in the application of measures to prevent and control the transmission of infections, and notes that teams have been set up to address this task. The nature of the complaints received this year suggests that the actions taken by the MSSS have begun to produce results, although further progress is still required. These actions relate to screening times, the application of precautionary measures, and the accuracy of the criteria for placing patients in isolation and subsequently releasing them.

The complaints clearly show that measures to counter these problems are in place, but that they are not yet fully applied. The Québec Ombudsman has insisted institutions in respect of which complaints were received should communicate their measures to the staff and establish means of encouraging the acquisition of the required knowledge and skills.

In May 2008, given the wide variety of practices in both daily sanitary maintenance and disinfection, the MSSS issued an update to the guidelines concerning hygiene and cleanliness measures for *Clostridium difficile*. The Québec Ombudsman believes the rigorous and systematic application of all the proposed hygiene and cleanliness measures will ensure help to prevent and control infections.

Given the difficulties encountered by the health and social services network, the Québec Ombudsman has asked the MSSS to inform it of the steps that will be taken to ensure that institutions do in fact apply the May 2008 hygiene and cleanliness guidelines.

PILOT AGREEMENT FOR PUBLIC PROFESSIONAL SERVICES IN A PRIVATE CLINIC

In October 2006, the Québec Ombudsman appeared before the Commission des affaires sociales to submit comments for the consultations on Bill 33, amending the Act respecting health services and social services. The bill will improve access to specialized and superspecialized medical services.

The Québec Ombudsman said at that time that it is important to uphold users' rights by ensuring that people who are sent to different resources to receive treatment enjoy the same quality of care and have the same access to recourse. It reiterated the importance of preserving the values of equality, freedom, dignity and solidarity for all citizens, as laid out in the Government proposal. In its opinion, this bill is an opportunity for the public and private sectors to uphold and respect these fundamental values.

At the same time, the Québec Ombudsman insisted on the need to control the quality of specialized medical services offered outside hospitals, while acknowledging that the bill (now a law) provides special measures to allow for this. If the measures are applied, they will reassure the people sent to these resources and fulfill their expectation of receiving the same quality of service as in a public network hospital.

With this in mind, the Québec Ombudsman will remain vigilant with regard to the introduction of new medical entities. The pilot professional services agreement between the Hôpital du Sacré-Cœur and the Centre de chirurgie Rockland MD offered the first opportunity for action.

HÔPITAL DU SACRÉ-CŒUR DE MONTRÉAL AND CENTRE DE CHIRURGIE DE ROCKLAND MD

The Québec Ombudsman examined this pilot agreement in June 2008, to ensure that users temporarily directed to the Centre de chirurgie Rockland MD for outpatient surgery would enjoy the same rights and the same quality of service as in a public institution. It also wanted to ascertain that, in the event of dissatisfaction, the users in question had access to the recourse stipulated in the Act respecting health services and social services to defend their rights.

When taking on this issue, the Québec Ombudsman was not questioning the appropriateness of sending a patient to a private clinic for health services. These are social decisions that, under our democratic system, are the responsibility of the duly elected MNAs and the Government.

Following its analysis of the pilot agreement, the Québec Ombudsman formulated 11 recommendations for the MSSS and the network. These recommendations included a reminder about various obligations under the Act respecting health services and social services, and also addressed issues such as medical record confidentiality, health service security, and clinical supervision of nurses and respiratory therapists.

COLLECTIVE GAINS

The Québec Ombudsman's recommendations were accepted by the Health and Social Services Minister. The report can be consulted online at www.protecteurducitoyen.qc.ca.

The Québec Ombudsman also formulated two additional recommendations for the MSSS, concerning the implementation of similar agreements in the future. First, it asked the MSSS to establish guidelines for the content of agreements between other types of public institutions and private clinics, and to develop a model agreement. We also asked the MSSS to ensure that no balance billing be issued to users seeking specialized medical services at private clinics under such an agreement.

In November 2008, the MSSS informed the Québec Ombudsperson that it had taken note of the recommendations and would add them to the framework agreement currently under development.

The Québec Ombudsman plans to monitor the content of this framework agreement, which should be available to health and social services agencies in the coming months. It will also examine the draft regulation allowing for the expansion of private clinics and the provision of approximately 50 medical treatments. The coming into force of the regulation has been postponed until September 30, 2009.

REIMBURSEMENT OF FEES FOR DENTAL CARE RECEIVED AS PART OF CANCER TREATMENT

To improve the treatment of mouth or throat cancer, doctors often prescribe dental care, including tooth extraction, but dental care is not covered by the Health Insurance Act. As a result, patients often have to pay thousands of dollars for this kind of care. In April 2008, the Québec Ombudsman took steps to have these fees reimbursed, and the MSSS agreed to do this by drawing on a discretionary budget. In March 2009, after receiving a list from the Centre hospitalier de l'Université de Montréal of users who had to pay these costs themselves, the Québec Ombudsman made a second request to the MSSS to reimburse preliminary dental care related to cancer treatment. The MSSS has yet to communicate its decision on the matter.

In addition to settling individual complaints, the Québec Ombudsman also asked the MSSS to ensure that dental care directly associated with cancer treatment be automatically covered by the network from now on. A ministerial committee has examined the question and has made the same recommendation to the MSSS.

COLLECTIVE GAIN

The Québec Ombudsman was informed by the MSSS on January 6, 2009, that the authorities had accepted the recommendation. Work began with the CEOs of health and social services agencies and radiation oncology services to provide free access to dental services for patients who require radiotherapy treatment, starting on April 1, 2009.

These services will be offered and paid for by the ten radiation oncology services in the Quebec health and social services network, and will represent an annual investment of some $1.2 million.

The Québec Ombudsman will approach the MSSS once again if the recommendation is not implemented by the proposed date.

Local community service centres (CLSCs)

ACCESSIBILITY AND CONTINUITY OF HOME CARE SERVICES AND HOME SUPPORT PROGRAMS

In its 2007-2008 report, the Québec Ombudsman made two recommendations to all institutions in the health and social services network that provide home support services. First, it recommended that the health and social services centres plan a timeframe for making contact with users, to inform them of the approximate wait time for services. Second, it urged that the institutions systematically take into consideration the consequences of reducing or ceasing services, both for the user and for the other resources in the health care system.

In response to these recommendations, the MSSS informed the Québec Ombudsman that following the publication of its access plan for the disabled[1], which includes specific standards for the management of wait lists and service continuity, it would undertake the same process for home support services. With regard to the actual wording of the Québec Ombudsman's recommendation on wait times, the MSSS has not made any commitment concerning the establishment of standards to govern the information provided to the users on access times, either for the time within which the information must be given or the way it must be given.

With regard to service continuity in particular, the MSSS points out that it is pursuing the creation of integrated service networks for seniors, and especially home support for people with age-related loss of autonomy. According to the MSSS, this new network will boost service continuity by ensuring that information is coordinated.

The Québec Ombudsman is not satisfied with the progress made, however, and would like the access plan for home support services to be submitted as soon as possible, so that the agencies and facilities can begin to implement the procedures.

In 2008-2009, the Québec Ombudsman also continued to receive complaints related to the accessibility of home support services. According to these complaints, users are not receiving the appropriate number of hours of service for their needs. In addition, the complaints show that wait times may compromise home support and that priority criteria are not the same in all institutions and sometimes contradict policy guidelines. Although the Québec Ombudsman has taken steps to correct or improve certain individual situations, it is clear that service access is still a problem for many people.

Six years ago, in 2003, the MSSS adopted a home support policy to promote home support. The purpose of this policy is to guarantee access to equivalent service for everyone, without distinction, and to provide a response based on need. The policy specifies that the services must work together to keep dependent people in their own homes for as long as possible, if they so wish, up to the cost of lodging them in a public facility.

One of the methods proposed by the policy to provide a better and more equitable response to the needs of people who require home support is to harmonize the practices of local CLSCs. The use of a standardized tool, the *Outil d'évaluation multiclientèle*, is therefore recommended for needs evaluation. The policy also determines the criteria for establishing a priority order for responding to needs, which relate to the needs expressed by the person requesting support and his or her natural caregivers, the urgency of the situation, and the quality of the user's living environment. The policy adds that these criteria will be further clarified in an implementation plan, requiring collaboration with the regional authorities and the CLSCs. It stipulates, however, that in no case can socio-economic criteria constitute a motive for refusal, since home support services must be accessible to everyone, regardless of their income.

[1] Ministère de la Santé et des Services sociaux, *Plan d'accès aux services pour les personnes ayant une déficience. Afin de faire mieux ensemble*, Québec, June 2008.

RECOMMENDATIONS

Whereas the six-year-old ministerial home support policy seeks to guarantee access to equal services for everyone without distinction and to provide a response based on needs;

Whereas, in the policy, and in the subsequent clarification document[2], the MSSS announces that the prioritization criteria should be clarified and improved;

Whereas, in its response to the Québec Ombudsman concerning wait times, the MSSS announced its intention to specify standards for access to home support services based on the access plan for the disabled;

Whereas the Québec Ombudsman has found that the application of prioritization criteria for access to service sometimes contradicts the policy guidelines;

The Québec Ombudsman recommends:

That in the home support service access plan it is about to develop, the Ministère de la Santé et des Services sociaux specify the prioritization criteria for access to service and that it instruct institutions to apply them with timelines and specific accountability, in order to ensure consistent handling of requests for home support, no matter which institution is approached by a person in need of such services;

That the MSSS inform the Québec Ombudsman, no later than September 30, 2009, of the timeframe in which it plans to submit the access plan and the related implementation schedules to the institutions in question.

COMMENTS FROM THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

These are the comments from the Ministère de la Santé et des Services sociaux, as expressed by the Deputy Minister:

"In terms of home care, it should be specified that the MSSS does not plan to establish a home care plan based on the model used for people with disabilities. Rather, it has made to a commitment to develop access, continuity and quality standards for home care services."

[2] Ministère de la Santé et des Services sociaux, *Chez soi : le premier choix. Précisions pour favoriser l'implantation de la politique de soutien à domicile*, Québec, 2004.

Two regions, two different applications of the same policy

Two women living in two different regions were both paralysed, one following a stroke, and the other after brain surgery. Based on evaluations of their functional autonomy carried out by their local CLSC, they were allotted 21 and 25 hours of weekly home support service, respectively. Upon being discharged from the hospital, they were given the full allotment of service hours, but over time the number of weekly hours began to decline, and two years later, although their needs remained the same, the first woman was receiving only two hours of service a week, and the second was receiving only one.

Because they did not have enough resources to meet the needs of their clients, the institutions were using a prioritization mechanism based on a standardized grid of risk factors and urgency levels. The Québec Ombudsman noted that the two CLSCs did not allot the same weight to the risk factors. In addition, one of the CLSCs took the woman's financial capacity into consideration, which further reduced her access to service. This example illustrates the disparities that exist in different regions with regard to the interpretation of a single policy. The Québec Ombudsman deplores this situation.

The Québec Ombudsman approached the centre considered the woman's financial capacity, to ensure that this criterion was removed from the evaluation process. Even though it did not change this woman's immediate situation because of other prioritization criteria, at least she is now treated on the same basis as the other users.

The Québec Ombudsman is also concerned about the repercussions of wait times for all users who wait, sometimes for years, for access to home care and support services, and about the consequences of different wait list management methods in different CLSCs. It notes that needs are increasing faster than resources, for a number of reasons including the population ageing, the shift to ambulatory care, and the tightening of access criteria for public accommodation. The result is a gap between needs and services, between ministerial intentions and the response in the field.

For this reason, in 2009, the Québec Ombudsman is asking the MSSS for clarification of its intentions and details of what it plans to do to guarantee that its home support policy is implemented and applied consistently by the health and social services centres, which have been responsible for dispensing these services in their own regions since 2005.

Pre-hospital emergency services

ACCESSIBILITY AND QUALITY OF AMBULANCE TRANSPORTATION SERVICES

This year, the Québec Ombudsman received twice as many complaints about pre-hospital emergency services as last year.

The most common reasons for these complaints were:

- The need to pay transportation costs, although users were not informed about or did not choose to use this type of transportation;
- The lack of respect for and discomfort of users during ambulance transportation;
- Wait times for ambulances.

Pre-hospital emergency services for people transported in ambulances are not covered by the public medicare or hospital insurance plans, and prices are established by the Government. In some exceptional cases, however, transportation is free. These include transfers between two facilities in the health and social services network, situations where the service is covered by Government programs (such as traffic or work accidents, for example), and in some circumstances for people aged 65 or over. The complaints received by the Québec Ombudsman suggest that people are generally not aware of their financial obligations, and are therefore extremely upset when they receive an unexpected bill for $100 or more for ambulance transportation that they may or may not have wanted.

In examining other complaints, the Québec Ombudsman took steps to enforce the code of ethics or clinical intervention protocols that must be applied by ambulance technicians. These protocols were developed by the MSSS, in compliance with the Act respecting pre-hospital emergency services, to provide guidelines for the care dispensed during ambulance transportation to avoid further deterioration of the user's condition. As a corrective measure, the Québec Ombudsman asked that information and training sessions be offered to personnel to ensure the quality of clinical services.

The Québec Ombudsman also observed problems in gaining access to pre-hospital emergency services in some regions, resulting in unreasonable delays in the provision of service. To correct these situations, the Québec Ombudsman proposed a number of measures, including changes to the ambulance transportation contract upon renewal, the presence of an ambulance in certain locations to provide adequate coverage of the territory, and the establishment of a three-year service organization plan including a plan to connect the municipalities in question to a health communications centre, approved by the MSSS, for quality control purposes.

Régie de l'assurance maladie du Québec (RAMQ)

REIMBURSEMENT OF FEES FOR CARE

Our investigation is conclusive: the decision-making process for the reimbursement of medical services received outside of Québec is adequate

The RAMQ offers a wide array of medical services that are essential to the health of the general public. But in some specific circumstances, services may not be available in Québec, and in such cases it is possible to request prior authorization from the RAMQ for the reimbursement of services that must be received outside Québec.

Newspaper articles reporting the RAMQ's refusal to authorize treatment in a specific case were brought to the attention of the Québec Ombudsman, which launched an investigation to determine the conditions and procedures of the RAMQ's decision-making process in such cases.

A few statistics

Some statistics illustrating the extent of this problem may be helpful. In 2006-2007, for example, the RAMQ received 89 requests for authorization to receive services outside Québec. Of these, 49 were authorized immediately, and 26 were refused (the remaining the files were closed for various reasons). Two further requests were accepted for review. In 2007-2008, 46 out of 102 requests were accepted immediately and two more were accepted after review.

Although the number of requests may seem small, it is important to remember that the cases are complex and affect people who are extremely vulnerable and whose hopes depend, rightly or wrongly, on treatment that is available only outside Québec.

Investigation

The Québec Ombudsman first checked the legislative and regulatory framework governing this issue, mainly comprising the Hospital Insurance Act and the Health Insurance Act and the ensuing regulations. These texts clearly set out the information that is required by the RAMQ to make its decisions. For example, the requested services must not be available in Québec, must not be experimental, and must be recognized and medically required by the user's personal condition.

The Québec Ombudsman then used a sampling method to examine 25% of the requests received in 2006-2007 and 2007-2008, for a total of 56 cases. Its principal findings were as follows:

- All the cases complied with the law and the regulations
- In all the cases, the RAMQ had checked the accuracy of the information provided and obtained additional information where needed
- The background information in the patient file was complete
- All the cases were medically documented
- The responses given to users were in keeping with the Act respecting administrative justice

The Québec Ombudsman's investigation therefore showed that the RAMQ treats requests for permission to obtain services outside Québec properly and in compliance with all its legislative and regulatory obligations.

Complaint examination system

SPIRIT AND PURPOSE OF THE COMPLAINT EXAMINATION SYSTEM

The health and social services complaint examination system was created to allow users to file complaints when they are dissatisfied with the service or care they receive, or when they feel their rights have not been respected. The local or regional complaints and service quality commissioner is responsible for processing complaints, promoting service quality and ensuring that users' rights are upheld. If users are dissatisfied with the commissioner's responses or conclusions, they can address their complaints to the Québec Ombudsman. The Québec Ombudsman may also intervene of its own initiative if it has reason to that an individual or a group of individuals has been wronged by the actions or inaction of a Government department or agency, or by a recognized health and social services institution, including a private residence.

COMPLAINT EXAMINATION SYSTEM

In its 2006-2007 annual report, the Québec Ombudsman reported concerns about the implementation of the complaint examination system, which was substantially modified in 2006 by the Act to amend the Act respecting health services and social services and other legislative provisions (2005, chapter 32).

The Québec Ombudsman was concerned in particular about the non-availability of complaints and service quality commissioners and, by extension, questioned their capacity to fulfill their functions and meet users' service demands. The Québec Ombudsman suggested at the time that the MSSS take certain steps to speed up the implementation of the plan.

In 2007-2008, the Québec Ombudsman took note of the MSSS's efforts in this regard, but in light of its observations in the field and the results of a second survey of the plan's implementation, it recommended that the boards of directors of health and social services institutions and regional agencies ensure that local complaints and service quality commissioners have the resources and are given the conditions they need to perform their duties effectively and efficiently. In response to this recommendation, the MSSS indicated that each individual institution was responsible for allocating resources and creating appropriate working conditions.

The Québec Ombudsman also recommended that the MSSS continue and expand its support for the implementation of the plan, in particular by granting priority to user information, taking particular care to meet the needs of vulnerable people. In response to this recommendation, the MSSS indicated that in 2007-2008, management agreements stipulated that each agency would adopt a combined action in collaboration with the institutions and partners in its territory, with a view to promoting users' rights, including the right to recourse in the event of dissatisfaction with services received. In January 2009, the MSSS informed the Québec Ombudsman that these action plans are now in place at every regional agency. In addition, in March 2009, the MSSS asked the agency CEOs to ensure that priority is given to interventions involving vulnerable clients. The MSSS made a commitment to submit this same request to the complaints and service quality commissioners in the spring of 2009.

RESULTS OF THE 2009 SURVEY

For the third year in a row, the Québec Ombudsman surveyed the chairs of health and social services network facility boards, in order to update its information on the progress made with the complaint examination system. The chairs were invited to answer an online survey between January 6 and February 9, 2009. Since the questions related to the work of the complaints and service quality commissioners, the task of answering the questionnaire was usually delegated to the commissioner or to someone on the commissioner's team. The response rate this year was 80% (222 respondents out of a total of 276 facilities), up from 73% last year.

Highlights

- The turnover rate for coordinators was lower than in 2007.
- The position of commissioner was rarely vacant.
- The commissioners and their assistants spent about 20 hours a week at this task.

The survey findings show that users were rarely left without service for prolonged periods, despite the commissioner turnover rate. Although 30% of institutions said they had changed commissioners since the initial appointment, 89% had changed only once or twice. And despite the turnover, only 5% of the institutions had vacancies for the position.

Like last year, each board of directors had an average of 5.4 institutions under its responsibility. The median or most common number was two; 51% of the boards were in charge of no more than two institutions.

As for the number of hours worked, the commissioners and their assistants spent an average of 20 hours per week on the various tasks related to their functions. Typically, however, commissioners dedicate 14 hours per week to their functions. Thirteen respondents said the commissioner and his or her assistants work a combined total of at least 70 hours per week. After analysing these results more closely, the Québec Ombudsman found that the number of hours worked is a product of the number and type of institutions covered. The survey showed that CHSLD commissioners were the ones that worked the fewest hours (1 to 10). Those who worked more than 20 hours a week were mostly in institutions such as hospital centres, health and social services centres or youth protection centres, where most network users are concentrated.

The survey findings also showed that commissioners spend an average of 44% of their time handling complaints and reports. This is by far the task that takes up the most time. Next in line is helping with complaints (10%) and promoting the system (9%). The type of help was not specified, however, so it is impossible to say whether it involves support for formulating a complaint – such as to a medical examiner – or, as mentioned recently to the Québec Ombudsman by representatives of the complaint assistance and coaching centres, handling real complaints which the commissioners classify under this heading for reasons as yet unknown.

THE QUÉBEC OMBUDSMAN'S CONCERNS FOR 2009-2010

In the coming year, the Québec Ombudsman plans to pay particular attention to an emerging practice in some facilities, which consists of registering and handling complaints as if they were requests for assistance. Following up on our 2008-2009 recommendation, we will check systematically, as part of our complaint and report handling process, to see whether regional and local commissioners have the appropriate resources and working conditions to perform their duties effectively and efficiently.

Mental health

THE QUÉBEC OMBUDSMAN IS STILL DISSATISFIED WITH THE LEVEL OF RESPECT FOR THE RIGHTS OF PEOPLE WITH MENTAL HEALTH PROBLEMS

In its 2007-2008 annual report, the Québec Ombudsman made reference to gaps in the care and services offered to people with mental health problems. Again this year, it observes that these gaps persist and a number of problems have yet to be resolved, particularly with regard to the Act respecting the protection of persons whose mental state presents a danger to themselves or to others, the institutions' recourse to isolation and restraint measures, and regionalization. In the Québec Ombudsman's opinion, the rights of people with mental health problems are not sufficiently protected in some institutions, and it was for this reason that it began a systematic investigation of the issue during the year.

2005-2010 MENTAL HEALTH ACTION PLAN: INSUFFICIENT FOLLOW-UP

Relying on the quality of care and services

In its annual report last year, the Québec Ombudsman voiced concerns about the fact that the evaluation objectives listed in the 2005-2010 Mental Health Action Plan do not include improvement of care and service quality, and recommended that the MSSS add this aspect for all types of service and service locations.

In response to these recommendations, the MSSS provided the Québec Ombudsman with information about its evaluation processes. On March 31, 2009, it made four quality assessment visits to non-institutional resources. Two additional visits are planned between April and June 2009, then the MSSS will then turn its attentions to eight CHSLDs that care for people with mental health disorders. At the same time, the MSSS is continuing to offer training sessions and tools to help improve service quality.

However, the Québec Ombudsman deems these efforts insufficient. It notes that the MSSS has not undertaken to evaluate the quality of life of users in general, and draws the attention of the Commission des affaires sociales to this fact. The Québec Ombudsman deplores the Department's lack of interest in the quality of life of users, an issue that is critically important as it encompasses the entire question of rights. It reiterates its recommendation that the action plan implementation assessment should include an evaluation of the quality of services and quality of life of users, regardless of where the services are offered and what type of services they may be.

Increasing public awareness to counter prejudice against people with mental health disorders

In 2007-2008, the Québec Ombudsman recommended that the MSSS step up its communications activities to increase public awareness of the situation of people with mental health problems. In particular, it asked the MSSS to take action in areas where there is strong stigmatization of the mentally ill. The MSSS accepted this recommendation and launched an advertising campaign in 2008 on the subject of depression and how it afflicts people.

The Québec Ombudsman reiterates the importance of continuing these efforts. It recommends that the public also be made aware of other mental illnesses in respect of which prejudice persists.

ACT RESPECTING THE PROTECTION OF PERSONS WHOSE MENTAL STATE PRESENTS A DANGER TO THEMSELVES OR TO OTHERS

Application difficulties

The Act respecting the protection of persons whose mental state presents a danger to themselves or to others allows for exceptional measures to keep a person in an institution without his or her consent when a doctor or a court is of the opinion that this individual presents a danger to self or to others. Since the fact of being placed in confinement contravenes the person's rights and freedoms, it is imperative that it be done in compliance with the law, the Civil Code of Québec and the Code of Civil Procedure, which govern these exceptional circumstances.

Like other stakeholders in the fields of health, justice and public security, the Québec Ombudsman agrees that it is difficult for institutions to comply fully with the law in this respect. To rectify some of the related problems, the Québec Ombudsman made recommendations to the institutions last year, on the following issues:

- Review the law's application protocol to ensure that people's rights are upheld, including the right to information and the right to give free and informed consent for psychiatric evaluation;
- Train staff on the issue;
- Place a note in the patient file of all information given to the user by staff members;
- Perform systematic checks to ensure that these measures are being observed.

In the fall of 2006, the Direction de la santé mentale (MSSS) asked a consultant to evaluate the application of the law, in collaboration with the Québec Ombudsman. Last January, the MSSS informed the Québec Ombudsman that the report would be submitted in the spring of 2009. Meanwhile, the brochure Rights and Recourses of Persons Placed Under Confinement was updated, and the MSSS reminded the institutions of their obligation to inform people and their relatives of their rights and recourses.

After an intervention with a health care institution in 2007, the Québec Ombudsman received seven new reports, each related to more than one institution. It also notes that the number of complaints and reports concerning application problems and failure to apply the law in health care institutions across Québec has remained constant from year to year.

Given the serious consequences of not upholding the fundamental rights of every individual, the Québec Ombudsman is currently engaged in a systematic analysis of the situations brought to its attention, in order to inform the Ministre de la Santé et des Services sociaux and the National Assembly.

ISOLATION AND RESTRAINT IN HEALTH CARE INSTITUTIONS

Exceptional measures of last resort

Like institutional confinement, isolation and restraint using mechanical or chemical means must only be used with scrupulous respect for the law and the guidelines issued by the Ministère de la Santé et des Services sociaux, including section 118.1 of the Act respecting health services and social services.

"Force, isolation, mechanical means or chemicals may not be used to place a person under control in an installation maintained by an institution except to prevent the person from inflicting harm upon himself or others. The use of such means must be minimal and resorted to only exceptionally, and must be appropriate having regard to the person's physical and mental state. [...]" Excerpted from section 118.1 of the Act.

In its 2007-2008 annual report, the Québec Ombudsman asked the MSSS to set out guidelines for the use of chemical substances as a means of control. The MSSS informed us that it would consult the appropriate associations and professional orders on this matter by March 31, 2008. The consultation report, prepared in cooperation with the MSSS Direction de la santé mentale and the Direction de la qualité, is expected to be published in the fall of 2009. The Québec Ombudsman deems it unacceptable that the guidelines for chemical control substances still not be available when they were initially expected in June 2003.

The Québec Ombudsman's concerns are heightened by the complaints it receives, since it is clear that, even today, some institutions are still not complying with the law or the MSSS's instructions. The measures introduced by the MSSS (a training course on the subject of changing practices to reduce recourse to confinement and isolation, and the publication of a job aid presenting alternatives to confinement and isolation) have been insufficient in the face of a well-established culture that promotes practices contrary to individual rights and dignities.

The Québec Ombudsman has also noted that some facilities use different terms to get around the definition of isolation set out in the MSSS guidelines, such as plan de chamber (room plan), *chambre d'observation* (observation room), *retrait en chambre* (room confinement) or *plan de soins thérapeutiques* (therapeutic care plan). In reality, these practices correspond to the definition of isolation and, in fact, constitute isolation.

Again this year, the Québec Ombudsman recommended that certain institutions review their application protocol for control measures, obtain user consent when planning to use these measures, ascertain that there is an imminent risk of harm to the person or to others before using measures of last resort, and ensure that staff members thoroughly understand the rules governing the use of these practices, and clearly note down the actions taken and the context in which they are taken in the user's file.

The Québec Ombudsman began a systematic investigation in 2008, to ensure that isolation and restraint measures are applied appropriately and respectfully.

Protective custody and the application of a room plan

A user came to the emergency room of a hospital in his region. A few hours after his arrival, he asked a staff member for permission to go outside to smoke. He was told at that time that he was in protective custody and could not smoke because he was not allowed to go outside. The user was astonished because he came to the hospital of his own free will to receive care and was neither suicidal nor aggressive.

The next day, after meeting with the physician, the user was admitted, by his own consent, to the hospital's psychiatric unit. As soon as he was admitted, he was subjected to a room plan; that is, he was obliged to stay in his room at all times. On the third day of the room plan, he asked for authorization to circulate freely in the unit. Two thirty-minute periods were granted. The next day, he was authorized to leave his room freely, no longer being subject to the room plan. The user did not understand why he was subject to the room plan since his hospitalization was voluntary.

The Québec Ombudsman has no jurisdiction to examine a physician's decision to place a person in protective custody or to apply a room plan. However, clinical decisions such as this must comply with the Act and the guidelines issued by the MSSS, and the Québec Ombudsman is able to intervene with regard to this aspect.

An examination of the complaint revealed a flagrant lack of information when the user was placed in protective custody. Accordingly, the Québec Ombudsman recommended that the hospital review its application protocol for the Act, to ensure that when a person is placed in protective custody, or as soon as he or she seems able to comprehend, that information be provided on the conditions of custody, including the place, the reason and the right to communicate immediately with friends or family and a lawyer. In such cases, the institution must also indicate the day on which and time at which the custody will begin and end. Furthermore, the person's file must contain a note to the effect that the physician who instituted the protective custody immediately advised the director of professional services.

Likewise, the institution's protocol must clearly indicate the exceptional nature of the act and reiterate that protective custody can be prescribed only where the person's mental state presents a serious and immediate danger to self or to others and where the person is not cooperating. The Québec Ombudsman also recommended raising awareness in hospital emergency rooms concerning the extraordinary nature of protective custody and reminding staff of the importance of placing detailed notes in the person's file to ensure that all legal requirements have been met.

With regard to the application of a room plan, the Québec Ombudsman concluded in this specific case that, for the first 24 hours, there was an agreement between the user and the staff that he remain in his room to rest and give the staff members the chance to get to know him. Maintaining the plan beyond the first 24 hours was not justified, however. The user wanted to move freely through the unit and nothing in his file indicated that he was at risk of harming himself or others. It should have been responsibility of the nursing staff to assess his needs and determine the appropriateness of continuing the room plan. Free and informed consent was required. A room plan applied without the person's consent becomes an isolation or control measure, which consists in confining a person to a location for a predetermined time, and should therefore only be used to prevent someone from hurting themselves or others.

In this situation, the Québec Ombudsman recommended that the hospital take the necessary steps to ensure that the nursing staff understands and plays its health care role as set out in section 36 of the Nurses Act, especially with regard to monitoring and adjusting the therapeutic nursing plan. It was also recommended that the facility update the control measure application protocol, especially concerning restraint, isolation and the use of chemical substances, while also informing all personnel about changes in practice in order to significantly reduce the use of restraint and isolation measures. Finally, it was recommended that, other than for the situations stipulated by law, the staff should obtain free, informed and specific consent from the person or the person's representative before instituting isolation.

REGIONALIZATION

More complaints

Because of regionalization, institutions sometimes refuse to provide care to people who do not live in the territory they serve. However, the right to choose an institution or a health care professional is stipulated in the Act respecting health services and social services. The 2005-2010 Mental Health Action Plan expressly reiterates this aspect.

Once again this year, despite the efforts of the Ministère de la Santé et des Services sociaux to inform institutions of the limitations of regionalization, the Québec Ombudsman received seven complaints on this issue, relating in particular to mental health care in institutions in the Montreal region. It has therefore decided to launch a systematic analysis, in order to situate this issue within the context of the restructuring of front-line mental health care and services and end the problems people encounter when seeking care in the institution or from the professional of their choice.

SEXUALITY IN HEALTH CARE FACILITIES

Proximity of users

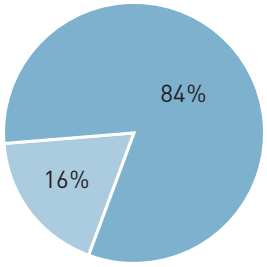
This year, the Québec Ombudsman examined a complaint about a specific situation relating to the delicate matter of sexuality in health care institutions. The complaint concerned a teenage girl who had sexual relations with another patient when they were both in a psychiatric ward. The complaint, filed by the girl's father, claimed a lack of oversight by the personnel. According to the father, his daughter was in no condition to provide consent to sexual relations and the personnel should have prevented the incident from occurring. The event came to light a month after the fact and was admitted by the other patient.

As soon as the institution learned about the situation, it introduced constant supervision for the teenage girl. The local complaints and service quality commissioner also took steps to ensure that adults and teens be physically separated in the psychiatric unit. A special area was designated for the observation of teens. The Québec Ombudsman endorsed the steps taken by the local commissioner and the care team, but its investigation also revealed that the institution had no policy on sexuality. Efforts are currently being made to adopt such a policy, which will apply to the entire institution. The Québec Ombudsman feels this policy is necessary to protect vulnerable patients.

Lastly, a visit to the psychiatric emergency room also revealed that men and women shared the same bathrooms and showers, which the Québec Ombudsman deemed to be completely unacceptable. We urgently recommended setting up separate men's and women's bathrooms and showers. These recommendations were accepted and an action plan was adopted. Follow-up is underway.

The Québec Ombudsman intends to take a more systematic approach to the issue of mental health in the coming year. This will help ensure that users' rights are respected and will also help to improve the quality of care and services available to people with mental health disorders and their families.

SOCIAL PROBLEMS



Unsubstantiated complaints: 490

Substantiated complaints: 92

		Investigations not completed		Investigations completed		
Health and social services network missions / Government departments and agencies	**Complaints and reports received**	**Complaints and reports referred**	**Complaints and reports interrupted**	**Unsubstantiated complaints and reports**	**Substantiated complaints and reports**	**Total**
Curateur public	191	3	102	108	22	235
Ministère de l'Emploi et de la Solidarité sociale						
Employment	77	5	34	29	4	72
Parental insurance	59	-	16	24	16	56
Social solidarity	898	58	286	324	41	709
General	116	1	1	5	9	16
Total	**1,341**	**67**	**439**	**490**	**92**	**1,088**

The number of complaints relating to the Curateur public and the Ministère de l'Emploi et de la Solidarité sociale fell from 1,406 in 2007-2008 to 1,341 this year. The percentage of substantiated complaints relating to the Curateur public also fell, from 24% to 17%, but those relating to the Ministère de l'Emploi et de la Solidarité sociale increased, from 9% to 15%.

More than 50% of the substantiated complaints relating to the services of the Curateur public were concerned with the time taken to respond to the needs of wards, such as organizing various aspects of the everyday lives of incapacitated incarcerated individuals, and preparing care plans and release plans.

Delays in processing benefit applications accounted for 44% of all substantiated complaints relating to the Ministère de l'Emploi et de la Solidarité sociale, while 51% of substantiated complaints relating to its social solidarity mission were concerned with delays in paying amounts granted via last-resort financial assistance programs, payment interruptions, refusals to pay, and payment of insufficient amounts.

INDEXATION OF SOCIAL ASSISTANCE BENEFITS

COLLECTIVE GAIN

The Québec Ombudsman salutes the Government's decision to index all social assistance benefits as from January 1, 2009; these benefits had not been fully indexed since 2005. The Québec Ombudsman recommended this measure in its last report, pointing out that the cost of many essential services such as rent, electricity and transportation had risen, eroding the purchasing power of those people whose quality of life was already at the bare minimum. The Government has invested a total of $66 million in this measure, which will benefit 332,000 families and represents a significant collective gain.

Curateur public du Québec

In 2007-2008, the Québec Ombudsman made three recommendations to the Curateur public. The following paragraphs present the results obtained in the last year.

EXCHANGES OF INFORMATION BETWEEN THE CURATEUR PUBLIC AND THE MINISTÈRE DE LA SÉCURITÉ PUBLIQUE

Following a number of complaints received from incarcerated incapacitated individuals, it became clear that the Curateur public may often be unaware that a person it represents has been placed in detention. Deficiencies such as these in exchanges of information between the Ministère de la Sécurité publique (MSP) and the Curateur public prevent the Curateur public from acting in the interests of these people, since it has no knowledge of their situation. The impacts of this are also felt when the people concerned leave the detention centre and find themselves alone, homeless or without the psychological and social support they need.

In 2007-2008, the Québec Ombudsman recommended that the Ministère de la Sécurité publique and the Curateur public introduce information exchange measures to ensure that the Curateur public is notified immediately when a person under its supervision is kept or held in a detention centre, and that it is consulted where necessary. This recommendation has been applied. An information exchange measure has been prepared, and is expected to be implemented in the summer of 2009. In addition, it has been agreed that individuals will be asked about the existence of a protective supervision program when they are admitted to a detention centre. In the event that they are subject to such a program, a note to that effect will be placed in their file and the Curateur public will be immediately notified that the person has been detained. The Québec Ombudsman will monitor the implementation and application of this measure.

LIMITING DELAYS IN LAUNCHING PROTECTIVE SUPERVISION PROGRAMS

It is up to the Curateur public to begin court proceedings where necessary, following a request from a health and social service network representative to open a protective supervision program. It estimates the average time required to obtain the necessary court ruling at 265 days.

In addition to the legal process, an average period of 111 days is required to complete the different steps of the process between receipt of the request and submission of a recommendation to the court. These steps include summary analysis of the file, assignment of the file to an agent, obtaining a mandate in case of incapacity, making contact with health network personnel and relatives, visiting the person and making a recommendation.

The legal process is also divided into several different steps that can take up to 154 days in all, as follows:

- the 30-day period stipulated in the Code of Civil Procedure, to allow an individual to request a protective supervision program;
- the 12-day period between the end of the 30-day period and filing of the application by the bailiff;
- the nine-day period for notification by the bailiff and submission of the process to the court clerk;
- the 103-day period between filing of the application and receipt by the Curateur public of the judgement in favour of protective supervision.

In its 2007-2008 report, the Québec Ombudsman asked the Curateur public to introduce measures aimed at minimizing the time taken to open protective supervision.

Based on the Québec Ombudsman's observations, the Curateur public adopted a plan of action composed of five major measures designed to reduce delays. These measures ensure that incomplete reports from institutions are identified quickly and returned for corrections or additional information, and that the health and social services network is aware of the importance of providing full information.

Although the Curateur public is dependent on collaboration from the health and social services network, one of its four regional offices has almost been able to achieve the 90-day standard for the processing of a report, and two other offices have made substantial progress towards this goal. The situation in the other regional office is being strictly monitored. The Curateur public believes the steps it has taken to reduce processing times should produce results in the coming months.

As a result of the steps taken following the Québec Ombudsman's recommendation in July 2008, there have been a number of returned files and incomplete reports. The Curateur public has approached the health and social services network and the Ministère de la Justice to raise awareness of the impacts of their responsibilities in cases where individuals are deemed to be incapacitated.

RECOMMENDATION

Whereas the Curateur public has taken steps to reduce processing times for the opening of protective supervision;

Whereas the Curateur public's initial analysis covered a period of time that is too short for it to be able to judge the results obtained;

Whereas, in addition to its interventions with the health and social services network, the Curateur public also approached the Ministère de la Justice in the winter of 2009, to examine the causes of the delays and find solutions;

Whereas the measures introduced by the Curateur public have begun to produce results and the Québec Ombudsman will be monitoring the situation in the coming year;

The Québec Ombudsman recommends that the Curateur public present a review of the measures it has introduced, and that it submit a report on its analysis of the results obtained as a result of the steps taken by other bodies.

COMMENTS FROM THE CURATEUR PUBLIC

The Public Curator herself made the following comments:

"The Curateur public undertakes to inform the Québec Ombudsman, by the end of 2009, of the results obtained from the measures it has introduced to reduce its own processing times."

CONSENT FOR CARE FOR INCAPACITATED INDIVIDUALS

Over the years, the Curateur public has worked hard to ensure that health institutions submit consent for care requests on behalf of incapacitated individuals. Last year, the Québec Ombudsman was concerned about the impacts of its efforts, and recommended that the Curateur public measure the results to ensure that its message had been properly understood by health and social services network personnel. As a result, the Curateur public took the following steps:

- Consultation of the medical records of people for whom requests for consent are received;
- Reporting of cases where consent was required but not requested;
- Interventions with negligent institutions;
- Awareness activities for health and social services network personnel to ensure that requests for consent are submitted.

The Québec Ombudsman and the Curateur public also agreed on the need to remind the latter's personnel about the importance of consent for care requests. These people have a role to play in identifying cases for which consent was required but not given, and avoiding any repetition of the situation.

Lastly, the Québec Ombudsman, upon reviewing a file, noted that the consent for care form was incomplete, and as a result the Curateur public could not know if all the steps in the consent process had been taken by the network personnel. In this particular case, exchanges of information between a health professional and a relative of the incapacitated person had been summarized in a single word. The Curateur public said it was concerned about deficiencies such as this, and undertook to obtain the missing information from the health professionals concerned.

RECOMMENDATION

Whereas although the Curateur public has undertaken to assess the results of its effort to ensure that health and social services institutions submit consent for care requests;

Whereas the results of this assessment are not yet known;

The Québec Ombudsman recommends that the Curateur public complete its assessment of the results in the near future, and submit a profile of the situation no later than June 2009.

COMMENTS FROM THE CURATEUR PUBLIC

The Public Curator herself made the following comments:

"The Curateur public has completed its analysis and will report to the Québec Ombudsman on its conclusions by June 2009."

Understanding its clientele

For the last ten years, the Québec Ombudsman has reminded the Curateur public of the importance of understanding its clientele. One of the methods proposed was to visit all wards at least once a year. The Curateur public responded by saying that this was impossible, given the very heavy workload of its personnel, and it decided to give priority to visiting wards living in their homes – in other words, approximately 1,200 individuals, or 10% of its adult wards.

Last year, however, the Québec Ombudsman drew the Curateur public's attention to the large number of incapacitated people living in their homes who had not been visited by their appointed curator. The situation improved in 2007-2008, but barely; the percentage of wards visited in their homes rose by just 3%, from 80% to 83%, despite an increase of 8% per year in the total number of wards over the last three years.

The Curateur public did, however, increase the number of visits to people living in residential facilities (90% of its wards), from 67% in 2006-2007 to 78% in 2007-2008.

The Curateur public estimates that more than 10,000 people will have been visited by the end of 2008-2009, for a total of more than 11,000 visits in all, compared to 9,736 in the previous year. Here again, the Curateur public notes that a number of factors will prevent it from achieving the goal of visiting 100% of its wards every year.

The Curateur public also points out that visits to wards are only one of the methods available to obtain information on its wards, their living environment and their needs.

RECOMMENDATIONS

Whereas the Curateur public states that it has introduced methods to help it understand its clientele and respond satisfactorily, and with a reasonable time, to their needs;

Whereas the Curateur public set itself the goal of visiting all wards living in their homes, but has still not achieved that goal;

Whereas the number of people to be visited continues to increase;

Whereas the Curateur public and the Québec Ombudsman meet periodically to review the follow-up to the Québec Ombudsman's recommendations;

The Québec Ombudsman recommends that, at one of the regular meetings between now and January 2010, the Curateur public submit a review of the steps taken to understand its clientele.

Reassessment of protective programs

The Québec Ombudsman recommended that the Curateur public should seek out and record the opinion of the incapacitated person concerned when reassessing his or her protective supervision program. The Curateur public's 2007-2008 operating plan provided for an upgrading of the protective program reassessment process, to be completed by December 31, 2008.

Unfortunately, however, the Curateur public has not met its own deadline for this task. As a result, a working group was set up to review every step in the reassessment process, examine the causes of delays and identify the problems encountered at each stage. According to the group's initial findings, the delays appear to be due among other things to deficiencies in the computer system, a lack of appropriate monitoring mechanisms and poor circulation of information within the Curateur public.

The Curateur public has completed the work required to implement its action plan for corrections to the protective program review process. These corrections will make the process more functional and bring it into line with the timeframes stipulated by law, i.e. three years for tutorships and five years for curatorships.

RECOMMENDATION

Whereas the Curateur public intends to introduce remedial measures to ensure that its process is functional and complies with the deadlines set by law;

Whereas it intends to implement a plan of action beginning in May 2009;

The Québec Ombudsman recommends that the Curateur public report to it by May 2010 on the implementation of its plan of action.

COMMENTS FROM THE CURATEUR PUBLIC

The Public Curator herself made the following comments:

"The Curateur public intends to report to the Québec Ombudsman on the results of its actions in May 2010."

Appointment of a tutor or curator by the Société de l'assurance automobile du Québec

The Québec Ombudsman was concerned by the possibility that an administrator appointed by the Société de l'assurance automobile du Québec to manage amounts of money owing to a minor or incapacitated person might not be subject to the same level of supervision by the Curateur public. As a result, the Curateur public set certain guidelines and informed the SAAQ of its position in 2007. However, the requested agreement has still not been made official and the work of the joint committee was suspended in June 2008, at the SAAQ's request, on the grounds that it was undergoing an administrative reorganization. The Québec Ombudsman is concerned that the Curateur public should have accepted such an excuse. It therefore asks the Curateur public to resume talks with the Société de l'assurance automobile du Québec as soon as possible, and to submit a report to the Québec Ombudsman by June 2009 on the results obtained.

Transmission of annual reports to persons represented by a private tutor or curator

The Québec Ombudsman recommended that the Curateur public's annual management reports be sent to persons represented by a private tutor or curator. To do this, the directive on access to and protection of documents and information held by the Curateur public had to be amended to specify the circumstances in which the Curateur public can transmit annual management reports to persons represented by a private tutor or curator. Two years later, the Curateur public finally produced the necessary directive and prepared a distribution plan for all its personnel, which it hopes to implement in the spring of 2009. The Québec Ombudsman is concerned about the two-year delay in producing these documents, and asks the Curateur public to provide it with copies this year, by the agreed-upon deadline.

Overseeing instances of private supervision

The Québec Ombudsman asked the Curateur public to strengthen its role as a provider of information and assistance for private tutors and curators, and to improve its supervision so as to be able to act more quickly in cases of actual or potential abuse. The Curateur public admits that its action plan has not yet been fully implemented.

During the year, the Curateur public conducted a survey of more than three hundred private tutors to identify their problems, needs and expectations with regard to the Curateur public. The survey's findings, which will be analyzed in the spring of 2009, will be used to improve the training and support available to tutors. Two policies are also being prepared, one on the protection of adults and the other on the assets of minor persons. The Curateur public believes both these policies will be completed in 2009, and will be implemented gradually in 2009 and 2010.

The Curateur public also intends to prepare an action plan for 2009-2010, which will include roughly a dozen projects designed to improve its supervision of private tutors and curators. The Québec Ombudsman will examine this plan and monitor its application.

Final report and accounting

At the end of its curatorship, the Curateur public must present a final report and account for its management of the person's assets. In processing the complaints received, the Québec Ombudsman noted that, while the documents provided by the Curateur public comply with the law and with current accounting rules, they can be difficult for ordinary people to understand. They contain many columns of figures, but no explanation.

The Curateur public includes very little information in its documents, and citizens are left to their own devices when deciphering them.

The Québec Ombudsman notes that the Curateur public complies with both the law and current accounting rules. In practice, it sends explanatory letters to people who obtain a release, or to their successors where necessary, asking them to contact it if they have questions, which many do. It provides the name and telephone number of the employee concerned. The Curateur public notes that it rarely receives comments on the presentation of its documents, even though the Québec Ombudsman intervenes regularly in this respect.

RECOMMENDATIONS

Whereas the Curateur public, at the end of its curatorship for a ward, must submit a final report and account for its management of that person's assets;

Whereas the Québec Ombudsman notes that these documents are difficult for ordinary people to understand;

Whereas the Curateur public believes these documents comply with current legislative and regulatory requirements and with accounting rules;

The Québec Ombudsman recommends:

That the Curateur public produce explanatory documents with a generalized version of its final report and accounts, based on the principles set out in the Act respecting administrative justice, and that it submit these documents to it by January 2010.

Ministère de l'Emploi et de la Solidarité sociale

EMPLOYMENT

RETURN TO WORK SUPPLEMENT

New flexibility

The Ministère de l'Emploi et de la Solidarité sociale (MESS) pays $500 for the first month of employment to support and encourage financial assistance recipients who join or return to the job market. The eligibility conditions are very strict, however, and vary from one region to the next. The Québec Ombudsman has intervened on several occasions with regard to these criteria.

COLLECTIVE GAIN

Because the public is not generally aware of this measure, many do not meet the 30-day deadline for applications. In 2007-2008, an number of other obstacles were also identified, including inequality between the regions, the requirement that employment be for 14 to 18 consecutive weeks, and the fact that employment cannot result from extension of an existing contract. In its 2007-2008 Annual Report, the Québec Ombudsman recommended that the MESS should review all the eligibility criteria for this measure. The MESS agreed to do this, and amendments were introduced in March 2009. The deadline for applications is now 45 days, and a more flexible approach has been taken to the other criteria.

CALCULATING EARNED INCOME

The Government introduced the Québec Parental Insurance Plan in January 2006. The Plan provides for the payment of benefits to all salaried and self-employed workers who take maternity leave, paternity leave, parental leave or adoption leave.

A number of problems surfaced when the Plan first came into force, many of them related to the calculation of benefits. For example, some women with high-risk pregnancies must stop working and rely on the income insurance plan included in their employment contract. Under the parental insurance regulations, income replacement indemnities paid by an employer constitute insurable income. The level of income from which parental insurance benefits are calculated is therefore reduced. In the Québec Ombudsman's view, however, benefits should be calculated on the basis of the income that would normally be earned by the person during the reference period.

In March 2007, the Ministère de l'Emploi et de la Solidarité sociale informed the Québec Ombudsman that a committee had been set up to study the general problem of lower income during the reference period.

In a letter sent to the Minister of Employment and Social Solidarity in September 2008, the Ombudsperson reiterated its recommendation that the rules be changed so that parental benefits are calculated on the basis of the income earned rather than the income replacement indemnity.

In February 2009, the MESS authorities informed the Québec Ombudsman that the current regulations, although they may appear to be unfair in certain cases, may nevertheless be advantageous to other people. For example, a parent who worked for only a few weeks before obtaining salary insurance may be eligible if he or she has accumulated enough months.

The Québec Ombudsman acknowledges that this will be the case for a small number of people in exceptional circumstances. For most people, however, it believes the income calculation problem has not yet been solved.

SOCIAL SOLIDARITY

THE DUPLESSIS ORPHANS: THE QUÉBEC OMBUDSMAN OBTAINS AN ADDITIONAL PERIOD FOR COMPENSATION REQUESTS

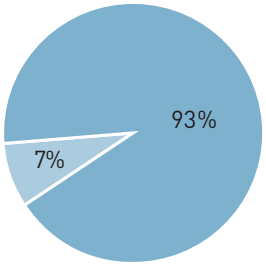
The Government introduced the National Reconciliation Program for Duplessis Orphans in 2001, as a means of compensating the prejudice suffered by orphans placed in psychiatric institutions between 1935 and the 1960s on the basis of false diagnoses of mental disease.

Initially, the Program was intended only for those orphans who had been placed in psychiatric institutions. Subsequently, however, the Government extended the reconciliation to include orphans who were placed in non-psychiatric institutions. This latter group had to submit their applications for compensation to the Ministère de l'Emploi et de la Solidarité sociale between April 10 and August 10, 2007.

COLLECTIVE GAIN

In 2008, the Québec Ombudsman received a number of calls from people who were eligible but who, for a variety of reasons, had not applied for compensation within the time allowed. It organized a working session with the Ministère de l'Emploi et de la Solidarité sociale to obtain an extension. As a result, on November 5, 2008, an order-in-council was adopted, extending the period for applications to February 2, 2009. By the end of this additional period, the MESS had received 1,200 new applications. The Québec Ombudsman salutes the open approach taken by both the Government and the Minister of Employment and Social Solidarity in this matter.

ENVIRONMENT AND RESOURCES



		Investigations not completed		Investigations completed		
Government departments and agencies	**Complaints received**	**Complaints referred**	**Complaints interrupted**	**Unsubstantiated complaints**	**Substantiated complaints**	**Total**
Ministère de l'Agriculture des Pêcheries et de l'Alimentation	36	1	13	9	1	24
Ministère du Développement durable, de l'Environnement et des Parcs	41	2	10	20	1	33
Ministère des Ressources naturelles et de la Faune	49	7	12	28	2	49
Total	**126**	**10**	**35**	**57**	**4**	**106**

This year, the Québec Ombudsman received 126 complaints on the subject of environment and resources, up from 114 in 2007-2008. However, analysis revealed that very few of these complaints were substantiated.

Ministère de l'Agriculture, des Pêcheries et de l'Alimentation

THE LISTERIOSIS CRISIS: A RISK MANAGEMENT APPROACH THAT NEEDS TO BE RE-EXAMINED

In September 2008, the Québec Ombudsman launched an investigation into the Government's management of the listeriosis outbreak of August 19, 2008. In Québec, the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation (MAPAQ) is responsible for overseeing consumer food safety issues, and also for inspecting the premises of food manufacturers, processors, distributors and vendors.

Listeriosis is a bacterial disease that must be reported to the Ministère de la Santé et des Services sociaux (MSSS) whenever it is detected. All reported cases are investigated by the regional public health branch of the MSSS, which contacts the victim and completes an investigatory questionnaire on the foods consumed by that person in the weeks preceding the onset of symptoms.

When the National Public Health Branch of the MSSS examines the connections between individual cases and concludes that an outbreak of listeriosis has taken place, it is up to the MAPAQ to identify the source(s) of contamination in the food sector, and terminate the problem. It does this by consulting the investigatory questionnaires. In last year's outbreak, it concluded that the consumption of cheeses manufactured in Québec was a potential source of the disease.

On September 4 and 5, 2008, in an attempt to terminate the outbreak, the MAPAQ issued a massive recall of cheeses, principally from two cheese factories in Québec. On September 6, its officers visited approximately 300 retailers and destroyed not only the recalled cheeses, but also all other cheeses that had been cut and were likely to have come into contact with the recalled products.

Given the scope of the MAPAQ's measures, the Québec Ombudsman decided to examine the Government's management of the outbreak. Its purpose in doing this was to see whether the methods used by the MAPAQ – recalling and destroying cheeses – were appropriate and reasonable, based on its evaluation of the risk and the effect on cheese producers.

The ultimate goal of the investigation was to see whether the crisis had been managed in compliance with current rules governing food recalls and risk management in cases of food poisoning. The aspects to be considered included the MAPAQ's inspection and supervisory role in the agri-food sector. Could the crisis resulting from the listeriosis outbreak have been avoided? Would the current inspection system be sufficient to limit the impacts of such an outbreak? What exactly is the scope of the MAPAQ's supervisory role in the agri-food sector? A further goal was to identify and document the risk assessment, management and communication practices applied by the MAPAQ: What rules were followed? Were the methods chosen by the MAPAQ to address this particular outbreak similar to those used in previous crises? Did it consider and assess the media-related and economic impacts of the measures for the cheese industry in its decision to recall and destroy the cheeses?

In short, could the crisis have been managed more effectively?

The Québec Ombudsman's report will be available at www.protecteurducitoyen.qc.ca in 2009.

Ministère du Développement durable, de l'Environnement et des Parcs

PROTECTING LAKESHORES, RIVER BANKS, LITTORAL ZONES AND FLOOD PLAINS

Is the MDDEP's approach too restrictive?

In 2008-2009, the Québec Ombudsman launched a systemic investigation of the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains and the role played by the Ministère du Développement durable, de l'Environnement et des Parcs (MDDEP) in implementing the policy.

Under section 2.1 of the Environment Quality Act, the Minister of Sustainable Development, Environment and Parks is responsible for preparing and proposing a protection policy for lakeshores, riverbanks, littoral zones and floodplains, and for implementing and coordinating that policy.

Pursuant to the provisions of the Environment Quality Act and the Act respecting land use planning and development, the municipalities and regional county municipalities (RCMs) are responsible for applying the Policy by ensuring that its principles are incorporated into municipal by-laws and RCM land use plans.

After extensive discussions with the MDDEP and a careful examination of individual complaints, the Québec Ombudsman notes that the MDDEP often takes a restrictive view of its role in the application of the Policy. The Québec Ombudsman wants to see whether this problem is due, at least in part, to the MDDEP's failure to perform certain policy-related duties entrusted to it by the Environment Quality Act.

Based on the complaints received since the Policy came into force in 1987, the Québec Ombudsman concludes that the MDDEP makes scant use of the powers entrusted to it by the Act respecting land use planning and development to ensure that the principles set out in the Policy are reflected in municipal by-laws and applied effectively.

As far as individual complaints are concerned, the MDDEP often decides that it is not within its mandate to examine requests for authorization in cases where the municipality has a by-law implementing the Policy's principles. It therefore does not intervene, regardless of whether the work – public or private – was authorized by the municipality, but simply refers the complainant to the municipality concerned, even where the work in question is contrary to the Policy.

In a ruling dated March 6, 2006, the Québec Court of Appeal stated that the MDDEP, in regarding itself as having no authority over private projects, even those that did not comply with the Policy, had misinterpreted its role. The ruling was not appealed.

The Québec Ombudsman will continue with its analysis in 2009, to ensure that the MDDEP fulfills its responsibility to implement and coordinate the application of the Policy. This will ensure that individuals caught up in situations covered by the Policy are aware of their recourse and know that the MDDEP has the mechanisms it needs to ensure compliance with Government policy.

The following situation, brought to the attention of the Québec Ombudsman, is a good example of the problems the MDDEP's current approach can cause.

The importance of timely action

An individual and his neighbour decided to alter the river separating their two properties in order to create a shared artificial lake. They did not request permission either from the municipality or from the Ministère du Développement durable, de l'Environnement et des Parcs before starting work.

In the following year, the individual and his neighbour argued and one of them reported the work to the municipality and the MDDEP, requesting that it be dismantled. The other objected. An investigation revealed that the work did not comply with the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains. There ensued a long series of discussions between the two individuals, the MDDEP and the municipality, to decide which authority should intervene. Four years later, no action had been taken and one of the individuals approached the Québec Ombudsman.

An in-depth investigation by the Québec Ombudsman clearly showed that the MDDEP had failed to act even though the work had taken place on a watercourse under its authority. However, an environmental assessment at the time of the investigation revealed that the river and its banks had stabilized over the years, and it would now be more disruptive to restore the watercourse to its former state than to leave it as it was. It was therefore impossible to remedy the situation.

This case clearly illustrates the problems caused by dividing authority over the Protection Policy for Lakeshores, Riverbanks, Littoral Zones and Floodplains between the MDDEP and the municipalities.

Ministère des Ressources naturelles et de la Faune

Delaying a decision does not make it less difficult

In May 2007, an individual requested an exclusive surface mining lease from the Ministère des Ressources naturelles et de la Faune (MRNF), with a view to operating a quarry.

He sent all the necessary documentation and met all the conditions for the granting of a lease. However, a number of regional stakeholders strongly objected to the request, since the proposed quarry would be located near an outfitting operation.

The MRNF, which usually responds to this type of request within two to three months, still had not reached a decision some 18 months later. Not only did its inertia cause financial problems for the applicant, it was also contrary to the Act respecting administrative justice, which stipulates that decisions by the Government authority must be made diligently, in order to be fair and respectful to citizens.

The delay in processing this particular request was completely unreasonable, and the Québec Ombudsman intervened with a view to obtaining a quick resolution. However, five months after its initial intervention, it is still awaiting the MRNF's final decision.

RESULTS IN FIGURES

This chapter presents information on the actions of the Québec Ombudsman pursuant to the two pieces of legislation that govern it, namely the Public Protector Act and the Act respecting the Health and Social Services Ombudsman[1]. In the health and social service sector, the Québec Ombudsman, in all but a handful of exceptional cases, is the second line of recourse for users who are dissatisfied with decisions made by local or regional commissioners. The Québec Ombudsman may also act on its own initiative where it feels this would be appropriate.

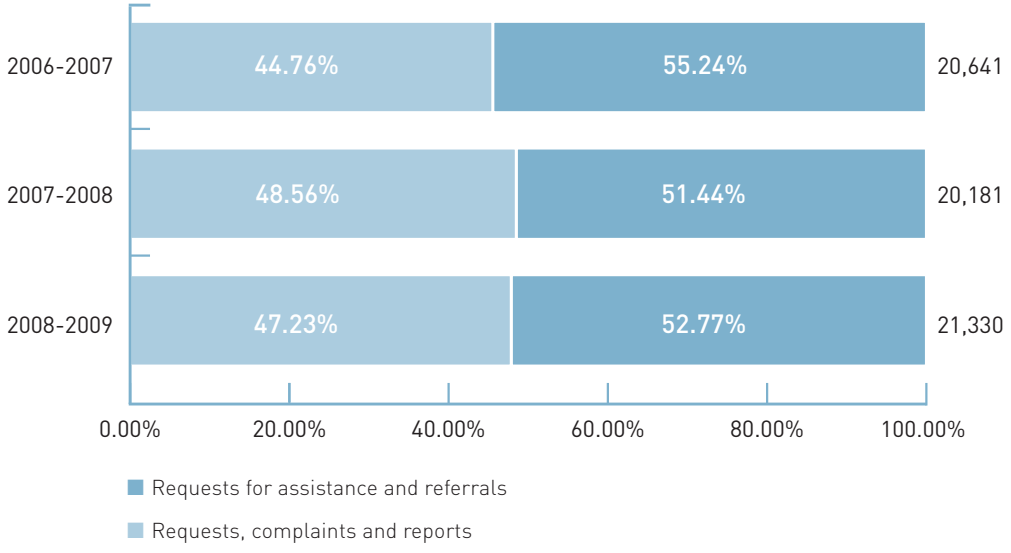
The Québec Ombudsman has the power to make recommendations. Although the entities under its jurisdiction agree to and implement virtually all recommendations, the Québec Ombudsman closes a file only when it is sure the measures identified as a result of its recommendations have been implemented, or where the entity in question has refused a recommendation for good cause.

The statistics presented in this chapter cover only those requests for service that have completed all steps in the process, including implementation follow-up. They are referred to as "requests investigated". Individual problems and situations used as illustrations may, however, relate to files that are still at the implementation follow-up stage.

In 2008-2009, the Québec Ombudsman intervened with:

- 60 government departments and agencies, or 70% of the 86 departments and agencies over which it has jurisdiction;
- 180 of the 312 bodies in the health and social services network, or 58% of the total number of bodies[2].

REQUESTS RECEIVED



The total demand increased by 5.7%

[1] S. 38: of the Act respecting the Health and Social Services Ombudsman requires separate reports on complaints and reports.

[2] The term "body" is defined in the Appendix (P.140).

Health and social services

- An increase of 68.27% in the number of requests, complaints and reports received (from 542 in 2007-2008 to 912 in 2008-2009).
- 1,086 complaints (64.30% more than in 2007-2008) and 88 reports (214.29% more than in 2007-2008) recorded.

Public service

Reduction of 0.92% in the number of requests received (from 9,264 in 2007-2008 to 9,179 in 2008-2009).

The number of requests declined the most for the following government departments and agencies:

	Requests Received		Variation
Departments and Agencies	**2007-2008**	**2008-2009**	**Number**
Ministère de la Sécurité publique	3,547	3,359	-188
Ministère de l'Éducation, du Loisir et du Sport	302	239	-63
Ministère de la Justice[1]	108	55	-53
Société de l'assurance automobile du Québec	956	924	-32

The number of requests relating to the following government departments and agencies increased:

	Requests Received		Variation
Departments and Agencies	**2007-2008**	**2008-2009**	**Number**
Régie de l'assurance maladie du Québec	224	316	+ 92
Services Québec[1]	4	47	+ 43
Régie du logement	136	166	+ 30
Commission des lésions professionnelles	62	84	+ 22

PERCENTAGE OF SUBSTANTIATED COMPLAINTS

	2006-2007	2007-2008	2008-2009
Public service	26.30%	25.17%	24.00%
Health and social services	37.00%	37.58%	34.82%

[1] The Directeur de l'état civil has been under the authority of Services Québec since April 1, 2008.

VARIATION IN THE NUMBER OF SUBSTANTIATED COMPLAINTS

The following table presents the number of substantiated complaints and compares it to the number of complaints that were investigated in full to see whether or not they were substantiated. Redirected and interrupted complaints are excluded from the total.

Government departments and agencies that were the subject of at least 15 substantiated complaints have been retained for the purposes of the table.

Departments and Agencies	Substantiated / Complete investigation 2006-2007	Substantiated / Complete investigation 2007-2008	Substantiated / Complete investigation 2008-2009	Increase or decrease
Commission de la santé et de la sécurité du travail	92 / 312	80 / 357	69 / 333	↓
Curateur public	27 / 126	20 / 83	22 / 130	↑
Ministère de la Sécurité publique	511 / 1,599	499 / 1,497	412 / 1,302	↓
Ministère de l'Éducation, du Loisir et du Sport	54 / 164	35 / 218	31 / 163	↓
Ministère de l'Emploi et de la Solidarité sociale	78 / 579	40 / 468	70 / 452	↑
Ministère du Revenu	94 / 462	111 / 487	119 / 571	↑
Régie de l'assurance maladie du Québec	11 / 143	16 / 137	29 / 174	↑
Régie des rentes du Québec	22 / 118	22 / 152	30 / 177	↑
Régie du logement	17 / 49	23 / 60	26 / 75	↑
Société de l'assurance automobile du Québec	180 / 528	245 / 881	233 / 918	↓

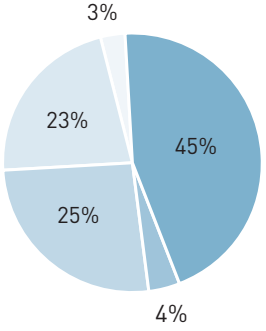
COMPLAINTS, REPORTS AND REQUESTS FOR ASSISTANCE INVESTIGATED

Compared to last year, the number of requests – complaints, reports and requests for assistance – that were investigated increased by 1,021 in total, or 9.7%.

2006-2007	2007-2008	2008-2009
9,214 complaints and reports 684 requests for assistance	9,709 complaints and reports 777 requests for assistance	10,573 complaints and reports 934 requests for assistance
9,898	10,486	11,507

REQUESTS FOR SERVICE INVESTIGATED

The following table presents a detailed profile of the requests for service that were investigated. Complaints and reports account for 45% of the total effort, a figure that has remained steady since 2006.



- Complaints and reports: 10,573
- Requests for assistance: 934
- Requests for assistance directed to an appropriate resource: 5,745
- Requests for information: 5,389
- Requests for service not completed by the citizen / user: 622

Other sectors of the public service

Complaints were also made about other government agencies, and in some cases the Québec Ombudsman was unable to redirect the people concerned to an independent body. Most of these complaints concerned Hydro-Québec (171).

Approximately 40% of the requests relating to Hydro-Québec related to invoicing problems, followed by payment agreements, service interruptions, general service access problems (e.g. installation delays, defective meters), and the difficulty of speaking in person to an agent.

In addition, people who contact Hydro-Québec were usually dissatisfied with the agency's customer service, believing that it simply repeated information without making an effort to understand the specific problem.

TYPES OF PREJUDICE SUFFERED BY CITIZENS

For citizens who contact the Québec Ombudsman with substantiated complaints, prejudice was either financial or related to waiting times for program admission, issuing of permits or access to services.

Type of complaint	Alleged grounds%	% of substantiated complaints
Money owed by the State	33.45	20.91
Waiting times	14.24	36.76
Information and communication problems	3.04	40.00
Failure to respect citizens' rights	3.81	25.82
Deficient behaviour, skills or competencies on the part of human resources	0.94	20.00
Care access problem	5.91	37.23
Uncoordinated services or programs	28.88	16.75
Problems relating to the environment or living conditions	9.52	24.40
Others	0.21	10.00
Total	**100.00**	**-**

BREAKDOWN OF SUBSTANTIATED COMPLAINTS AND REPORTS IN HEALTH AND SOCIAL SERVICES, BY CATEGORY

Complaint and report categories	2008-2009
Programs and services	80
Clinical aspects	137
Financial aspects	20
Environment and living conditions	21
Total	**258**

FOLLOW-UP TO THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS

	2006-2007		2007-2008		2008-2009	
	Accepted	Refused	Accepted	Refused	Accepted	Refused
Public service	98.50%	1.50%	98.53%	1.47%	99.36%	0.64%
Health and social services	98.00%	2.00%	98.41%	1.59%	98.98%	1.02%
Health and social services (reports)	100.00%	0%	100.00%	0%	100.00%	0%

STATUS OF CITIZENS' REQUESTS

	2006-2007	2007-2008	2008-2009
Implementation follow-up as of April 1 (Beginning of the year)	5	29	65
Requests under investigation as of April 1 (Beginning of the year)	976	1,286	1,492
New requests received	20,641	20,181	21,330
Requests investigated	20,487	19,939	21,726
Requests under investigation as of March 31 (End of the year)	1,106	1,492	1,087
Implementation follow-up as of March 31 (End of the year)	29	65	74

INVESTIGATED COMPLAINTS BY GOVERNMENT DEPARTMENT AND AGENCY, BY INVESTIGATION OUTCOME

Departments and agencies / Components	Complaints received	Requests investigated	Complaints				
			Redirected	Interrupted	Not substantiated	Substantiated	Total
Agence de l'efficacité énergétique	4	1	-	1	-	-	1
National Assembly	2	2	1	-	1	-	2
Autorité des marchés financiers	10	7	1	-	6	-	7
Bureau d'audiences publiques sur l'environnement	2	2	1	1	-	-	2
Bureau de décision et de révision en valeurs mobilières	-	-	-	-	-	-	-
Centre de services partagés du Québec	6	11	-	8	2	1	11
Comité consultatif de lutte contre la pauvreté et l'exclusion sociale	-	-	-	-	-	-	-
Comité de déontologie policière	1	-	-	-	-	-	-
Commissaire à la déontologie policière	85	73	1	53	29	2	85
Commissaire à la santé et au bien-être	-	-	-	-	-	-	-
Commissaire au lobbyisme	-	-	-	-	-	-	-
Commission administrative des régimes de retraite et d'assurances	40	45	-	20	19	9	48
Commission consultative de l'enseignement privé	-	-	-	-	-	-	-
Commission d'accès à l'information	32	32	-	11	8	13	32
Commission de la fonction publique du Québec	4	2	-	-	2	1	3
Commission de la qualité de l'environnement Kativik	-	-	-	-	-	-	-
Commission de la santé et de la sécurité du travail	-	-	-	-	-	-	-
Workers compensation and rehabilitation	675	547	11	356	216	51	634
Crime victims compensation Directorate	109	97	2	59	42	13	116
General	56	24	1	15	6	5	27
Commission de l'équité salariale	4	3	-	3	-	-	3
Commission de protection du territoire agricole du Québec	9	4	-	3	1	-	4
Commission des lésions professionnelles	86	75	-	70	5	2	77
Commission des normes du travail	70	47	-	25	26	1	52
Commission des relations de travail	22	16	-	10	6	-	16

INVESTIGATED COMPLAINTS BY GOVERNMENT DEPARTMENT AND AGENCY, BY INVESTIGATION OUTCOME

Departments and agencies / Components	Complaints received	Requests investigated	Complaints				
			Redirected	Interrupted	Not substantiated	Substantiated	Total
Commission des transports du Québec	-	2	-	1	-	1	2
Commission d'évaluation de l'enseignement collégial	-	-	-	-	-	-	-
Commission municipale du Québec	-	-	-	-	-	-	-
Commission québécoise des libérations conditionnelles	27	20	1	11	9	1	22
Conseil consultatif de la lecture et du livre	-	-	-	-	-	-	-
Conseil consultatif du travail et de la main-d'oeuvre	-	-	-	-	-	-	-
Conseil de gestion de l'assurance parentale	-	-	-	-	-	-	-
Conseil de la famille et de l'enfance	-	-	-	-	-	-	-
Conseil de la justice administrative	-	-	-	-	-	-	-
Conseil de la magistrature	1	1	-	1	-	-	1
Conseil de la science et de la technologie	-	-	-	-	-	-	-
Conseil de surveillance des activités de la Sûreté du Québec	-	-	-	-	-	-	-
Conseil des aînés	-	-	-	-	-	-	-
Conseil des relations interculturelles	-	-	-	-	-	-	-
Conseil du statut de la femme	1	1	-	-	1	-	1
Conseil permanent de la jeunesse	-	-	-	-	-	-	-
Conseil supérieur de la langue française	-	-	-	-	-	-	-
Conseil supérieur de l'éducation	-	-	-	-	-	-	-
Coroner	10	10	-	5	4	1	10
Curateur public	191	178	3	102	108	22	235
Directeur des poursuites criminelles et pénales	-	-	-	-	-	-	-
Fonds d'aide aux recours collectifs	-	-	-	-	-	-	-
Fonds d'assurance-prêts agricoles et forestiers	1	1	-	-	-	2	2
Institut de la statistique du Québec	-	-	-	-	-	-	-
Institut du tourisme et de l'hôtellerie du Québec	-	-	-	-	-	-	-
La Financière agricole du Québec	17	16	-	5	8	3	16
Ministère de la Culture, des Communications et de la Condition féminine	4	4	-	1	3	-	4
Ministère de la Famille et des Aînés	38	32	2	18	9	5	34

INVESTIGATED COMPLAINTS BY GOVERNMENT DEPARTMENT AND AGENCY, BY INVESTIGATION OUTCOME

Departments and agencies / Components	Complaints received	Requests investigated	Complaints				
			Redirected	Interrupted	Not substantiated	Substantiated	Total
Ministère de la Justice	58	47	4	21	17	8	50
Ministère de la Santé et des Services sociaux	20	24	3	10	9	3	25
Ministère de la Sécurité publique	-	-	-	-	-	-	-
Correctional Services	3,703	3,316	1,344	1,076	884	412	3,716
Civil protection	2	4	-	2	2	-	4
General	17	10	1	5	4	-	10
Ministère de l'Agriculture, des Pêcheries et de l'Alimentation	36	20	1	13	9	1	24
Ministère de l'Éducation, du Loisir et du Sport	-	-	-	-	-	-	-
Education	75	75	4	41	26	11	82
Aide financière aux études (Financial assistance)	162	134	-	15	106	20	141
General	12	1	1	-	-	-	1
Ministère de l'Emploi et de la Solidarité sociale	-	-	-	-	-	-	-
Social solidarity	898	705	58	286	324	41	709
Employment	77	72	5	34	29	4	72
Régime québécois d'assurance parentale (RQAP)	59	56	-	16	24	16	56
General	116	16	1	1	5	9	16
Ministère de l'Immigration et des Communautés culturelles	27	23	1	11	8	3	23
Ministère des Affaires municipales, des Régions et de l'Occupation du territoire	39	28	-	5	21	3	29
Ministère des Finances	33	31	-	7	23	1	31
Ministère des Relations internationales	-	-	-	-	-	-	-
Ministère des Ressources naturelles et de la Faune	49	44	7	12	28	2	49
Ministère des Services gouvernementaux	-	1	-	1	-	-	1
Ministère des Transports	43	47	3	19	18	12	52
Ministère du Conseil exécutif	1	1	-	1	-	-	1
Ministère du Développement durable, de l'Environnement et des Parcs	41	33	2	10	20	1	33
Ministère du Développement économique, de l'Innovation et de l'Exportation	2	1	-	-	1	-	1

INVESTIGATED COMPLAINTS BY GOVERNMENT DEPARTMENT AND AGENCY, BY INVESTIGATION OUTCOME

Departments and agencies / Components	Complaints received	Requests investigated	Complaints				
			Redirected	Interrupted	Not substantiated	Substantiated	Total
Ministère du Revenu du Québec	-	-	-	-	-	-	-
Taxation	688	591	20	197	328	87	632
Support-payment collection program	137	152	1	28	110	23	162
Direction générale des biens non réclamés (unclaimed property)	14	13	-	6	6	3	15
Registraire des entreprises	13	13	-	1	8	6	15
General	67	4	-	4	-	-	4
Ministère du Tourisme	1	2	-	-	1	1	2
Ministère du Travail	5	5	1	2	1	1	5
Office de la protection du consommateur	21	20	-	12	6	2	20
Office des personnes handicapées du Québec	6	6	-	3	3	-	6
Office des professions du Québec	26	21	1	8	10	6	25
Office québécois de la langue française	6	2	-	-	2	-	2
Régie de l'assurance maladie du Québec	318	203	-	34	145	29	208
Régie des alcools, des courses et des jeux	4	3	-	2	1	-	3
Régie des marchés agricoles et alimentaires du Québec	1	1	-	1	-	-	1
Régie des rentes du Québec	265	256	2	91	147	30	270
Régie du bâtiment du Québec	28	23	2	4	11	6	23
Régie du cinéma	2	2	-	1	-	1	2
Régie du logement	175	137	4	68	49	26	147
Secrétariat du Conseil du trésor	-	2	-	1	1	-	2
Services Québec	-	-	-	-	-	-	-
Directeur de l'état civil (DEC)	41	39	1	15	22	6	44
General	7	7	-	5	2	-	7
Société de l'assurance automobile du Québec	-	-	-	-	-	-	-
Compensation for road accident victims	804	483	3	153	449	175	780
Highway safety code	375	355	5	71	236	58	370
General	47	-	-	-	-	-	-
Société d'habitation du Québec	24	22	-	9	13	-	22
Tribunal administratif du Québec	57	45	-	37	9	6	52
Vérificateur général du Québec	-	-	-	-	-	-	-
Total	**10,109**	**8,349**	**1,499**	**3,118**	**3,629**	**1,146**	**9,392**

INVESTIGATED HEALTH AND SOCIAL SERVICES COMPLAINTS AND REPORTS, BY MISSION AND BY INVESTIGATION OUTCOME

Health and social services network missions	Received	Applications investigated	Complaints and reports				
			Redirected	Interrupted	Not substantiated	Substantiated	Total
Hospitals	480	371	29	164	163	147	503
Residential and long-term care centres	136	88	8	36	51	26	121
Local community service centres (CLSCs)	162	151	15	57	70	41	183
Rehabilitation centres	75	40	2	15	23	14	54
Child and youth protection centres	174	134	7	69	105	9	190
Health and social services agencies	92	67	14	20	37	12	83
Community organizations	5	2	-	-	4	2	6
Private nursing homes	4	3	-	2	12	5	19
Prehospital emergency services	25	19	-	2	18	2	22
Not stipulated	21	-	-	-	-	-	-
Total	**1,174**	**875**	**75**	**365**	**483**	**258**	**1,181**

SOURCE OF PUBLIC SERVICE REQUESTS RECEIVED, BY ADMINISTRATIVE REGION OF APPLICANT

Administrative Region	Population*		Applicants	
	Number	%	Number	%
(01) Bas-Saint-Laurent	202,068	2.61	257	2.80
(02) Saguenay – Lac-Saint-Jean	274,919	3.55	231	2.52
(03) Capitale-Nationale	680,074	8.77	1,493	16.27
(04) Mauricie	262,152	3.38	414	4.51
(05) Estrie	304,702	3.93	389	4.24
(06) Montréal	1,877,693	24.23	2,837	30.91
(07) Outaouais	351,964	4.54	389	4.24
(08) Abitibi-Témiscamingue	145,844	1.88	139	1.51
(09) Côte-Nord	96,060	1.24	110	1.20
(10) Nord-du-Québec	41,129	0.53	23	0.25
(11) Gaspésie – Îles-de-la-Madeleine	94,729	1.22	136	1.48
(12) Chaudière-Appalaches	402,019	5.19	307	3.34
(13) Laval	384,224	4.96	244	2.66
(14) Lanaudière	452,897	5.84	293	3.19
(15) Laurentides	535,395	6.91	622	6.78
(16) Montérégie	1,415,010	18.26	1,007	10.97
(17) Centre-du-Québec	229,625	2.96	188	2.05
Unknown	--	--	26	0.28
Abroad	--	--	74	0.80
Total	**7,750,504**	**100**	**9,179**	**100**

* Source: Institut de la statistique du Québec. Profils des régions et des MRC. Estimation de la population totale par région administrative du Québec en 2008, April 14, 2009 (provisional data).

SOURCE OF HEALTH AND SOCIAL SERVICE REQUESTS AND REPORTS RECEIVED, BY HEALTH AND SOCIAL SERVICE REGION OF THE BODY CONCERNED

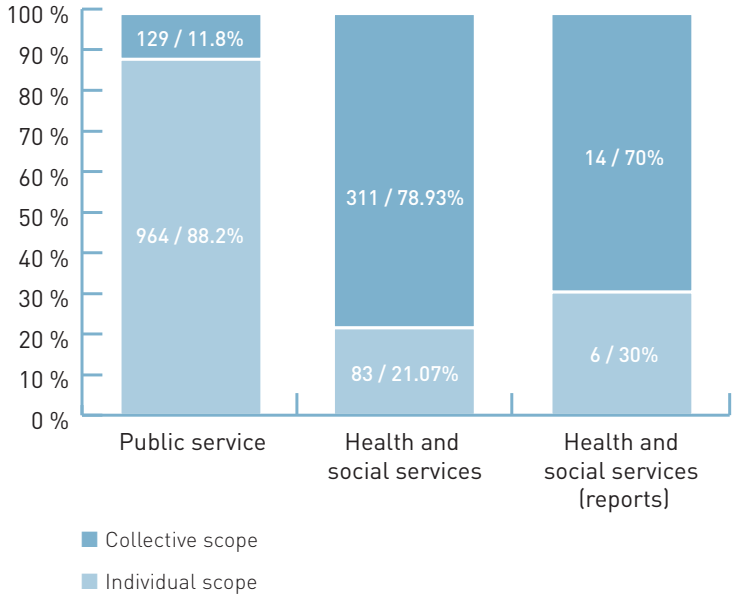
Health and Social Service Region	Population*		Applicants	
	Number	%	Number	%
(01) Bas-Saint-Laurent	198,942	2.59	40	0.44
(02) Saguenay – Lac-Saint-Jean	272,229	3.55	22	0.24
(03) Capitale-Nationale	672,118	8.76	89	0.98
(04) Mauricie – Centre-du-Québec	484,566	6.32	47	0.52
(05) Estrie	306,322	3.99	28	0.31
(06) Montréal	1,923,550	25.07	300	3.29
(07) Outaouais	350,685	4.57	41	0.45
(08) Abitibi-Témiscamingue	141,607	1.85	21	0.23
(09) Côte-Nord	93,589	1.22	16	0.18
(10) Nord-du-Québec	14,300	0.19	3	0.03
(11) Gaspésie – Îles-de-la-Madeleine	93,034	1.21	24	0.26
(12) Chaudière-Appalaches	396,195	5.17	39	0.43
(13) Laval	373,357	4.87	21	0.23
(14) Lanaudière	424,581	5.53	36	0.39
(15) Laurentides	524,021	6.83	75	0.82
(16) Montérégie	1,377,179	17.95	110	1.20
(17) Nunavik	10,731	0.14	-	-
(18) Terres-Cries-de-la-Baie-James	14,376	0.19	-	-
Total	**7,671,382**	**100**	**912**	**100**

* Source: Données populationnelles, Ministère de la Santé et des Services sociaux du Québec, Service du développement de l'information (SDI), May 2008.

ACTIONS BY THE QUÉBEC OMBUDSMAN THAT HAVE A COLLECTIVE IMPACT

NUMBER AND SCOPE OF RECOMMENDATIONS

When the Québec Ombudsman solves a problem for an individual citizen or user, it ensures that everyone else in the same situation who did not call on its services also benefits from the remedial action obtained. This means that an individual file can have a collective impact. Some such cases are identified in the activity report by the title "collective gain".



SYSTEMIC ISSUES

When the Québec Ombudsman notes that harmful situations have recurred, and are likely to do so again in the future if current practices, standards (e.g. directives, instructions, regulations, legislation) or policies and guidelines are not changed, it can undertake a systemic investigation.

Situations such as these can often be identified from a series of similar complaints, but sometimes a single, highly unusual complaint can also point to a systemic problem in the broader sense – in other words, a set of related factors that need to be investigated in their entirety. Systemic problems are also uncovered by the watch activities of delegates and from the observations leading to recommendations. The results of this type of intervention have a wide-ranging, sustainable impact on the system concerned, and in some cases lead to a reduction in or even total elimination of requests or substantiated complaints in specific sectors.

Status of systemic issues

	2006-2007	2007-2008	2008-2009
Awaiting processing as of April 1 (Beginning of the year)	65	37	30
New files	24	14	23
Investigated files	52	21	23
Implementation follow-up as of March 31 (End of the year)	0	0	7

RECOMMENDATIONS TO LEADERS AND TO THE GOVERNMENT

There are other situations in which the Québec Ombudsman's intervention benefits all citizens and users. Examples include the recommendations made by the Québec Ombudsman to the government and to agency leaders in its annual report.

APPENDICES

Summary table of follow-up to the 2007-2008 annual report recommendations to government departments and agencies heads

REACQUAINTANCE WITH THE PRINCIPLES OF ADMINISTRATIVE JUSTICE AND USER RIGHTS
All government departments and agencies, and all health and social service institutions

THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That public service managers within government departments and agencies and within the health and social services network ensure that the staff they oversee reacquaint themselves with the principles and rules set out, respectively, in the Act respecting administrative justice and the Act respecting Health services and social services.	• SATISFIED with the follow-up to this recommendation in the first year of implementation.
• That they take measures to familiarize their staff with the fundamental principles in the legislation and the need to uphold them. These drawn up measures materialize among others, in: - The formulation of specific expectations for supervisory staff in applying these principles and rules; - Regular updates for staff, specifically those persons whose actions and decisions have a direct impact on citizens; - Systematic and appropriate training for all new employees, from the moment they are hired.	• APPRECIATE the real positive impacts obtained in the first year of implementation. However, much remains to be done, and this will continue to be a core concern for the Québec Ombudsman in 2009-2010. It will continue to review the results in subsequent annual reports.

AN IMPARTIAL AND CREDIBLE COMPLAINT MANAGEMENT SYSTEM
Ministère de l'Éducation, du Loisir et du Sport

THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That the Ministère de l'Éducation, du Loisir et du Sport determine the most appropriate conditions for providing the school system with a manner for handling complaints capable of ensuring the impartiality and credibility necessary to meet the needs of parents, students and institutions.	• SATISFIED with the progress made as a result of the recommendation, and in particular with the adoption of Bill 88 on October 29, 2008, providing for the creation of a Student Ombudsman. • WILL MONITOR the forthcoming regulation and the impacts of not having a truly independent recourse.

A COMMUNICATION STRATEGY FOR THE PREVENTION OF NATURAL HAZARDS
Ministère de la Sécurité publique

THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That the Ministère de la Sécurité publique, in its quality as the coordinator of the government framework for prevention of natural hazards, implement as soon as possible a global communication that is adequately supported and in line with objectives as regards the management of risks to the population.	• SATISFIED with the introduction of a communication strategy in March 2009, which was agreed upon by the five departments concerned.

SOCIAL REINTEGRATION PLAN
Ministère de la Sécurité publique - Correctional Services

THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That the Government of Québec oversee the development of an action plan, no later than December 2008, for the creation and management of social integration services. Note: The Government entrusted the Ministère de la Sécurité publique with this task	• WORRIED about the negative impacts of the accumulated delays. No action plan has yet been approved. No action plan has yet been approved.

LOCAL FUNDING ACTIVITIES TO SUPPORT SOCIAL REINTEGRATION
Ministère de la Sécurité publique - Correctional Services

THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That the Ministère de la Sécurité publique cooperate with the Local Funds to Support Social Rehabilitation as well as the other actors involved, including private industry representatives, to develop a framework and rules to assist Local Funds in reaching agreements, and this while giving due consideration to the realities of private enterprise. • That it provide the Québec Ombudsman with a firm schedule for the development of these rules and their provisions.	• DISSATISFIED with the failure to resolve this issue, which could be addressed immediately with support from the business community, and which would have benefits for all the parties.

UTILIZATION REGISTRY FOR ISOLATION OR SECLUSION CELLS
Ministère de la Sécurité publique - Correctional Services

THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That the Ministère de la Sécurité publique introduce a mandatory registry for the use of isolation or seclusion cells at all detention facilities.	• DISSATISFIED with the follow-up to this recommendation.

REQUESTS FOR HEALTH SERVICES
Ministère de la Sécurité publique - Correctional Services

THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That the Ministère de la Sécurité publique evaluate in the near future options to make changes to the conditions governing written requests for health services. That it notify the Québec Ombudsman of the results of this review.	• WORRIED about the slow progress with this matter.

ACTION PLANS FOR CURATORSHIP WITH REGARD TO INCARCERATED PERSONS
The Public Curator

THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That the Curateur public provide it, no later than September 1, accurate data on the delays for obtaining a judgment subsequent to the receipt of the director general's reports attesting to the need for a protective supervision program. In addition, the Québec Ombudsman asked the Curateur public for a copy of its action plan, including the measures it plans to introduce to limit to the greatest possible extent the intervention delays when a protective supervision program must be launched.	• WORRIED about the results of the steps taken to follow up on this recommendation. There is no guarantee that satisfactory results will be achieved in the short term.

• That the Curateur public measure the results of its efforts, primarily to ensure that its message has been heard and understood by the main stakeholders involved in the issue of consent for care. This measure should also allow the Curateur public to determine whether institutions or actors are failing to obtain its consent when necessary. That the Curateur public notify the Québec Ombudsman of the results obtained.	• DISSATISFIED with the follow-up to this recommendation. A profile of the situation should be submitted to the Québec Ombudsman by June 2009.
• That the Curateur public establish an action plan to ensure that it can efficiently fulfil its responsibility towards the incarcerated incapacitated individuals it represents, both while they are in prison and after they are released. That a copy of the plan be forwarded to the Québec Ombudsman no later than December 31, 2008.	• DELAY with this matter. The content of the action plan, now expected to be published in the spring of 2009, will be examined carefully.
• That the Curator public establish an information exchange protocol with Ministère de la Sécurité publique by June 30, 2008, in cooperation with the detention centers, so that the Curator is informed immediately of the incarceration of any person that it represents and that it be consulted as warranted in order that it may properly assume its obligations with regard to persons it is charged with representing.	• SATISFIED with the follow-up to this recommendation, despite the delays; the work was finally completed in the spring of 2009.
• That the Curateur public demonstrate, by December 2008, that it has introduced, in conjunction with the Ministère de la Sécurité publique, concrete measures for the efficient dissemination of information and to ensure that it is immediately notified when a person under its supervision is kept or held in a detention centre.	• DELAY with this matter. Implementation is now planned for the summer of 2009.

LEGISLATIVE AMENDMENTS TO REDUCE WAIT TIMES
Régie du logement

THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That the legal framework under which the Régie du logement addresses cases involving the non-payment of rent be modified so as to incorporate a new procedure for improving the availability of decision-makers in this area while jointly hearing all cases within a reasonable timeframe. That measures are taken to ensure that these changes are designed so as to respect the fundamental rights of all of the parties, particularly with regard to procedures involving lease cancellation and the eviction of a tenant.	• CONFIDENT, given that the Ministère des Affaires municipales plans to begin work in 2009, amending the legislation and regulations to reduce hearing delays, but notes that no real results have yet been achieved as a result of the recommendation.

SIMPLIFICATION OF THE PROCESS OF REVISING CHILD SUPPORT PAYMENTS
Ministère de la Justice

THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• In its 2006-2007 annual report, the Québec Ombudsman had recommanded that the Civil Code and the Code of Civil Procedure be modified to relax the process for reviewing child support.	• WORRIED by the fact that, after two years, no progress has been made and the Department has done nothing to move forward with an issue that had already stagnated for too long.

EXTEND CERTIFICATION TO RESIDENCES FOR DRUG ABUSERS AND PERSONS WHO ARE MENTALLY ILL OR HAVE AN INTELLECTUAL DISABILITY **Ministère de la Santé et des Services sociaux**	
THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That private residential facilities serving drug-addicts, the mentally ill or the intellectually disabled be subject to a certification program and application of the complaint management system set forth in the Act respecting health services and social services.	• DISSATISFIED that no date has been set for implementation of the follow-up to this recommendation. There is an urgent need for legislation in this area.

FACILITIES INSPECTION AND QUALITY INDICATORS **Ministère de la Santé et des Services sociaux**	
THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That MSSS continue and intensify its efforts to inspect institutions.	• WORRIED by slow progress with the number of inspection visits.
• That notably inspection programs, as additional security measures, be developed for private residential facilities serving vulnerable persons, and that these facilities be constrained to a certification program and complaint management system.	• WORRIED by the impacts for vulnerable of extending the certification time.
• That MSSS, in view of its role and obligations regarding quality of care and services, encourage each institution to implement quality indicators.	• SATISFIED with the follow-up to this recommendation. • AWAITING the results to be published by December 31, 2009.
• That MSSS prepare an annual progress report on quality indicators developed and used by institutions.	• AWAITING the annual monitoring and reporting mechanism to be given priority with agencies by December 31, 2009.

ADEQUATE INFORMATION, RESOURCES, AND FACILITIES FOR THE COMPLAINT MANAGEMENT SYSTEM **Ministère de la Santé et des Services sociaux**	
THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That boards of directors of institutions in the health and social services network and regional agencies make sure that local and regional complaints and service quality commissioners have at their disposal adequate resources and operating conditions to carry out their responsibilities in an effective and efficient manner.	• AWAITING follow-up by the institutions in the coming year.
• That MSSS continue and intensify its plan to support implementation of the complaint management system, notably by making user information a priority, with specific attention paid to reaching those who are vulnerable.	• SATISFIED with the follow-up to this recommendation.

ENCOURAGE QUALITY OF LIFE **Residential and long-term care centers**	
THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That the Ministère de la Santé et des Services sociaux advise it with regard to the measures it will adopt to ensure the implementation of the department orientations regarding the living environment in all CHSLDs.	• SATISFIED with the follow-up to this recommendation. It will monitor implementation of the departmental orientations during the year.

ENVIRONMENTS THAT ALLOW PRIVACY AND RESPECT **Residential and long-term care centers**	
THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That residential and long-term care centres provide an appropriate environment to allow users to spend time with their loved ones in private, and ensure that bodies are treated with respect at all times, up until they are taken away by the undertaker.	• AWAITING follow-up by the institutions in the coming year.

CODE OF CONDUCT AND AGGRESSIVE OR VIOLENT INDIVIDUALS **Residential and long-term care centers**	
THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That residential and long-term care centres communicate their code of ethics and rules of behaviour to agents and legal representatives.	• AWAITING the follow-up to this recommendation.
• That they provide agents and legal representatives the names of those persons they must contact for any information, comments or demands, as well as the contact details and procedure for filing complaints with the local service quality and complaints commissioner.	• SATISFIED with the follow-up to this recommendation.
• That they develop and institute a policy and methods for controlling individuals who are violent or aggressive with residents, employees or managers.	• WORRIED about the follow-up to this recommendation, since many of the intervention plans prepared for residents are not up-to-date and do not encourage family involvement.

FULLY INFORM USERS AND LEGAL AGENTS OR REPRESENTATIVES **Residential and long-term care centers**	
THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That health and social service centres adequately inform users and their agents or legal representatives of the reasons why a contract or services agreement was terminated, as well as the measures taken to ensure continuity of services.	• SATISFIED with the follow-up to this recommendation.

FILING REPORTS IN CONFIDENTIALITY AND WITHOUT FEAR OF REPRISAL Residential and long-term care centers	
THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That residential and long-term care centres develop mechanisms to enable employees to confidentially blow the whistle on any situations where users' rights are compromised, while also advising staff members that they can contact the Québec Ombudsman, who will confidentially handle their report, should they fear reprisals.	• AWAITING follow-up by the institutions in the coming year.

REPORT ON REMOVALS FROM THE FAMILY ENVIRONMENT Child and youth protection centers	
THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That the Ministère de la Santé et des Services sociaux prepare a report on the required implementation by youth centres of a formal policy governing the removal of children from their family environment. That it provide the Québec Ombudsman a report in this regard no later than December 15, 2008.	• SATISFIED with the outcome of the review carried out as follow-up to this recommendation.

FOLLOWUP ON WAITING LISTS Local community service centers	
THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That social services centres establish timeframes for communicating with users to update their status, notify them of their position on the waiting list, and advise them of the approximate delay before services will be available.	• WORRIED that the Ministère de la Santé et des Services sociaux has not undertaken to ask the health and social service network for a commitment regarding information on waiting times.

HOMECARE SERVICES Local community service centers	
THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That the health and social services institutions which offer home-support services systematically consider the impact on users before cancelling or reducing these services. • That decisions taken by institutions consider the effect of these service reductions or cuts on other health and social services resources, and this within the framework of individual service programs. • That they promote keeping people in their home environment when they both desire and are able to do so.	• SATISFIED with the follow-up to these recommendations.

AVAILABILITY OF SPEECH THERAPY **Rehabilitation centers**	
THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That the Ministère de la Santé et des Services sociaux take the necessary measures to implement special access mechanisms for making speech therapy services available within a reasonable timeframe.	• AWAITING implementation (in the coming year) of the service access plan for speech-impaired people which was circulated in June 2008.

EVALUATION OF QUALITY OF SERVICES AND QUALITY OF LIFE **2005-2010 Mental Health Action Plan**	
THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That the follow-up of the action plan under the responsibility of the Ministère de la Santé et des Services sociaux include an evaluation of the quality of services and quality of life of users, regardless of the site of service delivery or type of services.	• DISSATISFIED with the lack of effort on the part of the Ministère de la Santé et des Services sociaux in response to this recommendation.

DO MORE TO FIGHT THE STIGMATIZATION OF THOSE WITH MENTAL HEALTH PROBLEMS **2005-2010 Mental Health Action Plan**	
THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That the Ministère de la Santé et des Services sociaux, based on the impact of this campaign, continue its initiative in this vein, and even intensify its efforts, particularly in those environments that the department considers the most prejudiced with regard to mental health problems.	• AWAITING follow-up to this recommendation. Reminds the Ministère de la Santé et des Services sociaux of the importance of continuing its effort in response to this recommendation.

GIVING PRECEDENCE TO RESPECT FOR HUMAN RIGHTS ABOVE ALL ELSE **2005-2010 Mental Health Action Plan**	
THE QUÉBEC OMBUDSMAN RECOMMENDS	QUÉBEC OMBUDSMAN'S ASSESSMENT
• That the Ministère de la Santé et des Services sociaux confirm that respect for users' rights has priority over all other considerations except those provided for in the Act respecting health services and social services and the Act respecting the protection of persons whose mental state presents a danger to themselves or to others (P-38), notably by preparing and releasing guidelines with regard to chemical substances as a control mechanism, as announced in the *Orientations ministérielles relatives à l'utilisation exceptionnelle des mesures de contrôle : contention, isolement et substances chimiques.* • That this statement be clear and unambiguous, like that prohibiting sectorization practices that violate mental health users' rights to choose their provider of services.	• AWAITING the action promised by the Ministère de la Santé et des Services sociaux to promote respect for rights.

Summary of 2008-2009 recommendations to government department and agency heads

JUSTICE AND PUBLIC SECURITY

MINISTÈRE DE LA SÉCURITÉ PUBLIQUE

Government action plan for social reintegration and contracting for the Local Social Reintegration Support Fund

- Whereas, in its 2007-2008 report, the Québec Ombudsman called on the Gouvernement du Québec to implement an interdepartmental action plan for the creation and coordination of social reintegration services;
- Whereas the Government entrusted the Ministère de la Sécurité publique with responsibility for laying the foundations of this plan;
- Whereas the Ministère de la Sécurité publique undertook to produce a working document dealing in particular with the problem sets and challenges for the reintegration of offenders into society and with the needs of those affected, and to compile an inventory of social reintegration services in detention centres;
- Whereas submission of this document to the Québec Ombudsman, scheduled for December 2008, has been postponed due to delays in compiling an inventory of social reintegration services in detention facilities;

The Québec Ombudsman recommends that the Ministère de la Sécurité publique give high priority to this task and increase its efforts to meet the stated deadline and, as such, asks the Ministère de la Sécurité publique to submit the government action plan on social reintegration no later than June 30, 2009.

Complaint handling system

- Whereas such an information management tool is important in the context of loss of freedom for those filing complaints, and taking into account that over 15% of complaints received by the Québec Ombudsman deal with the complaint processing system implemented at its request in all detention facilities in 1992, the Québec Ombudsman believes the Ministère de la Sécurité publique cannot postpone action until a computerized registry of complaints has been created;
- Whereas the correctional system is still dealing with many problems linked to overcrowding and access to health care, the Québec Ombudsman finds it regrettable that the Ministère de la Sécurité publique deems it acceptable to delay the implementation of a mechanism that would help improve its knowledge of its client base and make informed choices as to the best options for resolving at least some of these difficulties. In addition, the Québec Ombudsman does not feel the lack of resources can justify the fact that the authorities of certain facilities do not make use of the existing registry;

The Québec Ombudsman recommends to the Ministère de la Sécurité publique that, with immediate effect, it require management to use the register on a regular basis and that the collected data be examined with a specific focus on improving respect for the fundamental rights of inmates and correcting, once and for all, the recurrent problems with the application of the complaint processing system in detention centres;

That, as of August 2009, it submit quarterly reports to the Québec Ombudsman on its progress in using the register.

Use of physical restraints

- Whereas the Québec Ombudsman is concerned about the use of physical restraints during waiting times in hospitals and even during periods of hospitalization;
- Whereas some citizens have stated that they prefer to refuse treatment rather than be guarded under such conditions;

The Québec Ombudsman recommends that the Ministère de la Sécurité publique review the internal directives of detention facilities so that, in accordance with provincial guidelines, the use of physical restraints is based on the level of risk represented by the inmate and on the security context in the health facility.

Confidentiality of information exchanged by inmates and medical staff

Whereas the principle of confidentiality of information exchanged by users and medical staff is extremely important;

The Québec Ombudsman recommends to the Ministère de la Sécurité publique that it reassess the internal directives of individual institutions;

That, in its directives, it emphasize the importance of respecting confidentiality and stipulate how this may be done;

That it identify the necessary material conditions to allow for confidential consultations while limiting any security risks, and that it report to the Québec Ombudsman by December 31, 2009, on the steps taken;

That it undertake discussions with the health and social service institutions that most often receive inmates, in order to determine the conditions required to allow confidential medical consultations in a secure environment.

COMMISSION QUÉBÉCOISE DES LIBÉRATIONS CONDITIONNELLES, MINISTÈRE DE LA SÉCURITÉ PUBLIQUE, MINISTÈRE DE LA JUSTICE, DIRECTOR OF CRIMINAL AND PENAL PROSECUTIONS

Release on parole: Chronic postponement of hearings

- Whereas the parole program is a fundamental element of the social reintegration of inmates;
- Whereas the tendency of inmates to give up on release on parole has increased over the last few years;
- Whereas such a high rate of postponements two years after implementation of the new regime indicates that the system must be adjusted in order to ensure that the processes in place truly serve the letter and the spirit of the Act;

The Québec Ombudsman recommends that the Ministère de la Justice, the Ministère de la Sécurité publique, the Director of Criminal and Penal Prosecutions and the Commission québécoise des liberations conditionnelles work together to analyse bottlenecks in the current parole release system, in order not only to improve existing practices but also to make suitable changes to the rules and simplify their operation, if possible. It also asks that they report to it on the changes made by January 31, 2010.

BENEFITS AND COMPENSATION

SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC

Issuing of medical reports

- Whereas the time taken by the Société de l'assurance automobile du Québec to issue medical reports continues to be unacceptably long;
- Whereas this results in prejudice for the victims of road accidents;
- Whereas, despite the SAAQ's action plan, no specific target for improvement has been set;

The Québec Ombudsman recommends that the SAAQ should set targets for improvement so as to be able to assess the impacts of its reorganization on the time taken to issue medical reports, and that it inform the Québec Ombudsman of those impacts by June 30, 2009.

Overhaul of the computer system

- Whereas, every year, citizens are adversely affected by the limitations of the SAAQ's computer system;
- Whereas it is important for citizens to obtain full and accurate information on their files when they contact the SAAQ for a transaction;
- Whereas the limitations of the computer systems should never cause omissions that mislead citizens as to the validity of their driver's licence or vehicle registration;
- Whereas the limitations of the computer systems should never, in any circumstance, justify requirements or billings that are contrary to law;

The Québec Ombudsman recommends that the SAAQ should overhaul its computer systems so as to allow for a quick review of the licence and registration files of every citizen who effects a licence or registration transaction at a service centre, and also to avoid requirements that are contrary to the Act;

That the SAAQ should treat the overhaul as a priority, and inform the Québec Ombudsman of the outcome of its timeframe review by September 30, 2009;

That, in the meantime, the SAAQ should introduce the necessary administrative measures, regardless of the constraints involved;

That the SAAQ should submit an action plan to the Québec Ombudsman by June 30, 2009, detailing these measures.

COMMISSION DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL - CRIME VICTIMS COMPENSATION DIRECTORATE

Telephone access

- Whereas the wait before speaking to an agent at the Crime Victims Compensation Directorate is very long;
- Whereas this long wait can have serious consequences for a particularly vulnerable client group;
- Whereas the Centre d'expertise des grands organismes, of which the Commission de la santé et de la sécurité du travail is a member, recommends an average wait of 20 seconds for 80% of the calls received;

The Québec Ombudsman recommends that the Crime Victims Compensation Directorate should provide it with a plan of action by June 30, 2009, which should then be implemented without delay to bring the average waiting time as close as possible to the standard recommended by the Centre d'expertise des grands organismes.

COMMISSION ADMINISTRATIVE DES RÉGIMES DE RETRAITE ET D'ASSURANCES (CARRA)

Information

- Whereas the information processed and provided by the CARRA is highly complex;
- Whereas the impacts of the decisions made by citizens based on this information, and the potential prejudice arising from those decisions, are considerable;
- Whereas, in its Declaration of Service to Citizens, the CARRA undertakes to provide full and accurate information and to accurately calculate the value of the pension or reimbursement to which a person is entitled;

The Québec Ombudsman recommends that the CARRA should inform it of the results of the steps taken to improve the quality of the information provided when it implements its 2009-2010 action plan.

RÉGIE DES RENTES DU QUÉBEC

Combination of benefits with no negative effects

- Whereas situations involving a combination of benefits from the Régie des rentes du Québec and the Société de l'assurance automobile du Québec can produce unfair outcomes;
- Whereas, in practice, citizens who find themselves in these circumstances have no recourse since the authorities are simply applying the law as it currently stands;

The Québec Ombudsman recommends that, as part of the pension plan review that will take place in the fall of 2009, steps should be taken to ensure that the rules applicable to benefit combinations paid to citizens receiving compensation from the Société de l'assurance automobile du Québec do have the effect of reducing their income from its original level.

HEALTH AND SOCIAL SERVICES

CHILD PROTECTION AND YOUTH CENTRES

International adoption in Québec

- Whereas the Ministère de la Santé et des Services sociaux announced its new guidelines for local and international adoption and post-adoption services in 2008;
- Whereas this new service offer demands complementarity of services between youth centres and health and social services centres for the evaluation and preparation of applicants, situational follow-up and support of the adoptive parents;
- Whereas the MSSS wants all resource workers involved to receive pre- and post-adoption training based on the needs of the children, the adoptive parents and the conditions of international adoption;
- Whereas these guidelines must be implemented in all regions of Québec by 2012;

The Québec Ombudsman recommends that services for parents of children adopted from Québec or from abroad be harmonized, to achieve equity;

That the MSSS submit a progress report and share the results for each region of Québec in order to harmonize the services availalbe to local and international adoption applicants;

That the MSSS report to the Québec Ombudsman no later than January 2010.

RESIDENTIAL AND LONG-TERM CARE CENTRES

Quality assurance

Whereas residents are extremely vulnerable and there is the potential for isolation and the risk of abuse;

The Québec Ombudsman recommends that the Ministère de la Santé et des Services sociaux step up the pace of its quality assessment visits in order to offer CHSLD residents a quality living environment;

That private seniors' residences be included in the resources that must undergo priority ministerial assessment visits;

That quality indicators be included in management agreements between agencies and institutions, and that the contracts made with private resources explicitly set out the level of quality expected and the means of quality control;

That the capacity of the resources to meet the specific needs of their residence be ascertained.

HOSPITAL CENTRES

Emergency services

- Whereas the situation in the emergency wards that the Québec Ombudsman investigated continues to be problematical;
- Whereas emergency services are used extensively by people whose state of health is evaluated at a priority level of 4 or 5;
- Whereas a round able has been set up to examine access to family medicine and front-line medical services, and expects to take four years to produce results;

The Québec Ombudsman recommends that the Ministère de la Santé et des Services sociaux plan temporary solutions for the interim period, so that users whose state of health is evaluated at priority level 4 or 5 can gain access to front-line services.

LOCAL COMMUNITY SERVICE CENTRES (CLSCs)

Home care services and home support programs

- Whereas the six-year-old ministerial home support policy seeks to guarantee access to equal services for everyone without distinction and to provide a response based on needs;
- Whereas, in the policy, and in the subsequent clarification document[1], the MSSS announces that the prioritization criteria should be clarified and improved;
- Whereas, in its response to the Québec Ombudsman concerning wait times, the MSSS announced its intention to specify standards for access to home support services based on the access plan for the disabled;
- Whereas the Québec Ombudsman has found that the application of prioritization criteria for access to service sometimes contradicts the policy guidelines;

[1] Ministère de la Santé et des Services sociaux, *Chez soi : le premier choix. Précisions pour favoriser l'implantation de la politique de soutien à domicile*, Québec, 2004.

The Québec Ombudsman recommends that in the home support service access plan it is about to develop, the Ministère de la Santé et des Services sociaux specify the prioritization criteria for access to service and that it instruct institutions to apply them with timelines and specific accountability, in order to ensure consistent handling of requests for home support, no matter which institution is approached by a person in need of such services;

That the MSSS inform the Québec Ombudsman, no later than September 30, 2009, of the timeframe in which it plans to submit the access plan and the related implementation schedules to the institutions in question.

SOCIAL PROBLEMS

THE CURATEUR PUBLIC DU QUÉBEC

Delays in launching protective supervision programs

- Whereas the Curateur public has taken steps to reduce processing times for the opening of protective supervision;
- Whereas the Curateur public's initial analysis covered a period of time that is too short for it to be able to judge the results obtained;
- Whereas, in addition to its interventions with the health and social services network, the Curateur public also approached the Ministère de la Justice in the winter of 2009, to examine the causes of the delays and find solutions;
- Whereas the measures introduced by the Curateur public have begun to produce results and the Québec Ombudsman will be monitoring the situation in the coming year;

The Québec Ombudsman recommends that the Curateur public present a review of the measures it has introduced, and that it submit a report on its analysis of the results obtained as a result of the steps taken by other bodies.

Consent for care for incapacitated individuals

- Whereas although the Curateur public has undertaken to assess the results of its effort to ensure that health and social services institutions submit consent for care requests;
- Whereas the results of this assessment are not yet known;

The Québec Ombudsman recommends that the Curateur public complete its assessment of the results in the near future, and submit a profile of the situation no later than June 2009.

Understanding the clientele

- Whereas the Curateur public states that it has introduced methods to help it understand its clientele and respond satisfactorily, and with a reasonable time, to their needs;
- Whereas the Curateur public set itself the goal of visiting all wards living in their homes, but has still not achieved that goal;
- Whereas the number of people to be visited continues to increase;
- Whereas the Curateur public and the Québec Ombudsman meet periodically to review the follow-up to the Québec Ombudsman's recommendations;

The Québec Ombudsman recommends that, at one of the regular meetings between now and January 2010, the Curateur public submit a review of the steps taken to understand its clientele.

Reassessment of protective programs

- Whereas the Curateur public intends to introduce remedial measures to ensure that its process is functional and complies with the deadlines set by law;
- Whereas it intends to implement a plan of action beginning in May 2009;

The Québec Ombudsman recommends that the Curateur public report to it by May 2010 on the implementation of its plan of action.

Final report and accounting

- Whereas the Curateur public, at the end of its curatorship for a ward, must submit a final report and account for its management of that person's assets;
- Whereas the Québec Ombudsman notes that these documents are difficult for ordinary people to understand;
- Whereas the Curateur public believes these documents comply with current legislative and regulatory requirements and with accounting rules;

The Québec Ombudsman recommends that the Curateur public produce explanatory documents with a generalized version of its final report and accounts, based on the principles set out in the Act respecting administrative justice, and that it submit these documents to it by January 2010.

Some useful definitions

Body: A department, government agency, health and social services network establishment (hospital, local community service center, youth center, nursing home and long-term care establishment, rehabilitation center), network agency (including community agencies under the Act respecting health services and social services), private home for the elderly, ambulance service company, or detention center.

Collective scope: The Québec Ombudsman ensures that persons who have not contacted it but are in a similar situation will benefit from the correction implemented.

Complaint: Dissatisfaction expressed by a citizen or group of citizens with regard to a service received or requested from a government official, department or agency, or member of the health and social services network over which the Québec Ombudsman has jurisdiction.

Individual scope: The Québec Ombudsman successfully resolves a situation for the individual who made an inquiry.

Inquirer: A person or group of persons who submits a complaint or report.

Recommendation: Action requested of a body to remedy an injury.

Report: The act of apprising the Québec Ombudsman of a situation that compromises the health or well-being of one or more users of the health and social services network.

Request for assistance and referral: Request where the Québec Ombudsman cannot intervene, either because it involves a body over which it has no jurisdiction or because it is a matter in the private domain. All complaints regarding the health and social services network must first be submitted to the appropriate local or regional body. The Québec Ombudsman can therefore direct a user to the first level of assistance if this initial step has not been taken.

Request for assistance: Request where the Québec Ombudsman's actions involve helping a citizen or user successfully interact with a department, agency, or body in the health and social services network.

Request for information: Request for services where the Québec Ombudsman concludes that the citizen or user is simply asking for information.

Request for services: Any request submitted to the Québec Ombudsman for the purpose of obtaining information, a referral or assistance, or to submit a complaint or report.

Request not completed by the citizen/user: A request where three attempts to reach the citizen/user who made the inquiry with the Québec Ombudsman are unsuccessful.

Request or complaint interrupted: The Québec Ombudsman, subsequent to its initial investigation, must interrupt its intervention for a reason provided for under the applicable legislation. An investigation can also be interrupted at the citizen's request or because a situation has been resolved in the interim.

Request or complaint referred: While investigating the grounds of a complaint, the Québec Ombudsman identifies a possible outside solution and directs the citizen to the appropriate body.

Substantiated complaint: Once the investigation is completed, it is shown that the citizen or user has been prejudiced. Whenever possible, the Québec Ombudsman submits recommendations to the body involved with the aim of correcting the situation.

Unsubstantiated complaint: Once the investigation is completed, it is shown that the citizen or user has not been prejudiced.

Annual Management Report 2008-2009

DATA RELIABILITY ASSURANCE

I am responsible for the accuracy, integrity and reliability of the results, information and explanations presented in this Annual Management Report.

Throughout the year, I have used information systems and applied reliable control measures to ensure that the objectives set out in the Strategic Plan and Service Statement were achieved. In addition, management introduced and implemented a number of control measures to manage the risks to which the organization is exposed. These measures include:

- monthly production and rigorous checking of data and statistics on the requests received by the Québec Ombudsman.
- checking of data for the organization as a whole by the external auditor.

The Québec Ombudsman's 2008-2009 Annual Management Report:

- presents objectives, indicators, targets and results;
- contains accurate, reliable data.

The members of the Board of Directors have approved this Annual Report. In addition, the external auditor has examined the plausibility of the results, indicators, explanations and information, and has produced a report.

I hereby certify that the information presented in the 2008-2009 Annual Report reflects the situation as at March 31, 2009, and is reliable.

The Ombudsperson,

Raymonde Saint-Germain

EXTERNAL AUDITOR'S REPORT

Ms. Raymonde Saint-Germain

Ombudsperson

We have examined the results, explanations and information presented in the Québec Ombudsman's Annual Management Report for the year ending March 31, 2009. The Québec Ombudsman's management team is responsible for the accuracy, integrity and disclosure of these documents. Our responsibility is to assess their plausibility and consistency, based on our work.

Our examination, which was not an audit, was carried out in compliance with the framework generally used for internal audits. Our task was to obtain information and documentary evidence, carry out analyses, document the operation of compilation mechanisms, review calculations and discuss the information provided.

Based on our examination, we confirm that the results, explanations and information contained in the Québec Ombudsman's Annual Report appear to us to be significant, plausible and consistent in every respect.

External Auditor,

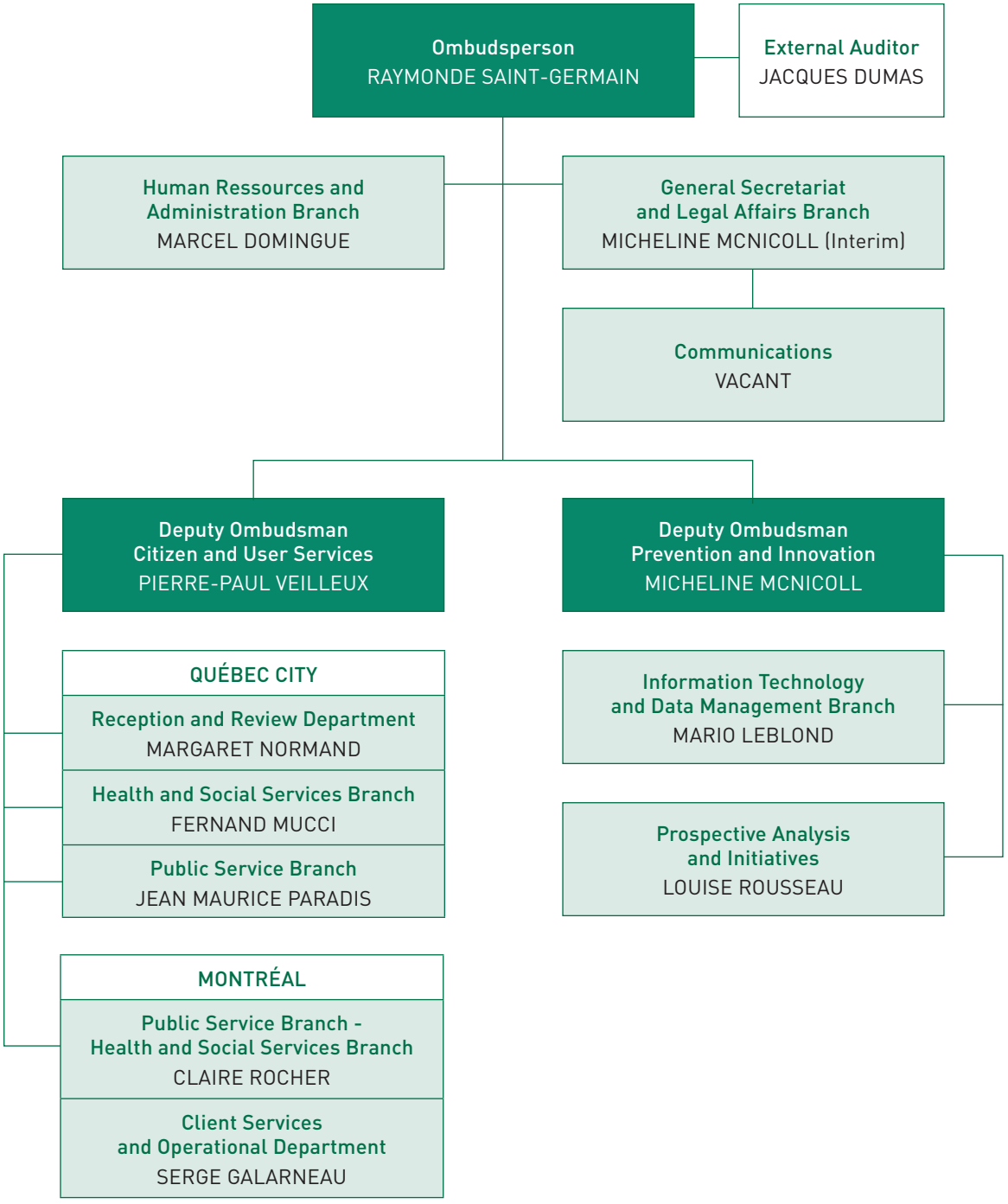
Jacques Dumas

April 27, 2009

Highlights

- Parliamentary watch activities are one of the methods used by the Québec Ombudsman to fulfill its preventive mission. In 2008-2009, it examined 68 of the 70 bills introduced in the National Assembly, and 102 of the 127 draft regulations published in the *Gazette officielle* – in other words, all the bills and regulations it felt would have significant repercussions for the general public. The Québec Ombudsman made comments in respect of five bills and four draft regulations, and those of its recommendations that were accepted resulted in amendments or other measures.
- 99% of the recommendations made to Québec government departments and agencies or to health and social service network institutions were accepted. In addition, the Québec Ombudsman made 454 general recommendations.
- The Québec Ombudsman undertook some mandates under its own initiative on a number of important social issues, in order to help improve the services available to citizens.
- A more systematic quantitative and qualitative analysis process was introduced for monthly statistics on requests received from the general public (complaints, reports, assistance and information) in order to meet the needs of the population, identify trends, allocate resources and take general preventive steps.
- Efforts to improve working procedures continued during the year, focusing mainly on parliamentary watch, introduction of a structured analysis and investigative method, preparation and use of an assessment grid to determine the priority order of complaints, and systematic reviews of investigation conclusions.
- On April 1, 2008, the Québec Ombudsman centralized its reception and review services, significantly improving the processing of requests from members of the general public and speeding up the disposal of issues not requiring complete investigations.
- The administrative structure was adjusted by transferring information resources from the Human Resources and Administration Branch to the office of the Deputy Ombudsman, Prevention and Innovation.
- The Québec Ombudsman's 2009-2012 Strategic Plan was tabled in the National Assembly.
- The pay equity issue was addressed in accordance with the Pay Equity Act, and financial settlements are expected to be concluded in 2009-2010.
- The Québec Ombudsman reviewed its contractual management by-law and staff training content, reassessed its executive positions using the Hay method, and reviewed several of its administrative policies. It also completed its in-depth examination of complaint and report processing times, announced in 2007-2008.

Organization Overview



THE OMBUDSPERSON

The Ombudsperson ensures that Government departments, agencies and health and social service institutions treat citizens with due regard, respect their rights and act in a fair and reasonable manner. She directs and coordinates the institution's activities, determines the orientations and sets priorities. She also ensures that the institution's personnel offers the best possible service and responds adequately to citizens' legitimate needs and expectations concerning the Government departments, agencies and institutions over which she exercises her supervisory authority.

The Ombudsperson reports to the National Assembly. She maintains contacts with the National Assembly standing committees and elected representatives from different political parties, as well as with senior executives in the public service and the health and social service network, while protecting the institution's independence and fields of jurisdiction. In addition, she is responsible for relations with the various public and private organizations working in the field of citizens' rights, and oversees the institution's national and international cooperative activities. She is assisted by two Deputy Ombudsman.

DEPUTY OMBUDSMAN, CITIZEN AND USER SERVICES

The Deputy Ombudsman, Citizen and User Services, is responsible for overseeing the consistency of activities in the two fields of intervention stipulated in the Public Protector Act and the Act respecting the Health and Social Services Ombudsman.

He oversees both the health and social services sector and Québec's civil service, and ensures that an integrated approach is taken to user services by supervising the processing of citizens' complaints.

He supports and advises the Ombudsperson on major issues requiring interventions in Government departments and agencies or health and social service institutions.

The Deputy Ombudsman is assisted by the Reception and Review Department and by three investigation branches.

DEPUTY OMBUDSMAN, PREVENTION AND INNOVATION

The Deputy Ombudsman, Prevention and Innovation, is responsible for the prevention and initiative role stipulated in the Public Protector Act and the Act respecting the Health and Social Services Ombudsman. She reviews situations carefully, produces analysrs and carries out studies and consultations before making recommendations to the appropriate authority.

She also oversees the consistency of and adjustments to the Québec Ombudsman's working processes, by suggesting orientations and proposing a general vision and integrated management approach for both the health and social services sector and the Québec public service.

The only significant change made to the administrative structure in the last year was the renaming of the departments under the authority of the Deputy Ombudsman, Prevention and Innovation, in order to reflect the nature of their responsibilities.

Resource use

HUMAN RESOURCES

As of March 31, 2009, the Québec Ombudsman's workforce was composed of 132 people. The following tables show the breakdown of personnel categories:

DISTRIBUTION OF REGULAR PERSONNEL BY CATEGORY

Category	2008-2009	2007-2008
Senior executive	4	3
Executive	9	7
Professionals	61	65
Technicians	33	31
Office personnel	25	26
Total	**132**	**132**

The resource breakdown is virtually unchanged from last year. The apparent increase in the number of executives is due to the fact that someone was hired to replace an executive staff member who had taken pre-retirement and was due to leave his position early in 2009-2010. After this person's departure, the number of executives will be reduced to eight.

DISTRIBUTION OF REGULAR PERSONNEL BY ADMINISTRATIVE UNIT

	2008-2009	2007-2008	2006-2007
Ombudsperson's office	3	3	6
Office of the Deputy Ombudsman, Citizen and User Services	90	91	92
Office of the Deputy Ombudsman, Prevention and Innovation	20	12	12
General Secretariat and Legal Affairs	10	10	5
Human Resources and Administration	9	16	17
Total	**132**	**132**	**132**

There have been no significant changes to the division of resources between the administrative units in the last three years. Those changes that have been made were proportional to the effort required to provide the necessary level of service. In 2008-2009, responsibility for information resources was transferred to the office of the Deputy Ombudsman, Prevention and Innovation. This accounts for the variation in staffing levels both here and in the Human Resources and Administration Branch.

It is important to mention the significant contribution made by employees who are hired on a contractual basis, either to replace regular staff members on leave or to meet additional needs. In 2008-2009, 18 contractual employees joined the team responsible for providing direct services to citizens; 11 worked on public service issues and seven on health and social services issues. A list of everyone who helped the Québec Ombudsman to achieve its mission in 2008-2009 appears in the appendix.

Workforce planning continued to be an issue in 2008-2009, primarily because of the anticipated number of retirements and the shrinking employment market. The Québec Ombudsman has updated its ongoing workforce profile and drawn up a list of vulnerable jobs. Vulnerability levels are currently being examined, and a risk management action plan will be prepared with the goal of ensuring that new employees are hired, maintaining productivity and identifying any training and knowledge transfer needs.

This year, the Québec Ombudsman continued to implement its workforce method optimization plan. The bulk of its effort was concentrated on process improvement, and involved reviewing the parliamentary watch procedure, speeding up mail processing, improving the reception and initial training function and introducing a structured analysis and investigation method to ensure good quality, consistent service. The organization's administrative structure was also examined, and a number of administrative policies were brought up to date.

The Québec Ombudsman is concerned about the health of its personnel, and has introduced some preventive measures in this regard. For example, it has entered into an agreement with the Government departments and agencies housed in the Marie-Guyart building so that its personnel have access to their health and prevention services. All new employees receive documentation on available health services and the Employee Assistance Program. In 2008-2009, the institution's personnel received free flu vaccinations, nursing services, lunchtime conferences and documentation from health-related seminars and other activities.

Employee Assistance Program services are provided by the personnel of the Ministère de la Justice, pursuant to an annual memorandum of understanding. In 2008-2009, 18 people used the Program to obtain support, often in the form of a referral to an outside specialist. In these cases, the Québec Ombudsman paid part of the specialist's fee. In 2007-2008, 2,526 person days were lost through sick leave and salary insurance absences. In 2008-2009, however, this number had been reduced to 2,011 days.

One of the Québec Ombudsman's goals and significant challenges in 2008-2009 was to maintain the leading-edge expertise required to fulfill its mission without increasing the size of its workforce, in a context of increasing demand. Most of its development effort was focused on the health sector, and more particularly on the issues of population ageing, vulnerable populations and mental health, investigation methodologies, support for university training and the development of sector-related expertise.

FINANCIAL RESOURCES

The 2008-2009 expense budget was $12,945,300. As was the case in previous years, this figure includes permanent allocations of $292,600 for the pension fund of former Ombudsman and Deputy Ombudsman, as stipulated in the Public Protector Act.

EXPENSE BUDGET

	2008-2009	2007-2008	2006-2007
Expense budget	12,945,300	12,729,800	12,781,800
Salaries	10,059,900	8,773,100	8,606,900
Operations	2,885,400	3,956,700	4,174,900

Virtually all the available allocations were needed to fulfill the institution's mission. Approximately 78% of the allocations went on salaries. In 2008-2009, the Québec Ombudsman focused even more on its workforce optimization strategy by assigning as much of its total allocation as possible to salaries, which enabled it to hire contractual employees and experienced retired consultants. As a result, it was able to deal quickly with a higher number of requests and additional needs without increasing its budget.

At the beginning of the year, the Québec Ombudsman produced its Annual Expense Management Plan, setting out its budget choices and presenting the principal ways in which its allocations would be used.

Given that most of the allocations were used to pay salaries, the best way of monitoring budget use is to look at the distribution of human resources for each of the orientations in the Plan. The cost of each activity is calculated as the sum of direct costs plus general expenses, divided pro-rate to the workforce assigned to each activity.

BUDGET DISTRIBUTION BY ORIENTATION

	2008-2009		2007-2008	
	Actual estimated[1]	Forecast	Actual	Forecast
Reception and processing of individual complaints	73,1%	71,9%	71,5%	70,0%
Collective actions	7,6%	8,2%	7,9%	8,3%
Institution's reputation	3,9%	4,3%	4,0%	5,4%
Reinforcement of the institution	4,6%	4,6%	4,7%	6,3%
Administration	10,8%	11,0%	11,9%	10,0%

Note: Information systems personnel are included in the "administration" section.

As the above table shows, the Québec Ombudsman allocated its resources in line with its chosen orientations, in compliance with the forecasts set out in the Annual Expense Management Plan.

[1] Data as at April 15, 2009, i.e. prior to the closing of the financial year.

The expense management plan is one of the tools used to implement the Strategic Plan, and the results of its various actions are therefore presented in the section of this report dealing with the Strategic Plan.

The 2007-2008 Annual Management Report mentioned the possibility of savings when the Montreal team moved into its new premises on December 1, 2007. Now that the actual data are known, the Québec Ombudsman is able to report that rent savings will total $599,690 during the first five years, and $1,169,540 by the end of the ten-year lease. After deduction of the fit-up costs, net savings will total $680,600. In addition, at the time the 2007-2008 Management Report was published, the Québec Ombudsman was engaged in discussions with the Société immobilière du Québec regarding the conditions for termination of its lease at Montreal's Law Court Building. As a result of these discussions, which concluded in October 2008, the Québec Ombudsman was not required to make double rent payments for the period from December 2007 to March 2008.

INFORMATION RESOURCES

The File Management system has been improved to reflect users' needs since it was first introduced in April 2007. Between April 1, 2008, and March 31, 2009, more than 294 upgrades and adjustments were made. The personnel of the Information Technology and Data Management Branch provided training and information on the changes. A number of management tools were also produced, allowing resource workloads and file processing times to be monitored more closely.

The information systems team was also involved in consolidating the network, office automation, infrastructure and development services. A technological upgrade was installed to allow the Québec Ombudsman to read documents from all its clients, including those using the latest software suites. In addition, the team worked on the central servers to improve network stability.

The Québec Ombudsman continued the process of documenting its technological procedures. It also updated its policy on the use of information resources, its directive on e-mail and Internet use, and its policy on computer equipment loans.

National and international activities

Like its fellow Ombudsman and mediators in other provinces and countries, part of the Québec Ombudsman's task is to maintain and improve the constitutional State, thereby contributing to democracy and helping to promote human rights.

The Québec Ombudsman is a member of the Canadian Council of Parliamentary Ombudsman and the Forum of Canadian Ombudsman. The Ombudsperson attended the annual meeting of the Canadian Council of Parliamentary Ombudsman in St. John's, Newfoundland and Labrador, on June 11-13, 2008. At the meeting, it was decided that the Council's 2009 meeting would be held in Québec City to commemorate the 40th anniversary of the founding of the Québec Ombudsman.

Our institution also hosted the annual general meeting of the Forum of Canadian Ombudsman on September 9, 2008. On the same day, the Ombudsperson received the *Organisation internationale de la Francophonie* delegate for peace, democracy and human rights, during a mission to Québec.

Most of the Québec Ombudsman's international activities took place through attendance at events held by the professional ombudsman and mediator associations of which it is a member, including the International Ombudsman Institute, the Association des ombudsmans et médiateurs de la Francophonie, and the United States Ombudsman Association. The Québec Ombudsman shares the same goals as these organizations, namely to support existing institutions, provide staff training, encourage research and disseminate research findings. It elects to take part in certain activities organized by these associations if it feels they will enhance its expertise or provide an opportunity to share its experience and expertise with other similar institutions.

On November 17 and 18, 2008, the Ombudsperson attended the meeting of the board of directors of the *Association des ombudsmans et médiateurs de la Francophonie*, held in Rabat, Morocco. She had been elected to the board in December 2007, as the representative for the America-Caribbean zone. The Québec Ombudsman will be hosting the Association's two-yearly conference in September 2009, with support from the National Assembly and the Ministère des Relations internationales.

The Prospective Analysis and Initiatives Manager from the office of the Deputy Ombudsman, Prevention and Innovation, attended the annual meeting of the United States Ombudsman Association, held in Lexington, Kentucky, from September 29 to October 3, 2008. Citizens' rights defence organizations from several countries were present to discuss the topic of excellence. Because of their unique mission, these organizations must adapt their performance assessment frameworks to the context of citizens' services. The conference gave those present an opportunity to share best practices in the field of service assessment and improvement by ombudsman-type institutions.

The 2008 report of the *Organisation internationale de la Francophonie* on the state of democracy, rights and freedoms in the French-speaking world, with the general theme of justice and governance, was presented to the Heads of State and Governments at the Sommet de la Francophonie held in Québec City in October 2008. In 2007-2008, the Québec Ombudsman assisted the *Association des ombudsmans et médiateurs de la Francophonie* with its contribution to the report, among other things by completing a questionnaire on the operations and material means of member institutions and by submitting the Ombudsperson's text on imprisonment sites from the Bamako conference in December 2007.

Results

PARLIAMENTARY WATCH

The Québec Ombudsman's parliamentary watch activities are important as a means of prevention, since they allow the institution to intervene upstream of problems by advising Members of the National Assembly, government officers and agency CEOs, thereby helping to improve service to citizens.

An analysis grid and a process coordinated by the General Secretariat are used to identify all the bills introduced the National Assembly and all the draft regulations published in the Gazette officielle. The Québec Ombudsman intervenes when necessary, or when requested to do so. Occasionally, ministers and agency CEOs ask the Ombudsperson for her opinion on proposed amendments, with a view to preventing problems.

She makes her comments directly to the Minister or agency CEO concerned, or submits a brief to the parliamentary standing committee responsible for considering the bill. Sometimes, delegate's[1] requests for information or authorized interventions with Government departments and agencies give rise to amendments or clarifications to bills and draft regulations.

The Québec Ombudsman's actions are governed by section 27.3 of the Public Protector Act, which grants the power to call the Government's attention to the need for such legislative, regulatory or administrative reforms he or she deems necessary, and by section 7 of the Act respecting the Health and Social Services Ombudsman, which entrusts the duty of ensuring that health and social services network users are respected and their rights enforced.

In addition, the institution's parliamentary watch activities are covered by the first orientation of the Québec Ombudsman's 2004-2008 Strategic Plan, "ensure that citizen rights are upheld in this time of change".

PARLIAMENTARY WATCH FILES

Year	Bills examined/ Bills introduced[1]	Interventions concerning bills	Draft regulations examined/Draft regulations published[2]	Interventions concerning draft regulations
2006-2007	62 / 63	5	74 / 129	8
2007-2008	77 / 81	2	152 / 174	0
2008-2009	68 / 70	5	102 / 127	4

[1] The bills that not examined concerned budgets or allocations, and were adopted on the day they were presented.

[2] The draft regulations not submitted related to collective agreement orders or other labour relations issues, professional orders outside the health and social services field, or agencies not falling within the Québec Ombudsman's jurisdiction, and were not concerned with matters of itnerest to the Québec Ombudsman.

As the above table shows, between April 1, 2008, and March 31, 2009, 68 of the 70 bills introduced in the National Assembly were examined (the 2 remaining bills did not fall within the Québec Ombudsman's jurisdiction). Similarly, 102 of the 127 draft regulations published in the Gazette officielle were also examined.

Following these examinations, the Québec Ombudsman made comments on five[1] bills and four draft regulations, as follows:

- An Act to amend the Police Act (Bill 60, 2007)[2];
- An Act to amend the Act respecting health services and social services, the Health Insurance Act and the Act respecting the Régie de l'assurance maladie du Québec (Bill 70, 2007)[3];
- An Act to amend the Supplemental Pension Plans Act, the Act respecting the Québec Pension Plan and other legislative provisions (Bill 68, 2008);
- An Act to amend the Education Act and other legislative provisions (Bill 88, 2007);
- An Act to amend the Courts of Justice Act and the Act respecting municipal courts with regard to court security (Bill 15, 2009).
- Draft regulation: Conditions governing the implementation of the experimental Québec Health Record in the territory of the health and social services agency for the Capitale-Nationale region (2008, Gazette officielle 2, 819)[4];
- Draft regulation amending the Regulation respecting the reimbursement of certain expenses (2008, Gazette officielle 2, 1735) (comments on SAAQ compensation);
- Draft regulation amending the Regulation respecting the diplomas issued by designated educational institutions which give access to permits or specialist's certificates of professional orders (2008, Gazette officielle 2, 5643) (comments concerning respiratory therapists);
- Draft regulation amending the Regulation respecting the activities engaged in and described in sections 39.7 and 39.8 of the Professional Code (2009, Gazette officielle 2, 24) (comments concerning activities carried out on certain conditions by operators or staff in seniors' residences – e.g. invasive care and administration of medication – normally reserved for professionals).

Several of the Ombudsperson's recommendations were favourably received and led to amendments or other measures. This was the case, for example, with Bill 68 (the Act to amend the Supplemental Pension Plans Act, the Act respecting the Québec Pension Plan and other legislative provisions), where two of her three recommendations were accepted in their entirety, and the third was accepted in part. As far as Bill 88 (the An Act to amend the Education Act and other legislative provisions) is concerned, the Act as adopted addresses the Ombudsperson's recommendation that the roles and obligations of the student protector be clarified, and that the reporting process be made more transparent. The Ombudsperson's comments were also taken into account in the Conditions governing the implementation of the experimental Québec Health Record in the territory of the health and social services agency for the Capitale-Nationale region, in particular regarding documentation on the project's objectives and goals, which must now be given to "interested persons", and not simply on request, as stipulated in the draft regulation. With regard to the other draft regulations and Bill 15, the outcomes of the Ombudsperson's interventions are not yet known, since the final regulations have not yet been enacted and the bill has not been adopted.

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[1] A letter relating to Bill 72 was also sent by a delegate.

[2] The Ombudsperson intervened in respect of this Bill in April 2008 (the bill was introduced in December 2007). Comments were made to support the measures that provide for wildlife conservation officers to be subjected to the police ethics system.

[3] The Québec Ombudsman's intervention mainly concerned the Conditions governing the implementation of the experimental Québec Health Record in the territory of the health and social services agency for the Capitale-Nationale region, but were also related to some aspects of this Bill.

[4] This draft regulation was published in February 2008, and the Québec Ombudsman intervened in April 2008.

The Québec Ombudsman is also invited on a regular basis to make comments during public or special consultations by the Government or the National Assembly. The institution can also present comments on its own initiative, where it feels this is appropriate. This year, for example, during a special consultation by the National Assembly's standing committee on social affairs, concerning homelessness in Québec, the Ombudsperson was invited to present a brief. The Québec Ombudsman pays particular attention to those members of society who are fragile or vulnerable as a result of their physical, mental or psychological health, or as a result of their social condition, which is often the case for the homeless. In its brief, the institution made 20 recommendations, proposing preventive measures designed to ensure continuity of service, immediate protective measures for the most vulnerable individuals, and measures designed to prevent chronic homelessness. The brief also discusses program implementation.

THE STRATEGIC PLAN AND ANNUAL EXPENSE MANAGEMENT PLAN

In 2008-2009, the Québec Ombudsman continued to direct its efforts towards achieving the objectives set out in its 2004-2008 Strategic Plan, enriched by the 2006-2011 Intervention Plan to reflect the institution's extended mission in the health and social services sector.

The new 2009-2012 Strategic Plan was tabled in the National Assembly and adopted in March 2009.

The 2004-2008 Strategic Plan centred on the following three objectives:

- Ensure that citizen rights are upheld in this time of change;
- Raise awareness of the Québec Ombudsman and promote the values it advocates;
- Being a model, state-of-the-art organization focused on serving citizens.

The 2008-2009 results, concluding the final year of the Strategic Plan and incorporating the objectives of the Annual Expense Management Plan, are as follows:

OBJECTIVE 1: ENSURE THAT CITIZEN RIGHTS ARE UPHELD IN THIS TIME OF CHANGE.

AREA OF ACTION 1	GOALS
• Ensure that the established rules of democracy are followed transparently and that the values of social justice and solidarity are upheld.	• Develop an evaluation grid to help us perform this task more effectively. • Make this task our priority.

The bills and draft regulations that fell within the jurisdiction of the Québec Ombudsman were all examined by the officers responsible for complaints and reports relating to the government departments, agencies and institutions concerned. Based on the lessons drawn from these complaints and reports, they recommended a certain number of improvements that the Ombudsperson used in her interventions.

AREA OF ACTION 2	GOALS
• Promote the quality of relations between the government and the general public, in whatever form this may take.	• Provide reference tools to help government departments and agencies. • Act in a timely manner to ensure and improve the effectiveness of citizen recourse. • Ensure that no group of citizens is left out by the Online Government project.

Regular exchanges were maintained in 2008-2009. The Québec Ombudsman also attended a number of meetings with stakeholders and authorities under its jurisdiction, as well as with representatives from complaint assistance and support centres, and with regional and local complaints and service quality commissioners. The purpose of these meetings was to remind the officers of the Québec Ombudsman's mission, to promote service quality and respect for citizens and their rights and, of course, to ensure that the Québec Ombudsman's conclusions and recommendations had been implemented. In 2008-2009, 99% of these recommendations were accepted.

Meetings were also held with citizens' representatives on specific issues including mental health, homelessness, youth in difficulty, housing, and services for seniors, including lodging.

During the same period, the Québec Ombudsman targeted a number of issues, built files and made 454 general recommendations. It also launched several mandates on its own initiative, on topics such as government services for children with invasive development disorders, the investigation procedure used in Québec for incidents involving police officers, and mental health. These mandates were in the process of being completed on March 31, 2009.

The Québec Ombudsman also took the initiative in several other cases, to remedy and avoid repetition of prejudicial situations. For example, it worked with the Sacré-Coeur Hospital in Montreal and the Rockland MD surgery and medical centre on a pilot agreement for professional services, signed on December 13, 2007.

OBJECTIVE 2: RAISE AWARENESS OF THE QUÉBEC OMBUDSMAN AND PROMOTE THE VALUES IT ADVOCATES.

AREA OF ACTION 1	GOALS
• Raise awareness of the Québec Ombudsman among the general public and such multiplying agents as community organizations and associations.	• Make ourselves better known among various target groups, including young people, immigrants, and residents of Greater Montreal. • Strengthen our ties with information relayers.

During the year, the Québec Ombudsman took part in 25 public activities, exhibitions, conferences and congress meetings, in different regions of Québec, including Abitibi-Témiscamingue, the Beauce, the Capitale-Nationale, Chaudière-Appalaches, Est-du-Québec, Lanaudière, Laval, the Eastern Townships, Montérégie and Montreal. Its presence helped raise awareness of its services among the general public and among target groups including students, seniors, the disabled and health and social services network users. The institution also strengthened its ties with multiplying agents including the Montreal Bar Association, the Conseil pour la protection des malades, the Association québécoise de défense des droits des personnes retraitées et préretraitées and the users' committees of various hospitals.

In the fall, the Ombudsperson toured the Eastern Townships region and was guest of honour at the ceremony to launch the 2008-2010 integrated action plan to promote users' rights. She also visited the Sherbrooke detention centre, the Eastern Townships rehabilitation centre, the psychiatric unit of Sherbrooke University Hospital and the Sherbrooke University Institute of Geriatrics, and met with the leaders of a mental health defence organization.

The Québec Ombudsman also received media coverage during the year, in particular when it tabled its Annual Report in the National Assembly on May 29, 2008.

AREA OF ACTION 2	GOALS
• Promote the values of justice, fairness, transparency, respect and integrity in government/citizen relations.	• Promote the organization with government departments and agencies. • Use various forums to promote our values. • Contribute to national and international activities that foster respect for citizen rights.

The Québec Ombudsman promoted its values, role and services on several occasions during the year. Among other things, it gave speeches to the staff of the Commission des droits de la personne et des droits de la jeunesse du Québec, the members of the Fédération des centres d'assistance et d'accompagnement aux plaintes, regional complaints and service quality commissioners, the members of the Syndicat des agents de la paix en service correctionel du Québec in Montreal and students at the École nationale d'administration publique and the Université du Québec à Montréal, during a course on administrative law. In addition, the Québec Ombudsman helped ensure that citizens' rights were upheld both nationally and internationally, as mentioned earlier.

OBJECTIVE 3: BE A MODEL, STATE-OF-THE-ART ORGANIZATION FOCUSED ON SERVING CITIZENS.

AREA OF ACTION 1	GOALS
• Develop expertise to face new challenges and bolster staff dedication.	• Review skills profiles to improve staff recruitment and training. • Make full use of employee skills and promote skills development. • Offer a stimulating work environment.

The goal of improving the organization's performance and focusing on customer service continued to be a priority in 2008-2009. As in previous years, the Québec Ombudsman worked to maintain and develop its employees' skills by implementing a leading-edge, targeted training program. This year, training was concentrated in a number of specialized sectors, and more generally on the implementation of a systematic analysis and investigation methodology suited to the institution's mission, so as to ensure quality and consistency in its actions.

The institution also worked to maintain the motivation of its expert staff by developing excellence recognition measures. Premiums were paid to some employees in recognition of the complexity of their task, and exceptional performance bonuses were also paid in accordance with current directives. A work structure committee chaired by the Ombudsperson was set up to ensure that staff members are involved in improving the quality of their work. At the same time, the management team worked to develop a culture of recognition within the institution.

Steps were taken to ensure pay equity, in compliance with the Pay Equity Act, and two prescribed postings were made. Following a series of consultations with the Conseil du trésor Secretariat, the main lines of a settlement were established, with the result that this major question should be resolved in early 2009-2010.

AREA OF ACTION 2	GOALS
• Improve work methods for studies, analyses and surveys.	• Promote greater care in our work processes. • Improve the consistency of institutional activities. • Adopt a structured, ethical approach. • Equip ourselves with modern tools to ensure the quality of our activities and increased accountability.

The Québec Ombudsman has been working hard to improve its methods since September 2006, among other things by strengthening its investigation process. An investigation specialist was hired to study the organization's current processes and develop tools to facilitate the work of its staff, a task that was completed in January 2009. All staff received training in February 2009, and the Québec Ombudsman's Complaint Processing Handbook is currently being updated. The new, improved investigation process was approved by the Ombudsperson, and is better suited to the more complex investigations that the institution is required increasingly to perform. In addition, the Québec Ombudsman has adopted a priority assessment grid for complaint processing (risk management grid), which is now used to establish the priority order for files and covers aspects such as substantiation, allocation of files to staff members, and processing by all the institution's sectors.

AREA OF ACTION 3	GOALS
• Be an organization focused on meeting the needs of all citizens.	• Develop strategies adapted to the specific needs of certain vulnerable or needy clients. • Pay close attention to response time and the way cases are wound up with citizens. • Offer sufficient support to personnel in stressful situations with clients.

A memorandum was prepared every month, presenting monthly complaint and report statistics. These statistics were also presented regularly to the management board, and were discussed with managers.

An in-depth analysis of complaint processing times was carried out for every step in the process, and a number of improvements were introduced.

Qualitative statistical analysis has become a regular activity for staff in the Office of the Deputy Ombudsman, Citizen and User Services. An analysis service has also been implemented in the Prospective Analysis and Initiatives Branch of the Office of the Deputy Ombudsman, Prevention and Innovation.

DECLARATION OF SERVICES TO THE PUBLIC

The institution's new Declaration of Services to the Public and 2009-2012 Strategic Plan were completed in 2008-2009, and came into force on April 1, 2009.

The 2008-2009 results for the various commitments are presented on the basis of the Declaration of Services to the Public in force on March 31, 2009.

For the Québec Ombudsman, it is a point of honour to respond to citizens courteously and quickly, providing accessible, relevant and accurate information.

In its Declaration of Services to the Public, the Québec Ombudsman makes commitments regarding the accessibility and quality of its services and communications, and reasserts the need for citizens to be a core concern for every staff member, based on the values of justice, equity, respect and transparency.

During office hours, every citizen receives a personalized verbal response to their initial contact, and is referred to the resources best equipped to deal with their situation.

On April 1, 2008, the Québec Ombudsman merged two of its units (reception and review) as a means of responding more effectively to citizens' requests.

The new process has made it easier for the institution to achieve the objectives set out in the Declaration of Services to the Public, and has also improved the strategic watch function, in particular with regard to major issues such as the shortage of physicians or emergency room and surgery wait times. In addition, the institution is now able to obtain more information on service quality and the problems associated with gaining access to complaints commissioners. It also simplifies the processing of multi-sector complaints involving both the health and social services networks and government departments or agencies.

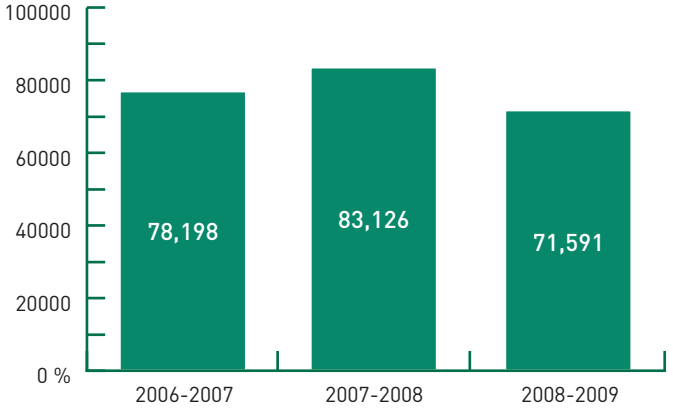
The Reception and Review Department has adopted a more personalized approach to its written responses, and now provides simpler, clearer information.

In addition, the Québec Ombudsman is now able to respond much more quickly and effectively to problems submitted by health and social services network users.

Thanks to the vigilance of the Reception and Review Department, the Québec Ombudsman is now able to act quickly in serious situations brought to its attention by individual citizens or commissioners.

TELEPHONE ACCESS

Number of calls received



Commitment

A telephone receptionist will answer your call within three minutes.

Results

In 2008-2009, 79% of calls from citizens resulted in contact with a telephone receptionist within 18 seconds.

After the reception and referral step, the citizen's complaint is forwarded to the staff members responsible for administrative verification and preliminary analysis. Complaints that are deemed to be admissible at this point are transferred to an agent for a preliminary investigation.

PROCESSING OF THE REQUEST

Commitment

We will acknowledge receipt of a citizen's request for service within two working days, either verbally or in writing.

Results

Percentage of processing within two working days		
Year	2 days or less	More than 2 days
2006-2007	98%	2%
2007-2008	95%	5%
2008-2009	99%	1%

DILIGENT PROCESSING OF REQUESTS FOR ASSISTANCE

Commitment

We will direct citizens to appropriate resources within two working days.

Results

Percentage of citizens' requests directed to an appropriate resource within two working days		
Year	2 days or less	More than 2 days
2006-2007	97%	2%
2007-2008	90%	10%
2008-2009	95%	5%

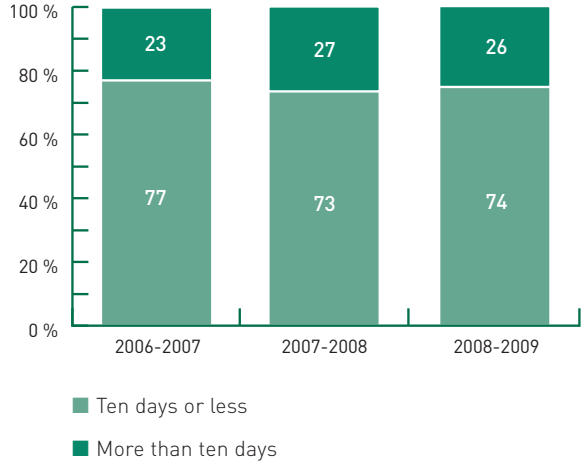
DILIGENT PROCESSING OF COMPLAINTS

Commitment

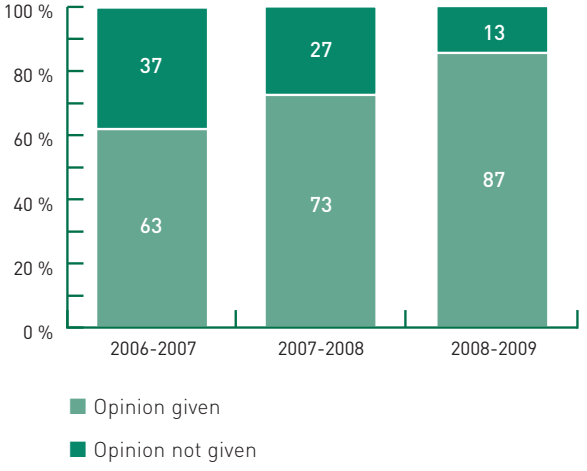
We will do everything we can to process a citizen's complaint within ten working days, and we will inform the citizen if additional time is required.

Results

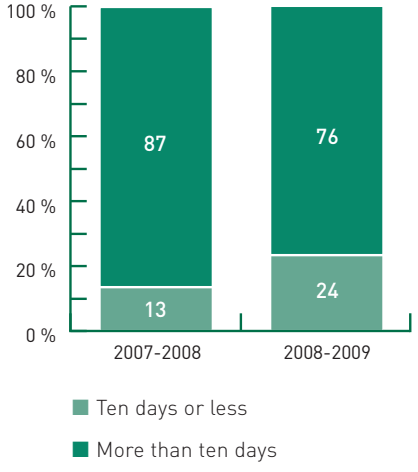
Public service complaints processed in less than 10 days



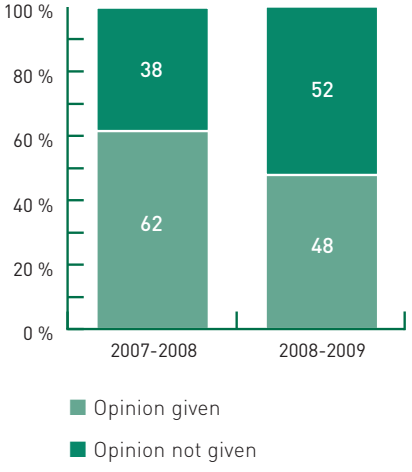
Percentage of public service opinions



Health and social service complaints processed in less than 10 days



Percentage of health and social service opinions



SERVICE QUALITY

A citizen who is dissatisfied with the service received from the Québec Ombudsman can contact the Service Quality Manager.

The Québec Ombudsman's complaint processing mechanism helps ensure good quality service by assigning responsibility to the managers concerned. For example, a complaint relating to an active file is processed by the manager responsible for the sector in question, who must also provide follow-up. A complaint concerning a file that has been closed is first examined by the service quality committee, chaired by the Ombudsperson and composed of the Deputy Ombudsman concerned, along with the Secretary General. The committee is responsible for ruling on the validity of the complaint, and where applicable it also stipulates the steps required to improve service quality, remedy any mistakes and prevent them from recurring.

In 2008-2009, 69 people submitted complaints about service quality while their files were still active, 40 did so after their files had been closed, and a handful complained at both stages. In all, 109 people submitted a total of 147 complaints[5] relating to service quality in 2008-2009; this number is higher than the previous year, when 99 people submitted a total of 107 complaints.

In 2008-2009, the committee and managers processed 158 complaints[6], 21 of which resulted in remedial action or additional measures such as apologies or the provision of extra information.

As was the case last year, the grounds for complaint most often mentioned by complainants were conclusions, refusal to process complaints because they were inadmissible or outside the organization's jurisdiction, the review process and processing times.

Most of the grounds that were deemed to be valid, or that led to improvements, were related to conduct or communication problems.

PROCESSING TIMES FOR COMPLAINTS RELATING TO SERVICE QUALITY

The Service Statement in force in 2008-2009 provided for a period of 10 working days to process complaints. However, this goal was set before the new complaint processing mechanism was introduced in 2007-2008. Experience has shown that the 10-day goal is difficult to achieve with the new mechanism. For example, the fact that complaints relating to closed files must be submitted to a committee – which was not the case before the current procedure was introduced – can have the effect of lengthening processing times. In all cases, too, the allegations supporting complaints must be checked and counter-checked. In addition, for the sake of fairness, everyone concerned must be given an opportunity to express their views. Also, the committee often needs additional information in order to make a well-informed decision. The 2009 Service Statement provides for a longer processing time that allows all these aspects to be taken into account.

Citizens are told about the complaint process and given an estimated processing time when they first make contact with the institution. If the issue is a complex one that is likely to take longer to process, the person is notified promptly.

[5] In 2008-2009, two individuals each submitted eight complaints.

[6] The figure includes complaints created in last year's files.

Average processing times for complaints received in 2008-2009

Complaint Processing	Average Time (Working Days)
Complaints processed by managers (during file processing)	
Reception and Review	2.5
Public Service	3.9
Health and Social Services	27.6
Complaints processed by the committee (file processing completed)	44.3

Legislative and government requirements

Because of the Québec Ombudsman's special status in the Québec State, as an institution reporting directly to the National Assembly and therefore independent of the Government, it is not subject to requirements concerning the reduction of regulatory and administrative requirements for enterprises, sustainable development and climate change, use and quality of the French language in the public service, or the adoption of a code of ethics and good conduct for public administrators. Despite its special status, however, the Québec Ombudsman voluntarily adheres to some of these requirements, which it considers relevant to its mission and functions.

ACCESS TO INFORMATION AND THE PROTECTION OF PERSONAL INFORMATION

The Québec Ombudsman is governed by the Act respecting access to documents held by public bodies and the protection of personal information (Act respecting access), pursuant to section 3 of the Act.

The Québec Ombudsman complies with the requirements of both its constituting act and the Act respecting access. To comply with the Act respecting the Health and Social Services Ombudsman and the Act respecting health services and social services, it also considers certain special rules governing access to information and the protection of personal information applicable to users' complaint files.

Every year, in line with the Government Plan of Action for the Protection of Personal Information and the Regulation respecting the distribution of information and the protection of personal information, the Québec Ombudsman examines the issue of access to information and the protection of personal information in its Annual Report.

In 2008-2009, as planned, the Québec Ombudsman updated its training program on access to information and the protection of personal information, which is given to new employees when they first join the institution. All new employees are met individually, and the general principles of access to information and the protection of personal information are explained in a format adjusted to their specific needs.

The following priorities have been selected for the coming year:

- Adoption of an administrative policy based on the Regulation respecting the distribution of information and the protection of personal information;
- Updating of the internal handbook on access to information and the protection of personal information, which is used on an everyday basis by the Québec Ombudsman's personnel.

ACCESS TO INFORMATION

In 2008-2009, the Québec Ombudsman received 38 requests for access to information pursuant to the Act respecting access to documents held by public bodies and the protection of personal information. The requests related to both the public service and the health and social services network.

Of these requests, 26 related to personal information and 11 to administrative documents. One was a request for correction of personal information.

As far as processing times are concerned, 95% of the requests for access were processed within the stipulated 20-day period. The other 5% required a 10-day extension.

In the same period, only one decision made by the officer in charge of access to information generated a request for review by the Commission d'accès à l'information in accordance with sections 135 and 137 of the Act respecting access. The Commission made two decisions involving the Québec Ombudsman, and in both these cases it upheld the decisions made by the officers concerned and rejected the requests for review. In all, seven requests for review are currently awaiting a hearing before the Commission.

Statistics for the last five years

Fiscal year	Number of requests
2008-2009	38
2007-2008	43
2006-2007	60
2005-2006	45
2004-2005	38

INFORMATION SECURITY

Information security is a constant concern for the Québec Ombudsman. The Directive on the Use of E-mail and the Internet and the Policy on the Use of Information Resources have both been updated to ensure that the institution's personnel comply with the rules currently in force. A chronicle is also posted on the Québec Ombudsman's website, as a means of raising staff awareness of the need to ensure that passwords remain secret.

The Québec Ombudsman has introduced an information security management framework and has taken certain other related steps, including a survey of existing security measures for physical assets (premises) and information assets (information technologies).

The Information Security Committee, which is composed of the Ombudsperson, the Secretary General and Legal Affairs Manager, the Information Technology and Data Management Branch Manager, and the officers responsible for the protection of personal information and information security, is in charge of implementing both the policy and the management framework. It met four times in 2008-2009.

USE AND QUALITY OF THE FRENCH LANGUAGE

The Québec Ombudsman has adopted a language of communication policy in line with the Charter of the French Language. It applies the provisions of the Charter relating to the language of administration, in particular with citizens who have requested action in respect of a public agency under its jurisdiction. The policy is also based on the Charter provisions relating to health services and social services, and on section 15 of the Act respecting health services and social services, which states that "English-speaking persons are entitled to receive health services and social services in the English language".

The Québec Ombudsman's policy concerning the language of communication is consistent with its mission and characteristics, as set out in the legislation it is responsible for applying, the Public Protector Act and the Act respecting the Health and Social Services Ombudsman. The Policy reflects the fact that the Québec Ombudsman receives written and verbal complaints, reports and intervention requests from citizens throughout Québec, including health and social services network users, and must help them to formulate their requests or complaints, and provide assistance with the related procedures.

The purpose of the policy is to ensure that all the institution's personnel are aware of how the Charter of the French Language and section 15 of the Act respecting health services and social services apply to the institution's activities. It provides guidelines for the choice and use of the language of communication for individual citizens, health and social services network users and government departments and agencies.

CONDUCT AND ETHICS

The Ombudsperson and all the institution's personnel have undertaken, under oath or in a solemn declaration, to perform their duties honestly, impartially and fairly, and not to accept any sum of money or benefit other than that granted to them in accordance with law.

The entire personnel is regularly reminded of the need for confidentiality and discretion. This is not only a legal obligation, but also an institutional value.

Follow-up to the Auditor General's recommendations concerning resource optimization

In 2008, the Auditor General performed a resource optimization audit for the Québec Ombudsman, and the Ombudsperson accepted his five recommendations. Below is a brief review of the current status of these recommendations as of March 31, 2009.

CONTRACTUAL MANAGEMENT

When the new Government regulations on contractual management came into force on October 8, 2008, the Québec Ombudsman decided to review its own by-laws, first to bring them into line with Government requirements, and second to ensure fairness in its handling of competitors. The new by-laws will come into force as soon as it is approved by the National Assembly Bureau.

The Québec Ombudsman also groups its calls for bids and makes use of multi-year contracts and time banks to meet occasional or recurrent needs.

These improvements are part of the institution's focus on sound management practices. Seven internal resources have been trained to ensure that the new contractual management regulation is applied properly within the institution.

STAFFING

In 2008-2009, the Québec Ombudsman had all its managerial positions assessed by an independent specialist using the Hay method, to ensure that the level of responsibility was consistent in each case with the classification of the manager holding the position. The last such managerial job assessment took place in March 2001.

The institution also improved its administrative staffing policy, reasserting the values of transparency and fairness in the recruitment process and stipulating that positions must be filled using a merit-based approach, i.e. with at least two selection methods to assess candidates' aptitudes and skills, and then selection of the best person for the job.

COMPLAINTS PROCESSING

The Québec Ombudsman has been working hard to improve its methods since September 2006, among other things by strengthening its investigation process. An investigation specialist was hired to study the organization's current processes and develop tools to facilitate the work of its staff, a task that was completed in January 2009. The investigation workforce received training in February 2009.

The institution's Complaint Processing Handbook is currently being updated to reflect the new investigation process, which includes a method for more complex investigations. In addition, the Québec Ombudsman has adopted a priority assessment grid for complaint processing (risk management grid), which is now used to establish the priority order for files and covers aspects such as substantiation, allocation of files to staff members, and processing by all the institution's sectors.

The Department has also set up a reference bank containing all the institution's positions and legal opinions, to ensure that anonymous conclusions are available to all investigation staff.

Lastly, the Québec Ombudsman has reinforced its directive on the approval of written and verbal conclusions, with the result that all files will in future contain evidence to the effect that the conclusions were verified by the appropriate person. Approval is also entered in the institution's file management system.

COMPLAINT PROCESSING TIMES

The Québec Ombudsman sets great store in the quality of its services, and seeks the best ways of dispensing them as quickly as possible without sacrificing rigour and ensuring that all aspects are covered by its conclusions concerning complaints and reports.

This year, the institution continued its in-depth analysis of complaint processing times, begun in 2007-2008.

The goal of the analysis is to identify the factors that cause delays, where they originate, and how far the institution can control them. For example, when requesting essential documents from Government departments and agencies or health and social services institutions, the Québec Ombudsman has less control than for its own internal work organization. Reminders are important tools in fulfilling its external role. As for its internal work processes, they have been carefully examined to identify ways of improving processing times.

Existing optimization measures have helped to reduce delays in some cases. For example, since April 1, 2008, complaints and reports relating to health and social services issues and appeals from decisions by local and regional commissioners are examined by a team that reviews their admissibility and settles some of the less complex cases. During the year, 327 complaints, reports and requests for help were settled within an average period of 20 days, whereas previously the process would have taken several months. Efforts are continuing to reduce processing times even further. The priority grid and new investigation methods introduced in late February 2009 will help the Québec Ombudsman to manage urgent and complex issues and still leave it the flexibility to deal with longer-term matters.

A productivity analysis is currently underway, and performance indicators are being identified. Both these activities will be completed in the coming year, and are expected to be implemented by 2010-2011.

REPORTING

The Québec Ombudsman considers the reporting process to be extremely important, and uses both the Government guide and the Auditor General's recommendations as its basis. In particular, it ensures that reports, wherever possible, allow for comparisons over several fiscal years, and all financial data is subjected to special checks. In addition, its new telephone system and the monitoring process for complaints about its own service now allow it to report accurately on its activities in these areas.

Appendices

COLLABORATORS

The Québec Ombudsman would like to thank its collaborators, whether permanent, temporary or contractual. Their professionalism and commitment have helped the institution to achieve its mission. They are:

Ombudsperson's Office

Lucie Lavoie
Monique Sévigny

Office of the Deputy Ombudsman, Prevention and Innovation

Denise Guillemette
Vicky Langevin
Micheline McNicoll
Marie Johanne Pageau

Office of the Deputy Ombudsman, Citizen and User Services

Chantal Dubreuil
Valérie Fontaine
Pierre-Paul Veilleux

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COMPARATIVE TABLE – JURISDICTIONS OF CANADIAN PARLIAMENTARY OMBUDSMAN AND REQUESTS PROCESSED

This table presents the fields of jurisdiction of the Parliamentary Ombudsman in Canada's provinces and territories, along with the number of requests received and processed in fiscal year 2007-2008 or calendary year 2007[7].

Province, territory and population[8]	Government departments and agencies	State corporations[9]	Educational network	Youth	Correctional services	Municipal network	Health	Total number of complaints and requests for information received			Requests for services closed
								J	NJ	Total	
Alberta 3,290,000 inhab.	J	J	NJ	NJ	J	NJ	J	413	4,690	5,103	683
British Columbia 4,113,000 inhab.	J	J	J	NJ	J	J	J	6,896	1,757	8,653	5,950
Manitoba 1,148,000 inhab.	J	J	NJ	NJ	J	J	J	174	1	175	203
New Brunswick 730,000 inhab.	J	J	J	J	J	J	J	1,964 (complaints only)	777 (complaints only)	2,741 complaints + 666 requests for information	1,757
Nova Scotia 913,000 inhab.[10]	J	J	J	J	J	J	J	1,623	628	2,251	1,559
Ontario 12,160,000 inhab.	J	J	NJ	NJ	J	NJ	NJ	11,117	5,637	16,754	16,213
Québec 7,546,000 inhab.	J	NJ	NJ	NJ[11]	J	NJ	J	9,800	10,381	20,181	21,259
Saskatchewan 968,000 inhab.	J	J	NJ	NJ	J	NJ	J	2,119	1,009	3,128	2,316
Newfoundland and Labrador 505,000 inhab.	J	J	J	NJ	J	NJ	J	248	n.d.	248	n.d.
Yukon 30,000 inhab.	J	J	J	NJ	J	J	J	35 (complaints only)	16 (complaints only)	51 complaints + 122 requests for information	32

J: Jurisdiction NJ: No jurisdiction n.a.: information not available

[7] Prince Edward Island, Nunavut and the Northwest Territories do not appear in the table because they do not have a Parliamentary Ombudsman.

[8] Source: STATISTICS CANADA. *Population and Dwelling Counts, for Canada, Provinces and Territories, 2006 and 2001 Censuses – 100% Data* (Table), Population and Dwelling Count Highlight Tables, 2006 Census, [online], 2007.

[9] In Québec, these corporations include Hydro-Québec and Loto-Québec among others.

[10] These statistics were published in *Annual accountability report for the fiscal year 2007-2008.*

[11] Although the Québec Ombudsman processes complaints concerning youth centres, it has no jurisdiction over the decisions of Youth Protection Directors.

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