



LE PROTECTEUR DU CITOYEN

Assemblée nationale
Québec

JUSTICE FAIRNESS RESPECT

IMPARTIALITY TRANSPARENCY

2012-2013 ANNUAL REPORT



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Québec City
September 2013

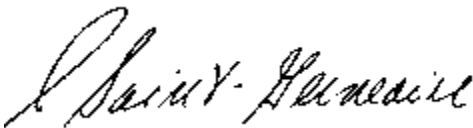
Mr. Jacques Chagnon
President of the National Assembly
Parliament Building
Québec City (Québec) G1A 1A4

Mr. President:

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 43rd annual report of the Québec Ombudsman for fiscal year 2012-2013.

The annual report on the management of the Québec Ombudsman for the same period also forms part of this document, in accordance with section 35.1 of the Public Protector Act.

Yours respectfully,

A handwritten signature in black ink, reading "Raymonde Saint-Germain". The signature is fluid and cursive, with the first name "Raymonde" being more prominent than the last name "Saint-Germain".

Raymonde Saint-Germain
Québec Ombudsperson

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Notice

To facilitate onscreen consultation, the blank pages of the printed document have been removed and will not appear if the document is printed. The pagination of this file remains identical to the original.

MESSAGE FROM THE QUÉBEC OMBUDSPERSON



Public administration is facing budget cuts almost world-wide. The effects of globalization, the opening up of markets, and financial crises mean that budgets are having to be adjusted to a greater or lesser extent, depending on the context. For many public administrations, austerity has become the watchword.

Although it has been rubbing along fairly well until now, Québec is no exception to the rule. Budget constraints are being felt very keenly, especially for demographic reasons, such as the growing population of seniors and the services needed to care for them. Difficult choices have to be faced in all areas.

Against this background I would like to reiterate the importance of preserving some key principles of good governance.

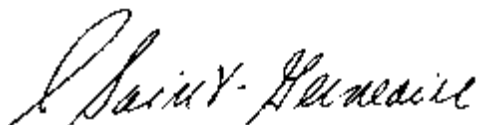
Transparency is one of these. Given considerable needs and limited resources, many areas are seeing a gap between the services available in theory (based on best practices, and looking appropriate and generous on paper) and those available in reality. Unable to meet all legitimately expressed needs, front-line service providers are often forced to make choices sometimes in the absence of clear criteria that would help them prioritize. Within the health and social services network this creates disparities from one region to another and even from one institution to another. I have observed this particularly with regard to home support services for people living with a loss of autonomy, or for people with pervasive developmental disorders (PDD). Beyond the hallowed phrase “direct services will not be affected” by budget cuts, authorities should indicate clearly which essential service elements will be preserved. Citizens all over Québec are entitled to know which services are really available and under which conditions they can be accessed.

The government’s room for manoeuvre goes hand-in-hand with its duty to make choices based on credible and convincing data. Based on these data, the Québec Ombudsman’s duty is to consider which guidelines could have concrete repercussions for citizens. This year, for example, I found it unjust that private daycares were excluded from calls for proposals to open new places in the public daycare system.

Another concern of the Québec Ombudsman is to develop a long-term vision for resolving often complex and systemic social problems. I am worried for example by the lack of services for people in prison who have mental health problems. As the years pass, the situation in detention centres is one of stalemate and shows that nothing is being done. Glaring deficiencies are all too often reported. Furthermore, budget cuts in social reintegration programs do not bode well. Social reintegration should be regarded as a profitable investment both for the detainee and his or her family and friends, and for society (because it boosts a sense of security and saves all sorts of expenses by reducing the chances of re-offending).

Another trend the Québec Ombudsman is monitoring is related to the new governance methods in public administration. It may be completely legitimate to appeal with ease to different partners such as local governments, parapublic networks and related groups and the private sector for dispensation of public services, but one cardinal principle must be borne in mind: the delegation of some responsibilities of the State should not mean the State is absolved of responsibility. The Québec State must always remain accountable when its policies are implemented. Too often, the Québec Ombudsman is told that responsibility for service provision has devolved to another body. Yet this in no way affects the State's primary responsibility to use all appropriate mechanisms to ensure the quality of its public services and proper follow-up of the guidelines set out in the various policies that are the basis for action on the ground. Two examples of many are the lack of assessment visits to intermediate resources housing people with intellectual disabilities, and shortcomings in the number and quality of inspections of the different categories of daycare centres. Also, faced with well-structured and powerful networks, the actual department in question will sometimes give its mandate a narrow interpretation. The Ministère de l'Éducation, du Loisir et du Sport is a case in point, for it should be taking full responsibility for ensuring teaching institutions implement its own policies and programs.

Finally, a positive element again this year has been the commitment and good faith of the vast majority of public service agents the Québec Ombudsman has dealt with during its various interventions. These people want to do their work well, so long as they have the right conditions. The Québec Ombudsman counts on their good will. The everyday work of my own competent and motivated team is to ensure the citizens of Québec receive quality services and that their rights are respected. It is an essential mission, and the challenges we face do not in the least shake our determination to fulfill it.



Raymonde Saint-Germain
Québec Ombudsperson

Validation report from the internal auditor

Ms. Raymonde Saint-Germain
Québec Ombudsperson

In accordance with the mandate entrusted to me, I have conducted an examination of the results, explanations, and information presented in the Québec Ombudsman's annual report for the fiscal year ending on March 31, 2013. The Québec Ombudsman's administrators are responsible for the accuracy, completeness and disclosure of the data.

I am responsible for evaluating the plausibility and consistency of the information, based on the work I have done.

This examination was performed in accordance with the international standards of the Institute of Internal Auditors (IIA). My examination was focused on the *Results in Figures* section. For the other sections of the report, my work was limited to the figures provided. It consisted of obtaining information and supporting documentation, using analytical procedures, documenting the operation of compilation mechanisms, revising calculations and discussing the information provided. This examination does not constitute an audit.

Further to this examination, I find nothing to suggest that the results, explanations and information contained in the Québec Ombudsman's *2012-2013 Annual Report* are not plausible and consistent in every important respect.



Jean Gamache, CPA, CA
Internal auditor
Québec City, July 2013



THE QUÉBEC OMBUDSMAN

Its status, mission and mandate

The Québec Ombudsman, headed by Raymonde Saint-Germain, is an institution independent of the Québec government. Ms. Saint-Germain was named Ombudsperson by the National Assembly in April 2006 and reappointed for a second term of office in June 2011. The Québec Ombudsperson reports exclusively to the National Assembly.

The institution's mission is to ensure that the rights of individuals, businesses and associations are respected in their relations with the public service. The Québec Ombudsman takes action every day to prevent and correct abuse, errors, negligence, disregard for rights and inaction by public services.

The Québec Ombudsman has had the authority to intervene with government departments and most public agencies since the Public Protector Act was adopted in 1969 and has been responsible for implementing the Act respecting the Health and Social Services Ombudsman since April 2006. It generally acts as a second level recourse in response to citizens' complaints. It may take direct action further to reports of errors or injustices and may also intervene on its own initiative with the health and social services institutions under its jurisdiction.

The Québec Ombudsman's mandate allows it to help improve the quality of services provided by these government departments, public agencies or institutions. It also assists members of the National Assembly in their role with the public.

Its action

The Québec Ombudsman has the power of recommendation. Its capacity to effect change is essentially based on its ability to influence and persuade. If, after making a recommendation, the Québec Ombudsman sees that appropriate corrective measures have not been taken in a timely fashion, it may notify the government. If it sees fit, it may also publicize the case in a special report or in its annual report to the National Assembly or comment publicly when it deems necessary.

The Québec Ombudsman's actions have a collective impact when it intervenes in response to complaints or reports and corrects the problem for everyone concerned. It may also conduct systemic investigations into public service governance issues on its own initiative.

The Québec Ombudsman also takes preventive action. To correct detrimental situations and prevent them from recurring, it may call the attention of the National Assembly, government departments, public agencies or health and social services institutions to the need for legislative, regulatory or administrative reforms that it believes to be in the public interest. When it deems it appropriate, it proposes amendments in order to improve bills and draft regulations.

All these actions are made possible through, among other things, the delegation of certain of the Ombudsperson's powers to staff members, who are then granted the title of "Québec Ombudsman delegates".

The Québec Ombudsman's action differs from—yet complements—that of the courts and frequently helps individuals avoid judicial or administrative redress procedures that are often long and onerous.

Its values

The Québec Ombudsman's exercise of these functions and its role as mediator are based on the values of justice, fairness, respect, impartiality and transparency. Its actions are guided by these values, and its employees are required to demonstrate integrity, rigour and empathy.



The Québec Ombudsman's logo symbolizes the search for balance between competing rights. It is a variation on the classic scales of justice. The scale platter on the left evokes justice, while the "P" (for "Protecteur du citoyen") that replaces the right-hand platter refers to fairness.

NOTE TO THE READER

With a view to better readability of the report:

- the masculine form is intended to be gender inclusive;
- the acronyms for certain agencies and institutions are used when they are familiar to the public and make the text clearer.

IN BRIEF

PUBLIC SERVICE

Agence du revenu du Québec (Revenu Québec).....P. 28

In some files, the Québec Ombudsman found that Revenu Québec was upholding some unreasonable decisions, despite having been apprised of new and conclusive facts. It also observed situations related to deficient working practices, especially shortcomings in record-keeping and in the information given to taxpayers.

Commission administrative des régimes de retraite et d'assurances (CARRA)P. 33

The Québec Ombudsman asked CARRA to continue its efforts to bring down its processing wait times for retirement pensions definitively. These long wait times can have considerable financial consequences for some recipients.

Commission de la santé et de la sécurité du travail (CSST)P. 36

Nearly half of the Québec Ombudsman's interventions with the CSST related to long wait times or delays. Also the subject of complaints that the Québec Ombudsman deemed substantiated was the imposition of requirements not provided for in the Act respecting industrial accidents and occupational diseases or in the regulations.

Curateur publicP. 38

The Québec Ombudsman noted the willingness of the Curateur public to review the terms of contribution to the Registered Disability Savings Plan. After the Québec Ombudsman's intervention, a participation threshold was determined, facilitating contribution to this plan by a vulnerable clientele.

Ministère de l'Éducation, du Loisir et du Sport.....P. 39

The Québec Ombudsman noted variability in the services offered and fees charged by school boards for summer courses and ministerial examination retakes. It feels it is for the Department to set out guidelines for these services and fees. It considers the Department should play a more active role in ensuring compliance with the standards the Department itself set up, as well as the principles contained in the Education Act.

Ministère de l'Emploi et de la Solidarité socialeP. 43

In the opinion of the Québec Ombudsman, the Department interprets the Individual and Family Assistance Regulation too restrictively with regard to an inheritance received by instalments. The Department considers it to be taxable income, thus reducing social solidarity benefits. So people with severely limited capacities for employment are penalized against the will of their testator, whose intention was to protect them.

Ministère de la Famille.....P. 48

The Québec Ombudsman regrets that the Department launched a new call for proposals that excluded non-subsidized private daycares when it did not have the results of an impact study on the subject. Furthermore, while appreciating that the Department took into consideration many of its recommendations for this new call for proposals, it finds that new applicants, who have never been inspected by the Department, are favoured over existing daycares.

Ministère de l'Immigration et des Communautés culturellesP. 51

The Québec Ombudsman questioned a practice concerning fee payment provided for in the Regulation respecting immigration consultants. This practice stipulates that a person whose recognition or renewal application as immigration consultant is refused must pay fees of \$1,044, as do those who have been recognized and whose registration is valid for two years. The Québec Ombudsman detected in this practice some confusion between application processing fees and fees associated with recognition as a consultant.

Ministère de la JusticeP. 54

Complaints the Québec Ombudsman dealt with reveal major errors committed by courthouse registries, which have or could have had serious consequences for citizens. The Québec Ombudsman welcomed two bills tabled by the Department, the Act to promote access to justice in family matters, and the Act to amend the Crime Victims Compensation Act.

Régie des rentes du Québec.....P. 57

The Québec Ombudsman found that the way the refundable tax credit for child assistance was calculated varied from one agent to another, and also found long processing delays when a parent reported to the Régie a change in child custody time.

Société de l'assurance automobile du Québec (SAAQ).....P. 60

The Québec Ombudsman requested the SAAQ give its clientele more accurate information about entitlement to disabled parking permits. It also recommended it clearly advise drivers of the consequences of failing the theory exam following revocation of their licence because of demerit points.

REPORT OF THE CORRECTIONAL OMBUDSMAN OF QUÉBECP. 65

The main findings of the Québec Ombudsman, as correctional ombudsman of Québec, concern the limited impact, negative repercussions even, of strategies to counter the effects of prison overcrowding. The document also reports on the following:

- the special situation of female offenders in the prison system;
- wait times for risk assessment for re-offending and potential for social reintegration;
- healthcare in detention facilities, especially continuing medical treatment when transfers occur between one facility and another;
- errors in classification of detainees;
- unlawful detention of detainees under a court order for medical assessment.

THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX AND ITS SERVICE NETWORK

Physical disabilities, intellectual disabilities and pervasive developmental disorders (PDD)P. 75

For years, the Québec Ombudsman has been finding problems with the coordination and continuity of the services for these very vulnerable clientele. It underlines this year the importance of day activities, and urges the Ministère de la Santé et des Services sociaux to improve its program of assessment visits to ensure that people living in an intermediate or family-type resource receive adequate services and have a quality physical environment.

Age-related loss of independenceP. 77

The Québec Ombudsman recommends the Department take appropriate measures to ensure that residents housed by virtue of agreements for purchasing places receive the care and services that match their needs assessment.

Mental healthP. 82

The Québec Ombudsman found that some facilities did not obtain the consent of a user or their representative, nor court authorization, when applying a control measure (isolation or restraint) over several days. So it recommended the Department take measures to ensure that where an unplanned control measure turns into a measure of some duration, facilities obtain the required consents.

Physical health.....P. 85

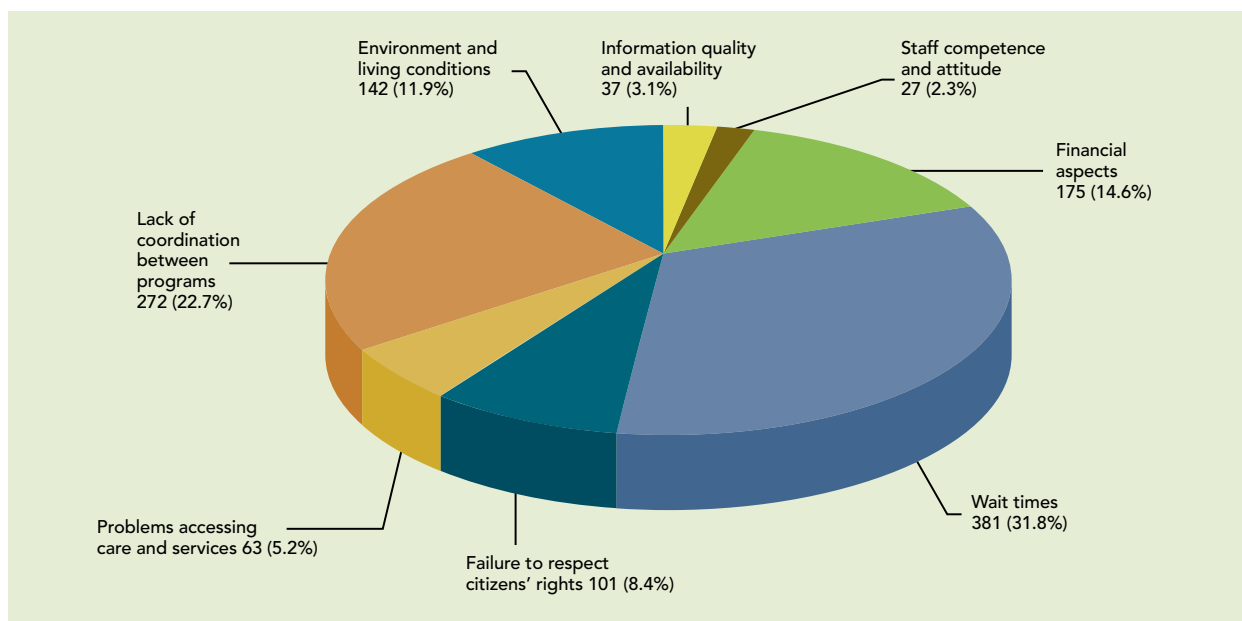
Given the problem of emergency room overcrowding, the Québec Ombudsman supports the Department's decision to set up a common emergency room database by the end of 2013. It also asked the Department to measure the impact of solutions chosen by drawing up a report on patients who were redirected by virtue of agreements between hospitals and family medicine groups or network clinics.

RESULTS IN FIGURESP. 129

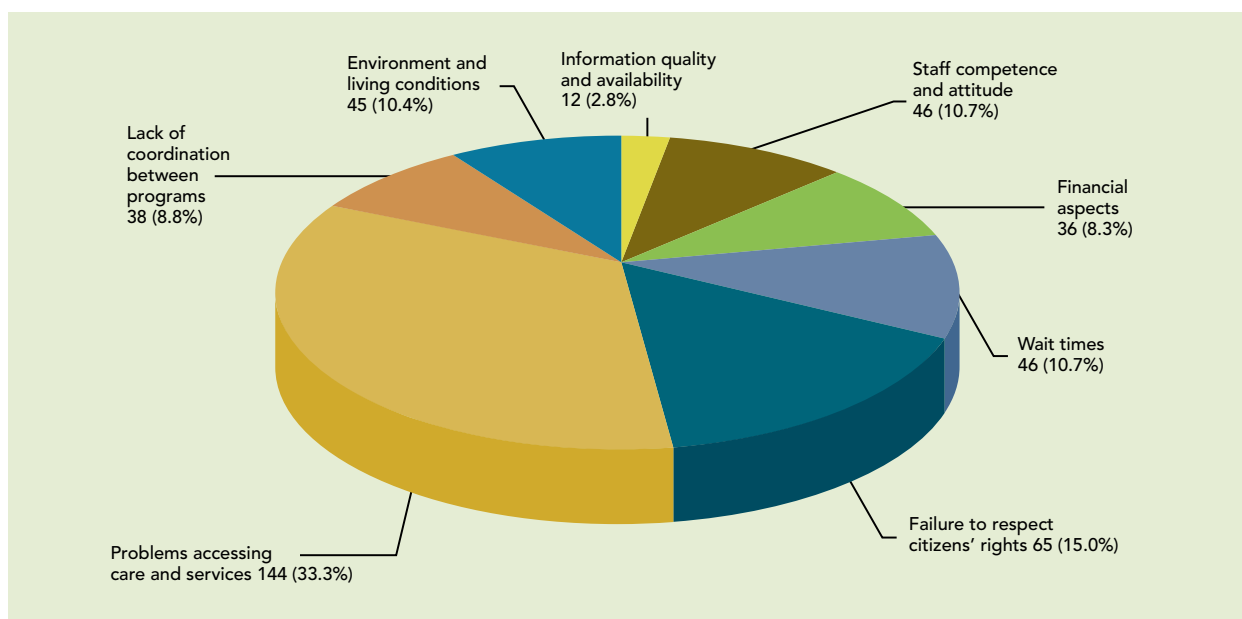
- The Québec Ombudsman received 19,460 requests for service (up by 1.1% from the previous year).
- It intervened with respect to 58 of the 80 departments and agencies and 174 of the 294 institutions and agencies in the health and social services network subject to its jurisdiction.
- Percentage of complaints deemed substantiated (public service): 27.7%.
- Percentage of substantiated complaints and reports (health and social services): 43.0%.
- Number of substantiated complaints in the public service increased by 16.4%.
- Number of substantiated complaints in health and social services decreased by 16.0%.
- Number of substantiated reports in health and social services increased by 29.5%.

SUBSTANTIATED COMPLAINTS: AN EIGHT-SIDED PROFILE

Substantiated complaints - Public Service



Substantiated complaints and reports - Health and social services



In 2012-2013, substantiated complaints and reports fell within eight broad categories¹. Even though the amount within each category varies depending on whether they concern the public service or health and social services, the recurrence of these grounds for complaints or reports points to basic problems that must be addressed by all public services.

WAIT TIMES (PUBLIC SERVICE: 31.8%; HEALTH AND SOCIAL SERVICES: 10.7%)

Wait times are the primary cause of the number of substantiated complaints concerning the public service, and third for those concerning health and social services. The consequences of unduly long waits for citizens are especially acute when programs with a financial impact are involved. For example, the Agence du revenu du Québec (Revenu Québec) took more than three months to reimburse a citizen for sums seized in error, the Commission administrative des régimes de retraite et d'assurances (CARRA) takes on average more than four months to process retirement pension applications, and the Commission de la santé et de la sécurité du travail (CSST) rendered a decision more than 15 months after a claim. In health and social services, the Québec Ombudsman has often deplored wait times in emergency rooms. This year, as before, citizens have had to wait several hours before seeing a doctor, even if their condition required a prompt consultation.

Furthermore, the Québec Ombudsman is still finding that wait times officially declared by departments and agencies only partially reflect reality. So in health and social services, results show the time that elapsed between the initial request and the first diagnosis, but treatment can follow a great deal later. Where the public service is concerned, departments and agencies report the time between a first application and a first hearing before an administrative tribunal, but the hearing is sometimes postponed for months or even years. The Québec Ombudsman calls this phenomenon "displaced waiting".

PROBLEMS ACCESSING CARE AND SERVICES (PUBLIC SERVICE: 5.2%; HEALTH AND SOCIAL SERVICES: 33.3%)

Problems accessing care and services are the main grounds for substantiated complaints and reports regarding health and social services. Access to day activities that help the disabled develop, learn social skills and fulfill themselves is difficult, uneven, fragmented and sometimes expensive for families. Budget cuts have obliged health and social services centres to restrict home support services to the bare minimum. Other problems are ongoing and include the impossibility of finding a family doctor, difficulty accessing rehabilitation services, and wait times for diagnostic tests and surgeries.

As for the public service, complaints about access to care and services mainly concern correctional services, where one of the problems is continuity of medication when inmates are transferred from one facility to another. In the school system, the problem lies in access to summer courses and ministerial examination retakes. Also, the range of courses and fees charged vary enormously from one school board to another.

¹ Data on the evolution of substantiated complaints since 2009-2010 can be found in the chapter entitled *Results in figures* on page 129.

LACK OF COORDINATION BETWEEN PROGRAMS (PUBLIC SERVICE: 22.7%; HEALTH AND SOCIAL SERVICES: 8.8%)

The lack of coordination between public services (the “silo” approach) is one of the main difficulties citizens face. The risk of encountering problems with the public service rises steeply with the number of departments and agencies involved in a citizen’s file. For example, the Société de l’assurance automobile du Québec (SAAQ) was unable to find out that a driver was represented by the Curateur public, and hence sent his correspondence to the wrong address. The lack of coordination between the Ministère de la Justice, correctional services and the institutions of the health and social services network means that people under a court order for psychiatric evaluation have not been incarcerated in the designated place, because an institution in the health and social services network was too full to take them.

Furthermore, within the health and social services network, the division of responsibilities among rehabilitation centres for physical disabilities (CRDP), rehabilitation centres for intellectual disabilities and pervasive developmental disorders (RCID-PDD), and health and social services centres (CSSS) disrupted service continuity, especially for day centre services.

ENVIRONMENT AND LIVING CONDITIONS (PUBLIC SERVICE: 11.9%; HEALTH AND SOCIAL SERVICES: 10.4%)

Environment remains a key factor in a person’s quality of life. However, the Québec Ombudsman found that seniors were housed in private residences that were not able to offer reasonable living conditions. Places in these temporary homes had been bought by the the public network to reduce overcrowding in hospital emergency rooms. Also, in an intermediate resource for severely handicapped people, the Québec Ombudsman deplored the fact that the users suffered lack of stimulation and inactivity.

For several years, the Québec Ombudsman has observed that prison overcrowding has an impact on the the living conditions of detainees. One particular case at the Trois-Rivières detention centre necessitated an emergency intervention by the Québec Ombudsman. Because of capacity overruns in male facilities, women were sent to cells in the admission sector (known as “bull pens”), where the level of salubrity left much to be desired.

FINANCIAL ASPECTS (PUBLIC SERVICE: 14.6%; HEALTH AND SOCIAL SERVICES: 8.3%)

On the financial level, the Québec Ombudsman observes that the government sometimes focuses on its administrative and financial performance instead of on services for citizens or on seeking the fairness expected of all public services. This applies particularly to Revenu Québec, which sometimes seizes money that is legally unseizable, and maintains notices of assessment for technical reasons, against all logic. There are also cases of partial reimbursement for plantar orthoses by the CSST, whereas by law the agency should reimburse the total cost.

In the matter of health and social services, it is found that costs are billed to users for activities delegated by doctors to pharmacists, who are then not covered by the health insurance plan. It is also found that citizens who need a diagnostic test are told right from the start that a private clinic is available to do the test, but are not told that this will involve costs that would not be billed in a public institution.

FAILURE TO RESPECT CITIZENS' RIGHTS (PUBLIC SERVICE: 8.4%; HEALTH AND SOCIAL SERVICES: 15.0%)

Failure to respect citizens' rights is still a reality in public services. Apart from lapses that had financial repercussions (abusive seizures or penalties), the Québec Ombudsman noted several cases in which decisions were rendered without all the facts being checked or that contravened the applicable legislation. For example, because of an error on the part of a court registry, an arrest warrant remained active and a citizen was arrested and detained unlawfully for seven days. In the case of mental health, a person was subjected to an isolation measure ("removal" to her room) for 70 days, without the required consent or court authorization being obtained.

STAFF COMPETENCE AND ATTITUDE (PUBLIC SERVICE: 2.3%; HEALTH AND SOCIAL SERVICES: 10.7%)

Citizens can legitimately expect to receive quality service, and generally they do. Still, the Québec Ombudsman is unhappy about situations where a lack of rigour has caused citizens major problems, especially shortcomings in record-keeping (absence of relevant notes, lost correspondence) at Revenu Québec and CARRA.

In health and social services, it is found that seniors with major limitations are sometimes sent to resources without staff equipped to care for them. Also, the Québec Ombudsman regularly makes recommendations for training of staff working in hospital centres and residential resources.

INFORMATION QUALITY AND AVAILABILITY (PUBLIC SERVICE: 3.1%; HEALTH AND SOCIAL SERVICES: 2.8%)

The Québec Ombudsman intervenes regularly with regard to departments and agencies to have them improve the quality of the information given to the public regarding the programs they administer and the rules governing them. This year, the Québec Ombudsman asked the SAAQ to inform its clientele more thoroughly in two matters: disabled parking permits, and retaking a theory exam following licence revocation. It also intervened with respect to the Régie des rentes du Québec, which was not properly informing citizens about the existence of a special death benefit from the Ministère de l'Emploi et de la Solidarité sociale, while the Régie itself was refusing to grant the benefit according to its own criteria. Many departments and agencies have responded positively to the Québec Ombudsman's requests, including the Ministère de l'Immigration et des Communautés culturelles and the Ministère de la Famille.

With regard to health and social services, it can be difficult to obtain clear information about wait times for different services such as diagnostic tests, surgeries, rehabilitation services, and residential places. While aware of the heavy pressures on the health and social services network, the Québec Ombudsman would like to remind departments and agencies of section 4 of the Act respecting health services and social services: "Every person is entitled to be informed of the existence of the health and social services and resources available in his community and of the conditions governing access to such services and resources."



PUBLIC SERVICE

This chapter contains the Québec Ombudsman's findings regarding some government departments and public agencies where it intervened. Departments and agencies were selected, and situations for each presented according to these criteria: the seriousness of the problem, the impact on the public, and the collective impact of the solution. Complaints from individuals, groups and companies illustrate the examples, with succinct accounts of the problems and remedial action.

During the 2012-2013 period, the number of complaints about the public service remained stable (-0.3%), and the number of substantiated complaints rose by 16.4%. Wait times are the main cause of substantiated complaints. The chapter *Results in figures*, on page 129, presents statistics by department or agency, as well as other data of interest.

The problems enumerated in this report shed light on harmful situations, which were generally remedied with the cooperation of authorities from departments and agencies, to the satisfaction of the citizens concerned. However, some cases remain—processing wait times, or impossibility of remedying the situation retroactively, for example—that have had undesirable impacts on citizens.

In the pages that follow, the departments and agencies appear in alphabetical order:

- Agence du revenu du Québec (Revenu Québec);
- Commission administrative des régimes de retraite et d'assurances (CARRA);
- Commission de la santé et de la sécurité du travail (CSST);
- Curateur public;
- Ministère de l'Éducation, du Loisir et du Sport;
- Ministère de l'Emploi et de la Solidarité sociale;
- Ministère de la Famille;
- Ministère de l'Immigration et des Communautés culturelles;
- Ministère de la Justice;
- Régie des rentes du Québec;
- Société de l'assurance automobile du Québec (SAAQ).

One chapter also covers the report of the correctional ombudsman of Québec. It presents findings concerning the Ministère de la Sécurité publique (Direction générale des services correctionnels).

Monitoring of the recommendations in the Québec Ombudsman's investigation reports and special reports is set out in the chapter entitled *Report on Systemic Interventions* on page 91. Comments on bills and draft regulations are summarized in the chapter *Parliamentary Watch Report* on page 105, and in the relevant section for the department or agency in question. Monitoring of the recommendations made to departments and agencies is on page 147, in the chapter entitled *Follow-up to recommendations in the Québec Ombudsman's Annual Reports*.

Agence du revenu du Québec (Revenu Québec)

COMPLAINTS IN 2012-2013

The number of tax-related complaints that the Québec Ombudsman received was up from the average of the past five years. The complaints are mainly about penalties, interest and fees being added to citizens' tax debts, recovery measures, and difficulty reaching an Agence du revenu du Québec (Revenu Québec) agent by telephone. The number of substantiated complaints has also risen. The main grounds for these are:

- Delays in processing files;
- Unreasonable decisions or recovery measures;
- Unsatisfactory work practices;
- Inadequate documentation;
- Modifications to the telephone service.

UNREASONABLE DECISIONS

The Québec Ombudsman is fully aware of the importance of the fight against tax fraud and welcomes Revenu Québec's efforts in this regard. It is essential that tax and recovery be treated rigorously. However, Revenu Québec must take care that rigour does not turn into administrative inflexibility. In some files, the Québec Ombudsman found that Revenu Québec was upholding unreasonable decisions, despite having been informed of new and conclusive facts. Some examples are given in the following situations.

(... **Non-compliance with fundamental principles of procedural fairness**

In April 2012 a citizen received a notice of assessment for over 1.5 million dollars for alleged participation in a fraud involving her former employer. To contest the assessment, she asked to consult the audit report on which the assessment was based. She found out that the assessment was based solely on a handwriting expert's report that maintained she had forged signatures.

When she began her contestation, the citizen was refused access to this expert report under the pretext of preservation of proof because the criminal aspect of the file might be investigated. It was therefore impossible for her to obtain a second opinion on the controversial signatures. She had no choice but to submit her notice of objection without the key element needed to contest the foundation of the assessment. She was therefore prevented from fully exercising the recourse available to her.

The Québec Ombudsman reconstituted the chronology of events and found that, apart the expert's report, the assessment was not supported by any element of proof. Indeed, the facts contradicted the conclusions of Revenu Québec. The citizen provided the Québec Ombudsman with the proof that she was not working for the employer in question during some periods covered by the assessment. Revenu Québec clearly did not meet the requirements of its burden of proof and was unable to justify the large amount of the assessment. Following the Québec Ombudsman's intervention, the unjustified assessment was cancelled. . . .)

*(. . . **Tax assessment upheld despite proof there was no transaction***

A company was asked to pay corporate income tax, GST and QST. Revenu Québec auditors claimed that a \$260,000 transaction had not been declared. The company representative proved that this transaction did not occur, and had the corporate and GST tax assessments cancelled. Still, Revenu Québec upheld the QST assessment, since it preceded the other assessments, and the representative had not contested it by the prescribed deadline. Although legal, this situation seemed unreasonable to the Québec Ombudsman, which got Revenu Québec to review the company's file. The company's debt was reduced by almost \$25,000. . . .)

*(. . . **A legal, but unfair decision***

A citizen contacted the Québec Ombudsman to denounce a Revenu Québec recovery measure she deemed unfair. Despite the citizen being in a difficult financial situation and a person of good faith, the Revenu Québec agent decided to recover, two times, 100% of her earnings. This put the citizen in an extremely difficult situation as she was no longer able to meet her most basic requirements, such as paying the rent.

The Québec Ombudsman concluded that while the recovery measures taken by the agent were legal, they were unreasonable, as the citizen had undertaken to reimburse all her debt within an acceptable time frame. Following the Québec Ombudsman's intervention, Revenu Québec agreed to take into consideration the citizen's ability to pay, and to repay her a large proportion of the recovered sums. . . .)

LACK OF FLEXIBILITY ON THE PART OF REVENU QUÉBEC

On the subject of administrative inflexibility, the Québec Ombudsman processed a complaint that showed the inflexibility of Revenu Québec in a situation where it should have used its discretionary power. This case also highlighted the impact of a long time period between the statement of an amendment to a law and its ratification. In the case presented below, five years passed between the departmental statement and ratification. The Québec Ombudsman feels that delays like this create confusion in citizens' minds and undermines their trust in the State.

(... Revenu Québec could have intervened

A company claiming a tax credit of \$45,000 sent Revenu Québec the necessary documents six days after the legal deadline. The company's senior executive asked Revenu Québec to use its discretionary power to extend the deadline, but this was refused. Revenu Québec alleged that following a statement by the Minister of Finance in the budget of March 23, 2006, it was no longer entitled to extend the deadline for this type of tax credit.

After analyzing the case, the Québec Ombudsman concluded that a discretionary power could be limited only if the law was amended. Since the law had still not been amended, Revenu Québec still had this power, but refused the Québec Ombudsman's request to use it. When the Act to amend the Taxation Act, the Act respecting the Québec sales tax and other legislative provisions was finally amended, more than five years after the budget announcement, Revenu Québec restated its refusal, using the retroactive amendment as justification. ...)

UNSATISFACTORY WORK PRACTICES

The Québec Ombudsman has observed situations linked to deficient working practices, especially shortcomings in record-keeping, which have had major consequences for some taxpayers.

(... An assessment cannot be contested as no information in file

A citizen received a notice of assessment from the Canada Revenue Agency for a previous year. She contacted the agency to find out the reasons behind this new assessment. The agency told her it had sent the assessment after discussions with Revenu Québec. The citizen contacted Revenu Québec, which said it had no information on this subject in her file.

Here are the findings of the Québec Ombudsman: Revenu Québec audited the citizen's employer and concluded that money from the company's petty cash was to be added to her income. It informed the Canada Revenue Agency, which taxed the citizen as a result. For its part, the employer made an agreement with Revenu Québec to pay tax chargeable against this petty cash income. So the citizen did not receive an extra assessment from Revenu Québec and was not informed about the situation.

There were no traces in Revenu Québec's system to indicate the impact that the employer's audit could have had on the citizen's file. Moreover, no documentation related to the benefits she was supposed to have received had been kept. The citizen could not learn anything about the income charged, as it involved confidential information about her employer. So she was unable to understand or contest the audit.

The Québec Ombudsman recommended that audit officers who make agreements with company senior executives advise the latter of the consequences for their employees of sending information to the Canada Revenue Agency. Revenu Québec sent a note to audit officers, recommending they document and keep supporting documentation for agreements made with companies on behalf of their employees. . . .)

*(. . . **File closed prematurely***

A citizen sent Revenu Québec an application for QST reimbursement. Five months later, he contacted the Québec Ombudsman, as he had still not received his reimbursement. The Québec Ombudsman learned that the agent had closed the file, because one document was missing, but had not told the citizen. The information in the system did however indicate that Revenu Québec had received the document, but had lost it. After the Québec Ombudsman intervened, the application was processed promptly and the citizen got his reimbursement. . . .)

*(. . . **Catalogue of errors***

A citizen complained that Revenu Québec had seized his bank account, in which his CSST benefits were deposited, though they were actually unseizable. Following the Québec Ombudsman's intervention, Revenu Québec agreed to return to the citizen the sums collected in error.

But the citizen had still not received his cheque some weeks later. Verifications with Revenu Québec revealed that the first cheque had been sent to the citizen's old address. Revenu Québec undertook to cancel the cheque and send a new one to the correct address. Several weeks passed without the citizen receiving his cheque. The Québec Ombudsman contacted Revenu Québec, which said that neither the request for a new cheque nor the cancellation of the old one had been done. The cheque was finally mailed to the right address three months after Revenu Québec had agreed to return the unseizable money. . . .)

SHAMBLES IN REVENU QUÉBEC'S TELEPHONE SYSTEM

In May and June 2012 the Québec Ombudsman received many complaints about Revenu Québec's telephone system. People complained that it was not user-friendly, the messages at each step were too long, and it was hard to get to speak to an agent. The Québec Ombudsman found the same problems. It therefore asked Revenu Québec to review its telephone system to allow citizens to speak to an agent at the first step; this was done. It is now also possible to skip the greetings.

TAXPAYERS INADEQUATELY INFORMED

Citizens who have to pay more than \$1,800 in tax over and above deductions at source must pay quarterly instalments. Those who do not are liable to pay interest on the outstanding amounts. Since 2007, citizens who receive eligible retirement income can transfer up to 50% of it to their spouse. However, the money transferred cannot be taken into account to estimate the tax these citizens will have to pay.

Twice a year, Revenu Québec sends citizens whose tax bill was over \$1,800 for the previous year notices of their obligation to pay instalments. Following complaints, the Québec Ombudsman learned that the notices did not tell spouses to disregard the portion of retirement income they intended to transfer to estimate their tax bill.

Whereas citizens who split their retirement income often have a tax bill below \$1,800, and that interest was added, the Québec Ombudsman asked Revenu Québec to add this information to the notice, which it agreed to do.

REGISTRAIRE DES ENTREPRISES: CITIZENS AFFECTED FINANCIALLY BY A CHANGE TO A PRACTICE IN FORCE FOR YEARS

When an amendment to the Companies Act was announced in October 2009, the Registraire des entreprises had to review its computer system to comply with certain legislative provisions that were to come into force in February 2011. Because this involved so much work, the Registraire decided in 2010 to stop sending the courtesy note it sends every year to taxpayers reminding them to produce their annual declaration. Result: the number of taxpayers who received penalties doubled in 2011 (up from 31,208 in 2010 to 64,490 in 2011). In 2012, the Registraire began sending the reminders again.

Considering the principles set out in the Act respecting administrative justice and the fact that citizens legitimately expected to receive a reminder to fulfil their obligation, the Québec Ombudsman reminded the Registraire of the importance of keeping citizens properly informed when administrative practices in force for years were modified. Following a recommendation from the Québec Ombudsman, the Registraire agreed to analyze the possibility of cancelling the penalties. This analysis was still ongoing on March 31, 2013.

FINANCIAL CONTRIBUTION TOWARDS THE PLACEMENT OF MINORS

In 2012-2013, the Québec Ombudsman published a report on parents' financial contribution towards the placement of their child. In it, there are recommendations for Revenu Québec. You can read about this in the chapter *Report on Systemic Interventions* on page 93.



A summary of the report is posted on the website www.protecteurducitoyen.qc.ca, under the "Cases and Documentation" tab, "Investigation Reports and Special Reports" section.

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

COMPLAINTS IN 2012-2013

The number of complaints received by the Québec Ombudsman about the Commission administrative des régimes de retraite et d'assurances (CARRA) remained abnormally high in 2012-2013, as has been the case for the last two years. The number of substantiated complaints remains high, despite a drop by comparison with last year. In 2012-2013 the principle sources of complaint were:

- Wait times for confirmation of retirement pensions;
- Processing wait times for survivor's pensions and transfers to a locked-in retirement account;
- Quality of the information from CARRA.

CARRA MUST CONTINUE TO SHORTEN PROCESSING WAIT TIMES DEFINITELY

In its 2010-2011 annual report, the Québec Ombudsman recommended that CARRA take measures to reduce the surplus of files to be processed by the end of fall 2011. In response to this recommendation, CARRA adopted an action plan. It also reduced its services. Thus, only beneficiaries planning to retire in the next 4 to 14 months can receive a pension estimate. Also, priority of processing is given to some retirement pension applications and applications to buy back years of service depending on the date of retirement or the age of the beneficiary.

Since 2011-2012, CARRA has been reporting to the Québec Ombudsman on a quarterly basis the result of its efforts to reduce its pending file inventories and so reduce processing wait times.

Here is the situation as of March 31, 2013:

Applications	Situation as of March 31, 2013
Pension estimate	Situation resolved Inventory set back to zero in September 2011 Inventory back to levels before new processes and computer systems were put in place
Buy-back	Situation resolved Inventory set back to zero in April 2012 Inventory back to levels before new processes and computer systems were put in place
Retirement pension	Situation not resolved Inventory not reduced

This unresolved question of retirement pensions is preventing some pensioners and future pensioners from getting the services they are entitled to. It is important they know the actual amount of their pension and that they will receive it as soon as they retire. Long wait times can have considerable financial consequences for citizens, because, in 2011, the average annual pension paid to recipients of the Government and Public Employees Retirement Plan was \$18,313.

CARRA has not achieved its goal, intended for fall 2011, of bringing its inventory back to the situation before new processes and computer systems were put in place. It then put the goal back to January 2012, then June 2012, to no avail. The goal had still not been reached by December 2012. Statistics for September and December show however that CARRA received fewer applications than it had estimated. Yet it still processed fewer than planned. It should be noted that on December 31, 2012, the inventory of files pending processing reached its lowest level since February 2011, i.e. 7,122 files. Also, on September 30, 2012, the average processing wait time for a retirement pension application was 127 days, compared with 134 days in 2011.

LACK OF CLARITY AND ACCURACY OF WRITTEN INFORMATION

In its 2011-2012 annual report, the Québec Ombudsman underlined its concern about the quality of the written information CARRA provides to citizens. CARRA showed willing to review any communication the Québec Ombudsman might bring to its attention.

While analyzing individual files, the Québec Ombudsman noticed a lack of clarity and relevant information in the letters accompanying invoices for CARRA overpayment claims and in the invoices themselves.

Citizens from whom CARRA claims money have the right to a minimum of information, namely, the nature of the sum claimed, the reason for the overpayment and the period when the overpayments were made. The Québec Ombudsman observed that the written documents sent to citizens did not contain this information, so it was hard for citizens to understand why the claim was justified.

The plans CARRA administers are complex, therefore it is important to keep beneficiaries and subscribers properly informed. The Québec Ombudsman recommended that CARRA add the missing information to its invoice models and revise the accompanying letter; this CARRA agreed to do.

RECORD-KEEPING

Some citizens stated to the Québec Ombudsman that they relied on verbal information from CARRA where important decisions were concerned, especially relating to retirement. However, this essential information subsequently proved to be misleading. The Québec Ombudsman's verifications also revealed a worrying fact: information given to individuals was not put in their file.

On analyzing the individual files, the Québec Ombudsman noticed that they contained few or no notes about the information citizens received verbally from CARRA.

This omission should be corrected, since it could have serious consequences for individuals. Also the notes would be useful for assessment of a dispute between CARRA and a policyholder, and for quality control.

So the Québec Ombudsman recommended that CARRA improve its record-keeping by taking relevant notes on an on-going basis when speaking to citizens, and that it model itself on current best practices in comparable organizations.

Following the Québec Ombudsman's recommendation, CARRA reviewed its methods. Individuals' files now contain a record of the subject discussed and the response given.

*(... **Misleading information has serious consequences***

In fall 2011, a citizen made an application to buy back years of service for a period of ten years, in order to bring forward her retirement, planned for early 2013. She contacted CARRA to find out the possible date of retirement, bearing in mind her buy-back application. She explained that she wanted to take early retirement to go and live in the region where she was born. More than once, CARRA told her verbally that with the buy-back, she could retire in April 2012. In late 2011, the citizen signed the buy-back proposal, sold her house and bought a new home in the region of her birth.

In January 2012, during a telephone call, CARRA told her that her buy-back did not count for retirement eligibility, only for her pension calculation. This meant her retirement was put back to early 2013. She considers herself wronged because she was inaccurately informed and now has to pay for the upkeep of an apartment and live far from her family.

The Québec Ombudsman's analysis confirmed that the buy-back only counts for the pension calculation and that CARRA processed the buy-back in accordance with regulations in force.

However, an old proposal from 2007—and relating to the same period of years of service—stated that buy-back had the advantage of increasing eligibility for retirement as well as the pension amount, which contradicted the regulations at the time. The citizen also produced a document summarizing her conversations with CARRA. The Québec Ombudsman judged the summary to be reliable and convincing, despite CARRA not taking notes when communicating with the citizen. So the Québec Ombudsman concluded that, combined with the 2007 buy-back proposal, the information given verbally misled the citizen and made her take, in good faith, a prejudicial decision.

Whereas the citizen had a right to trust the information given to her, and given the prejudice she suffered, the Québec Ombudsman recommended CARRA reimburse her for the buy-back sum. It also recommended that CARRA charge to that sum the amount the citizen needs to buy back a period of years of service that could increase her eligibility for retirement.

Through the Québec Ombudsman's mediation in this dispute, it was settled out of court to the satisfaction of all parties. ...)

Commission de la santé et de la sécurité du travail (CSST)

COMPLAINTS IN 2012-2013

Although the number of complaints received by the Québec Ombudsman concerning the Commission de la santé et de la sécurité du travail (CSST) was down in 2012-2013, the amount deemed substantiated was up. Complaints covered a wide range of situations, headed by claim refusals (indemnities and fees), wait times and unjustified requirements.

UNNECESSARY REQUIREMENTS STILL MADE

The Québec Ombudsman had to intervene with the CSST to make it follow the Act respecting industrial accidents and occupational diseases and its regulations, and to stop requirements not provided for by the legislator being imposed on workers. The Québec Ombudsman completely supports sound management of public monies. Such management must however take place in fundamental respect for citizens and in the fulfilment of everybody's obligations and responsibilities. The Québec Ombudsman detects in the CSST an administrative inflexibility born out by the following cases.

REIMBURSEMENTS LIMITED UNDULY

(... **For plantar orthoses**

A citizen contacted the Québec Ombudsman concerning the maximum amount reimbursed by the CSST for plantar orthoses. The CSST reimbursed just \$300 of the \$430 it should have paid, whereas the act states that the total amount must be reimbursed.

The investigation by the Québec Ombudsman showed that since 1993, the CSST's computer system had been set to limit reimbursement for plantar orthoses to \$300. Even though agents could override this purely administrative limit, the Québec Ombudsman discovered that, just since 2011, more than 250 citizens had been deprived of the total reimbursement to which they were legally entitled.

The Québec Ombudsman's intervention meant that the citizen was reimbursed in full, in conformance with the law. The Québec Ombudsman is continuing its intervention for other citizens who might be concerned. It is asking for the limit in the computer system to be removed, to prevent this situation happening again. ...)

(... **For medication**

A citizen complained to the Québec Ombudsman that the CSST refused to reimburse medication expenses. He produced five claims, for the amount of around \$100.00. The CSST reimbursed four, refusing the fifth because it was over six months old.

On checking, the Québec Ombudsman found that legally, the agent had no right to refuse to reimburse these medication expenses. In fact, the six-month time limit for certain expenses does not apply to reimbursement of medication expenses, which are subject to the three-year time limit of the Civil Code of Québec. Following the Québec Ombudsman's intervention, the CSST reimbursed the totality of the expenses claimed. ...)

(... For physiotherapy

A citizen complained that the CSST refused to reimburse the physiotherapy he received in a physiotherapy clinic specializing in neurology. His attending physician had prescribed this treatment for a condition relating to a back and neck strain and to a head injury. While the CSST accepted the first diagnosis, it did not accept the second as an employment injury. Upon investigating, the Québec Ombudsman found that the agent refused to pay because the CSST had no agreement with the clinic, and the worker was being treated there for both his head injury and his back strain.

On one hand, the Québec Ombudsman finds that no regulation requires that a physiotherapy clinic have an agreement with the CSST in order for workers to be reimbursed for their treatments. On the other, although the bill includes expenses unrelated to the employment injury accepted by the CSST, those related to the strain should be reimbursed. The CSST should have analyzed the clinical notes and the bill in order to separate payable from non-payable expenses. After the Québec Ombudsman's intervention, the decision was reconsidered and the citizen was reimbursed for the physiotherapy relating to the recognized employment injury, at the rate stated in the regulation. ...)

EXCESSIVE WAIT TIMES

This year again, the Québec Ombudsman has had to intervene following complaints about long wait times and delays on the part of the CSST. Nearly half the interventions concerned this matter. The following cases are good examples:

- A decision regarding a complaint for reprisals (section 32 of the act) was rendered six months after the hearing and over a year after the complaint was submitted, which far exceeds the 30 days prescribed by law. Although the courts allowed this obligation to be relaxed, the CSST must render a decision as soon as possible;
- Six weeks passed before an agent began studying a claim for relapse, recurrence or aggravation;
- A decision concerning a relapse, recurrence or aggravation was rendered more than 15 months after the claim, because the CSST neglected to do the appropriate follow-up with its medical expert.

INSUFFICIENT LEGISLATIVE DOVETAILING

In June 2012, the Regulation respecting the psychotherapist's permit was enacted. Pursuant to this, psychotherapists are now under the jurisdiction of the Professional Code and report to the Ordre professionnel des psychologues du Québec.

(... A psychotherapist contacted the Québec Ombudsman because the CSST refused to reimburse a patient for treatment for an employment injury.

Section 194 of the act provides that the CSST must pay the cost of medical assistance. The investigation by the Québec Ombudsman showed that the CSST had not brought its own regulation on medical assistance into line with the act, to add psychotherapists to the professionals offering psychological treatments, like psychologists and neuropsychologists. So workers who had begun treatment by a recognized and qualified psychotherapist were refused reimbursement of their expenses. This could hinder continuance of the treatment and recovery of the patients.

The Québec Ombudsman alerted the CSST to its omission. The CSST undertook to amend its regulation as soon as possible. ...)

SAFE MANAGEMENT OF CHRYSOTILE ASBESTOS IN QUÉBEC

The Québec Ombudsman supported the regulation amending the Regulation respecting occupational health and safety and the Safety Code for the construction industry, which provides that, in the two years following its passage, all buildings where people are working must be inspected for asbestos spraying and heat insulation that contains asbestos. A summary of the Québec Ombudsman's intervention can be found in the chapter entitled *Parliamentary Watch Report*, on page 121 of this report. It can also be found in the chapter *Report on Systemic Interventions* on page 91.



The letter to the chairman and chief executive officer of the CSST on this subject is posted on the website www.protecteurducitoyen.qc.ca, under the "Cases and Documentation" tab, "Reactions to bills and legislation" section.

Curateur public

COMPLAINTS IN 2012-2013

The number of complaints received in 2012-2013 is comparable to the previous year. The number of substantiated complaints is falling.

REPRESENTED PEOPLE'S ACCESS TO THE CONSIDERABLE GRANTS OF THE REGISTERED DISABILITY SAVINGS PLAN (RDSP)

The Québec Ombudsman has processed the complaint from a social integration service organization regarding the management of estates of people protected by the Curateur public. This organization had approached the Curateur twice before, both times unsuccessfully.

This complaint concerned the RDSP, a registered disability savings plan that helps parents and others ensure the long-term financial security of someone entitled to a tax credit for the handicapped. Embarking on such a plan automatically means the individuals receive the Canada Disability Bonds. Individuals contributing to the plan can also benefit from the Canada Disability Savings Grant, which can be 300%, 200% or 100% of the contribution, depending on the family income of the handicapped person and the amount contributed. Beneficiaries can receive significant sums: a maximum of \$3,500 per annum and \$70,000 in grants for life, and an annual maximum of \$1,000 in bonds.

The organization asked the Québec Ombudsman to intervene because one condition under which a person represented by the Curateur public could contribute to the RDSP seemed unreasonable. The Curateur public was systematically opening an RDSP for each person represented, but they could not contribute unless they had a minimum of \$20,000 in cash assets. According to the organization, the Curateur public was unable to provide a satisfactory justification for this threshold.

THE QUÉBEC OMBUDSMAN'S INTERVENTION AND ITS RESULTS

Since the federal government allocates the bonds and grants related to the plan, the Québec Ombudsman carried out comparisons with other provinces, including Ontario and British Columbia. The Québec Ombudsman found that in these two provinces, organizations comparable to the Curateur public also systematically opened savings plans for protected people.

However, there was no condition like the \$20,000 threshold of cash assets required to contribute to the RDSP.

After several talks and meetings with the Curateur public's estate management department, the Québec Ombudsman found that the \$20,000 threshold had no concrete justification. It therefore asked for the amount to be revised.

In setting a new threshold, the Curateur public considered several factors, including the need to conserve a minimum in cash assets in the protected person's estate in case of any unforeseen events, and determining the optimal amount, i.e. one that would allow individuals to derive the most from RDSP grants. The requirement was changed to: \$5,000 in cash assets prior to contribution.

This new threshold has affected a large number of people. As of October 31, 2012, the Curateur public has made a contribution for 183 represented people who meet the criterion of cash assets over \$5,000.

Ministère de l'Éducation, du Loisir et du Sport

COMPLAINTS IN 2012-2013

The year 2012-2013 was distinguished by major changes at the Ministère de l'Éducation, du Loisir et du Sport. Student assistance and higher education, both previously attached to the Department, were transferred to the new Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie. Because of these changes, it is not possible to compare the number of complaints the Ministère de l'Éducation, du Loisir et du Sport received in 2012-2013 in relation to previous years.

ASSUMING ONE'S RESPONSIBILITIES

In its 2011-2012 annual report, the Québec Ombudsman noted the Department's tendency to make other bodies take on responsibilities that are in fact its own. This attitude has persisted this year as well. Although it is true that the problems individuals have regarding services offered by schools should be handled by the latter, it still remains for the Department to set out the guidelines for these services. It should also define and protect the recourse available to citizens who have been wronged. The complaints the Québec Ombudsman received this year point to a restrictive interpretation of the Education Act and its regulations by the Department. The Department is responsible for ensuring this legislation and the certification of studies are respected, and should therefore take measures to respect parents' and children's rights and avoid problematic situations going to court.

FEES CHARGED FOR SUMMER COURSES AND MINISTERIAL EXAMINATION RETAKES

The Québec Ombudsman found that one school board, which offered summer courses, was asking for higher registration fees from students from a different school board. Upon investigating, it found this is common practice and that the amount and nature of the fees varied from one school board to another. The variations observed in the practices of school boards led the Québec Ombudsman to consider the effect these disparities in fees and requirements must be having on students taking a summer course or retaking a ministerial examination.

For the purposes of the investigation, the Québec Ombudsman examined the applicable rules in the relevant laws and documents. It also consulted the lists of summer courses offered in the 72 school boards of Québec for 2012. Finally, it met some school board representatives to discuss the implementation of the applicable framework, essential purpose of summer courses, and its background.

Section 40 of the Charter of Human Rights and Freedoms states the general principle of free education in Québec: "Every person has a right, to the extent and according to the standards provided for by law, to free public education." So the legislator reserves the right to set the legislative standards that will regulate this general principle. Section 3 of the Education Act reiterates this principle: "The educational services provided for by this Act and prescribed by the basic school regulation established by the Government under section 447 shall be provided free to every resident of Québec entitled thereto under section 1."

Section 90 of the act states that "The governing board may organize educational services other than those prescribed by the basic school regulation, including instructional services outside teaching periods during the school days of the school calendar or on non-school days [...]."

Section 91 provides that a financial contribution from users may be requested: "For the purposes of section 90, the governing board may, in the name of the school board and within the scope of the school's budget, contract with a person or body for the provision of goods or services. In addition, it may ask for a financial contribution from users of such goods and services."

Summer courses

In light of its examination and analysis of the applicable rules, the Québec Ombudsman concludes that summer courses are primarily regulated by sections 90 and 91 of the act, which allow school boards to offer courses outside the school calendar and to request a financial contribution from parents. This means that for the Ministère de l'Éducation, du Loisir et du Sport, fees for summer course registration are not covered by section 3 of the act relating to free education. Furthermore, the Department confirmed this. For many school boards, offering a summer course is part of their educational services and one of the measures taken to foster educational success and student retention. These boards believe that they must offer their students remedial classes, as foreseen in sections 207.1, 208, 209, 209.1 and 209.2 of the act.

The Québec Ombudsman has noted large disparities between the number of courses offered, their content and their cost. The following findings are based on documents supplied by the school boards and on interviews with some of them. Of the 72 school boards the Québec Ombudsman asked to supply details of what summer courses they offered for 2012, 69 replied.

Analysis of summer courses offered and cost (69 of the 72 school boards)

Finding	Conformance and relevance
School boards prepare summer courses for all schools in their territory, and set the cost. How far the governing board is involved in organizing the courses and cost varies from one school board to another.	This is non-compliant. Under section 91 of the act, it is for the governing boards to set and approve costs.
School boards partially finance summer courses from their own educational services budgets. The balance is financed by students and their parents.	Under section 91 of the act, it is admissible to ask for fees for summer courses. However, current practice is not compliant, since it is the governing boards that should do this.
When school boards finance summer courses, the services offered vary, as do the fees. <ul style="list-style-type: none"> Nearly a third (20) of the school boards do not offer summer courses, but some (14) offer an online course; The number of courses given by each school board varies; The cost of a summer course varies between \$40 and \$500, depending on the school board; Most school boards charge more to students from a different school board. 	Although fees can be charged for summer courses, a problem of fairness arises from the disparity of courses offered, their content and their pricing. Also, it is unfair that students from other school boards should have to pay more than those who attend the school board offering the summer course.
School boards are putting in place measures to ensure students who need a summer course have access to it, even if some may find the cost a problem.	There is no standard covering this. Accessibility, therefore, depends on the good will of parents and school boards.

Retaking ministerial examinations

The *Administrative Guide for the Certification of Studies and Management of Ministerial Examinations*, which regulates retakes of ministerial examinations, provides the following: "Educational institutions must participate in administering the uniform examinations by providing, at their expense, suitable premises as well as the personnel required to invigilate the examinations, to correct the examinations and to compile the results." It does not provide that fees may be charged for an examination retake.

Cost analysis for retaking ministerial examinations (69 of the 72 school boards)

Finding	Conformance and relevance
23% of school boards charge fees directly for retaking ministerial examinations	This is non-compliant. The <i>Administrative Guide for the Certification of Studies and Management of Ministerial Examinations</i> provides that educational institutions must provide, at their expense, the premises and personnel required to invigilate the examinations, to correct the examinations and to compile the results of ministerial examinations.
17% of school boards charge fees indirectly by making free retakes dependent on prior registration for a summer course.	Strictly, summer courses are not advertised as a prerequisite for retaking a ministerial examination. Without any official reason, some school boards demand that a free retake be preceded by a summer course, while other school boards do not require this.

Following its analysis, the Québec Ombudsman concludes that organizing and offering summer courses is provided for under section 90 of the act. Asking parents for a financial contribution for these courses is legal since authorized by section 91 of this act. Also, since the courses are given outside the school calendar, they are not part of the free education provided for under section 3 of the act.

Furthermore, the practice of offering and charging for summer courses is not systematically defined by governing boards as provided for under sections 90 and 91 of the act. School boards are in breach of these sections when they define the courses and fees for their territory. They partially finance the courses from their own educational services budgets, and make up the rest by charging parents. Because of this partial financing, the services offered and the fees charged for summer courses vary a lot.

Where ministerial examination retakes are concerned, the Québec Ombudsman found that 40% of school boards charge fees either directly or indirectly (see table above), which does not comply with the *Administrative Guide for the Certification of Studies and Management of Ministerial Examinations*.

The Québec Ombudsman has questions about the effect of the fees and disparities on students' educational continuity and academic success. Everything points to the fact that a student in difficulty will not benefit from the same services at the same cost, depending on the school board, and this could affect his academic success and whether he stays in school. The cost of a summer course or of retaking a ministerial examination may make parents think twice before registering their child. Indeed there is a documented link between poverty and dropping out and academic failure. The Department should therefore ensure that all students who need it have access to support for their academic success, regardless of their school board.

The Department told the Québec Ombudsman that it had not produced any studies or analyses on fees charged by school boards for summer courses or examination retakes. Given the findings listed above and their potential impact on students and parents, the Québec Ombudsman considers that the Department should issue guidelines for summer courses and fees charged for ministerial examination retakes. In educational matters, the Department should play a guiding role for the whole network to ensure that, in practice, the principles enacted by the Education Act and the standards the Department itself set up, are respected.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS CONCERNING SUMMER COURSES AND FEES CHARGED FOR RETAKING MINISTERIAL EXAMINATIONS

Whereas it is legal to charge parents a financial contribution for summer courses;

Whereas school boards are in breach of sections 90 and 91 of the Education Act by defining the summer courses and fees for their territory;

Whereas services and fees vary from one school board to another;

Whereas most school boards charge fees for retakes of ministerial examinations, which does not comply with the *Administrative Guide for the Certification of Studies and Management of Ministerial Examinations*;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT THE MINISTÈRE DE L'ÉDUCATION, DU LOISIR ET DU SPORT:

- Provide guidelines for summer courses and fees that take into account, notably, the impact on educational success and student retention;
- Monitor school boards to check whether summer courses and ministerial examination retakes comply with the act and applicable standards.

≡ COMMENTS FROM THE MINISTÈRE DE L'ÉDUCATION, DU LOISIR ET DU SPORT

Here is the Department's response to the Québec Ombudsman's recommendations:

"The Department welcomes the recommendations concerning fees charged for summer courses and ministerial examination retakes." (translation)

Ministère de l'Emploi et de la Solidarité sociale

COMPLAINTS IN 2012-2013

Over the past year, the Québec Ombudsman received fewer complaints about last-resort financial assistance than in 2011-2012. However, the number of substantiated complaints has risen. They mainly concern requests for documents, refusal to grant the rating schedule for temporary or severely limited capacities for employment, difficulty obtaining special benefits, especially for medical goods and services, and claims by the Department for overpayments.

Employment-related complaints are down from last year. As in previous years, they primarily concern refusals by the Department to grant training. Few are substantiated.

Finally, complaints regarding the Québec Parental Insurance Plan are up slightly over last year. They cover various aspects of the plan, for example eligibility criteria, the reference period for calculating benefits, and recovery of overpayments.

Last-resort financial assistance

INHERITANCE RECEIVED BY INSTALMENTS: PURPOSE OF THE ACT AND REGULATION IGNORED

The Individual and Family Assistance Regulation provides that an exclusion of \$130,000 applies to liquid assets received from an inheritance by recipients of the social solidarity program. However, the Department considers that an inheritance received in instalments via, for example, a testamentary trust or a life annuity, is taxable income. The connection between the estate and the recipient would then be broken, since the inheritance is not part of the latter's assets. In concrete terms, the heirs have their social solidarity benefits reduced by the amount of the monthly inheritance payments. They can also be subject to a claim for sums paid in the past.

The point of the \$130,000 exclusion is to allow recipients with severely limited capacities for employment—and hence often vulnerable—to enjoy their inheritance without having their benefit reduced. The exclusion applies if recipients receive the capital in a lump sum, but this is not always in their interests. Indeed, parents who in their will provide for successive payments generally do so with a view to the long-term protection and well-being of their child. Their intention, in line with the purpose of the act and regulation, is to avoid undue pressure or dissipation of the inheritance, thus

ensuring that their heirs truly benefit. The Department's interpretation unjustly restricts the extent of the exclusion, losing sight of the objective of the act and regulation, despite two decisions by the Tribunal administratif du Québec in favour of citizens in similar situations².

The Québec Ombudsman intervened and recommended the Department:

- Amend the Individual and Family Assistance Regulation to say, to avoid ambiguity, that the \$130,000 exclusion applies even if the will provides that the inheritance should be paid in instalments, regardless of the method used for the payments;
- Amend its administrative directives so that the exclusion is applied in compliance with the recommendation above, and, if necessary, before the regulatory amendment is adopted;
- Identify and correct previous files where the exclusion may not have been applied for the reasons set out above.

The Department responded that a working committee was looking into the best way of resolving the situation. The Québec Ombudsman reiterates the importance of acting on its recommendations, given that the Department's restrictive interpretation is badly affecting vulnerable people.

(... **A restrictive interpretation applied too quickly**

A citizen has mental health problems and severely limited capacities for employment. After the death of her mother, she inherits \$10,000. In accordance with the will, this money is paid in instalments of \$100 per month. The Department reduces her social solidarity benefit by \$100, deeming the monthly payment unconnected with the inheritance. It considers it to be taxable income. The decision is now under administrative review. Despite the Department's restrictive interpretation regarding the application of the \$130,000 exclusion, the Québec Ombudsman was able to settle the matter. During its investigation, it found that the inheritance had been put into an account belonging to the citizen, and the payments were being made out of that. The Department had relied on the will only, without checking whether the sum really was separate from the citizen's assets. So it agreed to restore the benefits retroactively. ...)

ADMINISTRATIVE PROCESSING OF INITIAL ALLOCATION OF APPLICATIONS FOR LAST-RESORT FINANCIAL ASSISTANCE

Last year, the Québec Ombudsman noted the instructions given by the Ministère de l'Emploi et de la Solidarité sociale in 2011-2012 to correct certain undesirable effects of the administrative processing, set up in 2008, of initial allocation of applications for last-resort financial assistance. This year, the Québec Ombudsman found that assistance officers were still not respecting these instructions, so that recipients' eligibility was being delayed. It had to intervene several times to accelerate the processing of applications for assistance, in order to prevent the situation of this vulnerable clientele becoming even more difficult. In particular it handled complaints from citizens of whom the Department asked for various documents following their application for last-resort financial assistance, and who had difficulty contacting an officer for an explanation; this delayed their benefit payments by several weeks, if not months.

² B. G. c. MESS, 2012 QCTAQ 021107, March 5, 2012 (currently under review: 2012 QCTAQ 12 537, December 18, 2012); R. M. c. MESS, 2012 QCTAQ 04333, April 12, 2012.

(... **A simple phone call would have prevented undue wait times**

A citizen makes an application for last-resort financial assistance after going back to school and trying, in vain, to get back on the job market. She had received last-resort assistance before. The Department asked for proofs of the student assistance she received from the Ministère de l'Éducation, du Loisir et du Sport, as well as a copy of her divorce decree, which in fact it already had, also the recent support cancellation, and the sums of the arrears returned to her ex-partner. The citizen needed some instructions before she could send the required documents, and tried to speak to an agent for three months, to no avail. The Québec Ombudsman had to intervene to get an assistance officer to contact the woman and give her the information she needed to finalize her application. ...)

THOSE AWAITING TRIAL UNDER A MENTAL HEALTH EVALUATION ORDER

Any recipient who is in prison loses his last-resort financial assistance benefits during detention. Still, in the special situation of those awaiting trial and subject to a mental health evaluation order under the Criminal Code, whether evaluated in a hospital or a detention centre, the Individual and Family Assistance Regulation provides an allowance, because the status of such people is of a person accommodated under the Act respecting health services and social services. In 2013, this allowance was \$196 per month. Following some complaints that came to its attention, the Québec Ombudsman found two problems connected with this status.

Loss of housing

Because of the time spent on the mental health evaluation, several months can pass before those awaiting trial who are subject to an evaluation order and who are finally deemed not criminally responsible because of a mental condition, are freed. In the meantime, since they have been receiving only the accommodated person's allowance, they lose their housing, unable to pay the rent. They have to find a new place to live, causing further delays and the loss of social reintegration gains, as the Québec Ombudsman learned from a specialized mental health institution mandated to evaluate those awaiting trial.

To avoid a situation where this vulnerable clientele, often well known to the health and social services network before incarceration, becomes even more vulnerable and risks social non-integration, the Québec Ombudsman recommended it receive the special housing benefit provided for by the Individual and Family Assistance Regulation, in an amount up to \$325 per month, for up to 12 months. Currently, the Department only offers this benefit to people admitted to accommodation within the health and social services network.

Non-payment of accommodated person's allowance

The Québec Ombudsman found that some regional branches did not understand the Department's directive concerning those awaiting trial under a mental health evaluation order. Result: The accommodated person's allowance, \$196 per month in 2013, was not paid to recipients during their detention. Following the Québec Ombudsman's intervention for one of these individuals, the directive was clarified. However, the problem has still not been cleared up. It turns out that the Department is not always told about the mental health evaluation orders to which those awaiting trial are subject. So these people do not receive the allowance they are entitled to under the Individual and Family Assistance Regulation pursuant to the Act respecting health services and social services. The Québec Ombudsman took steps with the Ministère de la Sécurité publique to ensure that the information reached the Ministère de l'Emploi et de la Solidarité sociale and that the allowance was paid.

(... **The Department claims an amount the recipient was entitled to**

In 2012, the Department claimed an amount of \$3,000 from a recipient for last-resort financial assistance benefits paid in 2011 while he was in custody awaiting trial. Although he was under a criminal responsibility evaluation order for the actions of which he was accused, the Department claimed all the benefits paid, because it considered he was not entitled to them while incarcerated. The Québec Ombudsman reminded the regional branch that the individual had a right to the accommodated person's allowance during the two months in question. The claim was reduced and the Department clarified its directive. ...)

MONITORING OF RECOMMENDATIONS REGARDING SPECIAL BENEFITS FOR MEDICAL GOODS AND SERVICES

In its 2011-2012 annual report, the Québec Ombudsman raised a problem experienced by many recipients of last-resort financial assistance who have a disability that constitutes a handicap: Inadequate reimbursement of items required for medical purposes.

It explained that the regulatory pricing for special benefits intended to cover the cost of these items has not been indexed for over ten years. It also mentioned that the Individual and Family Assistance Regulation was applied in a restrictive way to items that are reimbursed. This applies to all categories of special benefits covered by the regulation, both for handicapped recipients and for those with occasional needs. Consequently, the Québec Ombudsman recommended that the rates for all special benefits covered by the regulation be adjusted and then indexed annually so they are updated to reflect the actual cost of goods and services. It also requested that the regulation be applied more flexibly regarding items that are reimbursed.

The Department recognized the scale of the problem. This is why the regulation amending the Individual and Family Assistance Regulation, published in the *Gazette officielle du Québec* on February 27, 2013, provides an increase in special benefits for handicapped recipients with an elimination problem requiring special medical accessories. This amendment respects the Québec Ombudsman's recommendation that special benefits should match the actual expense recipients incur. The Department assured the Québec Ombudsman that it was planning to extend this increase to other special benefits covered by the regulation.

The Québec Ombudsman asked that a provision be added to the regulation to ensure that rates are indexed or periodically reviewed so that gaps between real costs and the amount reimbursed should not occur again.

Employment

RESPECTING THE OPERATIONAL DIRECTIVE OF THE RETURN TO WORK SUPPLEMENT

The *Québec Ombudsman's 2011-2012 Annual Report* illustrated the Department's failure to inform individuals of the existence of the Return to Work Supplement in a timely manner. The Department respected its commitment to implement the Québec Ombudsman's recommendations in this regard.

However, following a complaint, the Québec Ombudsman learned this year that the Department sometimes refused to award the Return to Work Supplement if citizens did not send certain documents. It concluded that employment-assistance officers and administrative reassessment decision-makers were contravening the directive that states that an officer must consult the file to check whether the necessary information is already there.

The intervention of the Québec Ombudsman with the Department corrected the situation for the complainant and obtained a collective gain, since all relevant officials were reminded of the directives, to stop this sort of situation from occurring again.

REACTION OF THE QUÉBEC OMBUDSMAN TO THE REGULATIONS TO AMEND THE INDIVIDUAL AND FAMILY ASSISTANCE REGULATION

Regulation of December 27, 2012


In 2012, the Québec Ombudsman alerted the Ministère de l'Emploi et de la Solidarité sociale about cases where citizens who had paid funeral costs for a recipient of last-resort financial assistance or for a person without means were refused the special benefit for funeral costs under the pretext that they had not respected the tight deadline by which they could apply. On December 27, 2012, the Ministère de l'Emploi et de la Solidarité sociale presented some amendments to the Individual and Family Assistance Regulation with respect to this question. The amendments mean that the deadline for applying for reimbursement of this special benefit will move from 30 to 90 days. The Québec Ombudsman indicated to the Department that it was satisfied with and supported the proposed amendment.

Regulation of February 27, 2013

The Québec Ombudsman reacted to three proposed amendments in the regulation to amend the Individual and Family Assistance Regulation, published in the *Gazette officielle du Québec* on February 27, 2013, namely:

- Recognition of limited capacity for employment because of age up from 55 to 58 years;
- A limit on eligibility for special benefits for living expenses for addiction services with accommodations to no more than twice per 12-month period, up to a total of 90 days;
- An increase in the rate for special benefits payable to cover the cost of accessories related to the elimination system.

These interventions by the Québec Ombudsman are summarized in the chapter entitled *Parliamentary Watch Report* of this report (see pages 121, 122).

 The Québec Ombudsman's letters to the Minister of Employment and Social Solidarity about the amendments to the Individual and Family Assistance Regulation are posted on its website www.protecteurducitoyen.qc.ca, under the "Cases and Documentation" tab, "Reactions to bills and legislation" section.

Ministère de la Famille

COMPLAINTS IN 2012-2013

In 2012-2013, the Québec Ombudsman received fewer complaints regarding the Ministère de la Famille than in 2011-2012. However, the number of substantiated complaints is rising. The complaints mostly concern allocation of spaces in subsidized daycare.

Over the year, the Québec Ombudsman also received complaints from the public and those in charge of daycares concerning low quality or uneven inspections, and the definition of the Department's supervisory role regarding the coordinating offices for family daycare.

THE PROCESS OF ALLOCATING SUBSIDIZED SPACES

Over the last three years, the Québec Ombudsman has received a number of complaints from the public and from daycare centres concerning allocation of new reduced contribution daycare spaces. On examining these complaints, it found shortcomings in the 2011-2012 call for proposals to create 15,000 new spaces. It therefore contacted the Ministère de la Famille, which took its comments into consideration when drawing up the call for proposals for the creation of 15,000 extra places in 2013.

NEEDS ASSESSMENT FOR DAYCARE CENTRES

The Québec Ombudsman adheres to the objective of reserving a certain number of spaces for underprivileged children. The resulting proposals mean that the goal of offering equal opportunities to all children can be pursued.

However, the Québec Ombudsman found a problem in determining which families should benefit. A poverty index was applied to each territory covered by the coordinating offices, and the territories were ranked from most to least poor, with the poorest benefiting from reserved spaces. However, some very underprivileged households in the same neighbourhood as wealthy ones within the same heterogeneous territory did not benefit, because on the basis of an average, the territory did not rank as underprivileged. This is why, for the 2013 call for proposals, the Québec Ombudsman recommended that the Department identify more accurately those underprivileged households entitled to reduced contribution spaces, by refining the calculation of the poverty index, or by calling on the assistance of regional advisory committees.

The Québec Ombudsman applauds the efforts made by the Department to increase reduced contribution daycare spaces in underprivileged neighbourhoods. It welcomes the creation of 2,000 subsidized spaces in these neighbourhoods, confirmed by the 2013 call for proposals, and the help of advisory committees. However, it still considers that the Department should have reassessed the poverty index for each territory covered by the coordinating offices, to ensure poor families were treated more fairly.

MAKING CLEAR AND PRECISE RULES PUBLIC

The Québec Ombudsman deems it essential to define and communicate clear and precise rules so that enlightened decisions can be taken. Analysis of the complaints revealed that applicants and those in charge of daycares are dissatisfied in large part because they are not fully informed about the eligibility rules and criteria for proposals.

Daycare centres and applicants were unable to assess the relevance of making a submission or to determine what sort of proposal to offer, since they did not know how many and what type of places were allocated in each territory of the coordinating office. This has led some daycare centres and applicants to submitting several proposals to one or more territories to increase their

chances of being accepted. For each proposal, applicants had to invest time and money (hiring a project manager, renting premises, estimating cost, drawing up plans, etc.), but in many cases the investment was in vain. For example, one applicant invested time and money in presenting a proposal for a new daycare with 80 spaces, but the territory had fewer places than that to award. So the proposal was ineligible. If the applicant had known how many spaces were allocated, he would not have submitted the proposal.

For the sake of transparency and efficiency, and to avoid that sort of situation happening again, the Québec Ombudsman made the following recommendations for the 2013 call for proposals:

- That the Ministère de la Famille, before the call for proposals, make public how many spaces will be allocated per region and per territory, the distribution of spaces reserved for underprivileged households, and special measures to enhance access for children with special needs;
- That the Ministère de la Famille, before launching the call for proposals, define and communicate the eligibility criteria as clearly and precisely as possible as well as the evaluation criteria and scale used by the advisory committees;
- That the Ministère de la Famille put in place an evaluation tool or grid so that prospective applicants can assess their eligibility, especially regarding inspection results.

The Ministère de la Famille acted on the recommendations of the Québec Ombudsman. The latter welcomes the measures the Department has taken to inform the public and thus foster a transparent process for calls for proposals.

EXCLUSION OF NON-SUBSIDIZED PRIVATE DAYCARES

In 2010, the Québec Ombudsman drew the Department's attention to the creation of non-subsidized daycares and the problems they suffered regarding exclusion from the process of allocating reduced contribution spaces. At the same time it raised other problems encountered by non-subsidized daycares, such as financial difficulties stemming from their clientele moving to reduced contribution services, and lack of staff. Specifically, this resulted in their non-compliance with the stipulated ratio of qualified staff to children.

In 2011, the Québec Ombudsman recommended the Ministère de la Famille make a progress report and an impact study to set guidelines for the next call for proposals. The Department was open to the recommendation and undertook to implement it during 2013. In February 2013, it announced a new call for proposals, without, however, having available results of the progress report and impact study, a situation the Québec Ombudsman finds regrettable.

According to data the Québec Ombudsman obtained from the Department, non-subsidized daycares had, at the start of 2013, around 35,000 spaces, i.e. nearly as many as the number of spaces in reduced contribution daycares, which was 41,000 at that time. But just a few years ago, there were only a few hundred spaces in non-subsidized daycares. The vast increase in non-subsidized spaces has affected some regions, which find themselves with too many spaces, or where non-subsidized daycares are experiencing financial difficulties.

The Québec Ombudsman understands that the Department does not have direct control over applicants opening non-subsidized daycares. However, the Department should not disregard the consequences of this phenomenon.

PROPOSAL ELIGIBILITY STUDY

The Québec Ombudsman would like to emphasize from the start that it shares the concern of the Ministère de la Famille that all proposals chosen meet the highest quality standards, and that it is essential to guarantee children's health and safety. Dealing with this issue is not easy and ways of meeting its requirements soon turn out to be complex to devise and administer, especially as they must respect the rules of fairness, transparency and reasonableness.

According to information obtained by the Québec Ombudsman, a large proportion of proposals submitted during the 2011-2012 call for proposals was rejected at the eligibility stage. Analysis of the files reveals three major problems encountered at this stage of the process:

- The unfairness of the inspection results criterion;
- Relatively serious deficiencies and the absence of other criteria for determining quality;
- Many proposals being rejected for irregularities of form, many minor.

For the first problem, it seems that new applicants, who have never been inspected by the Department, are favoured over existing daycares. In fact, analysis of the complaints shows a correlation between the number of times a daycare has been inspected and the presence of a restriction linked to recurring deficiencies sufficient for the proposal to be rejected.

The second problem concerns the relative seriousness of the deficiencies as well as the absence of other criteria for determining quality to assess applicants' eligibility. The Québec Ombudsman observes that the Department's analysis tool makes no allowance for appreciating and contextualizing the seriousness of the deficiencies. It deems that for the process to be efficient, the Department should take into account not only the deficiencies related to the inspection, but also applicants' qualifications and non-conformity with other laws and regulations.

When drawing up the 2013 call for proposals, the Department partially acted on the recommendations of the Québec Ombudsman. It reviewed the criteria of the evaluation grid for deficiencies found during inspections that caused proposals to be stopped. It also eliminated analysis variables that could not be applied uniformly and fairly. Still, new applicants are always favoured during the eligibility study and the Department does not at this stage take into consideration the convictions, sanctions and deficiencies linked to other laws and regulations that are likely to disqualify applicants.

The Québec Ombudsman also observed that many proposals were rejected for formal irregularities, most of them minor, for example too few copies or the wrong size of paper.

The analysis of complaints received by the Québec Ombudsman and the large percentage of rejected proposals indicate on one hand, a restrictive application of the eligibility criteria and, on the other, a lack of understanding of the requirements on the part of the applicants. The Québec Ombudsman is concerned that quality proposals may have been rejected just for formalities not properly understood, or applied too strictly. So it has recommended that for the 2013 call for proposals, the Department makes sure that daycares and applicants presenting a proposal fully understand the formal requirements, and allow applicants to correct formal irregularities within a reasonable time frame, before rejecting them under that pretext. The Department has acted upon the recommendation of the Québec Ombudsman.

REVIEW PROCESS AND TRANSFER TO ADVISORY COMMITTEES

The Québec Ombudsman noticed that a large number of applicants who had received a review could not be considered by the advisory committees because the processes were not dovetailed. In other words, the work of the advisory committees was either complete or too far advanced for those files to be considered that had been declared eligible following review. It questions whether this is a reasonable way of doing things, considering the result is advisory committees giving their verdicts before the review has finished, thus rendering the latter useless. So the Québec Ombudsman has recommended that for the 2013 call for proposals, the Department makes sure the review process is complete before transferring all the eligible files to the advisory committees. The Department has acted upon the recommendation of the Québec Ombudsman.

FOLLOW-UP OF IMPLEMENTATION OF SELECTED PROJECTS

The analysis of the most recent place allocation process (in 2008 and in 2011-2012) prompted the Québec Ombudsman to communicate to the Department its concern over the shortcomings in the way proposal implementation is followed up. At the beginning of 2013, over 1,100 places of the 2008 development plan had still not been deployed.

The Québec Ombudsman also drew the Department's attention to the importance for parents especially to receive information about proposal deadlines, when wishing to request a space or planning to send their child to a new institution. This is why it has recommended the Department adopt strict measures regarding follow-up of accepted proposals and make public any information about proposal time frames and whether they are being respected. The Ministère de la Famille has acted on this recommendation.

Ministère de l'Immigration et des Communautés culturelles

COMPLAINTS IN 2012-2013

The number of complaints received by the Ministère de l'Immigration et des Communautés culturelles in 2012-2013 has increased from the previous year. The number of substantiated complaints has also risen. These mainly concern:

- A lack of information on citizens' rights;
- A lack of detail in the reasons for decisions under review, making it hard for citizens to understand questions crucial to their future.

Most of the substantiated complaints led to corrections as requested by the Québec Ombudsman, which is satisfied with the level of cooperation by the Department.

Both this year and in 2011-2012, several complaints were made by candidates who were refused their Québec Application for Selection Certificate, and who challenged the weighting of factors and criteria in the economic immigration selection grid. Most of the complaints were from candidates in the qualified worker category, who pointed out that not enough points were awarded for education. Most of these complaints are not substantiated.

REFUSAL OF ACCEPTANCE CERTIFICATE FOR STUDIES

While processing an individual file, the Québec Ombudsman noticed that when the Ministère de l'Immigration et des Communautés culturelles did not award the Québec Acceptance Certificate for studies, its decisions were not properly justified and there was no mention of recourse for citizens:

- Inaccurate reference to the relevant legislative provisions;
- Vague and incomplete reasons for refusal;
- Offer of further information limited to:
 - a page of the Department's Internet site that did not mention the possibility of contesting the refusal;
 - telephone number and email of the Department's customer contact centre.

The Québec Ombudsman asked the Ministère de l'Immigration et des Communautés culturelles to improve its administrative practices with respect to the principles set out in the Act respecting administrative justice. By May 30, 2012, the Department had complied. It amended letters of refusal so they are better justified and now mention the possibility of submitting a letter of contestation to the Service aux étudiants étrangers and an administrative review request. The Department also modified its Internet site to inform clients that they can contest a refusal.

(... **A citizen deprived of his right to a justified decision**

A citizen sends the Department an application to renew his Acceptance Certificate for Studies. The application is refused. The letter of refusal states that the person did not supply the documents needed to look into his application within the specified time frame. It also tells him he can consult the Department's Internet site or get in touch with the customer contact centre if he wishes "further information". Since the information on the suggested Internet page does not apply to him, he contacts the centre. At this point, he is told of another reason for the refusal of his application: non-compliance with the undertaking to make study his principal activity during the validity period of his first certificate. During this conversation, he learns that there is a recourse available to him regarding the refusal. Fortunately, the citizen was able to exercise his rights and submit his administrative review request within the allotted time frame: 90 days following the date his certificate renewal application was refused.

The Québec Ombudsman reminded the Department that an unfavourable decision should not only be fully justified, but also indicate possible recourse against the decision and the deadline by which it must be had. Any deadline that could infringe on citizens' rights must be expressly drawn to their attention. ...)

BETTER INFORMING NEW ARRIVALS ABOUT THE WAITING PERIOD OF THE RÉGIE DE L'ASSURANCE MALADIE DU QUÉBEC

In its 2011-2012 annual report, the Québec Ombudsman reported shortcomings in the information for new arrivals in Québec, which were found in a number of institutions in the health care network, regarding expenses for hospital services and care.

The Québec Ombudsman has discovered a related problem this year: Many new arrivals did not know there was a three-month waiting period before they were eligible for the Régime d'assurance maladie du Québec, and that during that time they had to pay medical and hospital expenses. The Québec Ombudsman therefore communicated with the Régie de l'assurance maladie and the Ministère de l'Immigration et des Communautés culturelles, who both agreed to improve their methods of communication so that clients better understand their rights and obligations where public health care services are concerned. The Québec Ombudsman asked the Ministère de l'Immigration et des Communautés culturelles to modify the letters it sends to people authorized to stay or to live in Québec. The Department undertook a series of measures respecting the recommendations as far as possible, and the Québec Ombudsman is satisfied with the measures.

FAIR AND REASONABLE FEES FOR IMMIGRATION CONSULTANT RECOGNITION APPLICATIONS

To protect prospective immigrants by better supervising immigration consultants, the government has adopted the Regulation respecting immigration consultants, which came into force on November 4, 2010. This regulation provides that now, only authorized individuals entered in the Registre québécois des consultants en immigration may work in this capacity.

After studying the complaint of a citizen whose application for recognition was refused, the Québec Ombudsman questioned the Department's administrative practice concerning fee payment provided for in the Regulation when a recognition or renewal application is refused. This practice stipulates that a person whose application is refused must pay fees of up to \$1,044, as do those who have been recognized by the Department and entered in the Registre for two years.

After discussions with officials at the Department, the Québec Ombudsman in February 2013 asked departmental authorities to review the current practice, because fees related to authorization of an activity must correspond to a fair pecuniary consideration linked to a received benefit. The Department's current practice, when admittance to the Registre has been refused, results in subjecting a person to a payment for a position which he cannot enjoy.

Citing the regulatory authorization of subclause 1) of section 3.3 of the Act respecting immigration to Québec and the Regulation respecting immigration consultants, the Department refused the Québec Ombudsman's request. According to the Department, the sum of \$1,044 covered only the cost of opening and processing a recognition application, and not the fees associated with recognition as a consultant. Given this interpretation, it considers it is not obliged to reimburse this sum when recognition is refused. The conclusions of the Québec Ombudsman are different. Fees that respect the principles of fairness and reasonableness as well as the principles of government administration require that the Department interpret the regulatory power so that its administrative practice distinguishes between fees for application processing and fees for registration giving the right to act as an immigration consultant.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION CONCERNING FEES FOR RECOGNITION APPLICATIONS AS IMMIGRATION CONSULTANT

Whereas that where fees are concerned, in fairness a distinction should be drawn between fees for application processing and those paid once the application has been accepted;

Whereas that the sum of \$1,044 seems unreasonable if it covers only the cost of opening and processing a recognition application, and that moreover the sum has to be paid again for a renewal requiring just minor verifications;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT THE MINISTÈRE DE L'IMMIGRATION ET DES COMMUNAUTÉS CULTURELLES:

- Review its practice so that applicants who are refused admittance to the Registre no longer have to pay the full fees currently set out in the Regulation.

≡ COMMENTS OF THE MINISTÈRE DE L'IMMIGRATION ET DES COMMUNAUTÉS CULTURELLES

Here is the Department's response to the Québec Ombudsman's recommendation:

"The Department is aware of the problem raised by the Québec Ombudsman concerning fees for immigration consultant recognition applications, specifically the amount requested, which is currently the same whether for an initial application or a renewal application.

The Regulation respecting immigration consultants is currently under review. Modifications to the Regulation will be submitted to the government in the next few months, with a view to implementation in fall 2013. A deeper cost analysis will be performed so that the Department can set up a differentiated fee system according to the two types of application." (translation)

Ministère de la Justice

COMPLAINTS IN 2012-2013

The number complaints the Québec Ombudsman received about the Ministère de la Justice increased this year. The number of substantiated complaints is relatively stable. In 2012-2013, the main grounds for complaint concerned services offered by the courthouse registries. Court registries carry out a large part of the Department's mission regarding services to citizens, since they are responsible for general administration of cases that go to court, including follow-up of decisions.

(... **Unlawful detention: court registry error**

A citizen contacted the Québec Ombudsman after appearing in court in January 2012. The judge ordered he be freed immediately, stating he had been detained unlawfully, since he had been incarcerated by virtue of a case for which he had already been tried.

During his previous court appearance, at Montreal's courthouse in September 2011, after his case had been transferred from Québec City as authorized by the Crown prosecutor assigned to the case, the citizen had pleaded guilty, been sentenced and jailed. However, the Criminal and Penal Division of the Montreal courthouse (secondary registry) then omitted to pass to the court registry in Québec City (primary registry) information about the defence speech and the sentence, meaning that no scheduling was done by the case attorney to have the arrest warrant withdrawn and expunged at the Centre de renseignements policiers du Québec.

Because of the secondary registry's failure to apply correctly the operational procedure relating to inter-district transfer, the warrant for arrest remained active by error, and the citizen was arrested by the police in January 2012 on the basis of information that was no longer valid. The citizen remained in unlawful detention for seven days until his appearance before the judge the following week. At that point, the judge noticed the error and immediately released the man.

Following the Québec Ombudsman's intervention, the Department's Direction générale des services de justice et des registres made sure the procedure was rigorously applied, by communicating directly with each courthouse directors concerned, to avoid further unlawful detentions. With the Director of Criminal and Penal Prosecutions, it set up a committee to examine how to process a case transfer. The Québec Ombudsman will be kept informed about the committee's progress. . . .)

(... A potentially very serious omission

Following a probation order, a man is prohibited from being within 500 metres of the residence of his ex-spouse and her children. This condition, however, was not copied to the legal document by the court registry. When the ex-spouse saw the man walking in front of her home, she contacted the police, who refused to intervene, because the court order contained no clause prohibiting the citizen from being within 500 metres of the residence. The woman then reported the situation to the Criminal and Penal Division. The order was subsequently amended and sent to the police, who arrested the ex-spouse for breaching conditions. The woman lodged a complaint with the Québec Ombudsman in order to prevent such a situation happening to others. Following the Québec Ombudsman's intervention, the court registry reminded staff of best practices to avoid errors like this. Moreover, a mandate was sent to the Direction des services de gestion et de l'administration judiciaire to check whether the work processes at the Criminal and Penal Divisions regarding probation orders are adequate. The Québec Ombudsman will examine the result of this evaluation. . . .)

NOTIFYING THE RÉGIE DES RENTES DU QUÉBEC OF JUDGEMENTS WITH PARTITION OF EARNINGS BY CIVIL COURT CLERKS: PREJUDICIAL DELAYS

Pursuant to section 817.2 of the Québec Code of Civil Procedure, the court registrar who confirmed a judgement granting a separation as to property, legal separation, nullity of marriage, a divorce or the dissolution or nullity of a civil union must notify the Régie des rentes du Québec of the judgement without delay.

The Québec Ombudsman's investigation revealed that at least one civil court clerk waited for judgements to take effect before notifying the Régie of them, which delayed execution of partition of pension earnings and hence a loss of earnings for the citizens concerned. Indeed, according to section 102.5 of the Act respecting the Québec Pension Plan, an application for partition is presumed to be made on the day the judgement is received at an office of the Régie. Partition is presumed to have been executed on the first day of the month following that of receipt of the application, providing that partition has taken effect.

To prevent these financially harmful situations, the Québec Ombudsman asked the Department's Direction générale des services de justice et des registres to ensure that all court registries are familiar with their legal obligation to notify the Régie of judgements without delay starting on the date they were rendered, and to see that the court registries have the management tools they need to meet this obligation. It also asked the Direction to inform the court registries of the financially harmful consequences to citizens resulting from slow notification.

A note to this effect was sent to the courthouse registry network. The Department also asked court registries to adjust their work processes, where necessary, to prevent citizens suffering considerable financial consequences.

(... Compensating for financial loss caused by error

A courthouse registry sent the Régie a citizen's divorce judgement nearly three months after it had been rendered. The investigation showed that at the time, the registry had a backlog of work, and also that the court registrar waited for the judgement to take effect before notifying the Régie, instead of proceeding right away when it was rendered. This unreasonable notification delay caused the citizen to lose two months of partition of pension earnings.


The Department intervened with respect to the employees of this court registry to enforce compliance with the legal obligation provided for in section 817.2 of the Québec Code of Civil Procedure. Also, a cheque for the lost amount was sent by the Department to the citizen, fully covering her financial loss. ...)

QUÉBEC OMBUDSMAN'S REACTIONS TO TWO BILLS

During the year, the Québec Ombudsman welcomed two bills concerning the Ministère de la Justice, namely Bill 64, An Act to promote access to justice in family matters, and Bill 22, An Act to amend the Crime Victims Compensation Act.

By instituting an administrative procedure for recalculating child support (SARPA), Bill 64 constitutes a long-awaited and necessary improvement. Still, some provisions needed to be explained or commented on, which the Québec Ombudsman did in a brief presented to the Committee on Institutions. As for Bill 22, the Québec Ombudsman feels it improves the compensation plan for victims of crime (IVAC) because it meets some of the needs expressed by loved ones of victims, particularly following a death. Still, the Québec Ombudsman noted that some amendments should be made to the bill, to respond to victims' needs more fairly.

A summary of the Québec Ombudsman's interventions regarding both these bills can be found in the chapter entitled *Parliamentary Watch Report* on pages 109 and 114 of this report.

 The Québec Ombudsman's brief on Bill 64 as well as the letter to the Chair of the Committee on Institutions about Bill 22 are posted on its website www.protecteurducitoyen.qc.ca, under the "Cases and Documentation" tab, "Reactions to bills and legislation" section.

Régie des rentes du Québec

COMPLAINTS IN 2012-2013

The number of complaints the Québec Ombudsman received about the Régie des rentes du Québec is down from 2011-2012. However, the number of substantiated complaints was up in 2012-13; the main grounds were:

- Wait times for processing applications for the refundable tax credit for child assistance and for disability benefits;
- Refusal of a disability benefit.

MANAGING THE REFUNDABLE TAX CREDIT FOR CHILD ASSISTANCE

The refundable tax credit for child assistance is a social measure designed to help Québec families. It is in fact essential, particularly for the most disadvantaged. Complaints received in 2012-2013 revealed certain problems in the way the Régie manages the program.

Long wait time for processing of applications to change custody relating to the refundable tax credit for child assistance

When separated couples have children, child assistance is awarded to the parent who has custody more than 60% of the time, or to both if both have custody between 40% and 60% of the time.

The Québec Ombudsman observed long wait times when a parent notified the Régie of an increase in his portion of custody time. Processing this type of application could take six to eight weeks, sometimes longer.

For the parent who notified the Régie, such a long wait means a delay in obtaining the assistance prescribed by law, while the child is already in his or her care. So it is not just the parent who risks harm because of long wait times, but also the child the program is meant to benefit. Furthermore, the Régie has to recover sums overpaid to the other parent.

(... **Processing applications with diligence**

In early October 2012, a citizen contacted the Québec Ombudsman concerning the Régie des rentes du Québec. He complained about the delay in processing his application to change custody to obtain child assistance benefits.

The Québec Ombudsman's analysis showed that the citizen, already having shared custody of his children, made his application to the Régie for child assistance in late June 2012. Shortly afterwards he contacted the Régie to find out how his application was progressing and ask how long he would have to wait. The Régie told him the wait would be 11 weeks. It also told him that to speed up his application, he could provide the Régie with the court ruling confirming shared custody. This he did. He told the Québec Ombudsman that he contacted the Régie again several times to find out how his application was progressing. When he called the Québec Ombudsman, he had been waiting 15 weeks.

Given this long delay in processing the application to change custody, and following the intervention by the Québec Ombudsman, the Régie at once began processing the file. It agreed to the custody change and, two weeks later, the citizen received his child assistance benefits. ...)

The Québec Ombudsman questioned the Régie about these delays. The Régie stated it was aware of the problem. It performed a preliminary analysis in fall 2012 to find measures to contain its application backlog. Starting in fall 2013, an in-depth review of the custody change application processing will take place to reduce wait times. The Régie will inform the Québec Ombudsman of possible solutions and any results obtained regarding reduction of wait times.

Calculating custody time regarding the refundable tax credit for child assistance

After analyzing complaints and talking to the Régie, the Québec Ombudsman noted that different agents used different methods to calculate custody time. Some calculated exclusively in nights, others in days, others in hours. Such methods did not necessarily take into account the actual custody time of each parent.

So depending on which agent was dealing with the file, the same situation could result in a different custody time, hence a different child support amount; this is unjust.

After the Québec Ombudsman intervened, the Régie sent its staff a note listing the different ways of calculating custody times, to reflect as accurately as possible the actual custody situation. A new policy will be drawn up in this regard.

(... Reflecting the actual custody situation

A citizen contacted the Québec Ombudsman because she found it unfair that the Régie was counting custody time in nights only, i.e. according to the place where the child was at midnight.

She explained that the child's father lived opposite her, and that most of the time, the child went there only to sleep. She said she had communicated her dissatisfaction to the Régie, to no avail.

The Québec Ombudsman submitted this problematic case to the Régie for rectification. It asked the Régie to remind the relevant agent that different calculation methods were in operation, intended to reflect as accurately as possible the actual custody time. So the calculation could be made in consideration of the specific situation of this citizen. ...)

REFUSAL TO CONSIDER A RECENT RULING TO GRANT A CHANGE OF CUSTODY

When a parent obtains shared or exclusive custody or a parent who had shared custody obtains exclusive custody, he can apply for a custody change to obtain child assistance benefits. The Régie automatically grants the custody change when the application is signed by the other parent. If the application is not signed by the other parent, the Régie automatically grants the custody change to the parent making the request, if he submits the ruling by the Court of Québec or the Superior Court, dated less than four months and confirming the custody change. In all other cases, the Régie tries to contact the other parent by telephone. If it cannot reach him or her, it sends a form to confirm the custody change and gives him or her 45 days to respond.

(... An information clerk at the Régie told a citizen he could not submit such a ruling, so the citizen lodged a complaint with the Québec Ombudsman. The Québec Ombudsman noted that staff dealing with these applications knew that a ruling could speed up the processing of a file, but that call centre clerks did not always know this.

The Québec Ombudsman intervened with regard to the Régie so that citizens would not be wronged in this way. The Régie stated it would add to its operational directive for call centre clerks the information that rulings of less than four months confirming change of custody were sufficient to authorize a change of custody. . . .)

The Québec Ombudsman considers that all the Régie's various forms should offer any information potentially useful to citizens. Whereas submitting a ruling can speed up an application for child assistance benefits, which has major financial consequences for the parent and child, it recommended that this possibility should be mentioned on the forms. The Régie indicated it would make the amendment when it next updated the forms, in spring 2013.

CITIZENS INSUFFICIENTLY INFORMED ABOUT DEATH BENEFITS

If a contributor dies, the Régie, under certain conditions, grants a payment of \$2,500 if the deceased person had contributed enough to the Québec Pension Plan. This death benefit is paid to the person or agency that paid for funeral expenses, or else the heirs. If the deceased person did not contribute enough, the person or agency who paid the funeral expenses can, under certain conditions, apply for a special benefit from the Ministère de l'Emploi et de la Solidarité sociale to reimburse the funeral costs, up to a maximum of \$2,500.

The Québec Ombudsman received a complaint from a citizen who considered she was inadequately informed by the Régie when it refused death benefits for her mother because the latter had not contributed enough. The citizen thinks the Régie should have informed her about the special benefit for funeral costs granted by the Ministère de l'Emploi et de la Solidarité sociale.

Since December 2009, the Régie has been attaching a note to all its notices of refusal because of insufficient contributions. The note states that the Ministère de l'Emploi et de la Solidarité sociale offers a special benefit for funeral expenses, and lists some eligibility criteria. However, the letter of refusal mentions neither this note nor the possibility of applying to the Department.

What is more, the Régie's website does not mention, not even on the page about death benefits, the existence of the benefit offered by the Ministère de l'Emploi et de la Solidarité sociale. So citizens are deprived of an important piece of information regarding a program that could benefit them.

Pursuant to the provisions of the Act respecting administrative justice, the Québec Ombudsman considers that the Public Service should transmit all useful information to citizens. The Régie agreed to add to the letter of refusal because of insufficient contributions a note telling the citizen about the special benefit for funeral expenses offered by the Ministère de l'Emploi et de la Solidarité sociale. It also agreed to post on its website, on the page regarding death benefits, a paragraph telling citizens that in case of refusal because of insufficient contributions, they could be eligible for the special benefit paid by the Ministère de l'Emploi et de la Solidarité sociale. Further, the Régie undertook to inform all its staff of the existence of this program.

FINANCIAL CONTRIBUTION TOWARDS THE PLACEMENT OF MINORS

In 2012-2013, the Québec Ombudsman published a report on parents' financial contribution towards the placement of their child. In it, there are recommendations for the Régie. The report can be found in the chapter *Report on Systemic Interventions* on page 93.



The report is also posted on the website www.protecteurducitoyen.qc.ca, under the "Cases and Documentation" tab, "Investigation Reports and Special Reports" section.

Société de l'assurance automobile du Québec (SAAQ)

COMPLAINTS IN 2012-2013

The number of complaints and the number of substantiated complaints about the Société de l'assurance automobile du Québec (SAAQ) in connection with road safety matters have been steady for the last three years. Complaints mainly concerned driver licensing, in particular:

- Licence suspension for medical reasons or conditions for keeping a licence in force;
- Lowering of the demerit point threshold linked to the licence holder's age that triggers licence revocation, effective June 19, 2011;
- Driver's licence exchange for new residents of Québec.

Other complaints related to road vehicle registration, especially:

- Refusal by the SAAQ to register certain vehicles;
- Vehicle storage or discarding.

And finally there were complaints about the obligation for drivers to undergo addiction evaluations.

The number of complaints about compensation of road accident victims increased in 2012-2013. They mainly concerned wait times for processing of compensation and expense reimbursement, as well as cessation of income replacement indemnities. Almost half the substantiated complaints concerned long wait times for file processing.

CLARIFICATION OF A DIRECTIVE IN A MEDICAL MATTER

One of the SAAQ's mandates is to make sure licence holders have the capacity to drive safely. To this end, it has directives to guide officials as to which verifications to undertake. This particularly applies to age-related illnesses, which are becoming more common as the population ages.

While dealing with a complaint submitted by a driver, the Québec Ombudsman discovered that one such directive was confusing. Because of the way it was worded, it was likely to have officials impose a condition on the licence of drivers whom their doctor had diagnosed with the beginnings of dementia, without mentioning any functional limitations that could affect their driving. The condition was to allow driving only in the presence of an occupational therapist, which is tantamount to a licence suspension. Of course, a suspension like this badly affects the autonomy of elderly people. The Québec Ombudsman intervened to have the directive clarified to prevent other drivers having their right to drive restricted for no valid reason.

CHECKING THE INFORMATION IN DRIVERS' FILES

When informed by an individual that there is an error in his file, the SAAQ must do the required checks and make a correction if necessary. The following situation shows a shortcoming in this regard.

(... One person confused with another: listening to citizens and letting them establish facts

A citizen received a letter from the SAAQ informing her that unless she could produce proof she was insured at the time of an accident, her licence would be suspended. Yet the woman had never been involved in an accident. Despite her repeated explanations and despite the insurer of the actual driver who was in the accident confirming that the individuals had been mixed up, still customer service staff continued demanding proof of insurance without further verifications.

The Québec Ombudsman intervened to have staff better trained in researching and checking information in client files: It is possible for a file to contain an error and for the citizen to provide credible explanations. Staff must listen to citizens in order to remedy situations. Also, staff will be able to access correspondence from the SAAQ to its clientele, because letters and notices will be digitized for each file. ...)

KEEPING THE PUBLIC PROPERLY INFORMED

The Québec Ombudsman often asks departments and agencies to improve the quality of information given the public regarding the programs they administer and the way they are regulated. In its opinion, people who are well informed can take enlightened decisions and in some cases avoid unnecessary delays. This year, the Québec Ombudsman intervened to have the SAAQ inform its clientele more fully, especially regarding two cases:

Disabled parking permits

Some citizens turned to the Québec Ombudsman after the SAAQ refused to give them a disabled parking permit. They cannot understand this, because they all have an unequivocal handicap making it difficult to get around, whether it be a heart problem or an amputation requiring a prosthesis. However, handicaps such as these, although major, do not automatically entitle the person to a permit: Only those are eligible whose handicap makes it difficult to cover short distances. For example, leg amputees can get around without danger or difficulty if they wear a prosthesis. So they are not entitled to a permit. To prevent disappointment, the Québec Ombudsman got the SAAQ to modify its website. It now explains what sort of handicap justifies a permit, i.e. a situation involving an incapacity or a loss of autonomy, or that poses a danger to the person's health and safety when covering short distances. This information should make it easier for attending physicians to assess their patients regarding the necessity for a permit, and, if needed, to fill in the application form properly.

Theory exam needed for a new driver's licence following its revocation

If a driver has his licence revoked because of demerit points, he must wait for the end of the revocation period (between 3 and 12 months, depending) before taking the theory exam needed to get a new licence. If he fails the exam (which the SAAQ deems is because of lack of preparation), he has to wait 28 days before retaking it. While during a revocation period it is possible to obtain a restricted licence allowing driving under certain conditions, this type of licence can not be delivered after the revocation period. So those whose employment requires them to drive could lose their jobs. Citizens in this situation asked the Québec Ombudsman to intervene to get the SAAQ to allow them to take the exam without having to wait. The 28-day wait required by the SAAQ is actually intended to make drivers prepare adequately for the theory exam. The SAAQ website also provides interactive tools to help them. Following the Québec Ombudsman's intervention, the SAAQ undertook to keep people better informed about the importance of preparing for the theory exam and the consequences if they fail it. The SAAQ is to produce a follow-up for the Québec Ombudsman in May 2013, stating how it intends to do this.

(... Inadequately communicated information intended to protect incapacitated citizens

An incapacitated citizen represented by the Curateur public was able to change his address himself for the SAAQ, but he was not authorized to do this because of his status. This irregular situation occurred because it was impossible for the SAAQ's Service aux particuliers to know that the file was that of a person under curatorship and thereby to avoid dealing with him directly. This impossibility came about because of communication problems between the Service aux particuliers and the Service de l'évaluation médicale, and because of limitations in the IT system. The address held by the SAAQ was that of the Curateur public, and the citizen changed it for his own. Consequently the Curateur did not receive any correspondence from the SAAQ and hence did not renew the driver's licence nor the vehicle registration. Result: The person received a fine of nearly \$700 and his vehicle was seized for running illegally.

Because of the intervention by the Québec Ombudsman, representatives of the SAAQ and the Curateur public met to define their common needs regarding the exchange of information. The SAAQ carried out some IT work, modified its operational procedures and is correcting its database. The goal is for all SAAQ sections in contact with citizens to be able to find out if the file they are working on is that of a person under curatorship, and, if so, not to deal directly with them. ...)

VIDEO SURVEILLANCE OF ROAD ACCIDENT VICTIMS

The Québec Ombudsman has monitored the measures taken by the SAAQ to comply with legislation and criteria set by case law regarding video surveillance. The SAAQ promptly followed the Québec Ombudsman's recommendations. The latter believes these measures will ensure better respect for the rights of road accident victims.

THE QUÉBEC OMBUDSMAN'S REACTION TO THE BILL TO MODIFY THE RULES GOVERNING THE USE OF PHOTO RADAR DEVICES AND RED LIGHT CAMERA SYSTEMS AND AMEND OTHER LEGISLATIVE PROVISIONS

The purpose of Bill 57, tabled in 2012-2013, was to allow wider use of traffic monitoring devices (photo radar devices and red light camera systems). While the Québec Ombudsman entirely subscribes to the goal of improving road safety, it has sent the Committee on Transportation and the Environment recommendations concerning certain aspects of the bill. A summary of the Québec Ombudsman's intervention can be found in the chapter entitled *Parliamentary Watch Report* on page 106 of this report.



The Québec Ombudsman's letter to the Chair of the Committee on Transportation and the Environment regarding this bill is posted on the website www.protecteurducitoyen.qc.ca, under the "Cases and Documentation" tab, "Reactions to bills and legislation" section.

REPORT OF THE CORRECTIONAL OMBUDSMAN OF QUÉBEC

Ministère de la Sécurité publique – Direction générale des services correctionnels

Québec's 19 detention facilities house offenders sentenced to incarceration for two years or less, and those awaiting trial or sentencing. Sentences of more than two years are served in penitentiaries administered by the Canadian government (Correctional Service of Canada).

In 2012-2013, about 42,460 people were admitted to Québec's detention facilities. Of these, 53% were detainees and 47% were awaiting trial. In 2011-2012, detainees spent on average 71 days in prison, while those awaiting trial spent 22 days.

As the correctional ombudsman of Québec, the Québec Ombudsman is responsible for conducting investigations following complaints about correctional services or about the Commission québécoise des libérations conditionnelles. The complainant can be a prisoner, a group, a third party or a free citizen. Detention facilities and courthouse cell blocks under Québec jurisdiction have a toll-free telephone number to contact the Québec Ombudsman. The results of an intervention by the Québec Ombudsman following a complaint often have a collective impact.

COMPLAINTS IN 2012-2013

The number of complaints received in 2012-2013 is up by 14.5%. The number of substantiated complaints is up by 20.5% over the previous year. The main grounds for complaints relate to healthcare, personal belongings, transfers, classification and prison conditions.

Prison overcrowding

Prison overcrowding is not a recent phenomenon. In its 2006-2007 annual report, the Québec Ombudsman noted that the capacity of Québec's detention facilities had long been exceeded and that overcrowding had been steadily growing for years. It has many causes, including a large number of offenders in preventive custody, an increase in people declining release on parole, mass arrests following large-scale police operations, and tougher sentencing ordered by the federal government. Services correctionnels du Québec did not of course cause the overcrowding, but they are in charge of managing the situation, while upholding inmates' residual freedoms.

This year has seen violent demonstrations in some detention facilities. While in some cases overcrowding was to blame, the Québec Ombudsman found that this was not always the case.

The main consequences of overcrowding as ascertained by the Québec Ombudsman are the deterioration of prison conditions, lack of privacy, tension between detainees and with staff, an increase in transfers from one facility to another, wrong classifications, medical appointment

postponements and staff exhaustion. One of the subjects covered by the Québec Ombudsman's special report on services for detainees with mental disorders, submitted in 2011, was the effect overcrowding has on this particularly vulnerable group.

STRATEGIES TO COMBAT OVERCROWDING

The Ministère de la Sécurité publique and detention facilities have set up a number of strategies to counter the effects of overcrowding. Here are the findings of the Québec Ombudsman concerning the repercussions of some of these measures on the prison population:

Addition of places by building "temporary modular buildings"

"Temporary modular buildings" have been constructed at the prisons of Amos, Québec City, Sherbrooke and Trois-Rivières. The Québec Ombudsman found that this measure has had limited impact because, for security reasons, the selection criteria are restrictive and exclude those awaiting trial, affiliated with a criminal organization or with a history of violence.

Construction of detention facilities

In 2007, it was announced that four new facilities in Sorel-Tracy, Roberval, Amos and Sept-Îles would be built. To date, none has been built. Anyway, according to the Québec Ombudsman's information, these four will add only 338 new spaces, since they are to replace outdated facilities due to be closed.

Doubling cell capacity

Another solution the Department found to increase prison capacity was to house two or even three inmates in cells designed for one. When a cell must serve double capacity, the consequences are lack of air, dirt, violence and tensions requiring physical intervention on the part of prison staff. The Québec Ombudsman's opinion is that such consequences can present a safety risk for both prisoners and staff.

One complaint the Québec Ombudsman dealt with this year shed light on another effect of doubling cell capacity: A prisoner shared a cell with an inmate who had received a disciplinary measure of cell confinement, and so had restricted access to the cell for several days, even though he had committed no breach. The Québec Ombudsman intervened to get the facility to allow this inmate reasonable access and stop him being unduly penalized, also to prevent the situation happening to others.

Reducing access to visiting rooms in the evenings and on weekends

When a facility exceeds maximum capacity, staff assigned to visiting rooms may be moved to sector surveillance for security reasons. The Québec Ombudsman feels this makes it harder for loved ones and lawyers to visit inmates, thus hindering social reintegration and infringing on their right to be represented. It therefore intervened with respect to one facility to grant visitors from far away or who have a weekday job access to the visiting room.

Transfer of inmates from one facility to another

Transferring prisoners from one facility to another is the main way of countering overcrowding. In 2012-2013 there were 29,290 transfers. This is an 11% increase compared with the previous year. The consequences of these repeated transfers are many and include: delays in taking medication, missed medical appointments, distance from family, difficulty accessing lawyers, postponed court appearances and assessment delays.

Female offenders in the prison system

In 2011 the Ministère de la Sécurité publique published a portrait of women detained in the Québec correctional network³. The following information is taken from this document. In 2007-2008, out of a total prison population of 51,814, there were 6,080 women, i.e. 12%. They were either incarcerated, or under supervision in the community, or a combination of both. While 54% of the women were held in two detention facilities (Québec – female sector and Maison Tanguay), the others were held in men's prisons. Usually, a limited sector is adapted for this female population, who generally stay just a few days before being transferred to a women's detention centre or being released.

The crime rate among women is around five times less than for men, and their prison sentences twice as short on average (78.2 days as against 145.5 days). Also, 71% of women in jail under a continuous sentence are there for less than 30 days.

So women are a minority in the correctional network. They feel this all the more strongly when detained in a predominantly male detention centre. Overcrowding has a particular impact on these women. Their needs are not always considered by management struggling with an acute shortage of places at certain times of year or else chronically. Also, they do not always have the courage to claim their rights. The Québec Ombudsman's recent visits to the Trois-Rivières and Maison Tanguay detention centres, in January and February 2013, revealed major problems: bad hygiene, unsuitable facilities, failings in medication distribution, and shortcomings in the assessment of women's needs.

TROIS-RIVIÈRES DETENTION CENTRE

Overcrowding at this facility has had major consequences for female offenders, whether staying temporarily for a court appearance, or serving an intermittent sentence. In fact the female sector has regularly been requisitioned to deal with overcrowding in male facilities, or when inmates are transferred from other facilities. So women were sent to cells in the admission sector (known as "bull pens"). Since the admission sector is not designed for accommodation, hygiene is ill-served. There is neither sink nor shower and cleanliness leaves much to be desired.

In January 2013, the Québec Ombudsman made an emergency visit to the female sector and the "bull pens" of the Trois-Rivières detention centre, following a complaint. It judged the use of the "bull pens" inappropriate and requested the authorities house the women in the female sector without delay. Because of overcrowding, the Québec Ombudsman agreed that women serving intermittent sentences could, as an exception, be put in "bull pens" for the night, on condition they had access to the female sector during the day. The facility acted upon the recommendation of the Québec Ombudsman. It also agreed to repaint the female sector and undertook to ensure that this sector as well as the "bull pens" be cleaned on Friday evenings by a paid inmate. The situation was resolved to the satisfaction of the Québec Ombudsman and is monitored regularly.

³ Lise GIROUX and Sylvie FRIGON, *Profil correctionnel 2007-2008: les femmes confiées aux Services correctionnels*, Québec, Services correctionnels, ministère de la Sécurité publique, 2011.

MAISON TANGUAY DETENTION CENTRE

This facility is in a bad state of dilapidation and overcrowded. To combat the overcrowding, on February 14, 2013, the facility put an end to an agreement with the Montreal detention centre, by which men registered in a therapeutic program were housed in one of the sectors of Maison Tanguay. This sector is now used to house women from overcrowded facilities.

Social reintegration

THE PARCOURS PROGRAM

One of the goals of the Parcours program is to sensitize and make accountable those inmates at high risk of re-offending. The program is a vital part of social reintegration. In fall 2012, the Québec Ombudsman noted that some detention facilities had halted or temporarily suspended this program, because of the unavailability of managers, lack of space, and a shortage of resources for safe supervision of detainees.

The Direction générale des services correctionnels confirmed to the Québec Ombudsman that all facilities would start re-offering the Parcours program by March 31, 2013. Also, follow-up was to be adjusted to obtain a more accurate assessment of the way the program is applied. The Québec Ombudsman is satisfied with these commitments and is following the situation closely, given the importance of the program.

DEADLINE FOR RISK ASSESSMENT FOR RE-OFFENDING AND POTENTIAL FOR SOCIAL REINTEGRATION

Inmates serving a sentence of more than six months are assessed after a sixth of their sentence – or, at the latest, 45 days after the sentence has been handed down – to assess their risk of re-offending and potential for social reintegration.

This year the number of files assessed⁴ within the prescribed deadlines, i.e. before a sixth of the sentence was 42.1% (45.7% in 2011-2012). Also 47.9% of assessments (43.8% in 2011-2012) did not comply with the deadline, i.e. they occurred between a sixth and a third of the sentence. And 4% of assessments (3.0% in 2011-2012) even occurred after a third of the sentence. It is clear that not only does the Department not manage to produce the assessments within the legally prescribed deadlines, but also the situation has worsened since last year. The Department informed the Québec Ombudsman that it was analyzing the resources allocated to perform these assessments, to try to improve performance. The Québec Ombudsman is following the situation closely.

⁴ Compliance with deadlines/risk and needs assessments in Québec 2011-2012 and 2012-2013.

PAROLE WAIVERS

Release on parole is one of the most important steps in social reintegration. The Québec Ombudsman is very worried about the constant increase in the number of detainees signing the parole waiver form. The percentage of waivers has in fact doubled over the last six years, rising from 24% in 2007 to 51% in 2011-2012. This increase could be related to the fact that detainees were not assessed within the prescribed time limits, i.e. at a sixth or a third of their sentence.

Healthcare in detention facilities

TOWARDS SERVICES THAT ARE BETTER ADJUSTED TO DETAINEES WITH MENTAL DISORDERS

In 2011-2012, the Québec Ombudsman published a special report entitled *Toward Services that are Better Adjusted to Detainees with Mental Disorders*. You can read the follow-up performed on the recommendations of this report in the chapter entitled *Report on Systemic Interventions* on page 100.

 The report is also posted on the website www.protecteurducitoyen.qc.ca, under the “Cases and Documentation” tab, “Investigation Reports and Special Reports” section.

CONTINUING MEDICAL TREATMENT WHEN TRANSFERS OCCUR

In its 2006-2007 annual report, the Québec Ombudsman recommended that correctional services “ensure that practices are improved so as to avoid, or else minimize, the negative impacts of the transfer on detainees’ healthcare and social reintegration”. The following year, it found that work had still not begun. A committee was finally set up in February 2010 and its report, containing 12 recommendations, was submitted in November that year. In its 2011-2012 annual report, the Québec Ombudsman noted that work to implement the committee’s recommendations had not begun, because the Ministère de la Sécurité publique was still awaiting comments from the correctional network. Once it had received these comments, the Department decided not to retain the committee’s recommendations, and advised the Québec Ombudsman of this decision.

A new working committee was created in 2012, mandated to establish criteria for transfers and methods of continuing services for detainees transferred. The Québec Ombudsman is very dissatisfied with this situation. It finds it incomprehensible that it took six years for the Department to realize that there were shortcomings in the initial recommendations and in the composition of the committee. It believes the task of the new working committee should be finished at the latest by December 31, 2013.

(... **A detainee transferred seven times despite health problems**

A citizen was transferred seven times in 44 days despite health problems requiring a strict medical diet. Following the Québec Ombudsman’s intervention, the director of the facility undertook not to transfer this detainee any more, unless for a court appearance. ...)

RESORTING TO RESTRAINTS WHILE UPHOLDING RIGHTS AND COMPLYING WITH RULES

In its 2011-2012 annual report, the Québec Ombudsman questioned the legality of physical restraints. Discussions have since taken place with the Department to re-assess provincial instructions. In future, a medical opinion will be necessary, as well as managers’ authorization, before such measures can be used.

USING THE ANTI-SUICIDE SMOCK APPROPRIATELY

Use of the anti-suicide smock for ends other than the protection of someone at risk of suicide or obviously in a state of mental disorganization is prohibited. To use it, the life of a detainee or of a third party must be in danger. The Québec Ombudsman sometimes notes an inappropriate use of the smock.

This year, one facility made detainees wear the smock, who were not suicidal, just to make them accept a sector change. The Québec Ombudsman intervened with management to get them to stop this unacceptable practice.

(... ***In the absence of a suicide cell mattress, a detainee has to sleep on the floor***

A citizen is put in a solitary confinement cell because in the opinion of the doctor and the facility's psychiatrist, he presents a suicide risk. Since the facility has no suicide cell mattress, the detainee has to sleep on the floor. Following the Québec Ombudsman's intervention, the detention centre obtained suicide cell mattresses for solitary confinement cells used for suicidal inmates or those in a profound state of mental disorganization. ...)

Errors in classification of detainees

The increase in the prison population means an extra work load for staff in detention centres, especially those responsible for classifying detainees when they are admitted. The classification depends on such factors as the person's physical and mental condition, their correctional and judicial record, their behaviour and progress towards meeting correctional plan goals.

During the year, the Québec Ombudsman dealt with a complaint concerning a citizen with mental health problems, who was incarcerated erroneously in an overcrowded sector. The Québec Ombudsman requested he be reassessed and put in the care of medical staff; this was complied with.

The Québec Ombudsman also intervened in 2012-2013 to have two co-detainees, who had been classified in the same sector, kept separate, because one had brought criminal charges against the other for assault. Whether or not contact has been prohibited, the facility must be vigilant for security risks. The Québec Ombudsman's intervention meant that staff were reminded of this principle, and the individuals were put in different sectors.

Unlawful detention of detainees under a court order for assessment

The Québec Ombudsman, which indicated in previous reports that it was unlawful to keep detainees in a detention centre who were under a court order for assessment, received confirmation that the Ministère de la Sécurité publique, the Ministère de la Justice and the judiciary had compiled a new form intended to rectify the situation. *L'Info Greffe* of October 2012 and January 2013 advised officers at the Ministère de la Justice about the amendments and the fact that the court would now be able to clarify the conditions relating to the court order.

The new form will make for closer monitoring of court orders for assessment in detention facilities, hospitals and courts. The court order can now set the custody conditions of a person charged, their transport and their return to court. This order should prevent situations occurring where detention facilities might detain a person charged without a formal court order. Moreover, it will allow the person charged to be returned without the necessity of issuing a remand warrant.

The Québec Ombudsman salutes the excellent cooperation of all parties in solving this problem. However, in March 2013, it found that the new form was not always being used in an optimal fashion. Some court registries for example were using the wrong form, or filling it in wrongly. The Québec Ombudsman contacted the Ministère de la Justice to ask it to rectify the situation promptly. It also made sure the Ministère de la Sécurité publique was ensuring that facilities were no longer in an unlawful situation regarding custody of detainees awaiting assessment.

Difficulty applying Department's agreements

The Ministère de la Sécurité publique is responsible for people incarcerated in the Kativik region in Northern Québec. Since 2005 its mandate has required it produce, at least once yearly, a written report on its observations and recommendations on compliance and security aspects of the places of confinement used in the region. On verifying, the Québec Ombudsman found this report had never been produced. The Department was informed of this, and agreed to produce a report promptly.

Restricted telephone access infringes on prisoners' rights

All detention centres have reverse-charge telephones detainees can use. However, the telephone system in use does not allow communication with someone on a phone line with a company other than Bell, a satellite phone (Northern Québec) or a cellphone. Also, it is impossible to reach someone who uses an automated reply system, as many lawyers' offices do. This infringes on detainees' rights, as it restricts their access to lawyers. It also hinders social reintegration because it makes it harder to contact family and aid agencies. The Department undertook to rectify the situation by setting up a new system in summer 2013.

Reports on visits and follow-up meetings

In 2012-2013, the Québec Ombudsman sent the authorities at detention facilities in Amos, Chicoutimi, Roberval, Québec City (male and female sectors) and Saint-Jérôme reports on the visits it had conducted. Follow-up meetings took place with the authorities at detention facilities in Sorel, Trois-Rivières, Sherbrooke, Saint-Jérôme, Rimouski and New Carlisle. These visits revealed certain problems, such as non-compliance with confidentiality of prescriptions, dirtiness of isolation cells and lack of follow-up on cleaning of cells. Courthouse cell blocks, which are under the responsibility of the Direction générale des services correctionnels of the Ministère de la Sécurité publique, were visited to check compliance of detention conditions. Overall, the conditions were good.



THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX AND ITS SERVICE NETWORK

This chapter is about the Ministère de la Santé et des Services sociaux and its service network. The network comprises almost 300 institutions offering services in over 1,700 facilities located in 18 administrative regions. These institutions are either public, under contract or private. The network is made up of physicians in some 2,000 medical clinics and offices, including family medicine groups. It has other partners in more than 3,600 community organizations, social economy enterprises that provide domestic services, and community pharmacies.

By virtue of the Charter of Human Rights and Freedoms, the Civil Code of Québec and the Act respecting health services and social services, all users of the public health and social services system enjoy the following rights:

- The right to appropriate health and social services;
- The right to respect for dignity and privacy;
- The right to respect for the confidentiality of one's medical record;
- The right to information;
- The right to make a complaint.

The mission of the Québec Ombudsman is to ensure that these rights are respected and to prevent harm to users by the bodies of the health and social services network.

COMPLAINTS IN 2012-2013

This year, the number of complaints and reports received by the Québec Ombudsman concerning health and social services increased by 9%, up from 1,088 in 2011-2012 to 1,186 in 2012-2013. Reports are down for the same period, from 245 to 239. Reports concern third-party requests for the Québec Ombudsman to intervene in situations that could compromise the health or well-being of one or more users of the network, who are often vulnerable. Facilities that accommodate vulnerable individuals were the most frequent subject of reports to the Québec Ombudsman. These people often fear retaliation and do not dare complain to the local or regional commissioner. So their friends and family often take the initiative.

The Québec Ombudsman concluded that 43% of the grounds for complaints and reports closed in 2012-2013 were substantiated, compared to 48.7% in 2011-2012. Most had to do with difficulties accessing care and services, wait times, or failure to respect users' rights. The Physical health program was the object of the largest amount of substantiated complaints. Where substantiated reports are concerned, the Age-related loss of independence program tops the list. The chapter *Results in figures*, on page 129, presents statistics by program or service, as well as other data of interest.

THE COMPLAINT EXAMINATION PROCEDURE

The Act respecting health services and social services sets out the guidelines for service management and provision. These state that recognition of the rights and freedoms of users must inspire every act performed in their regard. The complaint examination procedure that every institution must establish is one of the tools that measure whether this goal has been achieved.

Examining these complaints as a second-level recourse, the Québec Ombudsman has observed the difficulties local service quality and complaints commissioners have executing their mandate precisely because of the restrictions imposed on them. As the Québec Ombudsman has frequently emphasized in its annual reports, they do not all have the necessary resources and conditions in which to act. It has also noted that the effectiveness of the complaint examination procedure varies from one administrative region to another. Following a recommendation by the Québec Ombudsman, the Department decided to enlist the help of health and social services agencies to monitor the complaint examination procedure. The Québec Ombudsman will follow the impact of this decision.

FOLLOWING UP THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS

In December 2012, the Ministère de la Santé et des Services sociaux submitted an action plan listing the commitments and follow-ups it intended to perform in consideration of the Québec Ombudsman's recommendations. The Québec Ombudsman acknowledges the complexity of the issues involved and welcomes the quality of the cooperation it has received from the Department in most files.

The follow-up to the recommendations made to the Department can be found on page 156, in the chapter entitled *Follow-up to recommendations in the Québec Ombudsman's Annual Reports*.

This year, the Québec Ombudsman reports the problems that have been of particular concern in the following programs and services (listed in alphabetical order):

- Physical disabilities, intellectual disabilities and pervasive developmental disorders (PDD);
- Age-related loss of independence;
- Mental health;
- Physical health;
- Home support.

They were selected according to their seriousness, recurrence and impact on citizens.

Follow-ups to the recommendations in the Québec Ombudsman's investigation reports and special reports are set out in the chapter entitled *Report on Systemic Interventions* on page 91. Comments on bills and draft regulations are summarized in the chapter *Parliamentary Watch Report* on page 105, and in the relevant section for the program in question.

Physical disabilities, intellectual disabilities and pervasive developmental disorders (PDD)

COMPLAINTS IN 2012-2013

The number of complaints that the Québec Ombudsman received about physical disabilities, intellectual disabilities and pervasive developmental disorders (PDD) increased over the last 12 months. The amount of complaints the Québec Ombudsman deemed substantiated was also up. These mainly concern:

- Breakdown in service continuity between facilities;
- Difficulty accessing the different services;
- Quality and availability of residential care services.

PROBLEMS OF SERVICE COORDINATION AND CONTINUITY

For several years, the Québec Ombudsman has raised the problems of service coordination and continuity for people with physical disabilities, intellectual disabilities or pervasive developmental disorders (PDD). In light of the complaints it has been receiving, it is worried about the situation of these people.

The Québec Ombudsman welcomes the improvements made to services for other clientele, especially seniors. Still, it considers such improvements should not take place to the detriment of people with physical or intellectual disabilities, since these people are also very vulnerable.

Thus, home support services, which allow disabled young people to live a more normal life, have been reduced or abolished. As for residential and long-term care centres (CHSLDs), they do not always live up to the legitimate expectations of community inclusion on the part of the young people and adults they house.

NEED FOR ASSESSMENT VISITS TO RESIDENTIAL RESOURCES

In 2011, the Québec Ombudsman recommended that the Ministère de la Santé et des Services sociaux modify its assessment visits to ensure that every person who lives in a substitute living environment associated with the public system, whether it be an intermediate resource or a family-type resource, receives adequate services and has a quality physical environment. The Department announced then that optimization work was underway.

Two years on, the Department is still at the stage of drawing up an assessment grid. No visit has taken place since, and the Department cannot divulge its plans in this regard. The Québec Ombudsman is still finding shortcomings in intermediate and family-type resources.

(... **History repeats itself**

In 2010, the Québec Ombudsman, on its own initiative, intervened with regard to an intermediate resource housing six severely handicapped people. This intermediate resource, under contract to a rehabilitation centre for intellectual disabilities and pervasive developmental disorders, shut down. This year, the Québec Ombudsman dealt with a complaint about the new intermediate resource now housing these users and linked to the same rehabilitation centre. It found many of the problems brought to light during its 2010 intervention were recurring:

- *The resource presents severe shortcomings in the living environment of the users (inactivity and lack of stimulation);*
- *The food does not comply with the contract between the resource and the rehabilitation centre;*
- *The rehabilitation centre does not carry out the necessary monitoring: There are deficiencies in service planning, in communicating to the resource what is expected of it, and in professional follow-up.*

The Québec Ombudsman made recommendations to the rehabilitation centre to have the problems in the intermediate resource rectified once and for all, and to prevent the situation occurring in other resources under its responsibility. It is monitoring the rehabilitation centre very closely to check its recommendations are being followed. ...)

IMPORTANCE OF DAY ACTIVITIES FOR PEOPLE WITH A DISABILITY⁵

Before the reorganization of services in the the health and social services network in 2003, rehabilitation centres for intellectual disabilities and pervasive developmental disorders (RCID-PDD) offered services to care for people who had finished their schooling. These services included a day centre for people unable to join the workforce. Attendance at a day centre is important because it fosters the acquisition of social skills. It helps the disabled fulfill themselves, while allowing loved ones to pursue their professional and personal activities. Because the role of RCID-PDDs was redefined towards specialized intervention, they no longer offer this service, which is now run by health and social services centres (CSSS). But the CSSS are struggling because of a lack of financing. Thus the services are subjected to long waiting lists and are disparate, fragmented and sometimes expensive. This completely upsets family life. Some parents fear they will have to leave their job to look after their young adult, while others are considering housing the young person in a network resource.

⁵ On April 8, 2013, the Minister for Social Services announced the creation of a taskforce and a recurrent investment of 10 million dollars, specifically targeting organization of socioprofessional services for people aged 21 and over with a PDD, an intellectual or a physical disability. The taskforce is mandated to improve, in the short term, socioprofessional services and adapted residential services.

(... **Over 21? No more services...**

A group of parents whose children will soon reach 21 years of age called on the Québec Ombudsman following the decision by the rehabilitation centre to stop offering day centre services to this clientele. Although local and community initiatives have been organized since, they can only partially cover the loss of these services. Also, citizens have to pay part of the related costs. ...)

(... **Services suspended over the summer**

Because of lack of financing, a community organization offering leisure services to about fifty people living with an intellectual or physical disability had to close its doors over the summer. This closure had a major impact on these people, breaking their routine and stopping activities that were beneficial to them. It also deprived their loved ones of vital respites. The Québec Ombudsman recommended that the relevant health and social services agency and the CSSS state how much money is available for day activities in their territory and look into the possibility of giving it to the community organization as part of a partnership agreement. The agency and the CSSS accepted the recommendations and are devising a way of implementing them. ...)

SERVICES FOR PEOPLE WITH PERVASIVE DEVELOPMENTAL DISORDERS: GOVERNMENT COMMITMENT AND REALITY

In 2009-2010, the Québec Ombudsman published a special report on government services for children aged 0 to 7 with a PDD. This year, it submitted a second report on the same subject, this time about children over 7 and adults. The follow-up performed on the recommendations of these reports can be found in the chapter entitled *Report on Systemic Interventions* on page 96.

 The reports are also posted on the website www.protecteurducitoyen.qc.ca, under the "Cases and Documentation" tab, "Investigation Reports and Special Reports" section.

Age-related loss of independence

COMPLAINTS IN 2012-2013

This year, the Québec Ombudsman received many more complaints and reports than in 2011-2012. However, fewer complaints and reports were deemed substantiated after investigation. The substantiated complaints and reports were mostly clinical in nature, essentially concerning organization of care and services, quality of help with everyday activities, and supervision. Staff behaviour and attitudes also gave rise to a number of substantiated complaints.

Moreover, some complaints and reports are of particular concern with regard to quality of care and services provided to the elderly housed in private nursing homes as part of purchase agreements for places by the public network.

ENSURING QUALITY OF CARE AND SERVICES FOR PEOPLE TEMPORARILY HOUSED IN PRIVATE NURSING HOMES

For several years, the health and social services network has seen a recurring problem of overcrowding in hospital emergency rooms. One of the reasons is that elderly people awaiting a permanent place in a nursing home are occupying hospital beds.

There is great pressure to reduce overcrowding in emergency rooms, and health and social services centres (CSSS) and regional health and social services agencies are using a variety of measures to solve the problem. These often involve making purchase agreements for places with private nursing homes. The point of the agreements is to house the elderly on a temporary basis, until a place in a suitable home becomes available.

While being supportive of the objective of reducing overcrowding in hospital emergency rooms, the Québec Ombudsman has found, while processing complaints and reports, the pursuit of this objective has caused prejudicial impacts on users. So seniors housed by virtue of places the public network has purchased from private homes often find themselves in residences that cannot adequately meet their needs.

(... Agencies should monitor more closely the care provided in private residential and long-term care centres (CHSLDs) with which they have service agreements


The Québec Ombudsman has received a report on the quality of care and services provided to residents of a private, non-government regulated CHSLD where the majority of places are purchased by the regional agency to reduce emergency room overcrowding. The report revealed that resident supervision was inadequate, that staff were not properly trained and that they exhibited attitude and conduct problems. It also mentioned the inappropriate use of restraint.

While the Québec Ombudsman was investigating this, a second report arrived, describing negligence in nursing care provided to a resident of the same CHSLD. The investigation following these reports confirmed worrying facts about resident supervision, care provided and the attitude of the CHSLD staff.

The Québec Ombudsman questioned the quality control performed by the agency, considering that the latter had purchased most of the places at the CHSLD. The Ombudsman found that since 2009, the CHSLD had been the subject of recommendations by the Coroner's Office and the Ministère de la Santé et des Services sociaux. These recommendations targeted the quality living environment and a good level of care for residents. The Québec Ombudsman noticed that several recommendations had still not been implemented at the CHSLD, and that the agency was still purchasing places there without asking for the necessary improvements to be made.

So the Québec Ombudsman wrote the agency a recommendation that it take measures to ensure the quality of the residents' living environment and level of care as part of service agreements with this CHSLD. The Québec Ombudsman is closely following the implementation of its recommendation.

The Québec Ombudsman also made five recommendations for the CHSLD. These were aimed at improving the way residents' needs were met. The subjects they covered included staff attitudes, nursing care, quality control and psychosocial follow-up. The Québec Ombudsman is making sure that the CHSLD puts these recommendations into practice. ...)

 The Québec Ombudsman's intervention report is on the website www.protecteurducitoyen.qc.ca, under the "Cases and Documentation" tab, in the "Intervention Reports" section.

(... **A patient is removed from a palliative care unit and temporarily put in a private residence**

An elderly person is removed from a public CHSLD palliative care bed and transferred to a seniors' residence. The complaint concerns the quality of care and service offered to this person in the new residence. The facts are as follows:

- *The person had terminal cancer and was admitted to the palliative care unit of a public CHSLD;*
- *Five months later, his health stabilized and the CSSS judged he no longer needed palliative care;*
- *The patient was transferred to a private seniors' residence where the CSSS purchased a place for him;*
- *Three weeks after being transferred, the patient's health deteriorated. He was admitted to the hospital, where he died five days later.*

The investigation showed that the patient was transferred because of hospital emergency room overcrowding and so the CSSS decided to house him in a private seniors' residence, where it had purchased a place for him. When he arrived in the private home, the patient began showing major behavioural problems, which the staff found difficult to cope with.

The Québec Ombudsman's investigation also revealed major gaps in follow-up by the CSSS following the patient's transfer to the private home:

- *He received no psychosocial follow-up;*
- *He was not visited by a CSSS nurse until three weeks after the transfer;*
- *The purchase of places was not formalized by any agreement between the CSSS and the private home: the roles and responsibilities of both the home and the CSSS were never set out, nor were the expectations regarding the quality of patient care.*

The Québec Ombudsman recommended the CSSS extend its follow-up and care mechanisms so residents get the care and services they need depending on their psychosocial condition and state of physical health. The Québec Ombudsman also recommended the CSSS formalize its purchase of places by agreements setting out factors such as the expectations of what the residence can offer according to the specific needs of the person transferred. ...)

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION FOR QUALITY OF CARE AND SERVICES FOR PEOPLE TEMPORARILY HOUSED IN PRIVATE HOMES

Whereas that efforts to reduce hospital emergency room overcrowding put a lot of pressure on public institutions and regional agencies to increasingly resort to temporary accommodation in private homes;

Whereas the gaps in quality of care and services provided to residents temporarily housed in private homes under service agreements with public institutions;

Whereas the absence of clear guidelines on standards of quality expected from private homes with respect to their response to the needs of users transferred as part of these agreements, and given public institutions' varying levels of involvement in quality control in private homes;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX:

- Take measures to ensure that residents housed by virtue of agreements for purchasing places receive the care and services that match their needs assessment. The Québec Ombudsman requests that the Ministère de la Santé et des Services sociaux inform the Ombudsman of measures taken to meet this recommendation.

≈ COMMENTS BY THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

Here is the Department's response to the Québec Ombudsman's recommendation:

"The Ministère de la Santé et des Services sociaux has already put in a lot of work to improve the care and services for elderly people. It has worked specifically on services offered to users housed under purchase agreements for places.

The Department is currently devising a service supply covering the continuum, which details the different services that vulnerable seniors should be offered, the roles and responsibilities of service providers, and which will define standards of accessibility, continuity, efficiency and effectiveness. The Department will begin progressively releasing notices of the service supply in spring 2014.

In fall 2012, the Department began an in-depth review of the progress of inspection visits to CHSLDs. The visits assess the whole environment to bring to light anything that might help implement guidelines, and to ensure that the residents benefit from a quality living environment. This assessment takes place regardless of purchase of places.

Finally, the regulation on certification of private seniors' residences (PSR) came into force in March 2013, granting increased power to health and social services agencies. Thus, regional respondents are in charge of informing PSR managers of the obligations specified in the regulation and of guiding them to ensure measures are taken to meet the standards and criteria stated therein. Department inspectors are visiting PSRs without warning to check that certification conditions are being met." (translation)

INSPECTION VISITS OF PRIVATE SENIORS' RESIDENCES

The Québec Ombudsman would like to underline the efforts made this year by the Ministère de la Santé et des Services sociaux regarding inspections of seniors' residences. The creation of an inspection department and team who carried out 300 inspections would indicate tighter quality control over services provided by these private homes.

QUÉBEC OMBUDSMAN'S REACTION TO DRAFT REGULATION RESPECTING THE CONDITIONS FOR OBTAINING A CERTIFICATE OF COMPLIANCE AND THE OPERATING STANDARDS FOR A PRIVATE SENIORS' RESIDENCE

The Québec Ombudsman issued 12 recommendations regarding this draft regulation, from the point of view set out in the consultations on Bill 16 in September 2011. In them, the Québec Ombudsman underlined the importance of establishing rigorous certification criteria and visits to seniors' residences aimed at guaranteeing that residents' rights were being respected, especially regarding safety, service quality, respect and quality of life.

A summary of the intervention of the Québec Ombudsman and its recommendations can be found in the chapter entitled *Parliamentary Watch Report*, on page 116 of this report.

 The Québec Ombudsman's brief on the draft regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence can be consulted on the website www.protecteurducitoyen.qc.ca, under the "Cases and Documentation" tab, in the "Reactions to bills and legislation" section.

Throughout the year, the Québec Ombudsman also issued remarks about two draft regulations, respectively amending the Building Code and the Safety Code. These draft regulations aimed to modify building requirements with regard to limiting the water temperature in shower and bath faucets in private seniors' residences and care facilities such as CHSLDs. A summary of the Québec Ombudsman's intervention can be found in the chapter entitled *Parliamentary Watch Report*, on page 116.

 Also available for consultation is a letter from the Ombudsperson to the CEO of the Régie du bâtiment du Québec on the website www.protecteurducitoyen.qc.ca under the "Cases and Documentation" tab, in the "Reactions to bills and legislation" section.

Mental health

COMPLAINTS IN 2012-2013

The number of complaints and reports received in 2012-2013 remained stable compared with the previous year. However, the number of substantiated complaints and reports increased. The main grounds are as follows:

- Deficient application of the Act respecting the protection of persons whose mental state presents a danger to themselves or to others;
- Inappropriate use of control measures;
- Restrictions of users' rights;
- Inadequate or non-existent information in users' files;
- Attitude and behaviour of staff.

Throughout the year, the Québec Ombudsman noted a rise in applications concerning dissatisfaction with points of access for mental health, including difficulty obtaining psychological services and a lack of cooperation among different partners in the network.

ABSENCE OF CONSENT TO PLANNED CONTROL MEASURES

A control measure can be use of force, isolation or restraint to prevent a person injuring himself or others. Given that these measures exert a major impact on a person's basic rights and freedoms, their use should be minimal, exceptional and based on the person's mental and physical condition. To regulate the application of such measures, the Ministère de la Santé et des Services sociaux set out guidelines and drew up the *Cadre de référence pour l'élaboration des protocoles d'application des mesures de contrôle*⁶.

The Québec Ombudsman finds that some facilities do not obtain the consent of a user or their representative, nor court authorization when applying a control measure over several days, weeks or months. Yet departmental guidelines are clear on this point: In exceptional cases workers can use control measures without obtaining the person's consent **if the situation is urgent, unforeseeable, and presents imminent risk of danger for the person or someone else**. In any other situation, i.e. when the situation is planned, consent is required.

In 2009, while examining a complaint, the Québec Ombudsman recommended the Department verify the practices of a facility that did not systematically obtain consent for planned control measures. Three years later, after the Québec Ombudsman had repeated its recommendation several times, the Department replied as follows: "In the context of a planned intervention, a person's consent is required. However, if they withdraw their consent when the control measure is being applied as specified in the intervention plan, and their behaviour puts them in a situation of imminent danger for themselves or others, the team can apply the measure as if it were an unplanned intervention."

It can happen that a person withdraws consent momentarily just when a planned measure is being applied, i.e. a measure provided for in an intervention plan and agreed to by the user or their representative. Then, the criteria of the unplanned measure must be applied.

⁶ MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX, *Cadre de référence pour l'élaboration des protocoles d'application des mesures de contrôle*, August 16, 2011.

However, when the initial measure continues to be applied for some duration, the Québec Ombudsman believes the situation no longer meets the criteria of unforeseeability and emergency necessary to the application of an unplanned measure. In this case, without compromising the validity of the measure, consent— or court authorization—must be obtained.

(... A planned situation acknowledged as such by the treatment team

After a major and unforeseen altercation, a user was put in isolation. At the time, no consent was required, because the measure was unplanned. But the isolation lasted nearly 50 days. According to the medical notes, the patient represented a danger, and the team was waiting for him to be transferred to another facility. In the opinion of the Québec Ombudsman, as time went by isolation became a planned measure. So consent or court authorization should have been obtained. A recommendation in this respect was made to the facility. ...)

(... Over 70 days of “removal” in her room

A user in a specialized mental health institution was not allowed to leave her room except for occasional periods of 15 minutes. Staff members, including the doctor, did not consider this isolation, for although the woman was confined to her room, the door was unlocked. In the opinion of the facility’s local service quality and complaints commissioner and of the Québec Ombudsman, who undertook investigations simultaneously, it was a clear case of planned isolation, since the user was not allowed to leave her room freely. Because of this, consent should have been obtained. ...)

THE QUÉBEC OMBUDSMAN’S RECOMMENDATION ON ABSENCE OF CONSENT TO PLANNED CONTROL MEASURES

Whereas there is an obligation on the part of all service programs in the health and social services network to obtain consent or court authorization when applying a planned measure;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX:

- Take measures to ensure that when an unplanned control measure turns into a measure of some duration, facilities obtain the required consents.

≈ COMMENTS BY THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

Here is the Department’s response to the Québec Ombudsman’s recommendation:

“Departmental guidelines on the use of control measures in exceptional cases circumscribe for recourse to restraint and isolation. Responsibility for the decision to continue the measure rests with the healthcare team. Indeed, if the healthcare team thinks that after a crisis situation the person still represents a danger to himself or to others, and recourse to control and isolation measures should be continued, it is the Act respecting health services and social services (s. 9 and 10) that sets out guidelines for obtaining the user’s consent or authorization from the court. Quality referees will be reminded of this matter.” (translation)

MEASURES TAKEN BY FACILITIES IN CASE OF ATTACKS

For institutions offering mental health services, the obligation of ensuring a secure environment and the measures taken to obtain this are major concerns. These institutions are often called upon to take care of people in a state of crisis. They have to set up various preventive measures and risk management plans so that staff are properly equipped to make effective interventions and ensure a peaceful and safe healthcare environment. The Québec Ombudsman believes that seeking a good balance between clinical needs of people with mental health problems and the safety of users, staff and visitors must be an ongoing concern in these institutions. What happens when existing measures are inadequate to prevent or control an attack?

Over the last few months, the Québec Ombudsman has received complaints arising from situations where either staff members or users called the police following attacks by hospitalized users. The complainants considered that police interventions had no place in a healthcare setting. The Québec Ombudsman believes institutions should do all they can to reduce to a minimum the necessity of calling the police. However, anyone who is a victim of or witness to a criminal act has a right to lodge a complaint with the police, even if they are a health professional. In such situations, medical guidance is essential to ascertain whether the state of health of the user in question permits him, if necessary, to leave the unit safely, accompanied by police, and to ensure his prescribed medication continues to be taken.

(... Coping with a sudden attack

A user hospitalized in a psychiatric unit was arrested by police and taken to a police station after a nurse lodged a complaint for assault. The user's parents appealed to the Québec Ombudsman, because they felt that staff managed the situation badly and the police did not have to be involved. They believed their son should never have had to leave hospital.

The Québec Ombudsman's investigation revealed that the staff were suitably trained and that the interventions prior to the event in question represented good practice. The unforeseeability of the attack meant it was impossible to prevent. The Québec Ombudsman considers that the nurse who suffered the attack was entitled to call the police. What is more, a specialized and specific medical opinion allowed for police intervention in case of reprehensible behaviour on the part of this user. So given this exceptional situation, police intervention was justified.

However, the file should have been better documented with regard to medical authorization when the user left with the police, and to the medication the police went away with. The Québec Ombudsman made a recommendation in this regard to the institution, which agreed to act on it. ...)

TOWARDS SERVICES THAT ARE BETTER ADJUSTED TO DETAINEES WITH MENTAL DISORDERS

In 2011-2012, the Québec Ombudsman published a special report entitled *Toward Services that are Better Adjusted to Detainees with Mental Disorders*. You can read the follow-up performed on the recommendations of this report in the chapter entitled *Report on Systemic Interventions* on page 100.

 The report is posted on the website www.protecteurducitoyen.qc.ca, under the "Cases and Documentation" tab, "Investigation Reports and Special Reports" section.

Physical health

COMPLAINTS IN 2012-2013

The number of complaints and reports received in 2012-2013 has risen compared with last year. But the number of substantiated complaints and reports has decreased. Complaints particularly concern hospital emergency rooms, especially wait times before receiving medical treatment and the lack of reassessment during the wait. Other problems analyzed by the Québec Ombudsman include end-of-life care, access to a family doctor and accessory costs.

EMERGENCY ROOM OVERCROWDING: FINDING OUT THE EXTENT OF THE PROBLEM

The Québec Ombudsman has often deplored wait times in emergency rooms. This year once more, citizens have had to wait several hours before seeing a doctor, after being examined by a nurse and sent to the waiting room. The Ministère de la Santé et des Services sociaux does not record these wait times. Instead, it records the average length of time a user spends on a stretcher.

The Québec Ombudsman believes that total waiting times (on stretcher and ambulatory) should be compiled for each hospital centre in Québec. The data should be accessible to the public in real time and be easy to consult so citizens can make an enlightened choice as to where to go for treatment.

The Department informed the Québec Ombudsman that it intends to set up a shared emergency database in late 2013. The average wait time for ambulatory clientele would then be published. The Québec Ombudsman supports this decision and invites the Department to put it into action within the planned time frame.

EMERGENCY ROOM OVERCROWDING: MEASURING THE IMPACT OF CHOSEN SOLUTIONS

To foster optimal management of emergency rooms, the Ministère de la Santé et des Services sociaux communicated certain expectations to hospitals. These institutions must meet the targets set by the Department, such as obtaining an average stay on a stretcher of 12 hours.

To meet the targets, the Department encourages hospitals to sign agreements with family medicine groups and network clinics to redirect users whose condition is not immediately critical (acuity level 4: less urgent, or 5: non-urgent). The Québec Ombudsman approves of this use of front-line resources, but notes that the Department does not always measure the result of its chosen solution.

(... **Applying redirection agreements**

A citizen with a lacerated hand went to a hospital emergency room to have it stitched. He was assessed by the triage nurse, who gave him acuity level 4. After waiting 21 hours, the citizen was told there was an agreement between this hospital and a medical clinic to treat users with an acuity level of 4 or 5. The triage nurse should have directed the individual immediately to this clinic, thus sparing him a very long wait.

The Québec Ombudsman recommended the hospital ensure that emergency users with an acuity level of 4 or 5 get the information they need, and, if necessary, guidance during their redirection to the clinic, in compliance with the redirection agreement. ...)

(... **Assessing pain levels**

A citizen attended a hospital centre emergency room with trembling, sweating, headache and whitish discharge on his arm. The nurse assessed him, gave him acuity level 4 and directed him to the waiting room. After reassessment, staff invited him to go to a clinic, in accordance with a redirection agreement between the two institutions. The citizen refused, but left the hospital centre to go to the emergency room of another hospital.

When he arrived, the triage nurse considered the pain he was in before estimating his need of priority. She gave him acuity level 3 (urgent). The citizen was immediately put on a stretcher and examined by the doctor less than an hour after his arrival in the emergency room.

Pain intensity should be part of the initial assessment, according to the Canadian Emergency Department Triage and Acuity Scale (CTAS). The Québec Ombudsman recommended the hospital ensures its staff now use this scale when assessing patients in the emergency room. ...)

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION ON REDUCING EMERGENCY ROOM OVERCROWDING

Whereas redirection agreements for users with an acuity level of 4 or 5 is a measure favoured by the Department to help reduce emergency overcrowding;

Whereas increasing front-line accessibility during difficult times remains a measure the Department favours;

Whereas the Department's Direction nationale des urgences was unable to tell the Québec Ombudsman how many institutions have signed a redirection agreement with a family medicine group or a network clinic;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX:

- Draw up a report on patients who were redirected following agreements between hospitals and family medicine groups and network clinics.

≈ COMMENTS BY THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

Here is the Department's response to the Québec Ombudsman's recommendation:

"To date, there has been no development to make emergency wait times accessible in real time and easy to consult so citizens can make an enlightened choice as to where to go for treatment. In the coming year, the Department will draw up a report on patients who were redirected following agreements between hospitals and medical clinics, family medicine groups (FMG) or network clinics." (translation)

FEES CHARGED TO CITIZENS


The Québec Ombudsman received this year too a number of complaints about fees charged to users by doctors or by pharmacists doing activities delegated by doctors, but who are not covered by the health insurance plan. The Québec Ombudsman considers that transparency and respect for citizens require that they be informed of the actual options regarding care services and insurance coverage.

The Québec Ombudsman has observed that users were prescribed tests by a physician for diagnostic purposes, but were not told how long they would really have to wait before a service became available. Concerned about the time it was taking to get an appointment, they inquired, only to find it could take several months before the test would be done. If they had received this information sooner, they could have tried to find an alternative by choosing a different hospital, or a private clinic.

On the other hand, the Québec Ombudsman has observed that some staff tell citizens from the outset that there is a clinic available at once for a diagnostic test. But services in these clinics are not free. As citizens do not generally know how soon the hospital can perform the prescribed tests for free, they cannot take an enlightened decision as to which option to choose; this could have financial consequences.

THE QUÉBEC OMBUDSMAN'S COMMENTS ON DRAFT REGULATIONS

During the course of the year the Québec Ombudsman commented on six draft regulations stipulating which professional activities can be practised by pharmacists. It agrees with the addition of new activities, including prescription and administration of some medications, prescription and interpretation of laboratory analyses, renewal and adjustment of doctors' prescriptions, and substitution of a prescribed medication. However, it has reservations about the financial impact these new measures could have on citizens, and fears that services hitherto offered for free by doctors could be billed by pharmacists. A summary of the Québec Ombudsman's intervention can be found in the chapter entitled *Parliamentary Watch Report*, on page 122.

 Also available for consultation is a letter from the Québec Ombudsperson to the Chair of the Office des professions du Québec on the website www.protecteurducitoyen.qc.ca under the "Cases and Documentation" tab, "Reactions to bills and legislation" section.

Home support

COMPLAINTS IN 2012-2013

The number of complaints received by the Québec Ombudsman in 2012-2013 regarding home support services is down compared with 2011-2012. However, the number of substantiated complaints has risen. They mainly concern a reduction in service hours following changes to the home support management frameworks of health and social services agencies and health and social services centres.

IS HOME SUPPORT ALWAYS THE OPTION OF CHOICE?

In 2011-2012, the Québec Ombudsman published a report entitled *Is home support always the option of choice? Accessibility of home support services for people with significant and persistent disabilities*. This year it also notes the same problems: number of service hours below what is set by needs assessments, addition of new exclusion criteria, regional disparities and lengthening of wait times. It will examine closely the proposals set out in the white paper announced by the Ministère de la Santé et des Services sociaux to see that they remedy these shortcomings.

The follow-ups to the recommendations in this report can be found in the section *Report on Systemic Interventions* on page 99.

REPORT ON SYSTEMIC INTERVENTIONS

This chapter covers the systemic interventions conducted by the Québec Ombudsman and their follow-up during 2012-2013. Given far-reaching injustices involving several departments, public organizations and different network institutions, systemic intervention examines the links between the different elements that can at first glance appear independent. The systemic intervention aims to prevent harm, and so it suggests ways of improving, in a concrete and sustainable way, the quality of the different public services it covers.

First, four systemic interventions done this year are summarized: *Safe management of chrysotile asbestos in Québec*, *Financial contribution towards the placement of minors*, *Organization of emergency response services for accidents that occur off-road* and *Services for young people and adults with a pervasive developmental disorder (PDD)*. The follow-up to some of the Québec Ombudsman's interventions that were made public over the last few years is presented afterwards.

Safe management of chrysotile asbestos in Québec

In 2012, the Québec Ombudsman began a systemic intervention on the management of asbestos in Québec, in conformance with its harm prevention role. It looked at asbestos in buildings and public spaces, to ensure that the current rules protect people's health and safety.

In Québec, several types of asbestos are permitted. Most buildings contain it and asbestos materials continue to be used today. Unlike many countries and governments that have banned asbestos, Canada and Québec have chosen a policy for the "increased and safe use" of the material.

Asbestos is a known carcinogen. Its fibres, which are invisible to the naked eye, are toxic when inhaled. If materials containing it are not damaged or moved, i.e. if the asbestos fibres are not released into the air, there is no danger to health. For the present, scientists have established that there is no safe level for asbestos exposure when the fibres are inhaled; in theory, to be exposed to it just once can cause diseases such as cancer.

THE POLICY FOR INCREASED AND SAFE USE

In 2002, Québec adopted a Policy Concerning the Increased and Safe Use of Chrysotile Asbestos in Québec, which is still in force. The policy provides for actions that promote the use of chrysotile asbestos, the type of asbestos extracted from the ground in Québec, and the use of safe practices.

The Québec Ombudsman investigated the departments covered by the policy:

- The Ministère de la Santé et des Services sociaux;
- The Ministère des Transports;
- The Ministère des Ressources naturelles;
- The Ministère du Développement durable, de l'Environnement, de la Faune et des Parcs;
- The Ministère des Finances et de l'Économie;
- The Commission de la santé et de la sécurité du travail (CSST).

The Québec Ombudsman also contacted the Régie du bâtiment du Québec, the Ministère des Relations internationales, de la Francophonie et du Commerce extérieur and the Ministère de l'Éducation, du Loisir et du Sport. It also benefited from the cooperation of the Institut national de santé publique du Québec, as well as experts outside the public network.

At the beginning of the intervention, the two main asbestos mines in Québec had just been mothballed, but were hoping to re-start soon. In the summer, the Québec government awarded a loan of 58 million dollars to reopen the Jeffrey mine in Asbestos. After the election of September 4, the new government revoked the loan and announced its intention to stop financing the asbestos industry in Québec. At the same time, the federal government declared it would no longer oppose asbestos being on the Rotterdam Convention's list of dangerous products.

So the background to the policy changed during the intervention, which made it easier to adopt a safer regulatory framework. During its intervention, the Québec Ombudsman identified a major issue: locating and managing asbestos in buildings.

LOCATING AND MANAGING ASBESTOS IN BUILDINGS

Since 1999, the CSST had been preparing a draft regulation on locating and managing asbestos in buildings where people were working. This draft, also mentioned in the policy, was not ready by the time of the Québec Ombudsman's intervention. However, soon after the Québec Ombudsman began its work, it noticed a certain flexibility in the CSST and the other bodies that were involved. The draft regulation was finally published in the *Gazette officielle du Québec* on December 27, 2012.

It provides that, during the two years after its ratification, all buildings where there are workers must be inspected for asbestos spraying⁷ and heat insulation⁸ containing asbestos. This is the responsibility of employers, who must have a log and keep it updated. They are also obliged to take necessary measures if these materials are likely to release asbestos fibres into the air. Furthermore, building owners must ensure the regulations are respected in common areas that could be affected.

The Québec Ombudsman believes these amendments will considerably boost asbestos safety, in the sense of the policy. These new measures should help prevent construction and maintenance workers being exposed to asbestos; they are currently the people most likely to contract diseases related to the substance.

Moreover, the amendments state that workers must be informed about the risks, prevention methods and safe working methods, information the Québec Ombudsman's investigation also designated a major prevention factor. This obligation is for all workers affected by work related to asbestos, not just the people actually carrying out the work.

⁷ Asbestos spraying is a mixture of friable materials sprayed on to a surface.

⁸ Heat insulation is used to cover some items, like pipes, to prevent heat escaping from them.

And finally, the regulation should allow for existing safety measures to be applied more fully. Such is the case with the measure that allows for a material to be considered to contain asbestos if it contains at least 0.1% asbestos. This value is lower than in other Canadian provinces, where it is 1.0% (0.5% in Ontario). In Québec, once a material is found to contain at least 0.1% of asbestos, the CSST can take preventive measures to reduce workers' exposure to a minimum. For example, it can require the amount of fibres in the air to be reduced to below prescribed values and impose suitable respiratory protection.

Given that this new draft regulatory framework satisfies the main concerns of the Québec Ombudsman, the latter has closed its systemic intervention. It reiterates that employment health and safety legislation is based on the principle of accountability on the part of both employers and employees, with respect to the prescribed standards. The 300 inspectors designated for the whole of Québec cannot visit every site, and what is more the task is made harder because construction workers move about a lot. Although improved, the regulatory framework can only be effective insofar as employers and employees apply it. In this regard, the Québec Ombudsman will remain vigilant regarding the implementation of the new measures of the regulation after it has been ratified.



The Québec Ombudsman's letter to the chairman and chief executive officer of the CSST on this subject is posted on the website www.protecteurducitoyen.qc.ca, under the "Cases and Documentation" tab, "Reactions to bills and legislation" section.

The financial contribution towards the placement of minor children

This year the Québec Ombudsman produced a report on the financial contribution required of parents whose minor children are removed from the family environment and placed in a substitute environment.

This financial obligation is based on the principle that the primary responsibility for the care, maintenance and education of a child and for ensuring his supervision rests with the child's parents. Therefore the purpose of the contribution is to preserve parent responsibility and ensure the participation of parents in the financial cost of their child's lodging in a substitute environment. Regardless of the kind of residential resource and the act under which placement was ordered, the financial contribution, which is determined according to the child's age, the parents' income, the number of dependent children and the family's composition, is collected by the youth centre.

The Québec Ombudsman acknowledges that it is appropriate that parents contribute financially when their child is placed, regardless of his or her biological, psychological or social condition. However, in the course of the investigation it conducted, it noted that the way in which the current regulatory framework is applied is prejudicial for children placed in a substitute environment and for the parents. It also noted unfairness stemming from the disparities in contribution calculation, billing and collection from one youth centre to another. The Québec Ombudsman believes that the current regulation should be amended and efforts must be made to make youth centre practices more equitable and effective.

AN OBSOLETE REGULATION THAT IS PREJUDICIAL TOWARDS VULNERABLE FAMILIES

Today, nearly 80% of cases in which parents are required to make the contribution payment involve interventions under the *Youth Protection Act* with regard to vulnerable families, the majority of which are low-income. The Québec Ombudsman noted that the regulation in force has not kept pace with advances in youth protection and does not take into account the various changes to child tax benefits since 1997 (abolition of family allowances and introduction of the child assistance payment).

In order to foster collaboration between parents and youth centre workers, the Québec Ombudsman recommended that contribution rates be adjusted and the method for calculating the contribution be reviewed to factor in parents' ability to pay, based on fiscal realities today.

In several situations, significant persons other than the child's mother or father, such as a grandparent, have responsibility for the child's care and maintenance. The Québec Ombudsman recommended that in order for the regulatory framework governing the contribution to recognize the role of these other individuals in the achievement of the objectives of the child's intervention plan, youth centres should be allowed to require that a person other than the child's mother or father who has *de facto* responsibility for a child temporarily lodged in a substitute environment pay the contribution. This would enable the person to receive the child support payment issued by the Régie des rentes du Québec, which is not possible as it now stands.


Furthermore, the parents of a child lodged in a substitute environment must pay the financial contribution in order to continue to receive the amounts intended for the child's support. The Québec Ombudsman considers that in certain situations in which there is no longer any contact between the parents and their child who is placed until he or she reaches full age, the resource that lodges the child should be entitled to receive the child support payment.

PRACTICES UNFAIR TO PARENTS AND THEIR LODGED CHILDREN

The Québec Ombudsman has seen that practices in terms of billing, calculation of exemptions, agreements with parents who have trouble paying the financial contribution, and collection from parents in default of payment vary from one youth centre to another. This means that parents are treated differently depending on the youth centre they are dealing with.

The Québec Ombudsman considers that the unfairness arising from these divergent practices is due in particular to the difficulties that youth centres have obtaining the financial information required for calculating the contribution (usually, parents' income tax return for the previous year). That is why it recommended that the Ministère de la Santé et des Services sociaux enter into agreements with the Agence du revenu du Québec enabling youth centres, at the beginning of placement, to obtain the information needed to calculate the contribution required of parents for lodging their child in a substitute environment.

The Québec Ombudsman is convinced that a secure process for transferring only the data required by youth centres would make calculation and collection of the contribution more reliable, efficient and fair. This would also foster parents' collaboration with youth centre staff in situations involving Youth Protection, which are delicate and emotionally charged.

 The summary of the Québec Ombudsman's special report is posted on its website at www.protecteurducitoyen.qc.ca, under the "Cases and Documentation" tab, "Investigation Reports and Special Reports" section.

The organization of off-road emergency response services

In 2012-2013, the Québec Ombudsman published a report entitled *Report on the organization of emergency response services for accidents that occur off-road*.

Québec covers a vast area of more than 1.6 million km²; a major portion is uninhabited and off the transportation grid. The sheer size of the territory makes it ideal for a wide range of sports, recreational and tourism activities such as hiking, mountain biking, snowmobiling, all-terrain vehicling and more. Unfortunately, nearly a thousand injuries related to these activities occur each year. About 250 qualify as severe, and an average of 25 is fatal.

PREVENTING INJURY AND DEATH

Further to analyzing a complaint from a citizen left tetraplegic as the result of an injury sustained off-road, the Québec Ombudsman was prompted to enquire about the various models and practices in the organization of off-road emergency response services in order to optimize and standardize coverage and, therefore, service accessibility and quality. The team of independent experts put together by the Québec Ombudsman, composed of the main responders concerned (physicians, ambulance technicians, police officers and firefighters), guided it in examining how off-road emergency response services are organized and in determining improvement measures.

The committee was mandated to determine an optimal formula for the organization of off-road emergency response services, from the phone call for help right up to the victim's transport to an ambulance located on-road, or, exceptionally, directly to a hospital centre in cases of evacuation by helicopter. Since pre-hospital emergency response is set in motion only when responders locate the victim and only if required, the committee concentrated on the issue of the "rescue of" rather than "search for" individuals who experience health problems or sustain injuries while off-road.

The investigation by the Québec Ombudsman showed that the complainant's case was not unique. Since the prognosis for survival of an individual depends on adequate organization of off-road emergency response services, the Québec Ombudsman's intervention was aimed at saving as many lives as possible and reducing the risk of disability from off-road accidents or incidents.

The Québec Ombudsman's recommendations focused on:


- Awareness and accountability by enthusiasts and public and private promoters of off-road sports and recreational and tourism activities;
- Better coverage by 9-1-1 emergency centres;
- Establishment of intervention protocols on a regional basis;
- Clarification of responders' roles and responsibilities in emergency situations.

The Québec Ombudsman recommended that regional organization of emergency response services should be favoured so that anyone who is a victim of an incident or accident that occurs off-road can be attended to appropriately, regardless of where they happen to be in Québec. At present, organization of these services varies from region to region, some of which are under-equipped. In these regions, there is greater risk that the people involved will die—or remain severely disabled—because evacuation procedures did not or could not be carried out soon enough and under adequate conditions.

The Québec Ombudsman also recommended that the *Fire Safety Act* and departmental policies with respect to fire safety be amended. It therefore called for the addition to fire safety cover plans of a regional organization protocol that provides for access to the required equipment. Currently fire safety cover plans, which set out guidelines for work by firefighters, do not cover off-road incidents. The protocols must include risk management for regional county municipalities' respective territories and adequate coverage of special areas (mines, forests, northern or maritime).

The Québec Ombudsman recommended reorganizing the current structure rather than building a new one. As it now stands, even if responders are not formally mandated to come to the assistance of citizens off-road, rescues are still organized, with all the costs that this entails. Starting from this general observation, the Québec Ombudsman considered that the cost of implementing its recommendations would be negligible compared with what is already spent on off-road emergency responses.

Considering that the Ministère de la Santé et des Services sociaux is charged to organize health services and social services in Québec through health and social services agencies, and that the Ministère de la Sécurité publique must foster sharing of responsibilities aimed at complementary and coherent action in matters of civil protection, the Québec Ombudsman's recommendations were intended mainly for these two government departments. They committed to send the Québec Ombudsman a work plan no later than June 30, 2013, and to submit a progress report at least once a year indicating whether they are on schedule. Before March 31, 2016, they will also transmit a document which follows up on the implementation of fire safety cover plans which includes the notion of off-road rescue.

 The English summary of the Québec Ombudsman report entitled *Report on the organization of emergency response services for accidents that occur off-road* is posted on its website (www.protecteurducitoyen.qc.ca), under the "Cases and Documentation" tab, "Investigation Reports and Special Reports" section.

Government services for children, teens and adults with pervasive developmental disorders (PDD)

In October 2009, the Québec Ombudsman submitted a report on government services for children aged 0 to 7 years with pervasive developmental disorders (PDD) to the National Assembly (PDD).⁹ The report's findings were clear: access to public services for children with PDD and their parents is a path fraught with pitfalls, generally leading to legitimate frustrations.

In May 2012, a second report was submitted to the National Assembly, this time on services for children over age 7 and adults with PDD. One of the first findings of this report, entitled *Services Provided to Young People and Adults with a Pervasive Developmental Disorder: From Government Commitment to Cold Hard Facts*, is the range of public services offered to teens and adults with PDD. However, the service offering remains theoretical; in reality, the promised services are few and far between and are not equally accessible, giving rise to much dissatisfaction among the people we consulted.

At the same time, a number of advocacy groups working on behalf of other vulnerable populations, including people with an intellectual or a physical disability, drew the Québec Ombudsman's attention to similar situations to those discussed in its two special reports. The results of its analysis can, to a large extent, benefit these population groups as well.

⁹ Even though the term "autism spectrum disorder" (ASD) is increasingly employed in Québec, the Québec Ombudsman will not be commenting here on the proposed revisions to the PDD diagnostic categories falling under ASD. It is reserving its opinion on their potential repercussions for public service delivery following the release, in 2013, of the fifth edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-V), which will officially introduce the notion of ASD.

BACKGROUND

Based on conservative estimates, roughly 20,000 people in Québec may be living with a pervasive developmental disorder. A reported nearly 8,000 Québec children between the ages of 4 and 17 have a PDD and the prevalence rate is growing by 21% annually. The prevalence rates of other disabilities similar to PDD are also rising. We were unable to gather data on the number of caregivers of people with PDD, but caregivers deal with public services on a regular basis and often need them themselves, especially respite services.

As at March 31, 2012, 1,967 people with PDD were waiting to receive their first service from a health and social services institution,¹⁰ up from 283 users as at March 31, 2011, for an increase of 16.8%. The average wait time was 261 days. These data lead to the conclusion that public services will intensify considerably over the coming years.

FOLLOW-UP TO THE QUÉBEC OMBUDSMAN'S SPECIAL REPORT ON GOVERNMENT SERVICES FOR CHILDREN WITH A PERVASIVE DEVELOPMENTAL DISORDER

The authorities concerned (Ministère de la Santé et des Services sociaux, Ministère de l'Éducation, du Loisir et du Sport, Ministère de la Famille, and Office des personnes handicapées du Québec) sent the Québec Ombudsman two follow-up reports on the 21 recommendations made in the special report. On the whole, the Québec Ombudsman is satisfied with the action taken by the authorities to deliver on their commitments. For example, a number of training programs dealing specifically with PDD are nearing completion. Joint action has also been taken to address the issues of family support, one-stop service, case managers (system navigators) and evaluation of the intensive behavioural intervention (IBI) program.

Concerns remain nonetheless. To determine the funding to school boards, the Ministère de l'Éducation, du Loisir et du Sport requires them to conduct a diagnostic assessment of children with PDD within 12 months before the child starts school. Given that PDD is a life-long condition that requires the involvement of a multidisciplinary team to systematically observe the child's development and conduct standardized tests, the Québec Ombudsman thinks that a diagnostic assessment within 12 months of starting school should no longer be required. Furthermore, confirmation of a disability is also required in order for parents to receive the supplement for handicapped children administered by the Ministère de la Famille. Despite the "promising work" announced by the two Departments, accessible and adapted services are not yet a reality. The Québec Ombudsman wants to reiterate the urgency of harmonizing practices and services in order to concretely reduce the requirements imposed on parents and provide genuine access to necessary services.

¹⁰ *Étude des crédits 2013-2014*, Ministère de la Santé et des Services sociaux : réponses aux questions particulières, volet Services sociaux, volume 2, question 200, p. 119.

FOLLOW-UP TO THE QUÉBEC OMBUDSMAN'S SPECIAL REPORT ON SERVICES FOR YOUNG PEOPLE AND ADULTS WITH A PERVASIVE DEVELOPMENTAL DISORDER

Not long after the release of the Québec Ombudsman's report, the Ministère de la Santé et des Services sociaux allocated substantial resources to tackle issues of particular concern. The recurring investment of \$35 million per year is aimed at improving access to services for everyone with a physical or an intellectual disability, including people with PDD. Sums have therefore been set aside to improve access to front-line services necessitating prompt action: access to professional services in health and social services centres; support for community organizations to enable the development of day programs;¹¹ and support for families. Sums have also been set aside to more effectively meet the need for residential services as well as improve access to specialized services offered by rehabilitation centres.

The Québec Ombudsman notes that, despite the increase in resources, the number of complaints lodged by people with PDD, intellectual or physical disabilities, or more than one of these conditions, rose substantially (57.5%) between April 2012 and March 2013. Of the 241 complaints closed during that period, 88 were substantiated (39.4%). The Québec Ombudsman finds these data worrisome from the perspective of genuine improvement in short-term access to services for these vulnerable population groups.


The Ministère de la Santé et des Services sociaux submitted the three work plans with timelines called for in the Québec Ombudsman's report. One of these plans, crafted in conjunction with the Ministère de l'Emploi et de la Solidarité sociale, contains a reference framework for better achievement of social participation and employment integration and maintenance of people with disabilities. The Québec Ombudsman is satisfied with the measures proposed in the three work plans as well as in the reference framework. However, the Ministère de la Santé et des Services sociaux informed the Québec Ombudsman that it would not be able to update the support program for families of people with disabilities by the March 31, 2014 deadline, owing in particular to the increased funding needed to implement the new measures. The Québec Ombudsman finds this regrettable.

The Ministère de l'Éducation, du Loisir et du Sport has taken the necessary steps to act on most of the recommendations made in its regard, including developing intervention plans or improving the support provided to vulnerable students as well as coordinated action with the health and social services network under the MSSS-MELS agreement for the complementarity of services. The Ministère de la Famille contributes its expertise to the development of day programs. For its part, the Office des personnes handicapées du Québec submitted the list of existing consultation and coordination committees, bodies and processes concerning people with PDD and their families in March 2013, as required.

Once again, our analysis highlights the need for the various players to adopt a collaborative approach in responding to the diverse needs of people living with complex issues. Despite the substantial resources invested, the Québec Ombudsman finds the noted gaps and flaws in access to services worrisome.

The prevalence of PDD and similar disabilities is increasing rapidly. The number of substantiated complaints from people with PDD and their families is also growing sharply. Delivering public services will thus be a huge challenge in the short term. In the Québec Ombudsman's opinion, stronger intersectoral action is crucial to ensuring concrete, lasting improvement. In the spirit of fairness, better access to adapted services must also be extended to other vulnerable population groups, including people with physical or intellectual disabilities.

¹¹ On April 8, 2013, the Minister for Social Services and Youth Protection announced the creation of a task force and recurring spending of \$10 million for the specific purpose of organizing socioprofessional services for people aged 21 and older who have a pervasive developmental disorder, an intellectual disability or a physical disability. The task force was mandated to improve, in the short term, the service offering of adapted residential services and socioprofessional activities.

 The Québec Ombudsman reports are posted on its website (www.protecteurducitoyen.qc.ca), under the “Cases and Documentation” tab, “Investigation Reports and Special Reports” section.

Accessibility of home support services for people with significant and persistent disabilities


In March 2012, the Québec Ombudsman published an investigation report on the home support services provided to people with significant and persistent disabilities requiring long-term services. The investigation report—*Is Home Support Always the Option of Choice?*—underscores the gap between the principles and thrusts of the home support policy adopted by the Ministère de la Santé et des Services sociaux in 2003 and the daily lives of the people who receive—or should receive—these services.

The Québec Ombudsman noted several ways in which home support strays from the policy:

- new exclusion criteria;
- a ceiling on the number of service hours that are frequently well below the level required for the needs determined;
- regional disparities in how the policy is applied;
- the decrease in service hours;
- longer wait times.

The Québec Ombudsman deplored that, for want of resources, local bodies have had to resort to practices that deprive users of services required by their needs, thereby completely or partly shifting the load to natural caregivers and exacerbating the poor use of places in hospitals, rehabilitation centres or residential resources.

In light of these findings, the Québec Ombudsman recommended that the Ministère de la Santé et des Services sociaux determine the level of funding needed for home support services and clearly set out the slate of services available, according to public needs. The Minister of Health and Social Service’s announcement of a white paper on services that enable citizens to continue living at home, to be followed by a parliamentary commission, is in line with these recommendations. The Québec Ombudsman will pay close attention to the proposals contained in the white paper in order to ensure that they will enable better access to home support services and will correct the many shortcomings identified in the investigation report. It intends to comment before the parliamentary committee scheduled to sit in the autumn of 2013.

 The Québec Ombudsman report entitled *Is Home Support Always the Option of Choice? Accessibility of Home Support Services for People with Significant and Persistent Disabilities* is posted on its website (www.protecteurducitoyen.qc.ca), under the “Cases and Documentation” tab, “Investigation Reports and Special Reports” section.

The services offered to detainees with mental disorders

In May 2011, the Québec Ombudsman released a report entitled *Towards Services that are Better Adjusted to Detainees with Mental Disorders*. The report outlines problems of police interventions ill-adapted to people in crisis, the challenges of adjusting the judicial system to intake of these people, and the issues related to initiatives aimed at alternatives to judicial intervention.

It also presents a portrait of the prison population and the prevalence of mental health problems within this population. The Québec Ombudsman noted numerous prejudicial situations from admission to release that attest to the chronic and ever-current difficulties that institutions face regarding the adequate intake of detainees with mental disorders. The report underscores the gaps in the production and implementation of social reintegration programs for people grappling with mental health problems. It draws attention to poor coordination between the correctional community and health and social services in preparing these people to re-enter mainstream society. It also speaks to the lack of support in helping these people obtain adequate community follow-up.

The Québec Ombudsman made recommendations aimed at improving taking in charge of these people and better preventive, curative and social reintegration services tailored to their condition. Other recommendations concerned support for police interventions prior to incarceration, the introduction of initiatives to keep cases out of court where appropriate, and to foster the reintegration of these people into the community, with the adequate support and supervision.

As at March 31, 2013, only the Ministère de la Santé et des Services sociaux and the Ministère de la Justice had submitted a detailed progress report on work in 2012-2013 to implement the measures proposed for follow-up to the recommendations that concerned them.

While both these departments and the Ministère de la Sécurité publique still acknowledge the relevance of these recommendations and have committed to acting on them, the Québec Ombudsman can give the work done thus far only a very lukewarm reception. Two years after tabling of its report, it deplores that several of the announced actions are slow to produce the expected results and that there are more and more delays.

The Québec Ombudsman notes the joint work of the Ministère de la Sécurité publique and the Ministère de la Santé et des Services sociaux to transfer the responsibility for delivering socio-sanitary services to detainees from the former to the latter. It recognizes the scope and complexity of the organizational and financial logistics of such a transfer. However, it considers that sizable efforts must be made starting now to ensure adequate taking in charge of people with mental disorders, in particular at admission and release. Intake can no longer be based solely on safety imperatives, no matter how crucial. Effective liaison between detention facilities and institutions within the health and social services network during incarceration and at the time of release would keep these citizens from repeat incarcerations caused by inadequate support in the community.


The Québec Ombudsman deplores that the services presently offered at a number of detention facilities are not always adjusted to these people's condition and needs, as much in terms of the support required for their social reintegration and as in terms of follow-up in the community. The current inertia has serious consequences for detainees living with a mental disorder and for their loved ones, victims and society alike. Many detainees still do not get the baseline support they need to prepare to return to society and to obtain the services required when they re-enter the community and therefore prevent possible incarceration. This vicious circle must be broken.

The Québec Ombudsman considers that the pending transfer of responsibilities from the Ministère de la Sécurité publique to the Ministère de la Santé et des Services sociaux is no argument for maintaining the status quo. The complaints it received in 2012-2013 and its visits to detention facilities confirmed the urgent need for action. It notes the measures established to prevent the interruptions of medication or medical treatment at admission or transfer. However, it vehemently deplores the lack of concrete measures for facilitating access to medication when people who were not followed by a doctor or had no prescriptions for medication while in the community are admitted to the facility. Concrete measures are also required for establishing a protocol for detention centres to screen for mental health disorders at admission and for instituting services to prepare detainees to re-enter the community.

In 2012-2013, the Québec Ombudsman welcomed the creation of the justice and mental health forum. It saw this joint initiative by the Ministère de la Justice, the Ministère de la Sécurité publique and the Ministère de la Santé et des Services sociaux as a perfect opportunity to foster the interdepartmental collaboration needed in order to improve services for offenders or detainees with a mental disorder. A year after creation of the forum, the Québec Ombudsman notes that the work of this entity is still in its infancy and has not yielded the expected bridge-building and benefits. It is dismayed that its mandate has not been clearly defined yet and that its various work groups are slow to get started.

The Québec Ombudsman notes with satisfaction that the Ministère de la Justice has continued to support different regional initiatives concerning the dejudicialization of people with mental disorders and raising the legal community's awareness of this issue. It also notes that the Ministère de la Sécurité publique has continued to institute measures aimed at supporting police training and police interventions with regard to people in crisis who have mental disorders.

In 2013-2014, the Québec Ombudsman intends to intensively pursue its talks with the Ministère de la Sécurité publique, the Ministère de la Santé et des Services sociaux and the Ministère de la Justice with a view to ensuring that its recommendations are acted on and that concrete improvements are made to the services offered to offenders or detainees with mental disorders.

 The special report by the Québec Ombudsman is posted on its website at www.protecteurducitoyen.qc.ca, under the "Cases and Documentation" tab, "Investigation Reports and Special Reports" section.

The Québec investigative procedure for serious incidents involving police officers


In 2010, the Québec Ombudsman tabled a special report on the investigative procedure implemented when incidents occur that involve police officers and during which a civilian dies or is seriously injured. The report examined the investigative procedure described in the ministerial policy regarding death in the event of a police intervention or detention. The purpose of its analysis was to determine whether the procedure in place met certain criteria inherent to the probity and credibility of any investigative procedure: independence, impartiality, consistent application of formal rules, transparency, as well as oversight and accountability in the investigative process.


The Québec Ombudsman concluded that the policy did not satisfy these criteria and did not provide any guarantees of independence. It therefore recommended an overhaul of the investigative procedure with a view to strengthening public confidence in the crucial and complex work of police officers and improving the credibility of investigations concerning them. It made eight recommendations, including the creation of an independent organization headed by qualified civilians and an investigative team that combined the expertise of qualified civilians and former police officers.

In December 2011, the Minister of Public Security introduced Bill 46, *An Act respecting independent police investigations*. Basically, the bill proposed the establishment of a civilian oversight bureau, composed of observers tasked to oversee independent investigations which would continue to be conducted according to policy procedure. In a brief to the Committee on Institutions in February 2012, the Québec Ombudsman argued that the solution proposed in the bill did not ensure the independence, impartiality and credibility of investigations, particularly because they would continue to be conducted by police officers. It reiterated that the only lasting and effective solution was to bring together qualified civilians and former police officers to conduct these investigations and made nine recommendations. Bill 46 was not enacted and parliament was dissolved on August 1, 2012.

On November 29, 2012, the new government's Minister of Public Security introduced Bill 12, *An Act to amend the Police Act as concerns independent investigations*. The bill proposed the creation of the Bureau des enquêtes indépendantes, tasked with conducting an investigation every time a person, other than an on-duty police officer, dies, is seriously injured, or is injured by a firearm used by a police officer during a police intervention or while the person is in police custody. The bill provides that the Bureau will be composed of a director and an assistant director, both of whom are civilians and who have never been police officers, as well as a team of investigators that can combine the expertise of qualified civilians and of former police officers. It also specified that a regulation could be made to establish the rules on the conducting of the investigations entrusted to the Bureau.

At the special consultations and public hearings held in March 2013 on Bill 12, the Québec Ombudsman gave its general approval to Bill 12. It considers that the bill is basically in keeping with the recommendations it made in the 2010 report and that it reiterated subsequently. In its opinion, the creation of the Bureau des enquêtes indépendantes and the investigative procedure provided for meet the fundamental conditions for ensuring the quality and credibility of these investigations. It believes that Québec society—police officers and victims and their families alike—will benefit from an independent investigative procedure such as the one proposed in the bill. In its brief, the Québec Ombudsman made five recommendations aimed at fostering exercise of the mission to be entrusted to the Bureau des enquêtes indépendantes and to clarify the legal framework governing it. A summary of the Québec Ombudsman's intervention and of its recommendations is presented in the *Parliamentary Watch* chapter, on page 112 of this report.


 The Québec Ombudsman briefs presented to the Committee on Institutions as part of the special consultations on Bill 12, *An Act to amend the Police Act as concerns independent investigations* (March 12, 2013), and Bill 46, *An Act respecting independent police investigations* (February 27, 2012), are posted on its website www.protecteurducitoyen.qc.ca, under the "Cases and Documentation" tab, "[Reactions to bills and legislation](#)" section.

 The Québec Ombudsman report entitled *For a Credible, Transparent and Impartial Process that Inspires Confidence and Respect* is posted on its website (www.protecteurducitoyen.qc.ca), under the "Cases and Documentation" tab, "[Investigation Reports and Special Reports](#)" section.

PARLIAMENTARY WATCH REPORT

Under its constituting act, the Québec Ombudsman is empowered to review all bills and draft regulations, and, when it deems necessary, call the attention of the National Assembly and the government to legislative, regulatory or administrative reforms it considers to be in the public interest. Parliamentary watch is also carried out under the *Act respecting the Health and Social Services Ombudsman*, which makes the Québec Ombudsman responsible for ensuring that health and social service users are respected and that the rights recognized in this act are enforced.

In 2012-2013, the Québec Ombudsman intervened with regard to eight bills and twelve draft regulations. The following is a summary of these interventions. The last section of the table reports on the follow-up to the parliamentary watch conducted since 2008-2009. The interventions covered are those whose outcomes were not known at the time of publication of the last annual report. Follow-up concerning bills that were not passed (dead on the order paper) because parliament was dissolved when elections were called on August 1, 2012, are not included.

 The Ombudsperson's public interventions are also posted on the Québec Ombudsman's website (www.protecteurducitoyen.qc.ca) under the "Cases and Documentation" tab.

BILL	INTERVENTION AND FOLLOW-UP
<p><i>An Act to modify the rules governing the use of photo radar devices and red light camera systems and amend other legislative provisions</i> (Bill 57, 2012)</p>	<p>Intervention (April 3, 2012)</p> <p>The purpose of this bill was more widespread use of traffic control devices. While the Ombudsperson fully endorsed the bill's goal of improving highway safety, she made a number of recommendations to the Committee on Transportation and the Environment concerning certain aspects of the bill. She went on to remind the Committee that administrative problems are not sufficient reason for a step backwards in citizens' means of defence since the balance between citizens' rights and government rights was at stake here.</p> <p>Pointing out that, by their preventive nature, signs and signals contribute significantly to achievement of the goal of improving highway safety, the Ombudsperson nonetheless deplored that the bill did not require prosecutors to prove the presence of proper signs or signals and disallowed acquittal of defendants on the grounds that signs or signals were inadequate or absent. She suggested that the desired simplification would be achieved without depriving citizens of this defence option by entering the location of signs and signals in a register kept by the Minister of Transport.</p> <p>Consequently, the Ombudsperson recommended:</p> <p>R1: That the first paragraph of section 16 of the bill be amended to provide that entry in the register serve to prove the presence of signs or signals;</p> <p>That the second paragraph of section 16 be removed;</p> <p>That entry of the location of devices and signs and signals in a register kept by the Minister of Transport be provided for in the act.</p> <p>The bill removed the possibility for the owners of passenger vehicles who were not behind the wheel when the statement of offence was served to identify who the driver was and limited recourse to this option to owners of heavy vehicles, taxis, a road vehicle driven by the employee of the owner for delivery purposes, or a courtesy vehicle loaned by a garage operator.</p> <p>Considering the unfairness of being held liable for an offence one did not commit, and given the importance of being able to defend oneself effectively and that the main purpose of this exclusion was to make the government's job easier, the Ombudsperson, feeling that it was up to the government to use the required means to improve form processing, recommended that the identification form be maintained for all vehicle owners.</p> <p>Consequently, the Ombudsperson recommended:</p> <p>R2: That the owners of passenger vehicles continue to have access to the identification procedure contemplated in the third and fourth paragraphs of section 592.1 of the <i>Highway Safety Code</i>.</p> <p>She therefore suggested that sections 11, 12 (paragraphs 1, 2, 3 and 5) and 13 be struck from the bill.</p> <p>Lastly, given the need for the process to be as transparent as possible, the Ombudsperson questioned why the first regulation regarding the deployment of the devices was exempted from publication.</p> <p>Consequently, the Ombudsperson recommended:</p> <p>R3: That section 23 be struck from the bill and that the regulation concerned be subject to the <i>Regulations Act</i>.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>(CONT'D)</p> <p>(Bill 57, 2012)</p>	<p>Follow-up</p> <p>The act was passed into law on May 31, 2012.</p> <p>The first recommendation was not followed per se, but an amendment to another section specified that the person responsible for the maintenance of a public highway, in addition to erecting proper signs or signals, "must also, as often as the Minister determines, verify the presence and adequacy of those signs or signals and report the verification results to the Minister." This insertion assuages the Québec Ombudsman's concerns to some extent.</p> <p>The second recommendation was disregarded. The bill was amended to extend this defence option to owners of vehicles under a short-term rental contract but not to all passenger vehicle owners, as recommended.</p> <p>The third recommendation was disregarded.</p>
<p><i>An Act respecting compensation measures for the carrying out of projects affecting wetlands or bodies of water</i></p> <p>(Bill 71, 2012)</p>	<p>Intervention (May 2, 2012)</p> <p>This bill was introduced in response to a Superior Court judgment declaring the directive enabling the minister to require compensation measures aimed in particular at restoring, protecting, or enhancing a wetland, body of water or piece of land within the context of an application for authorization pursuant to the <i>Environment Quality Act</i> illegal and arbitrary. The bill, which retroactively validated any compensation measure that predated the judgment, expressly empowered the minister to require this type of compensation.</p> <p>In her comments to the Committee on Transportation and the Environment, the Ombudsperson, while fully endorsing the establishment of rules to ensure that wetlands are protected, deplored the retroactive effect of this hastily introduced bill. She pointed out that any provision that is retroactive in scope must always remain an exception so that legislation with a retroactive effect does not become standard practice that enables the government to sidestep the consequences of a judgment that is not in its favour.</p> <p>In the Ombudsperson's opinion, if the bill was aimed at rectifying the illegality of the administrative directive, it did not in any way change its arbitrariness. While recognizing that the duty to protect wetlands required some leeway in terms of the minister's power, she lamented that the bill did nothing to correct the irregularities noted by the Superior Court with respect to the standards governing applications for certificates of authorization for projects affecting wetlands.</p> <p>She therefore pointed out that if the bill should follow its course, the Department would have to clearly define the appropriate means for ensuring the protection and sound management of wetlands, and, as part of this process, ensure that the solutions chosen enable citizens' applications to be processed equitably and in a uniform manner.</p> <p>Follow-up</p> <p>The act passed into law on May 22, 2012, did not include the amendments requested by the Québec Ombudsman. However, a provision was added for a new act setting out rules on the preservation and sustainable development of wetlands that would come into force before April 24, 2015, at which time the minister's power to require compensation measures pursuant to the present act would cease to have effect.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p><i>An Act concerning the environmental inspection of motor vehicles</i></p> <p>(Bill 48, 2011)</p>	<p>Intervention (May 7, 2012)</p> <p>This bill amended the <i>Environment Quality Act</i> to include the new powers required to implement the <i>Programme d'inspection et d'entretien des véhicules automobiles</i> (PIEVA) and the <i>Highway Safety Code</i> in order to make the registration of road vehicles and the right to drive on public highways contingent on the production of a certificate of environmental compliance issued on completion of the inspection program.</p> <p>While fully subscribing to efforts to combat atmospheric pollution and to reduce greenhouse gas emissions, the Ombudsperson had a few questions for the Committee on Transportation and the Environment about the implications that the program could have for citizens.</p> <p>The Ombudsperson explained that she was worried about procedure and the additional costs for owners of vehicles that are more than eight years old—who are likely to be among the citizens with the lowest incomes—and even more so because the minister had announced that the measures would be instituted progressively in three phases and that other, this time recurrent, costs, would follow in quick succession. She wondered about the fairness of such general measures, and whether other measures that would not adversely affect low-income citizens and low-income households in particular, had been considered.</p> <p>The Ombudsperson therefore suggested that, should the bill be enacted without amendment, measures be established to set bounds for the fees charged to citizens. Lastly, she felt that the possibility of allowing all garage owners to perform the environmental inspections should have been given some thought.</p> <p>The Ombudsperson was also concerned by the fact that study of the bill would be undertaken without knowledge of the parameters of the inspection program. The bill was limited to granting of the regulatory powers needed to define the program such that neither parliamentarians nor interested parties could publicly voice their opinions on its main parameters. They were thus called upon to approve a bill whose scope was unknown and that could greatly affect citizens.</p> <p>She therefore recommended that the minister make his intentions clear as to the planned parameters and set them forth in a document (draft regulation) to be tabled during Committee hearings.</p> <p>Follow-up</p> <p>When consultations began on May 14, 2012, the minister tabled a document entitled <i>Principaux paramètres du PIEVA</i>. The bill died on the order paper when the August 1, 2012, elections were called.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p><i>An Act to promote access to justice in family matters</i> (Bill 64, 2012)</p>	<p>Intervention (May 22, 2012)</p> <p>The Québec Ombudsman has contributed to the debate on the review of support payments and has been calling for amendments in the area for many years. Since this bill addressed representations made by the Québec Ombudsman, the Ombudsperson welcomed this piece of legislation, which, in creating the Service administratif de rajustement des pensions alimentaires pour enfants (SARPA), could help to make life easier for former spouses, in the best interest of their children. That being said, in her viewpoint, certain provisions warranted comment and clarification, as discussed in the brief she presented on May 22, 2012, before the Committee on Institutions.</p> <p>Noting that several aspects of the bill—including those governing the administration of SARPA—must be specified by government regulation, the Ombudsperson argued that certain elements slated to be dealt with in regulations should be part of the bill instead.</p> <p>Considering the foregoing, the Québec Ombudsman recommended:</p> <p>R1: That the elements [concerning situations eligible for SARPA services and conditions that must be met, the kinds of situations where SARPA could, without parental consent, conduct checks with persons, departments and organizations of the accuracy of information or documents provided for the purpose of recalculating child support, and the cases and terms under which a SARPA recalculation could apply retroactively] be incorporated into the statutory text of the bill rather than in an enabling regulation.</p> <p>Since the creation of SARPA introduced an administrative procedure for the recalculation of support payments, the Ombudsperson pointed out that the principles of procedural fairness must apply in order to ensure that citizens obtain effective, quality service that respects their rights. Given that the bill granted certain powers to the officials who would be handling the applications for support recalculation, the Ombudsperson considered that these powers could be strengthened, but that their exercise must be clearly delineated to protect the rights of the parties.</p> <p>According to the Ombudsperson, since SARPA would be offering an administrative service and that the Commission des services juridiques, which is responsible for the operation of SARPA, is not subject to the <i>Act respecting administrative justice</i>, SARPA should be subject to the rules concerning the exercise of an administrative function. Making SARPA subject would provide better assurance that citizens have a service that is effective, accessible and respectful of their rights.</p> <p>It was also the opinion of the Ombudsperson that it would be fitting to have a maximum amount of time for the examination of an application for child support recalculation once the required information has been received. She went on to suggest certain measures to improve SARPA effectiveness and efficiency, in particular, strengthening of its powers to require the information needed to examine an application for recalculation of support and sanctions for failure to comply.</p> <p>Even though the bill empowered SARPA to demand that parents provide information or documents within a given deadline, there was nothing in the bill that made provision for this obligation for a third party—the debtor’s employer, for example—under penalty for failure to do so.</p> <p>Considering the foregoing, the Québec Ombudsman recommended:</p> <p>R2: That Chapter I of Title I of the <i>Act respecting administrative justice</i> (c. J-3) apply to the Service administratif de rajustement des pensions alimentaires pour enfants (SARPA).</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>(CONT'D)</p> <p>(Bill 64, 2012)</p>	<p>R3: That section 3 of Bill 64 be amended to prescribe a maximum amount of time allowed for the examination of an application for child support recalculation once SARPA has received all the information it requires.</p> <p>R4: That SARPA be given the power to demand that a third party provide information within a prescribed amount of time for the examination of an application for child support recalculation, under penalty in the event of failure to comply with this obligation.</p> <p>The Ombudsperson insisted on the importance of giving SARPA the teams needed to handle case volume and of ensuring that the staff are given adequate training before the start of operations.</p> <p>Given the powers conferred on SARPA, its notices can have significant consequences for those concerned. In the Ombudsperson's viewpoint, it is crucial that an independent, external body have oversight to ensure that the rights of these citizens are upheld and see to the settlement of disputes between them and SARPA.</p> <p>Pursuant to the bill as introduced, SARPA, which would be part of the Commission, would be outside the Québec Ombudsman's field of jurisdiction because the Commission itself is not within it.</p> <p>Considering the foregoing, the Québec Ombudsman recommended:</p> <p>R5: That section 15 of the <i>Public Protector Act</i> be amended by adding the following paragraph:</p> <p>"(9) the Service administratif de rajustement des pensions alimentaires pour enfants covered by Chapters I to VII of the <i>Act to promote access to justice in family matters</i>."</p> <p>The Ombudsperson also spoke out about the cancellation of child support for financially independent adults. Applauding the efforts of the Ministère de la Justice to streamline the procedure that allows the parents of these adults to terminate support at reasonable cost, the Ombudsperson asked the parliamentarians to consider that a procedure enabling cancellation of the obligation to pay support in such cases should not entail additional expenses for parents.</p> <p>The fees specified for using SARPA appeared reasonable to the Ombudsperson, given that this procedure would make the updating of support more efficient and better adapted to citizens' needs.</p> <p>Lastly, according to the Ombudsperson, the possibility of, in certain circumstances, cost-free recovery of the security held by Revenu Québec would be a huge stride forward of interest to former spouses and the government alike.</p> <p>Follow-up</p> <p>Recommendations R1 to R4 were disregarded and the law passed on June 13, 2012, was not amended accordingly.</p> <p>The requested amendment in R5 was accepted and when SARPA begins operations, it will fall under the Québec Ombudsman's area of jurisdiction.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p><i>Integrity in Public Contracts Act</i> (Bill 1, 2012)</p>	<p>Intervention (November 12, 2012)</p> <p>In carrying out its mission, the Québec Ombudsman sees to the rights of enterprises as much as to those of natural persons, both groups considered citizens within the meaning of its constituting act. Indicating that she fully endorsed the government's resolve to fight corruption and enhance integrity in public contracts, the Ombudsperson commented on two general aspects of the proposed legislation.</p> <p>Since the mechanism contemplated would require ongoing coordination among several public bodies, primarily the Autorité des marchés financiers (AMF) and the Associate Commissioner for Audits of the Unité permanente anticorruption (UPAC), the Ombudsperson issued a reminder of the importance of having mechanisms for ensuring effective and rapid circulation of information among these players and the other players involved.</p> <p>Even though AMF decisions regarding authorizations would be subject to the <i>Act respecting administrative justice</i>, notably, the obligation to act promptly and demonstrate diligence in decision-making, no maximum amount of time was specified for the advisory opinion that UPAC must provide. The bill only said that UPAC's Associate Commissioner for Audits must provide the enterprise concerned with an advisory opinion "as soon as possible". Furthermore, the bill did not specify a time limit for AMF to render a decision on applications for authorization.</p> <p>The Ombudsperson therefore recommended that in order to guarantee that citizens' applications for authorization are handled promptly, the legislation must provide for a time limit for the AMF to render a decision.</p> <p>The discretionary power conferred upon AMF with regard to the authorization to bid on public contracts being very broad but necessary, the Ombudsperson considered that such sweeping discretionary power must be offset by sufficient procedural guarantees and recourse for individuals and enterprises whose rights would be violated if the wrong administrative decision is made.</p> <p>The bill provided that AMF decisions on applications for authorization are final, are not subject to administrative review, and cannot be brought before an administrative tribunal for appeal. The only recourse available to enterprises denied authorization would be to petition the Superior Court of Québec for a judicial review. This costly and complex procedure would do nothing to keep relations between the government and its citizens out of the courts. In the case of this bill, the Ombudsperson found the lack of administrative recourse troubling.</p> <p>The consequences of refusal of authorization to contract with public bodies or municipalities could be considerable, especially since the bill provided that an enterprise denied authorization could not reapply until a year had elapsed.</p> <p>The Ombudsperson therefore argued that an administrative review of decisions rendered on applications for authorization was necessary. According to her, in order to ensure equitable respect of the rights of every enterprise and to rectify harmful administrative errors, such reviews must be carried out by an instance other than the one that made the initial decision.</p> <p>Given the imperatives of celerity and efficiency inherent in the awarding of public contracts and the context contemplated by the bill, the Ombudsperson formally recommended the establishment within AMF of an administrative process for reviewing applications for authorization initially turned down.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>(CONT'D)</p> <p>(Bill 1, 2012)</p>	<p>The reviews would be carried out by authorities distinct from those who rendered the initial decision.</p> <p>Follow-up</p> <p>These recommendations were not taken into account in the law passed on December 7, 2012. However, whereas the bill provided that an enterprise denied authorization could not reapply until a year had elapsed the law as passed specifies that AMF may consider a shorter waiting period if the enterprise has made the necessary corrections to its satisfaction, which somewhat makes up for the lack of administrative recourse.</p>
<p><i>An Act to amend the Police Act as concerns independent investigations</i></p> <p>(Bill 12, 2012)</p>	<p>Intervention (March 8, 2013, brief and March 12, 2013, hearing)</p> <p>In February 2010, the Québec Ombudsman released a special report on the Québec investigative procedure for incidents involving police officers. Two years later, it presented a brief at the special consultations on Bill 46, <i>An Act respecting independent police investigations</i>, which had not been enacted when parliament was dissolved because of the elections called on August 1, 2012.</p> <p>On March 12, 2012, at the special consultations and public hearings held by the Committee on Institutions, the Ombudsperson generally endorsed Bill 12 which, in her opinion, struck a balance between the public interest and the respect of the rights of all peace officers concerned. While reiterating her concern for strengthening public trust in the police, the Ombudsperson said that she believed that police officers, victims and their families would benefit from an independent investigation procedure such as the one proposed in the bill. In her view, the mechanism provided for met the essential conditions—<i>independence, impartiality, consistent application of formal rules, transparency, and oversight and accountability in the investigative process</i>—for the quality and credibility of investigations involving police officers that resulted in serious injury to civilians or civilian fatalities.</p> <p>In her brief, the Ombudsperson made five recommendations aimed at fostering the fulfilment of the mission to be entrusted to the Bureau des enquêtes indépendantes, clarifying its legal framework, and fostering implementation and enforcement of the act.</p> <p>The Ombudsperson began by specifying that, in her opinion, injury caused by the use of conducted energy weapons (Tasers) should be included in the situations giving rise to an independent investigation.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R1: That section 289.1, introduced by section 2 of Bill 12, be amended by inserting "or a conducted energy weapon" after "a firearm".</p> <p>In another vein, the Ombudsperson considered that the Bureau should be empowered to conduct any investigation within its purview without having been assigned to it and to comment publicly on the elements observed within the framework of its mandate.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>(CONT'D)</p> <p>(Bill 12, 2012)</p>	<p>Consequently, the Québec Ombudsman recommended:</p> <p>R2: That section 289.6, introduced by section 2 of Bill 12, be amended by inserting the two following paragraphs after the first paragraph:</p> <p>The Bureau may also, on its own initiative, conduct any investigation contemplated in section 289.1 that it would not have otherwise been charged with pursuant to the first paragraph.</p> <p>The Bureau, when it deems it in the public interest, may comment publicly on an investigation contemplated in section 289.1. It may also report publicly on any issue related to its mission.</p> <p>The Ombudsperson also maintained that the notion of “serious injury” should be defined in the <i>Police Act</i> and should encompass all injuries likely to have significant repercussions, including injury resulting from sexual assault.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R3: That section 289.1, introduced by section 2 of Bill 12, be amended to insert a second paragraph that includes a definition of “serious injury” encompassing the elements of Osler’s definition.</p> <p>The bill provided for the possibility of a regulation governing the rules for conducting investigations. The Ombudsperson considered that the making of a regulation was crucial to the effectiveness of the investigative process. She also recommended the minimum elements for such a regulation.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R4: That section 289.4, introduced by section 2 of Bill 12, be amended as follows: “A government regulation is made to establish the rules concerning the investigations the Bureau is charged with conducting under section 289.2. The regulation shall determine, among other things, the obligations of the police officers involved in an occurrence described in section 289.1, the police officers who witnessed the occurrence and the director of the police force involved, and specify the applicable sanctions where there is failure to meet these obligations”.</p> <p>That the regulation made pursuant to section 289.4 include the following elements among others:</p> <ul style="list-style-type: none"> • a definition of “involved officer” and “witness officer”; • the obligations of involved officers and witness officers, including the prohibition against their discussion of incidents until they are interviewed by the investigators; the obligation to provide their report on the incident before the shift is over, unless there are exceptional circumstances; and the obligation for them to meet with the investigators assigned to the case within a maximum of 24 hours after the incident; • the obligations of the director of the police force involved in the events, including that of securing and preserving the integrity of the scene pending the arrival of the investigators assigned to the case and segregating the involved officers and the witness officers from each other until they can be interviewed by Bureau investigators.

BILL	INTERVENTION AND FOLLOW-UP
<p>(CONT'D)</p> <p>(Bill 12, 2012)</p>	<p>Lastly, the Ombudsperson felt that the bill should include the obligation to make a summary of the investigation report public if, once the investigation is completed, the Director of Criminal and Penal Prosecutions decides not to press charges against the police officers concerned.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R5: That Bill 12 be amended to include the obligation of the director of the Bureau to make public a summary of an investigation in cases where the Director of Criminal and Penal Prosecutions decides, once the investigation is completed, that there are no grounds for charges being laid against the police officers concerned.</p> <p>Follow-up</p> <p>As at March 31, 2013, the bill had not been passed into law.</p>
<p><i>Act to amend the Charter of the French Language, the Charter of Human Rights and Freedoms and other legislative provisions</i></p> <p>(Bill 14, 2012)</p>	<p>Intervention (December 12, 2012)</p> <p>In analyzing the bill, the Québec Ombudsman pointed out to those in charge of its drafting within the Ministère de l'Immigration et des Communautés culturelles that it suspected that the bill contained an error; a provision of the bill removed four paragraphs of a section from the existing law (<i>Act respecting immigration to Québec</i>, c. I-0.2) instead of amending the first. The result would have been the omission of details as to the subject and content of the annual immigration plan referred to in the section and of the obligation to table the plan in the National Assembly for accountability purposes.</p> <p>Follow-up</p> <p>The drafters confirmed to the Québec Ombudsman that this omission would be corrected. As at March 31, 2013, the bill had not been passed into law.</p>
<p><i>An Act to amend the Crime Victims Compensation Act</i></p> <p>(Bill 22, 2013)</p>	<p>Intervention (March 25, 2013)</p> <p>In a letter to the Committee on Institutions, the Ombudsperson hailed the bill because it improved the Crime Victims Compensation Plan (IVAC) in response to certain of the needs expressed by the victims' close relatives, especially after a death.</p> <p>However, while subscribing to the government's intention to improve the assistance granted to crime victims and their close relatives, in the expectation of a complete review of the plan, as recommended by the Québec Ombudsman since 2002, the Ombudsperson pointed out that certain amendments must be made to the bill to respond more fairly to victims' needs.</p> <p>Regarding the payment of crime scene cleaning costs, which were covered by IVAC, the bill provided for payment of up to \$3,200 when a victim dies in a private residence. While welcoming this new measure, the Ombudsperson nonetheless noted that the perpetration of many other violent crimes that do not cause death may also require that the crime scene be cleaned. She also questioned the reasons for limiting the indemnity to situations where the crime was committed in a private residence. In her opinion, it would be unfair for owners of a small business, for example, not to also obtain compensation when a crime requiring cleaning of the scene is committed in their establishment and their insurance does not cover that type of situation.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>(CONT'D)</p> <p>(Bill 22, 2013)</p>	<p>Consequently, the Québec Ombudsman recommended:</p> <p>R1: That section 3 of the bill be amended so that it does not restrict payment to crime scene cleaning costs solely in the case of death.</p> <p>R2: That section 3 of the bill be amended so that it does not limit payment of crime scene cleaning costs to a crime committed in a private residence.</p> <p>While welcoming the integration within the bill of an indemnity for resiliation of a residential lease, until that point provided for in a formal policy set forth in IVAC's crime victim compensation policy manual, the Ombudsperson noted that this internal policy was more advantageous than the bill's provisions and its application and the application process were less restrictive for victims.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R3: That section 3 of the bill be amended to retain the simplicity of the current application process, the conditions of eligibility and the benefits provided in the administrative policy.</p> <p>R4: That section 3 of the bill be amended so that the indemnity for resiliation of a residential lease can be granted to all victims eligible for the compensation plan, and not only to victims of conjugal violence or sexual aggression.</p> <p>Regarding the lump sum payment paid to the parents of a deceased dependent person, the Ombudsperson drew attention to its increase and the fact that the notion of "dependent child" would be replaced by "dependent person," which would no longer limit the indemnity to children under 18 years of age. However, she questioned the conditions under which it would be awarded, in particular, when one of the parents failed to submit the application within the time prescribed in the act when the other parent had already claimed the entire lump sum indemnity, or a parent had abandoned a child. She also wondered about the lack of eligibility for the indemnity of a person acting in place of the father or mother when both parents have abandoned a child, are deprived of parental authority or have predeceased the child.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R5: That section 4, paragraph 2 (2) of the bill be amended to clarify the situation of a parent who has already received the entire indemnity, when the other parent is permitted to file an application after the time prescribed.</p> <p>R6: That section 4, paragraph 2 (3) of the bill be amended so that the notion of abandonment, like deprivation of parental authority, may allow a parent to receive the entire lump sum indemnity.</p> <p>R7: That section 4 of the bill be amended to provide that a person acting in place of the father or mother of a deceased dependent person be entitled to payment of the lump sum indemnity when both parents have abandoned the child, are deprived of parental authority or have predeceased the dependent person.</p> <p>Lastly, the Ombudsperson felt that the time prescribed to make an application for benefits, which would increase from one year to two years, was still too restrictive if one accounts for the special situation and the major difficulties experienced by some individuals who must make an application for benefits.</p>

BILL	INTERVENTION AND FOLLOW-UP
<p>(CONT'D)</p> <p>(Bill 22, 2013)</p>	<p>Consequently, the Québec Ombudsman recommended:</p> <p>R8: That section 5 of the bill be amended so that the time to make an application for benefits is three years from the occurrence of the harm and, in the case of a death benefit, from the date of death.</p> <p>Follow-up</p> <p>As at March 31, 2013, the bill had not been passed into law.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p><i>Regulation to amend the Building Code and</i></p> <p><i>Regulation to amend the Safety Code</i></p> <p>(2012, <i>Gazette officielle</i>, Part 2, 2269 and 2270)</p>	<p>Intervention (May 24, 2012)</p> <p>These draft regulations were mainly intended to amend construction requirements to limit the temperature of hot water from shower heads and bath faucets in private seniors' residences and care occupancies such as residential and long-term care centres (CHSLDs). The regulations also required that temperature limiting devices be set to no more than 43°C to prevent burns.</p> <p>In a letter to the president and chief executive officer of the Régie du bâtiment du Québec, the Ombudsperson lent her support to the proposed regulations which were consistent with her recommendations to the Ministère de la Santé et des Services sociaux in July 2010.</p> <p>Follow-up</p> <p>The regulations were published on December 27, 2012, with a few amendments concerning, among other things, a system verification register.</p>
<p><i>Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence</i></p> <p>(2012, <i>Gazette officielle</i>, Part 2, 2795)</p>	<p>Intervention (July 13, 2012)</p> <p>On September 6, 2011, as part of the consultations on Bill 16, <i>An Act to amend various legislative provisions concerning health and social services in order, in particular, to tighten up the certification process for private seniors' residences</i>, the Ombudsperson emphasized to the Committee on Health and Social Services the importance of setting rigorous certification criteria and inspection practices for private seniors' residences.</p> <p>From this perspective, the Ombudsperson analyzed the draft regulation and made 12 recommendations to the Minister for Social Services to ensure that the proposed criteria and standards would adequately respond to the problems brought to light by users of the health and social services network.</p> <p>The Ombudsperson reiterated her concern about excluding private seniors' residences that provide only one service from the certification process.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R1: That personal assistance services be defined more precisely so as to clearly identify the clientele covered, in particular by setting out bounds for the services made available by private seniors' residences.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p>(CONT'D)</p> <p>(2012, <i>Gazette officielle</i>, Part 2, 2795)</p>	<ul style="list-style-type: none"> • This recommendation was disregarded. The exclusion of residences that offer only one service other than lodging was maintained and the definitions of “services” remained basically the same. <p>The Ombudsperson considered that exemptions from certain sections of the regulation for limited-capacity residences (fewer than six people) could create a new breach in the protection afforded to the elderly by certification.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R2: That the safety and supervision measures required from operators of limited-capacity private residences be adapted above all to take into account the characteristics of the residents and spatial organization, not merely their number.</p> <ul style="list-style-type: none"> • This recommendation was accepted in part. Limits were set for the exemption from certain sections of the regulation for limited-capacity residences and even limited-capacity residences will be required to have minimal procedures in the event of unexplained absence, danger for life and limb, death or oppressive heat, and will have to draw up a code of conduct, but they will be exempted from the obligation to provide a call-for-help system and to keep an incident-accident register. <p>Since the health and needs of the elderly can change quickly, the Ombudsperson expressed concern that the categorization of residences according to whether the seniors are independent or semi-independent will oblige residents to move at the slightest change in their health status. She feared that the number of moves would multiply and impact directly on the seniors’ health and ability to adapt.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R3: That the regulation specify the meaning of “independent elderly person” and “semi-independent elderly person”.</p> <ul style="list-style-type: none"> • This recommendation was accepted in part. Limits were set for the exemption from certain sections of the regulation for limited-capacity residences and even limited-capacity residences will be required to have minimal procedures in the event of unexplained absence, danger for life and limb, death or oppressive heat, and will have to draw up a code of conduct, but they will be exempted from the obligation to provide a call-for-help system and to keep an incident-accident register. <p>With regard to assessment of the client population, the draft regulation provided for the use of recognized standardized tools for evaluating the autonomy of a resident, but did not specify the training or expertise required of the people who may be called upon to carry out the evaluation. In the Ombudsperson’s opinion, this assessment would have to be conducted by a competent person so that results are reliable.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R4: That the regulation set forth the training and expertise required of staff members at seniors’ residences who may be called upon to assess the functional autonomy of residents or prospective residents.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p>(CONT'D)</p> <p>(2012, <i>Gazette officielle</i>, Part 2, 2795)</p>	<ul style="list-style-type: none"> • This recommendation was accepted. The regulation enacted, in combination with the <i>Manuel d'application du Règlement sur les conditions d'obtention d'un certificat de conformité et les normes d'exploitation d'une résidence privée pour aînés</i>, now spells out that only a trained health professional is authorized to carry out such an assessment. <p>In terms of fire safety, the Ombudsperson reiterated her concern about situations where the reduced mobility of seniors could be a problem in ensuring safe evacuation from a residence in the event of a fire. Even if, prior to opening a residence, the operator must establish and update a fire safety plan in accordance with the guide recognized by the Ministère de la Sécurité publique, beyond this theoretical exercise, the Ombudsperson continued to be concerned about the time span allowed by authorities for conducting evacuation drills.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R5: That the operator of a residence be required to submit to the health and social services agency confirmation from the municipal fire safety service that it approved the fire safety plan and its updates.</p> <ul style="list-style-type: none"> • This recommendation was disregarded. <p>Regarding supervision, despite the long-awaited introduction of a ratio of staff present in a residence to respond quickly in an emergency, the Ombudsperson considered that the minimum threshold, set according to the category of seniors' residences and based on the number of apartments, was insufficient to ensure the required vigilance.</p> <p>The Ombudsperson proposed in particular that the number of staff members assigned to supervise residents must be based on the number of residents and their specific characteristics rather than on the number of apartments.</p> <p>In another vein, the draft regulation left to the discretion of the operator of a private seniors' residence for semi-independent elderly persons the choice of measures to prevent residents prone to wandering from leaving the residence and its grounds, unlike the regulation in force at the time, which prescribed the installation of a safety device which alerts staff. The Ombudsperson, fearing that safety measures would be increased only after mishaps occurred, was worried about the safety of residents.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R6: Adjusting the number of staff members who must be present at all times in a private seniors' residence, not only according to the number of residents, but also according to their characteristics so as to take risky behaviours into account (wandering, falls, etc.).</p> <p>R7: Using the wording of section 13 of the current <i>Regulation respecting the conditions for obtaining a certificate of compliance for a private seniors' residence</i> (R.R.Q., c. S-4.2, R.5) instead of section 30 of the draft regulation, so as to require the installation of a safety device that alerts staff members in cases where an operator has residents who should be subject to monitoring because of a wandering risk.</p> <ul style="list-style-type: none"> • Recommendation 6 was disregarded. The ratio of staff present in a residence to respond quickly in an emergency remained the same. • Recommendation 7 was accepted. The regulation was amended to include, as before, the obligation to install a safety device which alerts staff in the event of wandering by residents.

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p>(CONT'D)</p> <p>(2012, <i>Gazette officielle</i>, Part 2, 2795)</p>	<p>The Ombudsperson was in favour of the requirements in connection with the training and skills demanded of orderlies who interact with residents and the fact that these requirements were to be adapted according to the category of the private seniors' residence. However, she expressed concerns as to the exemptions linked to experience, given the Québec Ombudsman's investigation findings showing that the experience of an orderly working in a private residence is not an iron-clad guarantee of the acquisition of skills, know-how or interpersonal skills. Since there was no specific mention of the manner in which the operator was to prove that the staff had mastered the required skills and successfully completed the required training, the Ombudsperson felt that it was suitable to require a formal process that is structured and ongoing for the operator to assess staff.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R8: That the regulation specify the measures that the operator of a private seniors' residence must put into place to ensure mastery of the required skills by all staff members.</p> <ul style="list-style-type: none"> • This recommendation was accepted. The regulation was reworded and made it mandatory for care attendants to hold an official document issued by a school board confirming mastery of the complementary skills required or at least three years of practical experience. The <i>Manuel d'application</i> also specifies that the Department had retained the services of the school boards to prepare a record of acquired skills for each care attendant and to determine the required training; this addresses the Québec Ombudsman's concerns. <p>The Ombudsperson also expressed concerns about the deadline for meeting these requirements and considered that phasing in would better guarantee quality services more quickly.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R9: That the regulation set forth a minimum percentage of orderlies who have completed the training requirements each year before the deadline of November 1, 2015. For example, it could provide that at least a third of employees must have completed their training by November 1, 2013, and two-thirds by November 1, 2014.</p> <ul style="list-style-type: none"> • This recommendation was disregarded. The deadline for all staff members to meet training and skill requirements (November 1, 2015) remained unchanged. <p>The draft regulation prescribed that the operator of a private residence for semi-independent seniors provide the services of one nurse or nursing assistant, no matter how many residents, which the Québec Ombudsman deemed insufficient.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R10: Adjusting the number of nurses or nursing assistants in good standing with their professional order that the operator of a private residence for semi-independent seniors be required under section 35 of the regulation to have on duty, according to the number and characteristics of the residents.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p>(CONT'D)</p> <p>(2012, <i>Gazette officielle</i>, Part 2, 2795)</p>	<ul style="list-style-type: none"> Not only was this recommendation disregarded, but the obligation provided for in the draft regulation disappeared completely, the section having been removed from the regulation as enacted. <p>The Ombudsperson deplored that there were no bounds governing the content of agreements on the delivery of health services and social services by the local authority in the territory of the private seniors' residence by the local authority and the operator.</p> <p>Wondering if a certain degree of uniformity in the agreements' content would be beneficial in averting problems of unfairness or disparity, the Ombudsperson considered that these agreements should include at the very least a means of information-sharing that would allow the operator and the local body to work in partnership on prevention and risk management.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R11: That section 40 of the regulation specify a minimum content for the agreement that must be reached between the operator and the local body on the terms of dispensing health services and social services to residents.</p> <ul style="list-style-type: none"> This recommendation was accepted in part. The enacted regulation provides that the agreement set out how health services and social services will be dispensed to the residents by the local authority, undertakings made by the local authority and the operator in that respect and any other modality concerning their cooperation. The <i>Manuel d'application</i> specifies certain elements that the agreements must contain, as well as their goal: work collaboratively, foster service complementarity, and ensure rapid and effective communication among partners. <p>Lastly, while hailing prevention and risk management measures (obligation to correct or reduce the frequency of situations creating a risk, to report and disclose incidents and accidents, and to have a person designated by the operator keep a register), the Ombudsperson had questions about the absence of support and follow-up by the health and social services agency responsible.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R12: That the operator be required to submit the register kept under section 57 of the regulation to the health and social services agency on an annual basis.</p> <ul style="list-style-type: none"> This recommendation aimed at ensuring support and follow-up for the operator by the agency in risk management was disregarded. <p>Follow-up</p> <p>The regulation was published on February 27, 2013.</p> <p>While basically the regulation remained the same, we noted that it contains a number of interesting improvements.</p> <p>The significant gains in the tightening of certification criteria and standards deserve to be acknowledged. The clarifications in the <i>Manuel d'application</i> of the guidelines for compliance with these new criteria suggest that enforcement of the new regulation will foster greater protection of those who will live in these private seniors' residences.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p><i>Regulation to amend the Individual and Family Assistance Regulation</i></p> <p>(2012, <i>Gazette officielle</i>, Part 2, 5988)</p>	<p>Intervention (February 5, 2013)</p> <p>In a letter to the Minister of Employment and Social Solidarity, the Ombudsperson said that, on the whole, the draft bill was likely to improve the situation of recipients of last resort financial assistance as well as that of certain people related to them.</p> <p>Without going into the details of the numerous amendments proposed to the regulation, the Ombudsperson expressed her satisfaction with the amendment regarding funeral expenses, which extends the deadline for filing the payment application from 30 days to 90 days, thereby correcting certain prejudicial situations that the Québec Ombudsman had noted. This amendment would, among other things, enable harmonization with the deadlines for filing an application for death benefits with the Régie des rentes du Québec.</p> <p>Follow-up</p> <p>The enacted regulation was published on March 13, 2013.</p>
<p><i>Regulation to amend the Regulation respecting occupational health and safety and the Safety Code for the Construction Industry</i></p> <p>(2012, <i>Gazette officielle</i>, Part 2, 5994)</p>	<p>Intervention (February 5, 2013)</p> <p>In a letter to the chair and chief executive officer of the Commission de la santé et de la sécurité du travail (CSST), the Ombudsperson endorsed this draft regulation that provided that within two years of its passage, all buildings where there are workers must be inspected with a view to identifying fireproofing or insulation containing asbestos. This would be the responsibility of employers, who would be required to have a log and keep it updated. They would also be required to take the necessary corrective action if asbestos fibres were likely to be released into the air during recovery operations. The owners of the buildings concerned would, among other things, be required to ensure regulatory compliance in the public areas that could be affected.</p> <p>Since this draft regulation addressed the main concerns underlying the deliberations already undertaken by the Québec Ombudsman regarding measures by the government to protect the public against the inherent risks of asbestos use, the Ombudsperson felt that it should help to prevent construction and maintenance workers' exposure to asbestos, who are currently at greater risk for asbestos-related diseases.</p> <p>The Ombudsperson nonetheless pointed out that this improved regulatory framework would have a positive impact only to the extent that it would be applied by employers and workers.</p> <p>For further information on this subject, see the Report on systemic investigations chapter, on page 91.</p> <p>Follow-up</p> <p>As at March 31, 2013, the regulation had not been enacted.</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p><i>Six regulations governing the professional activities that can be engaged in by a pharmacist</i></p> <p>(2013, <i>Gazette officielle</i>, Part 2, 331, 334, 335, 336, 337 and 338)</p>	<p>Intervention (March 7, 2013)</p> <p>In a letter to the chair of the Office des professions du Québec, also sent to the Minister of Health and Social Services, the Ombudsperson, stating that she agreed with the regulation of new professional activities that can be engaged in by pharmacists, including prescribing and administering certain medications, prescribing and interpreting laboratory tests, and extending or adjusting a prescription from a physician or substituting a prescribed medication for another, considered that these draft regulations could foster better access to front-line services and ensure interprofessional collaboration among physicians and pharmacists.</p> <p>However, the Ombudsperson said that she was worried about the possible financial impact of the new measures on citizens and feared that pharmacists could bill for services currently provided free of charge by physicians.</p> <p>Noting that the financial repercussions for citizens would likely not be known at the time the regulation under study was enacted, she indicated that she would follow with interest the talks on this subject between the Ministère de la Santé et des Services sociaux and the Association québécoise des pharmaciens propriétaires.</p> <p>Follow-up</p> <p>As at March 31, 2013, the regulations had not been enacted.</p>
<p><i>Regulation to amend the Individual and Family Assistance Regulation</i></p> <p>(2013, <i>Gazette officielle</i>, Part 2, 653)</p>	<p>Intervention (March 27, 2013)</p> <p>In a letter to the Minister of Employment and Social Solidarity, the Ombudsperson said that she was concerned about the amendments to the <i>Individual and Family Assistance Regulation</i>. While subscribing to certain principles of the draft regulation, she feared that the amendments would make some social assistance recipients even more vulnerable.</p> <p>The Ombudsperson was worried about the amendment that provided that the recognition of limited capacity because of age would increase from 55 to 58 years. She pointed out that in the Ministère de l'Emploi et de la Solidarité sociale's evaluation of the <i>Programme d'aide et d'accompagnement social</i> (PAAS) produced in 2010, it noted that people 45 years or over are twice at risk of staying on assistance in the years ahead, and even more so for recipients age 55 or over. She also made the point that employers still too often have negative attitudes towards older workers.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R1: That access to the temporarily limited capacity allowance be maintained for recipients 55 years or older, until the statistics and studies indicate a positive evolution of their employability and the impact of government employment assistance programs.</p> <p>The Ombudsperson was also concerned about some of the proposed amendments with regard to the proposed limit on eligibility for special benefits for living expenses for addiction services with accommodations to no more than twice per 12-month period, up to a total of 90 days.</p> <p>While she agreed with the purpose of preventing abuse, she indicated that not all addicts require the same treatment and the effectiveness of residential treatment may vary according to the severity of the dependence problem.</p> <p>The Ombudsperson went on to say that in her opinion, a user who has been adequately assessed on the basis of recognized tools as provided in the</p>

DRAFT REGULATION	INTERVENTION AND FOLLOW-UP
<p>(CONT'D)</p> <p>(2013, <i>Gazette officielle</i>, Part 2, 653</p>	<p><i>Regulation respecting the certification of drug addiction or pathological gambling resources</i> should then receive the services adapted to his or her condition.</p> <p>The maximum period of 90 days of treatment stipulated in the draft regulation, treatment which would have to be provided within no more than two stays within a 12-month period for clients with a more complex profile, seemed to the Ombudsperson to be potentially insufficient. In her opinion, this limit would be prejudicial to the clientele who exhibit severe addiction and are at risk of multiple relapses, with the presence of comorbidity.</p> <p>Users receiving last resort assistance who wish to complete their therapy in a certified private or community resource beyond the 90 days would no longer be able to defray the additional costs incurred and would have no choice but to apply to the public health services and social services. It was appropriate to question the impact on the capacity of the public network to absorb the effects of the new standard.</p> <p>Regarding the limit of two stays per 12-month period, the Ombudsperson said that she feared the impact this would have on persons at risk of relapse or who have to make several attempts before overcoming addiction permanently.</p> <p>In another vein, according to the Ombudsperson, if the draft regulation were to come into force as proposed, there would be significant consequences for inmates and the prison system. She said she was worried about detainees' social reintegration, especially those on conditional release who commit to therapy in a dependency treatment centre, often for a period that exceeds three months.</p> <p>The Ombudsperson was also concerned that other offenders faced with addiction problems who would also have to commit to treatment—such as defendants on conditional release, convicted persons who benefit from a suspended sentence or a conditional discharge, or persons on probation after incarceration—would be at risk of suffering the consequences of this regulatory amendment.</p> <p>The Ombudsperson also drew attention to what appeared to be a contradiction between the draft regulation and the Court of Québec addiction treatment program, which provides for therapy lasting over 90 days or more than twice in the same year.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R2: That the current conditions of eligibility for special benefits for living expenses for additional services with accommodations be maintained.</p> <p>She also issued the reminder that this eligibility was at the time defined by a medical assessment (or reassessment), which, if considered appropriate by the government, could be subject to a second opinion by the Department.</p> <p>While noting with satisfaction the increase in the rate for special benefits for recipients with disabilities who medically require special accessories related to the elimination system, which is consistent with her recommendation to ensure that reimbursement for these accessories covers the actual cost to recipients, the Ombudsperson noted there was no periodic indexation or review mechanism for rates for ensuring that the reimbursements correspond to the actual costs.</p> <p>Consequently, the Québec Ombudsman recommended:</p> <p>R3: That a provision be added to the draft regulation to ensure that the rates for special benefits set out in the regulation correspond to the actual costs disbursed by the recipients.</p> <p>Follow-up</p> <p>As at March 31, 2013, the regulation had not been enacted.</p>

FOLLOW-UP TO INTERVENTIONS CARRIED OUT BETWEEN 2008-2009 AND 2011-2012

Regulation to amend the Regulation respecting the Gazette officielle du Québec

(2011, *Gazette officielle*, Part 2, 5539)

Intervention (January 20, 2012)

The purpose of this draft regulation was to make the electronic versions of the *Gazette officielle du Québec* published on the Publications du Québec website available free of charge.

Since the Québec Ombudsman, long concerned about the issue of the accessibility of laws and regulations, felt that the *Gazette officielle du Québec* should be as widely available as possible free of charge, the Ombudsperson expressed her satisfaction with this much-awaited and opportune future regulation.

Considering that with a view to sustainable development, the use of electronic versions should be encouraged, the increase in the subscription price for paper versions did not seem unreasonable to her.

Follow-up

The regulation was published on June 20, 2012, with slight changes that did not affect the Ombudsperson's endorsement of the legislation.

Act to amend various legislative provisions concerning health and social services in order, in particular, to tighten up the certification process for private seniors' residences

(Bill 16, 2011)

Intervention (September 6, 2011)

In her brief to the Committee on Health and Social Services on September 6, 2011, the Ombudsperson made nine recommendations, including one proposing the systematic checking of judicial records with police services for all owners, administrators, or anyone who works directly with residents, in relation to the job being sought.

Follow-up

This recommendation, which was disregarded when the bill was passed into law on November 29, 2011, was followed by this year's provision inserted into the *Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence* (see page 116). The new regulation states that "the operator must have the accuracy of the declaration [charges or convictions] referred to in the first paragraph verified by the police force before the staff member or volunteer begins work," which reflects the recommendation.

**Act to tighten
the regulation of
educational childcare
(Bill 126, 2010)**

Intervention (November 17, 2010)

On November 17, 2010, at the invitation of the Committee on Citizen Relations, the Ombudsperson commented and made recommendations on this bill. While she subscribed to its basic principles, the Ombudsperson made, apart from the recommendations having to do with the bill itself (the 2010-2011 annual report), the following recommendations to the Ministère de la Famille et des Aînés concerning application of the act:

1. Ensure that government priorities governing the attribution of subsidized places are not subject to change while the process is in progress, and that these priorities are made public;
2. Plan the distribution of subsidized places in an integrated manner, taking into consideration the existence of unsubsidized daycares, in order to avoid having the government intervention result in a shift of clients from private unsubsidized care to subsidized care;
3. Minimize the impact for parents of any actions taken to curtail illegal childcare services and provide transitional measures where possible;
4. Take whatever steps are necessary to reduce permit attribution time, to allow illegal childcare services to comply with the law;
5. Come to an agreement with the coordinating bureaus on timelines and the means to implement to accelerate the recognition of people in charge of home daycares that do not have subsidized places.

Follow-up

After the first follow-up to its recommendations partly acted on in 2011-2012, the Québec Ombudsman considered that its first recommendation was now fulfilled because the Department had made its priorities public before the 2013 call for proposals. As for the second recommendation, it deplored that the Department had issued the new call for proposals that excluded existing unsubsidized daycares without the results of an impact study on the subject. With regard to recommendations 3 and 4, last year it was concerned that by giving priority to applications for permits from illegal daycare operations, applicants who followed the rules would be penalized. It has noted the various measures by the Department to ensure compliance with the applicable legislation. As for recommendation 5, the Department has produced a reference tool for coordinating bureaus. The Québec Ombudsman will continue to follow the situation.

FOLLOW-UP TO INTERVENTIONS CARRIED OUT BETWEEN 2008-2009 AND 2011-2012

Draft regulation to amend the Regulation respecting the activities engaged in and described in sections 39.7 and 39.8 of the Professional Code

(2009, Gazette officielle, Part 2, 24)

Intervention (February 27, 2009)

The purpose of the proposed regulatory amendments was to allow operators and staff of private seniors' residences to provide, under certain conditions, the invasive care involved in assistance with activities of daily living—required on a sustained basis for the maintenance of health—and to administer prescribed ready-to-administer medications, a task otherwise reserved for professionals only.

In 2009, the Québec Ombudsman recommended that the regulation specify the minimum level of training required for carrying out these tasks and that it include a provision allowing a health and social services centre (CSSS) in the territory of the residence to establish a knowledge-update and quality-control mechanism for the activities concerned. It also called for a provision requiring that the residence have a valid certificate of compliance so that residents would be covered by the residence's liability insurance in the event of the commission of an error by staff.

The Québec Ombudsman also spoke of its concern regarding the consequences of the regulation on the maintenance of free services for the elderly in residential resources and on the continuity of services available to them. It sought assurance that CSSSs would always be prepared to provide these services free of charge to all elderly persons in need of them, regardless of whether or not the residence could provide them, in order to ensure that vulnerable people not be forced to cover the cost of these services or do without them.

Follow-up

The regulation was finally published on February 27, 2013, and will come into force on February 28, 2014. Enactment of the regulation came in the wake of passage into law of the *Act to amend various legislative provisions concerning health and social services in order, in particular, to tighten up the certification process for private seniors' residences* in November 2011 at the same time as the *Regulation respecting the conditions for obtaining a certificate of compliance and the operating standards for a private seniors' residence*, commented on in this annual report. Amendments were made to ensure harmonization with these two pieces of legislation. Only care attendants within the meaning of the above regulation are authorized to carry out regulated activities, and further details are provided as to their training. Pursuant to the act, certification of residences is now mandatory. Lastly, the agreement between the residence and the local authority now includes criteria for service quality and continuity. On the whole, the amendments address the Québec Ombudsman's concerns.

RESULTS IN FIGURES

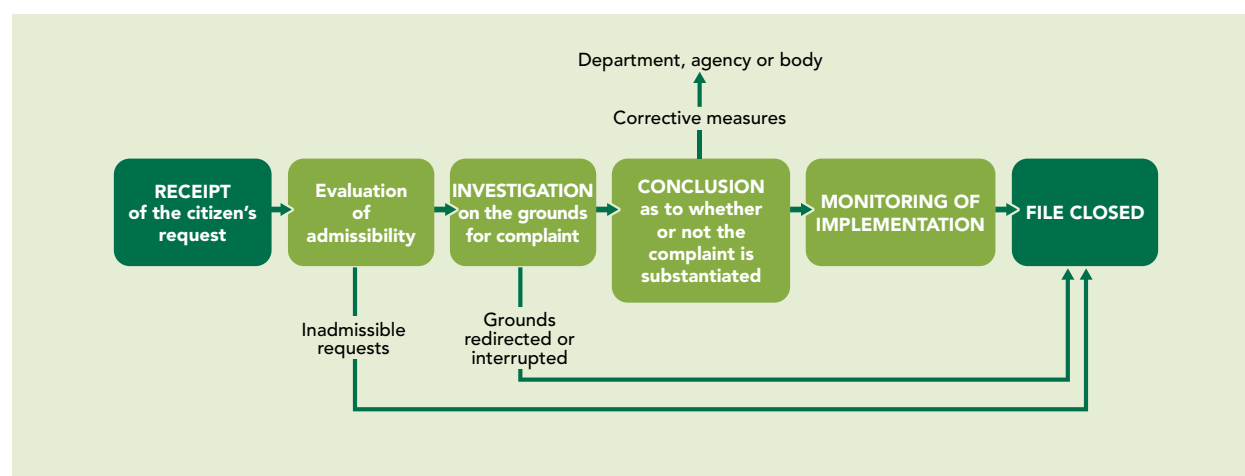
This chapter presents statistics concerning the Québec Ombudsman's actions pursuant to the two pieces of legislation that govern it, namely the *Public Protector Act* and the *Act respecting the Health and Social Services Ombudsman*.

In the health and social services sector, the Québec Ombudsman is usually the second line of non-judicial recourse for users who are dissatisfied with decisions made by local or regional service quality and complaints commissioners.

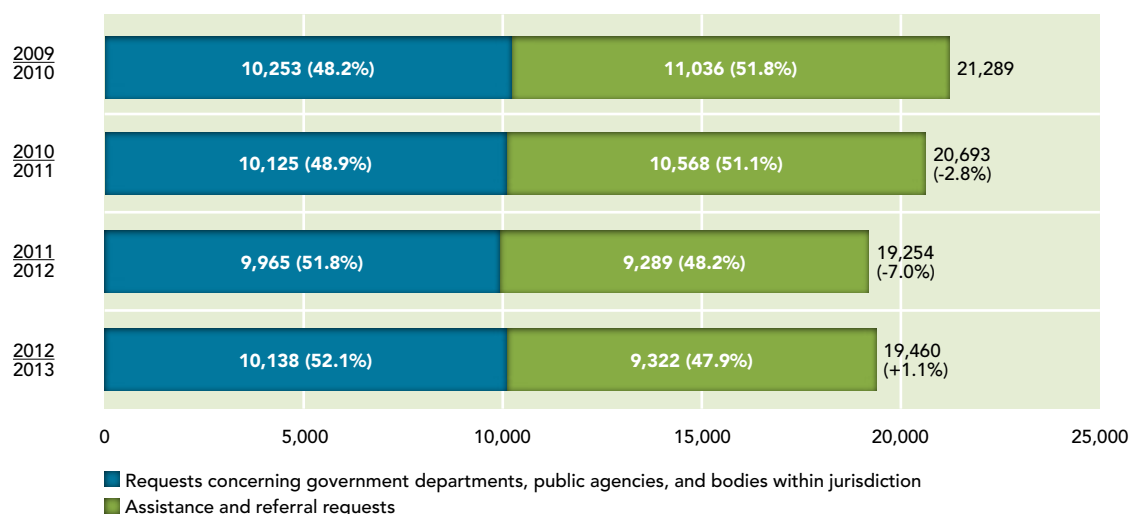
Citizens' requests for service, which are deemed admissible as complaints or reports, give rise to investigations. All other requests are treated as requests for assistance or referrals.

When the investigation is complete, the Québec Ombudsman informs the person of its findings. If the complaint is substantiated, the government department, public agency or body concerned may be asked to introduce corrective measures, and the Québec Ombudsman monitors their implementation. A substantiated complaint file is not closed until implementation has been monitored, at which point the Québec Ombudsman is assured that the corrective measures have in fact been applied.

Processing of requests for service



1. REQUESTS FOR SERVICE RECEIVED

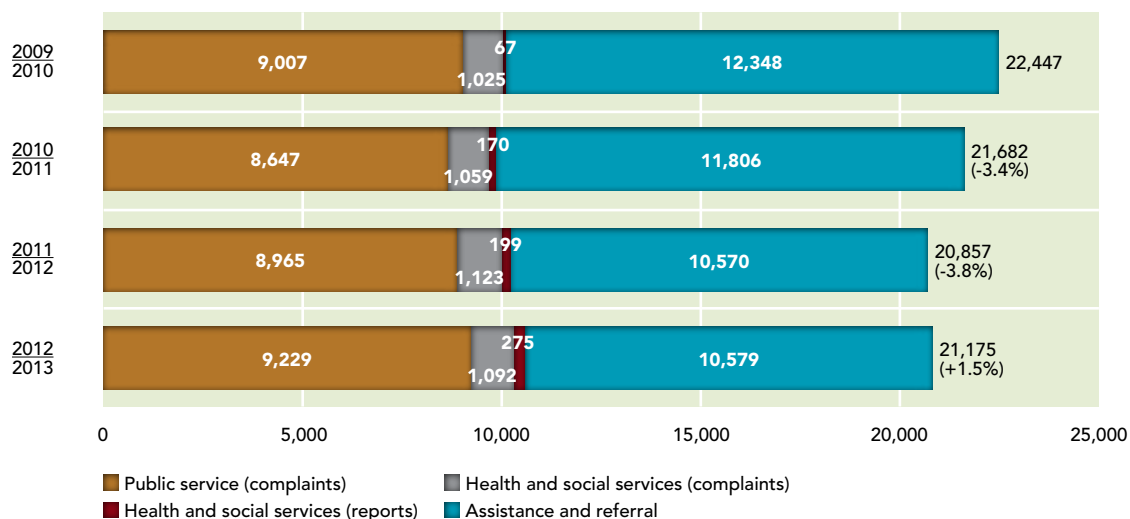


The total number of requests for service increased by 1.1%. This slight increase is due in most part to the 1.7% rise in requests concerning government departments, public agencies and health and social services bodies within the Québec Ombudsman's jurisdiction. Assistance and referral requests rose by 0.4%.

Note that this year the proportion of requests for service received concerning government departments, public agencies or health or social services bodies within the Québec Ombudsman's jurisdiction exceeded that of assistance and referral requests by roughly 4 percentage points. It is now 52.1%.

2. CLOSED REQUESTS FOR SERVICE

Analysis of a request for service may lead to the identification of several grounds for intervention on the part of the Québec Ombudsman. Here, closed requests are grouped according to the factors involved. That is why the number of closed requests is slightly higher than the number of requests presented in the previous figure.



The total number of closed requests for service increased by 1.5% (from 20,857 to 21,175).

In terms of the public service:

- the number of closed complaints rose by 2.9% (from 8,965 to 9,229).

In terms of health and social services:

- the number of closed complaints decreased by 2.8% (from 1,123 to 1,092);
- the number of closed reports increased by 38.2% (from 199 to 275).

The number of requests for assistance and referral:

- held steady (10,570 in 2011-2012; 10,579 in 2012-2013).

3. COMPLAINTS AND REPORTS CLOSED FOLLOWING AN INVESTIGATION

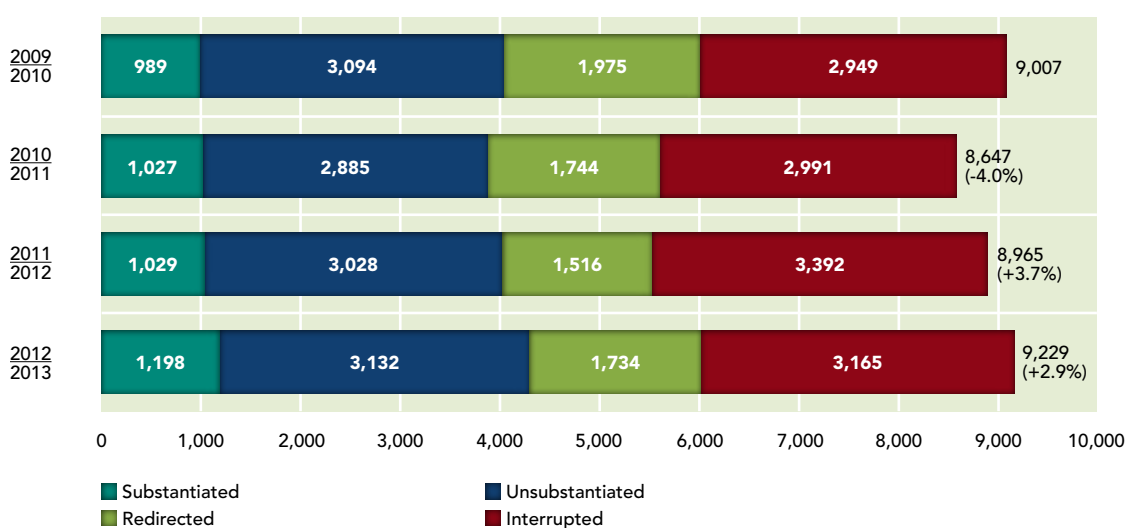
When a complaint or report is deemed admissible, the Québec Ombudsman launches an investigation.

In the course of an investigation, a citizen or user may decide not to follow through with a complaint and therefore withdraws it, in which case the investigation is interrupted.

It can also happen that an investigation is not completed because in light of the facts gathered, the Québec Ombudsman refers the person to another resource or because the complaint is settled or the report dealt with during the investigation conducted by the Québec Ombudsman.

A decision as to whether or not a complaint is substantiated is only made after the investigation has been completed.

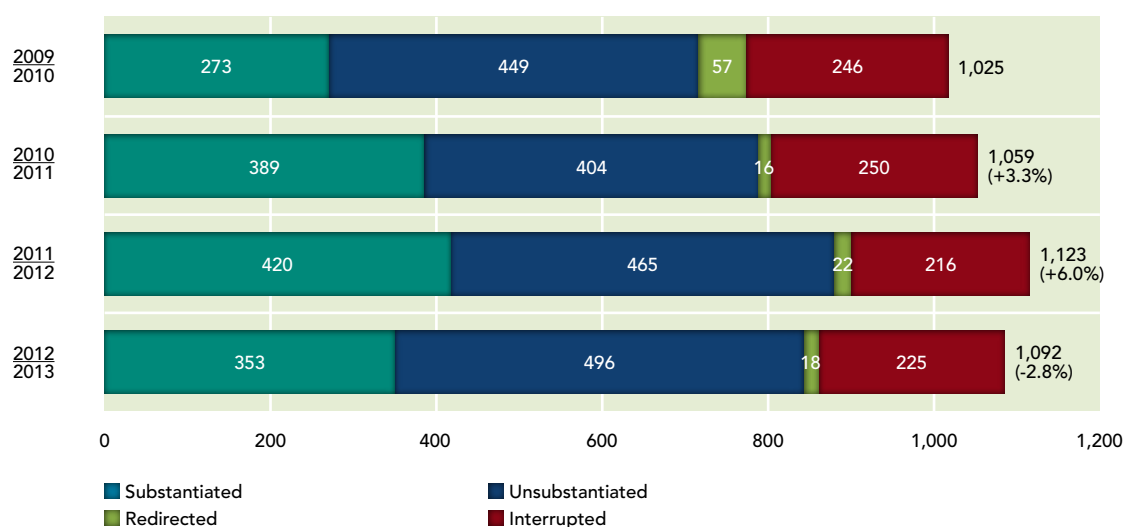
3.1 Variation in the number of closed complaints – Public service



In terms of the public service, the total number of closed complaints increased by 2.9% (from 8,965 to 9,229), broken down as follows:

- the number of substantiated complaints increased by 16.4% (from 1,029 to 1,198);
- the number of unsubstantiated complaints increased by 3.4% (from 3,028 to 3,132);
- the number of redirected complaints increased by 14.4% (from 1,516 to 1,734);
- the number of interrupted complaints decreased by 6.7% (from 3,392 to 3,165).

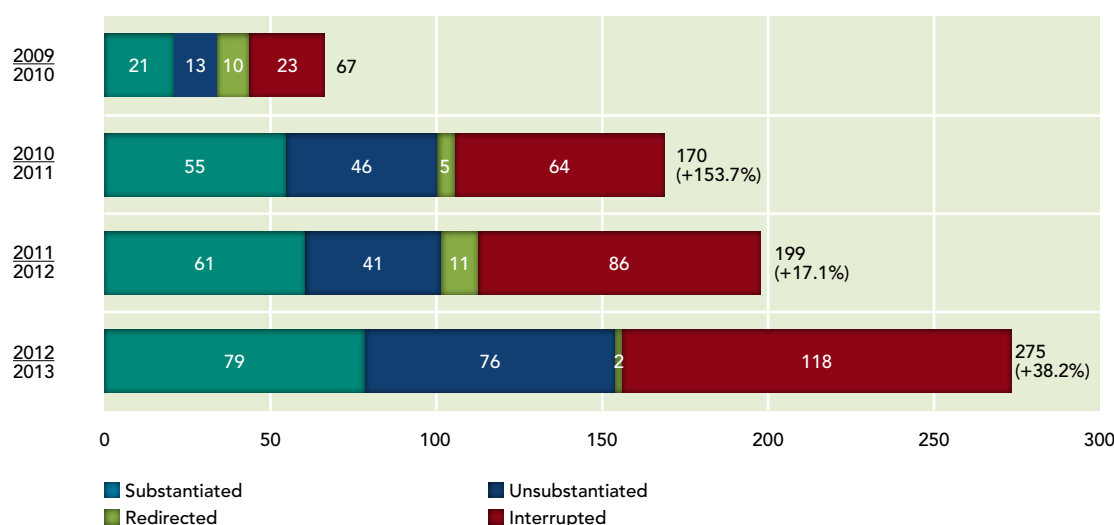
3.2 Variation in the number of closed complaints – Health and social services



In terms of health and social services, the total number of closed complaints fell by 2.8% (from 1,123 to 1,092), broken down as follows:

- the number of substantiated complaints decreased by 16.0% (from 420 to 353);
- the number of unsubstantiated complaints increased by 6.7% (from 465 to 496);
- the number of redirected complaints went from 22 to 18;
- the number of interrupted complaints increased by 4.2% (from 216 to 225).

3.3 Variation in the number of closed reports – Health and social services



In terms of health and social services, the total number of closed reports rose by 38.2% (from 199 to 275), broken down as follows:

- the number of substantiated reports increased by 29.5% (from 61 to 79);
- the number of unsubstantiated reports increased by 85.4% (from 41 to 76);
- the number of redirected reports went from 11 to 2;
- the number of interrupted reports increased by 37.2% (from 86 to 118).

3.4 Percentage of substantiated complaints and reports

SECTOR	2009-2010	2010-2011	2011-2012	2012-2013
Substantiated complaints – Public service	24.2%	26.3%	25.4%	27.7%
Substantiated complaints and reports – Health and social services	38.9%	49.7%	48.7%	43.0%

The percentage of substantiated complaints is calculated as follows:

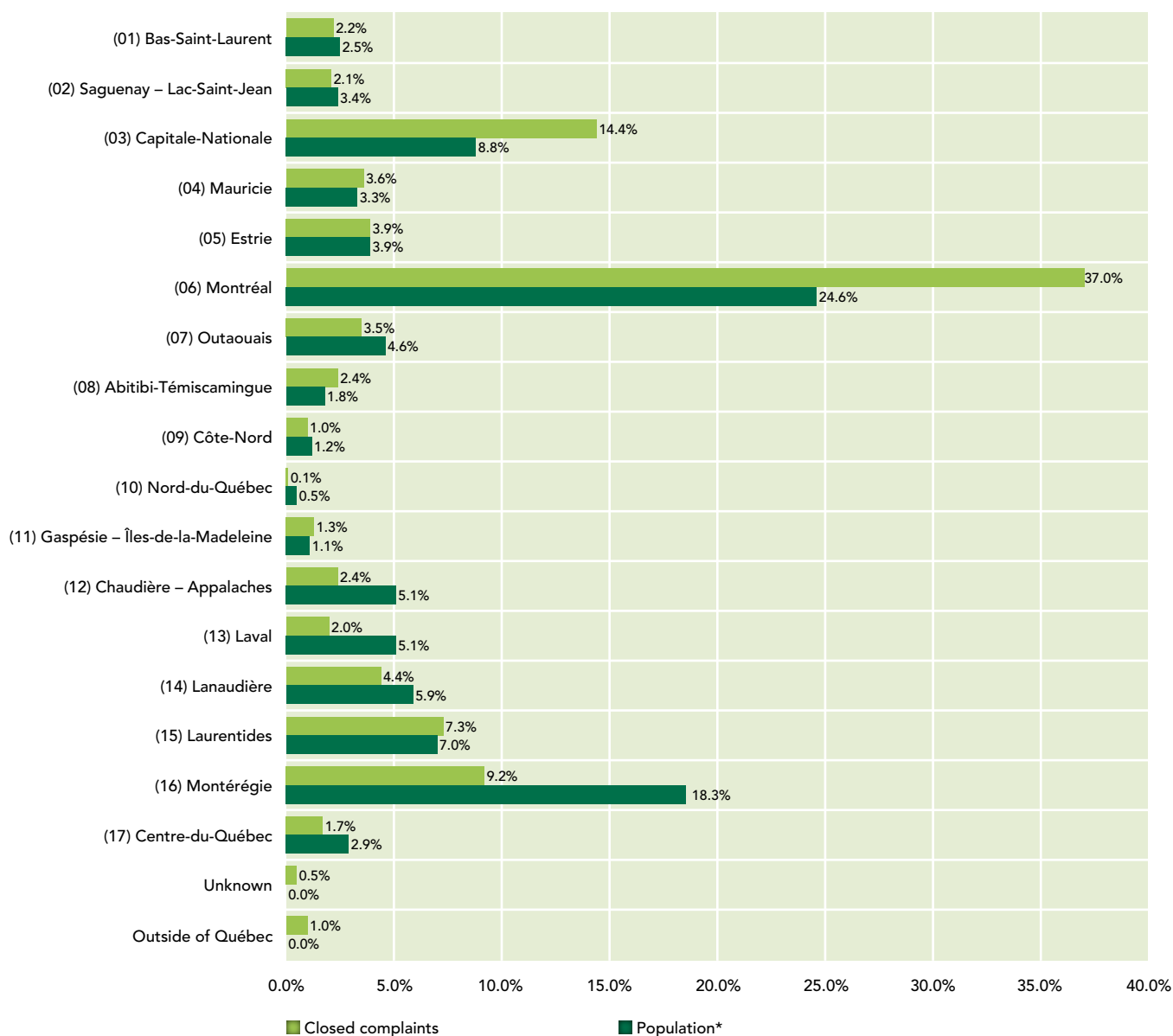
$$\frac{\text{Substantiated complaints and reports}}{\text{Substantiated complaints and reports} + \text{Unsubstantiated complaints and reports}}$$

In 2012-2013, substantiated public service complaints rose by 2.3 percentage points, whereas substantiated health and social services complaints and reports decreased by 5.7 percentage points from last year's figures.

4. SOURCE OF COMPLAINTS AND REPORTS CLOSED FOLLOWING AN INVESTIGATION

4.1 Source of closed complaints for the public service, by administrative region of applicant

Proportion of closed complaints for the public service/Proportion of the population

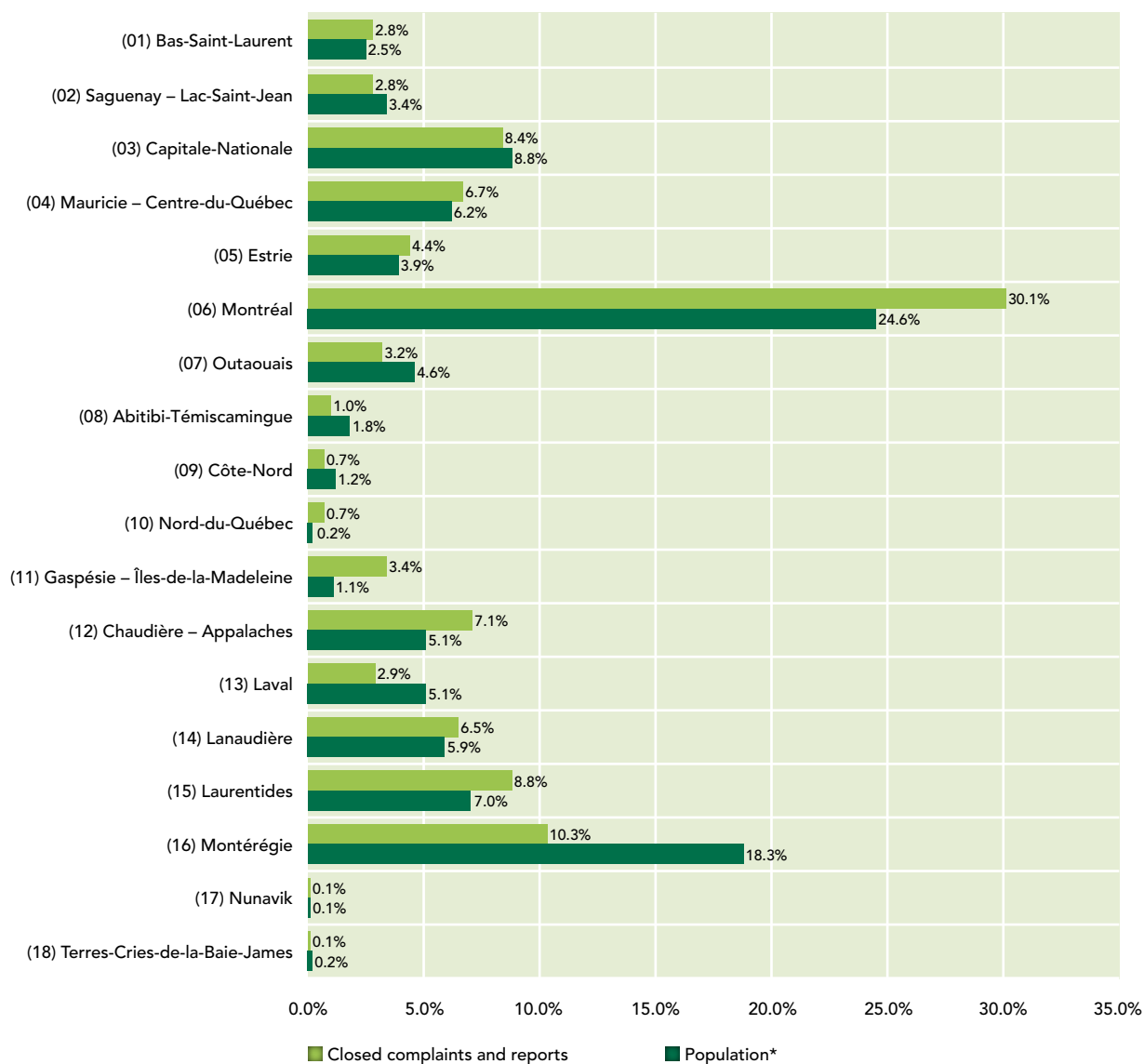


* Source: Statistics Canada, Demographics Division; Institut de la statistique du Québec, Direction des statistiques sociodémographiques; and Ministère de la Santé et des Services sociaux, Direction des études et des analyses. Population estimate as at January 1, 2013.

4.2 Source of closed complaints and reports in health and social services, by health and social service region of the body concerned

While the service offering in the public service sector is coordinated at the provincial level, that in the health and social services sector is administered at the regional level. Québec is divided into a number of health and social service regions under the auspices of the Ministère de la Santé et des Services sociaux, and these regions are accountable for the services they provide for citizens.

Proportion of closed complaints and reports for health and social services/Proportion of the population



* Source: Statistics Canada, Demographics Division; Institut de la statistique du Québec, Direction des statistiques sociodémographiques; and Ministère de la Santé et des Services sociaux, Direction des études et des analyses. Population estimate as at April 1, 2012.

5. MONITORING OF CORRECTIVE MEASURES

If a complaint or report is found to be substantiated following the Québec Ombudsman's investigation and transmission of its conclusions, usually corrective measures are implemented by the government department, public agency or body concerned.

5.1 Individual scope measures accepted

SECTOR	2009-2010	2010-2011	2011-2012	2012-2013	2012-2013	
					Measures accepted	Measures refused
Public service (complaints)	99.6%	99.8%	99.0%	99.4%	894	5
Health and social services (complaints)	99.2%	90.1%	96.3%	98.0%	150	3
Health and social services (reports)	100.0%	100.0%	100.0%	100.0%	8	0
Total	99.6%	98.4%	98.5%	99.2%	1,052	8

This year, the acceptance rate for case-specific measures requested by the Québec Ombudsman was 99.2%—only 8 out of 1,060 measures were refused.

5.2 Collective scope measures accepted

SECTOR	2009-2010	2010-2011	2011-2012	2012-2013	2012-2013	
					Measures accepted	Measures refused
Public service (complaints)	99.5%	100.0%	97.8%	98.9%	184	2
Health and social services (complaints)	98.0%	93.9%	98.9%	98.1%	210	4
Health and social services (reports)	100.0%	98.8%	98.5%	100.0%	113	0
Total	98.8%	96.6%	98.4%	98.8%	507	6

This year, the acceptance rate for collective measures requested by the Québec Ombudsman was 98.8%—only 6 out of 513 measures were refused.

Note that the number of recommendations with a collective impact stemming from substantiated reports nearly doubled this year (from 67 to 113). All of them were approved by the instances concerned.

6. PROFILE OF COMPLAINTS AND REPORTS BY GOVERNMENT DEPARTMENT, PUBLIC AGENCY, MISSION OR SERVICE PROGRAM

In 2012-2013, the Québec Ombudsman intervened with respect to:

- 58 of 80, or 72.5%, of the government departments and public agencies subject to its jurisdiction;
- 174 of 294, or 59.2%, of the institutions and agencies in the health and social services network subject to its jurisdiction.

6.1 Substantiated complaints in the public service for government departments and public agencies for which at least 10 substantiated complaints were received

GOVERNMENT DEPARTMENT/ PUBLIC AGENCY	Substantiated complaints 2009-2010	Substantiated complaints 2010-2011	Substantiated complaints 2011-2012	Substantiated complaints 2012-2013
Ministère de la Sécurité publique	372	342	384	466
Agence du Revenu du Québec	115	133	160	157
Commission de la santé et de la sécurité du travail	48	34	56	91
Ministère de l'Emploi et de la Solidarité sociale	54	47	57	89
Société de l'assurance automobile du Québec	184	117	72	73
Ministère de la Famille	10	8	7	54
Commission administrative des régimes de retraite et d'assurances	9	147	88	39
Régie du logement	19	26	53	39
Régie des rentes du Québec	24	12	8	29
Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie	NA	NA	NA	20
Ministère de l'Éducation, du Loisir et du Sport	18	42	33	18
Commissaire à la déontologie policière	4	0	6	12
Curateur public	28	18	18	10
Other	104	101	87	101
Total	989	1,027	1,029	1,198

The 13 government departments and public agencies for which there were at least 10 substantiated complaints accounted for 91.6% of substantiated complaints.

6.2 Closed complaints, by government department or public agency, by processing outcome

GOVERNMENT DEPARTMENT/ PUBLIC AGENCY/COMPONENT	COMPLAINTS RECEIVED IN 2012-2013	CLOSED COMPLAINTS IN 2012-2013				
		Redirected	Interrupted	Unsubstan- tiated	Substan- tiated	Total
Agence du revenu du Québec						
Direction générale des biens non réclamés	6	0	3	3	1	7
Fiscalité	875	31	314	302	130	777
Perception des pensions alimentaires	97	2	18	58	17	95
Registraire des entreprises	25	5	8	5	7	25
Général	87	4	8	1	2	15
Total: Agence du revenu du Québec	1,090	42	351	369	157	919
Assemblée nationale	1	0	0	1	0	1
Autorité des marchés financiers	9	0	4	6	1	11
Centre de services partagés du Québec	20	4	7	4	2	17
Comité de déontologie policière	2	0	0	0	0	0
Commissaire à la déontologie policière	79	2	21	29	12	64
Commission administrative des régimes de retraite et d'assurances	210	2	96	44	39	181
Commission d'accès à l'information	29	0	11	6	9	26
Commission de la fonction publique du Québec	5	1	1	2	0	4
Commission de la santé et de la sécurité du travail						
Indemnisation	386	1	186	107	66	360
Indemnisation des victimes d'actes criminels	173	3	47	99	24	173
Général	29	0	2	3	1	6
Total: Commission de la santé et de la sécurité du travail	588	4	235	209	91	539
Commission de l'équité salariale	2	0	1	2	0	3
Commission de protection du territoire agricole du Québec	12	0	5	2	4	11
Commission des lésions professionnelles	55	0	38	10	2	50
Commission des normes du travail	41	2	18	8	4	32
Commission des relations du travail	16	0	10	0	0	10
Commission des transports du Québec	4	0	1	2	1	4
Commission municipale du Québec	0	0	1	0	0	1
Commission québécoise des libérations conditionnelles	16	3	4	2	2	11

GOVERNMENT DEPARTMENT/ PUBLIC AGENCY/COMPONENT	COMPLAINTS RECEIVED IN 2012-2013	CLOSED COMPLAINTS IN 2012-2013				
		Redirected	Interrupted	Unsubstan- tiated	Substan- tiated	Total
Conseil de la justice administrative	1	0	1	0	0	1
Conseil de la magistrature	1	0	1	1	0	2
Coroner	7	1	3	6	2	12
Curateur public	212	5	77	63	10	155
Directeur des poursuites criminelles et pénales	4	0	2	0	0	2
Institut de tourisme et d'hôtellerie du Québec	5	0	1	3	0	4
Institut national d'excellence en santé et en services sociaux	1	0	0	0	0	0
La Financière agricole du Québec	1	0	2	3	0	5
Ministère de la Culture et des Communications	6	0	3	5	0	8
Ministère de la Famille	125	4	158	25	54	241
Ministère de la Justice	65	6	20	21	8	55
Ministère de la Santé et des Services sociaux	37	1	19	11	4	35
Ministère de la Sécurité publique						
Sécurité civile	14	0	3	6	1	10
Services correctionnels	4,282	1,499	1,148	917	459	4,023
Général	75	2	15	42	6	65
Total : Ministère de la Sécurité publique	4,371	1,501	1,166	965	466	4,098
Ministère de l'Agriculture, des Pêcheries et de l'Alimentation	21	1	9	7	4	21
Ministère de l'Éducation, du Loisir et du Sport	134	45	56	14	18	133
Ministère de l'Emploi et de la Solidarité sociale						
Emploi	56	8	15	29	5	57
Régime québécois d'assurance parentale	35	0	10	17	4	31
Solidarité sociale	773	43	249	307	80	679
Général	141	2	18	9	0	29
Total : Ministère de l'Emploi et de la Solidarité sociale	1,005	53	292	362	89	796
Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie						
Aide financière aux études	152	3	25	111	19	158
Enseignement supérieur	14	2	5	7	1	15
Recherche, innovation, infrastructures et collaborations internationales	1	0	0	0	0	0
Général	2	0	0	0	0	0
Total : Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie	169	5	30	118	20	173

GOVERNMENT DEPARTMENT/ PUBLIC AGENCY/COMPONENT	COMPLAINTS RECEIVED IN 2012-2013	CLOSED COMPLAINTS IN 2012-2013				
		Redirected	Interrupted	Unsubstan- tiated	Substan- tiated	Total
Ministère de l'Immigration et des Communautés culturelles	42	1	8	14	8	31
Ministère des Affaires municipales, des Régions et de l'Occupation du territoire	55	0	13	20	6	39
Ministère des Finances et de l'Économie						
Économie	3	0	2	1	0	3
Finances	11	0	7	1	2	10
Tourisme	1	0	0	1	0	1
Total : Ministère des Finances et de l'Économie	15	0	9	3	2	14
Ministère des Relations internationales, de la Francophonie et du Commerce extérieur	1	0	1	0	0	1
Ministère des Ressources naturelles	36	4	8	17	3	32
Ministère des Transports	51	1	14	23	7	45
Ministère du Développement durable, de l'Environnement, de la Faune et des Parcs	63	0	22	31	6	59
Ministère du Travail	1	0	0	0	0	0
Office de la protection du consommateur	26	2	6	11	4	23
Office des personnes handicapées du Québec	3	0	1	1	0	2
Office des professions du Québec	8	0	2	2	1	5
Office québécois de la langue française	9	0	2	5	2	9
Régie de l'assurance maladie du Québec	236	7	54	124	9	194
Régie des alcools, des courses et des jeux	2	0	1	1	0	2
Régie des marchés agricoles et alimentaires du Québec	0	0	0	2	0	2
Régie des rentes du Québec	216	5	51	91	29	176
Régie du bâtiment du Québec	29	6	8	12	2	28
Régie du logement	182	5	91	36	39	171
Secrétariat du Conseil du trésor	4	1	0	1	0	2
Services Québec						
Directeur de l'état civil	32	1	8	21	6	36
Général	6	0	2	2	2	6
Total : Services Québec	38	1	10	23	8	42

GOVERNMENT DEPARTMENT/ PUBLIC AGENCY/COMPONENT	COMPLAINTS RECEIVED IN 2012-2013	CLOSED COMPLAINTS IN 2012-2013				
		Redirected	Interrupted	Unsubstan- tiated	Substan- tiated	Total
Société de l'assurance automobile du Québec						
Code de la sécurité routière	310	10	70	205	31	316
Indemnisation	446	8	117	194	42	361
Général	36	0	2	1	0	3
Total: Société de l'assurance automobile du Québec	792	18	189	400	73	680
Société d'habitation du Québec	29	1	10	11	0	22
Tribunal administratif du Québec	22	0	21	4	0	25
Total	10,204	1,734	3,165	3,132	1,198	9,229

6.3 Closed complaints, health and social services, by mission

HEALTH AND SOCIAL SERVICES NETWORK/MISSION	COMPLAINTS RECEIVED IN 2012-2013	CLOSED COMPLAINTS IN 2012-2013				
		Redirected	Interrupted	Unsubstan- tiated	Substan- tiated	Total
Health and social services agency	57	1	21	16	6	44
Rehabilitation centre	89	1	14	44	54	113
Residential and long-term care centre	133	2	32	48	41	123
Hospital centre	446	7	64	167	156	394
Youth centre	153	3	45	84	5	137
Local community service centre	168	4	30	84	67	185
Community organization	39	0	3	26	9	38
Private seniors' residence	19	0	7	5	7	19
Shelter	15	0	6	7	3	16
Pre-hospital emergency services	21	0	3	15	5	23
Waiting assignment of a mission	9	0	0	0	0	0
Total	1,149	18	225	496	353	1,092

Section 38 of the Act respecting the Health and Social Services Ombudsman requires a separate report on complaints filed by citizens and interventions made pursuant to section 20 (reports).

6.4 Closed reports, health and social services, by mission

HEALTH AND SOCIAL SERVICES NETWORK/MISSION	REPORTS RECEIVED IN 2012-2013	CLOSED REPORTS IN 2012-2013				
		Redirected	Interrupted	Unsubstantiated	Substantiated	Total
Health and social services agency	23	0	17	2	2	21
Rehabilitation centre	11	0	4	7	2	13
Residential and long-term care centre	68	0	24	11	21	56
Hospital centre	78	0	33	34	9	76
Youth centre	10	1	7	3	2	13
Local community service centre	18	0	5	4	7	16
Community organization	7	1	1	2	4	8
Private seniors' residence	23	0	24	1	6	31
Shelter	0	0	2	12	26	40
Pre-hospital emergency services	1	0	1	0	0	1
Total	239	2	118	76	79	275

6.5 Closed complaints, health and social services, by service program

SERVICE PROGRAM	COMPLAINTS RECEIVED IN 2012-2013	CLOSED COMPLAINTS IN 2012-2013				
		Redirected	Interrupted	Unsubstantiated	Substantiated	Total
Buildings and equipment	6	0	0	7	2	9
Intellectual disability/ Pervasive developmental disorders	76	1	14	31	45	91
Physical disability	114	0	30	70	50	150
Addictions	40	0	9	25	7	41
Troubled youth	139	2	43	78	4	127
Physicians	5	0	0	0	3	3
Age-related loss of independence	178	3	41	61	45	150
Complaints investigation system	34	1	11	8	11	31
Mental health	123	2	25	56	45	128
Physical health	284	5	37	88	96	226
Service support	132	2	11	68	44	125
Other	9	2	4	4	1	11
Awaiting assignment of a service program	9	0	0	0	0	0
Total	1,149	18	225	496	353	1,092

6.6 Closed reports, health and social services, by service program

SERVICE PROGRAM	REPORTS RECEIVED IN 2012-2013	CLOSED REPORTS IN 2012-2013				
		Redirected	Interrupted	Unsubstantiated	Substantiated	Total
Intellectual disability/ Pervasive developmental disorders	15	0	9	8	1	18
Physical disability	6	0	5	2	3	10
Addictions	3	0	6	12	24	42
Troubled youth	12	1	8	3	4	16
Physicians	1	0	0	0	0	0
Age-related loss of independence	96	0	56	10	28	94
Complaints investigation system	34	1	7	13	6	27
Mental health	38	0	10	18	6	34
Physical health	18	0	12	4	3	19
Service support	8	0	1	5	0	6
Other	8	0	4	1	4	9
Total	239	2	118	76	79	275

7. A SECTOR NOT UNDER THE QUÉBEC OMBUDSMAN'S JURISDICTION BUT FOR WHICH REQUESTS FOR SERVICE RAISE CONCERNS

This year, there were 210 requests for service concerning Hydro-Québec, even though the Québec Ombudsman has no power to intervene with respect to this agency. The main grounds for complaints were payment agreements, billing, service interruptions, installation wait times, refusal to give back deposits, billing errors and smart meters.

The Québec Ombudsman, under the jurisdiction assigned to it by law, cannot process these requests as complaints. It therefore refers the complainants to Hydro-Québec's complaints office, the Barreau du Québec, the Régie de l'énergie, the Commission d'accès à l'information du Québec, or family economy cooperative associations.

AGENCY	2009-2010	2010-2011	2011-2012	2012-2013
Hydro-Québec	164	229	263	210

FOLLOW-UP TO RECOMMENDATIONS IN THE QUÉBEC OMBUDSMAN'S ANNUAL REPORTS

NOTE: Follow-up to recommendations from previous years deemed satisfactory and achieved have not been repeated in this annual report.

PUBLIC SERVICE

AGENCE DU REVENU DU QUÉBEC (REVENU QUÉBEC) – TAXATION		
SOLIDARITY TAX CREDIT		
RECOMMENDATIONS 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
That Revenu Québec not charge applicants interest during the period needed to process notices of change of situation.	–	SATISFIED with Revenu Québec's response affirming that the agency will not charge citizens interest during the period needed to process notices of change of situation. The Québec Ombudsman has not since received any complaints related to this situation.
That Revenu Québec modify the notices of determination issued to citizens so that they understand what the amounts refer to that make up the credit they receive.	–	WILL MONITOR the work of the committee charged with determining ways of improving communications concerning the solidarity tax credit, including notices of determination. The committee's recommendations are being considered.

SHELTER ALLOWANCE PROGRAM		
RECOMMENDATION 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That Revenu Québec make arrangements with the Société d'habitation du Québec to have the agreement under which cheques are dated for the first of the month amended by adding the following: "when the first of the month falls on a statutory holiday, a Saturday or a Sunday, that the cheque be dated for the preceding business day." This must also apply to Shelter Allowance payments made by direct deposit.</p>	—	<p>WILL MONITOR the talks undertaken between Revenu Québec and the Société d'habitation du Québec in January 2013 to amend the order in council concerned.</p>
INTEREST BECAUSE FILES ARE NOT PROCESSED PROMPTLY		
RECOMMENDATION 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That Revenu Québec change its work instructions so that audit officers do not charge interest to citizens who have provided all the documents needed for the study of their file beforehand and when Revenu Québec is late in issuing the notice of assessment.</p>	—	<p>DISSATISFIED because Revenu Québec did not show the Québec Ombudsman that it has adequately informed its audit officers about the possibility of waiving interest when they notice an unjustified processing delay.</p>

MINISTÈRE DES FINANCES (FOR REVENU QUÉBEC)		
AMENDMENT TO THE REGULATION RESPECTING THE TAXATION ACT		
RECOMMENDATION 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That the Minister of Finance recommend that the government amend the <i>Regulation respecting the Taxation Act</i> to oblige agencies that grant provisional assistance to issue citizens and Revenu Québec a RL-5 slip itemizing the amounts repaid for each of the years concerned; this way, Revenu Québec would be able to proceed with the required adjustments to the income tax returns of the citizens in question.</p>	—	<p>SATISFIED with the administrative measure introduced to exclude the income tax returns of the citizens in question from automated processing. This way, the excluded files can be analyzed and the required adjustments made.</p>

COMMISSION ADMINISTRATIVE DES RÉGIMES DE RETRAITE ET D'ASSURANCES (CARRA)		
REMISSION OF DEBT ARISING FROM ERRORS		
RECOMMENDATION 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That CARRA take steps to obtain an amendment to the application regulation for the <i>Act respecting the government and public employees retirement plan</i> in order to include the possibility of remission of debts arising from errors that recipients cannot reasonably detect.</p>	<p>DISSATISFIED with the time it is taking to have the <i>Act respecting the government and public employees retirement plan</i> amended.</p>	<p>NOTES that the Comité de retraite du RREGOP (Government and Public Employees Retirement Plan) and the Comité de retraite du RRPE (Pension Plan of Management Personnel) intend to continue to work on this issue at the RREGOP-RRPE joint committee.</p> <p>NOTES that the <i>Act respecting the government and public employees retirement plan</i> was amended so that the number of months that CARRA has to review a pension amount is now 24 instead of 36 from the time participation in the plan ends. This amendment will come into force in June 2013.</p>
WAIT TIMES		
RECOMMENDATIONS 2010-2011	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That CARRA take measures to reduce the surplus of files to be processed by the end of fall 2011, by increasing processing capacity, improving proficiency with the new computer system, speeding up pending application processing, and any other pertinent measures.</p>	<p>WILL MONITOR the effect of the measures to reduce the surplus of files by June 2012.</p>	<p>DISSATISFIED with the time it is taking to reduce the surplus of retirement files despite absorption of the pension estimate and buy-back backlog. Note that the basket of services offered remains reduced.</p>
<p>That CARRA continue its efforts to regularly inform contributors and beneficiaries about wait times for various services.</p>	<p>WILL MONITOR the results of CARRA's analysis of processing times.</p>	<p>DISSATISFIED that the information on wait times for obtaining services has not been updated. However, access to this information on the CARRA website has been improved.</p>

MINISTÈRE DE L'ÉDUCATION, DU LOISIR ET DU SPORT		
AN IMPARTIAL AND CREDIBLE COMPLAINTS MANAGEMENT SYSTEM		
RECOMMENDATION 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That the Ministère de l'Éducation, du Loisir et du Sport determine the most appropriate conditions for providing the school systems with a manner for handling complaints capable of ensuring the impartiality and credibility necessary to meet the needs of parents, students and institutions.</p>	<p>WORRIED about decisions by certain student ombudsmen to refuse to handle cases that were within their jurisdiction.</p>	<p>DISSATISFIED with the Department's refusal to act even when the <i>Education Act</i> has been breached. The Québec Ombudsman expects the Department to assume its responsibility, when required, by intervening with regard to oversight of the system and determining guidelines and outcomes to achieve while providing appropriate follow-up.</p>

MINISTÈRE DE L'EMPLOI ET DE LA SOLIDARITÉ SOCIALE		
MINISTER'S DISCRETIONARY POWER		
RECOMMENDATION 2010-2011	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That the application of the minister's discretionary power allow debtors to stabilize their situation over a reasonable period of time.</p>	<p>WILL MONITOR the process to evaluate decisions made pursuant to the minister's discretionary power; the process should be operational some-time this year.</p>	<p>DISSATISFIED with the time it is taking to make the rules governing the evaluation of applications submitted pursuant to the minister's discretionary power more flexible.</p>

INDEXATION OF SPECIAL BENEFITS		
RECOMMENDATIONS 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That the Ministère de l'Emploi et de la Solidarité sociale ensure that the rates fixed in Schedule III of the <i>Individual and Family Assistance Regulation</i> are adjusted to reflect the actual cost paid by disabled recipients for medically necessary items.</p>	–	<p>Note: The three comments that follow apply to all the recommendations.</p> <p>SATISFIED that the "Elimination System" component was covered in the draft <i>Individual and Family Assistance Regulation</i> published on February 27, 2013, in the <i>Gazette officielle</i>.</p>
<p>That it ensure that all special benefits provided for in the regulation are updated and subject to annual indexation.</p>	–	<p>WILL MONITOR passage of this regulation and the creation of a mechanism for periodic indexation or review of the rates so that reimbursements reflect actual costs.</p>
<p>That it allow for greater flexibility in enforcing the regulation when it comes to medical items that are reimbursed.</p>	–	<p>WILL MONITOR updating of the other rate components provided for in Schedule III of the <i>Individual and Family Assistance Regulation</i>.</p>
<p>That it specify, in notices of decision, the type of special benefit in question, the date on which the service was provided and the amount granted.</p>	–	
RETURN TO WORK SUPPLEMENT		
RECOMMENDATIONS 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That the Ministère de l'Emploi et de la Solidarité sociale take the necessary steps to ensure that a missive regarding the existence and terms and conditions of the Return to Work Supplement is automatically generated as soon as a person informs the Department that he or she has re-entered the workforce.</p>	–	<p>SATISFIED with system improvements further to the two recommendations.</p>
<p>That it ensure that citizens are informed about the Return to Work Supplement in time to preserve and exercise their rights.</p>	–	

MINISTÈRE DE LA FAMILLE ET DES AÎNÉS		
INCREASE IN THE NUMBER OF CHILDCARE SPACES		
RECOMMENDATION 2010-2011	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
That the Ministère de la Famille et des Aînés make public and update—on its website in particular—project dates and date changes.	<p>DISSATISFIED with the lack of information about the places opened up by the 2008 attribution process.</p> <p>SATISFIED that this situation was corrected for the 2012 call for proposals.</p>	<p>DISSATISFIED with the lack of information about the places opened up by the 2008 attribution process.</p> <p>WILL MONITOR updating of the information concerning the 2011-2012 and 2013 call for proposals.</p>

MINISTÈRE DE LA SÉCURITÉ PUBLIQUE – DIRECTION GÉNÉRALE DES SERVICES CORRECTIONNELS		
A SOCIAL REINTEGRATION PLAN		
RECOMMENDATION 2007-2008 AND 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>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.</p> <p><i>Note: The government entrusted this task to the Ministère de la Sécurité publique.</i></p>	<p>DISSATISFIED with the implementation of this recommendation given the many instances of non-compliance with the deadline for producing assessments and the fact that the rate of decline of release on parole is on the rise.</p>	<p>DISSATISFIED with the implementation of this recommendation given the many instances of non-compliance with the deadline for producing assessments and the fact that the rate of decline of release on parole is on the rise.</p>
REQUESTS FOR HEALTH SERVICES		
RECOMMENDATIONS 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>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.</p> <p>That it notify the Québec Ombudsman of the results of this review.</p>	<p>WILL MONITOR the effect of implementation of this recommendation further to confirmation in March 2012 that measures had been taken to keep requests for health services confidential in every facility within the correctional system.</p>	<p>SATISFIED with the measures taken to ensure the confidentiality of requests for health services (sealed envelopes, forms with peel seal strips, or locked boxes available in the sectors).</p>

PROVINCIAL INSTRUCTION ON THE HEALTH NEEDS OF DETAINEES		
RECOMMENDATIONS 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
That the Ministère de la Sécurité publique implement transitional measures regarding transfer criteria as soon as possible.	–	Note: The following comment applies to all the recommendations. DISSATISFIED with the delays caused by the creation of a new task force further to the Department's decision not to accept the recommendations of the former committee created in 2010.
That it begin work to implement the recommendations stemming from the task force report without delay and complete the work by December 31, 2012.	–	
That it submit a progress report to the Québec Ombudsman no later than September 15, 2012.	–	

COMMISSION QUÉBÉCOISE DES LIBÉRATIONS CONDITIONNELLES, MINISTÈRE DE LA SÉCURITÉ PUBLIQUE, MINISTÈRE DE LA JUSTICE, DIRECTEUR DES POURSUITES CRIMINELLES ET PÉNALES		
RELEASE ON PAROLE: CHRONIC POSTPONEMENT OF HEARINGS		
RECOMMENDATIONS 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That the Ministère de la Justice, the Ministère de la Sécurité publique, the Director of Criminal and Penal Prosecutions and the Commission québécoise des libérations conditionnelles work together to analyze 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.</p> <p>That they report to the Québec Ombudsman on the changes made by January 31, 2010.</p>	<p>WILL MONITOR the situation with respect to the postponement of hearings. In 2012-2013, the Québec Ombudsman will examine the situation as a whole.</p>	<p>WILL MONITOR developments in the postponement of hearings.</p>

OFFICE DE LA PROTECTION DU CONSOMMATEUR		
LONG HANDLE TIMES FOR PHONE CALLS		
RECOMMENDATION 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
That the Office de la protection du consommateur take measures to ensure reasonable handle times for phone calls.	–	<p>WILL MONITOR implementation of the measures to ensure reasonable handle times for phone calls.</p> <p>WORRIED about the high hang-up rate in 2012-2013.</p>

RÉGIE DES RENTES DU QUÉBEC		
COMBINATION OF BENEFITS WITH NO NEGATIVE EFFECTS		
RECOMMENDATION 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
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 not have the effect of reducing their income from its original level.	DISSATISFIED with the delay in follow-up to the recommendation.	DISSATISFIED with the delay in follow-up to the recommendation. A meeting with the Régie is planned for April 2013.

RÉGIE DU LOGEMENT		
LEGISLATIVE AMENDMENTS TO REDUCE WAIT TIMES		
RECOMMENDATION 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
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 time frame. That measures are taken to ensure that these changes are designed so as to respect the fundamental rights of all the parties, particularly with regard to procedures involving lease cancellation and the eviction of a tenant.	<p>DISSATISFIED with the delay in follow-up to the recommendation.</p> <p>WORRIED to see that there has been no bill introduced in the National Assembly to overhaul the <i>Act respecting the Régie du logement</i> despite the announcement made by the Minister of Municipal Affairs, Regions and Land Occupancy in December 2010.</p>	<p>DISSATISFIED with the delay in follow-up to the recommendation given that the problem of wait times persists at the Régie du logement.</p> <p>CONCERNED that there has been no bill introduced in the National Assembly to overhaul the <i>Act respecting the Régie du logement</i>.</p>

SERVICES QUÉBEC – DIRECTEUR DE L'ÉTAT CIVIL		
RESPECT OF CULTURAL PARTICULARITIES IN MATTERS OF NAMES		
RECOMMENDATION 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
That the Directeur de l'état civil apply the <i>Civil Code</i> and change its procedure to allow the children in question to bear their mother's legal surname and to change its registers accordingly.	–	SATISFIED with the adjustments in work processes. Now, mothers can give their child the name they obtained through marriage when the new name obtained is equivalent to a genuine change of name.

SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC (SAAQ)		
OVERHAUL OF THE COMPUTER SYSTEM		
RECOMMENDATIONS 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That 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.</p> <p>That SAAQ should treat the overhaul as a priority, and inform the Québec Ombudsman of the outcome of its time frame review by September 30, 2009.</p> <p>That, in the meantime, SAAQ should introduce the necessary administrative measures, regardless of the constraints involved.</p> <p>That SAAQ should submit an action plan to the Québec Ombudsman by June 30, 2009, detailing these measures.</p>	<p>WILL MONITOR implementation of this recommendation, which will span several years.</p>	<p>Note: The two following comments apply to all the recommendations.</p> <p>SATISFIED with how work is progressing.</p> <p>WILL MONITOR implementation of this recommendation, which will span several years.</p>

TRIBUNAL ADMINISTRATIF DU QUÉBEC		
REDUCTION OF THE AUTOMOBILE INSURANCE CASE INVENTORY		
RECOMMENDATIONS 2010-2011	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That the Tribunal administratif du Québec take appropriate action to handle case volume and reduce the automobile insurance case inventory.</p> <p>That it implement mitigation measures, such as a temporary mechanism to systematically prioritize cases based on their seriousness and urgency, that would minimize processing times for the most critical road accident victim cases. This temporary mechanism, administered by the Tribunal, would make it possible to proactively examine all cases at the time of registration, unlike countermotions, which are exceptional measures.</p> <p>That it set short- and medium-term targets, particularly for the purposes of reducing inventory and average processing delays.</p>	<p>WILL MONITOR the effect of the measures to handle case volume and reduce the inventory.</p> <p>WILL MONITOR the effect of the measures taken as follow-up to this recommendation.</p> <p>WORRIED that the Tribunal administratif du Québec has not yet set targets for quantifying the effects of its measures.</p>	<p>WILL MONITOR the results of the ten measures of the action plan adopted in February 2012 to handle case volume and reset the inventory to zero.</p> <p>SATISFIED with the measures taken as follow-up to this recommendation. Tribunal administratif du Québec staff were made aware of the importance of screening for critical cases.</p> <p>The vice-president or the coordinating judge analyzes the cases and may give precedence to a case in the schedule for hearing if it is deemed critical.</p> <p>WILL MONITOR follow-up to the commitment by the Tribunal administratif du Québec to set targets for quantifying the effects of its measures.</p>

ADEQUATE INFORMATION, RESOURCES AND FACILITIES FOR THE COMPLAINTS MANAGEMENT SYSTEM		
RECOMMENDATION 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That boards of directors of institutions in the health and social services network and regional agencies make sure that local and regional service quality and complaints commissioners have at their disposal adequate resources and operating conditions to carry out their responsibilities in an effective and efficient manner.</p>	<p>DISSATISFIED that the Ministère de la Santé et des Services sociaux has not produced a reference tool to guide boards of directors in fulfilling their responsibilities with regard to the examination of complaints, as it had committed to do.</p> <p>The Québec Ombudsman intends to closely examine the conditions under which local service quality and complaints commissioners carry out their mandate in the coming year.</p>	<p>SATISFIED with the production of a reference tool and training to support members of boards of directors of institutions in exercising their responsibilities with regard to the examination of complaints.</p>

INTERNATIONAL ADOPTION		
SERVICES TO ADOPTIVE PARENTS		
RECOMMENDATION 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That services for parents of children adopted from Québec or from abroad be harmonized, to achieve equity.</p>	<p>DISSATISFIED with the delay observed and the lack of a specific time frame for implementing an awareness and information program for adoption applicants.</p>	<p>SATISFIED with the Department's actions to harmonize services for parents of children adopted from Québec or abroad, notably by disseminating the international program for network professionals and developing the parent awareness and preparation program.</p>

SERVICES TO ADOPTIVE PARENTS		
RECOMMENDATIONS 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That the Ministère de la Santé et des Services sociaux guarantee that the pre-adoption and post-adoption services currently offered by CSSSs will be maintained and that professionals at CSSSs outside the Montréal region will be able to offer this type of service.</p>	–	<p>SATISFIED with the adoption training provided to regional interveners in order to develop expertise outside of major urban centres so that parents are ensured of having services within proximity to them. The directory of professional and government resources also enables parents to find a professional likely to help them in their region.</p>
<p>That it ensure that all CSSSs are systematically informed of the arrival within their territory of a child adopted outside Québec so that a health and social services professional can visit the adoptive parents' home no later than 14 days after the child's arrival.</p>	–	<p>WILL MONITOR implementation in 2013 of the procedure whereby the CSSS is notified of the arrival in Québec of an adopted child so that a health and social services professional can visit the adoptive parents' home no later than 14 days after the child's arrival.</p>

PHYSICAL DISABILITIES, INTELLECTUAL DISABILITIES AND PERVASIVE DEVELOPMENTAL DISORDERS		
AVAILABILITY OF SPEECH THERAPY		
RECOMMENDATION 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>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 time frame.</p>	<p>DISSATISFIED with the delay in follow-up on the recommendation that dates back to 2007-2008.</p> <p>Even though some institutions have been selected for work organization pilot projects, the services are still not in place throughout the network, which leaves many users without services.</p>	<p>SATISFIED with the innovative measures put in place by the Department, notably, optimization of technical speech therapy resources, which improves the accessibility of services for children.</p> <p>WILL MONITOR the quality of speech therapy services further to optimization of technical resources and greater accessibility of speech therapy services when the slate of services is deployed in CSSSs and CRDITEDs.</p>

AVAILABILITY OF PHYSICAL DISABILITY, INTELLECTUAL DISABILITY AND PERVASIVE DEVELOPMENTAL DISORDERS SERVICES		
RECOMMENDATION 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
That the Ministère de la Santé et des Services sociaux set acceptable wait times between the beginning of the needs evaluation process and the provision of actual rehabilitation services.	DISSATISFIED that the Ministère de la Santé et des Services sociaux cannot demonstrate that there has been any improvement with regard to wait times between needs evaluation and the delivery of services.	WILL MONITOR deployment of the information system for people with disabilities. DISSATISFIED that the Department is still unable to demonstrate that there has been any improvement with regard to wait times between needs evaluation and service delivery.
CONTINUITY OF CARE AND SERVICES		
RECOMMENDATIONS 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
That the Ministère de la Santé et des Services sociaux take the necessary steps to prevent service interruptions within its network when a user is transferred from one institution to another.	–	Note: The two following comments apply to all the recommendations. WILL MONITOR production of the definition of the slate of physical disability, intellectual disability and pervasive developmental disorders services underway and the introduction of integrated management of the services for these client populations announced for 2015. DISSATISFIED with the lack of transitional measures for children who are experiencing an interruption of services.
That it ensure that, for users presenting a dual diagnosis, rehabilitation centres for physical disabilities (CRDPs) and rehabilitation centres for intellectual disabilities and pervasive developmental disorders (CRDITEDs) assume their respective responsibilities according to their particular expertise.	–	
That it ensure that the CSSSs concerned immediately begin defining their clinical and organizational projects for people with disabilities.	–	

QUALITY ASSESSMENT VISITS IN INTERMEDIATE AND FAMILY-TYPE RESOURCES		
RECOMMENDATION 2010-2011	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That the Ministère de la Santé et des Services sociaux amend its quality assessment program such that visits to intermediate and family-type resources make it possible to ensure that every resident in a substitute living environment that is associated with or part of the public system receives suitable services and enjoys a quality physical environment.</p>	<p>DISSATISFIED that the Ministère de la Santé et des Services sociaux has not carried out any quality assessment visits in residences for this vulnerable client population since 2010, despite its commitment to do so.</p> <p>There is no guarantee that the residents of these resources have the services they need or appropriate living conditions between assessment visits.</p> <p>DISSATISFIED that the Department cannot say when it will be able to resume the quality assessment visits and who will be assigned to them.</p>	<p>WILL MONITOR the preliminary work underway to produce a new assessment grid for intermediate and family-type resources.</p> <p>DISSATISFIED that since 2010 the Department has not carried out any quality assessment visits in residences for this vulnerable client population, despite the commitment to do so.</p> <p>DISSATISFIED that the Department cannot say when it will be able to resume quality assessment visits and who will be assigned to them.</p>

AGE-RELATED LOSS OF INDEPENDENCE		
QUALITY ASSURANCE		
RECOMMENDATIONS 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That the Ministère de la Santé et des Services sociaux ensure that the certification process for private seniors' residences is completed by December 31, 2010.</p>	<p>WILL MONITOR application of the <i>Guide sur la prévention des incendies et l'évacuation des résidences hébergeant des personnes âgées</i> published by the Department to enable operators in the process of obtaining certification to complete their fire safety plan with their municipality's fire safety service and the Régie du bâtiment (main reason for delays in obtaining certification).</p>	<p>SATISFIED that the process of certifying private seniors' residences has been completed.</p>
<p>That private seniors' residences be included in its quality assessment visits.</p>	<p>WILL MONITOR the results of the work of the new inspectors named by the Department and the quality assessment visits that will be conducted in the coming year.</p>	<p>SATISFIED with the establishment of a team of 25 inspectors which conducted 300 inspection visits of private seniors' residences.</p>

ENVIRONMENTS THAT ALLOW PRIVACY AND RESPECT		
RECOMMENDATION 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>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.</p>	<p>DISSATISFIED that implementation of this recommendation has been postponed to 2015.</p>	<p>SATISFIED that the Department has moved up the date for implementing this recommendation to 2014.</p> <p>WILL MONITOR publication of the CHSLD property planning guide that will amend the normative framework for CHSLD facilities.</p>
QUALITY LIVING ENVIRONMENTS FOR PEOPLE IN RESIDENCES		
RECOMMENDATIONS 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That the Ministère de la Santé et des Services sociaux step up assessment visits in order to enforce the implementation, by December 2011, of its departmental guidelines concerning a quality living environment for residents.</p>	<p>DISSATISFIED with the pace of quality assessment visits in 2010-2011.</p> <p>WILL MONITOR the results of the work of the new inspectors named by the Department and the quality assessment visits that will be conducted in the coming year.</p>	<p>SATISFIED with the implementation of this recommendation, the Department having stepped up its assessment visits.</p>
<p>That it report to the Québec Ombudsman, by April 2011, on the measures it intends to adopt to guarantee to all users with behavioural disorders, even before they are referred and admitted to a residential resource, that the institution that accepts them will be able immediately to provide all the services required by their condition, especially in terms of organization and environment, without infringing on the other residents' right to privacy, security and dignity.</p>	<p>WILL MONITOR the decision-making tool for diagnosing cognitive disorders currently being designed by the Institut national d'excellence en santé et en services sociaux (INESSS) and which will be made available to front-line physicians.</p>	<p>DISSATISFIED that the deadline for producing practical guides assigned to the Institut national d'excellence en santé et en services sociaux (INESSS) has yet to be determined.</p> <p>DISSATISFIED with the lack of transitional measures for users with behavioural problems who will be referred to a residential resource.</p>

MENTAL HEALTH		
EVALUATION OF SERVICES AND QUALITY OF LIFE		
RECOMMENDATION 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That the results of the team of experts tasked to evaluate implementation of the 2005-2010 mental health action plan be transmitted as soon as they are known.</p>	<p>WILL MONITOR the work of the team of experts formed by the Ministère de la Santé et des Services sociaux.</p>	<p>SATISFIED that it was sent the evaluation report.</p>

LEGISLATIVE FRAMEWORK AND MEANS OF RESTRAINT IN MENTAL HEALTH		
RECOMMENDATIONS 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>That the Ministère de la Santé et des Services sociaux formulate guidelines to direct and standardize the application of the legal framework governing all types of forced confinement.</p> <p>That it provide practitioners and workers with a standardized form to avoid the abusive interpretation of the rule of law and ensure it is able to monitor practices.</p> <p>That it require institutions to report on their practices, including the annual number of confinements, the reasons for them, and their duration.</p> <p>That it supervise the use of chemical substances as a control measure.</p> <p>That, as set out in its action plan, it design and implement a standardized data collection tool that must be completed by professionals every time a control measure is used, and that it suggest a method for data compilation and monitoring.</p> <p>That it ensure that the institutions' boards of directors receive all the information they need to enforce respect for users by monitoring the use of control measures within their institutions.</p> <p>That it assess the impact of implementing its guidelines.</p>	<p>WILL MONITOR the work of the team of experts formed by the Ministère de la Santé et des Services sociaux.</p> <p>Idem</p> <p>Idem</p> <p>DISSATISFIED with the time it is taking for the Department to produce a policy statement regarding the use of chemical substances as a means of restraint.</p> <p>DISSATISFIED with the delay in making the standardized tool available to those concerned.</p> <p>WILL MONITOR review of the training programs for members of boards of directors concerning follow-up to the use of means of restraint within their institutions.</p> <p>WILL MONITOR assessment of the impact of the Department's implementing of the new guidelines with a view to producing protocols for the use of means of restraint.</p>	<p>WILL MONITOR the work of the team of experts and the guidelines that the Department must submit at the end of June 2013.</p> <p>Idem</p> <p>Idem</p> <p>WILL MONITOR whether the Department is on schedule, notably with regard to the publication of the revised guidelines in the autumn of 2013.</p> <p>DISSATISFIED that in light of its decision not to produce a standardized data collection tool for professionals when means of restraint are used, the Department has yet to establish a satisfactory alternative for monitoring the entry of the required information when such means are used.</p> <p>SATISFIED with the training offered to support members of the boards of directors of institutions.</p> <p>WILL MONITOR implementation of this recommendation slated for 2015.</p>

PHYSICAL HEALTH		
TREATMENT OF EMERGENCY SERVICE USERS		
RECOMMENDATION 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013
<p>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.</p>	<p>WILL MONITOR the agreements entered into between institutions and local clinics so that emergency room users whose health condition is evaluated as less urgent (P4) or non-urgent (P5) can be referred to these clinics.</p> <p>WILL MONITOR the development of local clinics that are open outside usual business hours.</p>	<p>SATISFIED that the Department has provided for alternative solutions so that users whose health condition is evaluated as less urgent in the immediate term can have access to front-line services, notably through the establishment of family medicine groups, network clinics and points of access for people who do not have a family doctor.</p> <p>DISSATISFIED that the Department is not able to inform the Québec Ombudsman about the number of agreements entered into by institutions and clinics so that users whose health condition is less urgent in the immediate term can be referred to these clinics.</p> <p>QUESTIONS what real effect the solutions that the Department has put forward will have on the recurrent problem of emergency room overcrowding. This is why the Québec Ombudsman is making a new recommendation concerning the processing of users in emergency rooms (see the "Physical health" section on pages 85, 86 and 87).</p>

SUMMARY OF RECOMMENDATIONS IN THE 2012-2013 ANNUAL REPORT

MINISTÈRE DE L'ÉDUCATION, DU LOISIR ET DU SPORT

THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS CONCERNING SUMMER COURSES AND FEES CHARGED FOR RETAKING MINISTERIAL EXAMINATIONS

- Whereas it is legal to charge parents a financial contribution for summer courses;
- Whereas school boards are in breach of sections 90 and 91 of the Education Act by defining the summer courses and fees for their territory;
- Whereas services and fees vary from one school board to another;
- Whereas most school boards charge fees for retakes of ministerial examinations, which does not comply with the *Administrative Guide for the Certification of Studies and Management of Ministerial Examinations*;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT THE MINISTÈRE DE L'ÉDUCATION, DU LOISIR ET DU SPORT:

- Provide guidelines for summer courses and fees that take into account, notably, the impact on educational success and student retention;
- Monitor school boards to check whether summer courses and ministerial examination retakes comply with the act and applicable standards.

MINISTÈRE DE L'IMMIGRATION ET DES COMMUNAUTÉS CULTURELLES

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION CONCERNING FEES FOR RECOGNITION APPLICATIONS AS IMMIGRATION CONSULTANT

- Whereas that where fees are concerned, in fairness a distinction should be drawn between fees for application processing and those paid once the application has been accepted;
- Whereas that the sum of \$1,044 seems unreasonable if it covers only the cost of opening and processing a recognition application, and that moreover the sum has to be paid again for a renewal requiring just minor verifications;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT THE MINISTÈRE DE L'IMMIGRATION ET DES COMMUNAUTÉS CULTURELLES:

- Review its practice so that applicants who are refused admittance to the Registre no longer have to pay the full fees currently set out in the Regulation.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION FOR QUALITY OF CARE AND SERVICES FOR PEOPLE TEMPORARILY HOUSED IN PRIVATE HOMES

- Whereas that efforts to reduce hospital emergency room overcrowding put a lot of pressure on public institutions and regional agencies to increasingly resort to temporary accommodation in private homes;
- Whereas the gaps in quality of care and services provided to residents temporarily housed in private homes under service agreements with public institutions;
- Whereas the absence of clear guidelines on standards of quality expected from private homes with respect to their response to the needs of users transferred as part of these agreements, and given public institutions' varying levels of involvement in quality control in private homes;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX:

- Take measures to ensure that residents housed by virtue of agreements for purchasing places receive the care and services that match their needs assessment. The Québec Ombudsman requests that the Ministère de la Santé et des Services sociaux inform the Ombudsman of measures taken to meet this recommendation.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION ON ABSENCE OF CONSENT TO PLANNED CONTROL MEASURES

- Whereas there is an obligation on the part of all service programs in the health and social services network to obtain consent or court authorization when applying a planned measure;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX:

- Take measures to ensure that when an unplanned control measure turns into a measure of some duration, facilities obtain the required consents.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION ON REDUCING EMERGENCY ROOM OVERCROWDING

- Whereas redirection agreements for users with an acuity level of 4 or 5 is a measure favoured by the Department to help reduce emergency overcrowding;
- Whereas increasing front-line accessibility during difficult times remains a measure the Department favours;
- Whereas the Department's Direction nationale des urgences was unable to tell the Québec Ombudsman how many institutions have signed a redirection agreement with a family medicine group or a network clinic;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX:

- Draw up a report on patients who were redirected following agreements between hospitals and family medicine groups and network clinics.



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