JUSTICE FAIRNESS RESPECT

LE PROTECTEUR DU CITOYEN

Assemblée nationale
Québec

IMPARTIALITY TRANSPARENCY

2013-2014 ANNUAL REPORT

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Assemblée nationale
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2013-2014 ANNUAL REPORT

Québec City
September 2014

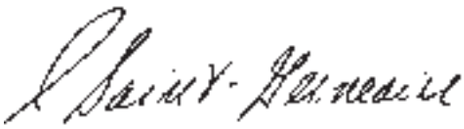
Mr. Jacques Chagnon
President of the National Assembly
Parliament Building
Québec City (Québec) G1A 1A4

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 44th Annual Report of the Québec Ombudsman for fiscal year 2013-2014.

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,



Raymonde Saint-Germain
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 OMBUDSPERSON

Ensuring that the rights of all citizens are upheld and that they are provided with quality public services—this is the Québec Ombudsman's mission. But the Québec Ombudsman does not exercise its responsibilities in a vacuum; its action is rooted in real experiences with public services. The Québec Ombudsman reports to the members of the National Assembly in order to draw attention to situations in which public services have failed citizens and to obtain any appropriate redress for them. From a more systemic perspective, it also proposes realistic, concrete and sustainable solutions when it unearths deep-seated problems.

The Québec Ombudsman must take the reality of public finances into account. In a context of budget cuts, what can be done to ensure that citizens' rights are not infringed upon?

The Québec Ombudsman must show reserve with regard to difficult decisions, made by publicly and duly elected representatives, as to who gets what when resources are limited. That said, there are certain baseline principles that the Québec Ombudsman will not compromise on in its mission to ensure that budgetary recovery does not create injustice or inequality.

Transparency

When the Québec Ombudsman receives complaints about access to services or care, it examines the basket of services, in other words, the theoretical slate of public services announced by a government department, agency or body. If decisions as to allocation are required because expressed needs cannot be met by available resources, it is imperative that these decisions be made at the right level by people who are accountable and that the public be given honest information about these choices. Too often the Québec Ombudsman has seen cases in which the people responsible for making decisions about what should—or should not—be covered anymore by public services have failed to do so, leaving local players holding the bag, without clear guidelines, leading to a great deal of disparity among institutions and regions. The public has the right to know what is truly available in terms of services and how to gain access to these services.

Flexibility

The Québec Ombudsman has seen that because of budget cuts, there is a risk that administrative inflexibility will develop or worsen. While fully endorsing the idea of greater rigour in the management of public programs, the Québec Ombudsman pleads for flexibility to prevail when unforeseen or unusual situations arise. Sometimes exceptional means are called for under exceptional circumstances. This must be what public services guarantee in order to ensure that all citizens have fair access to services. Uncritical enforcement of a standard is not synonymous with justice.

Quite the opposite in fact. Public decision-makers must always be guided by common sense and justice, and even more so when there are financial constraints. Pressure to make budget performance quotas must never be a pretext for turning down claims made by citizens in good faith. The risk of drifting off course is real unless we are careful. The Québec Ombudsman will ensure that administrative inflexibility never trumps empathy.

Solidarity

Special attention must be paid to services for the most vulnerable members of society. Of course, management of programs intended for them must be subject to the same rigour and optimization as any other program. On the other hand, careful thought must be given to the real impact of any cuts to direct services to this population so as to avoid making their living conditions, which are precarious to begin with, even more fragile. A balance must be struck between budgetary restraint and genuine social solidarity. In this regard, outlays for prevention and social reintegration must not be seen solely as debits in an accounting ledger but rather as investments in the medium-and long-term good. In matters such as the social reintegration of detainees or services for people with mental health problems, the amounts invested must be viewed from a broader perspective—the well-being of individuals, the prevention of recidivism and the feeling of public safety, which are of real benefit to all.

Openness to change

The Québec Ombudsman is sometimes asked to step in with regard to situations in which citizens are pitted against the government. It is frequently in a position to see the power imbalance that exists. The citizens, who often represent themselves, are faced with a veritable legal arsenal at times. Citizens break under the pressure of the complex procedural options used to advantage by the government and give up their legitimate fight for lack of sufficient means for going any further. The Québec Ombudsman has even witnessed cases in which public agencies are slow to implement rulings even though the citizens were proven right. This is a deplorable state of affairs.

Of course, this observation warrants qualification. It is legitimate for the government to defend the public interest and to avail itself of appropriate legal means in matters of principle. However, if it has made a mistake, it must act quickly to correct the harm done, without saddling victims with the heavy burden of adversarial proceedings before a court, even if it means spending public money. In short, it is to be hoped that the government acts as swiftly in reimbursing citizens for amounts it owes them as it does, and rightly so, in claiming the amounts owed to it in the public interest. In this regard, the Québec Ombudsman applauds the adoption of the new *Code of Civil Procedure* that fosters harmonious development of alternative means of settling disputes. More than ever before, the Québec Ombudsman wants to be a viable alternative to the courts when citizens, individuals, businesses and not-for-profit organizations face off against government bodies.

Accountability

The Québec Ombudsman has noted a trend towards devolution of activities traditionally assumed by the public sector to the private and associative sectors. It considers that decisions as to how these services are dispensed must be made at the policy level. Intrinsically, it is neither for nor against increased reliance on new partners for the delivery of public services. However, it is important that the government be responsible, in all circumstances, for guaranteeing citizens quality public services while respecting their rights. Where necessary, there must be transparent agreements that ensure that the private or associative partners can indeed provide the service in question adequately, notably by allocating sufficient resources. In all cases, the government must control the quality of public services.

Undoubtedly the next few years will be demanding for public administrators. To ensure the well-being of citizens and the common good, the principles expressed here must be upheld. Transparency, flexibility, solidarity, openness to change and accountability should enable us to achieve sharing of the collective effort that is reasonable and fair for all. This, among other things, is what the Québec Ombudsman will watch for tirelessly.

Raymonde Saint-Germain
Ombudsperson

Validation report from the internal auditor

Ms. Raymonde Saint-Germain
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, 2014. 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 based on the international standards of the Institute of Internal Auditors for the professional practice of internal auditing. My efforts were focused on the *Results in figures* chapter. For the other parts of the report, my work was limited to the figures provided. My work 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 2013-2014 Annual Report are not plausible and consistent in every important respect.

Jean Gamache

Jean Gamache, Internal Auditor, CPA, CA
Québec City, July 2014

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 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.

LE PROTECTEUR DU CITOYEN
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Québec

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.

HIGHLIGHTS

PUBLIC SERVICE

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

The Québec Ombudsman is aware of the importance of countering fake invoice schemes and under-the-table employment. However, the sweeping powers conferred on Revenu Québec for this purpose must be used properly. This year, the Québec Ombudsman handled complaints from businesses whose financial viability was at stake because of abusive assessments or questionable auditing methods by Revenu Québec.

Agence du revenu du Québec (Revenu Québec) – Support-payment collection ..... P. 37

In light of the complaints by parents who are creditors of support, the Québec Ombudsman feels that Revenu Québec must not be shown to be less eager when it is time to collect arrears on support than when money is owed to the government. In the cases submitted to the Québec Ombudsman, Revenu Québec's negligence in collecting amounts owed under the support-payment collection program had hefty financial consequences for citizens.

Bureau du coroner ..... P. 38

Given the serious repercussions for bereaved families—on the human and financial scale alike—of the time it takes for investigation, the Québec Ombudsman considers that the Bureau du coroner must make shorter time frames one of its priorities. In the investigation report released this year, the Québec Ombudsman made seven recommendations to the Chief Coroner, who committed to implementing them.

Commission administrative des régimes de retraite et d'assurances (CARRA) ..... P. 40

The Québec Ombudsman noted major flaws in the reliability and quality of the information that CARRA provides to citizens. The complaints the Québec Ombudsman received concerning CARRA revealed miscalculations and data entry errors that had sizable adverse effects. People had to put off their retirement, others who had already retired a few years before had their pension amount decreased and some had to reimburse large sums of money.

Commission de la santé et de la sécurité du travail (CSST) ..... P. 44

The Québec Ombudsman received complaints from people who had won their Commission des lésions professionnelles case only to find that the CSST had not acted on the decision or had taken much too long to do so. Under the *Act respecting industrial accidents and occupational diseases*, a decision of the Commission des lésions professionnelles (an administrative tribunal) is final and without appeal, and any person referred to in the decision must comply with it immediately.

Curateur public du Québec..... P. 47

A young couple was the victim of a series of mistakes by the Curateur public. This case and other cases handled by the Québec Ombudsman showed that there were gaps in the exchange of information between delegated curators and trustees and flaws in the computer system. This led to costly errors at the expense of the people represented.

Ministère de l'Emploi et de la Solidarité sociale ..... P. 51

The benefits of recipients of amounts from a succession paid in instalments by an intermediary, such as a testamentary trust, are reduced, which is not the case when the capital is received from a succession in a lump-sum payment. The Québec Ombudsman recommended that the government introduce a bill to amend the *Individual and Family Assistance Act* to end this unfairness.

Ministère de la Justice..... P. 56

Since 2012, before citizens can apply for a record suspension, they must provide proof from the registry of the court that found them guilty that they paid all penalties in full. The Québec Ombudsman noted that court registries had closed certain files that contained small remaining balances without striking them from the file. The result was that citizens were deprived of the possibility of having their situation set straight. Further to talks with the Québec Ombudsman, the Department proposed measures to prevent citizens from being harmed in this way.

REPORT OF THE CORRECTIONAL OMBUDSMAN OF QUÉBEC (Ministère de la Sécurité publique – Direction générale des services correctionnels) ..... P. 59

As Québec's correctional ombudsman, the Québec Ombudsman asked the Ministère de la Sécurité publique to proceed quickly with the necessary physical changes in order to provide Maison Tanguay inmates with decent and safe detention conditions. It also recommended that the Ministère de la Sécurité publique and the Commission québécoise des libérations conditionnelles establish mechanisms to reduce the very high incidence of waivers of examination of detainees' records with a view to parole. The phenomenon has reached the point where it is time to ask whether it is affecting detainees' social rehabilitation. People who waive the right to parole are released after serving two-thirds rather than one-third of their sentence, but they are not subject to conditions aimed at preventing recidivism.

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

Home support ..... P. 76

All citizens in Québec are entitled to the same services, no matter where they live. Given the shortage of resources and the ever-growing demand for home support services, the service offering can vary considerably from one CSSS to another. This means that people who move to a different region may see their services reduced below the levels that the healthcare system is supposed to ensure them.

Mental health..... P. 79

The Québec Ombudsman received reports about the lack of supervision, owners' problematic behaviour, mismanagement of medication and unsanitary conditions in private residences that serve a client population with mental problems. These residences are not attached to public health and social services institutions under a contract. Consequently, neither the Québec Ombudsman nor local service quality and complaints commissioners can intervene. This is why the Québec Ombudsman recommended to the Department that these resources be subject to certification, just like private seniors' residences.

Physical disabilities, intellectual disabilities and pervasive developmental disorders (PDDs)..... P. 83

Housing people with disabilities and disorders is a sizable challenge. The Québec Ombudsman received complaints and reports in this respect because people who were autonomous enough to live in an apartment within the community at large were not getting the home support services they needed to upkeep it. Others were housed in CHSLDs with residents who were much older than them, in an environment that did not meet their needs.

Physical health ..... P. 86

In some regions, users must cover the cost of the heparin administered to them, whereas in other regions heparin is administered free of charge. Depending on the health and social services centre (CSSS) in question, heparin may or may not be considered a flushing solution. In the latter case, users must cover the cost. The Québec Ombudsman formally recommended that the Department include heparin guidelines in its private sector agreements and provide citizens with clear information.

Support for elderly autonomy..... P. 90

In some CHSLDs, lucid residents with reduced mobility live alongside people with severe cognitive impairments coupled with invasive wandering behaviour, which inevitably gives rise to potentially dangerous situations. Hence the Québec Ombudsman's recommendation to the Department to establish measures in the short term to ensure that every person living in a residential and long-term care centre has a violence-free living environment.

Troubled youth ..... P. 96

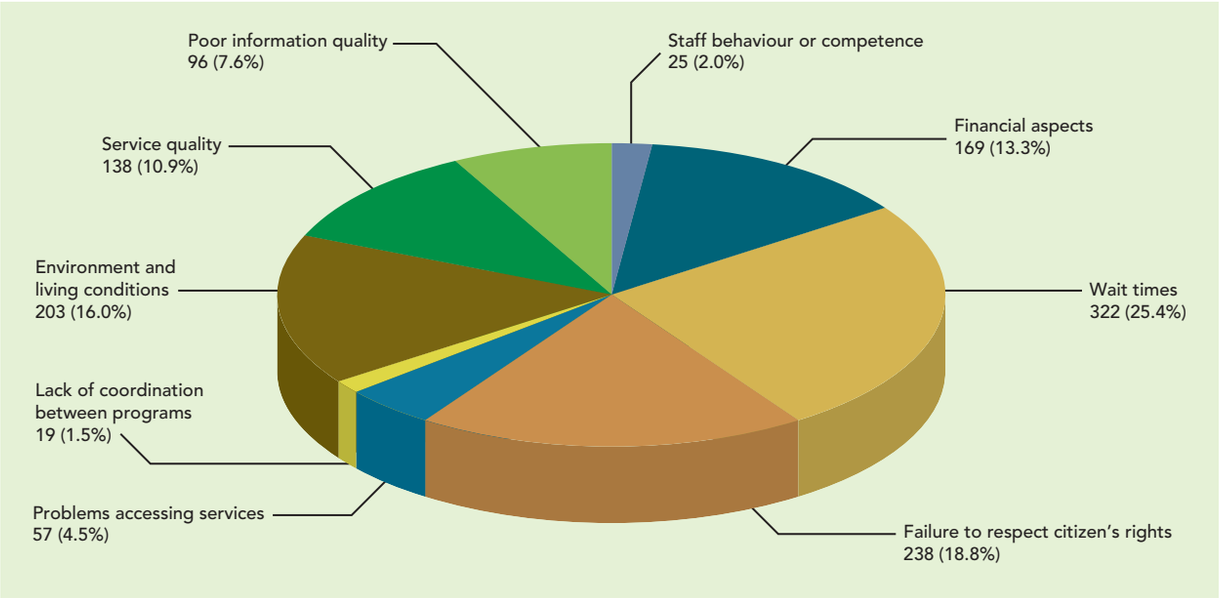
The Québec Ombudsman issued a reminder that health and social services centre (CSSS) caseworkers must comply with their obligation to report situations in order to tighten the safety net for the children concerned. Further to a tragic situation in which a severely disabled child died after languishing in appalling conditions, the Québec Ombudsman asked a CSSS to take measures to prevent other horrific outcomes of this kind.

RESULTS IN FIGURES.....P. 117

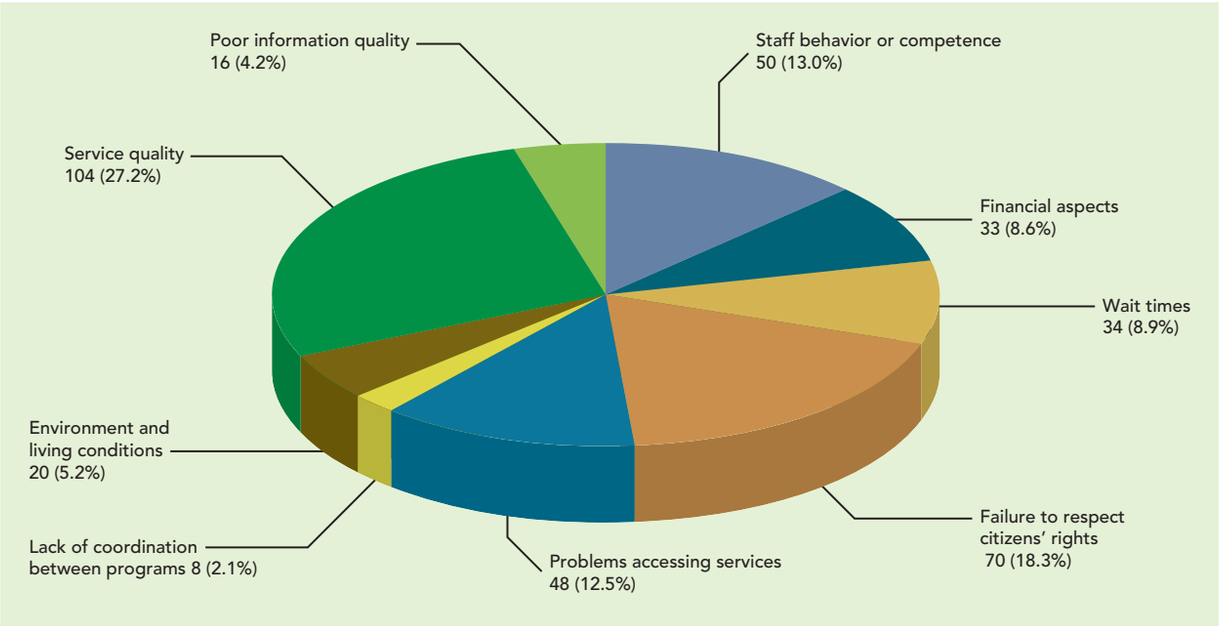
- The Québec Ombudsman intervened with 55 of the 79 government departments and public agencies within its jurisdiction, or 69.6%.
- The Québec Ombudsman intervened with 173 of the 286 institutions and agencies of the health and social services network within its jurisdiction, or 60.5%.
- Percentage of complaints deemed substantiated (public service): 28.9%.
- Percentage of complaints and reports deemed substantiated (health and social services): 38.5%.

SUBSTANTIATED COMPLAINTS IN 2013-2014: PORTRAIT

April 1, 2013, to March 31, 2014 – Public service (complaints)



April 1, 2013, to March 31, 2014 – Health and social services (reports and complaints)



In 2013-2014, the substantiated complaints and reports handled by the Québec Ombudsman fell into nine categories, namely:

- wait times;
- failure to respect citizens' rights;
- service quality;
- environment and living conditions;
- financial aspects;
- poor information quality;
- problems accessing services;
- staff behaviour or competence;
- lack of coordination between programs.

Naturally, the categories do not all weigh equally in the overall scheme of things, but the fact that these are recurrent difficulties experienced by citizens is cause to ask how public services can improve their response to expressed needs.

CITIZENS COMPLAIN ABOUT HAVING TO WAIT…AND WAIT

Year after year, wait times are among the leading grounds for dissatisfaction. Of course, a correlation can be made between wait times and available resources. However, the reasons for certain wait times remain a mystery. For example, a road accident victim sent in the documents required by the Société de l'assurance automobile du Québec (SAAQ). Eight months later…nothing. All this time, the person was waiting to receive the financial assistance he was eligible for and needed.

In the health network, it is common knowledge that there are long wait times in hospital emergency rooms. Alternatives are available through agreements for public institutions to refer users whose conditions are less critical to private clinics, but this works only if emergency room employees tell users about these options, which is not always the case. The wait time for certain treatments that physicians recommend for their patients is so long that, battle-worn, they turn to private resources, especially for diagnostic tests or physiotherapy. They are charged fees that would not have applied had they used the public system.

WHAT IS MEANT BY THE FAILURE TO RESPECT CITIZENS' RIGHTS?

When the Québec Ombudsman completes investigations, it sees, for example, that some mistakes or oversights by government employees unfairly penalize citizens. In other cases, administrative decisions are made without a thorough analysis of the facts or a critical examination of how the appropriate rules have or have not been applied. Take the case of the worker who sustained an employment injury. The Commission de la santé et de la sécurité du travail (CSST) mistook an application for review for an application for reconsideration. Without going into the details of how the organization operates, suffice it to say that the error deprived the worker of his right to recourse before the Commission des lésions professionnelles, the CSST's appeal body.

Rights can also be breached when a citizen receives an unfavourable decision from the government and the letter conveying the results fails to indicate why that decision was reached. The *Act respecting administrative justice* expressly provides that a public service must give reasons for all unfavourable decisions it makes. This allows applicants to understand the whys and wherefores of the decision so that they can subsequently accept it on the grounds as explained or contest it using the mechanisms for that purpose. This is a right.

The *Act respecting health services and social services* stipulates that users must be properly informed about the existence of available services. Complaint records show that people are not given adequate information. Some are quickly referred to private resources without anyone really telling them that the public network could provide them with the services free of charge.

CARE AND SERVICE QUALITY HAS A DIRECT EFFECT ON CITIZENS' QUALITY OF LIFE

Failings in terms of care and service quality top the list of substantiated complaints concerning the health and social service sector. A complaint handled by the Québec Ombudsman was an extreme example of the consequences of lapses in this regard. An elderly woman in a residential and long-term care centre (CHSLD) had to be hospitalized for pressure sores and died a few days later. The Québec Ombudsman's conclusion in this case—the staff of the CHSLD in question had not kept a close enough eye on this kind of skin and tissue wound.

Service quality in the public service is called into question when, for example, something falls through the cracks or is miscalculated. A case in point: a clerk of the Small Claims Division of the Court of Québec failed to send a copy of the documents that the defendant was supposed to receive according to due process. An application for review to the CSST went missing. Incomplete or faulty analysis by the SAAQ made road accident victims miss out on indemnities. These are situations that can leave citizens facing a huge administrative machine particularly intimidated.

PUTTING YOURSELF IN THE SHOES OF PEOPLE WHO HAVE NO CONTROL OVER CHOICES AS TO THEIR LIVING ENVIRONMENT

This is the case of a good number of seniors in CHSLDs. Once they have been assigned a place, there are many questions as to the quality of their days and their new life. What is there in the way of stimulating pastimes? What happens at mealtime? Is any thought put into mealtimes that often serve to break up the day? Do employees address the residents respectfully? Investigations by the Québec Ombudsman reveal shortcomings in some institutions. For younger people who live in CHSLDs because they have a severe disability, the CHSLD environment is generally not adapted to their needs.

Detainees sometimes see their residual rights breached because of prison overcrowding. The effect of living in such close quarters? Inadequate prison conditions, tension, violence among the detainees and towards correctional service personnel. The Ministère de la Sécurité publique has announced that it would rent the Laval detention centre, a former federal penitentiary. The building could house 775 inmates. We can only hope that this additional resource will be put to use as quickly as possible to relieve the relentless pressure on Québec's correctional system.

THE SENSE OF PUBLIC SERVICE

Some complaints show that at times the government puts more effort into its own administrative and financial performance or its own convenience than into the well-being of citizens. A case involving student financial assistance provides an example of this type of situation. A directive from the Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie stipulates that the deadline for applications for financial assistance is 60 days after the last month of study of the school year. Because of the student strikes in 2012, the winter term was extended until the autumn. A student who had finished his term in September rather than the previous spring sent the Department an application for financial assistance in November. The application was turned down because it was deemed to have been handed in late.

In the health sector, the same kind of thing happens, for example, when fees for services which would be free of charge if provided by a hospital are charged to users in the context of agreements between public institutions and private clinics.

NO ONE ARGUES WITH THE FACT THAT CITIZENS NEED APPROPRIATE AND ACCURATE INFORMATION TO MAKE AN INFORMED DECISION

However, in the real world, useful information is not necessarily available, or a government department or agency representative can make a blunder. This is how it came about that a Régie des rentes du Québec information officer refused to accept a judgment as a supporting document for changes in the child assistance amounts granted. This was a mistake. The Régie allows this kind of document as evidence provided it goes back fewer than four months. In another case, it was the Régie du bâtiment's turn to err by requiring a business to have a permit to carry out work even though no permit was needed. The Québec Ombudsman had to step in before the business was reimbursed in full for a permit that should never have been required in the first place.

In the health sector, the Québec Ombudsman noted mistakes with regard to information concerning hospital room tariffs. More than once, it handled complaints from people who could no longer really understand the reasoning behind a bill they had to pay, a bill they were not expecting based on what they had gathered from the information they had received from employees of the institution. Everyone wins by being clearer because institutions that provide unambiguous information about tariffs witness a decrease in complaints and user frustration. Another area where users have many questions—information about how much time it will take before they get diagnostic tests, have surgery or obtain rehabilitation services. Of course, the fact that there is considerable pressure on the health and social services network cannot be dismissed. However, the Québec Ombudsman insists on the minimum prescribed under 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."

CITIZENS OFTEN SAY THEY HAVE TROUBLE GETTING HEALTH SERVICES AND SOCIAL SERVICES

The issues are major—the need to get services to enable an elderly person to continue living at home, shortage of places in CHSLDs or elsewhere, the scarcity of family doctors…

If we transpose the problems to the public service, we are talking for the most part about cases of administrative inflexibility. Turning to agriculture… A farm producer was treated unfairly because his agricultural activity, vermiculture, was sufficiently recognized for him to have to pay an annual assessment to the Union des producteurs agricoles, but not enough for him to get certain tax deductions granted to farm producers.

OTHER GROUNDS FOR DISSATISFACTION: STAFF ATTITUDE AND LACK OF COORDINATION BETWEEN SERVICES

For these two categories of grounds for complaint, there are not all that many cases. However, year after year, the same problems crop up. Inappropriate attitudes by personnel can take the shape of an orderly's lack of courtesy or lack of empathy when a citizen is going through a difficult time. The story of a female detainee illustrates this point. A worker at a detention centre did not allow her to return an emergency phone call concerning her child from a Direction de la protection de la jeunesse caseworker.

Service interruptions occur when no attention is paid to ensuring that people get the full range of services that they have the right to expect. This is why the parents of children with physical or intellectual disabilities must shuttle between different parts of the system to try to put together a viable care and assistance plan.

This completes the overview of the most common situations that the Québec Ombudsman handled last year. Once more, problems with wait times, bureaucratic rigidity and inadequate information, which persist year after year, compromised the quality of public services in certain instances. Often the solution consists of means that call for creativity, innovation and, especially, empathy towards citizens, without costing a cent. Who among us wants loved ones to wait months before they get what they are entitled to, or to live in an environment that scares them? Who among us would agree to take the fall for inaccurate information that causes loss of a right, adverse financial consequences or denial of service? Who would consider it normal to be bounced from one public service to another without getting a reliable answer?

It would be remiss to end this short account of complaints in 2013-2014 without saying that the people in the public service with whom the Québec Ombudsman interacts very often care about making things right and cooperate with the Québec Ombudsman to achieve that purpose.

PUBLIC SERVICE

This chapter features the Québec Ombudsman's findings concerning certain government departments and agencies where it intervened in 2013-2014. The following criteria were used in selecting the situations to present for each of these bodies:

- the seriousness of the problem;
- the impact on citizens;
- the collective impact of the solution.

In 2013-2014, the number of complaints about the public service decreased slightly (1.7%). However, the number of substantiated complaints rose by 5.8%. Wait times were the leading cause of complaints deemed substantiated, followed by infringement of rights and shortcomings with regard to citizens' living environment. The *Results in figures* chapter, on page 117, presents the statistics for each department or agency as well as other data of interest.

Complaints by citizens, groups or businesses illustrate these findings. A brief account is given of the problems encountered and of the corrective measures taken. Note that the outcomes of much of the action undertaken by the Québec Ombudsman go far beyond the impact on individuals and therefore rectify problems for a number of citizens.

The problems identified in this report provide insight into harmful situations that are usually remedied satisfactorily for the citizens concerned, with the cooperation of government department and agency authorities. However, certain kinds of cases, involving processing wait times or the impossibility of correcting a situation after the fact, for example, continue to be major irritants and cause irreparable harm.

Some of the government departments and agencies discussed in this report handle a huge volume of service requests, so it stands to reason that there are more complaints about them and that the Québec Ombudsman has found more issues that involve them.

In the pages that follow, the government departments and agencies that the report focuses on appear in alphabetical order:

- Agence du revenu du Québec (Revenu Québec);
- Bureau du coroner;
- Commission administrative des régimes de retraite et d'assurances (CARRA);
- Commission de la santé et de la sécurité du travail (CSST);
- Curateur public du Québec;
- Ministère de l'Emploi et de la Solidarité sociale;
- Ministère de la Justice.

Also included in this report is the annual report of the Québec Ombudsman in its capacity as the correctional ombudsman of Québec. The report covers the Ministère de la Sécurité publique (Direction générale des services correctionnels), the 19 detention centres under Québec's jurisdiction and the Commission québécoise des libérations conditionnelles.

Follow-up to the Québec Ombudsman's special reports and investigation reports is presented in the chapter entitled *Report on systemic interventions*, on page 101. Comments on bills and draft regulations are summarized in the *Parliamentary watch report*, on page 109, as well as in the section on the government department or agency in question, where applicable.

Agence du revenu du Québec (Revenu Québec) – Taxation

Collecting amounts owed to the government efficiently while respecting citizens' basic rights

Revenu Québec plays a fundamental role in collecting income taxes and consumption taxes and managing various social and fiscal programs, including the support-payment collection program and the solidarity tax credit. These huge responsibilities, notably with regard to countering tax evasion, account for the sweeping powers conferred on the agency by the law.

In carrying out its mission, Revenu Québec must never lose sight of the prescriptions of the *Act respecting administrative justice* that the agency must comply with. It must, at all times, act fairly towards every citizen. This obligation takes a number of forms—the duty to provide citizens with clear and accurate information, allowing them to present a complete file before a decision that will affect them is made and giving them the opportunity to present observations. It is on this very basis that the Québec Ombudsman intervened regularly with respect to Revenu Québec again this year. It had to remind the agency that, among other things, when it fails to comply with the law, the consequences for taxpayers can be substantial and occur at a number of levels. Unlike other areas of activity, in matters of taxation, the burden of proof is often on the taxpayer.

The Québec Ombudsman deplores the actions by certain Revenu Québec directorates whereby they use, or in some cases, misuse, conferred powers to claim amounts that threaten the viability of businesses, without properly supporting their conclusions.

BUSINESSES PRESUMED GUILTY BY ASSOCIATION

This year, 17 businesses came to the Québec Ombudsman further to a Revenu Québec tax audit and its refusal to approve their claim for input tax credits or input tax refunds. Revenu Québec accused these businesses of being part of a fake invoice scheme.

Two issues are raised by these complaints. First: Revenu Québec claims amounts from businesses because of their suppliers' tax delinquency. Second: the audit techniques employed are questionable.

CLAIMING AMOUNTS FROM BUSINESSES BECAUSE OF THEIR SUPPLIERS' TAX DELINQUENCY

The Québec Ombudsman is aware of the importance of countering fake invoice schemes and under-the-table employment. However, this objective must never result in abusive assessments that make enterprises that have done business with tax delinquents guilty by association.

In certain files, the Québec Ombudsman noticed that Revenu Québec had claimed amounts from enterprises that had subcontracted to tax delinquents. Yet, under the *Input Tax Credit Information (GST/HST) Regulations* and the *Regulation respecting the Québec sales tax*, in order for businesses to be reimbursed for paid taxes, the only requirement is that they make sure that the supplier's registration number is valid and that invoices contain all prescribed information. By requiring businesses to check whether subcontractors have fulfilled their tax obligations, Revenu Québec imposes a task that is not prescribed by law and that is practically impossible for businesses that subcontract to carry out.

Furthermore, Revenu Québec's requirements vary widely from case to case, creating confusion for enterprises, reaching a point where they wonder what their obligations really are with regard to their business relations with their subcontractors. Even though businesses that use placement agencies seem to be tagged the most, Revenu Québec also targets other types of subcontracting.

Revenu Québec's tendency to make businesses guilty by association can have heavy consequences for Québec's economy. Faced with outrageous assessments, businesses incur hefty costs for defending their case, in particular, honoraria for experts such as accountants, tax specialists and lawyers. Frequently, banks second-guess or even renege on their decision to provide financing, presaging genuine risk of bankruptcy and therefore business closure. This can then lead to the loss of many primary- and secondary-sector jobs. Furthermore, this trend also means turning to the courts for settlement, a course of action that is costly for all parties in cases that should never have come about in the first place.

In the Québec Ombudsman's opinion, Revenu Québec must diligently use the sweeping powers at its disposal by ensuring that it does not unduly jeopardize the operation and even the survival of these businesses. To avoid causing harm to citizens, it must conduct in-depth audits to prove that the audited businesses are indeed guilty, instead of simply producing notices of assessment presumed to be valid.

In the budget tabled on February 20, 2014, the Minister of Finance indicated that certain employment agencies violated the law. He went on to propose measures to remedy the situation. However, the enterprises that do business with them in good faith should not be penalized because of the dishonesty of some of these agencies, which are supposed to remit amounts to Revenu Québec in their capacity as agents.

(. . . Revenu Québec wrongfully blames a business for engaging in illegal activities

A food-processing firm audited by Revenu Québec has annual sales of $30 million. It occasionally calls on various placement agencies for temporary employees.

This business received a notice of assessment for more than $500,000 because Revenu Québec assumed it was part of a fake invoice scheme. As Revenu Québec saw it, the business's suppliers did not have the capacity or material resources to provide the billed services.

The business responded by saying that it had fulfilled its legal obligations with regard to claiming inputs. Furthermore, it had all the documents required to prove that food-processing activities had occurred as declared. Revenu Québec nonetheless reproached it for not looking further into its suppliers, even though this is not required by law.

The Québec Ombudsman formally asked Revenu Québec to cancel the assessments, which it refused to do. As at March 31, 2014, Revenu Québec had not budged from its position. The Québec Ombudsman is dissatisfied with this outcome and is continuing its action to see justice done with regard to this file. . . .)

(. . . *Revenu Québec mistrusts a business's diligence*

Another food-processing firm has annual sales of over $10 million and uses the services of a placement agency as the need arises. Revenu Québec issued the business a draft assessment of nearly $1 million, assuming, once again, that the business was part of a fake invoice scheme because it felt that the suppliers did not have the resources to deliver the services attributed to them.

Not only did the business fulfil the legal requirements for claiming inputs, but it even conducted numerous checks of the suppliers. This should have satisfied Revenu Québec, but instead, it was suspicious of the business's extra-diligent behaviour and maintained that it was in on the scheme. As with the previous business, the Québec Ombudsman formally asked Revenu Québec to cancel the assessments, which it was still refusing to do as at March 31, 2014. Dissatisfied with this position, the Québec Ombudsman is continuing its action to see justice done with regard to this file. . . .)

REVENU QUÉBEC'S AUDITING METHODS FOR FAKE INVOICE SCHEMES ARE QUESTIONABLE

As soon as Revenu Québec suspects that a business is part of a fake invoice scheme, special auditing methods are used. The Québec Ombudsman notes that these methods assume from the outset that the business is guilty, a way of thinking that completely violates several basic rights as well as the principles of procedural fairness.

Auditors refuse to take into account documents or explanations that the business in question provides or wants to provide. These refusals are a denial of the right to be heard. Nor do auditors provide explanations as to what the businesses have to produce in order to prove themselves innocent, which precludes a full and complete defense.

The Québec Ombudsman also learned about the practice of speeding up issuance of draft assessments, resulting in shortening of the auditing period during which the business can present arguments. This period is important because the business has only 21 days before the notice of assessment is issued. Once this happens, the notice is presumed valid and amounts become payable immediately, which can mean either financial life or death for these businesses.

(. . . *Giving a business the right to be heard*

A manufacturing firm with annual sales of about $30 million uses the services of a subcontractor to assemble the clothing it produces. The business received a draft assessment of nearly $500,000. Revenu Québec had assumed that it was part of a fake invoice scheme based on the argument that the suppliers did not have the capacity or material resources to provide the services declared.

During the audit, the business had very little opportunity to be heard and was never told which documents it had to provide to prove it was not in on the scheme.

Furthermore, the section of the local Revenu Québec office concerned encouraged its staff to speed up issuance of draft assessments in cases of alleged fraud. Even if this practice is not wrong per se, it could become so if, as a result, the time that a business has to exercise its right is unduly shortened. At the end of the investigation, the Québec Ombudsman concluded that this practice was unreasonable because of the excessive pressure it put on the business.

Further to the intervention by the Québec Ombudsman, Revenu Québec met with the business, which was therefore able to provide proof of sales of the clothing and to explain its business ties with its main subcontractor. The draft assessment was cancelled in full. . . .)

(. . . ***Revenu Québec breaches a citizen's right to present his version of events***

A manufacturing firm has annual sales of about $60 million and more than 350 employees in Québec. For the past 15 years or so, it has used a placement agency seasonally to assemble the goods it produces.

The business received a draft assessment of nearly $2 million in taxes and of $1 million in source deductions. The purported reason—the business had been part of a fake invoice scheme. Revenu Québec alleged that the placement agency that the enterprise had done business with did not have the resources required for it to provide the declared services in full. It claimed that the business, not the placement agency, was the workers' "real employer."

During the audit, Revenu Québec never told the business about this theory. Furthermore, only five telephone interviews took place with the workers. The Québec Ombudsman considers that this was insufficient for it to jump to the conclusion that the business was the "real employer."

Such a practice by Revenu Québec compromises respect of the principles of procedural fairness enshrined in the Act respecting administrative justice. *By failing to inform the business about the theory behind the draft assessment, Revenu Québec prevented it from presenting proof in its own defence. After the file was reviewed, the draft assessment was cancelled.* . . .)

ABUSIVE COLLECTION MEASURES

In examining complaints, the Québec Ombudsman saw again this year that collection agents bypassed Revenu Québec rules and directives in order to get results more quickly. Basic notions such as the unseizability of certain amounts were not heeded. In their haste to have payment agreements signed, agents did not take citizens' ability to pay into account.

(. . . ***The relentlessness of a collection agent***

The only source of income of a citizen who was a road accident victim was indemnities from the Commission de la santé et de la sécurité du travail (CSST). When a Revenu Québec collection agent contacted him concerning payment of a $4,000 debt contracted a few years before, the citizen informed him of his situation. Despite the fact that CSST indemnities are unseizable pursuant to the Civil Code of Québec, *the agent seized amounts from the citizen's bank account several times.*

This measure was even more unacceptable since the citizen could only pay back $3 a month, according to the same agent's analysis. Even though the agent was aware of this, he relentlessly attempted to have the citizen enter into payment agreements in amounts that were much too heavy for him. It took the Québec Ombudsman's intervention for the collection agent to stop these abusive measures and to see that the citizen was reimbursed the amounts wrongfully seized. . . .)

(. . . A citizen pays the cost for Revenu Québec's administrative inflexibility

Revenu Québec claimed $140,000 from a contractor. Even though the contractor decided to use administrative channels to contest the assessment, the amount had to be paid immediately because the claim was for a tax debt. The collection agent was asking for payments of more than $2,000 a month but the citizen proposed installments of $400, which is what he could afford. The agent refused, put a lien on the citizen's residence and proceeded with seizure several times. The citizen's situation became increasingly precarious, to the point where he feared he would have to declare bankruptcy before he was able to present his case.

Thanks to the Québec Ombudsman, the agent realized that his actions compromised the citizen's right to contest the assessment. An agreement was reached for him to make monthly installments of $400. . . .)

AN UNDULY RESTRICTIVE INTERPRETATION OF THE LAW

There is a tax credit specifically for recent graduates working in one of the 11 remote resource regions recognized by Revenu Québec. Depending on the taxpayer's situation, a credit of up to 40% of the worker's eligible salary, for a maximum annual amount of $3,000 (a limit of $8,000 or $10,000 for life, depending on the case), may be granted. Among the eligible programs of study under the *Taxation Act* are undergraduate or graduate diplomas or degrees awarded by a Québec university. Universities enter into partnerships with stakeholders in certain activity sectors and offer "customized" programs of study, in other words, programs designed in response to specific needs in these sectors. Revenu Québec sometimes refuses to grant the tax credit for these programs, even though they lead to an undergraduate degree.

The *Taxation Act* does not specify the kind of undergraduate degrees recognized. Based on an interpretation in an administrative manual, Revenu Québec did not recognize a "customized" program, and this led to a complaint with the Québec Ombudsman.

(. . . Nearly $9,000 claimed unjustly

After being awarded a "customized" certificate from a Québec university in 2010, a citizen received, from 2010 to 2012, an $8,000 tax credit as a recent graduate working in a remote resource region. In 2013, Revenu Québec verified whether the citizen was eligible for the credit and concluded that she was not because of the type of university diploma, despite her meeting all other requirements. With interest, the claim totalled nearly $9,000. The citizen decided to contest the decision by filing a notice of objection.

The Québec Ombudsman disputed the section in Revenu Québec's administrative guide indicating the exclusion of "customized" programs that unduly restricted the scope of the law. The result—Revenu Québec agreed to change the administrative manual by removing the mention of "customized" programs. The new notices of assessment for which a notice of objection had been filed were cancelled that very day. . . .)

LISTEN TO THE NEEDS EXPRESSED BY CITIZENS

This year there were several complaints about Revenu Québec's refusal to hear citizens out and lack of consideration with regard to applications. Citizens noted a close-minded and inflexible attitude, for example:

- difficulty getting explanations about files;
- refusal to carry out simple operations which would have made it possible to solve a problem;
- excessive rigidity in applying rules.

(. . . ***Complete lack of administrative consistency with regard to a contractor***

Between 2004 and 2010, a citizen who had severe health problems did not file consumption tax or income tax returns for his business. Revenu Québec therefore issued estimated assessments for those years and proceeded with several seizures, for a total of over $2.5 million. When the citizen died in 2012, the designated heir, a charity, hired an accounting firm to put the business's and the citizen's fiscal matters in order. When the missing returns and declarations were filed, Revenu Québec realized that the business should not have paid taxes. It therefore reimbursed it for the amounts seized over the years as sales tax.

Only 2009 remained a problem because Revenu Québec refused to issue reimbursement. The accounting firm mandated by the heir contacted Revenu Québec about this several times, but to no avail, so it turned to the Québec Ombudsman.

The investigation showed that Revenu Québec's refusal was based on a technicality. For 2009, the collection directorate had asked the Direction principale de la vérification des entreprises to determine the tax assessments. After a perfunctory analysis that consisted of an information exchange with the Canada Revenue Agency about the business's annual sales, the Direction de la vérification issued estimated assessments at the request of the collection directorate. Note that for the other years concerned, the collection directorate had issued the assessments itself. Since the citizens had not objected to them, the Direction de la vérification maintained that it did not have any legal means of cancelling the assessments and reimbursing the amounts seized.

The Québec Ombudsman pointed out that the Direction du recouvrement had reimbursed all the amounts seized as sales taxes for the other years, considering that the supplies in question had been non-taxable. The fact that a different directorate was involved in 2009 was no reason for Revenu Québec to refuse since the assessment still concerned non-taxable supplies.

The fact is that the Direction de la vérification rendered a decision that was practically standard—to maintain assessments when no objection to them is filed. However, this case warranted special treatment. Further to the action taken by the Québec Ombudsman, Revenu Québec issued the citizen's succession an amount of approximately $550,000 for 2009. . . .)

(. . . Refusal to sort out a citizen's file

A citizen had amassed a GST (federal) and QST (provincial) debt. Revenu Québec administers the GST in Québec through an agreement between the Government of Canada and the Government of Québec. Because of this agreement, Revenu Québec informed its Canadian counterpart about this taxpayer's situation so that the federal agency could withhold any payable amounts from his return. Even though the citizen had paid off his debt in full in 2011, the Canada Revenue Agency withheld the amount from his 2012 refund as if he had not paid the amount due.

When the citizen contacted Revenu Québec to notify it of the problem and to request that it send the Canada Revenue Agency information about the debt being paid off in full, he was met with a refusal.

At the Québec Ombudsman's request, Revenu Québec ended up agreeing to contact the federal agency and the amount withheld was released. . . .)

(. . . Stubborn refusal to correct a citizen's file

Based on information from the Régie des rentes du Québec, Revenu Québec considered that a citizen was married. Her married status disqualified her from receiving the solidarity tax credit. In fact, the citizen was not married, but divorced. After looking into the matter, the Régie confirmed that she was indeed registered as divorced.

The citizen asked Revenu Québec to correct the mistake, but it refused to contact the Régie to verify the information. The citizen then turned to the Québec Ombudsman, which discovered that the Régie had sent Revenu Québec the right information. However, Revenu Québec had not taken this information into account. It took the Québec Ombudsman's intervention for Revenu Québec to make the appropriate corrections and issue the solidarity tax credit retroactively for a period of 20 months, with interest. . . .)

PROBLEMS PERSIST IN IMPLEMENTING THE SOLIDARITY TAX CREDIT

Established in July 2011, the solidarity tax credit replaced the QST credit, the property tax refund and the credit for individuals living in a northern village.

Unlike these three former credits, the new credit is issued monthly by means of direct deposit and is reviewed periodically based on any changes to a household's situation in the course of a year.

According to Revenu Québec's 2011-2012 annual report, "the credit is more than an administrative change; it is above all an ambitious overhaul of information processing among numerous systems and external partners." [translation]

Three years after the credit's introduction, the Québec Ombudsman continues to receive many complaints about this social and fiscal program. Due to reasons beyond their control, citizens have to wait several months before getting the credit amounts to which they are entitled.

PROBLEMS PROCESSING FILES JEOPARDIZE PAYMENT OF THE SOLIDARITY TAX CREDIT

The solidarity tax credit is determined monthly. Recipients must therefore notify Revenu Québec of any change in their personal situation that could affect their eligibility for the credit. This must be done before the end of the month following the month of the change. Issuance problems arise mainly when the information about a citizen's situation must be changed after the Régie des rentes du Québec has sent information, or after a citizen has reported a change in his or her situation.

When a person's marital status has changed, especially when a couple separates, Revenu Québec relies on the Régie des rentes du Québec to provide this information. However, it seems that often Revenu Québec's computer system cannot read the information that the Régie sends. When this happens, processing of the file grinds to a halt and the credits stop being issued.

According to Revenu Québec, in certain cases, the problem is the computer system's configuration. There is no internal mechanism for signalling that file processing and credit issuance have stopped. This means that Revenu Québec does not do anything unless the citizen affected reports the problem. The Québec Ombudsman is worried about this situation given the greater vulnerability of people with low incomes, for whom the tax credit is intended.

(. . . *Long and unexplained interruption of the solidarity tax credit*

Following a separation, the mother of two children became a single parent. The citizen and the Régie des rentes notified Revenu Québec within the prescribed deadline. However, Revenu Québec's system did not enter the information sent or make the required changes to the young mother's file. As a result, for more than eight months the woman did not get the solidarity tax credit to which she was entitled.

The Québec Ombudsman had to intervene before Revenu Québec agreed to issue a cheque for the citizen by way of retroactive payment of the amounts she was owed. Furthermore, seeing as how processing of the file had not resumed, it was agreed that Revenu Québec would continue to write the cheques out by hand until things got back to normal. . . .)

REVENU QUÉBEC CLAIMS FOR OVERPAYMENTS CAUSED BY ITS TARDINESS

As indicated above, every solidarity tax credit recipient must notify Revenu Québec of any change in his or her situation using the form for that purpose. Revenu Québec quotes a processing time of six to eight weeks.

Since the summer of 2013, Revenu Québec had been behind in handling notices of change of situation because of a work overload. The following autumn and winter, it worked to reduce the backlog. Its goal was a return to reasonable levels by March 31, 2014.

Lateness in processing frequently leads to solidarity tax credit overpayments. After sorting out these files, Revenu Québec claims the overpayments from citizens. They have 21 days to give back the amount; if they do not, they are charged interest on the debt.

Given the precarious financial situation of the program's client population and the time it takes for Revenu Québec to process changes, this situation is particularly unfair to citizens who, in accordance with the rule, notify Revenu Québec ahead of time and have to pay interest anyway.

The Québec Ombudsman was assured by Revenu Québec that interest charged to citizens who had been overpaid will be cancelled at their request if the processing wait time exceeds eight weeks. Because of the technological tools at Revenu Québec's disposal and its work procedures, citizens must take the step of asking for cancellation.

The Québec Ombudsman is monitoring Revenu Québec's commitment and urges citizens to request cancellation if ever they are charged interest under these circumstances.

(. . . ***Claiming amounts due under fair terms***

In October 2013, a person notified Revenu Québec that she would be moving into subsidized housing on November 1. Despite the maximum eight-week wait time for processing announced by Revenu Québec, the change was not applied until January 2014, more than 12 weeks later. Revenu Québec continued issuing monthly payments of $77 in the ensuing three months rather than the $33 payments that would have been issued had the reported change been made. After processing the woman's notice, Revenu Québec claimed for an overpayment of $132 and indicated that she had 21 days before interest would be charged.

The citizen could not pay Revenu Québec back immediately. The only way the social assistance recipient could pay off the debt was by having Revenu Québec withhold half of her solidarity tax credit amount ($16.50 a month) for eight months.

At first, Revenu Québec let the woman know that it would be charging interest even if she had filed the notice of change within the prescribed deadline, but when the Québec Ombudsman intervened, Revenu Québec cancelled the interest. . . .)

LACK OF INFORMATION ABOUT A COUPLE WHO HAD TO SEPARATE INVOLUNTARILY

When a couple who gets the solidarity tax credit can no longer live together for reasons beyond their control (e.g. health, employment, studies), Revenu Québec considers the spouses involuntarily separated." In such cases, each spouse is entitled to his or her own credit, but only one person can claim the credit for both. The spouse who received the credit for the couple must file a *Notice of Change in Situation*, and the other spouse must file an application for the credit.

The Québec Ombudsman noticed that neither the *Guide to the Income Tax Return* nor the *Notice of Change in Situation* addressed the question of involuntary separation. Given the fact that this situation is bound to increase, notably with respect to seniors, the Québec Ombudsman intervened to have Revenu Québec provide extra information to citizens. Revenu Québec responded favourably to the recommendation and committed to including explanations in the *Notice of Change in Situation* form on how to proceed in the case of the involuntary separation of spouses.

APPLICATION OF THE MEASURE IS NOT ALWAYS FAIR

Pursuant to the *Taxation Act*, Revenu Québec can decrease a citizen's solidarity tax credit to repay the citizen's debt to the public treasury. A special provision of the Act limits this decrease to 50% of the payment amount for last-resort financial assistance recipients. The Québec Ombudsman hails this as a positive measure because it enables a person to continue getting the credit while paying down his or her debt.

However, the measure can prove unfair because it takes the nature of household income into account instead of the amount. The upshot is that people who are among the most underprivileged but who do not get last-resort financial assistance also have their solidarity tax credit completely withheld.

The Québec Ombudsman asked the Ministère des Finances et de l'Économie to amend the provisions concerning limiting of the amount withheld from the solidarity tax credit to 50% so that the measure can be applied based on citizens' income. The Department acted on the Québec Ombudsman's request for the measure to take effect in July 2014.

(. . . ***Review how repayment is carried out***

A single parent had gone back to school. She was unemployed and received $800 a month from the Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie, along with $550 a month in child assistance that would soon run out because her child was about to turn 18. She had not been receiving any child support.

Until now, she had been getting a solidarity tax credit of a little over $50 a month. In early November, she got a notice from Revenu Québec informing her that her tax credit had been withheld in full because she owed the Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie approximately $200. With the precarious financial situation she was in, the solidarity tax credit was a sizable addition to her income.

The Québec Ombudsman considers that this practice is truly unfair to citizens who have income similar to or less than that of last-resort financial assistance recipients. . . .)

Agence du revenu du Québec (Revenu Québec) – Support-payment collection

FAILURE TO ACT AT THE RIGHT TIME

The support amounts that Revenu Québec collects stem from judgments that order payment of child support for a child or for children, hence the importance of being doubly efficient in carrying out this mandate. Yet, this year, 25% of the complaints closed by the Québec Ombudsman concerning the support-payment collection program had to do with Revenu Québec's negligence in collecting these amounts and almost half of these complaints proved to be substantiated. Too often, the investigations conducted by the Québec Ombudsman reveal that Revenu Québec had all the information it needed to collect owed and payable support.

Are we to conclude that Revenu Québec is less eager when it is time to collect arrears on support than when money is owed to the government?

(. . . ***Unjustified cancellation of support***

In the spring of 2013, a Revenu Québec agent advised a citizen that she had just gotten her last support payment. The debtor had stopped payment on the ground that he had filed a motion with the court to cancel support. His daughter was now an adult, was no longer a student and had a job.

The investigation showed that even though a motion had been filed, no order to suspend payment of child support had been requested. It bears mentioning that the judgment ordering payment of support concerned another child who was a minor.

In light of these elements and the fact that support accounted for almost all of the family's income, the Québec Ombudsman asked the agent to urgently transfer the file to the Direction générale du recouvrement. Before this happened, the agent phoned the debtor to notify him of the steps he would be taking. In the wake of the Québec Ombudsman's intervention, the debtor immediately resumed payment of support. . . .)

(. . . ***Reinstating a right by simply transferring a file***

A citizen who was a creditor of support complained about the inertia of the Revenu Québec agent in charge of her file. According to her, since the judgment rendered a year before, the debtor had racked up more than $3,000 in arrears. Now, one year later, the agent had yet to send the file to the Direction générale du recouvrement despite the amounts involved and the fact that he knew that the debtor had a job. Once again, at the Québec Ombudsman's request, the agent forwarded the file to the Direction du recouvrement.

In the following weeks, Revenu Québec had the debtor's vacation pay and pension seized. These initiatives prompted the debtor to ask Revenu Québec for remittance slips to help make payment easier. . . .)

Bureau du coroner

Further to complaints it received about the time associated with coroners' investigations, the Québec Ombudsman felt it would be appropriate to conduct an investigation on its own initiative into this issue fraught with adverse human and financial consequences for the loved ones of the deceased.

LENGTHY WAIT TIMES FOR CORONERS' INVESTIGATIONS

In Québec, when a death occurs for which the probable causes cannot be established or which appears to have occurred as a result of negligence or in obscure or violent circumstances, it is subject to investigation by a coroner, a public officer reporting to the Bureau du coroner. The investigation consists of collecting information concerning the death and requires action by several partners, in particular, peace officers, medical record holders and pathologists who perform autopsies or take the specimens required for an expertise ordered by the coroner. Once the information-gathering is completed, the coroner must rule on the causes and circumstances of death based on the information gleaned from all relevant sources.

The citizens who contacted the Québec Ombudsman complained of the psychological damage stemming from the lengthy wait time for the coroner's conclusions and insisted on the need to know the causes and circumstances of a loved one's death as quickly as possible so that they could have closure. This need is even more pressing when the deceased has passed away suddenly in violent or obscure circumstances. The bereaved families and friends also brought to the Québec Ombudsman's attention very concrete examples of long wait times for obtaining coroners' conclusions. In most cases, private insurance companies such as life insurance providers, as well as public insurance plans such as those administered by the SAAQ or the CSST, require the coroners' conclusions before beneficiaries are issued compensation. The time it takes coroners to conduct investigations therefore has a direct impact on how long it takes for these insurance benefits to be issued, benefits which often constitute crucial income, especially for those who were financially dependent on the deceased person. Furthermore, all the bereaved said that they had had trouble getting information from the coroner about how the investigation was progressing.

After carrying out the analysis, the Québec Ombudsman noted that:

- the 9-month wait declared by the Bureau du coroner is shorter than the real average wait time for investigations (12.2 months in 2012). The real wait time was longer than the declared wait time for all four categories of investigation:

  1) without an autopsy or an expertise: 9.6 months;

  2) with an expertise only: 10.5 months;

3) with an autopsy only: 12.1 months;

4) with an autopsy and an expertise: 15.1 months.

- 2,026 families (53.2%) waited longer than the 9 months declared before obtaining the coroner's conclusions concerning the death of a loved one. Of these 2,026 families, 799 (21%) had to wait more than a year and a half.

Two main causes appear to contribute most to the total wait time for investigations. The first is the production of final autopsy reports by a hospital centre pathologist or pathologists from the Laboratoire de sciences judicaires et de médecine légale, with a 9-month wait time, or 74.0% of the total average wait of 12.2 months. However, autopsies were ordered by coroners in only 38.8% of investigations. The second biggest contributing factor is the wait time from the moment when the coroner has all the reports required for drafting conclusions. The wait time is 5.6 months—nearly half (46.3%) of the total average wait. The time lapse was 8.1 months in investigations that did not involve an autopsy or an expertise (84.4% of the total average wait time).

Examination of Bureau du coroner wait management also showed that there is no specific institutional commitment to reducing wait times, in its strategic plan in particular, and no measures for ensuring monitoring and control of the wait times ascribable to partners and coroners alike, despite the powers conferred in this regard on the Chief Coroner by the *Act respecting the determination of the causes and circumstances of death*.

These findings prompted the Québec Ombudsman to make the following recommendations:

- That the Bureau du coroner set a target for reducing investigation wait times and establish an action plan for achieving it;
- That the Bureau du coroner make coroners aware of how important it is for loved ones of the deceased to obtain the conclusions of an investigation as quickly as possible;
- That the Chief Coroner use all necessary means to ensure compliance with obligations concerning the due diligence prescribed in sections 48 and 77 of the *Act respecting the determination of the causes and circumstances of death*, which prescribes respectively that every peace officer investigating a case notified to a coroner and every person who makes or performs an examination, autopsy or expertise must draw up and send the coroner a copy of his or her report with due diligence;
- That the Chief Coroner exercise his or her power to supervise the work of coroners conferred under section 23 of the *Act respecting the determination of the causes and circumstances of death* and adopt any necessary directives for reducing investigation time. These directives could, for example, cover call-back procedure, record-keeping, periodic follow-up on files and re-assigning cases when a coroner is overloaded or an investigation is dragging on;
- That, alongside implementation of an action plan to reduce wait times, the Bureau du coroner adjust the information provided to citizens to take into account real wait times based on the investigation category concerned;
- That the Bureau du coroner ensure that families or representatives of the deceased are kept informed of the progress of the investigation, especially when they request an update.

In February 2014, the new Chief Coroner accepted the Québec Ombudsman's recommendations and pledged that in June 2014 it would receive an action plan for implementing these recommendations.

The summary of the Québec Ombudsman's investigation report is posted at www.protecteurducitoyen.qc.ca.

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

ENSURE THAT CITIZENS GET AN ANSWER THEY CAN TRUST

Given the complexity of the pension plans managed by CARRA and of the acts and regulations that govern them, beneficiaries and participants have to be able to trust it completely when the times comes for them to make decisions that will have a sizable impact on their retirement and their long-term financial planning as a whole.

For the Commission, this trustworthiness must translate into:

- prompt processing of service requests so that citizens are not penalized;
- transmission of clear, complete and reliable information to citizens.

PROCESS APPLICATIONS PROMPTLY TO PREVENT HARMFUL EFFECTS

CARRA's problems with its new computer system introduced in June 2010 affected the processing of applications for benefits, which caused a backlog and longer wait times. This situation was even more worrisome given the spike in the number of retirements in the public and parapublic service at the time.

Since 2011-2012, CARRA reports on its efforts to reduce the inventory and wait times to the Québec Ombudsman every quarter. The Québec Ombudsman has noted improvements in terms of the wait times for processing applications for pension estimates, buy-backs and retirement pensions. This progress explains the decrease in the number of complaints received in 2013-2014.

As the following table shows, as at December 31, 2013, the number of applications for retirement pensions being processed had decreased considerably. CARRA affirmed that with this kind of volume, it could now begin processing applications as soon as they came in.

Changes in the number of applications pending and the average time before processing begins

	Situation as at December 31, 2012	Situation as at December 31, 2013
Inventory (number of applications)	7,122	4,640
Average time before processing begins (days)	135	97

The Québec Ombudsman encourages CARRA to step up its efforts to fulfil its commitment to confirm pension amounts in the month of retirement for applications received at least 90 days before the retirement date.

Nevertheless, in examining certain complaints, the Québec Ombudsman noted unreasonable handling times that had caused citizens substantial financial damage.

(. . . An unreasonable handling time deprives a citizen of her right to the Guaranteed Income Supplement

In the spring of 2010, a citizen applied to CARRA for a retirement pension. The application was put into the recently introduced computer system. However, the new system's parameters had not been designed to analyze the kind of application submitted by the citizen, which delayed processing. The person contacted CARRA several times and it took CARRA ten months to find the technical problem. CARRA finally processed the application and issued the lump-sum payment that the citizen had opted for. At the time, CARRA's pledge was that complaints of that kind would be handled within 75 days. In this case, the wait time was 12 months.

In the winter of 2013, the citizen turned 65. She applied to Service Canada for the Guaranteed Income Supplement (GIS) because in recent years her income had been less than the maximum amount ($16,560) for qualifying for the Supplement. Now, her income for 2011 was taken into account in determining her eligibility for GIS for March to June 2013. Since her total income for 2011 included the lump-sum payment from CARRA, it was above the maximum allowable amount. She was therefore turned down for the GIS from March to June 2013. As of July 2013, her income for 2012 was considered and this made her eligible for the Supplement.

After investigating, the Québec Ombudsman concluded that the citizen had lost her eligibility for the GIS for a four-month period because of the computer problems that caused the delay in processing her pension application. In this case, the shortfall was even more serious because her income was low.

The Québec Ombudsman asked CARRA to compensate the woman, which the agency refused to do on the pretext that it was not up to it to give its clients financial advice. The Québec Ombudsman finds it regrettable that CARRA refused to make up for the harm it caused the citizen, but, especially, that it failed to acknowledge responsibility. . . .)

(. . . ***A citizen has to shell out thousands of dollars because of CARRA's tardiness***

A participant in a retirement plan administered by CARRA applied to have her pension fund transferred into her new employer's fund. Under the transfer agreement between the two pension plan administrators, on receiving the application, CARRA must complete and send a document to the new employer within three months.

The investigation by the Québec Ombudsman revealed that, in the end, it had taken CARRA 17 months to send the document, 11 for which it was responsible. During this period, interest had accrued on the citizen's pension fund with CARRA (available amount) and on the pension fund with the new employer (amount payable). When the transfer finally went through, the woman was penalized. Now she had to shell out several thousand dollars extra because over time, the amount payable had increased more than the available amount. If CARRA had acted on time, the problem would have been prevented.

To close the file, CARRA made the citizen a reasonable offer of compensation, which she accepted. . . .)

MAJOR FAILINGS IN TRANSMITTING INFORMATION

In recent years, the complaints brought to the Québec Ombudsman's attention have highlighted major failings regarding the reliability and quality of the information—by phone or in writing—that CARRA provides to citizens.

CARRA sent official documents that were misleading or provided faulty information that citizens based their retirement plans on. In studying the files, calculation and data entry errors were found that had major adverse effects afterwards. Some people had to delay their retirement, others witnessed a decrease in their pension amount after several years and others had to reimburse hefty cash amounts.

These consequences can be particularly heavy for certain citizens given that the average annual Government and Public Employees Retirement Plan (RREGOP) pension amount was only $18,745 in 2012. The Québec Ombudsman is disappointed that, in most cases that were brought to CARRA's

attention, the agency refused to accept responsibility for its mistakes and to compensate the citizens for the damage caused. The Québec Ombudsman urges citizens to be particularly prudent and to promptly double-check the written or verbal information that CARRA gives them.

(. . . Incomplete information about interest charged

Various citizens approached the Québec Ombudsman because CARRA had charged them interest without prior notice that this might happen.

All these people had bought back years of service by transferring funds from their RRSP and had returned the completed reply form by the deadline indicated in the buy-back proposal. According to prescribed procedure, CARRA must send a form when it receives the reply form so that participants can complete a section and then forward the document to their financial institution, which then proceeds with the transfer.

Examination of the documents that CARRA had sent citizens enabled the Québec Ombudsman to see that the letter enclosed with the buy-back proposal:

- ***indicated the deadline for citizens to send back the reply form;***
- ***did not specify that CARRA had to receive confirmation of transfer before this deadline expired;***
- ***made no mention of interest being charged if the former did not occur.***

The Québec Ombudsman concluded not only that CARRA had not informed citizens adequately, but also that the interest that citizens had to pay was due to CARRA's processing times.

Considering it unfair that CARRA charged citizens interest because, in some cases, CARRA was mostly to blame for the late processing, the Québec Ombudsman asked CARRA to waive the interest for all citizens concerned. It also asked CARRA to change the documents enclosed with the buy-back proposal (letter and reply form) to specify that CARRA must receive payment before the proposal deadline. CARRA agreed to the changes.

The Québec Ombudsman also noted that the letter that citizens received informing them that they were required to pay interest contained no explanation whatsoever about the balance indicated. The recipients had to contact CARRA before they understood that the balance represented the interest applied to the buy-back amount for the period between the deadline and the date when CARRA received payment. This letter also referenced an invoice that had never been sent to the people in question. The Québec Ombudsman asked CARRA to change the document by indicating the reasons for the claim and by removing the reference to an invoice that did not exist. CARRA agreed to the changes. . . .)

(. . . An error that caused a retirement pension decrease

In 2008, a citizen received a written pension estimate containing an error that she could not reasonably have been expected to notice. Without going into the details of the complex calculations, suffice it to say that CARRA had mistakenly calculated the woman's years of service in determining her eligibility for 1987 and 1988 twice. The whole situation was due to a legislative amendment from 2000 being applied incorrectly. The estimate was confirmed by CARRA. Trusting the information she had been given, she decided that she would retire in September 2008.

When she retired, CARRA made the same undetectable mistake in calculating the amount of her retirement pension. In April 2009, CARRA confirmed the amount on the strength of a calculation in which the same mistake was made.

In September 2012, four years after the citizen retired, CARRA informed her of the error in her file and, even worse, the adjustment to the pension amount, namely, some $2,000 less per year and a claim for overpayment in excess of $6,000.

At the end of the investigation, the Québec Ombudsman concluded that the women had retired based, in good faith, on information that contained an error for which CARRA was to blame and which the main person concerned could not have been expected to see. It therefore asked CARRA to waive the decrease of the pension amount and repayment of the debt. CARRA refused this recommendation. The Québec Ombudsman considers CARRA's position in this file regrettable.

The Québec Ombudsman also asked CARRA to double-check the files in which the situation was similar to ensure that it had applied the legislative amendment correctly. CARRA went on to propose an action plan that satisfied the Québec Ombudsman. . . .)

(. . . **Official documents suggesting a guaranteed buy-back rate**

Citizens recently subject to RREGOP went to the Québec Ombudsman concerning changes to the buy-back tariff schedule that CARRA had used to calculate how much it would cost for them to buy back years of service.

The documents that CARRA had given these citizens describing the buy-back options available contained buy-back rates for applications received before a given date and for those received after that date. However, under a regulatory amendment, these rates were changed before the indicated date.

The investigation by the Québec Ombudsman showed that nowhere in the documents provided was there any mention that the rates could be changed without notice. This misled the citizens into thinking that the rates were guaranteed until the indicated date. In applying the new rates, buy-back costs were greater than if the rates presented in documents CARRA had provided had been used.

The Québec Ombudsman concluded from the investigation that the citizens were completely right in expecting the rates presented to be valid until the indicated date. The information from CARRA was therefore incomplete and inadequate.

The Québec Ombudsman asked CARRA to compensate the citizens for the financial damage they had sustained. CARRA refused, arguing that under parliamentary law, it was not empowered to disclose information about buy-back tariff schedules before the regulation's publication in the Gazette officielle *and until its passage. This explanation did not satisfy the Québec Ombudsman because it felt that the problem lay elsewhere. It was not a matter of whether CARRA must release the information in question, but rather, that the documents it sends out should indicate that buy-back rates may be subject to change without notice.*

Further to the action taken by the Québec Ombudsman, CARRA committed to changing its retirement-related documents to indicate that buy-back rates are subject to change without notice through regulatory amendment. It will also tell citizens where they can get information on this subject. . . .)

(. . . ***A retirement pension decrease after the deadline***

Since June 7, 2013, when three years has elapsed since retirement, CARRA can no longer decrease a person's pension.

In 2013, CARRA undertook a special operation to review thousands of pensions that it had not been able to examine because of the time lost when its new computer system was introduced. The complaints analyzed by the Québec Ombudsman showed that in carrying out this operation, CARRA had breached the law by decreasing the pensions of people who had retired more than three years before.

The Québec Ombudsman called upon CARRA to comply with the legal deadline for reviewing files by cancelling the decrease in the pensions of the two citizens who had come to the Québec Ombudsman for help and the claims stemming from the decreases. It also asked CARRA to ensure that any decisions made before June 7, 2013, to decrease a pension complied with the law and to rescind any decisions that did not. CARRA agreed to these requests and identified 600 people whose pensions had been decreased and who had been issued an illegal claim. The Québec Ombudsman is monitoring implementation of this recommendation. . . .)

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

COMMISSION DES LÉSIONS PROFESSIONNELLES DECISIONS ARE NOT ACTED UPON

The Québec Ombudsman has received complaints from people who received a positive ruling from the Commission des lésions professionnelles but who then found that the CSST did not follow up on the decision or took far too long to do so.

Under the *Act respecting industrial accidents and occupational diseases*, a decision of the Commission des lésions professionnelles (an administrative tribunal) is final and without appeal, and any person referred to in the decision must comply with it immediately. In this context, the CSST must:

- enforce the rules prescribed by the *Act respecting administrative justice*;
- ensure that its procedures comply with legislative and administrative standards;
- adopt and apply simple, flexible and informal rules to this end;
- act respectfully, prudently and swiftly, in accordance with the ethics and discipline standards governing its agents and in good faith.

(. . . ***A CSST agent puts himself above an administrative tribunal***

A person complained that the CSST refused to apply a decision of the Commission des lésions professionnelles although the Commission had determined that her diagnosis was related to an employment injury. According to this administrative tribunal, the worker was entitled to the care and treatment her physicians prescribed for the diagnosis. Notwithstanding the decision and despite the fact that the worker's specialist physician had produced the necessary medical notes, the CSST refused to reimburse the amounts for prescribed medications.

Following the Québec Ombudsman's intervention, the CSST conducted an administrative review and agreed it should grant the reimbursements claimed. The Québec Ombudsman reminded the CSST that a decision of the Commission des lésions professionnelles is final, without appeal and must be carried out immediately. Furthermore, the agent was not empowered to decide to override the physician's opinion without having submitted the file to the procedure for contesting a medical opinion prescribed by the Act. . . .)

(. . . ***Unwarranted delays***

The CSST was slow in acting on a decision of the Commission des lésions professionnelles that entitled a citizen to benefits provided under the Act. It was fully eight months after the Commission des lésions professionnelles decision that the CSST authorized the payments the citizen was owed. This delay was particularly trying for the person concerned because there had been a four-year wait between her employment injury and her hearing before the Commission des lésions professionnelles. The CSST finally made the long-awaited payments for both the current period and for the arrears on the income replacement indemnities due for four years. It also set up a rehabilitation program for the citizen. . . .)

STOP UNFAIRLY LIMITING THE AMOUNTS OWED TO VICTIMS

In the past year, the Québec Ombudsman has had to intervene with the CSST again on issues that were previously settled to its satisfaction. The CSST limited reimbursements of expenses owed to the victims of employment injuries by imposing a time limit outside the legal framework or by interpreting one of its regulations restrictively, thereby compromising respect for victims' rights.

UNLAWFUL MEASURES OF CONTROL

Workers who have sustained a serious physical impairment as the result of an employment injury and who are unable to do the ordinary maintenance work on their residence may be reimbursed for the costs incurred to have the work done. The current limit is set at $3,030. This amount is revalued annually.

Tribunals have ruled on several occasions that from the time the CSST recognizes that workers are entitled to the reimbursement of certain expenses within the framework of their personalized rehabilitation plan, the CSST cannot avail itself of an administrative policy to limit reimbursement. If this is to be done at all, it must be done by regulation. The Québec Ombudsman has found that regional directorates continue to use administrative policy to limit reimbursement of these expenses.

The CSST's concern for the sound management of its expenditures should not mean limiting the services to which victims of employment injuries are entitled under the law. The CSST must ensure that Fonds de la santé et de la sécurité du travail surpluses are not amassed at the expense of victims' rights.

(. . . ***The CSST bogged down in its guidelines***

A citizen complained that the CSST did not reimburse him for all of the costs he incurred for having necessary maintenance work done. The regional directorate in question had instituted an administrative policy that limits reimbursement of the cost of ordinary maintenance work.

Further to the Québec Ombudsman's intervention, the CSST reimbursed the amounts the citizen was owed and sensitized its staff to the importance of referring to the guide for ordinary maintenance work to grant sums in accordance with established standards.

Furthermore, in 2012, the Québec Ombudsman intervened with the CSST because the Commission's computer system was set to limit the maximum amount for the purchase of plantar orthoses, established outside the framework prescribed by the* Act respecting industrial accidents and occupational diseases*. The agency explained that the sole purpose of the measure was to remind employees that special requirements apply when the amount claimed exceeds the amount set. Such a limit does not justify refusal to grant reimbursement in full.

The CSST agreed to the Québec Ombudsman's request to contact the 269 people affected by this measure in order to determine whether they had suffered a financial loss, with supporting documents. The CSST will make the required reimbursement to every worker submitting valid proof. Moreover, the CSST has agreed to increase the current administrative threshold. . . .)

INTERPRET THE STANDARD WHEN CONSIDERING SPECIAL CIRCUMSTANCES

When workers who are the victims of an employment injury have to travel for a medical examination or for rehabilitation services, the Act provides that they may be entitled to reimbursement of travel expenses. The Québec Ombudsman has noted disparities in some rural regions stemming from strict application of the *Regulation respecting travel and living expenses*.

It should be noted that the Regulation provides for reimbursing expenses incurred for the most economical appropriate solution, namely, public transportation. However, the CSST may authorize use of a worker's personal vehicle if the worker is medically unable to use public transit.

In rural areas, public transportation is very limited or simply not available. The Regulation does not take this reality into account. Citizens in this situation who do not have the medical inability to use public transportation are reimbursed for their travel expenses at a much lower rate, namely, the rate prescribed for people who use a personal vehicle without CSST authorization.

In the Québec Ombudsman's opinion, the CSST should respect the principle of broad-minded, liberal interpretation of legislation governing employment injuries by ensuring that workers obtain the reimbursement to which they are entitled, neither more nor less. The Québec Ombudsman raised this issue with the CSST before, inciting it to put alternative procedures in place pending a legislative amendment.

The CSST has agreed to look at various alternative solutions in the fall of 2014 to ensure that workers have the necessary means of transportation in order to receive care and treatment. It will also evaluate the impact of these options on system management.

(. . . ***Common sense or restrictive application of the Regulation?***

A citizen had to travel 280 kilometres weekly to receive care and treatment while living in a region that does not have public transportation. He therefore rented a car and claimed expenses from the CSST at the rate prescribed for persons medically unable to use public transportation.

The CSST refused the citizen's claim because he did not have a medical reason for using his car and reimbursed him at the rate prescribed for people who use a personal vehicle without CSST authorization. The Québec Ombudsman feels that the Commission's inflexible position, in this and similar cases, is unfair to the citizens concerned. . . .)

AMENDMENT OF THE *REGULATION RESPECTING MEDICAL AID*

In its 2012-2013 Annual Report, the Québec Ombudsman recommended that the CSST have the government amend the *Regulation respecting medical aid* to align it with the *Regulation respecting the psychotherapist's permit* of the Office des professions which came into force in June 2012. The CSST agreed to do so with diligence, recognizing that the change would enable injured workers to benefit from a broader range of professionals likely to offer psychological treatment.

To date, although the CSST has taken steps to facilitate access to these professionals in matters of rehabilitation, the agency still does not offer services within the framework of medical aid. Furthermore, the regulation, which dates from 1993, has not been amended. By Order in Council in June 2011, a section entitled "Special rules for psychology and neuropsychology," which excluded psychotherapy, was inserted into the *Regulation respecting medical aid*.

The CSST has advised the Québec Ombudsman that work underway to amend the Regulation would require collaboration with the professional orders concerned. The CSST has taken steps for this to happen so as to have a draft regulation ready for consideration in the fall of 2014.

Curateur public du Québec

ADMINISTRATION OF THE PATRIMONIES OF PERSONS REPRESENTED: A COMPARTMENTALIZED APPROACH AND COMPUTER SHORTCOMINGS

The complaints that the Québec Ombudsman dealt with this year showed that a compartmentalized approach and flaws in the computer system compromised the exercise of the Curateur public's mandate as administrator of the patrimonies of the persons represented, with consequences for the patrimony of family members.

The main Curateur public interveners are delegated curators, who answer to a territorial directorate, and trustees, who report to the Direction de l'administration du patrimoine.

Delegated curators, as legal representatives, maintain ongoing contact with the incapacitated persons they represent in order to guarantee that these persons are protected and their fundamental rights as well as their rights under the law are upheld. They oversee their physical, moral and material well-being and ensure that their personal needs are met (food, clothing, shelter, safety and respect for their integrity).

For its part, the Direction de l'administration des patrimoines offers protection and administration services for patrimonies. With the collaboration of territorial directorates, it acts so that its priority is the interest of the person under protection. It provides expertise in taxation, insurance and investment matters and management of movable and immovable property. Management is shared by several trustees. One, for example, takes care of tax returns, a second, shelter allowances, a third, the solidarity tax credit, a fourth, payment of current accounts, and so on.

Delegated curators and trustees work in collaboration, though often at a distance. Information-sharing is essential to adequate representation. However, the systems in place jeopardize proper communication.

The Direction de l'administration du patrimoine relies on the territorial directorates to fill in the blanks in the computer system. This means that delegated curators are responsible for knowing about all government programs and how they are allocated and about all Québec and federal tax rules so they can advise the various trustees of any changes in the file of a person for whom they are responsible.

The risk of error is high given the large number of files each professional handles. Errors have repercussions not only for the persons represented but also, in some cases, for their close relations. Furthermore, when things go wrong, redress takes a long time.

After several setbacks and failures since 2002, a new computer system is now operational. It is designed to provide and continuously update an overall portrait of both the person represented and the patrimony file, thereby improving knowledge about the person and the quality of services being offered. The Québec Ombudsman is keeping a close eye on how the system is faring from the perspective of its impact on the quality of services to represented persons and respect for their rights.

(. . . A series of costly errors

A young couple in dire financial straits received last-resort financial assistance. They had a child in 2011. The Curateur public represented the woman, but not her spouse. The spouse approached the Curateur public several times for aid and information, without success.

Shelter allowance program and Revenu Québec

The spouse of the woman represented asked his spouse's delegated curator to apply on behalf of the family for the shelter allowance program administered by Revenu Québec. The delegated curator did not follow up, believing mistakenly that the family was ineligible.

The investigation by the Québec Ombudsman revealed that the trustee responsible for the program did not know that he should claim the amounts provided by the program, since the computer system of the Direction de l'administration du patrimoine did not automatically indicate the eligibility of persons represented. Only the age and type of shelter were noted, even though it was the fact that there was a child in the family that made the family eligible. It was incumbent on the delegated curator to be familiar with the program's eligibility criteria and to inform the trustee of any change in family composition.

Following the Québec Ombudsman's intervention, the Curateur public requested that the family be admitted to the program. Revenu Québec agreed to pay $480 for a period beginning in the fall of 2012. Because the program did not provide for retroactive payment for earlier periods, the Québec Ombudsman arranged to have the Curateur public pay the amounts owing to the family from the birth of the child in 2011 to the beginning of the period taken into account.

Form 5 and the Ministère de l'Emploi et de la Solidarité sociale

In order to file his tax returns, the citizen asked the delegated curator for a copy of Form 5 issued by the Ministère de l'Emploi et de la Solidarité sociale, indicating the amounts his spouse was paid as support over the year. The delegated curator refused the request, given the large number of forms he received, and referred him to the Department.

The Québec Ombudsman then contacted the Ministère de l'Emploi et de la Solidarité sociale, which agreed to review its practices. In February of every year, a list of files will be drawn up and a duplicate of Form 5 mailed automatically to the spouse of every person represented.

Conformity of tax returns

Concerned because he had not received the solidarity tax credit and his GST credit, the same citizen contacted Revenu Québec and Revenue Canada. He was told that the problem was his spouse's tax returns. He then contacted the delegated curator who said he did not have the necessary tax knowledge to provide assistance.

The investigation by the Québec Ombudsman revealed that the trustee responsible for the spouse's tax returns had not listed the citizen in the income returns of the person represented for the year 2011, as he should have done. In point of fact, the computer system of the Direction de l'administration des patrimoines does not detect a change in civil status; the delegated curator has to notify the trustee.

The trustee's failure to declare the real family situation of the person represented had two consequences:

- ***The person represented was overpaid federal family benefits because the amount was determined on the basis of her income only, not on that of the couple.***
- ***The spouse was deprived of his share of the solidarity tax credit and GST credit.***

The Québec Ombudsman asked the Curateur public to make the necessary corrections in the filings of the person represented in order to straighten out the citizen's tax records. The corrections enabled the spouse to receive retroactively more than $1,500 in solidarity tax credit and GST credit. . . .)

TREAT CLOSE RELATIVES OF A PERSON REPRESENTED AS COLLABORATORS

In an official address about his responsibilities toward incapacitated persons, the Curateur public recognized the importance of families and close relatives of persons represented. In it he said that he regarded them as special collaborators, as are caregivers in the health and social services network who work with these persons, as well as several government departments and public agencies.

The *Public Curator Act* authorizes the transmission of information regarding a person represented to a person demonstrating a special interest. The Québec Ombudsman noted, however, that the Curateur public often refused to use its discretionary power. Decisions appeared to be almost routine, not the outcome of an analysis of each situation that would have taken into account the interest of the represented person and of that person's family.

In several cases, it would have been in the interest of all, including the represented person, that the Curateur public take into consideration the concerns that close relatives raised and answer their questions. The Curateur public's automatic refusal undermines the relationship of trust with the person represented, as well as the privileged relationship it wishes to have with those that the institution qualifies as collaborators.

(. . . ***Provide necessary information to close relatives***

The mother of a severely disabled person whom the Curateur public represents was refused information regarding her daughter's patrimony. She complained to the Québec Ombudsman.

The daughter visits her mother regularly, which, in everyone's opinion, is beneficial for the daughter. In order to pay the cost of her daughter's transportation between the residential care centre and her home, the mother asked the Curateur public about her protected daughter's financial means. The citizen believed her daughter had received a large amount subsequent to an out-of-court settlement several decades earlier and that she could therefore bear some of the cost. The Curateur public refused to respond to the request, citing the confidentiality of the file.

At the prompting of the Québec Ombudsman, the Curateur public agreed to disclose the information. The Québec Ombudsman deplores the fact that the Curateur public had not analyzed the case in greater depth. Its initial refusal was unwarranted in the circumstances. . . .)

(. . . Another case, the same close-minded attitude

While a person was under public protection supervision, his daughter and his grandson requested several times, unsuccessfully, to see his file.

The daughter of the person represented and the Curateur public had a settlement containing confidential information. The settlement bound the daughter of the person represented, the succession, the legal successors and the "agents of the party of the first part," [translation] without, however, defining the latter term.

Several months later, the grandson of the person represented was appointed private curator and acted thereafter as his grandmother's legal representative. As such, he was deprived of information on the grounds that he "acted as the alter ego" [translation] of his mother, the represented person's daughter, who was bound by the confidential settlement previously undertaken.

The Québec Ombudsman pointed out to the Curateur public that the citizen needed the information in question as the citizen's legal representative (private curator) and not as a "succession, legal successor or agent of the party of the first part." [translation] The Curateur public was not able to demonstrate conclusively that the citizen was acting as his mother's replacement. At the Québec Ombudsman's request, the grandson finally gained access to the file. The events, however, clearly undermined his trust in the Curateur public. . . .)

ARBITRARY DECISION

Delegated curators have to make numerous decisions. They enjoy broad discretionary power in order to be able to analyze each situation and make the best decision in the interest of the person represented.

Each delegated curator is responsible for the files of about 200 represented persons. Given this workload, each and every decision cannot be based on in-depth research, which dangerously increases the likelihood of arbitrary decisions.

When baseless accusations alone justify a delegated curator's refusal to reimburse amounts owing, there is reason to question the legitimacy of the decision.

(. . . Do not defer payment of a debt

For several years, a citizen was paid monthly rent to shelter his three uncles who were under curatorship. He was their private curator, but, because of a family conflict, he was removed and the Curateur public stepped in.

After the change in supervision, the landlord was not paid rent for four months. When he contacted the delegated curator to obtain what was owed, the latter acknowledged that he owed him money but refused to pay it. Since he had been informed that a complaint had been filed against the citizen with the Commission des droits de la personne et des droits de la jeunesse, the delegated curator had doubts about the citizen's integrity. However, no charges were laid and there were insufficient grounds for the Curateur public to withdraw supervision of the three persons represented. The delegated curator therefore had no reason to withhold payment of the amounts claimed.

As a result of the Québec Ombudsman's intervention, the delegated curator had to pay the amounts the nephew was owed a year later, plus interest at the legal rate, which totalled about $10,000. . . .)

Ministère de l'Emploi et de la Solidarité sociale

AMENDMENTS TO THE *INDIVIDUAL AND FAMILY ASSISTANCE REGULATION*

In the wake of the government strategy *Tous pour l'emploi: une impulsion nouvelle avec les partenaires*, unveiled in February 2013, the *Individual and Family Assistance Regulation* was amended in June 2013 to make certain categories of last-resort financial assistance recipients ineligible for the temporarily limited capacity allowance. The amendment was intended to foster the target groups' participation in the labour market. In conjunction with the amendments, the Ministère de l'Emploi et de la Solidarité sociale adopted a strategy aimed at reaching the target groups more effectively and motivating them to participate in its employment assistance measures, which provide monthly allowances of up to $195 to support recipients in their job search.

It is not uncommon for errors and delays to arise during initial implementation of new government measures due to inadequate planning, causing irritants for the target clientele. However, the Québec Ombudsman received no complaints resulting from the regulatory amendments made in 2013.

The complaints received this year had more to do with the impact of incomplete information or lack of action by certain government employees with respect to last-resort financial assistance recipients, a vulnerable clientele owing to their low income or a severely limited capacity for employment. The fragile state of these people means they can quickly feel threatened when they receive information they do not understand or if a civil servant does not take their explanations into consideration. The Québec Ombudsman's interventions in 2013-2014 rectified several individual cases, some of which also had a collective impact. Other interventions, initiated last year but continued this year, primarily concern recipients with a severely limited capacity for employment. The goal of the interventions is to relax the provisions of the *Individual and Family Assistance Regulation* and *Individual and Family Assistance Act* to allow these recipients to keep the proceeds from an inheritance or compensation for physical or mental impairment, regardless of the method of payment of the inheritance or compensation.

INADEQUATE INFORMATION AND IMPACT ON RECIPIENTS

The government has a duty to inform citizens of the rights specific to their situation, particularly when their only source of income is jeopardized, as in the case of last-resort financial assistance. This is especially true considering that the *Individual and Family Assistance Act* stipulates that recipients must be provided with information that is as comprehensive as possible.

The Québec Ombudsman noted deficiencies in this regard on several occasions this year. It expressed its concerns to the Department, focusing on three specific aspects:

- An erroneous notice was posted on the Department's website, creating undue expectations among sponsors.
- The Department sent recipients notices that contained ambiguous and even incorrect information liable to create misunderstandings and worry recipients who, as previously mentioned, are particularly vulnerable due to health problems or severe employment constraints.
- Recipients are not provided with comprehensive information regarding the processing of their file.

(. . . *Missing information finally leads to better form letters*

In this case, the Québec Ombudsman acted on its own initiative rather than in response to a complaint. The Ministère de l'Emploi et de la Solidarité sociale had informed a single mother with a severely limited capacity for employment that her benefits were being reduced. Why? Because her son, who was under 18 years of age and her dependant, was about to start receiving an orphan's pension from the Régie des rentes du Québec and the amount had to be considered in calculating the woman's monthly benefits. The amount of the pension reduced the benefit amount to which the woman was entitled.

The* Individual and Family Assistance Regulation *provides that a child whose income would cause the financial assistance granted to the child's family to fall below the amount to which it would be entitled if the child were not part of the family is not a person's dependant if the person makes a request to that effect.

This provision applied perfectly in the woman's case because her monthly benefits were reduced by more than $200, but to know that, she would have had to be familiar with the Regulation and how it affected her situation. The assistance officer in charge of her file should have informed her, in writing, of her right to make such a request, but she forgot.

The Québec Ombudsman made sure that the Department corrected the woman's file so that she would not be financially penalized. In addition, after discussing the situation with the Québec Ombudsman, the Department clarified the letters it sends to recipients on this subject so that they are better informed. . . .)

FAILURE TO ACT OR TAKE A RECIPIENT'S EXPLANATIONS INTO CONSIDERATION

When people deal with a government office, they expect their explanations regarding their case to be taken into consideration and acted on.

The Québec Ombudsman found that some of the mishandling of people's files could have been avoided if the assistance officers concerned had bothered to listen or give due consideration to the information provided by the person. In matters of last-resort financial assistance, the following aspects in particular were not properly assessed owing to this kind of attitude:

- eligibility to receive or continue receiving financial assistance;
- monthly benefit amount;
- special benefits to cover certain expenses.

In one case, the errors even jeopardized the recipient's chances of no longer having to rely on last-resort financial assistance.

(. . . *A requirement with no grounds impedes a recipient's autonomy*

A recipient of last-resort financial assistance was a replacement worker at a seniors' residence. She worked on call and generally earned less than $200 a month. She reported this income in the monthly statements she filled out and sent to her local employment centre.

During a conversation, she told her financial assistance officer that she had finished replacing someone in the month just ended, but neglected to specify the date she finished working. The financial assistance officer asked her to provide a Record of Employment. The woman explained several times that she could not provide the requested document because she still had an employment relationship with the residence given that she worked on call. Despite the woman's explanations, the assistance officer still told her she had to provide a Record of Employment or else her benefits would be terminated.

The recipient grew weary of the situation and eventually asked her employer for a Record of Employment, which of course resulted in her losing her on-call work as well as any hope of getting regular employment at the seniors' residence. Following the Québec Ombudsman's intervention, the local employment centre acknowledged the error and offered to meet with the employer to remedy the situation. Unfortunately, the complications she endured discouraged the woman from trying to find a steady job. . . .)

(. . . **Last-resort financial assistance refused despite destitution**

Having had no money to pay his rent for several months, a man was called before the Régie du logement and risked being evicted. He applied for last-resort financial assistance and told the local employment centre that he covered his basic needs with the help of friends, who bought him food and bus tickets. Living on the margins of society, he was unable to provide other proof of how he supported himself. Despite his dire circumstances and the explanations he provided, the local employment centre refused to grant him financial assistance.

Why was he not granted financial assistance when he provided all of the required information and could be evicted? The Québec Ombudsman was astonished and took the matter up with the Department. Following the Québec Ombudsman's intervention, the local employment centre agreed to grant the man financial assistance and wrote to the Régie du logement, which allowed the man to keep living in his apartment. . . .)

(. . . **Cancellation of benefits without proper verification**

After working in a daycare centre for six months, a self-employed worker was forced to apply for last-resort financial assistance. The Ministère de l'Emploi et de la Solidarité sociale granted her conditional financial assistance until she exercised her right to Employment Insurance (federal program): according to the Department's criteria, the woman was deemed a wage earner. The woman explained that she was self-employed and therefore did not make EI contributions. The officer who had granted her conditional financial assistance had her fill out a form to verify with the Canada Revenue Agency that her hours worked were insurable. A few months later, having received no reply regarding the woman's EI claim, the Department terminated her conditional financial assistance.

The investigation by the Québec Ombudsman revealed that the financial assistance officer had neglected to send the form to the Canada Revenue Agency. With no directives setting out the procedure for verifying employment status, the Department wrongly assumed that it was up to the woman to take the necessary steps. As a result of the Québec Ombudsman's investigation, the woman's financial assistance was reinstated with no new requirements. In addition, the Department undertook to adopt directives specifying the steps to be followed in order to verify the employment status of self-employed workers. The Québec Ombudsman is following up with the Department regarding the implementation date of the directives. . . .)

CONSIDERATION OF THE SUMS PAID TO COMPENSATE FOR PHYSICAL OR MENTAL IMPAIRMENT

Victims of an assault, a road accident or an occupational injury may receive lump-sum or periodical payments to compensate for a resulting physical or mental impairment. If the person is receiving last-resort financial assistance, the sums paid as compensation for the impairment are considered for benefit-calculation purposes. However, under the *Individual and Family Assistance Regulation*, sums received by certain groups as part of collective compensation paid by the government or under a court decision are excluded for the purposes of calculating the benefit to which a person is entitled.

(. . . *Maintaining the right to reparation for injury*

After being assaulted, a woman with severe employment constraints received an indemnity of $9,000 from the Direction de l'indemnisation des victimes d'actes criminels (IVAC). The month following payment of the indemnity, the latter was considered a liquid asset and, because the sum was greater than the $2,500 excluded under the Regulation, the woman's last-resort financial assistance was cancelled.

As a result, the indemnity paid to compensate for physical or mental impairment deprived the victim of her last-resort financial assistance and would have to be used to cover her basic needs. The woman will not be eligible to receive social assistance again until she has depleted the sum received from IVAC. . . .)

Arguing that compensation is a form of reparation, the Québec Ombudsman recommended to the Ministère de l'Emploi et de la Solidarité sociale, in March 2013, that the *Individual and Family Assistance Regulation* be amended so that sums received as compensation for physical or mental impairment are excluded for the purposes of calculating a benefit. A maximum amount to be excluded could be fixed, but sums paid as compensation should be excluded regardless of who pays them or the method of payment. In the Québec Ombudsman's view, a person must maintain the right to reparation for injury caused to him or her, regardless of whether the compensation is paid by a public body or arises from a judgment in a private matter and whether it is paid in the form of a lump-sum payment or periodical payments.

The Department was responsive to the recommendation and said it was taking steps to make the requested regulatory amendment. The Québec Ombudsman is following the matter closely.

STREAMLINING CERTAIN ADMINISTRATIVE REQUIREMENTS FOR THOSE MOST IN NEED

The complexity of the requirements of the application process in government departments and public bodies is a real impediment for many people. The conditions set by the Ministère de l'Emploi et de la Solidarité sociale for receiving last-resort financial assistance are no exception. Once again this year, the Québec Ombudsman was forced to intervene to help impoverished people obtain or keep their benefits, even if there were lawful grounds for the Department's requests.

(. . . *The Department must consider every reasonable alternative*

The Department refused to grant last-resort financial assistance to an 18-year-old because the young man was deemed to be receiving a parental contribution. In actual fact, the young man had suffered abuse at the hands of his father and had been taken away from him at the age of six. His relationship with his parents had been strained ever since.

The* Individual and Family Assistance Act *stipulates that adults who establish that their parents have committed acts of violence against them are not deemed to be receiving a parental contribution. The Québec Ombudsman therefore invited the young man to explain his situation to the Department. Realizing that he could not provide the necessary evidence on his own, the Québec Ombudsman contacted his social worker, who confirmed that he was telling the truth. The Québec Ombudsman also obtained a letter from the young man's mother describing his troubled childhood. The Department accepted the evidence and granted the young man financial assistance retroactively to the date of application two months earlier. . . .)

INHERITANCE RECEIVED IN INSTALMENTS: DELAYS THAT HAVE IMMEDIATE CONSEQUENCES

In 2012, the Québec Ombudsman recommended to the Department that amounts received from a succession and paid in instalments by an intermediary, such as a testamentary trust, still be considered a succession so that the amounts are included in the $130,000 exemption provided for in the Regulation, the same as capital received from a succession in a lump-sum payment is excluded for the purpose of calculating a person's benefit.

At the end of the talks between the Québec Ombudsman and the Department, it was agreed that the legislation needed to be amended. However, the Québec Ombudsman is concerned about how long the legislative amendment process takes because, in the meantime, too many people receiving benefits under the Social Solidarity Program (i.e. people with a severely limited capacity for employment) cannot enjoy their inheritance because their parents, wanting to protect them, decided to have their inheritance paid in instalments.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS CONCERNING APPLICATION OF THE $130,000 EXCLUSION TO SUCCESSIONS IN ANY FORM

Whereas the Ministère de l'Emploi et de la Solidarité sociale agreed with the Québec Ombudsman's recommendation that trust income, life annuities or any other form of periodical payment received from a succession by a person receiving benefits under the Social Solidarity Program be included in the $130,000 exclusion for capital received from a succession in a lump-sum payment;

Whereas the requested change necessitates an amendment to the *Individual and Family Assistance Act*;

Whereas the legislative amendment process takes time;

Whereas in the meantime, recipients under the Social Solidarity Program cannot take full advantage of their inheritance because their monthly benefits are reduced by an amount equivalent to the amounts received from the succession in instalments;

Whereas this situation is not fair to these recipients;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT:

- the government introduce a bill in the next session of the National Assembly to amend the *Individual and Family Assistance Act* and that the bill make the necessary amendments to the Regulation as well.

Whereas considerable time has elapsed since the Québec Ombudsman made its first recommendation in this regard in July 2012;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT:

- once the amendment has entered into force, it be applied retroactively to July 26, 2012, the date of the Québec Ombudsman's first recommendation.

COMMENTS BY THE MINISTÈRE DE L'EMPLOI ET DE LA SOLIDARITÉ SOCIALE

This is how the Department responded to the Québec Ombudsman's recommendations:

"You plan on recommending that the government propose a legislative amendment to this effect in the next session of the National Assembly and that the amendment come into force retroactively to July 26, 2012. While the Department is willing to examine the matter rapidly and with an open mind, you have to understand that it cannot commit to introducing a bill in the next session of the National Assembly given that this responsibility falls to the government. In addition, although the National Assembly can give retroactive effect to a legislative amendment, such a measure is a matter of exception for reasons of equity and consistency. In the case at hand, the Department does not envisage proceeding in this fashion." [Translation]

Ministère de la Justice

GAINS IN KEEPING CHILD SUPPORT REVIEW AND CANCELLATION OUT OF THE COURTS

This year the Québec Ombudsman would like to draw attention to the Ministère de la Justice's contribution to the advancement of legislative files, especially with regard to payment of child support by the creation of the Service administratif de rajustement des pensions alimentaires pour enfants (SARPA) and the Service d'aide à l'homologation d'ententes en matière familiale, in addition to the use of administrative means to recover the securities constituted pursuant to the *Act to facilitate the payment of support*. These legislative amendments will help to keep child support review and cancellation out of the courts. Note that the Québec Ombudsman will have jurisdiction with regard to SARPA,[1] which falls under the purview of the Commission des services juridiques.

The Québec Ombudsman also wishes to highlight the legislative amendments concerning changing the family name of newborns, change of designation of sex for persons born in Québec who are now living abroad, and broadening of the Directeur de l'état civil's power regarding entry of certain acts of death.

A CHANGE IN THE RULES GOVERNING APPLICATIONS FOR RECORD SUSPENSION PENALIZES CERTAIN CITIZENS IN QUÉBEC

Record suspension makes it possible for a person's criminal record to be removed from the Canadian Police Information Centre (CPIC) database after a certain time has elapsed. After a period of five or ten years, depending on the kind of offence, a citizen may apply for a record suspension (formerly called a "pardon") according to certain rules established by the Parole Board of Canada.

1 Section 53 of the *Act to promote access to justice in family matters.*

In 2012, the rules governing this kind of application changed. Now the prescribed waiting period before a citizen can apply for a record suspension begins only after the person has paid any fines or other fees in full. Before a citizen can file an application, he or she must have proof of payment from the registry of the court that found him or her guilty.

Further to a complaint it received from a citizen, the Québec Ombudsman realized that court registries had proceeded with the administrative closure of certain files that contained small remaining balances without striking them from the files. Having decided not to take any measures to collect the amount, they had not sent notices to the people concerned. Even if at the time these decisions were made there were no foreseeable consequences for the citizens, they were nonetheless deprived of the opportunity to have their files corrected. Following the changes in the rules for applying for a record suspension, the adverse effects of these decisions became apparent.

The Québec Ombudsman feels that it is up to every citizen to pay in full the fees in connection with his or her conviction. However, since there can be a small remaining balance despite a person's good intentions, the Québec Ombudsman considers that it is necessary to inform the citizens concerned before proceeding with administrative closure of their files.

Further to talks between the Québec Ombudsman and the Department, the Department proposed the following measures:

- change its directives and operational procedures for sending letters to citizens within the framework of their applying to the Parole Board of Canada for a record suspension when there were additional fees after the citizens paid the amounts due in full;
- review the information posted on the Bureau des infractions et amendes website;
- review the text of the notice of failure to pay a fine sent by the Bureau des infractions et amendes.

These measures address concerns of the Québec Ombudsman, which will ensure that they are implemented.

The case described below is an example of a harmful situation that the Department's new measures should be able to prevent.

(. . . *Impossible to apply for a record suspension because of an unpaid amount of which a citizen is unaware*

More than five years after he served his sentence, a citizen wanted to apply to the Parole Board of Canada for a record suspension. The courthouse where the citizen began the process informed him that $2 in execution costs remained unpaid, a fact that was news to the citizen. He immediately took care of the amount owed but he was told that he would have to wait another five years before he could apply. Feeling that this was deeply unfair to him, he contacted the Québec Ombudsman.

The information sent to the Québec Ombudsman explained the circumstances that gave rise to the problem. Sometime around the year 2000, the courthouse had introduced a new computer system. When the files were transferred, the decision was made to close those that had small remaining balances, like the citizen's file, without striking the amount from the record or sending notices to the people concerned.

The Québec Ombudsman asked the registry director to approach the Parole Board of Canada to do something about this harmful situation. The Board confirmed that the citizen's application would not be influenced by the fact that there was a remaining balance of $2. . . .)

REPORT OF THE CORRECTIONAL OMBUDSMAN OF QUÉBEC

Ministère de la Sécurité publique – Direction générale des services correctionnels

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 detainee, a group, a third party or a former inmate. 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.

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 2013-2014, about 43,550 people were admitted to Québec's detention facilities. Of these, 54% were detainees and 46% were awaiting trial. During the same period, detainees spent an average of 74 days in prison, while those awaiting trial spent 25 days on average.

This year again, the investigations conducted demonstrate how vigilant the Québec Ombudsman must remain, in its capacity as the correctional ombudsman, in ensuring that detainees' basic rights are upheld.

Prison overcrowding

ONE OF THE CONSEQUENCES—REPEATED TRANSFERS FROM ONE FACILITY TO ANOTHER

Prison overcrowding in Québec has been growing steadily for at least a decade. For example, occupancy levels increased from 108.3% in 2010-2011 to 122.8% in 2013-2014. In its 2012-2013 Annual Report, the Québec Ombudsman detailed the many harmful effects that overcrowding has on detainees, including repeated transfers from one facility to another.

The number of inter-institutional transfers increased by 16.6% (from 29,291 in 2012-2013 to 34,154 in 2013-2014). Some of these transfers had nothing to do with overcrowding, notably in cases of court appearance and release. However, the purpose of the vast majority of the transfers was to relieve overcrowding in prisons bursting at the seams and to assign inmates to other detention centres. Since the social and economic repercussions of these transfers are enormous, the Québec Ombudsman asked correctional services to send it information about the average cost for each transfer and the percentage of its annual budget allocated for these operations. It was unable to provide this information. The Québec Ombudsman suggested that it establish a method which would enable it to know the cost of transfers due to overcrowding.

The following is an example of the human and social impact of transfers. A man was transferred outside the region where he was first incarcerated. As a result, he did not return to the initial region in time to begin therapy in a transition house. To make matters worse, he was detained for two extra days. For another detainee suffering numerous health problems, transfer would have, in the opinion of his physician, been particularly risky. The Québec Ombudsman stepped in to prevent the transfer.

NEW BUILDINGS—SLOW TO GET OFF THE GROUND

The construction of four new institutions (Sorel-Tracy, Roberval, Amos and Sept-Îles), first announced in 2007 and reconfirmed many times since, is moving at a snail's pace. On February 28, 2014, the Government of Québec announced that it would sign a 10-year lease for the Leclerc penitentiary, in Laval, closed by the federal government in 2013. The five-year-renewable lease would include an option to purchase. This facility would bring the total to 20 detention centres within Québec's correctional network and would make it the network's second biggest, with a capacity of 775, including space for a limited number of offenders awaiting trial. The gradual opening is slated for the fall of 2014. Clearly, this will take some pressure off the cramped network.

Work on transfer criteria and ongoing treatment and medication

In its 2012-2013 Annual Report, the Québec Ombudsman criticized the Department's slowness to implement its recommendation from 2006-2007 to the effect that correctional services "ensure that practices are improved so as to avoid, or else minimize, the negative impacts of [transfers] on health care received and on the social reintegration of detainees." Last year, the Department decided not to retain the recommendations of the committee it had created in 2010 and formed a new working committee. Given these undue delays, the Québec Ombudsman requested that the work of the new task force be completed no later than December 31, 2013. Three months later, those in charge were not able to provide the committee report.

After more than six years' work, correctional services produced a tool for limiting the interruption of medication or medical treatment when inmates are transferred to another detention centre. The grid supposedly contains four main criteria for limiting the transfer of detainees who need medication or medical treatment. As at March 31, 2014, the Department was still unable to make the grid official.

This situation illustrates the need for greater vigilance by the Department in overseeing medication management and regarding transfer efficiency. Even though these two dimensions are very important in terms of costs and detainee health, they are underestimated and must be ranked as management priorities by the correctional system.

People with disabilities within the correctional system

The medical staff within Québec's correctional system are called on regularly to respond to the special needs of elderly or disabled detainees. According to a provincial health instruction, the administrative officials of a facility must ensure that every inmate has reasonable and safe access to the health care he or she requires. Consequently, people with disabilities must have detention conditions similar to those of other detainees.

Within the context of the investigations it conducted, the Québec Ombudsman noted that detention centre infrastructure and design are not adapted to the needs of these people. Certain rights, such as the right to yard time, are not systematically respected in the case of people with reduced mobility. The presence of people with severe disabilities in infirmaries accounts for a huge portion of the services that nursing staff must provide and increases their workload. Facility directors have confirmed that they manage these situations case by case by trying to meet the most pressing needs, contingent on available resources.

Detainees complained to the Québec Ombudsman about an institution's installations being ill-suited to their condition. Further to interventions by the Québec Ombudsman, the detention centre procured equipment and accessories such as adapted beds and baths and grab bars for the shower.

In 2014-2015, the Québec Ombudsman will study the correctional system with a view to analyzing the best practices being used and prompting it to produce guidelines in response to the special needs of this client population.

(. . . *Lapses in attending to the hygiene of a person with a disability*

A paraplegic man contacted the Québec Ombudsman about major lapses in the hygiene care he received, including the fact that he had not had a shower for a month.

The head of the infirmary unit was not able to say whether the man had had a shower recently because the staff had not taken notes. However, he was able to say that there were not enough employees to provide basic care.

At the Québec Ombudsman's request and in accordance with the* Regulation under the Act respecting the Québec correctional system*, the detention centre introduced measures so that the citizen had access to adequate hygiene care. Furthermore, the facility director committed to hiring placement agency personnel to assist its regular staff if necessary. . . .)

Maison Tanguay. A grim picture

Year after year, the Québec Ombudsman decries the detention conditions of the female offenders at Maison Tanguay, especially those in the maximum security section.

Since 2009, the Québec Ombudsman has been denouncing the fact that the women confined to their cells further to a restrictive custody classification do not have access to a sink so that they can attend to their basic hygiene. Such conditions are even more unacceptable given that these women can spend up to 17 hours a day in their cells. In November 2010, the facility director requested a budget increase so that sinks could be installed. As at March 31, 2014, the Québec Ombudsman noted that nothing concrete had been done.

In the maximum security section, there are cells set aside for disciplinary confinement and isolation of inmates who may be suicidal, under the influence of intoxicating substances or exhibiting a disorganized psychological state. One of the cells is used for restraining inmates presenting an imminent danger to their own safety or to that of others. When a person is placed in disciplinary confinement or isolation, prison authorities can order that the detainee be confined to her cell for 23 hours a day. These cells are located at the far end of the corridor and away from the correctional officer's station. Even though the institution requires that its staff make tightly spaced security rounds, the Québec Ombudsman considers that the measure does not do enough to ensure the safety of women who are psychologically vulnerable or in crisis.

The Québec Ombudsman is not saying that the frequency of contact between detainees and correctional staff should be decreased, but it feels that in certain cases, camera surveillance may be necessary to prevent self-destructive acts, given this particular context. Since 2011, the Québec Ombudsman has repeatedly told correctional services (Direction générale adjointe de Montréal) that surveillance cameras should be placed in isolation cells or cells where restraints are used. Unfortunately, the situation has not changed.

Given these observations, the Québec Ombudsman enjoins the Ministère de la Sécurité publique to proceed quickly with the necessary physical changes in order to provide Maison Tanguay inmates with decent and safe detention conditions, especially in the maximum security section.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION CONCERNING DETENTION CONDITIONS AT MAISON TANGUAY

Whereas it is the responsibility of the correctional services to provide "reasonable and humane measures of security and control" (section 1 of the *Act respecting the Québec correctional system*) for detainees;

Whereas certain detainees confined to isolation cells may present a high risk of endangerment to life, safety or health;

Whereas better control of respect of the rights of all and of safety practices is of interest to administrators, staff and detainees alike;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT THE MINISTÈRE DE LA SÉCURITÉ PUBLIQUE:

- proceed immediately with the necessary physical changes in order to provide Maison Tanguay inmates with decent and safe detention conditions, especially in the maximum security section.

COMMENTS BY THE MINISTÈRE DE LA SÉCURITÉ PUBLIQUE

This is how the Department responded to the Québec Ombudsman's recommendation:

"The Ministère de la Sécurité publique understands the Québec Ombudsman's disappointment with the fact that the work to install sinks in cells in the C1-Nord section has not been done. This work was requisitioned and earmarked in our major infrastructure projects. The Department notes the Québec Ombudsman's comments and pledges to analyze the possibility of fast-tracking this project. Even though the cells set aside for disciplinary confinement and isolation are located at the far end of a corridor and 72 feet from the control station, every cell has an emergency button in perfect working order. The control station in this section has an interphone and the staff can carry out auditory surveillance if necessary. The safety of the people entrusted to us is a constant preoccupation for the Department. This is precisely why the Direction des services correctionnels – Clientèle féminine et activités spécialisées was created in 2013-2014. This new directorate is mandated to analyze the needs of the female client population, notably in matters of security at Maison Tanguay detention centre. Within the framework of this assignment, we will make it a priority to look into the question of installing cameras in the cells set aside for disciplinary confinement and isolation in this institution." [Translation]

Non-renewal of the social reintegration action plan

On September 29, 2013, the Québec Ombudsman learned that the 2010-2013 government action plan entitled *La réinsertion sociale des personnes contrevenantes: une sécurité durable* would not be renewed. Four departments (the Ministère de la Sécurité publique, Ministère de l'Emploi et de la Solidarité sociale, Ministère de la Santé et des Services sociaux and the Ministère de l'Éducation, du Loisir et du Sport) signed this social reintegration action plan that included some 70 measures. At the time that this Annual Report was being written, the Québec Ombudsman was still waiting for the implementation report that it was supposed to receive.

The Québec Ombudsman notes with disappointment the decision not to renew this government action plan and wishes to draw attention to the problems closely related to the social integration of detainees. For example, it has repeatedly criticized the time it takes for assessments to occur. The truth of the matter is that in 2013-2014, almost 60% (59.7%) of detainees serving a sentence of six months or more were not assessed before the sixth month of their sentence. The Department therefore does not abide by its legal obligation in this respect in the majority of cases. These delays interfere with the examination of applications for conditional release (parole) and generate substantial costs for keeping these people in custody.

In 2012-2013, the Commission québécoise des libérations conditionnelles examined 496 applications for temporary absence in preparation for conditional release. Note that 3,540 people were eligible during this period. This gap is worrisome. Could this have something to do with the fact that assessment did not occur within the prescribed time limits? The question bears asking. The Québec Ombudsman intends to pay special attention to this issue.

Too many parole waivers

In 2012-2013, almost half of the people eligible for parole at a third of their sentence waived applying for examination of their record with a view to parole. This phenomenon continued in 2013-2014, with a waiver rate of 47.9%. This represents 1,754 people among the 3,659 eligible for the program.

In the vast majority of cases, detainees waive examination using a form transmitted to the Commission québécoise des libérations conditionnelles. The *Act respecting the Québec correctional system* and the regulations in force do not oblige a detainee to appear at a Commission hearing in order to waive parole. This makes it difficult to know why so many people waive their right to have their record examined by the Commission. The Québec Ombudsman believes that automatic appearance before the Commission would give Commission members a better understanding of the reasons why people eligible for parole renounce this right. A hearing would also give the members of the Commission an opportunity to explain to detainees objectively and impartially the repercussions of this decision.

By waiving this examination, the detainee is kept in custody for two-thirds instead of one-third of his or her sentence. On the other hand—and here the possible effects for public security are substantial—the person will be released without being subject to any conditions aimed at preventing recidivism. The person will not have to undergo therapy or participate in a treatment program that addresses violence or sexual or psychiatric problems. It is therefore likely that parole granted by the Commission is more conducive to social reintegration than unconditional release because in the former case, the person is monitored much more closely.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS CONCERNING EXAMINATION OF CONDITIONAL RELEASE

Whereas the waiver phenomenon has increased in recent years;

Whereas this reality can have a significant impact on management of the prison population;

Whereas incarceration is costly;

Whereas it is in society's interest to bring detainees back into the community through conditions aimed at ensuring public safety;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT THE MINISTÈRE DE LA SÉCURITÉ PUBLIQUE AND THE COMMISSION QUÉBÉCOISE DES LIBÉRATIONS CONDITIONNELLES:

- document without delay the reasons for the high rate of waivers of the right to examination of applications for conditional release;
- establish, by March 31, 2015, a mechanism or mechanisms aimed at decreasing the number of waivers;
- transmit, by March 31, 2015, a report on the action carried out and the results obtained to the Québec Ombudsman.

- COMMENTS BY THE MINISTÈRE DE LA SÉCURITÉ PUBLIQUE

  This is how the Department responded to the Québec Ombudsman's recommendations:

  "The Ministère de la Sécurité publique notes the Québec Ombudsman's recommendation. However, given the amount of time required between introducing measures, recording results, compiling data, analyzing them and producing a report, it considers that it will be difficult to meet the March 31, 2015, deadline because it would require simultaneously documenting, with the Commission québécoise des libérations conditionnelles, the reasons for the high rate of waivers of the right to examination of applications for conditional release, establishing mechanisms aimed at decreasing the number of waivers and also transmitting a report of the actions carried out and the results obtained." [Translation]

- COMMENTS BY THE COMMISSION QUÉBÉCOISE DES LIBÉRATIONS CONDITIONNELLES

  This is how the Commission responded to the Québec Ombudsman's recommendations:

  "The Commission already has a mechanism for documenting the reasons for every waiver when offenders appear at a hearing before the members of the Commission. These data are compiled but provide only a partial picture of the situation insofar as the vast majority of eligible offenders who waiver conditional release do so at the pre-hearing level, and, therefore, without ever seeing the members of the Commission. This situation precludes members' noting the reasons for waiver expressed by offenders. The Commission is disposed to continue documenting the reasons for waivers delivered during hearings and to send them to the Québec Ombudsman. As for the second recommendation, the Commission considers that one of the reasons for the high rate of renunciation is a lack of information about the measures provided for in the Act. That is why it has introduced measures likely to have an impact on waiver rates. It has also begun deliberations on certain practices and procedures with regard to renunciation which in some cases would involve adjustments to the legal framework." [Translation]

Detainee classification: vague rules and deficient application

In the spring of 2014, the Québec Ombudsman sent the Direction générale des services correctionnels a preliminary report on the application of the instruction concerning classification in Québec's detention centres. This working document was under discussion at the time this Annual Report was being written.

Classification within a detention centre is an administrative operation under the responsibility of the facility director. It consists of assigning a detainee to a section where the rules and level of supervision provide the best possible fit with his or her situation, needs and behaviour. In 2005, the Ministère de la Sécurité publique's Direction générale des services correctionnels standardized the rules surrounding this management activity through the instruction bearing the title *Classement d'une personne incarcérée dans un établissement de détention*. Since then, the administrators in all detention centres in Québec must comply with this instruction.

Before 2005, there were only a few classification guidelines for facility directors. Despite the fact that the instruction has made things somewhat clearer, several investigations by the Québec Ombudsman have revealed that it is vague and difficult to apply. Between 2008-2009 and 2012-2013, the Québec Ombudsman closed an average of 248 complaints a year concerning classification in Québec detention centres.

In 2012, more than seven years after the instruction was drafted, the Québec Ombudsman noted that, despite follow-up and interventions with various administrative officials, some institutions had yet to establish classification committees for reasons of administrative convenience. Since the situation was slow to be corrected, the Québec Ombudsman decided to look into the level of compliance with the classification instruction within Québec's correctional system.

It began by analyzing the rules governing classification. Then it sent a questionnaire containing 38 questions to the directors of 18[2] Québec detention facilities to determine whether they applied these rules. The analysis it carried out was also based on the investigations it had conducted further to detainee complaints.

The Québec Ombudsman presented 18 findings in its report along with suggestions with regard to each finding. It also invited correctional services to discuss the suggestions with a view to overhauling the current instruction or drafting a new one. The main suggestions concerned the following problem areas:

- Pursuant to the *Charter of Human Rights and Freedoms*, every person confined to a correctional facility while awaiting the outcome of his or her trial has the right to be kept apart, until final judgment, from prisoners serving sentence. This rule is rooted in the principle that one is assumed innocent until proven guilty. The Ministère de la Sécurité publique fails to enforce compliance with this rule in several institutions, where both client populations mingle. The Québec Ombudsman invited the Direction générale des services correctionnels to take necessary measures to comply with the Charter.
- Several administrators admitted to using restrictive custody classification as a disciplinary measure. This practice is proscribed in the classification instruction because it is equivalent to a double sanction. The Québec Ombudsman suggested that the administrators concerned be issued a reminder.
- Further to being admitted, detainees are quickly assigned a temporary classification. In accordance with the instruction, a classification committee must validate the classification to ensure that all objective criteria have been met. The investigation by the Québec Ombudsman showed that seven detention centres disregarded this rule. The Québec Ombudsman suggested that the Direction générale des services correctionnels take the required corrective measures.

Use of force in the correctional system

CASES OF ILL-TREATMENT

The *Instruction provinciale sur le système de traitement des plaintes des personnes prévenues ou contrevenantes* uses the word "sévices" to describe physical ill-treatment (hitting, violence, brutality) inflicted on a person by a person in a position of authority. The instruction clearly states that "in light of the fact that violation of a person's physical integrity without legitimate reason is a serious violation of human rights, these complaints must be treated with the utmost care. Furthermore, complaints of physical abuse must be forwarded to the office of the Québec Ombudsman." [translation] Complaints of this nature generally stem from situations in which force was used during interventions to "move or transfer detainees in order to control them when they are in crisis or during emergencies." [translation] Certain acts that cause bodily harm or injury must also be systematically reported to the Québec Ombudsman, whether or not the detainee filed a complaint.

2 Because of Percé detention centre's mission to assess and treat sexual delinquents, the classification instruction does not apply. This is why its director was not sent a questionnaire.

The administrative procedure for the use of force favours communication and negotiation over the use of force, which must never be excessive and must never occur unless reasonable grounds for it exist. For each report of the use of force or complaint of ill-treatment, the Québec Ombudsman obtains all available paperwork and the versions of the events from the administrators and the detainee. Every case is examined according to the specific circumstances that gave rise to the intervention. When excessive force was used intentionally, the conclusion is that ill-treatment occurred. The goal is to maintain an environment that is safe and that upholds detainees' right to dignity and integrity, as the charters of rights and freedoms dictate.

In 2013, the Québec Ombudsman received several complaints and reports concerning the use of force. In certain cases, it consisted of ill-treatment. In other cases, it was more a matter of inappropriate behaviour, lack of staff training or the inadequate use of restraints. The fact that in such a closed environment detainees may be hesitant to file a complaint about ill-treatment for fear of possible reprisals must be taken into account.

(. . . A report from a facility director

A facility director contacted the Québec Ombudsman concerning an officer who had hit a detainee twice. The detainee, who suffered mental health problems, had been placed in the health section. The reports filled out by officers were incomplete. However, the video of the events showed the officer hitting the detainee in the face after the detainee spat on him.

The Québec Ombudsman considered that the detainee had been a victim of abuse and the Department agreed. It asked the prison authorities if the detainee would be offered compensation so that he, who had meager means, would not have to undertake legal proceedings. The situation could have been settled out of court because the offence had been admitted to and was undeniable. At the time this Annual Report was being written, the matter was still unresolved. The Québec Ombudsman considers that obliging the victim to proceed through legal channels added another layer of injustice to a situation that was deplorable to begin with, to say nothing of the avoidable costs to all parties, when a negotiated solution was possible.

The Québec Ombudsman also ensured that the facility director take action with regard to the staff present during the altercation who did not officially report the event as they were supposed to do. Lastly, it suggested that the Direction générale des services correctionnels establish a procedure for processing and assessing cases of ill-treatment recognized as such by facility directors and the Québec Ombudsman. Talks are underway and the Québec Ombudsman is monitoring the situation closely. . . .)

(. . . A violent exit from a police wagon

A detainee filed a complaint about the following events: while he was getting out of a police wagon during his transfer, a correctional officer grabbed him from behind, took him by the scruff of the neck and dragged him all the way to intake, even though he was being cooperative. Then the same officer hit him with a lock while he was removing his handcuffs in preparation for the body search. The officer claimed that he had dropped the lock.

Even though it is impossible to know exactly what went on while the handcuffs were being removed, the videos from the beginning of the intervention clearly show that the officer's behaviour had been unseemly. The Québec Ombudsman, like the Department, considered that the detainee had been a victim of ill-treatment. Consequently, it asked that the detainee be offered compensation and that the Department take the appropriate measures to deal with the officer concerned. As at March 31, 2014, the file was still open. . . .)

(. . . **Negotiation rather than altercation**

A detainee complained that she had been handled brutally during a full-body search. The investigation by the Québec Ombudsman revealed that the woman's reaction when the officers cut off a pendant that she refused to remove had led to a physical intervention. Since the events occurred in the search room, they had not been filmed. The Québec Ombudsman was not able to determine which officers were responsible for the incident. There probably had not been enough discussion and negotiation before the pendant was cut off, hence the confrontation.

The Québec Ombudsman reminded the prison authorities of the importance of making negotiation the first response in order to prevent similar incidents during full-body searches. This case is an illustration of the tension that exists in such situations and serves as a reminder to use force only in extreme cases. . . .)

Full-body searches on entering and leaving detention centres are necessary in order to prevent trafficking of illicit objects. However, it is not hard to imagine that they are major sources of stress for the people being searched, who, by definition, are in a vulnerable situation.

The Québec Ombudsman has observed that there is greater risk of physical intervention during intake and release. Intake officers often know little or nothing about the detainee, and this makes their job and negotiation more complicated. Furthermore, respect for privacy dictates that there be no cameras in search rooms. Consequently, in order to prevent as many incidents as possible, the Québec Ombudsman urges facility directors to be particularly vigilant with regard to complaints from these sections.

The Québec Ombudsman has noticed that cameras limit the use of abusive force considerably. In fact, when there are cameras, excessive force occurs only in isolated cases. For example, it received only one complaint of excessive force, which turned out to be unsubstantiated, in the context of an intervention by a correctional emergency response team. These interventions are always filmed. The Department is gradually upgrading its wall-mounted camera equipment in detention centres. The Québec Ombudsman will analyze this aspect in order to determine which guidelines should apply to the use of cameras in detention centres, notably with regard to security and respect for detainees' privacy.

USE OF PEPPER SPRAY (OLEORESIN CAPSICUM)

This year several detainees filed complaints concerning the abusive use of oleoresin capsicum, commonly known as pepper spray.

Investigations into this subject present certain challenges, including the fact that appropriate dosages are not indicated in the directions for use of pepper spray. Everyone's resistance to the product is different. Furthermore, given the vagueness of event reports, often it is difficult to measure how much time has elapsed between product use and decontamination.

One of the purposes of using pepper spray in detention centres is to reduce the number of physical interventions through its preventative effect first, and then as a last resort to pacify inmates. However, we must never lose sight of the fact that the product causes severe pain and must only be used when a situation expressly requires it. The site where the product was deployed must be promptly and thoroughly decontaminated.

(. . . *The importance of adequate decontamination*

During a riot, a massive amount of pepper spray was used in a 13-cell section. It was not decontaminated properly after the inmates returned to the section. They, like the officers, broke out in a severe skin rash. Further to the Québec Ombudsman's intervention, the institution issued a reminder about the decontamination procedure and clarified it. . . .)

RESTRAINTS

The instruction on the rules for using restraints has not been reviewed since 1996. It would urgently require updating, in particular with a view to harmonizing practices, especially with regard to the use of connecting chains that link handcuffs to ankle cuffs when detainees considered dangerous or likely to escape are moved.

(. . . *A connecting chain that was too short*

A detainee who had never been physically violent with officers complained about the frequent use of a connecting chain that was too short, forcing him to walk bent over. The Québec Ombudsman noted that the institution used "short chains" even though the prison authorities denied it. As a result of the action taken by the Québec Ombudsman, the institution saw to it that the "short chains" were never used again. Furthermore, review of the level of restraint to apply was integrated into the form for systematic review of restrictive custody classifications. . . .)

In the course of its interventions, the Québec Ombudsman noticed that the use of connecting chains is different from one institution to another and, sometimes, from one officer to another. It considers that better supervision of the practice and heightened vigilance by facility directors are necessary.

RESTRAINTS: NO GAINS

Exceptional measures can be used for certain detainees in crisis. One of these measures is restraint (immobilizing an individual by using instruments such as leather ankle or cuff restrictors or straitjackets). Correctional staff have very few guidelines for ensuring the safety of these inmates. The Québec Ombudsman's opinion is that definition and supervision of the use of restraints in detention facilities should be similar to that in force in the health and social services network. As such, the same health professionals should be empowered to intervene.

As early as 2011-2012, the Québec Ombudsman denounced this troubling situation in its annual report. It told the story of a young man with autism who was placed in a detention centre for a few days because there was no place for him at Institut Philippe-Pinel, which is where he should have gone for a court-ordered psychiatric assessment. The investigation dealt in particular with the use of restraints to control the young man who was very agitated at the time. The Québec Ombudsman concluded that the instruction concerning the use of restraints (*Normes d'utilisation et d'application des instruments de contrainte et de contention*), which dated back to 1996, should be reviewed without delay.

Two investigation reports from the Bureau du coroner contain specific recommendations to the Ministère de la Sécurité publique on restraining detainees.

In 2000, a young man with paranoid schizophrenia died in a detention centre when the staff tried to hold him down so they could put him under restraint. To prevent deaths under similar circumstances, in March 2001 the coroner recommended that the Deputy Minister of Public Security and the Director of Services correctionnels "quickly complete the work of standardizing all provincial directives or facility-specific directives and see that they are distributed to the users." [translation]

In 2007, a detainee died while attempts were being made to place him under restraint. At the end of the investigation, the coroner wrote, "I recommend that the Ministère de la Sécurité publique review its procedures for use of restraints and its application." [translation]

Despite these recommendations, correctional services were slow to respond to the urgent need for tighter supervision of the use of restraints. It was only in November 2013 that the Ministère de la Justice was asked for a legal opinion on whether a correctional employee could authorize the use of restraints without a health professional being present. Pending the response, the situation remains the same even if this is a serious problem that, in the Québec Ombudsman's view, must be solved imperatively.

Toward services that are better adjusted to detainees with mental disorders

In May 2011, the Québec Ombudsman published a report on this issue. Follow-up to the recommendations of this report is presented in *Report on systemic interventions* chapter, on page 105 of this Annual Report.

The Québec Ombudsman report is posted on its website www.protecteurducitoyen.qc.ca.

Visits to detention centres

In 2013-2014, follow-up visits and working meetings took place with the directors of the following facilities: Amos, Chicoutimi, Roberval, Québec (men's and women's sections), Saint-Jérôme, Sorel, Trois-Rivières, Sherbrooke and Rimouski.

Furthermore, in the fall of 2013, a team from the Québec Ombudsman spent several days visiting Bordeaux detention centre. Follow-up meetings with the director began in December to identify the most pressing flaws and obtain commitments for correcting these deficiencies in the short term.

Visits to detention centres and the holding cells in courthouses revealed that the angle of surveillance cameras in some cells was a problem—the officers had an unobstructed view of the occupants using the toilet. Given that this was a serious affront to detainees' privacy and dignity, the Québec Ombudsman spoke out to have the angle of the cameras readjusted to ensure a modicum of privacy for detainees while maintaining an adequate level of security.

Conclusion

In its capacity as the correctional ombudsman, the Québec Ombudsman is sensitive to the sizable systemic challenges that correctional services have to grapple with, notably prison overcrowding and lack of resources. This report focuses on some of the problem areas that the network faces.

In this context, the Québec Ombudsman reiterates that correctional services, the Commission québécoise des libérations conditionnelles and their partners must be guided by the general principles enshrined in section 1 of the *Act respecting the Québec correctional system*. These principles consist of facilitating the reintegration of offenders into the community and, in keeping with their fundamental rights, contributing to the maintenance of a safe society by helping offenders become law-abiding citizens and providing reasonable and humane measures of security and control in their regard.

The Québec Ombudsman is worried about the decision not to renew the government action plan for the social reintegration of offenders. Among the problems that can affect social reintegration are the lateness in assessing detainees and the high level of waiving of the right to apply for examination with a view to parole. Doesn't conditional release enable more adequate follow-up on detainees after their release? Doesn't parole contribute to protecting society by helping former detainees become law-abiding citizens and by limiting the risk of recidivism? Correctional services must not abdicate responsibility with regard to the social reintegration of offenders. A safe society and the rehabilitation of these citizens are at stake.

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

This chapter covers the Ministère de la Santé et des Services sociaux and its service network which consists of nearly 300 institutions providing services at more than 1,700 facilities located in the system's 18 health 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, and other health professionals who work primarily out of private clinics, nearly 3,600 community organizations, social economy enterprises that provide domestic services and community pharmacies.

Pursuant to 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 services 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 within the health and social services network. In accordance with its complaint examination procedure, the Québec Ombudsman usually intervenes as a second level of recourse, further to a decision by the local or regional service quality and complaints commissioner.

COMPLAINTS IN 2013-2014

This year, the number of complaints received by the Québec Ombudsman concerning health and social services increased by 10.6% (up from 1,186 in 2012-2013 to 1,312 in 2013-2014). Reports—third-party requests for the Québec Ombudsman to intervene in situations that could compromise the health or well-being of one or more users—were down by 29.3% (from 239 in 2012-2013 to 169 in 2013-2014).

The Québec Ombudsman concluded that 38.5% of the complaints and reports it closed in 2013-2014 were substantiated, compared to 43% in 2012-2013 (complaints or reports that were redirected or interrupted are excluded from this figure). The main grounds for substantiated complaints or reports were shortcomings in care and service quality, breaches of users' rights and failings in terms of staff competence and behaviours. The physical health program was the source of the greatest number of substantiated complaints, while the support for elderly autonomy program topped the list of substantiated reports. Institutions where vulnerable people are housed, such as CHSLDs, are more frequent subjects of reports because the CHSLD client population dares not complain to the local or regional commissioner. Often it is their loved ones who act in their interest.

The *Results in figures* chapter, on page 117, 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* stipulates 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 consistent with this principle and contributes to improving the quality of health services and social services. Thanks to this procedure, every institution has a service quality and complaints commissioner to which users can turn in filing a complaint if they are dissatisfied with services or feel that their rights have been breached. If they are not happy with the commissioner's conclusions or have not received a reply by the prescribed deadline, the user can then approach the Québec Ombudsman.

In examining these complaints at the second and final level of recourse, the Québec Ombudsman noted in last year's annual report the difficulties that local service quality and complaints commissioners have executing their mandate due to lack of resources and the conditions required for them to act. The Québec Ombudsman also noticed that the effectiveness of complaint examination mechanisms varied from one health region to another. Another even more worrisome observation by the Québec Ombudsman this year was that in four regions, the commissioners had not personally examined the complaints they had received from users but had instead delegated analysis of the complaints to the personnel of the section concerned. This calls into question the very notion of the independent and impartial nature of the role of commissioner. The information obtained in this manner was then copied word for word into the commissioners' conclusions without the commissioners even double-checking the facts reported. The Québec Ombudsman condemns this practice that contravenes the *Act respecting health services and social services* and deprives users of the most independent and impartial handling of their complaints possible, which they have the right to expect.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION CONCERNING THE COMPLAINT EXAMINATION PROCEDURE

Whereas users have the right to expect first-level recourse that is completely independent and impartial;

Whereas local service quality and complaints commissioners are appointed to examine complaints in the first instance pursuant to the *Act respecting health services and social services*;

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

- ensure that local service quality and complaints commissioners themselves conduct the examination of complaints in the first instance so as to guarantee the independence and impartiality of such examination.

COMMENTS BY THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

This is how the Department responded to the Québec Ombudsman's recommendation:

"It is up to the board of directors of each institution to take measures to preserve at all times the independence of the local service quality and complaints commissioner and the assistant local service quality and complaints commissioner in the exercise of their functions. The exclusive exercise of the function of commissioner and the commissioner's obligation to report to the institution's board of directors are some of the conditions conducive to achieving the goal of impartiality. If the local service quality and complaints commissioner may consult anyone whose expertise is deemed necessary, he or she may not, however, delegate his or her functions other than under the conditions prescribed in the Act. The Department will ensure that it acts upon the Québec Ombudsman's recommendation." [Translation]

QUALITY CONTROL

This year the Québec Ombudsman was enlisted to ensure the quality of the care and services delivered by self-employed workers. A man struggling with an addiction problem spent a month at a specialized treatment centre (community organization). Afterwards he agreed to private follow-up sessions for his treatment, but he was dissatisfied, criticizing the therapist's unacceptable attitude towards him and the number of ethical breaches he committed. The citizen reported these failings to centre managers and the local service quality and complaints commissioner. When he did not get a satisfactory answer from any of them, he went to the Québec Ombudsman.

The therapist in question had also been the therapist for the citizen's inpatient treatment and the meetings had been held on the community organization's premises. However, in the contract between the community organization and the therapist, the organization waived all liability with regard to this service offering. It was a contract between the citizen and the therapist, who therefore had self-employed status. Under the circumstances, the Québec Ombudsman was not empowered to intervene pursuant to the *Act respecting the Health and Social Services Ombudsman*. It can act only if the persons concerned are employees of an organization within the Québec Ombudsman's jurisdiction.

The Québec Ombudsman spoke out against the community organization shirking its responsibility for the quality of services after inpatient treatment. It recommended that the centre put an end to its practice of referring its clients to private therapists after inpatient treatment and inform the Québec Ombudsman of new measures implemented to offer users post-therapy follow-up if required. The centre quickly informed the Québec Ombudsman of its decision to include post-therapy services in its standard slate of services. Consequently, this stage of the process is now covered by the same quality standards and recourse options (complaints commissioner, Québec Ombudsman) as the services provided under its residential program.

All public health and social services network users are entitled to respect and dignity, to receive quality services in a personalized and safe manner and to make a complaint. The Québec Ombudsman is therefore asking organizations and private residential resources to be careful in undertaking agreements with therapists with independent-worker status.

THE DEPARTMENT'S FOLLOW-UP TO THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS

In previous annual reports, the Québec Ombudsman made several formal recommendations to the Ministère de la Santé et des Services sociaux concerning various problems detected in the course of the investigations it conducted. Nineteen recommendations are still pending and are covered on page 141 of this annual report, in the *Follow-up to recommendations in the Québec Ombudsman's annual reports* chapter.

In general, even though the Québec Ombudsman is satisfied with the direction the Department intends to take with regard to the recommendations, it is disappointed with the time it is taking for things to get done. This is why it is keeping a close eye on implementation of the recommendations. It is indeed worrisome that some recommendations date back to 2007-2008.

This year, the Québec Ombudsman has reported the problems that have been of particular concern in the following programs or services (presented alphabetically in the following pages):

- Home support;
- Mental health;
- Physical disabilities, intellectual disabilities and pervasive developmental disorders (PDDs);
- Physical health;
- Support for elderly autonomy;
- Troubled youth.

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

Follow-up to the recommendations made in the Québec Ombudsman's investigation reports and special reports is described in the *Report on systemic interventions* chapter, on page 101. Comments on bills and draft regulations are summarized in the *Parliamentary watch report* chapter, on page 109, as well as in the section on the program concerned.

Home support

AN AUTONOMY SUPPORT POLICY IN THE WORKS, BUT IN THE MEANTIME?

In the spring of 2013, the Ministère de la Santé et des Services sociaux published a white paper on the creation of autonomy insurance. The purpose was to offer the elderly and people with disabilities a genuine choice as to where they live and who provides services. The document proposed public consideration of a new approach whereby home support services would be financed by a specific budget program—the *Caisse autonomie*.

Further to the consultation, the Department introduced Bill 67 to establish an autonomy insurance plan aimed at granting an autonomy support benefit to eligible Québec residents. Along with tabling of the bill, the Department announced that in the spring of 2014, a new autonomy support policy would replace the current home support policy—*Chez soi, le premier choix*.

Pending new financial guidelines, a number of institutions grappling with long waiting lists have decided to disregard the current policy's principles and establish new exclusion criteria that they assume will become the standard in the upcoming policy. The Québec Ombudsman vehemently opposes these practices and has had to remind these institutions that the old policy still applies.

(. . . ***A completely unjustified service cut***

While she was living in her apartment, a senior with reduced independence received help (mainly with taking her bath) from a visiting homemaker from the CSSS. When she moved to a private seniors' residence, she noticed that her lease did not include a single personal care service. From then on, she could only get à la carte services, at additional cost.

The CSSS informed the woman that it would no longer provide the bathing service and that the residence could do so but she would be billed. Yet the home support policy in effect clearly stated that the same criteria must be used for people who live in a private seniors' residence as for those who live at home. Following this logic, if the services were free of charge when she was living at home, shouldn't they have remained free of charge when she moved into the residence, unless they were included in the lease?

The Québec Ombudsman had to intervene to have the CSSS put an end to this practice and comply with the policy in effect. . . .)

RECOURSE TO NATURAL CAREGIVERS TO MAKE UP FOR LACK OF SERVICES

In recent years, the Québec Ombudsman has spoken out against the time it takes to access home support services and the consequences for natural caregivers. The investigations it has conducted have also shown that very often the home support hours allocated by institutions are well below what is required based on evaluated needs. Given heavy demand, some CSSSs no longer offer certain services deemed less of a priority, such as domestic help services. Others have opted not

to touch the service offering prescribed by departmental policy but are burdened with inordinately long waiting lists. Users' applications are therefore put on hold or they receive only a small fraction of the care time considered necessary for them to remain independent. In such cases, family and friends must compensate for the shortfall.

(. . . Caregiving to the point of exhaustion

A man in his 80s experiencing a significant loss of independence lived with his son, who asked the CSSS for help so that his father could keep living at home. Further to a needs assessment, the CSSS determined that the father required 18 hours of service per week. However, the application was put on hold because the CSSS did not have the funds to provide the service immediately.

Finally, after a wait of more than two-and-a-half years and the Québec Ombudsman stepping in, the son got the service hours his father required. Unfortunately, the wait led to the son's burn–out and despite his best intentions, he could no longer attend to his father's needs. As a result, the father was admitted to a CHSLD not long afterwards. . . .)

(. . . Reduced home support services likely to lead to placement

A very elderly woman lived with her son and daughter-in-law. Twice a week, CSSS workers came to the house to bathe her. When the woman was re-assessed, the CSSS decided to cut down to one bath a week. The woman's son came to the Québec Ombudsman because he and his wife would have to fill in the service gap. The son was uncomfortable with having to take care of his mother's personal hygiene and his wife had bad back problems. The couple feared that they would have to place her in a residential resource. After the Québec Ombudsman intervened, the CSSS ended up restoring the assistance given at first. . . .)

REGIONAL DISPARITIES

All Québec citizens are supposed to have the right to the same services no matter where they live. That being the case, when users move from one CSSS territory to another no services should be cut unless their needs have changed since the most recent assessment.

Given the shortage of resources and the ever-growing demand for home support, the slate of services can vary widely from CSSS to CSSS. This is especially true for people who need many hours of service because of their condition. Consequently, people who move may be dealing with a decrease that puts the services they receive at a level below what the health system should normally provide.

(. . . A move with serious consequences

A man with disabilities lived alone in an apartment adapted to his limitations and needed assistance with all his activities of daily living and domestic activities of daily living. He moved about in a motorized wheelchair and used adapted transportation to travel to work. In 2012, his individualized service plan included the home support hours his condition required.

After he moved for a new job, the CSSS in his territory cut his night services which were nonetheless crucial in getting him ready for work. According to the guidelines followed by the new CSSS, only CHSLDs offered this kind of service. For this disabled man under age 40, the change would have meant not only having to live in a CHSLD, but also giving up working and, by extension, his vocational and social integration.

The citizen filed a complaint with the Québec Ombudsman, which challenged the region's health and social services agency and the Ministère de la Santé et des Services sociaux. Basically, the purpose of the intervention was to enable the person to continue getting the services needed for him to keep up his activities outside the home as well as his social participation.

The Department committed to supporting the request and ensuring that the bodies concerned reinstated the original individualized service plan. Furthermore, the Department informed all health and social services agencies that these plans must not be based on the place of residence but on the person's needs. . . .)

FINANCIAL MANAGEMENT HARMFUL TO VULNERABLE PEOPLE

In order to decrease the number of beds occupied by elderly users with reduced independence in the hospitals within its territory, a CSSS introduced a new measure—assessing the ability to pay of hospital users no longer requiring active care, transferring them to a private residential resource and making up the difference between the cost of accommodations and services and the person's means with a direct allocation for housing. Afterwards, when it reviewed its financial priorities, the CSSS changed its plans, thereby penalizing a particularly vulnerable client population. The following is a case in point.

(. . . ***From a valid initiative to inappropriate cuts***

A certain numbers of seniors who live at home have, over time, had to be hospitalized for health problems that make it impossible for them to return home; some remained in hospital even though they no longer required active care.

This is how the CSSS, under pressure from the hospital centres in its territory, decided to try a new approach by instructing its workers to refer this category of senior to private resources that could provide them with services. The CSSS also provided for covering the shortfall between the cost of accommodations and its affordability by the residents. Therefore, under a written agreement with the owner of the resource, these people moved into residences that could provide them with services but that they would not have been able to afford if the CSSS had not paid for part of the rent.

The CSSS was quick to realize that the costs for this measure were higher than estimated. Tying to find a solution, it decided to pay for the portion of care and services covered by the home support program, which excluded the cost of accommodations. It informed the residents in writing and advised them to move if the cost of rent was too high for them at that point. These people had adapted well to their new environment and the services met their needs.

The Québec Ombudsman recommended that the CSSS honour its commitments and maintain the direct allocation, as initially intended. The CSSS agreed to the recommendations. Furthermore, the framework used by the agency concerned underwent thorough review regionally so that it complied with the Department's home support policy. . . .)

IS HOME SUPPORT ALWAYS THE OPTION OF CHOICE?

In March 2012, the Québec Ombudsman published a reported called *Is home support always the option of choice? Accessibility of home support services for people with significant and persistent disabilities*. Follow-up to the report's recommendations is presented in the chapter entitled *Report on systemic interventions*, on page 104.

The Québec Ombudsman's investigation report is posted at www.protecteurducitoyen.qc.ca.

Mental health

In 2011, the Québec Ombudsman released two reports on mental health issues. The first report addressed problems relating to the application of the *Act respecting persons whose mental state presents a danger to themselves or to others*. Three years on, the Ministère de la Santé et des Services sociaux still has not decided on its policy directions in this regard. The second report dealt with the need to adjust services to detainees with mental disorders. The main recommendation made in the Québec Ombudsman's report was to transfer responsibility for delivering mental health care and services to detainees from the Ministère de la Sécurité publique to the Ministère de la Santé et des Services sociaux. This has not been done yet.

Follow-up to the recommendations made in the above reports is described in the *Report on systemic interventions* chapter, on page 105 of this Annual Report.

On a more general level, the Québec Ombudsman notes that the Ministère de la Santé et des Services sociaux's most recent mental health action plan covered the period from 2005 to 2010. No new plan has been released since. One has to wonder if mental health is truly a priority.

The Québec Ombudsman acknowledges that the Ministère de la Santé et des Services sociaux made real efforts under the 2005-2010 action plan, in particular by establishing points of access for mental health services. However, it also notes that if an initial assessment is easier to obtain, actual services are often long in coming. There is a clear lack of integration and continuity where mental health services are concerned. For example, physicians refer their patients to mental health points of access to get psychotherapy services; however, very few, if any, such services are offered by health and social services centres (CSSSs). A new mental health action plan is needed to finish what was started and define a realistic service offering.

MENTAL HEALTH POINTS OF ACCESS ARE IN PLACE, BUT SERVICES ARE OFTEN LONG IN COMING

First established following the restructuring of care and service delivery under the 2005-2010 mental health action plan and concentrated in CSSSs, mental health points of access constitute the centralized portal for front-line mental health services. However, the Québec Ombudsman finds that they remain difficult to implement and manage even today. In the last 18 months, it has received several complaints about the points of access, especially concerning management of waiting times to receive services and the gap between the services requested by users or physicians and the services actually offered by mental health professionals, particularly psychotherapy and psychology services.

Sometimes family physicians request psychotherapy services for a patient when these services, which are not covered by the Régie de l'assurance maladie, are not even offered or truly accessible. Since the CSSS covers the cost of psychotherapy only if it is provided by an authorized professional, access to these services is limited. In addition, the waiting time can be long, with priority being given to the most urgent cases. The fact that people in need of psychotherapy are vulnerable to begin with and do not have the means to pay for services in the private sector can leave them feeling like they are on their own. In the Québec Ombudsman's opinion, even though Québec's universal health insurance plan does not cover psychotherapy, health care institutions that decide to offer these services must make sure they are genuinely accessible.

The Québec Ombudsman believes that information on the services that are actually available and accessible, in particular access to psychological and psychotherapy services, must be clearly communicated to citizens and health care professionals alike so as not to create false expectations among users.

Similarly, at the time they request services through a point of access, users should be given more information concerning the application review and approval process. Sometimes a user's needs as assessed by the mental health team do not match the requested services. In addition, once the mental health team has determined the services offered to a user, it is imperative that the waiting list be rigorously managed based on priorities, including periodic notices of reminder to users.

CONFINEMENT DURING TRANSFER OF A USER FROM ONE INSTITUTION TO ANOTHER: NONCOMPLIANCE WITH THE ACT

Health care institutions exceed the 72-hour time limit set in the *Act respecting the protection of persons whose mental state presents a danger to themselves or to others* for keeping a person under confinement without a court order. In fact, the Québec Ombudsman found that when users are transferred to another institution, the time the user is placed under confinement in the first institution is not necessarily included in the total time limit of 72 hours calculated by the second institution. An institution confirmed this practice, arguing that it was now responsible for the file and, therefore, for making the decision as to whether to place the person under confinement. However, the Québec Ombudsman is of the opinion that a user may not be placed under confinement for more than 72 hours unless a court has ordered an extension, regardless of the institution where the user is confined.

The Québec Ombudsman met with the Ministère de la Santé et des Services sociaux to discuss the matter. The Department admitted that the 72-hour time limit is measured in terms of consecutive hours even if a user is transferred to another institution. In response to the Québec Ombudsman's intervention, the Department said that this obligation would be spelled out in the departmental guidelines it was preparing on the Act's application. Pending release of the guidelines, the Department, in keeping with its commitment to the Québec Ombudsman, sent its health and social services agencies a memo reminding them of the relevant sections of the Act so that they could follow up on it with their institutions.

(. . . *A week in the hospital without a court order*

Police officers took a person to the hospital in accordance with the* Act respecting the protection of persons whose mental state presents a danger to themselves or to others*. After spending roughly 40 hours at the hospital and undergoing an initial psychiatric examination to obtain a confinement order, the person was transferred to another institution. In calculating the time placed under preventive confinement, the new institution did not include the time the person spent at the first hospital, even though his records were transferred with him. The director of professional services at the second institution was informed that the person had been placed under preventive confinement. A confinement order was not issued until seven days after the police officers took the person to the hospital, exceeding the maximum confinement time of 72 hours foreseen by law. . . .)

APPLICATION OF MEASURES OF CONTROL: THE NEXT CHAPTER

In its 2012-2013 Annual Report, the Québec Ombudsman made the observation that, in the last several years, some health and social services institutions failed to obtain the consent of users or their representatives, or even authorization from the Court, before using a planned control measure. To ensure legislative compliance, it recommended that the Ministère de la Santé et des Services sociaux take steps to ensure that where an unplanned control measure turns into a measure of some duration, facilities must obtain the required consent. As at March 31, 2014, the Department informed the Québec Ombudsman that the review of its reference framework for the preparation of protocols regarding the use of control measures, being conducted that year, would cover health and social services institutions' obligations to obtain consent where an "unplanned" control measure continues over time.

However, once again, the Québec Ombudsman received a complaint against an institution on the same grounds this year. Even though the institution had modified its policy to require employees to obtain a person's consent to use a planned control measure, it was having trouble making sure the standard was followed.

Furthermore, under the *Professional Code*, the decision to use a control measure is an activity reserved to designated health professionals, depending on the type of measure concerned, i.e. isolation or restraint. Accordingly, only these professionals may make the decision to use a control measure. In recent months, the Québec Ombudsman has found that the use of control measures has been decided by staff members who are not authorized by law to make such a decision. In one case, the decision to continue using a control measure or not was made by staff working in a patient care unit who did not belong to one of the designated professional orders. The Québec Ombudsman had to intervene.

(. . . Workers engage in an activity reserved to members of a professional order

A person complained that the evening staff violated his rights while he was the subject of a control measure signed by a physician, not allowing him to leave his room more than three times a day for 30 minutes based on a clinical assessment. An investigation by the Québec Ombudsman revealed that the clinical assessment leading to the decision to keep the person in isolation during the evening was performed by employees who were not authorized to do so and that they had performed the assessment on their own initiative.

In the Québec Ombudsman's opinion, the decision to prohibit patients from leaving their room, or to let patients leave their room for a shorter period of time, must be seen as an isolation measure. It therefore recommended that the decision to place people in isolation because of their clinical state be made in consultation with a member of the nursing staff and with the consent of the person or the person's representative. Those concerned were also reminded about proper employee attitudes and supervision, case notes and the various documents to be kept in users' records. . . .)

NO OVERSIGHT OF PRIVATE RESIDENTIAL FACILITIES FOR PEOPLE WITH MENTAL HEALTH PROBLEMS

Assertive Community Treatment (ACT) and Intensive Case Management (ICM) teams provide services to people with severe mental disorders, directly in their living environment. The ACT and ICM teams are set up to help these people avoid being hospitalized and regain their independence while staying in their own home. According to an assessment of the implementation of the 2005-2010 mental health action plan, which has not been renewed since it ended, the number of ACT and ICM teams falls short of the estimated needs. Given the important roles these teams play in users' rehabilitation and ability to remain in their living environment, the Ministère de la Santé et des Services sociaux said it would work collaboratively with the Centre national d'excellence en santé mentale to finish setting up ACT and ICM teams in the different regions of Québec.

In this regard, access to housing allows people with mental health problems to continue living independently. Support for community living, provided primarily by community resources, is sometimes needed. However, getting access to community-based housing can be difficult, especially due to the insufficient number of units available and rent that is too high for the target clientele. The Québec Ombudsman fully endorses the development of more accessible, adapted housing to support and foster the rehabilitation of people with mental health problems.

However, it would like to remind the Department that some people's needs are too high for them to be able to live independently. Suitable housing must be found for these people. Over the last few years, the Québec Ombudsman has found that it is increasingly difficult to find a suitable living environment for people who have a serious mental health problem or multiple issues. When looking for a place to live, these people may be referred to a non-institutional residence, such as a family-type resource or an intermediate resource. This type of residence is attached to a health and social services institution under a service contract, so there is some degree of oversight. However, unlike seniors' residences or resources offering lodging to people with an addiction, resources offering lodging to people living with a mental health problem do not have to be certified.

This year, the Québec Ombudsman once again received reports about private residential resources serving this clientele. The reports dealt with, among other things, the absence of supervision, problematic attitudes and behaviours by the resource owners, poor medication management, insalubrious premises and the poor quality of the meals served. Health and social services institutions are aware of some of these resources, but do not have contracts with them. Consequently, the complaint examination procedure does not apply and neither the Québec Ombudsman nor the service quality and complaints commissioner can intervene. The result is that vulnerable persons living in these resources are often left to their own devices and have no protection.

More than once in recent years, the Québec Ombudsman has stressed to the Department that private residential resources providing lodging to vulnerable persons, such as people with mental health problems or intellectual disabilities, should be certified like seniors' residences. Given that the problem has worsened, the Québec Ombudsman is making a formal recommendation.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS CONCERNING THE ABSENCE OF OVERSIGHT OF PRIVATE RESIDENTIAL RESOURCES FOR PEOPLE WITH MENTAL HEALTH PROBLEMS

Whereas it is important to ensure that vulnerable persons living in private residential resources have access to a safe, salubrious and quality living environment;

Whereas it is important that the people who live in these residential resources do not end up losing their home due to future certification requirements necessitating a period of adjustment by resources;

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

- take the necessary steps to require that private residential resources providing lodging to people with mental health problems be certified;
- make sure that the certification process provides for transitional measures to enable residential resources to adjust to the requested changes while minimizing the impact on users' housing needs;
- provide for adequate quality control of these residential resources, including regular monitoring of implementation of the things requested in inspection reports.

COMMENTS BY THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

This is how the Department responded to the Québec Ombudsman's recommendations:

"All intermediate resources and family-type resources regardless of the client population are subject to the same requirements. For these kinds of resources, network institutions recruit, evaluate and supervise staff. Health and social services agencies certify the resources based on certain criteria. When you speak of reports concerning private residences that are not attached to network institutions under a service contract, we assume you mean other kinds of resources rather than intermediate resources and family-type resources. It is true that private seniors' residences are now certified by the

Department. However, the Direction de la santé mentale is not aware of the existence of this type of resource dedicated specifically to people with mental health problems. First of all, information would have to be gathered from health and social services agencies and institutions in order to have an overview of the situation." [Translation]

THE QUÉBEC OMBUDSMAN'S RESPONSE

The Québec Ombudsman is astounded that the Department's Direction de la santé mentale is not aware of the existence of private resources dedicated specifically to people with mental health problems, given that as early as the fall of 2013, representatives from the Québec Ombudsman brought it to the Department's attention that there were problems regarding this kind of resource. For several years now, the Québec Ombudsman has been calling for certification of these resources and has approached the Department about it. In 2009, when Bill 56, the *Act to amend the Act respecting health services and social services with regard to the certification of resources offering lodging to vulnerable clienteles*, was under consideration, many people defended these resources and voiced their approval of a bill to protect vulnerable persons, including those with mental health problems.

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

TROUBLE OBTAINING REHABILITATION SERVICES: THE CORE ISSUE IN MANY COMPLAINTS

For several years now, the Québec Ombudsman has been concerned about the difficulties people with impairments have obtaining rehabilitation services and has made many recommendations on this subject to the Ministère de la Santé et des Services sociaux. The issues addressed included speech therapy services and the time lapse between the assessment of needs and the delivery of rehabilitation services. These recommendations, which are still being monitored for implementation, are presented in the *Follow-up to recommendations* chapter of this Annual Report, on page 144.

(. . . *Two-year wait*

The mother of a one-and-a-half-year-old with a particularly rare motor impairment contacted the Québec Ombudsman about the long wait time for receiving services from the rehabilitation centre in her region. Note that the child's situation was rated high priority. According to the Ministère de la Santé et des Services sociaux access plan for people with disabilities, the child should have received services within 90 days of registering for them. Instead, the rehabilitation centre quoted a wait of approximately two years.

Given the large number of children waiting to obtain services, it was impossible for the institution to honour the request within the prescribed deadline with the budget allowance at its disposal. Even if the rehabilitation centre was not able to provide the child with an individualized service plan containing specific objectives and regular follow-up, it responded to the child's most pressing needs with short-term services. Under the circumstances, the Québec Ombudsman deemed the complaint substantiated but acknowledged the institution's efforts to minimize the damage. . . .)

(. . . *Lack of service continuity among institutions*

Again this year, there were complaints about lack of service continuity within the network. The Québec Ombudsman intervened repeatedly in response to this problem, especially in the Outaouais region. The complaints highlighted service access problems and lack of dovetailing of services when users diagnosed with a physical or intellectual disability, or both, are transferred from one institution to another.

The rehabilitation centre for people with physical disabilities (CRDP), the rehabilitation centre for people with intellectual disabilities and pervasive developmental disorders (CRDITED) and the region's health and social services agency were all involved. The investigation by the Québec Ombudsman uncovered lack of coordination and of information-sharing among these bodies.

Further to the Québec Ombudsman's intervention, the CRDITED and the CRDP reviewed their work practices in order to foster interconnection of the services offered to people with disabilities and to prevent service gaps. . . .)

A SIZABLE CHALLENGE: HOUSING FOR PEOPLE WITH DISABILITIES

CRDITEDs take in charge people with intellectual disabilities or pervasive developmental disorders. In terms of housing, CRDITED's service offering consists mainly of non-institutional resources and a few continuously staff-supported living environments. The former are substitute living environments under contract with the CRDITED, whose managers are remunerated. These managers must provide the residents with a living environment that mimics a family environment as much as possible. Continuously staff-supported living environments are intended for those whose behaviours or particularities call for specialized intervention at all times and an environment that is adapted and secure. Stays are temporary or transitional. Unlike the staff at non-institutional resources, the personnel at continuously staff-supported living resources report directly to CRDITEDs.

The temporary or transitional nature of these resources is frequently a cause for concern for the families of people with intellectual disabilities or pervasive developmental disorders. The following is a case in point.

(. . . *For a smooth transition*

A complaint filed with the Québec Ombudsman concerned a person who had been a resident in a staff-supported living environment for more than two years. The family was very satisfied with this resource. However, because, by definition, this type of resource is transitional and because the user's behaviour had stabilized, the CRDITED felt that the user was ready for a resource where supervision was not as tight. The family, fearing that the user would experience disorganization and relapse into disruptive behaviour, opposed this transfer.

The Québec Ombudsman reminded the people in charge of the institution of the importance of gradually carrying out the transfer to a resource consistent with the user's needs and pace. In the end, the transfer went smoothly. . . .)

While most people with intellectual disabilities who require to be housed are served by residential resources under the jurisdiction of CRDITEDs, some are autonomous enough to live within the community at large. However, depending on the case, there must be support and assistance available from CRDITED workers so that these people can handle the various responsibilities that come with apartment living. This year, the Québec Ombudsman noted that their integration within the community was difficult at times.

(. . . An eviction that came very close to happening

An apartment building owner informed the Québec Ombudsman that if the health and social services centre (CSSS) did not step in, he would have to evict a tenant because of the unsanitary condition of his apartment. The tenant is a man with a mild intellectual disability who lives alone. The owner explained that he had gotten in touch with the social worker several times but that she was slow to respond, arguing that it was up to the tenant to make his own arrangements.

Following the action taken by the Québec Ombudsman, the institution put together an intervention plan specifically aimed at solving the problem and thereby preventing the tenant's eviction. The Québec Ombudsman was satisfied with the measures taken, but asked to be kept informed of how things were going so as to prevent recurrences. . . .)

TOO YOUNG TO BE IN A CHSLD

In its brief this year to the Committee on Health and Social Services on the living conditions of adults housed in CHSLDs, the Québec Ombudsman highlighted the problems adults with physical disabilities have finding housing adapted to their condition. The vast majority want to live at home, with adapted services available, or in an environment that is as home-like as possible. The availability of alternative residential resources for these people varies greatly from region to region, and when they do exist, often the waiting lists are very long.

Currently, given the shortage of home services and adapted living environments, people under age 65 with severe physical disabilities often end up in CHSLDs, the only type of resource that can accommodate them. The Québec Ombudsman considers that this kind of living environment is not the right place for them. They need flexible service organization that fosters full social participation, which is hard to provide given the organization of care and services in CHSLDs. It therefore asked the Ministère de la Santé et des Services sociaux to pay particular attention to this problem.

The Québec Ombudsman's brief is posted at www.protecteurducitoyen.qc.ca.

GOVERNMENT SERVICES FOR CHILDREN, ADOLESCENTS AND ADULTS WITH PERVASIVE DEVELOPMENTAL DISORDERS

In 2009 and 2012, the Québec Ombudsman carried out two systemic interventions concerning health services and social services for children, youth and adults with pervasive developmental disorders (PDDs). These interventions generated a number of recommendations; follow-up to these recommendations is presented in the *Report on systemic interventions* chapter, on page 103 of this report.

Again this year, the Québec Ombudsman received several complaints about the services offered to people with PDDs. They dealt mainly with the difficulty obtaining services adapted to this client population and the time it takes to get the services.

(. . . Red tape and wait times

A parent, referred to the CSSS by professionals outside the network because they thought that her child might have a PDD, went to the CSSS twice to have a diagnostic assessment done. Since the wait time was dragging on, the parent told the CSSS that she could afford private resources. The CSSS encouraged her to use them.

Based on the information that the mother had given them, the CSSS had not understood that the child might have a PDD. This slowness to act obviously delayed the referral to the CRDITED and jeopardized access to specialized services once the diagnosis was confirmed. If the professionals outside the network had told the CSSS about their hypothesis of a diagnosis of PDD themselves, referral to the CRDITED could have happened much more quickly.

The Québec Ombudsman felt that it was unreasonable to expect laypeople to deliver complex service requests themselves when the professionals who referred them should have taken it upon themselves to approach public services and explain exactly what the referral consisted of, professional to professional. It therefore recommended that the CSSS improve coordination with its private sector partners and that the CRDITED register the child for the services she would have gotten had she been referred earlier. The recommendations were accepted and are in the process of being implemented. . . .)

(. . . ***Problems with wait times and waiting list management***

A woman had been waiting for more than six years for a place in an intermediate resource for her 23-year-old daughter. In her complaint to the Québec Ombudsman, she mentioned that there were two waiting lists—one for anyone waiting for a service from the CRDITED for the first time, and a second for people who were already receiving at least one service. The daughter was on the latter list. The people on the first list took precedence over the ones on the second list.

Following this logic, the woman's daughter's case could have been bumped up if she had not been receiving any services at all. However, as time went by, she found that the wait time continued to be much longer than usual for both lists.

At the end of the investigation, the Québec Ombudsman concluded that the waiting lists were managed unfairly. It therefore recommended that the CRDITED review its procedure in order to avoid penalizing the people who are already receiving a first service. The CRDITED replied that in order to achieve the budget targets set by the Ministère de la Santé et des Services sociaux, it had had to cut costs by $3.6 million in the last 24 months. As a result, it did not have the financial resources to meet the needs of people waiting for a place in a residential resource. The CRDITED approached the Department about supplementary amounts to meet the needs of its client population. . . .)

Physical health

The physical health program essentially consists of the care and services delivered by hospitals, in particular emergency care, short-term care and ambulatory care. It also includes medically necessary home care services.

UPDATE ON EMERGENCY SERVICES, TRIAGE AND REASSESSMENT

To reduce emergency room overcrowding, the Ministère de la Santé et des Services sociaux rightly favours redirecting less urgent cases (priority levels 4 and 5) to family medicine groups or medical clinics. In its last annual report, the Québec Ombudsman stated that the Department was unable to measure the results of this solution and recommended that it conduct the necessary analyses. One year later, the Department has still not drawn up a report on patients who were redirected, although it has pledged to do so in the coming year.

In the meantime, emergency room overcrowding remains at critical levels even though there has been a slight improvement. In addition, the Québec Ombudsman notes that acuity reassessment of patients waiting to see a doctor is not always up to standard. In this regard, the *Guide de gestion de l'urgence* and the *Canadian Emergency Department Triage and Acuity Scale (CTAS)* set forth rules of procedure to help nurses rapidly assess and classify patients in the emergency room to determine their priority for seeing a physician. Wait times vary according to the priority score. It is understood that a person's condition may deteriorate during the wait to see a physician, in which case the person's triage priority will be raised. That is why periodic reassessment by a triage nurse, based on defined parameters, is critical. In the Québec Ombudsman's opinion, patient reassessment is not always performed according to the existing rules or, even worse, not performed at all. In such cases, patient safety is jeopardized and the nursing staff may be at fault.

During the year, the Québec Ombudsman was forced to remind certain institutions that they need to make sure their employees follow the rules in order to ensure patients' safety and adequate care.

(. . . *Significant gap between targeted and actual wait times*

A man was taken to emergency by ambulance and a nurse did an initial triage assessment. He was determined to need urgent care based on the established triage code and the maximum wait time according to the triage scale was 30 minutes. If he had not seen a physician by then, the nursing staff would reassess the man's condition every 30 minutes. However, the reassessment was not done until an hour and a half later, and that was only because other patients intervened after noticing that the man's condition was deteriorating. He then received the necessary care. The complaints lodged with the Québec Ombudsman revealed that similar cases occurred in at least six facilities this year. . . .)

In its last few annual reports, the Québec Ombudsman often stressed the problems related to emergency room wait times. Most of the complaints received concerned the length of time waited before seeing a physician and the lack of reassessment during the wait. The Québec Ombudsman made several recommendations to the Ministère de la Santé et des Services sociaux regarding access to front-line services. It continues to monitor the outcome, in particular with regard to the implementation of alternative solutions for access to services for people triaged in the emergency room as Level 4 (less urgent) or 5 (not urgent). Follow-up to these recommendations is presented on page 146 of this Annual Report.

WAIT OR PAY?

As long as the public health insurance plan covers medically required care and users do not have to pay, the Québec Ombudsman believes that the care can be provided by either a public or private institution. Moreover, the *Act respecting health services and social services* allows public institutions to enter into agreements with private medical clinics. However, in the past, the Québec Ombudsman decried the fact that although such agreements cover medical procedures, they generate incidental fees in private clinics for the same services received for free in public institutions. This is an implicit form of "delisting" of coverage, in other words, an erosion of insured services.

People have the choice between waiting to receive a service from a public institution at no cost and paying to receive the same service faster from a private medical clinic. Once again this year, the Québec Ombudsman received complaints that demonstrate the importance of establishing clear guidelines for agreements entered into with private clinics and clearly informing users. The case study presented further on in this section is a perfect example.

The Québec Ombudsman also notes some confusion as to whether or not home care provided by nurses is free. For example, some health and social services centres (CSSSs) consider heparin as a flushing solution and therefore cover the cost, whereas others do not and the user has to pay for it.

(. . . ***Disparities in the reimbursement of medications by CSSSs***

A person with cystic fibrosis complained to the Québec Ombudsman about a decision by the CSSS to charge her for the heparin she needed to flush her catheter and which she had been receiving for free since 1988. Another medication was not provided to replace heparin.

During its investigation, the Québec Ombudsman noted that other CSSSs provided heparin for use as a flushing solution. It seemed unfair that costs can differ from one CSSS to the next. While the Québec Ombudsman understands that rising costs demand hard budgetary choices, the fact remains that the Ministère de la Santé et des Services sociaux must establish clear guidelines to prevent disparities between and even within regions. . . .)

Indeed, the Québec Ombudsman noted varying interpretations of the Ministère de la Santé et des Services sociaux information circular on medications in the context of home care services (*Les médicaments dans le cadre des services à domicile*). Whether or not a person is reimbursed for medical supplies depends on the institution and its finances. In the above case study, the CSSS and the beneficiary focused on different parts of the information circular to argue their respective—and opposing—points. An examination by the Québec Ombudsman showed that different readings of the information circular are possible and that the circular needs to be revised, in particular by taking into account the general prescription drug insurance plan and its special features.

To ensure fair access to services for all Quebecers, regardless of where they live, the Québec Ombudsman recommended that the Ministère de la Santé et des Services sociaux establish clear guidelines regarding the provision of heparin by health and social services centres. At the same time, it recommended a revision of the information circular.

The Department replied that the information circular would be revised, but probably not before 2015. Not satisfied with this response, as it means the problems will persist, the Québec Ombudsman is making the same recommendations again, as well as the following one.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION CONCERNING THE PROVISION OF HEPARIN

Whereas the absence of clear guidelines on the provision of heparin creates inequity among CSSS territories;

Whereas letting such a situation go on for too long is unacceptable;

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

- revise and distribute the information circular to the entire network no later than June 30, 2015.

COMMENTS BY THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

This is how the Department responded to the Québec Ombudsman's recommendation:

"The Ministère de la Santé et des Services sociaux has taken note of the facts reported by the Québec Ombudsman. The latter can count on the Department's full cooperation in working to ensure equitable care and services across all regions and institutions, especially with regard to home care services. The information circular will be revised, as recommended by the Québec Ombudsman, taking into account the changing context and renewed practices." [Translation]

THE QUÉBEC OMBUDSMAN'S RESPONSE

The Québec Ombudsman remains concerned as to whether or not the Department will meet the June 30, 2015, deadline for the information circular.

COEXISTENCE OF PUBLIC AND PRIVATE INSTITUTIONS

Under the *Act respecting health services and social services*, a health and social services institution may enter into an agreement with another institution, a body or any other person for any of the following purposes:

1° the provision on behalf of the institution of certain health services or social services required by a user of the institution;

2° the provision or exchange of professional health or social services.

The Québec Ombudsman wants to ensure that users enjoy the same rights and same service quality they would if they were dealing with the institution. In 2008, it intervened in respect of an agreement between Hôpital du Sacré-Cœur de Montréal and a private medical clinic, Rockland MD, and made a number of recommendations, including one intended to better equip institutions to draw up such agreements. In a letter to the Minister of Health and Social Services, the Québec Ombudsperson called for the establishment of guidelines as well as a model agreement for use by the parties concerned.

Again, the Québec Ombudsman is not questioning the advisability of calling on private clinics to provide health care services. In a democracy, such choices exist as a result of political decisions made by the government and all elected representatives. That said, the Department has a duty to ensure compliance with the legislative framework, respect for people's rights and the same quality of services, regardless of whether the provider is a public or a private institution.

It is evident that the Department is putting off establishing such guidelines. In 2013, the Québec Ombudsman intervened with regard to a service agreement entered into between an institution and a specialty clinic to enable the private clinic to provide ophthalmology services on behalf of the institution while the latter did renovations. The Québec Ombudsman had received reports of possible violations of users' rights due to the agreement. During its investigation, the Québec Ombudsman found that the allegations were substantiated and, consequently, it made recommendations to the authorities concerned.

One of the recommendations was aimed at the Ministère de la Santé et des Services sociaux and emphasized the importance of establishing network-wide guidelines on service agreements entered into by health and social services institutions. The goal is to establish parameters on the relevance, form and content of these agreements to ensure that all aspects of their implementation are evaluated, in particular their financial impact on users and users' rights, as well as potential conflicts of interest for health care professionals. There is virtually no departmental oversight or control over these situations, which undermines the protection of users and their rights.

AMBULANCE TRANSPORTATION FOR PERSONS AGED 65 AND OVER

Contrary to popular belief, ambulance transportation is not free in Québec, except under certain conditions. Every year, the Québec Ombudsman receives complaints from elderly people who were billed for ambulance services that they deemed to be medically justified. The complainants wanted the rules explained. The policy on transportation of users of the health and social services network indicates that transportation by ambulance is free for persons aged 65 and over only if required because of the person's state of health or social situation. However, it is up to the emergency physician or his or her representative to determine whether an ambulance was indeed

required. However, the Québec Ombudsman finds that the guidelines are not clear and that, based on what they expressed to the Québec Ombudsman, institutions would like the Ministère de la Santé et des Services sociaux to establish real criteria.

Currently, this lack of clear guidelines and criteria creates billing disparities among Québec's regions, and even among institutions within the same region. That is why the Québec Ombudsman recommended that the Ministère de la Santé et des Services sociaux define medical and social eligibility criteria and communicate them to all network institutions. It also called on the Department to take steps to remind Quebecers, in particular those 65 and over, of their responsibilities regarding the use and potential cost of ambulance services.

The Department responded by saying that ambulance transportation for people aged 65 and over is one of the issues to be addressed by the committee on the review of prehospital emergency services and that there may be a policy review in 2014.

(. . . ***Random billing for ambulance services***

A man turned to the Québec Ombudsman after his hospital refused to pay for the ambulance he took and he received a bill. The man and his family were extremely worried about the man's health, especially because he was waiting to receive the results of neurological examinations. What is puzzling in this case is that the man had been taken to hospital by ambulance just the day before and the hospital had paid.

In 2012, the Ministère de la Santé et des Services sociaux announced that the policy on transportation of users of the health and social services network must be interpreted broadly in the case of people 65 and over. The Québec Ombudsman therefore recommended that the hospital review its decision and cancel the fees charged to the man. The hospital complied. . . .)

Support for elderly autonomy

In the complaints and reports brought to the Québec Ombudsman's attention this year, the following issues stood out:

- The heterogeneity of the client population and user safety;
- The competence of staff in intermediate resources;
- The accessibility to accommodations.

In 2013, there were 487 residential and long-term care centre (CHSLD) facilities in Québec, for a total of 45,014 beds. It therefore stands to reason that the situations presented here cannot be generalized to all institutions.

THE HETEROGENEITY OF THE CLIENT POPULATION AND USER SAFETY: DIFFICULT TO LIVE SIDE BY SIDE

Generally, users who live in CHSLDs are elderly. Many have severe cognitive impairments. Other than memory loss and disorientation in time and space, users with cognitive impairments sometimes exhibit disruptive behaviour in the form of agitation, aggressiveness and violence. These behavioural disorders can not only disturb other users, but, in some cases, endanger them.

The Québec Ombudsman has noted that in some CHSLDs, lucid residents with reduced mobility or moderate cognitive impairments live alongside people who have severe cognitive impairments coupled with invasive wandering behaviour, which invariably gives rise to potentially dangerous situations. Altercations occur, creating fear and anxiety for the victims. Some CHSLDs install half-doors so that wanderers cannot leave their rooms. In some cases, victims hide out in their room just to be safe. Because of the situation, for all practical intents they are held captive, and, by extension, their autonomy is seriously curtailed.

In recent annual reports, the Québec Ombudsman has pointed out that existing measures are insufficient to ensure user protection and safety. It has suggested the creation of adapted micro-living environments where small numbers of residents are grouped according to their profile (lucid seniors, residents with cognitive impairments, residents with behavioural disorders and seniors with mental disorders) and receive services tailored to their needs in a safe setting.

(. . . A CHSLD resident is attacked in her room

An 80-year-old living in a CHSLD was a victim of repeated attacks in her own room by a resident in the same unit. The woman, whose health was delicate, was terrorized by these intrusions. She therefore had taken to staying in her room. In so doing, she forfeited any social contact.

The resident who had attacked the woman had severe cognitive impairments. The institution took measures to control her comings and goings evenings and nights. The professionals at the institution tried, largely unsuccessfully, to tone down her disruptive behaviour. The fact that the CHSLD had no prosthetic unit (unit or environment and service programming that provide an adapted response to the needs of a specific client group, for example, people with Alzheimer's whose behaviour is disruptive) complicated matters.

Further to the Québec Ombudsman's recommendations, the institution improved its services to residents with cognitive impairments by establishing special measures at admission, adopting a plan to group clients by profile and providing for staff training. . . .)

(. . . High-risk living environment at a CHSLD

While walking down the hallway, an 80-year-old woman was attacked several times by another resident in her unit. The institution installed a half-door in the room of the person who exhibited aggressive behaviour to prevent her from getting out and hitting other residents. This measure proved insufficient.

In the same period, a man known to have violent behaviour was also living in the same unit. Once the institution realized that he was a high safety risk for residents and staff, it took five weeks after his admission for an orderly to be assigned to him full-time to keep him under control. A week later, he was transferred to another residential centre in the region that had a special unit for that kind of behaviour.

So that situations of this kind never recur, the Québec Ombudsman made four recommendations to the institution aimed at establishing a prosthetic unit and an approach for minimizing disruptive behaviour in order to ensure safety and quality of life for residents. Another purpose of the recommendations was to maintain adequate supervision measures for residents with severe behavioural disorders coupled with violence. . . .)

THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS CONCERNING THE HETEROGENEITY OF THE CLIENT POPULATION AND USER SAFETY

Whereas residents are endangered by the presence of users with behavioral disorders in living environments that are not adapted;

Whereas people accommodated in residences are very vulnerable;

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

- establish, by December 31, 2014, measures to ensure that every resident in a residential and long-term care centre has a violence-free living environment;
- establish, by December 31, 2014, measures to improve care and services, particularly to users with behavioural disorders while ensuring that they have the care and services required by their condition.

The Québec Ombudsman is asking the Department to inform it of the measures established for these purposes.

COMMENTS BY THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

This is how the Department responded to the Québec Ombudsman's recommendations:

"The Ministère de la Santé et des Services sociaux has already undertaken certain initiatives, notably the production of orientations, in order to continue its efforts to improve care and services for the people accommodated in residential and long-term care centres (CHSLDs). In the fall of 2012, the Department began an overhaul of the procedure regarding assessment visits to CHSLDs. The visits enable assessment of the living environment as a whole with a view to pinpointing the elements that can contribute to the implementation of orientations and the assurance that residents have a safe and high-quality living environment. All CHSLDs should be visited within a 24-month cycle. In 2013-2014, which is the first year of Cycle 1, 192 out of 412 CHSLDs were visited. These measures contribute to improving the quality of life and the safety of CHSLD residents by giving administrators and staff the tools they need." [Translation]

THE QUÉBEC OMBUDSMAN'S RESPONSE

The Québec Ombudsman expects that, during assessment visits, special attention be paid to the question of the heterogeneity of the client population.

ENSURE THAT STAFF AT INTERMEDIATE RESOURCES ARE COMPETENT

The purpose of the intermediate resources developed in recent years was to foster users' social reintegration and to keep users within the community at large. Given the shortage of beds in CHSLDs, heavier cases that also involve cognitive impairments are channelled into intermediate resources, which must therefore handle a new set of problems on top of their responsibility to provide a quality living environment and support services.

Intermediate resources are under contract with health and social services centres (CSSSs). The Québec Ombudsman has noted that not all CSSSs exercise the same professionalism and rigour in their role to supervise intermediate resources and conduct quality control. The quality of service delivery by intermediate resource staff varies according to the management practices of the private owners of the resources. Some supervise their staff more closely or have more stringent hiring requirements. Be that as it may, CSSSs must never drop their responsibilities toward the people they house into the laps of their partners.

There are absolutely no staff training or competency requirements in the contractual agreements between CSSSs and intermediate resources. The only requirement in the Ministère de la Santé et des Services sociaux's reference guide in terms of basic training is cardiopulmonary resuscitation and basic first aid. It does not specify any quality standards with regard to the human side of the services provided by intermediate resources.

In order to ensure that users receive quality service provision, CSSSs must support their intermediate resources in delivering services to this new client population. They must see to it that the staff of their intermediate resources, which are their partners, have training that is better suited to the needs of the residents under their care.

(. . . Lack of supervision of the caregiving staff in an intermediate resource

Citizens complained to the Québec Ombudsman about the lack of experience and the aloof attitude of the staff at an intermediate resource. They criticized their lack of know-how and interpersonal skills in assisting the residents and providing personal care, especially in the case of residents who were uncooperative and difficult to deal with. They also spoke out against the lack of supervision, especially during the evening and night shifts.

The investigation by the Québec Ombudsman showed that the CSSS should have made up for the intermediate resource's organizational shortcomings—the lack of staff supervision and adapted training. The Québec Ombudsman concluded that the CSSS should foster knowledge acquisition and ensure that the intermediate resource fulfils all its responsibilities.

It made six recommendations to the CSSS and the intermediate resource aimed at establishing a clear hierarchy of responsibilities and at ensuring that staff at the intermediate resource have the competency and skill sets for providing care and services consistent with the residents' profiles. The CSSS and the intermediate resource agreed to the recommendations and are in the process of implementing them. . . .)

(. . . Lack of proper staff training: the CSSS bears primary responsibility

A citizen complained about the various flaws in the approach of the staff at an intermediate resource said to specialize in cognitive impairments. The truth is that the staff had never had training in how to respond to the client population's disruptive behaviour coupled with cognitive impairments.

The CSSS was aware of the problem but was slow to solve it. For its part, the resource said it had been waiting for some time for the CSSS to follow up. The result was that neither the CSSS nor the intermediate resource had done anything to find the appropriate solutions.

Since the CSSS bears primary responsibility for the quality of the services provided by the intermediate resource, the Québec Ombudsman made recommendations on staff training which the CSSS acted upon. . . .)

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION CONCERNING THE COMPETENCE OF STAFF AT THE INTERMEDIATE RESOURCE

Whereas, increasingly, heavier cases that also involve cognitive impairments are channelled into intermediate resources;

Whereas the staff of intermediate resources lack adapted training that would enable an adequate response to the special needs of this client population;

Whereas the staff in intermediate resources are not required to have any specific training;

Whereas CSSSs bear primary responsibility for the quality of care and services provided by intermediate resources;

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

- provide for staff training requirements in intermediate resources adapted to the elderly who have cognitive impairments coupled with behavioural disorders.

COMMENTS BY THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

This is how the Department responded to the Québec Ombudsman's recommendation:

"Issues remain with regard to the Québec Ombudsman's recommendation concerning training for the staff at intermediate resources. In this respect, collective and Québec-wide agreements have been entered into by the Department and the associations or organizations that represent intermediate resources. As for the training of intermediate resource staff, collective and Québec-wide agreements provide that the owner of each intermediate resource must assume this responsibility. The Department pledges to sensitize the associations or organizations that represent intermediate resources to the Québec Ombudsman's recommendation." [Translation]

ACCESS TO PUBLIC CHSLDS

Even though the *Act respecting health services and social services* stipulates that users have the right to choose the institution from which they wish to receive services, this right, conditional and not absolute, exists more on the theoretical plane than in the real world. Respect of this right is often relegated to second place, behind administrative imperatives. The pressure to unclog hospital centres, the long waiting lists for certain CHSLDs and disparities in the residential service offering from one territory to another all constitute impediments to users' right to choose the place where they will spend the rest of their lives.

The wait time for a place in a CHSLD varies greatly depending on the region or facility. Some users might wait a few years before getting in to their residence of choice. In the meantime, they are admitted to another CHSLD on a transitional basis. It happens frequently that users never have the opportunity to live in the residence where they wanted to spend rest of their lives because they die before ever getting in.

The investigations conducted by the Québec Ombudsman also indicate that the psychosocial factors that play a decisive role in the overall health of users are not taken into account enough in administrative decisions concerning transitional accommodations. It would appear that unclogging the hospital network comes first.

(. . . ***The woeful transfer of an elderly woman far away from her spouse***

The members of a family contacted the Québec Ombudsman because they were against their mother being transferred to a CHSLD located an hour away from her natural environment. The transfer meant that she would not see her spouse every day, and this daily presence was good not only for the couple, but also for the staff at the institution. The woman, who had severe cognitive impairments, kept asking for her spouse, who was the only person she still recognized. By being there every day, her spouse was able to soothe her, which contributed greatly to giving her better quality of life. Her spouse, who was still working, would have had to space out his visits considerably if she were transferred so far away. The family and the caseworkers feared that this change would endanger the woman's health.

The transfer was due to administrative decisions—first, in order to free up a hospital bed, and second, to fill up a bed in a distant CHSLD for which the woman in question was the only candidate on the waiting list whose profile matched the client population at that CHSLD.

Fortunately, while the investigation was underway, a transitional bed opened up in a CHSLD located closer to where the family lived, and the citizen was transferred there. . . .)

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION CONCERNING ACCESS TO PUBLIC CHSLDS

Whereas there are overly long wait times for admission to certain CHSLDs and systematic recourse to transitional accommodations limits users' right to choose their last living environment;

Whereas the psychosocial factors that play a decisive role in the overall health of users are not taken into account enough in administrative decisions concerning transitional accommodations;

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

- immediately take appropriate measures to ensure users long-term, transitional or permanent accommodations that take all their needs into account, including the psychosocial aspects that influence their overall health. The Québec Ombudsman is asking the Ministère de la Santé et des Services sociaux to inform it of the measures taken for this purpose.

COMMENTS BY THE MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

This is how the Department responded to the Québec Ombudsman's recommendation:

"The Department is working to define orientations with regard to care and services to the elderly. Various projects are underway to improve the movement of elderly citizens through the system, no matter which pathway. It is necessary that care and services be delivered seamlessly in order to meet the varied and ever-changing needs of seniors. The institutions are responsible for applying the guidelines for the admission to CHSLDs of the elderly suffering a severe loss of independence. The Department monitors this through management and accountability agreements." [Translation]

DRAFT *REGULATION TO AMEND THE REGULATION RESPECTING THE CONDITIONS FOR OBTAINING A CERTIFICATE OF COMPLIANCE AND THE OPERATING STANDARDS FOR A PRIVATE SENIORS' RESIDENCE* (2013, *Gazette officielle*, Part 2, 5859)

The purpose of this draft regulation was to amend the training requirements for night time supervision staff in private seniors' residences. It also provided for the reduction of requirements regarding certain staff qualifications.

After analyzing the draft regulation, the Québec Ombudsman made four recommendations to the Minister of Health and Social Services aimed at the quality and safety of the services provided to the elderly living in private seniors' residences. It expressed particular concern about the reduction of the training required of staff who provide supervision and objected to the provision allowing a residence with fewer than 50 rooms to have people who are not members of the staff provide supervision. This means that these people could be volunteers or fellow residents. This amendment introduces a certain risk, especially in the event of a fire or an emergency evacuation. Furthermore, it contravenes the Ministère de la Sécurité publique's practical guide on fire prevention and evacuation of residences accommodating seniors (*La prévention des incendies et l'évacuation des résidences hébergeant des personnes âgées*).

A summary of the Québec Ombudsman's intervention is presented in the chapter entitled *Parliamentary watch report*, on page 113 of this Annual Report.

The Ombudsperson's letter to the Minister of Health and Social Services is posted at www.protecteurducitoyen.qc.ca.

THE QUÉBEC OMBUDSMAN'S BRIEF ON THE LIVING CONDITIONS OF ADULTS HOUSED IN CHSLDS

In 2013-2014, the Québec Ombudsman presented a brief to the Committee on Health and Social Services entitled *Living conditions of adults housed in CHSLDs*. Based on the findings of its investigations of 128 CHSLDs in the previous five years, the Québec Ombudsman focused mainly on the following issues: accessibility of residential resources, creating a quality living environment and monitoring the quality of care and services delivered by private partners. In its report, the Québec Ombudsman insisted that the proposed solutions be implemented promptly within a comprehensive perspective that includes home support services, access to hospitals and temporary residential care.

A summary of the Québec Ombudsman's intervention is presented in the chapter entitled *Parliamentary watch report*, on page 115 of this Annual Report.

The Québec Ombudsman's brief is posted at www.protecteurducitoyen.qc.ca.

Troubled youth

The troubled youth program consists of services for the following client groups:

- children and adolescents with developmental, behavioural or social adjustment problems;
- youth who need appropriate assistance to ensure their safety and development or to make sure that these are not compromised;
- the families of these young people;
- people who use specialized services such as adoption, placement and social rehabilitation.

COMPLY WITH THE OBLIGATION TO REPORT

The *Youth Protection Act* stipulates that every professional who provides care or any other form of assistance to children and who has reasonable grounds to believe that the security or development of a child is or may be considered to be in danger within the meaning of the Act must bring the situation to the attention of the Director of Youth Protection without delay. This obligation also applies to all health and social services network workers, who, by the nature of their job, are particularly well-placed to detect such danger.

However, when the difficulties children face are considerable and the cooperation of their immediate entourage is not optimal, the workers involved are hard-pressed to find the proper balance between their duty to establish a trusting relationship with the families or other players, to whom they must offer assistance and support, and their obligation to protect a child.

There are exceptional cases which demand coercive action whose primary purpose is to protect vulnerable children and see to their basic needs. In such cases, caseworkers must use the *Youth Protection Act* and comply with their obligation to report the situation in order to tighten the safety net for the child concerned.

(. . . *A sordid story ending with the death of a child*

The Québec Ombudsman received a report concerning a child with severe physical and intellectual disabilities. The child lived in his family environment and received various specialized services that required that health and social services centre (CSSS) workers visit the child's home regularly.

The report condemned the laxity of CSSS workers to the detriment of the child's safety and development within the home environment. The authors of the report maintained that it was this excessive indulgence that caused the child irreversible damage despite the almost daily presence of CSSS workers and their partners in the child's family environment.

The investigation conducted by the Québec Ombudsman showed that the autumn before the report, the child was already in an appalling condition. The five-year-old's weight was that of a ten-month-old child. The CSSS workers described the home as disorganized and unsanitary. It was clear that the child's personal hygiene was not being looked after adequately. His feeding tube was defective and dirty. The child was finally taken to a specialized hospital centre and admitted to the palliative care unit, where he died not long after.

The Québec Ombudsman considers it completely unacceptable that a child was allowed to languish under such conditions despite the presence of numbers of health and social services network workers on a regular basis. The Québec Ombudsman made three recommendations to the effect that the CSSS take measures to ensure that its personnel abide by their obligation to report situations in which a child is exposed to significant risk factors and that tragedies of this kind never recur. The CSSS accepted and implemented the recommendations. . . .)

REVIEW CALCULATION OF THE FINANCIAL CONTRIBUTION FOR THE PLACEMENT OF CHILDREN UNDER AGE 18

Last year, the Québec Ombudsman carried out a systemic investigation into parents' financial contribution towards the placement of their children under age 18. The report, published in March 2013, contained 11 recommendations to the Ministère de la Santé et des Services sociaux, aimed at reviewing how this contribution is calculated and collected, among other things.

Pending review, the rules in effect continue to create inconsistency and inequality. In fact, since its report, the Québec Ombudsman has received complaints similar to those described in it, especially concerning double billing. Under the regulation currently in force, when parents are separated, the child support paid to creditors cannot be deducted from the debtor's income for contribution calculation purposes. However, this amount is added to the creditor's income in determining the creditor's contribution.

The complaints handled by the Québec Ombudsman show that parents who pay child support generally feel that the calculation rules used to determine their contribution amount are unfair and inconsistent, an opinion shared by many youth centre workers. The parents who pay child support consider that they are being double-billed because they must pay child support to their ex-spouse *and* pay the financial contribution to the youth centre for placement of their child in a substitute environment.

Follow-up to the recommendations in the investigation report is presented on page 101 in the *Report on Systemic Interventions* chapter. The report is posted at www.protecteurducitoyen.qc.ca.

REPORT ON SYSTEMIC INTERVENTIONS

This chapter covers the systemic interventions conducted by the Québec Ombudsman and their follow-up during 2013-2014. 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. 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.

The Québec Ombudsman's reports are posted at www.protecteurducitoyen.qc.ca.

Systemic interventions in 2013–2014

This report does not include all systemic interventions carried out in 2013-2014 because as at March 31, 2014, the recommendations with regard to some of them had not yet been published or submitted to the departments or agencies concerned. Furthermore, interventions regarding a single department or agency are described in the section on the complaints against the organization in question. For example, the Québec Ombudsman's intervention concerning wait times for investigations by coroners is presented in the Bureau du coroner section of the *Public service* chapter, on page 38 of this Annual Report.

Follow-up on previous interventions: highlights and follow-up in 2013–2014

THE FINANCIAL CONTRIBUTION TOWARDS THE PLACEMENT OF CHILDREN UNDER AGE 18 (March 2013)

In this report published in March 2013, the Québec Ombudsman indicated that the regulation governing administration of parents' financial contribution towards placement of their children under age 18 is obsolete, that its application differs from one youth centre to another and that this causes inconsistency and unfairness.

Consequently, it argued that the method of calculating and collecting the contribution must be reviewed and that youth centre practices in this regard must be standardized.

The Québec Ombudsman made 11 recommendations to the Ministère de la Santé et des Services sociaux, the Régie des rentes du Québec, the Agence du revenu du Québec (Revenu Québec) and the Ministère des Finances et de l'Économie. The aim of the recommendations was to ensure that the financial contribution towards placement:

- insofar as possible, is harmonized with changes in the fiscal measures to support families;
- is more consistent with youth protection principles;
- contributes more effectively and fairly to achievement of the objective of maintaining parent responsibility and parent participation in the funding of the services provided to their child who is lodged in a substitute environment.

Follow-up in 2013-2014:

- In May 2013, the government departments and agencies concerned approved the recommendations and designated their respective representatives for follow-up purposes.
- In October 2013, the Québec Ombudsman received the action plans produced by the Ministère de la Santé et des Services sociaux and Revenu Québec in response to its recommendations.
- The Ministère de la Santé et des Services sociaux had agreed to report on its action. As at March 31, 2014, the Québec Ombudsman had not heard from the Department.

In terms of follow-up to the recommendation concerning access to parents' financial data held by Revenu Québec, the agency must produce a progress report (with the Ministère de la Santé et des Services sociaux) by December 15, 2014.

THE ORGANIZATION OF EMERGENCY RESPONSE SERVICES FOR ACCIDENTS THAT OCCUR OFF-ROAD (March 2013)

In this report published in March 2013, the Québec Ombudsman noted the need for better organization of off-road emergency response services so as to improve their quality and accessibility. The purpose of the intervention was to save as many lives as possible and reduce the risk of permanent disabilities in off-road accident survivors, especially in isolated areas. It made seven recommendations to the Ministère de la Santé et des Services sociaux and the Ministère de la Sécurité publique.

The Ministère de la Santé et des Services sociaux subscribed for the most part to the recommendations addressed to it and agreed to propose measures and a time frame for implementing them. It expressed its intention to give ambulance technicians the mandate to carry out operations off-road and to provide them with the individual protective equipment required for them to do their job safely.

For its part, the Ministère de la Sécurité publique recognized the importance of integrating off-road emergency response services into safety cover plans and of clarifying the roles and responsibilities of the various players. As it sees it, a financial assistance program for training and material for safe off-road rescues, for example, would be worthwhile incentives for municipalities and regional county municipalities to get involved.

Follow-up in 2013-2014:

- In July 2013, the Québec Ombudsman received a joint action plan from the Departments based on an approach consisting of three core thrusts:
  1) funding for off-road interventions;
  2) awareness and communications;
  3) implementation of rescue teams.

- Three working groups were formed to identify the actions needed to implement the Québec Ombudsman's recommendations.
- The Departments promised to inform the Québec Ombudsman about how their work was progressing and the results thereof by June 30, 2014.

In October 2013, the Ministère de la Santé et des Services sociaux informed the Québec Ombudsman that the Comité national sur les services préhospitaliers d'urgence wished to receive opinions, comments and recommendations that could contribute to improving prehospital emergency services in Québec. In addition to commenting on these services, the Québec Ombudsman reiterated the recommendations from its report on the organization of off-road emergency response services.

SERVICES PROVIDED TO YOUNG PEOPLE AND ADULTS WITH A PERVASIVE DEVELOPMENTAL DISORDER (October 2009 and May 2012)

In a first report published in October 2009 on government services for children up to seven years of age who have a pervasive developmental disorder (PDD), the Québec Ombudsman noted that access to public services for these children and their parents was a labyrinth strewn with obstacles that gave rise to numerous sources of dissatisfaction, most of them substantiated. It made 21 recommendations aimed at short-term solutions for making the daily lives of these children and their parents much better and medium-term structural initiatives for sustainable solutions to chronic problems. These recommendations were made to the Ministère de la Santé et des Services sociaux, the Ministère de l'Éducation, du Loisir et du Sport, the Ministère de la Famille and the Office des personnes handicapées du Québec.

In May 2012, the Québec Ombudsman tabled a second report, this time on government services for children over seven years old and adults who have a pervasive developmental disorder. It concluded that there was a diversified slate of public services for teens and adults with a PDD. However, even though these services exist in theory, in the real world this service offer was not very accessible and was unevenly available. This was a cause of great dissatisfaction for the people whom the Québec Ombudsman interviewed. The report contains 17 recommendations aimed at real improvement in access to public services for people with a PDD.

Follow-up in 2013-2014:

Five years after release of the report on government services to young people with a PDD, the Québec Ombudsman considers that, overall, the departments concerned are respecting their commitments to its satisfaction. However, certain difficulties persist:

- The Ministère de l'Éducation, du Loisir et du Sport has maintained its requirement whereby a child with a PDD must obtain a diagnostic assessment from an authorized multidisciplinary team in the 12 months before he or she begins school.
- Confirmation of a disability diagnosis is still required for issuance of the supplement for handicapped children under the responsibility of the Ministère de la Famille.
- The harmonization of practices and services must translate into a reduction of what is required of parents and genuine access to the services needed. On this point, the Québec Ombudsman welcomes the action plan of the interdepartmental committee to harmonize family support programs for parents of children who have a PDD. It expects the committee to provide the recommendations in May 2014.

After two years of monitoring the action taken further to the special report on the services provided to young people and adults with a PDD, the Québec Ombudsman considers that most of its recommendations to the Ministère de l'Emploi et de la Solidarité sociale, the Ministère de la Santé et des Services sociaux, the Ministère de l'Éducation, du Loisir et du Sport, the Ministère de la Famille and the Office des personnes handicapées are in the process of being implemented:

- As foreseen in the Ministère de l'Emploi et de la Solidarité sociale's planning, the regional pilot projects for people with disabilities conducted in tandem with the Ministère de la Santé et des Services sociaux are proceeding as anticipated.
- The Ministère de la Famille continues to bring its expertise to bear in developing day activities.
- The Office is taking charge of coordinating services for the disabled within Services Québec, as planned.
- The Ministère de la Santé et des Services sociaux indicated that it would not be able to meet the March 31, 2014, deadline for updating the support program for the families of people with disabilities. However, it has agreed to table its work plan and its budget planning concerning the program's parameters.

In the fall of 2014, a first progress report on implementation of the 17 recommendations will be produced, in compliance with the specific follow-up spelled out in the special report.

IS HOME SUPPORT ALWAYS THE OPTION OF CHOICE? ACCESSIBILITY OF HOME SUPPORT SERVICES FOR PEOPLE WITH SIGNIFICANT AND PERSISTENT DISABILITIES (March 2012)

In this report published in March 2012, the Québec Ombudsman underscored the gap between the home support policy, adopted in 2003, and the daily lives of the people who receive—or should receive—these services.

The policy establishes that in respecting the choices of individuals, helping them remain in their home environment should always be the first option. Yet, the cases documented by the Québec Ombudsman clearly show that in the real world this is far from true and access to long-term home support services is lacking. This gap causes natural caregivers to burn out and puts stress on the healthcare system (poor use of places in hospitals, rehabilitation centres and residential resources).

In the course of the intervention it carried out, the Québec Ombudsman discovered that many practices strayed from the policy, because, for lack of resources, local bodies had no choice but to engage in practices that deprived users of the services they required based on their needs, thereby partly or completely placing the onus on informal caregivers and contributing to misuse of places in the healthcare system.

In light of these findings, the Québec Ombudsman made two recommendations to the Ministère de la Santé et des Services sociaux so that it determine the level of funding needed for home support services and clearly set out the slate of services available under the policy, according to public needs.

Follow-up in 2013-2014:

In November 2013, the Québec Ombudsman presented a brief as part of the special consultations and public hearings on the document entitled *Autonomy for All: White Paper on the Creation of Autonomy Insurance*. This intervention and the recommendations by the Québec Ombudsman are presented in the *Parliamentary Watch report* chapter, on page 115.

According to the Department, Bill 67 (*Autonomy Insurance Act*), introduced on December 6, 2013, was supposed to allay the Québec Ombudsman's concerns about access to home support services. The bill was not passed into law and the National Assembly was dissolved on March 5, 2014.

A new policy is expected in the coming year, along with fee schedules specifying the expected contribution of the various stakeholders involved.

TOWARD SERVICES THAT ARE BETTER ADJUSTED TO DETAINEES WITH MENTAL DISORDERS (May 2011)

This report published in May 2011 addressed the problems raised by police interventions involving people with mental disorders, the challenges posed by adaptation of the legal system to taking in charge of these people, issues regarding health services during their detention and the difficulties surrounding their social reintegration after their release.

The Québec Ombudsman made 20 recommendations to the Ministère de la Justice, the Ministère de la Santé et des Services sociaux and the Ministère de la Sécurité publique. They concerned support for police interventions, implementation of alternatives to judicial action or, barring this, in order to prevent detention, adaptation of detention health services and readying these people for release and re-entering the community.

Follow-up in 2013-2014:

- In April 2013, the Ministère de la Sécurité publique, the Ministère de la Santé et des Services sociaux and the Ministère de la Justice briefed the Québec Ombudsman on what they had done during the year with regard to the recommendations it had made.
- Meetings were held with each Department concerned on the work carried out during the year.
- The Québec Ombudsman then sent each Department a detailed evaluation of how far along they were in terms of implementing the recommendations.

Discussions also took place with the Direction générale des services correctionnels of the Ministère de la Sécurité publique concerning the creation of a tool for screening for mental disorders and the transfer of responsibilities with regard to the provision of health services from the Ministère de la Sécurité publique to the Ministère de la Santé et des Services sociaux. Talks are ongoing and will be monitored closely in 2014-2015.

PROBLEMS WITH THE APPLICATION OF THE ACT RESPECTING THE PROTECTION OF PERSONS WHOSE MENTAL STATE PRESENTS A DANGER TO THEMSELVES OR TO OTHERS (February 2011)

In this report published in February 2011, the Québec Ombudsman pointed out to the Minister of Health and Social Services the difficulties of applying the *Act respecting the protection of persons whose mental state presents a danger to themselves or to others* (c., P-38.001). The Act provides that in certain circumstances, a person may be forcibly detained in a health and social services institution.

The report highlights significant disparities in application of the Act from one institution, region or person to another. It describes a number of failings and recommends possible solutions, including legislative amendments, appropriate departmental policy for better legal supervision of taking in charge, rigorous accountability for the acts carried out pursuant to the Act and design and implementation of Québec-wide training.

The Department endorsed the spirit of the Québec Ombudsman's recommendations, one of them being that it issue guidelines to structure and standardize application of the legislative framework governing all kinds of forcible confinement.

Follow-up in 2013-2014:

- In 2011, the Department put together an expert committee to produce the required orientations. The report was transmitted to the Québec Ombudsman in April 2014.
- The Department informed the Québec Ombudsman that the orientations would be released in the fall of 2016. The Québec Ombudsman is disappointed with the time this will take.

QUÉBEC OMBUDSMAN'S REPORT ON THE QUÉBEC INVESTIGATIVE PROCEDURE FOR INCIDENTS INVOLVING POLICE OFFICERS (February 2010)

In this report published in February 2010, the Québec Ombudsman examined the procedure described in the policy regarding death in the event of a police intervention or detention. The purpose of the analysis was to determine whether the procedure in place fulfilled certain criteria essential to the credibility and integrity of any investigative process.

It concluded that the policy did not fulfil these criteria and did not guarantee independence. It therefore recommended that the Ministère de la Sécurité publique overhaul the investigative procedure so as to strengthen public confidence in police officers' crucial and complex work and to enhance the credibility of the investigations concerning them. It made eight recommendations for this purpose, notably the creation of an independent body headed by qualified civilians and whose investigation team would combine the expertise of qualified civilians and former police officers.

Two bills were tabled concerning investigations into incidents involving police officers or during detention in which a civilian is seriously wounded or dies: Bill 46 (*Act respecting independent police investigations*), introduced in December 2012, but never passed, and Bill 12 (*Act to amend the Police Act as concerns independent* investigations), introduced in November 2012. The latter proposed the creation of the Bureau des enquêtes indépendantes, an agency empowered to conduct such investigations. The Québec Ombudsman voiced its approval of the bill in general at the consultations in March 2013 and surrounding its passage into law.

Follow-up in 2013-2014:

- On May 9, 2013, Bill 12 was passed, with the exceptions of the sections concerning the Bureau des enquêtes indépendantes. It came into force on May 15, 2013.
- In December 2013, the Québec Ombudsman approached the Minister of Public Security to know how the measures needed to establish the Bureau were progressing. In January 2014, the Minister provided the following information:
  - Establishment of the Bureau des enquêtes indépendantes was still slated for the fall of 2015.
  - In September 2013, police associations and police forces were consulted on the regulatory framework tabled when Bill 12 was being considered.
  - The selection committee entrusted with drawing up the list of suitable candidates for the position of Bureau Director was struck and the process to hire a Director is underway.
  - Since the summer of 2013, work with the École nationale de police to develop a specific training plan for Bureau des enquêtes indépendantes investigators has been ongoing.

In March 2014, a first draft regulation on the selection and training of Bureau des enquêtes indépendantes investigators was published. The Québec Ombudsman studied it and sent its observations to the Minister of Public Security.

PARLIAMENTARY WATCH REPORT

Pursuant to the legislation that governs its activities, the Québec Ombudsman carries out structured monitoring of draft legislation. The main purpose of this exercise is to identify the provisions of bills and draft regulations likely to be interpreted to the disadvantage of citizens or to generate adverse effects, and to determine the administrative, economic or social ramifications. By lending its expertise and assistance to the parliamentarians who study a bill, or by submitting comments on a draft regulation to the competent authority, the Québec Ombudsman engages in preventive action and helps to ensure that the respect of citizens' rights and improvement of the quality of public services remain core concerns.

In 2013-2014, the Québec Ombudsman analyzed all the bills and draft regulations that it deemed relevant for parliamentary watch purposes, namely 53 of the 63 bills introduced in the National Assembly and 150 of the 160 draft regulations published in the *Gazette officielle du Québec*. It intervened with respect to six bills and nine draft regulations, and participated in three parliamentary committee consultations. These interventions are summarized below. The nature and scope of the Québec Ombudsman's parliamentary watch interventions are detailed, when warranted, in the sections of this Annual Report on the subjects in question.

All of the Québec Ombudsman's public parliamentary watch interventions are posted at www.protecteurducitoyen.qc.ca.

Interventions with regard to bills

BILL 18, *ACT TO AMEND THE TAXATION ACT AND OTHER LEGISLATIVE PROVISIONS*

Letter of April 4, 2013, to the Committee on Public Finance

The main purpose of the bill was to enact the measures announced in the Budget Speech. Acknowledging the soundness of the amendments made to the *Administration Act* to take more effective action against economic crimes against the State, the Québec Ombudsman reiterated the importance for the Agence du revenu du Québec to uphold citizens' fundamental rights and the rules of procedural fairness. It noted:

- the enhancement of the tax credit for home-support services for seniors and of the amounts granted to the informal caregivers of elderly spouses who are unable to live independently;
- the introduction of tax credits for costs incurred by seniors for a stay in a functional rehabilitation transitional unit;
- the introduction of tax credits for purchasing or leasing goods to help seniors be independent longer.

BILL 28, *ACT TO ESTABLISH THE NEW CODE OF CIVIL PROCEDURE*

Brief transmitted to the Committee on Institutions on September 9, 2013

While applauding the objectives of the reform aimed at improving access to the justice system, the Québec Ombudsman issued a reminder that genuine access above all requires that citizens be aware of and understand their rights, forms of recourse and the resources available to them. Its intervention dealt primarily with two aspects of the reform.

Concerning modes of prevention and dispute settlement, it proposed that citizens be provided better information, basic procedural guarantees in matters of mediation and a greater number of community justice centres.

Concerning recourse in matters of mental health, the Québec Ombudsman champions the in-depth reform of the judicial and administrative procedures applicable with respect to institutional care and custody. The current complexity and fragmentation of the powers of the court system impair access to justice for the people the law seeks to protect. It therefore recommended that, like the Superior Court, the Court of Québec be empowered to hear applications for authorization of treatment in connection with applications for confinement in an institution.

Lastly, the Québec Ombudsman recommended and obtained an amendment that would prevent potential unfairness towards self-employed workers and salaried employees whose employer does not reside in Québec and who wish to benefit from the unseizability of a portion of their income.

BILL 30, *ACT TO AMEND THE CIVIL CODE AND OTHER LEGISLATIVE PROVISIONS WITH RESPECT TO RESEARCH*

Letter of April 24, 2013, to the Committee on Health and Social Services

Noting the relaxation of the rules regarding consent to participate in research and expansion of the protection of research participants who are minors or who are incapable of giving consent, the Québec Ombudsman welcomed the amendments to the *Act respecting health services and social services* aimed at specifying that all research participants and their heirs or legal representatives will be able to avail themselves of the complaint examination system, which includes the Québec Ombudsman. It also affirms that in the case of substantiated complaints regarding research activities, the Québec Ombudsman will play its full role and, if required, recommend improvements in order to guarantee that the rights of all persons involved are upheld.

BILL 35, *ACT TO AMEND THE CIVIL CODE AS REGARDS CIVIL STATUS, SUCCESSIONS AND THE PUBLICATION OF RIGHTS*

Letter of May 17, 2013, to the Committee on Institutions

The Québec Ombudsman supported the provisions further to its recommendation to empower the Directeur de l'état civil to issue:

- certificates of change of designation of sex to a person born in Québec, even if he or she no longer lives in Québec and the country of domicile cannot change the designation of sex;
- acts of death of a missing person after the court has found someone guilty of acts causing the person's death or the disappearance of the person's body. The act drawn up has the same value as a declaratory judgment of death.

It also made two recommendations concerning two problem areas that were not addressed in the bill. In the case of applications for change of family names of newborns (for example, to feminize the name out of respect for the family's cultural origins), the Québec Ombudsman recommended that the parents of newborns less than six months old be exempted from current publication requirements. Parents are charged fees for publication and in the case of a newborn, publication is pointless because its purpose is to protect third parties with whom the person requesting the change of name has financial ties. Obviously, this cannot apply to a newborn.

In another vein, given that the Régie de l'assurance maladie du Québec covers the cost of sex change operations, not only for Canadian citizens, but also for permanent residents domiciled in Québec, the Québec Ombudsman recommended that permanent residents domiciled in Québec and who have undergone the surgeries required for a sex change be allowed to avail themselves of the provisions of the *Civil Code* regarding the change of a given name and designation of sex even if they have not yet obtained Canadian citizenship.

BILL 36, *ACT RESPECTING THE BANQUE DE DÉVELOPPEMENT ÉCONOMIQUE DU QUÉBEC*

Letter of May 21, 2013, to the Committee on Labour and the Economy

This bill, which was not passed into law, provided for creation of the Banque de développement économique du Québec—stemming from the merger of Investissement Québec and the regional offices of the Ministère des Finances et de l'Économie—which would have provided direct services to enterprises. Given that the Québec Ombudsman is empowered to handle requests for service from enterprises and not just from individuals, it recommended that the Banque de développement économique du Québec and its subsidiaries be subject to its jurisdiction, a provision which was not included in the bill.

BILL 52, *ACT RESPECTING END-OF-LIFE CARE*

Brief presented to the Committee on Health and Social Services on September 24, 2013

The Québec Ombudsman expressed its support for the principles of the bill that spelled out rights with regard to end-of-life care, provided for the organization of this care, established the Commission sur les soins de fin de vie and introduced an advance medical directives regime. With regard to medical aid in dying, the Québec Ombudsman agreed that the bill provided adequately for precautions for ensuring that there are strict guidelines and that the wishes of end-of-life patients are always respected. It nevertheless pointed out that its support was contingent on the availability of quality palliative care in every region of Québec no matter the disease.

In this regard, it recommended an update of the end-of-life palliative care policy and development of a ministerial action plan in the short-term to improve the service offering. It also recommended that the required legislative and regulatory amendments be made to ensure that any user whose death is imminent has a private room at no charge. Lastly, the Québec Ombudsman made recommendations concerning accountability by the institutions and the Commission sur les soins de fin de vie, and as well concerning clarifications with regard to application of the complaint examination procedure to end-of-life care situations.

Interventions with regard to draft regulations

CODE OF ETHICS OF CHARTERED ADMINISTRATORS (2013, Gazette officielle, Part 2, 929)

Letter of April 24, 2013, to the President of the Office des professions

While commending the intention to update the *Code of ethics of chartered administrators* and to provide better public protection, the Québec Ombudsman made recommendations so that the proposed amendments would enable these goals to be achieved, notably by maintaining certain rules and obligations that were in the previous Code but have disappeared from the draft Code.

It recommended that the obligation to inform a client in advance of the approximate cost of services be maintained. It also recommended that the 30-day timeframe which administrators have to follow up on any request made by clients to have access to their file or have it corrected, provided for in the *Act respecting access to documents held by public bodies and the Protection of personal information*, not be replaced in the Code by the notion of "reasonable time," which could have suggested a relaxation of the rule.

REGULATION TO AMEND THE REGULATION RESPECTING PITS AND QUARRIES
(2013, *Gazette officielle*, Part 2, 1152) and *REGULATION TO AMEND THE REGULATION RESPECTING MOTOR VEHICLE TRAFFIC IN CERTAIN FRAGILE ENVIRONMENTS*
(2013, *Gazette officielle*, Part 2, 1156)

Proposal by the Québec Ombudsman to the drafters of the proposed regulation

Thirty-seven draft regulations were introduced to amend regulations passed pursuant to the *Environment Quality Act*, mainly in order to harmonize the penal provisions with those stipulated in the Act and to determine the regulatory provisions for which fines could be imposed for failure to comply. As part of the analysis it carried out, the Québec Ombudsman verified whether the prescribed amounts matched those provided for in the Act. It found several mistakes in the amounts in both draft regulations, which were corrected by the drafters within the Ministère du Développement durable, de l'Environnement, de la Faune et des Parcs.

REGULATION TO AMEND THE EDUCATIONAL CHILDCARE REGULATION
(2013, *Gazette officielle*, Part 2, 3195)

Letter of September 15, 2013, to the Minister of Families

The Québec Ombudsman pointed out that this draft regulation, among other things aimed at reinforcing measures for ensuring children's safety and health, resolved certain issues brought to light in the course of its examination of complaints. However, it noted that the draft regulation was silent on the important matter of assessing the quality of the educational services offered, and reiterated the need for amending the *Educational Childcare Act* so that it includes regulatory provisions for detecting and penalizing failings in this regard.

The Québec Ombudsman commented on other provisions of the draft regulation and made six recommendations concerning:

- attestations of no impediments for staff;
- the projected provision to prohibit minors from working or volunteering in a childcare setting;
- the deadline for permit holders to provide a certificate of compliance of their premises after set-up is completed;
- the guidelines required for outlining and defining the concept of toys "adapted to the age of the children";

- the retention period for the copy of a drug administration file;
- the shortcomings observed in the recognition process for childcare providers (justification of decisions and recourse to administrative review).

REGULATION RESPECTING THE APPLICATION OF THE ACT TO PROMOTE ACCESS TO JUSTICE IN FAMILY MATTERS (2013, *Gazette officielle*, Part 2, 4987)

Letter of December 18, 2013, to the Minister of Justice

The Québec Ombudsman expressed its satisfaction with this draft regulation that sets out the rules and operational procedures of SARPA (*Service administratif de rajustement des pensions alimentaires pour enfants*). This long-awaited administrative section, subject to the Québec Ombudsman's jurisdiction, should facilitate the child support review procedure for parents.

REGULATION TO AMEND THE REGULATION RESPECTING MANDATORY LEASE FORMS AND THE PARTICULARS OF THE NOTICE TO A NEW LESSEE (2013, *Gazette officielle*, Part 2, 5172)

Letter of January 9, 2014, to the President of the Régie du logement

While subscribing to the efforts of the Régie du logement to improve the form and content of mandatory leases with a view to better informing citizens about their rights and obligations, the Québec Ombudsman recommended that certain specific rules be mentioned. These rules, introduced in 2011, substantially changed the scope of certain general public rules concerning, for example, access to a dwelling, the right to maintain occupancy, the situations allowing termination of a lease, payment of rent, notice periods and the obligation for owners to offer the dwelling after the residence reopens. More specifically, the Québec Ombudsman's recommendations concerned:

- the rules regarding access to a dwelling by a person designated by a health and social services agency when it wishes to revoke or refuse to issue a holder's certificate of compliance;
- the protection of the lessees of private seniors' residences and the option for them to terminate the lease and be assisted in being relocated in cases where the holder's certificate of compliance is revoked, refused or not renewed.

REGULATION RESPECTING THE ACTS THAT MAY BE PERFORMED BY OPTOMETRIC ASSISTANTS (2013, *Gazette officielle*, Part 2, 5544)

Proposal by the Québec Ombudsman to the drafters of the proposed regulation

This draft regulation prescribed that the Ordre des optométristes have a register of optometric assistants authorized to perform certain acts normally reserved to optometrists and dispensing opticians after successfully completing a training program or with the required experience and passing of a comprehensive test. The assistant must be entered in the register within five years of the effective date of the register. However, the provision was unclear, so the Québec Ombudsman pointed this out to the drafter within the Office des professions.

REGULATION TO AMEND THE REGULATION RESPECTING THE CONDITIONS FOR OBTAINING A CERTIFICATE OF COMPLIANCE AND THE OPERATING STANDARDS FOR A PRIVATE SENIORS' RESIDENCE (2013, *Gazette officielle*, Part 2, 5859)

Letter of February 6, 2014, to the Minister of Health and Social Services and Minister responsible for Seniors

The Québec Ombudsman, arguing that safety and the quality of services should prevail over administrative and budgetary considerations, expressed its disagreement with the reduction of training requirements for staff providing supervision of elderly persons in private seniors' residences. It also said it was worried about the fact that in residences with fewer than 50 rooms for independent

elderly residents, the person providing supervision does not have to be part of the staff. Pointing out that residents are no less vulnerable because they live in a smaller residence, it lamented that the draft regulation made it possible for volunteers or residents to provide supervision, even at night. It went on to say that the provisions of the draft regulation do not comply with the recommendations of the guide on fire prevention and evacuation of residences accommodating seniors.

The Québec Ombudsman also expressed its disapproval of postponement of the coming into force of the sections respecting skills development by staff members and recommended that alternative measures be taken quickly to compensate for the absence of training so that residents benefit from adequately trained staff as soon as possible.

REGULATION TO AMEND THE CODE OF ETHICS OF ADVOCATES (2014, *Gazette officielle*, Part 2, 510)

Proposal by the Québec Ombudsman to the drafters of the proposed Code

The purpose of the draft regulation was to replace the *Code of ethics of advocates* with a view to strengthening the general and specific duties of attorneys towards the public, their clients and their profession. The Québec Ombudsman suggested that the drafters of the legislation within the professional order specify that, in cases where attorneys receive a payment from a third party, they inform their clients so that they can voice their disagreement in due course. The suggestion was accepted.

Interventions within the framework of parliamentary commissions

In addition to the interventions within the framework of studying bills, the Ombudsperson participated in three consultations held by parliamentary committees.

PRESENTATION OF A BRIEF BY THE QUÉBEC OMBUDSMAN CONCERNING THE QUINQUENNIAL REPORT OF THE COMMISSION D'ACCÈS À L'INFORMATION ENTITLED *TECHNOLOGY AND PRIVACY, IN A TIME OF SOCIETAL CHOICES* (Committee on Institutions, April 23, 2013) (French version only)

While subscribing to most of the recommendations in this five-year report by the Commission d'accès à l'information (CAI), the Québec Ombudsman commented more specifically on those concerning:

- mandatory reporting of security breaches;
- dissemination of information and an open government;
- deadlines for responding to a request for access to information and for justifying refusal;
- making certain agencies subject to the *Act respecting access to documents held by public bodies and the Protection of personal information*.

It noted that several recommendations by the CAI would affect its ability to carry out the functions conferred upon it by the Act in a context where the time it takes for a hearing with a CAI commissioner is already long.

Furthermore, the Québec Ombudsman recommended clarification of the roles of the various players involved in matters related to the files of health and social services network users, notably the CAI and the Québec Ombudsman, and correspondence of the *Act respecting access to documents held by public bodies and the Protection of personal information*, the *Act respecting health services and social services* and the *Act respecting the Health and Social Services Ombudsman* so as to fill in the legal void that users sometimes face.

PRESENTATION OF A BRIEF BY THE QUÉBEC OMBUDSMAN CONCERNING THE DOCUMENT ENTITLED *AUTONOMY FOR ALL – WHITE PAPER ON THE CREATION OF AUTONOMY INSURANCE* (Committee on Health and Social Services, November 12, 2013)

The *White Paper* proposes the creation of autonomy insurance and a dedicated budget program in order to enable people experiencing loss of independence to receive home support services tailored to their needs. Acknowledging the need for an overhaul of the organization of long-term home support services, taking into account demographic and budgetary realities, the Québec Ombudsman nonetheless expressed certain reservations regarding the government proposal. It made 20 recommendations in all.

The Québec Ombudsman highlighted the importance of ensuring compliance with the 2003 home support policy until such time as the new policy comes into effect. It specified that it was not opposed to a possible financial contribution from users, so long as the contribution does not become an obstacle to obtaining services.

The Québec Ombudsman suggested that the *White Paper*, drafted primarily with the elderly in mind, does not take sufficient account of the special needs of young people with disabilities, especially in terms of their social and vocational integration.

Lastly, although it had no qualms about the principle of private or community resources being service providers, the Québec Ombudsman said it is worried about service supervision and quality control, and therefore recommended that health and social services centres (CSSSs) have the resources and support they need for this purpose. It also insisted that users be able to avail themselves of the network's complaint examination procedure, including the Québec Ombudsman, even when services are delivered by a private organization or social economy enterprise.

PRESENTATION OF A BRIEF BY THE QUÉBEC OMBUDSMAN AS PART OF THE INITIATIVE MANDATE ON THE LIVING CONDITIONS OF ADULTS HOUSED IN RESIDENTIAL AND LONG-TERM CARE CENTRES (CHSLDS) (Committee on Health and Social Services, February 19, 2014)

Based on investigations it had conducted over the past five years in several Québec CHSLDs, the Québec Ombudsman began by discussing the issue of the accessibility of these institutions. With regard to the procedure for access to accommodations, it deplored the wait times and the consequences for users of resorting systematically to temporary residential care. It also reminded the Committee of the importance of better communication with the seniors on waiting lists and with their families. It went on to propose an analysis of the effect on the supply system of the foreseeable increase in the demand for public residential care.

With regard to care and services, assistance in activities of daily living being the greatest source of dissatisfaction for residents accommodated in CHSLDs, the Québec Ombudsman noted that attendants' daily work plans leave little leeway to respect the conditions for a quality living environment, whether it be communicating with the residents, assistance with meals or hygiene care. It therefore suggested that work organization in CHSLDs be better adapted to the special needs of the residents.

The Québec Ombudsman also reiterated that it is imperative that the agreements that public institutions enter into with private partners for the purchase of residential care places must provide for supervision of the quality of these private resources. It issued a reminder of the importance of choosing private partners according to procedures that take into account staff-related factors—evaluation and hiring criteria, skills and competence based on the profile of the client population, resident-to-staff ratios and clinical supervision tools.

The Québec Ombudsman also broached other themes briefly, for example, the need to update and review the normative framework for CHSLD pricing, ignorance about the profile and needs of people younger than 65 accommodated in CHSLDs and the role of caregivers.

RESULTS IN FIGURES

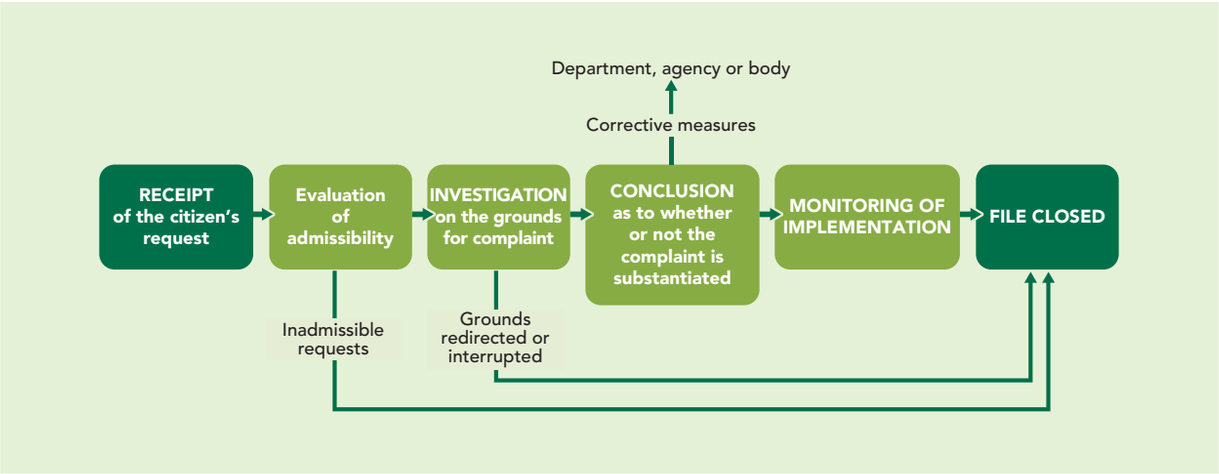
This chapter presents statistics concerning the Québec Ombudsman's actions pursuant to the two pieces of legislation that govern it: the *Public Protector Act* and the *Act respecting the Health and Social Services Ombudsman*.

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

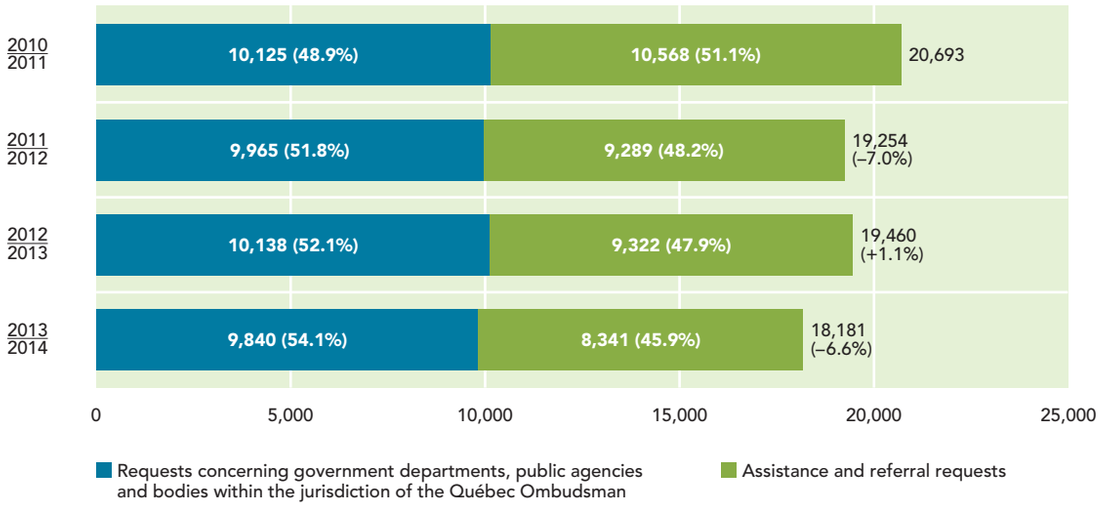
Citizens' requests for service, which are deemed admissible as complaints or reports, give rise to investigations. All other requests are treated as requests for assistance or referrals.

At the end of the investigation, the Québec Ombudsman informs the person of its conclusions. If the complaint is substantiated, the government department, public agency or institution 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, when the Québec Ombudsman is assured the corrective measures have been applied.

Processing of requests for service



1. REQUESTS FOR SERVICE RECEIVED



The percentage of requests that gave rise to an investigation is up. It rose from 48.9% in 2010-2011 to 54.1% in 2013-2014.

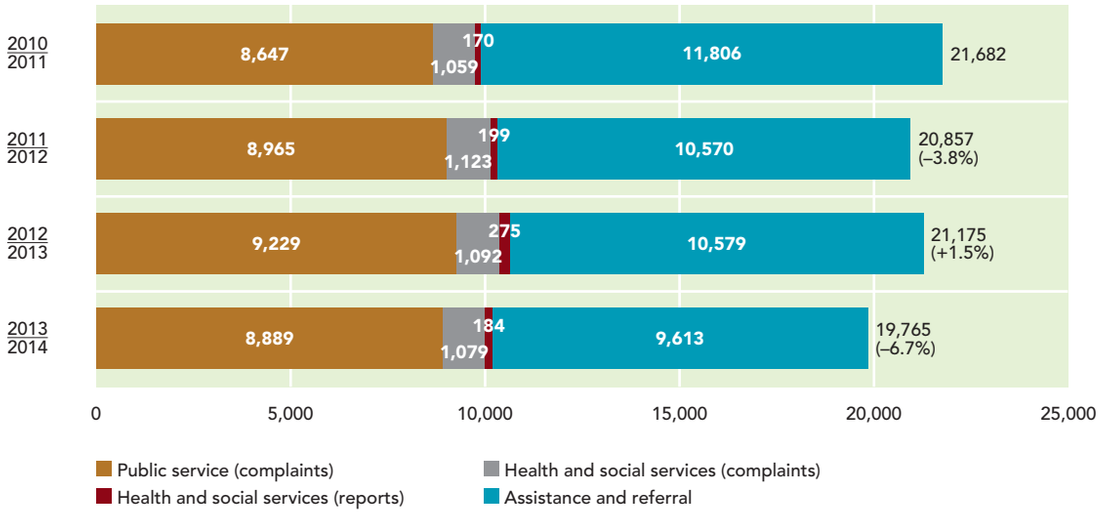
The 6.6% drop in the total number of requests received relative to the previous year is very largely (77%) due to requests for general information, assistance and referral. These requests concern public bodies over which the Québec Ombudsman has no jurisdiction. This decrease therefore has no impact on the number of investigation files being processed, which has been stable for the past four years (see section 3.1). However, the percentage of requests for general information, assistance and referral remains high, representing 45.9% of the requests for service received. This information, assistance and referral role is an integral part of the institution's mission. For each request of this type, the Québec Ombudsman ensures that it provides the relevant information and refers the citizen to the appropriate resource.

Regarding requests for assistance and referral, a particularly significant decrease is noted in requests concerning the private sector. On the other hand, requests concerning Hydro-Québec increased by 47.6% compared to last year (see section 7).

Among the factors that could explain the decrease in requests for assistance and referral and requests for information, we should note the increased use of the Québec Ombudsman's website as an information source. The number of unique visitors to the site increased by 39.6% compared to 2011-2012.

2. CLOSED REQUESTS FOR SERVICE

Analysis of a request for service may reveal several grounds for intervention on the part of the Québec Ombudsman. Here, closed requests are grouped by grounds. That is why the number of closed requests is slightly higher than the total number of requests received, presented in the previous figure.



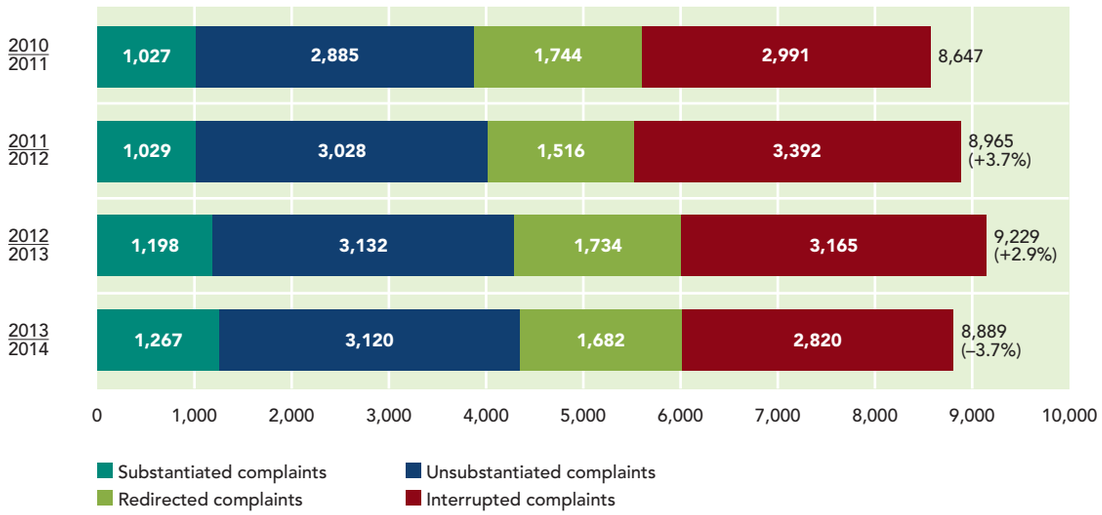
The number of closed requests is down by 6.7%, following the same trend as the number of requests received. Here again, the decrease is mainly related to the number of closed requests for assistance and referral, representing 69% of the reduction observed.

In the field of health and social services, it is noted that the number of reports falls within the average of the past few years (around 185), excluding 2012-2013. With 275 closed grounds, last year was exceptional in terms of the number of reports.

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 may decide not to follow through with a complaint or withdraw it. The investigation then 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 during the Québec Ombudsman's investigation. A decision as to whether or not a complaint or report is substantiated is made after the investigation has been completed.

3.1 Variation in the number of closed complaints – Public service



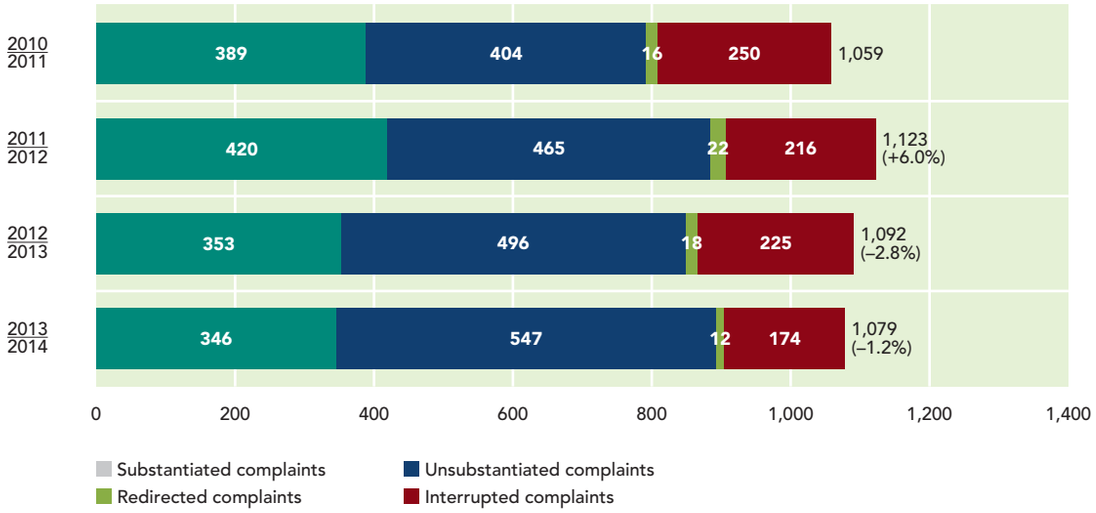
There was a slight decrease (3.7%) in the total number of public service complaints investigated in 2013-2014, from 9,229 to 8,889. The biggest decrease was in the number of interrupted complaints, mainly due to the drop in collective complaints. If the Québec Ombudsman receives several complaints of the same nature, it may decide to open a collective file. The individual files are then included in the collective file and their processing is considered interrupted. This year, there was also a decrease in the number of cases in which the situation was settled in the course of the Québec Ombudsman's investigation or in which the complaint was withdrawn at the citizen's request.

Substantiated complaints are on the rise compared to the previous year.

In detail:

- The number of substantiated complaints increased by 5.8%;
- The number of unsubstantiated complaints decreased by 0.4%;
- The number of redirected complaints decreased by 3%;
- The number of interrupted complaints decreased by 10.9%.

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



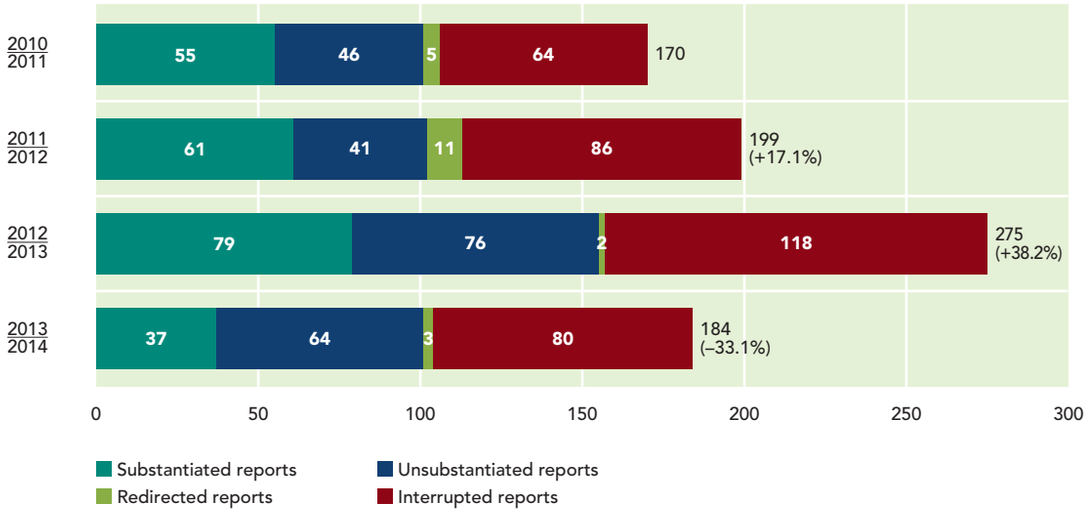
In terms of health and social services, the total number of closed complaints is relatively stable, with a very slight decrease of 1.2%. A 10.3% increase in unsubstantiated complaints is also noted in this sector. Substantiated complaints are relatively stable. A decrease in redirected complaints (from 18 to 12) and interrupted complaints (22.7%) is also observed:

In detail:

- The number of substantiated complaints decreased by 2%;
- The number of unsubstantiated complaints increased by 10.3%;
- The number of redirected complaints fell from 18 to 12*;
- The number of interrupted complaints decreased by 22.7%.

* Given the small number, we do not give a percentage.

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



The year 2012-2013 was exceptional in terms of the number of reports received and processed. This is reflected in the 33.1% decrease in the number of reports closed this year. However, if a comparison is made with the average for the years 2010-2011 and 2011-2012 (approximately 185 reports), it can be concluded that the situation returned to normal this year.

In comparison with the average for the years 2010-2011 and 2011-2012 (36.2% decrease) and even more so compared to last year (53.2% decrease relative to 2012-2013), it is observed that substantiated reports after investigation decreased significantly.

In detail:

- The number of substantiated reports decreased by 53.2%;
- The number of unsubstantiated reports decreased by 15.8%;
- The number of redirected reports increased from 2 to 3*;
- The number of interrupted reports decreased by 32.2%.

* Given the small number, we do not give a percentage.

3.4 Proportion of substantiated complaints and reports

SECTOR	2010-2011	2011-2012	2012-2013	2013-2014
Substantiated complaints – Public service	26.3%	25.4%	27.7%	28.9%
Substantiated complaints and reports – Health and social services	49.7%	48.7%	43.0%	38.5%

The proportion of substantiated complaints and reports is established as follows:

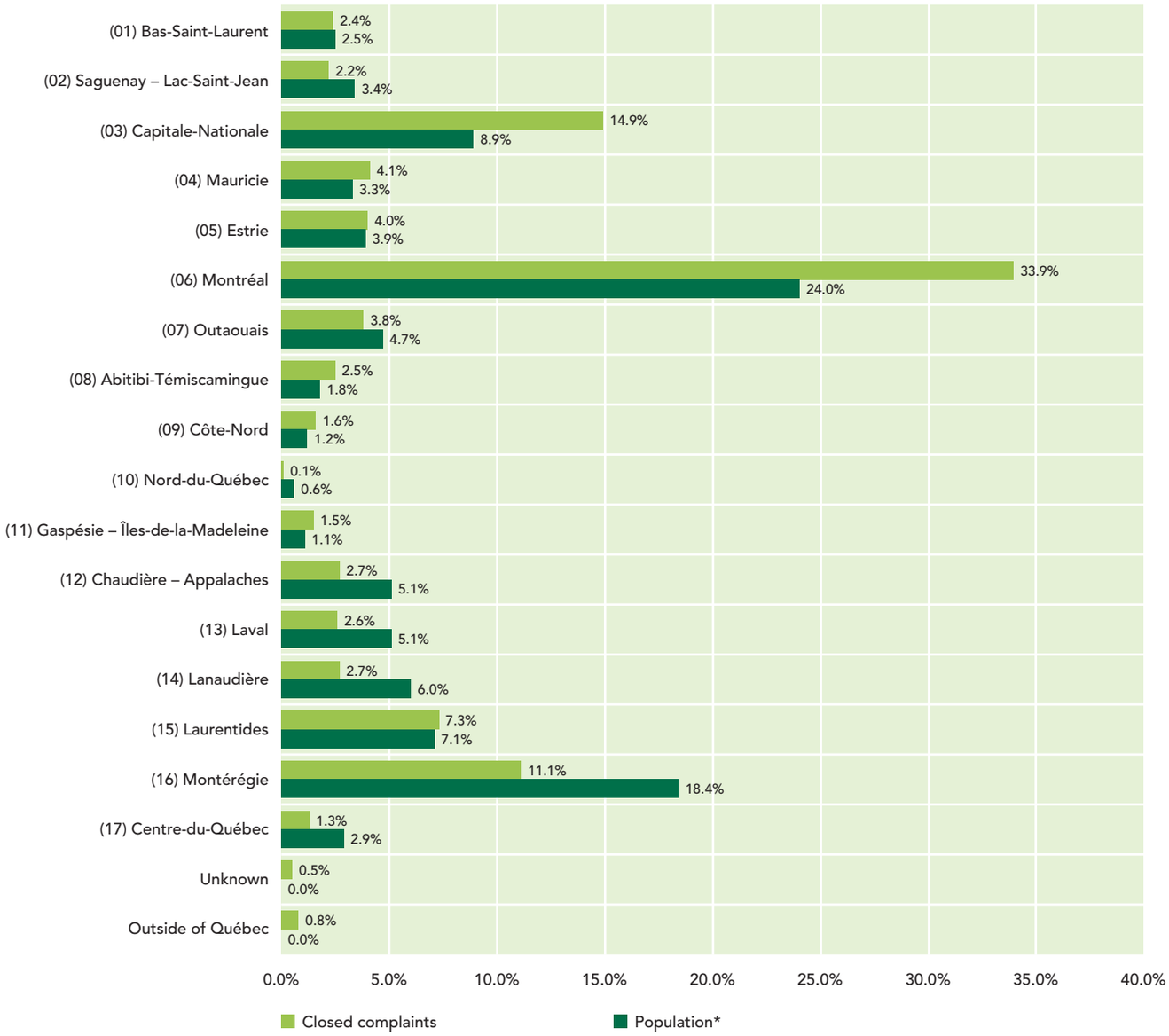
$$\frac{\text{Substantiated complaints and reports}}{\text{Substantiated complaints and reports + Unsubstantiated complaints and reports}}$$

In 2013-2014, the proportion of substantiated public service complaints rose by 1.2 percentage point, while the proportion of substantiated health and social services complaints and reports decreased by 4.5 percentage point relative to the previous year's figure.

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

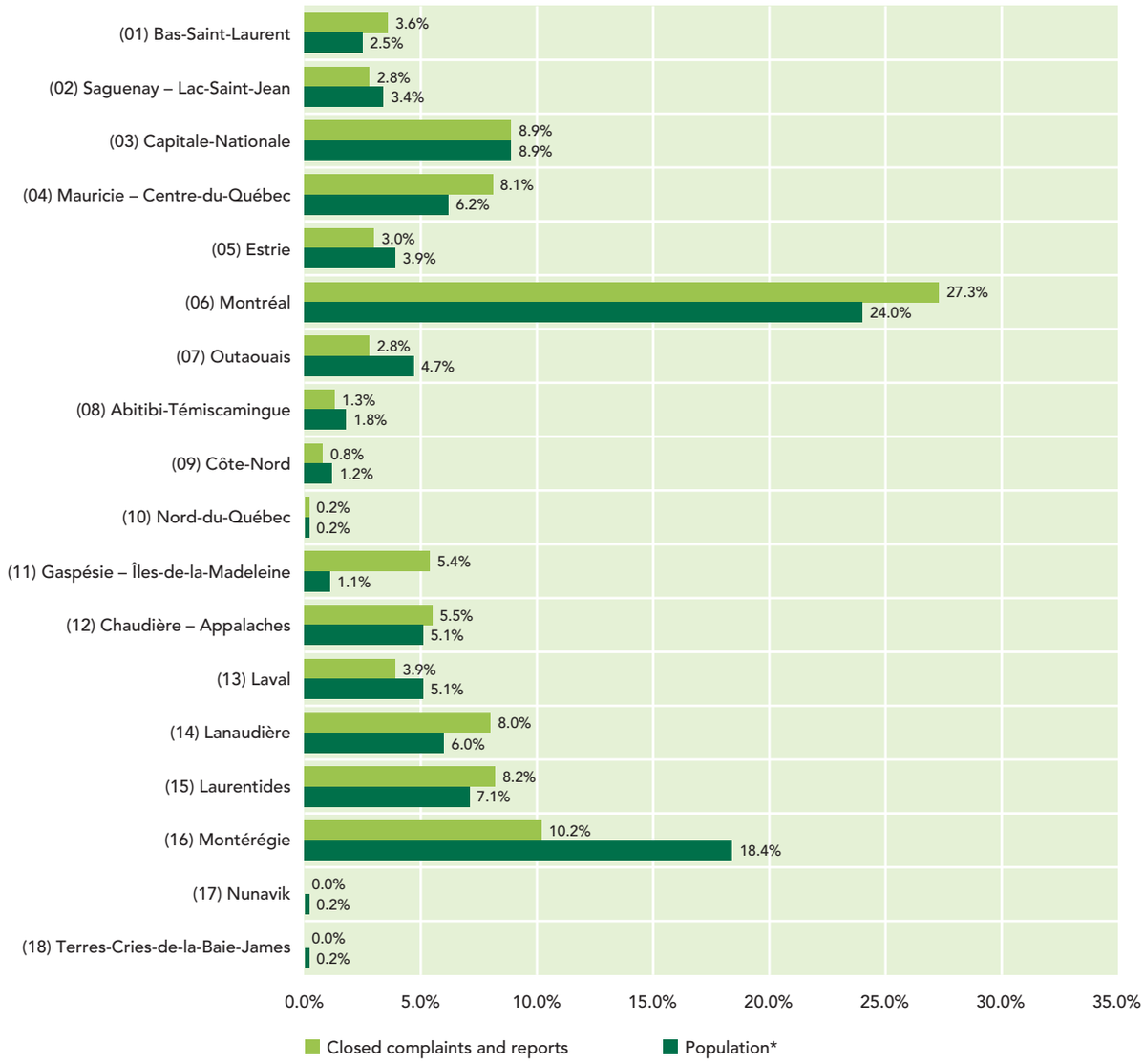


* Sources: Statistics Canada, Demographics Division; Institut de la statistique du Québec, Direction des statistiques sociodémographiques. Population estimated as at July 1, 2013.

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, the service offering 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 the bodies of 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



* Sources: Institut de la statistique du Québec, Direction des statistiques sociodémographiques. Population estimated as at July 1, 2013.

5. MONITORING OF CORRECTIVE MEASURES

At the end of the Québec Ombudsman's investigation and the transmittal of its conclusions, the bodies concerned implement a very high proportion of the recommended corrective measures. It should be noted that all recommendations arising from substantiated reports were accepted by the bodies.

5.1 Individual scope measures accepted

SECTOR	2010-2011	2011-2012	2012-2013	2013-2014	2013-2014	
					Measures accepted	Measures refused
Public service (complaints)	99.8%	99.0%	99.4%	99.5%	1,030	5
Health and social services (complaints)	90.1%	96.3%	98.0%	94.0%	141	9
Health and social services (reports)	100.0%	100.0%	100.0%	100.0%	6	0
Total	**98.4%**	**98.5%**	**99.2%**	**98.8%**	**1,177**	**14**

The acceptance rate for case-specific measures requested by the Québec Ombudsman this year reached 98.8%; only 14 out of 1,191 measures were refused.

5.2 Collective scope measures accepted

SECTOR	2010-2011	2011-2012	2012-2013	2013-2014	2013-2014	
					Measures accepted	Measures refused
Public service (complaints)	100.0%	97.8%	98.9%	99.7%	349	1
Health and social services (complaints)	93.9%	98.9%	98.1%	97.9%	191	4
Health and social services (reports)	98.8%	98.5%	100.0%	100.0%	40	0
Total	**96.6%**	**98.4%**	**98.8%**	**99.1%**	**580**	**5**

The acceptance rate for collective measures requested by the Québec Ombudsman this year reached 99.1%; only 5 out of 585 measures were refused.

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

In 2013-2014, the Québec Ombudsman intervened:

- With 55 of the 79 government departments and public agencies subject to its jurisdiction, or 69.6%;
- With 173 of the 286 institutions and agencies of the health and social services network subject to its jurisdiction, or 60.5%.

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 OR PUBLIC AGENCY	Substantiated complaints 2010-2011	Substantiated complaints 2011-2012	Substantiated complaints 2012-2013	Substantiated complaints 2013-2014
Ministère de la Sécurité publique	342	384	466	638
Agence du revenu du Québec	133	160	157	105
Ministère de l'Emploi et de la Solidarité sociale	47	57	89	98
Société de l'assurance automobile du Québec	117	72	73	91
Commission de la santé et de la sécurité du travail	34	56	91	83
Régie du logement	26	53	39	39
Commission administrative des régimes de retraite et d'assurances	147	88	39	37
Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie	N.A.	N.A.	20	17
Régie des rentes du Québec	12	8	29	14
Ministère de la Famille	8	7	54	13
Régie de l'assurance maladie du Québec	14	14	9	13
Ministère de la Santé et des Services sociaux	3	3	4	11*
Ministère de l'Immigration et des Communautés culturelles	2	3	8	11
Ministère du Développement durable, de l'Environnement, de la Faune et des Parcs	2	9	6	10
Other	140	115	114	87
Total	**1,027**	**1,029**	**1,198**	**1,267**

* The statistics on the Ministère de la Santé et des Services sociaux are distinct from the statistics on complaints regarding the public institutions of the health and social services network.

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

GOVERNMENT DEPARTMENT OR PUBLIC AGENCY/COMPONENT	COMPLAINTS RECEIVED IN 2013-2014	Closed complaints in 2013-2014				
		Redirected	Interrupted	Unsubstantiated	Substantiated	Total
Agence du revenu du Québec						
Direction générale des biens non réclamés	17	0	5	4	0	9
Fiscalité/Taxation	938	27	364	287	86	764
Perception des pensions alimentaires/Support payment collection	90	6	17	49	17	89
Registraire des entreprises/ Enterprise Registrar	14	0	5	6	2	13
General	91	3	9	2	0	14
Total: Agence du revenu du Québec	1,150	36	400	348	105	889
Autorité des marchés financiers	17	0	4	8	1	13
Bureau d'audiences publiques sur l'environnement	1	0	0	1	0	1
Bureau du coroner	11	1	2	0	5	8
Centre de services partagés du Québec	15	1	6	7	2	16
Comité de déontologie policière	0	0	1	0	0	1
Commissaire à la déontologie policière	58	1	22	22	5	50
Commission administrative des régimes de retraite et d'assurances	86	0	31	48	37	116
Commission d'accès à l'information	26	2	10	8	5	25
Commission de la fonction publique du Québec	5	0	3	0	0	3
Commission de la santé et de la sécurité du travail						
Indemnisation/Compensation	422	12	155	110	52	329
Indemnisation des victimes d'actes criminels/Crime victims compensation	176	0	26	81	29	136
General	78	1	12	9	2	24
Total: Commission de la santé et de la sécurité du travail	676	13	193	200	83	489
Commission de l'équité salariale	4	0	0	1	2	3
Commission de protection du territoire agricole du Québec	9	0	5	2	0	7
Commission des lésions professionnelles	55	0	41	3	3	47
Commission des normes du travail	37	0	20	13	0	33
Commission des relations du travail	8	0	4	3	0	7
Commission des transports du Québec	2	0	2	0	1	3
Commission québécoise des libérations conditionnelles	10	0	3	5	0	8
Conseil de la justice administrative	1	0	1	0	0	1
Conseil de la magistrature	5	0	3	1	0	4

GOVERNMENT DEPARTMENT OR PUBLIC AGENCY/COMPONENT	COMPLAINTS RECEIVED IN 2013-2014	Closed complaints in 2013-2014				
		Redirected	Interrupted	Unsubstantiated	Substantiated	Total
Conseil du statut de la femme	2	0	1	0	1	2
Curateur public	197	5	82	56	8	151
Directeur des poursuites criminelles et pénales/Director of Criminal and Penal Prosecutions	4	0	4	0	0	4
La Financière agricole du Québec	6	0	1	1	0	2
Ministère de la Culture et des Communications	2	0	1	0	0	1
Ministère de la Famille	79	9	22	24	13	68
Ministère de la Justice	64	3	24	21	8	56
Ministère de la Santé et des Services sociaux	79	1	40	19	11	71
Ministère de la Sécurité publique						
Sécurité civile	8	0	6	6	0	12
Services correctionnels	4,130	1,440	1,007	999	634	4,080
General	88	2	6	23	4	35
Total: Ministère de la Sécurité publique	4,226	1,442	1,019	1,028	638	4,127
Ministère de l'Agriculture, des Pêcheries et de l'Alimentation	12	1	4	2	5	12
Ministère de l'Éducation, du Loisir et du Sport	147	76	27	13	7	123
Ministère de l'Emploi et de la Solidarité sociale						
Directeur de l'état civil/ Registrar of Civil Status	39	1	8	22	7	38
Emploi/Employment	85	7	25	41	4	77
Régime québécois d'assurance parentale/Québec Parental Insurance Plan	32	0	9	16	4	29
Services Québec	3	0	0	1	1	2
Solidarité sociale/Social Solidarity	717	31	208	288	70	597
General	115	0	7	9	12	28
Total: Ministère de l'Emploi et de la Solidarité sociale	991	39	257	377	98	771
Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie						
Aide financière aux études/ Student Financial Assistance	110	3	21	64	17	105
Enseignement supérieur/ Higher education	14	6	3	5	0	14
Recherche, innovation, infrastructures et collaborations internationales/Research, innovation, infrastructure and international cooperation	0	0	1	0	0	1
General	9	0	0	0	0	0

GOVERNMENT DEPARTMENT OR PUBLIC AGENCY/COMPONENT	COMPLAINTS RECEIVED IN 2013-2014	Closed complaints in 2013-2014				
		Redirected	Interrupted	Unsubstantiated	Substantiated	Total
Total: Ministère de l'Enseignement supérieur, de la Recherche, de la Science et de la Technologie	133	9	25	69	17	120
Ministère de l'Immigration et des Communautés culturelles	68	1	13	19	11	44
Ministère des Affaires municipales, des Régions et de l'Occupation du territoire	43	1	14	23	8	46
Ministère des Finances et de l'Économie	7	2	4	2	0	8
Ministère des Relations internationales, de la Francophonie et du Commerce extérieur	1	0	0	0	0	0
Ministère des Ressources naturelles	39	4	12	20	6	42
Ministère des Transports	65	3	23	14	2	42
Ministère du Développement durable, de l'Environnement, de la Faune et des Parcs	56	0	21	22	10	53
Ministère du Travail	0	0	1	0	0	1
Office de la protection du consommateur	23	1	9	6	3	19
Office des personnes handicapées du Québec	1	0	0	0	0	0
Office des professions du Québec	13	1	4	6	0	11
Office québécois de la langue française	0	0	0	1	0	1
Régie de l'assurance maladie du Québec	227	4	30	152	13	199
Régie des alcools, des courses et des jeux	7	0	1	4	1	6
Régie des marchés agricoles et alimentaires du Québec	1	0	1	0	0	1
Régie des rentes du Québec	237	4	71	133	14	222
Régie du bâtiment du Québec	29	0	14	12	7	33
Régie du logement	236	1	105	42	39	187
Secrétariat du Conseil du trésor	2	0	1	2	0	3
Société de l'assurance automobile du Québec						
Code de la sécurité routière/ Highway Safety Code	324	7	75	162	37	281
Indemnisation/Compensation	424	12	136	199	54	401
General	32	0	2	0	0	2
Total: Société de l'assurance automobile du Québec	780	19	213	361	91	684
Société d'habitation du Québec	40	2	10	14	1	27
Tribunal administratif du Québec	35	0	15	7	6	28
Total	**10,028**	**1,682**	**2,820**	**3,120**	**1,267**	**8,889**

6.3 Closed complaints, health and social services, by mission

HEALTH AND SOCIAL SERVICES NETWORK MISSION	COMPLAINTS RECEIVED IN 2013-2014	COMPLAINTS CLOSED IN 2013-2014				
		Redirected	Interrupted	Unsubstantiated	Substantiated	Total
Health and social services agencies	34	0	7	13	15	35
Rehabilitation centres	82	1	15	35	23	74
Residential and long-term care centres	131	0	14	63	33	110
Hospital centres	513	7	66	195	155	423
Youth centres	228	0	45	141	10	196
Local community service centres	168	3	15	54	78	150
Community organizations	13	0	5	18	7	30
Private residences	37	1	2	16	13	32
Shelter resources for vulnerable clienteles	3	0	1	0	1	2
Pre-hospital emergency services	24	0	4	12	11	27
Total	**1,233**	**12**	**174**	**547**	**346**	**1,079**

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 2013-2014	REPORTS CLOSED IN 2013-2014				
		Redirected	Interrupted	Unsubstantiated	Substantiated	Total
Health and social services agencies	12	0	12	3	0	15
Rehabilitation centres	14	1	2	7	2	12
Residential and long-term care centres	37	1	24	13	21	59
Hospital centres	63	0	22	21	7	50
Youth centres	7	1	3	2	0	6
Local community service centres	12	0	6	8	3	17
Community organizations	3	0	2	0	0	2
Private residences	20	0	9	9	4	22
Pre-hospital emergency services	1	0	0	1	0	1
Total	**169**	**3**	**80**	**64**	**37**	**184**

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

SERVICE PROGRAMS OF THE HEALTH AND SOCIAL SERVICES NETWORK	COMPLAINTS RECEIVED IN 2013-2014	CLOSED COMPLAINTS IN 2013-2014				
		Redirected	Interrupted	Unsubstantiated	Substantiated	Total
Buildings and equipment	7	0	0	5	1	6
Intellectual disability/ Pervasive developmental disorders	68	0	11	28	20	59
Physical disability	53	0	8	29	34	71
Addictions	6	0	1	1	2	4
Troubled youth	232	0	47	140	10	197
Physicians	6	0	3	1	2	6
Support for elderly autonomy	218	5	21	99	65	190
Complaints investigation system	31	0	4	2	19	25
Mental health	119	2	22	82	26	132
Physical health	320	4	42	95	118	259
Public health	4	0	1	1	2	4
Service support	160	0	6	64	46	116
Other	9	1	8	0	1	10
Total	**1,233**	**12**	**174**	**547**	**346**	**1,079**

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

SERVICE PROGRAMS OF THE HEALTH AND SOCIAL SERVICES NETWORK	REPORTS RECEIVED IN 2013-2014	REPORTS CLOSED IN 2013-2014				
		Redirected	Interrupted	Unsubstantiated	Substantiated	Total
Intellectual disability/ Pervasive developmental disorders	12	1	5	2	3	11
Physical disability	8	0	2	4	1	7
Troubled youth	4	1	3	2	2	8
Physicians	0	0	1	0	0	1
Support for elderly autonomy	65	1	41	22	24	88
Complaints investigation system	26	0	7	17	0	24
Mental health	29	0	14	11	1	26
Physical health	22	0	6	6	6	18
Service support	2	0	0	0	0	0
N.A. (not applicable)	1	0	1	0	0	1
Total	**169**	**3**	**80**	**64**	**37**	**184**

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

This year, there were 310 requests for service concerning Hydro-Québec, even though the Québec Ombudsman has no power to intervene with respect to this agency. This is a 47.6% increase compared with the previous year. The main grounds for complaints were payment agreement, 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 Régie de l'énergie, the Barreau du Québec, the Commission d'accès à l'information du Québec or family economy cooperative associations.

AGENCY	2010-2011	2011-2012	2012-2013	2013-2014
Hydro-Québec	229	263	210	310

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		
RECOMMENDATION 2011-2012	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
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.	**WILL MONITOR** implementation of the working committee's recommendations. The Québec Ombudsman is displeased with the time it is taking for the work to get done. The expected improvements (to make it easier for citizens to understand the amounts that make up the solidarity tax credit received) must be in place for the 2015-2016 mailings.
INTEREST BECAUSE FILES ARE NOT PROCESSED PROMPTLY		
RECOMMENDATION 2011-2012	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
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.	**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.	**DISSATISFIED** with Revenu Québec's refusal over the last two years to take the measures needed to ensure that taxpayers are not charged interest further to the agency's own error or negligence. This remains an open file.

COMMISSION ADMINISTRATIVE DES RÉGIMES DE RETRAITE ET D'ASSURANCES (CARRA)		
REMISSION OF DEBT ARISING FROM ERRORS		
RECOMMANDATION 2009-2010	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
That CARRA take steps to obtain an amendment to the application regulation for the Act respecting the government and public employees retirement plan in order to include the possibility of remission of debts arising from errors that recipients cannot reasonably detect.	**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. **NOTES** that the *Act respecting the government and public employees retirement plan* 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.	**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) have examined the issue of remission of debts and have approved directions that could be subject to regulatory amendment if necessary.
WAIT TIMES		
RECOMMANDATION 2010-2011	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
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.	**DISSATISFIED** with the time it is taking to reduce the surplus of retirement files despite absorption of then pension estimate and buy-back backlog. Note that the basket of services offered remains reduced.	**SATISFIED** with CARRA's performance in 2013 with regard to processing of applications because the wait times for handling requests for pension and buy-back estimates have decreased.

MINISTÈRE DE L'ÉDUCATION, DU LOISIR ET DU SPORT		
AN IMPARTIAL AND CREDIBLE COMPLAINTS MANAGEMENT SYSTEM		
RECOMMANDATION 2007-2008	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
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.	**DISSATISFIED** with the Department's refusal to act even when the *Education Act* 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.	**DISSATISFIED** with the Department's inaction regarding its commitment to ensure regulatory compliance. Even though the Department pledged to keep track of the discrepancies between how school boards handle complaints and what is required by regulation, so far nothing has been done.
SUMMER COURSES AND FEES CHARGED FOR RETAKING MINISTERIAL EXAMINATIONS		
RECOMMANDATIONS 2012-2013	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
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. **That** it monitor school boards to check whether summer courses and ministerial examination retakes comply with the act and applicable standards.	—	**DISSATISFIED** that there is no effective action plan or time frame for regularizing the situation. **DISSATISFIED** with the lack of follow-up with regard to school boards. **DISSATISFIED** that the Department has not kept the Québec Ombudsman informed despite its numerous requests for follow-up.

MINISTÈRE DE L'EMPLOI ET DE LA SOLIDARITÉ SOCIALE		
MINISTER'S DISCRETIONARY POWER		
RECOMMANDATION 2010-2011	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
That the application of the minister's discretionary power allow debtors to stabilize their situation over a reasonable period of time.	**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.	**SATISFIED** with the improvements made since April 2013 (increase in the minimum duration of relief granted pursuant to the minister's discretionary power). **WILL MONITOR** follow-up to the Québec Ombudsman's recommendations presented in the fall of 2013, by the Department working group tasked with reviewing the limits of the minister's discretionary power.

MINISTÈRE DE L'EMPLOI ET DE LA SOLIDARITÉ SOCIALE		
INDEXATION OF SPECIAL BENEFITS		
RECOMMANDATIONS 2011-2012	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
That the Ministère de l'Emploi et de la Solidarité sociale ensure that the rates fixed in Schedule III of the *Individual and Family Assistance Regulation* are adjusted to reflect the actual cost paid by disabled recipients for medically necessary items.	*Note: The three comments that follow apply to all the recommendations.* **SATISFIED** that the "Elimination System" component was covered in the draft *Individual and Family Assistance Regulation* published on February 27, 2013, in the *Gazette officielle*.	**SATISFIED** with the Regulation passed, as recommended by the Québec Ombudsman.
That it ensure that all special benefits provided for in the regulation are updated and subject to annual indexation.	**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.	**DISSATISFIED** that the Regulation does not provide for a mechanism for periodic indexation or review of the rates.
That it allow for greater flexibility in enforcing the regulation when it comes to medical items that are reimbursed.	**WILL MONITOR** updating of the other rate components provided for in Schedule III of the *Individual and Family Assistance Regulation*.	**DISSATISFIED** with the time it is taking for the Department to review the other rate components provided for in Schedule III of the *Individual and Family Assistance Regulation*.
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.		**SATISFIED** that the Department changed its notices of decision as recommended by the Québec Ombudsman.

MINISTÈRE DE LA FAMILLE ET DES AÎNÉS		
INCREASE IN THE NUMBER OF CHILDCARE SPACES		
RECOMMANDATION 2010-2011	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
That the Ministère de la Famille et des Aînés make public and update—on its website in particular—project dates and date changes.	**DISSATISFIED** with the lack of information about the places opened up by the 2008 attribution process. **WILL MONITOR** updating of the information concerning the 2011-2012 and 2013 call for proposals.	**SATISFIED** with the information posted on the Department website concerning regional distribution and quarterly updates on projects carried out to develop reduced contribution childcare places further to 2008 attribution and calls for proposals in 2011-2012 and 2013.

MINISTÈRE DE L'IMMIGRATION ET DES COMMUNAUTÉS CULTURELLES		
FEES FOR RECOGNITION APPLICATIONS AS IMMIGRATION CONSULTANT		
RECOMMANDATION 2012-2013	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014
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.	—	**WILL MONITOR** the regulatory amendments that the Québec Ombudsman was apprised of in the spring of 2013.

MINISTÈRE DE LA SÉCURITÉ PUBLIQUE – SERVICES CORRECTIONNELS		
A SOCIAL REINTEGRATION PLAN		
RECOMMANDATION 2007-2008 AND 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014
That the government of Québec oversee the development of an action plan, no later than December 2008, for the creation and management of social integration services. *Note: The government entrusted this task to the Ministère de la Sécurité publique.*	**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.	**DISSATISFIED** with the decision not to renew the government action plan for social reintegration. The Québec Ombudsman will continue to intervene for adequate management of social reintegration, as required under section 1 of the *Act respecting the Québec correctional system*.
PROVINCIAL INSTRUCTION ON THE HEALTH NEEDS OF DETAINEES		
RECOMMANDATIONS 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014
That the Ministère de la Sécurité publique implement transitional measures regarding transfer criteria as soon as possible. **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.	*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 struck in 2010.	**DISSATISFIED** that one year after the creation of a new task force, not a single concrete measure has been implemented to date. **WORRIED,** given the context, about the over 20% increase in the number of transfers in the past year.

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		
RECOMMANDATIONS 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014
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. **That** they report to the Québec Ombudsman on the changes made by January 31, 2010.	**WILL MONITOR** developments in the postponement of hearings.	**DISSATISFIED** with the ineffectual measures for solving the problem of postponement of hearings.

OFFICE DE LA PROTECTION DU CONSOMMATEUR		
LONG HANDLE TIMES FOR PHONE CALLS		
RECOMMANDATION 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014
That the Office de la protection du consommateur take measures to ensure reasonable handle times for phone calls.	**WILL MONITOR** implementation of the measures to ensure reasonable handle times for phone calls. **WORRIED** about the high hang-up rate in 2012-2013.	**DISSATISFIED** with the handle time for phone calls, which has worsened since the first quarter of 2013-2014.

RÉGIE DES RENTES DU QUÉBEC		
COMBINATION OF BENEFITS WITH NO NEGATIVE EFFECTS		
RECOMMANDATION 2008-2009	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014
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. A meeting with the Régie is planned for April 2013.	**WILL MONITOR** the work of the Régie des rentes and Société de l'assurance automobile du Québec joint working group to inform surviving spouse's pension beneficiaries about changes that could affect their pension amount when the rules governing benefit combinations are applied (when citizens receive compensation from the Société de l'assurance automobile du Québec). The Québec Ombudsman draws attention yet again to the unreasonable delay in following up on the recommendation since the problem was first brought to light.

RÉGIE DU LOGEMENT		
LEGISLATIVE AMENDMENTS TO REDUCE WAIT TIMES		
RECOMMANDATIONS 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014
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.	**DISSATISFIED** with the delay in follow-up to the recommendation given that the problem of wait times persists at the Régie du logement. **CONCERNED** that there has been no bill introduced in the National Assembly to overhaul the *Act respecting the Régie du logement*.	**DISSATISFIED** with the delay in follow-up to this recommendation given that the problem of wait times persists at the Régie du logement.

TRIBUNAL ADMINISTRATIF DU QUÉBEC		
REDUCTION OF THE AUTOMOBILE INSURANCE CASE INVENTORY		
RECOMMANDATIONS 2010-2011	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014
That the Tribunal administratif du Québec take appropriate action to handle case volume and reduce the automobile insurance case inventory. **That** it set short- and medium-term targets, particularly for the purposes of reducing inventory and average processing delays.	**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. **WILL MONITOR** follow-up to the commitment by the Tribunal administratif du Québec to set targets for quantifying the effects of its measures.	**WORRIED** about the increase since December 2012 in the average wait for the first scheduled conciliation session, the first scheduled hearing and the processing of closed files. **NOTES** that TAQ has set targets in this respect. **WILL MONITOR** achievement of the targets.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

INTERNATIONAL ADOPTION		
SERVICES TO ADOPTIVE PARENTS		
RECOMMANDATION 2011-2012	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014
That the Ministère de la Santé et des Services sociaux 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.	**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.	**SATISFIED** that a procedure has been implemented 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.

MENTAL HEALTH		
LEGISLATIVE FRAMEWORK AND MEANS OF RESTRAINT IN MENTAL HEALTH		
RECOMMANDATIONS 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014
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.	**WILL MONITOR** the work of the team of experts and the guidelines that the Department must submit at the end of June 2013.	**DISSATISFIED** that the Department is not planning to release its policies before the fall of 2016.
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.	**Idem.**	**DISSATISFIED** that pending the release of the Department's policies, the Department has not done anything to instruct institutions about the information that should be entered in users' records.
That it require institutions to report on their practices, including the annual number of confinements, the reasons for them, and their duration.	**Idem.**	**DISSATISFIED** that pending the release of the Department's policies, the Department has not done anything so that institutions account for their compliance with P-38.001.
That it supervise the use of chemical substances as a control measure.	**WILL MONITOR** whether the Department is on schedule, notably with regard to the publication of the revised guidelines in the autumn of 2013.	**WILL MONITOR** the 2014 review of the framework for producing protocols for the use of means of restraint that include how the use of chemical substances should be handled.
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.	**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.	**WILL MONITOR** the results of the working committee formed in December 2013. The committee is tasked with assessing certain tools used by the network and with identifying the variables for reporting on the use of means of restraint. The Québec Ombudsman expects this work to be carried out expeditiously.
That it assess the impact of implementing its guidelines.	**WILL MONITOR** implementation of this recommendation slated for 2015.	**WILL MONITOR** the assessment in 2015 of the impact of implementing these policies.

MENTAL HEALTH		
ABSENCE OF CONSENT TO PLANNED CONTROL MEASURES		
RECOMMANDATION 2012-2013	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014
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	—	**WILL MONITOR** the review and dissemination, no later than the end of 2014, of the framework for the production of protocols for the use of means of restraint. This framework will include institutions' obligations with respect to obtaining consent when an unplanned means of restraint turns into a measure of some duration. **WILL MONITOR** release of the written reminder about institutions' obligations with regard to obtaining consent that the Department must issue to all health and social services agencies when the framework is distributed.

PHYSICAL DISABILITIES, INTELLECTUAL DISABILITIES AND PERVASIVE DEVELOPMENTAL DISORDERS		
AVAILABILITY OF SPEECH THERAPY		
RECOMMANDATION 2007-2008	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014
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.	**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. **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.	**SATISFIED** with development of training and staff recruitment measures, which improves access to specialized services. **WILL MONITOR** work on the service offering aimed at clarifying roles and responsibilities, in particular regarding children who require specialized professional services as well as their gradual promotion to the various bodies starting in the spring of 2014. **WILL MONITOR** the performance assessment work underway in the area of physical disabilities and intellectual disabilities and pervasive developmental disorders for the purpose of determining indicators for optimization of human resources.
AVAILABILITY OF PHYSICAL DISABILITY, INTELLECTUAL DISABILITY AND PERVASIVE DEVELOPMENTAL DISORDERS SERVICES		
RECOMMANDATION 2009-2010	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013	QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014
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.	**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.	**WILL MONITOR** progress on the various initiatives to identify wait times and the nature of services after the first service has been provided. **DISSATISFIED** that the Department continues to be unable to provide a complete picture of the situation that would enable it to assess whether it is responding fully or partly to public needs.

PHYSICAL DISABILITIES, INTELLECTUAL DISABILITIES AND PERVASIVE DEVELOPMENTAL DISORDERS		
CONTINUITY OF CARE AND SERVICES		
RECOMMANDATIONS 2011-2012	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
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. **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.	*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.	**SATISFIED** that the Department is drafting a circular on intraregional and interregional transfer in order to prevent service interruptions when users are transferred from one institution to another. **WILL MONITOR** publication of this circular slated for release no later than the fall of 2014.
QUALITY ASSESSMENT VISITS IN INTERMEDIATE AND FAMILY-TYPE RESOURCES		
RECOMMANDATION 2010-2011	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
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.	**WILL MONITOR** the preliminary work underway to produce a new assessment grid for intermediate and family-type resources. **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. **DISSATISFIED** that the Department cannot say when it will be able to resume quality assessment visits and who will be assigned to them.	**WILL MONITOR** the quality of assessment visits in intermediate residential resources for troubled youth or people with an intellectual disability or a pervasive developmental disorder. **WILL MONITOR** review of the quality assessment program for intermediate and family-type residential resources slated for the spring of 2014.

PHYSICAL HEALTH		
TREATMENT OF EMERGENCY SERVICE USERS		
RECOMMANDATION 2008-2009	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
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.	**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. **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. **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.	**WILL MONITOR** production of the new management framework for family medicine groups, which should provide for measures to increase access to family doctors, including the new guidelines for covering opening hours evenings and weekends.
REDUCING EMERGENCY ROOM OVERCROWDING		
RECOMMANDATION 2012-2013	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
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.	—	**WILL MONITOR** the Department's efforts to produce, in 2014, a comprehensive portrait of the institutions that have redirection agreements. The Québec Ombudsman notes the long time that this has taken.

SUPPORT FOR ELDERLY AUTONOMY		
ENVIRONMENTS THAT ALLOW PRIVACY AND RESPECT		
RECOMMANDATION 2007-2008	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
That residential and long-term care centres provide, in the event of death, 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.	**SATISFIED** that the Department has moved up the date for implementing this recommendation to 2014. **WILL MONITOR** publication of the CHSLD property planning guide that will amend the normative framework for CHSLD facilities.	**WILL MONITOR** publication of the CHSLD property planning guide slated for May 2014 that will amend the normative framework for CHSLD facilities.
QUALITY LIVING ENVIRONMENTS FOR PEOPLE IN RESIDENCES		
RECOMMANDATION 2009-2010	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
That the Ministère de la Santé et des Services sociaux 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.	**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. **DISSATISFIED** with the lack of transitional measures for users with behavioural problems who will be referred to a residential resource.	**WILL MONITOR** publication of the two practical guides and implementation of the five training modules slated for June 2014.
QUALITY OF CARE AND SERVICES FOR PEOPLE TEMPORARILY HOUSED IN PRIVATE HOMES		
RECOMMANDATION 2012-2013	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2012-2013**	**QUÉBEC OMBUDSMAN'S ASSESSMENT IN 2013-2014**
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.	—	**WILL MONITOR** production of a status report concerning the purchase of places slated for the fall of 2014. **WILL MONITOR** policy development (no later than spring of 2015) concerning a quality assurance process.

SUMMARY OF RECOMMENDATIONS IN THE 2013-2014 ANNUAL REPORT

MINISTÈRE DE L'EMPLOI ET DE LA SOLIDARITÉ SOCIALE

THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS CONCERNING APPLICATION OF THE $130,000 EXCLUSION TO SUCCESSIONS IN ANY FORM

- Whereas the Ministère de l'Emploi et de la Solidarité sociale agreed with the Québec Ombudsman's recommendation that trust income, life annuities or any other form of periodical payment received from a succession by a person receiving benefits under the Social Solidarity Program be included in the $130,000 exclusion for capital received from a succession in a lump-sum payment;
- Whereas the requested change necessitates an amendment to the *Individual and Family Assistance Act*;
- Whereas the legislative amendment process takes time;
- Whereas in the meantime, recipients under the Social Solidarity Program cannot take full advantage of their inheritance because their monthly benefits are reduced by an amount equivalent to the amounts received from the succession in instalments;
- Whereas this situation is not fair to these recipients;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT:

- the government introduce a bill in the next session of the National Assembly to amend the *Individual and Family Assistance Act* and that the bill make the necessary amendments to the Regulation as well.

- Whereas considerable time has elapsed since the Québec Ombudsman made its first recommendation in this regard in July 2012;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT:

- once the amendment has entered into force, it be applied retroactively to July 26, 2012, the date of the Québec Ombudsman's first recommendation.

MINISTÈRE DE LA SÉCURITÉ PUBLIQUE

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION CONCERNING DETENTION CONDITIONS AT MAISON TANGUAY

- Whereas it is the responsibility of the correctional services to provide "reasonable and humane measures of security and control" (section 1 of the *Act respecting the Québec correctional system*) for detainees;

- Whereas certain detainees confined to isolation cells may present a high risk of endangerment to life, safety or health;
- Whereas better control of respect of the rights of all and of safety practices is of interest to administrators, staff and detainees alike;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT THE MINISTÈRE DE LA SÉCURITÉ PUBLIQUE:

- proceed immediately with the necessary physical changes in order to provide Maison Tanguay inmates with decent and safe detention conditions, especially in the maximum security section.

MINISTÈRE DE LA SÉCURITÉ PUBLIQUE AND COMMISSION QUÉBÉCOISE DES LIBÉRATIONS CONDITIONNELLES

THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS CONCERNING EXAMINATION OF CONDITIONAL RELEASE

- Whereas the waiver phenomenon has increased in recent years;
- Whereas this reality can have a significant impact on management of the prison population;
- Whereas incarceration is costly;
- Whereas it is in society's interest to bring detainees back into the community through conditions aimed at ensuring public safety;

THE QUÉBEC OMBUDSMAN RECOMMENDS THAT THE MINISTÈRE DE LA SÉCURITÉ PUBLIQUE AND THE COMMISSION QUÉBÉCOISE DES LIBÉRATIONS CONDITIONNELLES:

- document without delay the reasons for the high rate of waivers of the right to examination of applications for conditional release;
- establish, by March 31, 2015, a mechanism or mechanisms aimed at decreasing the number of waivers;
- transmit, by March 31, 2015, a report on the action carried out and the results obtained to the Québec Ombudsman.

MINISTÈRE DE LA SANTÉ ET DES SERVICES SOCIAUX

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION CONCERNING THE COMPLAINT EXAMINATION PROCEDURE

- Whereas users have the right to expect first-level recourse that is completely independent and impartial;
- Whereas local service quality and complaints commissioners are appointed to examine complaints in the first instance pursuant to the *Act respecting health services and social services*;

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

- ensure that local service quality and complaints commissioners themselves conduct the examination of complaints in the first instance so as to guarantee the independence and impartiality of such examination.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS CONCERNING THE ABSENCE OF OVERSIGHT OF PRIVATE RESIDENTIAL RESOURCES FOR PEOPLE WITH MENTAL HEALTH PROBLEMS

- Whereas it is important to ensure that vulnerable persons living in private residential resources have access to a safe, salubrious and quality living environment;
- Whereas it is important that the people who live in these residential resources do not end up losing their home due to future certification requirements necessitating a period of adjustment by resources;

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

- take the necessary steps to require that private residential resources providing lodging to people with mental health problems be certified;
- make sure that the certification process provides for transitional measures to enable residential resources to adjust to the requested changes while minimizing the impact on users' housing needs;
- provide for adequate quality control of these residential resources, including regular monitoring of implementation of the things requested in inspection reports.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION CONCERNING THE PROVISION OF HEPARIN

- Whereas the absence of clear guidelines on the provision of heparin creates inequity among CSSS territories;
- Whereas letting such a situation go on for too long is unacceptable;

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

- revise and distribute the information circular to the entire network no later than June 30, 2015.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATIONS CONCERNING THE HETEROGENEITY OF THE CLIENT POPULATION AND USER SAFETY

- Whereas residents are endangered by the presence of users with behavioral disorders in living environments that are not adapted;
- Whereas people accommodated in residences are very vulnerable;

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

- establish, by December 31, 2014, measures to ensure that every resident in a residential and long-term care centre has a violence-free living environment;
- establish, by December 31, 2014, measures to improve care and services, particularly to users with behavioural disorders while ensuring that they have the care and services required by their condition.

The Québec Ombudsman is asking the Department to inform it of the measures established for these purposes.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION CONCERNING THE COMPETENCE OF STAFF AT THE INTERMEDIATE RESOURCE

- Whereas, increasingly, heavier cases that also involve cognitive impairments are channelled into intermediate resources;
- Whereas the staff of intermediate resources lack adapted training that would enable an adequate response to the special needs of this client population;
- Whereas the staff in intermediate resources are not required to have any specific training;
- Whereas CSSSs bear primary responsibility for the quality of care and services provided by intermediate resources;

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

- provide for staff training requirements in intermediate resources adapted to the elderly who have cognitive impairments coupled with behavioural disorders.

THE QUÉBEC OMBUDSMAN'S RECOMMENDATION CONCERNING ACCESS TO PUBLIC CHSLDS

- Whereas there are overly long wait times for admission to certain CHSLDs and systematic recourse to transitional accommodations limits users' right to choose their last living environment;
- Whereas the psychosocial factors that play a decisive role in the overall health of users are not taken into account enough in administrative decisions concerning transitional accommodations;

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

- immediately take appropriate measures to ensure users long-term, transitional or permanent accommodations that take all their needs into account, including the psychosocial aspects that influence their overall health. The Québec Ombudsman is asking the Ministère de la Santé et des Services sociaux to inform it of the measures taken for this purpose.

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