

2008/2009

ANNUAL REPORT



Office of the Ombudsman and
Child & Youth Advocate
Province of New Brunswick



February 1, 2010

Ms. Loredana Catalli Sonier

Clerk

Legislative Assembly

Province of New Brunswick

Fredericton, N.B.

Madam:

Pursuant to Subsection 25(1) of the ***Ombudsman Act***, Subsection 25(1) of the ***Child and Youth Advocate Act*** and Section 36 of the ***Civil Service Act***, I have the honour to present the Forty-second Annual Report of the Ombudsman for the period of April 1, 2008 to March 31, 2009.

Respectfully submitted,

Bernard Richard

Ombudsman/Child and Youth Advocate



TO REACH THE OMBUDSMAN AND CHILD & YOUTH ADVOCATE

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IN MEMORIAM

During the past year our Office experienced the loss of Claire Pitre, Legal Counsel to the Office of the Ombudsman for 14 years. Claire was a dedicated public servant and always displayed a great deal of professionalism. She always had an open door and an accessible ear to those who needed it. Her positive attitude was infectious. She was a skilled lawyer, a compassionate colleague and a supportive mentor and she will be sorely missed.





MISSION STATEMENT

Under the *Ombudsman Act*, the Office of the Ombudsman strives to ensure that individuals are served in a consistent, fair and reasonable manner by New Brunswick government organizations.

Under the *Child and Youth Advocate Act*, the Office of the Child and Youth Advocate promotes the rights and interests of children and youth, strives to ensure that those rights and interests are protected and that their views are heard and considered in appropriate forums where those views might not otherwise be advanced.





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FROM THE OMBUDSMAN

A review of the 2008-2009 activities of the New Brunswick Office of the Ombudsman and Child and Youth Advocate indicates another very busy year for the office, including the publication of a major systemic report on services provided to youth in the youth criminal justice system, the first ever report card on the state of children in the province, and a review of the process followed by the government in the decision to eliminate early immersion.

CHILD AND YOUTH ADVOCACY



“Ashley Smith: A Report of the New Brunswick Ombudsman and Child and Youth Advocate on the services provided to a youth involved in the youth criminal justice system” was released in June 2008. The report was the result of an own-motion investigation launched in October 2007, shortly after Ms. Smith’s death at Grand Valley Institution for Women, a federal correctional facility located in Kitchener, Ontario. It delves into Ms. Smith’s incarceration from 2003-2006 in two provincial correctional facilities, the New Brunswick Youth Centre and the Saint John Regional Correctional Centre, prior to her transfer to the federal system. In the previous year our *“Connecting the Dots”* report had examined the plight of youths with very complex needs and New Brunswick had failed them and their families.

The Ashley Smith report was more focused on the gaps in services for youths suffering from mental illness or severe behavioral disorders **who are sentenced to serve custodial time**. The report’s observations and 25 recommendations are geared towards improving the existing system by raising a number of red flags around issues that may otherwise go unnoticed, including: diverting youths from the youth criminal justice system; the availability of mental health and educational services for incarcerated youth; restricting the use of force on minors in adult facilities, especially the use of tasers; and applying stringent restrictions on the use of segregation at the New Brunswick Youth Centre.

The provincial report card on children and youth was released during the initial *State of Our Children and Youth* speech by the Ombudsman in November, 2008. The report looks at the state of New Brunswick’s children and youth in terms of health and wellness, scholastic attainment, youth criminal justice, social condition, child welfare and behaviours that may place children and youth at risk.



During numerous investigations and reviews of services for children and youth it was noted that statistical evidence is either missing or outdated. Statistical profiles and longitudinal comparisons are needed to help determine if services being provided are meeting the mark. Providing objective information on the state of our children, an exercise we plan to repeat every year, will allow all New Brunswickers to know whether programs intended to help our kids are working.

The report into the Minister of Education's decision to modify the French Second Language curriculum was prompted by more than 330 complaints to our office. The process used to decide to abolish Early French Immersion was found to be deficient in that the Minister deviated substantially from the consultation mechanisms he had promised. In any event, a Court of Queen's Bench decision forced the Minister to initiate a revised procedure for consultation before proceeding with any changes.

RIGHT TO INFORMATION AND PRIVACY

The office also released investigative reports on Lost Medicare Billing Cartridges during this period. A courier shipment from New Brunswick to British Columbia, which consisted of computer tapes containing personal health information, did not arrive. The affected individuals were not advised until more than six weeks after the tapes left New Brunswick. The tapes, which were never found, contained the personal health information of several hundred New Brunswick and British Columbia residents. The information was not protected by encryption.

New Brunswick's Ombudsman and British Columbia's Information and Privacy Commissioner both found that their governments failed to protect the personal health information of New Brunswick and British Columbia residents when a courier lost tapes containing health information. Several recommendations were made to ensure the advent of e-health ensures the best possible safeguards for this type of sensitive data.

In addition, the office produced and published submissions to the Legislature's Standing Committee on Law Amendments regarding discussion papers on personal health information and privacy legislation, as well as proposed changes to the *Right to Information Act*.

OMBUDSMAN

In 2008-09, our office handled an increase of 1.7% of complaints received. At 3,464, it is the highest total in the history of the office. We are totally immersed by our need to respond to citizens, by our determination not to let past recommendations (Broken Promises, Connecting the Dots, Ashley Smith) be forgotten and by new initiatives such as a partnership with Justice Canada to develop a screening model to detect and respond to youths with mental health BEFORE the youth criminal justice system becomes involved. This work requires adequate



resources and these are lacking. By comparison, Newfoundland and Labrador, a province with 200,000 fewer inhabitants than New Brunswick, has three offices carrying out our mandates (Citizens' Representative, Child and Youth Advocate and Information and Privacy Commissioner). Neither has the responsibility for Civil Service Act and, in total, they have 10 staff positions MORE to carry out their duties.

I know my staff is doing everything they possibly can to respond to every complaint and to advocate for every needy child that comes to us but there is a limit and we are long passed that boundary. As a result, we have set priorities (children really do come first at our office), we turn away complaints that are marginally within our mandates and some files are taking longer, sometimes several months, to respond to. I don't like it but that's the way it must be.

It was a difficult year because of the added workload but especially because of a number of unexpected events, the hardest of which was the untimely passing of our former legal counsel, Claire Pitre. Claire was a true inspiration as she battled cancer over several years. You would hardly have known it because she came to work with a smile on her face, a boisterous laugh and lots of time for anyone who needed her advice. She is and will be sorely missed.

Bernard Richard
Ombudsman and Child and Youth Advocate



CASE SUMMARIES

It Wasn't Me

New Brunswick Power Corporation - Customer Accounts

A man had been renting a room from the previous tenants of a housing unit but had recently taken over the lease. The reason for his call to the Ombudsman was that the previous tenant had incurred a large debt resulting in the power being disconnected. NB Power was refusing to connect the power in the new tenant's name until the debt was paid in full, even though this man's name had never been on the previous lease agreement or the previous NB Power account. Furthermore, he was now the sole lessee of the rental unit and the previous tenant was no longer residing at that address.

An Investigator called NB Power to inquire about the situation and why it was that the new tenant was unable to have an NB Power account in his name before the previous tenant settled his debt. In response, NB Power recognized their error and was able to set up an account for the new tenant that was separate from the previous tenant's debt concerns. A call from the investigator to the man confirmed that he did indeed have power and that "everything's great."

When We All Work Together

Social Development - Child Protection

Our office received a call from a concerned government employee. This employee had been working for some time with a high risk child who had been experiencing difficulties at school and at home, and had suicidal tendencies. While Mental Health was working with the child, they had removed her from her home environment (where there were suspicions of abuse) and placed her in a foster home where she was doing much better in all areas, to everyone's delight.



Since the child was doing better, Social Development decided that it was time to create a plan to reintegrate the child into the home environment. However, once this plan was made known



to the child, the previous destructive behaviors returned in full force. Although both Mental Health and Social Development had the best interest of the child in mind, certain aspects of the child's needs were being overlooked and some workers involved in the case were lacking the whole picture due to challenges in sharing information between departments.

Through the mediation of one of our Child and Youth Advocate social workers, Mental Health and Social Development were able to come to a solution that worked for everyone involved whereby the child was able to stay in the foster home. The departments also developed an action plan for the child's future care that would ensure the best interests of the child. After these arrangements were made, the child once again began doing well in all aspects and was happy with the results.

Not a Child, Not yet an Adult

Department of Health - Youth/Service Gaps

A government employee called our office with concerns regarding a youth who they had been working with. The youth in question was too old to be placed in foster care and the centre



where she had been staying until recently was no longer able to meet her needs. The youth was not able to go home and not in a position to be on her own in the community due to mental health concerns and a lack of essential skills. The youth needed the structure of a group home, but it seemed that no program was available or right for her unique needs and situation.

The government employee who was working on the file had requested funding from Social Development and Mental Health for an Alternate Family Living Arrangement (AFLA) for the youth, but was so far unsuccessful. Through numerous discussions with people at various levels in both departments, our office

advocated for funding for this unique situation and obvious service gap, and was able to get the youth placed in an AFLA by way of Jordan's Principle. Jordan's Principle states that the child's well being should always be the first priority when there are jurisdictional disputes surrounding government services. It states that the government of first contact should pay for the services



required by the child without delay or disruption; the jurisdictional disputes over expenses should be resolved through intergovernmental processes after the fact.

Two Provinces, One Miscommunication

Public Safety - Corrections

An inmate called the Ombudsman's Office from a provincial correctional centre with a claim that he had a court date in another province the following day for an unrelated offense. He stated that when he inquired to both the programmer and superintendent of the correctional centre about making arrangements to attend, neither of them was aware of the court date and therefore no arrangements had been made to transport the inmate to the other province. The inmate was concerned that he would face further charges or penalties should he miss the court date.



After we received this call, our office contacted the court in question from the other province to confirm that this man was scheduled for a hearing, and it was confirmed that the inmate did in fact have a court date scheduled. It was clear that because the information concerning the court date had not been passed along to the correctional centre in New Brunswick, the inmate would be unable to attend

the scheduled date. Our office then contacted the New Brunswick correctional centre to inform them of the situation, and we were assured that arrangements would be made to allow the inmate to attend a rescheduled court date. In the end, the inmate was able to attend the postponed court date and he faced no repercussions for being unable to attend the original date.

The Case of the Missing Transcript

Education - School Districts

A woman had recently applied for a job position and was the successful candidate. The employer offering the job was excited to gain the employee and the experience she brought with her, and the new employee was eager to begin this new position. The final step to securing



the offer of employment was for the woman to submit to the employer proof of graduation from high school. Unfortunately, this was proving to be a difficult task.

The woman contacted the school board and the provincial Archives, but was told that there was no record of her attending or graduating from the high school, nor were they able to find any transcripts detailing her high school education. By contacting the superintendent of the school district in question, the Ombudsman's office was able to determine that the records at Archives needed to be searched through manually and we requested that a manual search be conducted. It wasn't long before the transcripts were successfully located by the Archives staff and were forwarded to the potential employer. The client was able to accept the offer of employment and both the employer and the potential employee were very happy with the outcome of the situation.



Service Please

Public Safety – Corrections

A youth offender called the Ombudsman's office with a complaint that he was not being offered services in his language of choice at the correctional centre. As a bilingual province, it is the Government of New Brunswick's responsibility to offer all government services in the client's language of choice, either French or English. The youth calling was a francophone who didn't speak any English, and was finding himself unable to access services such as a psychologist or a nurse in his language of choice.



In response to this complaint, one of our investigators called the institution and made staff aware of his request to access services in the language of his choice and detailed what those services were. Once made aware of the youth's desire to access those services in French, the staff at the correctional centre were able to relocate the youth to a bilingual unit and immediately made arrangements for the youth to access medical



professionals who could provide the necessary services to the youth in his language of choice.

Try Again

Public Safety – Department of Motor Vehicles

Our office received a complaint from a senior citizen whose license had been revoked. The woman had suffered from a critical illness which impaired her cognitive functioning and was ordered to surrender her driver's license at the recommendation of her doctor. Fortunately, the woman recovered from her illness, and with her doctor's consent, undertook road testing to reclaim her driving privileges.

After failing several road tests, the woman was told by the Department of Public Safety that she would not be permitted to undertake any further testing and that she should permanently retire from driving. Confident that she could pass the test and resume driving safely, the woman contacted our Office for help.



We investigated and found that there is no legal limit to the number of times a person can take the road test. Furthermore, we felt that prohibiting the woman from any further testing was discrimination based on her age, and that a similar prohibition would likely not be imposed on a younger driver. Upon our intervention, the Department of Public Safety agreed that the woman could retest. Upon further testing, the woman successfully earned her license and resumed driving.

Give Me Some Notice Please

Public Safety - Corrections

An inmate called our office with a complaint that an open visit scheduled with his father, who had to travel a considerably long distance to get to the institution, had been cancelled at the last minute. The visit had been scheduled three weeks in advance in order for the father to make appropriate travel arrangements. The day of the scheduled visit the inmate was informed that the visit was cancelled only two hours before it was to take place. His father had already travelled the distance expecting to visit with his son.



The reason given to the inmate for the cancellation was that unfortunately the institution was short on staff that particular day and therefore no guards were available to monitor the open visit as their policy requires. Since there were no guards available that day, the inmate was told that the visit would have to be rescheduled for another day.

After our office received this complaint an investigator contacted the institution and informed them of the exceptional circumstances that had been present in this situation due to the extensive travel arrangements of the inmate's father. The deputy superintendent informed our investigator that he would discuss these types of situations with staff so that in the future visitors who travel exceptionally long distances can be accommodated as best as possible and granted minimum security visits if no other visitation arrangements can be made that day.

Policy Predicament

WorkSafeNB - Worker's Compensation Benefits

Our office received a complaint from a man who had applied for Home Care and Independence Allowance through WorkSafeNB. The man had applied for these benefits to help him with the upkeep of his home, but his application was denied. An investigator from our office called WorkSafeNB to discuss his concerns and to go over the applicable policy in this situation.

After discussing this file with WorkSafeNB, it was discovered that two things were affecting the man's application for Home Care and Independence Allowance benefits. The first was that some relevant information had not been made available to WorkSafeNB and therefore was not considered when calculating the Home Care Allowance. Secondly, our office determined that there were gaps in the policy that did not fairly address the needs of this particular applicant. As a result, we worked with WorkSafeNB to ensure they had all the relevant and necessary information from the client and we also made recommendations to improve the policy in order to avoid similar complaints in the future. In the end, the man's application for benefits was approved and WorkSafeNB agreed to consider our recommendations at an upcoming policy review.



STATUTORY RESPONSIBILITIES

The Office of the Ombudsman in New Brunswick has a broad legislated jurisdiction under the Ombudsman Act, as well as significant compliance and administrative responsibility and fairness in the public sector.

The Office of the Ombudsman currently has responsibilities under six Statutes.

1. *Ombudsman Act*
2. *Civil Service Act*
3. *Right to Information Act*
4. *Archives Act*
5. *Protection of Personal Information Act*
6. *Child and Youth Advocate Act*





GOALS: OFFICE OF THE OMBUDSMAN

The Office of the Ombudsman is committed to the following goals:

1. To conduct independent, confidential investigations to resolve complaints.
2. To provide efficient, effective and accessible services to every client within the framework of the human and fiscal resources provided.
3. To review policies, procedures, legislation and regulation to resolve existing complaints and, where applicable, to recommend reviews or changes to improve administrative practices.

GOALS: CHILD & YOUTH ADVOCATE

The Office of the Child and Youth Advocate is committed to the following goals:

1. To conduct independent, confidential investigations with the goal of promoting and protecting the rights and interests of children and youth.
2. To provide efficient, effective and accessible services to every child and youth within the framework of the human and fiscal resources provided so that their voices may be heard and considered in forums where their views might not otherwise be advanced.
3. To review policies, procedures, legislation, and regulations to advance the rights and interests of children and youth and, where appropriate, to provide information and advice to government agencies and officials about the availability, effectiveness, responsiveness, and relevance of services to children and youth.





THE OMBUDSMAN

The Ombudsman is an Officer of the Legislative Assembly and is independent of government. The Ombudsman is appointed and can only be removed upon the recommendation of the Legislative Assembly.

The *Ombudsman Act* provides the authority to investigate complaints into any matter of administration. In accordance with the *Act*, all investigations are carried out in a confidential manner and information is only divulged where necessary in furtherance of the investigation. Accordingly, all files of the Office of the Ombudsman are confidential.

What we can do

The Ombudsman and his staff investigate complaints against provincial government departments, school districts, regional health authorities, municipalities, Crown agencies, and other agencies responsible to the Province including commissions, boards and corporations or any other public authority as defined under the *Ombudsman Act*.

What we can't do

The Ombudsman and his staff do **not** have authority to investigate complaints concerning:

- Federal Government
- Private companies and individuals
- Judges and functions of any court
- Deliberations and proceedings of the Executive Council or any committee thereof.



THE CHILD AND YOUTH ADVOCATE

The Child and Youth Advocate is an Officer of the Legislative Assembly and is independent of government. The Child and Youth Advocate is appointed and can only be removed upon the recommendation of the Legislative Assembly. In these ways the Child and Youth Advocate is similar to the Ombudsman.

There are marked differences, however, between the Ombudsman and the Child and Youth Advocate. The Child and Youth Advocate acts as an advocate for the rights and interests of children and youth. Under the *Child and Youth Advocate Act*, the advocate is responsible for ensuring that the rights and interests of children and youth are protected and that their views are heard and considered in appropriate forums where those views might not otherwise be advanced. Pursuant to the advocate's mandate under the *Act*, the advocate also provides information and advice to government agencies and officials about the availability, effectiveness, responsiveness, and relevance of services to children and youths.

What the Advocate Can Do

The Child and Youth Advocate and his staff, pursuant to the *Child and Youth Advocate Act*, have the ability to assist children and youth by:

- Listening to the needs and concerns of area children and youth
- Ensuring that their rights and interests are protected
- Making sure their views are heard in the appropriate forums
- Investigating complaints they may have about how previous situations were handled by government agencies
- Ensuring they have proper access to the appropriate services
- Continually monitoring laws and policies to make sure they are not only fair to children and youth, but that they are followed properly as well
- Reporting on the availability, effectiveness, responsiveness and relevance of child and youth services in the community
- Acting as an advocate for the rights and interests of children and youth in general

What the Advocate Can't Do

The Child and Youth Advocate and his staff do not act as advocates for the rights and interests of parents or adults nor do they act as legal counsel in any fashion.



SPECIAL PUBLICATIONS AND AWARDS

The Ashley Smith Report: A Report of the New Brunswick Ombudsman and Child and Youth Advocate on the services provided to a youth involved in the youth criminal justice system

“All members of our society need to understand that the youth criminal justice system in New Brunswick needs a substantial revamping. In my opinion, without a proper and realistic appreciation of the purpose of this system, we are losing out on a singular opportunity to invest in the wellbeing of our youth and consequently, in the future of our province. The youth criminal justice system should be administered and implemented as a means to an end, not an end in itself. Only then will it be clearly understood that youths who suffer from a mental illness or a severe behavioural disorder and who commit a crime punishable under existing criminal provisions have a right to a recovery. They must be given the proper tools to make, at the very least, an attempt at reintegrating society as productive members. The alternative is unacceptable.”

Report of the Ombudsman into the Minister of Education’s decision to modify the French Second Language Curriculum

“From this investigation, it is clear that there is far more agreement on the fundamental issues such as French Second Language learning, streaming and testing, than there is disagreement. Given the broad understanding of problems and possibilities, there is good reason to believe that a proper public engagement process could devise alternative curriculum proposals that could serve as the basis of a broader social consensus. Considering the various proposals put forward already, I remain very hopeful that there may be a better way forward: one that includes and respects all opinions, one that honors New Brunswick’s unique contribution to Canada, and one that can address the Minister’s sincere concerns and laudable goals without leaving any child behind and without disenfranchising any parent.”

Investigation into Lost Personal Information by the Department of Health – Medicare Billing Cartridges

“The breach of personal information that occurred in October of 2007 has hopefully served as a significant, if not painful, wake up call to the Department of Health as well as all other government departments: privacy is an issue that needs our full attention. It is not enough to say that protecting personal information is important within the organization. The Department of Health, as well as all other government departments, needs to insure that protecting personal information is a goal of every employee of the organization that handles personal information.”



More than just words: A statistical backgrounder to the 2008 State of our Children and Youth address

“Our goal is the best interests and optimal development of every child and it is one we would encourage everyone to take seriously. Our premise is that given the right conditions children will be less likely to engage in activities that place youth at risk and will be far more successful in achieving their goals in life and in contributing to the growth of their society.”

Muriel McQueen Ferguson Foundation Award

Bernard Richard was presented with the 16th Muriel McQueen Fergusson Foundation Award in recognition of his efforts to counter problems of family violence over the past thirty years as a former social worker, practicing lawyer, MLA, cabinet minister and current Ombudsman and Child and Youth Advocate.



T. Murray, Sen. M. Trenholme Counsell, B. Richard, Award Recipient, Dr. D. Besner, President MMFF.

PHOTO BY: MULLIN'S PHOTOGRAPHY LTD.



PERFORMANCE INDICATORS

The Office of the Ombudsman measures its performance in delivering the various legislated services through indicators which are identified below.

Supporting our central mission

Indicator The Office of the Ombudsman has one central mission: to ensure that all New Brunswick citizens are treated with administrative fairness by government and its agencies. Under the *Ombudsman Act*, the Office of the Ombudsman strives to guarantee that individuals are served in a consistent, fair and reasonable manner by New Brunswick Government organizations.

Result Our central mission is communicated through various public and government employee education activities and speaking opportunities by the Ombudsman and staff, and are reinforced via the office's Web pages, printed material and our Annual Report.

Providing service in an effective and efficient manner

Indicator The Office of the Ombudsman has instituted a number of efficiencies since January 2004 in an effort to better serve our legislated mandate. These include: a toll free 1-888 telephone number which makes it easier for clients outside of the greater Fredericton area to reach the office; an enhanced Web page; a number of administrative and technical improvements; annually meeting with government departments and a variety of agencies in an effort to develop improvements in the way we conduct our respective legislated duties; and the introduction of an information poster for provincial correction centres.

Result The percentage of complaint files closed within 30 calendar days of the date on which the complaint was received remains at approximately 90% for 2008/2009.



FINANCIAL INFORMATION

	Budget	Actual
Wages and Benefits	1,445,200	1,275,400
Other Services	243,000	224,900
Materials and Supplies	30,500	19,900
Property and Equipment	26,100	38,800
Contributions and Grants	0	200
Total	1,744,800	1,559,200*

*This variance was largely due to staff vacancies and staff on leave during this period.



OFFICE OF THE OMBUDSMAN AND CHILD AND YOUTH ADVOCATE

Employees	Work Title
Albert, Jessica	Investigator
Basque, Lyne	Investigator
Cantin, Francine	Clinical Supervisor/Social Worker
Cronkhite, Amy	Administrative Assistant
Daigle, Jennifer	Investigator
Dickison, Julie	Executive Secretary
Doyle, Anne	Investigator/Social Worker
Gilliland, Steve	Executive Director
Guthrie, Janel	Administrative Assistant
Hébert, Sylvie	Investigator/Social Worker
Jardine, Kathryn	Investigator/Legal Officer
LeBlanc, Mélanie	Investigator/Social Worker
Levert, François	Investigator/Legal Officer
Levesque, Marie-Josée*	Investigator
Murray, Jennifer*	Investigator/Legal Officer
Richard, Bernard	Ombudsman/Child and Youth Advocate
Savoie, Robert	Investigator
Whalen, Christian	Legal Counsel

*Part-time



OMBUDSMAN ACT



Under the *Ombudsman Act*, the Office of the Ombudsman conducts independent and confidential investigations into complaints from individuals regarding administrative matters involving provincial government departments and other related organizations such as school districts, regional health authorities and municipalities.

In 1967, the Government of New Brunswick introduced legislation creating the Office of the Ombudsman. The Ombudsman is an independent officer of the Legislative Assembly with a mandate under the New Brunswick *Ombudsman Act* to conduct independent investigations.

Depending upon the nature of a complaint, it is sometimes possible to resolve the complaint informally. If an investigation identifies that an administrative flaw has occurred, and the matter cannot be resolved informally, the *Act* provides for the Ombudsman to make a recommendation to the administrative head of the authority concerned.

COMPLAINTS UNDER THE *OMBUDSMAN ACT*

Access

The Office of the Ombudsman is accessible to every person in the Province of New Brunswick. People who feel they have a problem with a provincial government agency can contact the Office in either Official Language.

The Office of the Ombudsman receives complaints in a variety of ways: by letter, by telephone, by fax, by E-mail and by personal interview at our Office or in the client's community. The Office accepts oral and written complaints.

Complaints



The Office of the Ombudsman investigates an extremely diverse cross-section of complaints related to government departments, municipalities, school districts, regional health authorities, crown agencies and other authorities responsible to the Province as defined under the *Ombudsman Act*.

Investigation

In accordance with the *Ombudsman Act*, the Office conducts independent and confidential investigations into complaints from individuals regarding administrative matters.

In conducting an investigation, staff of the Office of the Ombudsman may be required to critically analyze and review policies, procedures, legislation, case law, and examine government records. Also, information is obtained from officials either through meetings or correspondence. In addition to receiving information from clients through interviews or correspondence, investigators may obtain additional information through site visits conducted throughout the province.

As a result of the information gathered through the investigation, the Office of the Ombudsman makes a finding. If, on the conclusion of the investigation, the finding supports the client's complaint, the Ombudsman will facilitate a resolution or, in the alternative, make a recommendation for corrective action. The Ombudsman does not have the authority to require the government to act, however, negotiation has proven to be very effective. Where there is insufficient evidence to establish that the complaint is justified, the investigation is discontinued and the client is advised of the results in writing.

Providing Information and Referrals

When a complaint is outside the Ombudsman's jurisdiction to investigate, the Office provides information and, where appropriate, refers individuals to other complaint mechanisms or possible sources of assistance.

2008/2009 STATISTICS

The Office of the Ombudsman received a total of 3,067 complaints, inquiries and requests for information under the *Ombudsman Act* during the year 2008/2009.

An investigative report on French Second Language Curriculum was also released during this period. The report, which delved into the process involved in Minister of Education's decision to modify the French Second Language curriculum, was prompted by more than 330 complaints to this office in relation to the minister's decision to abolish Early French Immersion.



CORRECTIONAL INSTITUTIONS

Section 13(4) of the *Ombudsman Act* provides that any person in custody has a right to have a letter forwarded to the Office of the Ombudsman unopened, thereby ensuring them the opportunity of bringing their complaints to this Office for investigation.



Inmates are provided with an orientation manual by the Department of Public Safety on admittance to each of the Correctional Institutions. The manual advises the inmate that the Office of the Ombudsman investigates complaints from individuals who feel they have been treated unjustly.

While the Office received inquiries and complaints regarding a wide range of issues,

Section 12 of the *Ombudsman Act* empowers the Office to investigate complaints “*with respect to a matter of administration*” and not matters which are of a criminal nature.

As the statistics relating to the complaints and inquiries received in 2008/2009 will show, the majority relate to matters of administration and are open to investigation by this Office. However, it should also be noted that some complaints were received which were of a **criminal nature** i.e. assault. Such a complaint is a matter for investigation by a police authority. In those instances, this Office brought the matter to the attention of the Department of Public Safety immediately. This Office subsequently confirmed with the Department of Public Safety that the police had been notified regarding the complaint.

In other instances where an inquiry or a complaint does not fall within the jurisdiction of the *Ombudsman Act*, individuals are referred to the appropriate body i.e. Parole Board.

As inmates are within the care of the Province of New Brunswick, each complaint that was within the jurisdiction of this Office to investigate was acted upon as expeditiously as possible. This usually required that the matter be brought to the attention of the Department of Public Safety so that the Department in addition to the correctional facility concerned is also given the opportunity to be heard.

On receiving information from both parties and in carrying out any further reviews that may be necessary, this Office concludes the investigation and the inmate is advised accordingly.



2008/2009 STATISTICS

In the Correctional Services area, the Office of the Ombudsman processed 828 verbal and written complaints from or relating to individuals incarcerated in provincial correctional institutions. In addition, the Office also received numerous information requests as well as complaints from inmates that were not within the jurisdiction of the Office to investigate.



RIGHT TO INFORMATION ACT

The *Right to Information Act* was adopted in 1978 to guarantee the right of all New Brunswickers to access public information. The *Act* was the second instrument of its kind in Canada, making New Brunswick one of the first jurisdictions in the world to proclaim this right. The Act has been amended on several occasions since it came into force. However, the amendments have generally had the effect of expanding the exemptions applicable to certain types of records and therefore limiting the right to information.

Under the *Right to Information Act*, the Ombudsman is to conduct, within 30 days, independent reviews of refusals to release information to citizens by all Departments and Agencies as outlined in the regulations under the *Act*.



REFERRALS UNDER THE *RIGHT TO INFORMATION ACT*

Under the *Right to Information Act*, an individual may request information as contained in a document(s) by applying to the appropriate Minister as defined by the *Act*. Where the Minister does not, or is unable to, provide the document(s) requested, the individual may refer the matter to either the Ombudsman or to a judge of the Court of Queen's Bench.

When a request for information is referred to the Office of the Ombudsman, the *Right to Information Act* requires the Ombudsman to review the matter referred within 30 days of having received the referral and to render his recommendation as soon as possible thereafter.

The *Act* allows the Ombudsman to inspect the information that the Minister has refused to release, if such information exists, and this review is conducted in private.

Usually, the Ombudsman inspects the information on-site, but the records or copies of them may also be provided to the Ombudsman, under seal, for ease of reference in preparing a recommendation. Depending on the nature of the information requested, this inspection may involve a review of a single document or file, or a folio of documents or boxes of files.

The Ombudsman's inspection may extend beyond paper documents as the *Right to Information Act* defines a document as including "*any record of information, however recorded or stored, whether in printed form, on film, by electronic means or otherwise.*"



At the conclusion of the review, if the Ombudsman finds that the information requested is not exempted for release under the *Right to Information Act*, a recommendation is made to the Minister to release the information in accordance with the *Act*.

There is no right under the *Act* to access information which falls within the categories which are listed as exceptions in section 6 of the *Act*.

2008/2009 STATISTICS

During the year 2008/2009, the Office of the Ombudsman received 45 complaints or inquiries regarding the refusal or non-response to a request to disclose information to an individual under the *Right to Information Act*. The Office of the Ombudsman conducted 7 reviews leading to recommendations and also provided general information to a number of individuals who were seeking advice regarding the procedure to follow when requesting information contained in government documents.

The seven recommendations dealt with a variety of issues ranging from the duty of timely response and disclosure in the context of members of the official opposition in the Legislative Assembly requesting government information, the duty to ensure that specific statutory-based confidentiality privileges are applied in the appropriate context so as not to unduly restrict disclosure, and the recurring themes of the duty to make dutiful and exhaustive search for records as well as the duty to seek clarification of requests when necessary. Requests for information included a wide range of subjects, including documentation relating to the representation of non-lawyer agents in Provincial court, the ability to make an access request on behalf of a deceased sibling, documentation regarding safety concerns in the requestor's NB Power service area, business and financial information relating to power production and the Lepreau refurbishment project, and quarterly financial updates prepared by the Department of Finance.

In *Ryan v. Minister of Social Development*, a request for documentation relating to complaints and investigations conducted by the Department of certain special care home facilities prompted a review of several of the exemptions under the *Act*, including specific confidentiality provisions of the *Family Services Act*. In our review, our Office found that the Minister had taken a narrow interpretation of the request, which led to a smaller number of relevant documents being identified as responsive records. The recommendation emphasized the duty to seek clarification of the request where it is unclear or open to interpretation, and the duty to conduct dutiful and exhaustive searches for responsive records in order to provide full and frank disclosure in accordance with the spirit of the *Act*.

In *D.F. v. Minister of Public Safety*, a request for information related to a workplace investigation provided the opportunity for this Office to explore the scope of the personal



information exemption in the context of employees providing information in confidence in the course of a workplace incident investigation. The Minister claimed that the incident report documents were exempt from disclosure as they contained personal information, but did not consider the exemption clause relating to personal information about a person being provided by another person in confidence, which we found more appropriately fit the context of this request.

2008/2009 ACTIVITIES

The 2008-2009 fiscal year saw significant developments on the law reform front. In June 2008, the government introduced Bill 82—Access to Information and Protection of Privacy Act in the Legislative Assembly. The Bill was referred to the Law Amendments Committee for review, and in October 2008, the Committee held public consultations. Our Office made submissions, emphasizing the highlights and drawbacks of the proposed legislation. Highlights included the establishment of an independent and separate Information and Privacy Commissioner's office, an expanded scope to include municipalities and universities, and duty to assist and proactive disclosure provisions, while we expressed serious reservations about the expanded scope of exemptions to disclosure, the Commissioner's lack of order-making power, and the proposed increase in the fee structure. Based on the concerns raised in the public consultation process, the Committee recommended that the Bill not proceed in its current form and the Bill died on the order paper in November 2008. Updated legislation will be forthcoming.

In June 2008, our Office assisted with the organizing of the fourth annual Maritime Access and Privacy Workshop, which we hosted in Moncton. The two-day workshop featured presentations from national leading access and privacy experts and was very well attended. We will continue our participation in the organization of next year's workshop which will be held in Halifax in May 2009.

In September 2008, our Office participated in Canada's third annual Right to Know Week along with other Canadian Information and Privacy Commissioners' offices. The week's activities included public forums on Bill 82, electronic health records and public engagement, held in conjunction with CBC New Brunswick, St. Thomas University's School of Journalism, UNB Faculty of Law, and the Faculty of Law at the Université de Moncton, as well as an information session for government Right to Information coordinators.



CIVIL SERVICE ACT

In 1994, the Civil Service Commission was amalgamated with the Office of the Ombudsman. Through a change to the *Civil Service Act*, the Ombudsman is responsible to hear appeals and investigate complaints regarding the selections for appointment to the Civil Service.

The *Civil Service Act* gives the Ombudsman certain powers and duties for the purpose of protecting the merit principle as the basis for effecting appointments to or from within the Civil Service. Specifically, the *Act* provides for the Ombudsman to: hear appeals from employees relating to appointment decisions; investigate complaints from non-employees who have been unsuccessful candidates in open competitions.



Appeals and complaints may be filed in respect to appointment decisions made by all departments and agencies which comprise the Civil Service of the Province of New Brunswick. The *Act* requires the Office to hear and decide on appeals within very tight time periods.

APPEALS AND COMPLAINTS UNDER THE *CIVIL SERVICE ACT*

Appeals

The primary objective of the appeal process under section 32 of the *Civil Service Act* is to ensure that the principle of selection by merit is respected in effecting appointments to and from within the Civil Service.

The appeal process is an integral component of the staffing process and provides employees the opportunity for an independent and impartial review of appointment decisions.

Employees may submit their notices of appeal against appointments directly to the Ombudsman. They may also choose to first apply to the Deputy Minister of the Office of Human Resources or her delegate for a “statement of reasons” why they were not appointed, or for such other information that would assist in determining whether or not to appeal.

The *Act* prescribes specific time limits for filing an appeal, holding a hearing, and issuing a decision. There can only be two outcomes to an appeal; it can be allowed or dismissed. Where an appeal is allowed, the Ombudsman shall deny or revoke the appointment that gave rise to the appeal.



Complaints

The objective of the complaint process under section 33 of the *Civil Service Act* is to protect the merit principle as the basis for effecting appointments by competition. This process provides non-employees, who have been unsuccessful in an open competition, with a redress mechanism by which the selection for appointment can be impartially examined. The inquiry and complaint provisions under the *Act* also serve to increase the openness of the hiring process.

Before complaints can be filed with the Ombudsman, unsuccessful candidates are obliged by the *Act* to formally apply to the Deputy Minister of the Office of Human Resources or her delegate for a “statement of reasons” why they were not appointed. If unsuccessful candidates are not satisfied with the reasons provided, they may make a complaint in writing to the Ombudsman within the time limits set out in the *Act*.

The Ombudsman does not have the authority to revoke an appointment as a result of this process even if it has been determined that merit was not respected. The Ombudsman can, however, submit recommendations to the Deputy Minister of the Office of Human Resources as a result of the findings from an investigation.

2008/2009 STATISTICS

A total of 47 files were opened under the *Civil Service Act* in 2008/2009. This included 5 appeals under Section 32 of the *Act*. The results of the appeals were as follows: 3 were dismissed; and 2 were withdrawn. There were also 5 inquiries under Section 32 of the *Act*, in which information and/or clarification was provided.

There were 19 investigations under Section 33 of the *Act*; of these investigations, 8 were not substantiated; 7 were concluded with clarification being provided; and 4 were withdrawn. There were also 14 inquiries under Section 33 of the *Act*. In addition, there were 3 investigations related to casual employment in the civil service. There was also 1 investigation into complaints about the Probationary Period of employment under the *Civil Service Act*.

The other files opened by the Office of the Ombudsman under the *Civil Service Act* were classified as general inquiries.



PROTECTION OF PERSONAL INFORMATION ACT

The Government of New Brunswick introduced the *Protection of Personal Information Act* (POPIA) in 1998. The *Act* received Royal Assent on February 26, 1998 and came into effect on April 1, 2001.



Like the *Right to Information Act*, POPIA entrusts the Office of the Ombudsman with the compliance function regarding complaints under the Act. POPIA guarantees the citizen's right to know what information government holds about them and their right to have that personal information treated confidentially. In New Brunswick, unlike some other provinces, there is no provincial law that regulates the confidentiality of personal information in the private sector, and so the federal *Personal*

Information Protection and Electronic Disclosure Act (PIPEDA) applies to all commercial and private sector organizations in the province. It does not however regulate privacy issues as between a private sector employer and their employees. The result is that each year several people complain to our office of privacy violations for which there is no administrative remedy in New Brunswick, and no independent oversight body to deal with such complaints.

Like PIPEDA, the provincial *Protection of Personal Information Act* is a law which gives statutory authority to the 10 privacy principles set out in the Model Privacy Code of the Canadian Standards Association. The enforcement mechanism is by way of complaint to the Ombudsman who has a power of recommendation, rather than an authority to issue legally binding orders to a public body.

COMPLAINTS UNDER THE *PROTECTION OF PERSONAL INFORMATION ACT*

The Office of the Ombudsman is an independent body which is responsible for investigating complaints with respect to the privacy of personal information held by the departments and agencies of the government.

While the Office of the Ombudsman is responsible to investigate complaints under the *Protection of Personal Information Act*, it is the responsibility of departments and agencies of the government to manage personal information in accordance with the *Act*.



2008/2009 STATISTICS

During the year 2008/2009, the Office of the Ombudsman received 39 complaints and enquiries in regards to the *Protection of Personal Information Act*. We received complaints about a variety of privacy concerns and breaches, including public bodies' use of drivers' licences and Social Insurance Numbers as a means of identification, misdirected mailings of documents containing sensitive personal information, and potential and actual privacy breaches relating to loss and theft of mobile electronic devices.

In response to an individual complaint against WorkSafe NB regarding the sharing of information between a WorkSafe NB nurse and the complainant's pharmacist, this Office conducted an inquiry to determine WorkSafe's compliance with POPIA. The specific complaint was that the nurse in charge of the complainant's pain management care contacted his pharmacist to inform that WorkSafe NB had provided special authorization to cover the costs of a specific medication for a set timeframe and that the coverage might not continue based on further assessment of the complainant's condition. This Office found that the nurse shared limited information with the pharmacist relating to the complainant's eligibility for government funding of medication and that in this context, the complainant's consent to have health care providers share information was reasonably implied. We found that this did not constitute a breach of privacy under POPIA as the information was disclosed for the purposes which it was collected—the subsidization of pain medication by WorkSafe NB.

In response to an individual complaint against Saint John Court Services regarding the mailing of the complainant's court documents to a third party without his consent, this Office conducted an inquiry into this matter to determine Saint John Court Service's compliance with POPIA. While our investigation found that this situation did constitute a breach of privacy under the POPIA, we also found that the breach was an isolated incident due to human error and that Saint John Court Services had taken adequate measures to prevent similar breaches from occurring again in the future.

2008/2009 ACTIVITIES

The past year has seen significant law reform developments in the area of privacy protection. In June 2008, the government introduced Bill 82—Access to Information and Protection of Privacy Act in the Legislative Assembly. The Bill was referred to the Law Amendments Committee for review, and public consultations were held in October 2008. Our Office made submissions, expressing serious reservations about the Bill including the omission of an enshrined right to privacy, the exclusion of POPIA's ten privacy principles, and the lack of a mandatory breach notification provision. Based on the concerns raised in the public consultation process, the Committee recommended that the Bill not proceed in its current form and the Bill died on the order paper in November 2008. Updated legislation will be forthcoming.



Our office also made submissions to the Committee on the Discussion Paper on Personal Health Information—Access and Privacy Legislation, in which we highlighted the need for personal health information-specific legislation and an independent and separate oversight body. Proposed legislation will be forthcoming.

The Province continues to invest significantly in the development of the electronic health record and the Ombudsman has been involved in that planning effort at the provincial level and through the Privacy Forum of Canada Health Infoway. Finally, the Office continues to actively support stronger ties and consultative work between privacy commissioners' offices in the Atlantic region, nationally, and internationally within the Francophonie and the Forum of Data Protection Authorities from federal states.

As the possible transfer of this mandate to a new independent Information and Privacy Commissioner's Office is under consideration, this Office has had to continue with the enforcement activities under this mandate within the confines of very meagre resources. The significant rise in enforcement activity, particularly in the area of privacy breach investigations, has required us to limit our involvement in the review of information management practices, as well as internal preparations for the possible transfer of the mandate to a new authority. Whatever decision is made regarding the responsible oversight body for this mandate, new public spending is urgently required in order to safeguard and protect the privacy of New Brunswickers and their right to information.



CHILD AND YOUTH ADVOCATE ACT



The *Child and Youth Advocate Act* received Royal Assent on June 30, 2004; however no one was appointed to the position until October 26, 2006 when the Ombudsman agreed to assume responsibility for this legislation to ensure that children and youths' rights and interests are protected in government policy, programs and services.

Section 2 of the Act outlines the Advocate's responsibilities as:

- (a) ensuring that the rights and interests of children and youths are protected;
- (b) ensuring that the views of children and youths are heard and considered in appropriate forums, where those views might not otherwise be advanced;
- (c) ensuring that children and youths have access to services, and that complaints children and youths might have about those services receive appropriate attention;
- (d) providing information and advice to the government, government agencies, and communities, about the availability, effectiveness, responsiveness, and relevance of services to children and youths; and
- (e) acting as an advocate for the rights and interests of children and youths generally.

The Advocate is not to act as legal counsel. In carrying out the functions and duties of the Office, the Advocate may pursuant to subsection 13(1):

- (a) receive and review a matter relating to a child, a youth, or a group of children or youths;
- (b) advocate or mediate or use another dispute resolution process on behalf of a child, youth, or a group of children or youths;



- (c) if advocacy, mediation or another dispute resolution process has not resulted in an outcome the Advocate deems satisfactory, conduct an investigation on behalf of the child, youth, or group of children or youths;
- (d) initiate and participate in, or assist children and youths to initiate and participate in case conferences, administrative review, mediation, or other process in which decisions are made about the provision of services;
- (e) inform the public about the needs and rights of children and youths, including information about the Office of the Child and Youth Advocate;
- (f) make recommendations to the government or an authority about legislation, policies, and practices, respecting services to or the rights of children and youths.

Requests for Advocacy under the *Child and Youth Advocate Act*

Child and Youth Advocate (CYA) complaints may be distinguished from those of the Ombudsman primarily by any involvement of children or youths and also the need to have the best interest of the child at the forefront of the investigation.

Some requests for advocacy come directly from the child or youth in question, but the vast majority come from someone else concerning a child or youth. Regardless of who is originating the request for advocacy, the focus of the CYA is the best interest of the child at all times. It is a child centered approach. This is consistent with a recent Supreme Court of Canada judgment in *Syl Apps Secure Treatment Centre v. B. D.*, July 27, 2007.

Generally, Ombudsman investigations take between one to three months, however, CYA investigations tend to take longer. It is important to keep a relationship with the complainant active and to make contact on a regular basis to provide and receive information on the case.

Case sensitivity is extremely important in CYA cases; much of the information is confidential.

2008/2009 STATISTICS

In the period covered by this annual report a total of 266 files were opened under the *Child and Youth Advocate Act*. Most of the complaints have come from family members, not from children or youths. A few have come from concerned citizens or government officials. In 2008-2009, the Office received complaints on a variety of issues, including allegations of child abuse or neglect, access to mental health services, child custody and access, child support payments, children with special needs at school, adoption, lack of social services for youths 16-19, etc. Many fall under the Department of Social Development, although other departments such as the Department of Education, the Department of Health and the Department of Justice have also been involved.



2008/2009 STATISTICS



- The Office of the Ombudsman and Child and Youth Advocate received a total of 3464 complaints, inquiries and requests for information during the year 2008/2009. Of this number, 1883 were complaints within jurisdiction and investigations were required, 863 were inquiries and requests for information, and 718 were complaints which were not within the jurisdiction of this Office. In addition, 201 complaints carried over from the previous year were investigated.
- During the year 2008/2009, the Office of the Ombudsman received 45 complaints or inquiries regarding the refusal or non-response to a request to disclose information to an individual under the *Right to Information Act*. The Office of the Ombudsman conducted 18 reviews leading to recommendations and also provided general information to a number of individuals who were seeking advice regarding the procedure to follow when requesting information contained in government documents.
- A total of 47 files were opened under the *Civil Service Act* in 2008/2009. This included 5 appeals under Section 32 of the *Act*. The results of the appeals were as follows: 3 were dismissed and 2 were withdrawn. There were also 5 inquiries under Section 32 of the *Act*, in which information and/or clarification was provided.
- There were 19 investigations under Section 33 of the *Civil Service Act*; 8 of these investigations were not substantiated; 7 concluded with clarification being provided; and 4 were withdrawn. There were also 14 inquiries under Section 33 of the *Act*.
- In addition, there were 3 investigations related to casual employment in the civil service.
- There was 1 investigation concerning the Probationary Period of employment under the *Civil Service Act*.
- The other files opened by the Office of the Ombudsman under the *Civil Service Act* were classified as general inquiries.



- During the year 2008/2009, the Office of the Ombudsman received 39 complaints and enquiries in regards to the *Protection of Personal Information Act*.
- In the Correctional Services area, the Office of the Ombudsman processed 828 verbal and written complaints from or relating to individuals incarcerated in provincial correctional institutions. In addition, the Office also received numerous information requests as well as complaints from inmates that were not within the jurisdiction of the Office to investigate.
- In the period covered by this annual report a total of 266 files were opened under the *Child and Youth Advocate Act*. Most of the complaints have come from family members, not from children or youths. A few have come from concerned citizens or government officials. In 2008-2009, the Office received complaints on a variety of issues, including allegations of child abuse or neglect, access to mental health services, child custody and access, child support payments, children with special needs at school, adoption, lack of social services for youths 16-19, etc. Many fall under the Department of Social Development, although other departments such as the Department of Education, the Department of Health and the Department of Justice have also been involved.



TYPES OF COMPLAINTS BY DEPARTMENT

The following tables provide the number of complaints by type and by Department investigated in the year 2008/2009. In consideration of the confidentiality provisions of the *Ombudsman Act*, only those Departments with more than 10 complaints are set out in the tables below.

CORRECTIONAL INSTITUTIONS

<i>Health Issues</i>	2007-2008	2008-2009
<i>Assault/Abuse – Physical, Sexual, etc</i>	15	4
<i>Dental</i>	17	18
<i>Glasses, Eye Care</i>	3	2
<i>Medical Appliance</i>	6	11
<i>Medical Treatment</i>	-	4
<i>Mental Health</i>	11	7
<i>Prescriptions Requested or Denied</i>	69	62
<i>Request to go to Hospital</i>	10	24
<i>Request to see Nurse / Doctor Dental</i>	52	44
<i>Special Diet</i>	7	10
<i>Threat of Suicide</i>	2	2
<i>Subtotal</i>	192	188
<i>Living Conditions</i>		
<i>Cleanliness</i>	16	27
<i>Clothing and Bedding</i>	30	21
<i>Food</i>	21	25
<i>Heat and Ventilation</i>	7	10
<i>Maintenance and Repairs</i>	3	14
<i>Overcrowding</i>	<u>11</u>	<u>14</u>
<i>Subtotal</i>	88	111
<i>Abandoned By Inmate</i>	8	12
<i>Administration</i>	5	6
<i>Classification / Transfer</i>	60	52
<i>Complaint regarding staff</i>	2	5
<i>Contraband</i>	4	4
<i>Correspondence</i>	12	22
<i>Courts</i>	6	8
<i>Discipline</i>	21	41
<i>Legal Aid</i>	5	4
<i>Official Languages</i>	4	3
<i>Parole</i>	6	2
<i>Personal / Inmate Property</i>	37	40



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<i>Placement within Institution</i>	23	26
<i>Probation</i>	-	1
<i>Program Privileges</i>	24	10
<i>Recreation</i>	24	16
<i>Request for House Arrest</i>	-	5
<i>Request Form</i>	3	7
<i>Requests for Items Denied</i>	12	14
<i>Segregation</i>	35	22
<i>Sentence / Remission Calculation</i>	19	8
<i>Staff Conduct and Department</i>	30	38
<i>Telephone Use</i>	39	35
<i>Temporary Absence Program</i>	6	3
<i>Threatened by Presence of Other Inmates</i>	9	4
<i>Use of Restraints</i>	3	2
<i>Verbal Abuse/Swearing</i>	-	2
<i>Visiting Privileges</i>	19	27
<i>Other (includes Non Jurisdiction & Inquiry)</i>	<u>130</u>	<u>123</u>
<i>Subtotal</i>	548	544
<i>Total</i>	828	843

PUBLIC SAFETY

	2007-2008	2008-2009
<i>Administration</i>	2	1
<i>Classification – Transfer</i>	-	-
<i>Complaints Regarding Staff</i>	3	1
<i>Coroner Services</i>	2	1
<i>Emergency Measures</i>	-	1
<i>Employment</i>	12	7
<i>Permits / Licenses</i>	12	11
<i>Others (includes Non Jurisdiction & Inquiry)</i>	<u>20</u>	<u>13</u>
<i>Total</i>	51	35



Social Development

	2007-2008	2008-2009
<i>Income Assistance Benefits</i>		
<i>Amount/Calculation</i>	20	15
<i>Delay</i>	5	7
<i>Denied</i>	16	28
<i>Discontinued/Reduced</i>	23	45
<i>Eligibility Criteria</i>	27	32
<i>Long Term Needs</i>	2	12
<i>Repayment</i>	<u>1</u>	<u>3</u>
<i>Subtotal</i>	94	142
<i>Housing Unit</i>		
<i>Availability</i>	17	29
<i>Evictions</i>	7	7
<i>Inspections</i>	1	3
<i>Repairs</i>	20	8
<i>Tenant Rights</i>	5	10
<i>Transfers</i>	<u>7</u>	<u>11</u>
<i>Subtotal</i>	57	68
<i>Administration</i>	9	10
<i>Adoption</i>	3	11
<i>Appeal Board</i>	1	4
<i>Appeal Process</i>	-	3
<i>Appliances/Furniture</i>	2	-
<i>Children with Special Needs</i>	-	1
<i>Complaints Regarding Staff</i>	20	20
<i>Employment</i>	23	8
<i>Health Card</i>	17	12
<i>Heat Supplement</i>	1	4
<i>Loans/Grants-Housing</i>	12	15
<i>Medical Issues</i>	9	3
<i>Nursing Homes/Residential Services</i>	29	26
<i>Protection Services</i>	103	102
<i>Training – Work Programs</i>	2	-
<i>Transportation</i>	-	6
<i>Other (include Non jurisdiction & Inquiry)</i>	<u>57</u>	<u>92</u>
<i>Total</i>	439	527



HEALTH AND WELLNESS

	2007-2008	2008-2009
<i>Addiction Services</i>	2	4
<i>Administration</i>	1	4
<i>Admission</i>	1	-
<i>Ambulance Services</i>	6	2
<i>Complaints regarding Staff</i>	-	3
<i>Hospital Employment</i>	-	1
<i>Medicare</i>	16	11
<i>Mental Health</i>	10	17
<i>Permits/Licenses</i>	-	1
<i>Placement Services</i>	-	1
<i>Public Health</i>	4	8
<i>Special Needs programs</i>	1	1
<i>Vital Statistics</i>	-	1
<i>Others (includes Non Jurisdiction & Inquiry)</i>	<u>24</u>	<u>15</u>
Total	65	69

REGIONAL HEALTH AUTHORITIES

	2007-2008	2008-2009
<i>Administration</i>	3	3
<i>Admission</i>	2	3
<i>Complaint Regarding Staff</i>	9	8
<i>Employment</i>	13	7
<i>Harassment (Employment)</i>	1	-
<i>Mental Health Services</i>	6	4
<i>Treatment</i>	8	7
<i>Other (includes Non Jurisdiction & Inquiry)</i>	<u>15</u>	<u>14</u>
Total	57	46



WORKPLACE HEALTH, SAFETY AND COMPENSATION COMMISSION

	2007-2008	2008-2009
<i>Compensation</i>		
<i>Amount/Calculation</i>	9	8
<i>Discontinued/Reduced</i>	18	14
<i>Long-term Disability Benefits</i>	<u>2</u>	<u>1</u>
<i>Subtotal</i>	29	23
<i>Administration</i>	2	5
<i>Appeals Tribunal</i>	6	5
<i>Benefits – Delay</i>	-	-
<i>Claim Denied</i>	9	13
<i>Complaints Regarding Staff</i>	6	9
<i>Deeming</i>	9	1
<i>Employability Assessments</i>	2	3
<i>Employment</i>	4	1
<i>Health and Safety</i>	2	-
<i>Medical Payments</i>	2	3
<i>Medical Rehabilitation</i>	2	2
<i>Permanent Partial Impairment</i>	-	1
<i>Retraining</i>	3	1
<i>Others (includes Non jurisdiction & Inquiry)</i>	<u>25</u>	<u>20</u>
<i>Total</i>	101	87

JUSTICE AND ATTORNEY GENERAL

	2007-2008	2008-2009
<i>Administration</i>	5	3
<i>Complaint Regarding Staff</i>	1	2
<i>Employment</i>	2	6
<i>Insurance Branch</i>	2	-
<i>Support Payment and Orders</i>	28	28
<i>Others (includes Non Jurisdiction & Inquiry)</i>	<u>54</u>	<u>23</u>
<i>Total</i>	92	62



EDUCATION

	2007-2008	2008-2009
<i>Access to School Records</i>	1	1
<i>Administration</i>	1	2
<i>Bullying</i>	-	2
<i>Children with Special Needs</i>	9	6
<i>Complaints Regarding Staff</i>	1	6
<i>Curriculum-Testing</i>	1	3
<i>Employment</i>	3	3
<i>French Immersion Program</i>	165	181
<i>Home Schooling</i>	-	2
<i>Student Placement</i>	1	-
<i>Student Transfer</i>	1	1
<i>Suspensions</i>	4	4
<i>Transportation</i>	1	3
<i>Others (includes Non Jurisdiction & Inquiry)</i>	<u>10</u>	<u>15</u>
Total	198	229

NB POWER CORPORATION

	2007-2008	2008-2009
<i>Administration</i>	4	1
<i>Billing-Amount / Calculation</i>	7	4
<i>Damage Claims</i>	-	1
<i>Disconnection</i>	23	6
<i>Employment</i>	1	-
<i>Payment Schedules</i>	1	4
<i>Security Deposit</i>	7	-
<i>Service Issues</i>	6	3
<i>Other (includes Non Jurisdiction & Inquiry)</i>	<u>20</u>	<u>14</u>
Total	69	33



TRANSPORTATION

	2007-2008	2008-2009
<i>Access/Right of Way</i>	2	1
<i>Administration</i>	1	-
<i>Complaints Regarding Staff</i>	1	-
<i>Damage Claims</i>	7	8
<i>Employment</i>	33	16
<i>Expropriation Procedures</i>	2	-
<i>Highway Signage</i>	1	-
<i>Property Issues</i>	4	4
<i>Road/Bridge Maintenance</i>	6	5
<i>Others (includes Non Jurisdiction & Inquiry)</i>	<u>5</u>	<u>11</u>
Total	62	45

MUNICIPALITIES

	2007-2008	2008-2009
<i>Administration</i>	6	2
<i>Employment</i>	6	-
<i>Expropriation</i>	2	1
<i>Local Service Districts</i>	-	-
<i>Municipal By Laws</i>	3	6
<i>Permits-Licenses</i>	1	2
<i>Privacy</i>	2	1
<i>Property Issues</i>	8	5
<i>Right to Information</i>	3	1
<i>Roads/Streets</i>	2	-
<i>Services</i>	5	1
<i>Water Sewage</i>	5	1
<i>Zoning</i>	1	2
<i>Others (includes Non Jurisdiction & Inquiry)</i>	<u>14</u>	<u>7</u>
Total	58	29

**ENVIRONMENT AND LOCAL GOVERNMENT**

	2007-2008	2008-2009
<i>Administration</i>	-	5
<i>Local Service Districts</i>	7	4
<i>Permits/Licenses</i>	3	3
<i>Petition</i>	1	-
<i>Pollution</i>	1	1
<i>Pollution – Air quality</i>	1	-
<i>Property Issues</i>	1	2
<i>Water Sewage</i>	-	1
<i>Other (includes Non Jurisdiction & Inquiry)</i>	<u>10</u>	<u>6</u>
Total	24	22

SERVICE NEW BRUNSWICK

	2007-2008	2008-2009
<i>Administration</i>	-	2
<i>Complaint Regarding Staff</i>	-	1
<i>Employment</i>	1	2
<i>Permits/Licenses</i>	4	6
<i>Property Assessment</i>	14	14
<i>Property Assessment – Appeal Procedures</i>	4	6
<i>Registry Office – Procedures</i>	4	5
<i>Rentalsman</i>	-	7
<i>Vital Statistics</i>	-	2
<i>Other (includes Non Jurisdiction & Inquiry)</i>	<u>11</u>	<u>29</u>
Total	38	65

ENERGY

	2007-2008	2008-2009
<i>Employment</i>	2	-
<i>Payment Schedule</i>	-	-
<i>Others (includes Non Jurisdiction & Inquiry)</i>	<u>10</u>	<u>16</u>
Total	12	16

**RESTIGOUCHE HOSPITAL CENTRE**

	2007-2008	2008-2009
<i>Admission – Discharge</i>	5	4
<i>Complaint regarding Staff</i>	7	6
<i>Medical Treatment</i>	3	3
<i>Mental Health Services</i>	5	7
<i>Others (includes Non Jurisdiction & Inquiry)</i>	<u>12</u>	<u>25</u>
Total	32	45

POST-SECONDARY EDUCATION AND TRAINING

	2007-2008	2008-2009
<i>Community College – Others</i>	3	5
<i>Community College – Programs</i>	1	1
<i>Community College – Testing</i>	2	1
<i>Complaint Regarding Staff</i>	-	2
<i>Employment</i>	9	3
<i>Employment Programs</i>	-	2
<i>Grants-Loans</i>	1	-
<i>Student Loans</i>	18	8
<i>Others (includes Non Jurisdiction & Inquiry)</i>	<u>15</u>	<u>7</u>
Total	49	29

NATURAL RESOURCES

	2007-2008	2008-2009
<i>Access to Property</i>	1	1
<i>Complaints Regarding Staff</i>	-	1
<i>Crown Land-Leases</i>	5	1
<i>Employment</i>	1	6
<i>Enforcement</i>	1	-
<i>Forest Protection</i>	1	-
<i>NB Trails</i>	1	-
<i>Permits – Licenses</i>	1	1
<i>Property Ownership</i>	-	1
<i>Others (includes Non Jurisdiction & Inquiry)</i>	<u>8</u>	<u>5</u>
Total	19	16



SCHOOL DISTRICTS

	2007-2008	2008-2009
<i>Access to School Property</i>	2	-
<i>Access to School Records</i>	2	3
<i>Administration</i>	3	2
<i>Appeal Process</i>	1	-
<i>Children with Special Needs</i>	13	15
<i>Closing of Schools</i>	1	1
<i>Complaints Regarding Staff</i>	5	4
<i>Employment</i>	10	9
<i>French Immersion Program</i>	1	3
<i>Home Schooling</i>	-	1
<i>Protection Services</i>	-	1
<i>Suspensions</i>	4	4
<i>Transportation</i>	9	-
<i>Others (includes Non Jurisdiction & Inquiry)</i>	<u>9</u>	<u>17</u>
<i>Total</i>	60	60



STATISTICS TABLE 2008/2009

OUTCOME OF COMPLAINTS WITHIN JURISDICTION IN 2008/2009

(Does not include Inquiries or Non-jurisdiction complaints or complaints still under investigation at year end)

Departments/ Agencies	Total	Assistance Rendered	Recommendation Made	Referral Given/ Clarification Provided	Not Substantiated	Discontinued by Client/ Ombudsman
Education	36	5	1	18	4	8
Environment and Local Government	18	1	1	8	4	4
Social Development	425	53	3	168	85	116
Health and Wellness	55	13	4	17	6	15
Justice	53	5	1	21	11	15
Municipalities	20	-	1	8	8	3
Natural Resources	15	-	-	8	5	2
NB Power Corporation	24	6	1	5	5	7
Post-Secondary Education, Training and Labour	23	-	-	9	9	5
Public Safety	744	88	4	325	146	181
Regional Health Authorities	35	2	-	23	2	8
Restigouche Hospital Centre	31	3	-	15	7	6
School Districts	49	8	-	24	4	13
Service New Brunswick	44	6	-	20	4	14
Transportation	30	1	-	13	9	7
Workplace Health, Safety and Compensation Commission	75	5	1	38	14	17
Other**	32	2	1	10	10	9
Total	1,709*	198	18	730	333	430

*This number includes investigations which were continued from the previous years.

** Departments/agencies with 10 or less complaints during 2008/2009.

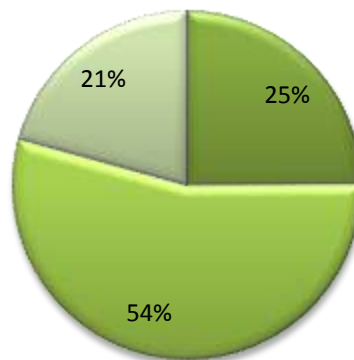
***201 complaints were still under investigation at year end.



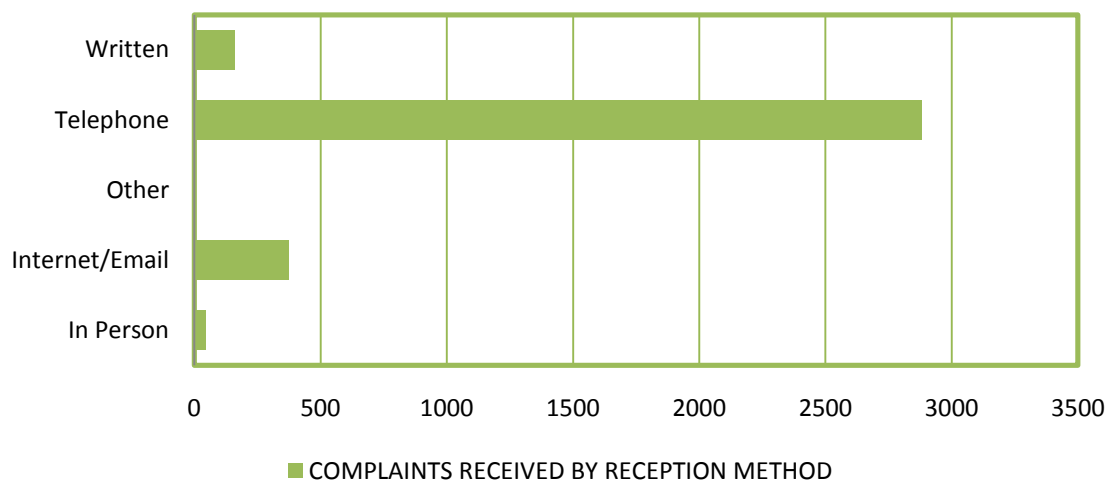
CHARTS

COMPLAINTS, INQUIRIES AND REQUEST FOR INFORMATION

■ Enquiries ■ Investigation Required ■ Non-Jurisdiction



COMPLAINTS RECEIVED BY RECEPTION METHOD





FIVE MAJOR SOURCES OF COMPLAINTS



Outcome of Complaints

