



**Office of the
Citizens' Representative**

**2021-22
ANNUAL PERFORMANCE
REPORT**

September 2022

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Message from the Citizens' Representative

It is my duty and privilege to submit to the House of Assembly our 2021-22 Annual Performance Report under the **Transparency and Accountability Act**. This Report is an update on progress made under our 2020-23 Activity Plan, which was tabled in the House in October of 2020.

The key strategic issue in the Activity Plan was ensuring that the Office can strengthen its internal capacity to resolve matters faster through adopting best practices from other jurisdictions, and pursuing more effective liaisons with key contacts in the public service to resolve matters for citizens in a timelier fashion.

The increase in collaboration among Ombudsman offices at the national level, through anonymized case studies and monthly learning opportunities has provided OCR staff with wider exposure to national issues of mutual interest, and established networking opportunities and contacts in other provincial offices. In addition, we continue to reciprocate with our national colleagues on topics of interest, research and the release of public reports.

In complaints management, timeliness matters. We try our level best to lead by example in terms of our file turnover and response times to inquiries. Our emphasis on developing positive and responsive relationships with key contacts (or "designates" as they are known internally) has paid dividends for both citizens and government in terms of complaint resolution. We value designate input and feedback on what we can do better and we implement their suggestions wherever possible. We appreciate their efforts to liaise with OCR in addition to their other prescribed duties. A great example of the strides we are making can be found in Adult Corrections where we have begun monthly meetings with senior leadership. This open forum for concerns and trend analysis, combined with institutional updates, provides our investigators with up to date information and descriptions of emerging issues from correctional officials themselves. These meetings increase our ability to clear miscommunication, speak directly to issues of concern, and resolve complaints before they need to proceed to the formal investigative stage.

Ultimately, it is our hope that these institutional enhancements will benefit the people we serve, who bring their complaints forward for consideration and resolution. We are pleased to report progress in this area despite the challenges our team has faced in the last fiscal year. The staff of OCR are to be given full credit for their daily unwavering dedication to our mandate, and their desire to help the citizens of Newfoundland and Labrador wherever and whenever they can.

This Report was prepared under my direction in accordance with the **Transparency and Accountability Act** for a Category 3 entity. As Citizens' Representative, I am accountable for the actual results reported in this document.



Bradley J. Moss
Citizens' Representative

OVERVIEW

The **Citizens' Representative Act** has been in force since December 2001. This statute creates and sets out the duties and obligations of the Citizens' Representative to investigate complaints from members of the public, Members of the House of Assembly, and the provincial Cabinet about matters of administration. The phrase "matters of administration" has been judicially considered and was defined by the Supreme Court of Canada¹ as encompassing everything done by governmental authorities in the implementation of government policy.

On two occasions (2007, 2014), the legislative mandate of the OCR expanded to make the OCR the investigative unit for public interest disclosures made by employees of the House of Assembly and the wider public service. Conventionally known as "whistleblower programs," public interest disclosures contain allegations of wrongdoing in the workplace, including breaking federal or provincial law, gross mismanagement of funds, mismanagement of government assets or threats to public safety or the environment. Reprisals against disclosers or those seeking advice are prohibited by law and punishable by loss of employment and/or fines of up to \$10,000 as determined by the Labour Relations Board.

In December of 2019 the House of Assembly concurred in a report by the Privileges and Elections Committee to establish a stand-alone anti-harassment policy for complaints directed at Members of the House of Assembly. This program took effect on April 1, 2020.

Information and FAQ on all aspects of the OCR mandate can be found on the OCR website www.citizensrep.nl.ca or by contacting the office directly.

Bradley Moss is the Citizens' Representative. As of March 31, 2022, OCR has a permanent staff of nine including:

- an Assistant Citizens' Representative (female)
- two Senior Investigators (one female, one male)
- two Investigators (female)
- one Intake Officer/Investigator (female)
- one Office Manager (female), and
- one Executive Secretary (female)

¹ British Columbia Development Corporation v. Friedmann (Ombudsman) [1984] 2 SCR 447

In 2021-22, the OCR received:

- 777 complaints/inquiries under the **Citizens' Representative Act**,
- Six complaints/inquiries under the **Public Interest Disclosure and Whistleblower Protection Act**² and,
- Two complaints/inquiries under the **House of Assembly Accountability, Integrity and Administration Act**²

OCR closed 773 complaint/inquiry files across all business lines during 2021-22 (including complaints/inquiries from the previous fiscal year).

OCR made 20 formal recommendations to various departments, agencies, boards and commissions. Formal recommendations flow from statutory investigations initiated under Section 15 of the **Citizens' Representative Act**, and are designed to remedy cases of unfairness or error, and help prevent circumstances connected to the complaint from re-occurring.

There were zero recommendations made to government under the **Public Interest Disclosure and Whistleblower Protection Act**.

There was one recommendation made under Part VI of the **House of Assembly Accountability, Integrity and Administration Act**.

OCR can be contacted by:

Telephone: (709) 729-7647
(800) 559-0079

Address: 4th Floor, Beothuck Building
20 Crosbie Place
P.O. Box 8400
St. John's, NL A1B 3N7

Email: citrep@gov.nl.ca Website: www.citizensrep.nl.ca

Total operational expenditures of the OCR for 2021-22 were \$845,082. Further information on budgeting and expenditures can be found on page 16.

² Details on OCR activities pursuant to the **Public Interest Disclosure and Whistleblower Protection Act** require stand-alone reporting to the House of Assembly. Disclosures received under Part VI of the **House of Assembly Accountability, Integrity and Administration Act** are reported in the Citizens' Representative's Digest.

HIGHLIGHTS AND PARTNERSHIPS

In addition to prosecuting its core mandate services of complaint investigation and mediation, some key highlights and accomplishments of the OCR during 2021-22 include:

- Providing instruction on trends analysis at “Ombuds Essentials”, a joint offering of the Forum of Canadian Ombudsman / Osgoode Hall Law School Professional Development program.
- Participation in Forum of Canadian Ombudsman (FCO)/Association of Canadian College and University Ombudspersons (ACCUO) conference planning.
- Participation in FCO Virtual Coffee Break: Case Management
- Membership on the House of Assembly Classification Review Committee.
- Participation in annual Federal / Provincial / Territorial public interest disclosure meetings (2 day videoconference).
- Participation on National Public Interest Disclosure Awareness Day.
- Ongoing membership and participation in the Canadian Council of Parliamentary Ombudsman (CCPO).
- Participation in CCPO committee “Raise the Bar” training proposal.
- CCPO Communications group teleconference.
- CCPO participation in provincial webinars highlighting unique issues for parliamentary ombuds.
- Presentation to the CCPO: A Role for Ombuds Following Deaths in Custody
- Continuing to produce our Office newsletter - “OCR Insights” - a quarterly update on the OCR’s activities.
- Participation by five investigators in a two-day training offered by the Gardiner Centre entitled The S.I.M.P.L.E Approach to Investigating Workplace Incidents.
- Participation in Intercultural Competency Workshop through Government of Newfoundland and Labrador.

- Participation in Fairness 101: An Introduction to Administrative Fairness in the Public Sector through the Office of the BC Ombudsperson.
- Participation in Exploring Low-Barrier, Gender-Focused Approaches to Housing through the Homelessness Learning Hub.
- Participation by webinar on Disability Related Advocacy through Empower Services (Newfoundland and Labrador College of Social Workers).
- Participation by webinar on Building Collaborative Relationships and Fostering Cultural Competency in Providing Safe and Effective Services (Newfoundland and Labrador College of Social Workers).
- Participation by webinar on Trauma Informed Practice (Newfoundland and Labrador College of Social Workers).
- Participation by webinar on Gender Based Violence Counselling: Tools and Approaches that Empower (Newfoundland and Labrador College of Social Workers).
- Participation by webinar Homelessness and Covid-19: A Local Context (Newfoundland and Labrador College of Social Workers).
- Participation in various PStAccess courses, including Conflict Resolution, Dealing with Difficult People and Services with Dignity, Fairness and Respect.
- Meetings with Eastern Health to support the transition of medical services within Adult Corrections from the Department of Justice and Public Safety.
- Recording and sharing quarterly statistics of medical inquiries received within Adult Corrections population with Eastern Health.
- Provided Bachelor of Social Work field practicum opportunity to 4th year student in conjunction with Memorial University of Newfoundland, School of Social Work.
- Presentation of the Citizens' Representative Office mandate and administrative fairness to students of the School of Social Work, Memorial University of Newfoundland.
- Information sharing meeting with NAVNET, Eastern Health organization to support individuals with complex needs navigate government and community systems.

VISION

A citizenry confident in a public service that is fair and grounded in integrity and good governance.

REPORT ON PERFORMANCE

Fiscal year 2021-22 is the second year of OCR's 2020-23 Category 3 Activity Plan, which was tabled in the House of Assembly on 7 October 2020. The issue, goal and objectives of the Activity Plan are as follows:

Strategic Issue

The Activity Plan focused on the issue of strengthening OCR capacity to respond to citizen complaints with improved efficiency.

Two goals were identified in relation to this issue, with three objectives identified to fulfill both goals. A full discussion of results follows the report on the annual objective.

Issue: Strengthen OCR Capacity to Respond to Citizen Complaints with Improved Efficiency

The 2020-23 Activity Plan identified OCR's intent to strengthen the capacity of investigators to accept and conduct formal and informal inquiries with improved efficiency. The impetus to improve efficiency was based on the acknowledgement that a naturally occurring aspect of long term complaint management is the overlap or repetition of issues presented. Further acknowledgment of corporate knowledge accumulated by staff of existing government policies, procedures and practice prove immensely valuable in complaint resolution. Likewise, this knowledge extends to the vast number of recommendations flowing from previous investigations since OCR existence (2002) and informs future investigations.

The 2020-23 Activity Plan further identified that key contacts or "designates" in the provincial public service are a source of corporate knowledge that enhances the ability of the Office to respond efficiently and practically to citizens seeking support.

The Citizens' Representative set the following two goals in 2020:

Goal 1: By March 31, 2023, the Office of the Citizens' Representative will have undertaken measures to enhance in-house corporate knowledge and

to promote increased knowledge and capacity of staff in the interest of more efficient complaint resolution.

Goal 2: By March 31, 2023, the Office of the Citizens’ Representative will have reviewed and analyzed existing supportive resources and practices for designates within the public service.

A total of three yearly objectives were identified for each goal. The second objective relevant to each goal was set for completion in the time period covered by this report:

Objectives Pursuant to Goal 1:

Goal 1: By March 31, 2023, the Office of the Citizens’ Representative will have undertaken measures to enhance in-house corporate knowledge and to promote increased knowledge and capacity of staff in the interest of more efficient complaint resolution.

Objective 2: By March 31, 2022, the Office of the Citizens’ Representative will have undertaken measures designed to improve efficacy of access to supporting information and the ongoing compilation of corporate knowledge.

Indicator: Reorganize OCR shared directory to maintain areas of corporate knowledge in a manner that is easily navigable.

Indicator: Review and update OCR Investigator’s Manual to reflect current and relevant policies, investigative techniques and resources.

Indicator: Meet with staff individually to assess training and resource needs identified within public bodies under OCR jurisdiction and referral sources for non-jurisdictional complaints.

Our activities to meet this objective are as follows:

Planned	Actual
1. Reorganize OCR shared directory to maintain areas of corporate knowledge in a manner that is easily navigable.	1. On 24 February 2022, staff were formally introduced to the shared directory reorganization, which included a document with folder heading and subheadings to support navigation of the new structure.

<p>2. Review and update OCR Investigator's Manual to reflect current and relevant policies, investigative techniques and resources.</p> <p>3. Meet with staff individually to assess training and resource needs identified within public bodies under OCR jurisdiction and referral sources for non-jurisdictional complaints.</p>	<p>2. Updated Investigator's Manual was placed in the shared directory 11 March 2022.</p> <p>3. From 16-21 March 2022, staff were consulted individually to identify programs and services delivered by public bodies and community organizations where our corporate knowledge was lacking.</p>
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Discussion of Results

The three activities above provided an opportunity for our Office to strengthen existing OCR processes and to seek opportunities to support efficiencies within our mandate, including access to information and resources.

1. Our evaluation of OCR shared directory and consultation with other jurisdictions identified methods to restructure the storage of corporate information using a pre-existing forum. This permitted us to start the project using existing resources. The shared directory was reviewed in its entirety for the purposes of assessment and identification of the types of information that was being stored, removal of information that was obsolete, and to identify an organizational structure that would provide staff with ease of access to current and relevant information. The current organization reflects administrative processes, supporting documentation and resources, as well as reporting requirements under all lines of work prescribed to the OCR. In addition, organization of public bodies scheduled to the legislation supporting OCR's lines of work and the corporate knowledge, research and work products that relate to each public body have been organized to increase ease of access. This activity was a work in progress throughout the entirety of the fiscal year and the organization of the shared directory will continue to be a living project as new information is stored and obsolete information is removed/updated as necessary. The revised shared directory presents information in a manner that is more readily available to staff. It provides staff with an ability to access internal policies and procedures, information of provincial programs and services and previous work completed by OCR in relation to these public programs and services. A sense of having shared ownership of the newly organized directory

by staff is integral to encourage sharing of new and emerging information that is learned in our individual investigative work. With a sense of shared ownership by staff it is anticipated that the sharing of corporate knowledge will be available and accessibly organized in a manner that provides optimal access for current staff, new employees and students.

2. OCR Investigator's Manual is a hub for storage of current OCR policies and procedures, in addition to investigative techniques and resources to support investigative work. Referral sources are also found within to support investigators when working with citizens who may benefit from alternate services or advocacy.

OCR responsibility and a desire to respect and protect the sharing of personal, confidential and sensitive information at an optimal level guided updates to our informal and formal investigative process. Updates to our investigative manual related to internal confidentiality and privacy processes, accessing interpretive services and mandatory reporting mechanisms for children and adults in need of protection will ensure that we are supporting and respecting citizens optimally.

This extra care and attention to safeguarding personal, confidential and sensitive information will work to create efficiencies as citizens and government departments/agencies alike will understand safeguards taken to protect personal and sensitive information and will feel more confident to engage in information sharing.

OCR solidified processes to ensure the consideration and the availability of interpretive services to support all citizens and ensure an increasingly diverse population has adequate access to the services of OCR.

To ensure staff are supported with accurate information in respect of the duty to report child and adult neglect and abuse, consultation with the reporting departments confirmed and updated our previous reporting process and contacts.

Our reliance on referral networks to provincial and federal government programs and community organizations that support and provide services to the many citizens with whom our staff interact requires an accurate and real time depiction of program information and contact information. As a means of keeping this information current and relevant, this information was removed from our investigation manual and aligned with similar live documents. This required an expansion of two separate contact lists, one which provides appropriate contacts for OCR staff only, the other which would provide referral information for citizens requiring additional community, provincial and federal government referral contacts. This will serve to improve efficiencies and accuracy of information as these lists are updated regularly in real time, and negates the requirement to update the same information in two separate areas.

As our shared directory organization has developed, previously identified practices that have organically evolved, have been formally documented as OCR policies or procedures and placed with our Investigator Manual with existing policies for ease of access and in anticipation of clear and consistent practice by staff.

To ensure that OCR investigative techniques are in line with best practice, OCR reviewed and consulted with recent publications and available updates of research and literature as it relates to effective investigation generally and more specific, to ombudsman investigation nationally and internationally. This review confirmed that our current techniques are largely in line with best practice. OCR review will continue to ensure our investigative techniques follow best practice and will alter current guidance and practice as shifts in investigative techniques should arise.

OCR staff will typically identify training opportunities as they arise, in addition to suggesting new learning opportunities with new program areas within government or with the community. Meeting with staff individually provided an opportunity to create a more purposeful list of potential learning opportunities, both formal and informal. This undertaking enabled OCR to identify the priority learning goals of staff from both a general and a professional perspective. We heard of skill enhancing training from investigative techniques, sensitivity and awareness when working with individuals with mental health and cultural differences. Additionally, staff were able to identify program areas within government that would be worthwhile to seek an enhanced knowledge by informal meeting or requesting policy and procedure information. Likewise, community organizations have new programs and services for which OCR would benefit from understanding how programs are delivered and how they are accessible to citizens.

Outlook: Objective 3

Objective 3: By March 31, 2023, the Office of the Citizens' Representative will have analyzed the results of the measures undertaken and internally discussed further areas of improvement.

Indicator: Analyzed improvements made in 2021-22.

Indicator: Identified further process improvements.

Objectives Pursuant to Goal 2:

Goal 2: By March 31, 2023, the Office of the Citizens' Representative will have reviewed and analyzed existing protocols involving interactions with designates within the public service.

Objective 1: By March 31, 2021, the Office of the Citizens’ Representative will have reviewed and analyzed existing supportive resources and practices for designates within the public service.

Indicator: Completed a survey with public service designates on methods to improve the efficiency of the relationship with the Office of the Citizens’ Representative.

Objective 2: By March 31, 2022, the Office of the Citizens’ Representative will have undertaken measures designed to facilitate and support the acquisition of information and policies from the designate network.

Our activities to meet this objective are as follows:

Planned	Actual
1.Complete survey of designate network and analyze outcomes.	<p>1.Surveys created in consultation with Department of Finance, Economic and Statistics Branch.</p> <p>Surveys were distributed on June 23, 2021 to forty-two designates.</p> <p>Results of survey received July 27, 2021.</p> <p>Outcomes analyzed August 2021.</p>
2.Review designate list to ensure that it is current and inclusive of all public bodies represented by OCR jurisdiction.	2.Review of designate list completed February 2021. Updating continues due to turnover in staffing.
3.Engage each designate to strengthen the perception of mutually beneficial relationship between OCR and the public body. Identify any further support the OCR can offer to each public body to facilitate efficiencies.	3.7 March 2022 completed email outreach to forty-two designates of public bodies.
4.Assess the current brochure: A Guide for OCR Designates and seek input from designates and staff for improvement.	4.March 2022 updates to designate brochure following input from staff and designates.

Discussion of Results

1.To meet our objective from the previous fiscal year, the completion and analysis of the designate survey carried over into this reporting fiscal year. The survey was intended to improve the efficiency of existing and new relationships with designates.

OCR engaged the support of the Economic and Statistics Branch of the Department of Finance to ensure a heightened sense of anonymity for participants as a means of ensuring that designates could openly identify any perception of the working relationship and any suggestion for how the relationship could more optimally service the mandate of both parties to the relationship.

The survey consisted of twelve relational questions, with five questions eliciting feedback of the positive aspects of the working relationship and suggestions for improvement of the existing relationship. Surveys were distributed to 42 designates, with an exceptional 71% response rate.

The response from designates was overwhelmingly positive. The majority of designates reported being happy with their relationship with OCR and the support provided to designates by OCR. While a large majority of designates reported a good understanding of their designate role and responsibilities and that of OCR, most were unaware of the existence of the designate brochure. A significant number of designates reported they would benefit from a periodic meeting with OCR staff to better understand the roles and responsibilities and to discuss trends in issues specific to their program area(s).

2.OCR designate list is an integral tool to support investigators as they reach out to provincial government departments and agencies. The list is comprised of those public bodies most frequently contacted, with new designates, as identified added to the listing. An exercise was undertaken to review the document in its entirety to ensure accuracy of public bodies contained within, to verify the existence of named designates and telephone numbers and to purposefully seek out designates for public bodies that did not have one currently identified. This list also was extended by adding additional contacts contained in our investigative manual (as previously discussed) and to combine another separate list of contacts from adult correctional institutions, which was previously contained in a separate listing. This effort has streamlined the availability and access to all contacts in an efficient manner, with assurance to investigators that the information reflected within is most accurate.

3.Following outreach to the same forty-two designates contacted in our survey, specific feedback was received regarding the value of meeting to strengthen the designate relationship. Virtual, telephone or in-person meetings were held with twelve interested designates of public bodies across the province. The objective of the meetings was primarily to ensure understanding of our mutual roles in the OCR/designate relationship. The landscape of our individual work was discussed

to identify the existence of more efficient ways of working together to achieve desired results with the best use of our respective resources. Our desired goal was to foster an open and respectful relationship that would promote ease of contact by either party as necessary, thereby optimizing mutual efficiencies in the complaint-handling milieu.

4. Staff and designates provided valuable feedback to improve our brochure: **A Guide for OCR Designates**. An alteration to the brochure was made to provide extra confidence to designates in the amount of support available from OCR upon taking on the role of designate and also during navigation of inquiries and investigations from our staff. The brochure identifies that orientation is available to new designates upon receipt of designation and a commitment of support for the duration of their designation at any time. It was also important for OCR to ensure extra confidence to designates of the care that is undertaken by OCR to protect information of the public body that may be sensitive in nature, particularly if it doesn't serve a clear purpose to share.

Outlook: Objective 3

By March 31, 2023, the Office of the Citizens' Representative will have analyzed the results of the measures undertaken and internally discussed further areas of improvement.

Indicator: Analyzed improvements made in 2021-22.

Indicator: Identified further process improvements.

OPPORTUNITIES AND CHALLENGES AHEAD

The opportunities available to, and the challenges confronting OCR for fiscal year 2020-21 are:

- Planning for province wide outreach with public bodies, community and citizens following in excess of two years wherein travel and personal contact was limited.
- Availing of the opportunity to strengthen our capacity to respond to citizen complaints with improved efficiency, in line with our 2020-23 Activity Plan.
- Continuing to plan the important work identified herein while maintaining efficiencies with OCR core mandate.

FINANCIAL STATEMENTS

Expenditure and revenue figures included in this document are based on public information provided in the Report on the Program Expenditures and Revenues of the Consolidated Revenue Fund for Fiscal Year Ended 31 March 2022 (unaudited).

OFFICE OF THE CITIZENS' REPRESENTATIVE

	<u>Estimates</u>		
	Actual	Amended	Original
01. Salaries	706,911	798,100	798,100
Operating Accounts:			
Employee Benefits	88	7,000	7,000
Transportation and Communications	5,354	34,800	34,800
Supplies	4,032	5,000	5,000
Professional Services	40,456	69,600	69,600
Purchased Services	84,464	108,000	108,000
Property, Furnishings and Equipment	3,777	8,000	8,000
02. Operating Accounts	138,171	232,400	232,400
Total: Office of the Citizens' Representative	845,082	1,030,500	1,030,500

Audited financial information will be included in the Annual Report of the House of Assembly Management Commission to be tabled by the Speaker during a future sitting of the House of Assembly. The Office of the Citizens' Representative does not currently have a requirement for a separate, individual audited financial statement.