



Office of the  
Citizens' Representative

Newfoundland and Labrador

Annual  
Digest

April 1, 2021 -  
March 31, 2022

Photo Credit: Patricia Holden





## Office of the Citizens' Representative

Province of Newfoundland and Labrador

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December 2022

The Honourable Derek Bennett  
Speaker  
House of Assembly  
Confederation Building  
P.O. Box 8700  
St. John's, NL A1B 4J6

Dear Mr. Speaker:

It is my privilege to submit to the House of Assembly and the citizens of Newfoundland and Labrador the Annual Citizens' Representative Digest. It provides statistics on complaints received, and describes the day-to-day work of this Office of the House of Assembly during the period April 1, 2021 to March 31, 2022.

Respectfully submitted,

Bradley J. Moss  
Citizens' Representative

## Our Mission

Through investigation and mediation, the Office of the Citizens' Representative strives to achieve high standards of trust in, and accountability by, the Public Service of Newfoundland and Labrador. Our services are independent, impartial and free.

## Our Mandate

Under its primary mandate, the **Citizens' Representative Act**, the OCR provides an ombudsman service to citizens who interact with the Government of Newfoundland and Labrador.



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Seeking fairness...  
finding solutions





# MESSAGE FROM THE CITIZENS' REPRESENTATIVE



**Bradley J. Moss**

This year the Office of the Citizens' Representative celebrated the 20<sup>th</sup> anniversary of its opening in February of 2002. I remember that time well. I came to work for my first day to find people waiting to get in for appointments. After an 11 year hiatus with no Ombudsman office, we were quickly deluged with files from people who were looking for our help and had nowhere else to turn. Most of us in the office had come from the private sector so we not only had to set up an Ombudsman system and begin intake of complaints, but we had to individually learn the ropes of internal government operations, policies and lingo, while simultaneously trying to raise the profile of this new public body. I had no aspirations to be the Citizens' Representative. We all just wanted to do a good day's work for the people who came to us for assistance.

Those first few years were challenging, but ultimately educational. I learned about trapping, quarrying, hydrology, wharf construction, taxation, pensions, workers' compensation, special education and lotteries, to name just a few areas of government regulation. But the main thing I learned was at the end of the day, people just want to have their grievances heard by someone genuinely interested in listening. Sometimes you can help, sometimes you can't; but there is an inherent positive in providing a listening, empathetic ear to someone in crisis. This is the power of the Ombudsman concept over 200 years after its modern incarnation as an officer of a parliament: an impartial body whose sole purpose is to listen, mediate, investigate and advocate for fair treatment for all.

Being selected for my current role seventeen years later was the honour of a lifetime, and since my appointment our team has continued to build on the foundations laid by my predecessors in this office. Twenty years after its inception, this office is still staffed, indeed blessed, with people who come to work early every day with a common purpose: to help citizens resolve their complaints wherever we can; help government improve its services to the people of the province; and help the legislature by providing independent feedback on program and policy outcomes. With collaboration and respect as the watchwords, we still rely on building and maintaining positive relationships with public bodies to get this business done.

Overall, complaints to my office were up this year by 18%. The majority of them continue to come from correctional centres. This is understandable and not a departure from the experiences of other provinces and territories in Canada. These centres do not close, they are generally fully populated. Our office is well known among inmate populations, and there are thousands of interactions between incarcerated people and adult corrections on a daily basis. An element of complaint is bound to arise.

This year we started meeting with senior correctional officials on the first Wednesday of every month to dialogue, diagnose trends and find ways of making things better for offenders and officials alike. While we cannot cure every ill, these sessions have increased trust and improved our relationship with the Adult Corrections Division and I thank the Department of Justice and Public Safety for agreeing to participate regularly. I believe these consultations have led to positive outcomes on many administrative aspects of adult custody.

Thank you for taking the time to read this report about the work of our Office. I trust you will find it informative, and that it provides a glimpse at how we seek fairness and find solutions.



# About Our Office

For over 50 years, Canadian provinces, universities and colleges, and the federal government have relied on ombudsman services to mediate and investigate complaints about public bodies. In 2021, Canada continues to be an active player on the forefront of the evolution of the ombudsman concept, as it expands further into the public and private sector.

The Office of the Citizens' Representative (OCR) opened in St. John's in February 2002. The OCR serves the public, and the House of Assembly, in the classical parliamentary ombudsman role. In 2007, our mandate expanded with the passage of the **House of Assembly Accountability, Integrity and Administration Act**. Under part VI of that Act, we are tasked with the investigation of public interest disclosures of wrongdoing made by members and staff of the House of Assembly.

Since 2014, the OCR has also been responsible for the government-wide Public Interest Disclosure Program. Under the **Public Interest Disclosure and Whistleblower Protection Act**, (PIDA), government employees have the right to confidentially disclose wrongdoing in their workplace that should be stopped or corrected in the public interest. The PIDA imposes penalties on anyone who commits a reprisal against persons who make disclosures, or who seek advice on the commission of wrongdoing in the public service. Previous reports relating to PIDA can be found on our website: <https://www.citizensrep.nl.ca>

Effective April 1, 2020, the OCR became responsible for receiving complaints from

employees under the *Harassment-Free Workplace Policy Applicable to Complaints Against Members of the House of Assembly*. Complaints under this policy can be brought forward by another Member of the House of Assembly, or an employee of the legislative, or executive branch of the Provincial Government. It is the role of the OCR in this capacity to provide information and supports to employees to address allegations of harassment and, where an employee requests, investigate these allegations and report findings to the House of Assembly.

## How We Work

As a non-partisan Statutory Office, the OCR investigates public bodies based on complaints received from:

- citizens
- whistleblowers
- employees of the legislative and executive branch
- Members of the House of Assembly and
- the Lieutenant Governor-in-Council

Under its primary mandate, the **Citizens' Representative Act**, the OCR provides an ombudsman service to citizens who interact with the Government of Newfoundland and Labrador. Citizens who access, or attempt to access any Provincial Government services under line departments or agencies, boards or corporations, often reach out to the OCR as they navigate government and various administrative processes.

## Who We Can't Investigate

There are a number of statutory restrictions on the OCR's jurisdiction. These are set out in Section 19 of the **Citizens' Representative Act** and include:

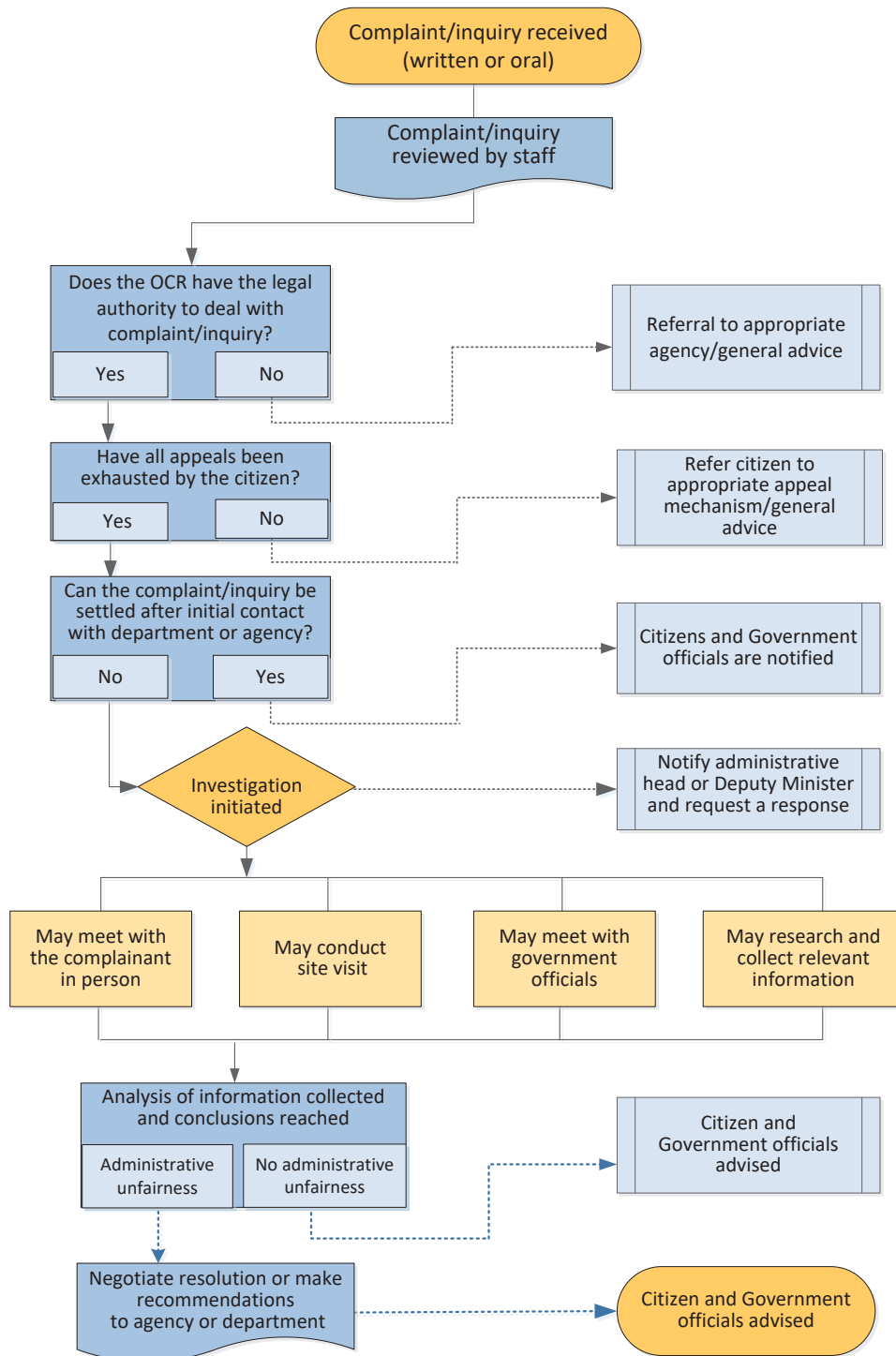
- the House of Assembly or a committee thereof;
- the Lieutenant Governor-in-Council;
- Executive Council and its various divisions;<sup>1</sup>
- the court, the members of the judiciary, masters of the court, and justices of the peace;
- awards, decisions, recommendations or omissions of arbitrators made pursuant to the **Arbitration Act**;
- matters in respect of which there are existing rights of appeal or objection under another Act until such time as these rights are exhausted or the time to appeal has expired;
- refusals to provide access to information under the **Access to Information and Protection of Privacy Act, 2015**;
- matters falling within the jurisdiction of the Office of the Child and Youth Advocate; and,
- certain matters relating to the administration of the **Personal Health Information Act** or a matter falling within a Commissioner's purview under that Act.

The **Citizens' Representative Act** also does not cover the acts, errors, omissions or decisions of the Government of Canada, or the municipal level of government. Neither does it authorize the investigation of private companies or private citizens.

<sup>1</sup> The Executive Council is exempt from the **Citizens' Representative Act** but is subject to investigation under the **Public Interest Disclosure and Whistleblower Protection Act**.

# The Complaint Process

It is important for citizens to know what to expect with respect to the complaint process used by our Office. The following chart helps to illustrate how complaints and inquiries are processed.





# How We Handle Complaints

The case summaries within this Digest will demonstrate examples of the following types of services provided to citizens.

**The OCR engages with citizens to determine how best to resolve a particular matter of administration.**



## **Inquiry - Early Resolution**

Often, citizens' complaints can be resolved through mediation or facilitation when investigation is not required to resolve, at best, or provide reasons why a matter cannot be resolved to citizens' satisfaction, at least. Public bodies provide the OCR with open lines of communication in the interest of early resolution or settlement of complaints.



## **Investigation**

Citizens' complaints sometimes require formal investigation where there exists a prima facie appearance of unfairness. Formal investigations can, where unfairness is identified, result in recommendations to settle complaints for citizens. Alternately, where it has been found that departments and/or agencies have afforded adequate administrative fairness, the OCR endeavours to provide sound reasoning to citizens for such findings.

The Citizens' Representative is also empowered to launch investigations in his or her own discretion, without a specific named complainant.



## **Navigation, Self-Advocacy and Referral**

Citizens contact the OCR from all walks of life and with a wide range of interpersonal skills and knowledge. Where appropriate, the OCR will provide support to citizens by referring them to available appeal mechanisms or the appropriate program(s) within government to address their complaints. Sometimes, citizens may prefer to address concerns on their own, but require direction and information to support their self-advocacy. In situations where citizens' complaints are non-jurisdictional, the OCR will refer the complainants to the appropriate agencies to deal with their concerns. In these situations, the OCR can often link the citizens directly with the person(s) they need to speak with or provide forms, telephone numbers, internet links and email addresses to individuals who need alternate avenues of redress.

## A Month in Review

Intake is an extremely important function in any complaint-handling organization. It covers a wide array of topics each month. To inform readers of the nature and volume of complaints at our intake stage, we select one month from the fiscal year to furnish examples of what we hear. The following is a cross section of allegations and issues raised by citizens in January 2022.

ALLEGATION	DEPARTMENT
Inadequate access to clothing and medication following admission.	Justice and Public Safety – Adult Corrections
Inadequate access to recreation and shower. Alleged use of force.	Justice and Public Safety – Adult Corrections
Unfair public health protocol (COVID-19) in personal care home.	Eastern Health
Lack of support for person facing chronic homelessness. (2)	Newfoundland and Labrador Housing
Access to recreation.	Justice and Public Safety – Adult Corrections
Inadequate explanation for unit lockdown.	Justice and Public Safety – Adult Corrections
Concerns with complaint management, public safety concerns and conflict of interest.	Fisheries, Forestry and Agriculture
Lack of medical attention following injury.	Justice and Public Safety – Adult Corrections
COVID-19 protocols in long term care.	Western Health
Isolation placement following positive COVID-19 test.	Justice and Public Safety – Adult Corrections
Reduction of benefits.	WorkplaceNL
Assault by prison guards.	Justice and Public Safety – Adult Corrections
Seeking adequate and affordable housing.	Newfoundland and Labrador Housing
Access to COVID-19 vaccine.	Justice and Public Safety – Adult Corrections
Dietician referral and COVID-19 visitation restrictions in long term care facility.	Eastern Health
Delay with mail delivery.	Justice and Public Safety – Adult Corrections
Concern with enforcement of Royal Newfoundland Constabulary (RNC) policies related to landlord/tenant issues.	Referred to RNC
Illegal detainment under federal immigration legislation and improper treatment.	Justice and Public Safety – Adult Corrections
Inappropriate communication between previous employer and potential employer.	Conseil Scolaire Francophone Provincial De Terre Neuve-et-Labrador
Inadequate gluten-free diet and request for dental.	Justice and Public Safety – Adult Corrections
Unfair treatment by private employer.	Out of jurisdiction – referred to Labour Standards

## A Month in Review (cont'd)

ALLEGATION	DEPARTMENT
Denied access to private call with lawyer.	Justice and Public Safety – Adult Corrections
Unsafe conditions in community care home.	Out of jurisdiction – referred to management of home and Eastern Health.
Inadequate access to canteen.	Justice and Public Safety – Adult Corrections
Delay in processing income support application.	Children, Seniors and Social Development – Income Support Division
Unfair termination from volunteer housing committee and concerns with actions taken against tenant by Chairperson of committee.	Out of jurisdiction – referred to Newfoundland and Labrador Housing
Inadequate notice for cross-island travel.	Justice and Public Safety – Adult Corrections
Delay accessing medical treatment.	Eastern Health
Lack of access to hot water/shower.	Justice and Public Safety – Adult Corrections
Complaint against municipality.	Out of jurisdiction – referred to Department of Municipal and Provincial Affairs
Lack of adequate cleaning supplies.	Justice and Public Safety – Adult Corrections
Complaint about actions of Royal Newfoundland Constabulary (RNC).	Out of jurisdiction – referred to RNC Public Complaints Commission
Unfair institutional placement.	Justice and Public Safety – Adult Corrections
Improper adjudication of application.	WorkplaceNL
Glass found in meal provided to inmate.	Justice and Public Safety – Adult Corrections
Issues with conditions of emergency housing.	Newfoundland and Labrador Housing
Inadequate support with MCP application.	Justice and Public Safety – Adult Corrections
Access to home support.	Labrador-Grenfell Health
Unfair termination of meal supplement.	Justice and Public Safety – Adult Corrections
Denied access to escort for medical transportation	Health and Community Services - Medical Transportation Assistance Program
Inadequate COVID-19 health protocols.	Justice and Public Safety – Adult Corrections
Eviction due to rental arrears.	Newfoundland and Labrador Housing
Denied access to canteen.	Justice and Public Safety – Adult Corrections
Non-payment of municipal fees.	Children, Seniors and Social Development - Income Support
Disrespectful behaviour of correctional staff.	Justice and Public Safety – Adult Corrections
Denied access to health information of family member.	Western Health
Denied access to evidence for disciplinary court.	Justice and Public Safety – Adult Corrections



## A Month in Review (cont'd)

ALLEGATION	DEPARTMENT
Lack of action taken on protection referral.	Child Protection and Youth Services
Issue with COVID-19 testing process.	Central Health
Property dispute.	Out of jurisdiction - referred to Public Legal Information Association of NL
Unfair COVID-19 visitation protocols.	Western Health
Need for special diet; broken television unit; failure to hold disciplinary court within policy timeframe; and appeal of disciplinary charge.	Justice and Public Safety – Adult Corrections
Inadequate investigation process.	Royal Newfoundland Constabulary Public Complaints Commission
Private property assigned as Crown land.	Fisheries, Forestry and Agriculture



## Report on Investigations - Recommendations

The **Citizens' Representative Act** requires our Office to report the findings resulting from a formal investigation. Formal investigations are typically undertaken following complaints received from citizens where the presenting issues cannot be resolved through informal communication with the relevant public body.

The Act further provides the OCR with authority to make recommendations to provincial public bodies following formal investigations. Recommendations will flow from investigations where there have been findings that citizens have not been afforded administrative fairness. Any recommendations offered to public bodies will either suggest individual remedies to affected citizens or systemic change to improve the public service for the benefit of all citizens of the province. Generally, our recommendations are accepted. It is our goal to provide reasonable and responsible recommendations, but mostly, recommendations that are achievable. We appreciate the willingness of all public bodies to provide respectful consideration to all recommendations and to provide available updates on those recommendations that have been accepted.

For the fiscal year 2021-2022, 20 recommendations were offered to the following public bodies following completion of seven formal investigations:

### Respondent Public Body: Eastern Health

#### Complaint

A citizen complained they received inconsistent information about in-patient billing rates for non-residents of Canada when a family member required medical care while visiting the province. The citizen further complained about the inadequate response from the Client Relations Office (CRO), having raised concerns about the billing process experienced by the family. Our investigation noted the citizen was not provided with administrative fairness for the following reasons:

- The citizen was not informed of the rates for services for non-residents of Canada prior to making a decision whether a family member should be admitted as an in-patient, or treated on an out-patient basis.
- The CRO failed to respond to the citizen within the timeline outlined in the policy: Responding to Complaints – Quality and Risk Management QRM-100.
- The citizen was not informed of the option to escalate the complaint, although there was indication of dissatisfaction with the CRO response.
- The issue of confusion regarding a charge for services not rendered was not addressed by the CRO.

## Respondent Public Body: Eastern Health

### Recommendations

1. Eastern Health consider implementing a requirement to inform complainants that their file is closed, with options for further review outlined (i.e., review by manager or external mechanisms) during the scheduled review in 2021 of the policy: Responding to Complaints – Quality and Risk Management.
2. As the citizen was not made aware of the fee for service prior to hospital admission, have financial services review the in-patient charges again to determine whether there is room for discretionary decision-making.
3. Provide the OCR with a timeline of when Eastern Health will make rates for non-Canadians available to the public on its webpage, and how information of the rates will be made available to non-Canadians who may be faced with the decision to receive in-patient versus out-patient care.

### Outcome

Eastern Health respectfully replied that there were adequate reviews completed of the fee charged to the citizen. It stated these reviews confirm the rates and fees were appropriately applied in accordance with policy. Eastern Health accepted the remaining two recommendations and have implemented the third by including rate and fee schedules on their website, and making a poster available to relevant program areas to promote access to the website and the information. In relation to the first recommendation, Eastern Health advised it has been incorporated into a draft policy and submitted to its policy committee for consideration and review. The OCR will continue to monitor implementation of this recommendation.

## Respondent Public Body: Fisheries, Forestry and Agriculture

### Complaint

A citizen complained about their experience with the Crown Lands Division. Having determined that the citizen was maintaining a piece of property that was outside the legal boundaries of their Crown grant, the citizen submitted an application to Crown Lands for the property. As a previous application had been received for the same property, in accordance with policy, Crown Lands advised they were prohibited from applying for the same property. The citizen requested an exception to the policy guideline, which was accepted by Crown Lands and discretion was applied to allow the division of the property for the benefit of both applicants. The OCR found that using this discretion was reasonable, but also led to an unfair outcome to the initial applicant. We found that exercising discretion, in this case, had an effect contrary to that which was intended, resulting in unreasonable process.

## Respondent Public Body: Fisheries, Forestry and Agriculture

### Recommendations

1. The Department review Policy AP.028 – Applications: Acceptance/Non-Acceptance to determine if latitude exists for discretionary decision-making.
2. The Department develop clear guidelines and/or a complaints management policy that ensures complaints received are dealt with fairly, promptly, and in an efficient manner.

### Outcome

The Department acknowledged and accepted these recommendations. It committed to undergoing a review of the policy and a complaints management policy in consultation with the Department of Justice and Public Safety. The OCR will continue to monitor implementation of these recommendations.

## Respondent Public Body: Environment and Climate Change

### Complaint

A citizen complained that the Department of Environment and Climate Change (ECC) did not require the completion of an environmental assessment prior to the infilling of a body of water to allow for an industrial development. Environmental Assessment Regulations under the **Environmental Protection Act** provides the completion of an environmental assessment where a development requires infilling of an area located in an estuary. During our investigation, ECC stated the position that the body of water being infilled was not an estuary, despite being presented with expertise stating otherwise, and therefore, an environmental assessment was not required. We noted concern with the absence of a definition of an estuary within legislation. We also noted the benefit of an environmental assessment to identify any possible environmental effects of such a project. Not ensuring the opportunity to mitigate any risk, if identified, was determined by our investigation to be unreasonable. Therefore, we cited a breach of the **Citizens' Representative Act**.

### Recommendations

1. ECC acknowledge the area could be an estuary; cancel its 2018 decision; and require an environmental assessment for the project.
2. ECC consider a statutory amendment to create a clear and comprehensive definition for the term “estuary” to ensure consistency and transparency, as has been done in other jurisdictions, such as Nova Scotia and British Columbia.

## Respondent Public Body: Environment and Climate Change

### Outcome

ECC did not accept our finding that failing to require an environmental assessment was considered a breach of the **Citizens' Representative Act**. It stated that it could not legally accept the first recommendation to cancel its previous decision and require an environmental assessment. ECC did acknowledge the second recommendation and stated that it is under consideration as part of an ongoing review of environmental assessment legislation. The OCR will continue to monitor the implementation of this recommendation.

## Respondent Public Body: Justice and Public Safety

### Complaint

A citizen, who was an inmate at a provincial correctional facility, complained they did not have access to their scheduled prescription medication while being escorted to the hospital for medical attention. Our investigation confirmed that Adult Corrections did not have a policy or practice to deal with providing inmates with their prescribed medication if they were outside the institution to attend an appointment. The absence of policy prevented inmates from having access to medication in these circumstances.

### Recommendations

1. Adult Corrections create a policy which addresses how inmates will receive their prescription medications if they are unexpectedly, or expectedly, outside of the institution (i.e., in the Emergency Room, in transit between institutions, etc.). Our Office is cognizant of the transition of health care services in correctional facilities from the Department to Eastern Health. As such, if the Department cannot establish a policy prior to this transition, our Office would recommend that the Department liaise with Eastern Health and inform them of the findings of this report to ensure this gap in service is addressed so that inmates do not miss their medication administration through no fault of their own.

### Outcome

The Department of Justice and Public Safety acknowledged this recommendation and noted that all policies and procedures related to inmate health care were under review. It committed to addressing the recommendation with Eastern Health and the OCR continues to monitor it for implementation.



## Respondent Public Body: Justice and Public Safety

### Complaint

A citizen complained that Adult Corrections did not adequately support an inmate who died while in custody and did not support the family following the inmate's passing. The Department of Justice and Public Safety had completed two separate reviews of four recent deaths in custody (*Newfoundland and Labrador Corrections and Community Services: Deaths in Custody Review*; and the *Review of Deaths Occurring at Her Majesty's Penitentiary and the Newfoundland and Labrador Correctional Centre for Women Between August 2017 and June 2018*). Our investigation took a specific interest in the matters of administration that were not included in these reviews. Our investigation found the following:

- The failure to adequately explain telephone procedures with the inmate and family following the identification that collect calls not being accepted by the family member was unreasonable.
- There was a lack of process to effectively and respectfully communicate with family on all matters related to the death of the family member and resulting requests for information and other requests. The failure to better facilitate communication was unjust and oppressive.
- The absence of a clear practice and the process for which the family member was required to engage to obtain the right to visit the place of the family member's death was oppressive and offensive.

### Recommendations

1. The Department take steps to improve communication of the operations of the telephone system with inmates and families to better support the challenges of incarceration.
2. The Department create policy and education that will direct and support staff to explore the reasoning for any challenges, with the acceptance of collect calls by friends and family.
3. The Department assign and adequately train an individual(s) to be the point of contact for all supports, questions and special requests of family members of inmates who have died while in the custody of Adult Corrections. This position would mirror the federal Family Liaison Officer and facilitate all communication between the family and the Department, inclusive of other public bodies who may offer related processes/ supports.
4. The Department develop policy and procedures to enable a consistent response to families who wish to view the space in which their family member died while in the custody of Adult Corrections.

## Respondent Public Body: Justice and Public Safety

### Recommendations (cont'd)

5. The Department develop a formal document comparable to that of the Correctional Service of Canada entitled *Death of a Person in the Care and Custody of Correctional Service of Canada: A Guide for Family and Friends*.

### Outcome

The OCR is satisfied that the Department has taken adequate steps to implement the first two recommendations. The Department acknowledged and accepted the final three recommendations. The OCR continues to monitor these recommendations for implementation.

## Respondent Public Body: Justice and Public Safety

### Complaint

While in adult custody at a provincial correctional facility, a citizen alleged an excessive use of force against him when it wasn't required. Upon internal review, Adult Corrections concluded there was no excessive use of force, without explanation to justify the force used in the situation and without demonstration that the force used was consistent with policy. Our investigation found that policy requirements to attempt to diffuse the incident prior to the use of force were not met. Furthermore, considering the citizen was not acting with aggression, the situation could have been diffused by allowing adequate time for them to respond to an order prior to force being used. The preliminary review of the incident did not occur within two working days as required by policy. This review occurred in the absence of specific standards, which can result in the perception of bias due to a potential lack of consistency in reviews.

### Recommendations

1. The Department implement a requirement for Correctional Officers to video-record use of force incidents (with audio capability) as practiced by the Correctional Service of Canada, and provincially in Alberta. This practice may assist in providing additional oversight, and protect both the Correctional Officers and inmates involved. Our Office would also encourage the Department to engage with the Office of the Information and Privacy Commissioner in relation to best practice regarding the collection and use of audio recordings.

## Respondent Public Body: Justice and Public Safety

### Recommendations (cont'd)

2. The Department create a comprehensive review process for use of force incidents to ensure reviews are unbiased, impartial and thorough. This may include the creation of a reviewers manual (such as is used in British Columbia Corrections) to provide guidance to those individuals reviewing use of force incidents. Those reviewing use of force incidents should also include specifics as to how they came to a decision that the use of force was proportionate and necessary based on relevant policies and the Situation Management Model (Use of Force Model).
3. The Department amend the Use of Force policy to include a provision whereby inmates must be provided an opportunity to describe the force used against them, as is practiced by the Correctional Service of Canada.
4. Provide updates to our Office in regard to the Department's review of policies and procedures related to use of force, as well as the status of training for Use of Force Instructor Certification scheduled for April 2021.

### Outcome

The Department acknowledged and accepted these recommendations. The OCR is satisfied that the final recommendation has been implemented with an updated Use of Force Policy (NUFF model) and the training of seven instructors certified as Use of Force instructors in April 2021. OCR continues to monitor the remaining three recommendations.

## Respondent Public Body: Children, Seniors and Social Development

### Complaint

A citizen complained of their concerns about the fairness of the decision-making by Child Protection and Youth Services in relation to its Protective Intervention Program (PIP). Specifically, the concerns were that the Department did not carry out some of its protective intervention activities in a fair manner or in accordance with Child Protective Services standards. Our investigation unveiled concern that policy was not followed in relation to the risk assessment, the completion of the Family Centered Action Plan and the pursuit of a mental health assessment to assess risk. The investigation also raised the importance of the relational side of administrative fairness and the need to communicate in a timely fashion, particularly in relation to reasons for delays in assessment.

## Respondent Public Body: Children, Seniors and Social Development

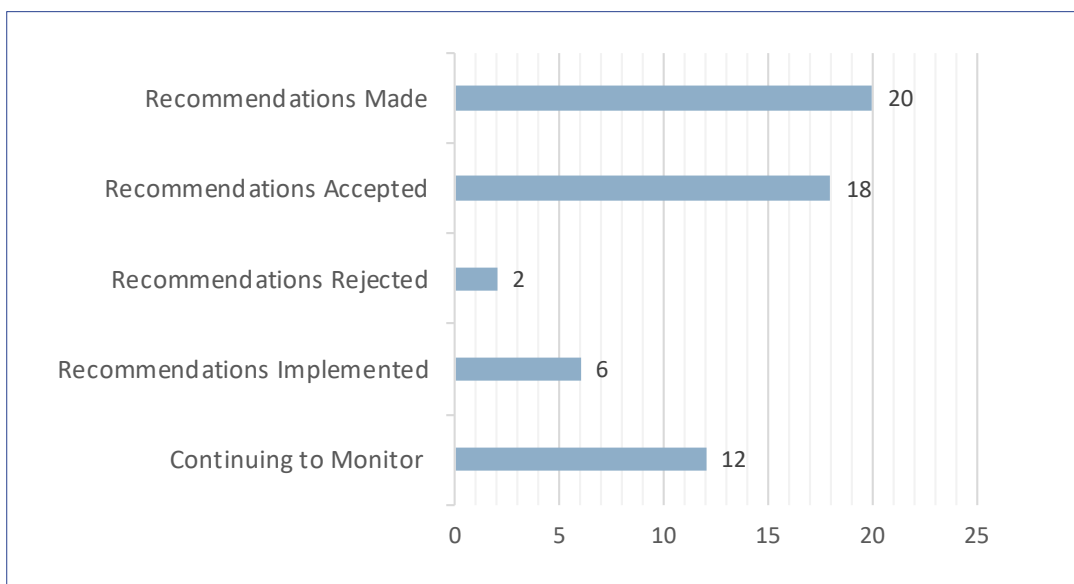
### Recommendations

1. CSSD communicate with their staff the practice issues identified through this complaint via appropriate training or other methods such as their “Teachable Moments” bulletins.
2. CSSD provide the OCR with an update on the completion and roll out of their new Compliance Policy.
3. CSSD should write an apology to the citizen under section 2(a) of the **Apology Act** based on the identification of errors as a result of this complaint relevant to a child protection referral. This remedial legislation allows public bodies to legally make statements of regret without attaching legal liability, or allowing such apologies to be admissible in a court or quasi-judicial process.

### Outcome

All three recommendations have been accepted by the Department. The first has been implemented and the second remains a work in progress. In relation to the third recommendation, the Department did not write an apology to the citizen, but rather conducted a meeting to acknowledge the procedural issues that impacted the case management process and put measures in place to address any perceived conflict in the future. The OCR is satisfied that two of the three recommendations have been implemented and will continue to monitor the second recommendation for complete implementation.

## Recommendations 2021-2022



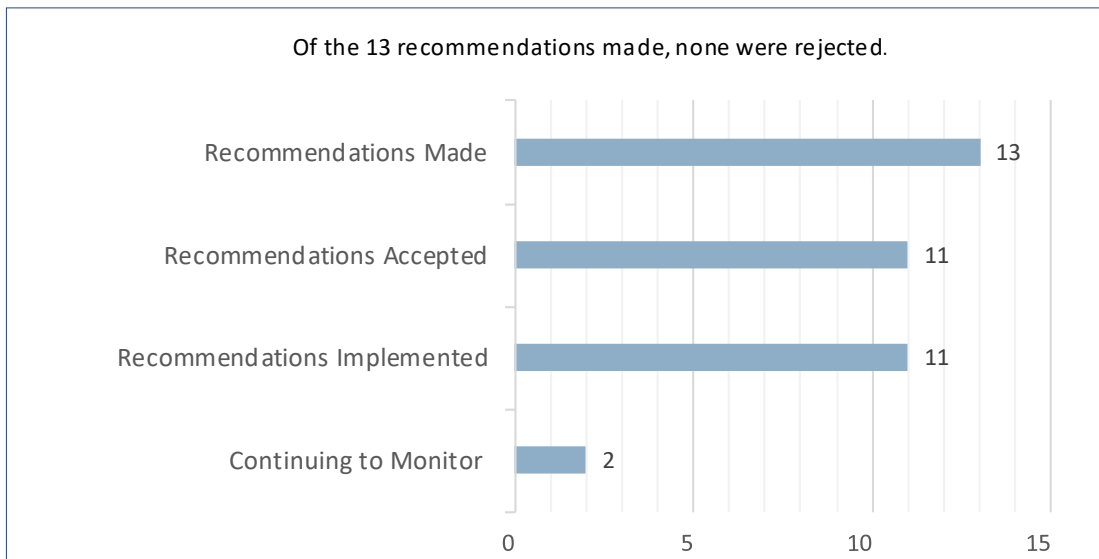


## UPDATE ON RECOMMENDATIONS FROM 2020-2021

Commencing in the fiscal year 2020-2021, the OCR began a process of actively monitoring the implementation of accepted recommendations. Once we determine public bodies have satisfactorily demonstrated implementation of recommendations made, the OCR will no longer formally monitor their implementation. The OCR will continue to monitor on an informal basis via ongoing inquiries with citizens who share their concerns with our Office.

Since our annual reporting in 2020-2021, five of thirteen recommendations made in the fiscal year were implemented. The OCR was committed to monitoring the eight remaining recommendations. In light of our commitment, we have requested updates from public bodies that have occurred since the previous reporting period. We are satisfied that six additional recommendations have been implemented. Two remaining recommendations will continue to be monitored that involve amendments to the **Citizens' Representative Act** through the House of Assembly. Details of these recommendations can be found on page 12 of our 2020-2021 Annual Digest at <https://www.citizensrep.nl.ca/pdfs/OCRAAnnualDigest2020-2021.pdf>

### Recommendations 2020-2021



# Public Interest Disclosure

## PIDA - 2021-2022

The OCR is responsible for investigating allegations of wrongdoing under the following two pieces of public interest disclosure legislation:

**1. Part VI of the House of Assembly Accountability, Integrity and Administration Act (“HOAAIA”).**

Part VI serves as a portal for employees and Members of the House of Assembly to disclose potential wrongdoing at the House of Assembly that they believe should be investigated in the public interest.

**2. The Public Interest Disclosure and Whistleblower Protection Act (“PIDA”):**

A report to the House of Assembly under Section 20 of the PIDA is required annually. The report covering the period April 1, 2021 to March 31, 2022, was tabled on July 7, 2022. This report can be accessed electronically at <https://www.citizensrep.nl.ca/pdfs/PIDARepor2021-2022.pdf>.

**During 2021-22, the OCR received two disclosures under HOAAIA.**

**The OCR handled six inquiries under PIDA during 2021-22.**

# Individual Case Summaries

Case summaries allow us to expand on the specific course certain complaint files have taken through our complaint-handling system. In the fiscal year 2021-22, citizens found themselves settling into a new way of living with the impact of a global pandemic. Citizens have been adjusting to new ways of accessing services and getting back to regular societal participation. While complaint numbers increased during this fiscal year, we continue to see an increase in the level of complexity of the various complaints we receive. Many complaints that we manage include engagement with more than one public body, and on occasion, entities for which the OCR does not have jurisdiction. This often requires flexibility and knowledge of additional resources, programs and services. We acknowledge the dedication, commitment and professionalism of our staff and the public service who continue to aspire to assuring a quality service to the citizens who reach out to the OCR for support and guidance, and to seek administrative fairness.

The following cases, selected by staff, outline a cross-section of the complaints referred, mediated and investigated during 2021-22.

## Provincial Government Departments

### Children, Seniors and Social Development

#### Income Support Division

#### Support for the Basic Necessities



The Income Support Division provides financial benefits and other services to eligible low-income people and families to assist in meeting daily living expenses.

A citizen in receipt of income support contacted the OCR stating they had been without electricity since the previous week. This was concerning as the disconnection occurred during the winter months and the citizen was without heat.

Under Income and Employment Support policy, Client Services Officers will consider various options to assist recipients in resolving disconnection of electricity, including entering into an equal payment plan and re-directing income support benefits to the utility.

Upon inquiry, it was determined that the citizen was receiving individual benefits, including the individual rate of rent. The citizen had negotiated an equal payment plan with the utility for an amount that exceeded their monthly income support eligibility. Therefore, re-directing payment to the company to meet the monthly payment was not possible. In consideration of additional options, the citizen was asked by the division to provide a medical note to confirm their need to live alone for medical reasons. This would enable the citizen to qualify for a

higher rate of rent, which would increase their income support monthly rate of eligibility. An increased rate of eligibility would allow for payment to be sent to the utility to satisfy the equal payment plan and reconnect the electricity. As the citizen was not able to provide the medical note requested due to not having a family physician, the additional special needs rent was not approved.

During review of the policy directing special needs rent approval, we learned there are various means by which a recipient could qualify for a higher rate of rent. In this citizen's situation, a letter from a social worker or counsellor was appropriate to satisfy the criteria for approval of special needs rent. The Division verified this policy application with consideration to the specific circumstances the citizen presented. The citizen was participating in a program under Mental Health and Addictions that permitted an opportunity for a social worker to consider a letter of support for further assessment of special needs rent.

The citizen was able to obtain a letter of support from the Mental Health and Addictions program which enabled approval of special needs rent, thereby, getting their electricity restored.

### Support for the Basic Necessities (cont'd)

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The Department of Fisheries, Forestry and Agriculture (the Department) is responsible for supporting the advancement and development of the Province's renewable resources of fisheries, aquaculture, forestry, agriculture and agrifoods. Its mandate includes, but is not limited to, administration of Crown lands as a social and economic resource for the Province.

A citizen lodged a complaint against the Crown Lands Division of the Department. The complaint was in relation to an application for Crown land that was initially approved, then subsequently cancelled. The citizen also alleged experiencing delay and confusion with respect to the Department's complaints management process.

Upon investigation of the complaint, the OCR noted the following:

### Fisheries, Forestry and Agriculture

#### Using Discretion with Caution





### Using Discretion with Caution (cont'd)

- Departmental communication with applicants, particularly involving complaints management showed delays and non-responsiveness.
- There is a need for improved documentation which would include clear reasoning and fully documented decision-making, especially when direction and/or decisions are given orally.
- There was ambiguity related to the process for responding to complaints which involve unfavourable decisions on Crown lands applications.
- More favourable exercise of discretion is warranted within Crown Lands policy relating to the acceptance/non-acceptance of applications.

*"I have appreciated your support tremendously this past year. I do also understand and appreciate and greatly value your advice and impartial perspective"*

The citizen had made application for a parcel of land for which another applicant had also applied previously. The parcel of land was backing on the citizen's property. In light of both applications, the Department initially made a discretionary decision and attempted to accommodate the citizen and divide the land in question with the applicant who previously applied for the parcel of land. This decision was eventually reversed and the Department honoured the original application in accordance with the long-standing policy provisions of first come, first served with respect to the processing and approval of applications for the same parcel of land.

It was acknowledged that administrative decisions often include the exercise of discretion. Using discretion and allowing flexibility with respect to the application of policy based on the circumstances was reasonable. However, in this situation, the exercise of discretion led to an unfair outcome for the first applicant and, in fact, had an effect contrary to what was intended. Ultimately, the decision-making process did not make sense to the citizens affected.

The specific process that the Department follows in receiving, responding to, and resolving complaints was also unclear. The differences between the language of complaints, disputes, appeals and contestation can cause confusion for individuals and set unrealistic expectations with respect to the likely outcome of their complaint. The OCR's *Navigating Public Complaints: A Better Practice Guide for Public Servants* states:

*It is important for any citizen entering a complaint process to know what to expect with respect to the process employed by the department or agency. The procedure should be highlighted and made available to the complainant so that they understand clearly how their complaint will be handled.*

## Using Discretion with Caution (cont'd)

The OCR made the following recommendations:

1. The Department review Policy AP. 028 to determine if latitude exists for discretionary decision-making.
2. The Department develop clear guidelines and/or a complaints management policy that ensures complaints received are dealt with fairly, promptly and in an efficient manner.

The Department accepted both recommendations and committed to undertaking a review in consultation with the Department of Justice and Public Safety.

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The Newfoundland and Labrador Medical Care Plan (MCP) is a comprehensive plan of medical care insurance designed to cover the cost of physician services for residents of the province administered by the Department of Health and Community Services (the Department). In 2018, the Department became responsible for the administration of the Income Support Medical Transportation (ISMT) program.

## Health and Community Services

### Medical Care Plan (MCP)

A citizen contacted the OCR having been denied financial assistance with travel out-of-province to seek medical treatment in another province. The citizen was experiencing a significant medical condition and unable to acquire a diagnosis or medical treatment in Newfoundland and Labrador, as acknowledged by MCP. Given the timeliness and urgency of the situation, the OCR attempted to mediate resolution to enable the citizen to travel to receive medical treatment. In the absence of any timely resolve, the citizen was not able to attend scheduled appointments and the OCR commenced a formal investigation.

## The Power of Change



Upon investigation, the Department stood by the decision made to deny the request for out-of-province travel, contending that the decision was supported by existing policy provisions. The physician to which the citizen had been referred provided medical services

## The Power of Change (cont'd)

in a clinic that was considered to provide services associated with environmental clinics. The Medical Payment Schedule listed services associated with environmental clinics as non-insured services; therefore, the travel to attend the clinic was considered non-eligible for financial assistance under ISMT. To be eligible for ISMT, the medical treatment is required to be an insurable service. Furthermore, as MCP considered the treatment to be a non-insured service, it would not provide coverage for the actual medical treatment. The citizen would be not only responsible for the out-of-province medical transportation, but also for the cost of the actual doctor's appointment, any routine and diagnostic testing and treatment.

At the same time, the Department recognized the significant concerns of the citizen and the position the decision left them in. While it would not consider discretionary application of the policy, it committed to undertaking a review of the appropriateness of including services associated with environmental clinics on the non-insured services list of the Medical Payment Schedule. It later advised that an amendment had been approved to the Medical Care Plan Medical Payment Schedule to remove the reference to "services associated with environmental clinics" as non-insured services. With this amendment completed and communicated to ISMT, the citizen became eligible for MCP funding for services offered by the specific clinic, as well as related funding for travel through ISMT. MCP staff continued to work with the citizen, the out-of-province medical clinic and ISMT to facilitate medical appointments outside the province. With this positive outcome, the OCR investigation ceased.

## Medical Care Plan (MCP)

### Historical Review



A citizen made a complaint to our Office having been denied MCP eligibility upon returning home to NL from living in Ontario for two years. MCP advised the citizen coverage was denied as they were not considered a Canadian citizen.

The citizen advised they were born in another country, with their family moving to Newfoundland and Labrador more than 70 years ago. Since moving here, the citizen has resided in this province, except for spending recent brief time in Ontario. The citizen previously had MCP coverage while living in the province, up until the move to Ontario. This led to confusion as to why it was determined that there was no current eligibility.

Upon contact by the OCR, MCP committed to reviewing the citizen's current application and their historical file with the intent of reaching out to the citizen directly. The citizen later informed the OCR that MCP staff did reach out to them; advised the application was approved; and that an MCP card was being mailed to them.

The OCR received a complaint in relation to the failure to notify women in this province about their breast density following a mammogram. It was suggested that the complaint could be resolved by having a line added in a mammogram result letter to patients which informs of their breast density and the associated risk with the density.

As Newfoundland and Labrador has two separate entities providing breast screening to women, the Provincial Cancer Care Program managed by Eastern Health and Routine Mammography Services provided by the Regional Health Authorities, we recognized that this issue extended beyond Eastern Health. The OCR commenced an "own initiative" investigation and involved both Eastern Health and Health and Community Services throughout the investigative process.

Due to a willingness of the public bodies to work with our Office, as well as unclear jurisdiction for our Office due to the clinical nature of this matter, our Office decided to mediate this complaint as opposed to completing a formal report. The analysis of the research completed highlighted concerns which resulted in formal letters being sent to the Minister of Health and Community Services and the Chief Executive Officers of the four Regional Health Authorities in the Province. These letters requested consideration as follows:

1. Ensure that women who receive a mammogram through Routine Mammography Services are sent a letter informing them of their screening results.
2. Alter the wording on the letter currently being sent to patients regarding their screening results so it is more transparent and precise in referencing mammographic breast density.
3. Create accessible province-based resources related to mammographic breast density.

The OCR was satisfied upon receipt of the Department's notification of these implemented changes:

## Historical Review (cont'd)

## Health and Community Services

### A Simple Change Makes a Difference to Many





### A Simple Change Makes a Difference to Many (cont'd)

- The Cancer Care Screening Program has changed the normal result letters in Health Connect to both women and their primary care providers. The result letters being sent to women on a go forward basis notify them of their MBD and clearly states the mammographic breast density according to how it is captured by the program.
- The Program webpage has been further developed to include breast density. Result letters to women also contain a link to the breast screening webpage.
- A decision was expected to be made in the fall of 2021 with regard to upgrading the mammography units in Newfoundland and Labrador.

### Immigration, Population Growth and Skills

The Apprenticeship and Trades Certification Division (ATCD) is responsible for apprenticeship training and certification programs in Newfoundland and Labrador for individuals pursuing a career in a skilled trade.

### Ensuring Examination Preparedness



A citizen filed a complaint with the OCR having been enrolled in a Red Seal certified training program at a local college as an apprentice, a formal training system that combines on-the-job and in-school training to produce qualified and certified journeypersons. The citizen stated that despite multiple attempts, they were unsuccessful in passing the Red Seal exam. Red Seal certification is obtained through successful completion of this national exam and demonstrates the knowledge and skills necessary to practice a trade in Canada. The citizen felt the training program did not cover the range of skill and practice that an apprentice of the program required and that which was covered in the exam. It was stated there were sections on the exam that were never covered by the program. It was alleged the ATCD did not adequately address these concerns which they previously brought forward.

During investigation, the ATCD provided that only 20 percent of an apprentice's training is completed through in-class training, with the remaining amount being completed via on-the-job training with a journeyperson. Despite a low pass rate for the particular trade in the year in which the citizen wrote the Red Seal exam, the Department provided evidence of pass rates that had exceeded the national pass rate since 2017. Furthermore, the plan of training for which the program was based on is standardized across the country. The ATCD provided verification of audits and monitoring efforts with the program to ensure it meets the needs of students and the standards of the trade. ATCD Annual Maintenance Reviews conducted generated positive reports. Furthermore, various supports were identified as being available to apprentices who are struggling with either the training program or passing the national exam.

Upon analysis of the evidence provided, the investigation did not find any systemic concerns related to this training program and, therefore, we could not conclude that it does not adequately prepare apprentices for the Red Seal exam. Furthermore, the OCR was satisfied that the ATCD provides appropriate oversight to ensure the training program meets the national standard.

### Ensuring Examination Preparedness (cont'd)

Adult Corrections is a Division of the Corrections Branch of the Department of Justice and Public Safety. Adult Custody in the Province is comprised of five correctional facilities and two detention centers that provide services and programs for sentenced, remanded and detained offenders. Programs and services are delivered to assist offenders in reintegrating into the community following release from custody.

### Justice and Public Safety

#### Adult Corrections

An inmate of a correctional institution contacted the OCR having made requests to the medical unit for protective sleeves for his prosthetic leg, orthopedic shoes and compression socks. Despite multiple requests, the inmate had not received these items.

### Clarity Provides Resolve



An inquiry to the medical unit informed that the inmate was provided with sleeves on two separate occasions, within two weeks of the inmate's contact with the OCR. The medical unit proceeded to order compression socks and referred the inmate to seek approval from the Assistant Superintendent for the orthopedic shoes.

Upon further contact with the inmate, it was clarified that the medical unit did provide thin nylon sheaths which would be worn inside a sleeve. The actual sleeve being worn was alleged to be old and wearing away the skin. The OCR provided this clarity to the medical unit which prompted a meeting with the inmate by the unit manager and the nurse practitioner to see exactly what was needed. Following this meeting, new sleeves were ordered and delivered to the inmate.

A citizen who was an inmate at the Newfoundland and Labrador Correctional Centre for Women (NLCCW) contacted the OCR on behalf of a group of inmates. Their complaint was that the NLCCW did not have an on-site classification officer. Classification officers are not only responsible for assessments related to the placement and programming for inmates, but they also support inmates during their incarceration with personal matters, such as family issues, discharge planning, and the like. The citizen advised that inmates are required to make contact with a classification

### The Value of Communication



### The Value of Communication (cont'd)

officer at another correctional centre. The lack of an on-site classification officer indicated that inmates did not have efficient access to classification.

An inquiry to the NLCCW confirmed the vacancy of the on-site classification officer. The OCR was advised a competition process was underway to have the vacant classification officer position filled. In the meantime, the OCR was advised of the process put in place until the position was filled. Inmates were instructed to provide any requests for classification services to the duty lieutenant who then provides the request via email to a classification officer at another correctional facility. Upon receipt of the request, the classification officer arranges to call the requesting inmate in a timely manner.

Following our inquiry, the Assistant Superintendent for the NLCCW met with several inmates. An update was provided to the inmates in relation to the hiring of a classification officer at NLCCW, and the process of accessing the support of the off-site classification officer was reviewed. The citizen reported this sharing of information as very helpful.

### Municipal and Provincial Affairs Responsibility for Enforcement

The Department of Municipal and Provincial Affairs (the Department) supports the financial stability and viability of municipalities and the efficient and effective delivery of municipal services. It provides municipalities with financial and administrative tools to support sound municipal governance.



A citizen advised the OCR of having made contact with the Department seeking enforcement of a municipal plan by the municipality in which they lived. The citizen alleged that a property zoned for residential use was being used for industrial purposes without the proper permits to operate as an industrial business. It was alleged that a stop work order was implemented by the municipality, but not being enforced. The primary issues of unfairness presented by the citizen were related to:

- Ambiguity between the **Urban and Rural Planning Act** (URPA) and the position of the Department that there is no enforcement by the Department of a municipal plan.
- The absence of a formal internal complaints process and difficulty communicating with Departmental staff.
- Accessibility of the Land Use Map and Land Use Zoning Map on the Department website.

## Responsibility for Enforcement (cont'd)

The intent of our investigation was to determine the role of the Department:

- When a municipality is not adhering to its municipal plan.
- To respond to complaints or concerns from citizens in a relationally fair manner.
- To ensure accessibility of the Land Use Map or Land Use Zoning Map on the Department's website.

The Department stated there is no provision in the URPA that would allow the Minister to interfere with a municipality's authority to administer, enforce or override its plan and regulations. OCR analysis of this position and the URPA led to confusion as there is clear discretion provided within URPA which enables the Minister to enforce a municipal plan.

In relation to an available complaints mechanism, the Department advised generally, that the Minister receives and responds to complaints as they arise and that the Regional Appeal Boards are available to hear appeals related to a prescribed list of issues. It also suggested the option of legal remedy. Our investigation noted these options were not available to the citizen as the Minister was not engaged in the complaint, and the citizen was not informed of this available mechanism of appeal. Furthermore, case law demonstrated that only municipalities have discretion to bring an action to enforce compliance, and private citizens do not have the power to enforce legislation.

The Department did provide instructions on how to access the Land Use Map and Land Use Zoning Map on their website; however, it was noted that the maps could not be accessed without accessing additional software, a process which appeared onerous for the citizen. We noted that for ease of access and transparency, it would benefit the Department to include the Land Use Atlas as a method of using the Land Use Map on their website, and provide a brief description of how to navigate the Land Use Atlas in order to obtain the imagery.

We found there wasn't sufficient evidence to cite a breach of the **Citizens' Representative Act** and, therefore, we did not make any formal recommendations. We did, however, note several issues of concern which could be improved upon to ensure administrative fairness is provided to citizens and to create best practices. The OCR suggested the following to the Department:

### Responsibility for Enforcement (cont'd)

1. The Department obtain a legal opinion on Section 103 of the **Urban and Rural Planning Act**.
2. The Department create policy or procedure which outlines how to manage section 103 of the **Urban and Rural Planning Act**. For example, what constitutes an 'exceptional circumstance'; when should the Department refer concerns to other divisions; how does a Land Use Planner refer concerns to the Minister.
3. The Department include instructions on how to navigate the Land Use Atlas on their website so individuals can access a municipalities' Land Use Map without downloading Google Earth.
4. The Department review their complaint-handling mechanisms, and ensure complainants are aware of how to escalate their concerns, i.e., how to contact the Deputy Minister, Minister, etc., when frontline staff cannot resolve the issue at hand and they have reached an impasse.

The Department reiterated to the OCR that the authority for enforcement lies with the municipality as an autonomous level of government. It derives authority from provincial legislation and related laws they must interpret and apply in their decisions. The Department contended that if a decision of a council is unlawful, accountability is available through the courts. If the decision is lawful, but unacceptable to residents, they are held accountable through the electoral process.

It was further indicated by the Department that the municipality in question had received legal advice in relation to the enforcement of an existing stop work order in place by the municipality and upheld by the Regional Appeal Board, and was in the process of reviewing its enforcement and other options to reach a resolution that may be satisfactory to all parties.

## Boards and Agencies

### Eastern Health

#### The Impact of Delay



Eastern Health is the largest health authority in Newfoundland and Labrador. It offers a full continuum of health and community services and unique provincial programs and services, including public health, long-term care and hospital care, while ensuring the provision of high quality, safe, accessible and sustainable health care.

A citizen submitted a complaint to the OCR alleging undue delay in addressing an inaccuracy recorded on a family member's health

record. The family member had regrettably passed away during the COVID-19 pandemic when visitor restrictions were in place at health care facilities in the province.

The **Personal Health Information Act** (PHIA) sets out the rights of residents of the province regarding access to and exercising control of their personal health information. It also provides a mechanism whereby an individual can request correction of a record of personal health information that is believed to be inaccurate without delay. The citizen's alleged delay in addressing the requested correction to the family member's health record was causing unnecessary stress and prevented closure for the family.

The OCR engaged with Eastern Health about the alleged delays and they made the factual correction to the family member's personal health record to the satisfaction of the citizen.

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Legal Aid provides a range of legal services to low income individuals in Newfoundland and Labrador in the areas of family and criminal law. Those who are eligible can access the service of one of Legal Aid's experienced lawyers located throughout the province.

The OCR received a call from a frustrated parent dealing with Legal Aid. The parent stated there was a child custody and access order in place that the other parent was not following. The frustrated parent had applied to Legal Aid and stated they were assigned a lawyer. The parent alleged this decision was later reversed, leaving them without access to legal representation.

An inquiry to Legal Aid confirmed the parent had been initially assigned a lawyer upon application. Legal Aid advised the parent's income was not verified upon initial application; thus the assignment of a lawyer was in error. It is necessary that an applicant's income is assessed to determine eligibility for Legal Aid, prior to the assignment of a lawyer. The parent had applied a second time and was asked by Legal Aid to verify their income. The parent identified they had applied for income support benefits. Legal Aid advised that once confirmation of income support eligibility was received, the parent would be approved for Legal Aid and assigned a lawyer.

The parent was grateful for the explanation of the Legal Aid application process and clarification of the confusion, given the error made.

## The Impact of Delay (cont'd)

## Legal Aid NL

### Mistaken Eligibility





## Newfoundland and Labrador Housing Corporation (NLH)

### Working with Exceptional Circumstances



NLH is a Crown corporation whose mandate is to develop and administer housing assistance policy and programs for the benefit of low to moderate income households throughout the province.

A tenant of NLH who lived with a family member, reached out to the OCR with concern following receipt of a letter from the Crown corporation. The letter addressed rental arrears accrued by the tenant. The tenant took full responsibility for the arrears and repayment, but was unsure how to navigate repayment given exceptional life circumstances at the time of the letter. The tenant was previously employed; however, was currently without income from employment or otherwise. The family member with whom they lived was experiencing a serious and life-altering medical situation which required the tenant to become a caregiver during the exceptional circumstances. The tenant was concerned that the arrears would leave both of them homeless during a very vulnerable time.

Upon inquiry, NLH acknowledged the citizens as long-term tenants who had a good record of rent payment. NLH advised they work from an eviction prevention model and as long as the tenant remained engaged and were open to a reasonable repayment plan, the tenant would be provided with the time they needed to resolve the matter and maintain their housing.

The tenant was able to work out a repayment plan with NLH and was able to avoid eviction.

### Change in Application Status



A citizen contacted the OCR in relation to the Home Modification Program with NLH. An application for the installation of a chair lift was completed by a family member on behalf of their elderly parents who were experiencing multiple health issues. The application was accompanied by an Occupational Therapist (OT) assessment. Three months following the submission of the application, there hadn't been any response from NLH. The family member was becoming concerned over this time period as the parents' health was deteriorating and there were greater concerns for their safety in the home.

Following an inquiry with NLH, the OCR was advised that under the Home Modification Program, applications are classified by the

completing OT as either urgent or non-urgent. In this situation, the application was classified as non-urgent. The OCR was advised that the application was processed appropriately and it was placed on their waitlist. NLH also suggested an OT reassessment could be completed with knowledge of any change in the parents' health situation.

The family member was advised of this information and they agreed to contact the OT for further assessment. The OCR was subsequently advised the application had been reclassified as urgent. NLH confirmed the reclassification and advised the application and installation of the chair lift was being actioned immediately.

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The Newfoundland Labrador Liquor Corporation (NLC) is responsible for the importation, sale and distribution of beverage alcohol within the Province of Newfoundland and Labrador.

A citizen who owned a bar contacted the OCR with a complaint about the behavior of the NLC employee responsible for inspecting their business. The citizen alleged the behavior of the employee was inappropriate and harassing. The employee was making more visits than necessary and was being rude and threatening to staff. The citizen advised that no violations had ever been cited, but the behavior was having a detrimental effect on the business.

Upon receiving the complaint, contact was made with the NLC to advise of the allegation. The OCR was assured the allegation would be forwarded to the appropriate person immediately to be addressed. Two days later, the citizen contacted our Office to advise that following our inquiry, they had received a phone call from the CEO of the NLC. The citizen was satisfied that the issue was being addressed.

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## Change in Application Status (cont'd)

## Newfoundland and Labrador Liquor Corporation (NLC)

### Prompt Redress



## Navigation, Self-Advocacy and Referral

### Social Media Protection



A citizen who was released from a correctional facility contacted the OCR with concern about inappropriate and abusive postings on Facebook connected to the individual. They were concerned about the impact the postings would have given their probation status. The citizen expressed disappointment that the Royal Newfoundland Constabulary (RNC) was not addressing the issue.

The citizen was encouraged to connect with their probation officer in relation to the concerns. Information about how to report abusive content on Facebook was provided, as well as information about the RNC Public Complaints Commission, in the event the citizen wished to inquire about making a formal complaint in relation to the inactions of the RNC.

### Working Towards a Resolution



An employee of a Provincial Government department contacted the OCR alleging wrongdoing by his employer. The alleged wrongdoing was specific to actions towards them that had become the subject of arbitration. The allegations did not meet the threshold to constitute any further investigation under the **Public Interest Disclosure and Whistleblower Protection Act**.

The citizen did raise some concern in relation to the inactions of the employer as ordered via the arbitration process. The OCR confirmed there had been a significant timeframe since the date of the arbitration order requiring specific actions by the employer; actions the citizen alleged had not been undertaken.

Any employee-employer matters of the Provincial Government fall under the Treasury Board Secretariat (TBS), which provides leadership and support in the development and management of human resource policies, programs and services that support the overall effectiveness of government. The OCR does not have jurisdiction over the TBS as it exists under the Executive Council. Despite lacking jurisdiction, the OCR consulted with TBS, specifically, the HR Policy and Planning Division, to get a sense of the general process relating to compliance with arbitration orders. It was confirmed that an employee is entitled to information about action taken by an employer in response to an arbitration order. The employer is required to share the information through the TBS.

The OCR was advised that Staff Relations Specialists meet regularly with Labour Relations Officers of employee unions. With guidance from the TBS, the OCR was able to recommend that the employee make a formal request of their union's Labour Relations Officer to contact TBS specifically about the outcome of the order and to ask for a meeting on their behalf.

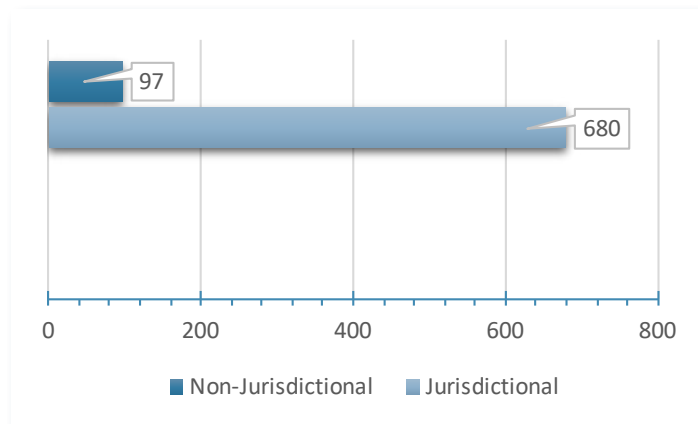
### **Working Towards a Resolution (cont'd)**

With this guidance, the citizen was provided with the contact information for the appropriate Staff Relations Specialist and the Labour Relations Officer with their union, and encouraged to follow up with the union to arrange for the sharing of information with respect to the arbitration order in question.



## Statistics

During 2021-2022,  
the OCR received  
777 complaints  
and inquiries.



The following tables illustrate the origin of the complaints we received and which government departments and agencies were concerned.

Complaints and Inquiries by Department April 1, 2021—March 31, 2022			
Departments	2021-2022	2020-2021	2019-2020
Children, Seniors and Social Development	15	22	22
Income Support Division	21	20	30
Digital Government and Service NL	16	19	12
Education	2	2	2
Environment and Climate Change	4	1	2
Finance	0	1	1
Fisheries, Forestry and Agriculture	19	12	13
Health and Community Services	49	17	42
Immigration, Population Growth and Skills	1	3	4
Industry, Energy and Technology	0	0	1
Justice and Public Safety	18	18	13
Correctional Facilities	380	327	355
Municipal and Provincial Affairs	5	5	0
Tourism, Culture, Arts and Recreation	1	1	1
Transportation and Infrastructure	4	7	6
<b>Total Complaints and Inquiries</b>	<b>536</b>	<b>455</b>	<b>504</b>

## Complaints and Inquiries by Agencies, Boards and Commissions April 1, 2021—March 31, 2022

AGENCIES/ BOARDS	2021-2022	2020-2021	2019-2020
College of the North Atlantic	2	2	3
Conseil Scolaire Francophone Provincial de Terre-Neuve-et Labrador	2	2	0
Eastern Regional Waste Management Authority	0	1	0
Human Rights Commission	2	3	3
Memorial University	5	2	4
Multi-Materials Stewardship Board	1	0	0
Municipal Assessment Agency	1	1	0
Nalcor Energy	0	2	0
Newfoundland and Labrador Medical Care Plan - MCP	2	2	0
Newfoundland and Labrador English School District	2	4	1
Newfoundland and Labrador Housing Corporation	25	27	31
Newfoundland and Labrador Hydro	0	2	2
Newfoundland and Labrador Legal Aid Commission	11	8	11
Newfoundland and Labrador Liquor Corporation	2	1	2
Provincial Information and Library Resources Board	0	0	2
Public Procurement Agency	1	0	0
Public Service Commission	1	0	1
Regional Health Authorities			
Central Health	12	7	8
Eastern Health	45	31	23
Labrador-Grenfell Health	5	1	0
Western Health	7	5	7
WorkplaceNL	15	8	7
Workplace Health, Safety & Compensation Review Division	3	2	1
<b>Total Complaints and Inquiries</b>	<b>144</b>	<b>111</b>	<b>106</b>



## Complaints/Inquiries by Electoral District April 1, 2021 - March 31, 2022

Electoral Districts	2021-2022
Baie Verte – Green Bay	3
Bonavista	1
Burgeo - LaPoile	2
Burin - Grand Bank	4
Cape St. Francis	9
Carbonear – Trinity – Bay de Verde	6
Conception Bay East – Bell Island	5
Conception Bay South	9
Corner Brook	17
Exploits	12
Ferryland	7
Fogo Island – Cape Freels	2
Fortune Bay – Cape La Hune	1
Gander	6
Grand Falls – Windsor – Buchans	11
Harbour Grace – Port de Grave	4
Harbour Main	10
Humber – Bay of Islands	5
Humber – Gros Morne	1

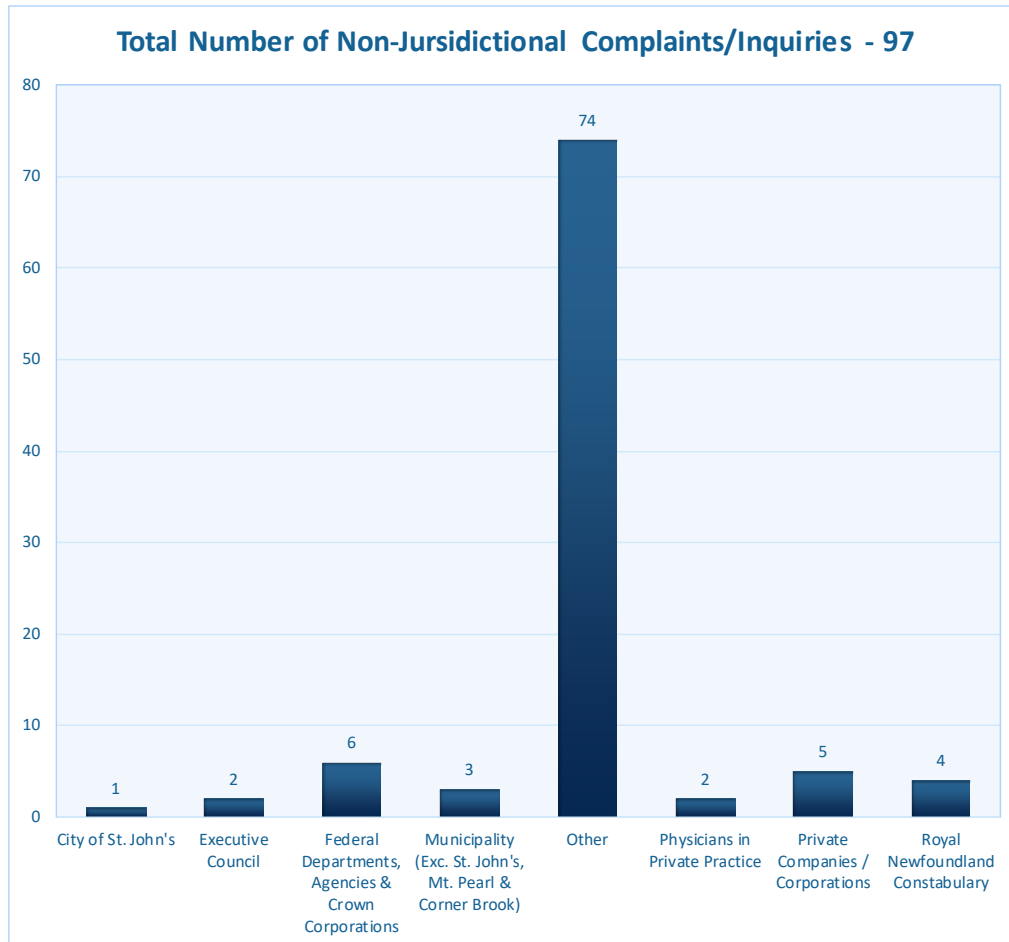
Electoral Districts	2021-2022
Lake Melville * <sup>1</sup>	21
Lewisporte - Twillingate	7
Mount Pearl - Southlands	4
Mount Scio	8
Other Provinces	18
Placentia West - Bellevue	2
St. Barbe - L'Anse Aux Meadows	7
St. George's - Humber	3
St. John's Centre	14
St. John's East - Quidi Vidi * <sup>2</sup>	265
St. John's West	1
Stephenville - Port au Port	35
Terra Nova	69
Topsail - Paradise	4
Unknown * <sup>3</sup>	186
Virginia Waters - Pleasantville	3
Waterford Valley	9
Windsor Lake	6
<b>Total Complaints &amp; Inquiries</b>	<b>777</b>

\* Note 1: The volume of complaints emanating from the District of Lake Melville is a result of the location of the Labrador Correctional Centre.

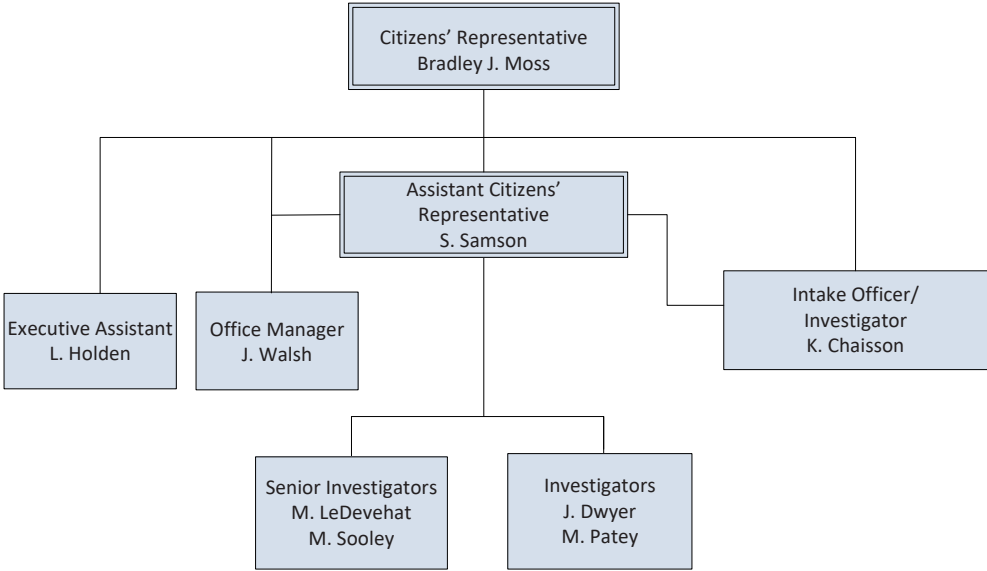
\* Note 2: The higher volume of complaints emanating from the District of St. John's East - Quidi Vidi is a result of the location of Her Majesty's Penitentiary.

\* Note 3: Out-of-country, no fixed address, systemic investigations.

## Complaints/Inquiries Non-Jurisdictional April 1, 2021 - March 31, 2022



# Office of the Citizens' Representative Organizational Chart



# HOW TO REACH US

## Office of the Citizens' Representative

4th Floor, Beothuck Building

20 Crosbie Place

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St. John's, NL A1B 3N7

Phone: (709) 729-7647

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Email: [citrep@gov.nl.ca](mailto:citrep@gov.nl.ca)

Website: [www.citizensrep.nl.ca](http://www.citizensrep.nl.ca)

Facebook: Office of the Citizens' Representative -  
Newfoundland and Labrador

Twitter: [@NLCitizensrep](https://twitter.com/NLCitizensrep)





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