

# **OFFICE OF THE OMBUDSMAN**

**Province of New Brunswick**

**ANNUAL  
REPORT**

**2002/2003**



## **2002/2003 Annual Report**

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The Honourable Bev Harrison  
Speaker  
Legislative Assembly  
Province of New Brunswick  
Fredericton, N.B.

Sir:

Pursuant to Section 25(1) of the *Ombudsman Act* and Section 36 of the *Civil Service Act*, I have the honour to present the Thirty-sixth Annual Report of the Ombudsman for the period of April 1, 2002 to March 31, 2003.

Respectfully submitted,

Ellen E. King  
Ombudsman

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## Mission Statement

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

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## ***FROM THE OMBUDSMAN***

I am pleased to present my final annual report as Ombudsman for New Brunswick. My ten year appointment as Ombudsman expired on June 8, 2003. I accepted an extension to my term until a replacement was identified. It has been a great honour and a privilege to have had the opportunity to be of service to the people of New Brunswick through the institution of the Ombudsman. I am the fifth person to serve in this capacity since the Office of the Ombudsman was established by legislation in 1967.

It is a pleasure to welcome Bernard Richard who has been appointed to replace me as Ombudsman effective on January 3, 2004. Mr. Richard brings to this position many years of dedicated public service. The Province will be well-served by Mr. Richard as Ombudsman.

During my tenure, I have seen the jurisdiction of the Office expand to encompass responsibilities under the *Civil Service Act* and, more recently, under the *Protection of Personal Information Act*. The role of this Office is unique among Ombudsman Offices in Canada in that it combines the traditional duties of an Ombudsman with responsibilities for conducting investigations and hearing appeals under the *Civil Service Act*. Also, only two other jurisdictions in Canada blend responsibilities under a *Right to Information Act* and a *Protection of Personal Information Act* with responsibilities under an *Ombudsman Act*.

As the end of my term approached, I was often asked what qualities and characteristics are essential for an Ombudsman. In reply, I have pointed to the obvious, which is that a person has to be a good listener, impartial, independent and objective. Respect for confidentiality is also required. My personal approach in conducting investigations and in resolving disputes has been to establish a non-adversarial environment and to embody informality, common sense and persuasion in my dealings with others.

In 2002/2003, our Office received 1948 complaints, inquiries and requests for information. This level of activity represents a slight (1.9%) decrease over the previous year. Over the last five years, the number of complaints, inquiries and requests for information have decreased by 37%. This trend is not unique to New Brunswick as many other provincial Ombudsman have had a similar experience. As I indicated in my Annual Report 2001/2002, it is not

possible to account for this decrease by pointing to any particular reason. I identified a number of factors which may contribute to this decrease last year. These factors are outlined on page 6 of the Annual Report 2001/2002.

This year the number of complaints that were within the jurisdiction of this Office to investigate decreased by 14 (1.7%), while complaints that were not within the purview of this Office to investigate decreased by 89 (12.2%). Inquiries and requests for information to which this Office responded during this period increased by 65 (14.4%).

Because of the length of time involved in the investigation of some of the complaints, and because complaints can be filed near the end of the reporting period, there will always be some complaints under investigation at year-end. However, this Office has made a concerted effort to reduce the time involved in conducting investigations and accordingly to reduce the number of complaint files carried forward to the following year. At the outset of this year, there were 82 complaints under investigation, while as the year closed there were 59 complaint investigations that have not been concluded. Over the last five years, we have reduced our “carried over” files from 194 to 59, which represents a decrease from 10.7% to 6.7% of the number of complaints that were before the Office for investigation during the year.

An important part of assessing and ensuring efficiency is by having performance indicators. This reporting period represents the second year for which indicators have been used to measure performance relating to the processing of complaints, inquiries and requests for information. While specific data is included under the heading Performance Indicators, I am pleased to report that the Office has met, and indeed exceeded, the targets set for each of the various measures that had been established. The challenge of this Office will be to maintain this level of performance and to identify additional measures that will assist in setting goals for the future. It is noted elsewhere in this report, that measurements of performance are considered to be more meaningful if taken continuously over a number of years. While the measurements may remain the same, the targets associated with those measurements can be adjusted. The Office’s new Case Management System will make data readily available. This will provide the ability to the Office to adjust existing targets and to adopt new performance indicators.

This past year has been especially productive with a number of initiatives undertaken. It is a tribute to the hard-working staff of this Office, that we

were able to accomplish these additional activities while continuing to serve the public. This is particularly so, where our staff complement was depleted during the year through normal attrition and by employees being on extended leave due to illness. Overviews of some of these initiatives are presented below. The results of these initiatives will benefit the general public, employees of the departments and agencies of government, our clients and our Office.

As reported last year, the Office had undertaken a process to address the information requirements which encompassed both the hardware and software needs of this Office. We were ably assisted in this by staff from the Corporate Information Management Services Section of the Department of Supply and Services. A Request for Proposals for software was issued but we were disappointed in the response to that Request. Ultimately, it was decided that a version of the Case Management System that had been developed by the Office of the Ombudsman in Ontario should be considered, if that Office was agreeable to adapting it to meet our needs. The Ontario Ombudsman, Mr. Clare Lewis, Q.C., generously and readily agreed to have members of his senior staff review our needs and to customize the existing Lite Version of the Case Management System to our purposes.

The customization was completed by the technical expert of the Ontario Ombudsman's Office who had initially developed the software, and that person was assigned to install the software and to train the staff of this Office in its use. This Office is most appreciative of the support and assistance received from the Ontario Ombudsman and his staff enabling this Office to acquire this very useful management tool. The Case Management System will assist staff in providing service to clients and will enhance the Office's ability to prepare related reports.

In updating this Office's hardware and software requirements, it became apparent that, given the limited resources of this Office, the necessary network, desktop and database support services would have to be acquired externally. Several possibilities were considered with the advice and assistance of staff from the Department of Supply and Services. As a result, the Office entered into an agreement with the Department of Training and Employment Development to provide specified on-site Information Technology Support Services.

One of my responsibilities is to receive and review petitions under the *Right to Information Act*. This is a responsibility which is shared with the Court of Queen's Bench. If an individual does not receive the information from the appropriate

Minister to whom the request for information had been made, the matter can be referred to either the Ombudsman or to the Court. Based on my experience in reviewing petitions, it was noted that employees of the departments and agencies could benefit from additional information in carrying out their responsibilities under the *Right to Information Act*.

To this end, this Office undertook to prepare an Annotation of judicial decisions on the *Right to Information Act* by New Brunswick Courts and on similar legislation by the Supreme Court of Canada. The decisions of the Supreme Court are instructive in furthering the understanding of the general approach to the interpretation of the *Right to Information Act* of New Brunswick. Mr. John P. McEvoy, Professor of Law, University of New Brunswick, was commissioned for this task and was assisted by three students from the law faculty. This undertaking will be completed early in the new year and distributed to those departments and agencies covered by the *Right to Information Act*. This Annotation is timely. The *Right to Information Act* received Royal Assent on June 28, 1978, and 2003 is the 25<sup>th</sup> anniversary of that *Act*.

Appeals under the *Civil Service Act* in New Brunswick have been made to an independent decision-maker since 1984. In January 1994, the Office of the Ombudsman assumed the responsibility for hearing appeals from employees in the Civil Service who contest an appointment on the grounds that merit was not respected in the selection. Hearings are not commonplace for employees who may be considering an appeal or even for those employees who find themselves involved in defending an appeal. This Office recognized that boards of examiners, potential appellants and others who may be involved in an appeal process would benefit from being able to access previous decisions on appeal under the *Civil Service Act*. It was determined, therefore, that an annotation of the decisions on appeals under the *Civil Service Act* should be available to give guidance regarding the application of the merit principle. Mr. John P. McEvoy, Professor of Law, University of New Brunswick was engaged to prepare the annotation. It seemed appropriate that the jurisprudence of the Courts of New Brunswick in relation to the *Civil Service Act* should be included in this review. Mr. McEvoy was assisted in this activity by two students at law. The Annotated *Civil Service Act* 1994-2003 will be circulated to the departments and agencies covered by the *Act* and will be available as a resource to those contemplating an appeal.

During this year, this Office established a website as an additional means of making information on the Office and its responsibilities more accessible to the public. It is expected that with the activation of the website persons interested in

this Office will have many of their inquiries satisfied on-line. During the initial four months on-line, the site has averaged approximately 2700 requests per month.

The Government of New Brunswick introduced a new *Official Languages Act* in 2002 and included in that *Act* was provision for a Commissioner of Official Languages and an Office through which the Commissioner could carry out the duties of the position. Previously, complaints pertaining to the official languages were submitted to the Official Languages Branch of the Department of Finance and subsequently to my Office if they remained unresolved. The new legislation provided for the Commissioner to be appointed effective April 1, 2003 and prior to that date it was announced that Mr. Michel Carrier, Q.C. would become the first Commissioner. I welcome the Commissioner to the community of officers of the Legislative Assembly and look forward with enthusiasm to his assuming ombudsman type responsibilities on behalf of those persons with complaints regarding the official languages of the Province.

As I look back over my years in Office, there are many that I must acknowledge and thank. Let me begin by thanking the deputy heads, administrators and staff of the various departments, commissions, agencies, school districts, hospital corporations and municipalities within the Province of New Brunswick for their excellent cooperation with us while we were conducting investigations. I especially acknowledge and thank those many public servants who have helped to resolve issues in dispute once they were brought to their attention. I am also appreciative and grateful to the elected officials at both the municipal and provincial levels for their excellent cooperation over the years.

Most importantly, I would like to acknowledge all current and former staff of my Office and thank them for their support and contributions over the years. I am very pleased with the achievements of my staff this year and I recognize that without their dedication and commitment such achievements would not be possible. The people of New Brunswick have been well-served by the staff of my Office and for this I am thankful. I also thank the people of New Brunswick for having allowed me to serve them.

Ellen E. King  
Ombudsman

## STATUTORY RESPONSIBILITIES

The Office of the Ombudsman in New Brunswick has the broadest legislated jurisdiction of all the provincial Ombudsman Offices in Canada.

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

1. *Ombudsman Act*
2. *Civil Service Act*
3. *Right to Information Act*
4. *Archives Act*
5. *Protection of Personal Information Act*

As evident from the above, the Office of the Ombudsman in New Brunswick has not only the traditional responsibilities under the *Ombudsman Act* but also additional responsibilities under the *Civil Service Act*, the *Right to Information Act*, *Archives Act* and the *Protection of Personal Information Act*.

### *Ombudsman Act*

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

The Office of the Ombudsman has jurisdiction to investigate complaints of an administrative nature in respect to government departments, municipalities, school districts, hospital corporations, Crown agencies, and other agencies responsible to the Province including commissions, boards and corporations as defined under the *Ombudsman Act*.

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

### ***Civil Service Act***

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

The *Civil Service Act* gives the Ombudsman certain powers and duties for the purpose of protecting the merit principle as the basis for effecting appointments to or from within the Civil Service. Specifically, the *Act* provides for the Ombudsman to:

- hear appeals from employees relating to appointment decisions;
- investigate complaints from non-employees who have been unsuccessful candidates in open competitions.

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

### ***Right to Information Act***

The *Right to Information Act*, which was proclaimed in 1980, provides individuals with an opportunity to access public information. The *Act* was amended on several occasions since it came into force with the amendments largely being related to the categories of exceptions in respect to which there is no right to access specific information.

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

### *Protection of Personal Information Act*

The protection of personal information retained by government departments was formalized in New Brunswick with the introduction of the **Personal Privacy Code** which came into effect in December 1994. At that time, the Office of the Ombudsman was designated as the independent body responsible for investigating complaints with respect to the privacy of personal information.

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

### *Archives Act*

The Office of the Ombudsman has duties under the *Archives Act* similar to its duties under the *Right to Information Act*.

## GOALS

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

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

## 2002/2003 STATISTICS

- The Office of the Ombudsman received a total of 1,948 complaints, inquiries and requests for information during 2002/2003. Of this number, 795 were complaints within jurisdiction, 515 were inquiries and requests for information, and 638 were complaints which were not within the jurisdiction of this Office. In addition, 82 complaints carried from the previous year were investigated.
- The Office of the Ombudsman received 13 appeals in accordance with section 32 of the *Civil Service Act* during this report period. Ten appeals were scheduled for formal hearings with 4 appeals being allowed and 6 appeals being dismissed.

In 2002/2003, the Office of the Ombudsman received 27 formal complaints from unsuccessful candidates under section 33 of the *Civil Service Act*.

In addition, the Office of the Ombudsman received and responded to a number of inquiries and requests for information regarding matters related to the *Act*.

- During 2002/2003, the Office of the Ombudsman received 9 applications regarding the refusal or non-response to a request to disclose information to an individual under the *Right to Information Act*.

In addition, the Office of the Ombudsman provided general information to a number of individuals who were seeking advice regarding the procedure to follow when requesting information contained in government documents.

- During 2002/2003, the Office of the Ombudsman did not receive any complaints in regards to privacy matters that were within the jurisdiction of this Office to investigate.

However, the Office received a number of inquiries, requests for information and complaints regarding privacy matters that were outside of the Office's jurisdiction to investigate under the *Protection of Personal Information Act*.

- During this reporting period, this Office received 1 complaint with respect to the administration of the *Official Languages Act*.

In addition, the investigation into 1 complaint carried from the previous year, was completed. The Office also received a number of inquiries and requests for information regarding official languages.

- In the Correctional Services area, the Office of the Ombudsman processed 253 verbal and written complaints from or relating to individuals incarcerated in provincial correctional institutions. In addition, the Office received 46 information requests and complaints from inmates that were not within the jurisdiction of the Office to investigate.

## THE OMBUDSMAN

The Ombudsman is an Officer of the Legislative Assembly and is independent of government. The approval of all political parties of the Legislative Assembly is obtained prior to the appointment of an Ombudsman.

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

The Ombudsman and her staff investigate complaints against provincial government departments, school districts, hospital corporations, municipalities, Crown agencies, and other agencies responsible to the Province including commissions, boards and corporations as defined under the *Ombudsman Act*.

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

- Federal Government
- Matters which are of a criminal nature
- Private companies and individuals
- Judges and functions of any court
- Deliberations and proceedings of the Executive Council or any committee thereof.

## COMPLAINTS UNDER THE *OMBUDSMAN ACT*

### **Access**

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

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

### **Complaints**

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

Depending upon the nature of a complaint, it is sometimes possible for this Office to resolve the complaint informally. Upon receiving the details of the complaint from the client, this Office contacts the department or agency concerned to obtain further information regarding the complaint. In this manner a number of complaints are successfully resolved. However, where a resolution is not readily forthcoming, and where a complaint falls within the jurisdiction of the *Ombudsman Act*, a thorough and impartial investigation is undertaken.

### **Investigation**

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

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

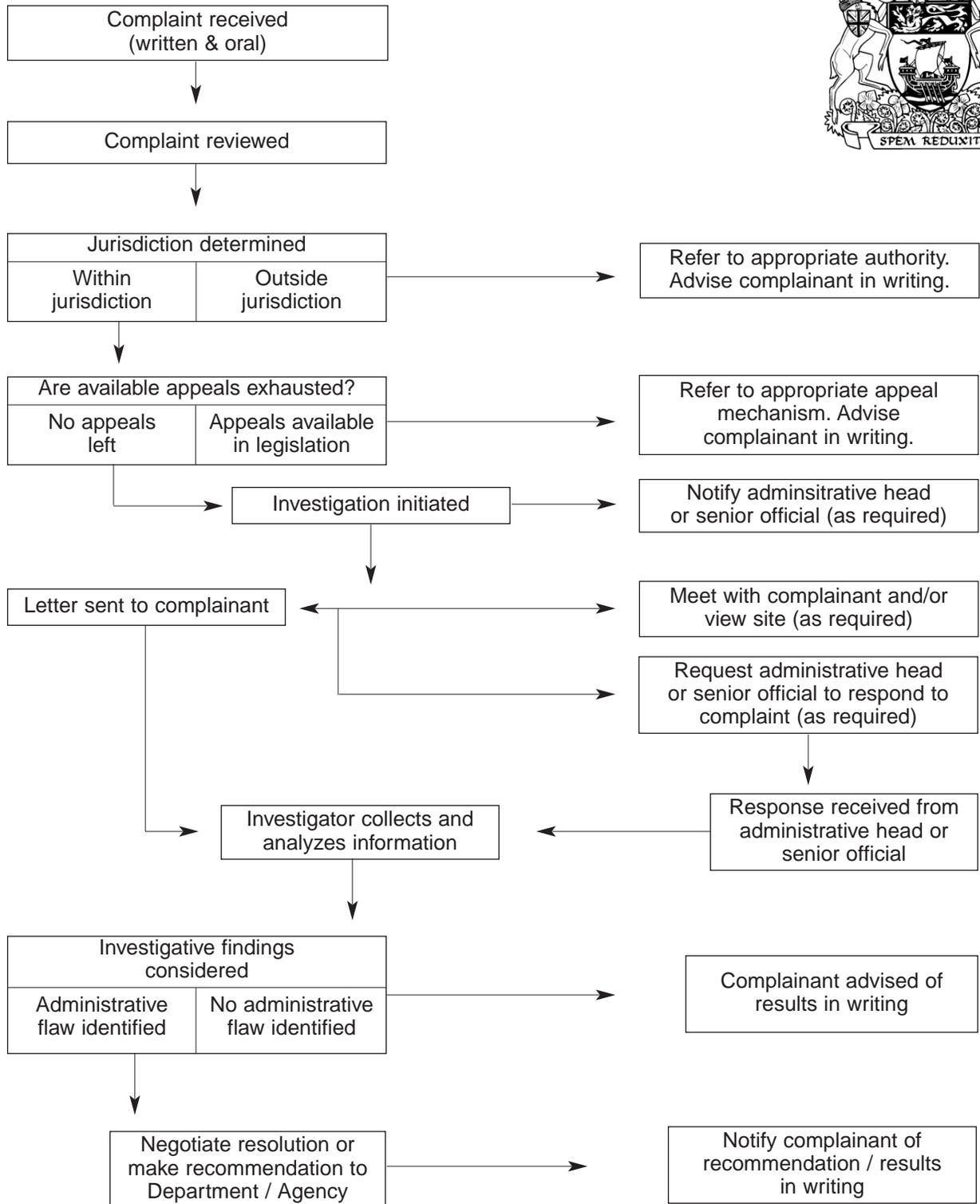
As a result of the information gathered through the investigation, the Office of the Ombudsman makes a finding. If, on the conclusion of the investigation, the finding supports the client's complaint, the Ombudsman will facilitate a resolution or, in the alternative, make a recommendation for corrective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

### **Providing Information and Referrals**

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

The flow chart which follows illustrates the typical manner in which written and oral complaints are handled by the Office of the Ombudsman. Exceptions may occur at the discretion and direction of the Ombudsman.

# Method of Handling Complaints



This flow chart illustrates the typical manner in which written and oral complaints are handled by the Office of the Ombudsman. Exceptions may occur at the discretion and direction of the Ombudsman

## APPEALS AND COMPLAINTS UNDER THE *CIVIL SERVICE ACT*

Under the *Civil Service Act*, employees can submit appeals to the Office of the Ombudsman in respect to appointments made both to and from within the Civil Service. As well, unsuccessful candidates in open competitions who are not employees can make a complaint to the Office regarding the results of a competition.

### Appeals

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

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

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

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

### Complaints

The objective of the complaint process under section 33 of the *Civil Service Act* is to protect the merit principle as the basis for effecting appointments by competition. This process provides non-employees, who have been unsuccessful in an open competition, with a redress mechanism by which the

selection for appointment can be impartially examined. The inquiry and complaint provisions under the *Act* also serve to increase the openness of the hiring process.

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

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

## REFERRALS UNDER THE *RIGHT TO INFORMATION ACT*

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

When a request for information is referred to the Office of the Ombudsman, the *Right to Information Act* requires the Ombudsman to review the matter referred within 30 days of having received the referral.

The *Act* provides for the Ombudsman to inspect the information that the Minister has refused to release, if such information exists, and the inspection is to be made in private.

To determine if the information should be released, the Ombudsman inspects the information on-site. Depending on the nature of the information requested, this inspection may involve a review of a single document or file, or a folio of documents or boxes of files.

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

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

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

## COMPLAINTS UNDER THE *PROTECTION OF PERSONAL INFORMATION ACT*

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

This protection of personal information was formalized in New Brunswick with the introduction of a **Personal Privacy Code** in December 1994.

While the adoption of a Privacy Code provided a framework for information management practices, the Ombudsman had recommended to the Government that a Privacy Act or Protection of Personal Information Act be introduced at the earliest possible time to ensure even greater protection of privacy.

A *Protection of Personal Information Act* came into effect on April 1, 2001. The *Act* is designed to regulate the collection, confidentiality, correction, disclosure, retention and use of personal information. The *Act* applies to those public bodies set out under the *Right to Information Act* and to any other public body that may be designated by regulation. In the *Act*, the Ombudsman was given responsibility for investigating complaints regarding violations of the *Act*.

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

## CORRECTIONAL INSTITUTIONS

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

Inmates are provided with an orientation manual by the Department of Public Safety on admittance to each of the Correctional Institutions. The manual advises the inmate that the Office of the Ombudsman investigates complaints from individuals who feel they have been treated unjustly. In addition, the Office of the Ombudsman has provided posters to the institutions advising inmates of their right to make a complaint to the Office.

While the Office received inquiries and complaints regarding a wide range of issues, Section 12 of the *Ombudsman Act* empowers the Office to investigate complaints “*with respect to a matter of administration*” and not matters which are of a criminal nature.

As the statistics relating to the complaints and inquiries received in 2002/2003 will show, the majority relate to matters of administration and are open to investigation by this Office. However, it will also be noted that ten complaints were received which are of a **criminal nature** i.e. assault. Such complaints are matters for investigation by a police authority. In those instances, this Office brought the matter to the attention of the Department of Public Safety immediately by facsimile. This Office subsequently confirmed with the Department of Public Safety that the police had been notified regarding the complaint.

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

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

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

Staff from the Office of the Ombudsman traveled to the Province's Correctional facilities on six occasions during this period in the course of investigating complaints. Specific cases and general policies and procedures were discussed with institutional officials.

## PERFORMANCE INDICATORS

The Office of the Ombudsman measures its performance in delivering the various legislated services through a number of indicators which are identified below. The indicators selected will allow the Office to measure its improvements over time. Measurements are more meaningful if taken continuously over a number of years. This Office will review the selected indicators and adjust or adopt new indicators where it seems appropriate to do so. The installation of a new computerized complaint tracking system, which the Office anticipates will occur over the next year, will provide additional data and it may be possible to develop other performance indicators.

*Indicator - The Office of the Ombudsman has a Mission Statement and Goals which are communicated to the public.*

*Result - The Mission Statement and Goals are communicated through public education and orientation initiatives by the Ombudsman and staff and are published in the Annual Report.*

Many factors can affect the length of time it takes to complete an investigation. The time involved can vary from a few days to in excess of a year. During this reporting period, 2% of the investigations took in excess of one year to complete. Some of the factors that affect the time involved include the availability of information from the client or the government organization, the number and complexity of the issues involved in the complaint, the resources available, and the accessibility of departmental officials. Notwithstanding these factors, the Office has identified targets for completing investigations which relate to the majority of the complaints.

*Indicator - The percentage of complaint files closed within 30 calendar days of the date on which the complaint was received.*

*Target - 60%*

*Result - A detailed review of the complaints processed during this period indicates that 67% of the complaint files were closed within 30 calendar days. This compares to 57% last year.*

*Indicator - The percentage of complaint files closed within 90 calendar days of the date on which the complaint was received.*

*Target - 80%*

*Result - An analysis of the complaints processed during this period indicates that 93% of the files were closed within 90 calendar days. This compares to 84% last year.*

As indicated elsewhere in this report, many of the people who contact this Office have complaints and concerns that do not fall within our jurisdiction. In some instances, it is only after giving some attention to the matter that it can be determined that the matter is outside this Office's authority to conduct an investigation. All persons who contact this Office are informed if we can investigate the matter which they have brought to our attention. Where this Office does not have the authority to investigate a matter, staff are often able to be of assistance by providing information or by referring the person to an appropriate contact to have the complaint addressed.

This Office has identified a target for responding to those persons who have contacted our Office for assistance in instances where an investigation is not within our authority.

*Indicator - The percentage of inquiries, requests for information and complaints that are not within this Office's jurisdiction which are processed within 7 calendar days.*

*Target - 75%*

*Result - An analysis of inquiries, requests for information, and complaints that are not within this Office's jurisdiction shows that 81% were processed within 7 calendar days. This compares to 71% last year.*

Over the last several years, this Office has made a concerted effort to reduce the period of time involved in conducting an investigation and thus the number of complaint files “carried over” from one year into the next. Over the last five years, this Office has reduced the “carried over” files by approximately 70%.

This Office has identified a target in respect to the number of complaints that are “carried over” and are under investigation at year-end.

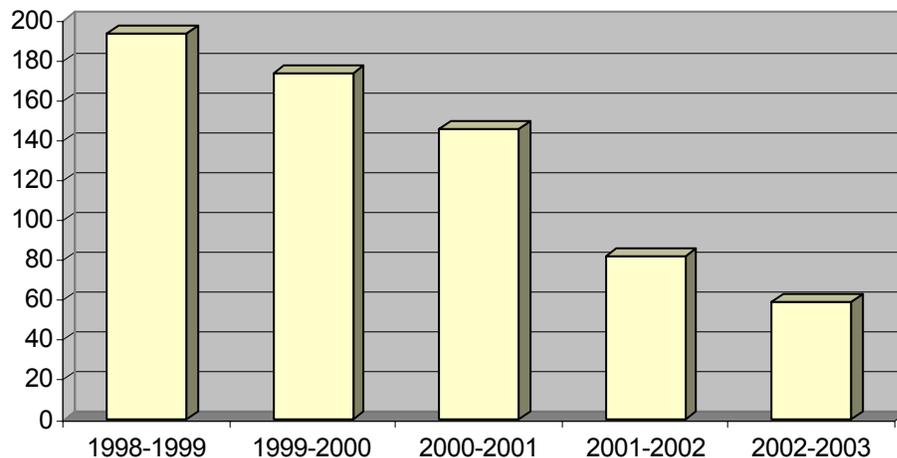
*Indicator - The percentage of complaints under investigation at year-end.*

*Target - 8.5% of the number of complaints that are before the Office during the year*

*Result - An analysis of the information contained in this Office’s Annual Reports shows the percentage of the complaints that were under investigation at year-end to be as follows:*

<b>YEAR</b>	<b>COMPLAINTS UNDER INVESTIGATION AT YEAR-END</b>
1998/1999	10.7%
1999/2000	11.5%
2000/2001	11.7%
2001/2002	8.6%
2002/2003	6.7%

**COMPLAINTS UNDER INVESTIGATION AT YEAR-END**



## FINANCIAL INFORMATION

Budget and actual expenditure for 2001/2002 and 2002/2003 by primary classification is set out in the table below. The approved budget for the 2003/2004 year is presented for comparative purposes.

Staff costs account for approximately 82% of the budget and were underspent by \$17,600 in the year ended 31 March 2003. This underspending was the result of an employee being on leave without pay and staff turnover. The Other Services portion of the budget was underspend by \$1,100.

The Materials and Supplies and Property and Equipment components of the budget were overspent by \$2,300 and \$7,500 respectively. The Office used a portion of the savings in staff costs to support additional costs for resource material, and for computer software and hardware.

	2003/2004		2002/2003		2001/2002	
	Budget	Budget	Actual	Budget	Actual	
Wages and Benefits	531.7	520.7	503.1	520.7	506.6	
Other Services	74.5	58.1	57.0	58.1	55.8	
Materials and Supplies	12.5	8.0	10.3	7.0	8.5	
Property and Equipment	14.3	38.2	45.7	15.2	23.3	
	633.0	625.0	616.1	601.0	594.2	

Budget and actual expenditure (thousands of dollars)

## STATISTICAL TABLE 2002/2003

### OUTCOME OF COMPLAINTS RECEIVED IN 2002/2003 AND INVESTIGATIONS CONTINUED FROM 2001/2002

Departments/ Agencies/ Acts	Total	Resolved	Partially Resolved Referral Given/ Information Provided	Not Substantiated	Discontinued by Client/ Ombudsman	Under Investigation at Year End
Agriculture, Fisheries and Aquaculture	2	1	-	1	-	-
Business NB	2	-	-	1	1	-
<i>Civil Service Act</i>	48	7	-	23	12	6
Education	43	9	18	12	2	2
Environment and Local Government	39	8	11	14	3	3
Finance	1	-	-	1	-	-
Family and Community Services	213	45	76	41	42	9
Health and Wellness	54	13	16	16	4	5
Justice	5	3	1	-	1	-
Natural Resources	5	-	2	1	2	-
NB Liquor Corporation	-	-	-	-	-	-
NB Power Corporation	37	10	15	7	3	2
Office of Human Resources	5	2	2	-	-	1
Official Languages	2	1	-	1	-	-
<i>Protection of Personal Information Act</i>	-	-	-	-	-	-
Public Safety	293	39	75	130	27	22
<i>Right to Information Act</i>	9	4	1	2	1	1
Service New Brunswick	8	1	-	2	4	1
Supply and Services	-	-	-	-	-	-
Training and Employment Development	28	4	10	9	1	4
Transportation	26	6	9	9	1	1
Workplace Health, Safety and Compensation Commission	57	5	23	19	8	2
<b>Total</b>	<b>877*</b>	<b>158</b>	<b>259</b>	<b>289</b>	<b>112</b>	<b>59</b>

\*This number includes 82 investigations which were continued from the previous year.

## TYPES OF COMPLAINTS BY DEPARTMENT

The following tables provide the number of complaints by type and by Department investigated in the year 2002/2003. In consideration of the confidentiality provisions of the *Ombudsman Act*, only those Departments with more than 15 complaints are set out in the tables below.

<b>Education</b>		
	2002/2003	2001/2002
Administration	7	6
Transportation	7	10
Children With Special Needs	6	2
Student Loans	5	7
Employment	4	3
Student Transfer	3	2
Suspensions	3	3
Curriculum/Testing	2	3
Complaints Regarding Staff	2	7
French Immersion Program	1	-
Heritage	<u>1</u>	<u>-</u>
<b>Total</b>	<b>41</b>	<b>43</b>

## Environment and Local Government

	2002/2003	2001/2002
Property Issues	8	4
Roads / Streets	6	4
Administration	4	7
Employment	4	2
Water/Sewage	3	6
Municipal By-laws	2	4
Permits/Licenses	2	2
Pollution	2	1
Complaints Regarding Staff	2	-
Zoning	1	4
Unsightly Premises	1	1
Expropriation	<u>1</u>	<u>1</u>
<b>Total</b>	<b>36</b>	<b>36</b>

## Family and Community Services

	2002/2003	2001/2002
<b>Income Assistance Benefits</b>		
Discontinued / Reduced	20	24
Denied	19	23
Amount / Calculation	14	8
Eligibility Criteria	14	6
Long Term Needs	7	6
Repayment	4	12
Delay	<u>4</u>	<u>10</u>
Subtotal.....	82	89
<b>Housing Units</b>		
Repairs	12	10
Availability	11	7
Evictions	10	9
Inspections	5	4
Tenant Rights	4	-
Transfers	<u>2</u>	<u>10</u>
Subtotal.....	44	40
<b>Complaints Regarding Staff</b>		
Administration	15	25
Special Benefits	14	11
Health Card	11	14
Protection Services	10	12
Heat Supplement	6	8
Adoption	6	2
Medical Issues	5	4
Training/Work Programs	3	4
Loans / Grants-Housing	3	2
Nursing Homes/Residential Services	2	4
Employment	2	-
Appeal Board	1	1
Appliances/Furniture	-	9
	<u>-</u>	<u>3</u>
<b>Total</b>	<b>204</b>	<b>228</b>

## Health and Wellness

	2002/2003	2001/2002
Mental Health	13	16
Hospital Corporations	6	4
Employment	5	2
Administration	4	2
Complaints Regarding Staff	4	4
Medicare	4	2
Permits / Licenses	3	3
Special Needs Programs	3	3
Placement Services	2	3
Vital Statistics	2	2
Public Health	1	1
Adoption	1	1
Prescription Drug Program	1	-
Addiction Services	<u>-</u>	<u>1</u>
<b>Total</b>	<b>49</b>	<b>44</b>

**NB Power Corporation**

	2002/2003	2001/2002
Service Issues	21	14
Payment Schedules	6	7
Billing-Amount / Calculation	3	4
Security Deposit	3	2
Administration	1	2
Damage Claims	<u>1</u>	<u>1</u>
<b>Total</b>	<b>35</b>	<b>30</b>

**Public Safety**

	2002/2003	2001/2002
Permits / Licenses	13	9
Administration	2	1
Complaints Regarding Staff	1	4
Coroner Services	1	1
Emergency Measures	-	1
Employment	-	7
Other	<u>1</u>	<u>1</u>
<b>Total</b>	<b>18</b>	<b>24</b>

### Training and Employment Development

	2002/2003	2001/2002
Human Rights Procedures	11	13
Administration	3	2
Community College – Programs	3	2
Community College – Admission Procedures	2	-
Complaints Regarding Staff	2	1
Grants - Loans	2	-
Employment	1	1
Community College – Testing	-	<u>1</u>
<b>Total</b>	<b>24</b>	<b>20</b>

### Transportation

	2002/2003	2001/2002
Road / Bridge Maintenance	9	11
Employment	5	3
Damage Claims	4	1
Access / Right of Way	3	3
Property Issues	2	1
Administration	1	2
Expropriation Procedures	1	-
Complaints Regarding Staff	-	2
Permits / Licenses	-	<u>1</u>
<b>Total</b>	<b>25</b>	<b>24</b>

## Workplace Health, Safety and Compensation Commission

	2002/2003	2001/2002
Compensation		
Discontinued / Reduced	16	11
Amount / Calculation	7	4
Long-term Disability Benefits	<u>-</u>	<u>1</u>
Subtotal.....	23	16
Appeals Tribunal	13	6
Claim Denied	5	6
Administration	4	3
Medical Payments	3	3
Deeming	2	4
Complaints Regarding Staff	2	7
Retraining	2	-
Medical Rehabilitation	1	-
Permanent Partial Impairment	<u>-</u>	<u>1</u>
<b>Total</b>	<b>55</b>	<b>46</b>

**CORRECTIONAL INSTITUTIONS**

**Verbal and Written Complaints and Requests for Information**

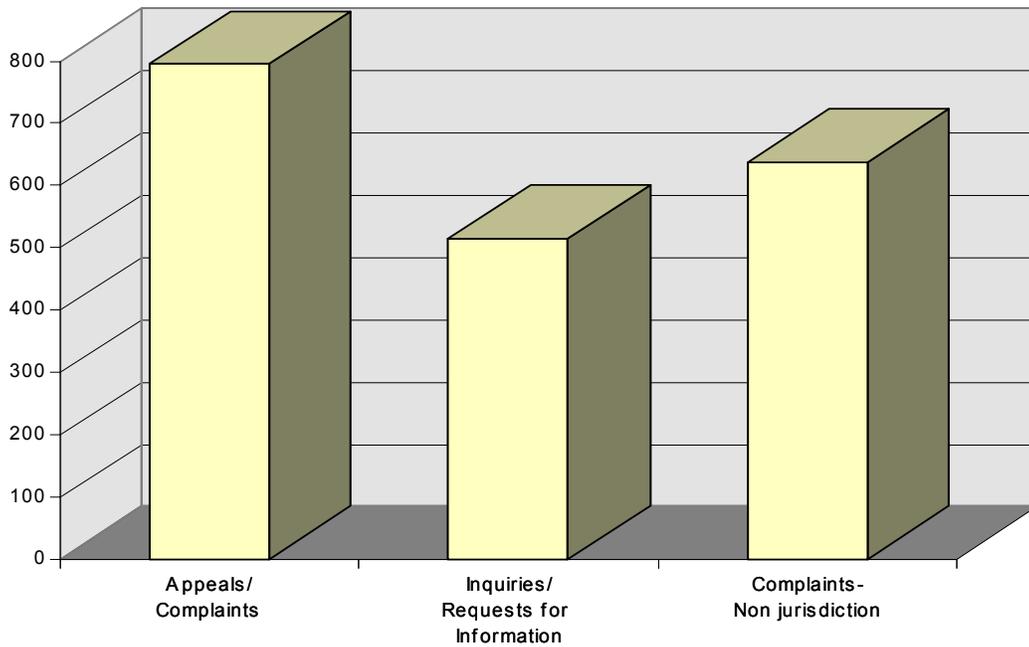
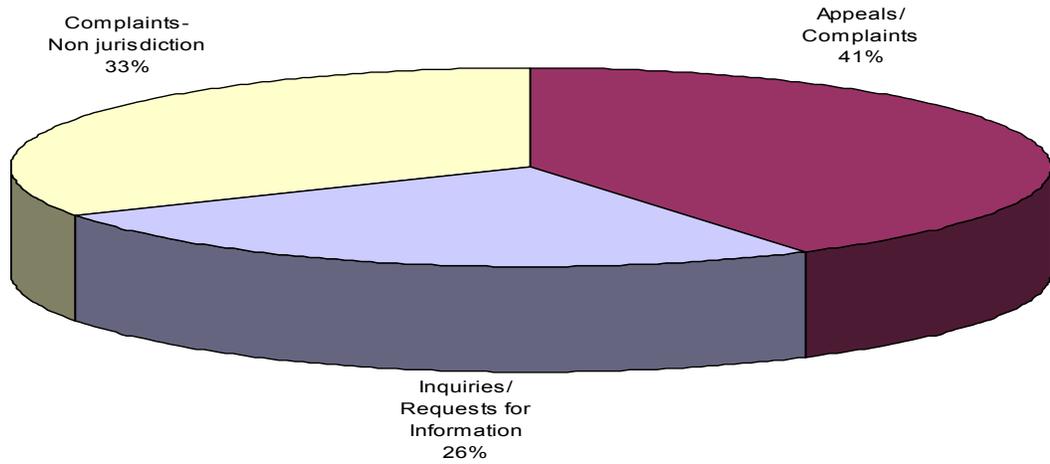
	2002/2003	2001/2002
<b>Health Issues</b>		
Prescriptions Requested or Denied	29	36
Request to see Nurse / Doctor	16	13
Dental	14	14
Request to go to Hospital	9	10
Glasses, Eye Care	3	2
Special Diet	2	3
Threat of Suicide	2	1
Physiotherapy	1	1
Mental Health	-	2
Medical Appliance	<u>-</u>	<u>2</u>
Subtotal .....	76	84
<b>Living Conditions</b>		
Clothing and Bedding	8	6
Cleanliness	7	7
Food	7	6
Heat and Ventilation	3	2
Overcrowding	2	-
Smoking	1	7
Maintenance and Repairs	1	5
Other	<u>1</u>	<u>1</u>
Subtotal .....	30	34

Administration	17	10
Temporary Absence Program	14	15
Discipline	13	11
Personal / Inmate Property	12	12
Classification / Transfer	11	19
Request for House Arrest	11	10
Visiting Privileges	11	7
Recreation	9	8
Placement within Institution	8	8
Program Privileges	6	7
Telephone Use	5	7
Correspondence	4	4
Sentence / Remission Calculation	4	7
Use of Restraints	4	2
Contraband	2	1
Segregation	2	1
Staff Conduct and Deportment	2	8
Threatened by Presence of Other Inmates	2	2
Request Form	1	1
Official Languages – Service	1	1
Requests for Items Denied	-	2
Others	1	-
Abandoned By Inmate	<u>7</u>	<u>11</u>
Subtotal .....	<b>253*</b>	<b>272*</b>
Information Requests	33	19
Non Jurisdiction		
Physical Assault	10	1
Courts	2	4
Parole	1	-
Legal Aid	-	2
Sexual Assault	<u>-</u>	<u>1</u>
Total .....	<b>299</b>	<b>299</b>

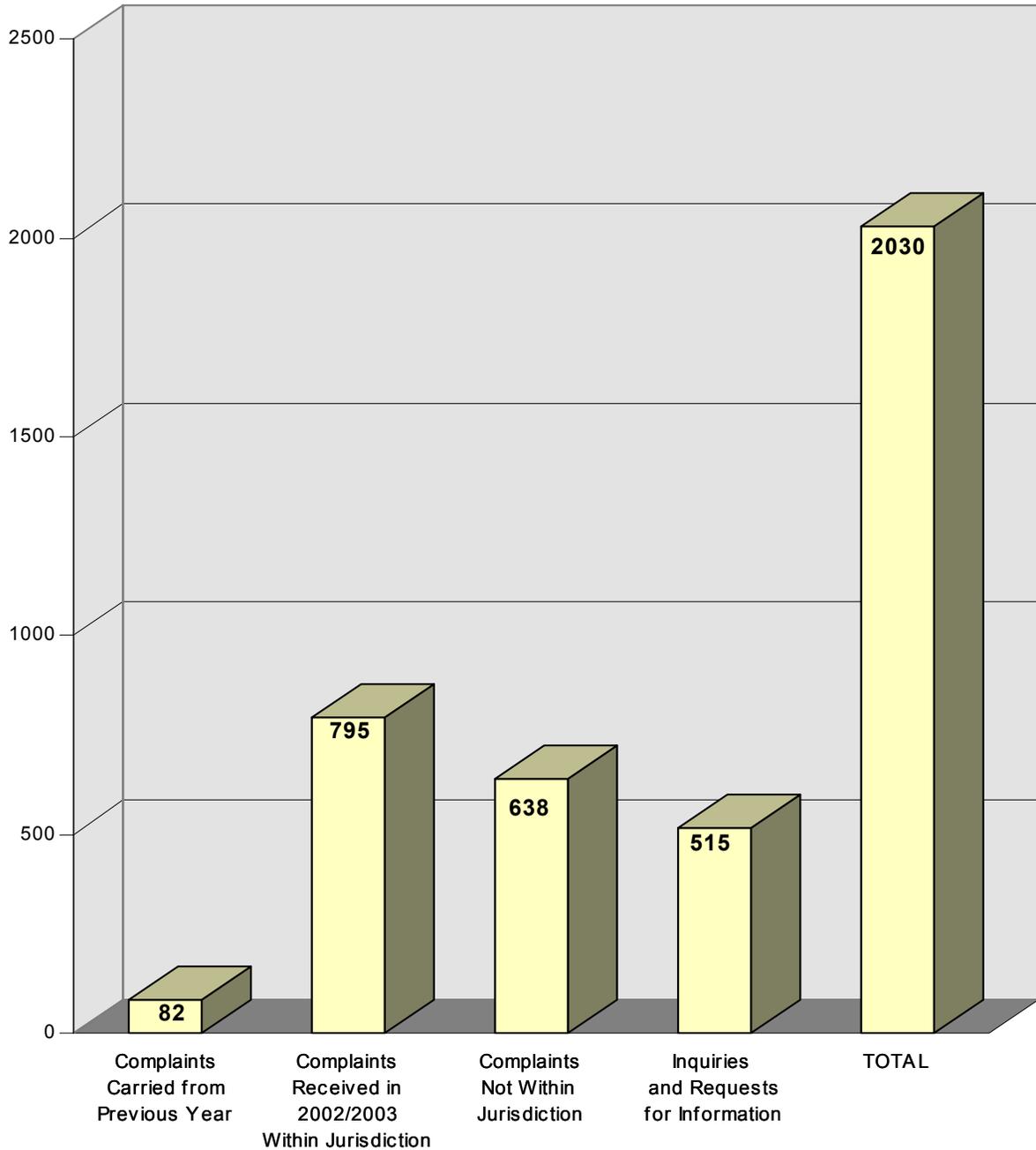
\*Sometimes a number of inmates join together to lodge a group complaint. Group complaints relate to areas of common interest such as living conditions, food, smoking or recreation. In this year, the Office received 3 group complaints from inmates.

## CHARTS

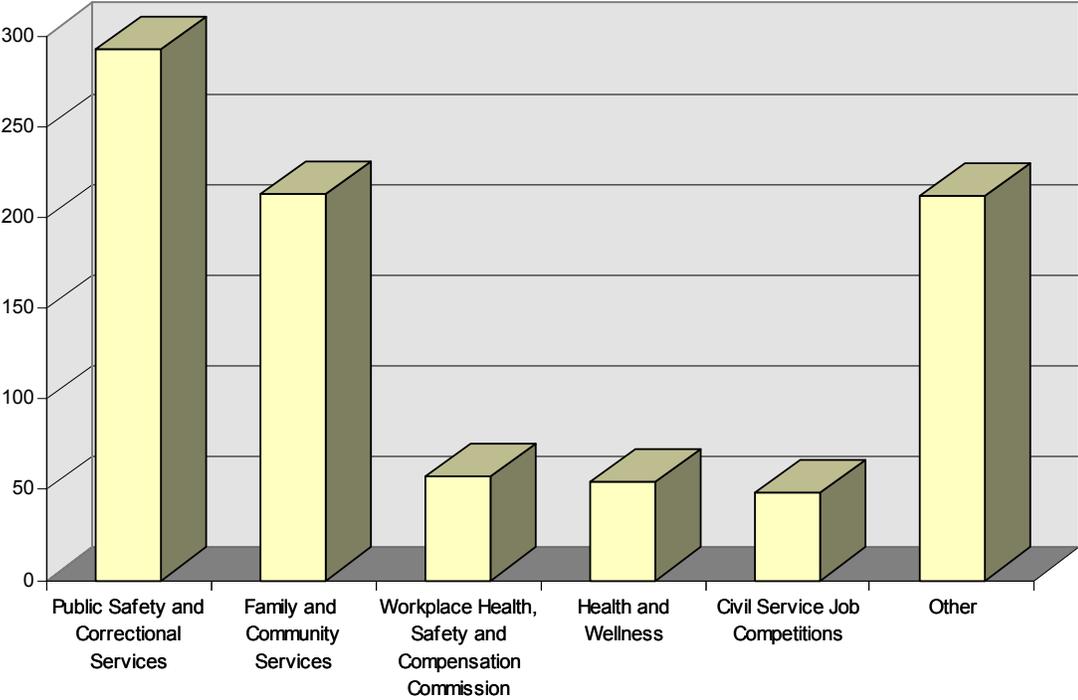
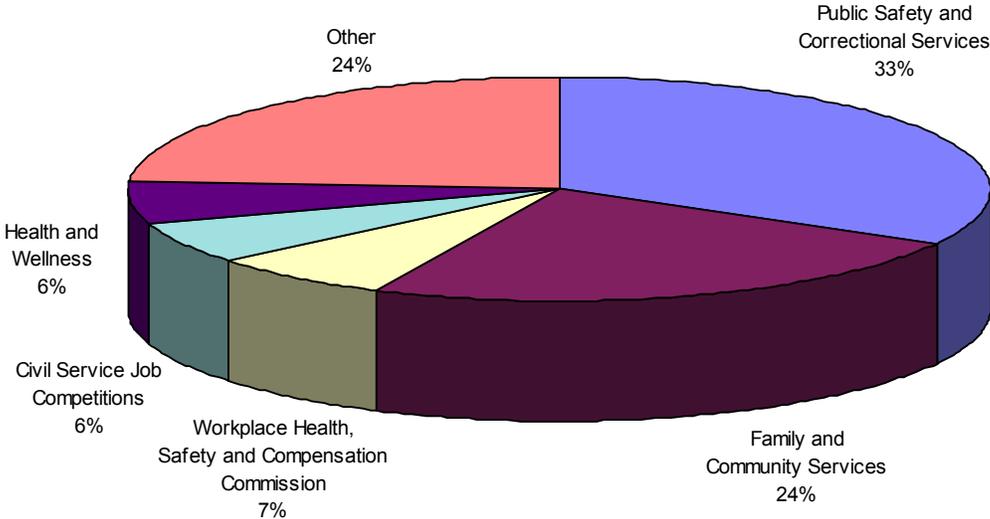
### COMPLAINTS, INQUIRIES AND REQUESTS FOR INFORMATION RECEIVED IN 2002/2003



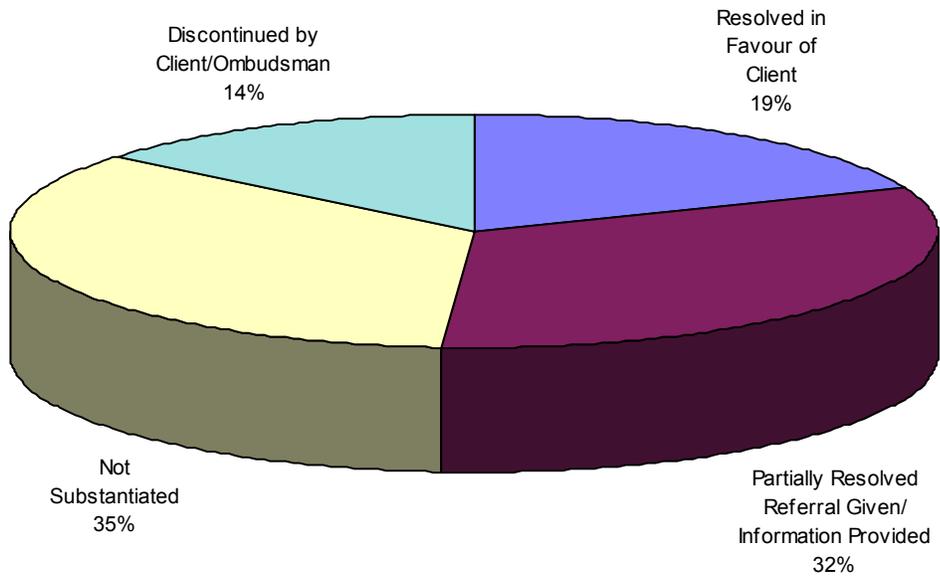
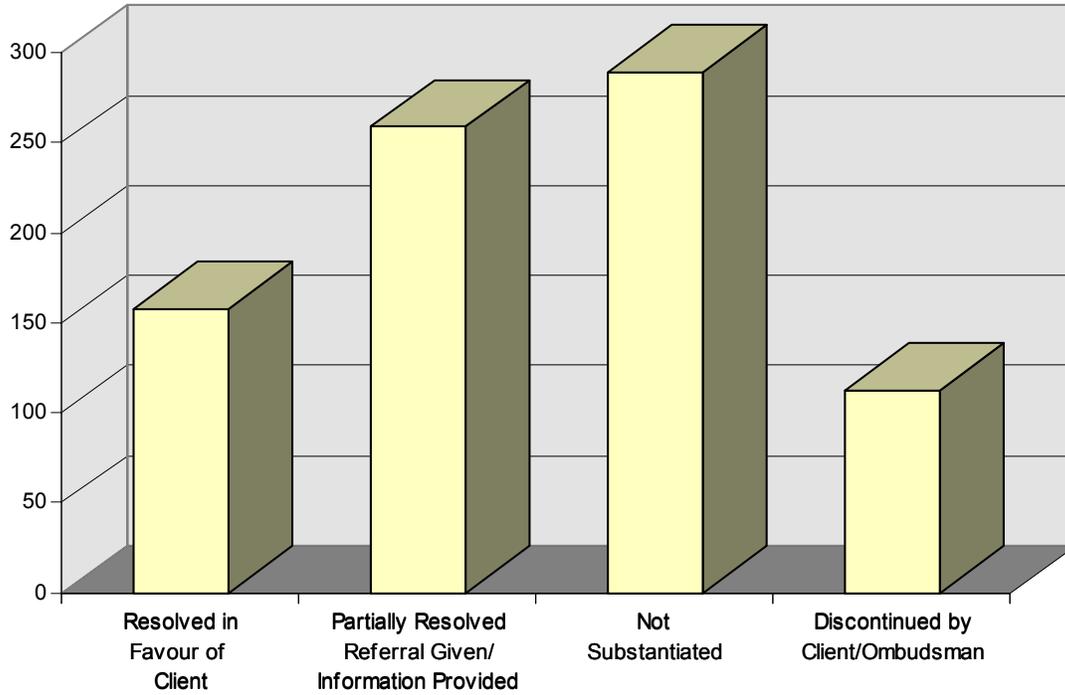
## TOTAL OF COMPLAINTS, INQUIRIES AND REQUESTS FOR INFORMATION BEFORE THE OFFICE OF THE OMBUDSMAN 2002/2003



### FIVE MAJOR SOURCES OF COMPLAINTS



## OUTCOME OF COMPLAINTS



## GEOGRAPHIC LOCATION OF COMPLAINTS



Note: Out of Province 1.5%  
Does not include complaints from Correctional Institutions  
Map Source: Communications New Brunswick

## POPULATION AND COMPLAINTS BY COUNTY

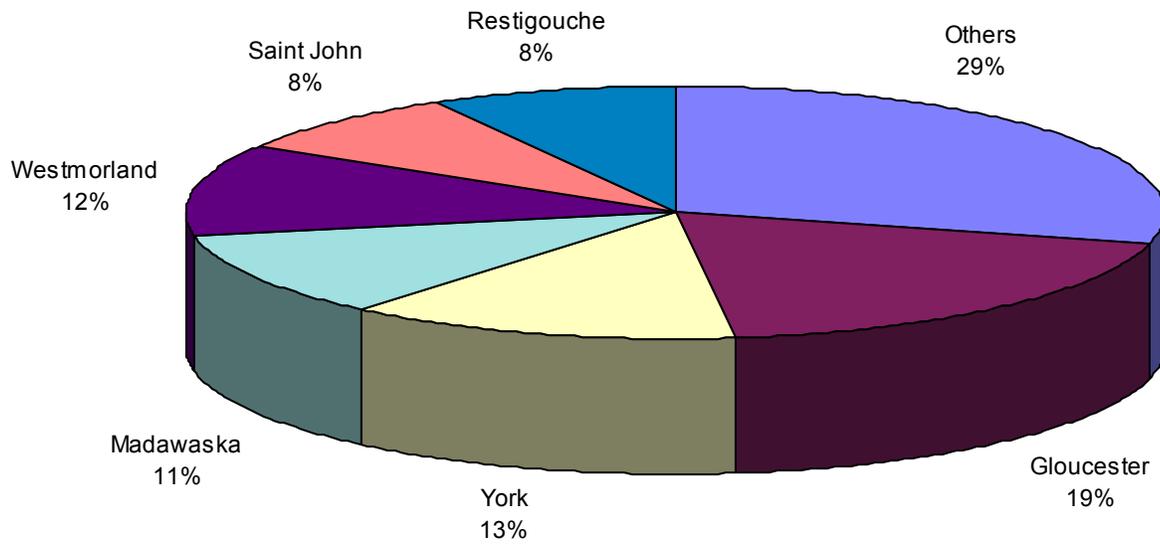
County	Population	Percentage of Population	Percentage of Complaints
Albert	26 749	3.7	1.7 (1.3)
Carleton	27 184	3.7	2.5 (2.5)
Charlotte	27 366	3.8	1.7 (3.1)
Gloucester	82 929	11.4	19.2 (17.1)
Kent	31 383	4.3	2.7 (2.0)
Kings	64 208	8.8	4.2 (3.8)
Madawaska	35 611	4.9	10.5 (11.3)
Northumberland	50 817	7.0	4.6 (5.9)
Queens	11 862	1.6	1.7 (1.3)
Restigouche	36 134	5.0	7.8 (8.1)
Saint John	76 407	10.5	8.4 (9.4)
Sunbury	25 776	3.5	2.9 (3.2)
Victoria	21 172	2.9	5.5 (4.3)
Westmorland	124 688	17.1	11.8 (9.2)
York	87 212	12.0	13.3 (15.6)
	<b>729 498</b>	<b>100</b>	<b>98.5 (98.1) *</b>

*Notes: Population from 2001 Census*

*Does not include complaints from correctional institutions  
(2001/2002 % in brackets)*

*\*Out of Province – 1.5% (1.9%)*

## GEOGRAPHIC LOCATION OF COMPLAINTS



Note: Does not include complaints from correctional institutions