



Office of the Ombudsman

Annual Report
2015 - 2016

"...fairness, integrity, good governance"



November 2016

The Honourable Kevin Murphy
Speaker of the House of Assembly
Legislative Assembly of Nova Scotia
Province House
Halifax, Nova Scotia

Dear Speaker Murphy,

In accordance with subsection 24(1) of the Ombudsman Act, chapter 327 of the Revised Statutes of Nova Scotia, 1989, and section 28, subsections (1) and (2) of the Public Interest Disclosure of Wrongdoing Act, Chapter 42 of the Acts of 2010, I have the pleasure of presenting to you, and through you to the House of Assembly, the annual report on the exercise of my functions under those acts for the fiscal year ending March 31, 2016

Respectfully,

A handwritten signature in black ink, appearing to read 'W. Smith', written in a cursive style.

William A. Smith
Ombudsman

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I - A Message from the Ombudsman



*William A. Smith,
Ombudsman*

The year under review completed the transitional period with my appointment as the Ombudsman for Nova Scotia. I am pleased to have been selected to lead this vital public service. I would like to thank past Ombudsmen for their work in elevating the role of the Office, as well as the team of dedicated staff for maintaining the integrity and level of service provision expected of an oversight agency during the transition period.

The Office of the Ombudsman has a broad oversight mandate. Through the Ombudsman Act, the Office serves as an avenue of complaint resolution for Nova Scotians regarding the administration of laws of the province by provincial and municipal government departments, agencies, boards, or commissions. This Office also has responsibility under the Public Interest Disclosure of Wrongdoing Act (PIDWA) to receive Disclosures of Wrongdoing in government. In addition, the Office provides specialized services for children, youth, and seniors, with units primarily designated to those services. As Ombudsman, I have the ability to investigate matters on my own initiative, through what is known as an Own Motion investigation.

This report covers details of our service provision, including the specific components of our mandate and the breadth of government entities which fall under our purview. This report also contains statistics and trends in complaints and outcomes as well as numerous case studies. For a quick look at the variety of complaints we receive, consult the Month at a Glance section. If you are interested in outcomes, figure 7 highlights the formal recommendations issued by this Office. The conclusion of this document describes how we are looking forward to the next fiscal year. I encourage you to review this report and learn how the Office of the Ombudsman has worked to contribute to public service delivery and how we plan to continue that service into the future.

II - About the Office

Mission

Promote the principles of fairness, integrity, and good governance.

Role and Mandate

Ensure government decisions and processes are fair, consistent, and transparent. Our mandate extends to all individuals who receive services from, or are impacted by, provincial and municipal governments.

Government employees and members of the public have an avenue to make allegations of provincial government wrongdoing to the Ombudsman under the Public Interest Disclosure of Wrongdoing Act (PIDWA).

Organization

Administration and General Operations

- The Office Manager fulfills most administrative and business functions.

General Operations

- Assessment Officers provide initial assessments and referrals and create records of all inquiries.
- Ombudsman Representatives handle casework, investigations, including Own Motions and systemic reviews. Managers and the Executive Director supervise staff, oversee investigations, and provide advice to the Ombudsman.
- The core business of the Office under the Ombudsman Act is the investigation and resolution of public complaints involving provincial and municipal government.

Investigation and Complaint Services (I&CS)

- Ombudsman Representatives review and investigate concerns about services provided by provincial and municipal government organizations.
- The unit addresses departmental services, adult corrections, property, municipal services, and many other inquiries and complaints.
- Undertakes Own Motion investigations that can include policy and systemic reviews.

Youth and Seniors Services (Y&SS)

- Ombudsman Representatives review, investigate, and report on the concerns of children, youth, parents, guardians, and those working in government child and youth care/custody facilities and services.
- Examines issues affecting senior citizens, particularly those who reside in provincially licensed long-term care (LTC) facilities.
- Promote dispute resolution processes and operate proactively to inform of our services and identify and address concerns and/or problems before they escalate.

Disclosure of Wrongdoing

- The Public Interest Disclosure of Wrongdoing Act provides an independent reporting and investigation mechanism for employees of provincial government bodies, and members of the public regarding allegations of wrongdoing within provincial government.

Human Resources

- The Office has 17 full-time positions, including that of Ombudsman. It continues to benefit from a roster of supplemental trained employees. This roster enables the Office to accommodate staff vacancies while continuing to carry out in-depth investigations.

Training and Professional Development

In-house training continues with the integration of different service units as an ongoing priority. This helps facilitate mentoring, cross-training, case management, and overall quality assurance. Various public sector representatives are also brought in to educate the staff on changes in public service such as corrections and municipal services. The Office also makes its expertise available to government and the community upon request, and offers input on governance and oversight issues, and policies in development or under review.

Beyond general staff training, individual Ombudsman Representatives have had other training opportunities such as Aboriginal Perceptions Training, French language, and Public Administration workshops.

Diversity

The Office reflects the diversity of our community. As of March 31, 2016 one staff person self-identified as Aboriginal, and one person self-identified as a person with a disability. One permanent employee is a council executive member of the LGBTI Network. One staff person on our supplemental roster is fluent in both official languages. Gender and age representations are proportional.

One representative is a member of the Provincial French Language Services Coordinating Committee. A number of supplementary employees are also employed each fiscal year on a term or casual basis, as well as student placements.

Financial Resources

The Office of the Ombudsman's 2015-2016 budget is shown in (Figure 1). For fiscal 2015-2016 this Office spent 85.7% of its budget. The variance in budgeted and actual expenses reflect savings in operational costs, i.e. position vacancies. The increase in spending on salaries from previous years is due to government's implementation of revised pay levels for employees excluded from bargaining units.

Figure 1

Office of the Ombudsman Estimated Expenditures 2015-2016		
Core Business	Estimate (\$ thousands)	Actual (\$ thousands)
Budget	1724	1477
Net Program Expenses	250	281
Salaries and Benefits	1534	1270
Less Chargeables	60	74
Staff (FTE's)	17	15.2

III –The Year in Review

Complaint Resolution Process

Individuals contacting the Office are able to communicate one on one with an Intake & Assessment Officer. This is the first step in our triage process, designed to determine the best approach to handling a complaint or request for information. Some complaints are resolved as a result of assessment staff providing quick information or referral information. More complex issues are assigned for review by Ombudsman Representatives and are processed as Administrative Reviews. Complex complaints may also involve a more in-depth or formal investigation.

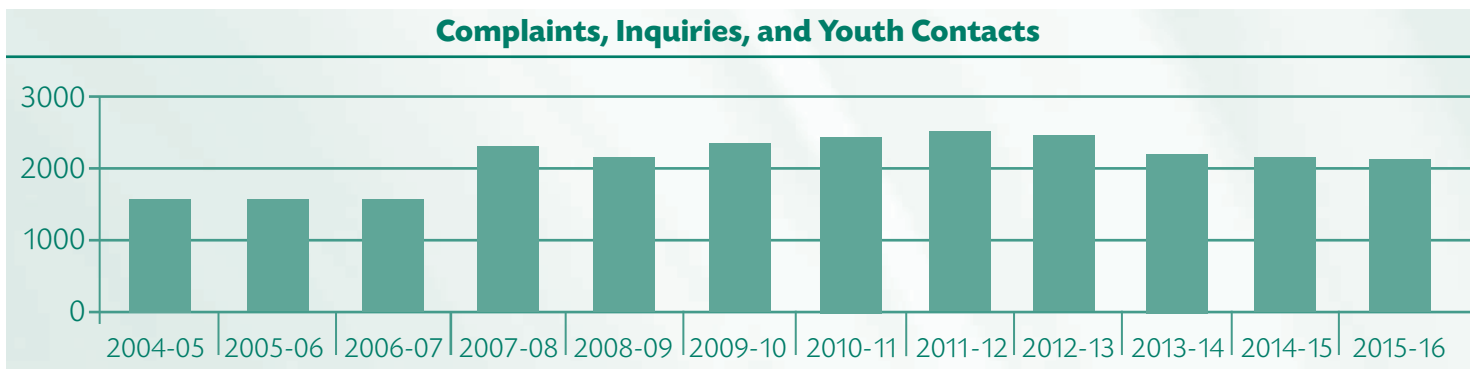
The Office utilizes outreach tools to pre-empt complaints before they are able to escalate into more challenging matters to address. For example, Ombudsman Representatives visit youth in care and custody on regularly scheduled site-visits and provide face-to-face assistance and address complaints as soon as possible, often just as they are emerging. Ombudsman staff also conduct site-visits at a variety of government regulated facilities across the province. Site-visits are not limited to youth in care and custody, Representatives also visit seniors in long-term care as well as inmates and staff in provincial correctional facilities.

Ombudsman Representatives approach outreach from a variety of angles in order to educate the public and government on our role and mandate, as well as provide information on complaint resolution options. Methods include attending expositions, meetings, and public events.

Intake & Assessment Officers receive complaints on the telephone, through mail, fax, email, and in person. Many complaints may not fall within the jurisdiction of the Ombudsman Act or the PIDWA, however our staff seek to provide the best information and assistance to all complainants. Sometimes this involves informing the complainant about an avenue of appeal and providing the appropriate referral information. In other cases, assisting the complainant could entail assigning their complaint to an Ombudsman Representative for further review, to analyze the complaint from a more in-depth perspective.

In 2015-2016 the number of new matters addressed within the scope of the Office of the Ombudsman was 2,117, consistent with long term patterns (figure 2). This total includes 1,272 Intake Assessments, 413 Administrative Reviews, and 403 meeting with youth in care and custody. There were 14 issues disclosed under the PIDWA. Of the 1,714 complaints in all categories,

Figure 2



548 complaints were deemed non-jurisdictional, for which various levels of assistance and information was provided. Eleven investigations were either formal, Own Motion, or Policy Reviews. The remainder falling under various smaller categories.

The triaging of complaints by Intake & Assessment Officers and the early resolutions made by Ombudsman Representatives is integral to the complaint resolution process. Of the 1,714 general complaints received this year, 1,272 were handled at the assessment stage.

In years past, the work of the Intake & Assessment Officers quickly resolving complaints, as well as the more in-depth, but short-term investigative work of Ombudsman Representatives; was reported into the single category of Administrative Reviews. Beginning in the year under review, as a result of the implementation of a new electronic case management system, an additional category will be used to more accurately reflect the work of Intake & Assessment Officers within the complaint resolution process. This new category is called "Intake Assessments" and will include all referrals and resolutions made by Intake & Assessment Officers. Moving forward, Administrative Reviews will only include those complaints assigned to Ombudsman Representatives for further review. This enhanced methodology will help to differentiate between complaints which are usually resolved within 1-7 days versus those typically lasting longer.

In previous years the Office worked with Information Technology (IT) services to develop a new case management system which was implemented in the year under review. This system, along with new

approaches to categorizing data, is designed to enable staff to better define each type of complaint, and highlight the level of work that is being completed at each level of the complaint process. The system is based on SAP's Customer Relationship Management (CRM) platform. Throughout this document our new complaint management systems will be referred to by the CRM abbreviation.

Figure 3 outlines the results of each Administrative Review completed by the Office in 2015-16. Based on the new categorization methods, there were 413 Administrative Reviews.

Figure 3

Results of Administrative Reviews	
Assistance Rendered	217
Resolved	24
Properly Implemented	48
Total with positive outcome	285
Discontinued by Complainant (Withdrawn)	56
Non-Jurisdictional	14
Remaining open at fiscal end	5
Other outcome	49
Total Administrative Reviews	413

** This total does not include meetings with youth in care/custody and is based on the new definition of "Administrative Review" for this office.*

Correctional Services

For the past several years, Ombudsman Representatives have worked to reduce the number of complaints to this Office by inmates. This was achieved in part by working closely with Correctional Services and successfully developing a more effective and efficient complaint handling process. The previous four fiscal years have seen the number of correctional services related complaints trend downwards. This year however, we have seen a slight increase.

All provincial adult correctional facilities are visited by Ombudsman Representatives on a quarterly basis. During visits, Representatives may receive complaints, provide information or referrals, and promote the resolution of complaints through correctional services' internal complaint process.

Educating inmates on correctional services' internal complaint resolution processes, and encouraging them to exhaust avenues of appeal available, has been effective in the past at reducing the number of complaints. Fewer number of complaints from inmates enable Intake & Assessment Officers, and Ombudsman Representatives more time to address complex or systemic issues. While the number of complaints have increased for the year in review, Ombudsman staff remain confident that the best avenue of complaint resolution for inmates is through the correctional services complaint process. Emphasis has also been placed on resolving problems informally through dialogue. The trend upward will be observed to determine whether this is a single spike in complaint volume, or whether other attributing factors such as incarceration rates apply, or if a new or revised approach is needed to reduce the number of complaints.

Figure 4 illustrates the number of correctional services complaints by inmates over the last five fiscal years. Data does not include complaints by inmates about

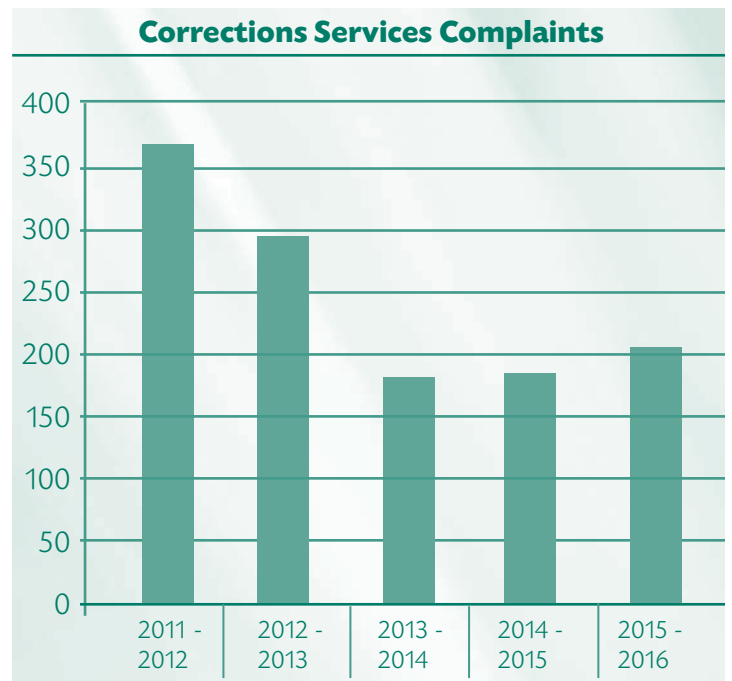
other government services outside of corrections, such as healthcare, or community services. It also does not represent complaints from the public about correctional services. For a total of all inmate and public complaints about correctional services see figure 9. This year there were 204 complaints by inmates about correctional services, almost all were referred back to the internal complaint process.

Case Example

An inmate contacted this Office as they were being released from custody and had been charged for property damage by the correctional institution. The inmate stated they were not aware of what property had been damaged, and correctional staff were unable to provide this information to the inmate when requested.

An Ombudsman Representative contacted the facility and staff were not able to locate records or

Figure 4



documentation to support the financial charge, and the charge was subsequently withdrawn.

Intake Analysis and Process

After completing our first fiscal year with the new CRM database, we have noted improved data and file management. Ombudsman Representatives' capacity to quickly assess and resolve issues through improved access to information pertaining to on-going complaints and investigations, complainants and respondents, and repeat or historical complaints has increased.

Volume and Resolution of Complaints

As an overall trend, this Office has seen a slight decrease in the number of complaints received. Last year we began a new approach to Long-Term Care (LTC) facility outreach and site-visits. The Office's internal outreach committee determined that Ombudsman Representatives would approach those best suited to represent the interests of residents of LTC facilities. This method has enabled Ombudsman Representatives to facilitate informal outreach meetings with residents, LTC facility staff, family councils, and resident councils. The result has been a reduction in formal site-visits, but an increase in overall outreach efforts to the groups who can best make use of our service.

This Office also promotes increased public awareness of avenues of appeal available, to help direct complainants to the appropriate responding party. Various promotional efforts are employed by the Intake & Assessment Officers, as well as staff undertaking outreach.

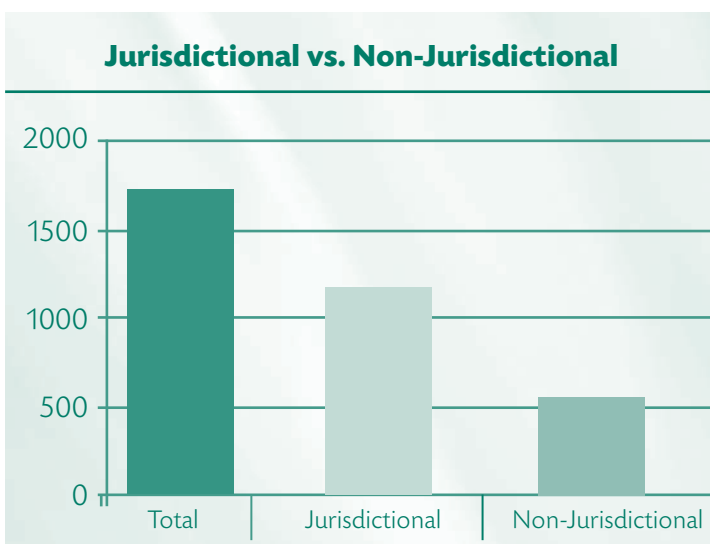
Jurisdictional and Non-Jurisdictional Complaints

In order for this Office to have the authority or jurisdiction to review a complaint or issue, the matter

must fall under one of two Acts, the Ombudsman Act or the PIDWA. Thirty-two percent of inquiries/complaints received this year were considered non-jurisdictional. In almost all non-jurisdictional cases there is an avenue of appeal available to the complainant, or the complainant has already exhausted the avenues available. We make referrals to private industry ombudsmen, collective bargaining agreements (unions), self-regulating professional associations, legal assistance organizations, the judicial system, federal oversight organizations, and other relevant bodies.

Whenever possible Intake & Assessment Officers will provide complainants who have non-jurisdictional complaints with information regarding the appropriate avenue of appeal and the relevant contact information. This referral service is not a technical component of our mandate, but staff have effectively added the function of assisting individuals with non-jurisdictional complaints. This is a demand on resources, but one that has value and we consider important for citizens. Surveys conducted by this Office continue to indicate this aspect of our service is appreciated and the information provided helpful.

Figure 5



Resolution Timelines

The majority of cases handled by the Office of the Ombudsman are resolved in one to seven days, due in part to our referral system as well as early resolutions by Intake & Assessment Officers. Figure 6 illustrates the timeframes in which various investigation types are completed. Note the table excludes uncategorized work undertaken by this Office.

Figure 6

Average Timeframe	Type	Number
1 – 7 days	Intake Assessments	1272
1 – 4 weeks	Administrative Reviews	413
4 + weeks	Formal Investigations	6
4 + weeks	Own Motion Investigations	5 (including 1 Policy Review)
4 + weeks	Disclosures of Wrongdoing	14

In-Depth Investigations

The Office undertakes various types of in-depth or Formal Investigations. Most of these complaints start as concerns brought forward by a member of the public. Sometimes these concerns cannot be resolved in a timely way through informal means. Formal Investigations can involve extensive research, file reviews and interviews with relevant parties, and are often more complex. Some cases have broader systemic implications separate from the initial complaint.

The Office also monitors trends in complaints, including where they originate. A series of related complaints

about a specific government entity can highlight a systemic issue in policy or process. The Ombudsman has the authority to initiate an investigation that does not stem from a particular complaint. These are called Own Motion investigations. While not all Own Motion investigations are of a systemic nature, they often can be.

More and more the public has placed emphasis on the need for ‘whistleblowers’ both in and outside of government, who can shed light on wrongdoing by a government entity. The PIDWA provides the authority to investigate complaints from both the public service and the public in general, pertaining to disclosures of provincial government wrongdoing. Complaints of this nature are not as frequent as complaints under the Ombudsman Act, but tend to be more complex and labour intensive, and may identify activity in breach of public policy or law. Disclosure of Wrongdoing complaints must also meet a high threshold to be considered as such. Complaints submitted to the Office under the PIDWA, but do not necessarily meet the criteria established under the Act, may be investigated under the Ombudsman Act instead.

This year 24 in-depth investigations were conducted. Five investigations were based on general complaints, four were conducted on the Ombudsman’s own initiative or motion, and one was a Policy Review. The Office also received 14 Disclosure of Wrongdoing inquiries/allegations under the PIDWA, resulting in one formal disclosure investigation. There were no findings of wrongdoing this fiscal year and no recommendations under the PIDWA.

Investigation Outcomes

Section 20 of the Ombudsman Act provides the authority to make recommendations to provincial

government departments and municipal units. Most recommendations come as the result of a Formal Investigation, usually lasting four or more weeks. Recommendations require government entities to report back to this Office with plans to implement within appropriate timelines. The ability to enhance policy and process within government is derived from the authority to issue recommendations. While the agreement of government entities on the implementation of

recommendations is not binding, the majority of recommendations are accepted and implemented in full.

Figure 7 describes recommendations issued during the year under review. The table also describes the public body involved as the respondent, as well as the nature of the complaint. There was a total of 12 formal recommendations. Of these 12, 8 have been implemented in full, and 4 are being monitored for implementation.

Figure 7

Complaint	Respondent	Recommendations
<p>Search Procedures for youth in residential child-caring facility</p>	<p>Department of Community Services – Child Welfare</p>	<p>All recommendations have been accepted and implemented:</p> <ol style="list-style-type: none"> 1. The Department of Community Services review existing residential child-caring facilities policy and procedures with respect to searches, to ensure the needs and safety of residents and staff are appropriately met. 2. The Department of Community Services examine the authority of residential child-caring facilities to conduct searches, specifically those that may involve removal of resident clothing, and where appropriate amend and/or develop, and implement, policy in this regard. 3. The Department of Community Services review existing staff training, and where appropriate provide additional and/or ongoing training to ensure program managers and staff of residential child-caring facilities are familiar with appropriate search procedures, including documentation requirements. 4. The Department of Community Services review, and where appropriate revise, residential child-caring facilities policy respecting documentation and completion of incident and search reports to ensure risk assessment and rationale for a search is included. 5. The Department of Community Services develop and implement a quality assurance process to ensure consistent and accurate reporting documentation for residential child-caring facilities.

Complaint	Respondent	Recommendations
Appropriate clothing for an inmate attending court	Department of Justice – Sheriff Services	<p>All recommendations have been accepted and implemented:</p> <ol style="list-style-type: none"> 1. Develop a policy regarding the transport of individuals in a “safety gown.” 2. Develop a structured public complaint resolution process identifying roles, responsibilities, and timelines. 3. Sheriff Services acknowledge concerns with respect to the attire available/provided to complainant during transport and appearance in court. Acknowledge concerns with the handling of the initial complaint.
By-Law enforcement	Halifax Regional Municipality	<p>All recommendations have been accepted:</p> <ol style="list-style-type: none"> 1. Review the land use by-law complaints involving the adjacent property owner. 2. Review the compliance and enforcement approach in response to subsequent offences involving the adjacent property owner (property adjacent to the complainants). 3. Ensure consistent application and enforcement of timelines set out in the Guidelines for Compliance in the handling of by-law complaints. 4. Collaborate with provincial officials in relation to by-law enforcement on provincially-owned property.

Outreach

Last year an outreach strategy was developed placing greater focus on reaching youth outside of care/ custody, as well as the general public; while maintaining regular outreach efforts for vulnerable groups such as seniors in Long-Term Care (LTC) Facilities, and youth in custodial and Residential Child-Caring Facilities (RCCF's). Ombudsman Representatives visit youth detention and secure care facilities monthly as well as all RCCF's at least once every quarter. Representatives engage youth by offering to speak with them in private or with their peers. They also collect data, dispense educational materials, listen to complaints, and build a rapport with staff. Representatives prepare written reports on these visits, whether or not a complaint is filed by a youth and/or a staff person.

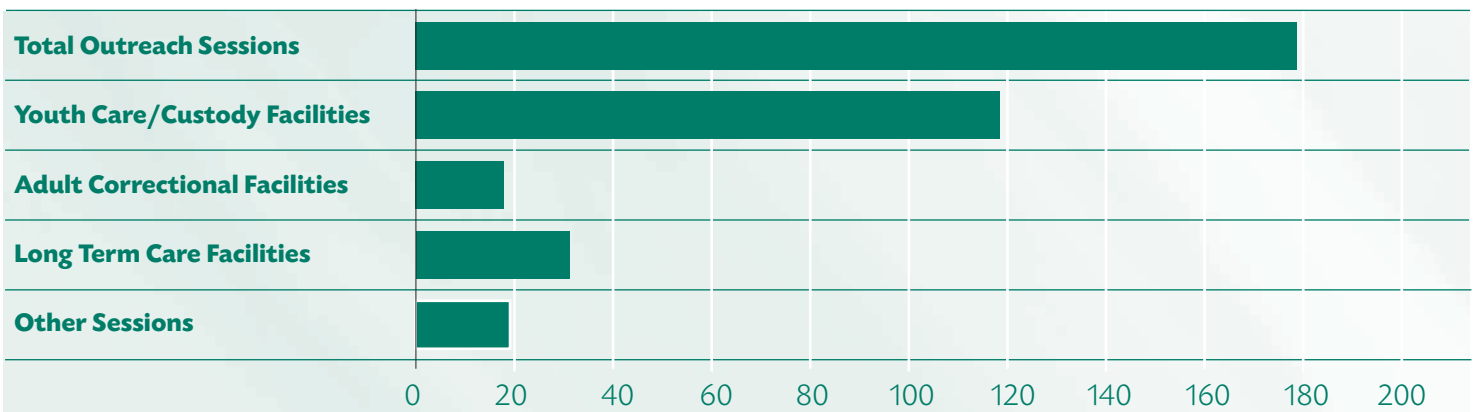
This is the second year where a new approach to LTC visits has been applied. As previously mentioned, rather than visit all LTC facilities as a matter of course, Ombudsman Representatives have reached out to LTC staff, resident councils, and family councils in an attempt to meet and communicate our message with those most appropriately placed to help resolve issues for

LTC residents and their families. Numerous LTC facilities have responded positively requesting Ombudsman Representatives to visit during monthly resident council meetings, or when resident's families are being engaged.

The Office has also undertaken a plan to increase awareness about the role of the Office among diverse groups within Nova Scotia. As a component of this year's outreach strategy, research was conducted on what organized groups/clubs/associations representing various diverse groups exist on a county by county basis. Areas of focus included the LGBTQI community, First Nations, African Nova Scotians, and new Canadians, among others. Future outreach efforts will involve using this information to reach out and offer presentations or meetings where Ombudsman Representative can visit and provide information on the role of the Office, address concerns, and learn from group and community members.

The Office is also represented on the board of the Nova Scotia Council for the Family, the Council's Youth in Care Committee, the Child Welfare League of Canada, and the Canadian Council of Child and Youth Advocates. Figure 8 illustrates the areas where outreach is focused.

Figure 8



This year, as in the past few years, the Office held a contest designed to engage youth in creative ways. Children were invited to design posters, while older youth were offered a number of creative mediums to submit as their entry. This was achieved by engaging schools across the province and teachers. Each year the theme changed to reflect a different article from the United Nations Convention on the Rights of the Child. Participants received certificates, with the winners in each category of the contest awarded special prizes.

This Office has continued to participate in the annual Public Service Commission United Way fundraising campaign and coordinated our efforts through the Public Service United Way Steering Committee.

Records Management

The Records Analyst manages a program of record control and retention which adheres to provincial

government requirements for records maintenance, specifically the provincial Standard for Administrative Records and the Standard for Operational Records or STAR/STOR. Outside of the daily maintenance of central records, the Records Analyst also compiles statistics and looks for trends in various categories. Our records are not subject to freedom of information requests, and are inadmissible in court. In accordance with the Ombudsman Act, all staff swear to, or affirm, an oath of confidentiality in the administration of their duties, and provide background checks.

As referenced earlier, CRM has been implemented in the year under review as a new tool to manage case-files. This tool allows staff quicker and easier access to case-files. Aids in keeping records up to date and accurate. Provides new options for statistical analysis, and facilitates improved use of digital records as the standards progress towards paperless record keeping.

IV - Services and Cases

Investigation and Complaint Services (I&CS)

Many of the complaints that come to us by telephone or email are general complaints that are handled by the Investigation and Complaint Services (I&CS) section and are either reviewed as Intake Assessments or as Administrative Reviews. Many provincial departments, municipalities and agencies have either an internal complaint resolution process or mechanism of appeal. Often staff help complainants navigate complaint processes within government by directing complainants to the appropriate authority, or finding solutions when a complaint process has been delayed or set off track.

When a complaint is within the jurisdiction of the Office, and avenues of appeal have been exhausted, generally the first step after the initial Intake Assessment is an Administrative Review. To begin such a review Ombudsman Representatives work with the complainant and respondent government officials to address the issue. For instance, that could happen by helping open lines of communication, pointing to an overlooked stage in a process, or directing the parties to an appropriate policy. If a resolution cannot be achieved informally, a more formal investigation may be initiated, focusing on in-depth research, interviews, and possible recommendations.

Case Study - Investigation and Complaint Services

This section of the Office provides an independent process for resolving public concerns. In general concerns handled by I&CS involve services delivered by provincial or municipal government departments, agencies, boards, and commissions. These complaints

are separate from Disclosures of Wrongdoing under PIDWA as well as complaints with issues specific to youth or seniors.

The following are examples of cases addressed by Investigation and Complaint Services:

Out of the Cold

A refugee newly settled to Nova Scotia was experiencing some bureaucratic confusion. The complainant had made an application for the Heating Rebate Program within the 2015 deadline. Following the application the complainant received a letter from Service Nova Scotia (SNS) indicating the application was disqualified from the rebate program as a Social Insurance Number (SIN) was not provided. The complainant was confused by the decision as according to the complainant, it was previously explained to SNS that since arriving in Canada, a SIN had not yet arrived from the federal government, however all other necessary documentation was provided. Frustrated with the response from SNS, the complainant contacted this Office seeking assistance.

An Ombudsman Representative contacted the Program Manager at SNS responsible for the Heating Rebate program and explained the circumstances of the complainant's application. The Program Manager reviewed the case and decided to re-open the complainant's application. SNS obtained the applicants SIN from the Canada Revenue Agency and confirmed that the complainant qualified for the rebate. Once eligibility was determined, SNS issued the complainant a cheque for the rebate.

Appearance before the Court

An individual contacted this Office expressing concern after being placed in a safety gown by Sheriff Services for a court appearance. The issue related to the use of the safety gown and the response by Sheriff Services in relation to the individual's concerns.

Individuals in custody who are thought to be at risk of self-harm or suicide are dressed in what is known as a safety gown. The gown is designed to limit use as a ligature and cannot be easily tied or torn. While an effective safety tool, it lacks in appearance and personal comfort for a courtroom. The complainant in this case was brought to court with no other clothing and appeared before the Judge in the safety gown.

Following a review of the complaint, an investigation was initiated. It was determined that a policy regarding the transport of individuals in a safety gown did not exist. Further, there was no process in place to guide Sheriff Services' staff, or define roles and responsibilities in responding to public complaints.

Three recommendations were issued by this Office, which included the development of policy related to transportation of inmates in safety gowns and a public complaint process that outlines roles, responsibilities and timelines. It was also recommended that Sheriff Services respond to the individual in writing to acknowledge their concerns. These recommendations were accepted and implemented by the Department of Justice.

Maintenance Enforcement Program

In 2015, after a lengthy investigation, this Office reported on a client's complaint that challenged the use of certain discretionary powers of the Director of the Maintenance Enforcement Program (MEP).

The client, a maintenance recipient, had been removed from the program at the discretion of the Director for allegedly breaching the Maintenance Enforcement Act by attempting to enforce the recipients own court order for maintenance. Section 7 of the Act states that only the Director shall enforce a maintenance order during the time it is filed with the Director. Section 11(1)(a) provides the Director the ability to deny further enforcement of an order if a client engages in activities that "appear to the director" to be self-enforcement.

In this case, a substantial maintenance settlement consisting of arrears and revised monthly payments, had been awarded to the recipient, a parent of two, by the Nova Scotia Family Court. The former spouse of the recipient and parent of the children, had not paid the arrears, which were based on considerable but unreported increases in income. The former spouse and parent made the revised monthly payments for a few months at an arbitrarily reduced level, then stopped payments altogether.

Enforcement initiatives by the MEP, including revocation of the payors passport and attempts to locate income sources, proved futile. Meanwhile, two initiatives by the

recipient client caused the MEP to conclude that the payee was attempting to enforce the order on their own. The recipient's lawyer had written a letter to the payors new spouse demanding certain financial information which had been sought by the court order. Secondly, a family friend of the recipient developed a website about the case in which the former spouse was referred to as a "deadbeat" parent. Details about the case were revealed. The MEP believed the recipient to have been the instigator of both initiatives, and declared the actions to be unauthorized enforcement activities.

An Ombudsman Representative reviewed the decision surrounding the refusal of the MEP to continue enforcement. The Act and related MEP policies were also reviewed. A detailed legal defense of the MEP's decision was also considered by this Office. It was concluded that while the Director possessed the power exercised, it was discretionary and its exercise had to be considered in the totality of the circumstances. It was found that while the letter to the former spouse's new partner was controversial, the recipient was unaware of any implications regarding self-enforcement.

With respect to the "deadbeat" parent website, this Office concluded that the recipient, while aware of its existence and the source of some information that was revealed on it, was not initiated, owned, or controlled by the recipient and was unable to meet the MEP's demand to have it removed.

The investigation also noted the potential impact on the children to cease enforcement. Concluding that "the

absence of significant consideration for the impact on (the) children resulted in the enforcement termination decision to be made in an unbalanced and therefore unfair manner."

Seven recommendations were issued, and accepted by the MEP. Most have been implemented. Among them a recommendation that the recipient be accepted back into the program, and that the implications for children be a high priority for the MEP in any decisions to cease enforcement of a maintenance order.

Implications of the Case Examples

Following policy and procedures is important, but it is also important for managers to have a level of discretionary authority when making decisions.

In the case of the home heating rebate application, the complainant, new to Nova Scotia and Canada, did everything within their power to meet the requirements of the rebate and explained why a SIN could not immediately be provided during the initial application process. After discovering this unanticipated type of issue with the application process, the manager of the program was able to use their discretion to allow the application to continue.

While a manager's discretion is important, a strong foundation in good policy and procedures will assist officials when faced with issues similar to those raised in the safety gown case involving Sheriff Services. In that instance policy around if and when a safety gown is to be

used can potentially save lives, but also keep the article from being used improperly.

The MEP case demonstrates how the purpose of a law or an agency may become overlooked within the complexity of an issue. In this case there was an individual who refused to pay their court ordered support payments and there was a recipient who was adamant about getting what was legally owed. Lost in the minutiae was the fact that the purpose of the court order was to ensure the children were cared for, but that became a secondary concern to who had the right to enforce the order and how it ought to be enforced.

Youth and Seniors Services

The Youth and Seniors Services section is designated to some of the most vulnerable and often overlooked populations in society, youth and seniors. Their increased interaction with government services, particularities of their age, and the number who reside in the care of others, often makes them more susceptible, or more likely, to have negative experiences with government. Ombudsman Representatives independently review and investigate the concerns of children, youth and seniors who are receiving provincial and municipal government services. Ombudsman Representatives also inform themselves on issues and topics affecting youth and seniors.

The general oversight function and mandate for children and youth is rooted from a provincial audit, 'In Our Care' (Samuels-Stewart, 1995), and the subsequent report by retired Judge Stuart G. Stratton, Q.C., regarding allegations of abuse at provincial youth facilities. Ombudsman Representatives connect with youth through visits to all residential child-caring, secure

care, and detention facilities. Keeping informed on the policy, procedures, and operational protocols for these sites helps to resolve issues quickly as well as ensure that the manner in which youth are being cared for is appropriate. Ombudsman Representatives strive to make both the youth and facility staff feel comfortable and safe when coming forward with concerns and complaints. They also support open communication between youth and staff as a means to informal resolution of complaints. That being said, Ombudsman Representatives will not hesitate to investigate any allegation when appropriate.

Case Study - Youth and Seniors Services

The following are examples of cases addressed by Youth and Seniors Services:

Search Procedures

This Office was contacted by a youth at a secure care facility with concerns related to search procedures. The youth described a search process where they were asked to undress behind a blanket held up by staff. The undressed youth was then asked to shake out their clothing while staff observed the floor for dropped contraband. The youth reported feeling uncomfortable and that the process was emotionally distressing, in part due to having experienced trauma during their childhood.

A review of search procedures was undertaken by this Office and it was determined that the described process was not a part of the facility policy manual. Areas of concern identified by the investigation include the deviation from policy, a lack of appropriate documentation on the search procedure, as well as the compatibility of the search process undertaken with

respect to a trauma informed approach. A Consultative Report was issued with five recommendations that were accepted and implemented by the Department.

The Cost of Care

This Office was contacted by the adult-child of a person living in long-term care. The complainant disagreed with the daily accommodation rate for their parent, who required daily nursing care. The complainant had appealed the rate numerous times to a review unit within the Department of Health and Wellness, Continuing Care. When an Ombudsman Representative became involved, the complainant alleged that policy on the matter was unclear and inconsistent. The appropriate continuing care staff were contacted and all relevant policy and procedures were requested. In particular, this Office sought the policy describing the process of appealing accommodation rates.

Upon review, there appeared to be some confusion among the levels of the health care bureaucracy as to what procedures and policies applied in this case. Prior to the investigation being concluded, the complainant received a letter from the Department reducing their parent's daily accommodation rate, by Ministerial intervention.

Implications of the Case Examples

Youth in care and custody provide a myriad of issues and concerns as the parties responsible for youth must balance their care, their security, and their overall wellbeing. Searches are a necessary part of any facility keeping individuals secure while in custody as they help to prevent contraband from entering the facility which could potentially harm the youth being searched, other

youth, and staff within the facility. Search procedures must balance the obvious security requirements with the wellbeing of the youth. Excessively intrusive procedures or procedures conducted without the appropriate training can make vulnerable youth feel even more marginalized and can place facility staff in a difficult and compromising position. It is necessary for senior managers to recognize this important balance and to create clear policy and procedures that outline the practices allowed when searching a youth. Policy must be adhered to, and training designed so staff are able to follow policy with a clear understanding of the requirements and limitations.

Providing the degree of care expected in our society necessitates various levels of health service provision and large expenditures from both the public and government. With an aging population and advanced medicine, a consequence, in part, is a large health sector and the bureaucracy that manages it. When complex issues are further confused by the requirements of unclear policy or process, the result can leave individuals frustrated and worried for the care of their loved ones. In many cases this Office takes on a de facto role of helping complainants navigate processes, bridge communication gaps, or to provide an independent third person, to encourage all parties involved to come to a resolution.

Disclosure of Wrongdoing (PIDWA)

PIDWA provides public servants as well as members of the public with a clear and accessible method to disclose allegations of wrongdoing regarding provincial government. Any individual wishing to make a disclosure may contact the Office directly, however,

provincial government employees may contact this Office or disclose the allegations to their supervisor, or the designated officer at the public body they work. Concerns that are more appropriately addressed through an established grievance mechanism, such as an employment matter, are generally not investigated through PIDWA. Similarly, matters better resolved through organizations with specific mandates are referred elsewhere, such as issues under the Nova Scotia Human Rights Act. All matters received are subject to an assessment, and where appropriate, a referral.

This past year, the Office assessed 14 Disclosures of Wrongdoing, 13 were considered at the administrative level and one at the formal level.

Case Study – Disclosure of Wrongdoing

In the year under review this Office received a disclosure necessitating a Formal Investigation. The disclosure came from a member of the public who alleged that a government department was misusing government funds and vehicles. The complainant had attempted to resolve the matter directly with the respondent department but was told that the concerns were unfounded. Given the position of the department, and continued concerns over the use of public funds, the complainant made their disclosure to this Office. After initial review, it was determined that a Formal Investigation was warranted.

The allegation suggested that a government employee was commuting a long distance and being paid travel expenses, as well as using a government vehicle. An Ombudsman Representative reviewed numerous documents including travel policy, compensation,

and job descriptions for the employee making travel claims. Numerous meetings took place with senior department management. As a result of the investigation by this Office, the respondent department ordered an internal investigation. The completion of that internal investigation resulted in a report with recommendations. Improvements within the department were implemented including new accountability controls related to expense claims and staff training on the relevant department policies. The practices which lead to the disclosure were discontinued.

Own Motion Investigations and Policy Reviews

The Office of the Ombudsman may investigate government activities, practices and policies on its own initiative, categorized as Own Motion investigations. Policy reviews can be initiated at the request of a government department, agency, or commission. These reviews and investigations frequently address concerns which may be systemic in nature. In the year under review this Office conducted four Own Motion investigations and one Policy Review.

Case Study – Policy Review

While not specifically a standard Policy Review, this example demonstrates how interjurisdictional sharing of knowledge can inform best practices and improved policy across the country. The Saskatchewan Prevention Institute recently conducted an interjurisdictional review of established child death review processes across Canada. This research was completed in response to a provincial advisory committee that is exploring the possibility of establishing a child death review process in Saskatchewan.

The Saskatchewan Prevention Institute interviewed an Ombudsman Representative to discuss child death review processes currently existing within Nova Scotia and recommendations issued to government by this Office as a result of the Child Death Review Report in July 2014.

The Saskatchewan Prevention Institute released their final report in May 2016 and this information can be found on their website. This Office looks forward with interest to the direction taken by the Saskatchewan provincial advisory committee in the establishment of a child death review process.

Since the Child Death Review was released in 2014, there have been updates to the recommendations issued by this Office. All recommendations were accepted by government and the responding departments have been providing quarterly updates to the Ombudsman. These updates reflect the actions taken by the departments to implement our recommendations. In particular, this Office was pleased to note that the forthcoming establishment of an interagency child death review team. We will continue to monitor the progress of all outstanding recommendations and look forward to future updates.

Case Study - Own Motion Investigations

All of the Own Motion investigations initiated in the year under review remain ongoing. Own Motion reviews are often initiated for complex systemic issues and therefore tend to take longer than Administrative Reviews or other

investigation types. Findings relevant to the public good will be reported in subsequent annual reports. Current Own Motion investigations include reviews of municipal expenditures and financial accounting practices.

Implication of the Cases

While less common than our regular public complaints, Disclosures of Wrongdoing, Own Motion investigations, and Policy Reviews represent some of the most complex and challenging work undertaken by this Office. The Disclosure of Wrongdoing case described above demonstrates why the legislation exists. Historically, “whistle blowers” in Nova Scotia could only come from inside government, but in this case, a private citizen was able to bring forward information on a misuse of public funds, inform this Office as an appropriate authority, and facilitate a resolution process. This resulted in the department holding itself accountable, and to inform better policy and practices in the future, as well as putting an end to the inappropriate expense claims and vehicle use.

Interjurisdictional cooperation allows ombudsman offices and child advocates from across the country to share information and best practices on everything from complaint resolution to serving the vulnerable people covered by our mandates. While being asked to participate in a jurisdictional review or to share information on a previous report can add an extra burden to our daily work, the result is ultimately better ombuds practice. We also are assured that in the future we have an additional resource if we need information on policy and best practices from another jurisdiction.

V - Where Complaints Originate

Provincial and Municipal government services are vast and often diverse. Complaints can originate from any of these programs and services. In addition, citizens can also bring forward complaints about agencies that do not fall under either the Ombudsman Act or the PIDWA, and are therefore outside of our jurisdiction. Non-jurisdictional complaints, such as those relating to a private entity, court, or the federal government, are referred to appropriate avenues of complaint or appeal mechanisms.

Those government entities who are accessed most by citizens, or who interact with the largest populations, tend to generate the most complaints. This is not surprising, a large number of complaints relating to a small agency would be an immediate red flag. Historically

the government entities with the most complaints have been the Departments of Community Services, Health and Wellness, Justice, and Service Nova Scotia, the Workers Compensation Board, and the Halifax Regional Municipality. This Office recognizes it is not necessarily a reflection of the delivery of services provided, rather it can also be attributed to the nature and type of the service, and sheer volume of citizens accessing them. Those who depend on immediate government services in their daily lives are also more likely to encounter cause for complaint.

The following tables demonstrate from which government entities the most complaints originate, as well as the type of complaints. The statistics are demonstrated over a three year period.

Sources of Complaints

Figure 9

Community Services						
Year	Total	Employment Support and Income Assistance	Children, Youth, and Families	Housing Nova Scotia	Services for Persons with Disabilities	Other
2015-16	368	142	174*	41	7	4
2014-15	278	105	43	50	12	14
2013-14	266	90	56	34	18	18

* Now includes complaints by youth in care.

Justice					
Year	Total	Correctional Services	Maintenance Enforcement Program	Court Services	Other
2015-16	285	221	27	9	28
2014-15	221	172	27	14	8
2013-14	242	181	25	24	12

Health and Wellness						
Year	Total	Offender Health	Continuing Care	Nova Scotia Health Authority	Pharmacare	Other
2015-16	167	41	29	70	3	24
2014-15	123	74	23	12	1	13
2013-14	161	87	23	23	3	25

Service Nova Scotia

Year	Total	Registry of Motor Vehicles	Residential Tenancies	Debtor Assistance and Student Loans	Land Title Registry	Other
2015-16	34	14	4	1	2	13
2014-15	30	10	3	2	2	13
2013-14	64	22	13	2	2	25

Halifax Regional Municipality

Year	Total	Planning and Development Services	Regional Police	Transportation and Public Works	Other
2015-16	37	5	3	4	25
2014-15	32	2	12	8	10
2013-14	52	5	17	11	19

Workers' Compensation Board

Year	Total	Administrative Service	Benefits	Claims Process	Other
2015-16	29	3	9	5	12
2014-15	29	6	4	14	5
2013-14	31	7	10	7	7

Respondents to Complaints – All Entities

The table (figure 10) provides a complete list of public bodies that were subject of complaints within the jurisdiction of Ombudsman Act in the year under review. Non-jurisdictional complaints are also recorded in broad categories and have been marked with an asterisk (*) to indicate the volume of complaints requiring outside referral.

A respondent appearing on this table does not necessarily indicate fault or mal-administration by that government entity. The respondent is captured when the complaint is received and is not indicative of whether the complaint was founded, founded in part, or unfounded. Further inquiry may lead to informal resolution, a meritless complaint, or a non-jurisdictional issue.

Month at a Glance

Up to 200 complaints may be received in any given month. This past fiscal year the Office averaged 143 complaints per month, excluding contacts with youth in care and custody. On average, over the years approximately one third of all complaints have been non-jurisdictional.

The following table (figure 11) breaks down the month of July 2015. Information includes the respondents for complaints and the nature of the issue. The table demonstrates the variety of complaints received. This variety highlights why Ombudsman Representatives must maintain a broad knowledge of legislation, policy, and procedures, as well as provincial and municipal contacts. As mentioned for the previous figure, the existence of a complaint in this table does not necessarily indicate fault. The respondent is captured when the complaint is received.

Figure 10

Department/Agency/ Commission/Non- Jurisdictional Entity	Number of Complaints
Agriculture	2
Amherst (Town)	1
Annapolis (Municipality)	4
Antigonish (Municipality)	1
Antigonish (Town)	1
Bridgewater (Town)	2
Business	1
Cape Breton Regional Municipality	12
Chester (Municipality)	2
Colchester (Municipality)	3
Communities, Culture, and Heritage	1
Community Services	368
Cumberland (Municipality)	1
Credit Union Deposit Insurance Corp.	1
Digby (Town)	2
Education and Early Childhood Development	11
Environment	33
Finance and Treasury Board	3
Fisheries and Aquaculture	2
FOIPOP Review Office	5
Guysborough (Municipality)	2
Halifax (Municipality)	31
Halifax Harbour Bridges	1
Halifax Regional Police*	3
Halifax Water	2
Health and Wellness	56
Housing Nova Scotia	4
Human Rights Commission	8
Inverness (Municipality)	6
Internal Services	2
IWK Health Centre	3

Justice	285
Kentville (Town)	3
Kings (Municipality)	3
Labour and Advanced Education	13
Labour Board	2
Labour Standards	1
Legislative House of Assembly	1
Lunenburg (Municipality)	3
Mahone Bay (Town)	1
Municipal Affairs	2
Natural Resources	1
New Glasgow (Town)	1
Nova Scotia Community College	8
Nova Scotia Farm Loan Board	1
Nova Scotia Health Authority	70
Nova Scotia Legal Aid Commission	18
Nova Scotia Liquor Corporation	3
Nova Scotia Power Finance Corporation	2
Nova Scotia Utility and Review Board	2
Nova Scotia Police Complaints Commission	1
Office of the Ombudsman	1
Pictou (Municipality)	1
Property Valuation Services Commission	5
Public Prosecution Service	1
Public Service Commission	5

RCMP*	3
Regional School Boards	7
Richmond (Municipality)	9
Seniors	1
Service Nova Scotia	34
St. Mary's (Municipality)	2
Transportation and Infrastructure Renewal	12
Truro (Town)	2
West Hants (Municipality)	2
Workers' Compensation Appeals Tribunal *	8
Workers' Compensation Board	29
Yarmouth (Municipality)	2
Yarmouth (Town)	1

No respondent – includes most non-jurisdictional complaints, info requests, and inquiries **596**

Total **1716****

Note: Asterisks () denote non-jurisdictional inquires and complaints that are referred to the appropriate oversight entities.*

*** Total is higher than total complaints (1714) because a complaint may have more than one respondent*

Figure 11



VI - Looking Ahead

The Office of the Ombudsman will continue to provide an independent oversight service whereby Nova Scotians may bring forward concerns they may have about government entities. We will continue to strive to maintain the public's confidence that all complaints will be addressed in keeping with the Ombudsman Act and the PIDWA. We will also strive to remain aware of emerging issues that impact the direction and focus of the Office. Shifts in government may change the overall policy direction, but regardless of those shifts, this Office seeks to promote adherence to legislation for all provincial and municipal government entities. Broadly speaking, Nova Scotians consistently demonstrate an interest in health and social welfare matters, and in the integrity of their government. Efforts to educate the public on the role and mandate of the Office will help to

make staff as effective as possible in their ombuds work. The public has also shown increased interest in municipal matters as concerns over local governance are becoming more and more visible through social media and modern communication mechanisms.

This Office always aspires to reach the most Nova Scotians possible and to inform as many as we can about how we are here to help. From the general public to youth in care, our outreach strategy is annually updated to broaden our message and to make this Office more visible. We endeavor not only to be available to those who make regular use of government services, but to also reach those who traditionally have felt ignored and disenfranchised when dealing with government.

VII - Contact us

Ombudsman Representatives are available to meet with groups or organizations to talk about the services the Office provides.

The Office also has communication materials to distribute such as brochures and posters. Additional reference documents supplementing the Annual Report may be found on our website or by contacting the Office.

Telephone:

Public Inquiries / Complaints: 1-902-424-6780 or Toll Free: 1-800-670-1111

Youth Inquires / Complaints: Toll Free: 1-888-839-6884

Disclosure of Wrongdoing Inquiries / Complaints: Toll Free: 1-877-670-1100

Fax: 1-902- 424-6675

Mail or in person:

5670 Spring Garden Road, Suite 700

PO Box 2152

Halifax, Nova Scotia B3J 3B7

Online:

Website: <http://novascotia.ca.ombu>

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Facebook: Nova Scotia Ombudsman



Twitter: @NS_Ombudsman

