



—ALBERTA—
OMBUDSMAN

2020-21 Annual Report





—ALBERTA—
OMBUDSMAN





To the Honourable Speaker
of the Legislative Assembly

The Alberta Ombudsman's office is pleased to present its 54th Annual Report to you and through you, to the Legislative Assembly.

The Report has been prepared in accordance with section 28(1) of the *Ombudsman Act* and covers the activities of the Alberta Ombudsman's office for the period April 1, 2020 through March 31, 2021.

Respectfully,

A handwritten signature in black ink that reads 'Marianne Ryan'. The signature is fluid and cursive, with the first name 'Marianne' and the last name 'Ryan' clearly distinguishable.

Marianne Ryan
Alberta Ombudsman

Fall, 2021
Edmonton, Alberta





Vision

Equitable treatment for all

Mission

To provide oversight to ensure fair treatment through independent investigations, recommendations and education for all Albertans

Values

Integrity | Respect | Accountability | Independence





Table of Contents

2	Message from the Ombudsman
5	About Us
6	Organization Chart
7	About Our Work
9	Fairness in Unprecedented Times
11	2020-21 Year at a Glance
18	Sectors in Review
22	Setting Meaningful Standards for Youth in Segregation
24	Uncovered Memo Convinces College of Pre-screen Error
27	Defining Responsibility in Emergency Situations
29	Ombudsman Investigation a First for Alberta Health College
31	Paving the Way for Future Foster Parents
33	Early Resolution Case Gets Answers Sooner than Later
35	Education and Awareness
37	Financial Statements



Message from the Ombudsman

In March 2020, the viral character of COVID-19 required wholesale changes to how we lived and worked. Workplaces, schools, and home lives changed drastically across all demographics and socio-economic standings. What remained the same was the need for fair administration across the public service. In many respects, that need was amplified as authorities wrestled with rapidly changing priorities and citizens relying heavily on government programs faced serious personal challenges.

Like many Albertans, my home became my workplace this year. In compliance with public health orders, we temporarily closed both our Calgary and Edmonton offices and our staff made the transition to work remotely. We upgraded our IT services and continued our day-to-day operations as best we could from within a virtual environment. While the journey held many challenges, I am proud of the way our staff adapted to new demands and rallied as the situation evolved.

Predictably, we received many COVID-19 related complaints this year. We heard from families facing job losses and childcare issues, business owners coping with temporary closures, and individuals battling the effects of isolation. Patients alarmed with delays in scheduled surgeries contacted us to complain, as well as those concerned with vaccination rollouts. While we received COVID-19 complaints about all jurisdictional sectors –

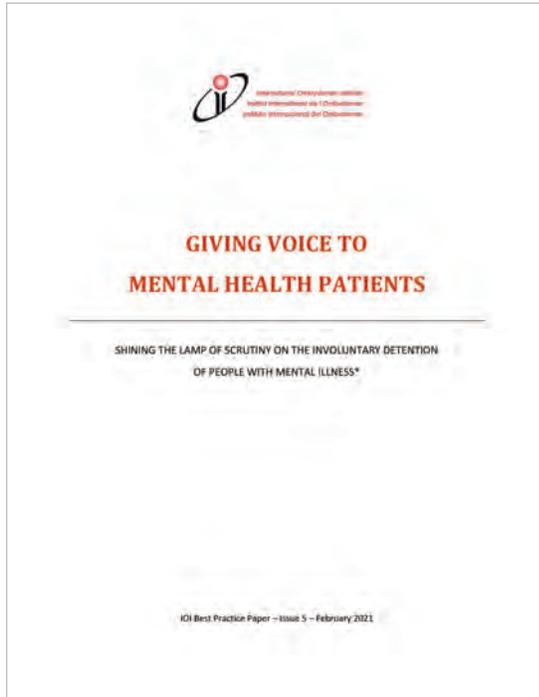


provincial government, municipalities, and professional organizations – we noted a considerable proportion were patient and health related.

Conversely, we noted a decline in the total number of cases we received by fiscal year-end. This was largely driven by initial gaps in our ability to take live calls as we shifted to remote home offices – an issue we have since resolved. COVID-19 changed priorities for many Albertans. While it played a role in how we accomplished our work, it did not overshadow our focus on fairness.

In this year's annual report, we discuss the achievements of our office including investigations and events applicable to

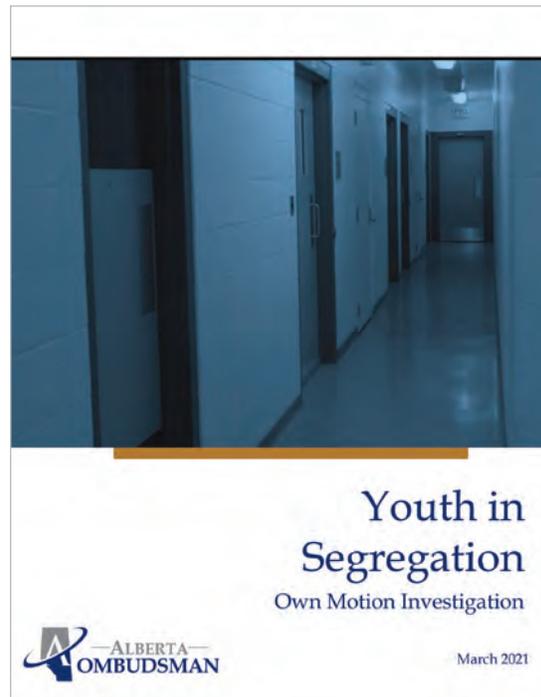
our mandate. We report on major cases and highlight key performance measures that are important to our stakeholders. I am pleased to report sustained success with case closure rates thanks to the early resolution step in our investigative process. We also released two significant reports in the 2020-21 fiscal year.



Ensuring individuals with mental health issues were treated fairly lay at the heart of our first important publication. Completed early in 2021, the paper was published via the International Ombudsman Institute (IOI) as a best practice paper. Giving Voice to Mental Health Patients describes how Ombudsman institutions can design investigations that protect the rights and interests of disadvantaged groups. It also

argues the case for a proactive approach by seeking opportunities to look at the needs of groups who may otherwise remain voiceless. Co-written by Mary Marshall of Meadows Law and our own Ombudsman staffer Daniel Johns, the paper was presented at the 2021 IOI world conference in recognition of the conference theme Giving Voice to the Voiceless. An article about the paper and the conference event can be found on our website.

The second report, Youth in Segregation, focuses on the use of segregation in provincial young offenders centres. Released in March 2021, this investigation was initiated by my own motion when we received a complaint about segregation as a means to control behaviour. One significant finding points out there is no



legislative basis for the use of segregation for a young offender in Alberta. The story, found on page 22, describes the indisputable impact of segregation on the mental health of young people, a consensus reached by other Canadian Ombudsmen through independent but similar investigations conducted in their respective provinces. Our findings and recommendations provided guidance to the Young Offenders Branch on what changes need be made to protect the rights of incarcerated young people. The Branch supported the findings and accepted my recommendations.

A third significant endeavor this year focused on the pursuit to modernize the *Ombudsman Act*. During my tenure, it has become apparent that the statute requires both revision and modernization. After passing Canada's first *Ombudsman Act* in 1967, Alberta legislators appointed the Ombudsman to address the power imbalance between the state and the individual. Today, my office fulfills its original mandate but struggles with legislation that no longer matches the operational environment that has evolved over the past 54 years.

In January 2021, I wrote a letter to the Standing Committee on Legislative Offices asking the Committee to sponsor

a request that Alberta Justice and Solicitor General draft amendments to the Ombudsman legislation. I was pleased when the Committee supported the concept and advanced my request for consideration. While a full review of the enabling legislation is preferred, we see the opportunity for short-term solutions which we have put forward for the ministry's review. Namely, the inclusion of some key amendments to the *Ombudsman Act* in the government's *Miscellaneous Statutes Amendment Act*, including a process for a regular scheduled review every 10 years.

After a remarkable year, I am proud of what our office has achieved. Our accomplishments are due in no small way to the dedication and perseverance of my entire staff this past year. Thank you for your commitment in ensuring all Albertans are treated fairly.

Serving as Ombudsman has been a tremendous privilege. As I embark on the last year of a five-year appointment, I continue to look forward to each day serving Albertans and upholding the standards of fairness they deserve.



Marianne Ryan
Alberta Ombudsman

About Us

The world we live in is complex and not everyone is well-versed in navigating government complaints systems. In Alberta, the Ombudsman fills an important role as an impartial, independent third party working to rebalance the power disparity individual citizens may experience when seeking fair treatment in the public service.

While the Ombudsman gladly fields all kinds of grievances, her office's jurisdiction requires investigation of complaints about provincial government authorities, municipalities, the Patient Concerns Resolution Process of Alberta Health Services, health professions and designated professional organizations. Staff take seriously their responsibility to thoroughly investigate individual complaints, pursue systemic improvements through own motion investigations, and engage with the public through educational initiatives.

The Ombudsman is also Alberta's Public Interest Commissioner. Legislated by the *Public Interest Disclosure (Whistleblower Protection) Act*, this office conducts independent, impartial and procedurally fair investigations into allegations made by public sector employees blowing the whistle on wrongdoing or making a complaint of reprisal.

Together, the offices employ four investigative teams and their managers, corporate staff members, general counsel and executive managers. The Public Interest Commissioner maintains a separate operation but shares corporate services, IT, and executive management.

Then

In Alberta, backbench MLA Albert Ludwig introduced the Ombudsman concept to the Legislature at least as early as February 28, 1963. Ludwig said MLAs and cabinet ministers could not investigate all the complaints they received from constituents and therefore an Ombudsman should be appointed. The idea finally took off in Alberta in 1966 with the publication of the Clement Report. Carlton W. Clement Q.C. called for the appointment of an Ombudsman to "assist the ordinary citizen who is bewildered by the complexities of departmental Government and feels that he has been done an injustice."¹ The Legislative Assembly agreed and appointed the first Alberta Ombudsman, George B. McClellan, in 1967.

Now

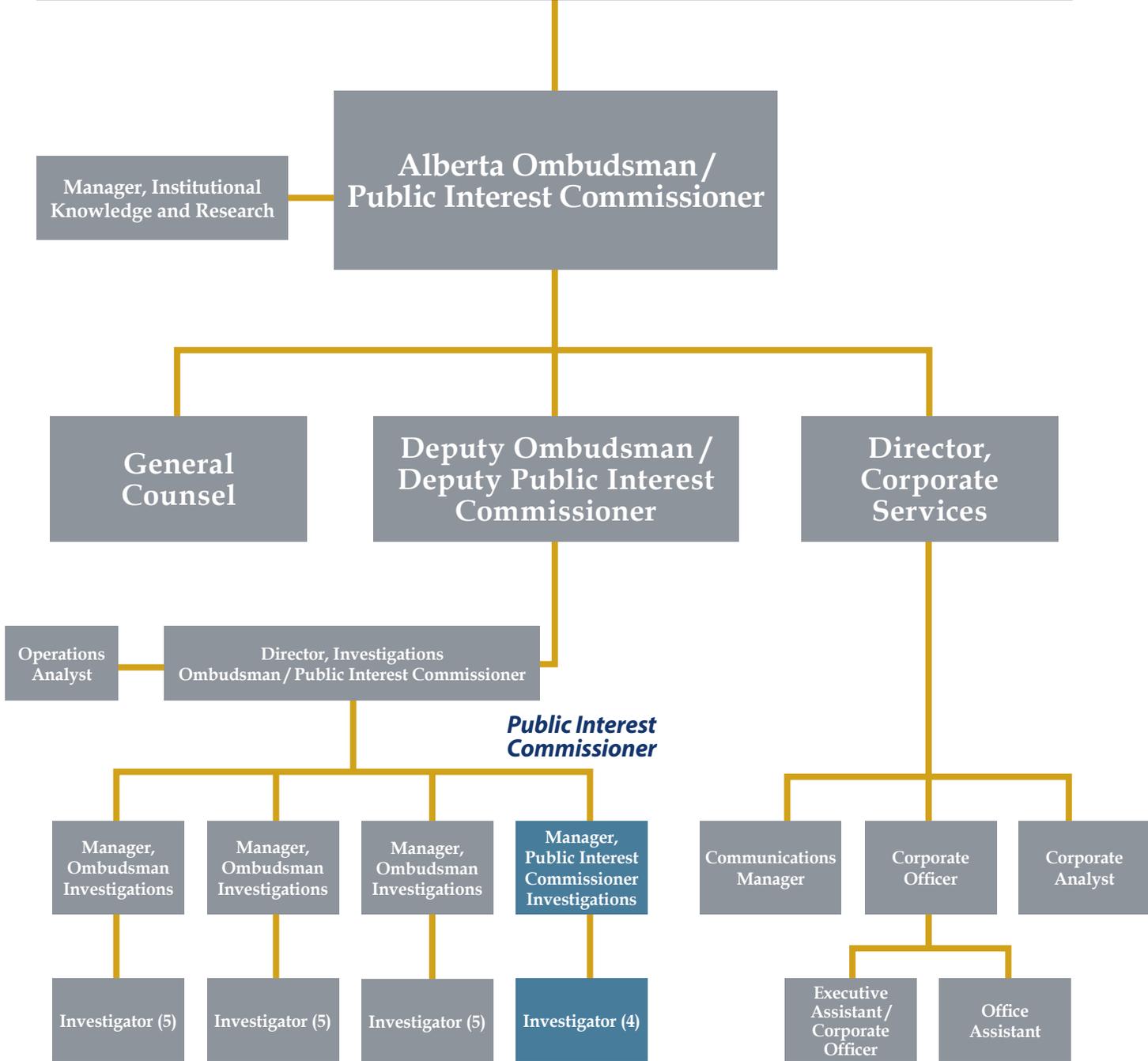
In 2020-21, all Canadian provinces and territories (except Prince Edward Island² and Nunavut) have a provincial or territorial Ombudsman responsible for providing oversight of government services. Many hold additional legislated responsibilities, including mandates for receiving privacy complaints, public interest disclosures, child and youth services, and French language services.

¹ Clement C.W., The Report of the Special Committee on Boards and Tribunals to the Legislative Assembly of Alberta, April 1965.

² CBC news article, Bill to (finally) create an ombudsperson passes 2nd reading in P.E.I. Legislature.



Legislative Assembly of Alberta Standing Committee on Legislative Offices



This organization chart reflects a reduction from 33 Ombudsman full-time employees in fiscal year 2019-20 to 30 in 2020-21.

About Our Work

Here's how we go about our work:

Assistance at Intake



The Ombudsman provides a free referral service to assist callers across a wide range of complaints. Before the Ombudsman can investigate, a complainant must first complete the complaint process with the agency that has denied the service. An intake investigator may provide information on how to access the appropriate agency's review process or direct callers accordingly if the matter is outside the Ombudsman's jurisdiction. The goal at this stage is to empower the caller to take next appropriate steps in escalating their complaint. Through the normal workweek callers are put through to an investigator right away, but if the lines are busy, a callback will be received within one business day.

Jurisdictional Assessment



When the Ombudsman receives a written complaint, the first step is to determine whether the Ombudsman has jurisdiction and the complainant has exhausted all available appeals or reviews. Often, complaints are multifaceted. Determining jurisdiction over any part of a complaint requires research and analyzing the most up-to-date information about the entity involved. Once jurisdiction is confirmed, the next step is to ensure the nature of the problem is fully understood and we have all relevant facts.

Early Resolution



Early resolution is the first step in our investigation process where the investigator attempts to resolve the issue informally and as quickly as possible. The investigator will contact the complainant, discuss what steps have already been taken to resolve the issue and clarify what expectations the complainant may have. Contact with the authority in question is also common to explore whether the matter can be resolved quickly and to ensure the investigator has up-to-date information.



Full Investigation



There are many reasons the Ombudsman’s investigative team may proceed to a full investigation. A full investigation may be required if the issue is complex and will require detailed research, site visits, file reviews and interviews; if the issue is systemic in nature and has the potential to affect multiple individuals; and if all attempts at early resolution have failed. The time taken to conduct a full investigation depends on the complexity of the circumstances, but can take a year or more to conclude.

Own Motion Investigation



An important part of the Ombudsman’s role is ensuring vulnerable communities retain their voice against unfair and unjust treatment. The Ombudsman has the legislated authority to investigate systemic issues on her own accord – a type of investigation termed “own motion.” Typically an own motion is initiated when trend issues suggest a gap between government legislation, regulation, or policies and the outcomes achieved by the administrative programs and processes designed to implement them.



Fairness in Unprecedented Times

The impact of COVID-19 reached across the province. The shock of a world pandemic spared no workplace or citizen. Like other public agencies, the Ombudsman continued to fulfill her mandate but adapted operations to protect complainants and employees from potential exposure.

The Ombudsman's office moved to a remote work environment when a state of public health emergency was declared in Alberta on March 17, 2020. Reports on the severity of the COVID-19 disease defined the symptoms as highly variable, ranging from asymptomatic to life-threatening—especially for the elderly and those with underlying health conditions.

Early on with the number of active cases on the rise, the provincial government imposed aggressive measures.

“COVID-19 has forced us to make some extremely difficult decisions,” stated Dr. Deena Hinshaw, Alberta's Chief Medical Officer of Health at a March 18, 2020, press conference. “We have had to weigh lives against livelihoods. And in order to save lives, I have had to make recommendations that will take away livelihoods from many Albertans over the next several weeks to months. There are no easy solutions to the situation we are in, not only in Alberta but around the world.”³

Across industry, the degree of impact would not be shouldered equally. Experts reported that vulnerable populations were particularly susceptible to any ensuing recession. Michael Burt, Executive Director of the Conference Board of Canada, wrote on the subject:

"Of particular note are frontline workers in the retail, accommodations, and restaurants sectors, who are among the lowest paid across all industries and occupations. This means that they would generally have limited financial resources to cushion the impact of lost wage income. Many of the people who work in these roles also tend to come from marginalized groups in the labour force. For example, racialized minorities, immigrants, women, and young people are generally disproportionately employed in these roles."

Now working from home, Ombudsman staff cancelled plans for in-person interviews, meetings, presentations, and other outreach events. Instead, resources were dedicated to responding to COVID-19 complaints and closely monitoring emergency response programs including the government's Emergency Isolation Support—a program challenged by issues that would later become the subject of an Ombudsman's own motion report.

³ CBC news article, [Premier and chief medical officer warn peak of COVID-19 outbreak may be weeks away](#).



Investigators rallied to become subject-matter experts in the available federal and provincial financial programs, as well as the government's pandemic service response across individual ministries. A quick chat with an intake investigator left callers with a better understanding of temporary assistance programs such as emergency isolation support funding, loan repayment deferrals for Albertan students, tax freezes, utility payment deferrals, commercial rent assistance for small business, and rent relief. The office also advanced its IT and communications capacity by ensuring remote offices were equipped and secure teleconferencing platforms were available.

Many of our complainants come from vulnerable populations with little to fall back on in times of crisis. With an understanding that many still grapple with the negative impacts of the COVID-19 pandemic, the question of how to be of better service to Albertans adversely affected remains at the forefront of our minds.



2020-21 Year at a Glance



2,975
REQUESTS FOR
ASSISTANCE
PROVIDED AT INTAKE



1,572
INVESTIGATIONS
COMMENCED



4,547
TOTAL CASES
RECEIVED

Down 12% over last year

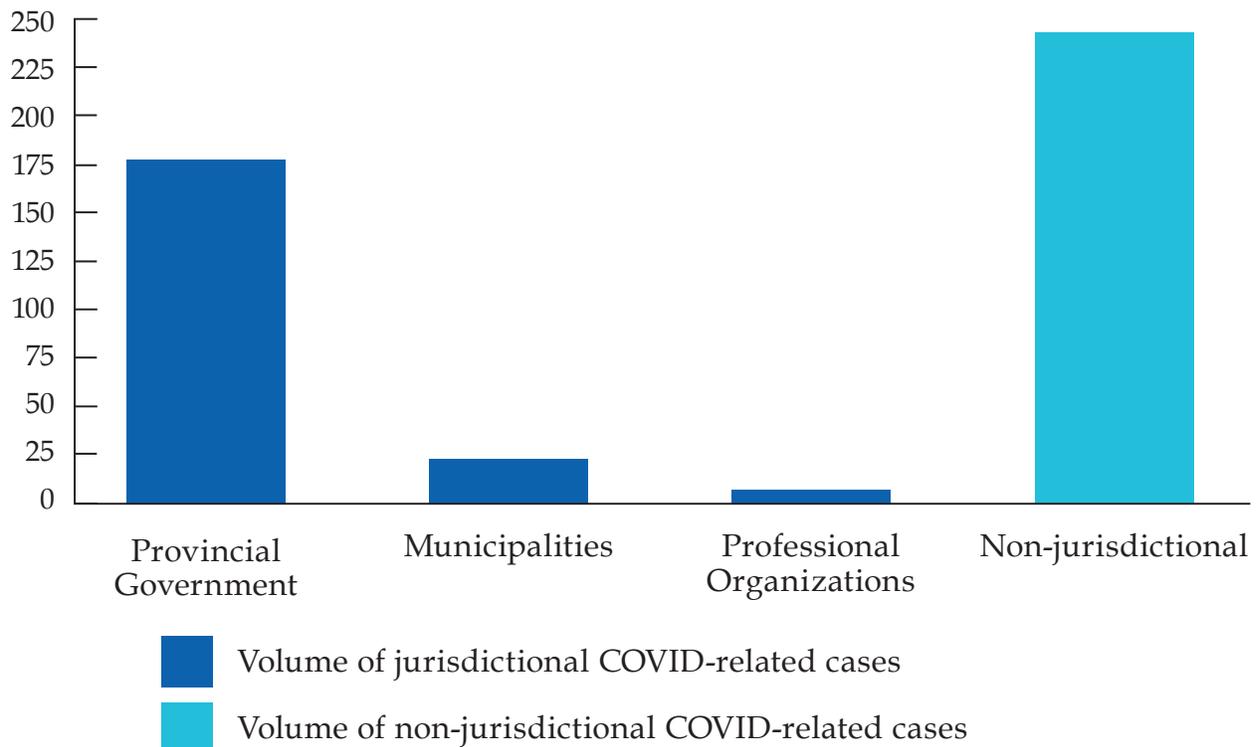


Business Plan Highlights

In 2020-21, we received 450 COVID-19 related cases across a wide range of issues including complaints about immunization roll-out, limited access to vaccination programs in rural areas, delayed medical appointments, access to Emergency Isolation Support funding, and restriction of privileges of inmates isolated due to COVID-19 exposure.

Many complainants contacted us for help with health and patient concerns. A considerable number were non-jurisdictional. To manage questions and complaints that were new to us, our investigators created a database of COVID-19 related resources. The idea was to provide the appropriate referral information so complainants felt empowered to advance their complaint in the right direction. The table below shows a breakdown of the volume of COVID-19 cases received in 2020-21.

Comparison of Jurisdictional COVID-19 Related Cases by Sector to Non-jurisdictional COVID-19 Related Cases



While our high-level business goals remained the same, it was necessary to adapt to the demands of the times. Here are some highlights from our work in a uniquely challenging year.



Goal 1: The Ombudsman’s office will continue to develop best practices to ensure efficient, timely and thorough investigations.

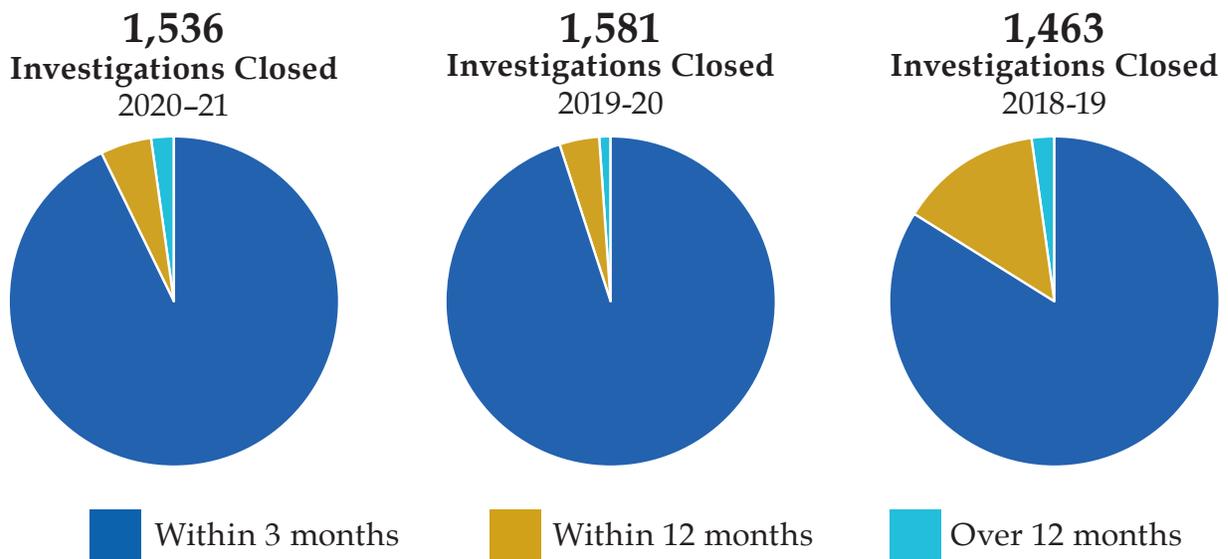
The execution of high-quality investigations is central to our mission and the valuable service we offer Albertans.

In a typical year, our intake line remains live so investigators may assist callers in real time. The move to remote work offices made handling live incoming calls in a confidential and secure fashion difficult. Initially, calls to our office were channeled to voicemail, but we soon learned that it was not always possible to effectively follow-up with callers. This was especially evident for inmate populations who have no access to incoming calls.

As it became clear the pandemic was not to be short-lived, we explored and adopted Voice over Internet Protocol (VoIP) technology. This upgrade allowed our staff to resume taking calls in real time from their laptop computers regardless of their location.

The timeline to close written complaints remained steady from 2019-20, with a sustained focus on early resolution as a key driver ensuring efficient, timely and thorough investigations.

Three-Year Comparison of Time Taken to Close Written Complaints



Concluding an investigation at the early resolution stage is not appropriate in all cases. Many require advancing to a full investigation. Overall, in 2020-21 we also realized a 7% increase in the number of closed full investigations from 2019-20. Of the full investigations closed, we made recommendations for improvement in 74% of the cases.

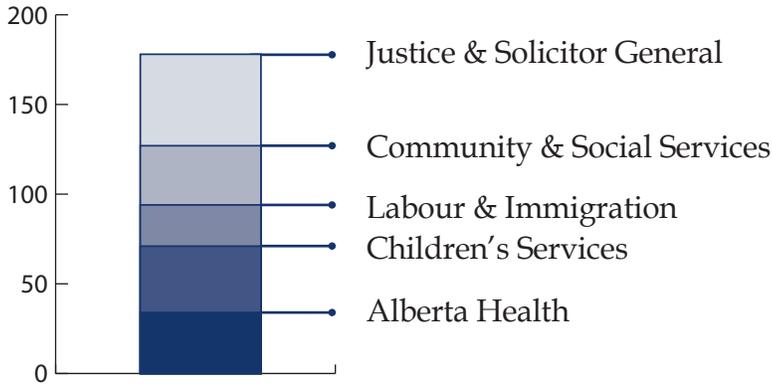


Top Five Entities per Jurisdictional Sector

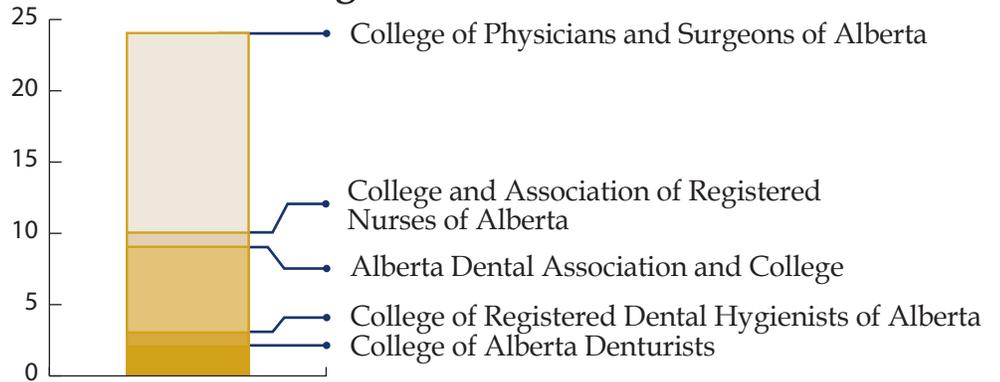
The top five entities per jurisdictional sector are identified here as having the leading volume of written complaints our office received in their respective categories.

The complaints about provincial government authorities, designated professional organizations, and municipalities vary from year to year.

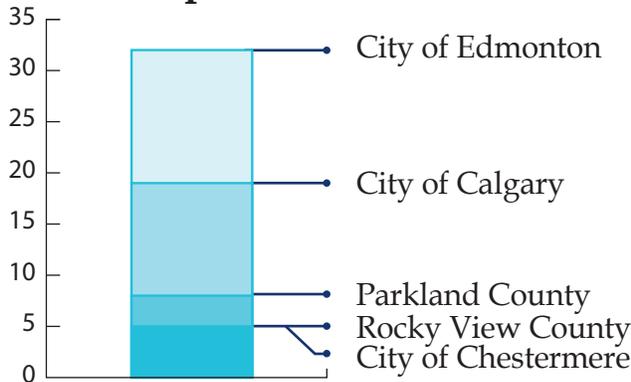
Provincial Government



Professional Organizations



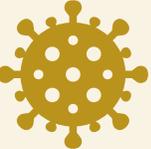
Municipalities



Goal 2: Fairness is promoted to Albertans and authorities through education and awareness.

In a typical year, we deliver presentations, attend conferences and trade shows, conduct media interviews, and visit communities around the province to promote the office.

In 2020-21, we accomplished many of these same types of activities but like many organizations, we conducted outreach activities virtually. Here are some examples of events where we worked to enhance better awareness of administrative fairness principles and the elements of good decision-making for remote audiences:

 <p>Webinar, Canadian Council of Parliamentary Ombudsman</p>	 <p>Annual Meeting, Adult Centre Operations Branch</p>
<p>Webinar, Education Ministry</p> 	<p>Annual Meeting, Advocate for Persons with Disabilities</p> 
 <p>Guest Speaker, Osgoode Essential Ombuds, York University</p>	 <p>Fairness Forum, Alberta Network of Ombudspersons in Higher Education</p>
<p>Webinar, School at the Legislature</p> 	<p>Webinar, Elizabeth Fry Society of Northern Alberta</p> 
 <p>Annual Meeting, Maintenance Enforcement Program</p>	 <p>Webinar, Justice and Solicitor General Correctional Induction Training</p>
<p>Webinar, Community and Social Services</p> 	<p>Webinar, Employment Standards</p> 



In 2020-21, we continued to invest in our online presence through our website with regular updates to the public, news, publications and case studies that demonstrate examples of our work. We added to our video library on YouTube, refreshed the look of our website homepage, and tracked our Twitter and other online analytics.

Social Media



700 followers and subscribers
52,265 impressions

Website



176,980 pageviews (down 4% from last year)
33,680 website visitors (down 3% from last year)

www.ombudsman.ab.ca

Top Tweets



AB_Ombudsman @AB_Ombudsman · Mar 24

Today is **Whistleblower Awareness Day!** Join us in raising awareness of the valuable role of **whistleblowers** in contributing to greater integrity in public institutions. yourvoiceprotected.ca/whistleblower-...

#WhistleblowerAwarenessDay #soutienaux lanceurs d'alerte

WE SUPPORT Whistleblower Awareness Day

Highlighting the courage of whistleblowers and their important role in the public service.

PUBLIC INTEREST COMMISSIONER

AB_Ombudsman @AB_Ombudsman · May 11, 2020

It's been two years since the Ombudsman began oversight of municipalities. We've just released a report on our work pursuing fairness with this important sector! Find out more here: ombudsman.ab.ca/building-relat...

The Alberta Ombudsman releases a series of case examples highlighting the benefits of a collaborative approach to resolving complaints about municipalities.

Download a copy at www.ombudsman.ab.ca

AB_Ombudsman @AB_Ombudsman · Nov 3, 2020

In 2019-20, Albertans submitted over 5,100 complaints of unfairness to the Ombudsman. To learn how we helped them, visit us here: ombudsman.ab.ca/alberta-ombuds-...

The Alberta Ombudsman's 2019-20 annual report is out!

Download your copy at www.ombudsman.ab.ca

AB_Ombudsman @AB_Ombudsman · Sep 28, 2020

It was busy last week but so rewarding! Thank you to the 120+ prov Ombudsman staff from across Canada who attended our webinar: The Role of the Ombudsman in a Crisis. Looking forward to @OmbudsDay on Oct. 8, we join these offices and others in promoting the good work of Ombuds.

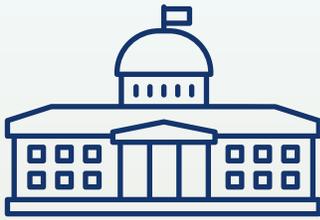
Goal 3: The Ombudsman's office will ensure the relevant legislation is meeting the needs of Albertans and her office has the ability to fulfill its roles and responsibilities.

In our 2019-20 annual report, we described a new strategic planning process that engaged staff in helping determine how high-level outcomes in the business plan would be achieved. In applying the process to the 2020-21 fiscal year, the office once again identified a list of activities that are specific, measurable, attainable, realistic and time specific (SMART). By tapping into the expertise of our frontline staff, it has sparked a sense of ownership in the success of the organization and hands-on support of valuable projects.



Last fiscal year, we also reported on our commitment to review the *Ombudsman Act* and other relevant legislation to identify potential areas for modernization. Building on that review, we met with the Standing Committee on Legislative Offices and asked the committee to sponsor a request that would advance the matter to Alberta's Justice and Solicitor General. The committee agreed to support the concept and we look forward to the opportunity to both strengthen and modernize the legislation pending the review of the matter.

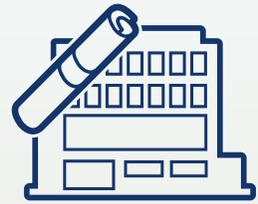
Sectors in Review



**Provincial
Government**



Municipalities



**Professional
Organizations**





Provincial Government Sector

In 2020-21, complaints about provincial agencies, boards, commissions and departments comprised 74% of all jurisdictional complaints received. We helped complainants deal with a variety of issues including: changes to financial benefits; communication issues with support workers; income support overpayments; and isolation of inmates in correctional facilities.

Friendly Bailout Leaves Funds in Limbo

When bail money got mired in the system, a quick call to the Ombudsman got things moving in the right direction.

Ms. McNeil (not her real name) paid her friend's bail under the expectation the money would be returned to her once the charges were dropped. Although the charges were dropped, the funds were not returned as expected. Ms. McNeil left messages with the court and the Resolution and Court Administration Services Division (RCAS) but did not hear back. After waiting two months without explanation, she contacted the Ombudsman's office as a last resort.

RCAS provides administrative, planning, and technical support to Alberta's three courts under the Ministry of Justice and Solicitor General, so after hearing Ms. McNeil's concerns, our investigator inquired with the director about the delay. The director explained the bail estreatment process and offered to speak with Ms. McNeil directly about the status of her monies.

Facilitating communication between complainants and authorities to resolve concerns informally is beneficial for everyone involved, so our investigator provided the director's contact information to Ms. McNeil and encouraged her to make the call. Empowered with the confidence of knowing her call would be taken seriously, Ms. McNeil connected with the director. She was provided an explanation that the Crown had released the monies, but a miscommunication had left the funds "in limbo". After our office's involvement, Ms. McNeil finally received her funds.

Detour to Ombudsman Leads to Fair Resolution

Mr. Davis (not his real name), an Edmonton homeowner, was granted a development permit for a new driveway, but a tree previously planted by the city in what would be the middle of the driveway stalled construction. He complained to the Ombudsman when the obstacle resulted in a lengthy, unresolved disagreement with the city.

Mr. Davis disagreed with a requirement by Parks and Roads Services, City Operations, that he pay for the removal of a city-owned boulevard tree blocking the location of the new driveway. The estimate to either remove or relocate the tree exceeded \$2,000 and Mr. Davis refused to pay the cost. The matter remained unresolved for about a year before Mr. Davis submitted his complaint to the Ombudsman.

The Ombudsman investigator in charge of the case employed early resolution techniques to assess the issue and began collecting preliminary information. The City Operation's position – communicated to the homeowner – was that the tree in question was planted prior to the construction of the driveway and garage. Development Services, the city department that granted the permit for the driveway in 2019, further advised that the tree pre-existed the development permit, and construction was not to conflict with the boulevard tree.

The homeowner provided our investigator with a picture of the tree which clearly showed the tree blocked construction of the driveway as granted by the development permit. Through our contact with the City Manager's office, we reached out to a senior official with Development Services who advised the development permit would not have been approved if the boulevard tree had been identified in the plot plan by the surveyor the homeowner hired.

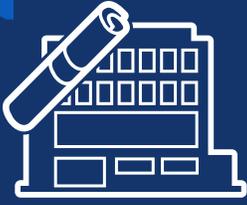
Our investigator communicated this information to the homeowner who disagreed, advising the surveyor is not required to plot the boulevard tree on the plot plan for the development permit. The homeowner asked the surveyor they hired to contact our investigator, which they did, and this was confirmed. Our investigator relayed the details of his communication with the surveyor back to the senior official with Development Services.

After further review the city determined the tree was not part of any development agreement plan and should not have been planted in the location it was. The city agreed to remove the tree at no cost to the homeowner. Given the city's action to resolve this matter, we closed our case. Undaunted by roadblocks, and with the help of the Ombudsman, the homeowner can finally park this issue and install a new driveway.



Municipalities Sector

Complaints about Alberta's municipalities comprised **19%** of the total jurisdictional complaints received. Issues about municipalities included: gaps in policy; noise issues; water-related emergencies; the impact of industry on health and safety; property disputes; and the conduct of municipal staff and decision-makers.



Professional Organizations Sector

Many professional organizations are jurisdictional to the Ombudsman, including 28 health colleges. In 2020-21, written complaints about professional organizations comprised 7% of the total jurisdictional complaints received. Issues about professional organizations included: unresolved complaints of unprofessional conduct; premature dismissal of complaints; inadequate policies; and decision-makers acting outside their legislated authority.

Little Errors Can Add Up to a Significant Problem

The Alberta College of Social Workers (the college) convened a hearing tribunal which decided to confirm the dismissal of a code of conduct complaint about a registered member. The person who complained about the social worker asked the Ombudsman to investigate the fairness of the decision.

The Ombudsman concluded the written decision created an apprehension of bias. Individually, none of the errors would have warranted a recommendation for a rehearing, but in aggregate, they did.

Among the findings were:

- The hearing tribunal did not show how it weighed the evidence;
- The tribunal did not show how it applied the college's Standards of Practice;
- Inconsistent use of names and titles created the apprehension all parties were not equally respected;
- A dissenting opinion was not acknowledged in the decision;
- Evidence was sealed without citing any authority to do so; and,
- Legal advice was inconsistently shared with panel members.

The college did not fully embrace the Ombudsman's recommendations, but it did agree to make changes to avoid similar questions in the future. It agreed to:

- Provide additional training for members of the hearing tribunal;
- Consider retaining independent legal counsel to assist the hearing tribunal during the course of the hearing and set out the role and expectations for independent legal counsel, including sharing legal advice with all hearing tribunal members;
- Refer to the person acting in a prosecutorial role as "counsel for the complaints director" rather than "counsel for the college"; and,
- Ensure the hearings director fulfills the administrative tasks prior to the hearing, such as providing the "record" to the hearing.

The Ombudsman does not expect or require perfect decisions and in the end, the Ombudsman did not pursue her initial recommendation that a rehearing be held. After listening to the college, the Ombudsman considered that key events related to the complaint were well over a decade old. Standards within the college had changed, rendering it unlikely the matter could be reheard, and society's expectations of acceptable behaviour had already improved for the better.

Setting Meaningful Standards for Youth in Segregation



A complaint from a young person about the use of segregation in one of Alberta's two young offender centres sparked an own motion investigation by the Alberta Ombudsman resulting in findings congruent with the recommendations of other Ombudsman offices across Canada.

Although Ombudsman offices are completely independent from one another, common issues arise. Each investigation is unique and must address the circumstances in each jurisdiction, but the offices benefit by learning from their colleagues. There is a consensus that an Ombudsman should ensure vulnerable communities retain their voice against unfair and unjust treatment. Incarcerated young people are one such vulnerable population.

Young persons are entitled to confinement standards that reflect basic human rights and meet the requirements necessary

for a safe and secure environment. Yet in contrast to most other Canadian provinces, the use of segregation in young offender centres in Alberta currently lacks any legislative basis. This is a potentially dangerous precipice as, if used inappropriately, segregation stands to harm young people, especially those with pre-existing mental illness or behavioural disorders.

In Alberta, all young offenders have a right to contact the Ombudsman when they believe they are the subject of unfair treatment. When the Ombudsman received a complaint about segregation as a means to control behaviour, investigators were aware of published reports on the topic both in Alberta and across Canada. Closest to home, the Alberta Office of the Child and Youth Advocate had recently published a report, *Care in Custody - A Special Report on OC Spray and Segregation in Alberta's*

Young Offender Centres⁴. The report called for updated policies and standards for segregation, development of an impartial complaints review process, and more monitoring and public reporting of the use of segregation.

A cross-country scan of published reports on the use of segregation on incarcerated young persons highlighted the efforts recently made by other provinces to address systemic shortcomings. A common theme was a focus on mental health resources. For example, in 2008, the New Brunswick Ombudsman and Child & Youth Advocate released *The Ashley Smith Report*⁵, an own motion report based on Ashley Smith's experiences of the youth criminal justice system prior to her tragic death at age 19. Smith had spent over two-thirds of her three years at a youth centre in segregation. Four of the own motion report's recommendations were tailored to address the impact of prolonged periods of segregation on the mental health and psychological well-being of young people. *A Preventable Death*⁶, a report by the Correctional Investigator of Canada, speaks in detail to the failure of the federal system to provide Ms. Smith the appropriate support she so desperately needed before taking her own life.

Unsurprisingly, the takeaway among the prevalent recommendations identified in our review of other jurisdictions was that placement in segregation should truly be an act of last resort, having first explored all alternative measures. If placed in segregation, young persons should be made aware of the reasons why.

Our own motion investigation was commenced into the administrative fairness of the decision-making process for a young person's placement in segregation at Alberta's two young offender centres.

We investigated the centres' adherence to legislation and policy in the enforcement of a young person's placement in segregation, the adequacy of the appeal and review process for a young person's placement in segregation, and a young person's access to representation during an appeal and review process of their placement in segregation.

We concluded the investigation in March 2021 with four key findings and eight recommendations for improvements to ensure correctional authorities address systemic issues arising from the use of segregation. We are monitoring the implementation of our recommendations and will provide an update by March 2022.

The full report is available [here](#) on our website.

4 Office of the Child & Youth Advocate Alberta, [Care in Custody](#), September 2019.

5 Office of the Ombudsman & Child and Youth Advocate, Province of New Brunswick, [The Ashley Smith Report](#), June 2008.

6 Howard Sapers, Correctional Investigator of Canada, [A Preventable Death](#), June 2008.



Uncovered Memo Convinces College of Pre-Screen Error



Unfair dismissal

Institutional memories require prodding from time to time, even in well-functioning complaint systems.

Mr. Bird (not his real name) complained to the Ombudsman about a decision by the hearings director of the College of Physicians and Surgeons of Alberta (the college) refusing to advance his “request for review” to the complaints review committee.

All health colleges regulated under the *Health Professions Act* (the Act) have the same investigative, review, and hearing process. The college’s complaints director decides if a complaint warrants investigation. The complaints director may decide: to dismiss

the complaint as it does not meet the criteria for investigation; to resolve the complaint informally; to dismiss the complaint after investigation; or, to advance the complaint to a hearing based on the findings of the investigation. The decisions reached by the complaints director are reviewable by the complaints review committee.

Mr. Bird submitted a complaint of unprofessional conduct against a surgeon in 2019. His complaint was investigated, and the complaints director ultimately dismissed

his complaint. On dismissal, the college properly advised Mr. Bird he could submit a request for review by the complaints review committee. The request was sent to the hearings director for scheduling.

Mr. Bird submitted his request for review in February 2020. The hearings director replied that she reviewed his request and determined he did not provide sufficient reasons why the complaints director's decision was incorrect. On that basis, she refused to advance his request to the complaints review committee.

The Ombudsman investigator consulted the Act, as is often the first step in any health college investigation. In interpreting the legislation, she noticed that once a request for review is made (so long as it is in writing and includes reasons) the hearings director must send it forward to the complaints review committee. The investigator suspected the hearings director acted outside the authority of the role by pre-screening the request and determining it contained insufficient reasons. Making such a determination is the role of the complaints review committee.

The investigator also had concerns about language used in both the complaints director's decision and the hearings director's response to Mr. Bird. Words such as "unreasonable", "valid reasons", and "incorrect" were used. None of these words or phrases appear in the Act.

Alberta Ombudsman investigators operate in a team setting. When the case came to her attention, a senior investigator recalled this issue from an investigation resolved in 2013. At that time, the Ombudsman took issue with the college's hearings director who also improperly pre-screened requests for reviews. The senior investigator produced a 2013 memorandum between the Ombudsman office and the college in which it was agreed the hearings director was not granted the discretion under the Act to pre-screen requests for review. Rather, if a complainant does not provide reasons for the request, then either the hearings director or a patient advocate will work with the complainant to ensure their request is in the proper form.

We observed that the hearings director involved in this case was a different person than the hearings director formerly in place in 2013. Understandably so, when administrators change, incoming decision-makers are not always fully aware of past undertakings. Using the Ombudsman's early resolution phase of the investigation process, the investigator relayed concerns about the hearings director's letter and the language used in the correspondence previously sent to Mr. Bird. To support this position, the investigator presented a copy of the 2013 memo. The college agreed Mr. Bird could re-submit his request for review. The college also readily agreed that the hearings director should not pre-screen requests. The 2013 memo was



brought to the attention of the hearings director. The college reiterated to staff who may be handling requests on her behalf, that they should not be pre-screening them. Additionally, the hearings director agreed to allow Mr. Bird to re-submit his request for review with the understanding that it will be forwarded to the complaints review committee.

The requirement that reviews go to the body delegated the proper authority is more than a legal technicality. The complaint review committee follows a hearing process which ensures a thorough consideration of the evidence and requires a panel to provide formal reasons for its decisions. This protects the rights of all the parties.

Lastly, to address concerns about language, the college agreed to have their template letters amended to remove some of the wording highlighted as being problematic. Even in today's world of advanced information collection and

storage, relating past decisions to present cases is not straightforward. People change and so does computer technology. The institutional memory of the college momentarily slipped, but remembering was not automatic for the Ombudsman either. The Ombudsman data storage system has gone through two significant upgrades since 2013. The 2013 memo might not have been found had it not been for the institutional memory of an Ombudsman investigator.

If the memo had not been found, the result would likely have been the same. The present investigator understood a fundamental principle of administrative fairness is to ensure the chain of legislative authority is followed. Fortunately, the investigation did not have to start from square one. Finding the 2013 agreement led to a quick and satisfactory resolution for all.



Defining Responsibility in Emergency Situations



Without administratively fair policy to define roles and responsibilities in urgent scenarios, residents may find themselves uninformed and out of pocket.

A small-town Alberta couple was left holding the bill for a winter water line repair on their property.

The town declared the water line break an emergency and hired a contractor to fix it. Although the owners were advised of the action taken by the town, they were not notified upfront that they would be charged \$765. If the owners had been notified that they were financially responsible and afforded a little time, they would have tried to fix it themselves.

The couple initially complained to town council and was issued a decision stating as property owners are responsible for the water line repairs on private property, they remain responsible for the cost of the repair. Unsatisfied with this explanation, they raised their concerns to the Ombudsman.

Our investigator opened an investigation beginning with an attempt at early resolution. After a preliminary assessment, she determined the town should have

explained the owners' responsibility for the cost and given them the opportunity to repair the water leak themselves or hire their own plumber within whatever timeframe the town viewed as appropriate. This resulted in the town agreeing to bring back the issue for reconsideration.

The owners reached out to the Ombudsman again, following the second council decision. The investigator noted several shortcomings of this decision in terms of administrative fairness, such as its failure to address why the owners were not told upfront about the cost, the lack of time given to fix it themselves, and what constitutes an emergency. This time a full investigation was launched.

The town explained seven other houses were affected by the water line on the owners' property and it could not be shut off for individual homes. The investigation found the town reacted fairly and within its authority by declaring the matter an emergency. It could not have taken alternative actions suggested

by the couple. However, it also found a lack of policy on water-related issues to outline how notification should occur, who would be responsible for repairs, and what opportunities should be afforded to the residents to do the repair. The Ombudsman recommended the matter again be reheard, and that the town integrate a process for water-related emergencies into the existing water and sewer services policy.

These types of recommendations typically have a broader impact than helping just the one complainant. A robust policy ensures residents know the full picture of what is allowed in their municipality, and it safeguards administration against future complaints relating to inconsistent processes.

In the end, the town council reimbursed the owners for \$588 (most of the costs incurred) and amended its bylaw.



Ombudsman Investigation a First for Alberta Health College



Even legislated complaints review processes require occasional adjustments from a fairness expert.

Ms. Saunders (not her real name) complained when only one of her three allegations of unprofessional conduct against a physiotherapist was upheld. While the complaints director at the Physiotherapy Alberta College + Association (the college + association) found unprofessional misconduct in relation to her third allegation, it was recommended Ms. Saunders resolve the issue with the physiotherapist informally.

This was the first time the Ombudsman investigated the college + association. The resulting Ombudsman investigation found not only that the complaints director acted unfairly, a subsequent review by the complaint review committee was also unfair.

One of the eight administrative fairness principles the Ombudsman considers when determining if the decision-making process used by an organization is administratively fair is called the "chain of legislative authority."

That is, a decision-maker must follow the powers given to them according to their organization's governing legislation and policy. The Ombudsman's investigation determined both the complaints director and the complaints review committee acted outside their legislative authority in handling this complaint.

According to the college + association's governing legislation, the *Health Professions Act* (the Act), a matter can be resolved informally if both the individual and member agree to a resolution. If one party does not agree to a resolution, the matter must be forwarded for a hearing by a hearing tribunal.

The legislation also states that once a complaints director concludes an investigation, they have two options in proceeding: (a) refer the matter to a hearing or, (b) dismiss the complaint. The Ombudsman determined the complaints director acted outside their legislative authority when suggesting Ms. Saunders resolve the supported allegation informally after the investigation was complete.

In terms of the complaint review committee's actions, its role is defined in the Act as reviewing a complaints director's dismissal of a complaint. In this case, the complaint review committee chose to review the complaints director's decision into all three allegations of unprofessional conduct, even though one of the allegations was not dismissed. The Ombudsman consequently determined the complaint review committee acted outside of its legislative authority in doing so.

Lastly, the Ombudsman determined the complaint review committee's decision itself did not meet another principle of administrative fairness – adequate reasons – as it neither explained how it considered the Ms. Saunders' main arguments, nor did it provide her reasons for its decision.

The Ombudsman makes recommendations to an authority with the intent of improving its administrative process for the future.

With this goal in mind, the Ombudsman recommended the college + association develop a policy providing guidance to the complaints director on how to apply its legislative authority – specific to after an investigation is concluded. The college + association accepted the Ombudsman's recommendation and worked to develop the appropriate policy.

Further, the Ombudsman recommended the complaint review committee issue an addendum to its decision, firstly acknowledging it should not have included the supported allegation as part of its review, and secondly, recognizing Ms. Saunders' main arguments and explaining how it considered these arguments. The complaints review committee also accepted this recommendation and provided Ms. Saunders with the information.

Although the Ombudsman cannot undo the course of events leading up to contact with our office, we can reassure people like Ms. Saunders that their voices will be heard and there is available recourse to resolving their complaints.

After experiencing their first Ombudsman investigation, our contact at the college remarked on how transparent and collaborative our investigator made the experience.



Paving the Way for Future Foster Parents



When a difference in the interpretation of law led to a stalemate in an appeal process, the Ombudsman recommended legislative change.

The complainants in this case were foster parents who provided 11 years of childcare approved by Child and Family Services (the department). After completing a home assessment in 2014 (which raised some concerns about the couple's ability to foster), the department cancelled their residential facility licence in 2015. An administrative review panel upheld the department's decision.

When the couple attempted to appeal the matter to the Child, Youth, and Family Enhancement Appeal Panel (the appeal panel) in 2016, it refused to hear their appeal, saying it did not have jurisdiction.

The couple wrote to the Ombudsman in May 2017 to complain about the department's decision to cancel their licence. The Ombudsman opened an investigation

into the complaint, focusing on the appeal panel's finding that it did not have jurisdiction to hear the couple's appeal.

The key issue of this case was one of interpretation of legislation. Section 120 of the Child, Youth and Family Enhancement Act (the Act) identifies who can appeal a decision. Based on an analysis of the legislation, our lead investigator observed the Act had been amended numerous times. The applicable section was less clear and the section in question open to both a broad and narrow interpretation.

The appeal panel chose to take a narrow interpretation of the Act. In this case, the appeal panel focused on section 120(1) of the Act as setting a limitation on who could appeal a decision made by the department.



Under this interpretation, the appeal panel stated it could only hear appeals related to a cancellation of a foster parent's licence if the person had cared for more than six of the 12 months immediately preceding a decision to cancel their licence.

The Ombudsman suggested a broader interpretation of the Act was warranted. She found that the whole of section 120 provides direction on who can appeal, not just subsection (1), which she found was not an exclusive list of who can appeal. Under this broader interpretation, any foster parent who had their licence cancelled could appeal that decision, not just foster parents who had been caring for children for a minimum set time.

On April 20, 2018, the Ombudsman asked the appeal panel to adopt a "fair, large and liberal construction and interpretation" of the whole of the Act and recommended the following:

*As the appeal panel's decision to not hear the complainants' appeal was unreasonable and unfair, I recommend the appeal panel reconsider its jurisdiction to hear the complainant's appeal, as per section 21(3)(e) of the *Ombudsman Act*, and adopt a fair, large and liberal interpretation of the legislation.*

The appeal panel would not accept the Ombudsman's recommendation. Rather, it argued that the Child and Family Services ministry (today this is Children's Services) should amend the legislation so it is clearer who it intends should have leave to appeal.

The Ombudsman obtained additional legal opinions and attempted to persuade the appeal panel that it could reasonably apply a different interpretation. By January 2020, the appeal panel maintained the position it did not have the authority to broaden its interpretation "of who can appeal and what can be appealed under the governing legislation," and again declined the Ombudsman's recommendation. The appeal panel chair suggested, as an alternative, the Ombudsman could ask the department to amend the legislation.

As a result, on April 14, 2020, the Ombudsman elevated her recommendation to the Deputy Minister of Children's Services and shared her concern about the different ways the Act could be interpreted. She made the following recommendation:

*I recommend Alberta Children's Services work toward amending the *Child, Youth and Family Enhancement Act* and related legislation, so that it is clear who has the right to appeal and the types of decisions they can appeal.*

On May 21, 2020, the Deputy Minister accepted the recommendation without further debate.

While the original decision to suspend the license could not be undone, the complaint did pave the way for legislative review. Because the Ombudsman received a complaint and acted on it, procedural fairness for future foster parents appealing licensing decisions is expected to improve.

The case remains open as we await the necessary legislative changes.



Early Resolution Case Gets Answers Sooner than Later



To be administratively fair, appeal decisions should include the reasons for the decisions. A logical connection between the evidence presented and the conclusions reached by the decision-maker should be made clear.

The complainant appealed to the Appeals Secretariat⁷ after the Assured Income for the Severely Handicapped (AISH) program assessed an overpayment of close to \$50,000. A series of re-scheduled appeal hearing dates were set, which ultimately led to the appeal panel abandoning the appeal, allowing the complainant's debt to be sent to collections.

The panel concluded the complainant had been unresponsive to attempts to advance the process, but its written decision did

not explain why multiple hearing dates had been rescheduled. In gathering the evidence, the investigator found the complainant was not at fault for two postponements. He had been hospitalized for one, and a second was cancelled for an unknown reason – neither party requested it. The investigator further assessed that the panel did not provide adequate reasons for considering the appeal abandoned. It could not be shown the panel considered the reasons for the postponements.

⁷ The Appeals Secretariat provides administrative services to the AISH appeal panel. It also has the authority to decide some procedural matters, as well as scheduling appeal panel hearings. For more information, please see the Government of Alberta website, [AISH - Appeal a decision](#).



Our investigator suggested the panel reconsider the decision. The Appeals Secretariat agreed and the provincial chair confirmed a new panel would schedule a new hearing.

The scope of this investigation was covered quickly and efficiently through the early resolution phase of our investigative process. As a result, we were able to facilitate next steps in the process and save significant time and resources for all by making it unnecessary to conduct a full investigation.

In following up, we learned the complainant lost the subsequent appeal; however, fairness is served when all parties have the opportunity to fully participate. In this case, the new panel subsequently provided the reasons, and our case was closed.



Education and Awareness

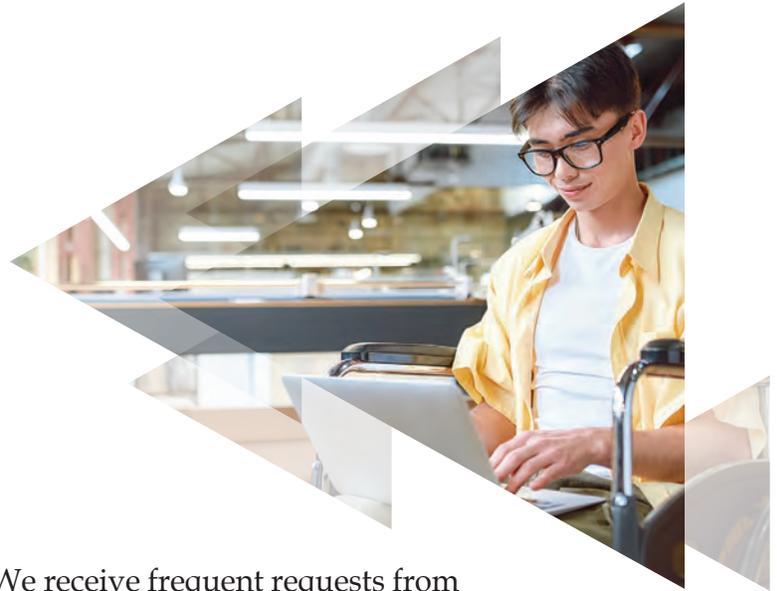
Each year, we engage in a wide range of activities to disseminate information about our services and stay connected to the community. An ongoing struggle for every Ombudsman, in Canada or around the world, is to ensure that when a citizen encounters unfairness and should complain to the Ombudsman, they know we exist and how to reach us. We aim to reach Albertans across all walks of life, including those affected by mental health issues, youth, families of adults and children with disabilities, members of Indigenous communities, and the public service authorities who also serve vulnerable populations.

Connecting in the community about our work helps keep us up-to-date and aware of the issues people may be facing. While COVID-19 fundamentally changed our ability to deliver content in person, it also gave us the opportunity to innovate, develop new communication resources, and expand our online presence.

Promotional materials such as brochures, posters and guidebooks act as key resources in our education and awareness toolkit. This year, we developed a new poster to reach adults and youth currently incarcerated in Alberta's provincial correctional facilities. We worked with the Correctional Services division to ensure it was located on every unit of every provincial correctional centre across Alberta.



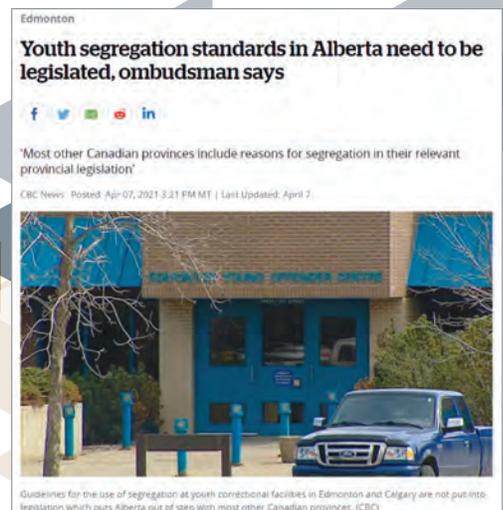
Our website serves as a key channel for delivering news articles, press releases, investigation reports, and other general announcements to the public. COVID-19 inspired our teams to increase the quality and quantity of online material so Albertans looking for help could easily find us and get in contact.



We receive frequent requests from organizations to present about our work. Due to public health restrictions, we transitioned from in-person education to online delivery of our programs. This year, we were pleased to meet virtually with provincial and local government administrators, committees, advocacy groups, charitable organizations and elementary students attending School at the Legislature.



Building positive working relationships with reporters and media helps us amplify voices from Alberta's vulnerable communities and ensures transparency in the public interest. Province-wide coverage of the release of our own motion report on Youth in Segregation served as a good example in promoting positive change.



Office of the Ombudsman

Financial Statements

March 31, 2021



OFFICE OF THE OMBUDSMAN
FINANCIAL STATEMENTS
Year Ended March 31, 2021

Independent Auditor's Report

Statement of Operations

Statement of Financial Position

Statement of Change in Net Debt

Statement of Cash Flows

Notes to the Financial Statements

Schedule 1 – Salary and Benefits Disclosure

Schedule 2 – Allocated Costs



Independent Auditor's Report

To the Members of the Legislative Assembly

Report on the Financial Statements

Opinion

I have audited the financial statements of the Office of the Ombudsman (the Ombudsman), which comprise the statement of financial position as at March 31, 2021, and the statements of operations, change in net debt, and cash flows for the year then ended, and notes to the financial statements, including a summary of significant accounting policies.

In my opinion, the accompanying financial statements present fairly, in all material respects, the financial position of the Ombudsman as at March 31, 2021, and the results of its operations, its changes in net debt, and its cash flows for the year then ended in accordance with Canadian public sector accounting standards.

Basis for opinion

I conducted my audit in accordance with Canadian generally accepted auditing standards. My responsibilities under those standards are further described in the *Auditor's Responsibilities for the Audit of the Financial Statements* section of my report. I am independent of the Ombudsman in accordance with the ethical requirements that are relevant to my audit of the financial statements in Canada, and I have fulfilled my other ethical responsibilities in accordance with these requirements. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Other information

Management is responsible for the other information. The other information comprises the information included in the *Annual Report*, but does not include the financial statements and my auditor's report thereon. The *Annual Report* is expected to be made available to me after the date of this auditor's report.

My opinion on the financial statements does not cover the other information and I do not express any form of assurance conclusion thereon.

In connection with my audit of the financial statements, my responsibility is to read the other information identified above and, in doing so, consider whether the other information is materially inconsistent with the financial statements or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

If, based on the work I will perform on this other information, I conclude that there is a material misstatement of this other information, I am required to communicate the matter to those charged with governance.

Responsibilities of management and those charged with governance for the financial statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with Canadian public sector accounting standards, and for such internal control as management determines is necessary to enable the preparation of the financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is responsible for assessing the Ombudsman's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless an intention exists to liquidate or to cease operations, or there is no realistic alternative but to do so.

Those charged with governance are responsible for overseeing the Ombudsman's financial reporting process.

Auditor's responsibilities for the audit of the financial statements

My objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with Canadian generally accepted auditing standards will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

As part of an audit in accordance with Canadian generally accepted auditing standards, I exercise professional judgment and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Ombudsman's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by management.
- Conclude on the appropriateness of management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the Ombudsman's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my auditor's report. However, future events or conditions may cause the Ombudsman to cease to continue as a going concern.



- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

I communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

[Original signed by W. Doug Wylie FCPA, FCMA, ICD.D]
Auditor General

July 8, 2021
Edmonton, Alberta



OFFICE OF THE OMBUDSMAN
STATEMENT OF OPERATIONS

Year ended March 31, 2021

	<u>2021</u>		<u>2020</u>
	<u>Budget</u>	<u>Actual</u>	<u>Actual</u>
Revenues			
Surplus sales	\$ -	\$ 536	\$ 328
	-	536	328
Expenses - directly incurred (Notes 2(b), 4 and schedule 2)			
Salaries, wages, and employee benefits	3,563,000	3,337,387	3,385,040
Supplies and services	373,000	285,260	363,757
Amortization of tangible capital assets	25,000	27,214	25,112
	<u>3,961,000</u>	<u>3,649,861</u>	<u>3,773,909</u>
Less: recovery from support services arrangements with related parties	<u>(400,000)</u>	<u>(393,972)</u>	<u>(326,951)</u>
Program - operations	<u>3,561,000</u>	<u>3,255,889</u>	<u>3,446,958</u>
Net cost of operations	<u><u>\$ (3,561,000)</u></u>	<u><u>\$ (3,255,353)</u></u>	<u><u>\$ (3,446,630)</u></u>

The accompanying notes and schedules are part of these financial statements.

OFFICE OF THE OMBUDSMAN

STATEMENT OF FINANCIAL POSITION

As at March 31, 2021

	<u>2021</u>	<u>2020</u>
Financial assets		
Accounts receivable	\$ 18,096	\$ 1,300
	<u>18,096</u>	<u>1,300</u>
Liabilities		
Accounts payable and other accrued liabilities	229,235	102,429
Accrued vacation pay	365,402	331,493
	<u>594,637</u>	<u>433,922</u>
Net debt	<u>(576,541)</u>	<u>(432,622)</u>
Non-financial assets		
Tangible capital assets (Note 5)	77,080	111,530
Prepaid expenses	3,543	22,914
	<u>80,623</u>	<u>134,444</u>
Net liabilities	<u>\$ (495,918)</u>	<u>\$ (298,178)</u>
Net liabilities at beginning of year	\$ (298,178)	\$ (262,240)
Net cost of operations	(3,255,353)	(3,446,630)
Net financing provided from General Revenues	<u>3,057,613</u>	<u>3,410,692</u>
Net liabilities at end of year	<u>\$ (495,918)</u>	<u>\$ (298,178)</u>
Contractual obligations (Note 8)		

The accompanying notes and schedules are part of these financial statements.

OFFICE OF THE OMBUDSMAN

STATEMENT OF CHANGE IN NET DEBT

Year ended March 31, 2021

	<u>2021</u>		<u>2020</u>
	<u>Budget</u>	<u>Actual</u>	<u>Actual</u>
Net cost of operations	\$ (3,561,000)	\$ (3,255,353)	\$ (3,446,630)
Acquisition of tangible capital assets	-	-	(33,855)
Disposal of tangible capital assets		7,236	-
Amortization of tangible capital assets (Note 5)	25,000	27,214	25,112
Decrease/(increase) in prepaid expenses		19,371	(9,846)
Net financing provided from General Revenues		<u>3,057,613</u>	<u>3,410,692</u>
Increase in net debt		<u>\$ (143,919)</u>	<u>\$ (54,527)</u>
Net debt at beginning of year		<u>(432,622)</u>	<u>(378,095)</u>
Net debt at end of year		<u><u>\$ (576,541)</u></u>	<u><u>\$ (432,622)</u></u>

The accompanying notes and schedules are part of these financial statements.

OFFICE OF THE OMBUDSMAN

STATEMENT OF CASH FLOWS

Year ended March 31, 2021

	<u>2021</u>	<u>2020</u>
Operating transactions		
Net cost of operations	\$ (3,255,353)	\$ (3,446,630)
Non-cash Items included in net cost of operations:		
Amortization of tangible capital assets	27,214	25,112
Valuation adjustment - increase in vacation accrual	<u>33,909</u>	<u>41,756</u>
	61,123	66,868
Increase in accounts receivable	(16,796)	(1,300)
Decrease/(increase) in prepaid expenses	19,371	(9,846)
Increase in accounts payable and other accrued liabilities	<u>126,806</u>	<u>14,071</u>
Cash applied to operating transactions	<u>(3,064,849)</u>	<u>(3,376,837)</u>
Capital transactions		
Acquisition of tangible capital assets	-	(33,855)
Disposal of tangible capital assets	<u>7,236</u>	<u>-</u>
Cash provided by/(applied to) capital transactions	<u>7,236</u>	<u>(33,855)</u>
Financing transactions		
Net Financing Provided from General Revenues	<u>3,057,613</u>	<u>3,410,692</u>
Changes in cash	-	-
Cash at beginning of year	-	-
Cash at end of year	<u>\$ -</u>	<u>\$ -</u>

The accompanying notes and schedules are part of these financial statements.

OFFICE OF THE OMBUDSMAN Notes to the Financial Statements

Year ended March 31, 2021

NOTE 1 AUTHORITY AND PURPOSE

The Office of the Ombudsman (the Office) operates under the authority of the *Ombudsman Act*.

The Office promotes fairness in public administration within the Government of Alberta, designated professional organizations, the patient concerns resolution process of Alberta Health Services, and Alberta municipalities.

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES

These financial statements are prepared in accordance with Canadian Public Sector Accounting Standards, which use accrual accounting.

As the Office does not have any transactions involving financial instruments that are classified in the fair value category, there is no statement of re-measurement gains and losses.

(a) Reporting Entity

The reporting entity is the Office of the Ombudsman, which is a legislative office for which the Ombudsman is responsible.

The Office's annual operating and capital budgets are approved by the Standing Committee on Legislative Offices.

The net cost of the operations of the Office is borne by the General Revenue Fund (the Fund) of the Province of Alberta, which is administered by the President of Treasury Board, Minister of Finance.



OFFICE OF THE OMBUDSMAN Notes to the Financial Statements (Cont'd)

Year ended March 31, 2021

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (Cont'd)

(a) Reporting Entity (Cont'd)

All cash receipts of the Office are deposited into the Fund and all cash disbursements made by the Office are paid from the Fund.

Net financing provided from General Revenues is the difference between all cash receipts and all cash disbursements made.

(b) Basis of Financial Reporting

Revenues

All revenues are reported on the accrual basis of accounting.

Expenses

Directly Incurred

Directly incurred expenses are those costs the Office has primary responsibility and accountability for, as reflected in the Office's budget documents.

In addition to program operating expenses such as salaries, supplies, etc., directly incurred expenses also include:

- amortization of tangible capital assets
- pension costs, which comprise the cost of employer contributions for current service of employees during the year and
- a valuation adjustment which represents the change in management's estimate of future payments arising from obligations relating to vacation pay

Incurred by Others

Services contributed by other entities in support of the Office's operations are not recognized but disclosed in Schedule 2.

OFFICE OF THE OMBUDSMAN Notes to the Financial Statements (Cont'd)

Year ended March 31, 2021

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (Cont'd)

(b) Basis of Financial Reporting (Cont'd)

Financial Assets

Financial assets are assets that could be used to discharge existing liabilities or finance future operations and are not for consumption in the normal course of operations.

Financial assets are financial claims such as advances to and receivables from other organizations, employees, and other individuals.

Accounts Receivable

Accounts receivable are recognized at lower of cost or net recoverable value. A valuation allowance is recognized when recovery is uncertain.

Valuation of Liabilities

Fair value is the amount of consideration agreed upon in an arm's length transaction between knowledgeable, willing parties who are under no compulsion to act.

The fair values of accounts payable and accrued liabilities are estimated to approximate their carrying values because of the short-term nature of these instruments.

Liabilities

Liabilities are present obligations of the Office to external organizations and individuals arising from past transactions or events, the settlement of which is expected to result in the future sacrifice of economic benefits. They are recognized when there is an appropriate basis of measurement and management can reasonably estimate the amounts.

Non-Financial Assets

Non-Financial assets are acquired, constructed, or developed assets that do not normally provide resources to discharge existing liabilities, but instead:

- (a) are normally employed to deliver the Office's services,
- (b) may be consumed in the normal course of operations; and

OFFICE OF THE OMBUDSMAN Notes to the Financial Statements (Cont'd)

Year ended March 31, 2021

NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (Cont'd)

(b) Basis of Basis of Financial Reporting (Cont'd)

(c) are not for sale in the normal course of operations.

Non-financial assets of the Office are limited to tangible capital assets and prepaid expenses.

Tangible Capital Assets

Tangible capital assets are recorded at historical cost and are amortized on a straight-line basis over the estimated useful lives of the assets. The threshold for capitalizing new systems development is \$250,000 and the threshold for major system enhancements is \$100,000. The threshold for all other tangible capital assets is \$5,000. Amortization is only charged if the tangible capital asset is put into service.

(c) Net Debt

Net debt indicates additional cash required from the Fund to finance the Office's cost of operations to March 31, 2021.

NOTE 3 FUTURE CHANGES IN ACCOUNTING STANDARDS

The Public Sector Accounting Board has approved the following accounting standards:

PS 3280 Asset Retirement Obligation (effective April 1, 2022)

This standard provides guidance on how to account for and report liabilities for retirement of tangible capital assets.

PS 3400 Revenue (effective April 1, 2023)

This standard provides guidance on how to account for and report on revenue, and specifically, it differentiates between revenue arising from exchange and non-exchange transactions.

The Office has not yet adopted these standards. Management is currently assessing the impact of these standards on the financial statements.

OFFICE OF THE OMBUDSMAN Notes to the Financial Statements (Cont'd)

Year ended March 31, 2021

NOTE 4 SUPPORT SERVICES ARRANGEMENTS

The Public Interest Disclosure (Whistleblower Protection) Act appoints the Ombudsman to also be the Public Interest Commissioner. The Office of the Public Interest Commissioner is a separate Legislative Office physically located with the Office of the Ombudsman.

The Offices of the Ombudsman and Public Interest Commissioner have a formal support services agreement (the agreement) for provision of shared services.

The Office of the Ombudsman's employees provide general counsel, communications, and corporate (finance, human resources, information technology, administration) services to the Office of the Public Interest Commissioner. The salaries and benefits costs of these Ombudsman employees are allocated to the Office of the Public Interest Commissioner based on the percentage of time spent providing the shared services.

The agreement authorizes allocation of other office services (i.e. photocopier fees, etc.) paid by the Office of the Ombudsman to be allocated, on a usage basis, to the Office of the Public Interest Commissioner.

The shared services allocation is included in the voted operating estimates and statement of operations as a cost recovery for the Office of the Ombudsman and as a supplies and services expense for the Office of the Public Interest Commissioner.

For 2020-21, the Office's cost recovery from the Office of the Public Interest Commissioner was \$393,972 (2020-\$326,951).



OFFICE OF THE OMBUDSMAN
Notes to the Financial Statements (Cont'd)

Year ended March 31, 2021

NOTE 5 TANGIBLE CAPITAL ASSETS

	Furniture & Equipment ⁽¹⁾	Computer Hardware	Other ⁽²⁾	2021 Total	2020 Total
Estimated useful life	5-10 yrs	3-5 yrs	5 yrs		
Historical cost					
Beginning of year	\$ 128,499	\$ 61,790	\$ 33,220	\$ 223,509	\$ 260,430
Additions	-	-	-	-	33,855
Disposals	(7,236)	-	-	(7,236)	(70,776)
	121,263	61,790	33,220	216,273	223,509
Accumulated Amortization					
Beginning of year	54,026	43,567	14,386	111,979	157,643
Amortization expense	16,362	4,205	6,647	27,214	25,112
Effect of disposals	-	-	-	-	(70,776)
	70,388	47,772	21,033	139,193	111,979
Net Book Value at March 31, 2021	\$ 50,875	\$ 14,018	\$ 12,187	\$ 77,080	
Net Book Value at March 31, 2020	\$ 74,473	\$ 18,223	\$ 18,834		\$ 111,530

⁽¹⁾ Equipment includes office equipment and furniture.

⁽²⁾ Other tangible capital assets include leasehold improvements (amortized over the life of the lease).

NOTE 6 DEFINED BENEFIT PLANS (IN THOUSANDS)

The Office participates in the multi-employer Management Employees Pension Plan and Public Service Pension Plan. The Office also participates in the multi-employer Supplementary Retirement Plan for Public Service Managers. The expense for these pension plans is equivalent to the annual contributions of \$311 for the year ended March 31, 2021 (2020 - \$349).

At December 31, 2020, the Management Employees Pension Plan had a surplus of \$809,850 (2019 surplus \$1,008,135), the Public Service Pension Plan had a surplus of \$2,223,582 (2019 surplus \$2,759,320) and the Supplementary Retirement Plan for Public Service Managers had a deficit of \$59,972 (2019 deficit \$44,698).

The Office also participates in the multi-employer Long Term Disability Income Continuance Plan. At March 31, 2021, the Management, Opted Out and Excluded Plan had a surplus of \$7,858 (2020 surplus \$11,635). The expense for this plan is limited to the employer's annual contributions for the year.

OFFICE OF THE OMBUDSMAN
Notes to the Financial Statements (Cont'd)

Year ended March 31, 2021

NOTE 7 BUDGET

The budget shown on the statement of operations is based on the budgeted expenses that the all-party Standing Committee on Legislative Offices approved on November 29, 2019. The following table compares the office's actual expenditures, excluding non-voted amounts such as amortization, to the approved budgets:

	<u>Voted budget</u>	<u>Actual</u>	<u>Unexpended</u>
Operating expenditures	\$ 3,936,000	\$ 3,588,783	\$ 347,217
Capital investment	-	-	-
	<u>\$ 3,936,000</u>	<u>\$ 3,588,783</u>	<u>\$ 347,217</u>

NOTE 8 CONTRACTUAL OBLIGATIONS

Contractual obligations are obligations of the Office to others that will become liabilities in the future when the terms of those contracts or agreements are met.

As at March 31, 2021, the Office has the following contractual obligations:

	2021	2020
Obligations under contracts	\$32,520	\$52,884

2021-22	\$ 17,340
2022-23	15,180
	<u>\$ 32,520</u>

NOTE 9 APPROVAL OF FINANCIAL STATEMENTS

These financial statements were approved by the Ombudsman.

Schedule 1

OFFICE OF THE OMBUDSMAN

Salary and Benefits Disclosure

Year Ended March 31, 2021

	2021			2020	
	Base Salary	Cash Benefits ⁽¹⁾	Non-Cash Benefits ⁽²⁾	Total	Total
Senior Official ^{(3) (4) (5)}					
Ombudsman / Public Interest Commissioner	\$ 238,560	\$ 42,257	\$ 11,470	\$ 292,287	\$ 292,805
Executive ^{(4) (5)}					
Deputy Ombudsman / Deputy Public Interest Commissioner	\$ 160,000	\$ -	\$ 32,319	\$ 192,319	\$ 197,988
	<u>\$ 398,560</u>	<u>\$ 42,257</u>	<u>\$ 43,789</u>	<u>\$ 484,606</u>	<u>\$ 490,793</u>

- (1) Cash benefits are pension-in-lieu payments and vehicle allowance.
- (2) Non-cash benefits include the Office's share of all employee benefits and contributions, or payments made on behalf of employees including pension plans, CPP/EI employer premiums, extended health care, dental coverage, group life insurance, long-term disability premiums, health spending account, parking and WCB premiums.
- (3) For 2020-21, the Ombudsman / Public Interest Commissioner was not provided an automobile and did not receive a taxable benefit on December 31, 2020 (2019 \$0).
- (4) The Senior Official is both the Ombudsman and the Public Interest Commissioner, and the Executive is both the Deputy Ombudsman and the Deputy Public Interest Commissioner. These positions do not receive additional remuneration for their Public Interest Commissioner roles. This schedule represents 100% of total salary and benefits for the Senior Official and the Executive for fiscal years 2020-21 and 2019-20.
- (5) Note 4 on the Notes to the Financial Statements provides information regarding allocation of shared services costs for financial statement presentation.

OFFICE OF THE OMBUDSMAN

Allocated Costs

Year Ended March 31, 2021

Program	Expenses ⁽¹⁾	2021		Total Expenses	2020 Total Expenses
		Expenses - Incurred by Others			
		Accommodation ⁽²⁾	Business Services ⁽³⁾		
Operations	\$ 3,255,889	\$ 300,011	\$ 43,000	\$ 3,598,900	\$ 3,773,412

(1) Expenses - directly incurred as per Statement of Operations.

(2) Accommodation - expenses allocated by the total square meters occupied by the Office.

(3) Business Services - costs include charges allocated by Service Alberta for finance services (accounts payable, pay and benefits), IT support, IMAGIS and 1GX - the financial and human resources system.





Edmonton Office

9925 – 109 Street NW, Suite 700
Edmonton, Alberta T5K 2J8

Phone: 780.427.2756

Fax: 780.427.2759

Calgary Office

801 – 6 Avenue SW, Suite 2560
Calgary, Alberta T2P 3W2

Phone: 403.297.6185

Fax: 403.297.5121

Throughout North America call toll free 1.888.455.2756

Email: info@ombudsman.ab.ca

Online complaint form available at www.ombudsman.ab.ca

 [@AB_Ombudsman](https://twitter.com/AB_Ombudsman)

