

Choice of room, however, is often done at a particularly difficult time, when users have health concerns and are likely not considering financial issues. This being said, the Québec Ombudsman is of the opinion that users who are able to sign the form for choice of room are responsible for making the necessary verifications with their insurance company. We did come across certain situations, however, where institutions had requested that users sign this form while in a highly altered health condition, in which case the conditions of free and informed consent were not present.

In such instances, the Québec Ombudsman feels that an institution's refusal to modify or cancel a bill is clearly unreasonable. In the case of a complaint specifically dealing with this issue, the Québec Ombudsman did, after significant effort, manage to convince the institution in question to cancel the room fees, to the user's satisfaction.

Child and youth protection centres

The mission of child and youth protection centres consists of offering regional psychosocial services, including emergency child and youth social services rendered legally necessary by circumstances, child placement services, family mediation services, expert opinions to the Superior Court on child care, adoption services and searches for biological antecedents.

Type of complaints

Complaints reviewed by the Québec Ombudsman

CYPC						
Under investigation at April 1, 2007	Received	Investigated*				Under investigation at March 31, 2007
		Referred	Interrupted	Unsubstantiated	Substantiated	
88	81	2	3	81	16	55

* Excluding complaints whose processing was interrupted or which were referred.

Results of the review of complaints

Category	Inquirers*	Complaints*	Unsubstantiated	Substantiated	Number of corrective measures
Clinical aspects	48	76	64	12	22
Financial aspects	2	2	1	1	2
Environment and living environment	5	5	3	2	8
Programs and services	9	14	13	1	1

* Excluding complaints whose processing was interrupted or which were referred.

In 2007-2008, the Québec Ombudsman examined 66 complaints regarding interventions by personnel reporting directly to Directors of Youth Protection (DYPs) or employees of child and youth protection centres (youth centres) mandated to apply the measures agreed to by DYPs and parents or decreed by the court.

The vast majority of complaints concerned the clinical aspects of interventions. Persons who communicated with the Québec Ombudsman generally questioned the DYP's assessment of their family situation, particularly when it resulted in the removal of a child from the family environment. In such cases, they often contested the conditions and limitations applicable to their right to see their children. They claimed that the related conditions were explained to them in a summary fashion, which did not allow for truly understanding what was expected of them.

Parents who benefited from assistance, advice and support - ordered by the court or as a result of their voluntary adherence - complained that as far as they were concerned this assistance was not as intensive or ongoing as they would have liked, particularly when several institutions were involved.

They went on to note that complex family situations were not corrected through such limited assistance, which could result in their child being permanently placed, a situation they most definitely wanted to avoid.

Overview of the situation

In January 2008, the Ministère de la Santé et des Services sociaux released the *Orientations relatives aux standards d'accès, de continuité, de qualité, d'efficacité et d'efficience - Programme-services Jeunes en difficulté - Offre de service 2007-2012*. The department describes it as follows :

“The program for youth in difficulty encompasses services for all children - from early childhood to adulthood - with development or behavioural problems, or social difficulties (delinquency, violence, suicide). It also targets youth who need appropriate support to

ensure their safety and development (in cases of abuse or neglect) or to make sure these are in no way compromised. Lastly, the program also includes services for the families of the youth involved.”

This orientation document is critical, serving as a common reference for all of the actors called upon to offer services to youth in difficulty. Let us remember that health and social service centres were given the responsibility of organizing, in tandem with their partners, services for youth in difficulty within their respective territories.

The Québec Ombudsman feels that these department orientations are indicative of a willingness to have youth protection and well-being become a collective responsibility, as a result of which DYP interventions should be limited to exceptional situations. It also notes that the program incorporates a distinctly preventive element, requiring that conditions be introduced in all environments to ensure that the safety and development of children and youth are not compromised.

Ombudsman follow-up and actions

Other situations observed concern less frequent problems. This being said, the impacts of such problematic interventions can nonetheless have major negative impacts on the families involved. The following cases are good examples of such instances.

Support for parents who want to act responsibly

A child was placed with a foster family until he was of legal age. In October 2005, the court modifies the 2002 order, adding access rights for the father, whose paternity was by then acknowledged. While specifying that the father was entitled to stay in contact with and be informed of his son's development on a regular basis, the judgment gave the Director of Youth Protection responsibility for determining the related conditions.

The father complained of unwarranted delays with regard to the exercising of his rights. More specifically, he did not receive any replies to his initial queries regarding the development of his son (school report cards, photos, medical information), and claimed that he only received such details after repeatedly insisting. He also stated that he had never received a schedule of visits with his son, or the necessary contact details.

Our investigation discovered that the youth centre had failed to adhere to some of the items included in the 2005 judgment, and that some of the delays for providing the father with the information he requested had indeed been excessive. For example, a request to receive a photo of his son and a copy of his report card went unanswered for over a year.

As regards contacts between the father and son, we learned that there had been two of these, once in 2005 and again in 2006. These visits, we were told, were limited - and the links to the child's parents cut - upon a child psychiatrist's recommendation. Given the child's significant fears and anxiety vis-à-vis his personal integrity, it was felt that such distance was required for his well-being.

The Québec Ombudsman recommended that the youth centre take the necessary measures to respect the father's right to receive information regarding his son and to establish the conditions for transmitting this information through a written intervention program.

With regard to parent-son contacts, the Québec Ombudsman feels that the judgment should have been supported by an intervention program detailing the related conditions. These conditions should have been established and explained to the child and his parents, as per the provisions of the Youth Protection Act.

The Québec Ombudsman recommended that the situation be corrected and that an intervention program for the child's well-being be prepared that included details of contacts and the information to be provided the parents. The institution acted on the Québec Ombudsman's two recommendations.

The Direction de la protection de la jeunesse (DPJ) removes a child from his family without offering the necessary professional support

A citizen requested an emergency intervention after a Director of Youth Protection, subsequent to his assessment of a situation, forced adoptive parents to give back their child so it could be placed with another adoptive family. The citizen asked the Québec Ombudsman to take the necessary steps so that the child could be reintegrated to his original family.

The Québec Ombudsman simultaneously intervened with the DPJ and the Secrétariat à l'adoption internationale, a body designated as the central authority in international adoptions by the Québec Minister of Health and Social Services.

The facts illustrated a serious lack of coordination and communication between the agencies - both public and private - involved in this international adoption. The problem also partly resulted from a divergence of opinions with regard to accountability and the sharing of responsibility. Our investigation also uncovered that specialized resources in the field of international adoption were not consulted to evaluate the bond one of the adoptive parents had developed with the child and subsequently determine how to remedy the situation.

The Québec Ombudsman recommended to the Ministère de la Santé et des Services sociaux that it develop an international adoption reference framework that considered the rights of children and specified the respective responsibilities of all the agencies involved. Moreover, given the circumstances and because of the department's responsibility for international adoption - through the Secrétariat à l'adoption internationale - as well as for the application of the Youth Protection Act, the Québec Ombudsman recommended that it reimburse, in an equitable manner, the \$21,000 in expenses incurred by the adoptive couple thus far.

Lastly, the Québec Ombudsman recommended that the youth centre take the necessary measures to coordinate its interventions with those of other service providers whenever specific problems occurred.

A vulnerable child waiting for services

The behaviour of a nine-year old staying in one of the youth centre's residences was particularly disruptive, as a result of which she was referred to a child psychiatrist. Subsequent to several months of medical treatment, including a hospital stay for observation, the physician diagnosed that she had a "pervasive development disorder (PDD)" and needed to stay in a specialized residence offering appropriate services. The child's father indicated that the youth centre had dallied for a total of three months before requesting a spot for his daughter in a rehabilitation centre for intellectual disabilities.

Our investigation revealed that the request was in fact only sent to the residence three months after the medical diagnosis, and this despite the fact that the child was having regular crises and was aggressive with youth centre staff. Her behaviour had even resulted in the repeated use of confinement and isolation measures.

This situation persisted in spite of the existence of a protocol for cooperation between the youth centre and the rehabilitation centre for intellectual disabilities, which also offers services to children from the same region who are afflicted with a PDD. This protocol even includes a mechanism whereby a youth centre actor can, in situations deemed urgent, contact the rehabilitation centre for intellectual disabilities and request special support until such time as a child can be admitted. None of these steps were taken in this particular case.

Our investigation of the complaint also revealed that the youth centre began preparing an intervention program and individual treatment program for the child 15 weeks after she was diagnosed. The Québec Ombudsman recommended that the youth centre review its protocol for cooperating with the rehabilitation centre for intellectual disabilities, taking into account the new reference framework developed by the Association des centres jeunesse du Québec to facilitate improved collaboration and access to services. We also recommended that the institution check that intervention and individual treatment programs be established as per legal provisions.

The institution acted on the Québec Ombudsman's recommendations.

A lapse with regard to confidentiality

As part of its investigation of a citizen's report that her son had suffered physical abuse, a DPJ employee telephoned the mother at her place of employment. He sought to advise her that in application of the protocol in force, her son had been removed from the day care centre so that a physical examination could be conducted.

The receptionist who answered the telephone hesitated to transfer the employee to the mother's supervisor, at which point the actor in question identified himself as working for a youth centre, reporting to the Director of Youth Protection. The mother complained that this information was unnecessary, and violated her right to confidentiality, not to mention potentially causing her prejudice vis-à-vis her employer.

Our investigation discovered that the procedure in force at the youth centre for such circumstances calls for indicating that the call is a personal one and the matter, urgent. In specific situations, however, the employee can identify himself. The youth centre's contact details, moreover, are not available via call display. In this case, the urgency of the situation justified the method adopted.

While the exercise confirmed that it was in fact an emergency situation requiring that the parents be contacted immediately so as to make their way to the youth centre, the Québec Ombudsman is of the opinion that the employee did not have to immediately disclose his identity to the mother's employer. In fact, disclosing confidential family information violates section 72.5 of the Youth Protection Act.

The institution acknowledged that there had been a breach of confidentiality, and its management committee undertook to issue a reminder in this regard to all personnel. An article was thereafter published in the institution's internal newsletter reiterating the rules of confidentiality binding all staff members. This reminder was also repeated in subsequent meetings of all work teams.

Observations

More than anything, the complaints received by the Québec Ombudsman attest to the significant distress of parents who find themselves separated from their children on the basis of decisions generally rendered after several unsuccessful attempts to keep the child in its family environment.

The following comments attest to this :

" No one took the time to listen to me. They didn't check with the resource persons I referred them to. They threatened to involve the police. They're in cahoots with my ex to get to me. They twisted my words around. The psychosocial report is filled with inaccurate information. My child was questioned at the police station without my being present. "

" They never made a check on my home. I have no news of my child. I was never told about my daughter's accident. I haven't received any support to develop my parenting skills. No meetings are set up at the DPJ. My son hasn't benefited from psychological services. I didn't know what the DPJ expected of me. "

Investigations of the complaints received indicate, however, that parents in most cases were given a minimum of information and explanations from youth centre employees. This does not necessarily imply that all of the conditions enabling an " active participation " by parents, as decreed by the Youth Protection Act, were in place.

In fact, youth centre personnel is often forced to react within a short period, going ahead with quick consultation that do not give parents enough time to think things through and adopt measures to improve their family situation.

Such pressure, often resulting from heavy workloads, prevent youth centre personnel from always " ensuring that the parents have understood the information or explanations

that must be furnished to them” as provided for by the Youth Protection Act, particularly with regard to the development of an intervention or treatment program or when a child’s situation must be reviewed.

This, anyone would agree, is a definite challenge, for in most cases interventions by the Director of Youth Protection are based on what parents will view as a criticism of their lifestyle. Parents also see such actions as a negative judgment regarding their ability to parent - a critical element of personal self-esteem - rather than as a means of protecting their child.

In 2005, the Minister of Health and Social Services published a normative document to govern decisions to remove children from their family environment and to elicit the contribution of all network partners towards maintaining children in their family environment whenever possible. The document, prepared for employees and institutions from the various health and social service network sectors, notably advocates the obligation of relying on adapted and validated clinical tools. Yet the Québec Ombudsman’s investigations of complaints regarding youth centre interventions revealed that the use of such tools is still relatively rare.

Priority areas of intervention for the Québec Ombudsman

Assisting youth in difficulty and protecting children and teenagers whose safety and development is at risk are areas of intervention which will continue to evolve over time. The activities involved will require enhanced coordination, particularly as regards the application of legislation limiting authorities’ interventions in family environments to exceptional circumstances.

By investigating complaints and carrying out a more general surveillance, the Québec Ombudsman can immediately begin pinpointing certain delicate areas in terms of reaching objectives. During institution visits and meetings with youth centre or related association managers, the Ombudsperson consulted with the persons responsible for implementing the new law. She repeatedly heard the concerns of professionals mandated to plan services for young parents with mental disabilities. She was, able to appreciate the complexity of the responsibilities of youth centres as well as the distinctly human nature of the problems they must deal with.

Removal from the family environment

Oftentimes, the hard decision to leave a child in the family environment - or remove him or her - is a true stumbling block, at times hindering an intervention aiming to ensure the child’s rights to protection are respected. With regard to leaving or removing a child from the family environment, the slightest mistake is likely to have a negative lifelong impact on the child, the parents and the entire family.

The Québec Ombudsman evokes the department standards established in 2005 for a situation involving a child’s removal from the family environment, and the following standard in particular :

“All institutions required to remove children from their family environment must adopt, no later than January 2006, a formal policy and standards governing the training of employees, specific supervision measures, a review of solutions in lieu of removal, and the use of recommended clinical tools.³³”

Our investigation of the complaints received allowed us to ascertain that these standards are not applied in all institutions. The Québec Ombudsman finds this situation disturbing, particularly because of the complex issues involved in certain family situations.

Emergency interventions : services and network cooperation is critical

The Québec Ombudsman also focused on emergency interventions, particularly those executed in support of teenagers. Subsequent to an amendment of the Youth Protection Act, there is a more limited definition of “serious” behavioural disturbance.

Applicable situations are now described as follows :

“...when a child behaves in such a way as to repeatedly or seriously undermine his or others’ physical or psychological integrity, and the child’s parents fail to take the necessary steps to put an end to the situation or, if the child is 14 years old or over, objects to such steps.”

The desired goal – would be to act in such a way as to leave these youngsters in their families, albeit with support from community resources rather than withdrawing them from their families. Past experience has shown that accommodating youth in a crisis situation, even if only for a short period, carries important repercussions. Such crisis accommodations are inherently upsetting, either because of the varied clientele and an environment where children in great distress and with highly different problems are in contact or because of the children’s removal from their family environment.

We can already assert that this provision’s successful implementation rests on the tenuous and close coordination of the resources available in health and social service centres, educational environments and youth centres.

This need for coordination is just as well founded for the most critical situations, those where the physical or psychological well-being of persons is indeed at risk. In such cases, successful coordination will implicate mental health services, current psycho-social services, services provided by youth centres and at times, services delivered by rehabilitation centres for intellectual disabilities.

The Québec Ombudsman is of the opinion that measures in support of such coordination are necessary to avoid teenagers being unnecessarily housed in a strictly supervised unit following a measure for immediate protection taken by the Directeur de la protection de la jeunesse..

33 Le retrait du milieu familial des enfants et des jeunes – Normes relatives à la pratique à l’intention des établissements et des intervenants du secteur de la santé et des services sociaux, 2005, 34 pp. Consulted on 2007-02-01.

Children aged 6 to 11 years housed in living units

The Québec Ombudsman was apprised of the living conditions made available to children between the ages of six and eleven in the following situation :

- Their psychosocial development is seriously compromised, for complex reasons, and they exhibit exceptionally serious behavioural disturbances ;
- Their family environment cannot provide adequate living conditions to meet their needs, even with support from health and social service centre or youth centre personnel.
- Their placement in a specialized foster family is not advised, and this for clinical reasons. For example, it will be put forward that some of these children may be unable to abide close contact with adults required to take on a substitute parenting role.

Two options are thus available : a group home or a living unit in a rehabilitation centre for youth with problems adapting. Reliance on these options varies tremendously according to the region involved. While some regions have no group home residences in some other region, close to 90% of children with such problems will benefit from such residences.

The special circumstances of this group of children have been reported to the Québec Ombudsman twice in the recent past. In 2007, we investigated a complaint concerning the living conditions of a nine-year old who, after having stayed several months in a group home, was transferred to a living unit for teenagers, where she was sexually abused by a 16-year old girl. The institution was revealed to be unable to adequately meet this child's needs, as a result of which she was shuffled between group homes and living units on a number of occasions.

The Québec Ombudsman was notified in February 2008 of a group of children between six and eleven years old who were staying in the living unit of a rehabilitation centre for youth in difficulty. Their living conditions were, according to a person who visited the facility on several occasions, far from adequate : confinement akin to that in a prison, repeated and excessive punishment, children traumatized by a prolonged separation from their family environment.

Faced with these events, the Ombudsperson initiated a measure involving several Québec regions and with the goal of accurately depicting the situation, of identifying best practices and if need be, recommending corrective measures for situations considered unacceptable from the perspective of respecting children and their rights.

2007-2008 recommendations

Given that in 2005 the Ministère de la Santé et des Services sociaux prescribed standards with regard to the removal of children from their family environment ;

Given that all of the institutions conducting such removals from the family environment had to adopt a formal policy in this regard by 2006 ;

Given that the Québec Ombudsman's investigation of the complaints it received allowed for ascertaining that the standards prescribed in 2005 were not applied by all of the institutions ;

THE QUÉBEC OMBUDSMAN RECOMMENDS :

That the Ministère de la Santé et des Services sociaux prepare a report on the required implementation by youth centres of a formal policy governing the removal of children from their family environment.

That it provide the Québec Ombudsman a report in this regard no later than December 15, 2008.

Comments from the department

The following statement from the department was issued by its Deputy Minister :

“The department will prepare the requested report, and this no later than December 15, 2008.”