

Annual Report
2007–2008

Adjudication and Conflict
Management Office (ACMO)
(Passport Canada)

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November 2008

Mr. Gérald Cossette
Chief Executive Officer
Passport Canada
70 Crémazie, Ground Floor
Gatineau, QC K1A 0G3

Mr. Chief Executive Officer:

As is the tradition, we hereby submit to you the fourth Annual Report of the Adjudication and Conflict Management Office (ACMO) for fiscal year 2007–08. It was during this period that the effects of the U.S. initiative to require air travellers to carry travel documents were brought under control by the organization.

In the last quarter of the previous year, the organization was under substantial pressure, resulting in a significant increase in turnaround times. As of May 2007, those times had been reduced to two weeks for the majority (80%) of Agency clients using service counters. These positive developments, attributable to both ad hoc and permanent Agency initiatives, translated into a decrease in the number of files handled by our office.

That decrease was in the order of 51% compared with last year. One interesting indicator is the number of visits to our website, which fell from quarter to quarter.

Overall, **requests for information** fell from 827 last year to 315 this year, a decrease of 62%. Inquiries about the status of passport applications came second to requests for general information. **Requests for assistance** were also down 66% from last year. Therefore, requests for information and requests for assistance together represented 65% of our business volume, compared with 87% last year. This is eloquent testimony to the effectiveness of the measures put in place to process the increasing volumes facing the organization.

Last year the number of **formal complaints** was up 78% from the previous year (141 cases vs. 69). Their number continued to grow this year, rising to 196. Nearly half of them were quickly resolved either by Operations (21.5%) or by our office directly (21.5%). There were only three mediation cases at Step 2, as 56% of complaints were positively addressed by the Agency at Step 1.

Next year, we will be completing a first five-year cycle of operations at the Office of the Ombudsman. This will be the occasion for a comprehensive review so we can better support the Agency's permanent objective of improving service to clients. Finally, we once again proffer our thanks for the support that you, your management team and the Agency staff have given us for the greater benefit of the citizens.

Sincerely,

Jocelyn Francoeur

Jocelyn Francoeur, LL.B.
Chairperson, Adjudication and Conflict Management Office

Executive summary

The Adjudication and Conflict Management Office (ACMO) continued to operate in its traditional fields of mediation of public requests and adjudication of security files (other than national security files). With regard to the latter, the report on adjudication activities now appears in a document separate from the Annual Report of the Ombudsman. That report covers the mechanisms of refusal or revocation of passport services, and may be consulted online on the Agency's website (at the tab of the same name appearing in the left-hand menu of the home page). It contains the cumulative statistics for each year.

Therefore our annual report for this year shall report exclusively on the Ombudsman's activities. Alternatives for the delivery of services provided by our office are periodically discussed. A first five-year cycle of operations will be completed next year. On that occasion, statistical analysis of that five-year period will allow us to carry out some informed planning for the future. Volume fluctuations and certain trends might be useful indicators for management sensitized to the ongoing improvement of processes.

This document presents to Agency management the review of fiscal year 2007–08. We will take an objective look at the types of requests made by users/clients of the Ombudsman's services. We will examine how the situation is evolving. We will present a realistic and factual portrait aimed at facilitating the retention of basic achievements and the improvement of other aspects.

Expectations, achievements and the future...

Previous annual reports describe the process for handling complaints from the public. Complaints are first dealt with by the Agency at Step 1, for the purpose of promoting internal resolution. In cases of disagreement, clients of the Agency can contact our office to have their complaint reviewed at Step 2. A few users have problems with this concept.

They expect the Ombudsman to intervene with Passport Canada on their behalf to bring about specific outcomes or actions. The role of a mediator is not to identify solutions but to facilitate the settlement of ambiguous situations. Neutrality involves the collection and interpretation of facts. It ensures the equitable and fair processing of complaints, dealing as much as possible with the positions—not the emotions—of each party.

The Ombudsman remains a neutral party at the service of fairness and transparency. He makes representations with the aim of leading the parties to iron out their differences. The Ombudsman does not have powers of correction or coercion with the Agency.

In principle, mediation meets a need that cannot be met by an internal review process. Such a process is focused on an actual ruling, whereas mediation encourages a *rapprochement* of the parties in a contested situation which has not yet culminated in an actual ruling. The Ombudsman's initiatives are thus aimed at preventing conflict. And as we have seen in years past, in the context of **requests for assistance** and **formal complaints** referred to Operations, these initiatives of the mediator-Ombudsman, if he can be thus described, are conclusive and positive.

The files referred by the Ombudsman to Passport Canada's operational or corporate branches resulted in the fair processing of hundreds of sensitive situations. The Ombudsman's appointment does not threaten the leadership of Passport Canada's executive and management teams. We are a channel which enables administrators to examine specific situations which are not necessarily addressed by policies. Many federal government organizations are aware of this reality. We continue to be informally consulted every year by organizations that offer their clients multiple internal review remedies.

So in spite of these formal mechanisms similar to "appeals" of rulings, there is openness to the Ombudsman concept. The route of mediation and complaint review by a neutral, impartial third party is liable to grow in scope in the years to come. One need only note the number of new ombudsman offices in different spheres: for municipalities, taxpayers, the NCC, the Department of Health. As we pointed out in a previous annual report, the role of the executive ombudsman, who is at the

exclusive service of an agency and its clients, is much like that of an agent of change. In that capacity, his intervention can promote a culture of fair treatment of public complaints. When that culture is reflected in management objectives, alternative processes can and must be designed to meet and embrace the principal qualities of neutral and impartial mediation of disputes.

Requests to the Ombudsman: categories and volumes in brief

Over the last three years we have found that, in practice, many of the complaints received are the first contact with the Agency. This continued to be true in 2007–08. You will recall the American requirement for all air travellers to or in transit through the United States to carry a passport, which came into effect in January 2007. The first quarter of 2007–08 (April–June) saw some improvement to a difficult situation. All the same, the business volume generated during that period made up nearly half (49%) of the requests addressed to us.

However, 2007–08 was much less busy than the year before. For the entire year, users submitted 627 inquiries, complaints and requests for assistance to our office, down 51% from last year (1,268).

- ! Of that number, 315 were **requests for information**, representing a decrease of nearly 65% compared with last year (827 files opened in 2006–07 vs. 315 in 2007–08). Most of these requests were inquiries about the status of passport applications.
- ! Ninety-four cases were resolved through **requests for assistance** which we addressed to the Agency. These were submitted to corporate and operational units of Passport Canada. These cases are different from status inquiries in that clients are affected by an exceptional work-related or otherwise specific situation and are under threat of substantial prejudice. Our main task is to rise above emotions and let the facts speak for themselves. This volume accounted for 15% of the files opened at the Ombudsman, down 66% from last year.
- ! Of the 627 cases we processed, 196 were **formal complaints**, representing an increase of 39% compared with last year. Of these, 56% were sent to Step 1 for handling by the Agency, 21.5% were handled directly by our office, and 21.5% were sent directly to Operations, as specific action for prompt resolution could be reasonably expected and we saw no need to bring in a third party (the division at Passport Canada responsible for reviewing complaints at Step 1). Fewer than 10 complaints (1%) received mediation at Step 2.
- ! Some citizens sent us **comments**, which were forwarded to the Agency for information (22 cases vs. 27 last year).

General observations

The decrease (-51%) in our volume of transactions (1,268 files opened in 2006–07 vs. 627 in 2007–08) is attributable to the reduction in application processing times, which were gradually brought down to comparable pre-crisis levels. It will be remembered that those times had been significantly extended (from four to over 12 weeks for mail-in applications or applications from abroad) with the increase in volume caused by the American requirement of passports for air travel, effective in January 2007.

Requests for information

With a total of 315 “**requests for information**” cases, this overall category accounted for 50% of the total volume of 627 files opened by the Ombudsman in 2007–08. Last year this figure was higher (65%). Hence our volume declined, while the Agency’s volume for the same category was relatively stable. Objectively, the reduction in our volume means that it was easier for clients to contact the Agency. This type of file includes the following two categories:

- There were 164 requests for **general information** received in 2007–08. This represented 52% of the “requests for information” volume, and took the form of explanations to clients

about programs, the line of services available, certain requirements, and the mandate and functions of our office and of external organizations that might be able to respond to the situation presented by the clients.

- **Inquiries about the status of passport applications** (151 files) represented 48% of the “requests for information” sent to us this year. Most of these inquiries (60%) were received in the first quarter of the year, a prolongation of the effects of the period of explosion in volumes generated by the U.S. initiative to require air travellers to carry passports.

- ! In response to the difficult situation encountered in January 2007, the Agency published and updated the turnaround times for passport applications on its website in the last quarter of 2006–07. Citizens were thus notified of the time required to process passport applications, depending on the mode of service delivery chosen (mail-in, in person, via receiving agents, from abroad).
- ! This measure, as well as several others (to be elaborated upon later), facilitated the marked decrease in the number of status inquiries in the ensuing first quarter (April–June 2007 inclusive).
- ! The negative impacts of the major increase in volume which we commented on in chapter 2.6 of last year’s report were diminishing early in this new year. This was a sign of pending recovery from the transitional situation caused by the deviationist vector in the volume increase forecast model created by the U.S. initiative to require a passport which came into effect in January 2007.

Requests for assistance

This type of complaint accounted for 15% of our files opened in 2007–08, compared with 21.5% last year. While the decline in this category (66%) is slightly more than the decrease in our total volume of files (50%), requests for assistance still represent a more optimal use of our services than **requests for information**. Clients want to bring to the attention of a neutral and impartial third party a situation being contested with Agency employees.

- ! This liaison permits more effective communication. The Ombudsman eliminates the emotional charge of many factual situations by referring the request for assistance so as to facilitate the resolution and processing of the request for service. Half (50%) of these requests were successfully handled by the units that process applications from the United States or those sent by mail, and 14% were handled by the issuing offices.

Formal complaints

The volume of **formal complaints** continued to grow this year with a significant increase of 39% over the number of cases handled last year. All complaints are analyzed by the Ombudsman to determine their nature and substance. They are then forwarded to the authorities deemed competent to deal with them at Step 1.

- ! This year, one fifth of the formal complaints were referred to Operations, which lent us their diligent cooperation in resolving certain sensitive situations.
- ! The same number of complaints were received and determined by our office to be unfounded, representing a decrease of 13% from last year. The unilateral closure of these files allows the Agency to consider with greater sympathy the complaints that we transmit for processing at Step 1. We believe that systematically referring unfounded cases to Step 1 would not encourage the informal settlement of cases deserving serious review by the authorities.
- ! We consider that our presence over the last four years has fostered the emergence of a healthy organizational culture of objective, fair and accurate processing of the vast majority of complaints received, at least those whose progress and handling at Step 1 we were able to monitor.

Main types of situations raised

- ! **New guarantor policy and procedure:** Concerns and frustrations have been expressed regarding implementation of the new policies and procedures relating to guarantors. These changes have affected clients and guarantors indiscriminately, although the reasons are different in nature. We believe this to be a transitional situation, since the new policy offers a response to even more frustrations compared with the old system.
- ! **Damaged or lost personal documents:** Unlike previous years, many clients complained of receiving their new passport together with personal documents that had been damaged. Furthermore, a significant number of applicants told us that when they received their passport, their personal documents were simply missing.
- ! **Policy on multiple losses/thefts/mutilations:** A good many applicants experienced difficulties obtaining a replacement passport when they had reported more than one passport lost, stolen, damaged or inaccessible over the last five years. This situation was studied by the Agency, and we took part in an internal consultation examining certain recommendations that were still being considered at the time this report was released.
- ! **Fees levied twice when passport issued:** This situation appears to stem directly from the period of confusion at the time of the overload of applications caused by the coming into effect of the U.S. initiative requiring air travellers to carry passports, as certain clients forwarded an application by mail and at the same time reported to a point of service.
- ! **Change of courier service provider for passports going to the United States:** In recent years, passports being sent to the United States had been delivered by a competitor of the current agent. Since this recent change, our office has received a great many complaints. Applicants worried about the risk of their personal information being compromised have felt it important to draw certain practices of the new agent to our attention.

Conclusion

Summary analysis of the four years of operation of the Office of the Ombudsman has shown the following:

- ! A constant progression in the number of formal complaints, which seems a corollary of the increase in volumes of passports issued.
- ! Requests for assistance increased over the first three years of our operations, but 2007–08 saw a marked decline of nearly two thirds compared with 2006–07. We shall await next year's report before drawing any conclusions about this.
- ! For requests for information, there was a substantial correction (-62%) compared with last year (2006–07), when the U.S. initiative to require air travellers to carry passports had a significant impact on turnaround times for passport applications. All the same, volume remains nearly twice what it was in 2005–06, before this difficult period.

Next year's data will allow us to take a look at a full five-year cycle. At that time we will prepare a summary report. In the context of discussions undertaken at the time this report was released, it is possible that we will see an evolution which would permanently incorporate key elements of our types of action into formal organizational processes.

1. Introduction: the year of great changes

The Adjudication and Conflict Management Office (ACMO) is primarily responsible for processing public complaints and adjudicating security files (other than national security files). With regard to the latter, the report on adjudication activities now appears in a document separate from the Annual Report of the Ombudsman. That report covers the mechanisms of refusal or revocation of passport services, and may be consulted online on the Agency's website (at the tab of the same name appearing in the left-hand menu of the home page). It contains the cumulative statistics for each year.

Therefore our annual report this year shall report exclusively on the Ombudsman's activities. Alternatives for the delivery of services provided by our office are periodically discussed. A first five-year cycle of operations will be completed next year. On that occasion, statistical analysis of that five-year period will allow us to carry out some informed planning for the future. Volume fluctuations and certain trends might be useful indicators for management sensitized to the ongoing improvement of processes.

The 2007–08 fiscal year follows a period of explosion in our volumes resulting from the coming into effect in January 2007 of the American initiative requiring air travellers to bear passports. The January - March 2007 quarter was responsible for 60% of our entire volume for 2005-06. Our statistics comparing the two years will also be revealing.

To absorb this crisis, the Agency put in place a series of ad hoc and permanent measures, which are described in this report. It is for this reason that 2007–08 can be described as the year of great changes. All of these actions translated into a significant reduction in the number of files opened by the Ombudsman. This is fortunate, since on the other hand the number of security case adjudications jumped by over two thirds compared with 2005–06.

Requests for information and requests for assistance were most favourably affected by the Agency's new procedures and policies. So there has been a marked decrease in requests compared with last year. The top items of concern in these two categories remain much the same. The Chief Executive Officer, upon being made aware of this situation, asked me to inform the Director of Communications about it, to ascertain to what extent these circumstances could be improved.

Formal complaints continue to be on the rise. Hence there are more complaints, on new themes (various claims) associated with a transitional situation (ad hoc measures) resulting from the increase in volumes. The major fluctuations in turnaround times were reduced, and in May 2007 (for applications filed in person) and in February 2008 (for applications mailed in, forwarded by receiving agents or sent from abroad), turnaround times were restored to comparable pre-crisis levels.

The efforts to meet the challenges caused by the increase in volume were conclusive, since starting in May 2007, when 80% of applications were filed in person, applications were processed within two weeks. Definitely a marked improvement, which deserves to be underscored.

2. Parameters of the Ombudsman function at Passport Canada

As explained in our previous annual reports, the Ombudsman reviews client complaints as a neutral, impartial party. We intervene at Step 2, after the client has applied to the Agency without success. This is designed to promote internal resolution.

A few users have problems with this concept. They expect the Ombudsman to intervene with Passport Canada on their behalf to bring about specific outcomes or actions. Our mandate is to deal impartially with files which, according to the applicable rules, seem to be or have been handled inappropriately or unfairly. Our role is to make representations with the goal of leading the parties to iron out their differences.

In practice, many of the complaints received are the first contact with the Agency. The process that we have established promotes the closing of many files without even setting Step 1 of the formal review

procedure in motion. We have developed flexible practices that take into account the specific features of each case.

For example, if a “corrective” action must be quickly considered (in light of an emergency), it is possible that the internal review at Step 1 would compromise a timely resolution of the matter. In such cases, we refer the case to the operational units directly responsible for considering the situation. These are requests for assistance, obviously applicable in cases where a ruling has not yet been made by the administration.

Citizens file many complaints which in fact are requests for information. Our experience permits us to respond to many of these complaints with no further formalities. Naturally, there are some formal complaints that require formal review at Step 1.

3. Challenges associated with the Ombudsman function

We submitted a review of these matters last year. We are continuing our explanation of them, because they are useful in creating public understanding of the limitations of the operational framework for processing complaints by an executive ombudsman’s office. They will also be useful, on the eve of the five-year operational cycle that will be completed next year (2008–09), in determining how the function has to evolve, and what achievements must be transposed, if necessary, to a new operational framework.

The main challenges associated with the Ombudsman function are of two kinds: those associated with the governance model and those associated with the exercise of the function.

3.1 Challenges associated with the governance model

The fact is that an ombudsman does not impose himself on an organization and its clients. The ombudsman exists at the will of the host organization, with the aim of promoting systemic or ad hoc understanding of conflict situations, and resolving complaints fairly to the advantage of all parties.

This situation can generate doubt as to the neutrality of the executive ombudsman, who is concerned only with disputes between the host organization and its clients. The only solution is a clear mandate establishing the functional supervision relationship at the highest level of the organization. By functional supervision, we mean that the ombudsman should normally be obliged to report, on macro-economic levels (operating budgets, scope and extent of the mandate) to the Chief Executive Officer (CEO) of his organization or to the Deputy Minister (DM) in a department.

In other words, the higher the level of functional supervision, the more “detached” and neutral the ombudsman will be. Note that we are not talking about line supervision, which would remove the ombudsman’s full authority over the administration and individual processing of his cases and in fact assign it to the ombudsman’s line supervisor.

To translate these concepts, then: in an organization chart, the ombudsman should appear in a box adjacent to that of the CEO or DM, and his mandate or conferred authorities should be drafted so that the CEO or DM exercises no direct line supervision over the ombudsman. In contrast, the specialty ombudsman generally relies on a legislated mandate (we are thinking here of the Commissioner of Official Languages, Privacy and Access to Information Commissioner, Human Rights Commissioner, etc.).

In practice, in government organizations, public service staffing rules and goods and services contracting rules will generally apply to the office of the ombudsman. In addition, the CEO or DM discusses the major policies and overall structure and accountability of their organization on executive committees. So those committees discuss matters that directly affect the ombudsman, such as the establishment of budgets and the ombudsman’s mandate (term, role and responsibilities of key players, authorities conferred, etc.).

These parameters may be the subject of ad hoc reviews at the will of the decision makers (the board of directors or executive committee of an organization), and of negotiations by the appointee (ombudsman).

The internal governance model thus has a direct impact on the effectiveness of the ombudsman. We must recognize that this effectiveness is largely dependent on the degree of autonomy and institutional independence granted to the ombudsman. A supervised ombudsman is a senior officer of his organization. A detached ombudsman is a senior executive working in a context of neutrality, impartiality and institutional independence.

In principle, mediation meets a need that cannot be met by an internal review process. Such a process is focused on an actual ruling, whereas mediation encourages a *rapprochement* of the parties in a contested situation which has not yet culminated in an actual ruling. The ombudsman's initiatives are thus aimed at preventing conflict.

The files referred by the Ombudsman to Passport Canada's operational or corporate branches resulted in the fair processing of hundreds of sensitive situations. The Ombudsman's appointment does not threaten the leadership of Passport Canada's executive and management teams. We are a channel which enables administrators to examine specific situations which are not necessarily addressed by policies.

The role of the executive ombudsman, who is at the exclusive service of an agency and its clients, is much like that of an agent of change. In that capacity, his intervention can promote a culture of fair treatment of public complaints. When that culture is reflected in management objectives, alternative processes can and must be designed to meet and embrace the principal qualities of neutral and impartial mediation of disputes.

3.2 Challenges associated with the processing of complaints

3.2.1 Factors affecting the identification of solutions

In mediation techniques, mediators are recommended to manage emotions vs. needs or interests. This involves focusing on needs, or what is commonly referred to as "interests." There is no effective mediation when the parties can not get beyond their emotions. In the private sector, the parties resorting to mediation do so on a voluntary basis, which necessarily implies a desire to arrive at a compromise, whereas in the public sector this is not the case.

On rare occasions, people applying to the Ombudsman express their frustrations with a certain virulence. While we perceive our role as being to ignore discourteous comments and focus on the situations to be resolved, there are cases in which certain people only want to vent their spleen. At that point, it is no longer a complaint that we have to deal with, but simple invective. Since the vast majority of clients apply to the Ombudsman before their situation has been reviewed at Step 1, in principle we have to refer the complaint to Step 1 or place a request for assistance with the operations responsible. It is counter-productive to forward a message that is focused on describing those involved as people who are unfit to perform their duties.

Clients must therefore be invited to formulate their grievances in language that is less vindictive. In the event of unyielding maintenance of language that is basically offensive, we must resolve to close a case without further ado.

Second, threats. Once again, in crisis situations, some people demand specific actions in very short time frames, failing which they threaten to turn to the courts, the media, the United Nations, or a foreign government (yes, that has happened!). Sensible people applying to a neutral, impartial third party should not be resorting to such threats. The direct effect of doing so is that the authority in charge of considering the demand will hesitate to take favourable action on it, since the complainant might conclude from this that the authority acted under the constraint of the threat. It is always easier to make amends when clients indicate that they are appealing to the good faith of the authorities rather than to their cowardice or fear of media or legal repercussions.

Finally, the syndrome of creating a precedent. This is an old problem which was broached in our previous annual reports (see sections 1.5 of the 2004–05 report and 2.2.1 of the 2005–06 report). The challenge facing the Ombudsman is to get his organization to understand that in mediation, the parties' interest in and commitment to finding a compromise are obtained because of confidentiality. Without this, no one would consider *ex gratia* payments, for example, to settle a complaint.

A public mediation constitutes a precedent in the same way as a tribunal decision. Our position is therefore that any complaint referred by the Office of the Ombudsman is protected by the privilege of mediation, and therefore not accessible by third parties. The clients, on the other hand, have to appreciate the confidential nature of the mediation. If they make their case public, this makes it more difficult to consider compromises, for the organization's fear of setting a precedent then becomes founded. So before making their complaints known to the Ombudsman and the media simultaneously, clients should think about the impact of this sort of two-pronged initiative.

3.2.2 Difficulties associated with the method of transmitting complaints

An ombudsman has to make himself available to the public. The methods of making contact with the Ombudsman have a direct impact on his effectiveness and workload. The speed with which situations will be examined is not determined by the transmission medium used by complainants.

Thanks to the method of processing complaints used, we can more effectively initiate the necessary actions in a timely fashion commensurate with the matters raised. Hereunder we advise clients on the advantages and disadvantages of the means of communication they use to contact us.

Written correspondence

This type of contact is very effective, for it allows us to quickly identify the issues and facilitates transmission of an informative document to operational units at the Agency for processing.

Email

This means of communication is even more effective than regular mail. It allows for efficient analysis of the case and its referral for processing to the competent authorities. The negative aspect of this medium is that its user-complainants expect a fast response. Communicating complaints via email does not generate online discussion with the Ombudsman. Repetitive emails sometimes slow things down, in the sense that since the tool is easy to use, citizens may submit the same request to many officials (duplication of resources and remedies).

Fax

Use of the fax poses its share of problems. Very often users of this tool write letters by hand, so we have difficulties with handwriting, when it is not the clarity of the printout at the end of the telephone line. And oddly, many people forget to leave their contact information. There is no telephone number or mailing address. This is truly one of the least effective methods of contacting us to undertake an analysis of your cases and of getting back to you with follow-up.

Telephone

This is the preferred method of clients, because it is the simplest for them, but it is definitely the LEAST effective. In order to protect the personal information of clients, our neutral office does not have access to the Agency's data banks and passport application processing system. Each call requires us to send a note to the Agency summarizing the problem, together with the basic factual data we collect on our electronic or paper complaint forms.

If the form is not completed, we have to collect all of this information. This secretarial work is avoided when citizens use our online form or write to us. More fundamentally, this compromises our neutrality, in that we may be perceived by all parties as "petitioning" or lobbying on behalf of clients.

Electronic complaint forms

These appropriately completed forms contain names, dates of birth, point of service, date when the application was submitted or mailed, mail services follow-up number, telephone numbers for reaching the client (day and evening), and a summary of the client's case.

3.2.3 Expectations regarding the method of processing complaints

As we saw earlier, the Ombudsman's work normally consists in dealing with complaints from the public at Step 2, after an internal review at Step 1 has proven unproductive. In practice, many of the clients contacting us are submitting their complaints for the first time.

Theoretically, all these requests should be transmitted to the Agency for processing at Step 1. In many situations, however, this is not an effective solution.

A first type of complaint can more accurately be designated as **requests for information**:

- ! General information on the program and the entitlement requirements can be transmitted directly by our office. Sometimes it is enough to identify the third party that can address the situation raised. We simply pass on generic information, since we cannot engage the Agency by providing advice and opinions on individual client cases.
- ! Inquiries about the status of passport applications must be forwarded to the Agency for processing. The main difficulty with these inquiries is that clients expect the Ombudsman to have coercive power with the Agency and to get the file moving.

The Ombudsman is not in a position to respond to status inquiries (we do not have access to the passport application processing system): that is not our role. Neither can we comply with a request to produce something within deadlines set by clients. We have no authority to determine entitlement to passport services.

We designate a second type of complaint as **requests for assistance**:

- ! These situations cover urgent circumstances, new facts or contested facts that must be communicated to the Agency, which occurred after the application was filed. We present the Agency with the new facts that may affect the resolution.
- ! This method of processing is used for "complaints" which we think can be quickly settled by means of direct transmission to the operational unit dealing with the application. The challenge associated with this mode of processing complaints is the same as the previous one. The fact that we act as a conveyor belt does not mean that we advocate for the client's cause. In other words, Passport Canada must be involved and must consider new or contested facts in order to confirm an actual ruling to the client.

Situations not covered by the previous two types of complaints are **formal complaints**.

- ! Our experience permits us to unilaterally close between one quarter and one third of these. We consider it counter-productive to forward for processing at Step 1 a large number of cases which appear to be clearly unsubstantiated.
- ! The main difficulty with the formal complaints that we do forward for processing at Step 1 is that the clients have a sense of urgency and expect the Ombudsman to settle the contentious situation. They want a resolution and an immediate investigation.
- ! Clients confuse previous discussions they have had with Agency staff with Step 1 processing. When they do not obtain satisfaction, they feel that Step 2 assistance by the Ombudsman must be immediately set in motion.

- ! The preliminary discussions with Passport Canada representatives that led to the situation that is the subject of the complaint do not constitute a review of the complaint at Step 1. Those discussions are at the source of the complaint.
- ! The complaint has to be reviewed at Step 1 by an internal Agency group. Our Step 2 assistance, or mediation, aims to identify opportunities for improvement, to re-establish dialogue, and of course to promote the fair and just resolution of complaints not resolved at Step 1.
- ! Since the best solution is always the one at which the parties arrive voluntarily, the Ombudsman encourages the reasoned negotiation of complaints. The Ombudsman is responsible for the process, but not for the outcome.

4. Traffic on / visits to the Ombudsman’s website

The Ombudsman's website utilizes the Agency's portal at www.passportcanada.gc.ca. On the Agency's home page, visitors are welcomed by a menu with a tab called "Ombudsman." We chose this approach because it seemed natural to us for Agency clients to locate Passport Canada's Ombudsman on Passport Canada's website. The content of our Web pages is under the exclusive control of the Ombudsman's office. The visual presentation conforms to the electronic communications standards prescribed for the federal government. The Agency's technical support services and Web Administration team have given us their full support since the launch, for which we are grateful.

2004-05 was the first full year of operation for our office, during which our website was visited by 45,817 Internet users, the majority of them from outside Canada. 2005-06 saw an increase of 31%, with an estimated 60,000 visits. For 2006-07, traffic on our site increased by 133%. For 2007-08, the traffic statistics for our website show a much less pronounced increase (11%) than in the past.

Over this year, our Web pages were consulted by 170,574 visitors, representing an increase of 11% from the previous year's record. The statistics are as follows:

2006-07 – Period concerned	Number of visitors in 2006-07	Number of visitors in 2007-08
April, May, June	25546	59663
July, August, September	20360	48158
October, November, December	29155	38357
January, February, March	78831	24396
TOTAL	153852	170574

We note that traffic has decreased in step with the lessening of the impacts of the coming into effect (in January 2007) of the U.S. requirement that air travellers carry passports.

5. Overview of the year’s activities

5.1 Volumes in brief

As we saw in a previous section, not all the communications we receive from the public can be regarded as complaints in the strict sense of the term. We therefore subdivide these communications into three main types: **requests for information, requests for assistance and formal complaints.**

Each of these categories, which are explained in the section presenting the methods of processing complaints, calls for a distinct type of action or contact with Agency representatives or with clients. Our objective is to deal as appropriately as possible with the different types of situations presented by the public.

The complexity of the case, the nature of the contested measure (is it a definitive or temporary, formal or informal ruling), or the type of elements in play will define the means we employ to respond to clients' questions.

2007–08 was much less busy than the year before. For the entire year, users submitted 627 requests and complaints to our offices, down 51% from last year (when 1,268 files were opened).

- ! Of that number, 315 were **requests for information**, representing a decrease of nearly 65% compared with last year (827 files opened in 2006–07 vs. 315 in 2007–08). Most of these requests were inquiries about the status of passport applications.
- ! Ninety-four cases were resolved through **requests for assistance** which we addressed to the Agency. These were submitted to functional and operational units of Passport Canada. These cases are different from status inquiries in that clients are affected by a humanitarian, work-related or otherwise specific situation and are under threat of substantial prejudice. Our main task is to rise above emotions and let the facts speak for themselves. This volume accounted for 15% of the files opened at the Ombudsman, a decrease of 66% from last year.
- ! Of the 627 cases we processed, 196 were **formal complaints**, representing an increase of 39% compared with last year. Of these, 56% were sent to Step 1 for handling by the Agency, 21.5% were handled directly by our office, and 21.5% were sent directly to Operations, as specific action for prompt resolution could reasonably be expected and we saw no need to bring in a third party (the division at Passport Canada responsible for reviewing complaints at Step 1). Fewer than 10 complaints (1%) received mediation at Step 2.
- ! Some citizens sent us **comments**, which were forwarded to the Agency for information (22 cases vs. 27 last year).

5.2 Statistical table since we commenced operations

The table below presents the combined statistics for the years our office has been in operation.

Type of Case	Number of Cases (%) 04–05	Number of Cases (%) 05–06	Number of Cases (%) 06–07	Number of Cases (%) 07–08	Change in Volume Between the Last Two Years
Requests for information	210 (53%)	166 (36.8%)	827 (65%)	315 (50%)	-62% decrease
Requests for assistance	117 (30%)	199 (44.1%)	273 (21.5%)	94 (15%)	-66% decrease
Formal complaints	55 (14%)	79 (17.5%)	141 (11.5%)	196 (31%)	39% increase
Comments	14 (3%)	7 (1.6%)	27 (2%)	22 (4%)	-18.5% decrease
TOTAL	396 (100%)	451 (100%)	1,268 (100%)	627 (100%)	-50.5% decrease

5.3 Requests for information

5.3.1 Types and figures

Fifty percent of the files opened in 2007–08 were of this type. Last year, this category represented 65% of our volume. Therefore, we supported the development of a robust model and a front-line capacity to handle

this category of “complaint” and deal with the public. Our volume has thus declined, while that of the Agency in the same area is relatively stable. Objectively, we note that there were fewer of these requests 2007–08, and it was easier for clients to contact the Agency. This is good news, and we shall see if this auspicious trend is continued in 2008–09.

This type of request includes the following two categories:

! Requests for general information

There were 164 such requests received in 2007–08. This represented 52% of the “requests for information” volume, and took the form of explanations to clients about programs, the line of services available, certain requirements, and the mandate and functions of our office and of external organizations that might be able to respond to the situation presented by the clients.

! Inquiries about the status of passport applications

Here there were 151 inquiries, representing 48% of all “requests for information.” Most of them (60%) were received in the first quarter of the year, in the final throes of the explosion of volumes generated by the U.S. initiative to require air travellers to carry passports. Our report for last year showed that for the period of January to March 2007 inclusive, 485 status inquiries were opened. In response to this difficult situation, the Agency published and updated the turnaround times for passport applications on its website.

As a result of these measures, as well as others upon which we shall elaborate later, there was a marked decrease in the number of status inquiries in the following quarter (April–June 2007 inclusive). Citizens were notified of the turnaround times for passport applications for the different service delivery options (mail-in, in person, via receiving agents).

The surprising impact of the major increase in volume which we commented on in chapter 2.6 of last year’s report was diminishing. In that we saw a sign of pending recovery from the transitional situation caused by the deviationist vector in the volume increase forecast model created by the U.S. initiative to require a passport which came into effect in January 2007.

As we noted last year, since our operations are neutral and independent, we do not have access to the passport application processing systems to immediately inform applicants about the status of their application. These inquiries demand more work on our part than if handled by Passport Canada employees, who are able to access the Agency’s electronic files. This type of request represented 24% (151/627) of the Ombudsman’s files in 2007–08.

5.3.2 Distribution of processing

- ! Number of requests in 2007–08: 315
- ! Distribution of processing of requests for general information and status inquiries:
 - Office of the Ombudsman handled 84 requests (27% of the category)
 - Central Operations handled 217 requests (69% of the category)
 - The other Agency sections handled 14 files (4% of the category)

5.3.3 Top request items (and correlative Agency statistics)

The figures that follow in brackets indicate the correlative volume of files on the same subject handled directly by the Agency, where the total volume of correspondence for the year was over 77,000 items.

The top three request for information items were on the following subjects:

- i) First group: inquiries into the status of an application (7,117), urgent requests and details regarding express and urgent service (3,041). This is virtually the same scenario as last year, when there

were nearly 11,000 of these kinds of requests. This group continues to be the largest in the requests for information category, but it is clear that substantial effort has been made to address the situation generating this type of request.

- ii) Second group: requirements for travelling to Canada, the United States and abroad (6,400). The coming into effect in January 2007 of the new U.S. requirements led the population to confirm the requirements they must observe.
- iii) Third group: (relatively equivalent number of requests)
 - # Name policies (4,970)
 - # Security files (passports and documents delivered to a third party, fears about identity theft, replacement of lost, stolen or damaged passports, etc.) (4,656)
 - # Guarantors and references (4,400)
 - # Requests about passports for minor children (4,137)
 - # Requests for information on renewal files (3,342)
 - # Documentary evidence of citizenship (3,129)

While many of these subjects have been raised in the past, clients raised new concerns with regard to those subjects. The introduction of simplified renewal applications and the new forms for guarantors holding passports generated some requests for information, as is customary when longstanding practices are amended.

Combining the statistics available for cases that clients sent directly to the Agency on these subjects, this shows that the Agency dealt with over 24,000 requests for information out of a total of 77,000 correspondence files.

5.4 Requests for assistance

5.4.1 Types of files and figures

This type of complaint accounted for 15% of our files opened in 2007–08, compared with 21.5% last year. While the decline in this category (66%) was slightly more than the decrease in our total volume of files (50%), requests for assistance still represent a more optimal use of our services than **requests for information**. Clients want to bring to the attention of a neutral, impartial third party a situation that is being contested with Agency employees. Nearly 100 people took advantage of this recourse.

This liaison permits more effective communication. The Ombudsman eliminates the emotional charge of many factual situations by referring the request for assistance so as to facilitate the resolution and processing of the service request. Half (50%) of these requests were forwarded to the units that process applications sent by mail or from the United States, and 14% to the issuing offices.

The clients (94) in this category may, for example, (i) be facing urgent, humanitarian or compassionate situations; (ii) be claiming that certain elements of their files are adequate even though they are being questioned by Agency representatives; or (iii) have received a passport containing errors. These situations are relayed to Operations for reconsideration, follow-up and action. The alternative of involving the Agency at Step 1 would introduce an intermediary with no decision-making authority over a case that is generally pending (where a final ruling on the service request has not yet been reached). Direct contact with Operations is therefore preferred.

5.4.2 Top request for assistance items

The top three request items were on the following subjects:

- ! First group: Urgent/compassionate/humanitarian situations requiring priority processing or transfer of the case to a point of service (16%)

- ! Second group: Requests for assistance from isolated residents abroad who have no other recourse (11%)
- ! Third group (relatively equivalent number of requests)
 - ! documentary evidence of citizenship and personal identification documents not returned (10%)
 - ! Difficulty obtaining a replacement passport for a travel document reported lost, stolen or damaged (10%)
 - ! Passport lost in the mail or delivered to a third party (10%)

Therefore, if we add the cases in this assistance category with the previous category, 65% of the files we handled were resolved without setting in motion a formal complaint evaluation process at Step 1 or Step 2. Last year we jointly processed more request for assistance/information files (1,103/1,268 = 87%). This can be explained by the increase in the number of complaints, discussed below.

5.5 Formal complaints

5.5.1. Substantial increase

The overall statistical table shows that this category has been steadily rising since the Office was created. This may seem a concern, but if we look at the Agency's transaction volumes, it must be acknowledged that the number of complaints is relatively low, and would be the envy of many telecommunications companies, for example.

Thirty-one percent of the communications received constitute genuine public complaints. This category is up 39% from the number of cases handled last year.

5.5.2 Sorting and distribution of processing

We took the following actions on formal complaints from the public:

!	Number of complaints handled by Operations:	42 / 21.5%
!	Number of complaints referred to Step 1:	109 / 56%
!	Number of mediations at Step 2:	3 / 1%
!	Number of complaints handled exclusively by our office:	42 / 21.5%
TOTAL:		196 / 100%

All complaints are analyzed by the Ombudsman to determine their nature and substance. They are then forwarded to the authorities considered competent to consider them. This year, one fifth of them were referred to Operations, which lent us their cooperation in resolving certain sensitive situations.

The same number of complaints was received and determined by our office to be unfounded, representing a decrease of 13% from last year. The unilateral closure of these files allows the Agency to consider with greater sympathy the complaints we transmit for processing at Step 1. We believe that systematically referring unfounded cases to Step 1 would not encourage the informal settlement of cases deserving serious review by the authorities.

The complaint cases that we sent to Operations (21.5%) have not been classified as requests for assistance because the content of the communication from the complainant could not reasonably be considered as anything other than a formal complaint. The complaints that we closed after a preliminary

review are of two types: those which, based on experience, we considered to be unfounded, and those which had already been examined in the past.

5.5.3 Complaints formally referred to Step 1

There was an increase in the turnaround time for processing complaints at Step 1, particularly for requests for reimbursement. Since the number of formal complaints rose by nearly 40% this year compared with last year, the Agency created a committee to review requests for reimbursement and claims. This committee has representatives from various Agency divisions. In informal discussion, it was acknowledged that efforts should be made to improve the situation.

The review committee supports the unit coordinating the processing of the complaints at the 1st step. That unit is also responsible for handling all correspondence from the public sent directly to the Agency. These complaints generally raise issues that cannot be corrected retroactively, since the disputed situation has already occurred.

It is always possible that files still outstanding may be resolved more quickly than files unsatisfactorily closed for which certain types of reparation are being sought after the fact. The unit responsible for complaint coordination and correspondence will then act somewhat as we do on requests for information or assistance, i.e. it will obtain the information required so that the client can meet the requirements, or will provide the Agency with facts that will permit a resolution of the contentious situation.

Clients consider that they have a legitimate claim and expect quick results. The longer the time it takes to process these complaints at Step 1, the stronger the public perception of poor quality of service. It is our experience that legitimate cases generally result in a resolution. Attaining the Step 1 result in a period of three or four months, with no formalities apart from submitting one's grievances to the Ombudsman's office, may seem unreasonable to some. However, things should be put in perspective. The facts have to be validated by multiple parties, and applying to the courts would certainly be more tedious, expensive and slow.

5.5.4 Top formal complaint items and correlative Agency statistics

The Executive Services Division informed us last year that it had handled over 1,672 complaints. Like us, this division received more complaints this year—2,172, an increase of 30%. This year we have identified four main categories, with the third and fourth being relatively equivalent.

The main types of grievances received in the formal complaints category are as follows:

First place: complaints relating to transactions at points of service in Canada and abroad or with a receiving agent

Second place: claims for reimbursement of all kinds, related to certain expenses incurred by applicants after sending their passport application

Third place: requests for financial compensation for specific disbursements incurred in obtaining duplicates of documents that have been mislaid or cannot be traced, and that were caught in the backlog of mail-in passport applications; and at the same level in

Fourth place: turnaround times for processing applications and late notices to the client of an incomplete application

The first and third place positions have been reversed from last year. Complaints about turnaround times are down sharply from last year. As we pointed out earlier, they manifested mainly in the first quarter of the fiscal year (April, May and June 2007), when the increase in volume generated by the American initiative to require air travellers to carry passports was in the process of being controlled by a set of corrective

measures instituted by the Agency. While the volume of complaints was up 39% this year, these reductions attest to an improvement upon which we shall comment in the next chapter on Trends.

6 Trends

6.1 Change in top complaint items

Turnaround times for processing applications, transfer and status requests, urgent/pressing/compassionate situations, applications from those living abroad, and late notices to the client of an incomplete application top the list of **requests for information** for another consecutive year.

Since the number of **formal complaints** increased substantially this year, this finding differs somewhat from that for last year, when the **requests for assistance** category surpassed that of formal complaints. This year the situation was reversed. So there were more complaints on new themes (claims for reimbursement) associated with a transitional situation (ad hoc measures) resulting from the increase in volume. The significant decline in requests for information and assistance attests to the effectiveness of the ad hoc and permanent measures put in place by the Agency.

6.2 Issuing of passports abroad

Although the number of **complaints from abroad** (151) was down compared with last year (276), the percentage of our clients in this group remained relatively constant at 24% compared with 22% last year. The very marked decline (50%) in the number of complaints from residents in the United States is good news.

- ! The main difficulty facing those living abroad is refusal of temporary passport (TP) services. To our knowledge, this service was supposed to be set up in Canadian consulates and embassies to respond to emergency situations arising between the time an application is filed and the time the passport—production of which has been repatriated to Canada—is sent to the client.
- ! A public announcement outlined the conditions for issuing TPs. Basically, they were limited to urgent cases as determined by consular staff assigned to passports. The issuance criteria were written in language sufficiently broad to permit an interpretation of the emergency criteria based on the “local” capacity of each consulate to deliver the passport program.
- ! Obviously, this capacity depends on the number of consular officers assigned to the program, and is affected by the client base (Canadian citizens) present in the foreign country.
- ! To a reasonable observer, this discretionary policy would appear to run counter to the objective of responding to urgent situations, if we agree to respond to them only to the extent of our “capacities.”
- ! According to our information, the issuing of TPs has been closely monitored. A 2% limit on this type of passport was set for all foreign posts.
- ! Under these conditions and in the absence of objective criteria applicable to all foreign posts, certain sensitive situations arose over which it was confirmed to us that Passport Canada had no authority, as the consular staff reported to the Department. In clear terms, we were obliged to refer to the Department all situations brought to our attention.
- ! However, consular services issued instructions to foreign posts regarding the issuing of TPs as opposed to emergency passports (EPs). The latter are normally issued for the repatriation of citizens who have lost their document or had it stolen. One citizen was issued an EP even though he qualified for a TP. If he had received a TP, he would have had 60 days to obtain a regular

passport back in his country of residence (also abroad). This situation thus generated costs that could have been avoided.

! TP management is sensitive, because it is confronted with the reality that the holder of a TP is sometimes subjected to additional verifications by the border officers of certain countries, and a TP is not the most appropriate document in which to stamp a visitor's or work visa.

! Quality of services to citizens was eventually identified and adopted as a departmental priority by the Deputy Minister of Foreign Affairs and International Trade. At the time this report is being published, the situation seems to have improved (in the course of the 2008-09 exercise).

As we mentioned at the beginning of this section, the good news is the marked decrease in the number of complaints from citizens residing in the U.S. It is clear that the establishment in 2007–08 of a pilot project for issuing regular passports in Miami and Los Angeles was a strong contributor to this improvement.

The situation of people living abroad whose documents are nearing expiry is very often difficult. In some circumstances, their landing rights and work or study permits are directly at issue. However, It is ultimately the responsibility of citizens residing abroad to ensure that they are in possession of valid travel documents at all times.

6.3 Major fluctuations in turnaround times / ad hoc measures

In the wake of the U.S. initiative requiring air travellers to bear passports, turnaround times for processing passport applications were seriously affected. The situation was corrected (to two weeks) by the end of May 2007 for applications filed in person at a point of service. The following critical thresholds were achieved for applications

! from abroad: 15 weeks in late June 2007, gradually reduced to four weeks in February 2008;
! from receiving agents: 13 weeks in mid-August 2007, with the same gradual reduction as above;
! by mail: 10 weeks in late March 2007, with the same gradual reduction as above.

The publication and continuous updating of service times on the Agency website alerted clients to the situation, enabling them to select the mode of service delivery that met their needs.

The Agency also took certain important ad hoc measures to accommodate the most urgent situations and respond to the increase in volume. Use was made across the country of casual labour and processing blitzes on weekends and even statutory holidays.

6.4 Permanent measures for improving service

2007–08 was a turning point for the Agency. Many initiatives and interventions were developed and introduced to help improve service. These changes had the immediate effect of reducing the number of files handled by our office. Most of those files (49%) were received in the first quarter.

In our view, these measures will have a permanent positive impact on service improvement:

! Implementation of simplified renewal applications
! A new guarantor policy
! Massive hiring of new employees
! Creation of evening shifts in regional offices
! Relocation of operations to larger offices
! Review of the processing of passport applications

The number of passports issued in 2007–08 (4,838,203, up 32% from last year) makes it difficult to project the increase in volume for the next fiscal year. Effective June 1, 2009, the U.S. requirement will also be imposed on land and sea travellers. For that reason, over the last year the Agency reviewed and modified

its issuing and review mechanisms and its conditions for entitlement to passport services. These changes led to important new flexibilities in the requirements for filing passport applications.

- ! The main change to passport application processing was the establishment of a pre-examination at the mail opening stage. This measure has been a factor in much faster notification to clients that their application was incomplete. At that point clients could assess their best alternative (such as reporting to a point of service). Before this measure was applied, incomplete applications would have been returned to the client at the end of the applicable turnaround time.
- ! In tabling its Budget 2008, the Government confirmed that Canada would be issuing passports that are valid for a 10-year period starting in 2011. While this measure is not expected to have any immediate impact on the Agency's procedures or the volumes it handles, clearly it will have an impact in the years to come.

6.5 New trends

At the time this report was produced, the ad hoc and permanent measures described above had yielded tangible results, including the restoration of turnaround times to two weeks for mail-in applications. That processing period is comparable to 2005–06.

Whether it be the simplified passport application or the new form allowing passport holders to vouch for new applications, the implementation of new mechanisms necessarily involves a learning period for clients and the Agency alike.

From the files received at our office, here are the new trends worthy of mention for 2007–08:

- ! **New guarantor policy and procedure:** These changes affected clients and guarantors indiscriminately. The main issues raised were as follows:
 - ! Transition from use of old to new forms
Many clients saw their application rejected because they provided all the information required on the wrong form. More specifically, new guarantors (passport holders) cannot sign the old forms (on which the eligible guarantors were members of professional associations) even if they provide the necessary information on the new forms and satisfy the eligibility criteria.

Vice versa, old guarantors cannot sign the new form if they do not qualify as a passport holder as prescribed by the program.
 - ! Privacy concern
The requirement that guarantors indicate their passport number on the new form has been challenged by certain members of professional associations.

Agreement to act as guarantor for a client of Passport Canada is a service generally rendered for someone with whom there are certain emotional or proximity ties. Clients who apply to professionals with whom they have a strictly business relationship may encounter a refusal from their lawyer, dentist, physician, etc. to provide their home address and passport number. The Agency requires this information to run reliable checks against its data bank. The aim here is to prevent impersonation.

In any case, no one is obliged to act as a guarantor. Since the pool of eligible persons has been considerably broadened, clients should have less difficulty identifying an alternate guarantor.

! **Lost or damaged personal documents:** Unlike in previous years, many clients expressed to us their frustration at receiving their new passport together with personal documents that had been damaged. In addition, a significant number of applicants informed us that when they received their passport, their personal documents were simply missing.

! These situations are a great concern to the applicants in question, as many of them are afraid that their documents will be used by other individuals: in short, they are afraid of identity theft. We have noticed that people are more worried about the possible consequences of identity theft.

! The internal loss of a supporting document may occur in the course of two operations: pre-examination, or production, i.e. when the passport booklet is digitized from the biographical information and photograph.

! We alluded in the previous section to the new pre-examination process, which is intended to avoid clients being given late notice that their application is incomplete. At this stage, officers determine whether the ID in support of the application meet the requirements. The file will later be examined in greater depth. The transfer of thousands of files per day between different sections can result in the temporary loss of an item, for various reasons (an envelope that is poorly attached, sealed or manufactured). The passport is generally issued based on the officer's certification that he/she saw the ID, and a notice that it has been temporarily mislaid is sent to the client.

! Since production is started only upon certification of the ID submitted, the items may be mislaid when the paper file is reconciled with the electronic file. As in the previous case, the passport will generally be issued based on the certification of the officer who saw the ID, and a notice that it has been temporarily mislaid is sent to the client.

! Lists are made of these "floating" ID and of their files once the realization is made, at some stage subsequent to pre-examination, that the ID is missing. When the item is located, it is forwarded to a group that manages these lists. The group also does proactive research to trace the file to which the item should have been attached. In certain circumstances, this reconciliation will be more difficult, as there may be a variant of the name (such as compound names, or assumed names of spouses).

! We understand that clients may not be satisfied with these technical explanations. However these are infrequent cases, given the volume of applications processed. Clients may at least be reassured that there are many reasons why missing ID may unfortunately be mislaid internally. We must be pragmatic and acknowledge that a document certifying a name and date of birth is not the most useful tool for identity theft. However it is our feeling that the Agency takes these incidents seriously and is making an effort to contain them.

! When a floating piece of ID cannot be matched with a particular file, clients are reimbursed the cost of replacing the lost document. We also referred to Central Operations the case of a lady who demanded a letter from the Agency attesting that her birth certificate had been lost during processing of her application, to minimize the possible consequences if fraudulent use should be made of her document.

! **Policy on multiple losses/thefts/mutilations:** This policy concerns applicants whose passport issued in replacement of a lost, stolen, damaged or inaccessible document gets unavailable in similar circumstances. The Agency will then consider issuing a limited validity passport, refusing to issue a new document or subject the issuance to an imperative travel circumstance.

! It may happen that the employees refuse to issue a limited validity replacement passport when supporting documents are presented. At present, the client's only recourse is to

request through us the intervention by the Security Bureau, which by virtue of its authority and expertise is in a position to consider all the specific circumstances of cases submitted.

- ! The current procedure for communicating the ruling to clients seems inadequate, at least in terms of our Checklist, which states that intelligible information should be made available to the public and that persons affected by a ruling have the opportunity to submit information in support of their positions.
- ! Toward the end of the fiscal year, the Security Bureau undertook consultations with our office and with Legal Services regarding the processing of this type of file.
- ! During these consultations, a certain synergy came to light that recommends adopting measures that are more open with respect to communications and recourse on the part of clients. As these were confidential discussions, we shall await the results before providing an update in our next annual report.
- ! **Fees levied twice when passport issued:** This situation appears to stem directly from the period of confusion at the time of the overload of applications caused by the coming into effect of the U.S. initiative requiring air travellers to carry passports.
 - ! Last year we referred to the fact that, as of the last quarter (January–March 2007), many clients who had mailed in their applications had filed an application in person at a point of service (where turnaround times were regularly shorter than for mail-in applications).
 - ! Many clients contacted the Ombudsman after being billed twice by the Agency. In some cases, after making a transfer request, clients were charged both by the office handling mail-in applications and the issuing office. Most of these cases were favourably resolved by the Agency at Step 1, or in response to a request for assistance.
 - ! In rarer cases and for a variety of reasons, certain clients were offered the option of cancelling their passport application. Our services were solicited by these clients, who thought that their application would be returned at no charge. In these cases it appears that they had not been informed of the policy of non-reimbursement which is in place.
- ! **Change of courier service provider for passports going to the United States:** In recent years, passports being sent to the United States had been delivered by a competitor of the current agent. Since this recent change, our office has received complaints. Applicants worried about the risk of their personal information being compromised have pointed out certain disquieting delivery practices of the company in question.
 - ! Although very strict and specific standards had been prearranged between this company and the Agency, the complaints received by our office show that at different times there has been negligence in the delivery of passports to the United States.
 - ! Certain applicants found their package left exposed on their doorstep, while others received calls from a third party informing them that their documents had been delivered to the wrong address.
 - ! One of the worrying issues in connection with this problem is that clients are unable to quickly ascertain that there has been an error in the delivery of their passport. Having been informed of the slower turnaround times that year, many applicants were patient before inquiring with the Agency about the status of their file. It was only after weeks of waiting that clients concerned about the status of their application were surprised to learn that the computer system indicated that their passport had been delivered.

- ! We deplore the fact that, in certain situations, the contracting party took an unreasonable amount of time to confirm to the Agency that it had mislaid a shipment. Until the courier confirms to Passport Canada that a shipment has been lost, the Agency cannot issue a replacement passport.
- ! We understand that the Agency is obliged to obtain all the facts before deciding to amend the status of documents said to be lost and to proceed with a replacement. However these replacement efforts have also proven difficult because of internal communication problems at the Agency.
- ! Certain applicants informed us that they had to contact the Agency many times before a representative decided to assist them and take the necessary corrective measures.
- ! In some cases, the clients had to act as intermediary between the Agency and the courier service. They became unfairly caught between the requirements of the Agency and those of the courier, as the two shifted responsibility back and forth between them.
- ! In the end, we brought this situation to the attention of the bureau in charge of service contracting at Passport Canada, which confirmed to us that certain problems had indeed been reported internally on these matters.
- ! The questions raised have an impact on the contractual obligations (and accountability) between the contract client and the courier service. The director general was very receptive to the apprehensions raised, and promised to look into the situation.

7. Review of situations reported in the last annual report

The Agency has noted and corrected a number of situations flagged in our 2006–2007 report.

- ! **Ineffective verification with guarantors:** Last year, a problem related to ineffective verification with guarantors was identified because many professionals could not be contacted. As a result, certain applications were rejected and returned to the applicants who then had to submit another application certified by a different guarantor. However, this problem is no longer an issue this year.
 - ! The new form certified by a passport-holding guarantor better facilitates basic checks, since the information requested or missing can be verified directly from the Agency's files. This simplified process allows for much faster processing of passport applications.
 - ! In the past we have received complaints from applicants experiencing difficulty getting additional documents signed or certified by their guarantor. To illustrate this situation, there is the example of inhabitants of rural regions who sometimes had to travel many kilometres to have a conversation with their guarantor, or certain workers who had no choice but to absent themselves from work to meet with their guarantor during business hours. Since the recent implementation of the passport-holding guarantor policy, we have noticed that it is easier for applicants to identify an accessible guarantor.
 - ! Our office has noted a significant decrease in questions and complaints concerning the Declaration in Lieu of Guarantor (PPT132) form compared with previous years. We directly associate this change with the new guarantor policy and renewal form.
- ! **Failure or refusal of Agency employees to identify themselves and leave valid contact information:** Last year we mentioned that many applicants had contacted us because they were unable to reach the call centre to respond to messages Agency employees had left them.

! From the end of the first quarter, we noted a marked decrease in requests for information on this subject. We feel that to a large extent this occurred because the telephone lines were much less swamped once turnaround times improved. In addition, Agency staff were apparently given training.

! **Difficulties contacting the Agency related to the significant increase in volume:** The implementation of ad hoc measures and permanent measures has had a positive impact on reducing the number of calls made and received. Applicants were thus able to contact the Agency directly to obtain general information. You will recall that, with the coming into effect of the U.S. initiative requiring air travellers to carry passports, the last quarter of 2006–07 generated a record volume of calls to our office. Citizens were contacting us directly to learn the status of their application. There was a substantial reduction in this type of request in 2007–08.

The following situations continue to be the subject of recurring client complaints from year to year:

! **The situation with respect to passports for minor children** remains a problem. This year it accounted for 3% of our volume of transactions with clients.

! Further to our recommendation of last year, the Agency website had been modified, and clear, specific information had been added to reflect the conditions governing the requirement of the long-form birth certificate. It was very clearly stated that the long-form birth certificate was required for all children born out of wedlock. We were disappointed to find that this information, which clients regard as essential and relevant, was removed from the website at the end of the 2007–08 fiscal year.

! For the children of married couples, maternal and paternal filiation is established by presumption of law arising from provincial legislation. If there is no marriage, there can be no presumption, whence Passport Canada's requirement of a long-form birth certificate identifying the father and mother by name. We believe that the requirement of detailed birth certificates for the children of common-law spouses should be clearly stated on the passport application form or the instructions accompanying the form. Our opinion regarding the non-discriminatory character of this measure is given in sample case 5.

! At present, the website recommends that the long-form birth certificate accompany applications for children to prevent them from being delayed. In fact, this recommendation is more of a reason for rejection.

! **Difficulty with photographs:** This subject cannot be brought to mediation, since photos are either acceptable or they are not. Our only recourse is to seek a second opinion from authorized personnel in the Operations branch. All the same, we must make the following observations:

! Clients residing in the United States are having a lot of difficulty satisfying some of the photo specifications. Many have had to submit numerous sets of photos before one was deemed acceptable. The best place in the U.S. for printing photos seems to be a well-known kitchen and bathroom accessories, furniture, clothing, tool and household appliance store chain.

! In rarer cases, files were returned or rejected for various reasons. The same corrected application accompanied by photos that were not a problem the first time around was rejected on the ground that the photograph was not acceptable. It is therefore possible that the new pre-examination procedure, which offers a number of advantages that were discussed earlier, may be the cause of this sort of situation. These are situations of human error that cannot be entirely eliminated.

! In other cases, applicants have had to submit several sets of photos before just one was accepted. Some were unhappy to discover that their first or second set of photos, initially

rejected, was used for printing even though other sets had been required. The complaints received on this subject were generally accompanied by a claim for reimbursement of expenses for unnecessary photographs and mailings.

8. Communications: method of contact and region of origin

Prior to the establishment of the Ombudsman's services, we studied the mechanisms whereby citizens can contact various ombudsman's offices across the country. We paid particular attention to the possibility of filling in a complaint form online. This service was started up in the second half of fiscal 2005–06.

Citizens may use a form available in PDF format, which can be printed out, filled in and then mailed or faxed to us. They can also fill in the form directly online and submit it electronically by email. This method has finally supplanted every other method of contacting us, as is clear from the following table:

Method of Communication	Number of Cases 2005–06	Number of Cases 2006–07	Number of Cases 2007–08
Telephone	300	102	9
Fax	69	184	100
Email	58	283	442
Letter	24	44	76
TOTAL (annual case volume)	451	Note 1,536	627

Note: The number of communications is approximate. On occasion we have had more than one contact with the same client over a short period and have made a single entry in our registers. This compilation is tedious to maintain and will be abandoned next year. This will permit us to keep a case summary as a single entry, rather than individual dates of contact made and action taken.

Because of the sharp spike in volumes caused by the American requirement of passports for air travellers, we transferred our telephone lines to the Agency's call centre for three quarters. This explains the limited number of initial contacts from clients by telephone. Our office had in effect become a second call centre. This measure demonstrated to us that the more serious complaints were sent to us in writing.

Fax was used in 16% of our cases, up 33% from last year. This would seem in contradiction to the new age of technology, which normally should make this medium less attractive. Use of the fax poses its share of problems, examined earlier.

Written correspondence was used to reach us in 12% of cases. Email was used by 71% of our clients to make their first contact with our office.

Finally, we update our usual table on the geographic distribution of communications to our office. It covers all communications received from people who contacted the Office of the Ombudsman, by region. The value of this indicator should not be measured in absolute terms, since these statistics reflect the place of residence of complainants (whose application may have been dealt with by Central Operations). These data are provided as information to the Agency to complement its other statistical data collection systems.

Geographic distribution of communications to the Ombudsman (for 2007–08)	2004–05	2005–06	2006–07	2007–08
Western Region	87	100	487	212
Manitoba	10	5	24	7
Saskatchewan	0	1	27	8
Alberta	24	33	176	74
British Columbia	53	61	260	123
Ontario Region	151	147	492	133
Eastern Region	75	98	241	121
Quebec	56	78	165	104
Nova Scotia / PEI	13	11	33	10
New Brunswick	3	5	32	7
Newfoundland & Labrador	3	4	11	0
Territories	2	0	8	0
USA	72	189	247	132
Other (international)	9	18	29	19
Not available	5	8	32	10
TOTAL	395	560	1536	627
Communications in English	88%	91%	89%	85%
Communications in French	12%	9%	11%	15%

9. Some Typical Cases

This section presents for the information of clients a sample of typical cases on some new themes that were examined in 2007–2008. It builds on previous annual reports by giving concrete examples of concerns we have previously addressed. For ease of consultation by the public, we include only new cases in this section. However, readers can consult the annexed cumulative list of sample cases going back to our first annual report.

! High costs of issuing passports abroad

[Ref. 07-08-2-189] We were applied to by some clients who, having lost their passport or having had it stolen abroad, were contesting the fees incurred to obtain a temporary passport.

Since this type of document is issued exclusively by foreign posts, the schedules of fees payable and the entitlement criteria differ from regular passport services. The fees imposed are for the swearing of an official statement when a passport is lost, stolen or damaged. Anyone wishing to obtain a replacement passport abroad must have this form filled in and sworn by the consular authorities. We were applied to by some clients who considered these fees expensive.

Our mandate is limited to transactions with Passport Canada. The fees payable are published on the website of the Department of Foreign Affairs and International Trade (<http://www.voyage.gc.ca>). Clients may refer to this site for any further information.

! **Check the period of validity of your passport**

Some applicants sent in a passport application form even though their document had not yet expired. Such a situation is confirmed only when Agency employees make entries in the application processing system. At that time they check with clients to ascertain whether their still-valid passport has been stolen or lost. Clients faced with these facts are then informed that the fees for processing their application are payable even though they are not entitled to receive another passport.

The Agency's reimbursement policy is that fees associated with obtaining a passport are payable from the moment the applicant's information is processed, i.e. the moment that entries are made in the database. When clients are told of this, they generally receive an offer to have a new passport issued for a full validity period of five years. This offer mitigates clients' losses for the years of validity still remaining on their old document.

The Agency's policy is reasonable in light of the fact that the work of determining entitlement and verifying the passport application has been carried out. The Agency operates on the principle of recovering the costs generated by processing an application, whether it results in an issued document or a refusal of service. It is the same when citizens consult a lawyer, for example, to determine whether to bring an action: if after such consultation they abandon the idea of action, they still have to pay for the costs of the consultation.

In this situation we consider there to be no grounds for mediation, as the fee policy is posted on the Agency's site. Clients are thus made aware of the situation. They are responsible for keeping their passport in a particular, safe place. Such safeguards allow them to check that they have a valid passport before applying for a replacement.

! **(Update, case 15) Change regarding addition of married name**

This service was abandoned on June 1, 2007. It had permitted the inclusion of an observation in a valid passport indicating the married name, without having to replace the passport.

Some clients contacted us to say they felt that their change of name did not warrant the issuing of a new passport (with the associated fees). In such situations, we advised the applicants of the reasons that led the Agency to make these changes.

In keeping with the standards set by the International Civil Aviation Organization, the data in the visual zone of the personal information page should correspond to the data in the machine-readable zone of the passport. The insertion of an observation in the passport to reflect a different name from the one appearing on the personal information page is contrary to ICAO specifications.

Clients are invited to consider the impact of their name change request. A request to use a marital name can be made at the time of the renewal application, if accompanied by other identification attesting to the new name.

! **Passport for a child in private probationary adoption**

[Ref. 07-08-2-173] Our office was contacted by the director of a probationary adoption agency. Her clients could not obtain a passport for the child entrusted to them so long as the adoption had not been confirmed by a final order granting exclusive legal custody to the adoptive parents.

This request made it clear to us that transitional adoption situations could not be covered by a comprehensive policy. The eligibility criteria cannot be uniform for all the provinces. At the time, when a passport application was filed for a child in a private or probationary adoption system, Passport Canada required the following documents:

- a letter from the licensee or representative of the adoption agency indicating that a private adoption was under way, that all consents had been given and that the deadline for cancelling the adoption had passed;
- the acknowledgment of registration of birth;
- the consent to adoption signed by the natural parents;
- if the adoptive parents were filing the application, a letter from the licensee of the adoption agency or his/her representative containing a specific mention.

However, in the specific case of the province of Alberta, directors of adoption agencies cannot meet the last criterion, since they are not formally recognized by law as legal guardians. The Agency has taken this into account and undertaken to revise its policy so that it does not create any inextricable situations for certain children.

In the meantime, Passport Canada has prepared a temporary document to clarify the requirements to be observed by adoption agencies in Alberta.

10. Closing remarks

Our grandparents used to say: "If at first you don't succeed, try, try again."

Our parents used to say: "If something is worth doing, it's worth doing well."

A sign of times: in the old days, we had all kinds of chances to do better; today, there are lots of people who have very little tolerance for human error...

There is a legal maxim that says: "Give me the facts and I will give you the law."

Beyond the facts, a mediator is concerned about interests.

All the policies in the world cannot provide a response that is fair in all factual circumstances.

We are living in a litigious society, a society in which citizens are quick to demand their rights but less inclined to recognize their obligations. In this complex confrontation of rights and obligations, the mediator has the difficult task of trying to reconcile diverging interests.

It is legitimate for public organizations to seek an operational framework that enables them to avoid making decisions that are random, totally discretionary and highly subjective. Such a framework often comes up against individualistic values, where clients find themselves clashing with established policies because they do not meet their particular needs and interests.

The modern ombudsman is morally committed to meeting the needs of the community and the administration in which he officiates. The challenge is to look at situations in a neutral manner, which is not the same thing as being detached, and to facilitate the resolution of situations that are problematical in terms of fairness. In doing so, he must recognize and give priority to policies that are fair, reasonable and designed to cover the sort of situation a complainant is in. The policy may well result in a decision unfavourable to the citizen. An unfavourable decision is not necessarily an unfair decision.

A neutral and impartial third party communicates this reality in language that is less institutional. The challenge for the Agency is to continue in this direction of more open communications by adopting tools that can provide for the interpretation of fluid and sensitive situations, and that reassure citizens that an internal interpretation will be made that promotes the advancement of fairness, where warranted by the situation.

ANNEX 1: SAMPLE CASES

Application form – invasion of privacy (case 12)
Application processing times – not subject to mediation (case 16)
Check the period of validity of your passport (case 20)
Child: impact of parents' marital status on birth certificate to be produced (case 5)
Child in probationary adoption (case 21)
Child: parental consent in cases of joint or sole custody (case 3)
Documentary evidence of citizenship – external factors beyond Passport Canada's control (case 4)
Documentary evidence of citizenship – produced by Registrar of a province where client not born (case 9)
Handing over of passport (in connection with employment or another requirement) (case 13)
High costs of issuing passports abroad (case 19)
Limited availability of Declaration in Lieu of Guarantor forms (case 2)
Limited validity passports – extension (sub-case 4)
Location of points of service – not subject to mediation (case 17)
Loss of passport – third parties cannot act as owner (case 14)
Mail-in applications – first come, first served (case 18)
Married name – addition of observation in existing passport (sub-case 15)
Name entered in passport – be mindful of your other decisions (case 15)
Passport renewals (case 6)
Passports in missions – different from those issued in Canada (case 11)
Passport validity – impending expiry (case 8)
Photographs – dissatisfaction with reprographic quality of digitization in the passport (case 10)
Processing times for mail-in applications (case 1)
Rejected photographs (case 7)

Case 1. Processing times for mail-in passport applications

(Ref. Annual Report 2003–04) The service standard for this type of application is posted on the Agency's website. This processing period excludes days that documents are going through the mail system (to come to Passport Canada or to be returned to the citizen). The following situations were considered to be reasonable. The opening of the mail and the preliminary treatment of the applications must be done in the first third of the period. If, during that period, it is discovered that the application is incomplete or cannot be fulfilled, it is returned to the citizen. The service period does not begin until the application is complete. So if an application has to be completed or if a missing document has to be sent to the Agency, the period does not begin until the date the application is complete. It is reasonable to set the counter back to zero in cases of incomplete mail-in applications, since processing times would be much longer if the Agency had to incorporate all files pending corrective action from the applicants to complete the application process. For a detailed discussion of these issues, please see Appendix 1 of the 2003-04 Annual Report, Case Study 1.

Case 2. Limited availability of *Declaration in Lieu of Guarantor* forms

(Ref. Annual Report 2003–04) To assess the reasonableness of the limited availability of guarantor substitution forms, the Ombudsman considered a combination of factors. First, the "guarantor" policy is reasonable and relatively non-invasive of the privacy of citizens, who thus have their identity confirmed by a third party. Second, this proven method allows the Agency to operate in a financially responsible manner. The additional checks required to process an application supported only by a *Declaration in Lieu of Guarantor* result in additional costs, which must be recovered by Passport Canada.

Case 3. Parental consent in cases of joint or sole custody

(Ref. Annual Report 2004–05) As mentioned in the overview of activities (see section 1.4, “Trends,” in the 2003–04 Annual Report), the policy on handling passport applications for children (under 16) has finally been revised. In our opinion, the new policy is much clearer and should help examiners carry out their important duties in complex matters. The presence of a number of contradictory clauses in decrees of divorce regarding mobility restrictions, legal custody, parental authority and guardianship made it difficult to determine the rights of a separated spouse who is not submitting the passport application.

(UPDATE 2006–07) For this reason, the Agency is requiring the production of the most recent decree ruling on all of these matters. We had one case in which excerpts from a lengthy decree of divorce were produced for the Agency, in support of a passport application for a minor child. Dissatisfied with this partial production, the Agency requested the complete decree, in accordance with its policy. After a request for a review of the situation by our office, the Agency revised its position and proposed an alternative to the client so it would not be presented with personal information with no bearing on the determination of the ex-spouse’s rights with respect to the child.

Responsibility continues to lie with the parents filing applications in the names of minor children to clearly establish that they have unquestionable custody rights. When specific visiting rights have been provided for an ex-spouse, it is always preferable to obtain the signature or consent of the ex-spouse. We have seen a number of cases where, in the passport application, the parent had failed to produce an official statement that the ex-spouse could not be located and to indicate in the appropriate section of the application form that his or her address was unknown. It is preferable to document such information by sworn personal declaration and/or sworn declaration by a third party, as opposed to turning up at a service counter and trying to provide verbal explanations.

Case 4. Documentary evidence of citizenship: external factors beyond Passport Canada’s control

(Ref. Annual Report 2004–05) Many inquiries and requests for assistance come from citizens in urgent situations who have to travel abroad. Unfortunately, as often happens in a crisis when a trip has not been planned, these people do not have access to the documentary evidence of citizenship (DEC) required to issue a passport. Passport Canada attempts to accommodate these citizens by considering a variety of evidence. Client cooperation is essential if the Agency is to meet its obligations. Passport Canada should not be held responsible, in our opinion, for the processing time required by the authorities responsible for issuing DEC. For example, in 2004-05, the period for processing applications for certificates of citizenship issued by Citizenship Canada fluctuated from five to eight months.

Clearly, such turnaround times have the effect of putting intense pressure on Passport Canada to compensate for obstacles over which it has no control. In our experience, clients are in the vast majority of cases able to provide the additional information and documents requested by Passport Canada. Most clients understand that the document issued will only be valid for a limited time, long enough to satisfy the needs of the upcoming trip. The passport’s validity can be extended once documentary evidence of citizenship is received.

(UPDATE 2006–07)

Sub-case 4. Limited validity passports – extension

In our opinion, clients who obtain a limited validity passport under the circumstances described above should report to a point of service before the document expires to have its validity extended. They must normalize the situation by presenting the DEC obtained after the limited validity passport was issued. If you report three years later, there could be complications. Above all, note that the time you let elapse is not time saved within the normal five-year duration of validity.

Case 5. Birth certificates for minor children – impact of parents' marital status

(Ref. Annual Report 2004–05) Some individuals alleged that Passport Canada's policy requiring common-law partners to submit long-form birth certificates of minor children born of their union constitutes discrimination. Married parents may submit a normal certificate. The Human Rights Commission has had the opportunity to rule on the issue, and it decided that the policy was not discriminatory. Considering the primacy of the Commission's absolute jurisdiction, our Office reviewed the complaint from the angles of transparency and efficiency of communications with the public. At the end of the fiscal year, we submitted questions to policy officials, seeking their reactions and comments regarding potential improvements. We feel that it is desirable to more clearly communicate the requirements for identifying the filiation of minor children born of common-law couples. This would avoid confusion on the part of common-law partners who believe that a normal birth certificate is sufficient. Such confusion generates frustration when parents have to start the process from scratch and appear again at a point of service with the appropriate documentation.

(UPDATE 2006–07) In April 2006, Passport Canada introduced a clear statement in the "electronic" instructions accompanying the online application form that the long-form certificate is required for unmarried spouses.

(UPDATE 2007–08) We note that this information, which clients regard as essential and relevant, was removed from the website at the end of the 2007–08 fiscal year.

Case 6. Passport renewals

(Ref. Annual Report 2004–05) Complementing complaints regarding documentary evidence of citizenship requirements (Case 4), many citizens have expressed frustration over the years with the fact that they must begin the process from scratch with each new application. In 2004-05, Passport Canada introduced a simplified process for passport holders. Existing passports can be renewed more easily, with fewer supporting documents than in past years. These developments were made possible by a modern computerized file management system that also ensures improved service in cases of loss or theft when travellers are deprived of their documents while abroad. The renewal services are being introduced progressively. A pilot project in 2005–06 will determine the validity of the concept and its application to the general population.

(UPDATE – August 15, 2007) Effective on this date, Passport Canada introduced the conditions of eligibility for simplified passport renewal for the benefit of all Canadian residents.

Case 7. Rejected photographs

(Ref. Annual Report 2004–05) About ten cases were related to the refusal by Agency representatives to accept photographs submitted to support passport applications. This type of situation does not lend itself to mediation by our Office. The photographs are either acceptable or they are not. The main difficulty rests in the fact that for the citizen looking at the photograph, it appears to be of the same quality as the examples provided on the Agency's website. Although there is a certain amount of subjectivity involved in assessing photographs, they are generally rejected only when they have a particular and identifiable flaw. The Office of the Ombudsman has thus far refused to make any statement on the acceptability of photographs in dispute. In these cases, we encourage clients to seek a second opinion from the issuing offices by contacting either a coordinator or a manager. The photograph specifications are listed on the Agency's website (www.pptc.gc.ca) under Photo Specifications in the Quick Links section.

Case 8. Impending expiry of passport validity

(Ref. Annual Report 2004–05) One case in particular raised an issue that is applicable to all Passport Canada clients. The holder of a passport whose validity was to expire in less than six

months pointed out that he could not benefit from the full validity period of his passport (five years) as a result of the requirements of his destination country. Several countries require that visitors be in possession of a passport that is valid for either three months or six months. Foreign Affairs Canada (FAC) tries to make available to Canadian residents the most up-to-date information possible about such requirements by foreign countries. However, FAC is dependent on the information those countries supply. Travellers are encouraged to directly contact the embassy of the country they plan to visit, to verify what minimum validity length is required on their passport. Passport Canada cannot guarantee the accuracy of information from third parties. Any country that issues passports is faced with the same situation: the period that a passport is valid is reduced in practice by the minimum period of validity required by countries visited. Therefore, if Country X requires a passport that is valid for six months, you wish to travel to this country and your passport expires in three months, you will be required to obtain a new Canadian passport.

Case 9. Documentary evidence of citizenship produced by the Registrar of a province other than the province of birth

(Ref. Annual Report 2005–06) A citizen was born in Ontario but baptized in Quebec. The baptistry gives the Ontario city as the place of birth. Since 1994, baptism certificates are no longer accepted as documentary evidence of citizenship. A birth certificate from the Registrar of Civil Status of Quebec is required. This document has the same notation as the baptism certificate, i.e. the place of birth. Issuing offices have refused the baptism certificate on the grounds that it is only semi-authentic according to the Civil Code of Québec, and that only authentic documents are acceptable.

The Registrar of Civil Status is authorized by its incorporating legislation to issue parts of the register of civil status for certificates made in its territory, i.e. Quebec. However, the Registrar can also issue semi-authentic certificates for certificates made outside its territory but for which a copy has been deposited in its records. In this case, the question was whether the document was authentic or not.

Following mediation by our office in which a number of stakeholders gave different perspectives, it was established that it is not because the birth place is outside Quebec that the document attesting to the baptism in Quebec becomes an extraterritorial certificate. Although it is an Ontario birth, the certificate registered by the Registrar of Civil Status of Quebec is the baptism certificate, and since it was registered in Quebec, this certificate is an authentic certificate and is perfectly admissible according to the Agency's policy.

Case 10. Dissatisfaction with reprographic quality of the digital photo in the passport

(Ref. Annual Report 2005–06) Some citizens are dissatisfied with the photograph that appears in the passport they receive. Their description of their own photos is sometimes most alarming. Even though the Ombudsman's office generally refuses to intervene on the question of the acceptability of photos submitted with the application (see sample case 7, annexed, Rejected photographs), we took an interest in a particular case in which the facial features of the subject, according to the written description that was submitted to us with the complaint, seemed to have been greatly modified by the digitization process of the photo inserted in the passport.

Passport photos are poor "renderings" of the image that passport holders have of themselves. People are never really satisfied with their own passport photo. The esthetic quality of a photo is not very important for passport examiners. Customs officials concentrate on the facial features, such as the corners of the mouth, earlobes and other characteristics of the shape of the face to confirm the identity of the subject. It is the customs officers' routine to limit themselves to this type of major feature rather than looking at the photo in a comprehensive and superficial manner, thus avoiding the traps presented by the wearing or shaving of a beard, longer hair or the onset of

baldness since the date of issue. Morphological characteristics go far beyond the colour of the skin and, in any case, digitization cannot change ethnicity.

Last, it is important to recognize that a passport photo will never rival the esthetics of a photograph from a studio. The manufacturing processes of travel documents are such that passport photo images are covered in various security films which filter light and, for many, contain diffracted images which can be seen when you move the document. These conditions make it very difficult, if not impossible, to achieve the pure image of the original submitted with the passport application.

Case 11. Passports made differently in missions abroad

(Ref. Annual Report 2005–06) Citizens living abroad have filed complaints about Canadian consulates, embassies and high commissions issuing passports that are different from the new generation of passports introduced in Canada roughly two years ago. In many of these foreign points of service, the document is not machine-readable.

These citizens' main grievance is that the document should possess the same features whether it is issued abroad or in Canada. The mandate of the Agency is to issue a secure, internationally recognized document. In order to accomplish this mandate, the Agency must adhere to international standards. Canada was among the first nations to conform to the obligation to issue machine-readable passports. However, certain technological and economic constraints meant that some missions abroad were unable to issue such documents.

In these cases, a note along the bottom of the document, in compliance with international rules, indicated that the document was not machine-readable. In spite of this note, it raised suspicion at border controls, particularly in Europe. In considering the technical and operational demands of the customization system for travel documents, the Agency had already set up a plan for the repatriation of passport issuing to Canada. Emergency situations would be responded to with a temporary document of the new type. Though the last complaint received on this subject could not be concluded favourably at the time it was lodged, approximately three months after mediation was completed citizens abroad benefitted from the new technology.

Case 12. Application form and invasion of privacy

(Ref. Annual Report 2005–06) A person planning to apply for a passport contacted our office to object to certain sections of the passport application form on the grounds that the information requested constituted an invasion of privacy. Verifying the identity of a person making an application depends on a number of elements which make up for the absence of a national identity register. It must also be understood that the documentary evidence of citizenship issued by provincial registrars of civil status attests to an event, such as an individual's birth or acquisition of citizenship, but not to the identity of that individual. The guarantor, references and other information requested allow identity to be established with greater certainty.

Clients dissatisfied with these procedures are asked to consider that mediation by the Ombudsman for Passport Canada is not the best recourse. What constitutes the essential information needed to establish identity does not lend itself to negotiation or mediation with citizens. Incidentally, these procedures appear to us to be equitable and just because they aim to protect clients from identity theft. Finally, there is a legislative Ombudsman whose mandate is to examine whether government policies respect the *Privacy Act*: this is the Privacy Commissioner, whom citizens may reach through www.privcom.gc.ca.

The Commissioner's 2004-05 Annual Report to Parliament, available on that website, best expresses the Commissioner's mandate:

"As an independent ombudsman, we are:

- An investigator and auditor with full powers to investigate and initiate complaints, conduct audits and verify compliance under both Acts;
- A public educator and advocate [...];
- A researcher and expert adviser on privacy issues [...]; and
- An advocate for privacy principles involved in litigating the application [...] of the [...] laws.”

(UPDATE 2006–07) We had one case in which excerpts from a lengthy decree of divorce had been produced for the Agency, in support of a passport application for a minor child. Dissatisfied with this partial production, the Agency requested the complete decree. After a request for a review of the situation by our office, the Agency revised its position and proposed an alternative to the client so it would not be presented with personal information with no bearing on the determination of the ex-spouse’s rights with respect to the child.

Case 13. Handing over of passport (in connection with employment or another requirement)

[Annual Report 2006–07, Ref. 4-4] A client inquired about Passport Canada’s policy regarding situations of mutilation of or damage to passports. More specifically, he asked about his rights with respect to an employer requiring all of its employees to hand over their passports for safekeeping. Apparently the employer, a marine charterer, made annotations on the passports of seamen and shipboard personnel. The nature of the annotations is not specified. It seems, however, that they were not made on a protective jacket in which the passport is inserted.

Despite the fact that the dispute is private in nature, our neutral office confirmed to the complainant that foreign authorities could regard the marking of passport covers as suspect. We hesitated to make this comment, but did so with the aim of supporting a citizen with his employer, so as to assist him in his efforts to identify alternative methods of document safekeeping. We have incidentally ascertained as a neutral party that employers may have various legitimate reasons for wanting control of their employees’ travel documents, specifically to prevent them from becoming lost or damaged, so as to guarantee the mobility of their personnel across various borders. We were not able to intervene further in this case.

Case 14. Loss of passport – third parties cannot act as owner

[Annual Report 2006–07, Ref. 2-23] A passport holder unfortunately forgets his document in the glove compartment of a rental car (or in some other place definitely known to him) and asks this third party to forward the passport to him by secure mail. Can he consider the document not to have been lost? If the package (registered mail) is intercepted by border services (Canadian or foreign), which ultimately return the document to Passport Canada, can the alleged situation of loss be considered not to have occurred?

This complex case gave rise to intense negotiations with the Agency, whose final position can be summarized as follows. The situation of loss which was not reported to Passport Canada is attributable to a direct action or omission of the passport holder. The fact that custody of the document seemed—to its holder—to be assured by a third party cannot be binding on the Agency.

The Agency considers the situation of loss as having materialized as soon as the document was left in a public place. The Agency considered a mail service or a vehicle rental agency to be in the public domain. This interpretation makes sense, because no one could claim that a passport abandoned in some place remains in the custody of the owner of that place. Therefore, the burden of providing for the safekeeping of so important a document cannot be transferred to this third party. The fact of relying on third parties in the public domain to recover a lost passport does not change the nature of the event that has occurred, namely, a loss. In fact, the third party was not able to return the document to its holder. When it received the passport, the Agency was justified in considering this document to have been lost, since it had not received a report of its loss. The Agency destroyed the document in keeping with its usual procedures.

However, the fact that the document was in the end recovered by the Agency constitutes a special circumstance which will be taken into account upon the subsequent application for passport services.

Case 15. Name entered in passport – be mindful of your other decisions

[Annual Report 2006–07, Ref. 2-9] On occasion there is a conflict between the names that appear on various pieces of identification. For example, many people have assumed the name of their spouse on various identity documents, even though their family name at birth appears on other documents. The policy of Passport Canada is of course to recognize a name that is recognized by at least two other authorities, provincial or federal. Before citizens choose the name under which they wish to be issued a passport, they must be sure they have documents in the same name in hand. And above all it is important to avoid reserving airline tickets under the other name (family or married).

(Update, 2007–08) Change regarding addition of married name

This service was abandoned on June 1, 2007. It had permitted the inclusion of an observation in a valid passport indicating the married name, without having to replace the passport.

Some clients contacted us to say they felt that their change of name did not warrant the issuing of a new passport (with the associated fees). In such situations, we advised the applicants of the reasons that led the Agency to make these changes.

In keeping with the standards set by the International Civil Aviation Organization, the data in the visual zone of the personal information page should correspond to the data in the machine-readable zone of the passport. The insertion of an observation in the passport to reflect a different name from the one appearing on the personal information page is contrary to ICAO specifications.

Clients are invited to consider the impact of their name change request. A request to use a marital name can be made at the time of the renewal application, if accompanied by other identification attesting to the new name.

Case 16. Processing times – not subject to mediation

[Annual Report 2006–07] The mediation process is intended to bring the parties closer together to identify solutions. The mediator is responsible for a process that is designed to permit the parties to defend their interests as opposed to their feelings. The Passport Canada Ombudsman has taken the position that he is not responsible for identifying solutions to the complaints submitted. The Ombudsman is not an arbiter who settles disputes. Certain points raised by complainants are not subject to mediation by the Ombudsman.

The question of processing turnaround times cannot be legitimately mediated by the Ombudsman. These times are advertised so that the public can determine the normal period for processing an application. They permit citizens to plan on the basis of known factors. The time to process an application will vary depending on the type of service. For example, times may be different depending on whether applications are mailed in, entrusted to a receiving agent, submitted in person at points of service, or coming from abroad.

Turnaround times take into account a range of dynamic situational factors which are liable to change according to certain constraints. They reflect an organization's capacity, given its resources and the volume and number of applications, to process requests for service. Obviously any organization will want to offer services with optimum turnaround times. The Ombudsman's office has no mandate to examine whether turnaround times are relevant or acceptable. Such an exercise falls more to the internal audit of the operations or programs of a government

organization. For these reasons, the Ombudsman's office has declined to initiate mediation on complaints relating to processing times.

Case 17. Location of points of service – not subject to mediation

[Annual Report 2006–07] The mediation process is intended to bring the parties closer together to identify solutions. The mediator is responsible for a process that is designed to permit the parties to defend their interests as opposed to their feelings. The Passport Canada Ombudsman has taken the position that he is not responsible for identifying solutions to the complaints submitted. The Ombudsman is not an arbiter who settles disputes. Certain points raised by complainants are not subject to mediation by the Ombudsman.

The question of the location of points of service cannot be legitimately mediated by the Ombudsman. Decisions to open offices are subject to numerous considerations, and obviously the Agency cannot provide a presence in all of the country's larger communities. Citizens' observations and requests to open offices in certain locations are forwarded to the Agency for consideration.

The available network can be found on the Passport Canada website (www.pptc.gc.ca). In addition to the 33 issuing offices in the country, the Agency has concluded agreements to open nearly 100 receiving agents in Canada, which are served by Canada Post as well as Service Canada.

People who wish to travel quickly can make use of the urgent or express services only by visiting an issuing office. The roll-out of document personalization technology (which is becoming ever more complex) is based on certain administrative considerations which take account of financial, security and logistical factors which are not for us to "mediate" between clients and the Agency.

Case 18. Mail-in applications – first come, first served

[Annual Report 2006–07] In peak periods, many citizens apply to the Ombudsman in hope of getting faster action on their application than is prescribed in the advertised turnaround times. Our office refuses to intervene on this type of request. We cannot make representations to the Agency to have special treatment granted to citizens who solicit our intervention. Passport applications sent in by mail are treated on a first come, first served basis. The date of receipt by the Agency is the date that determines priority.

Case 19. High costs of issuing passports abroad

[Ref. 07-08-2-189] We were applied to by some clients who, having lost their passport or having had it stolen abroad, were contesting the fees incurred to obtain a temporary passport.

Since this type of document is issued exclusively by foreign posts, the schedules of fees payable and the entitlement criteria differ from regular passport services. The fees imposed are for the swearing of an official statement when a passport is lost, stolen or damaged. Anyone wishing to obtain a replacement passport abroad must have this form filled in and sworn by the consular authorities. We were applied to by some clients who considered these fees expensive.

Our mandate is limited to transactions with Passport Canada. The fees payable are published on the website of the Department of Foreign Affairs and International Trade (<http://www.voyage.gc.ca>). Clients may refer to this site for any further information.

Case 20. Check the period of validity of your passport

Some applicants sent in a passport application form even though their document had not yet expired. Such a situation is confirmed only when Agency employees make entries in the

application processing system. At that time they check with clients to ascertain whether their still-valid passport has been stolen or lost. Clients faced with these facts are then informed that the fees for processing their application are payable even though they are not entitled to receive another passport.

The Agency's reimbursement policy is that the fees associated with obtaining a passport are payable from the moment the applicant's information is processed, i.e. the moment that entries are made in the database. When clients are told of this, they generally receive an offer to have a new passport issued for a full validity period of five years. This offer mitigates clients' losses for the years of validity still remaining on their old document.

The Agency's policy is not unreasonable in light of the fact that the work of determining entitlement and verifying the passport application has been carried out. The Agency operates on the principle of recovering costs generated by processing an application, whether it results in an issued document or a refusal of service. It is the same when citizens consult a lawyer, for example, to determine whether to bring an action: if after such consultation they abandon the idea of action, they still have to pay for the costs of the consultation.

In this situation we consider there to be no grounds for mediation, as the fee policy is posted on the Agency's site. Clients are thus made aware of the situation. They are responsible for keeping their passport in a particular, safe place. Such safeguards allow them to check that they have a valid passport before applying for a replacement.

Case 21. Passport for a child in private probationary adoption

[Ref. 07-08-2-173] Our office was contacted by the director of a probationary adoption agency. Her clients could not obtain a passport for the child entrusted to them so long as the adoption had not been confirmed by a final order granting exclusive legal custody to the adoptive parents.

This request made it clear to us that transitional adoption situations could not be covered by a comprehensive policy. The eligibility criteria cannot be uniform for all the provinces. At the time, when a passport application was filed for a child in a private or probationary adoption system, Passport Canada required the following documents:

- a letter from the licensee or representative of the adoption agency indicating that a private adoption was under way, that all consents had been given and that the deadline for cancelling the adoption had passed;
- the acknowledgment of registration of birth;
- the consent to adoption signed by the natural parents;
- if the adoptive parents were filing the application, a letter from the licensee of the adoption agency or his/her representative containing a specific mention.

However, in the specific case of the province of Alberta, directors of adoption agencies cannot meet the last criterion, since they are not formally recognized by law as legal guardians. The Agency has taken this into account and undertaken to revise its policy so that it does not create any inextricable situations for certain children.

In the meantime, Passport Canada has prepared a temporary document to clarify the requirements to be observed by adoption agencies in Alberta.