

**ACTIVITY**  
**REPORT**

2014 - 2015

**Conseil  
de la magistrature  
du Québec**



**NORTH STAR** – This sculpture was chosen to serve as a visual guide at the 2015 Conseil de la magistrature conference, on the theme “Let’s talk about mental health.” The piece was on loan from Boulev’Art de la Vallée, a nonprofit community organization that offers mental health rehabilitation and social integration services.

Author’s note – “When we’re lost at sea, we find our way by following the North Star. When we arrive at Boulev’Art, we’re mentally, emotionally, physically lost. But you take us in and show you care, and we sense you can be the compass we need to guide us back to ‘our north.’ You put the wind back in the sails that carry us atop of the waves of our lives. When we need rest, you are our anchor. When a storm is brewing, you teach us to keep a firm hand on the rudder so that on each of our voyages, everything comes together so that our creativity and imagination reaches its full potential. This sculpture is dedicated to the crew at Boulev’Art de la Vallée, for setting a course of hope.”

*White Feather*



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## A WORD FROM THE CHAIR



ÉLIZABETH CORTE PRÉSIDENTE DU CONSEIL DE LA MAGISTRATURE

The 2014-2015 year was a milestone for the Conseil de la magistrature in a number of ways. As we are fond of saying, the Conseil is an unusual organization. As a judicial body, it answers to neither the legislature nor the executive. That means it enjoys great independence, which allows it to make decisions free of pressure, political or otherwise. It bears repeating that the independence of judicial institutions, to the benefit of the public, is a cornerstone of our democracy. Like all judges, Conseil members enjoy the independence they need to make difficult decisions. More and more importance has been placed on ethics in recent years, and evaluating the behaviour of judges is a big but crucial challenge in maintaining public trust in the justice system. To increase efficiency and stay ahead of the curve, the Conseil took another step forward in modernizing the organization by introducing "paperless inquiry committees." More information about the benefits of this new tool are detailed in this report. In fulfilling its responsibility for providing legal documentation to the judges under its jurisdiction, the Conseil also reviewed and updated how it offers services to the entire judiciary. We saw the results of this major project in June 2015.

The Conseil is meant to be a dynamic and innovative institution and is therefore continually in search of new technologies that will help it offer services that meet the needs of citizens and members of the judiciary alike. In keeping with its mission of cooperating with any organization pursuing similar goals outside Québec, in 2014 the Conseil created the Réseau francophone des conseils de la magistrature judiciaire, a network of francophone judicial councils. After a long process initiated by Conseil de la magistrature du Québec, the Réseau was officially launched on November 4, 2014, in the presence of representatives from the judicial councils of France, Gabon, Haiti, Senegal, and Lebanon. During the Conseil's annual conference, representatives from various countries were called on to sign the agreement officially creating the Réseau.

This report reveals what a busy year we have had, and I would be remiss not to conclude by sincerely thanking and congratulating each and every Conseil member for the rigour and enthusiasm with which they performed their duties, no matter how difficult, and for their commitment to getting the job done. Thanks also to the team at the Conseil Secretariat, whose dedication and loyalty has been constant over the years and helps us to always do more.

Happy reading!

*Élisabeth Corte.*

CONSEIL DE LA MAGISTRATURE  
DU QUÉBEC



# A WORD FROM THE SECRETARY



ANDRÉ OUIMET **SECRÉTAIRE DU CONSEIL DE LA MAGISTRATURE**

## **A phase draws to a close**

The Conseil de la magistrature helps maintain public trust in Québec's legal institutions. The task is demanding, and the Conseil does it by listening to the public's needs, monitoring best practices in judicial ethics, and always being diligent. For over eight years, I have actively contributed to meeting this challenge. It has been an honour and a pleasure. When I accepted the nomination as secretary of the Conseil in 2007, the chair at the time told me what his expectations were. They overlapped perfectly with the objectives I had set for myself. Essentially, we wanted to do everything possible to ensure that the institution responded effectively to the challenges of the new millennium. As I near retirement, my last "word from the secretary" will take stock of the progress we've made. Sometimes, the life of a public institution is like that of any person. They are born, live, and unfortunately for some, they cease operations. The Conseil's relatively young age, its assignments that no other organization could carry out, the strength of its operations, and the experience of its staff should protect it from an abrupt end.

## **A dedicated team and qualified staff**

It is often said that an organization is first and foremost a reflection of its members. I would like to pay tribute to the people I work with everyday, some of whom have been keeping the secretariat running smoothly for many years. Without them, citizens would often be defenceless, the Conseil would have no resources, and the secretary would be incapable of carrying out his or her duties. Throughout my term, I have relied on our dynamic and energetic chair. She has lead the Conseil down often uncharted paths and offered wise guidance, all while demonstrating a code of ethics that is beyond reproach. As dedicated as they are willing and able, the Conseil members gladly and generously supported all the initiatives I have put forward. Various organizations, individuals, researchers, professors, and even a few businesses have helped support the projects I proposed that were dear to my heart. The Conseil is certainly not the work of just one person! Without these people, the Conseil would not be what it is today. Let me add a word about the vice chair of the Conseil as well: throughout my term, many new ideas came from him. I had the honour of giving them life, of implementing them. As my term draws to a close, I would like to acknowledge where they came from.

## **Technologies to serve the public and the judiciary**

The Conseil has embraced the technology of our digital age. A paperless council (one of the first in Québec), a paperless inquiry committee, a website envied by many, access for judges to legal documentation online through a secure website on any platform—the list of technologies the Conseil uses goes on and on. They were all developed to reduce our operating costs while making the system as user-friendly as possible.

## **A body that is known and recognized**

Many of Québec's public institutions are not well known. The Conseil is one of them. It deals with a very small group of people—those who feel that a judge did not behave appropriately when they were called before the court. It is precisely these citizens who should be familiar with the Conseil. Several means of communication have been put in place to promote awareness of the Conseil among these people. But the Conseil is not just an organization that handles citizens' complaints about judges. Above all, its job is prevention. Ongoing training for judges helps ensure we have a quality judiciary, both in terms of knowledge and behavior. The Conseil also has a duty to use every means of training at its disposal to ensure that judges keep their knowledge up to date, but also adapt their behaviour to current best practices. Finally, to meet its objective of cooperating with any organization providing similar services outside Québec, the Conseil was a driving force behind the creation of the Réseau francophone des conseils de la magistrature judiciaire. This achievement is a credit to Québec's drive and commitment.

## **Taking stock**

Others will no doubt be quick to review and report on Conseil activities as needed. Like with any organization, time doesn't stop when one person leaves. The organization lives on. There are lots of challenges to overcome and lots of work to do, especially in the middle of implementing a strategic plan. I wish every success to my successor and all the best to the Conseil members and Secretariat staff.

CONSEIL DE LA  MAGISTRATURE DU QUÉBEC



1

About  
the Conseil de  
la magistrature



The Conseil de la magistrature is an independent body that has served the public for more than 35 years. Created under the Courts of Justice act in 1978, the Conseil is independent of the Ministry of Justice, the government, and all courts and tribunals. This characteristic—*independence*—makes the Conseil a truly one-of-a-kind organization. The Conseil has 15 members and its work is supported by a permanent secretariat. The head office of the Conseil is located at the Palais de justice in Québec City, with other offices at the Palais de justice in Montréal.

## FUNCTIONS

The Conseil was assigned seven functions when it was created and they remain unchanged to this day. Section 256 of the Courts of Justice Act sets out the following functions:

- 1) Organize professional development programs for judges
- 2) Adopt a judicial code of ethics
- 3) Receive and examine any complaint lodged against a judge under its jurisdiction
- 4) Promote the efficiency and standardization of procedure before the courts
- 5) Receive suggestions, recommendations, and requests made regarding the administration of justice, study them, and make the appropriate recommendations to the Minister of Justice
- 6) Cooperate with all bodies pursuing similar aims outside Québec
- 7) Hear and decide appeals lodged by judges following decisions or recommendations by the chief judge with regard to their place of residence or their permanent assignment to another division

Two of the functions set out in the act are particularly important and constitute the majority of the Conseil's activities:

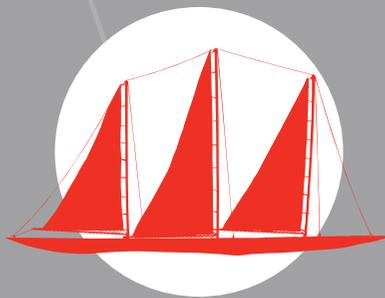
- Organize professional development programs for judges. Parallel to this function is the responsibility to provide judges with the legal documentation they need to perform their duties.
- Receive and examine any complaint lodged against a judge under its jurisdiction.

The Conseil carries out these functions with regard to the 400 judges appointed by the province who sit on the Court of Québec, including justices of the peace, and those on the Professions Tribunal, the Human Rights Tribunal, and municipal courts.

## MEMBERS

Section 248 of the Courts of Justice Act establishes the 15 members of the Conseil as follows:

- The chief judge of the Court of Québec, who also serves as chair of the Conseil
- The senior associate chief judge of the Court of Québec
- Four associate chief judges of the Court of Québec
- A presiding judge of a Municipal Court
- One judge chosen from among the presidents of the Human Rights Tribunal or the Professions Tribunal
- Two judges chosen from among the judges of the Court of Québec and appointed upon the recommendation of the Conférence des juges du Québec



- One judge chosen from among municipal court judges and appointed upon the recommendation of the Conférence des juges municipaux du Québec
- Two lawyers appointed upon the recommendation of the Barreau du Québec
- Two citizens who are neither judges nor lawyers

The vice chair is elected by Conseil members. Currently it is the senior associate chief judge of the Court of Québec who holds this position. Non ex-officio members are appointed by the government and must swear an oath before the chief justice or the senior associate justice of the Court of Québec prior to serving. The chief judge, senior associate chief judge, and four associate chief judges from the Court of Québec are ex-officio members of the Council. The other members are appointed by the government for a maximum three-year term. Once their terms are up, members remain in their position until they are replaced or their appointments are renewed.

The terms of several Conseil members expired in 2014-2015, and they were replaced or their appointments were renewed. This was the Conseil membership as of March 31, 2015.

- The Honourable Elizabeth Corte, Chair of the Conseil de la magistrature and Chief Judge of the Court of Québec
- The Honourable Mario Tremblay, Senior Associate Chief Judge of the Court of Québec
- The Honourable Pierre E. Audet, Associate Chief Judge of the Civil Division of the Court of Québec
- The Honourable Claude C. Boulanger, Associate Chief Judge of the Youth Division of the Court of Québec
- The Honourable Danielle Côté, Associate Chief Judge of the Criminal and Penal Division of the Court of Québec
- The Honourable André Perreault, Associate Chief Judge of the Court of Québec in Charge of Municipal Courts

- The Honourable Martin Hébert, Chair of the Professions Tribunal
- The Honourable Morton Minc, President-Judge of the Municipal Court of Montréal, whose term ends on April 1, 2015
- The Honourable Johanne Roy, Judge of the Court of Québec
- The Honourable Denis Lavergne, Judge of the Court of Québec
- The Honourable François Gravel, Judge of the Municipal Court of Gatineau
- Ms. Odette Jobin-Laberge, Lawyer
- Mr. Claude Rochon, Lawyer
- Mr. Cyriaque Sumu, Consultant
- Ms. Jocelyne Lecavalier, Citizen

Conseil members meet eight times per year, generally once every five weeks. The meetings are held behind closed doors and invariably have three main subjects on the agenda.

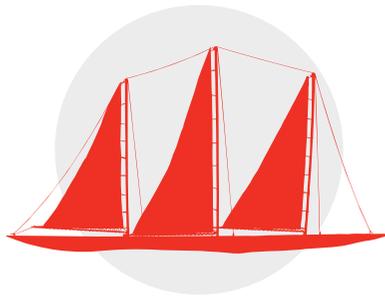
**Ethics.** Conseil members perform most of their duties related to judicial ethics during these meetings. They examine and analyze complaints submitted about certain judges and decide if the complaints are founded and should be acted on.

**Professional development for judges.** At the beginning of the fiscal year, Conseil members must review and approve professional development programs submitted to them by the courts and tribunals under Conseil jurisdiction. At each subsequent meeting, members follow up to ensure that the budgets allocated for carrying out these professional development programs are respected. At the end of the year, reports from the relevant courts and tribunals are submitted for review.

**The Conseil's main priorities.** During Conseil meetings, members also determine the Conseil's main priorities.

# 2

The Conseil de  
la magistrature  
Secretariat



Because Conseil members do not serve full time, the Conseil has a permanent Secretariat. The chair appoints the secretary of the Conseil for a five-year term. The secretary is selected from among lawyers who have been registered with the Barreau du Québec for at least 10 years and are members of the public service. The government determines the secretary's salary, benefits, and other working conditions. Once appointed, the secretary ceases to be subject to the *Public Service Act*. The appointee is no longer considered a civil servant and is on leave from the public service without pay for the duration of his or her term as secretary of the Conseil de la magistrature du Québec. The secretary performs the duties of the position on an exclusive basis, reporting to the Conseil chair. At the end of the term, the secretary remains in office until replaced or reappointed. The secretary is backed by three permanent employees and one casual employee. They are civil servants appointed under the *Public Service Act*. One of the three permanent employees is an information officer who holds the position of administrative assistant. The two other permanent positions at the Secretariat of the Conseil are held by a secretary and an office assistant. A second part-time office assistant rounds out the team. The Secretariat is the repository for the Conseil's official documents. The secretary is assigned numerous responsibilities to help the organization carry out its mission. He or she follows up on various administrative issues and coordinates all Council activities and current operations. In matters of judicial ethics, Secretariat staff handle calls, emails, and letters from individuals requesting information or submitting complaints to the Conseil.

For example, they provide information on how to file a complaint and what information the Council members will need. They also guide citizens through the process as needed or direct them to services that may be better able to assist them.

The Secretariat also meets the needs of judges under its jurisdiction. For example, it oversees professional development, administers budgets, and provides them with the legal documentation they need to fulfil their duties. Lastly, Secretariat staff support the activities of the Conseil, whose members must be able to rely on a dynamic, professional, and experienced team. The Secretariat team also handles major initiatives. The following sections provide a summary of the matters dealt with in 2014-2015.

## 3. Budget

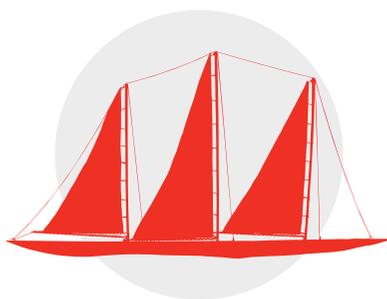
To better manage assignments it receives, the Conseil's budget is divided into three categories:

- Judicial ethics
- Day-to-day operations
- Professional development and legal documentation for judges

### 3.1 Judicial ethics budget

The *Courts of Justice Act* states that the funds required to carry out the Conseil's mission concerning judicial ethics will come from the government's financial reserve (Québec's consolidated revenue fund). This provision means that the Conseil's budget is not established on the basis of government-allocated annual sums. This characteristic, which guarantees that the Conseil has the full financial independence necessary to perform its duties, is due to the fact that the Conseil cannot predict how many complaints will warrant the formation of an inquiry committee.

Decisions concerning activities that involve judicial ethics should not be influenced by budget considerations in any way. Judicial ethics expenditures in 2014-2015 were \$96,085.54.



### 3.2 Conseil operations budget

Like the judicial ethics budget, the Conseil de la magistrature operating budget comes from Québec's consolidated revenue fund. As in past years, the Conseil Secretariat paid special attention to the expenditures for fiscal 2014-2015. Aside from the salaries of Secretariat employees, operating expenses totalled \$262,665.68.

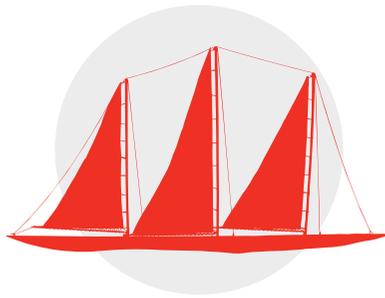
### 3.3 Budget allocation for professional development for judges

The professional development budget serves to meet the needs of judges in matters of legal documentation and professional development. Part of this budget goes toward the purchase of legal documentation, while the rest is earmarked for refresher and professional development courses for the 400 judges under the Conseil's jurisdiction. The budget is determined by government decree. The budget for 2014-2015 was \$1,268,698, the same as it was the previous year. Of this amount, the Council spent \$510,301.51 to purchase legal documents in paper and electronic formats. This subject is detailed in Section 3 of this report.

The following table provides a breakdown of amounts allocated to each court and tribunal under Conseil jurisdiction for training in fiscal 2014-2015:

Court of Québec	\$424 710
Presiding justices of the peace	\$68 400
Human Rights Tribunal	\$4 500
Professions Tribunal	\$5 500
Municipal courts	\$97 114.82

The professional development funds allocated to each court or tribunal were previously calculated according to the number of judges involved. The growing trend is to provide funds to try and meet as many of the courts and tribunals' needs as possible. During the fiscal year, requests to adjust the budget allocation can be submitted to the Conseil for approval. An amount is earmarked each year to organize and run the Conseil's annual conference, and for certain professional development courses such as a training session on criminal and penal matters for newly appointed judges, and English language courses for judges.



## 4. A few highlights

### **“Paperless inquiry committee” established**

Always ahead of the curve, the Conseil has gone a step further in the digital age by introducing the paperless inquiry committee. For the first time on September 30, 2014, an inquiry committee hearing was held in a specially designed chamber that allowed the parties involved, their lawyers, and committee members to take part in the hearing after preparing for the case by sharing relevant documents in a reserved online forum to avoid submitting the documents in paper form. During the inquiry, the relevant documents were projected on screens, and audio recordings were played in the courtroom. This innovation saved a lot of time and money.

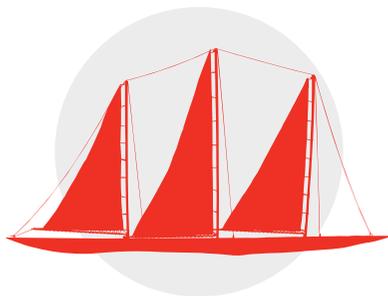
### **2014 Judges conference**

Every year, the Conseil de la magistrature organizes a conference for Québec’s judiciary. Organizing and hosting this event is a huge undertaking for secretariat personnel. From accommodation and meal planning to audiovisual, registration and reception logistics, the challenges are many, and Conseil staff went out of their way again this year to ensure the event’s success. The 2014 annual conference was held in November in Gatineau, and the theme, “Let’s talk about mental health” was approached from different legal angles and met with keen interest by the judges.



### **4.1 Conseil outreach activities**

The *Courts of Justice Act* entrusts the Conseil with a mandate to cooperate with bodies outside Québec that pursue similar goals. To fulfill this mandate, the Conseil has developed closer ties this year with institutions responsible for professional development and judicial ethics in Canada and in France.



### **Creation of Réseau francophone des conseils de la magistrature judiciaire**

The result of a long process, Réseau francophone des Conseils de la magistrature judiciaire was launched on November 4, 2014. The Réseau was initiated by the Conseil de la magistrature du Québec, and was officially launched after representatives from the judicial councils of France, Gabon, Haiti, Lebanon, Senegal, and Québec signed the Déclaration de Gatineau. The Réseau is a partner of Organisation internationale de la Francophonie and benefits from its support.



### **Réseau francophone des conseils de la magistrature judiciaire**

The Réseau's objectives are to foster professionalism through the exchange of information, support its members and help them set up judicial councils that are neutral, autonomous and independent, establish or enhance partnerships with individuals and institutions with similar goals, and to reflect on new challenges in judicial ethics and help members address them. The Réseau is headquartered in Québec. The chair of the Conseil de la magistrature du Québec was elected to chair the network for the next two years, and the Conseil secretary was appointed secretary general.

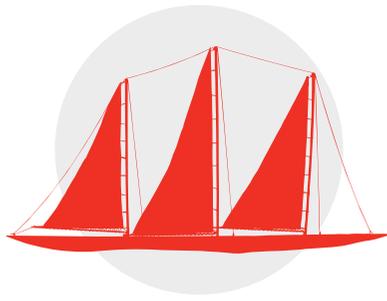
### **Awareness and informational activities**

The Conseil chair and secretary regularly take advantage of opportunities to promote public awareness of the Conseil's role and activities. Among other things, they make a point of attending presentation ceremonies for newly appointed judges and they regularly lecture at judges' professional development seminars organized by the courts and tribunals. Again this year, the secretary was invited to speak as part of an administrative law course given at École nationale d'administration publique (ÉNAP).

### **In development: *BiblioMagis***

The Conseil is making every effort to improve its offerings and facilitate access to the legal documentation judges need to perform their duties. In addition to the funds allocated individually to judges to buy texts or pay for subscriptions, the Conseil earmarks part of its budget to provide access to commercial legal and case law databases for the entire judiciary. After covering costs for licenses to access the most relevant databases, the big challenge for the Conseil is to provide easy access to them. With the help of Centre d'accès à l'information juridique (CAIJ), a platform has been developed where judges can access all the databases via a single web address on the Conseil's website. This provides three major advantages for users: mobility, user-friendliness, and diversity. BiblioMagis welcomed its first users in June 2015.





#### 4.2 Orientation for new judges

Every year, the Court of Québec and municipal courts induct new judges into their ranks. Between April 1, 2014, and March 31, 2015, the provincial Cabinet appointed 15 new judges and a new justice of the peace to the Court of Québec. In addition, 5 new judges were inducted—two full time at the Municipal Court of Montréal and one full time at the Municipal Court of Laval. The provincial Cabinet also appointed two new part-time municipal judges, one at the Municipal Court of Candiac and one at the Municipal Court of Sorel-Tracy. Shortly after being appointed, all the new judges under the Conseil’s jurisdiction meet with the Conseil secretary and the secretary’s assistant. They spend the better part of a day learning about the Conseil’s role and functions. During this meeting, the new judges familiarize themselves with the new rules of ethics that now govern their behavior. Induction training also allows them to learn about the administrative rules they are subject to, the training opportunities and support provided by the Conseil, and the work tools available to them.

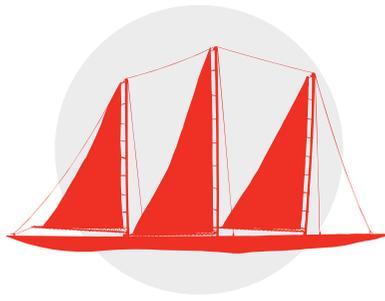
#### 4.3 Professional development programs

Under the *Courts of Justice Act*, the Conseil de la magistrature is responsible for the professional development of judges under its jurisdiction. In reality, this responsibility has been delegated to the courts and tribunals, with the Conseil playing a monitoring and oversight role, both for budget allocation and spending. The Conseil also has a say in the programming and content of refresher courses. To provide oversight, the Conseil requires the courts and tribunals submit an annual professional development plan and file a fiscal year-end report on the activities conducted during the year.



# 5

Legal  
documentation,  
training, and  
professional  
development  
for judges



### **5.1 Legal documentation**

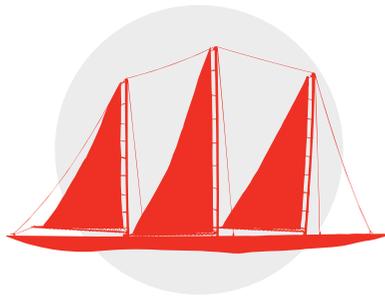
The Conseil de la magistrature is responsible for providing judges with the documentation necessary to perform their duties. At the start of the fiscal year, each judge is given a budget to be used for the purchase of legal documentation. The policy established by the Conseil recognizes that specific needs may exist in certain regions or with respect to a judge's practice areas. Under this policy, judges receive an annual amount set by the Conseil that takes into account the subject areas judges may need to address. In its ongoing effort to reduce spending, the Conseil has made an intranet (Intramagis) available to judges giving them online access to a multitude of legal documents, and databanks of jurisprudence and statutes. In addition, a partnership agreement signed with Centre d'accès à l'information juridique (CAIJ) has increased the quantity of available documentation by providing judges with access to well-organized libraries in most regions throughout Québec. Over the course of the 2014-2015 year, the Conseil spent \$471,104 on purchasing legal documentation in paper and electronic format, including acquiring licenses to access databanks of jurisprudence and statutes.

### **5.2 Training and professional development activities for judges organized by courts and tribunals**

As previously mentioned, the Conseil entrusts courts and tribunals with organizing training and professional development activities. After reviewing the programs offered, the Conseil allocates a budget to each court and tribunal based on expressed needs recognized by the Conseil. An additional amount is awarded to judges who concurrently serve at the Court of Québec and specialized tribunals. Thus, each court or tribunal manages the amounts allocated for professional development activities for judges, with the exception of sums earmarked for the Conseil's annual conference, English language courses for judges, and a training session on criminal matters for newly appointed judges.

Amounts allocated for training judges must be used primarily for training sessions, seminars, and study days that are organized by the courts and tribunals. The Conseil does allow judges—with some restrictions—to attend seminars or conferences that have not been organized by the courts and tribunals themselves. However, it has ruled that courts and tribunals cannot devote more than 20% of their total allocated budgets to outside training.

At the end of the fiscal year, the Conseil asks the courts and tribunals to compile a report on the professional development activities they have held. It should be noted that the programs implemented by the courts and tribunals are made possible not only through the budget allocated by the Conseil, but also through the considerable and incalculable contribution of the many judges who generously devote time and energy to developing and delivering educational training programs. While they are too numerous to name here, the Conseil thanks them for



their commendable dedication and availability

### **5.3 Other training and professional development activities**

#### **5.3.1 Specialized training on criminal issues**

Every year in Québec, the Canadian Association of Provincial Court Judges (CAPCJ) partners with provincial courts to organize a specialized training session on criminal issues for newly appointed judges. For 2014–2015, the training session took place from April 27 to May 2, 2014, attended by 17 judges from the Court of Québec.

#### **5.3.2 English language courses**

Since 2004, the Conseil has been responsible for organizing English language courses provided to judges under its jurisdiction. To this effect, it established a policy, which was updated in June 2014. The policy offers great flexibility in terms of teaching methods. Its aim is to improve judges' level of understanding and speaking skills, but also to provide support and guidance for writing in English.

##### **5.3.2.1 Application of the policy**

In addition to their professional development budget, the Conseil was awarded a grant from the federal government to deliver English language training programs for judges. In order to be accepted into this program, judges must meet certain criteria. They must first undergo an assessment test to demonstrate that they have intermediate-level English language skills. Judges ranked as beginners are not eligible.

##### **5.3.2.2 Programs offered**

All programs are created specifically for judges and are

focused on the legal sphere.

#### ***Semi-private lessons organized by the Conseil***

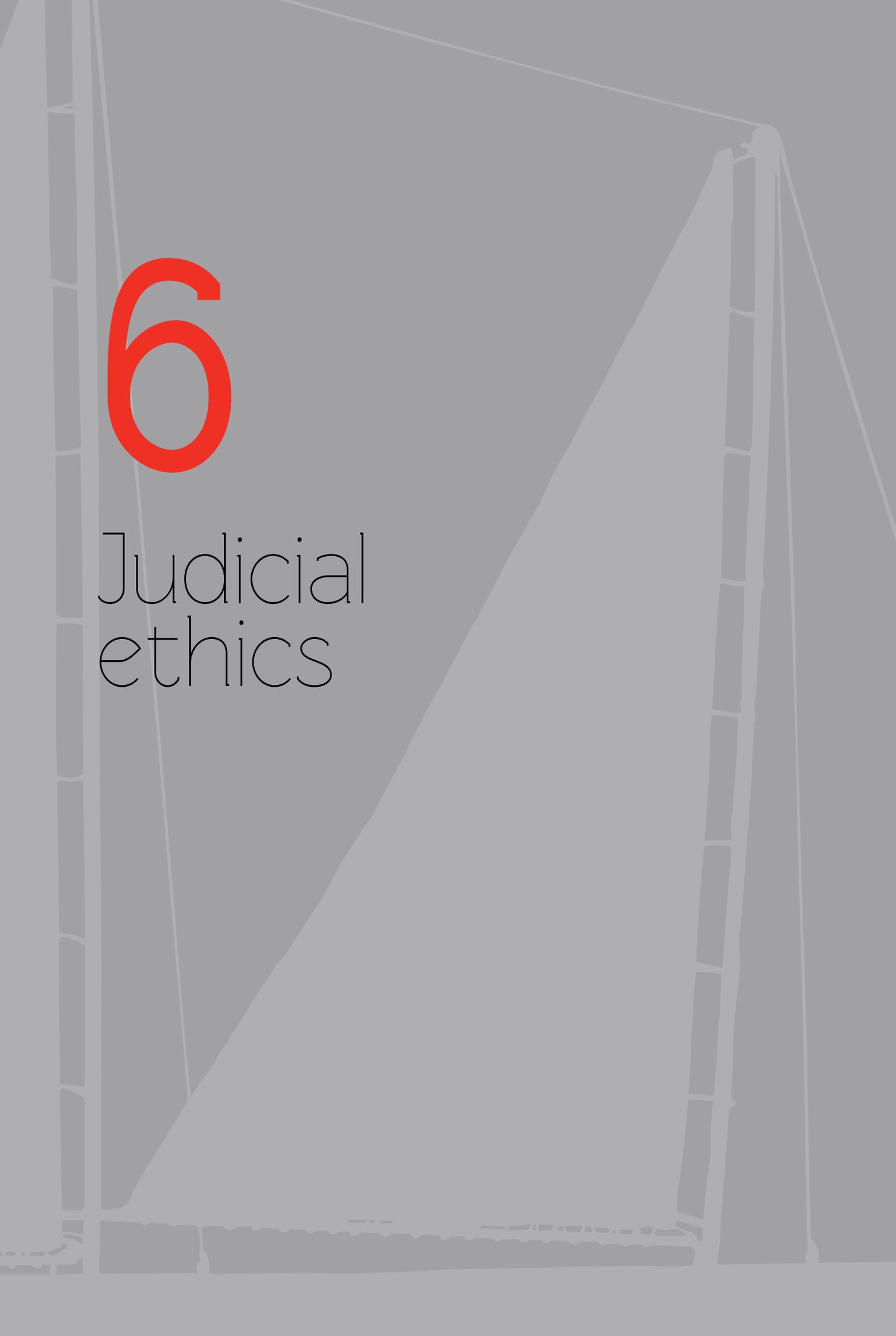
Eligible judges can register for semi-private lessons. When they register for the program, they agree to receive eight hours of instruction per month over a ten-month period. Once they have begun the program, judges must progress to an advanced level of English within two years. They are assessed regularly. For the 2014–2015 fiscal year, 30 judges were registered for semi-private lessons.

#### ***Immersion programs***

Various immersion sessions are also offered to judges. This year, 22 judges took advantage to two immersion sessions organized by the language training services of the Court of New Brunswick.

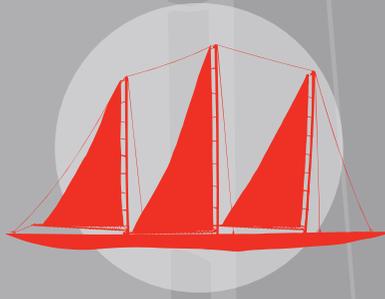
#### ***Other programs***

Exceptionally, judges who are not able to attend the regular training offered can suggest a special training arrangement to the Conseil. In this case, the request must be accompanied by a detailed learning plan that includes a description of the program and its objectives. These specific programs are submitted to Conseil members for approval.



# 6

## Judicial ethics



## 6.1 Codes of judicial ethics

Two codes of judicial ethics adopted by the Conseil de la magistrature outline the conduct expected of judges. They are the Judicial Code of Ethics and the Code of Ethics for Part-Time Municipal Judges. The first applies to judges at the Court of Québec, the Human Rights Tribunal, and the Professions Tribunal, as well as to presiding justices of the peace and judges at the municipal courts of Laval, Montréal, and Québec City. The second specifically addresses part-time municipal judges, who serve in the courts of other municipalities.

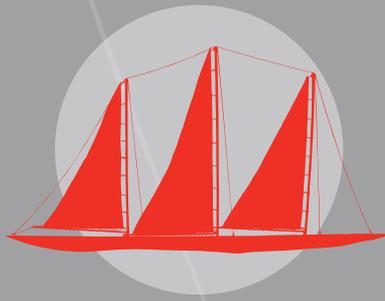
The Judicial Code of Ethics applies to the greatest number of judges, and contains the following ten articles:

- 1) Judges should render justice within the framework of the law.
- 2) Judges should perform the duties of their office with integrity, dignity, and honor.
- 3) Judges have a duty to foster their professional competence.
- 4) Judges should avoid any conflict of interest and refrain from placing themselves in a position where they cannot faithfully carry out their functions.
- 5) Judges should be, and be seen to be, impartial and objective.
- 6) Judges should perform the duties of their office diligently and devote themselves entirely to the exercise of their judicial functions.
- 7) Judges should refrain from any activity which is not compatible with their judicial office.
- 8) In public, judges should act in a reserved, serene, and courteous manner.
- 9) Judges should submit to the administrative directives of their chief judge, within the performance of their duties.
- 10) Judges should uphold the integrity and defend the independence of the judiciary, in the best interest of justice and society.

The Code of Ethics for Part-Time Municipal Judges differs on two points:

- Article 6, which says “Judges should perform the duties of their office diligently.”
- Article 9, which does not apply to part-time judges.

The codes of ethics were drafted with judicial independence in mind. Their goal is not to dictate standards for judges, but rather to establish general principles of conduct. In this sense, they are meant as a reference tool for judges. They neither enumerate prohibited behaviors, nor list permissible ones.



As the courts have indicated, the codes of ethics are intended to express values rather than set precise rules of conduct. Besides expressing values, the codes of ethics aim to preserve the public's trust in its judicial institutions. These considerations ensure that the Conseil de la magistrature and, where applicable, an inquiry committee, evaluate judges' conduct based on these general principles, which they are occasionally called upon to spell out in the course of the process for examining a complaint.

Judicial ethics has a remedial function with respect to the judiciary as a whole, and not solely the judge affected by a sanction. By recommending that a judge be sanctioned, the inquiry committee plays an educational and preventive role to avert, as much as possible, any further undermining of the judiciary's integrity.

For these various reasons, judicial ethics are unique, in that they are not comparable to any other system of professional oversight.

## 6.2 Complaints handling process

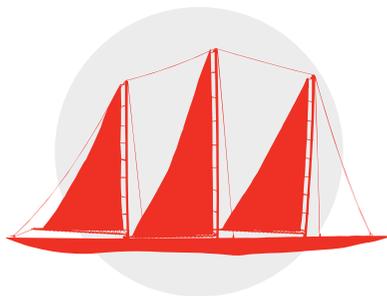
Anyone may file a complaint with the Conseil de la magistrature against a judge under its jurisdiction, if they have knowledge of actions or speech that does not comply with the conduct expected of judges outlined in the Judicial Code of Ethics. The complaint must be made in writing to the Conseil's secretary and state the facts relating to the judge's alleged misconduct and any other relevant circumstances.

Upon receipt of the complaint, the secretary then forwards an acknowledgement of receipt to the complainant and a copy of the complaint to the judge, for comment as desired.

The complaint is reviewed by the Conseil's members at the meeting following its receipt. At this stage, the Conseil may appoint one of its members to collect more information. For example, if the incident subject to complaint took place during a hearing, the appointed person will be able to request a complete copy of the court record as well as a copy of the audio recording of the court proceedings. The complainant and the judge are systematically informed of these steps. Once they are completed, the assigned person reports to the Conseil.

If, following the examination, the Conseil finds that the complaint is unfounded or that the nature or scope of the complaint does not warrant an inquiry, the secretary will notify the complainant and the judge and inform them of the reasons for the decision.

If, on the other hand, the Conseil decides that the complaint warrants investigation, it will form a five-member inquiry committee from among its members. An inquiry committee may be made up of past and present Conseil members. However, it must include at least three current Conseil members, one of whom is appointed chair. For the purpose of the inquiry, the members of this committee are invested with the powers and immunities of commissioners appointed under the *Act respecting public inquiry commissions*, except for the power of imprisonment.



Thirty days before beginning the inquiry, the inquiry committee issues a written summons to the judge and the complainant in question. It also notifies the Minister of Justice. The Minister or the Minister's representative may intervene during the inquiry. At this stage, the Conseil may retain the services of a lawyer or specialist to assist the committee in its inquiry. The judge in question may also retain the services of a lawyer.

The inquiry committee hears the parties, their lawyers, and their respective witnesses. It may summon any person qualified to testify about the facts. Witnesses may be examined and cross-examined by the parties. The function of an inquiry committee is purely investigative and guided by the search for truth. Its primary goal is to ensure compliance with judicial ethics in order to preserve the integrity of the judiciary and, by the same token, help maintain law and order. Depending on the nature of the complaint, the Conseil may suspend the judge for the duration of the inquiry. A suspension, which is not a sanction, is intended solely to protect the credibility of the justice system.

Once the inquiry is completed, the inquiry committee submits its report to the Conseil. The Conseil may not alter any of the report's content, in part or in full. It reviews the report and adopts its recommendations as its own. If the inquiry report concludes that the complaint is unfounded, the Conseil sends a reasoned opinion to the Minister of Justice, the judge in question, and the complainant.

If, on the other hand, the inquiry report determines that the complaint is founded, the Conseil, following the recommendations of the report, reprimands the judge or recommends that the Minister of Justice and Attorney General petition the Court of Appeal to conduct an inquiry. If the inquiry committee makes the latter recommendation, the Conseil suspends the judge for a period of 30 days.

As for the removal of judges, the Conseil only has the power of recommendation. If the Conseil were to conclude as a result of its inquiry that removal was necessary, it would advise the Minister of Justice and Attorney General, who would petition the Court of Appeal. At this point, the judge would be automatically suspended from his or her position until the Court of Appeal ruled on the matter. After its inquiry had ended, the Court of Appeal would send a report to the government, which has the power to remove a judge from the bench.

It is important to remember that the Conseil cannot review judicial decisions. It is not a court of appeal, nor can it award damages.



For a better understanding, readers are invited to look at the diagram entitled “Complaints Handling Process,” for a step-by-step illustration of how complaints are dealt with.

# COMPLAINTS HANDLING PROCESS

## RECEIPT OF THE COMPLAINT BY THE CONSEIL SECRETARIAT

ACKNOWLEDGEMENT OF RECEIPT  
COPY OF THE COMPLAINT SENT TO THE JUDGE  
RECEIPT OF JUDGE'S COMMENTS  
SUBMISSION OF THE COMPLAINT TO CONSEIL MEMBERS

## REVIEW TO THE COMPLAINT

FULL SESSION  
IN CAMERA

### UNFOUNDED COMPLAINT

NOTICE TO COMPLAINANT  
NOTICE TO JUDGE  
CASE CLOSED

### COMPLAINT REQUIRING INVESTIGATION

DESIGNATION OF ONE PERSON BY THE CONSEIL  
COLLECTION OF ADDITIONNAL INFORMATION  
NOTIFICATION OF THE COMPLAINANT  
NOTIFICATION OF THE JUDGE

## EXAMINATION OF THE COMPLAINT

FULL SESSION  
IN CAMERA

### UNFOUNDED COMPLAINT

NOTICE TO COMPLAINANT  
NOTICE TO JUDGE  
CASE CLOSED

### COMPLAINT WHOSE NATURE AND SCOPE DO NOT JUSTIFY AN INQUIRY (ART. 267)

NOTICE TO COMPLAINANT  
NOTICE TO JUDGE  
CASE CLOSED

## COMPLAINT WARRANTING AN INQUIRY AND FORMATION OF AN INQUIRY COMMITTEE

THE CONSEIL APPOINTS THE MEMBERS OF THE INQUIRY COMMITTEE  
THE CONSEIL DECIDES TO RETAIN THE SERVICES OF A LAWYER TO ASSIST THE COMMITTEE  
A COPY OF THE COMPLAINT IS SENT TO THE JUDGE  
THE JUDGE AND COMPLAINANT ARE SUMMONED WITHIN 30 DAYS  
THE MINISTER OF JUSTICE IS NOTIFIED OF THE INQUIRY AND THE HEARING  
THE CONSEIL HOLDS A SESSION AS NEEDED TO DECIDE WHETHER OR NOT TO SUSPEND THE JUDGE FOR THE DURATION OF THE INQUIRY  
INQUIRY COMMITTEE SESSIONS ARE HELD (PUBLIC)  
REPORT BY THE COMMITTEE

## PRESENTATION TO THE CONSEIL OF THE INQUIRY REPORT AND ITS RECOMMENDATIONS

### UNFOUNDED COMPLAINT

NOTICE TO COMPLAINANT  
NOTICE TO JUDGE  
NOTICE TO MINISTER OF JUSTICE  
CASE CLOSED

### REPRIMAND

NOTICE TO COMPLAINANT  
NOTICE TO JUDGE  
NOTICE TO MINISTER OF JUSTICE  
CASE CLOSED

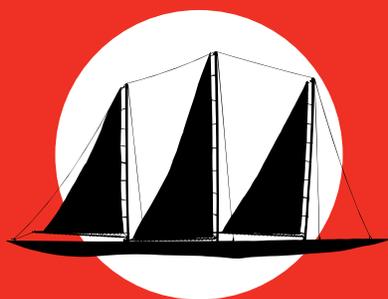
### DESTITUTION

THE CONSEIL RECOMMENDS THAT THE MINISTER OF JUSTICE PETITION THE COURT OF APPEAL  
AUTOMATIC SUSPENSION OF THE JUDGE FOR 30 JOURS  
INQUIRY FILE FORWARDED TO THE MINISTER OF JUSTICE

## MINISTER OF JUSTICE PETITIONS THE COURT OF APPEAL

REPORT BY THE COURT OF APPEAL

DECISION BY THE GOVERNMENT



### 6.3 Decisions by the Conseil

This section summarizes the decisions rendered by the Conseil between April 1, 2014, and March 31, 2015, either upon completion of an examination (collection of additional information) or upon completion of an inquiry.

However, complaints that were deemed unfounded—i.e., not requiring the collection of additional information—were not summarized. In such cases, most of the time, the complainants were dissatisfied with the ruling handed down by the judge, and the criticisms made were not associated with the judge’s behaviour. It is important to remember that the Conseil de la magistrature cannot act as an appeal body or review rulings made by a judge. The Conseil has no jurisdiction to overrule a judge’s decision.

#### 6.3.1 Examination stage (collection of additional information)

When analyzing a complaint, the Conseil may request any information it deems necessary from anyone and examine the relevant record. Proceedings are conducted in camera during this stage. In most cases, playback of the audio recording of court proceedings usually provides sufficient insight for the Conseil to reach a conclusion. In our summary, names of judges and complainants have been omitted to ensure confidentiality of personal information.

#### COMPLAINTS AGAINST JUDGES ASSIGNED TO THE SMALL CLAIMS DIVISION OF THE COURT OF QUÉBEC

**2013-CMQC-099** The complainant criticized the judge’s behaviour during the hearing, claiming the judge did not allow him to speak.

Playback of the audio recording of the proceedings showed that the judge took the time to explain to the complainant the reasons for his decision and that he used a calm, respectful, courteous tone throughout. When he interrupted the complainant, it was to call him to order or to manage the court. The criticisms of the judge were unfounded, given the hearing was calm and respectful. The complainant was dissatisfied with the ruling, but Conseil de la magistrature does not intervene in judicial decisions.

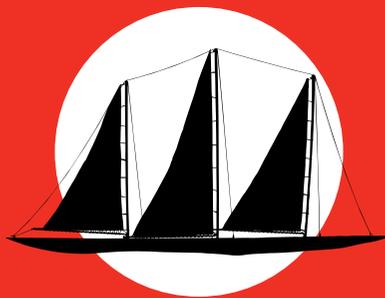
**The Conseil concluded that the complaint was unfounded.**



**2014-CMQC-024 The complainant criticized the judge's conduct during a hearing in which he was the plaintiff. He claimed the judge was annoyed because she had not been provided with the list of witnesses, and interrupted the presentation of evidence in the hopes of intimidating and destabilizing the plaintiff. He also claimed that the judge did not show respect when she asked him to take his hands out of his pockets. He further challenged the judge's request to interrupt the recording right when he was providing clear information, the way she controlled the testimony from the other party in the case, her refusal to allow testimony from his spouse, and her refusal to end the hearing in a fit of impatience.**

In the playback of the audio recording, it was not possible to assess the judge's behaviour when she asked the complainant if he had filled out the form with the names of the witnesses. However, her word choice and her tone seemed incompatible with the claim that she was annoyed. As for her interruptions, all her questions were to clarify the evidence and render effective the substantive law. There was no reason to conclude that the judge was trying to intimidate or destabilize the complainant. Before allowing him to conclude his testimony, she made sure to give him the opportunity to add something if he wished, which he declined to do. The judge's tone was calm when she asked him to take his hands out of his pockets. The criticism with respect to the testimony of the other party and that of the complainant's spouse was unfounded. As for the judge's refusal to end the hearing, she explained that the complainant's new allegation prevented it from ending that day. She did not refuse to end the hearing because she was impatient, but in an effort to be impartial towards the parties. Nonetheless, the circumstances surrounding the judge's request to interrupt the recording warranted clarification.

The Conseil concluded that the complaint warranted an inquiry. An inquiry committee was therefore formed.



**2014-CMQC-025 The complainant criticized the judge's behaviour during a hearing where she was called to testify. She claimed the judge was partisan and lacked transparency when insisting that the complainant not testify, thereby preventing her from corroborating the plaintiff's testimony.**

The playback of the audio recording revealed that the judge asked the plaintiff why he wanted the complainant to testify. She felt that the first reason the plaintiff gave did not justify having the complainant testify, since the correspondence produced already established proof of what the complainant would testify to. The judge then asked the plaintiff if he wanted the complainant to testify to establish something else and he said no. The complainant's claim that the judge insisted she not testify is false because it was the plaintiff who decided not to have her testify.

The Conseil concluded that the complaint was unfounded.

**2014-CMQC-028 The complainant criticized the judge's behaviour during a hearing where he was summoned to testify. He claims that the judge did not allow him to provide clear testimony, preventing the plaintiff who summoned him from asking relevant questions. He claims that the judge manipulated his testimony in order to reject the plaintiff's claim.**

The playback of the audio recording of the hearings revealed that the judge asked the plaintiff if he had any questions for the complainant. The first question he asked was a question that the complainant had already answered, which the judge explained to him. The plaintiff said he had no further questions for the complainant. When the judge gave the plaintiff another opportunity to ask questions, he asked one. After the complainant testified for fifteen minutes, the plaintiff said he had no further questions for him. The judge did not prevent the plaintiff from asking the complainant pertinent questions. She did not prevent the complainant from delivering clear testimony and did not manipulate him in order to reject the claim.

The Conseil concluded that the complaint was unfounded.

**2014-CMQC-037 The complainant criticized the judge's behaviour during a trial hearing, claiming that she had been impatient and had not given the complainant all the assistance he needed.**

The playback of the audio recording of the proceedings showed that the judge was extremely patient throughout the hearing and always interjected politely. Her ruling was worded very clearly. After presenting the facts, she cited the applicable law, then examined each of the plaintiff's claims based on the rule of law. The complainant was dissatisfied with the judgment rendered, but it is not up to Conseil de la magistrature to review judicial decisions.

The Conseil concluded that the complaint was unfounded.



**2014-CMQC-039 The complainant claimed that the judge forced him to agree to an amicable settlement.**

The playback of the audio recording revealed that, contrary to the complainant's claim, the judge did not force the parties to reach an amicable arrangement. The judge was of the opinion that the complainant should take some responsibility for the poor quality of the work done by the opposing party. The judge told the complainant that if he did not accept the settlement, he would have to take the matter under consideration, and could always change his mind about the outcome of the claim. Nothing in his tone indicated that he wanted to reach an amicable settlement at all costs. When issuing his ruling, the judge simply exercised his discretionary power and no criticism can be made against him in this respect.

**The Conseil concluded that the complaint was unfounded.**

**2014-CMQC-010 The complainant criticized the judge's behaviour during the hearing of a lawsuit brought against the complainant by his former lawyer, who was claiming legal fees.**

Playback of the court audio recordings revealed that the judge was courteous when dealing with the complainant. She never raised her voice and allowed him to present his version of the facts. The judge's remarks were accurate and there was no evidence to suggest that she had denigrated or ridiculed the complainant, nor that she had been biased. Remember that judges in the Small Claims Division must play a very active role. In this case, the judge's behaviour was above reproach and she did not breach any provisions of the Code of Ethics for Judges.

**The Conseil concluded that the complaint was unfounded.**

**2014-CMQC-016 The complainant claimed the judge was not impartial during a trial hearing. He claimed the judge was biased towards the defendant, whom he was suing for damages.**

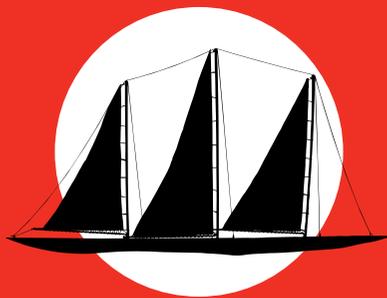
Playback of the audio recording of the proceedings revealed that the judge had listened impartially to the parties and witnesses in a calm, composed, and interested manner. He was concerned with properly understanding the facts and claims presented by the parties. When the judge interrupted, he remained calm and composed.

**The Conseil concluded that the complaint was unfounded.**

**2014-CMQC-057 The complainant claimed the judge had raised his voice and yelled at him, was aggressive towards him, humiliated him, and did not give him a chance to respond. When he asked to speak in English, the judge cut him off and said he wasn't there to translate and if the complainant needed an interpreter, it was up to him to bring one with him. The complainant also requested that the judge recuse himself from the case.**

Upon playback of the court audio recording, the Conseil was unable to determine if the complaint was founded or not. Questions remain, particularly with regard to the judge's behaviour. An inquiry will allow us to determine to what extent his behaviour and speech constituted a breach of ethics. As for the request for recusal, the Code of Civil Procedure covers such requests and it is not for Conseil de la magistrature to intervene in this regard.

**The Conseil concluded that the complaint warranted an inquiry. An inquiry committee was therefore formed.**



**2014-CMQC-061** The complainant criticized the judge for having continuously interrupted his claim during the hearing in an unpleasant and loud voice and going so far as to yell at him. He says he was stressed and thrown completely off balance by the judge's negative criticism, and that the judge never acted this way towards the other party. He also claimed the judge was biased in favour of the other party, was not impartial, and had already decided in advance to reject his claim. Finally, he asked **Conseil de la magistrature du Québec to grant an application for revocation of judgment and allow him to appeal his case.**

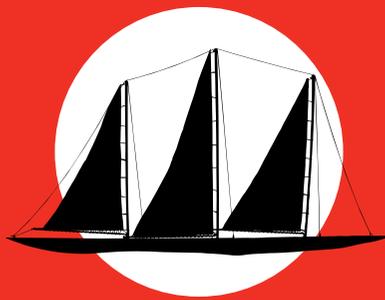
The analysis of the complaint revealed it could not be dealt with summarily. The complaint needs to be handled in accordance with the process established by the *Courts of Justice Act*. The complaint raises questions about the judge's behaviour. An inquiry will allow us to determine to what extent the judge's behaviour and speech constituted a breach of ethics. The inquiry will allow us to collect and analyze the facts and determine if the judge failed in his ethical duties. With regards to the revocation of judgement, the Conseil has no jurisdiction to appeal and cannot hear appeals on rulings handed down by judges.

The Conseil concluded that the complaint warranted an inquiry. An inquiry committee was therefore formed.

**2014-CMQC-066** The complainant claimed the judge had a contemptuous attitude, made excessive and sometimes sarcastic statements, and behaved in an aggressive, intimidating, even frightening manner. She claimed the judge lacked reserve, courtesy, and composure. According to the complainant, this cast doubt on the judge's objectivity and impartiality and undermined the integrity and dignity of the judiciary.

The analysis of the complaint revealed it could not be dealt with summarily. The complaint needs to be handled in accordance with the process established by the *Courts of Justice Act*. The complaint raises questions about the judge's behaviour. An inquiry will allow us to determine to what extent the judge's behaviour and speech constituted a breach of ethics.

The Conseil concluded that the complaint warranted an inquiry. An inquiry committee was therefore formed.



**2013-CMQC-106 The complainant criticized the judge's behaviour during a trial hearing, claiming she did not seem to be herself. On another occasion, before the Civil Division of the Court of Québec, the complainant alleged that the same judge had acted aggressively towards him and other citizens.**

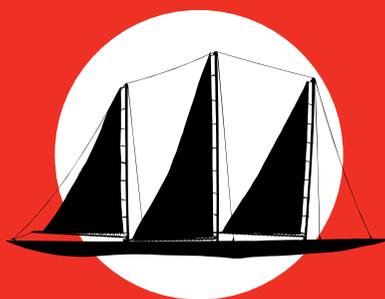
With regard to the Small Claims Division hearing, the judge's behaviour was appropriate, especially when she asked the complainant to speak more softly. It was up to her to show the people present how to conduct themselves appropriately. The audio recording of the proceedings contradicts the complainant's claim that the judge was discourteous and aggressive. She seemed serene and calm at all times, and kept her composure despite the complainant's lapses in conduct. During the proceeding brought by the complainant against a city, he claimed the judge had allowed a lawyer to represent the defendant even though he had only been appointed recently. However, the lawyer only made arguments to have the motion struck from the role because it had not been served. The judge had to ensure it had been served. She could not ignore the fact that the lawyer claimed to be representing the city while requesting that the case be stricken from the role.

**The Conseil concluded that the complaint was unfounded.**

**2014-CMQC-082 The complainant claimed the judge had insulted her. She also claimed the judge had not been sufficiently interested in her case, showed a favourable bias towards the claim of the defendant (a government agency); used aggressive, humiliating, and offensive language; displayed anger and a lack of respect towards her; and ignored her availability while taking into account that of the lawyer and defendant when adjourning the hearing.**

It was only after observing that the complainant had requested a postponement, had left Canada in 2010, had not seen the documents the defendant had sent to her lawyer, and had delayed notifying the defendant and the Court that her lawyer was no longer handling her case, that the judge remarked, "You were very concerned with your file." This remark expressed the judge's discomfort with the situation the parties found themselves in on the day in question, and was based on the facts the judge had verified with the complainant. The remark cannot be construed as insulting. There was nothing in the judge's comments supporting the complainant's interpretation that the judge was biased against him. There was no reason to believe the judge tried to accommodate the defendant's lawyer to the detriment of the complainant when choosing the deferral date. As for the judge's language and behaviour, playback of the audio recording of the proceedings revealed that the judge did not use any aggressive, humiliating, or offensive language. She spoke loudly and used a firm tone. Her tone, however, was never aggressive. There is no reason to find that the judge's behaviour was angry or disrespectful towards the complainant. Finally, the complainant's request that the judge be removed from her case is not within the Conseil de la magistrature's powers.

**The Conseil concluded that the complaint was unfounded.**



COMPLAINTS AGAINST  
JUDGES ASSIGNED  
TO THE CIVIL DIVISION  
OF THE COURT OF QUÉBEC

**2014-CMQC-083 The complainant claimed the judge was biased from the start of the hearing, and made remarks that intimidated and humiliated her, thereby abusing his position of authority.**

The audio recording of the proceedings revealed that from the outset the judge had prepared the case and knew and understood the issue at hand. Not once he tried to restrict or limit evidence and witness testimony, except when it seemed necessary to clarify or remind the parties about the framework of the dispute. While the opening remarks could have been worded more tactfully, the judge did not show any bias. The observations made to counsel and the remarks about the strategy that was adopted must be evaluated in light of the judge's behaviour throughout the proceedings. A distinction has to be made between the context when the judge expressed an opinion about the applicable law and when he showed signs of biased behaviour. The parties and their lawyers were able to express themselves freely and were given the necessary time to do so, without the judge making any comments about the time taken to present evidence and findings. The judge performed his duties and made sure the witnesses' remarks were relevant, given the nature of the dispute before him, and spoke to the complainant and her spouse in a calm, polite, and respectful manner. The judge did not use his authority to intimidate the complainant.

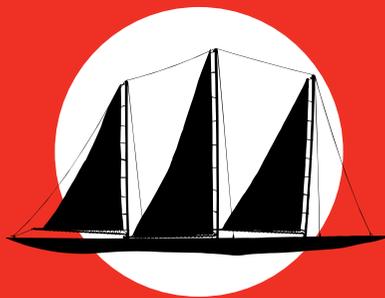
**The Conseil concluded that the complaint was unfounded.**

COMPLAINTS AGAINST  
JUDGES ASSIGNED  
TO THE CRIMINAL AND PENAL  
DIVISION OF THE COURT OF QUÉBEC

**2014-CMQC-027 The complainant accused a judge of partiality during a hearing. The judge found him guilty of six of the seven charges brought against him. The complainant did not appear at the sentencing hearing. The judge issued a warrant for his arrest, to be executed immediately.**

Playback of the audio recording of the hearing contradicts the complainant's claim. The judge read his sentence in an impartial, even tone. During the three-day hearing, she made no sarcastic remarks to the complainant. The exchanges between the judge, the complainant, and the lawyers were polite, courteous, and respectful. The judge could not be accused of any breach of ethics.

**The Conseil concluded that the complaint was unfounded.**



**2014-CMQC-012 The complainant criticized the judge's behaviour during his hearing. The day that the complainant's trial for theft and assault was due to begin before the judge, the complainant said he was unable to proceed due to health reasons. There were four other cases involving the client on the roll for hearing and nine witnesses were present to testify. The judge agreed to postpone the trial to a later date and advised the complainant that if he was representing himself, he should consult the legal aid service.**

Playback of the court audio recordings revealed that from the outset, the judge realized the complainant's state of health would prevent the trial from going ahead. Contrary to the complainant's claims, he was not treated unfairly. The judge did reprimand the complainant for his failure to notify the appropriate people of his deteriorating health situation. The judge acted in keeping with her responsibility to manage cases in a sound and efficient manner. She also invited the complainant to ask legal aid about his rights. She never raised her voice or was condescending to the complainant, even though she was critical that the witnesses had needlessly made a trip that could have been avoided.

**The Conseil concluded that the complaint was unfounded.**

**2013-CMQC-096 The complainant criticized the judge's behaviour during a trial hearing.**

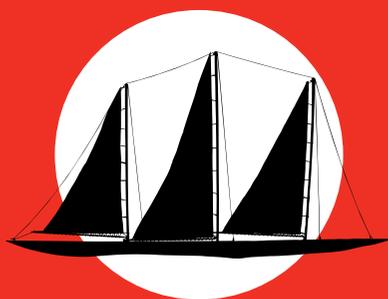
The complainant was acquitted of the criminal charges brought against him after he agreed to sign a promissory agreement not to disturb the peace. Settling the case through an order to keep the peace under article 810 of the Criminal Code shortened the proceedings considerably. Playback of the court audio recording revealed that contrary to the complainant's claim, the judge had maintained a calm and respectful tone with the complainant. The criticism of the judge was unfounded, given the hearings were held in a calm environment. While the complainant was dissatisfied with the judge's ruling, it is not up to the Conseil to review judicial decisions.

**The Conseil concluded that the complaint was unfounded.**

**2013-CMQC-103 The complainant claimed that during his trial, the judge used his cell phone and did not pay attention. The complainant also criticized the judge for using the term "normal" to describe her behaviour when providing a breath sample before being arrested.**

Playback of the court proceedings showed that the judge had listened attentively to the testimony. He used his smartphone to consult the Criminal Code and other legislative provisions. According to the guidelines distributed in March 2013, lawyers, parties, and journalists are permitted to use electronic devices in court. Judges may do the same. The use of technological devices in a courtroom is compatible with modern case management. As for the word "normal," the judge was simply comparing the complainant's behaviour to that of another person in similar circumstances. Clearly the complainant was dissatisfied with the judge's ruling. However, it is not up to the Conseil de la magistrature to review judicial decisions.

**The Conseil concluded that the complaint was unfounded.**



**2014-CMQC-071** The complainant claimed the judge had not wanted to listen to him and had cut him off to ask questions. He alleged that this had prevented him from providing explanations to support his two private denunciations in order to authorize the laying of two criminal charges.

A reading of the court transcripts revealed that the judge listened patiently to the complainant, and sighed once, who spoke in a rushed, confused, and unplanned way. He only interrupted the complainant to steer him back to the main focus of his argument. There was no reason to find the judge was uninterested in the case. Clearly, the complainant was dissatisfied with the decision, but the Conseil cannot interfere with the assessment of evidence or act as an appeal body to reverse a ruling handed down by a judge.

**The Conseil concluded that the complaint was unfounded.**

#### COMPLAINTS AGAINST JUDGES ASSIGNED TO THE YOUTH DIVISION OF THE COURT OF QUÉBEC

**2014-CMQC-048** The complainant claimed the judge was biased against her and used an intimidating tone towards her during a hearing he presided over in 2013. She criticized him for acting on interim proceedings with respect to her children when he had represented them in 2006 and had recommended to the court that they grant the complainant custody and allow the father visits in the presence of a third party, which was exactly the opposite of the measure under examination in 2013, seven years later.

Playback of the court recordings revealed that the complainant's criticism of the judge was unfounded. At no point during the 2013 hearing did the complainant or her lawyer mention that the judge had represented her children in 2006. The fact that the judge was asked to adjudicate upon a request for provisional measures for the complainant's children in 2013, when he had been a lawyer for the same children in 2006, is not sufficient reason to question the judge's impartiality. Playback of the audio recording revealed that the judge acted in a reserved, courteous, and calm manner. He spoke to the complainant in a calm and composed voice and conducted himself in exemplary fashion.

**The Conseil concluded that the complaint was unfounded.**



**2014-CMQC-023 The complainant criticized the judge's behaviour during a hearing on upholding a declaration for protection. She claimed that the judge had played far too active a role and had made value judgements about her.**

Playback of the court audio recordings revealed that the judge's numerous interventions with witnesses, intervenors, the complainant, and the children's father was done so as part of her role and was justified. Her tone of voice was direct but never inappropriate. As for the judge's remarks, they were relevant and were part of her duty to ensure the wellbeing of the complainant's children. The remarks the judge made to the complainant were for the purpose of seeking explanations about her behaviour towards her children or informing her about where she could get help. The judge told the complainant that she was prepared to review her orders at any time if changes occurred. The judge acted in accordance with the law and in the hope of making the complainant aware of the difficulty of her situation and to help her take the necessary steps to improve it. The judge could not be accused of any breach of ethics.

**The Conseil concluded that the complaint was unfounded.**

## COMPLAINTS AGAINST JUDGES ASSIGNED TO THE MUNICIPAL COURT

**2014-CMQC-070 The complainant accused the judge of not having taken the time to listen to his testimony because there were "too many people." He also claimed that the judge had expressed annoyance during the hearing of the case against him for failing to obey traffic signals under the Highway Safety Code. The complainant also complained that the judge's ruling had not been handed down during the hearing.**

After the short cross-examination by the city's lawyer, the judge asked the complainant if he would like to add anything to his testimony. After he answered no, the judge informed the complainant that the court's decision would be sent by mail. She gave an oral rendition of her decision later that evening. The audio recording did not indicate that the judge had acted impatiently or failed to carry out her duties. The complainant gave detailed testimony, punctuated by brief interventions by the judge in an effort to clarify certain facts of the case. The judge allowed numerous citizens who had been summoned by the court to testify, as is her prerogative by virtue of the latitude granted her to ensure the sound and effective management of a hearing. Furthermore, the law in this area gives judges the right to render a judgement at a later time.

**The Conseil concluded that the complaint was unfounded.**



**2014-CMQC-049 The complainant claimed that the judge's behaviour towards him had been abusive and excessive because he had refused to allow the complainant to reply to his lawyer's request to cease representing him. The lawyer had asked if his client was present but had not got any response. The judge accepted the request and the lawyer left the courtroom. After the judge had called the roll for three other cases, the complainant showed up to present his reply to his lawyer's request. However the judge did not want to reopen the case because he had already issued a ruling.**

Playback of the court audio recording revealed that the lawyer had asked if his client was present and that no one had come forward. The judge asked the lawyer if his client knew the subject of the request was to cease representing him and the lawyer unequivocally answered yes. In this case, it cannot be said that the judge denied the complainant the floor. He did not know he was there presence because he did not come forward during the proceedings concerning him in the courtroom. The decision to accept the request, like the decision to refuse the filing of a reply after a judgement had been issued, falls within the judge's discretion and does not constitute a breach of ethics in and of itself. Even though it was brief, the exchange between the judge and the complainant, who did not want to listen to reason or let the judge finish speaking, turned into an altercation. Given the complainant's increasing insistence in the face of the judge's categorical and well-founded refusal, the judge was forced to expel the complainant from the courtroom after having warned him in advance that he didn't want it to come to that. The judge spoke in a clearly authoritative voice, but he could not be accused of any breach of ethics.

**The Conseil concluded that the complaint was unfounded.**

**2014-CMQC-050 The complainant had issued the statement of offence having led to the trial before the judge. However, the judge's repeated questions and insistence led the defendant to change his version of events in order to obtain an acquittal, after the defendant had originally admitted his guilt.**

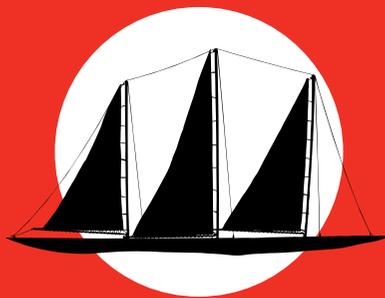
Review of the complaint did not allow the Conseil to reach a conclusion. An inquiry is required to determine to what extent the judge's speech and conduct may constitute a breach of ethics. The inquiry committee will gather and review the facts to determine if the judge acted within the framework of the law, was sufficiently impartial, and properly performed his judicial duties. The inquiry report will establish if the complaint is founded.

**The Conseil concluded that the complaint justifies an inquiry. An inquiry committee has been formed.**

**2014-CMQC-040 The complainant claimed the judge tried to intimidate him. He claimed the judge threatened him and accused him of perjury.**

Before dismissing the complainant's motion to retract the judgment against him, the judge reminded him that he was under oath. The judge felt this reminder was warranted, given the complainant's contradictory statements. The explanation the judge gave about the consequences of lying under oath does not constitute a threat. Under the circumstances, the Conseil cannot conclude that there was a breach of ethics.

**The Conseil concluded that the complaint was unfounded.**



**2014-CMQC-002 The complainant alleged that the judge was biased against him and had made derogatory comments about him. He claimed that the judge had allowed witness testimony that the complainant, who was representing himself, wanted excluded on the grounds that it violated his basic rights.**

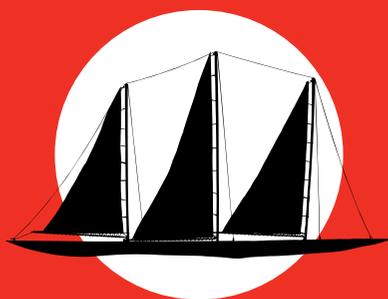
The judge's interventions during the cross-examination by the complainant were polite and were intended to explain to him that he had to ask the witness questions and not argue with him. It's likely that these interventions are the reason the complainant claimed he was not able to make his point. This claim is unfounded. The judge simply explained the procedural rules for cross-examinations and told him that he could provide his version of events when presenting his defence. The trial having not even reached the defence stage yet, it is premature, to say the very least, for the complainant to claim that his rights were not respected. Contrary to the complainant's claim, playback of the recording revealed that the judge had not made derogatory comments about the complainant.

**The Conseil concluded that the complaint was unfounded.**

**2014-CMQC-075 The complainant accused the judge of having made comments, asked questions, and made humiliating remarks about his attire in front of the everyone present in the courtroom. He had been humiliated and stressed in front of everyone and had been unable to present his defence regarding a violation of the Highway Safety Code. He was wearing a coat and ski pants because he had had to walk a long distance in the cold to appear in court.**

Article 8 of the Code of Ethics stipulates that judges should act in a reserved, composed, and courteous manner. Article 27 of the Rules of the Municipal Courts deals with court attire and stipulates that every person appearing before the court must be "suitably attired." Court personnel regularly inform litigants if their attire does not meet certain criteria. The notice of hearing that citizens receive states that every person appearing before the court must be suitably attired. Playback of the court audio recording revealed that the judge could have informed the complainant that his attire was inappropriate without posing a barrage of questions and using a curt, provocative tone that showed impatience. The judge's tone is surprising and even inappropriate. He should have spoken to the complainant politely and calmly as is required of him. Furthermore, the judge must demonstrate a certain degree of tolerance and make comments to the person before the court at the most appropriate moment without necessarily doing so at the beginning of a hearing when the person may feel intimidated by the court appearance. However, taking into account the entire case and the context of the portion of the hearing during which the judge was not courteous and calm, an inquiry is not necessary.

**In conclusion, in accordance with article 267 of the *Courts of Justice Act*, the Conseil de la magistrature found that the nature and gravity of the complaint did not justify an inquiry.**



**2014-CMQC-072 The complainant claimed the judge had not allowed her to present her arguments and had addressed her as “miss.” She claims that the judge had made his decision before the hearing began. She also criticized his overall attitude at the hearing, claiming he was very condescending, and called certain people “dangers to the public” and “liars.”**

Playback of the court proceedings revealed that the judge did not say “miss.” Nor did it allow us to conclude that the judge had made his decision before the hearing. He allowed the complainant to present her arguments, then rendered a judgement. As for the rest of the complaint, only an inquiry will allow us to determine if the judge’s attitude, comments and tone during the hearing on September 26, 2014, constituted a breach of ethics.

**The Conseil concluded that the complaint warranted an inquiry. An inquiry committee was therefore formed.**

**2014-CMQC-079 The complainant claimed the judge had made discriminatory comments about him when he told the complainant that he didn’t know where he was from, but that “in Québec, that’s not how it works.”**

Playback of the audio recording revealed that the judge did not make the comment the complainant alleged he did. Although the reference to Québec was tactless, the audio recording of the entire hearing does not allow us to conclude that the judge’s comments were racist.

**The Conseil concluded that the complaint was unfounded.**

**2014-CMQC-089 The complainant claimed that the judge had acted as if he were party to the dispute and had been aggressive towards him.**

Playback of the court proceedings did not corroborate any of the allegations contained in the complaint. First, the complainant provided his version of the facts, without any constraints or time limits. Next, he was questioned by the counsel for the prosecution for clarification. The exchanges took place mainly between the lawyer and the complainant and were all done in a calm and respectful way without any animosity. The judge then spoke briefly for around one minute to render a judgement. There were no words exchanged with the complainant and the tone he used to hand down his judgement was appropriate and not aggressive. The judge limited his remarks to saying that he did not believe the complainant’s version of events, which displeased the complainant, but did not in any way warrant the filing of an ethics complaint.

**The Conseil concluded that the complaint was unfounded.**



### 6.3.2 The Inquiry

After examining a citizen's complaint, the Conseil may decide it warrants an inquiry. It is, however, obligated to conduct an inquiry if the complaint originates from the Minister of Justice. To conduct this inquiry, the Conseil forms a five-member inquiry committee. The Conseil may also choose certain committee members from among former Conseil members. However, it must include at least three current Conseil members. The committee summons the judge and the complainant(s) in question. The hearings are public, and the Conseil must notify the Minister of Justice that the inquiry is being conducted. At the end of the inquiry, the committee submits a report to the Conseil, which accepts the accompanying recommendation. Inquiry reports are published on the Conseil de la magistrature's website. In 2014–2015, one inquiry committee was formed and submitted its report after a complaint was filed with the Conseil.

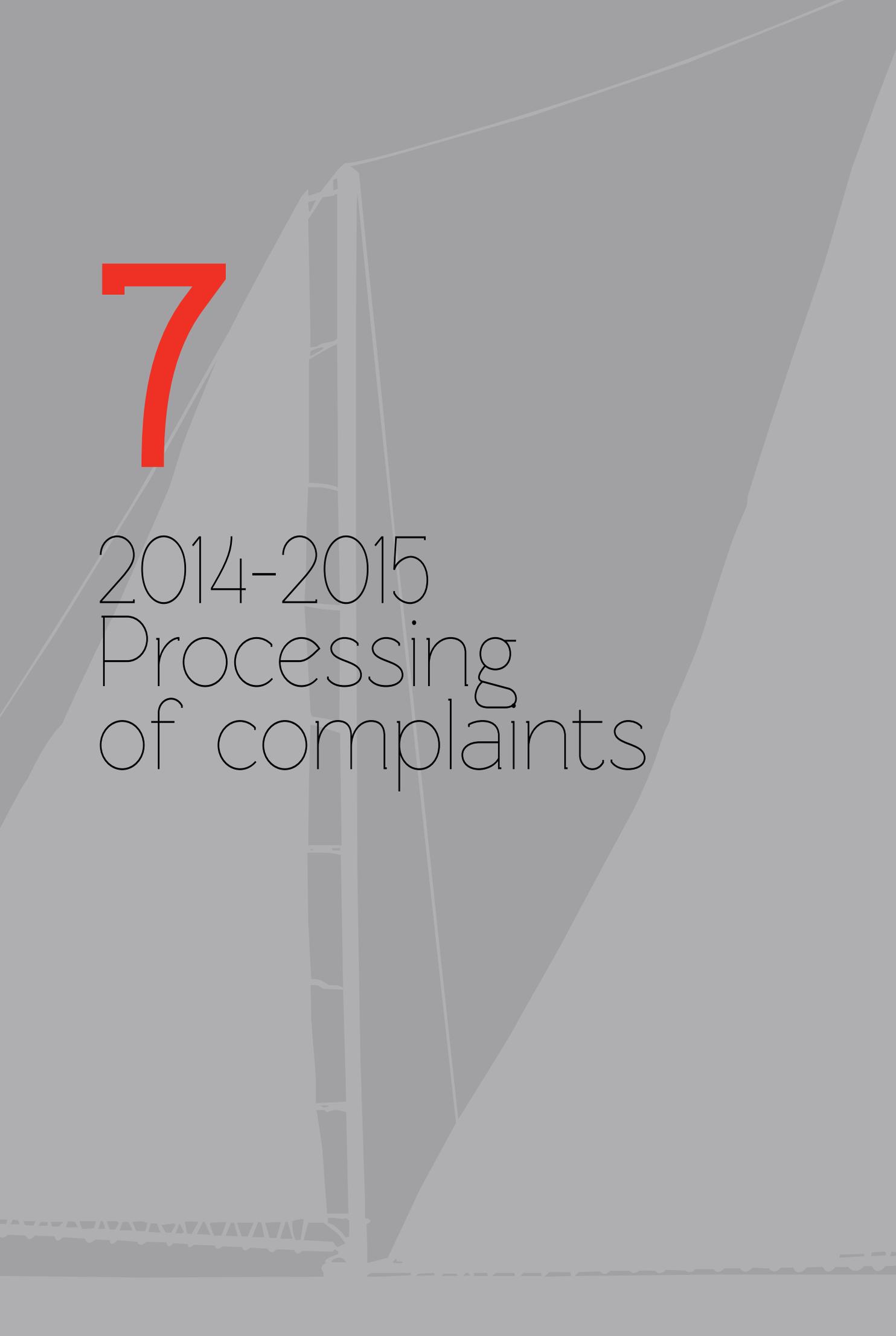
#### INQUIRY HELD AFTER A COMPLAINT WAS FILED AGAINST A JUDGE IN THE SMALL CLAIMS DIVISION OF THE COURT OF QUÉBEC

2013-CMQC-055 **The complainant alleged that the judge had been aggressive towards her and had shown a lack of respect. Following a review, an inquiry committee was formed.**

The judge, believing he was efficiently managing the proceedings, spent several minutes openly trying to convince the complainant that her case was a lost cause. The complainant answered the judge each time. The more time passed, the more the judge realized that the complainant was determined to present her point of view. He then refused to allow her to present evidence and rendered a judgement without any evidence based on the arguments in the request, detailed in a four-page document and a seven-page response to the challenge. In rendering the judgement, the judge sharply chastised the complainant, telling her that she was wasting the court's time and abusing her right to appear before a

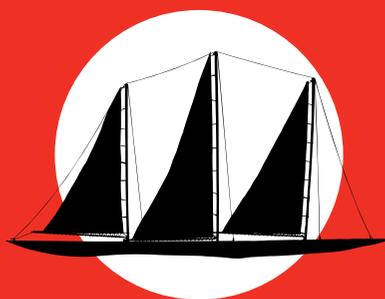
court. The judgement that was filed is extremely brief and formulaic. It indicates that evidence was given at the hearing and that witnesses were heard, compounding the complainant's sense of injustice, since the judge did not allow her to present any evidence and no real hearing took place. The judge's tone was needlessly aggressive at the end of the hearing. Even though the judge did swear in the complainant and exhibits had already been provided in the case, the judge's management of the proceedings and his conduct did not seem to be in keeping with articles 1, 4, and 8 of the Judicial Code of Ethics. Even though formalism is not a strict policy of the Small Claims Division, if there is one fundamental rule that a judge must understand, it is the right of a to be granted a real possibility to be heard before a judge rules on their case. The judge clearly did not render justice within the framework of the law when he acted as he did. He placed himself in an unorthodox situation that left him unable to properly perform his duties and settle the dispute after the hearing. Lastly, his inopportune remarks and the tone he adopted to reject the request and comment on the potential abuse of process involved with the request demonstrates a breach of his duty to be reserved, courteous, and composed.

**Had the judge not retired, the inquiry committee would have recommended he be reprimanded.**



# 7

2014-2015  
Processing  
of complaints



This section describes, with the help of tables and figures, the actions taken by the Conseil de la magistrature in matters of judicial ethics.

## DATA SUMMARY

Between April 1, 2014, and March 31, 2015, the Conseil de la magistrature received 145 complaints. Of these, 37 complaints were about the same judge over the same event.

Of the 145 complaints received, 95 were dealt with and 50 are being processed, including the 37 complaints about the same judge. A further 7 complaints received the previous year were not processed and resolved until 2014-2015, bringing the total number of complaints processed to 102.

**TABLE 1: HOW COMPLAINTS WERE HANDLED**

The following table breaks down results from the complaints received and processed in 2014-2015. Note that 13 complaints were still being examined as of March 31, 2015.

Complaints deemed unfounded upon reception	Complaints deemed unfounded after examination	Complaints not warranting inquiry (after examination) Art. 267 of the Courts of Justice Act	Complaints investigated	Other (cases closed after inquiry)	Complaints being processed as of March 31, 2015	TOTAL
68	19	1	6	1	50	145

Furthermore, of the 109 complainants who were parties to a dispute, 95 (87%) did not have legal representation before the court.

**TABLE 2: COMPLAINTS OVER THE PAST THREE YEARS**

	2012-2013	2013-2014	2014-2015
Number of complaints received	94	107	145
Number of complaints processed	104	110	95

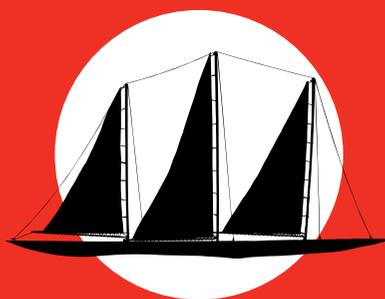


TABLE 3 : COURTS AND TRIBUNALS SUBJECT TO COMPLAINT

Courts and tribunals	Founded complaints	Unfounded complaint	Unfounded complaint after investigation	Complaint whose nature and scope do not justify an inquiry (art. 267)	Other (Complaints deemed unfounded after inquiry)	Complaints investigated	Complaints under examination
Civil Division (excluding Small Claims Division)	47	5	2				40
Small Claims Division	52	36	6			4	6
Chambre criminelle et pénale	14	10	3		1		
Criminal and Penal Division	8	5	2				1
Youth Division	1	1					
Municipal courts	23	11	6	1		2	3
Other (events occurring outside of judiciary functions)							
<b>TOTAL</b>	<b>145</b>	<b>68</b>	<b>19</b>	<b>1</b>	<b>1</b>	<b>6</b>	<b>50</b>

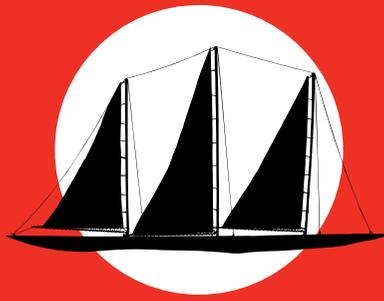
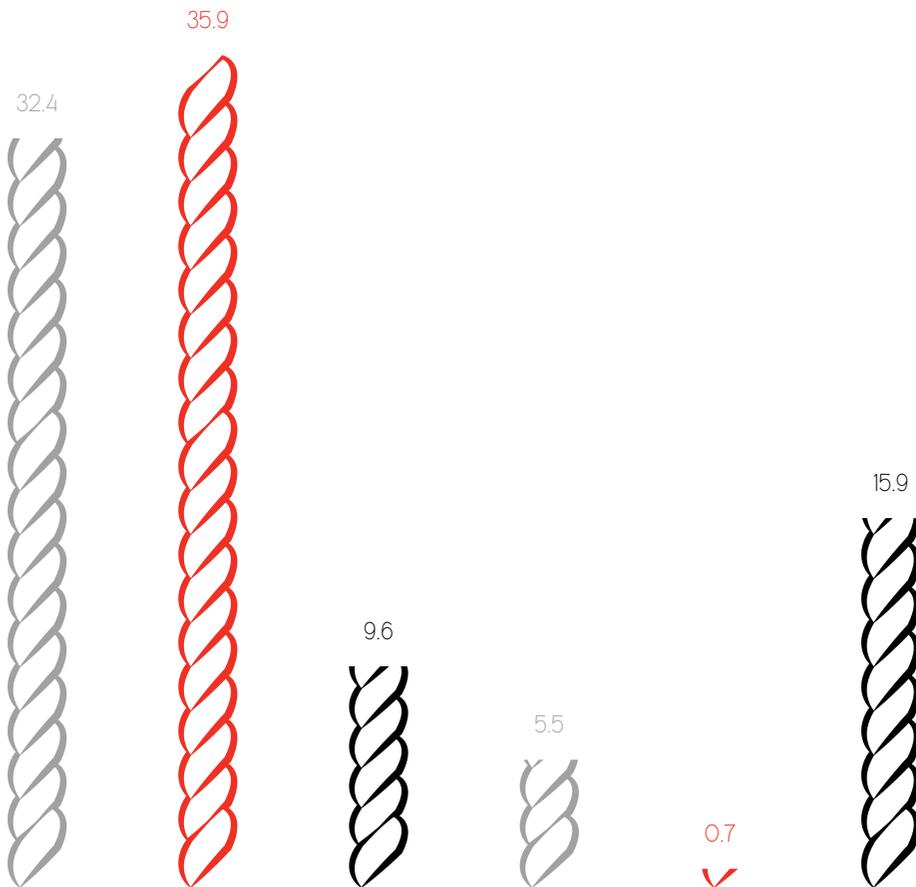
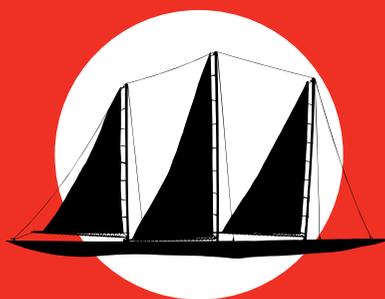


FIGURE 1

This figure displays complaint jurisdictions

COURTS	%
Civil Division (excluding Small Claims Division)	32.4
<b>Small Claims Division</b>	<b>35.9</b>
Criminal and Penal Division	9.6
Youth Division	5.5
<b>Presiding Justices of the Peace</b>	<b>0.7</b>
Municipal Courts	15.9
Professions Tribunal	0
Human Rights Tribunal	0





**TABLE 4 : ORIGIN OF COMPLAINTS**

Let's take a closer look at where the 146 complaints received by the Conseil originated. Origin is determined by the complainant's place of residence and not the judicial district where cases were heard, because certain cases may have had to be transferred to another district.

<b>REGION OF ORIGIN</b>	<b>NUMBER OF COMPLAINANTS</b>
Abitibi-Témiscamingue	1
Bas-Saint-Laurent	2
Capitale nationale	6
Centre-du-Québec	3
Chaudière-Appalaches	8
Côte-Nord	5
Estrie	9
Extérieur du Québec	21
Gaspésie - Îles de la Madeleine	4
Lanaudière	4
Laurentides	6
Laval	11
Mauricie	3
Montréal	39
Outaouais	1
Saguenay - Lac-Saint-Jean	1
<b>TOTAL</b>	<b>146</b>



**TABLE 5: SUMMARY OF COMPLAINTS**

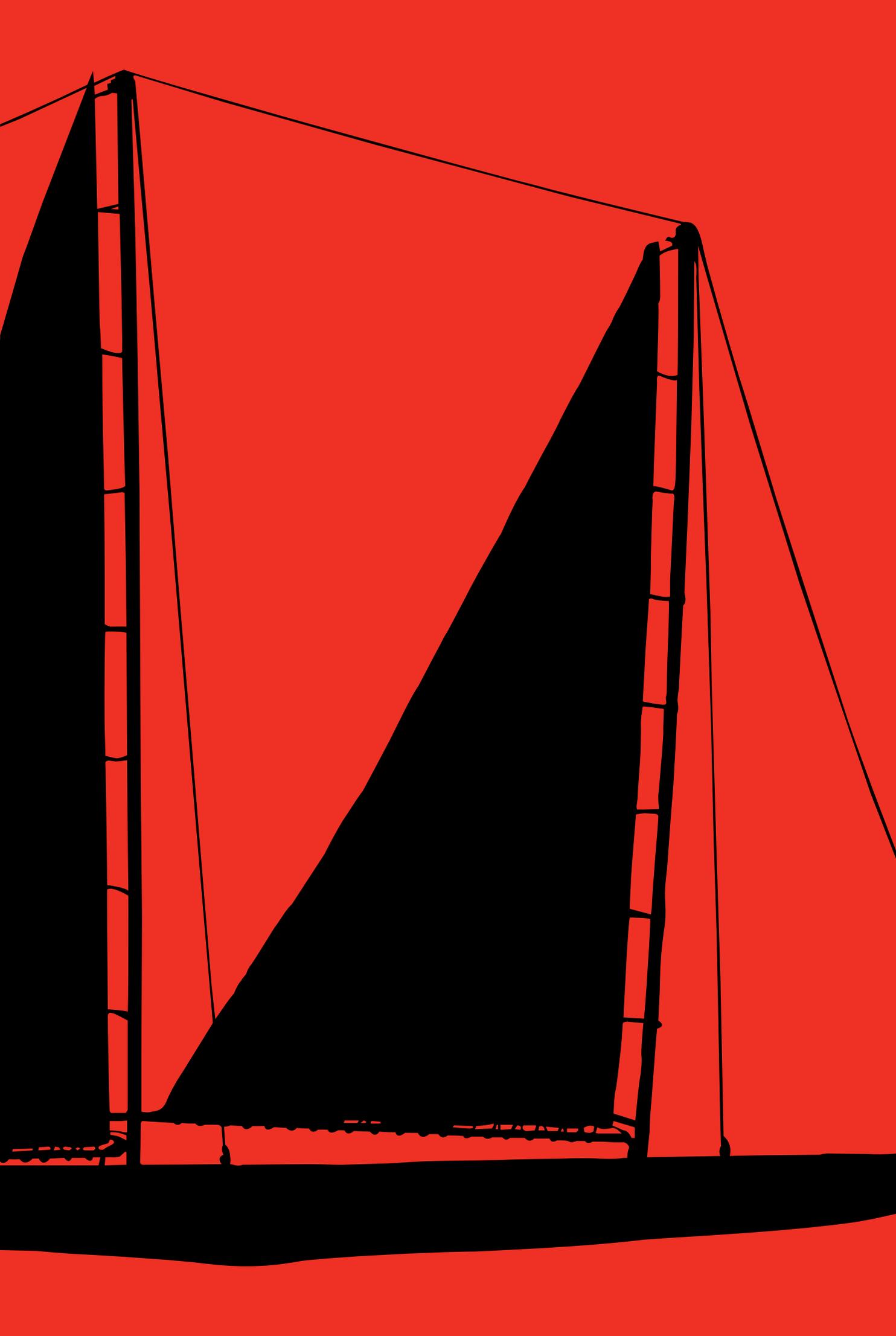
The following table is a record of decisions made by the Conseil since it was created in 1978.

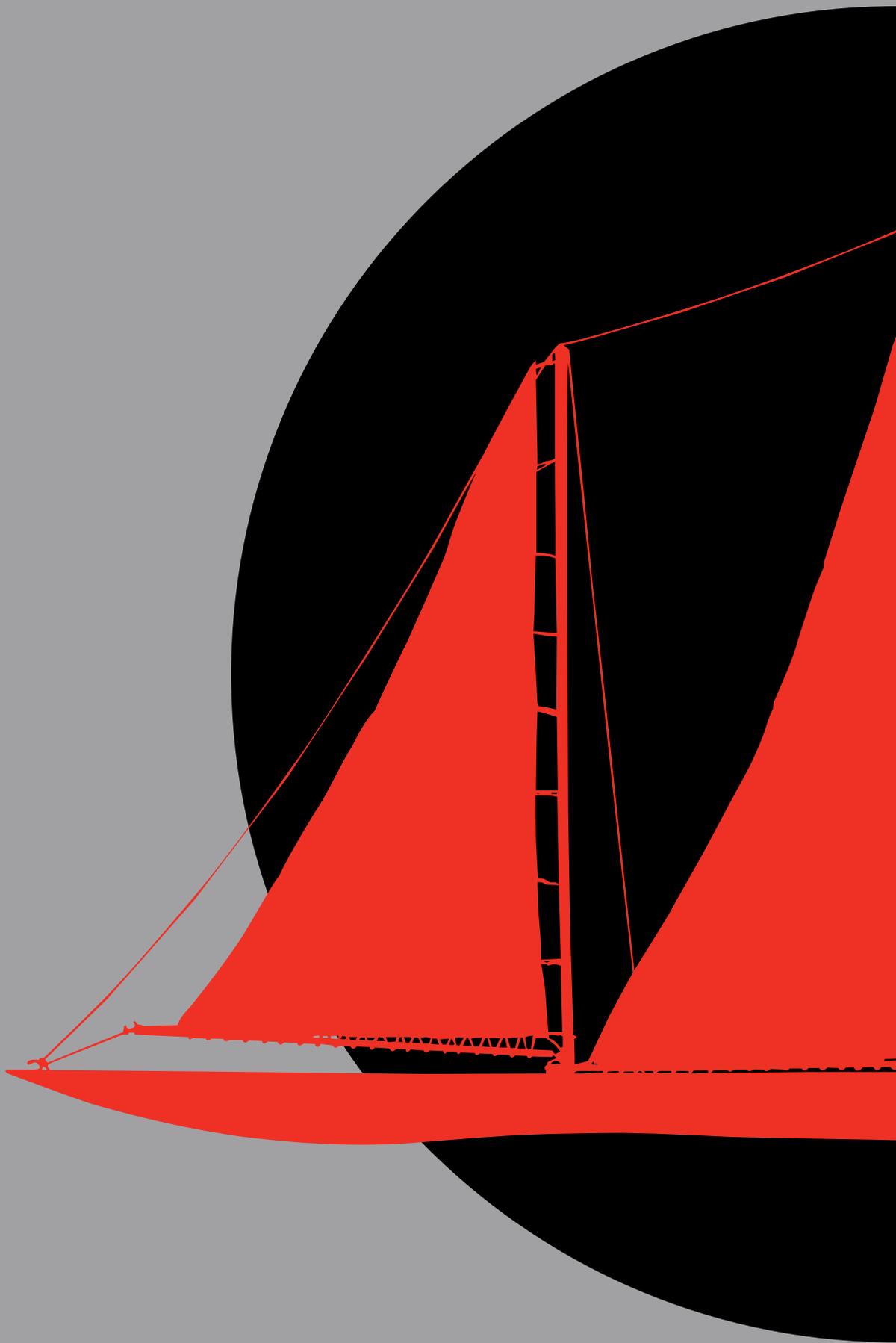
	<b>NUMBER OF COMPLAINTS</b>
<b>Number of complaints received</b>	2 250
<b>Complaints deemed unfounded upon receipt</b>	1 386
<b>RESULTS AFTER EXAMINATION</b>	
<b>Complaints deemed unfounded after examination</b>	612
<b>Other complaints not warranting inquiry (art. 267)</b>	60
<b>Other<sup>1</sup></b>	29
<b>Complaints under examination</b>	51
<b>Complaints investigated</b>	112
<b>RESULTS AFTER INQUIRY</b>	
<b>Complaints deemed unfounded after inquiry</b>	36
<b>Complaints resulting in a reprimand</b>	50
<b>Complaints resulting in a recommendation to remove a judge</b>	4
<b>Other</b>	16
<b>Complaints under inquiry</b>	6

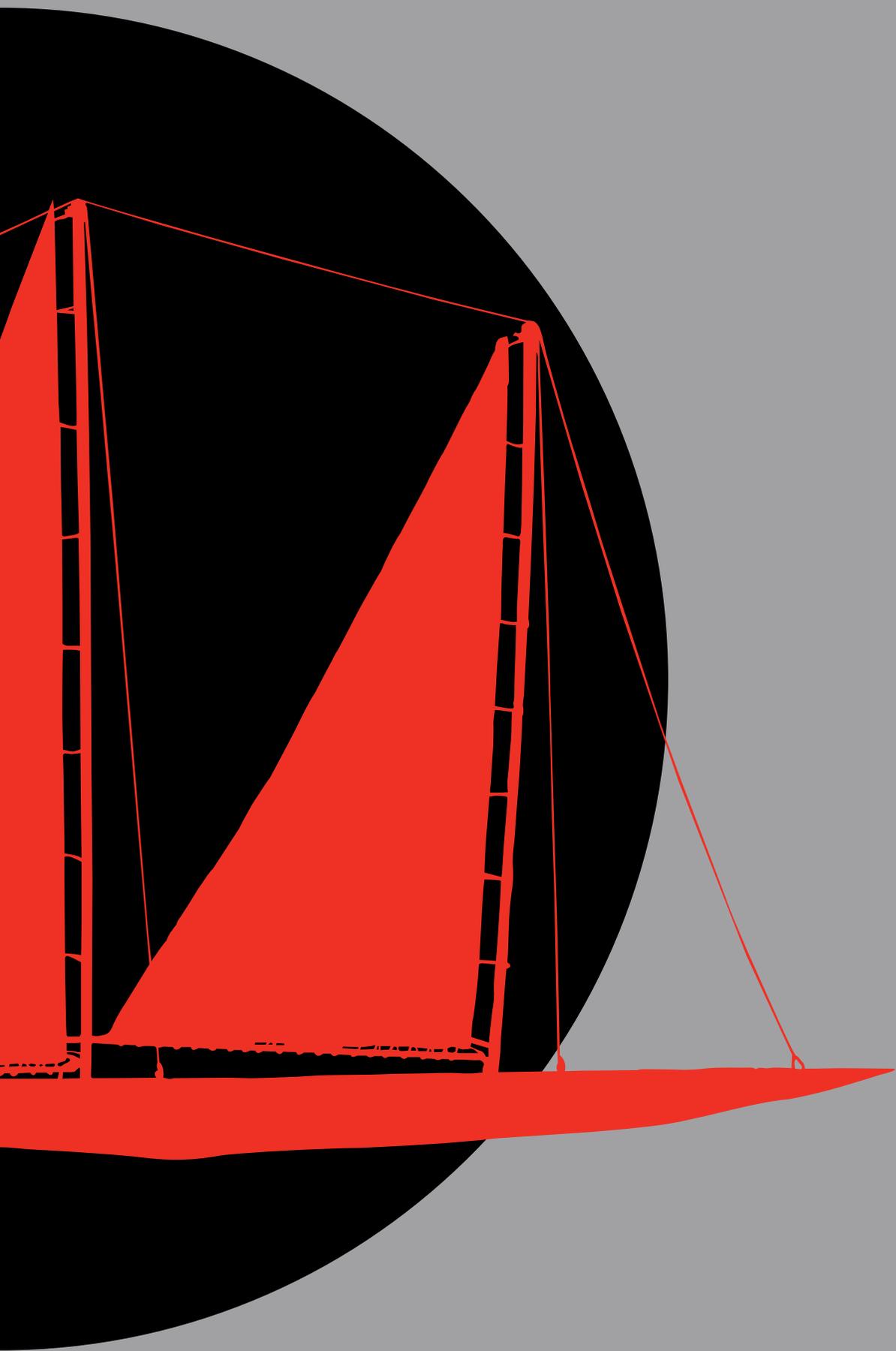
<sup>1</sup> Complaints became moot.



- Upon examination, subject to the 51 complaints still outstanding:
  - 95% of complaints were deemed unfounded, did not warrant inquiry, or became moot
  - 5% of the complaints were investigated
- Upon inquiry, subject to the complaint still being investigated:
  - 50.9% of complaints led to disciplinary action
- After both phases, subject to the complaints still under examination or inquiry:
  - 97.5% of complaints were deemed unfounded, did not warrant inquiry, or became moot
  - 2.5% of complaints led to disciplinary action
- 34.3% of complaints required the collection of additional information
  - 10 complaints were brought by the Minister of Justice, and automatically warranted the creation of an inquiry committee
  - 19 complaints warranted the creation of an inquiry committee without needing to be reviewed (collection of additional information)
- 63% of complaints were ruled upon at the initial examination
- Disciplinary action
- Reprimands: 36
- Judges removed: 4











CONSEIL DE LA MAGISTRATURE DU QUÉBEC

