

ACTIVITY REPORT 2011-2012

THE CONSEIL DE LA
MAGISTRATURE IS AN
INDEPENDENT ORGANIZATION
THAT IS FIRMLY ESTABLISHED
IN QUÉBEC'S JUDICIARY. IT IS
MADE UP OF COURT OF QUÉBEC
AND MUNICIPAL COURT JUDGES,
AS WELL AS LAWYERS APPOINTED
AT THE RECOMMENDATION
OF THE QUÉBEC BAR AND
GOVERNMENT-APPOINTED
MEMBERS FROM THE GENERAL
PUBLIC WHO ARE NEITHER
JUDGES NOR LAWYERS.

ITS TWO CORE RESPONSIBILITIES
ARE TO ORGANIZE PROFESSIONAL
DEVELOPMENT PROGRAMS FOR
JUDGES AND TO ENSURE JUDGES
ACT IN A MANNER APPROPRIATE
TO THEIR POSITION.

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WORD FROM THE CHAIR



AN EVER-CHANGING WORLD

Looking back in hindsight on Alvin Toffler's 1970 bestseller *Future Shock*, we now realize that it was a groundbreaking attempt to define the effect of change on humans. In his book, the American futurist foresees the challenges facing a human race in a constant state of flux.

Today, several decades later, organizations are subject to the same constraints, and are characterized by a high degree of flexibility. Adaptation to change isn't just a notion confined to management school curricula. Rather, it is a *modus operandi* that helps organizations perform the tasks at hand while taking into consideration the society in which they operate.

Ever mindful of the need to adapt to a world in flux, the Conseil de la magistrature has for several years now been fine-tuning the services it provides both to members of the judiciary and to the public. These include information technology developments such as an intranet for judges (INTRAMAGIS), a paper-free Conseil, a dynamic website, and an online complaints form. But that's not all. The Conseil has also been innovating in the areas of ethics and professional development—the two main focuses of its mission. Far from slowing, the heart of the Conseil continues to beat in pace with the world's human, social, and technological changes.

Technology to the Aid of Legal Documentation

In the coming year, the Conseil plans to make technological improvements to the way it operates. For example, in keeping with decisions made over the year ended in March 2012, the Conseil is launching a major project to provide judges under its jurisdiction with the latest technological tools to facilitate access to legal documentation. This is a crucial initiative, as the more judges have timely and ready access to the latest legal developments, the better they can serve those appearing before them. In his message below, the Secretary of the Conseil explains in greater detail the various aspects of this project, which will be implemented over the coming year.

Adapting to Society's Values

But not all the changes are technological in nature. Others deal with ethics and are more subtle, reflecting as they do society's changing values. The *Judicial Code of Ethics* sets out our values, but since society's values evolve over time, in step with culture and mores, they influence the Conseil's interpretation of the Code. Without changing its actual wording, the Conseil interprets the document in a manner consistent with present-day realities. So much so that when, for example, current events fuel public apprehension over ethics and exemplary behavior, notably on the part of judges, the *Judicial Code of Ethics* is there to respond to those concerns. The Conseil, through its deliberations, the information it provides to judges and citizens, and the decisions it hands down, contributes to the ethical reflections taking place in our society today.

In concrete terms, the Conseil handled 90 complaints this year. While that number is slightly lower than in previous years, five of these complaints led the Conseil to form three inquiry committees. Although we shouldn't jump to conclusions, these figures point to the need to track the complaints we receive.

It Takes a Team

Before presenting the Conseil's main achievements over the past year, I would like to applaud the outstanding work accomplished by its members—a small team of dedicated individuals who, in addition to their daily duties, have willingly agreed to take on such weighty responsibilities as evaluating the conduct of judges. I would add a special mention this year to our non-judicial members, namely the lawyers and citizens who play an active role in this important institution devoted to maintaining public trust and who bring to it a unique dimension. My thanks go out also to the Secretariat staff for providing support for the Conseil's activities throughout the year.

WORD FROM
THE SECRETARY



(YET) ANOTHER TECHNOLOGICAL DEVELOPMENT

As many predicted, information and communication technologies have become essential work tools, in no small part due to their huge storage and data processing capacity and their affordable cost. But it hasn't all been smooth sailing. One has only to recall the debate that arose around the issue of equipping judges with computers to appreciate how far we've come.

Realizing the huge potential of these new tools, the Conseil de la magistrature made the technological shift a number of years ago. In 2005, for instance, it launched the INTRAMAGIS intranet site, which offers most of the judges under its jurisdiction uninterrupted access to the very best legal databases available. In another innovative move, the Conseil de la magistrature went “paper free,” making available to its members all the documentation accumulated over the more than thirty years of its existence.

STAYING UP-TO-DATE WITHOUT GIVING IN TO PASSING FADS

Technologies, however, evolve at breakneck speed. Consider, for example, that the remarkable expansion of the Internet, once the exclusive domain of academics and the military, is less than twenty years old. Today when we look back at how far we’ve come, the importance of keeping a close eye on new developments in the world of technology looms clear. For the Conseil, like all organizations, this can be a challenge. But by teaming up with various partners to gather intelligence and carefully assess the use of technology, we can avoid haphazard development motivated solely by the desire to possess the latest gadget.

Nonetheless, one thing has become obvious: despite regular tweaks to INTRAMAGIS since it was introduced, the Conseil is due for a thorough review of the way it provides legal documentation to judges. Having a well-informed judiciary with permanent access to up-to-the-minute documentation is key for citizens.

UPCOMING PROJECT

The days when anyone who owned a laptop computer was considered a computer whiz are long gone. People now take their pocket-size personal computers with them wherever they go. Internet cafés which, not so long ago were popping up on every street corner, are closing down for lack of business, as Internauts increasingly make use of Wi-Fi hotspots with their own portable devices.

Given this situation in which judges, like so many of their fellow citizens, now have their own tablet computers, the Conseil de la magistrature began by asking whether it needed to rethink its legal documentation model. However it soon realized that the real question was not *whether* but *how* it should do so. As any astute observer will tell you, after seven years in existence not only is it time for INTRAMAGIS to undergo a review, it is also time to reconsider whether it is even worth purchasing paper versions of legal documents for today’s judges.

In the coming year, the Conseil plans to make the most of various agreements it has signed over the years with partners like Centre d’accès à l’information juridique (CAIJ) to conduct an in-depth review of the legal documentation it makes available to the judges under its jurisdiction. It intends to work in cooperation with the members of the judiciary, but without pressuring them, to ensure that the proposed changes address their specific needs. After all, they are the main users of these documents.

This is the avenue the Conseil plans to pursue in the coming year, one that will make judicious use of the public funding it receives. While this is an important initiative, it should not eclipse the Conseil’s other responsibilities. This activity report, which highlights the Conseil’s achievements, will give readers a sense of the work accomplished in the past year.

Québec's Conseil de la magistrature was created in 1978 under the *Courts of Justice Act*. Firmly established within the judiciary, 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.

Functions

Section 256 of the *Courts of Justice Act* sets out the seven functions of the Conseil de la magistrature:

- Organize professional development programs for judges
- Adopt a judicial code of ethics
- Receive and examine any complaint lodged against a judge under its jurisdiction
- Promote the efficiency and uniformization of procedure before the courts
- Receive suggestions, recommendations, and requests made to it regarding the administration of justice, to study them and to make the appropriate recommendations to the Minister of Justice
- Cooperate with any body pursuing similar purposes outside Québec
- 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 these functions are especially important and constitute the majority of the Conseil's activities:

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

The Conseil acts with regard to judges appointed by the government of Québec. There are over 400 of these judges who sit on the Court of Québec, the Professions Tribunal, the Human Rights Tribunal, and municipal courts. They also include presiding justices of the peace.

Members

The Conseil de la magistrature consists of fifteen members:



MRS. ELIZABETH CORTE,
Chair of the Conseil de la magistrature and Chief Judge of the Court of Québec



MR. MARIO TREMBLAY,
Vice Chair of the Conseil (elected from among members) and Senior Associate Chief Judge of the Court of Québec



MR. PIERRE E. AUDET,
Associate Chief Judge of the Civil Division of the Court of Québec



MR. CLAUDE C. BOULANGER,
Associate Chief Judge of the Youth Division of the Court of Québec



MRS. DANIELLE CÔTÉ,
Associate Chief Judge of the Criminal and Penal Division of the Court of Québec



MR. ANDRÉ PERREAULT,
Associate Chief Judge in Charge of Municipal Courts



MRS. LOUISE PROVOST,
Chair of the Professions Tribunal



MR. MORTON MINC,
President-Judge of the Municipal Court of Montréal

CONSEIL MEMBERS GENERALLY MEET ONCE EVERY FIVE WEEKS TO EXAMINE COMPLAINTS PRESENTED TO THEM, DECIDE ON HOW TO FOLLOW UP ON THESE COMPLAINTS, AND SET THE CONSEIL'S MAIN PRIORITIES.



MR. HUBERT COUTURE,
Judge of the Court of Québec



MR. DANIEL LAVOIE,
Judge of the Court of Québec



MR. JEAN HERBERT,
Judge of the Municipal Court of Longueuil



MRS. ODETTE JOBIN-LABERGE,
Lawyer



MR. CLAUDE ROCHON,
Lawyer



MR. CYRIAQUE SUMU,
Citizen



MR. ROBERT L. VÉRONNEAU,
Citizen

BECAUSE CONSEIL MEMBERS DO NOT SERVE FULL TIME, THE CONSEIL HAS A PERMANENT SECRETARIAT. FOUR PERMANENT EMPLOYEES AND ONE CASUAL EMPLOYEE ENSURE THAT OPERATIONS RUN SMOOTHLY.

The Secretary of the Conseil, appointed by the Conseil chair for a five-year term, is selected from among lawyers who have been registered on the Québec Bar Roll of Order for at least 10 years and must be a member of the Québec public service. The government determines the secretary's salary, employment benefits, and conditions of employment. The appointee is no longer considered a civil servant and is on leave from the public service without pay for the duration of the term as Secretary of the Conseil de la magistrature. 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 assisted by four employees—three permanent and one casual. These people are public employees appointed and remunerated under the *Public Service Act*.

One of the three permanent employees is a professional who holds the position of Administrative Assistant. In December 2011 she announced she would retire in August 2012. This led to a call for applications being launched to fill the position.

The two other permanent positions at the Secretariat of the Conseil are held by a secretary and an office assistant. The casual position of office assistant was filled in January 2012 after a call for applications was issued at the end of 2011.

The Secretariat is the repository for the Conseil's official documents. In addition, to help fulfill the Conseil's mission, it has been entrusted with a number of responsibilities. It follows up on various administrative issues and coordinates all Conseil activities and day-to-day operations.

In matters of judicial ethics, Secretariat staff handle calls, emails, and letters from citizens, and provide information on how to file a complaint and what information the Conseil members will need. They also guide citizens through the process as needed or direct them to services that may be better positioned to assist them.

The Secretariat also meets certain needs of the judges under its jurisdiction. For example, it oversees professional development, administers budgets, and makes available the legal documentation judges need to perform their duties.

Lastly, the Secretariat supports the activities of the Conseil, whose members must be able to rely on a dynamic, professional, and competent team.

The Secretariat's team also handles major initiatives. The following sections provide a summary of the matters dealt with in 2011–2012.

INFORMATION TECHNOLOGY

The Conseil de la magistrature is always mindful of improving communications, both with citizens and with the judges under its jurisdiction, and in 2011–2012 it stepped up efforts to revamp and update its website. As part of its efforts, it set out to create two extranet sites, one for Conseil members and judges, and the other for use by teachers involved in the English-language training program for members of the judiciary. The extranets are slated to go on line in late 2012.

BUDGET

The Conseil's budget is divided into three major categories:

- Judicial ethics
- Operations (day-to-day)
- Professional development and legal documentation for judges

Let's take a closer look at how this budget is used.

Budget for Judicial Ethics

The *Courts of Justice Act* states that the funds required to carry out the Conseil's mission will come from the government's financial reserve (consolidated revenue fund), which means that its operating budget is not established based on government-allocated sums. This singular characteristic, which guarantees that the Conseil has the full financial independence necessary to properly perform its duties, is due to the fact that the Conseil cannot anticipate how many of the complaints it receives will warrant the creation of an inquiry committee. Decisions concerning activities that involve judicial ethics must not be influenced in any way by budget considerations.

Budget for Conseil Operations

Like the budget for judicial ethics, the Conseil's operating budget comes from Quebec's consolidated revenue fund. In 2011–2012, as in previous years, the Secretariat of the Conseil paid special attention to operating expenses.

Not including the salaries of the employees of the Secretariat of the Conseil, expenses totaled \$472,388.38, broken down as follows:

- \$97,313.15 for judicial ethics
- \$375,075.23 for operations

Budget for Professional Development of 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 the preparation and organization of refresher courses for the approximately 400 judges under the Conseil's jurisdiction.

The budget is determined by government decree. In 2011–2012, the amount was set at \$1,206,720, including \$501,732.99 allocated exclusively for the purchase of legal documentation in paper or electronic form. To learn more, please go to Section 3 of this report.

The following table provides a breakdown of the amounts allocated to each of the courts and tribunals under the Conseil's jurisdiction for professional development in fiscal 2011–2012:

Court of Québec	\$337,899.60
Justices of the peace	\$41,298.84
Human Rights Tribunal	\$4,500.00
Professions Tribunal	\$5,500.00
Municipal courts	\$108,627.28

THE PROFESSIONAL DEVELOPMENT FUNDS ALLOCATED TO EACH COURT OR TRIBUNAL ARE CALCULATED ACCORDING TO THE NUMBER OF JUDGES.

2011 ANNUAL CONFERENCE

EVERY YEAR THE CONSEIL DE LA MAGISTRATURE ORGANIZES A CONFERENCE FOR QUÉBEC'S JUDICIARY. IN NOVEMBER 2011 THE EVENT WAS HELD IN QUÉBEC CITY.

TRUTH AND JUSTICE were the two values guiding the organizers of the 2011 conference, whose theme was “There’s More to Truth than Justice and Truth Alone Doesn’t Always Do Justice.” The quest for truth is the very essence of the judicial system and the function of judges, who strive for this truth by interpreting and analyzing evidence, legislation, or agreements between parties. Their role, in a nutshell, is to distinguish truth from lies, and right from wrong.

Numerous renowned speakers took part in the conference and shared their knowledge and reflections with the judges in attendance, resulting in lively discussions and debate throughout the event.

ORIENTATION FOR NEW JUDGES

Every year the Court of Québec and the municipal courts induct new judges and justices of the peace into their ranks. Between April 1, 2011, and March 31, 2012, the provincial Cabinet appointed 25 new judges and three new justices of the peace to the Court of Québec. In addition, four new municipal judges were inducted—three at the Municipal Court of Montréal and one at the Municipal Court of Shawinigan.

Shortly after being appointed, new judges 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 as well as 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.

EXTERNAL RELATIONS

The *Courts of Justice Act* entrusts the Conseil with a mandate to cooperate with bodies outside Québec that pursue similar goals. Accordingly, in recent years the Conseil has forged and maintained relations with institutions responsible for judicial training and ethics in Canada and France.

As a result of these ties, a guest speaker from France’s Institut des hautes études sur la justice attended the Conseil’s annual conference. The Conseil also hosted a World Bank expert on judicial reforms who explained the challenges judiciaries face, both in terms of ethics and professional development.

In related news, the Secretary of the Conseil is now a member of the Association of Judicial Disciplinary Counsel, a forum for discussion on judicial ethics.

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 to submit an annual professional development plan and file a fiscal year-end report on the activities conducted during the year.

The Conseil also formed a committee to review the information in these documents and propose a new standardized information chart in order to harmonize the presentation of the professional development programs and reports presented to the Conseil for approval and to ensure that all relevant information is provided.

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 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 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 has increased the quantity of available documentation by providing access to well-organized libraries in most regions throughout Québec.

Over the course of the 2011–2012 year, the Conseil spent \$501,732.99 on purchasing legal documentation in paper and electronic format.

TRAINING AND PROFESSIONAL DEVELOPMENT ACTIVITIES FOR JUDGES ORGANIZED BY THE COURTS AND TRIBUNALS

As previously mentioned, the Conseil entrusts the organization of training and professional development activities to the courts and tribunals. After reviewing the programs offered, the Conseil allocates a budget to each court and tribunal on a prorata basis to reflect the number of judges. An additional amount is awarded to judges who concurrently serve at the Court of Québec and specialized tribunals. Thus, each court or specialized 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.

Training budgets must be used primarily for courses, 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.

In addition, a reserve has been created to respond to certain requests or special situations during the fiscal year. The reserve makes it possible to take into account the circumstances of certain courts and tribunals that have fewer judges.

At the end of every year, the Conseil asks the courts and tribunals to compile a report on the professional development activities they have held. It is important to note 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.

OTHER TRAINING AND PROFESSIONAL DEVELOPMENT ACTIVITIES

Specialized Training on Criminal Issues

Every year, the Canadian Association of Provincial Court Judges partners with provincial courts to organize a specialized training session on criminal issues for newly appointed judges.

For 2011-2012, the training session took place from April 3 to 8, 2011. Ten judges from the Court of Québec and two judges from the Municipal Court of Montréal attended.

English Language Courses

Since 2004, the Conseil has been responsible for organizing English language courses provided to judges under its jurisdiction, with the exception of a program organized by the Office of the Commissioner for Federal Judicial Affairs. To this effect, it established a policy, which was updated in November 2011.

Application of the Policy

In November 2011, the federal government awarded the Conseil de la magistrature a \$90,000 grant to deliver an English language training program for judges. In order to be accepted into this program, judges must meet certain criteria:

First of all, they undergo an assessment test to demonstrate that they have intermediate-level English language skills; the goal of the program is to increase mastery of English, and judges ranked as “beginners” are not eligible;

Once they have begun the program, participants must progress in order to reach a higher level within a two-year period. They are regularly tested to assess their level of learning.

It should be pointed out that, since 2011, part-time municipal judges have also been accepted into the English language training programs.

As part of this program, three five-day immersion sessions were organized and presented at Bishop's University, in January, February, and March 2012, and were attended by 18 judges.

At the same time, judges can also take advantage of semi-private lessons. When they register for the program, they agree to receive three hours of instruction per week over a nine-month period.

**Program of the Office of the
Commissioner for Federal Judicial Affairs**

The Office of the Commissioner for Federal Judicial Affairs organizes English language immersion sessions. These training sessions are provided to federally and provincially appointed judges and are held outside of Québec. It is the Office of the Commissioner for Federal Judicial Affairs that determines the number of Québec judges admitted for each of the sessions.

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 10 articles:

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

Article 9 is absent from the Code of Ethics for Part-Time Municipal Judges because it does not apply to judges who perform their duties on a part-time basis.

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 behaviours, 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.

COMPLAINTS HANDLING PROCESS

Anyone may file a complaint with the Conseil de la magistrature against a judge under its jurisdiction. 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 latter's representative may intervene during the inquiry. At this stage, the Conseil de la magistrature may retain the services of a lawyer or an expert to assist the committee in conducting the inquiry. The judge against whom the complaint was filed 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 de la magistrature 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 de la magistrature. 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 de la magistrature sends a reasoned opinion to the Minister of Justice, the judge concerned, and the complainant.

If, on the other hand, the inquiry report determines that the complaint is founded, the Conseil de la magistrature, 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 de la magistrature suspends the judge for a period of 30 days.

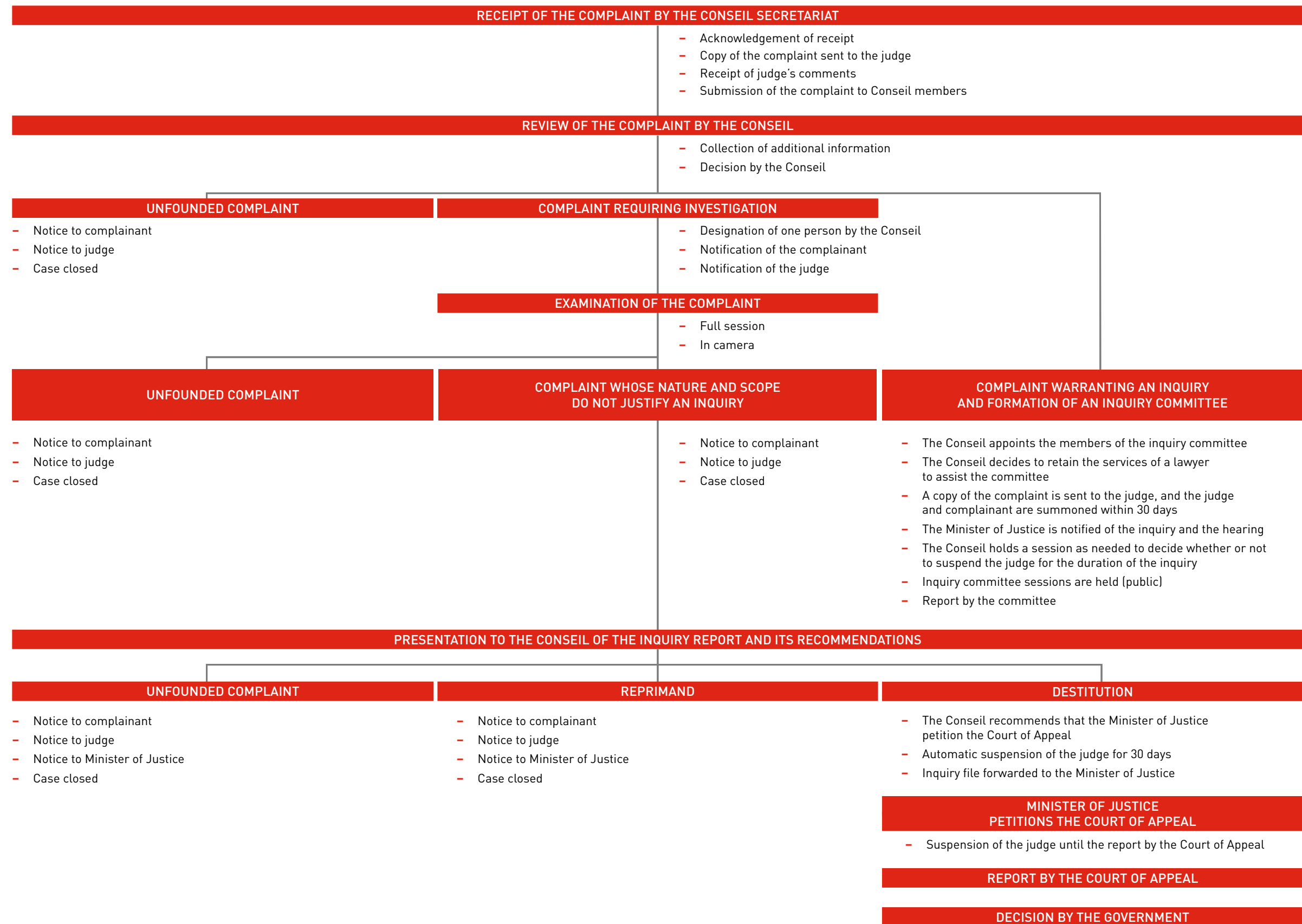
As for the removal of judges, the Conseil de la magistrature only has the power of recommendation. If the Conseil were to conclude as a result of its inquiry that removal was necessary, it would advise the Minister of Justice and Attorney General, who would petition the Court of Appeal. At this point,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

COMPLAINTS HANDLING PROCESS



DECISIONS BY THE CONSEIL

DECISIONS BY THE CONSEIL

This section summarizes all decisions by the Conseil either upon completion of an examination (collection of additional information) or upon completion of an inquiry committee's work. 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.

Examination Stage (collection of additional information)

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 protect privacy.

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

Most of the complaints received by the Conseil de la magistrature concern judges who are assigned to the Small Claims Division, which, it should be noted, is governed by its own set of rules. For example, under the Code of Civil Procedure, judges must provide the parties with summary explanations of the rules of evidence that must be followed and the procedures that they deem appropriate. Because the parties are not represented by counsel, judges are also responsible for conducting oral examinations themselves and for providing all parties with fair and impartial assistance so as to render effective the substantive law and ensure that it is carried out. As a result, judges are expected to intervene extensively in the proceedings, which may explain the higher number of complaints.

2010 CMQC 95 The complainant claimed that he had felt rushed by the judge during the trial concerning his claim for payment for work on a building.

Playback of the audio recording of the proceedings showed that during his testimony, the complainant explained his position at length, broaching certain subjects that, in the judge's opinion, were not relevant to the dispute. In a polite and courteous manner, the judge explained that he had to limit himself to the facts of the dispute so as to avoid wasting time. He made the same comments to the opposing party. The judge's refusal to hear some of the complainant's witnesses was not to prevent him from submitting his evidence, but rather because the judge considered these witnesses to be irrelevant to the case. Playback of the audio recording allowed the Conseil to conclude that the proceedings were conducted in an impartial manner, presided over by a respectful judge. It is the judge's responsibility to manage the case. If he feels the evidence is complete and sufficient, he may decide to deliver his judgment. It is not the Conseil's role to intervene in the exercise of this discretion. The examination of the facts led the Conseil to conclude that the judge did not violate any provisions of the *Judicial Code of Ethics*.

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

2010 CMQC 96 The complainant criticized the judge for his behaviour during the conduct of the trial. He said that he had felt bullied and intimidated by the judge's impatience and undue haste and claimed the judge had prevented him from referring to the summary of the facts that he had prepared.

Playback of the audio recording of the proceedings revealed that the complainant explained his claims to the judge before the other witnesses were heard. He had prepared written arguments, accompanied by various exhibits. When the judge wanted to retire to his chamber to review the case, the complainant insisted on the judge examining his documents, which the judge refused to do. When the hearing resumed, the complainant wanted to submit his documents once again, but the judge told him that he should instead answer the questions he would be asked. After hearing the witnesses, the judge announced that he was reserving judgment on the case. The complainant asked him if he could make certain representations, which the judge allowed. The judge was not impolite to the complainant, the defendant, or the witnesses. The judge has to manage the case and stop the presentation of evidence if he considers it has already been presented or that the evidence is not relevant.

— **The Conseil found that the judge did not violate any provisions of the *Judicial Code of Ethics* and concluded that the complaint was unfounded.**

2010 CMQC 98 The complaint contested the judgment and denounced the judge's behaviour. According to the complainant, the judgment was biased and the judge's behaviour discriminatory. She asked for a new hearing that would be fair and free of racial discrimination.

Playback of the audio recording of the proceedings revealed that the complainant was absent during the hearing, but that her husband represented her. The judge granted the man all the time required to express himself and did not treat him disrespectfully at any time, let alone call him a delinquent, as alleged in the complaint. During the hearing, the judge showed no signs of bias; on the contrary, he was very understanding toward the husband when discussing how much time he would be allowed for payment, since he said he was in debt. This is a far cry from the discriminatory treatment alleged by the complainant. It is clearly impossible to verify whether the judge gave reassuring looks to one party or another, but there is no reason for the Conseil to suspect this, since the defendant did not contest any of the facts. On the contrary, he explained that the couple's restaurant was for sale and that after the sale, they would reimburse the amount claimed.

The complainant was clearly dissatisfied with the decision. However, the Conseil cannot interfere in the assessment of the evidence or act as an appeal body. There was nothing in the alleged facts of the complaint that could be construed as being a breach of the provisions of the *Judicial Code of Ethics*.

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

2011 CMQC 2 The complaint contained allegations of hostility, sarcasm, and condescending behaviour on the part of the judge.

The complainant explained that a replacement electric meter installed by Hydro-Québec had not been reset at zero after installation, resulting in a higher bill than his actual electricity usage. Dissatisfied with the compensation measures proposed by Hydro-Québec, he complained to the Régie de l'énergie, which rendered a decision that did not award him any additional credit. Still dissatisfied, the complainant took his case to the Small Claims Division, where he claimed \$7,000 from Hydro-Québec for his expenses in submitting his claim to the Régie de l'énergie, inconveniences suffered, and exemplary damages. Several aspects of the complaint dealt with matters of judicial discretion and were not taken into consideration in analyzing the complaint, since the role of the Conseil is limited to examining the behaviour and conduct of the judge.

Playback of the audio recording of the proceedings highlighted one element that explained a number of the judge's interventions during the complainant's submission, as well as the complainant's perceptions of the court. At the hearing, the complainant made reference to the Régie de l'énergie hearing. The judge explained to him that "the Régie de l'énergie rendered a decision within its own jurisdiction," and that it was not up to the Court to question it. The complainant nevertheless continued to refer to the Régie's ruling. This marked an essential turning point in the exchanges that followed, and in the complainant's perception of the judge: "The court was stripping me of my means, and I no longer knew where to turn to make my case." In light of the situation, the judge asked the complainant to select his best arguments and clarify his claim. These exchanges took up a lot of time, but the judge remained patient. As for the allegations of hostility, sarcasm, and condescending behaviour, they were completely unfounded. The judge continually addressed the complainant in a measured tone. Playback of the audio recording of the proceedings did not reveal any breach of ethics.

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

2011 CMQC 6 In her complaint, a woman criticized the judge for his conduct during a trial hearing. She had filed an action for damages in the Small Claims Division following an alleged sexual assault against her by the defendant. The complainant was given the opportunity to respond after the defendant's testimony, and she filed various documents. The judge reserved judgment on the case, and rendered a written decision approximately one week later.

The reading of the minutes of the hearing and the playback of the audio recording of the proceedings showed that the two parties were able to speak in turn, and the complainant even had a chance to respond. She had no experience with the rules of a court of justice, and the judge called her to order without shouting, but using a firm tone, which she neither understood nor appreciated. The complainant was unsatisfied with the judgment rendered, but the Conseil cannot act as an appeal body to review a ruling handed down by a judge. The complainant was seeking some form of understanding from the judge with respect to her alleged situation, and even with respect to all women who had been through similar situations in analogous or even very different circumstances. This is not the role of the tribunal, and the judge cannot be criticized for not satisfying her expectations. The examination of the conduct of the hearing, and the reading of the judgment in this case led the Conseil to conclude that the judge did not violate any provisions of the *Judicial Code of Ethics*.

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

2011 CMQC 25 The complainants criticized the judge for his biased and intimidating attitude during the hearing and also claimed that certain passages in the written judgment were prejudicial to them. They had filed a \$7,000 claim for latent defects after purchasing a property. For his part, the defendant had filed a \$3,000 counterclaim for damages, alleging that the plaintiffs had displayed an abusive attitude throughout the purchase process.

Playback of the audio recording of the proceedings showed that the complainants were given all the necessary leeway to present their claims, without the judge intervening in an impolite, humiliating, or biased way. The judge analyzed their claim and subsequently concluded that it was unfounded. In his decision, he concluded that the complainants had acted in bad faith and engaged in vexatious, almost quarrelsome conduct. These statements were made in the decision by the judge assessing the elements of evidence that had been presented to him. While the words used may appear harsh, they reflect the judge's assessment of the facts and evidence, an area in which he has considerable leeway and in which the Conseil is not allowed to interfere. Requiring the judge to use a particular choice of words would go against the principle of independence of the judiciary.

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

2011 CMQC 27 The complaint criticized the judge for having refused her request to read the history of events to him. The judge is alleged to have used an impatient tone in addressing her.

Playback of the audio recording of the proceedings revealed that the criticisms of the judge were unfounded. The latter always addressed the complainant in a calm and serene manner. The judge did not violate any provisions of the *Judicial Code of Ethics* in his conduct of the proceedings.

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

2011 CMQC 48 The complaint criticized the judge for his lack of impartiality in a trial pertaining to a claim for damages for latent defects. She also criticized him for his deference toward the defendant, who is a lawyer.

Playback of the audio recording of the proceedings revealed that the judge gave the complainant ample leeway to present her arguments, explain the documents filed, ask the witnesses questions, and reply to their arguments. There was no reason to find that the judge favoured one party over the other. Throughout the hearing, the judge demonstrated courtesy, integrity, and objectivity. As for showing undue deference to the opposing party, it is undeniable that the judge knew, or learned during the hearing, that the defendant was a lawyer, since he called him by his title on several occasions. However, at no time did the judge appear to favour the arguments of the defence based on the defendant's status. Nor did he invite the defendant to join the Court of Québec as the complainant alleged, or make remarks on the quality of his evidence. Nonetheless, particularly in the Small Claims Division, the judge should have abstained from any comment about the defendant's profession. While his final comment had no bearing on the administration of justice, taken in the overall context, it did not allow us to conclude that he had acted in an indulgent or partial manner.

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

2011 CMQC 58 The complainant alleged that the judge had not shown her any empathy and that his numerous interruptions had rattled her and left her feeling trapped. The judge is alleged to have copied his judgment on the amended letter of the opposing party, allegedly confirming his bias.

Playback of the audio recording of the proceedings revealed that the complainant had spoken during two thirds of the hearing, i.e., approximately 35 minutes. From the start, the judge invited her to explain the purpose of her claims. During her testimony, the judge interrupted to emphasize the importance of providing all the details relevant to her evidence, then let her express herself freely. Playback revealed that the complainant was nervous and spoke in broken sentences, without referring to specific documents. Realizing she was having difficulties testifying, she suggested to the judge that he ask her questions, which the judge refused to do. He listened to her without showing any impatience or lack of understanding, and allowed her to speak without limitation or undue interruption. No criticism was addressed to the complainant regarding the form of her submission; in fact, she was assisted by the judge. Clearly, the complainant was dissatisfied with the decision rendered by the judge. However, the Conseil cannot interfere in the assessment of the evidence or act as an appeal body to review the rulings handed down by a judge.

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

2011 CMQC 69 The complaint criticized the judge for reversing the ruling delivered in the same case, for stating that he did not intend to base his ruling on jurisprudence, or the authority of a final judgment, and for displaying insulting, disrespectful, and insolent conduct.

Playback of the audio recording of the proceedings did not allow us to conclude that the allegations contained in the complaint with respect to the judge's conduct were founded. He was polite and courteous during the entire hearing. As for the allegations regarding his intention not to base his judgment either on jurisprudence or the authority of a final judgment, they were without basis. The judge clearly explained that in small claims matters, the law stipulates that there is no jurisprudence. The Conseil found that the judge did not violate any provisions of the *Judicial Code of Ethics*.

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

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

2010 CMQC 99 In a letter addressed to the Conseil, a citizen filed two complaints against the judge.

In his first complaint, the complainant criticized the judge for having presided over a trial involving him ten years earlier and during which they had exchanged sharp words. The complainant argued that the judge should have recused himself. Just because an earlier court appearance involving a judge and an accused takes place—whether words are exchanged or not—does not mean that a judge should recuse himself. He can hear an accused more than once at different trials given his jurisdiction, and in the interests of the sound administration of justice. Furthermore, no motion for recusal was submitted.

In his second complaint, the complainant interpreted a remark by the judge as indicating that the judge had already made up his mind against him and that he didn't stand a chance in court.

Repeated and attentive playback of the audio recording did not reveal any comments the judge could be faulted for or that demonstrated any bias on his part.

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

2011 CMQC 3 The complainant claimed to have been humiliated by the degrading names used by the judge to describe him, and also said that the judge adopted a condescending and accusatory attitude.

In the playback of the audio recording, the judge spoke directly to the complainant from the outset, inviting him politely to come forward. The complainant's motion to retract the judgment against him was contested by the prosecution. The judge questioned the complainant about the reasons for his absence from the trial where he had been found guilty by default, in accordance with the *Code of Penal Procedure*. He then told the complainant that his motion would be rejected unless he had something else to add. The complainant attempted to submit his defence against the accusation for which he had been found guilty by default. At this point an incident occurred. The complainant's cell phone rang several times. Without getting angry or raising his voice, the judge took the opportunity to suggest that all those present make sure their cell phones were turned off. He then politely addressed the complainant to explain the legal situation and his analysis. He emphasized that it was not the loss of the trial notice that was problematic, but the absence of effort to find out the hearing date after the document was lost, which was "not very responsible" and did not constitute a "serious reason." He repeated that the motion to retract was rejected and the original judgment upheld, and suggested that the complainant pay the amounts due in order to avoid any further problems. Then the judge thanked the complainant and wished him a good day. If the complainant felt humiliated, it was in no way attributable to the words or expressions used by the judge. All of the exchanges that took place and the tone used demonstrate that the judge was respectful toward the complainant. While the playback of the audio recording does not reveal the judge's "look," the serene atmosphere that characterizes the recording is incompatible with the "condescending and accusatory look" described by the complainant.

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

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

2011 CMQC 5 The complainant criticized a judge in the Youth Division for having used offensive and insulting words about her.

During the hearing, the judge allegedly referred to the immaturity of the complainant and described her foster family as being her parents. In an amendment made to his written decision, the judge corrected the ambiguity resulting from the use of the expression “significant connections with her parents” in his judgment issued during the hearing. As for the comments about the immaturity of the complainant, the complainant personally described herself as a person with a borderline personality disorder, along with anxiety disorders caused by legal battles with the Child Protection Branch over many years. These words must be reviewed in light of the lengthy court history that has brought daughter and mother before the same tribunal on some ten occasions.

- **Under the circumstances, given that the Conseil could not conclude that there was a breach of ethics, it found the complaint to be unfounded.**

COMPLAINTS AGAINST JUDGES ASSIGNED TO THE MUNICIPAL COURT

2010 CMQC 94 A lawyer filed a complaint criticizing a judge for failing in his duty of impartiality. The complaint arose after the judge declared that he was reserving judgment on a case, then rendered the judgment the very same evening in the presence of the court clerk, the lawyer for the prosecution, and the police officer who had testified, after the complainant and his client had left the courtroom. The complainant also criticized the judge for having made inappropriate remarks concerning the cross-examination.

Playback of the audio recording of the proceedings found no indication that the judge had made inappropriate remarks. Furthermore, the analysis made by the judge in the submission of his oral reasons showed no bias or wrongful conduct on his part. It is more the rendering of the judgment the very same evening in the absence of the complainant and his client that raises the issue of a breach of ethics. The question that arises under the circumstances is whether the judge displayed bias toward the complainant when he announced he did not know when he would render the judgment, only to do so the very same evening. It is not for the Conseil to determine whether the appropriateness of this approach can be called into question, but rather for a court of appeal. The judge’s behaviour does not seem to have been motivated by ill will toward the complainant. The examination of the facts led the Conseil to conclude that no provisions of the *Code of Ethics for Part-Time Municipal Judges of Québec* were violated.

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

2011 CMQC 39 The complainant criticized the judge for behaving strangely towards him. The judge is alleged to have shouted, gestured, and asked the guards to watch the complainant and to have forbidden him from asking questions, leading the complainant to infer that the judge had been paid. The complainant was contesting a statement of offence received following a collision at an intersection. The statement alleges that he failed to yield the right-of-way. The two drivers had a mandatory stop, and the collision occurred in the middle of the intersection.

Playback of the audio recording of the proceedings revealed that the other driver involved had laid full blame for the collision on the complainant, angering the latter. The judge intervened to ask the complainant not to respond during the testimony, out of politeness. The police officer who wrote the ticket, drawing on his own observations and the initial accounts collected at the scene of the accident, backed the other driver's version of events. The judge heard the parties in a respectful manner, conducting the trial skillfully, but firmly. The complainant, who vigorously contested his liability, was emotional and had difficulty expressing himself. The judge reserved judgment on the case, explaining his decision in terms the complainant would understand. A reference to God during the complainant's testimony prompted laughter, but the context and the manner in which the judge responded could not be construed as a breach of ethics.

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

2011 CMQC 45 The complainant, having been notified of the Conseil's decision to proceed with examination of the complaint, informed the Conseil that she did not intend to proceed further. As indicated previously, however, it is up to the Conseil to decide how a case will be dealt with, even if the initial complaint is withdrawn. In this case, it decided to proceed with the examination of the complaint. The complainant had criticized the judge for his general attitude, both in terms of his behaviour and general conduct of the hearing. She had accused the judge of not listening to her and of interrupting her, prohibiting her from reading her notes, and preventing her from properly defending herself.

Playback of the audio recording of the proceedings indicated that the judge had shown signs of impatience, that he had made some rather surprising comments, and that he had lacked courtesy.

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

2011 CMQC 53 The complainant claimed that the judge had been unpleasant with him, had laughed at his allegations during his testimony, and had displayed an attitude that pressured him to conclude the case. The judge was said to have declared that the alleged facts were impossible, despite the photos produced by the complainant and his sworn testimony. The complainant claimed to have been found guilty of an offence that he did not commit, and asked for justice to be done, with compensation.

Playback of the audio recording of the proceedings allowed us to conclude that the allegations contained in the citizen's complaint about the judge's attitude were unfounded. As for the complainant's claims that the judge ruled on his credibility and did not properly examine the evidence, these are matters for a possible appeal, and are outside the Conseil's jurisdiction. The same goes for the complainant's claim that he was wrongfully convicted and deserves compensation. Clearly, the complainant was dissatisfied with the decision that was handed down by the judge. However, the Conseil cannot interfere in the assessment of the evidence or act as an appeal body to review the decisions handed down by a judge. The Conseil de la magistrature concluded that the judge did not violate any provisions of the *Code of Ethics for Part-time Municipal Judges*.

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

2011 CMQC 64 In a complaint that he addressed to the Conseil de la magistrature, a citizen stated that the judge and the lawyer accused him of being a liar during his testimony.

Repeated playback of the audio recording of the proceedings revealed that at no time was the complainant accused of lying by anyone whatsoever. During the complainant's deposition, the judge assisted him, and made sure that his testimony was complete and that he was satisfied with it. Before rendering a judgment, the judge made sure that the complainant and his lawyer had nothing further to add. The complainant did attempt to interrupt the judge while he was rendering his judgment, which the judge did not allow. This is an issue of court management, which is the exclusive prerogative of the judge. The judge's tone was firm, but at all times he remained serene, polite, and courteous.

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

2011 CMQC 71 The complainant primarily questioned the duty of dignity, courtesy and impartiality of the judge who had presided over his trial for disorderly conduct in a public place.

Playback of the audio recording of the proceedings revealed that the judge remained calm, courteous and impartial at all times, despite numerous difficulties caused by the complainant and the challenges of managing the case. In dealing with the complainant, who was defending himself alone and grew quite vehement on several occasions, the judge took the time to explain the reasons justifying the rejection of his motions. The examination of the facts led the Conseil to conclude that no provisions of the *Code of Ethics for Part-Time Municipal Judges* were violated.

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

Inquiry Stage (formation of an inquiry Committee)

After examining a 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-person committee chosen from among its members. It may also choose certain committee members from among former Conseil members. However, the inquiry committee must include at least three current members of the Conseil. The committee summons the judge and the complainant(s) in question. The Minister of Justice is notified that this inquiry is being conducted. The inquiry committee hears the parties, their lawyers, and their respective witnesses in public hearings.

IN 2011-2012, THREE (3) INQUIRY COMMITTEES WERE FORMED AFTER FIVE (5) COMPLAINTS WERE FILED WITH THE CONSEIL. IN ADDITION, AN INQUIRY COMMITTEE FORMED IN 2004 COMPLETED HEARINGS IN DECEMBER 2011, BUT HAD NOT SUBMITTED ITS REPORT TO THE CONSEIL AS AT MARCH 31, 2012.

PROCESSING OF COMPLAINTS IN 2011-2012

THIS SECTION DESCRIBES, USING TABLES AND FIGURES, THE ACTIONS TAKEN BY THE CONSEIL DE LA MAGISTRATURE IN MATTERS OF JUDICIAL ETHICS.

SUMMARY

Between April 1, 2011 and March 31, 2012, the Conseil de la magistrature received 90 complaints. A further 9 complaints, received in 2010–2011, were not processed and resolved until 2011–2012. Upon examination, none of these 9 complaints were deemed to be founded.

TABLE 1: HOW COMPLAINTS WERE HANDLED

The following table breaks down results from the processing of the complaints received in 2011–2012. As of March 31, 2012, the examination of ten of these complaints was still under way.

COMPLAINTS DEEMED UNFOUNDED UPON RECEIPT	COMPLAINTS DEEMED UNFOUNDED AFTER EXAMINATION	COMPLAINTS NOT WARRANTING INQUIRY (after examination)	COMPLAINTS INVESTIGATED	COMPLAINTS BEING PROCESSED AS OF MARCH 31, 2011	TOTAL
61	13	1	5	10	90

Complaints referred to the Conseil this year came from 94 complainants (27 women and 67 men). Only 6 were not parties to the dispute.

Furthermore, 70 of the 94 complainants (74.5%) did not have legal representation before the court.

TABLE 2: COMPLAINTS OVER THE PAST THREE YEARS

	2009-2010	2010-2011	2011-2012
NUMBER OF COMPLAINTS RECEIVED	102	103	90
NUMBER OF COMPLAINTS PROCESSED	112	116	99

TABLE 3: COURTS AND TRIBUNALS SUBJECT TO COMPLAINT

COURT OR TRIBUNAL	COMPLAINTS RECEIVED	COMPLAINTS DEEMED UNFOUNDED	COMPLAINTS DEEMED UNFOUNDED AFTER EXAMINATION	COMPLAINTS NOT WARRANTING INQUIRY (after examination)	COMPLAINTS INVESTIGATED	COMPLAINTS UNDER EXAMINATION
CIVIL DIVISION (excluding Small Claims Division)	9	7				2
SMALL CLAIMS DIVISION	25	14	7		1	3
CRIMINAL AND PENAL DIVISION	14	14				
YOUTH DIVISION	13	11	1		1	
PRESIDING JUSTICES OF THE PEACE	3	2	1			
MUNICIPAL COURTS	20	10	4	1		5
PROFESSIONS TRIBUNAL	1	1				
OTHER (events occurring outside of judiciary functions)	5	2			3	
TOTAL	90	61	13	1	5	10

FIGURE 1

This figure displays complaint jurisdictions:

Human Rights Tribunal	0%
■ Professions Tribunal	1.1%
■ Presiding justices of the peace	3.3%
■ Other	5.6%
■ Civil Division (excluding Small Claims Division)	10%
■ Youth Division	14.4%
■ Criminal and Penal Division	15.6%
■ Municipal courts	22.2%
■ Small Claims Division	27.8%



TABLE 4: ORIGIN OF COMPLAINTS

Let's take a closer look at where the 94 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 region.

REGION OF ORIGIN	NUMBER OF COMPLAINANTS
ABITIBI-TÉMISCAMINGUE	1
BAS-SAINT-LAURENT	2
SAGUENAY - LAC-SAINT-JEAN	3
CAPITALE NATIONALE	6
MAURICIE	3
ESTRIE	6
MONTREAL	30
OUTAOUAIS	5
CHAUDIÈRE-APPALACHES	4
LAVAL	5
LANAUDIÈRE	4
LAURENTIDES	2
MONTÉRÉGIE	11
GASPÉSIE - ÎLES-DE-LA-MADELEINE	1
CENTRE-DU-QUÉBEC	3
CÔTE-NORD	4
OUTSIDE OF QUÉBEC	4
TOTAL	94

TABLE 5: SUMMARY OF COMPLAINTS

The following table provides a summary of the decisions reached by the Conseil de la magistrature since it was created in 1978.

		NUMBER OF COMPLAINANTS
NUMBER OF COMPLAINTS RECEIVED		1,909
COMPLAINTS DEEMED UNFOUNDED UPON RECEIPT		1,182
RESULTS AFTER EXAMINATION	COMPLAINTS DEEMED UNFOUNDED AFTER EXAMINATION	543
	OTHER COMPLAINTS NOT WARRANTING INQUIRY	46
	OTHER	27
	COMPLAINTS UNDER EXAMINATION	10
	COMPLAINTS INVESTIGATED	101
RESULTS AFTER INQUIRY	COMPLAINTS DEEMED UNFOUNDED AFTER INQUIRY	35
	COMPLAINTS RESULTING IN A REPRIMAND	45
	COMPLAINTS RESULTING IN A RECOMMENDATION TO REMOVE A JUDGE	4
	OTHER	11
	COMPLAINTS UNDER INQUIRY	6

These figures do not include complaints currently being processed, but in general, we can see that:

- 94.7% of complaints were deemed unfounded upon initial review
- 51.6% of complaints resulted in sanctions after inquiry
- With both stages combined,
 - 97.4% of complaints were deemed unfounded, did not warrant inquiry, or became moot
 - 2.6% of complaints resulted in sanctions
- 35% of complaints required the collection of additional information
- 62.2% of complaints were ruled upon during the first meeting of the Conseil (i.e., at the examination stage)

THE CONSEIL
DE LA MAGISTRATURE
HAS A MISSION TO ENSURE
COMPLIANCE WITH THE
JUDICIAL CODE OF ETHICS.
SINCE ITS CREATION IN 1978,
THE CONSEIL HAS BEEN
CALLED ON TO EXAMINE
JUST OVER 1,900 COMPLAINTS
DEALING WITH THE BEHAVIOR
OF JUDGES. THE CONSEIL
IS NOT AN APPEALS COURT SO
IT CANNOT CHANGE RULINGS.