

PUBLIC CONSULTATION 2010
on the Montréal Charter of
Rights and Responsibilities



Please note that this English translation takes into account instructions received from the *Office québécois de la langue française* which require that titles and names of boroughs, departments, para-municipal agencies and City-controlled corporations be written in French, even in the English version.

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INTRODUCTION

The *Montréal Charter of Rights and Responsibilities* (hereinafter the "Charter" or the "MCRR") came into effect on January 1, 2006. It is the result of a long thinking process that followed the 2002 *Montréal Summit*. This groundbreaking document has no known equivalent: UNESCO and UN-HABITAT have expressed their interest in this *Charter* which they consider as a model.

From a legal point of view, this *Charter* is a municipal By-Law: it was adopted unanimously by City Council and binds all of the City's elected officials and managers, municipal and para-municipal employees and those working for a City-controlled corporation or for a company performing duties on behalf of Ville de Montréal.

The *Charter* contains several undertakings divided in seven (7) chapters, namely:

- Democracy
- Economic and Social Life
- Cultural Life
- Recreation, Physical Activities and Sports
- Environment and Sustainable Development
- Security
- Municipal Services

In 2009, the Québec government amended the *Charter of Ville de Montréal* to confirm the obligation for the City to have a charter of rights and responsibilities "to ensure good government and the general welfare of the people in the city's territory."

The new article 86.1 of the *Charter of Ville de Montréal* also confirms that the MCRR "may not ... serve as the basis for a judicial or jurisdictional remedy nor may it be cited in judicial or jurisdictional proceedings." To ensure compliance with the MCRR, therefore, the **only recourse** available is with the **OMBUDSMAN DE MONTRÉAL**.

Article 42 of the MCRR states that the City must conduct periodic public consultations "aimed at assessing the effectiveness, the relevance and the coverage of the rights and responsibilities defined in this Charter, as well as in the monitoring, investigative and complaint procedures that it provides". It is in the context of the first such public consultation that we have prepared the present report in which we summarize the impact this *Charter* has had on our activities since 2006, with regard to files we investigated¹ in relation with a commitment contained in the MCRR. We also included some more detailed examples of *Charter* cases.

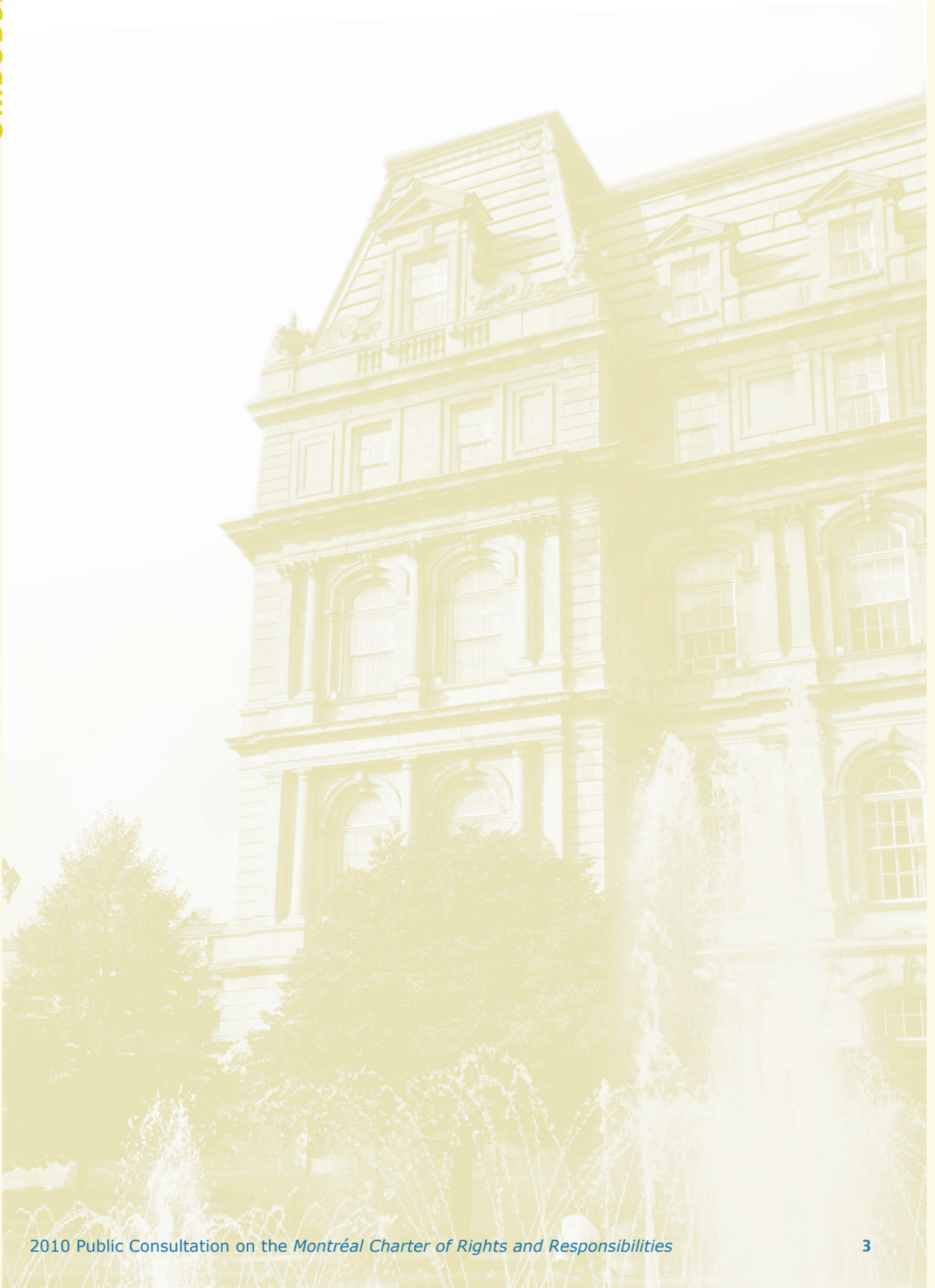
Covering the **period from January 1, 2006 to July 31, 2010**, our data is presented mainly in tables and charts compiled from a variety of angles such as: number of *Charter* investigations, overall and by entity; subjects and results of said investigations; processing period; complainant's profile; etc.

It should be noted, however, that this report refers only to the *Charter* experience of the **OMBUDSMAN DE MONTRÉAL** office. Being a **last resort**, we cannot comment on the impact the *Charter* had on municipal operations.

¹ We saw little use in including files that were not investigated thoroughly.

We will also submit some preliminary comments and *Food for thoughts* on our Charter experience: the Ombudsman reserves the right to provide additional remarks following the representations that will be made during this public consultation process.

Over and above this report, interested parties may visit the Web site of the **OMBUDSMAN DE MONTRÉAL** to access more information on our activities including our Annual Reports from 2006 to 2009.



1. IMPACT OF THE CHARTER ON THE MANDATE OF THE OMBUDSMAN DE MONTRÉAL

Most cases we handled under the *Charter* could have been handled by our office under our general mandate as defined in the *By-Law concerning the Ombudsman*.

The advent of the *Charter*, however, gave **more weight** to some of our interventions: we can now support our interventions on clear commitments confirmed in a municipal By-Law, and not only in terms of what appears more reasonable, more just or more equitable.

Suggestions or **RECOMMENDATIONS** that we previously submitted as desirable solutions to a problem may now be difficult to circumvent, given the commitments contained in the said *Charter*.

The *Charter* has also expanded the jurisdiction of the **OMBUDSMAN DE MONTRÉAL** who can now investigate decisions made by a Borough Council, the Executive Committee or the City Council with regard to complaints based primarily on the *Charter*. Until December 31, 2005, this was never possible.

Finally, in the appreciation of all the complaints we handle, our office must take into account the commitments contained in the *Charter* and interpret all municipal By-Laws in a manner consistent with its provisions.

2. PROMOTING THE CHARTER

Although this role falls mainly with Ville de Montréal, the Ombudsman has made considerable effort to publicize and demystify the *Charter* with City managers and elected officials as well as with the general public and community organizations working in Montréal. Here are some examples:

Internal promotion

- Visiting boroughs to present and discuss the *Charter* with managers and/or elected officials: emphasize was made on the need for everyone to understand its content and to respect the undertakings therein.
- Visiting Central Departments with the same objective, i.e. to increase awareness among managers of the commitments contained in the *Charter* and on their possible impact on their decision making process and to explain the Ombudsman's jurisdiction.
- Presentations to *Charter respondents*, i.e. employees assigned by their borough or department to coordinate dissemination of the *Charter* within their group and to intervene, as needed, to ensure the proper handling of citizens' demands, taking these new commitments into account.
- Following the 2009 municipal election, training by the Ombudsman to newly elected officials on the role and mandate of the **OMBUDSMAN DE MONTRÉAL** and on the *Charter*: these sessions were part of the general Training Program established by the Direction du greffe.
- The Ombudsman takes every opportunity to encourage managers and elected officials to develop a **Charter reflex**, before making a decision: i.e. to ask themselves whether the issue at stake relates to a *Charter* commitment and if so, to make sure their decision respects that commitment.

Promotion within the population of Montréal

- Since the adoption of the *Charter*, the Ombudsman has met with numerous groups and community organizations to explain the rights and responsibilities arising from the *MCCR* and the recourses offered to citizens to ensure compliance.
- Special focus towards ethno-cultural groups which are often less aware of the existence of the *Charter* and of the complaint recourse made available to them.
- Workshops and conferences on Public Participation, often organized by Montréal universities.
- Presentations to Political Science or Public Administration students to explain the importance of the *Charter* as a **tool of Participative Democracy**.
- Developing a program that teachers use to introduce to their 5th or 6th grade students the notions of citizenship, human rights and ombudsman, as well as alternative modes for conflict resolution, such as mediation. The *Charter* is an integral part of the presentations and homework performed by these students.
- With the help of *Centre d'histoire de Montréal*, developing a special program for new immigrants arriving in Montréal. As part of their Francization program, special emphasis is made to increase their understanding of their new surroundings, including Ville de Montréal. These new Montrealers have the opportunity to visit our offices and meet with the Ombudsman who speaks to them about Ville de Montréal and of its commitments towards its citizens. She explains the *Charter* in simple terms and its innovative concept of "rights and responsibilities". She informs them on the role of the **OMBUDSMAN DE MONTRÉAL** and the ease of using her services, at no cost.

Promoting the *Charter* outside Montréal

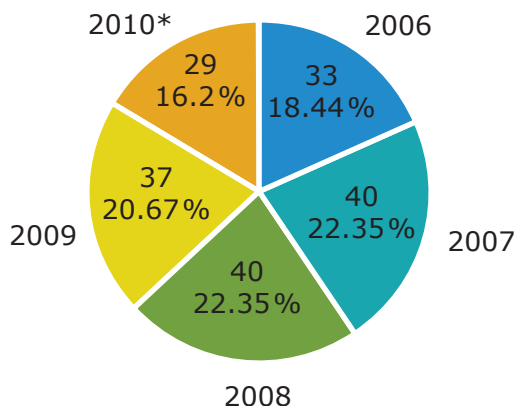
- The *Charter* generates great interest in numerous government organizations at the international level. Ms. Savard frequently receives delegations from other countries interested in learning more about the *Charter* and the role of the Ombudsman.
- As a result, we have explained the *Charter* and our mandate, and participated in very interesting discussions with delegates from Belgium, Brazil, Russia, Italy, France, China, Sweden and Denmark. Ms. Savard also hosted delegations from several U.S. cities.

3. TABLES – CHARTER INVESTIGATIONS



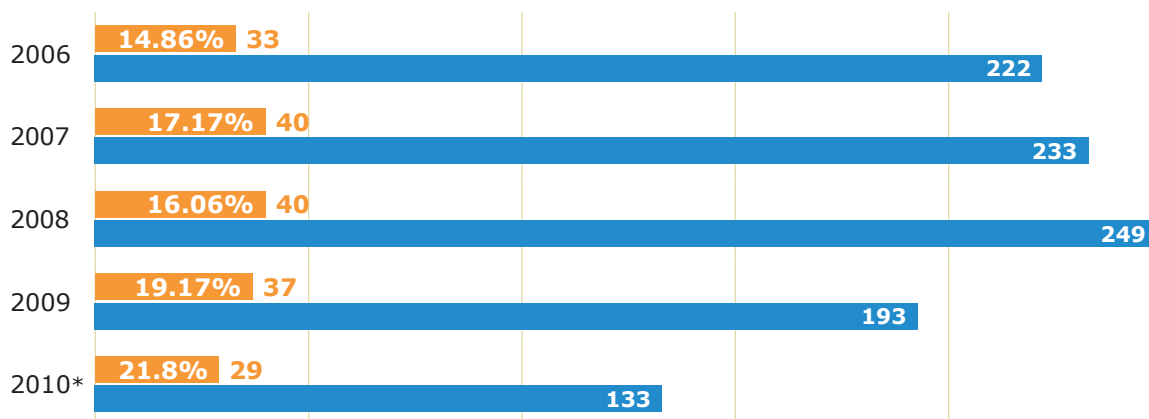
TABLE 1

**A. Number of *Charter* investigations, per year
January 1, 2006 to July 31, 2010**



| | 2006 | 2007 | 2008 | 2009 | 2010* | TOTAL |
|--|---------|---------|---------|---------|--------|-------|
| Number of <i>Charter</i> investigations per year | 33 | 40 | 40 | 37 | 29 | 179 |
| % | 18.44 % | 22.35 % | 22.35 % | 20.67 % | 16.2 % | 100 % |

**B. *Charter* investigations vs. total investigations, per year
January 1, 2006 to July 31, 2010**

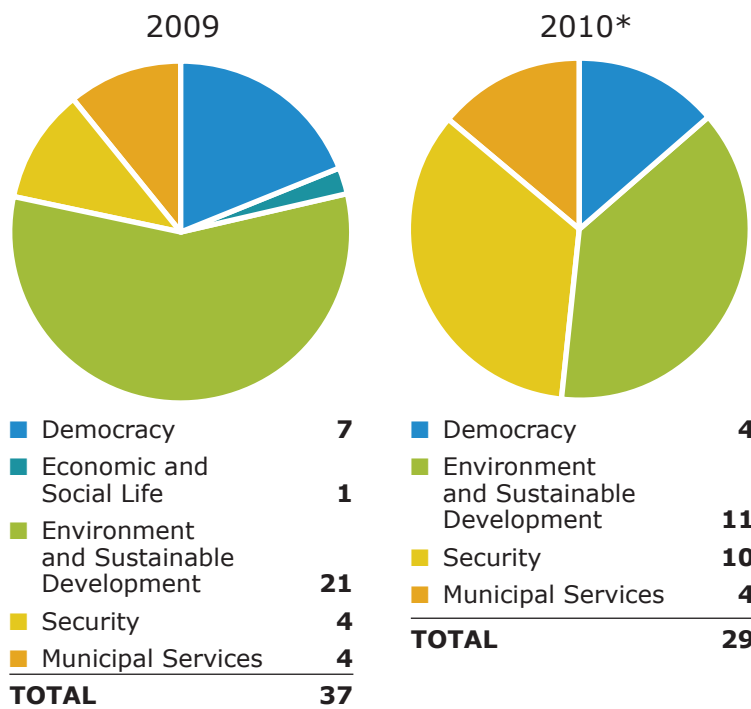
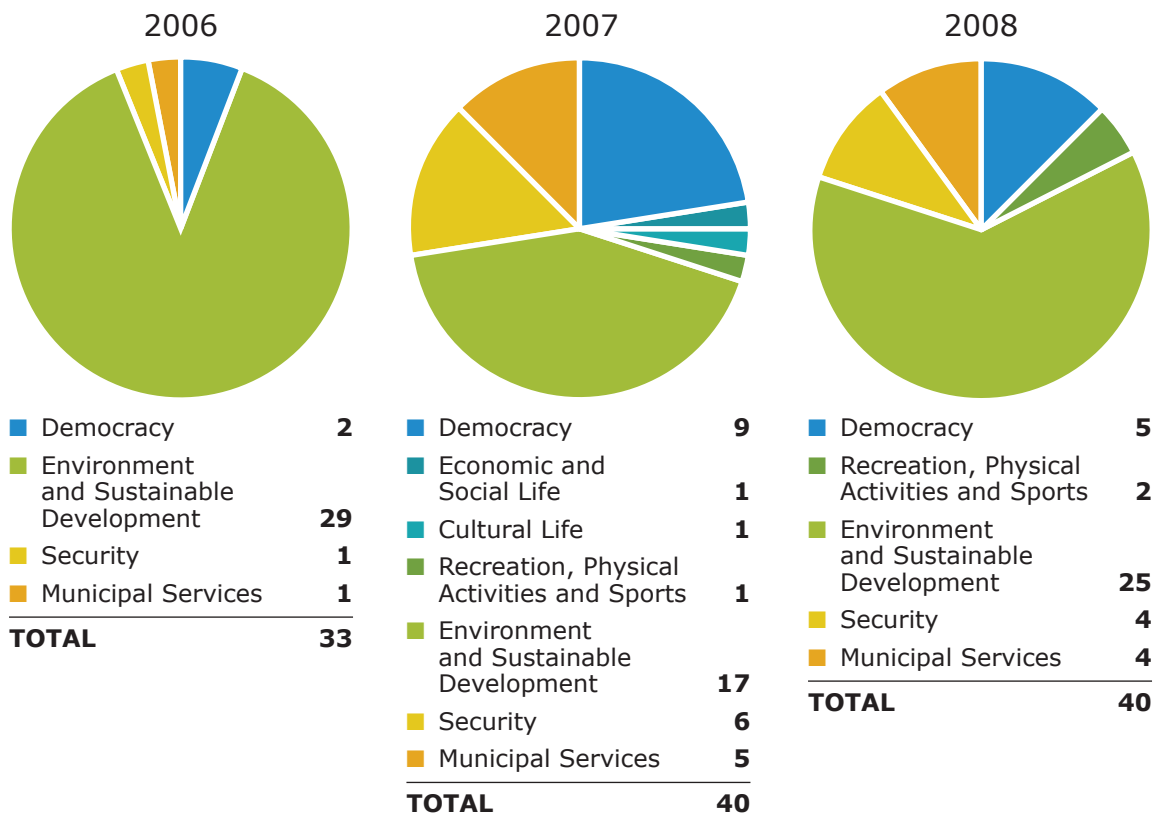


| | 2006 | 2007 | 2008 | 2009 | 2010* | TOTAL |
|--|---------|---------|---------|---------|--------|---------|
| Number of <i>Charter</i> investigations per year | 33 | 40 | 40 | 37 | 29 | 179 |
| Total number per year | 222 | 233 | 249 | 193 | 133 | 1030 |
| % | 14.86 % | 17.17 % | 16.06 % | 19.17 % | 21.8 % | 17.38 % |

* 2010 data covers the period between January 1 and July 31.

TABLE 2

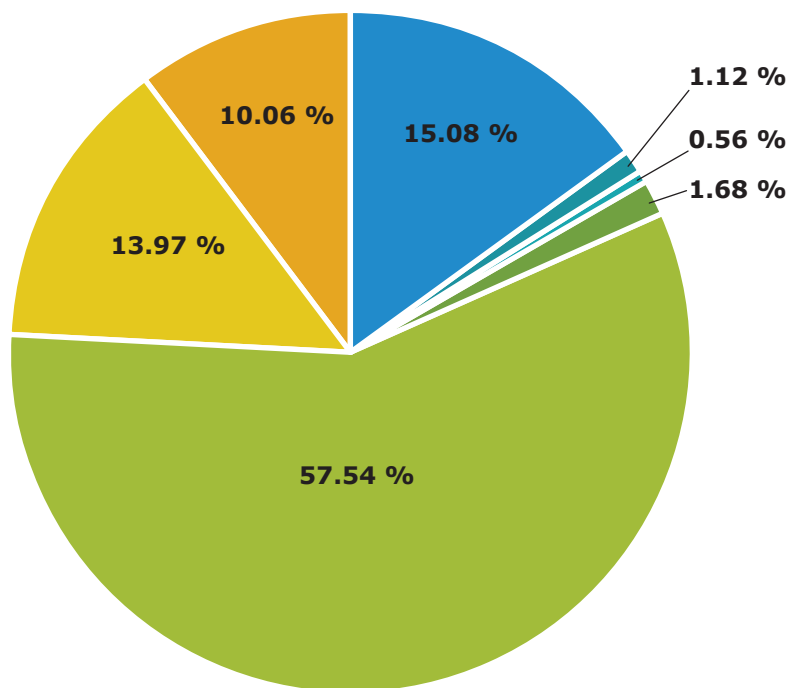
A. Number of Charter investigations, by Chapter, by year



* 2010 data covers the period between January 1 and July 31.

TABLE 2 (continued)

B. Number of *Charter* investigations, by Chapter
Cumulative - January 1, 2006 to July 31, 2010



| | |
|--|------------|
| ■ Democracy | 27 |
| ■ Economic and Social Life | 2 |
| ■ Cultural Life | 1 |
| ■ Recreation, Physical Activities and Sports | 3 |
| ■ Environment and Sustainable Development | 103 |
| ■ Security | 25 |
| ■ Municipal Services | 18 |
| TOTAL | 179 |

TABLE 3

**Number of *Charter* investigations, by Chapter, by subject
January 1, 2006 to July 31, 2010**

| CHAPTER | SUBJECT | NUMBER OF INVESTIGATIONS |
|--|--|--------------------------|
| 1. Democracy | Applying By-Laws | 1 |
| | Communications | 4 |
| | Conflict of interests | 1 |
| | Decision of a Borough Council | 2 |
| | Municipal Court (functioning) | 1 |
| | Public participation | 13 |
| | Subsidies other than housing | 2 |
| | Zoning / Urban planning / Exemption | 3 |
| SUB-TOTAL | | 27 |
| 2. Economic and Social Life | Aqueduct / Sewer | 1 |
| | Social housing / HLM / Housing subsidies | 1 |
| SUB-TOTAL | | 2 |
| 3. Cultural Life | Library | 1 |
| | SUB-TOTAL | |
| 4. Recreation, Physical Activities and Sports | Sports and Leisure | 3 |
| | SUB-TOTAL | |
| 5. Environment and Sustainable Development | Applying By-Laws | 1 |
| | Environment / Sustainable development | 1 |
| | Garbage / Recycling | 2 |
| | Noise | 47 |
| | Nuisances | 22 |
| | Parks and Green spaces | 6 |
| | Permit | 1 |
| | Snow removal | 2 |
| | Taxi | 1 |
| | Traffic | 10 |
| | Tree | 8 |
| | Zoning / Urban planning / Exemption | 2 |
| SUB-TOTAL | | 103 |

TABLE 3 (continued)
Number of *Charter* investigations, by Chapter, by subject
January 1, 2006 to July 31, 2010

| CHAPTER | SUBJECT | NUMBER OF INVESTIGATIONS |
|------------------------------|---------------------------|--------------------------|
| 6. Security | Animal | 1 |
| | Applying By-Laws | 1 |
| | Conduct of an employee | 1 |
| | Cycling path | 3 |
| | Fence | 1 |
| | Fire / Public safety | 1 |
| | Handicapped person | 3 |
| | Parking / Parking permits | 4 |
| | Parks and Green spaces | 1 |
| | Snow removal | 1 |
| | Sports and Leisure | 2 |
| | Tree | 2 |
| | Traffic | 4 |
| | SUB-TOTAL | |
| 7. Municipal Services | Aqueduct / Sewer | 2 |
| | Communications | 1 |
| | Financial compensation | 1 |
| | Handicapped person | 5 |
| | Parking / Parking permits | 1 |
| | Sports and Leisure | 1 |
| | Universal Access | 6 |
| | Winter temporary shelter | 1 |
| | SUB-TOTAL | |
| GRAND TOTAL | | 179 |

TABLE 4
Results of *Charter* investigations, by subject
January 1, 2006 to July 31, 2010

| SUBJECT (CHAPTER OF <i>CHARTER</i>) | NUMBER OF INVESTIGATIONS | RESULT | SUB-RESULT |
|---|-----------------------------|----------------------------------|------------|
| Animal (Security) | 1 | Ill-founded | |
| Applying By-Laws (Democracy; Environment and Sustainable Development; Security) | 2 | Resolved by mediation | |
| | 1 | Ill-founded | |
| Aqueduct / Sewer (Economic and Social Life; Municipal Services) | 3 | Ill-founded | |
| Communications (Democracy; Municipal Services) | 4 | Resolved by mediation | |
| | 1 | Still pending | |
| Conduct of an employee (Security) | 1 | Ill-founded | |
| Conflict of interests (Democracy) | 1 | Ill-founded | |
| Cycling path (Security) | 1 | Withdrawn | |
| | 2 | Ill-founded | |
| Decision of a Borough Council (Democracy) | 2 | Ill-founded | |
| Environment / Sustainable Development (Environment and Sustainable Development) | 1 | Ill-founded | |
| Fence (Security) | 1 | Resolved by mediation | |
| Financial compensation (Municipal Services) | 1 | Resolved by mediation | |
| Fire / Public Security (Security) | 1 | Still pending | |
| Garbage / Recycling (Environment and Sustainable Development) | 1 | Resolved by mediation | |
| | 1 | Ill-founded | |
| Handicapped person (Security; Municipal Services) | 2 | Resolved by mediation | |
| | 1 | Undertakings | |
| | 1 | Follow-up on undertakings | Done |
| | 1 | Referred during investigation | |
| | 1 | Ill-founded | |
| | 2 | Still pending | |
| Library (Cultural Life) | 1 | Ill-founded | |
| Municipal Court (functioning) (Democracy) | 1 | Resolved by mediation | |

TABLE 4 (continued)
Results of Charter investigations, by subject
January 1, 2006 to July 31, 2010

| SUBJECT (CHAPTER OF CHARTER) | NUMBER OF INVESTIGATIONS | RESULT | SUB-RESULT |
|--|-----------------------------|----------------------------------|--|
| Noise (Environment and Sustainable Development) | 19 | Resolved by mediation | |
| | 1 | Formal Recommendation | Accepted |
| | 13 | Undertakings | |
| | 1 | Follow-up on undertakings | Done |
| | 3 | Withdrawn | |
| | 1 | Referred during investigation | |
| | 6 | Ill-founded | |
| | 3 | Still pending | |
| Nuisances (Environment and Sustainable Development) | 4 | Resolved by mediation | |
| | 1 | Formal Recommendation | Denied |
| | 2 | Undertakings | |
| | 2 | Follow-up on undertakings | Done |
| | 1 | Referred during investigation | |
| | 12 | Ill-founded | |
| Parking / Parking permits (Security; Municipal Services) | 4 | Resolved by mediation | |
| | 1 | Ill-founded | |
| Parks and Green spaces (Environment and Sustainable Development; Security) | 3 | Resolved by mediation | |
| | 1 | Formal Recommendation | Accepted by two entities/ Denied by one of the concerned entities |
| | 3 | Follow-up on undertakings | Done |
| Permit (Environment and Sustainable Development) | 1 | Still pending | |
| Public participation (Democracy) | 4 | Resolved by mediation | |
| | 1 | Withdrawn | |
| | 6 | Ill-founded | |
| | 2 | Still pending | |

TABLE 4 (continued)
Results of *Charter* investigations, by subject
January 1, 2006 to July 31, 2010

| SUBJECT (CHAPTER OF <i>CHARTER</i>) | NUMBER OF INVESTIGATIONS | RESULT | SUB-RESULT |
|--|-----------------------------|---------------------------|------------------------|
| Snow removal (Environment and Sustainable Development; Security) | 3 | Resolved by mediation | |
| Social housing / HLM / Housing subsidies (Economic and Social Life) | 1 | Ill-founded | |
| Sports and Leisure (Recreation, Physical Activities and Sports; Security; Municipal Services) | 4 | Resolved by mediation | |
| | 2 | Ill-founded | |
| Subsidies other than housing (Democracy) | 2 | Resolved by mediation | |
| Taxi (Environment and Sustainable Development) | 1 | Resolved by mediation | |
| Traffic (Environment and Sustainable Development; Security) | 6 | Resolved by mediation | |
| | 1 | Formal Recommendation | Accepted |
| | 1 | Undertakings | |
| | 2 | Follow-up on undertakings | Done |
| | 1 | Withdrawn | |
| | 2 | Ill-founded | |
| | 1 | Still pending | |
| Tree (Environment and Sustainable Development; Security) | 3 | Resolved by mediation | |
| | 2 | Formal Recommendation | 1 Accepted 1 Denied |
| | 1 | Undertakings | |
| | 3 | Ill-founded | |
| | 1 | Still pending | |
| Universal Access (Municipal Services) | 3 | Resolved by mediation | |
| | 2 | Undertakings | |
| | 1 | Still pending | |
| Winter temporary shelter (Municipal Services) | 1 | Resolved by mediation | |
| Zoning / Urban Planning / Exemption (Democracy; Environment and Sustainable Development) | 1 | Resolved by mediation | |
| | 4 | Ill-founded | |
| TOTAL | 179 | | |

TABLE 5
Average processing time
Charter investigations, in working days, by subject
 January 1, 2006 to July 31, 2010

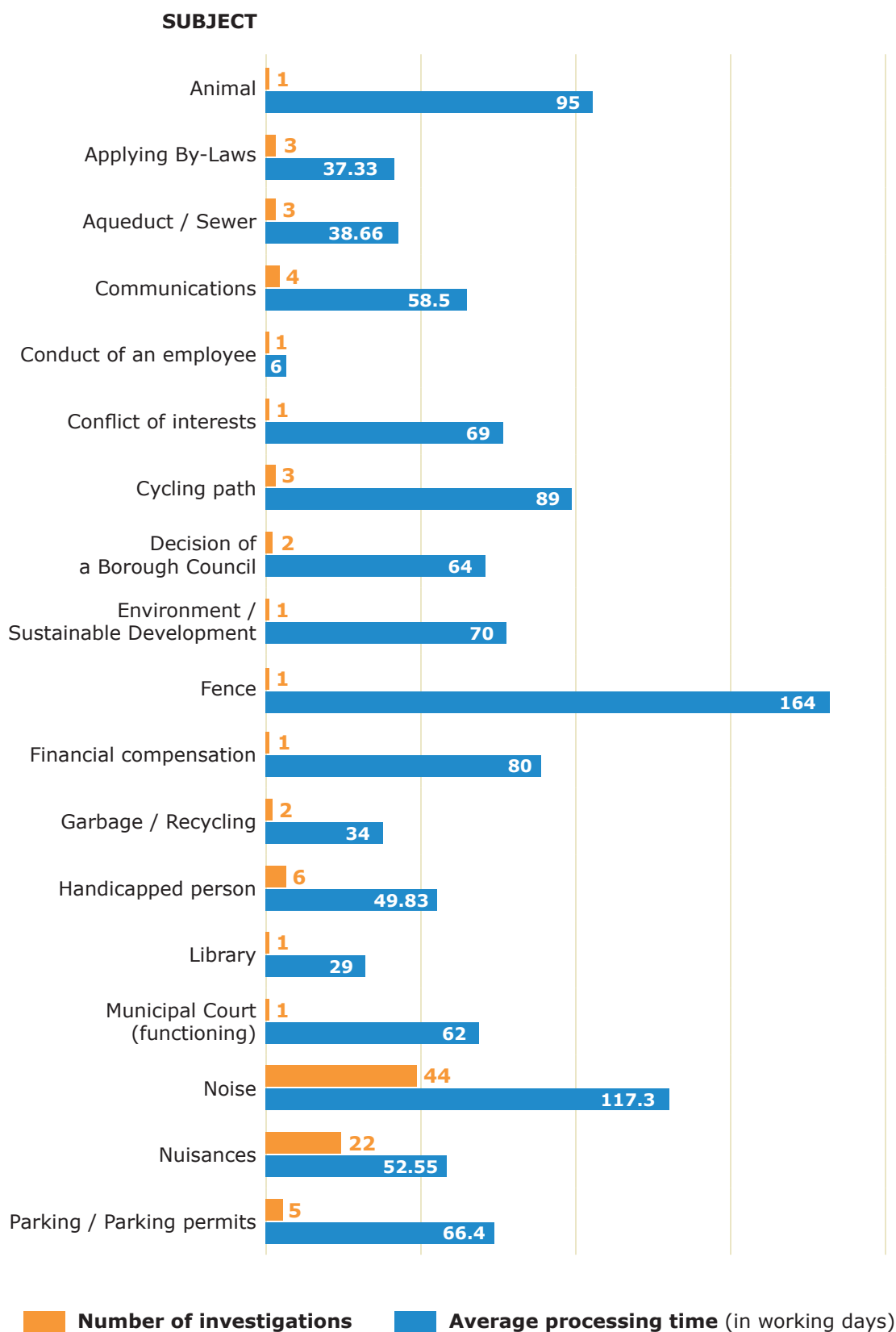
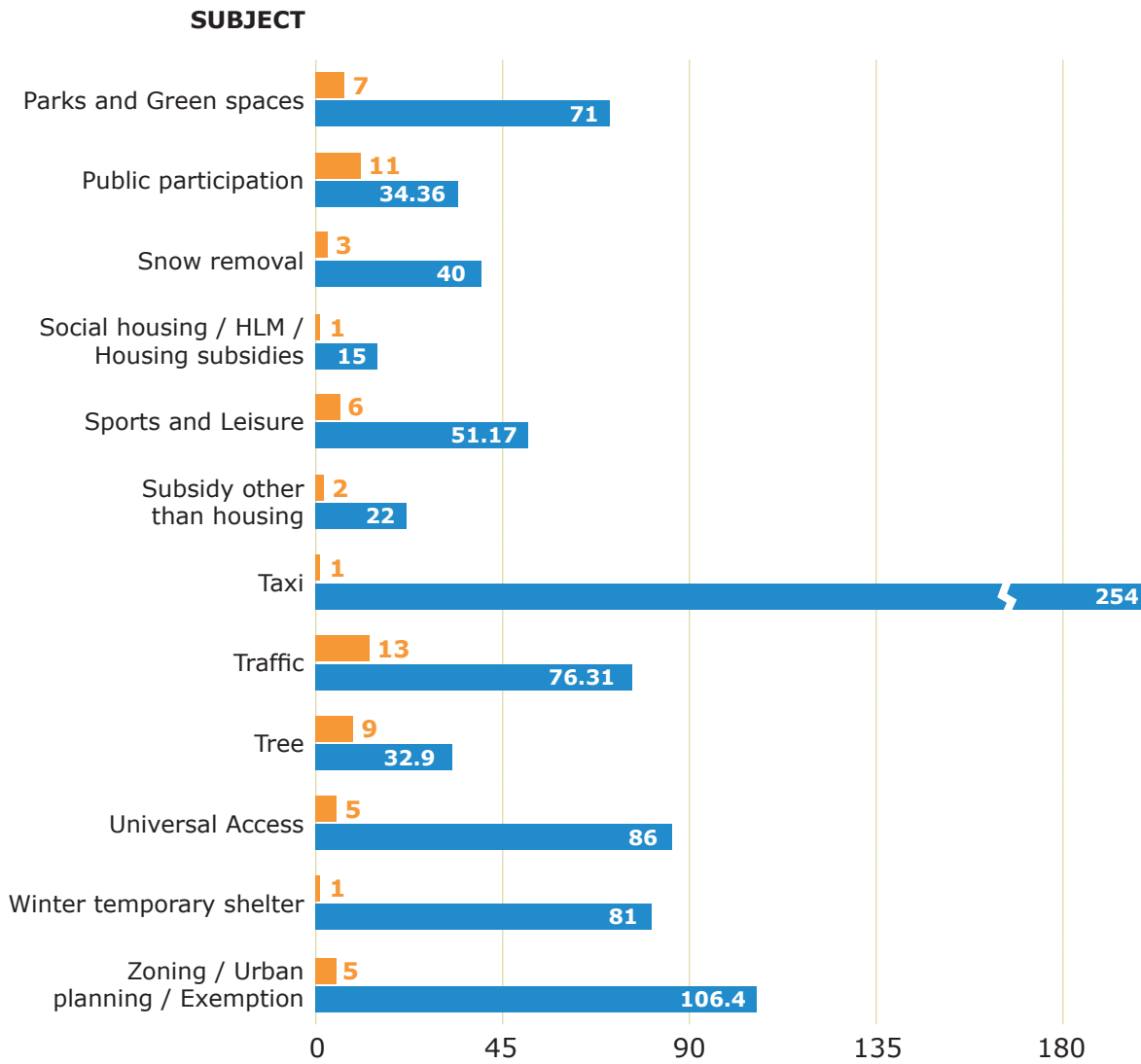


TABLE 5 (continued)

Average processing time
Charter investigations, in working days, by subject
 January 1, 2006 to July 31, 2010



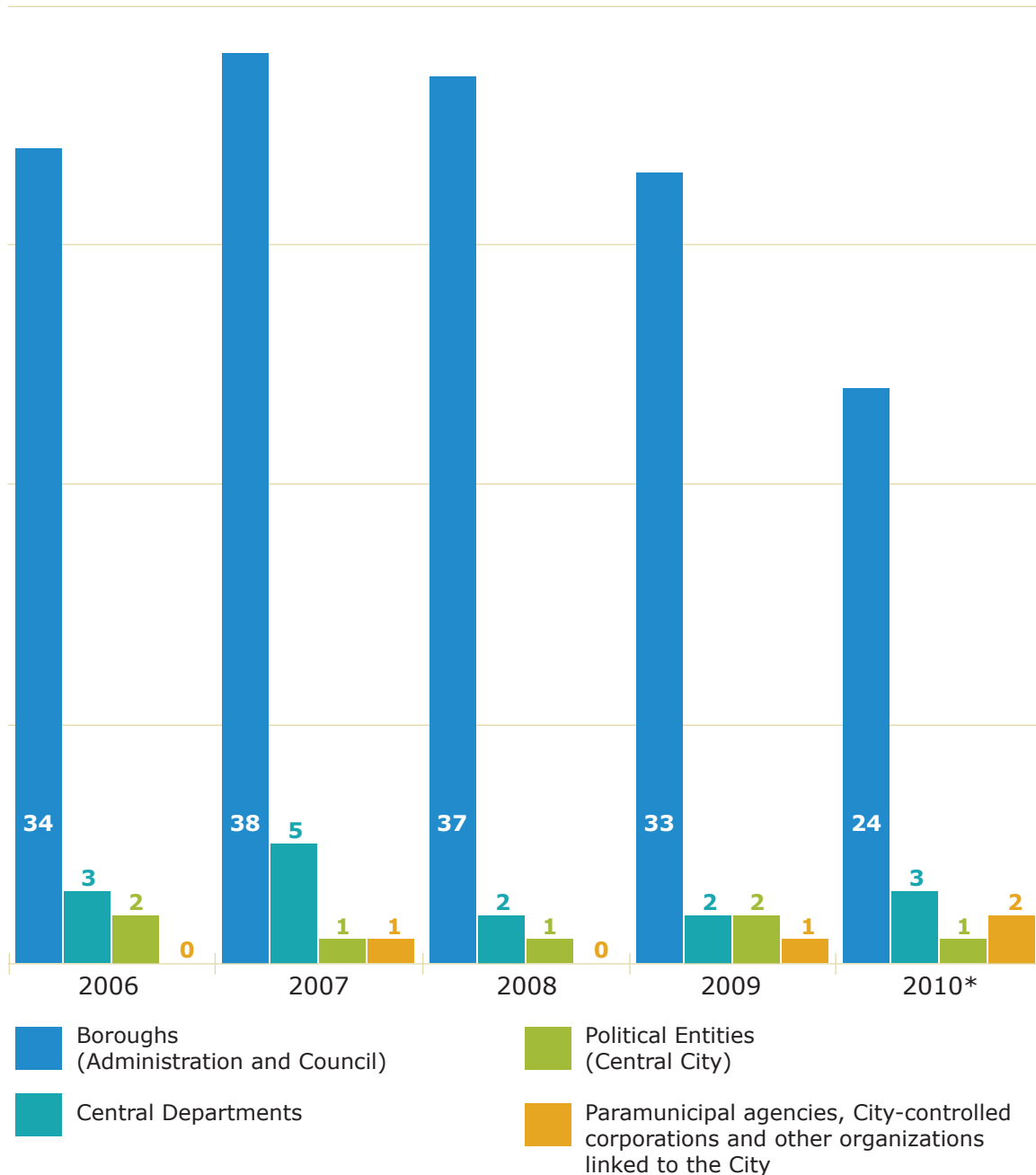
| | NUMBER OF INVESTIGATIONS | AVERAGE PROCESSING TIME |
|--------------------------|--------------------------|-------------------------|
| Completed investigations | 166 | 74.86 |
| Files still pending | 13 | - |
| TOTAL | 179 | |

Number of investigations

Average processing time (in working days)

TABLE 6

Number of *Charter* investigations, by year, by type of entities
January 1, 2006 to July 31, 2010*



| TYPE OF ENTITIES | 2006 | 2007 | 2008 | 2009 | 2010* | TOTAL |
|---|-----------|-----------|-----------|-----------|-----------|--------------|
| Boroughs (Administration and Council) | 34 | 38 | 37 | 33 | 24 | 166 |
| Central Departments | 3 | 5 | 2 | 2 | 3 | 15 |
| Political Entities (Central City) | 2 | 1 | 1 | 2 | 1 | 7 |
| Paramunicipal agencies, City-controlled corporations and other organizations linked to the City | 0 | 1 | 0 | 1 | 2 | 4 |
| TOTAL | 39 | 45 | 40 | 38 | 30 | 192** |

** 13 of the 179 *Charter* investigations concerned more than one entity, thus the 192 total.

TABLE 7

**Summary of *Charter* investigations, by entity, by subject
January 1, 2006 to July 31, 2010**

BOROUGHES

AHUNTSIC-CARTIERVILLE

| Administration | |
|---------------------------------|---|
| Applying By-Laws | 1 51 1 Resolved by mediation |
| Communications | 1 62 1 Resolved by mediation |
| Garbage/Recycling | 1 42 1 Ill-founded |
| Handicapped person | 1 122 1 Resolved by mediation |
| Noise | 4 144.6 2 Resolved by mediation, 1 Undertakings, 1 Still pending |
| Nuisances | 1 40 1 Resolved by mediation |
| Traffic | 2 115 1 Undertakings, 1 Follow-up on undertakings (done) |
| Tree | 5 33.4 2 Resolved by mediation, 1 Formal Recommendation (accepted), 2 Ill-founded |
| Zoning/Urban planning/Exemption | 1 37 1 Ill-founded |

| Council | |
|---------------------------------|--|
| Applying By-Laws | 1 24 1 Ill-founded |
| Noise | 1 51 1 Ill-founded |
| Public participation | 2 50.5 1 Resolved by mediation, 1 Ill-founded |
| Zoning/Urban planning/Exemption | 1 37 1 Ill-founded |

TOTAL: 22 investigations Average processing time: 66.57

| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
|-----------------------|-----------------------|--------------|---------------------------|-----------|---------------------------------|-------------|---------------|
| 9 | 1 accepted | 2 | 1 done | 0 | 0 | 8 | 1 |

Number of investigations **Average processing time** (in working days)

TABLE 7 (continued)
Summary of *Charter* investigations, by entity, by subject
 January 1, 2006 to July 31, 2010

ANJOU

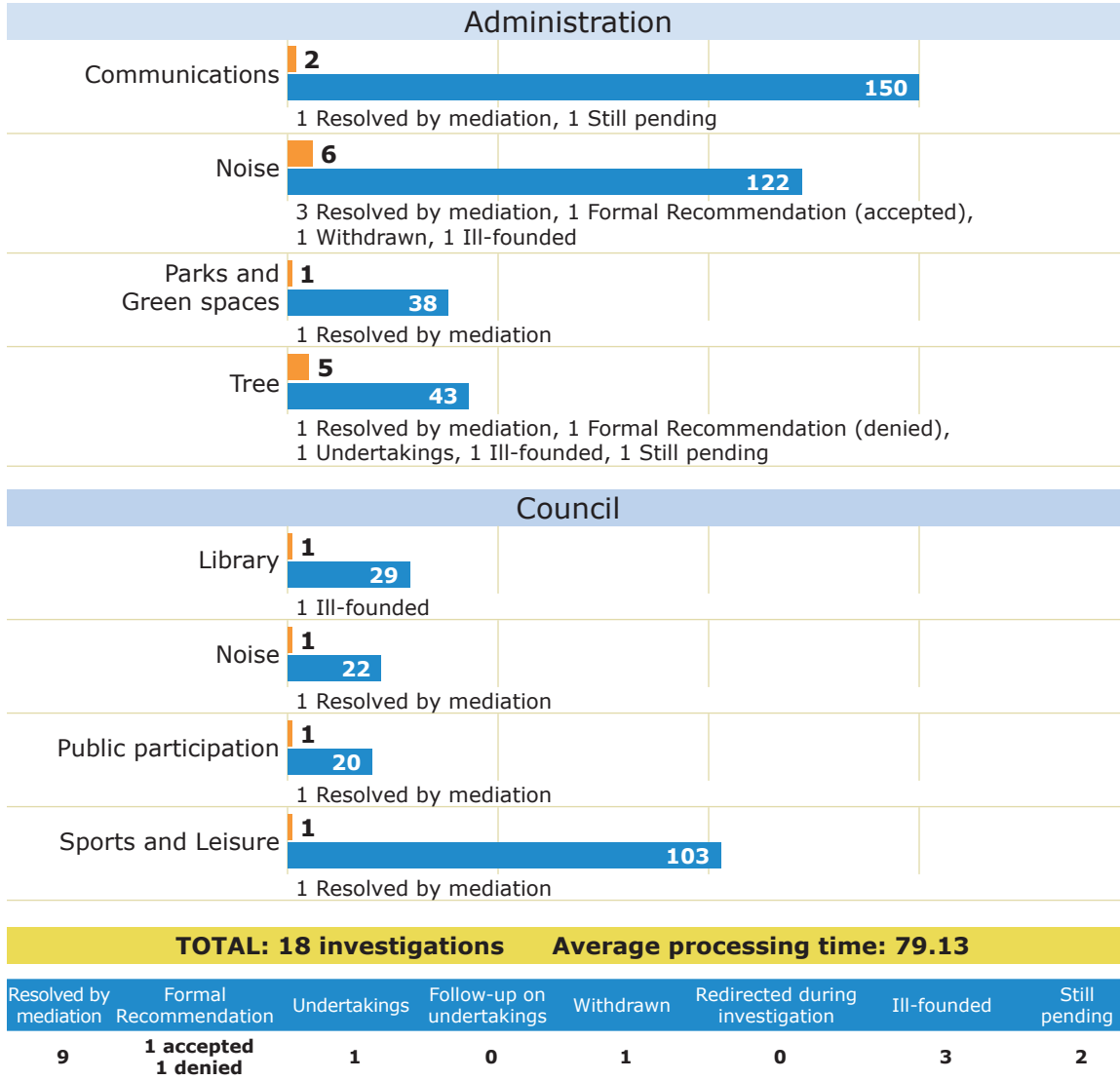
| Administration | | | | | | | | |
|--|-----------------------|--------------|---------------------------|-----------|---------------------------------|-------------|---------------|--|
| Noise | 5 | 171.5 | | | | | | |
| 1 Resolved by mediation, 2 Undertakings, 1 Ill-founded, 1 Still pending | | | | | | | | |
| Nuisances | 2 | 35.5 | | | | | | |
| 1 Undertakings, 1 Follow-up on undertakings (done) | | | | | | | | |
| Traffic | 4 | 78 | | | | | | |
| 1 Resolved by mediation, 1 Formal Recommendation (accepted), 1 Follow-up on undertakings (done), 1 Still pending | | | | | | | | |
| Council | | | | | | | | |
| no investigation | | | | | | | | |
| TOTAL: 11 investigations Average processing time: 110.11 | | | | | | | | |
| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending | |
| 2 | 1 accepted | 3 | 2 done | 0 | 0 | 1 | 2 | |

Number of investigations
 Average processing time (in working days)

TABLE 7 (continued)

Summary of *Charter* investigations, by entity, by subject
January 1, 2006 to July 31, 2010

CÔTE-DES-NEIGES – NOTRE-DAME-DE-GRÂCE



■ Number of investigations ■ Average processing time (in working days)

TABLE 7 (continued)
Summary of Charter investigations, by entity, by subject
 January 1, 2006 to July 31, 2010

LACHINE

no investigation

LASALLE

Administration

| | | | | | | | |
|---|----------|--------------|--|--|--|--|--|
| Parking / Parking permits | 2 | 47.5 | | | | | |
| 1 Resolved by mediation, 1 Ill-founded | | | | | | | |
| Parks and Greens spaces | 2 | 180.5 | | | | | |
| 1 Resolved by mediation, 1 Formal Recommendation (denied) | | | | | | | |

Council

| | | | | | | | |
|---|----------|--------------|--|--|--|--|--|
| Parks and Green spaces | 2 | 180.5 | | | | | |
| 1 Resolved by mediation, 1 Formal Recommendation (denied) | | | | | | | |
| Public participation | 1 | 1 | | | | | |
| 1 Ill-founded | | | | | | | |

TOTAL: 7 investigations Average processing time: 116.86

| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
|-----------------------|-----------------------|--------------|---------------------------|-----------|---------------------------------|-------------|---------------|
| 3 | 2 denied | 0 | 0 | 0 | 0 | 2 | 0 |

L'ÎLE-BIZARD – SAINTE-GENEVIÈVE

Administration

no investigation

Council

| | | | | | | | |
|----------------|----------|-------------|--|--|--|--|--|
| Aqueduct/Sewer | 2 | 34.5 | | | | | |
| 2 Ill-founded | | | | | | | |

TOTAL: 2 investigations Average processing time: 34.5

| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
|-----------------------|-----------------------|--------------|---------------------------|-----------|---------------------------------|-------------|---------------|
| 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 |

Number of investigations **Average processing time** (in working days)

TABLE 7 (continued)

**Summary of *Charter* investigations, by entity, by subject
January 1, 2006 to July 31, 2010**

LE PLATEAU-MONT-ROYAL

| Administration | | | | | | | |
|---|--|--------------|---------------------------|-----------|---------------------------------|-------------|---------------|
| Applying By-Laws | 1 | 37 | | | | | |
| | 1 Resolved by mediation | | | | | | |
| Cycling path | 1 | 19 | | | | | |
| | 1 Withdrawn | | | | | | |
| Handicapped person | 1 | 11 | | | | | |
| | 1 Ill-founded | | | | | | |
| Noise | 5 | 81.8 | | | | | |
| | 2 Resolved by mediation, 1 Undertakings, 1 Follow-up on undertakings (done), 1 Redirected during investigation | | | | | | |
| Nuisances | 1 | 16 | | | | | |
| | 1 Redirected during investigation | | | | | | |
| Permit | 1 | | | | | | |
| | 1 Still pending | | | | | | |
| Snow removal | 1 | 45 | | | | | |
| | 1 Resolved by mediation | | | | | | |
| Sports and Leisure | 1 | 66 | | | | | |
| | 1 Ill-founded | | | | | | |
| Traffic | 1 | 19 | | | | | |
| | 1 Withdrawn | | | | | | |
| Council | | | | | | | |
| Decision of the Borough Council | 1 | 78 | | | | | |
| | 1 Ill-founded | | | | | | |
| TOTAL: 14 investigations Average processing time: 53.85 | | | | | | | |
| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
| 4 | 0 | 1 | 1 done | 2 | 2 | 3 | 1 |

■ Number of investigations ■ Average processing time (in working days)

TABLE 7 (continued)
Summary of *Charter* investigations, by entity, by subject
 January 1, 2006 to July 31, 2010

LE SUD-OUEST

| Administration | | | | | | | |
|---|--|--------------|---------------------------|-----------|---------------------------------|-------------|---------------|
| Noise | 2 | | | | | | |
| | | 88 | | | | | |
| | 1 Undertakings, 1 Withdrawn | | | | | | |
| Parks and Green spaces | 4 | | | | | | |
| | | 99.25 | | | | | |
| | 1 Resolved by mediation, 1 Formal Recommendation (accepted), 2 Follow-up on undertakings (done) | | | | | | |
| Traffic | 1 | | | | | | |
| | | 47 | | | | | |
| | 1 Ill-founded | | | | | | |
| Council | | | | | | | |
| Parks and Green spaces | 2 | | | | | | |
| | | 180.5 | | | | | |
| | 1 Resolved by mediation, 1 Formal Recommendation (accepted) | | | | | | |
| Public participation | 2 | | | | | | |
| | | 59.5 | | | | | |
| | 2 Ill-founded | | | | | | |
| TOTAL: 11 investigations Average processing time: 100 | | | | | | | |
| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
| 2 | 2 accepted | 1 | 2 done | 1 | 0 | 3 | 0 |

Number of investigations
 Average processing time (in working days)

TABLE 7 (continued)

Summary of *Charter* investigations, by entity, by subject
January 1, 2006 to July 31, 2010

MERCIER — HOCHELAGA-MAISONNEUVE

| Administration | |
|------------------------|---|
| Handicapped person | 2 25.5 1 Undertakings, 1 Follow-up on undertakings (done) |
| Noise | 2 233 1 Resolved by mediation, 1 Withdrawn |
| Parks and Green spaces | 1 31 1 Resolved by mediation |
| Sports and Leisure | 1 19 1 Resolved by mediation |
| Traffic | 2 29 1 Resolved by mediation, 1 Ill-founded |

Council
no investigation

TOTAL: 8 investigations Average processing time: 78.13

| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
|-----------------------|-----------------------|--------------|---------------------------|-----------|---------------------------------|-------------|---------------|
| 4 | 0 | 1 | 1 done | 1 | 0 | 1 | 0 |

 **Number of investigations**  **Average processing time** (in working days)

TABLE 7 (continued)

Summary of *Charter* investigations, by entity, by subject
January 1, 2006 to July 31, 2010

MONTREAL-NORD

| Administration | | | | | | | |
|------------------------|-------------------------|--------------|---------------------------|-----------------------------|---------------------------------|-------------|---------------|
| Sports and Leisure | 1 | | | | | | |
| | | 41 | | | | | |
| | 1 Resolved by mediation | | | | | | |
| Council | | | | | | | |
| no investigation | | | | | | | |
| TOTAL: 1 investigation | | | | Average processing time: 41 | | | |
| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
| 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

OUTREMONT

| no investigation | | | | | | | |
|------------------|--|--|--|--|--|--|--|
|------------------|--|--|--|--|--|--|--|

PIERREFONDS-ROXBORO

| Administration | | | | | | | |
|-------------------------|-------------------------|--------------|---------------------------|-------------------------------|---------------------------------|-------------|---------------|
| Public participation | 1 | | | | | | |
| | | 1 | | | | | |
| | 1 Still pending | | | | | | |
| Traffic | 1 | | | | | | |
| | | 25 | | | | | |
| | 1 Resolved by mediation | | | | | | |
| Council | | | | | | | |
| Garbage/Recycling | 1 | | | | | | |
| | | 26 | | | | | |
| | 1 Resolved by mediation | | | | | | |
| Public participation | 1 | | | | | | |
| | | 1 | | | | | |
| | 1 Still pending | | | | | | |
| TOTAL: 4 investigations | | | | Average processing time: 25.5 | | | |
| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
| 2 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |

■ Number of investigations ■ Average processing time (in working days)

TABLE 7 (continued)

**Summary of *Charter* investigations, by entity, by subject
January 1, 2006 to July 31, 2010**

RIVIÈRE-DES-PRAIRIES – POINTE-AUX-TREMBLES

| Administration | | | | | | | |
|--|--|--------------|---------------------------|-----------|---------------------------------|-------------|---------------|
| Aqueduct/Sewer | 1 | 47 | | | | | |
| | 1 Ill-founded | | | | | | |
| Communications | 1 | 20 | | | | | |
| | 1 Resolved by mediation | | | | | | |
| Noise | 3 | 46.7 | | | | | |
| | 1 Resolved by mediation, 1 Undertakings, 1 Ill-founded | | | | | | |
| Nuisances | 2 | 58 | | | | | |
| | 1 Undertakings, 1 Follow-up on undertakings (done) | | | | | | |
| Snow removal | 1 | 33 | | | | | |
| | 1 Resolved by mediation | | | | | | |
| Universal Access | 3 | 88 | | | | | |
| | 3 Resolved by mediation | | | | | | |
| Council | | | | | | | |
| Public participation | 1 | 33 | | | | | |
| | 1 Ill-founded | | | | | | |
| TOTAL: 12 investigations Average processing time: 54.5 | | | | | | | |
| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
| 6 | 0 | 2 | 1 done | 0 | 0 | 3 | 0 |

■ Number of investigations ■ Average processing time (in working days)

TABLE 7 (continued)
Summary of *Charter* investigations, by entity, by subject
 January 1, 2006 to July 31, 2010

ROSEMONT – LA PETITE-PATRIE

| Administration | | | | | | | |
|--|--------------------------|---------------|------------------------------|-----------|------------------------------------|-------------|------------------|
| Noise | 3 | | | | | | |
| | | 128.67 | | | | | |
| 2 Resolved by mediation, 1 Undertakings | | | | | | | |
| Nuisances | 1 | | | | | | |
| | | 35 | | | | | |
| 1 Resolved by mediation | | | | | | | |
| Parking/ Parking permits | 2 | | | | | | |
| | | 57 | | | | | |
| 2 Resolved by mediation | | | | | | | |
| Sports and Leisure | 1 | | | | | | |
| | | 52 | | | | | |
| 1 Resolved by mediation | | | | | | | |
| Council | | | | | | | |
| Cycling path | 1 | | | | | | |
| | | 154 | | | | | |
| 1 Ill-founded | | | | | | | |
| Decision of the Borough Council | 1 | | | | | | |
| | | 40 | | | | | |
| 1 Ill-founded | | | | | | | |
| TOTAL: 9 investigations Average processing time: 86.78 | | | | | | | |
| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
| 6 | 0 | 1 | 0 | 0 | 0 | 2 | 0 |

Number of investigations
 Average processing time (in working days)

TABLE 7 (continued)

Summary of *Charter* investigations, by entity, by subject
January 1, 2006 to July 31, 2010

SAINT-LAURENT

| Administration | |
|--------------------------|------------------------------|
| Fence | 1 1 Resolved by mediation |
| Winter temporary shelter | 1 1 Resolved by mediation |

| Council | |
|------------------|--|
| no investigation | |

TOTAL: 2 investigations Average processing time: 122.5

| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
|-----------------------|-----------------------|--------------|---------------------------|-----------|---------------------------------|-------------|---------------|
| 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

SAINT-LÉONARD

| Administration | |
|----------------|------------------------------|
| Noise | 1 1 Resolved by mediation |

| Council | |
|------------------|--|
| no investigation | |

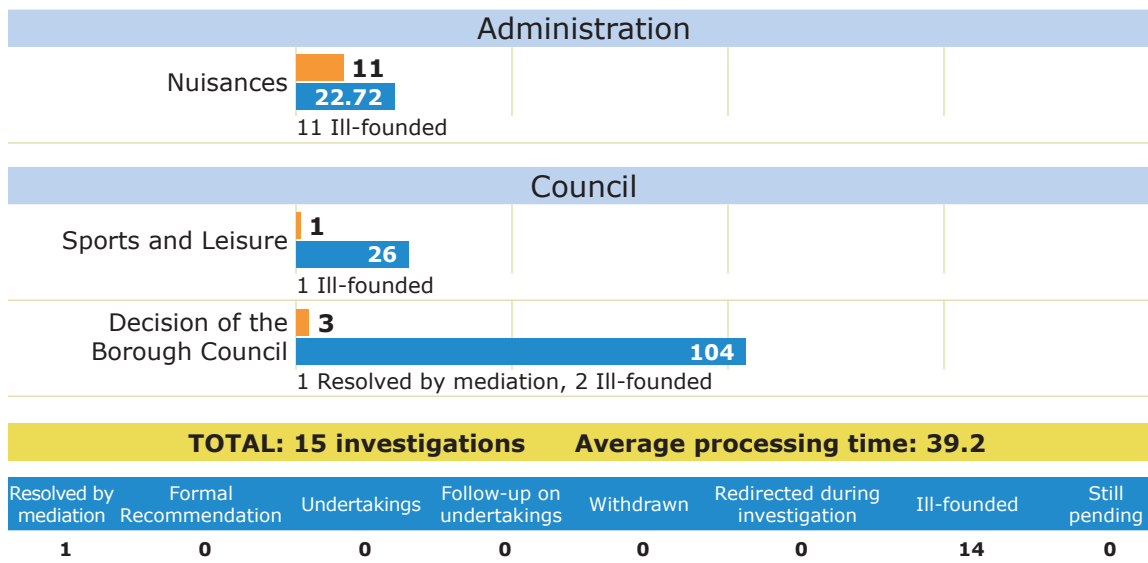
TOTAL: 1 investigation Average processing time: 74

| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
|-----------------------|-----------------------|--------------|---------------------------|-----------|---------------------------------|-------------|---------------|
| 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

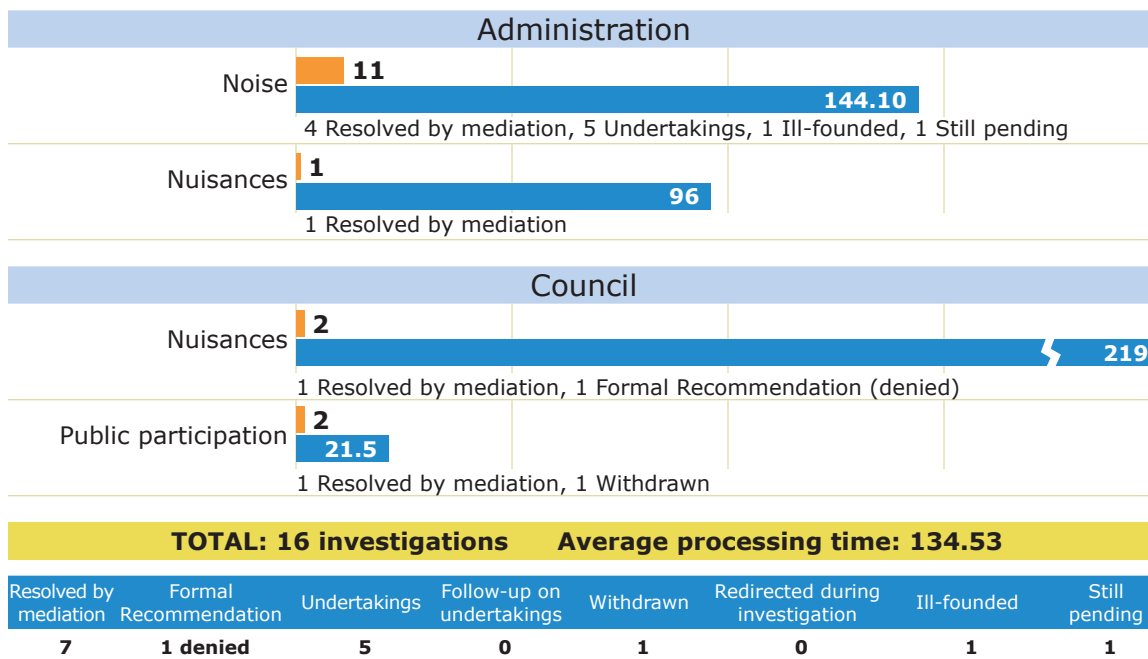
■ Number of investigations ■ Average processing time (in working days)

TABLE 7 (continued)
Summary of *Charter* investigations, by entity, by subject
 January 1, 2006 to July 31, 2010

VERDUN



VILLE-MARIE

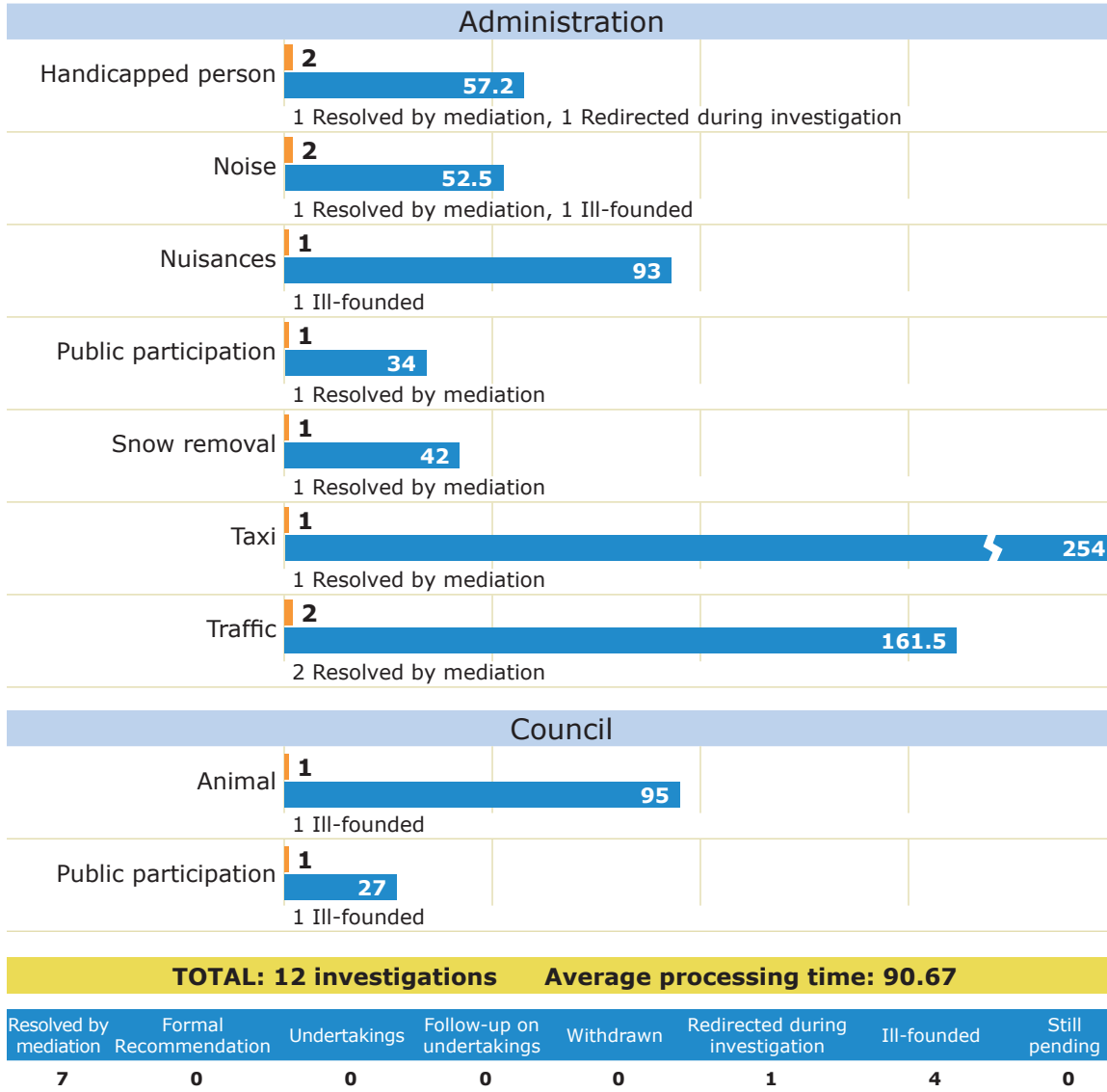


Number of investigations
 Average processing time (in working days)

TABLE 7 (continued)

**Summary of *Charter* investigations, by entity, by subject
January 1, 2006 to July 31, 2010**

VILLERAY — SAINT-MICHEL — PARC-EXTENSION



■ Number of investigations ■ Average processing time (in working days)

TABLE 7 (continued)
Summary of Charter investigations, by entity, by subject
 January 1, 2006 to July 31, 2010

ALL BOROUGHES

| | | | | | | | |
|---------------------------------|-----------------------|--------------|---------------------------|-------------------------------------|---------------------------------|-------------|---------------|
| Administration | | | | | | | |
| no investigation | | | | | | | |
| Council | | | | | | | |
| Zoning/Urban Planning/Exemption | 1 | | | | | | |
| | | | | | | 183 | |
| 1 Ill-founded | | | | | | | |
| TOTAL: 1 investigation | | | | Average processing time: 183 | | | |
| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
| 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 |

Number of investigations

Average processing time (in working days)

TABLE 7 (continued)

Summary of *Charter* investigations, by entity, by subject
January 1, 2006 to July 31, 2010

CENTRAL DEPARTMENTS*

DÉVELOPPEMENT ET OPÉRATIONS

| Dir. transports | | | | | | | |
|---|---|--------------------------------------|---------------------------|-----------|---------------------------------|-------------|---------------|
| Cycling path | 1 | 94 | | | | | |
| | 1 Ill-founded | | | | | | |
| Dir. environnement et développement durable | | | | | | | |
| Communications | 1 | 2 | | | | | |
| | 1 Resolved by mediation | | | | | | |
| Dir. travaux publics | | | | | | | |
| Traffic | 1 | 56 | | | | | |
| | 1 Resolved by mediation | | | | | | |
| Dir. grands parcs et verdissement | | | | | | | |
| Parks and Green spaces | 5 | 85.6 | | | | | |
| | 1 Resolved by mediation, 1 Formal Recommendation (accepted), 1 Undertakings, 2 Follow-up on undertakings (done) | | | | | | |
| Dir. habitation | | | | | | | |
| Subsidy other than housing | 2 | 22 | | | | | |
| | 2 Resolved by mediation | | | | | | |
| TOTAL: 10 investigations | | Average processing time: 62.4 | | | | | |
| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
| 5 | 1 accepted | 1 | 2 done | 0 | 0 | 1 | 0 |

* Only the departments that were investigated are shown.
Departments are consistent with the July 31, 2010 administrative structure.

 **Number of investigations**  **Average processing time** (in working days)

TABLE 7 (continued)
Summary of *Charter* investigations, by entity, by subject
 January 1, 2006 to July 31, 2010

AFFAIRES JURIDIQUES ET ÉVALUATION FONCIÈRE

| Dir. affaires juridiques | | | | | | | |
|--------------------------------------|-----------------------|--------------|---------------------------|------------------------------------|---------------------------------|-------------|---------------|
| Financial compensation | 1 | | | | | | |
| | 80 | | | | | | |
| 1 Resolved by mediation | | | | | | | |
| Dir. affaires pénales et criminelles | | | | | | | |
| Municipal court (functioning) | 1 | | | | | | |
| | 62 | | | | | | |
| 1 Resolved by mediation | | | | | | | |
| TOTAL: 2 investigations | | | | Average processing time: 71 | | | |
| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
| 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

SERVICE DE POLICE

| Conduct of an employee | 1 | | | | | | |
|-------------------------------|-----------------------|--------------|---------------------------|-----------------------------------|---------------------------------|-------------|---------------|
| | 6 | | | | | | |
| 1 Ill-founded | | | | | | | |
| TOTAL: 1 investigation | | | | Average processing time: 6 | | | |
| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
| 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 |

SÉCURITÉ INCENDIE

| Fire/Public Safety | 1 | | | | | | |
|--------------------------------|-----------------------|--------------|---------------------------|-----------|---------------------------------|-------------|---------------|
| | 1 | | | | | | |
| 1 Still pending | | | | | | | |
| Handicapped person | 1 | | | | | | |
| | 1 | | | | | | |
| 1 Still pending | | | | | | | |
| TOTAL: 2 investigations | | | | | | | |
| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
| 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |

Number of investigations

Average processing time (in working days)

TABLE 7 (continued)

Summary of *Charter* investigations, by entity, by subject
January 1, 2006 to July 31, 2010

POLITICAL ENTITIES (Central City)*

EXECUTIVE COMMITTEE

| | | | | | | | |
|---|---|--------------|--|--|--|--|--|
| Conflict of interests | 1 | 69 | | | | | |
| | 1 Ill-founded | | | | | | |
| Environment and Sustainable development | 1 | 70 | | | | | |
| | 1 Resolved by mediation | | | | | | |
| Parks and Green spaces | 2 | 180.5 | | | | | |
| | 1 Resolved by mediation, 1 Formal Recommendation (accepted) | | | | | | |

TOTAL: 4 investigations Average processing time: 125

| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
|-----------------------|-----------------------|--------------|---------------------------|-----------|---------------------------------|-------------|---------------|
| 2 | 1 accepted | 0 | 0 | 0 | 0 | 1 | 0 |

OFFICE OF CITY COUNCIL CHAIRMAN

| | | | | | | | |
|------------------|---------------------------------|-----------|--|--|--|--|--|
| Universal access | 3 | 83 | | | | | |
| | 2 Undertakings, 1 Still pending | | | | | | |

TOTAL: 3 investigations Average processing time: 83

| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
|-----------------------|-----------------------|--------------|---------------------------|-----------|---------------------------------|-------------|---------------|
| 0 | 0 | 2 | 0 | 0 | 0 | 0 | 1 |

* Only the entities that were investigated are shown.

■ Number of investigations ■ Average processing time (in working days)

TABLE 7 (continued)

Summary of *Charter* investigations, by entity, by subject
January 1, 2006 to July 31, 2010

**PARAMUNICIPAL AGENCIES,
CITY-CONTROLLED CORPORATIONS AND
OTHER ORGANIZATIONS LINKED TO THE CITY***

OFFICE MUNICIPAL D'HABITATION DE MONTRÉAL

| | | | | |
|--|-----------|--|--|--|
| Noise | 1 | | | |
| | 38 | | | |
| 1 Undertakings | | | | |
| Handicapped person | 1 | | | |
| 1 Still pending | | | | |
| Social housing/HLM/ Housing subsidies | 1 | | | |
| | 15 | | | |
| 1 Ill-founded | | | | |

TOTAL: 3 investigations Average processing time: 26.5

| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
|-----------------------|-----------------------|--------------|---------------------------|-----------|---------------------------------|-------------|---------------|
| 0 | 0 | 1 | 0 | 0 | 0 | 1 | 1 |

SOCIÉTÉ EN COMMANDITE STATIONNEMENT DE MONTRÉAL

| | | | | |
|-----------------------------|------------|--|--|--|
| Parking/ Parking permits | 1 | | | |
| | 123 | | | |
| 1 Resolved by mediation | | | | |

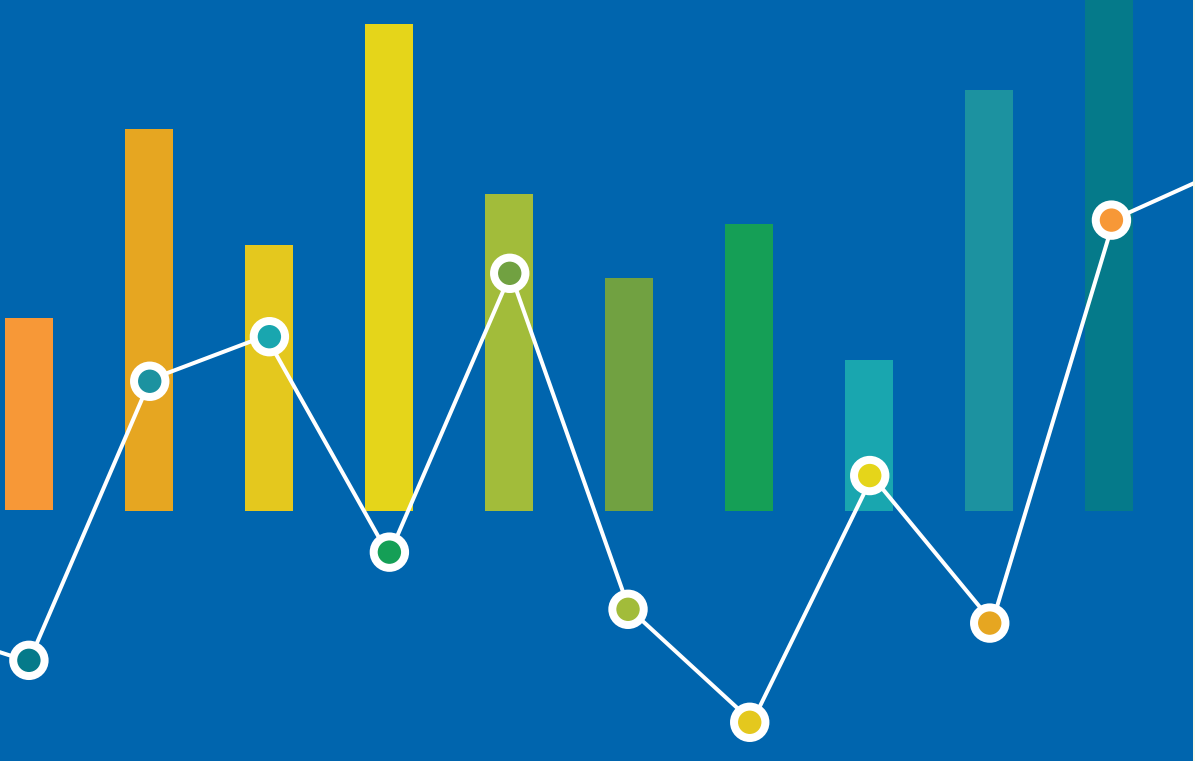
TOTAL: 1 investigation Average processing time: 123

| Resolved by mediation | Formal Recommendation | Undertakings | Follow-up on undertakings | Withdrawn | Redirected during investigation | Ill-founded | Still pending |
|-----------------------|-----------------------|--------------|---------------------------|-----------|---------------------------------|-------------|---------------|
| 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

* Only the entities that were investigated are shown.

■ **Number of investigations** ■ **Average processing time** (in working days)

OMBUDSMAN'S REPORT



4. MOST FREQUENT *CHARTER* ISSUES

Between January 1, 2006 and July 31, 2010, we handled 179 cases related to the *MCCR*, some of which are still active. One hundred fifty-five (155) of these cases resulted from a citizen's complaint whereas the Ombudsman initiated twenty-four (24) investigations.

Charter chapters most often concerned are:

- Environment and Sustainable Development (103)
- Democracy (27)
- Security (25)
- Municipal Services (18)

Other cases related to Recreation, Physical Activities and Sports (3); Economic and Social Life (2); and Cultural Life (1).

Environment and Sustainable Development – 103 cases

Mostly, complaints related to nuisances or the protection of the natural patrimony:

- Excessive noise generated by commercial activities such as restaurants, bars and terraces, and sometimes including the behaviour of their customers;
- Excessive noise from ventilation, air conditioning or heating systems, both commercial and residential;
- Nuisances caused by late garbage pick-ups;
- Traffic nuisances;
- Cutting of trees;
- Complaints relating to festivals and major events. We usually obtain the implementation of attenuation measures, such as: repositioning of speakers; tighter management of sound checks by artists and technicians; stricter observance of the time at which shows must end; initiating cleanup immediately after the event to expedite clearance of the premises; better management of access ways, etc. When necessary, acoustic tests are requested, following which the borough may issue tickets, if need be;
- Complaints from citizens living near a City park where sporting activities are taking place: noise; bright lights; lights still open late into the night; lack of cleanliness; and sometimes safety problems during major sporting events. As a general rule, the boroughs collaborate well and various solutions are implemented: repositioning of lights; installing automatic shutdown systems of the lights; increased maintenance; additional surveillance during major sporting events.

Many of our interventions require **finding the right balance** between various municipal commitments.

For example, if people seek our assistance to obtain that the City proceeds to or authorizes the cutting down of a tree, we must find the right balance between different values such as Protection of trees and Protection of natural patrimony vs. Citizen security and Quality of municipal maintenance services.

Democracy – 27 cases

Almost 50% of Democracy related investigations concerned Public participation (13), under various angles such as:

- Sufficient notices to citizens;
- Rules governing question periods at municipal assemblies;
- Requests for Public Consultation processes;
- Referendum processes (zoning changes); etc.

Other cases related to Communications: the **OMBUDSMAN DE MONTRÉAL** intervened primarily to improve information provided on the City Web site and in municipal offices, notably:

- Clarity of documents and other municipal information;
- Sufficiency of municipal information; and
- Easy access to municipal information.

Security – 25 cases

Over the years, the **OMBUDSMAN DE MONTRÉAL** has investigated a number of safety issues under a variety of circumstances such as:

- Trees in poor condition;
- Traffic problems;
- Inadequate road signs;
- Configuration of public paths;
- Safety of bike paths;
- Safety of sidewalks;
- Sports facilities and parks;
- Management of dog parks;
- Snow removal near schools; etc.

Municipal Services – 18 cases

Eleven (11) of these cases concerned people with disabilities or reduced mobility, in the following contexts:

- Universal Access; and/or
- Adjustments / Flexibility in municipal services.

5. SOME EXAMPLES

Protection of natural patrimony

- The **OMBUDSMAN DE MONTRÉAL** initiated an investigation on the impact of mechanical maintenance that was regularly taking place in the Angrignon Park forest, on its natural conservation and regeneration.

After consultation with stakeholders and experts, the **OMBUDSMAN DE MONTRÉAL RECOMMENDED** that there should no longer be any mowing for cosmetic purposes only and that operations aimed at eradicating buckthorn, removing a nuisance which threatens the safety of persons or buildings, or garbage collection be done in a manner not to impact negatively on the regeneration of the natural forest.

Despite the refusal of Arrondissement de LaSalle, this **RECOMMENDATION** was well received by the two entities responsible for the maintenance of this forest, a central department and Arrondissement Le Sud-Ouest. Our office is monitoring this file, annually.

Nuisances - Noise

- In early 2006, a Borough Council granted an *exemption* allowing a terrace owner to install tables in an area that hitherto served as a buffer between the terrace and residential neighbours, and authorizing the playing of acoustic music. Condominium residents living just behind complained. Our investigation showed that this *exemption* had been granted without prior consideration of the commitments contained in the *Charter*. There was, however, no evidence of bad faith by the elected officials, but rather an unawareness of the *Charter* which had just come into effect.

This *exemption* had granted certain rights to the terrace owner and the citizens' complaints, therefore, had to be handled in terms of compliance with the rules governing maximum noise levels, in this borough. This case is still active.

The borough regularly conducts noise tests and, if necessary, issues tickets. The fines for excessive noise have been increased significantly. But without the cooperation of the terrace owner, it is difficult to resolve completely this issue. There were some improvements but, unfortunately, the neighbours continue to suffer regularly from noise levels that prevent them from reasonable enjoyment of their condo residence.

Nuisances - Traffic

- Following our intervention, a borough banned heavy trucks on a viaduct and changed the signage so as to redirect trucks to another route. Significant road work was also completed. A subsequent study confirmed that, as a result of these changes, vibrations from general traffic were reduced by 90% and major vibrations, comparable to minor earthquakes, were completely eliminated.
- Each time a vehicle passed by, a speed bump generated vibrations and loud noise in a residence along the road. Our investigation showed that the borough had made no prior study or analysis to confirm that the installation of a speed bump at this specific location, between two stop signs, was appropriate or even desirable. The **OMBUDSMAN DE MONTRÉAL** therefore **RECOMMENDED** that the speed bump be removed, which was done.

Access to homes and Safety

- At a Santa Claus parade in a borough, the citizens residing within the area closed for the occasion were unable to either enter or leave, between 7:00 and 9:00 p.m. The closure of the area, during the entire parade, was justified for the safety of citizens and children attending the event. However, the **OMBUDSMAN DE MONTRÉAL** issued a **RECOMMENDATION** that, for future parades or similar situations, area residents should never be locked in or out, and that a safe access be maintained. The borough now keeps open one controlled access for these residents who are advised beforehand of its location.

Useful and clear information

- A citizen complained that Cour municipale de Montréal did not inform defendants adequately of the fact that **court costs** are usually added to the initial fine, if they are found guilty, after contesting a *Statement of Offence*. Had he known the amount of such costs, it would have influenced his decision whether to contest the ticket he had received.

The municipal court was already thinking of including the "*Tariff of court costs in penal matters*" on its Web site and, following our intervention, it quickly did so. It also changed the wording of notices sent to defendants to better inform them in this regard.

- Some citizens complained that by the time they received the *Bureau des réclamations'* final response to a claim they had made against Ville de Montréal, it was too late for them to file legal suit before the civil courts. Following our investigation, the procedures of this *Bureau* were improved so as to make sure that all citizens who submit a claim to this office are duly informed, in due time, of the short time limits available to them if they decide to file suit against the City.
- Neighbours complained of the inadequacy of a borough's *Notices to citizens* with regard to *Applications for Exemptions* that are submitted by property owners, to modify their property in a manner not consistent with the By-Laws. The citizens complained that, as a result, they could not submit their point of view to the borough, in due time. Following our investigation, the borough changed its procedure. Relevant information on the nature of *Exemptions* that are being asked and the date on which the application will be reviewed by Borough Council is now posted on the lot concerned: as a result, citizens likely to be affected by such an *Exemptions* are now duly informed, in due time.

Disabled people and Universal Access

- A new street configuration implemented to limit traffic and speed in a crowded area had an unanticipated but serious impact on the safety of a blind resident who must regularly cross this intersection to get to medical appointments and attend other activities. Her personal autonomy was seriously hindered. We set out to find a balance between rights of this individual and the rights of other citizens to a safe environment.

Following our intervention, the borough acknowledged that the situation deserved consideration. After several consultations, it removed the new installations and the blind citizen may again cross the intersection safely. As for the heavy traffic situation, the borough implemented other types of installation, a little further away, to limit through traffic in this neighbourhood.

- Recently installed parking meters for street parking presented an accessibility problem for wheelchair users and people of shorter height. The paramunicipal entity that manages the parking meters was, however, limited in its choice of suppliers since only one offers solar terminals which can withstand the rigours of our climate. This supplier refused to change the design of its terminals.

Following numerous discussions, the paramunicipal entity found a way to re-arrange the bottom part of its terminals, which are now 40 mm lower: this is a noticeable improvement. This entity is also working on projects for alternative payment systems that will not require that citizens insert a card into the terminal. Our office regularly monitors the progress of these projects.

- In a borough where TEMPO-like shelters are strictly prohibited, a disabled resident sought the intervention of the **OMBUDSMAN DE MONTRÉAL** because this ban was greatly interfering with his autonomy during winter. Although generally valid, such prohibition must be appreciated taking into account the rights and special needs of some citizens. Our extensive investigation confirmed that without such a shelter, this citizen could not use his adapted vehicle during winter and would thus lose his autonomy. The borough finally granted a special authorization to that citizen. Every situation must, however, be appreciated on its own merit.
- The Ombudsman had noted some shortcomings regarding accessibility to municipal buildings and services. She intervened many times to improve: quality and access to information on the location of the adapted entrances; maintenance of access routes for people in wheelchairs, especially in winter; and the overall accessibility of toilets for the disabled; etc.

6. COMPLAINANTS PROFILE – CHARTER INVESTIGATIONS

Personal characteristics of citizens who submit a complaint are provided to us on a voluntary basis. The following information, therefore, should only be used as general indication.

| | 2006 | 2007 | 2008 | 2009 | 2010* | TOTAL |
|-----------------------------------|------|------|------|------|-------|------------|
| Sex | | | | | | |
| Man | 19 | 21 | 20 | 18 | 18 | 96 |
| Woman | 13 | 12 | 16 | 12 | 6 | 59 |
| OdM | 1 | 7 | 4 | 7 | 5 | 24 |
| Language | | | | | | |
| French | 30 | 29 | 30 | 28 | 21 | 138 |
| English | 2 | 4 | 6 | 2 | 3 | 17 |
| OdM | 1 | 7 | 4 | 7 | 5 | 24 |
| Age | | | | | | |
| 18-25 | 0 | 0 | 0 | 0 | 0 | 0 |
| 26-50 | 7 | 6 | 8 | 7 | 5 | 33 |
| 51-64 | 10 | 1 | 4 | 3 | 3 | 21 |
| 65 or more | 1 | 2 | 5 | 11 | 8 | 27 |
| Unknown | 14 | 24 | 19 | 9 | 8 | 74 |
| OdM | 1 | 7 | 4 | 7 | 5 | 24 |
| Origin | | | | | | |
| Ethnocultural or Visible minority | 7 | 8 | 7 | 6 | 6 | 34 |
| Canadian | 22 | 21 | 27 | 23 | 18 | 111 |
| Unknown | 3 | 4 | 2 | 1 | 0 | 10 |
| OdM | 1 | 7 | 4 | 7 | 5 | 24 |

* 2010 data covers the period between January 1 and July 31.

7. SOURCES OF REFERENCE OF COMPLAINANTS – CHARTER INVESTIGATIONS

This information is also submitted on a voluntary basis, which explains the large number of cases for which the reference source is unknown. The following information should only be used as a general indicator.

| Ville de Montréal Employee | Media and Advertising | Family/Friend | Unknown | TOTAL |
|----------------------------|-----------------------|---------------|---------|-------------|
| 35 | 20 | 7 | 93 | 155* |

* This number excludes the 24 investigations initiated by our office.

8. FINDINGS AND “FOOD FOR THOUGHTS”

Unawareness of the *Charter*

More than four years after its coming into effect, the *Montréal Charter of Rights and Responsibilities* and the commitments therein remain largely unknown, among both the municipal administration and Montréal’s population.

Usefulness of the *Charter*

In our opinion, the *Charter* is a **very useful tool** and its impact is significant. It officially formalizes the principles and values that should guide all of Montréal’s municipal players and provides aggrieved citizens with a free recourse through a completely independent and autonomous entity: the fact that the Ombudsman is not a subordinate of the administration nor of the political apparatus of the City increases the citizens’ confidence in its actions.

When an Ombudsman’s intervention or **RECOMMENDATION** is based on a *Charter* commitment, the fact that legal language binds municipal stakeholders gives more impact to our demand.

Moreover, the fact that elected officials are also bound by the commitments enshrined in the *Charter* and subject to the Ombudsman’s powers of investigation and intervention, confirms the seriousness and essential nature of these commitments and the accountability of the entire municipal administration.

Through the combined effect of section 36 of the *Charter* and sections 20 and 21 of the *By-Law concerning the Ombudsman*, the Ombudsman may advise the City Council, the Executive Committee or a Borough Council of a non-compliance problem with regard to the commitments contained in the *Charter*, if her efforts have failed to resolve it. The Ombudsman may also comment publicly on any situation of this nature, if she deems it in the public interest.

Interventions at the Ombudsman's initiative

The Ombudsman may, on her own initiative, launch an investigation based on the *Charter* (article 36 of the *Charter* and article 10 of the *By-Law concerning the Ombudsman*). Priority must, however, be given to citizens' complaints.

Since January 1, 2006, the Ombudsman has initiated 24 investigations relating to the *Charter*. These interventions have included:

- Assuring, for future generations, the natural sustainability and regeneration of the Angrignon Park forest.
- Providing better access for handicapped people to municipal buildings and services, including City Hall.
- Making municipal documents or information clearer and more easily accessible.
- Promoting the concept of **procedural fairness** to managers and employees before they make a decision that could likely affect a citizen.
- Integrating the concepts of administrative ethics, justice and fairness in decision making processes within Ville de Montréal.
- And much more.

Public Consultation and Citizens' Right of Initiative

The expectations of citizens with regard to Participative Democracy are very high. We regularly receive requests from citizens who demand a Public Consultation in cases where the City is not legally bound to hold one.

Section 16(h) of the *Charter* set the obligation for Ville de Montréal, to define, establish and grant to citizens, before December 31st, 2009, a right of initiative regarding Public Consultations. Provisions concerning this right of initiative were adopted on September 21, 2009, in Addendum B of the *By-Law concerning the Montréal Charter of Rights and Responsibilities and the right of initiative* (05-506 and 05-506-1). Some citizens have already initiated such processes but on our part, we have not handled any complaint in that regard.

Possible mandates from the City Council, the Executive Committee or a Borough Council

Section 10 of the *By-Law concerning the Ombudsman* states that the authorities mentioned hereinabove may entrust specific mandates to the Ombudsman for investigation. This provision also applies to topics covered in the *MCRR*. To date, we have not received any such mandate.

Jurisdiction over Borough Councils, City Council or Executive Committee decisions

We have handled very few cases involving a decision made by elected officials. On our first intervention of this nature, however, we noted that a contested decision may have already conferred some rights to a citizen, which limits our possible interventions.

We will continue to focus, therefore, on the improvement of the preliminary information provided to elected officials, to ensure they are fully aware of and take into consideration any relevant *Charter* commitment before they vote on a proposed matter.

The Société de transport de Montréal "STM" and the MCRR

In principle, the STM is bound by the provisions of the *MCRR*.

However, section 11(5) of the *By-Law concerning the Ombudsman* provides that the ombudsman "may not investigate any decision, recommendation, act or omission whatever... of the Société de transport de Montréal or one of its employees." Section 89.1 of the *Charter of Ville de Montréal*, on the other hand, states that the *MCRR* cannot be invoked in a judicial or jurisdictional instance or give rise to any legal recourse.

Through the combined effect of these legal provisions, citizens have no recourse to ensure that the STM respects the commitments to which it is obliged, under the *MCRR*.

Peace officers of the Service de Police de la Ville de Montréal "SPVM" and the MCRR

With regard to compliance by SPVM peace officers with the commitments of the *MCRR*, the **OMBUDSMAN DE MONTRÉAL** has no jurisdiction to investigate acts or omissions of a police officer (section 11(4) of the *By-Law concerning the Ombudsman*): citizens who disapprove of the conduct of a police officer can only complain to the Police Ethics Commissioner or to the Commission des droits de la personne et des droits de la jeunesse. Under section 89.1 of the *Charter of Ville de Montréal*, however, they will not be allowed to invoke the commitments contained in the *MCRR*.

Eventual expansion of our jurisdiction

Once this consultation process is completed and the recommendations of the Office de consultation publique de Montréal have been issued, the **OMBUDSMAN DE MONTRÉAL** undertakes to fully collaborate with Ville de Montréal to analyse the proposed changes as well as the most efficient avenues to ensure their successful implementation and viability.



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