

# Workers' Advocate Office



**2008 Annual Report**



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ANNUAL REPORT OF THE WORKERS' ADVOCATE OFFICE 2008

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**Our Vision.** All injured Yukon workers receive the benefits and services to which they are rightfully entitled.

**Our Mission.** From early intervention and education, to representation during the workers' compensation appeals process, the Workers' Advocate Office (WAO) provides independent assistance to and representation for workers who have suffered a work-related disability. We seek to ensure that the needs of injured workers and their families are understood, addressed and resolved quickly and fairly so that the medical, psychological and financial hardships associated with workplace injuries are minimized. Specifically, our dedicated team is committed to:

**Advocating** for injured workers to ensure that they receive their entitlements under the *Workers' Compensation Act* and policies, and in accordance with the Charter of Rights & Freedoms and the rules of natural justice.

**Ensuring** that workers receive high quality service (timely, fair, consistent, communicated) from the WAO during the early intervention, hearing and appeals processes.

**Ensuring** that injured workers are treated with dignity and respect in their dealings with the workers' compensation system.

**Ensuring** that all workers understand their rights and responsibilities regarding compensation in the event of workplace injury and returning to work.

**Recommending** improvements to the Yukon Workers' Compensation Health & Safety Board's (YWCHSB) appeals process to enhance simplicity, timeliness and fairness.

**Working** with the YWCHSB to help understand current issues and trends so that they are addressed for future clients.

**Investigating** and utilizing other dispute resolution mechanisms (such as preliminary conferences) to improve the quality of issue identification and resolution.

**Working** with the YWCHSB, labour and employer groups in raising the level of awareness of the impact of the appeals process on workers and their families.



The year 2008 was a challenging period for the WAO as it worked through a number of challenges, including beginning the recruitment process for a Workers' Advocate. Other challenges included:

**Capacity and Resources** Qualified staff are needed in order to achieve results for our clients. In 2008, the WAO hired two deputy worker advocates - one for a two-year term and one for a six-month term. Training plans have been implemented, with a focus on dispute resolution and understanding the impacts associated with the recently updated *Workers' Compensation Act*. Recruiting - and retention - remain key challenges for the WAO in the years ahead.

**Recurring Compensation Issues** Many of the same issues seem to arise each year, suggesting that further work must be done in working with the YWCHSB to improve its policies and how it addresses certain issues. Recurring issues increase caseloads and, therefore, our ability to progress in areas such as worker and employer education, and partnership-building.

**Communication and Education** Many workers seem unaware of their rights and responsibilities within the workers' compensation system. In 2008, the WAO gave several presentations on key issues of interest to workers, including presentations on the Public Service Alliance of Canada's Advanced Health & Safety program and the Yukon Federation of Labour's Return to Work program. Presentations were also given to members of the Yukon Employees Union.

**Relationship with the YWCHSB** Resolving issues with the YWCHSB must occur within the context of a professional and effective two-way relationship, with a focus on the interests of injured workers. A major focus of the WAO has been to resolve issues before they get to a formal appeals process. This not only benefits the injured worker, but the YWCHSB's Accident Fund as well (in terms of lower costs). In 2008, there were many instances where the WAO alone, and the WAO with the YWCHSB worked together to resolve issues – 79 of 123 issues (64 percent) were resolved without the need for a formal hearing. Communication between the two organizations is essential in providing valuable customer service to injured workers and their families. Further discussions will be pursued in 2009, such as determining how the WAO's annual budget will be determined (and a fair dispute resolution process where agreement cannot be reached) and how the new *Workers' Compensation Act* will affect injured workers and their families.

**Strategic Planning & Performance Management** Development of a performance management/strategic planning framework has been completed (and is the basis for this Report). This framework is critical for identifying expectations, identifying training in key areas, and outlining where results have been achieved for injured workers and their families.

These two case studies represent the types of situations explored by the Workers' Advocate Office, and how they are typically resolved ...

### Case Study #1

Although an injured worker was entitled for medical aid reimbursement, they did not receive compensation for wages lost due to being off work for a period of time. The YWCHSB argued that the worker was not entitled to time loss benefits because the circumstances did not 'fit' the criteria outlined in Board policy. However, it was the doctor who advised the worker not to return to work until some time had passed to determine the full extent of the worker's injuries, if any.

The WAO met with the YWCHSB to discuss this situation as an 'exceptional circumstance', which is covered under the YWCHSB's policy. This resolved the issue and allowed the worker to receive an entitlement for lost wages.

### Case Study #2

An injured worker was placed into a graduated return to work plan, owing to their functional capacity being deemed to be less than what their original job required. An issue arose when the worker argued that even the modified position continued to represent a hazard.

The WAO met with YWCHSB to review occupational determinants in the functional information on file. Upon review, it was determined that the modified duty was in fact not appropriate. The employer identified another, more suitable position for the worker, and the issue was resolved without the need for a formal hearing.

In 2008, the Workers' Advocate began its commitment to public accountability by adopting a 'managing by results' focus. This will allow stakeholders to make informed decisions as to whether the WAO is making a difference in the Yukon.

'Managing by results' involves identifying the differences or impacts that the WAO seeks to make or influence in the lives of injured workers and their families. Measurable indicators can then be identified, which allow the WAO to track where these differences are being achieved over time. This approach helps the WAO to identify its business plan activities, and target them to areas where results require improvement.

The WAO focused on several areas in making a difference for clients in 2008:

**Why the WAO Matters** – The WAO helps injured workers receive the benefits and services to which they are entitled.

**How We Will Know** – Early intervention – a majority of issues are resolved without the need for a formal Hearing Officer Review or Appeals Tribunal.

**How We Will Know** – 90 percent of formal reviews (Hearing Officer & Appeals Tribunal) reverse original decision of the adjudicator.

**Why the WAO Matters** - Injured workers and their families receive quality customer service from the WAO.

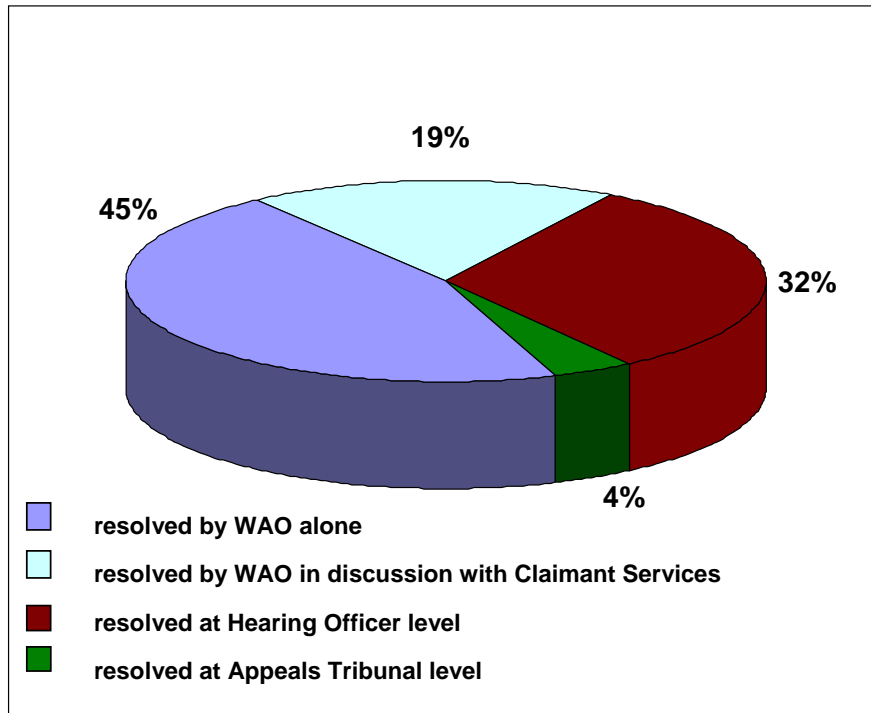
**How We Will Know** – 90 percent client satisfaction with five customer service-related indicators.

**Why the WAO Matters** - Injured workers are treated with dignity and respect in dealings with the Workers' Advocate Office.

**How We Will Know** – 90 percent client satisfaction with three dignity and respect-related indicators.

**Why the WAO Matters** – The WAO helps injured workers receive the benefits and services to which they are entitled.

**How We Will Know** – Early intervention – a majority of issues are resolved without the need for a formal Hearing Officer Review or Appeals Tribunal.



**What this shows:**

This chart shows that, for 2008, nearly one-half (45 percent) of client issues were resolved by the WAO without the need to involve the YWCHSB or go through a formal hearing process. 19 percent of issues were resolved informally during discussions with Claimant Services staff.

Only four percent of issues required resolution at the Appeals Tribunal level.

There were a total of 123 issues in 2008:

- 45% = 56 issues (WAO alone)
- 19% = 23 issues (with Claimant Services)
- 32% = 39 issues (with Hearing Officer)
- 4% = 5 issues (with Appeals Tribunal)

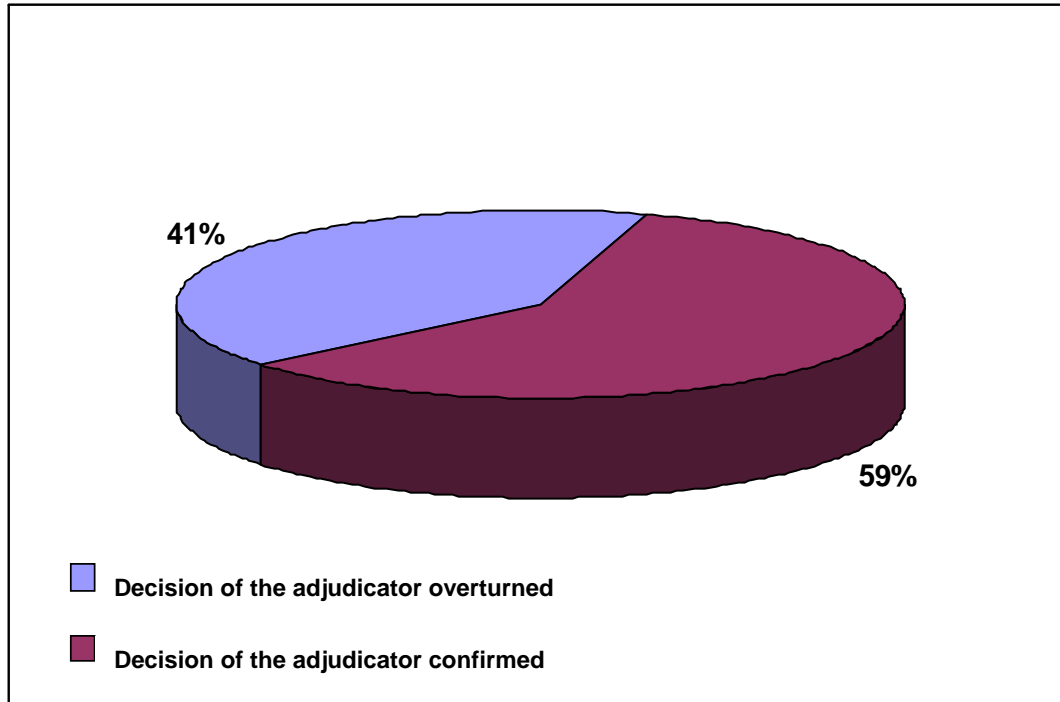
... and 26 issues remain under investigation by the WAO.

**From the Board ...**

“[We] would describe our relationship with the WAO as healthy and positive. The staff from both offices are comfortable discussing issues that arise in a non-confrontational and non-adversarial way, and in this way are able to resolve some (not always all) of these issues. Another highlight of this that occurred in 2008 was the joint training that occurred with respect to the new Act and policies.” (Michael McBride, Director, Claimant Services)

**Why the WAO Matters** - The WAO helps injured workers receive the benefits and services to which they are entitled.

**How We Will Know** – 90 percent of formal reviews (Hearing Officer & Appeals Tribunal) reverse original decision of the adjudicator.



**What this shows:**

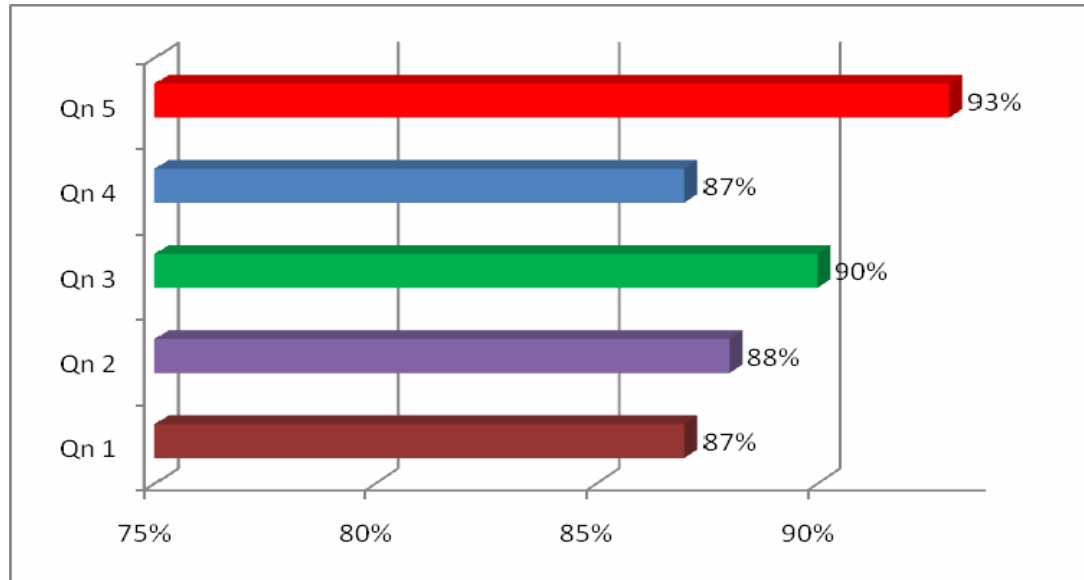
This chart shows that, for 2008, approximately 40 percent (total of 18) of the issues that went through the formal review process led to a reversal of the original decision of the adjudicator.

Of the 44 issues heard through the formal process, five were heard by the Appeals Tribunal.

Overall, this information shows that the WAO is making progress towards ensuring that injured workers receive their entitlements by representing them in the formal dispute resolution process.

**Why the WAO Matters** - Injured workers and their families receive quality customer service from the WAO.

**How We Will Know** – 90 percent client satisfaction with five customer service-related indicators.



**What this shows:**

In November 2008, a random survey of 50 Workers' Advocate clients was conducted in order to obtain feedback on these indicators.

This chart shows the WAO rated a 5.2 (87%) or better out of a scale of six.

The survey had a response rate of 46 percent (18 respondents out of 39; 11 were unable to be reached).

Question (Qn) 1 - 90% client satisfaction that the WAO clearly explained all decisions related to their file.

Question (Qn) 2 - 90% client satisfaction with the quality (timely, courteous, professional) of our customer service.

Question (Qn) 3 - 90% client satisfaction that the WAO has value.

Question (Qn) 4 - 90% of clients agree that their concerns were heard and listened to by the WAO.

Question (Qn) 5 - 90% of workers believe they understand the role of the WAO in the compensation system.

**How We Will Know –**

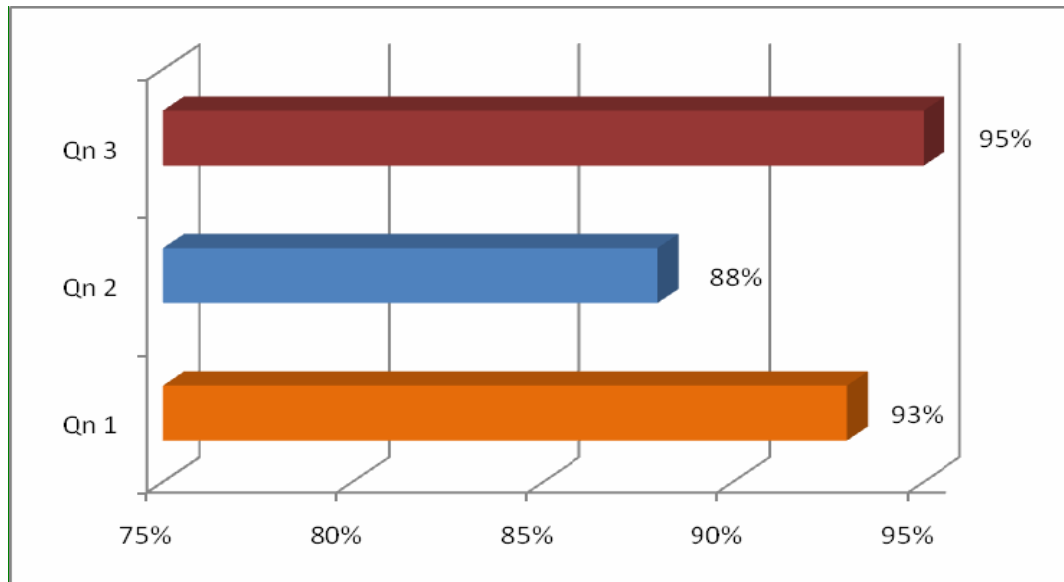
- 90% of clients met within 15 business days of date of receipt of file and within 5 business days of date of receipt of decision.

**2008 statistics** - 100 percent of clients were met within 15 business days upon receipt of file.

100 percent of clients met within 5 business days of WAO receiving decision on issue.

**Why the WAO Matters** - Injured workers are treated with dignity and respect in dealings with the WAO.

**How We Will Know** – 90 percent client satisfaction with three dignity and respect-related indicators.



**What this shows:**

In November 2008, a random survey of 50 WAO clients was conducted in order to obtain feedback on these indicators.

This chart shows the WAO rated a 5.6 (88%) or better out of a scale of six.

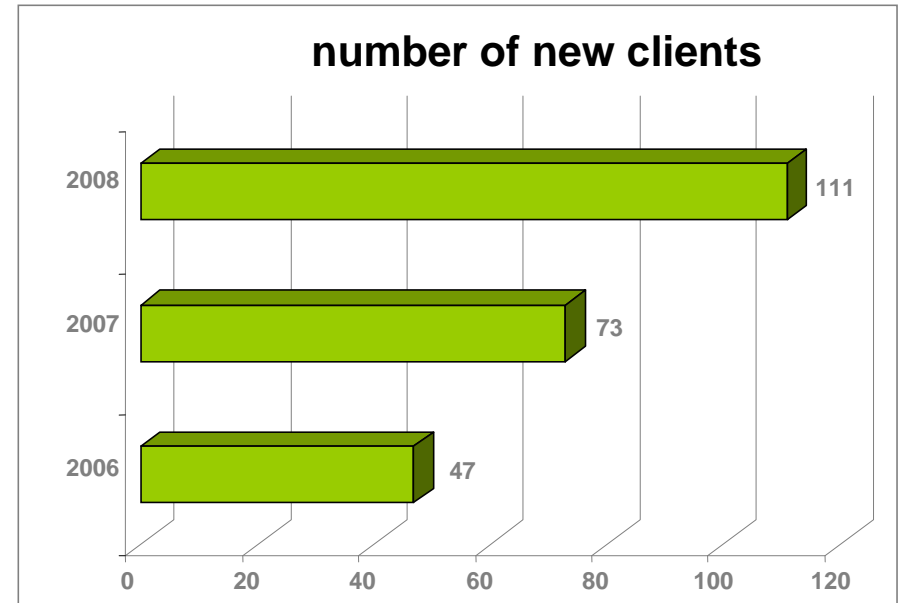
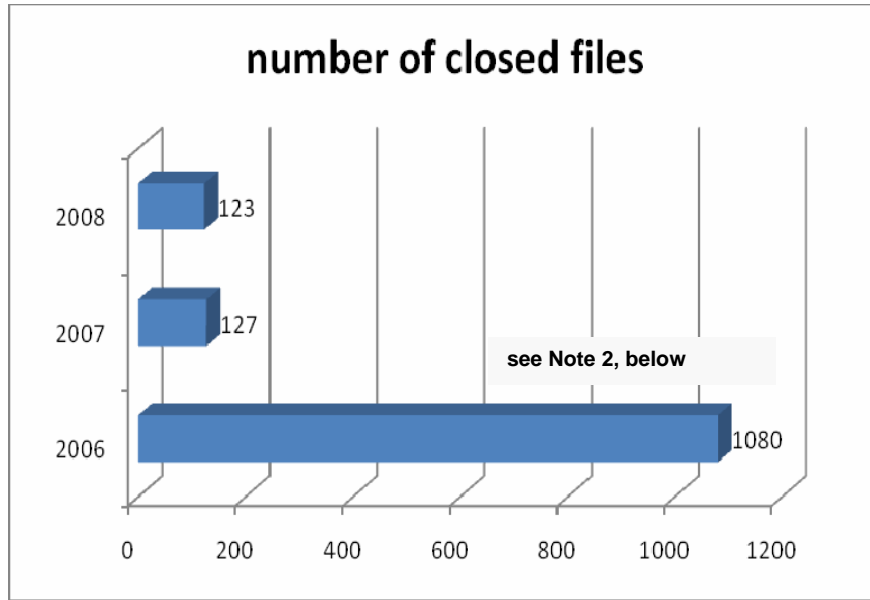
The survey had a response rate of 46 percent (18 respondents out of 39; 11 were unable to be reached).

Question (Qn) 1 - 90% of workers who sought the assistance of the WAO believe that they were treated with dignity and respect.

Question (Qn) 2 - 80% of workers who seek the assistance of the WAO agree that they were kept informed and up-to-date of the status of their file.

Question (Qn) 3 - 90% of injured workers agree that their concerns were heard and listened to by the WAO.

## WAO Workload



### What this shows

Overall, the WAO workload has increased in recent years. In 2008, the 111 new clients<sup>1</sup> identified 164 issues (1.32 average number of issues per client). While the caseload is rising (including the carrying over of unclosed files from the previous year), the ability of the WAO to close cases remains comparable from 2007 to 2008.<sup>2</sup>

In 2008, the WAO began to track other WAO interventions. For example, there were 48 general enquiries – over and above the 111 new clients – that the WAO responded to from injured workers. Usually, general enquiries involve providing legislation and policy advice to injured workers along with the gathering of additional information they require.

- Notes:**
1. A client is defined as an individual who signs an affidavit requesting the Workers' Advocate to investigate their issue or concern. The WAO also deals with 'walk-ins', who contact the WAO for informal information but do not sign an affidavit.
  2. The 1080 cases resolved in 2006 was an exception; a decision was made at that time to close a significant backlog of files.

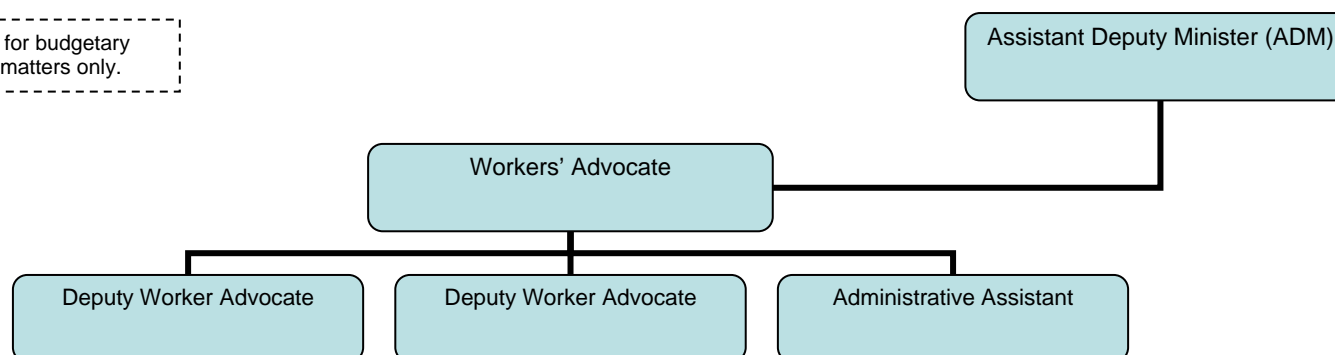
The Workers' Advocate Office is funded annually by the YWCHSB in accordance with Yukon *Workers' Compensation Act*.

<u>Description</u>	<u>2008 Budget</u>	<u>2008 Spending Forecast<sup>1</sup></u>	<u>2007 Actual</u>
Salaries	\$314,975	\$280,328	\$221,279
Employee Travel outside	\$1,500	\$4,155	\$1,753
Contract Services	\$38,000	\$15,985	\$32,899
Repairs & Maintenance	\$1,500	\$1,080	\$1,119
Rental Expense	\$43,000	\$60,962	\$41,590
Supplies	\$1,900	\$817	\$1,030
Freight/ Postage	\$100	\$209	\$1,610
Program Materials - WCB	\$500	\$1,735	\$0
Program Materials - other	\$0	\$495	\$638
Communications	\$3,000	\$4,196	\$6,144
Non-consumable Assets	\$2,700	\$2,968	\$3,978
Training	\$4,000	\$2,150	\$0
Memberships	\$600	\$150	\$150
Printing	\$200	\$288	\$171
	<b>\$411,975</b>	<b>\$375,518</b>	<b>\$330,503</b>

1. The 2008 actuals are represented as a forecasted estimate, due to the Department of Justice operating on a April 1 to March 31 fiscal year (the WAO receives its funding from the YWCHSB, which operates on a January to December fiscal year).

## Organization & Contacts

The WAO reports to the ADM for budgetary and staff performance issues matters only.



### Yukon Workers' Advocate Office

P.O. Box 2703 Q-1 Whitehorse, Yukon Y1A 2C6  
Telephone: 867-667-5324 Fax: 867-393-6346  
Toll Free: 1-800-661-0408  
[www.justice.gov.yk.ca/prog/ms/wad](http://www.justice.gov.yk.ca/prog/ms/wad)

### Canadian Association of Workers Advisors and Advocates

[www.cawaa.org](http://www.cawaa.org)

### Yukon Federation of Labour

102-106 Strickland Street, Whitehorse, Yukon Y1A 2J5  
Telephone: 867-667-6676 Fax: 867-633-5558  
[www.yukonfed.com](http://www.yukonfed.com)

### Yukon Workers' Compensation Health & Safety Board

401 Strickland Street, Whitehorse, Yukon Y1A 5N8  
Telephone: 867-667-5645, Fax: 867-393-6279  
Toll Free: 1-800-661-0443  
[www.wcb.yk.ca](http://www.wcb.yk.ca)

### Persons with Disabilities Online

1-800-622-6232 [www.pwd-online.ca](http://www.pwd-online.ca)

### Northern Safety Network Yukon

113A Platinum Road, Whitehorse, Yukon Y1A 5M3  
Telephone: 867-633-6673 Fax: 867-633-6391  
[www.yukonsafety.com](http://www.yukonsafety.com)