



Connection

A N N U A L R E P O R T E D I T I O N

Clare Lewis Presents First Annual Report as Ombudsman: Highlights Focus on Accountability and Privatization

Ombudsman Message ***1999-2000***

It is a privilege for me to introduce this annual report as my first formal opportunity to bring a message to the Legislature of Ontario, and through it, to the people of this province.

I first want to acknowledge my gratitude for the unanimous support my appointment as Ontario's fifth Ombudsman received from the members of the Legislature. When I was interviewed for the position by members of the Standing Committee on the Legislative Assembly representing the three political parties, I was reminded of the critical need for a strong, mutually respectful working relationship between the office of the Ombudsman and all elected members. An Ombudsman's credibility rests at least in part on the confidence of the sitting members. In this context I want to emphasize my commitment to act as a servant of the Legislature and to demonstrate continuously my accountability as one of its officers.

A B O U T T H I S N E W S L E T T E R

This is the Annual Report edition of *Connection*. It contains the highlights of information presented to the Legislature by the Ombudsman. Copies of the Annual Report are available through our contact information on the back page. It is also posted on our Website at www.ombudsman.on.ca.

I would also like to state my appreciation for the work of my predecessor, Roberta Jamieson. She served with considerable distinction through three different administrations and set a unique standard for conduct and performance that will be a challenge to sustain. Ms Jamieson was unrelenting in promoting the principles of ombudsmanship through her wide travels and high profile among communities across Ontario, as well as nationally and internationally. In taking over the lead of this vital public service organization following a period of dramatic change in both its internal and external environments, I am indebted to her far-sighted and energetic leadership.

My appointment took effect at the end of January this year, following a period of three months during which Fiona Crean, Ombudsman Ontario's Executive Director, filled the position on an interim basis. Ms Crean and the very dedicated and talented staff at the Ombudsman's office worked through the uncertainty of this transition period with skill and perseverance. They have all been of enormous assistance to me in supporting my introduction to the office and in welcoming me with warmth, advice, and no small measure of hard work.

Because I took up the post with only two months remaining in the fiscal year covered by this annual report, most of the information contained within it reflects the work carried out before my mandate began. The period since my appointment on January 31, 2000 has presented interesting challenges as I learn the breadth and complexity of the issues involved in



Clare Lewis, Q.C.

administering the provisions of the *Ombudsman Act*. My early review of complaints and inquiries from the public and my interaction with officials across a wide spectrum of public service have left one very important first impression.

Reaching out to a broad range of constituencies

That impression is the necessity of strengthening the relationships between this office and the many publics served by it. Because individual complainants are the core focus of our work, there is a need to reach out to a broad range of constituencies to reinforce our presence and to make the public as a whole aware of our services. It is also necessary for me and my staff to engage positively with public servants at all levels of decision-making to ensure the role and function of the Ombudsman's office is well understood and respected. Essential to that aim is our understanding of and respect for the important and often difficult work of those

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public servants. Their values, commitment, and efforts warrant our recognition and regard. I trust that my own background in public service and law has given me a solid grounding in the principles of administrative justice and in the values and operations of public institutions. There is of course much for me to discover, but I am determined to make sure my office is accessible, transparent, efficient and accountable in all its relationships.

The Ombudsman is intended to be an independent and impartial officer of the Legislative Assembly, mandated to investigate public complaint of error or unfairness in public administration and, when appropriate, to make recommendation for correction. The success of the Ombudsman in achieving positive results from such recommendations depends on the quality of the investigations and the objectively rational merit of the recommendations. The power of the Ombudsman is ultimately persuasive only, and that goal is best achieved through a clearly non-partisan and independent approach.

As Ombudsman, I am intent on achieving positive results from our early resolution efforts and through our investigations and recommendations by assuring government, the Legislature, and the public service that our work is founded in a proper finding and cogent assessment of the facts of each case and a commitment to fairness for all individuals.

My staff are well prepared for this commitment, and are also anxious that I undertake a broad programme of public outreach to ensure that our service is not only available to, but broadly understood and valued by the public throughout this province. In adjusting to a smaller staff in the past few years, and in re-organizing to ensure effective service delivery, outreach has necessarily been curtailed. I have noted that the Greater Toronto area is significantly under-represented in our complaint intake. In this context, I intend to

ensure that those in this area who might benefit from our service are informed of and confident in its availability and value.

25 Years - a momentous step forward in the evolution of our democracy

This year's twenty-fifth anniversary of the passage of the *Ombudsman Act* represents an excellent opportunity to put these principles into practice. I have begun a planning process to schedule activities marking the anniversary in October of the appointment of Mr. Arthur Maloney, Q.C., as the province's first Ombudsman in 1975. I wish to use this occasion to celebrate the continuing achievements of this institution and to remind all our publics - the Legislature, government officials, media

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outlets, community organizations and the general population - that the creation of an Ombudsman's office was a momentous step forward in the evolution of our democracy. Twenty-five years later we must still be vigilant in ensuring the office remains relevant, dynamic, and visible as a cornerstone of our shared democratic values promoting accountability in the delivery of public services.

Although this report covers only a short period during which I was responsible for initiating and concluding the investigative work of the office, there are three examples I would like to highlight in this report. These include: an investigation into the Ministry of Transportation's administration of those portions of the *Highway 407 Act, 1998*,

dealing with the collection of tolls and fees; the recurring evidence of systemic problems in the application of policy at the Ministry of Correctional Services; and the final disposition of four investigation reports tabled last year with the Legislature.

The Ministry of Transportation's administration of the Highway 407 Act

As a result of a number of complaints to my office from individuals concerning MTO's practices relating to validation and issuance of vehicle permits I initiated an investigation into the Ministry's administration of those portions of the Act dealing with the collection of tolls and fees. In a letter to the Ministry's Deputy Minister following my investigation, I noted that because the Ministry is not required to monitor any aspect of customer service provided by the highway owner under the Act, and because the practice of license plate denial on the basis of non-payment of tolls had been suspended until further measures are in place, I would not be conducting any further investigation. I noted that although MTO was involved at various stages in the planning and execution of the privatization of Highway 407, another government organization led the process. I suggested that it was unfortunate neither the Act nor the Concession and Ground Lease Agreement covering its implementation contained accountability mechanisms related to legislative compliance regarding toll collection. In closing the file I commended MTO for its actions in responding to problems in a timely manner and recommended that the lessons learned in this case be shared with other Ontario Public Service agencies which may be involved with similar privatization initiatives. In particular, I stated: "This matter highlights the need in privatization initiatives for accountability mechanisms which will enable the government to ensure that the private sector partner acts fairly with the public."

Systemic problems in the application of policy at the Ministry of Correctional Services

I am concerned with the recurring evidence presented in three separate investigations concluded this year that there is a systemic problem in the lack of consistent application of official policy and standing orders across correctional facilities in the province's prison system. Based on complaints received from inmates at various institutions, my office investigated a range of issues involving segregation procedures, use of force, and lost property. In all three of these investigations the evidence gathered showed a pattern wherein Ministry policy and institutional standing orders are not administered consistently. Significant issues affecting staff training and Ministry-wide communication and enforcement were identified, and tentative recommendations were made concerning the entitlements of inmates to minimum standards affecting hygiene, health care and fair and reasonable treatment based on Ministry policy and institutional standing orders. The tentative conclusions and recommendations in these investigations were all accepted by the Ministry and undertakings have been given to improve performance in these areas. I would like to note in this context that as privatization initiatives proceed in the Ministry, the issue of accountability in the treatment of inmates, as one indicator of overall security and efficiency in the administration of facilities, is likely to remain a matter of concern.

Final disposition of four investigation reports tabled with the Legislature

In April 1999, my predecessor tabled with the Legislature four final investigation reports containing conclusions and recommendations not accepted by the government organizations involved. The reports included the case of Ms P and the Ontario Human Rights Commission

(OHRC), and three investigations into service provision involving: the OHRC; the Family Responsibility Office (FRO) at the Ministry of the Attorney General; and the Adoption Disclosure Register at the Ministry of Community and Social Services. The normal practice is for such reports to be forwarded to a Standing Committee for public hearing.

When I took office these reports had not been disposed of by the Legislature, and accordingly, I initiated follow-up discussions with the organizations involved in an attempt to resolve the issues raised in the reports. Having concluded my review, on April 13, 2000 I wrote to the

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Chair of the Standing Committee on the Legislative Assembly to provide an update based on this activity. I withdrew all four reports. These included the case of Ms P, in which the OHRC agreed to provide a satisfactory resolution by apologizing and compensating the complainant for the manner in which it dealt with her case. With respect to the length of time in processing cases at OHRC and FRO, I stated that in my view the passage of time since these reports were prepared meant that the current operations of each of these program areas were not reflected in the reports, and consequently, no practical purpose would be served by a public hearing. I further noted my intention to monitor the issues raised in the reports

through the normal course of our work addressing complaints as they arise. Finally, in the case of the Adoption Disclosure Registry, the Ministry of Community and Social Services has responded positively to the Ombudsman's recommendations, and allocated an additional \$2.4 million to the program. The Ministry intends to hire an additional 24.5 staff and eliminate the ADR's backlog within 18 months.

Achieving redress for the public

Although certain high-profile complaints and government program areas tend to receive wide publicity through Ombudsman reports and the media, I have noted in my brief tenure a largely unheralded, but enormously important feature of the daily work of the staff of the Ombudsman. In reviewing the case stories selected for inclusion in this report, I have been struck, and quite moved by the quiet and frequent resolution of complaints by staff, usually at an early stage. As a reading of these stories will reveal, my office regularly achieves redress for members of the public, often in matters which have considerable, and sometimes dire impact on the lives of those affected. These important resolutions are normally achieved by those staff members and their managers without the direct involvement of the Ombudsman. It is a testament to them, and to those many public servants with whom they interact, that government services are provided properly and fairly.

I have expressed my awareness of the privilege afforded me by this appointment. Throughout the coming five years, I shall make signal effort to ensure the relevance and effectiveness of this office in securing fairness to all in the administration of provincial government services.



Clare Lewis, Q.C., Ombudsman

mission

STATEMENT

In striving to achieve our Vision, Ombudsman Ontario is committed to the following goals for fairness and service:

- Investigate and resolve complaints efficiently
- Deliver relevant, timely, impartial and accessible services
- Foster objective standards of governmental administration
- Act as a resource to governmental organizations and the public to prevent future complaints
- Increase public awareness of Ombudsman Ontario's services
- Be ethical and accountable
- Encourage teamwork through consultation and communication
- Monitor and evaluate our organizational performance
- Realize individual potential through proactive human resource practices

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Who We Are

Ombudsman Ontario helps people resolve problems by investigating complaints they have with provincial government ministries, agencies, boards, commissions and tribunals. The office cannot deal with matters regarding federal or municipal government, the courts, school boards and the private sector. Ombudsman Ontario is independent of the government and is a place of last resort when other approaches to resolve complaints have been tried. Services provided are confidential.

About our logo

This is the symbol for Ombudsman Ontario. The "O" stands for our name. Inside, three sets of arms are coming together: one each for the public, the government and our office.



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