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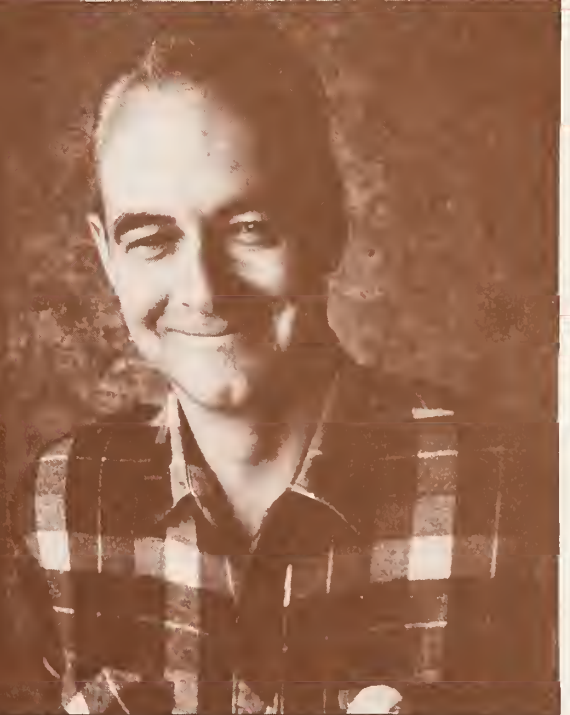
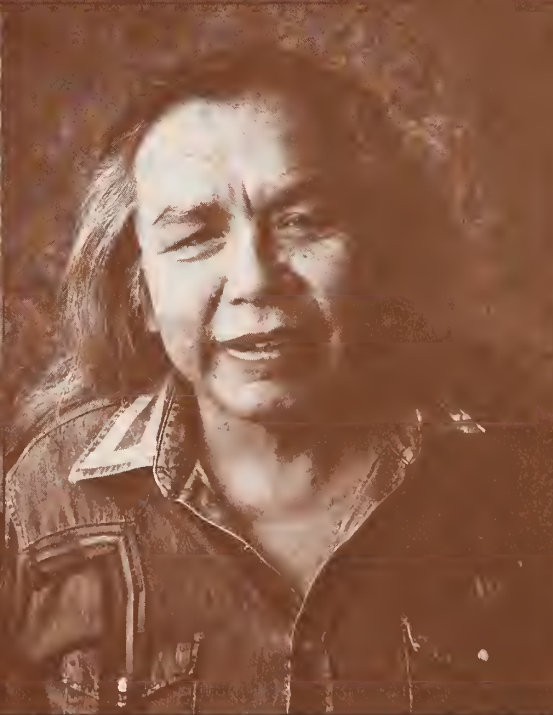
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THE ONTARIO OMBUDSMAN'S ANNUAL

REPORT 1990-1991









OMBUDSMAN'S MESSAGE



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Toronto, Ontario
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June 20, 1991

The Speaker
Legislative Assembly
Province of Ontario
Queen's Park
Toronto, Ontario

Dear Speaker:

I am pleased to submit, for presentation to the Legislative Assembly, the Annual Report of the Ombudsman for the period April 1, 1990 to March 31, 1991.

This report is provided pursuant to Section 12 of the Ombudsman Act.

Yours sincerely,

Roberta L. Jamieson
Ombudsman



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A year ago, I set out certain objectives for the year ahead in my Report to the Legislative Assembly.

It was to have been a year of establishing foundations for the particular approaches which I intended to take during my mandate.

It is time now to evaluate progress made, and to determine specific objectives for the year ahead.

Before I set out these approaches, however, I would like to comment on the larger context in which the practice of Ombudsmanship must be considered.

The administration of government is not isolated from the

dramatic changes which are reshaping a once-familiar world. Every aspect of contemporary life is being changed by global forces beyond our control which have washed us from long-established and comfortable channels into unmarked seas where no one's survival can be taken for granted. Our population demographics, the distribution of wealth and resources, sharp challenges to our economic competitiveness, new consciousness about human rights, and many other changes of equal magnitude are making a powerful impact which will require significant change in the administration of government and the relationship between governed and government.

All over Canada, in these circumstances, the public is making new demands on government, and government is asking the public to accept new responsibilities so as to maintain the standards which we have come to expect. I consider the Ombudsman's services to be especially essential in assisting the public to have a means of having their concerns heard. It is natural that simultaneously we will experience excellent advances in standards along side distressing areas in which government has not been able to keep up with expectations. Satisfaction will be tempered with frustration.

Not long ago, governments were expected to see the general outlines of the future in order to adjust and fine-tune. Now, however, the changes are so rapid and so unpredictable and of such a fundamental nature that preparations are often not possible. Qualities such as flexibility, the ability to change rapidly, and the capacity to co-exist with uncertainty are required both in our institutions and in our personal lives if we are able to meet the challenges and opportunities of our times. These qualities are particularly difficult for our bureaucracies to acquire, for they have not been constructed with these qualities in mind.

All of this places new importance on instruments such as the Ombudsman to serve as early warning systems to bring to the government's attention areas that are causing public concern. My mandate allows me to see what is happening across the full panorama of governmental organizations, allowing me to note where new circumstances have an impact on administrative fairness.

A new trend is already starting to impact on my work as Ombudsman. Recent events in Canada have shown that the Canadian public is no longer content to give blank proxies to government for long periods, nor to consider that "government knows

best" when it comes to determining public policy. Demands are made for consultation and input in decision-making, not only for routine government programs, but as well for such matters as provincial positions in national fora.

This will mean that here in Ontario, I may be asked to investigate new kinds of questions of administrative fairness in areas which are within my mandate, but which the public has never before raised. A few examples come to mind: did officials consult them? did officials provide them with information they had so an informed position could be taken? was their position fairly reported? were government studies adequate, balanced, and objective?

Openness, cooperation, and working partnerships and alliances are going to be essential if Ontario is to meet the economic, political, and social challenges of this decade. If these attitudes can be incorporated in the public service, they will be spread rapidly throughout other sectors of the province. Government cannot expect people and businesses to work together and cooperate if government administration takes an adversarial attitude toward complaints and concerns. There is great potential for many of the problems of our times to be resolved in a manner acceptable to all parties if government itself can show leadership in encouraging and participating in compromise, working out win-win situations, and finding ways to incorporate diverse viewpoints in agreements.

To ensure that my own mandate will be exercised effectively and appropriately under these circumstances, I prepared a "Mission Statement" which is presented as a chapter of this Report. The statement sets out an ideal I am working toward on a day-to-day basis. While I am willing to be measured against it, I should also say it is not written in stone, I welcome comment and as I have noted above, it will be subject to improvement over the course of time.

Making the People of Ontario Aware of the Ombudsman's Services

One of the major objectives I set in my Report last year deals with the interplay of public awareness of how to access the Ombudsman's services, correct knowledge as to what those services are, and public access to the services. I want to be sure all segments of the population in every part of Ontario know about the Ombudsman and how I can work with the

people of the province to improve the quality of public administration. I want them to know what the Ombudsman can and can not do. And as this is achieved, I want to make sure that my services are easy to get to, easy to use.

To assist me in achieving this objective, I commissioned a survey on public awareness. It confirmed my suspicion that far too few people were aware of the Ombudsman – particularly the people who might be more vulnerable to unfairness and who have limited resources to deal with the problems which result. A summary of the findings of the survey appear in a separate chapter of this Report.

The survey also indicated that persons encountering problems with the administration of government usually do not take any action of any kind, and if they do, they rarely give consideration to seeking the Ombudsman's help. Yet when information is provided, Ontarians readily endorse the need to have an Ombudsman. Further research will be necessary to understand what is behind these attitudes.

The survey also reported that a majority of the people of the province feel they are not well protected against unfair government action. It is in the interest of any government and the public itself that there be confidence in the instruments available to assist them to resolve problems with government administration, and that public dissatisfaction with government be reduced. The Ombudsman can be a valuable instrument in both respects. I am carefully studying the survey and formulating creative initiatives to deal with this double challenge so that Ontarians will recognize the role the Ombudsman can play in improving the quality of government administration.

I have been impressed by the greater access afforded to the people of Ontario by my district offices. The North Bay office has re-opened, and in June, the Kenora office relocated to a more visible and accessible location.

I also have assigned specially-trained staff to a newly-created Community Access and Intake Directorate so that focused attention could be given to meeting my standards of access and efficient resolution of concerns. I have mandated this new directorate to make my services more accessible, to engage in strategic community education initiatives, and to improve the process through which persons approaching my offices for assistance are received so that their concerns will be dealt with efficiently and promptly from the very outset. The directorate's work-

load has increased significantly as the result of provincial government decentralization and resultant increases in the number of complaints and the need for public education.

In another initiative to increase accessibility, a TDD for communicating with persons who are hearing impaired or deaf was installed in the central office. Computers were installed in my district offices for more efficient communications. I also intend to publish new printed materials in the year ahead.

Serving All Aspects of the Ontario Public

I have taken several steps to ensure that all parts of the diverse Ontario public are well-served by all members of my staff. I have taken advantage of every opportunity to form a staff complement which is representative of the people of Ontario. I began a program of cross-cultural sensitivity training to operate on a continuing basis.

My district offices have had responsibility for outreach and public education for some time, and I now intend to implement this practice in the Metropolitan Toronto area as well.

While these initiatives are intended to reach all peoples of Ontario, I feel a special obligation to be sure that my services are available and known to those people who for whatever reason are most vulnerable to unfairness, or most likely to be subjected to unfairness, or least able to defend themselves when unfairness occurs.

Improved Communications with Members of the Legislature

The Ombudsman is an official of the Legislative Assembly, instructed by a special mandate and equipped with investigative powers to investigate complaints and assist the people of the province as a last resort in resolving their concerns about government administration. So that the Assembly can be better served, I have appointed two senior staff members to develop improved liaison with Members of the Legislature. I have personally met with each party caucus. My staff is conducting sessions with Members' staff so they are familiar with the mandate, functions, and processes of the Ombudsman. I expect this improved cooperation will assist me to provide optimum service to the people of Ontario, and to deal with issues raised by each Member's constituents.

Appropriate Methods of Conflict Resolution

I have found a welcome reception among officials and the public for my non-adversarial approach to conflict resolution. There are times when confrontation and power are required – but generally, both officials and the public respond positively to my offer to assist them in seeking out mutually-satisfactory resolution of issues and concerns. Efforts have been made in staff-training toward further development of conflict resolution skills for the facilitation of win/win settlements which a) respond to the concerns of the individual; b) result in general improvement in the administration of government for all people of Ontario; and c) meet the high standards of fairness I am pledged to uphold.

I am encouraged by the potential of this direction, and I commend it to the government for use in resolving contentious public conflicts around such issues as the environment.

Preventative Ombudsmanship

I have made my services available to those governmental organizations who wish to bring their procedures and regulations up to “state of the art” standards of democratic administration. I continue to offer meetings with officials of ministries, boards, agencies, tribunals, and commissions to discuss in general terms the attributes which promote fairness, equity and justice in administrative policies, practices, and procedures.

I have also met with many deputy ministers and heads of tribunals, boards, agencies and commissions to review with them the approach I take in investigating concerns and making recommendations for improvement. My staff and I acquaint officials with the opportunities presented by the *Ombudsman Act* to improve the administration of government while protecting the interests of the public and public servant alike.

Systemic Issues and Trends

While most of the Ombudsman’s activities are dedicated to resolving the concerns of individuals, I have noted a number of issues which appear to be systemic in nature. The extensive overview which I have of government administration also enables me to identify trends which may not be apparent to any one

governmental organization.

Since my mandate gives me the obligation and authority to investigate and report on such matters, I had intended during this year to review more of these systemic issues and trends.

I discovered, however, that I must first reorganize resources, collect data, and develop an increased capacity to deal with these areas of concern.

The survey I commissioned indicates strong public support for the Ombudsman’s findings to be used to prescribe preventative action which will result in improvements which will benefit many people. I anticipate good public support for the systemic overviews I would like to make. The challenge will be to do so without disrupting resources now dedicated to assisting persons with individual concerns and complaints.

Protecting the Neutrality and Independence of the Ombudsman

It is at the heart of the Ombudsman’s essential purpose that she be independent of government, and without bias in the conduct of her investigations. This enables the Ombudsman to be seen as an objective means of improving the level of fairness in government administration. This independence and neutrality must both be demonstrated and appear to be demonstrated in every act, since the survey I conducted indicates the Ontario public is sceptical that the Ombudsman really is independent.

These qualities are a constant theme in discussions with staff so that they will be alert to situations in which inappropriate external pressures are suggested. In my public speaking, I emphasize the value both to the public and to government to maintain this vital independence so that the Ombudsman may continue to be an effective instrument of improved public administration.

Administration

So that I can exercise my mandate more effectively and efficiently, I have strengthened the organization of my staff without increasing my overall staff complement. Three new directorates have been organized: Human Resources, Community Access and Intake, and Investigative and Legal Services. In order to continue to retain and attract competent staff, I engaged expert assistance to develop a salary plan for all levels which is competitive with both the

public and private sector. An internal staff identification and tracking system is being put in place to assist me in developing employment equity policies, goals and timetables for achievement.

The Cooperation of the Public Service

I wish to extend my thanks to the many public servants who exercise a strong individual commitment to provide high-quality service. I encourage as well those who are finding creative ways to insure that high standards of administrative fairness keep pace with the fundamental changes which have impact on any government's way of doing business. Finally, I give special appreciation to all public servants who have given me and my staff tremendous assistance and cooperation in the exercise of my mandate.

These public servants would be the first to point out there is still room for improvement even in their own work. There are some areas in which dramatic improvement is required, and these will continue to be the subject of my attention whenever an opportunity can be found to create progressive change.

It should be noted that for this fiscal year, it has not been necessary for me to seek the intervention of the Legislative Assembly in order to have my recommendations implemented.

I would like to take this opportunity to recognize and thank my staff, whose diligence and commitment to the highest standards of public service are evident throughout the year.

This message is intended, among other things, to share my views on the course I have taken and the objectives which I have set for the year ahead.

These are objectives against which I will measure accomplishments a year from now.

I invite all those who read this report to share their ideas with me about how I can improve the services which I offer as well as how we in Ontario can shape the institution of the Ombudsman to better meet the needs of the 21st Century.

I believe we have the opportunity in Ontario to involve the people of the province in forming a model of public administration which is on the leading edge in its standards of fairness and respect for all. It is my commitment to apply my mandate as Ombudsman to that objective.

Roberta L. Jamieson
Ombudsman

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MISSION STATEMENT

The Ombudsman achieves this goal through the prompt, efficient investigation and resolution of complaints, issues and concerns which are brought to her attention or which are investigated on her own initiative.

While her services are available to all members of the Ontario public, the Ombudsman is particularly alert to the need to serve those individuals and groups in society who are most vulnerable to injustice.

The Ombudsman is assisted in retaining the confidence of public and officials by a professional staff who uphold the same high professional standards expected of the Ombudsman herself. Through internal training and professional development programs, the Ombudsman provides opportunities for her staff to enhance their capacity to provide service to the public.

To achieve this mission, certain principles and practices are applied throughout the Ombudsman process.

Principles and Practices With Respect to the People of Ontario

The Ombudsman's services are kept relevant and appropriate to the people of Ontario as needs and circumstances change.

The Ombudsman and her staff are alert to changes in technologies, government practices and policies, demography, economic conditions, etc., so that the Ombudsman can make adjustments in the manner in which her services are offered and adopt appropriate standards and criteria.

The Ombudsman makes all possible effort to ensure that all people in Ontario are aware of the availability of her services.

The Ombudsman conducts a wide range of outreach activities so that everyone wishing to raise a concern or issue regarding the administration of a provincial government organization will be aware that included among the options of available assistance are the services of the Ombudsman. These activities are also intended to assist the public to have a complete and accurate understanding of her services so that public expectations are reasonable.

The services of the Ombudsman are accessible to all who wish to use them.

Knowing that the Ombudsman's services are available is not enough. The people of Ontario must be able to contact a representative of the Ombudsman in an easy manner without delay by telephone, by writing, in person, or through a Member of the

It is the mission of the Ombudsman of Ontario to assist the people of Ontario to enjoy public service of the highest quality from provincial government organizations.

Legislature. For this reason, the Ombudsman provides a friendly reception at convenient hours with convenient physical access and a convenient means of communication.

Every step of the Ombudsman's processes and procedures is "people friendly".

So that all persons seeking the Ombudsman's assistance may feel welcome, bureaucratic requirements are kept to a minimum. People are provided information in a friendly fashion so they can understand what the Ombudsman does, how services are provided, and what can be done within the Ombudsman's legislated mandate. When the Ombudsman's services would not be the best or only option, the Ombudsman will make a reasonable effort to refer the person requesting assistance to another source of assistance.

The Ombudsman's services are rendered in an appropriate manner.

The Ombudsman's staff go beyond simply reflecting the cultural, linguistic, and special circumstances of the people of Ontario. They also are sensitive to cultural, linguistic, socio-economic and other factors which contribute to the diversity of the Ontario public.

The Ombudsman's services are also rendered in a timely, cost-efficient, and effective manner.

One ideal for effectiveness is that the matter is resolved to the satisfaction of the client and the governmental organization involved while meeting the Ombudsman's standards of fairness. Another is that the remedy permanently prevents the situation from recurring.

The Ombudsman acts in an impartial manner, using objective standards, so the people of Ontario may have confidence in her decisions.

The Ombudsman is not an advocate for the public nor a defender of the bureaucracy nor a perpetual critic of government. Her work is to bring objective scrutiny to bear on the administration of government to determine that the high standards expected by the people of Ontario are applied fairly, consistently, and evenly. She reaches her decisions by reference to identifiable standards and criteria so they can be seen to be objective and without bias.

The independence of the Ombudsman must be

made obvious to all: the public, officials, political parties, and the government of the day.

The Ombudsman's educational activities increase the public's knowledge of Ombudsmanship as a mechanism of direct participation in the improvement of democracy.

The Ombudsman encourages educational institutions at all levels to include modules of instruction on Ombudsmanship in courses such as administrative law, public administration, political science, civics, etc. Consideration of Ombudsmanship should also be included in the broader examination of appropriate conflict resolution mechanisms.

The Ombudsman assists the people of Ontario and provincial governmental organizations to expand their options to deal with issues and concerns.

The Ombudsman assists the people of Ontario to feel confident in asserting their rights with governmental organizations, to understand what constitutes acceptable standards of government service, and to consider and skillfully use a variety of avenues to resolve their issues and concerns.

Principles and Practices With Respect to Governmental Organizations

The Ombudsman performs her services in a manner which assists governmental organizations to provide their administration to the people of Ontario at the high standard which the public expects.

Without diminishing her ability to use her powers and exercise her mandate, the Ombudsman demonstrates to governmental organizations that her investigations and recommendations can be helpful to improve government administration.

The Ombudsman encourages governmental organizations to regard her as a creative resource for progressive government administration.

The Ombudsman assists governmental organizations to build within their policies, processes, and regulations adequate means through which conflicts, issues and concerns can be prevented or resolved wherever possible in a mutually-acceptable manner. Her services are provided in a manner which will assist governmental organizations to develop and implement standards and practices which lead to the improvement of government services and decisions.

Principles and Practices With Respect to Legislators

The Ombudsman carries out her mandate with appropriate regard for the role of the Legislative Assembly, the Standing Committee on the Ombudsman, and individual Members.

The Ombudsman recognizes her role as an official of the Legislative Assembly and the need for her to comply with legislated requirements as well as the Legislature's own processes. She welcomes the opportunity to cooperate within the parameters of her mandate with Members of the Assembly who are acting on behalf of persons seeking the Ombudsman's services.

Principles and Practices With Respect to the Evolution of Ombudsmanship

The Ombudsman contributes to the evolution of Ombudsmanship by developing standards and criteria regarding government administration.

So that the public and governmental organizations will understand the standards and criteria underlying the findings arrived at by the Ombudsman, these will be clearly stated and made known.

The Ombudsman ensures that her own organization adheres to the standards which are expected of others.

So that Ombudsmanship will be held in high regard, the Ombudsman and her staff practice the high standards which are expected of governmental organizations. The Ombudsman is creating a model of administration which provides a congenial and efficient work environment for those persons who assist her in fulfilling her mandate.

The Ombudsman demonstrates the development and use of appropriate techniques and mechanisms to resolve issues and concerns.

While the Ombudsman has been provided with extensive investigative powers and a mandate to make findings and recommendations, she may determine that it is not necessary in many situations to use the full range of these powers. She may determine that other methods of resolving an issue may be more appropriate in some situations or at a particular stage in the process. The Ombudsman is securing the

necessary internal and external resources so these methods can be applied where appropriate. The Ombudsman's staff training and professional development programs provide opportunities for the enhancement of problem-solving skills.

Principles and Practices With Respect to Systemic and "Own Motion" Concerns

In addition to investigating individual complaints, the Ombudsman examines systemic and "own motion" concerns.

So that the interests of the public can better be protected and so that public confidence in the administration of government can be maintained, the Ombudsman is able to dedicate appropriate resources to deal with systemic concerns and to make investigations on her own initiative. This type of investigation may arise:

- ▶ when conduct, policies, standards, rules or procedures which appear to be neutral have an adverse effect on members of a particular group, or
- ▶ when there are a series of similar complaints which indicate a "class action" investigation should be undertaken, or
- ▶ when issues come to the Ombudsman's attention because similar issues are raised by the public with respect to a number of governmental organizations, or
- ▶ when a particular organization appears to have a marked increase in the number or types of complaints, especially when compared with other governmental organizations, or
- ▶ when changing circumstances, standards, or practices require reexamination to ensure a high standard of administration is in place.

Remedies implemented as the result of one such investigation may make it unnecessary for the public to register a large number of related individual complaints.

In addition to matters the Ombudsman notes in the course of her duties, she may receive suggestions for systemic investigations from her staff, the public, Members of the Legislature, or by governmental officials or organizations.

SELECTED CASES

ILLUSTRATING
THE OMBUDSMAN'S
WORK
AND REASONS FOR
COMPLAINT.

Almost every matter dealt with by the Ombudsman tells a story of its own. Some cases, however, illustrate particular features that have an educational value. Cases have been selected for this annual report because they illustrate the types of complaints received by the Ombudsman; they illustrate the principles used by the Ombudsman to decide if the action or inaction of a governmental organization is unfair, unreasonable, or wrong; or they illustrate how the Ombudsman helps governmental organizations to understand and meet peoples' needs, not only in individual cases, but through long-term preventative measures.

The cases in this part illustrate the most common concerns brought to the Ombudsman's attention. Each was investigated and closed during this fiscal year. In order of frequency:

- I** *wrong or unreasonable interpretation of information and evidence;*
- 2** *unreasonable delay;*
- 3** *wrong or unreasonable interpretation of criteria, standards, guidelines, regulations, laws, etc.;*
- 4** *omission to monitor or manage an agency for which it has responsibility;*
- 5** *failure of a governmental organization to adhere to its own processes, guidelines and policies or to apply them in a consistent manner;*
- 6** *failure to provide sufficient or proper notice;*
- 7** *a decision or policy has an adverse impact or discriminatory consequence for an individual;*
- 8** *an inadequate or improper investigation was conducted;*
- 9** *unfairness in hearing procedures;*
- 10** *insufficient reasons for decision or no reasons given;*
- 11** *misleading or wrong information is provided to an individual which consequently placed the person at some disadvantage;*
- 12** *failure to keep a proper record.*

The Ombudsman's involvement can result in a governmental organization reconsidering its decision.

Ms. J had insured her family's plane tickets against cancellation because she was concerned that her father's state of health might make it impossible for them to travel.

In fact, when her father became very ill and subsequently died, she did have to cancel and she claimed compensation. Her claim was denied because the company said her father had died of a condition that existed before she bought the tickets. She asked the Superintendent of Insurance to review the matter. The position of the insurance company was upheld.

Ms. J then asked the Ombudsman for assistance. She pointed out discrepancies in the information which had been reviewed, and the facts of her father's medical problems, his treatment dates, and the main cause of his death. The Ombudsman asked the Ontario Insurance Commission to review the file. It did so, and as a result, the insurance company was asked to pay the claim.

Example 2:

Mr. R was dissatisfied with the denial of his application for Family Benefits on the ground he was not disabled or permanently unemployable. He was sure all available medical information submitted by his city social service department had not been considered. Yet his appeal to the Social Assistance Review Board failed when the original decision was upheld. He asked the Ombudsman to investigate.

The Ombudsman found that the material provided by the Ministry to the Review Board contained serious omissions. Mr. R's more recent medical evidence had not been considered in the review. This seemed to have happened because the medical adjudicator who provided the documentation had conducted an inadequate review. The Ombudsman also found deficiencies in the training and guidance provided to the adjudicators.

The Ministry agreed with the Ombudsman's findings and recommendations. Mr. R was granted two years retroactive benefits, with interest.

Example 3:

Mr. M felt he had supplied sufficient medical information to support his application for Family Benefits Allowance, but his application was denied. Although he ultimately was successful in gaining approval, he felt that the past decisions had been unreasonable.

The Ombudsman conducted a detailed and lengthy investigation and found that sufficient medical evidence had indeed been submitted much earlier than the date eligibility was approved. As well, the investigation determined that the review of medical evidence had not been thorough, resulting in the medical report containing inaccurate and misleading information which had caused the original rejections.

The Ombudsman recommended that Mr. M receive retroactive benefits, and that improvements be made in the training provided to medical adjudicators. The Ministry accepted the Ombudsman's recommendations.

1

Wrong or unreasonable interpretation of evidence.

M*r. F's complaint to the Ombudsman resulted in him receiving full compensation from a provincial organization after its delays had resulted in loss of a settlement cheque.*

Mr. F took an employment-related complaint to the Ontario Human Rights Commission and agreement was reached regarding a settlement. A cheque was sent to the Commission, but it was not delivered until some four months later. At this time, the cheque was returned for insufficient funds, and it was later discovered that the employer had gone into receivership. Mr. F felt the Commission should be held responsible, but he could not obtain a reply to his claim. He asked the Ombudsman to investigate.

After the Ombudsman completed her investigation, lengthy negotiations were pursued which resulted in the Commission issuing a cheque to Mr. F for the amount of the settlement plus interest for the period of delay.

Sometimes the Ombudsman can help a Ministry to correct an acknowledged wrong even where it appears to lack authority to provide compensation.

The Ombudsman received a series of complaints regarding delays of up to ten months in the Ministry of Community and Social Services processing referrals it had received from the Ottawa Regional Social Services. Finally the applicants had their “Form 1” applications completed during a home visit, but the Ministry maintained strict compliance with the legislation which stipulated that benefits could not commence prior to the completion of “Form 1”.

The complainants had appealed to the Social Assistance Review Board, which found that the delay had been caused entirely by the Ministry. It reluctantly concluded, however, that it had no authority to remedy the situation.

During the Ombudsman's investigation, the Ministry explained the circumstances which had caused the backlog, and reported on joint initiatives

to alleviate the problem. It also proceeded to obtain Orders-in-Council authorizing it to make payments covering amounts the applicants would have received had their applications been processed in a timely manner.

In another matter regarding the Voluntary Exit Opportunity Plan (VEOP), a former provincial employee received interest on a late payment as the result of the Ombudsman's investigation.

When Mr. F elected to terminate his employment under the VEOP, he notified his Ministry well in advance. But it took three months for him to receive his payment. When he asked for interest on the late payment, the Ministry refused. He complained to the Ombudsman.

As a result of other investigations, the Ombudsman was able to inform the Ministry that as a matter of policy, other Ministries were paying interest on payments which had been subjected to undue delays. The Ministry agreed to pay Mr. F \$150 as interest.

Unreasonable Delay

Delay in implementing decisions is often the subject of complaints brought to the Ombudsman.

Mr. V asked one of the Ombudsman's northern Ontario district offices to assist him in obtaining implementation of a decision made 18 months previously by a Hearings Officer of the Workers' Compensation Board. The decision had awarded compensation to the worker and ordered the Board to determine the amount to which he was entitled.

After numerous calls to the Board by the Ombudsman's staff, Mr. V received a cheque for some \$16,000 in benefits and accrued interest. **2**

The Ombudsman's recommendations can result in improved legislation and fairer policies as well as compensation to the complainant.

Mr. B felt he had twice been underpaid for his work as an apprentice motor vehicle mechanic, contrary to regulations under the *Apprenticeship and Tradesmen's Qualification Act*. But the Ministry of Skills Development said it would seek compensation only for the second underpayment, and that the mechanic would have to pursue the first underpayment through the courts. Although Mr. B was successful in his suit, he incurred legal costs which he considered to be the Ministry's responsibility. He asked the Ombudsman to look into the matter.

The Ombudsman found the Ministry's enforcement officer did not have a clear understanding of policy regarding the recovery of wage arrears. The Ministry offered to pay Mr. B's legal costs and to implement several changes in its Client Services Manual and standard claim form. The Ministry also agreed to review the legislation with a view to providing a lengthier limitation period within which claims could be received.

The Ombudsman can sometimes help a person to receive new consideration for unfavourable interpretations of regulations.

When Ms. E was notified in the fall of 1988 by the federal government that her position would become redundant as of April of 1989, she was led to believe that a new position might be found for her – but the new job never materialized. Although she didn't have to report to work, her pay continued until April. When she applied for retraining benefits, however, she was told she had waited too long – the regulations clearly stated the application had to be made within six months of the last day worked – not the last day of pay.

When the Ombudsman pointed out Ms. E's special circumstances, the Ministry agreed that within the legal and technical interpretation of program requirements, it could provide Ms. E with Transition Funding.

The Ombudsman can often assist persons when a governmental organization's reliance on a technicality is an obstacle to a just resolution of the issue.

Mr. U asked the Ombudsman for assistance after the Ministry of Transportation had refused to pay a claim for damage to a hay crop when a herbicide spray used in a right-of-way vegetation control program drifted onto his hayfield. He had asked for damage to cover the value of 500 bales of hay and the labour costs of removing them from the field.

Mr. U had reported the problem without delay. The Ministry of the Environment took samples and confirmed the contamination, and recommended that a claim be filed with the Ministry of Transportation. Later, the Ministry's insurance adjusters advised the farmer that he had submitted his claim after the six-month time limit had passed. Mr. U contended this was unreasonable and unfair, since he had made an immediate report.

When the Ombudsman notified the Ministry of Transportation of her intention to investigate, the Ministry reviewed the case and found that the insurer should have returned the claim to the Ministry, since this type of damage is excluded from the policy. The Ministry agreed to pay Mr. U full compensation of \$1,096.

Wrong or Unreasonable Interpretation of Criteria, Standards, Guidelines, Regulations, and Laws

The Ombudsman's involvement is sometimes helpful in focusing attention on a matter which has eluded resolution by several governmental agencies.

Five francophone seniors who resided in a Housing Authority facility felt isolated because they spoke little English. They wanted to be relocated to a non-profit apartment complex where they could function entirely in French, and where their cultural needs would be better met. However, their requests for relocation were denied because they did not fit into any of the Ontario Housing Corporation's transfer eligibility criteria.

The seniors considered the OHC's policy to be improperly discriminatory, and they asked the Ombudsman for assistance.

Following extensive discussions with the OHC, the Ministry of Housing, and the local Housing Authority, the transfer was approved. The Ministry also advised that its transfer policy would be thoroughly reviewed.

4

4

*Omission to
Monitor an Agency
for which it
is Responsible.*

The Ombudsman's assistance to Mr. S regarding problems he encountered in applying for a supervisory position resulted in him receiving an apology and a cheque, and personnel policies were changed.

Mr. S wasn't invited for an interview for a supervisory job with a provincial agency, even though he felt he had all the qualifications listed in the advertisement. He asked the Ombudsman for help.

The Ombudsman's investigation revealed that the decision not to grant Mr. S an interview had been based on criteria which had not been part of the selection process. In addition, the decision had been based on hearsay information without giving Mr. S an opportunity to respond. The Ombudsman found this was not just.

She recommended that the agency take steps to ensure adherence to the staffing policies and procedures outlined in the Ontario Manual of Administration, and that personnel decisions be based only on relevant, reliable information. As a result of the Ombudsman's recommendations, the agency provided Mr. S with a written apology and compensation for unjustly denying him the opportunity to be interviewed.

Usually governmental organizations accept the Ombudsman's recommendations.

Ms. S asked the Ombudsman for help because of her concerns that the Public Trustee had not properly managed her mother's financial affairs when it rented four properties owned by her mother at rates which she felt were unreasonably low.

The Ombudsman's investigation revealed one property had been rented to another daughter at no cost; a second property was rented by a grandson but no rent had been paid for eighteen months. One unit had been left vacant for six months, and the fourth had been rented at no cost to tenants who agreed to make repairs.

The Ombudsman concluded that while the Public Trustee had not been unreasonable in the case of the other daughter, the Public Trustee should have

collected rent from the grandson, that the third unit should not have been left vacant, and that any difference between the costs of repairs and the rent should have been collected for the fourth unit. The Public Trustee agreed and reimbursed the estate.

To assist Mr. A receive equitable compensation for his summer work for a Ministry, the Ombudsman located a government policy which had been overlooked by a Ministry in reaching its decision.

Mr. A worked during the summer for a Ministry. He found that students in a co-op program doing identical work in other offices of the Ministry had been paid a wage higher than that allocated for summer students.

He complained to the Ombudsman, who drew to the Ministry's attention a section of the Ontario Manual of Administration which allows an increased rate of pay for students when certain conditions apply. The Ministry agreed with the Ombudsman's suggestion that Mr. A be paid the difference between his pay and that of the co-op students, and a cheque for nearly \$800 was issued to him.

Failure of a Governmental Organization to Adhere to Its Own Processes, Guidelines, and Policies, or to Apply Them in a Consistent Manner

A prisoner whose medical problems were being ignored received prompt attention as the result of the Ombudsman's intervention and action by Corrections officials.

A lawyer contacted the Ombudsman on behalf of his client who had encountered problems after a shift to a different facility. Despite his medical problems, he had not been examined by the new facility's physician; he had been refused access to special footwear provided by a previous facility as the result of a doctor's recommendation; he had been refused a second inhaler required for adequate relief from his asthma, and as the result of frequent moves, there had been a miscalculation of his canteen credits.

Cooperation from officials from the Ministry of Corrections resulted in prompt arrangements being made. Within 24 hours, the inmate had been scheduled for a doctor's appointment, had received access to his special footwear, was satisfied with the explanation given as to why a second inhaler was no longer necessary, and his canteen account was adjusted to reflect a satisfactory new balance.

5

Mr. W
complained
of an
unreasonable
prison
routine and
restriction of
his right to
communicate
with the
Ombudsman.

Mr. W brought two complaints to the Ombudsman. He said that after he had been placed in a segregation cell for misconduct, the shift supervisor refused to allow him to phone his lawyer or the Ombudsman.

He also complained that while he was in segregation, his mattress was removed from his cell at 5 a.m., even though breakfast was not served until 7 a.m.

As a result of the Ombudsman's investigation, the Ministry of Correctional Services issued a directive that except in certain circumstances, phone calls to a lawyer or the Ombudsman must be allowed even for persons in segregation.

In regard to the second matter, the institution agreed to remove mattresses just prior to breakfast being served.

The Ombudsman's involvement sometimes results in a governmental agency both resolving an individual's concerns and making changes which will prevent similar problems from affecting other people.

Because she did not receive proper notice, Ms. M was unable to make optional cost-of-living contributions to the Teachers' Pension Plan for the first two years after the option became available. As a result, her future pension would be reduced.

The Ombudsman's investigation determined that the Teachers' Pension Plan Board had sent notice of the option to an address which had been obsolete for six years, but it was unaware that it had not been received because the letter had not been returned. The Board said even if it wished to do so, it could not rectify the problem because the legislation prohibits retroactive payments.

The Ombudsman found that the Board was wrong in failing to update its mailing list, and that it was unreasonable in not permitting Ms. M to make the necessary payments. She recommended that a practice be instituted to ensure that its mailing list was accurate when important information was sent.

The Board accepted the Ombudsman's recommendations. It allowed Ms. M to make the additional payments, and it implemented practices which will keep its mailing list current.

Example 2:

Mr. V complained to the Ombudsman that a provincial agency had constructed a bicycle path in front of his residence without providing him or his neighbours with an opportunity to comment on the planned work. He was concerned that the trail was dangerous both for users and residents.

The Ombudsman investigated, and recommended that in the future, the governmental agency should provide proper notice of proposed work. The agency also agreed with the Ombudsman's recommendation that a safety study should be conducted by an independent expert, and that recommended precautions be undertaken.



*Lack of Sufficient
or Proper Notice*

O*ften the Ombudsman can assist a Ministry to find a creative way to respond to individual circumstances and still comply with its regulations.*

A person receiving a Family Benefits Allowance came to one of the Ombudsman's district offices in northern Ontario when the Ministry of Community and Social Services did not release his cheque, and he was left without funds. His father had died recently, and the Ministry required information regarding any possible inheritance which would make him ineligible for benefits.

After discussions with the Ministry, an arrangement was agreed to whereby the cheque would be released if a form was signed permitting the Ministry to make direct inquiries to determine if an inheritance was forthcoming.

T*he Ombudsman investigated a complaint that prisoners who requested medication were being punished.*

Mr. B reported to the Ombudsman that the health care unit of his correctional facility confined inmates to a medical observation cell for two or three hours after they had received a Tylenol. He contended this practice was a form of punishment for people who requested medication.

The Ombudsman's investigation and subsequent discussions with the facility's staff resulted in revision of policies which related to Mr. B's complaint.

R*efusal of an Institution to Provide Proper Toiletry Articles*

Mr. Y called the Ombudsman after he had been refused the type of hair dressing which he requested and which was appropriate for his type of hair. He took pride in his appearance, he said, and the standard dressing provided by the institution might

have been satisfactory to most prisoners, but it was unsuitable for his needs. A member of the Ombudsman's staff brought this to the attention of the superintendent, who agreed to provide the appropriate hair dressing.

A*n Inmate's Ability to Correspond in the Cree Language Was Restricted*

Mr. W complained to the Ombudsman that staff at the facility where he was confined pressured him not to write letters to his family in Cree because the staff could not screen them. The staff had held letters back until an interpreter could screen them, and in the meantime, the letters were lost.

In the Ombudsman's investigation, the institution acknowledged that inmates should be free to write in the language of their choice, and that it was the institution's responsibility to secure an interpreter for prompt screening or, in the absence of strong reason to the contrary, to release letters without screening. It acknowledged that its handling of Mr. W's situation was inappropriate. Apologies were made to Mr. W.

7
A Decision or Policy Has an Adverse Impact or Discriminatory Consequence for an Individual

Officers involved in an altercation should not subsequently escort inmates involved to the hospital for treatment of their injuries.

In the investigation of a complaint, the Ombudsman noted that correctional officers and inmates alike would be well-served by a policy that officers who had been involved in an altercation with inmates should not serve as the escorting officer if the inmate requires outside medical attention.

The Ombudsman suggested a policy change to the Deputy Minister of Corrections, and a directive was issued to all institutions requiring them to provide medical escort officers who were not involved in the altercation which made

7

The Ombudsman helped Ms. M receive compensation when road construction resulted in contamination of the well used by her family.

Some time after the Ministry of Transportation carried out some road construction near Ms. M's home, the family noticed the water in their well had a bad smell and brown colour. They complained to the Ministry of Transportation, which asked the Ministry of the Environment to investigate.

When Environment reported there was no proof that the problems with the well could be linked to the construction work, Ms. M asked the Ombudsman to look into the matter.

Following representations by the Ombudsman's staff, the Ministry of the Environment agreed the case should be reviewed and subsequently decided the water problem was indeed linked to the road construction work.

As a result, the Ministry of Transportation agreed to pay for a new well, to provide bottled water in the interim, and to reimburse the family for the water treatment system it had installed.

Mr. W's complaint to the Ombudsman resulted in a ministry improving its public communications policies.

When Mr. W believed a real estate broker did not act fairly and within the law in a property transaction, he brought his concerns to the Ministry of Consumer and Commercial Relations. But he was satisfied neither with the outcome of the investigation nor the Ministry's investigative process since he had not been contacted during the investigation and he had not been provided with a final report.

Since Mr. W and the broker were involved in court over the issue, the Ombudsman did not investigate the Ministry's conclusions. She did, however, make suggestions regarding the Ministry's investigative process, and the Ministry has implemented improvements in its policies. **8**

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*An Inadequate
or Improper
Investigation is
Conducted*

Investigations by the Ombudsman led to the implementation of improved notification procedures by a major administrative tribunal.

The Ontario Municipal Board has the power to vary its decisions – but several parties to Board hearings came to the Ombudsman complaining that the Board had failed to notify them regarding its intention to consider a variation. As a result, they did not have an opportunity to make their comments known.

In one instance, a ratepayer who had put forward objections to a subdivision plan was satisfied that certain conditions had been attached to the draft plan approval.

The Board subsequently approved amendments to the conditions and gave final approval to the plan without notifying the objecting ratepayer.

As a result of the Ombudsman's investigations, the Board instituted stricter notice procedures when a request to vary is being considered. It decided that parties previously involved in draft subdivision plan hearings would receive notice of variation requests which affect positions taken by them at previous hearings. With regard to other categories of decisions, the Board decided that where a request to vary has substance, it would contact all interested persons of whom it has notice, and give such persons the opportunity to comment. **9**



*Unfairness
in Hearing
Procedures*

As the result of a complaint to the Ombudsman by a patient at a provincial psychiatric facility that she was forcibly administered medicines which controlled her behaviour, a new “chemical restraint” policy was implemented.

In order to investigate Ms. K's complaint, the Ombudsman interviewed Ministry personnel, reviewed relevant legislation, examined the hospital's policies and procedure, and checked her clinical record. The hospital showed that Ms. K had been administered injections several times to control her aggressive behaviour. However, there was no clear policy statement against which the hospital's decision could be weighed.

Following discussion with the Ombudsman's staff which included a review of procedures at other institutions, the hospital established and implemented a fairer policy regarding the use of chemicals when it is necessary to restrain a patient's behaviour.

When Mr. D complained about personnel policies and procedures of the OPP, the Ombudsman was able to encourage adoption of fairer policies.

Mr. D is a native person who was recommended to the Commissioner of the OPP for a special constable position available on his reserve, but his application was turned down for what he considered to be unfair criteria.

After investigating the matter, the Ombudsman found that while the OPP had been justified in rejecting the application because Mr. D did not meet the required physical standards, the procedure which had been followed should be improved. As a result of proposals made by the Ombudsman, the OPP agreed that in the future, there would be better communications between the OPP and band councils, and that written reasons would be provided to any unsuccessful candidate.

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Insufficient or Lack of Reasons for a Decision

T*he Ombudsman recommended that Mr. M be compensated because of a clear violation of fair process regarding his employment application.*

Mr. M had worked for seven years as a bus driver for a provincial agency, when an accident off the job caused the loss of an eye. Since he could not be a driver, he applied for the position of Bus Operations Assistant. Of the eleven candidates interviewed, the manager found Mr. M to be the most suitable. However, the position was given to another person.

Mr. M told the Ombudsman he had been treated unfairly.

In her investigation, the Ombudsman found that the agency had taken into account inappropriate factors in arriving at its decision, including the fact that he had made a complaint to the Ontario Human Rights Commission over the loss of his commercial driver's licence. The investigation also determined that information on Mr. M's personnel record was inaccurate, and that he had not been given an opportunity to refute that information.

The Ombudsman recommended that the agency improve its procedures to insure fairness in future competitions. She also recommended that the Mr. M be compensated for the loss of employment he had suffered. The agency agreed to the procedural recommendations and paid Mr. M \$10,000 in compensation.

In one case, the Ombudsman found that governmental agencies have the responsibility to ensure that translations of program information are accurate.

Ms. G contacted the Ombudsman because she believed she should have received a soil conservation grant. She had initially submitted a project proposal in French, and the Ministry involved had approved it. When the work was completed, she applied for the grant. An official from the Ministry visited the site and indicated the project had been "satisfactorily completed".

A few months later, however, the Ministry advised Ms. G that the field levelling and ditch-digging work done did not meet the Ministry's "Field Terracing and Channel Terracing Guidelines", and that no grant would be paid. She responded that the work had been done in accordance with her initial descriptions which Ministry officials had recommended and approved. According to the French-language version of the Program Guidelines, "Terrassement des canaux" and "terrassement des champs" were projects eligible for a grant – and in the French language, "terrassement" does not necessarily mean "terracing", but can mean "digging".

When the Ombudsman informed the Ministry of her intention to investigate, the Ministry reviewed the file and agreed to overturn its decision and to pay the grant. A cheque for nearly \$10,000 was sent.

Employees of a provincial agency which was being divested asked the Ombudsman to assist them in their efforts to receive benefits to which they considered themselves entitled.

When a ministry divested itself of one of its agencies, the employees were given information about their future which only succeeded in confusing them. In fact, a number of employees were asked to return voluntary exit settlement funds so their seniority status could be preserved for pension benefits. One asked the Ombudsman to assist him with regard to his employment prospects, accumulated pension credits,

seniority in service, and entitlements for voluntary exit settlements.

Although the Ombudsman felt the Ministry had acted appropriately with respect to its decision, the Ombudsman was successful in having the Ministry send an apology for its lack of diligence and prudence in planning the divestment. It agreed that it would in the future give timely and accurate information to employees.

The Ombudsman often can use an individual complaint as a means of making a governmental agency aware of the standards which she uses in arriving at her decisions.

The parents of a disabled daughter asked the Ombudsman for help after they were denied funding by the Ministry of Housing under the Ontario Home Renewal Program for Disabled Persons for costs they had incurred in renovating their home to accommodate their daughter's special needs.

The Ombudsman was not able to support the request for retroactive funding since the complainants did not qualify under the terms and conditions of the program. However, her investigation revealed that little publicity had been given to the program and that the information available may have been misleading in that it implied funding was available when in fact there were no more funds.

The Ombudsman advised the agency that for a



Misleading or Wrong Information is Provided to a Person Which Consequently Placed the Person at Some Disadvantage

program to be fairly administered there must be sufficient and accurate advertising to ensure equal opportunities to all who may qualify under terms of the program. When funds are provided only to those applicants who somehow hear of the program and submit applications during the early stages of a program's existence, the program cannot be said to be administered fairly, since equally worthy recipients may not be funded simply because they did not hear of the program or respond to it in a timely fashion.

The Ombudsman suggested that the Ministry of Housing consider this criteria with respect to its programs, since the Ombudsman will monitor government programs against this standard of fairness.



The Ombudsman recommended compensation for an individual who was denied administrative fairness in regard to appointment to a provincial advisory board.

At its annual meeting, a professional organization had put forward a member's name as its nomination for a second three-year term on a government advisory board. The Chairperson of the Board reported to the Ministry that the head of the professional organization had requested that the member's appointment be for a period of only one year. The Minister confirmed the one-year reappointment.

The Ombudsman's investigation revealed that the professional organization's nominee was unaware of the purported request and indeed, had not made any views known to the Chairperson. While the Ombudsman accepted that the appointment was a ministerial prerogative, she believed the principles of administrative fairness should apply to the procedures involved in an appointment.

The Ombudsman recommended that appropriate procedures be employed when any deviation from a standard term of appointment is being considered. As well, she recommended that the Board apologize to the member and pay him compensation. The Board agreed to accept the Ombudsman's recommendations.

Sometimes the Ombudsman cannot support the initial complaint, but nonetheless, the investigation results in improvements in procedures which will help others.

Ms. R considered the termination of her contract with a Ministry as unreasonable, since she felt she had performed her duties in a satisfactory manner. She asked the Ombudsman to look into the matter.

The Ombudsman's investigation determined that Ms. R's discharge had happened because of a serious breach of conflict of interest guidelines, and that Ms. R's complaint could not be supported.

However, the Ombudsman made several suggestions regarding procedural fairness. The Ministry agreed to change its policies so that a discharged employee could have her own side of the story included in her personnel file, and so that an employee's positive accomplishments would also be included in her employment history.

With the Ombudsman's assistance, Mr. B had incorrect information removed from his record.

Mr. B was confined in a provincial correctional institution when he approached the Ombudsman with a complaint that incorrect information had been recorded in his classification report, and as a result, his chances of parole could be diminished.

The Ombudsman investigated and discovered that indeed allegations in the report could not be substantiated. As a result, the Ministry of Correctional Services wrote to the Parole Board to correct the error.

Mr. M complained to the Ombudsman so he could receive proper medical attention.

Mr. M suffered from a long-standing medical condition. He was transferred frequently from one institution to another during his incarceration, and one institution failed to note that rehabilitative therapy was needed on a regular basis. There was also some confusion about the maintenance of Mr. M's health-care records.

He asked the Ombudsman to look into the matter. When the occurrence was brought to the attention of the Ministry of Correctional Services, it agreed to review its procedures. It now uses a new form to highlight necessary medical services which should be provided to transferring inmates.

**SPECIAL
INVESTIGATIONS
AND CASES
DEMONSTRATING
IMPORTANT
PRINCIPLES.**

Mr. G. approached the Ombudsman because he felt he had been unfairly denied compensation by the Criminal Injuries Compensation Board for injuries he received while attempting to arrest thieves who had broken into his home.

In investigating the matter, the Ombudsman

determined that the Board had acted correctly, since the *Compensation for Victims of Crime Act* specifically prohibits compensation for an injury resulting from an arrest or attempt to arrest in an offence against his or his dependents' property.

The Ombudsman went further in her investigation, however. She found that this limi-

THE
OMBUDSMAN'S
INVOLVEMENT
CAN RESULT IN
RECOMMENDATIONS
THAT
LAWS BE
CHANGED.

tation was one of the most restrictive in Canada, and that in any other province, the victim may well have been compensated.

The Ombudsman asked the Attorney General to consider the facts of this case and the principles involved so that appropriate revisions could be made in the *Act*.

In some cases, the Ombudsman finds that responsibility for the problem must be shared.

Mr. L complained to the Ombudsman that the Ministry of the Environment had not verified whether a contractor had complied with the Ministry's order to perform remedial work on an improperly installed septic system.

The Ombudsman investigated, and found that the Ministry was only partially responsible for the problem. The Ministry agreed to accept the Ombudsman's finding and it paid one third of the cost of replacing the septic system.

When a Member of the
Legislative Assembly
reported to the Ombudsman
numerous reports of problems with
the Support and Custody Enforce-
ment Office (SCEO), the Ombuds-
man's investigation resulted in
general improvements in provincial
policies.

The Ombudsman investigated the reports of an MPP that constituents had encountered unsatisfactory experiences with sCEO staff. The agency acted on the Ombudsman's recommendations that its staff receive increased training regarding the management of stress and pressures arising from dealing with the public. It also added training regarding information which could be released in keeping with the *Freedom of Information and Protection of Privacy Act*, since clients had objected to the extreme caution being exercised by sCEO staff regarding release of information.

During the course of the investigation, the Ombudsman looked into a practice of one office of the Ministry of Community and Social Services which was causing unnecessary financial hardship for recipients of Family Benefits whose support money was under assignment to the Ministry. A change of policy within the local office resulted in increased financial security for benefit recipients.

After a thorough investigation, the Ombudsman may decide not to support a complaint.

Example 1:

Mr. H of Alberta wrote the Ombudsman regarding his dissatisfaction over the Ontario Public Trustee's handling of the affairs of his late son. The Public Trustee had become involved because his son had died in Ontario without a will, and there were no adult next-of-kin residing in Ontario who were willing and competent to administer the estate.

The Ombudsman's investigation determined that the Public Trustee had taken reasonable steps to make enquiries regarding the estate, and that the enquiries had yielded no evidence that the son had any assets. She was unable to support the complaint.

Example 2:

Mr. E complained to the Ombudsman that the Ministry of Transportation's scheduling of a major paving and drainage project coincided with the summer tourist season.

The Ombudsman investigated, and found that construction could not have begun until all frost was out of the ground in late May, and that waiting until early June to start construction was not unreasonable. She did not support Mr. E's complaint.

SPECIAL INVESTIGATIONS

M*Ms. D found the Ombudsman helpful in getting a rehearing before the Criminal Injuries Compensation Board which resulted in her claim for compensation being paid.*

Ms. D was separated from her husband because of a long history of family violence. One evening she attended a party in her small community, and found her husband was also a guest. She accepted a ride home with him, during which he assaulted her, leaving her with a broken neck. He was convicted, and she made a claim to the Criminal Injuries Compensation Board.

The Board refused her compensation saying she had been aware of the history of violence when her husband was drinking, and should have known the consequences of associating with him.

Ms. D felt the decision was unreasonable, and asked the Ombudsman for assistance. After an investigation, the Ombudsman found that the Board did not have policies or directives to identify the relevant factors to be considered in assessing applications for compensation. It was recommended that Ms. D be given a new hearing. The Board consented to a court action in order that it might have jurisdiction to hold the new hearing. This hearing resulted in an immediate decision that Ms. D was compensable, and an award of \$16,000 was made.

**SPECIAL
INVESTIGATIONS**

THE OMBUDSMAN CO-OPERATES WITH HER COUNTERPARTS IN OTHER PROVINCES TO ASSIST PERSONS RESIDING OUTSIDE ONTARIO TO DEAL WITH THEIR CONCERNS REGARDING ONTARIO GOVERNMENT MATTERS.

The former Newfoundland Parliamentary Commissioner asked the Ontario Ombudsman for assistance with regard to Mr. A, a Newfoundland resident who had purchased an automobile in Ontario for permanent use in his home in Newfoundland. The Ontario car dealer had assured Mr. A there would be no difficulty in obtaining a refund for the Ontario Retail Sales Tax by the out-of-province purchaser.

However, not only did Newfoundland insist that Mr. A pay Newfoundland sales tax in order to have his vehicle registered, but the Ontario Ministry of Revenue refused to refund sales tax because Mr. A had not removed the vehicle within 30 days as stipulated in the *Ontario Retail Sales Tax Act*. Mr. A said that since he had never been told of this time limit, the Ministry's decision was unreasonable and that some discretion should be used since he had paid sales tax twice.

After the Ombudsman advised the Ministry of this situation, the Ministry reviewed the case and recommended to Cabinet that Mr. A receive compensation for the tax he had paid. An Order-in-Council authorized a payment of nearly \$1,000 be sent to Mr. A.

Ombudsman's SURVEY of Public Opinion

In the winter of 1991-92, the Ombudsman commissioned a scientific computer-assisted telephone survey of randomly-selected Ontario residents. The survey took place between February 18 and March 3, 1991. A high response rate was achieved.

The survey classified respondents as “more vulnerable” if any of the following conditions were met: the respondent said that he or she was a member of a racial minority; the respondent had come to Canada sometime in the last five years; the respondent was for health reasons limited in the things he/she can do on a day-to-day basis; the respondent was a single parent.

The survey revealed:

- ▶ one person in five said they had a complaint in their dealings with government administration. Most frequently, the complaint was about excessive delay or an unfair decision, and most had done nothing about the complaint;
- ▶ those most vulnerable have a higher proportion of complaints;
- ▶ very few people (0.6%) contacted the Ombudsman about their complaint;
- ▶ 69% are aware of the Ombudsman, and generally had an accurate perception of the Ombudsman’s jurisdiction and mandate – but awareness was positively correlated with education, negatively correlated with vulnerability. And awareness was low compared to the Ontario Human Rights Commission (95%) and the Worker’s Compensation Board (97%).
- ▶ 52% of Ontarians feel that they are not well protected against unfair government action. This sense is particularly marked among those who are most vulnerable.

A number of interesting attitudes about the Ombudsman emerged from the survey:

- ▶ 69% of Ontarians prefer an Ombudsman who acts impartially, while 18% preferred an Ombudsman who acts as an advocate for the complainant;
- ▶ 73% favour an Ombudsman who can recommend changes to unfair laws and practices;

▶ 53% wanted the Ombudsman to look into general problems lying behind specific complaints. The public wants to see the Ombudsman take effective action in bringing about changes in unfair government practices which would benefit all residents of Ontario even more than providing remedies for individuals.

▶ 90% felt it was important for the Ombudsman to reach out equally to all residents of Ontario, and 60% favoured special emphasis on reaching out to those most vulnerable. Half the respondents said they expected the Ombudsman “to help those who need help most.”

▶ 46% of those surveyed were sceptical of the Ombudsman’s independence from government influence. This sense increased as the degree of vulnerability increased.

▶ 71% of Ontarians favour an Ombudsman who can provide quick results while 75% want an Ombudsman who provides free services.

The survey revealed that the Ombudsman’s network of regional offices is particularly important in promoting the perception of easy access to the services of the Ombudsman. Currently, only a slim majority of Ontarians feel it is easy to get access to the Ombudsman.

STATISTICAL DATA

During the 1990-91 fiscal year, the Ombudsman dealt with 31,036 inquiries and complaints.

Figure 1 provides a breakdown by organization of all inquiries and complaints which were closed during the fiscal year. Inquiries and complaints about provincial governmental organizations formed the majority.

Figure 2 shows the final resolution of all inquiries and complaints which were closed during the fiscal year, including those not within the jurisdiction of the Ombudsman.

► In 24,664 cases (79.5%), a referral was given, or an inquiry was made on behalf of the complainant.

► In 2,303 cases (7.4%), even though the complaint was not strictly within her jurisdiction, the Ombudsman was able to facilitate a satisfactory resolution of the matter.

► Of the 2,232 cases (7.2%) discontinued during the fiscal year, 1,626 were discontinued by the Ombudsman because there was an adequate alternative remedy available to the complaint, or no further investigation was necessary.

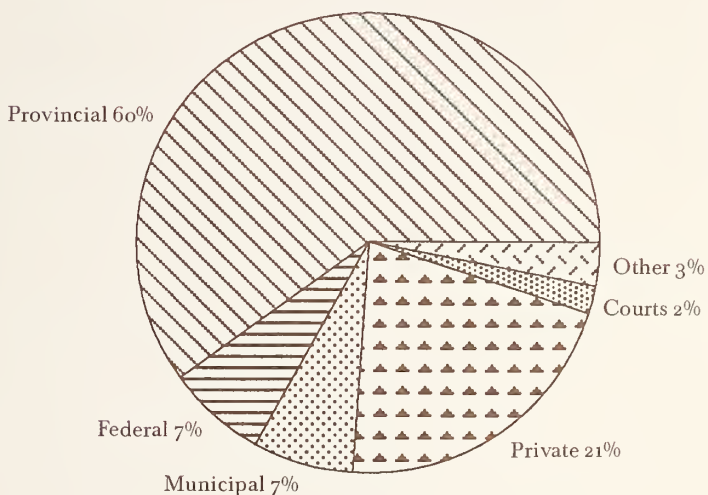
Figure 3 shows the final resolution of all inquiries and complaints which were closed during the fiscal year regarding provincial government organizations.

Figure 4 illustrates the proportion of complaints resolved by the Ombudsman through stages of the formal investigation process.

Corrections complaints have formed a large proportion of the inquiries and complaints made to the Ombudsman. This fiscal year, for the first time, the Ombudsman is devoting a portion of the statistical data report to corrections complaints. Figure 5 illustrates the total number of inquiries and complaints which were closed by the Ombudsman and the way in which they were resolved. Figure 6 breaks down the corrections complaints and inquiries by subject matter.

1990-91 Closed Complaints and Inquiries Involving Both Provincial and Non-Provincial Agencies

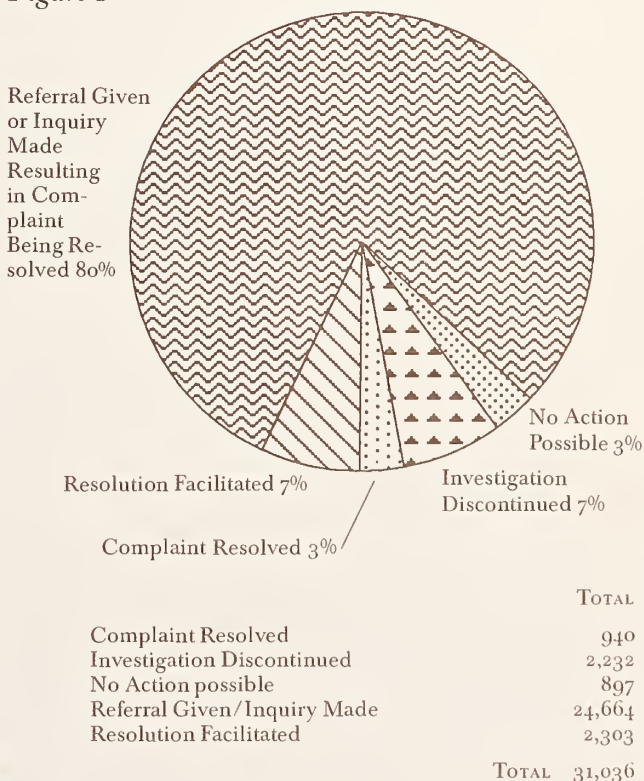
Figure 1



Agency	Total Inquiries	Total Complaints	TOTAL
Provincial	11,620	6,843	18,463
Non-Provincial	-	-	-
Federal	2,063	222	2,285
Municipal	1,677	375	2,052
Private	6,043	616	6,659
Courts	547	87	634
Other	862	81	943
TOTAL			31,036

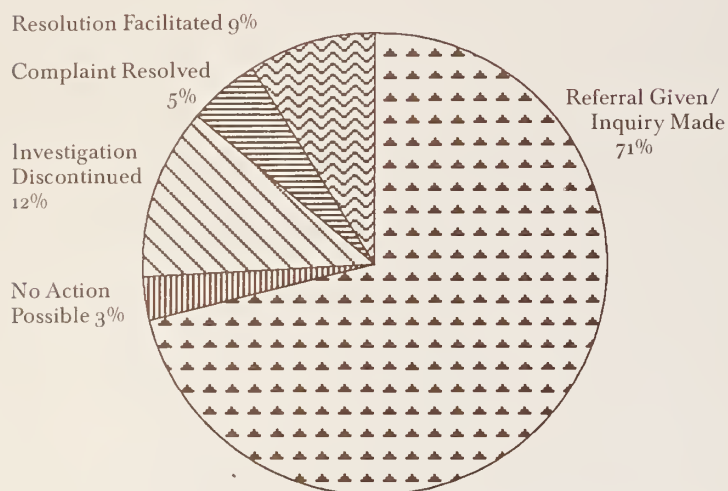
All Complaints And Inquiries By Final Resolution

Figure 2



Provincial Complaints And Inquiries By Final Resolution

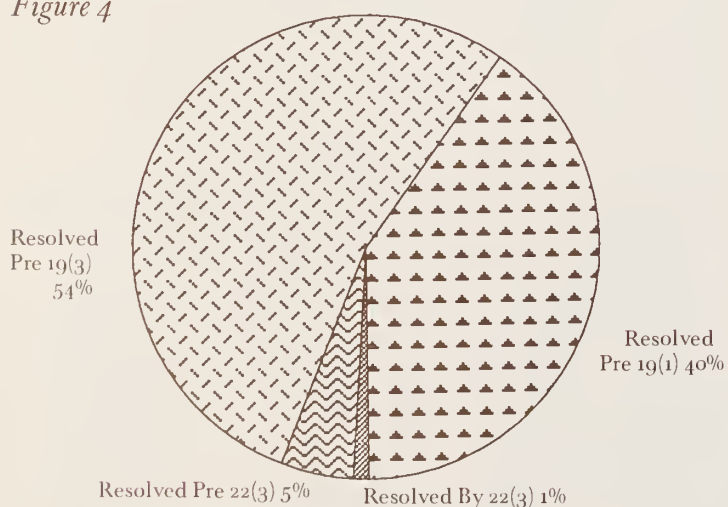
Figure 3



	Total Inquiries	Total Complaints	TOTAL
Complaint Resolved			940
By Ombudsman in Favour of Complainant		515	
By Ombudsman in Favour of Government Organization		319	
By Ombudsman in Favour of Government Organization with Suggestions		23	
By other		83	
Investigation Discontinued			2,232
By Complainant		577	
By Ombudsman		1,655	
No Action Possible	403	129	532
Referral Given/Inquiry Made	10,369	2,741	13,110
Resolution Facilitated	848	801	1,649
TOTAL	11,620	6,843	18,463

Resolved Complaints By Stages Of Investigation

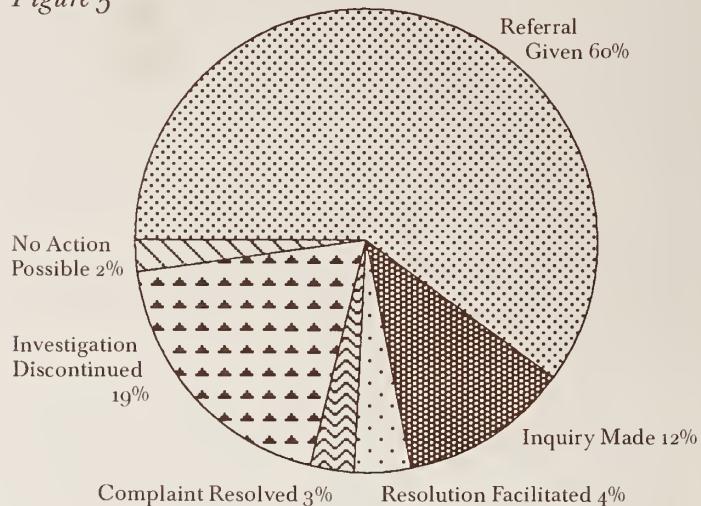
Figure 4



Resolved Before Notice of Intent to Investigate (Section 19(1))	378
Resolved After Notice of Intent to Investigate and Before Tentative Report (Section 19(3))	502
Resolved After Tentative Report and Before Final Report (Section 22(3))	48
Resolved After Final Report (Section 22(3))	12
TOTAL	940

Corrections Complaints And Inquiries By Final Resolution

Figure 5



	Total Inquiries	Total Complaints	TOTAL
Complaint Resolved			257
By Ombudsman in Favour of Complainant		182	
By Ombudsman in Favour of Government Organization		22	
By Ombudsman in Favour of Government Organization with Suggestions		2	
By other		51	
Investigation Discontinued			1,640
By Complainant		394	
By Ombudsman		1,246	
No Action Possible	140	16	156
Referral Given	5,135	179	5,314
Inquiry Made	1,054	51	1,105
Resolution Facilitated	355	16	371
TOTAL	6,684	2,159	8,843

Corrections Complaints And Inquiries By Subject Matter

Figure 6

Number of Complaints	Subject Matter
1,338	Classification/Transfer/Committal
1,189	Other
1,161	Health Care/Medical
772	Living Conditions in General
696	Discretionary Program Decisions
532	Living Conditions - Food Diet
507	Institutional Discipline
403	Living Conditions - Canteen Allowance Program
373	Staff Misconduct
326	Personal/Inmate Property
206	Living Conditions - Segregation
187	Parole
145	Policy/Practice
79	Living Conditions - Overcrowding
74	Staff Misconduct - Assault
55	Living Conditions - Smoking
44	Telephone Access/Use
33	Ombudsman Letter Denial
31	Staff Complaints
22	Freedom of Information/Protection of Privacy
13	Medical - AIDS/Hepatitis
12	Charter of Rights
8	Probation
6	Ombudsman

ACTUAL EXPENDITURES FOR THE FISCAL YEAR 1990-91

Salaries	\$5,030,725
Employee Benefits	1,120,404
Travel & Relocation	189,777
Telephone, Mailing & Delivery	252,532
Building Rent	718,564
Equipment & Other Rentals	98,518
Professional Services	284,480
Security Services	63,230
Computer Equipment & Software Maintenance	50,517
Other Services	156,723
Furniture & Office Equipment	44,176
Computer Equipment & Software	47,510
Office Supplies & Devices	67,684
Books & Publications	43,771
Printing of Reports & Procedures	50,836
Other Supplies & Equipment	48,953

Total \$8,268,400

PRESENTATIONS

MADE BY THE OMBUDSMAN IN 1990-91

April 11, 1990	University of Western Ontario, Faculty of Law, London
April 27, 1990	Granite Club, Toronto
April 28, 1990	Ontario Multiculturalism Association, Markham
May 15, 1990	Ontario Legislative Interns, Toronto
May 16, 1990	Orillia and District Canadian Club
May 18, 1990	Supreme Court of Canada Seminar for the Austrian Constitutional Court, Ottawa
May 24, 1990	Dalhousie University Convocation, Faculty of Law, Halifax, Nova Scotia
May 28, 1990	Council of Canadian Administrative Tribunals, Ottawa
June 1, 1990	Ontario Provincial Police Annual Conference, Toronto
June 6, 1990	"Chairpersons' Circle" meeting of Chairs of Tribunals, Agencies, Commissions and Boards, Toronto
June 21, 1990	Grade 8 Graduation, Howard-Harwich Moravian Public School, Ridgetown
July 16, 1990	Public Service Pension Board, Toronto
September 6, 1990	Ministry of Community and Social Services Operations Management Committee, Toronto
September 7, 1990	Brantford Rotary Club
September 12, 1990	Ontario Native Council on Justice, Toronto
September 20, 1990	National Ombudsman Conference, Halifax
September 25, 1990	Inter-Agency Luncheon, Sault Ste. Marie
October 21, 1990	Black Business and Professional Association, Harry Jerome Scholarship Awards, Toronto
October 30, 1990	Ontario Arts Council Board, Toronto
November 15, 1990	Office of the Official Guardian, Toronto
November 18, 1990	Policing in the Nineties Conference, Aylmer Police College
November 29, 1990	Association of Professional Executives of the Public Service of Canada, Ottawa
December 8, 1990	Ontario Housing Corporation, Toronto
December 9-10, 1990	National Conference on Human Rights, Ottawa
December 18, 1990	Metro Toronto Housing Authority Board and Staff
January 24, 1991	Employment Equity Branch, Public Service Commission, "Going Beyond Employment Equity"
February 4, 1991	Minister's Advisory Council, Department of Corrections
February 6, 1991	University of Ottawa, Faculty of Law
February 13-14, 1991	University of Toronto, Faculty of Law, Goodman Fellowship Lectures
March 8, 1991	Fisherville Jr. High School, Toronto, on International Women's Day
March 19, 1991	Law Society of Upper Canada Call to the Bar Ceremony, London

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John ALLAN
Marney ANDERSON
Christine ANGUS-JONES
Tracey ANTHONY
Tim ARKELL
Betty BAKER
Suzanne BERNIER
Jean-François BERNIQUEZ
Johanna BISCHOPING
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Roberta WRAITH
Pam YOUNG
Jackie YUEN
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*The Ombudsman's
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(as of March 31, 1991)

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