

This Annual Report is submitted to the Speaker of the Ontario Legislature for the period April 1, 1996 to March 31, 1997, pursuant to section 11 of the Ombudsman Act, so that it may be tabled before the Legislative Assembly.

Annual Report Message

These are times of massive restructuring of government in Ontario. New ways of “doing business” are being adopted. Spending is being reduced, procedures are being streamlined, responsibilities are being transferred from one sector to another. The government itself describes these changes as a “revolution”.

The stated objectives for this transformation are to increase efficiency, reduce public sector spending and make government more responsive. Ombudsman Ontario, like all public sector institutions, is affected by the dramatic scale of these changes. We are also uniquely well placed to offer some preliminary observations on the fallout.

There is no shortage of fallout. Both the broad public service, which is challenged to design and implement restructuring, and the people of Ontario who are affected, are struggling to understand and cope with the transfiguration. Uncertainty is constant as complex scenarios unfold with undetermined outcomes. Urgent questions go unanswered and the prin-

ciples of good governance and accountability dominate public discourse.

There are many routes to an improved bottom line. Not all of them are acceptable in a democracy. No government, even those with strong majorities, is ever completely free to do what it wishes. Restrictions on a government’s freedom are set by the Canadian Charter of Rights and Freedoms, by common law, and by international standards. The checks and balances on government include courts, opposition parties, Officers of the Legislature, elections, and something called “the power of the people”.

Many people, however, do not have access to these checks and balances, and are disadvantaged in resisting encroachments on their rights and well being — those who are too poor, too powerless, too marginalized, too young, too old, too weak, unable to cope, or lacking in the skills required by an intensely competitive and changing labour market. It is these people who are most likely to be overlooked, or if noticed, not properly taken into account as the restructuring of government proceeds apace. Those who are most vulnerable to unfairness and injustice are also more likely to experience greater involvement by government in their daily lives. Upheaval in government touches them directly.

It does not follow as a necessary evil that restructuring has to impact negatively on those who are already vulnerable. It is not inherent in our system of government, nor is it “just the



Roberta L. Jamieson

way things are”. As governments plot the routes they wish to take to an improved fiscal position, fundamental rights can be identified and protected, priorities can be scheduled to accommodate basic needs, and care can be taken to protect services and institutions which are essential to our society’s well-being. Equitable service and respect can be maintained without distorting financial goals and projections.

The practical tasks of realigning programs and services are carried out on behalf of governments by public servants. Senior officials who coordinate planning, and front-line staff who meet the public, have a responsibility to achieve mandates set for them by government. At the same time they must meet the basic needs of people whose general welfare depends on the integrity of their work. Public servants are continuously engaged in everyday issues and the real-life stories of their “stakeholders” and clients.

The client could be a single parent on social assistance, the student who has applied for a loan to go to school, the injured worker awaiting the outcome of an appeal to the Workers’

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Our Vision

Ombudsman Ontario will strive to ensure that people are served justly, equitably & fairly by Ontario governmental organizations.

What does our logo mean?



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.

Were you treated unfairly?

Do you feel you were treated unfairly by the Ontario government, or one of its offices, agencies or representatives? Did the decision, action or lack of action directly affect you, or your group? Have you tried other ways to resolve it, including appeals? Then come to Ombudsman Ontario. Our service is free. It’s confidential. It’s impartial. It’s your right by law, and we encourage you to use it. With Ombudsman Ontario, you have a last resort. Our office will look at all the facts. Often, we can suggest ways to improve things for you as well as others for the future. Ombudsman Ontario tries to make sure the way our government works is fair and reasonable. That’s why we’re here.

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

Ombudsman Ontario is committed to the creation of equity in service provision, compensation and employment.



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Compensation Board, the person with a disability struggling to gain access to the computer equipment which will make a job possible, or an inmate in a correctional facility who requires medical assistance. In each of these cases, and in the countless others like them, there is a permanent need for accountability to ensure that economies are not achieved at the expense of those least able to do with less.

Whenever government undertakes massive reforms in an area which affects the lives of people, particularly persons who may be vulnerable or marginalized, the planning process takes on special importance. The consequences of poor planning can cut very deeply, and the lessons, when they are learned, are always compelling. In past years my office has been called upon to investigate various complaints arising from re-organization of government services - the Registrar General, for example. But none of these initiatives has drawn public attention in the manner of the "re-engineering" of the Family Support Plan (FSP), which took place this past year.

The complaints began flooding into Ombudsman Ontario offices when the regional FSP offices were closed in August, and continued unabated throughout the transition process. The volume was such that I initiated my own general investigation, in addition to dealing with each complaint individually. The investigation focused on the planning and execution of service delivery while a new administrative system was being put in place.

In the interests of illuminating the lessons of this experience, I am publishing the full report of the investigation into the Family Support Plan transition as an Appendix to this Annual Report. The FSP report sets out both human and operational issues as a case study which should be examined by every government agency involved in service-

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delivery restructuring. Indeed, for any public or private organization there are instructive findings concerning management planning, labour relations, organizational change and institutional behaviour. By publishing the full report I am also making known to the many individuals who complained to the Ombudsman that their inquiries prompted a thorough investigation, one which has resulted in a number of important undertakings made by the Attorney General and senior officials at the Ministry responsible for the Family Support Plan.

As the government continues to implement its agenda of change, ever more dramatic restructuring initiatives for the delivery of public services are under consideration. Matters which would naturally be of concern to an Ombudsman have caused me during the past year to make my views known to Ministers, the Premier and to the Legislature, and to encourage each to take appropriate steps in response to the issues I raised.

In a letter to the Premier, I expressed my concern for protecting and maintaining effective independent complaint resolution mechanisms in the context of a range of government initiatives, including: various privatization proposals; the absence of independent investigation of complaints in Ontario's municipalities; the trend toward self-regulation of numerous sectors with no provision for independent review of unresolved complaints; and the elimination of independent civilian investigation of complaints against the police, as proposed in Bill 105.

It has become a basic feature of our democracy that people who believe they have been treated unfairly in the provision of public services have the right to complain to someone who is empowered to conduct an independent investigation of their complaint. If the evidence warrants, there is an expectation that recommendations will be made and corrective action taken. These democratic rights apply whether a service is rendered by government itself, or on behalf of government by the private sector.

If a service is provided by tax dollars, uses publicly-owned resources, has a regulatory framework, involves overriding public policy considerations such as health, safety, consumer protection or the environment; and if vulnerable persons such as those in custody and care are involved, then the right to independent investigation of complaints must be preserved. It makes no difference whether the service is provided by a governmental organization or a private service-provider.

My colleague Harley Johnson, the former Ombudsman of Alberta, expressed similar concerns in his 1995 Report. "It does not matter whether the service is provided by a line department, agency, commission, tribunal or a private contractor. If no watchdog or appropriate appeal process exists on complaints about out-sourced services, then the concept of accountability is at best watered down, or at worse, non-existent."



These same concerns were also articulated by federal Information Commissioner John Grace in his 1995 annual report. He said that no democratic society will long be satisfied if the public must rely on "information fed to them by their leaders. Alienation and cynicism lie dangerously close to the surface of the body politic." Writing about access to information, Mr. Grace observed: "The greater the restriction on access, the greater and more dangerous are the feelings of powerlessness and alienation." In my view this is also precisely the case with respect to access to complaint resolution through independent investigation.

In my communications with the Ontario government, I have called for a coordinated approach to protect the public's right to redress for maladministration, unfairness, or injustice through independent investigation of complaints. There is a demonstrable need for a general policy to be articulated which would serve as a mandate for all governmental organizations.

Such a policy would include a number of guidelines: governmental organizations should publicize their complaint mechanisms and appeal procedures; they should seek to identify all persons affected by maladministration, and offer appropriate redress; there should be systems in place to prevent the recurrence of maladministration; there should be consistent standards on the conditions for granting redress; financial compensation for worry, distress and other damage should be available in exceptional cases; and clients should be advised if they continue to be dissatisfied when all internal appeals have been exhausted, that they have access to an independent investigation through the Ombudsman.

Public servants should be encouraged as a matter of government policy to see a complaint as an opportunity to improve service, rather than as a personal affront or an issue of blame. Even when a complaint is felt to be unwarranted, it presents an opportunity to explain policies and procedures as a means of providing the highest standard of service delivery. I would encourage the government to include in such a policy a reassurance to the public that government supports the right of the public to have their complaints receive an independent investigation.

In the United Kingdom, the British Government's Office of Public Service has a routine practice of circulating to public servants cases reported by the Ombudsman, together with notes drawing attention to the lessons of general application which can be learned. The same

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office also publishes a booklet for public servants on the work of the Ombudsman, explaining procedures, encouraging cooperation, and promoting standards which are aimed at helping public servants avoid actions which may lead to complaints. I would be pleased to cooperate with the government in preparing such a publication.

Over this past year, Ombudsman Ontario has experienced considerable shifts both in the way we provide our services and in the nature and volume of the complaints brought to us by the public. A reduction of twenty per cent in the funds provided to the Ombudsman by the Legislature resulted in a proportional reduction in staff, despite an increase in the number of complaints regarding provincial governmental organizations.

Many persons who formerly sought assistance from advocacy or community service organizations have turned to the Ombudsman as those agencies have experienced funding cuts or disappeared entirely. Because of the continuing stress people experience in an economic environment where poverty and joblessness are prevalent, the urgent

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Ombudsman calls on Premier Harris to protect right of complaint

As Ontario’s Ombudsman, Roberta Jamieson speaks out from time to time on issues of public importance.

In February of this year Ms. Jamieson held a press conference to release a letter she wrote to Premier Harris calling on the government to protect the public’s right of complaint when public services are restructured. In the months preceding the letter, Ms. Jamieson held meetings and exchanged correspondence with a number of government ministers in an attempt to seek clarification of the government’s intentions with respect to preserving complaint procedures. She first raised the issue of the effects of restructuring on complaint procedures in last year’s Annual Report, where she commented on the government’s privatization plans and suggested that accountability and complaint-handling must be integral to any new schemes. As a result of her discussions with government ministers, Ms. Jamieson wrote to the Premier to call for “an overall approach to

protecting and maintaining the public’s right of complaint.” The letter identified five areas where Ms. Jamieson said there is “cause for concern.” In some of these initiatives there may be a loss of jurisdiction by the Ombudsman as an independent authority with powers of investigation, and in others there is no certainty that effective complaint procedures will be in place. The initiatives include:

- the announcement of privatization plans affecting government agencies, boards and commissions, and other direct services, through “alternative service delivery” vehicles
- the amalgamation of municipalities through Bill 103, and the transfer of programs and services to a level of government where the right of complaint is not effectively established

- the implementation of Bill 54, which provides for the self-regulation of real estate, travel, cemetery and motor vehicle dealers industries, and also privatizes safety enforcement for elevators, amusement rides and other matters, with no provision for independent review of unresolved complaints
- the announced introduction of private management of corrections facilities, where the responsibility of the state for care and custody of incarcerated individuals is transferred to private sector corporations
- the elimination of independent civilian investigation of complaints against police, as proposed in Bill 105

Ms. Jamieson said there is a thread running through these issues which involves a fundamental principle of governance and accountability: “It has become a basic feature of our democracy that individuals who believe they have been treated unfairly in the provision of public services have a right of recourse to seek redress. As the government introduces a range of initiatives to re-structure the delivery of government services, it is necessary to be vigilant in ensuring the right of complaint is not overlooked in the process, or indeed lost altogether.”



Ombudsman on the Internet!

Ombudsman Ontario is now accessible through the Internet. With the publication of this Annual Report, we are launching a Web site containing this report and a variety of other documents and information in French and English. In order to protect the confidentiality of the complaint process, we are encouraging visitors to our site to provide a return mailing address and phone number if they wish to bring a complaint to the Ombudsman. Others are welcome to browse and provide feedback on our work and on our site. We have opened this site as a means of enhancing accessibility to the Ombudsman. It will not replace or detract from any of the other ways we do our work. We hope it will be a positive addition to the many types of contact between the Ombudsman and the people of Ontario. Our Web site can be reached at www.ombudsman.on.ca.

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financial needs of many of our clients are inescapable. With tighter eligibility requirements and the general downsizing of programs and agencies, we are more often hearing: “There’s no one to turn to.” One of our services is to refer people to a source of assistance when a complaint is not within the Ombudsman’s jurisdiction. Against an ever-changing and shrinking landscape of public service, this is a more challenging task than ever before. We also find that more clients are unwilling to accept that we cannot advocate for their particular issue, or that the Ombudsman does not have the power to change the outcome of a process they are dissatisfied with. Our staff are spending more time identifying specific grievances from the confusion and disorientation being expressed about changes to government services. Many clients come to our offices in an effort to redeem hope, or to find relief in unburdening their anxiety. In our relationships with government officials during this downsizing period, we more frequently encounter the problem of finding the right public servant who can manage the steps of a complaint process, or one who is willing to accept the responsibility for receiving a complaint. Others are finding themselves hard-pressed to fulfill commitments they have made. Often, public servants acknowledge their own frustration at being unable to provide quality service, or to do the right thing for their clients in the face of shrinking resources. It is not surprising that public servants whose morale is affected by uncertainty about their own future may not be able to focus properly on the problems of others. Whenever there are reductions in staff numbers and resources, along with other organizational change and new working practices, it is to be expected that individual public servants will be under stress. If resulting tensions interrupt service delivery and provoke complaints from the public that officials are not listening, or responding appropriately, then

a cycle of stress is set in motion which can become a destructive loop for everyone involved. If cuts in human resources are designed to achieve efficiencies, but end up creating costly new administrative problems, then there is a need to return to the drawing board to revisit the definition of efficiency. In the meantime, this is the kind of fallout that comes our way at Ombudsman Ontario. My undertaking to public servants, to the Legislature and to the public is to continue providing a range of services to help people cope with change. We will continue to counsel clients in need of support to overcome despair, we will continue to be respectful of public servants as they experience the upheaval of change, and we will continue to speak out when actions by the government have an impact on our ability to meet the principles and requirements established by the *Ombudsman Act*. In closing I want to acknowledge the outstanding efforts of the past year by the sometimes stressed-out team of Ombudsman staffers. I continue to learn from them about first principles of hard work, creativity, determination and sensitive public service. Following a year of painful change in our organization, I would like to extend to them a personal note of thanks for their professionalism and resilience. And on behalf of the staff at Ombudsman Ontario, I’d like to acknowledge the contribution to Ontario society which is made by the thousands of people who come to our offices to register a complaint. It is in the resolution of these complaints and inquiries that the quality of government administration is scrutinized, maintained and hopefully improved. In fulfilling our role at Ombudsman Ontario, we are privileged to serve as witness to the everyday exercise of the “power of the people”.

Roberta Jamieson
Roberta L. Jamieson
Ombudsman

Standing Committee on the Ombudsman

One of the ways the Ombudsman is held accountable to the people of Ontario is by her regular reporting to the Legislature. As an Officer of the Legislature, she is independent of both the government and the political process and submits her reports to the Speaker for tabling before the Assembly.

The Ombudsman reports to the Legislature when a governmental organization does not implement her recommendations. The Legislature considers all Ombudsman case reports and the Annual Report through an all-party Standing Committee of the Legislature on the Ombudsman. This Standing Committee is comprised of a majority of government members. From time to time, the Committee may also review other matters relating to the Ombudsman, as it did in public hearings held in February and March of this year.

During these hearings the Committee examined a report issued by a previous Committee in 1993. This report contained 44 recommendations, several of which were revised by the new Committee in 1996. The Ombudsman,

Roberta Jamieson, appeared as the first witness and presented a detailed response to each of the 44 recommendations. Nine other persons or organizations made presentations to the Committee and eight written submissions were received (see related excerpts).

Ms. Jamieson told the Members of the Standing Committee she was very concerned that many of the recommendations represented a “direct challenge” to the independence and integrity of Ombudsman Ontario as an institution empowered to protect the public’s right to fairness in the administration of government services. “The effect of a number of the recommendations would be to dramatically alter the existing arms-length relationship with the Legislature and to replace it with a regime that establishes the Standing Committee as a Board of Directors and the Ombudsman as an employee of the Board.”

She said the public could not be expected to place its trust in the Ombudsman if the arms-length relationship was eliminated. “Given the present structure of the Standing Committee, which comprises a majority of government

members, the door would be opened for government to exercise direct control over Ombudsman investigations, finances and general operations. Under such circumstances, the public would quite properly lose confidence in the credibility of the institution.”

The Ombudsman indicated that some of the report’s recommendations were positive, and had been implemented since the document was first issued. She also emphasized her commitment to work cooperatively with the Standing Committee to improve the relationship between her office and the Legislature. She said the existing legislation, which was adopted twenty one years ago, provides for the right balance of accountability and independence. “This legislation has allowed for a relationship to evolve between the Standing Committee and the Ombudsman which has been characterized over time by a more-or-less creative tension. Each of my three predecessors experienced at one time or another a degree of conflict relating to the respective roles of the Legislature and the Ombudsman, and were engaged in ongoing attempts to reconcile the issues of accountability and independence”

Referring to the importance of working toward a positive relationship as a means of providing good public service, Ms. Jamieson said: “I would hope we can agree as a basic point of departure on a common goal of strengthening not only our relationship, but also the basic principles and function of the Ombudsman as an independent institution. If together we are successful in meeting this objective, such an outcome will ultimately serve to provide lasting benefits to the people of Ontario.” Ms. Jamieson’s remarks to the Committee and her response to the 44 recommendations are available at our Web site at www.ombudsman.on.ca.

The following excerpts are from writtten submissions made to the Standing Committee of the Legislature on the Ombudsman during public hearings on the 1993 report.

Joint letter signed by Eight Canadian Provincial Ombudsman Offices

While we support the principle of accountability, we share many concerns about those recommendations which might restrict the independence of the Ombudsman’s office. These specifically related to the proposed Committee’s role with budget, estimates, monitoring and reviewing, along with rule-making for systemic investigations and the investigation of complaints against administrative tribunals. The Committee should neither be nor perceived to be, directing the Office of the Ombudsman.

We would urge the Committee to seriously consider the impact of its recommendations on the independence of the Ombudsman institution. Indeed, we would caution the Committee to take care in not limiting the Ombudsman’s independence which is essential to maintaining its credibility and effectiveness.

Letter from Marten Oosting, President of the International Ombudsman Institute

The Sixth International Conference of the IOI, attended by delegates representing 86 countries, reaffirmed the following essential characteristics of the Ombudsman institution:

- Independence
- Flexibility
- Accessibility
- Credibility

I have enclosed a copy of the Declaration in its final form and you will note that the delegates expressed in particular that, “it is unacceptable that in some countries the independence of the Ombudsman is being challenged”.

In recent years, the growth of the Ombudsman concept around the world is quite remarkable. It is also noteworthy that in many of the countries which are democratizing, frequently one of the key pillars they are seeking to put into place is the Ombudsman institution. To the extent that they are willing to promote transparency, such countries have recognized that governments must be willing to be held accountable to the public for their administrative actions. The creation of an Ombudsman institution empowered to investigate public complaints about alleged unfairness on the part of government is increasingly accepted as evidence of this willingness.

Many governments have taken important steps to strengthen and safeguard the independence of the Ombudsman’s office from the political processes of the country or state involved, as well as from the agencies it is

called upon to investigate. These have included constitutional recognition of the Ombudsman’s independence; the creation of an apolitical and arms length method of allocating resources to the Ombudsman; and empowering the Ombudsman to investigate, comment publicly and report on those matters which in his/her sole discretion are appropriate.

Ironically, at the same time, concern has been expressed by the Ombudsman in some countries such as Canada and Australia, where Ombudsman institutions have been in existence for over two decades. The concern centres on proposals that are being considered which, if implemented, would erode the very independence which the international community of Ombudsmanship has reaffirmed as essential.

I am raising these views given the proposals which are currently under consideration by your Standing Committee which would open the potential for the Ombudsman’s activities to be viewed as directed by a committee of the Legislature, for which the government members hold the majority of seats. I would urge you to assist the Committee in consulting with authorities in our field and to review the significant research emerging internationally on this topic.

The United States Ombudsman Association

The United States Ombudsman Association represents public sector Ombudsman in the United States. The organization has from its inception been concerned with establishing Ombudsman’s Offices that are properly constituted in terms of statutory authority and independence. In this process we have often looked at our northern neighbours in Canada as exemplars of Ombudsman’s Offices. While there are variations between the provinces, there is not one provincial office that does not meet the highest standards of the Ombudsman concept.

From the perspective of the USAO, the independence of an Ombudsman must be guaranteed to ensure the neutrality and credibility of the Office in the public conscience ... this independence is also enhanced by the allocation of resources and the budget process which needs to be beyond political influence or the control of the executive. A Government Ombudsman, in turn, reports activities to the legislature through tabling of annual reports or special case reports as required. Above all else, we at the USAO write to urge the preservation of the delicate and powerful balance of responsibilities provided in your legislation for the Ombudsman in the Province of Ontario.

Public Complaints Commissioner?

In her appearance before the Standing Committee on the Ombudsman during the public hearings on the 1993 report, Roberta Jamieson raised the concern expressed by many people that the title of Ombudsman is not an appropriate one: “Every time I am introduced or attend a public function, the issue of the title is raised with me, and the fact that it is not a gender-neutral word.”

Ms. Jamieson has said publicly that her preferred title for the office would be Public Complaints Commissioner, a name which is used in other jurisdictions. The word “ombudsman” is Swedish and means “one who represents the people.” For many people it is not easy to pronounce, and this is another argument in favour of creating a new title to capture the same function - representing the people!

defining our mission

Independent



Not depending on authority or control; self-governing; not looking to others for one’s opinions or for guidance in conduct; free to act without influence of others.



Transforming and Downsizing at Ombudsman Ontario

For a number of years, Ombudsman Ontario operated with a budget of approximately \$9M and a complement of 129 staff. Serving about 30,000 clients annually, the organization has over time developed public education programs, provided ongoing staff development and training, introduced new computer systems, renovated to more accessible office space, and achieved a greater presence throughout the province, including in remote communities.

In last year's Annual Report we noted that measures were taken during the previous year to re-organize amidst an environment of fiscal restraint and increased expectations from the public for services. The goal was to create a resilient and change-oriented organization which would enable us to deal confidently with a variety of challenges, including responding to employee concerns and further developing an anti-racism and equitable work environment in the context of positive labour relations. With fiscal pressures and the disparity of access and opportunity for different groups in Ontario, strategic decisions were made about the use of our resources and the need for focusing on systemic and system

wide remedies. In April, 1996 the Legislature's Board of Internal Economy reduced our budget by a total of 20%. This translated into lay-off notices to 27 employees, in both the management group and the bargaining unit. Most of these lay-offs occurred in areas of direct service delivery, including Intake, Public Education and Investigations. The effect of losing approximately one quarter of our work force was immediate and dramatic. The provisions of the Collective Agreement enabled employees to bump others with less seniority out of their positions. Such re-deployment of resources, alongside the trauma associated with layoffs, affected morale and challenged the organization's productive capacity. The most direct impact on our ability to deliver services has been in the reduced resources for our public education program. But we have made a concerted effort to keep our focus on complaint handling as the first priority. Despite the effects of downsizing, staff have continued to work diligently and with enormous commitment to providing equitable service. Training has been ongoing through the year to ensure that investigators possess up-to-date knowledge in all sub-

ject areas. The requirement for training flowed from a restructuring program which moved investigators from different teams with specialized backgrounds to one team comprised of generalists. Staff have also been challenged to keep up with the dramatic changes in government programs, policies and practices. More recently, the management team is re-evaluating our business processes and systems with a view to completing the restructuring of the organization that was begun in February, 1996 and which was put on hold through the period of downsizing. This evaluation will address changing our methods of work to ensure greater flexibility, efficiency and effectiveness in complaint handling. In October, 1996, we held a staff conference designed to achieve a number of training objectives, including goals for team building. We are developing an Accountability Management Framework to assist in planning and to ensure accountability, both at an organizational and individual level. Its goals are to enhance the team building process and to develop coaching relationships between managers and employees. It is designed in a manner that provides both flexibility and indi-

vidual accountability between employee and manager. On other fronts, we installed a wide area network in all of our offices so that our computer systems are now fully compatible and all employees receive and exchange information simultaneously. We have also been involved in an ongoing effort to vacate our premises in Toronto, or to have our office space reduced in a more economical lease arrangement to suit a smaller staff complement. We continue to seek efficiencies in our operation. To this end, we are currently reviewing our business processes and re-evaluating our service delivery, with a goal of achieving further savings. We have also continued our relationship with the Canadian Centre for Victims of Torture, through which the Centre places refugees as volunteers with Ombudsman Ontario to provide them with work experience in a Canadian context. We have had volunteers from Guatemala, Iran and Iraq. As we go to press with this year's Annual Report, we also begin contract negotiations for a new Collective Agreement between Ombudsman Ontario and the Office & Professional Employees International Union.

Ombudsman calls Bill 105 a step backward

As Ombudsman, Roberta Jamieson monitors the activity of government in a variety of ways. One of these includes reviewing proposed legislation that may affect the jurisdiction of her office as provided in the *Ombudsman Act*. In March of this year Ms. Jamieson presented a submission to the Justice Committee of the Ontario Legislature during public hearings on Bill 105. This legislation proposes, among other things, to eliminate independent civilian investigation of complaints against police.

Ms. Jamieson told the committee that the current exclusion of the Ombudsman from the public complaints provisions of the *Police Services Act* is acceptable because of the power of the Office of the Police Complaints Commissioner to conduct independent investigations. She pointed out these complaint procedures were established to ensure public confidence in the police, but warned that this trust will be lost if the system is changed so that only the police have the authority to investigate complaints against police.

"Most people would agree that while the existing system may not be perfect, it at least has the right elements. If we move to a process that does not include an impartial last resort with independent powers of investigation, there is no reason for the public to trust the outcome of investigations. In such circumstances it will be difficult for the police to be cleared of suspicion when their actions are investigated and found to be justified." She expressed her concern that Bill 105, as drafted, "represents a step backward, one that cannot be supported if we are to uphold basic standards of accountability through structures the people of Ontario can trust." "We give the police a lot of power and authority. We have to or they can't do their job but there is an inherent potential for error or abuse of power, and therefore the system of policing must be accountable. This is a fundamental feature of our democracy." Ms. Jamieson predicted that if Bill 105 is implemented as drafted, there will be a loss of public confidence in the policing system. "Without public support, the system will break down and need to be fixed again. I would urge the committee to get it right in the first place."

Need for Municipal Ombudsman

In February this year the Ombudsman published a document on the need for Municipal Ombudsman procedures in Ontario. This background paper, *Municipal Ombudsman and the Right of Complaint: an Overview*, was sent to the Minister of Municipal Affairs for consideration during the debate on the amalgamation of Toronto area municipalities. At this time, the Ombudsman also expressed concerns publicly about the absence of effective complaint procedures at the municipal level in the context of the proposed transfer of responsibilities for services and programs between the province and municipalities. The paper includes a survey of municipal Ombudsman offices in Canada and internationally and reviews the various models which have been established to provide complaint mechanisms at this level of government. The document is available by contacting an Ombudsman office or our Web site at www.ombudsman.on.ca.



The complaint story in numbers

In 1996/97, Ombudsman Ontario handled 29,012 inquiries and complaints, a slight increase from the previous year. Approximately 15,000 of these contacts involved complaints which did not require a formal investigation. Complaints are sometimes found to be related to matters outside the Ombudsman’s jurisdiction, in which case a referral might be made. Ombudsman Ontario staff take these contacts as an opportunity to provide public education, as well as to inform the individual of the appropriate course of action. The vast majority of these complaints and inquiries are dealt with by Ombudsman Ontario staff within a day. This response is not only effective in assisting the individual with the complaint, but is also helpful for the government agency involved since it has the opportunity to answer or correct the problem.

In those cases where the Ombudsman may conduct an investigation, an effort is also made to resolve the issue informally. In such cases, staff provide referrals, make inquiries on the client’s behalf and often assist in a resolution of the complaint. This activity is especially useful when the complaint is against a provincial government organization where all avenues of direct appeal have not been exhausted. By making this effort at this stage, future complaints are often avoided. The average

number of days to assist a client in these circumstances is 7.2.

Ombudsman Ontario staff identify and pursue every opportunity to resolve complaints including during the formal investigation process. This is advantageous to all the parties when the complaint is successfully resolved and resources can be directed to the more intensive formal investigative process.

A review of the accompanying tables will indicate an increase in verbal complaints of 20% against provincial Ministries other than Solicitor General and Correctional Services. This is largely attributable to a 55% increase from the previous year in complaints about the Family Support Plan, with 633 additional complaints in this area. There are two other notable changes in the outcomes of provincial complaints. First, the proportion of written complaints in which a resolution was facilitated, a referral given or an inquiry made has increased to 73%, from 62% in the previous year, demonstrating Ombudsman Ontario’s commitment to seeking resolution or providing assistance to clients. Second, the proportion of written provincial government complaints which were “discontinued” by the Ombudsman went down from 16.1% to 9.8% during the past year.

Complaints and Inquiries Closed During 1996-97									
	Verbal complaints and inquiries			Written complaints and inquiries			Total		
	1996-97	95-96	94-95	1996-97	95-96	94-95	1996-97	95-96	94-95
Provincial	7,824	8,024	7,793	8,771	8,505	8,924	16,595	16,529	16,717
Municipal	1,923	1,825	2,343	354	452	603	2,277	2,277	2,946
Federal	1,668	1,603	1,875	200	252	273	1,868	1,855	2,148
Private	6,774	6,714	7,387	601	553	784	7,375	7,267	8,171
Courts	512	445	673	94	88	113	606	533	786
Other	245	399	628	46	40	45	291	439	673
Total Non-Provincial	11,122	10,986	12,906	1,295	1,385	1,818	12,417	12,371	14,724
Totals	18,945	19,010	20,699	10,066	9,890	10,742	29,012	28,900	31,441

Backlog at Ombudsman Ontario

Responding to inquiries and complaints in a timely manner is a critical part of fulfilling the mandate of the Ombudsman. Being able to do so is a function of the resources the Ombudsman has to apply to this task. In April of 1996, the Board of Internal Economy of the Legislature reduced the funding for the Ombudsman by twenty per cent, resulting in the need to layoff a corresponding number of staff. The effect of this cut has been to create a backlog resulting from our reduced ability to respond to complainants.

With a slight increase in the number of inquiries and complaints during the fiscal year, fewer staff have been carrying the overall workload. As a result, the expanded caseload for each staff person means that it now takes longer to complete the necessary work to assist complainants. Because the staff reductions occurred over a period of time during the fiscal year, the full impact was not felt until the latter part of the fiscal year. To cope with these changes, we have introduced a number of measures to achieve efficien-

cies in the complaint-handling process. These initiatives have the objective of managing complaint duration to minimize delay for complainants.

The backlog challenge is being addressed by further organizational change. Ombudsman Ontario is taking steps to implement a strategy which will assign priority to complaints according to established criteria to ensure they are handled by staff carrying optimum caseloads. The creation of a “managed backlog” will be designed to ensure the efficient and effective handling of cases. Clients will be kept informed on a regular basis of the status of their complaint, and reasons for this status, including whether the case is in backlog, or has been assigned to staff and is receiving active attention. Active complaints and inquiries will have defined timelines. In this way, all staff will carry a reasonable caseload with clear expectations and clients will be provided an assessment of the expected length of time to process a complaint.

defining our mission

Complaint



Utterance of grievance; expression of dissatisfaction; formal accusation: something that is the cause or subject of protest or outcry.



Client data and serving with equity

Since 1994, Ombudsman Ontario staff have asked people who contact us to identify their status by age, disability, gender, household income, race, lone parenting and Aboriginal or First Nations. Any person who does not wish to answer is free to refuse this client data survey and staff do not seek information from individuals they feel are too angry or upset. In three years of collecting the information, we have received only six complaints about the questionnaire.

Staff also ask specific questions that are designed to help us ensure we are providing appropriate service. We ask about the languages people speak and read comfortably and about any special needs involving mail, travel to our offices or large print and audio formats for documents. Asking these questions gives us an opportunity to determine if the ways we deliver our service work for all groups in our very diverse province. Our goal is to continuously review our procedures in order to develop methods to ensure that all groups have access to appropriate and equitable service delivery. A committee of staff and managers meets regularly to help the organization use this information to improve service.

For a number of years we have been conducting public education aimed at reaching people who need to know more about us. Our

analysis shows that as we do more public education with specific groups such as people with disabilities, racial minorities and people of colour, Aboriginal and First Nations people and women, there is an increase in contact with our offices by individuals from these groups.

The overall pattern of complaints and inquiries that people brought to our offices this past year is largely unchanged from the previous year. The Ministry of the Attorney General, the Ministry of Labour and the Ministry of Community and Social Services continue to be the source of most frequent contacts, other than the Ministry of the Solicitor General and Correctional Services. These ministries account for 75% of the complaints and inquiries by people identified as having disabilities, 85% by those identified as lone parents and about 70% of the contacts from women.

The increase in complaints about the Family Support Plan described in the Statistics section of this Annual Report shows up in a greater concentration of the complaints by women and lone parents. Among our identified complainants, 54.6% of lone parents and 32.9% of women called or wrote about the Family Support Plan. This increase in complaints about the Family Support Plan had a ripple effect across most of the groups that we monitor. While Aboriginal and First Nations people,

youth, people who are poor and people with disabilities are less likely to complain about the Family Support Plan, the rate for each group has increased by about one-third to one-half since last year. For example, while complaints about the Family Support Plan accounted for 13% of the contacts made by people with low incomes last year, this year they account for 21%. Last year, 12% of Aboriginal and First Nations people complained about the Family Support Plan, while this year 19% brought complaints about this program.

More than all other clients, people with disabilities and racial minorities complain about the Ministry of Labour, specifically the Workers' Compensation Board. They also complain about this agency in a greater proportion than they did last year. Similarly, the largest group of seniors complained about the Ministry of Labour, mostly the Workers' Compensation Board, and the Ministry of Health. Lone parents, people with disabilities, people with low incomes, Aboriginal and First Nations people, women and youth complain about the Ministry of Community and Social Services at rates that are higher than those for all other clients. Ombudsman Ontario will continue to use our client data survey as a means of collecting essential information to meet our goals of providing equitable service to all the people of Ontario.

Outcome of Complaints and Inquiries Closed During 1996-97

		Non Provincial			All Provincial			All Provincial					
								Ministry of S.G. & C.S.*			Other Provincial		
		1996-97	95-96	94-95	1996-97	95-96	94-95	1996-97	95-96	94-95	1996-97	95-96	94-95
Resolution facilitated/ Referral given/inquiry made	Verbal	10,939	10,817	12,726	7,453	7,600	7,544	2,109	3,239	3,656	5,344	4,361	3,888
		183	169	180	371	424	249	222	208	43	149	216	206
Investigation discontinued by Ombudsman	Written				857	1,374	1,262	418	715	698	439	659	564
Investigation discontinued by client					387	360	478	276	242	327	111	118	151
Resolved by Ombudsman in favour of client					730	939	843	507	662	508	223	277	335
Resolved by Ombudsman in favour of government					177	283	235	2	1	7	175	282	228
Resolved by Ombudsman by other means					101	154	139	76	131	111	25	23	28
Resolution facilitated/ Referral given/Inquiry made		1,244	1,318	1,706	6,390	5,261	5,828	1,423	817	932	4,967	4,444	4,896
No action possible		51	67	112	129	134	139	22	12	17	107	122	122
Total		12,417	12,371	14,724	16,595	16,529	16,717	5,055	6,027	6,299	11,540	10,502	10,418

*Ministry of the Solicitor General and Correctional Services

Glossary:

Verbal complaint or inquiry: Complaint or inquiry usually received over the telephone.
Written complaint or inquiry: Complaint or inquiry received by note or letter with signature of client.
Resolution facilitated/referral given/inquiry made: Assistance given to resolve a problem through discussion, inquiries of the organization complained about, information shared or other tangible methods of resolution; by giving name and phone number of appropriate jurisdictional organization; or actually calling the organization to confirm jurisdiction to handle the matter and make inquiries.
No action possible: No assistance can be given as the problem cannot either adequately be defined, the information given does not require the Ombudsman to take action, the client is anonymous, or it is beyond our capacity to facilitate a resolution.

Discontinued by Ombudsman or client: The investigation is discontinued because either receipt of additional information indicating further investigation is unnecessary, the agency has taken immediate steps to resolve the problem, the Ombudsman has previously investigated the case, or the client does not wish to pursue the matter further for various reasons.
Resolved by Ombudsman in favour of client: The complaint is supported in favour of the client.
Resolved by Ombudsman in favour of the government: The complaint was not supported. In some cases suggestions for change of policy or systems are recommended to the governmental organization.
Resolved by other means: The complaint is resolved with minimal involvement of the Ombudsman.

Written Complaints and Inquiries Against Provincial Governmental Organizations By Final Resolution

Organization	Complaint Resolved by Ombudsman in favour of:				Investigation Discontinued		Resolution Facilitated/ Referral Given/ Inquiry Made	No Action Possible	Total
	Client	Govt. Org.	Govt. Org. with Suggest.	By Other Means	By Client	By Omb.			
Management Board Secretariat	2					5	5		12
Ontario Pension Board	1		3				11	1	16
Ontario Realty Corporation		2	1		2	2	7		14
Management Board Secretariat - Other									
Ministry of Agriculture, Food & Rural Affairs									
Ontario Drainage Tribunal	1				1		4		6
Agriculture, Food & Rural Affairs - Other	1	1			1	5	8		16
Ministry of Citizenship									
Ontario Human Rights Commission	4	2	2		7	52	62	4	133
Citizenship and Human Rights - Other							5	1	6
Ministry of Community & Social Services									
Adult Occupation Centre - Edgar						1	9		10
Children Psychiatric Research Institute							2		2
Comsoc Young Offenders Open Custody/Detention Facilities - Other					1		6		7
Comsoc Young Offenders Secure Custody/Detention Facilities - Other	5			1		1			7
Medical Advisory Board - Family Benefits Act							8		8
Rideau Regional Centre						1	1		2
Social Assistance Review Board	9			1	2	17	93	1	123
Community & Social Services - Other	27	6	1	5	6	25	646	16	732
Ministry of Consumer & Commercial Relations									
Commercial Registration Appeal Tribunal				1		1	1		3
Gaming Control Commission	1			1	1	4	15		22
Liquor Control Board of Ontario					9	3	8		20
Liquor Licence Board of Ontario					1		15		16
Motor Vehicle Dealers							4		4
Ontario Racing Commission		3	1			1			5
Real Estate & Business Brokers						2	7	1	10
Registrar General				1	1		89		91
Consumer & Commercial Relations - Other	3		1	1		1	35	1	42
Ministry of Culture, Tourism and Recreation									
Ontario Lottery Corporation			1		2		3		6
Culture, Tourism and Recreation - Other		1				1	2		4
Ministry of Education & Training									
Colleges of Applied Arts & Technology	1	3			1	8	18	1	32
Ontario Council on University Affairs			1		1				2
Ontario Student Awards Program	2	1	1			5	133		142
Ontario Teachers' Pension Plan Board							2		2
Special Education Tribunal							2		2
Education & Training - Other	2	2	1		3	17	29	2	56
Ministry of Environment & Energy									
Environmental Assessment Board						1	2		3
Ontario Hydro	2	1			3	6	82	2	96
Environment & Energy - Other	1	2	1		8	11	34		57
Ministry of Finance									
Land Transfer Tax						2			2
Motor Vehicle Accident Claims Fund	1						3		4
Ontario Insurance Commission	2	1			1	6	23	1	34
Ontario Securities Commission	1				1	5	6		13
Pension Commission of Ontario	3	2				3	5	1	14
Property Assessment Program						1	4		5
Retail Sales Tax		2				2	13		17
Superintendent of Deposit Institutions							2		2
Finance - Other	2				1	5	34	2	44
Ministry of Health									
Assistive Devices Program / Branch	3			1	1	1	15		21
Brockville Psychiatric Hospital						1	3		4
College of Nurses of Ontario							2		2
Health Professions Board	1	12			2	1	1	2	19
Health Services Appeal Board						5	5		10
Kingston Psychiatric Hospital	4	1	1			1	6		13
Lakehead Psychiatric Hospital		2				2	9	4	17
London Psychiatric Hospital						2	10		12
Mental Health Centre - Oak Ridge Division	1				5	5	11		22
Mental Health Centre, Penetanguishene							2		2
Northern Health Travel Grant	2					3	26		31
Ontario Health Insurance Plan	3			3		4	64		74
Psychiatric Hospitals - Other						2	3		5
Psychiatric Patients Advocates - Kingston							2		2
Psychiatric Review Boards						2	4		6
Queen Street Mental Health Centre	1	1		1		1	5		9
St. Thomas Psychiatric Hospital							5	1	6
Trillium Drug Program			1			1	33		35
Whitby Mental Health Centre				1	1		3		5
Health - Other	9	9			2	11	133	4	168
Ministry of Labour									
Crown Employees' Grievance Settlement Board						2	3		5
Employment Practices Branch	8	8			3	11	54	2	86
Office of The Employer Adviser							2		2
Office of The Worker Adviser					1	1	21	2	25
Ontario Labour Relations Board		1				2	10	1	14
Ontario Public Service Labour Relations Tribunal						2	1		3
Workers' Compensation Appeals Tribunal	1	39	7		5	15	43	2	112
Workers' Compensation Board	11	2				20	725	16	774
Labour - Other			1		2	2	31	1	37
Ministry of Municipal Affairs									
Ontario Municipal Board		2	1	1	3	5	5	1	18
Municipal Affairs - Other	1				4	2	16		24
Ministry of Housing									
Building Code Commission							2		2
Local Housing Authorities	8	2	4		1	10	91	2	119
Ontario Housing Corporation						1	6		7
Rent Control Programs	3					4	7		14
Housing - Other	4	2			2	5	14	1	28
Ministry of Natural Resources									
Moose Allocation Advisory Committee							3		3
Natural Resources - Other	15	18	4		6	28	77	3	151
Ministry of Economic Development and Trade									
Northern Ontario Development Corporation					2				2
Economic Development & Mines - Other							1		1
Ministry of Northern Development & Mines									
Ontario Northland Transportation Commission						1	2	1	4
Northern Development & Mines - Other	1					3	3	1	8
Ministry of the Attorney General									
Assessment Review Board		3				4	8		15
Children's Lawyer						2	9		11
Criminal Injuries Compensation Board	2					9	41	1	53
Crown Attorneys							11		11
Family Support Plan	54	2	2	4	11	24	1684	12	1793
Metfors (Metro Toronto Forensic Service)						1	2		3
Police Complaints Commissioner						1	5		6
Public Guardian & Trustee	4			1	2	8	65	2	82
Attorney General - Other	6	1			1	7	35		50
Ministry of the Solicitor General & Correctional Services									
Animal Care Review Board							4		4
Correctional Centres	148		1	17	74	91	344	2	677
Detention Centres	187			20	92	161	583	11	1054
Jails	145			32	90	128	429	8	832
Young Offender Centres	14			4	12	21	3		70
Young Offenders Open Custody/Detention Facilities - Other	1			2	5	2	4	1	15
Young Offenders Secure Custody/Detention Facilities - Other	1								1
Northern Regional Treatment Centre	1				1	1	8		11
Ontario Board of Parole	2					3	2		7
Ontario Provincial Police	2					6	19	2	29
Probation and Parole Services						2	1		3
Solicitor General & Correctional Services - Other	5	2			1	12	21	1	42
Ministry of Transportation									
Licence Suspension Appeal Board - MTO					1		9	1	11
Transportation - Other	12	4	1	3	5	18	169	7	219

Written Complaints and Inquiries by Provincial Riding

Fiscal Year				Fiscal Year				Fiscal Year			
Riding	96/97	95/96	94/95	Riding	96/97	95/96	94/95	Riding	96/97	95/96	94/95
Algoma	227	217	182	Kitchener General Area*	2	1	6	Rainy River	96	54	92
Algoma-Manitoulin	97	73	87	Kitchener-Wilmot	44	28	57	Renfrew North	90	91	63
Beaches-Woodbine	15	24	22	Lake Nipigon	69	113	126	Riverdale	108	112	190
Brampton North	26	20	32	Lambton	52	45	44	Sarnia	113	113	140
Brampton South	116	96	102	Lanark-Renfrew	70	54	53	Sault Ste. Marie	598	556	349
Brant-Haldiman	17	34	21	Lawrence	15	9	15	Scarborough Centre	50	53	32
Brantford	113	90	115	Leeds-Grenville	84	62	71	Scarborough East	14	33	18
Bruce	80	72	56	Lincoln	21	9	26	Scarborough North	11	23	20
Burlington South	24	16	21	London Centre	127	125	249	Scarborough West	156	141	122
Cambridge	49	36	71	London General Area*	8	6	12	Scarborough-Agincourt	4	15	20
Carleton	97	119	116	London North	103	107	140	Scarborough-Ellesmere	6	4	16
Carleton East	240	235	232	London South	279	344	356	Simcoe Centre	92	72	100
Chatham-Kent	123	123	89	Markham	20	24	26	Simcoe East	57	58	56
Cochrane North	95	85	148	Middlesex	35	65	113	Simcoe West	18	37	42
Cochrane South	269	183	271	Mississauga East	13	21	31	St. Andrew-St. Patrick	32	30	43
Cornwall	17	21	23	Mississauga General Area*	16	9	9	St. Catharines	24	43	26
Don Mills	32	19	27	Mississauga North	14	26	40	St. Catharines-Brock	11	7	11
Dovercourt	28	24	19	Mississauga South	11	20	19	St. George-St. David	3	60	64
Downsview	10	18	26	Mississauga West	18	25	25	Stormont Dundas Glengarry and East Grenville	31	29	52
Dufferin-Peel	15	17	28	Muskoka-Georgian Bay	28	54	45	Sudbury	193	274	369
Durham Centre	10	14	30	Nepean	57	51	58	Sudbury East	102	123	180
Durham East	21	24	38	Niagara Falls	24	35	29	Sudbury General Area*	2	0	0
Durham West	96	99	80	Niagara South	18	15	30	Thunder Bay General Area*	4	0	4
Durham-York	26	22	46	Nickel Belt	55	80	98	Timiskaming	83	103	78
Eglinton	19	33	28	Nipissing	204	218	173	Toronto General Area*	128	34	58
Elgin	64	92	128	Norfolk	37	56	44	Victoria-Haliburton	30	50	41
Essex-Kent	108	71	36	Northumberland	70	60	80	Waterloo North	30	21	31
Essex South	80	94	64	Oakville South	18	12	22	Welland-Thorold	79	78	77
Etobicoke West	16	19	25	Oakwood	17	20	16	Wellington	8	18	11
Etobicoke-Humber	19	13	20	Oriole	4	15	15	Wentworth East	15	17	16
Etobicoke-Lakeshore	77	107	98	Oshawa	21	35	27	Wentworth North	13	9	13
Etobicoke-Rexdale	185	166	165	Oshawa General Area*	3	0	0	Willowdale	15	34	19
Fort William	84	86	142	Ottawa Centre	45	57	73	Wilson Heights	4	13	9
Fort York	39	42	69	Ottawa East	73	64	60	Windsor General Area*	16	16	20
Frontenac-Addington	39	44	35	Ottawa General Area**	49	34	45	Windsor-Riverside	126	118	127
Grey-Owen Sound	145	95	116	Ottawa South	47	45	45	Windsor-Sandwich	264	146	134
Guelph	191	238	142	Ottawa West	24	48	47	Windsor-Walkerville	160	153	90
Halton Centre	176	127	132	Ottawa-Rideau	24	14	39	York Centre	29	21	31
Halton North	7	9	13	Out Of Province/ International**	187	188	246	York East	15	21	23
Hamilton Centre	11	23	24	Oxford	47	67	74	York Mills	9	9	12
Hamilton East	13	8	5	Parkdale	19	22	35	York-Mackenzie	23	27	28
Hamilton General Area*	22	8	6	Parry Sound	116	94	75	York South	17	20	26
Hamilton Mountain	9	13	9	Perth	47	61	67	Yorkview	10	15	8
Hamilton West	148	144	191	Peterborough	255	219	222	Unknown	61	251	253
Hastings-Peterborough	25	28	28	Port Arthur	314	234	281				
High Park-Swansea	25	23	28	Prescott and Russell	82	46	82				
Huron	54	91	53	Prince Edward-Lennox- South Hastings	108	117	113				
Kenora	345	321	396	Quinte	34	40	38				
Kingston & Islands	81	71	79					*Actual riding unknown but general area identified			
Kitchener	68	47	110					**Not residing in province at time of complaint			

In order of frequency, the most common types of jurisdictional complaints investigated by Ombudsman Ontario this year were:

Types of Complaints	Rank Previous Year	Types of Complaints	Rank Previous Year
1. Wrong or unreasonable interpretation of criteria, standards, guidelines, regulations, laws, information or evidence	2	7. Unreasonable delay	6
2. Adverse impact or discriminatory consequence of a decision or policy on an individual or group	1	8. Denial of service	9
3. Failure of governmental organization to adhere to own processes, guidelines or policies or to apply them in a consistent manner	4	9. Unfair settlement imposed; coercion	5
4. Inadequate or improper investigation was conducted	13	10. Failure to keep a proper record	10
5. Failure to adequately or appropriately communicate with client	10	11. Other	7
6. Harassment by governmental official; bias; mismanagement; bad faith	3	12. Insufficient reasons for a decision or no reasons given	12
		13. Failure to provide sufficient or proper notice	11
		14. Omission to monitor or manage an agency for which the governmental organization is responsible	14

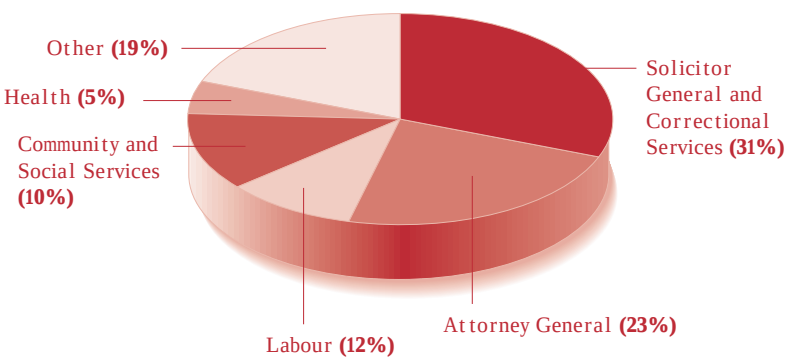
Verbal and written complaints and inquiries against the Ministry of Solicitor General and Correctional Services

By subject matter	1996-97	95-96	94-95	By subject matter	1996-97	95-96	94-95
Health care inadequate or denied	1487	642	750	Living conditions - smoking	56	35	20
Staff conduct	664	423	351	Religious or lifestyle diet	71	33	44
Classification/Transfer/Committal	1187	375	586	Searches	50	32	27
Other	905	368	480	Mental health care	59	31	25
Living conditions in general	642	327	454	Inmate trust account	73	28	4
Living conditions-canteen allowance program	379	302	206	Intermittent sentence	29	22	6
Living conditions-food/diet	434	279	223	Community Resource Centre	45	20	32
Inmate misconduct	501	245	256	AIDS, hepatitis	18	20	19
Temporary absence pass discretionary program	541	193	282	Medical appliance	11	20	6
Personal/Inmate property	434	193	201	Immigration	49	20	6
Administrative segregation	446	156	129	Ombudsman letter denial	42	18	14
Health-other	196	154	92	Freedom of Information/Protection of Privacy	35	17	7
Correspondence	258	153	135	Transfer federal institution	54	13	26
Classification-other	272	114	76	Second opinion denied	28	12	18
Parole	233	111	97	Medical segregation	29	10	13
Dental	240	104	97	Bailiffs	12	8	9
Living conditions - clothing size	127	96	22	Secure facility	5	6	30
No response to request	68	93	79	Probation	11	2	3
Pre-release	187	92	73	Electronic Monitoring	17	2	0
Discretionary program decisions	176	89	151	Custody Review Board/Y.O. avenues of appeal	3	2	n/a
Prescription requests denied	191	86	77	Ombudsman	24	0	7
Yard	211	85	112	Open facility	2	0	0
Administration	319	82	n/a	Education - Special Education	1	0	0
Living conditions - heating	96	78	9	Juvenile	1	0	0
Living conditions-segregation	123	75	84	No response to correspondence	1	0	0
Living conditions-overcrowding	93	74	63	Occupational Health and Safety	1	0	0
Institutional discipline other than inmate misconduct	62	74	62	Health	106	0	0
Telephone access/Use	81	72	35	Telephone Access Limited	29	0	0
Policy/Practice	24	67	74	French	25	0	0
Committal/Sentence calculation	152	59	56	Resident in Treatment Unit/Special Needs Unit	23	0	0
Staff misconduct-assault	104	50	66	Administration - Unfairness	6	0	0
Visiting privileges	111	48	57	Consumer Related Complaint	5	0	0
Medical diet	94	42	63	Administration - Delay	3	0	0
Glasses, eye care	72	40	42	Children	3	0	0
Charter of Rights	74	39	40	Administration - Bias	2	0	0
Protective custody	61	36	38				
Lost earned remission							
punitive segregation	59	35	32				

* As any given complaint may have multiple subject categories assigned to it, these numbers do not reflect the total number of complaints.

Written Complaints and Inquiries
Provincial Governmental Organizations

Labour includes the Workers' Compensation Board, which accounted for 73% of the Ministry's complaints. Attorney General includes the Family Support Plan, which accounted for 88% of the Ministry's complaints.



Every year in our Annual Report the Ombudsman presents a collection of brief case stories to illustrate in a concrete way the type of work we do on a daily basis. These stories were written by our staff to offer a representative sample while protecting the anonymity of complainants.

CASE STORIES

The case stories in this first section represent special investigations, either because they were initiated by the Ombudsman, or because they reached the final reporting stage of the process as provided for in the Ombudsman Act. Two of the cases were considered by the Standing Committee of the Legislature on the Ombudsman and two others were successfully resolved before referral to the Standing Committee. Four cases involved investigations initiated by the Ombudsman.

Ombudsman finds failure in transition of Family Support Plan

Following the decision of the Family Support Plan on August 15, 1996 to close its regional offices and centralize its program delivery in Downsview, the Ombudsman received hundreds of complaints. While the Ombudsman regularly handles complaints about the Plan's operation, these calls and inquiries were increasingly characterized by high levels of desperation and personal crisis. The effects of the sudden office closings were widely reported at the time and were the subject of frequent comment in the Legislature.

Despite efforts by the Ombudsman through the Fall of 1996 to resolve individual cases, the FSP was not taking timely steps to address these complaints, a resulting backlog was occurring, and no effective remedy to what appeared to be larger problems was in sight. Consequently, on November 15, the Ombudsman gave the Family Support Plan and the Attorney General notice of her intent to investigate, on her own motion, how the Plan managed the transition from its previous method of program delivery to the newly re-organized method. The Ombudsman's investigation focused on the planning for the period of transition and the implementation of this plan.

As a result of an intensive three month investigation, the Ombudsman found that the manner in which the transition was carried out by the Family Support Plan caused hardship for individuals whom the Plan was designed to

benefit. It also created many difficulties for payors and income sources. On this basis, the Ombudsman concluded in a tentative report issued to the Attorney General on February 28, 1997 that during the transition period, the Family Support Plan was wrong in its failure to:

- ensure an adequate level of service for its clients
- retain sufficient trained personnel to ensure provision of essential services
- monitor its enforcement actions
- adequately notify its clients of the availability of, and eligibility criteria for, reimbursement of expenses incurred due to delay

In a case such as this, recommendations by the Ombudsman cannot undo the personal despair and distress experienced by the Plan's clients during the period in question, even though complainants were assisted at the time by Ombudsman staff in finding solutions to their specific problems. However, there are measures that can be taken to prevent similar circumstances from occurring in other government programs and to ensure that the Ministry is accountable in the future for its administration of the Plan. To achieve these goals, the Ombudsman made a number of recommendations in her report:

- that the Ministry of the Attorney General and the Family Support Plan evaluate the restructuring experience and share the lessons of this experience with other gov-

- ernment agencies
- that the Ministry of the Attorney General and the Family Support Plan apologize for the frustration and hardship experienced by clients and other stakeholders as a result of the failure to provide an adequate level of service during the transition
- that the Family Support Plan notify its clients of the availability of, and eligibility criteria for, reimbursement of expenses incurred due to delay

The Ministry accepted these recommendations, while taking issue with some aspects of the investigative report. Following a series of meetings with Ministry and Plan officials, the Ombudsman issued a final report which reflected input from the Ministry, confirmed the Ombudsman's conclusions and recommendations, and set out in more detail the means by which the recommendations would be implemented. The final report reflected the Ombudsman's view that very important lessons can be learned from this experience, particularly with the prospect of continued restructuring and downsizing of the public service.

The full text of the final report is available as an Appendix to the Ombudsman's 1996-97 Annual Report. It includes an outline of the undertakings made by the Attorney General and officials of the FSP in response to the Ombudsman's recommendation.

Paying one person's benefit to another

Ms C qualified under the Family Benefits Act (FBA) for a disability allowance. She brought a complaint to the Ombudsman when the Ministry of Community and Social Services (MCSS) began to send her benefit money to her common law spouse, Mr. M.

Ms C had re-entered a common law relationship with Mr. M, who was also in receipt of a disability allowance. When this came to the attention of the Ministry, the couple's benefits were re-calculated at the family rate, which is less than two single rates. Ms C wanted a cheque for her portion of the benefits in her own name. The Ministry required the couple to agree on a single recipient, but Mr. M would not agree to change the name of the recipient to Ms. C. The only way she could receive her benefit in her own name was for the relationship to end, which eventually occurred 16 months later.

During an investigation by the Ombudsman, it was found that the Ministry's policy is to treat all families equally by issuing one cheque per "family unit". In practice, this means in 72% of the cases reported by the Ministry, the cheque goes to the man in the relationship. In

such cases the onus is on the woman to have this arrangement changed. The Ombudsman concluded in her investigation by finding that the treatment of Ms C revealed a discriminatory effect not just on her, but on all individual women entitled to receive Family Benefit Allowances who are married or in common law relationships. The Ombudsman reported in her findings that this case represented an example of "systemic" discrimination, where a policy appears neutral because all families are treated the same but there is an adverse impact on an identifiable group - women who are entitled to receive the allowance.

The Ombudsman indicated that while this negative impact may be an inadvertent result of the policy, there is no less discrimination present than if it was intentional. As a remedy to this discrimination, the Ombudsman recommended that, where both partners were entitled to receive benefits in their own right, the Ministry should issue separate cheques to each person, each equal to 50% of the total benefit. The Ombudsman noted that the *Family Benefits Act* must be interpreted and administered in a way that is consistent with the

Ontario *Human Rights Code* and that to allow the practice to continue would be a violation of the provision of the Code which prohibits discrimination on the basis of marital status.

The Ministry did not agree with the Ombudsman's conclusions and did not accept her recommendation. As a result, the matter was referred to the Standing Committee of the Ontario Legislature on the Ombudsman for review and final determination. Following submissions by the Ministry and the Ombudsman, the Standing Committee voted to reject the recommendation of the Ombudsman.

At the Standing Committee hearing, the Ministry provided estimates, which were not made available to the Ombudsman during the investigation, of a \$750 thousand cost to modify computer systems and of \$500 thousand each year for extra printing, mailing and administrative costs to implement the Ombudsman's recommendation. The Ombudsman noted in response that any financial analysis must be balanced by the costs associated with the loss of autonomy, dignity and self-respect by the person who is denied access to a benefit that is rightfully hers. She also said that no person should be forced to leave a relationship in order to receive the funds to which they are entitled. In her pre-

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CASE STORIES

One person’s benefit *From page 11*

sentation to the Standing Committee, the Ombudsman summarized her findings:

“The Ministry states in its response that my recommendation will be ‘seen as intrusive, involving the Ministry in determining how and to whom a social assistance allowance will be provided based on personal relations and dynamics’. The Ministry has it backwards. It is precisely the reverse which is true. In my view, it is intrusive to perpetuate the outdated

assumption that the male is the ‘head of the house’. It is intrusive when a couple is required to establish a joint bank account to receive individual entitlements. Placing all of a couple’s benefit in the hands of one partner and accentuating any imbalance of power as a result; and making the assumption that issuing separate cheques will mean non-payment of rent - these are intrusive practices. Issuing two cheques avoids making assumptions. It puts into each entitled person’s hands the benefit for which he or she is entitled.”

Compensating for unfairness at Ontario Human Rights Commission

In 1986, Mr. S complained to the Ontario Human Rights Commission (OHRC) that an employer had discriminated against him in a job competition. After the OHRC completed its investigation of the matter in 1991, it decided that there was enough evidence of discrimination to warrant sending the matter to a Board of Inquiry for a full hearing and final determination.

The respondent employer asked the Board to refuse to hear the discrimination claim, on the ground that it was no longer possible to give a fair hearing. The Board agreed, and in 1993 decided that the OHRC’s delay and mis-handling of the case had rendered it impossible to give the respondent a fair hearing at that late stage. The Board cited a number of points in its decision: unreasonable and excessive delay of nearly six years, mostly attributable to the OHRC; a biased presentation of complaint by the OHRC investigating officer, who was found to have inappropriately adopted an advocacy role on behalf of the complainant; and a lack of timely disclosure of witness statements by the OHRC to the respondent. The OHRC was a party to the proceedings before the Board, and decided not to pursue an appeal of the Board’s findings.

Following the dismissal of the case, the employer filed a claim for compensation of its costs from the OHRC, and the Board subsequently ordered the Commission to pay costs totaling \$16,000 to compensate for the “undue hardship” caused to the employer in being forced to seek a remedy for the unfairness resulting from the way in which the Commission proceeded. Although the Board found that the manner in which the complaint was processed by the OHRC was detrimental to both the complainant’s interests and those of the employer, it had no legal power under the *Human Rights Code* to award any costs or compensation to the complainant. As a result, the OHRC refused a request by Mr. S for compensation. He then brought the matter to the Ombudsman.

The Ombudsman conducted a thorough investigation, reviewing all the relevant information, and taking into consideration the positions of both the complainant and the OHRC. The Ombudsman concluded in her findings that the failure by the OHRC to process Mr. S’s human rights complaint in a timely and appropriate manner had unjustly deprived him of the opportunity to claim any legal remedy from the respondent employer for the alleged violation of his rights under the *Human Rights Code*. She consequently recommended that the Commission compensate him “in an amount which takes into consideration a reasonable assessment of his prospects of success and the award that could reasonably have been expected, plus interest, to redress the loss of opportunity caused by the Commission’s actions.”

The OHRC initially refused to accept the Ombudsman’s recommendation. Following the notification of a report on the matter to the office of the Premier, pursuant to s.21(4) of the *Ombudsman Act*, the Commission agreed to implement the Ombudsman’s recommendation, and a cheque in the amount of \$12,413.80 was remitted to the complainant.

“Presumed innocents” penalized by prison program

In the Ontario Correctional system, sentenced prisoners receive an allowance of five dollars a week for the purchase of toiletry and confectionery items. This Canteen Allowance Program (CAP) is not extended to “remand” inmates who have not been convicted of a crime, and who are awaiting trial. After receiving many complaints about this disparity, the Ombudsman initiated an investigation on her own motion and concluded that the failure to extend the program was unjust and improperly discriminatory.

The Ministry of the Solicitor General and Correctional Services disagreed with the Ombudsman’s conclusion and refused to accept her recommendation to end the discrimination by extending the program to all inmates. The matter was subsequently forwarded to the Standing Committee of the Ontario Legislature on the Ombudsman, for review and final determination. After hearing presentations by both the Ombudsman and the Ministry, the Standing Committee voted to reject the recommendation of the Ombudsman.

The CAP program was introduced in 1989 to replace an allowance which had been provided as a condition of inmate participation in work programs. The rehabilitative feature of the previous program was not appropriate for remand inmates who were still presumed innocent, and by definition not found to be in need of rehabilitation. As a result, with the introduction of the new program there was no longer any basis for differential treatment of remand, as compared to sentenced, inmates.

The Ombudsman had conducted a prior investigation of complaints about this program and in March of 1993, the Ministry indicated its intent to adjust CAP so that, after a two week qualifying period, all inmates would receive the allowance. Six months later, the

Ministry advised that due to funding pressures it was unable to implement this change. Following further discussions with the Ombudsman and a period of time provided for the Ministry to devise an alternate method of correcting the situation, the investigation was re-opened. Because the circumstances remained essentially the same, the Ombudsman arrived at the same conclusion as in her earlier investigation. She suggested to the Ministry that, with adjustments to the initial qualifying period, the program could be extended to all inmates on an equal basis without an overall increase in cost and with little change to sentenced inmates already receiving the allowance.

In her final report on the matter, the Ombudsman referred to a document published in 1971 by the United Nations, “*Standard Minimum Rules for the Treatment of Prisoners*”, which established that “untried prisoners” should have rights and privileges not extended to convicted prisoners. The Ombudsman found that remand inmates were being treated worse than sentenced inmates with respect to the canteen allowance program. While other differences in treatment, such as access to bail, or eligibility for parole, could be justified by the legal status of the inmate, the difference in access to personal items was not justifiable in this way.

The Ombudsman’s report noted that it was not unusual in other jurisdictions to provide an allowance only to sentenced inmates. However, in these instances remand inmates were not housed together with the general inmate population under the same conditions of confinement. In Ontario this practice accentuates the disadvantage experienced by remand inmates. The stated goals of the canteen allowance program are to allow inmates to purchase personal needs, to assist inmates to assume individual financial responsibility and to encourage positive conduct. The Ombudsman expressed her concern that without access to canteen products, in a milieu where others have this privilege, remand inmates are at risk of being immersed in a dangerous aspect of prison culture where they incur barter-type debt.

In her presentation to the Standing Committee of the Legislature, the Ombudsman summarized her findings:

“By continuing to rely on fiscal pressure as the reason for not taking steps to remedy unjust treatment, the Ministry has effectively put a price on the right of an inmate to be free from discrimination, and, in this case, on the right to be treated in accordance with international standards. The result is a situation which is grossly unfair to those among us who, although held on remand, are innocent until proven guilty and entitled to be treated in accordance with principles of fairness to which our province and our country are dedicated.”

defining our mission

Investigation



A careful study, systematic inquiry; an official search or examination



CASE STORIES

Lost Opportunity Compensated

Mr. M brought a discrimination complaint to the Ontario Human Rights Commission (OHRC) in 1990, based on denial of rental accommodation. The complainant sought specific damages for the difference in rental costs incurred, and general damages for the mental anguish of suffering from discrimination.

The complaint had been handled by two Human Rights Officers (HRO) before it was assigned to a third in April 1993. After reviewing the complaint with the Mr. M's lawyer in November '93, the HRO visited the complainant at his workplace on Christmas Eve with an offer of a cheque to cover the specific damages claimed, but with no award for the general damages. The HRO indicated to the complainant that his lawyer had approved this as a settlement of the complaint. When the complainant discovered that his lawyer had not approved the settlement, he came to the Ombudsman, stating that he had been coerced into signing a settlement that would close his complaint.

Following an investigation of both the circumstances of the complaint and the closing of the file, the Ombudsman agreed with the complainant and found that the HRO had not acted according to proper procedures. The HRO acknowledged during the investigation that he had not reviewed the file in detail and indicated he was feeling pressure to close the file. If the file had been reviewed correctly, the HRO would have discovered evidence that

could have supported general damages as part of the settlement. Because the complaint had been closed, the complainant had therefore lost the opportunity to have taken the matter to a Human Rights Board of Inquiry. As well, the Ombudsman found that it was improper for the HRO to have made a representation to the complainant that his lawyer had approved the settlement, when it was apparent that she did not. The lawyer indicated that she did not specifically discuss her views on the question of general damages with the HRO, and had requested that she be copied with all correspondence to the complainant, in keeping with OHRC procedures.

The OHRC did not agree with the Ombudsman's conclusions as submitted in a tentative report on the case, and as a result did not agree to accept the Ombudsman's recommendations. However, following discussions based on the response provided to the report, the OHRC reversed its position and accepted the Ombudsman's final report. As a consequence, the OHRC undertook to remind its staff of its policy and guidelines on dealing with legal representatives, and on the correct procedures for finalizing settlements. It also agreed to compensate the complainant in the amount of \$1000 for the lost opportunity to have his claim for general damages assessed by a Board of Inquiry.

Reviewing the competition

The Ombudsman received a number of complaints about how the Workers' Compensation Board handled job competitions, and as a result decided to initiate an investigation on her own motion. To examine how the Board conducted its competitions, a random sample of competition files were examined from a one-year period. During this one year, the Board had introduced a new process and the Ombudsman conducted an assessment of this process to see if it was procedurally fair. She also reviewed files to determine if the process had been followed properly. The results of the investigation indicated that the process itself was fair but not all the files showed that it had been followed. This was not proof that any particular outcome was not reasonable, but rather suggested there were inconsistencies in the application of the process.

In the year following the one from which the competition files were reviewed, the Board introduced a further, more detailed policy on how competitions were to be conducted. This policy was based on the recently adopted process. The Ombudsman concluded from her investigation that if the Board followed the new policy when it ran a competition, the competitions would likely be fair in both outcome and process. However, she made a number of suggestions to the Board about improving the policy. These included: establishing tighter guidelines for determining the outcome when competition scores were close or the same; ensuring all references are checked and avoiding the use of references from members of a hiring panel; and encouraging the use of work samples in testing candidates. The Board responded to the Ombudsman by agreeing to implement all of the suggested changes to its policy.

Health Professions Board responds to complaints

A number of complainants brought concerns to the Ombudsman about the Health Professions Board's (HPB) administrative practices. As a result, the Ombudsman launched an investigation on her own motion. The complainants had identified several issues: information provided to individuals concerning the review process was insufficient; there is a lack of clarity in the process of disclosure and partial disclosure of the material relevant to the college's investigation; individuals were not advised they could make a submission to the Board prior to reviews; others felt the information provided by the complainant and the professional were not equally weighed; some indicated they were not given an opportunity to respond to the professional's statement; there was a concern that the physical facilities are not suitable for complainants who may have disabilities or limitations; and finally there was a concern that the Board does not adequately address complaints.

The investigation by the Ombudsman included a review of all the relevant material submitted by the complainants and by the Board in response. There was also discussions with Board personnel, a review of the number of inquiries and the number and nature of the investigations handled by the office over a recent period of time, and attendance by an investigator as an observer at a review. The evidence revealed that individuals are notified by letter of the complaint process and are provided with a brochure which outlines the Board's mandate and limitations, and parallels the review process as prescribed in the regulated *Health Professions Act*. Individuals are invited to contact the Registrar if they have any questions or concerns about the process.

The Board conceded that despite its efforts, the process is not one that is well understood and that the expectations of the public exceeds what the Board is able to provide. The Board itself brought this concern to the attention of the Minister of Health in its 1992 and 1993 annual reports, with a recommendation that the Minister develop an agency or service that would function as a patient's advocate. Because a number of complainants expressed the view that the brochure could be improved, the Chair agreed to review and revise the brochure in an effort to make the information easier to comprehend.

The Board emphasized that reviews are conducted in accordance with legislation and that the Board maintains an even-handed approach between complainants and professionals. In its view, the concern that information provided by professionals is given more weight than that provided by the complainants was a misperception. The Ombudsman found no evidence to suggest otherwise.

The Board has written to the professional colleges, asking them to standardize the manner in which their material is organized. However, it has no legal authority to make the colleges comply with this request.

With respect to the physical facilities, the Board has taken and will take measures to notify the individuals in advance of any review. The investigation revealed that the Board asks every individual, in its initial correspondence, to advise of any special needs. The Ombudsman found in concluding her investigation that the Board has accommodated individuals with special needs. The Ombudsman concluded that the measures taken by the Board to address these issues was reasonable.

Avoiding x-rays during pregnancy

Ms. D complained to the Ombudsman that she was being denied a health card because of her pregnancy. She had immigrated to Canada and applied for landed immigrant status but because she was pregnant, it was not medically advisable for her to have the chest x-ray which was required by the federal Department of Employment and Immigration. Without the x-ray, her medical clearance was incomplete and landed immigrant status could not be confirmed. Because she lacked status, she was denied Ontario health coverage. As a result of an investigation by the Ombudsman, it was revealed that the woman had not been advised of her right to appeal the decision to deny her a health card. The Ombudsman also presented to the Ministry of Health on behalf of Ms. D medical evidence indicating that it was not proper to require x-ray examinations for standard screening procedures, particularly for pregnant women. Accordingly, the Ombudsman issued a report recommending that the Ministry adopt a policy that temporary health cards be issued in such circumstances. The Ministry agreed and drafted a new policy to allow women in such situations to be given temporary health coverage, as an interim measure that would allow them to meet any x-ray requirements following the birth of a child.

CASE STORIES

The following case stories represent investigations where the complaint was resolved with the assistance of the Ombudsman, or the outcome was non-support of the complaint. Many of the resolved cases were concluded after the Ombudsman made tentative findings which were shared with the governmental organization complained against. Others were resolved during the course of an investigation, as a result of a variety of complaint resolution techniques employed by the Ombudsman and investigations staff.



Clarifying the terms of a loan

Mr. C, who co-owns a five unit apartment building in a northern community received an interest-free forgivable loan in 1987 from the Ontario Mortgage Corporation's low-rise rehabilitation program. The program was designed to help landlords upgrade their apartment complexes to local property maintenance and occupancy standard by-laws. It was administered by participating municipalities. In the sixth year of the program, the corporation discovered that Mr. C occupied one of the renovated apartments. It then advised Mr. C that he was in breach of contract, and demanded immediate repayment of part of the loan. Mr. C objected, explaining that none of the pamphlets or legal documents had stated that owner-occupied units were excluded from funding. He pointed out that the corporation's municipal agent and the corporation's own solicitor both knew he lived in one of the apartment units when he applied to participate in the program, and neither had mentioned that owner-occupied units were excluded from funding.

An investigation by the Ombudsman confirmed that none of the corporation's legal documents or pamphlets mentioned that owner-occupied units were excluded from funding. It was also confirmed that both the corporation's agent and its solicitor were aware that Mr. C lived in the building at the time he applied to participate in the program, and neither had advised the complainant that owner-occupied units were excluded from funding. The Ombudsman concluded in a tentative report that it was reasonable of Mr. C to rely upon the information provided to him by the corporation's representatives, both of whom knew he lived in the apartment building. She recommended that the corporation process Mr. C's application for all five units, and that in future, the corporation clarify its terms for all applicants to such programs. The Ontario Housing Corporation accepted the Ombudsman's report containing these recommendations and conclusions.

Forwarding the new address

Ms. M complained to the Ombudsman that she had never been notified by the Ministry of Education and Training that her outstanding OSAP loans had defaulted, and as a result she could not obtain a further loan. In addition, she complained that OSAP had not considered her appeal on this issue, and that because OSAP delayed in processing her Canada student loan application, she was unable to receive the loan from the federal government to which she should have been entitled. Following an investigation, the Ombudsman noted that Ms. M had failed to comply with the terms of her loan agreement when she did not keep the lending institution aware of her changes of address. She did, however, advise the Ministry of her new address, and the Ministry had failed to check its own records when it sent a final notice to her about the default. When the defaulted loan was then passed to a central collections service for recovery, the correct address information was not included. The Ombudsman also learned that Ms. M's subsequent application was delayed because the sequence followed by the Ministry in processing loans reserves applications from defaulters until last. The Ombudsman recommended the Ministry undertake to check its own records properly when sending out default notices, and as a matter of practice provide complete information to central collections services for recovery of outstanding loans. The Ministry accepted these recommendations, agreeing to make best efforts within available resources to confirm the accuracy of the information. With respect to Ms. M's other concerns, the Ombudsman did not find the Ministry's processing sequence was unreasonable, nor did she find the Ministry had not responded to Ms. M's appeal in a reasonable manner, since her appeal contained no information to explain why she had allowed her loans to default. The Ombudsman advised Ms. M of her findings, and the file was closed.

Settling accounts due

In 1994, Mr. A requested a renewal of a building permit from the Ministry of Transportation to expand his family's business. The Ministry denied the request because Mr. A's business was located in a future highway designated area. Mr. A and the Ministry then entered into negotiations so the Ministry could acquire the lands under their "willing buyer-willing seller" policy. The Ministry carried out appraisals and architectural studies of the required lands and Mr. A retained the services of a lawyer and an accountant to assist him. In June 1995, the Ministry advised Mr. A that it was no longer considering the acquisition of his properties since there had been no agreement on a selling price and since it appeared that the Ministry had no immediate need for the lands. For this reason, the Ministry would also not agree to obtaining a

second appraisal as requested by Mr. A. The Ministry, however, was now prepared to issue Mr. A a building permit. The Ombudsman investigated Mr. A's complaint that this decision by the Ministry was unreasonable because he had placed his business plans on hold and had incurred considerable legal and accounting expenses in the process. In discussions which followed between the Ombudsman's investigator and Ministry personnel, the Ministry initially reiterated that it would not pursue a second appraisal for previously stated reasons. When it was pointed out that the Ministry's guidelines clearly provided for compensation in such cases, the Ministry reversed its position and agreed to assume responsibility for Mr. A's legal and accounting expenses. As a settlement of this account, a cheque for \$17,734.82 was issued.

Got a complaint about us?

In June 1996, the Ombudsman established a mechanism for the internal review of complaints from the public or government employees who are dissatisfied with the manner in which a complaint is handled by staff at Ombudsman Ontario. The policy encourages a client who is dissatisfied to first raise the issue with the staff person involved. If it cannot be resolved at this level, then the client is encouraged to speak to the individual's manager. When this does not produce a resolution, the Director of Investigations and Complaint Resolution is contacted. Where individuals remain dissatisfied, they are encouraged to bring their concerns to the Ombudsman's attention directly. The Ombudsman will refer such complaints to the Executive Coordinator for review and recommendations. The Executive Coordinator does not have direct managerial responsibility for complaint handling and is therefore able to conduct an independent internal evaluation of the process. Since we established this mechanism, we have received 18 complaints. Nine of these

have involved dissatisfaction with the outcome of a complaint investigation. In one case, more investigative work was indicated, and in eight instances further investigation was not required. Five individuals complained about the mishandling of their investigation. In two cases, the complaints were justified. In one, action on the the client's file was delayed for an unacceptable length of time. This was resolved by immediate attention to the file. In the other instance, documents were misplaced by a staff member who was consequently counselled by the manager. In three instances, upon further review of the complaints, there was no evidence of mishandling of the investigations. Three people complained about the length of time we took to handle their files. In two instances, these complaints were not substantiated because of the complexity of the cases and the response time involving the governmental organization. In one, the complaint was rectified by ensuring the file was expedited. One individual has complained routinely about a variety of issues relating to Ombudsman Ontario services and a number of other matters, none of which have been substantiated following review. Because we are constantly looking for ways to improve our service to the public, we continue to encourage clients to voice any complaints about us directly to Ombudsman Ontario.

CASE STORIES

Still waiting for progress

Ms. L, together with five other applicants from a northern community, complained that delays by the Criminal Injuries Compensation Board in scheduling hearings, when a case has been placed on a waiting list, was unreasonable. The applicants' cases had been on the waiting list from 15 to 23 months. The allegation of delay was of significant concern to the Ombudsman. Following a previous investigation completed in 1993, at which time delays were six to nine months, the Board had undertaken to make every effort to reduce further delay.

In the investigation of the concerns of the applicants, the Board responded to the Ombudsman by outlining several initiatives it believed would reduce the backlog of cases waiting to be heard. These included: the introduction of a new case management system; Board members were asked to increase the number of cases heard from five to six a day; steps were being taken to reduce the number of frivolous claims; applicants were being asked to obtain their own supporting evidence such as medical reports; and the Board had

obtained the services of the Chair of the Board of Inquiry to hear cases at no additional cost. The Board indicated it had set an objective of having cases heard within one year of the date the application is received.

As hearings had been held by this time in each of the cases brought to the Ombudsman and decisions issued in all but two, the Ombudsman decided to close the investigation. She advised the complainants and the Board that it was her intention to monitor the Board's progress to reduce delay. Six months after the investigation was closed, the Board was contacted to determine its progress in resolving the problem of delay. The Board reported that once a case is ready to be heard, if it is to be heard on the basis of documentation alone, a hearing can be held within a month. Where an oral hearing is needed, a case may be on the waiting list for approximately 12 months from the date of application. While progress had been made to reduce delay, the Board has agreed to provide further updates to the Ombudsman.

A policy to remove writs

Mr. H is a support payor who fell into arrears with the Family Support Plan. As part of the Plan's enforcement procedure to obtain the unpaid support monies, it placed a writ of seizure and sale on Mr. H's property. Mr. H paid the arrears and some time later, when he was in the process of selling his property, it was discovered that the writ was still in place. The existence of the writ delayed the closing of the sale of his property and Mr. H had to pay a settlement fee of \$3,000 to the purchasers. Mr. H complained to the Ombudsman that it was unreasonable for the Plan not to have removed the writ once the arrears were paid, particularly since he had made this request in advance of the sale of his property.

The Ombudsman's investigation found that the Plan has a policy to remove any writ once arrears are paid in full, and that it was apparent in Mr. H's case that this policy was not followed. As a result, the Ombudsman recommended that Mr. H be reimbursed by the Family Support Plan the \$3,000 cost he incurred, plus interest. The Plan agreed and paid Mr. H the money.

Reasonable acknowledgement

Mr. P worked for the Ministry of Education and Training on contract as a writer in 1990/91. In 1994, a draft document was circulated by the Ministry which included his work. In 1995, two curriculum guidelines were released, one of which was based on his work and the other included reference to his work. None of these documents identified Mr. P as a contributor. He brought his concerns about the lack of attribution to the Ministry but was not satisfied with an offer to include his name, with full acknowledgement, in the reprinting of the guideline which was based on his work. As a result he complained to the Ombudsman.

Following an investigation, the Ombudsman determined that the Ministry's offer was reasonable, although she commented that the document with the reference to Mr. P's work should be footnoted appropriately. In explaining her conclusion, she noted that the draft document was unpublished and that Mr. P's contract had stipulated that his work, once submitted, became the Ministry's property. There was therefore no obligation for authorship or contribution to be acknowledged, although such acknowledgement could be reasonably expected. She did not accept Mr. P's position that the Ministry had plagiarized his work, since he advised that what he had written for the Ministry was based on his doctoral thesis. The Ministry agreed to provide Mr. P with a letter acknowledging his contribution, as well as a full acknowledgement in the reprinting of the curriculum guideline.

Landlord obligations backed up

Ms. G, a single parent of seven children, was a tenant of the Ministry of Transportation until July 1993. One month before she was scheduled to vacate the Ministry-owned house, the septic system backed up in the basement and destroyed the family's winter clothes and furniture. Ms. G estimated that her losses amounted to \$5,000. When she asked the Ministry to compensate her, the Ministry told her that it was not obligated to pay for her losses, since the onus was on her to obtain tenant's insurance to protect her property. As well, the Management Board Secretariat informed her that the septic system backup was not covered by the province's general liability insurance, as this policy has a general exclusion clause.

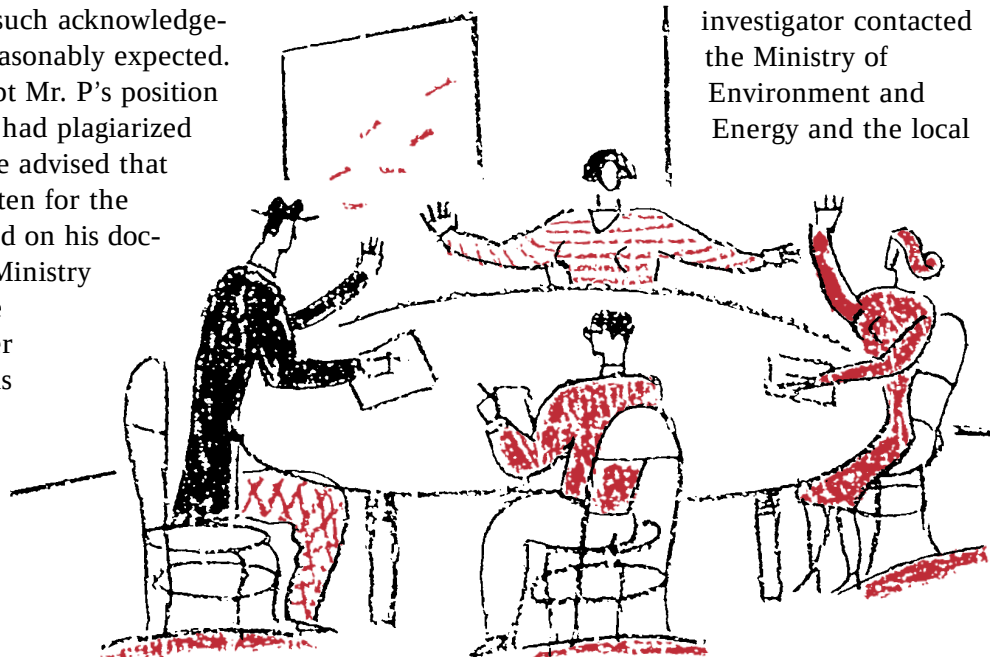
The Ministry acknowledged that throughout Ms. G's tenancy, there had been problems with her septic system despite the installation of a new system in 1990. The majority of the incidents involved septic backups. The Ministry had always responded promptly by sending a local contractor to pump out the septic tank. It was the Ministry's position that the septic problems persisted because Ms. G's large family put too much stress on the system.

An Ombudsman investigator contacted the Ministry of Environment and Energy and the local

Health Unit inspector to obtain explanations for the continuing septic problems. These staff disputed the Ministry's conclusion as to cause. They indicated that the frequency with which the tank had to be pumped out was a definite indicator that something was wrong with the septic system. It was their view that the Ministry as property owner had the obligation to contact the contractor, who had installed the system, as well as the local health unit to find the cause of the problem.

The Ombudsman's investigation found that as a residential landlord, the Ministry has the obligation to ensure that the rental premises are in order, and that the Ministry was negligent when it failed to provide its tenants with a properly functioning septic system. Therefore, the Ombudsman recommended that the Ministry compensate Ms. G for damages (including compensation for inconvenience) resulting from the septic system overflow, to an amount agreed upon between the parties, together with interest from the date of submission by Ms. G. As well, since Ms. G and her family were forced to vacate the premises early because they were unfit for habitation, the Ombudsman recommended that the Ministry should adjust Ms. G's last month's rent. In her communication with the Ministry, the Ombudsman also questioned the training that Ministry staff had received on how the Ministry should meet its obligations as a landlord.

In response to the Ombudsman's recommendations, the Ministry offered to reduce by one half the last month's rent, to compensate Ms. G \$3,277 for articles lost, together with six percent simple interest and to compensate Ms. G \$500 for inconvenience. Ms. G accepted the Ministry's offer and this satisfied the Ombudsman's concerns about compensation for the complainant. The Ministry also indicated to the Ombudsman that a general review of its Land Management Program and the specific issues raised by the case was in progress.



CASE STORIES

Fair calculation of benefits

Ms. J was dissatisfied with the amount of income replacement benefits awarded to her by an insurance company after she was injured in a car accident. She applied to the Ontario Insurance Commission for mediation of her dispute with the insurer. When mediation failed, she requested that the matter be referred to arbitration. The arbitrator determined that the insurer had correctly calculated her benefits. The Director's Delegate upheld the arbitrator's decision in Ms. J's appeal. Ms. J was dissatisfied with the decisions reached by staff at the Commission and brought a complaint to the Ombudsman. The Ombudsman's investigation focused on determining whether the Commission staff had failed to properly apply the relevant legislation or failed to take into consideration the evidence which was presented to them.

A review of the information presented to the Commission revealed that several months prior to the accident Ms. J had started a fruit vending business. She had worked at this business for several weeks in the fall, but stopped when the weather became cold. She then took on a part-time job. The Insurance Act and Regulations specify the income benefits that are payable for injuries (for accidents prior to 1994) as 80% of the greatest of the person's average gross weekly benefits for four weeks prior to the accident, for 52 weeks prior to the accident, or \$232. Ms. J's income from her part-time job four weeks prior to the accident and her average income for the preceding 52 weeks were less than \$232. Thus, the arbitrator found that the insurer had properly calculated her income replacement benefits as \$185.60 per week.

Ms. J maintained that the Commission staff had failed to take into consideration the fact that had she been able to pursue her fruit vending business, her income would have been much higher. She also compared her situation with that of a person who at the time of an accident has a valid offer of employment in writing and who is entitled to have their income benefits based on the income of the job offer. The Arbitrator and Director's Delegate did not agree that the circumstances could be compared. They found that the legislation does not provide for future economic loss, but is rather intended to compensate for actual loss of income.

The Ombudsman found that, in reaching their decisions, the Arbitrator and Director's Delegate had considered all of the information presented to them fairly and had properly considered the relevant legislation.

Three ministries and a solution

Mr. V reached a private agreement with a Ministry of Transportation (MTO) contractor, a road construction company, whereby he would sell earth fill from his agricultural land for \$25,000.00. In order to extract the earth fill from Mr. V's farm, the Company obtained a wayside permit under the Aggregate Resources Act, which is administered by the Ministry of Natural Resources (MNR).

However, the company created a serious problem for Mr. V when it used asphalt to backfill the wayside pit, which was contrary to the site plan stipulation that only earth material could be used. MNR asked the company to remove the asphalt and when it did not comply with this request, the Ministry charged it with a number of offences under the Aggregate Resources Act. The company then pleaded guilty and removed the asphalt. The court ordered the company to obtain a geotechnical report confirming that all of the asphalt had been removed from the wayside pit on Mr. V's property which it eventually provided to MNR.

Mr. V contacted Ombudsman Ontario because he believed that MNR and MTO had not taken effective action to ensure that the company satisfactorily rehabilitated his land. He maintained that MNR and MTO had failed to sufficiently oversee the clean-up of his property and, as result, debris, including asphalt, remained on his farmland. Mr. V also contended that the topsoil that was originally in the area of the wayside pit had been replaced with inferior quality topsoil, resulting in the failure of his soybean crop. The outcome sought by Mr. V was completion of the clean-up of the pit site and replacement of the inferior quality topsoil. If the land was not rehabilitated to his satisfaction, Mr. V believed that he should be financially compensated.

Following an investigation, the Ombudsman did not support Mr. V's complaint about MNR.

The Ombudsman felt that MNR took the legal action that was available to it when the company did not meet its obligations. The Ombudsman also felt that the chronology of events demonstrated that MNR responded to Mr. V's concerns in a timely manner. However, the Ombudsman made two suggestions to MNR. First, she suggested that if assurances made to a member of the public cannot be met, the rationale for not proceeding should be documented. Second, she suggested that if the proposed use of the land on which a rehabilitated wayside pit is located is agricultural, and MNR is aware of problems occurring during the rehabilitation process that may adversely affect the productivity of the land, MNR should seek expert advice. During the investigation of Mr. V's complaint, the investigator sought and received expert information from the Ontario Ministry of Agriculture, Food and Rural Affairs (OMAFRA). Consequently, the Ombudsman advised MNR that the investigation had shown that such expertise is available from OMAFRA.

With regard to Mr. V's complaint about MTO, the investigation included a review of an MTO directive that dealt with "procedures for handling wayside pits and quarries on MTO projects". The directive indicated that an arrangement had been made between MTO and MNR whereby MTO would perform corrective measures if a wayside pit should experience problems within a reasonable period of time after acceptance. As a result of discussions between Ombudsman Ontario staff and MTO staff, MTO agreed to contact Mr. V and offer to pay for a scheme of rehabilitation that had been suggested by OMAFRA. The Ombudsman advised the Deputy Minister of Transportation that she believed MTO's proposal was a reasonable solution to Mr. V's complaint.

Decision contrary to law

At the time Mr. B wrote to the Ombudsman, he was incarcerated at a provincial correctional facility. He had been granted parole on November 8, 1994 with standard conditions, including reporting to his Parole Supervisor and the local police force. But although Mr. B was eligible to be released on parole, he was also classified by Federal Immigration as being "on hold", which prohibited him from being released from custody. Consequently, Mr. B was found to be in violation of his parole because he failed to meet standard reporting requirements and as such, his parole was revoked. Mr. B could not comply with the reporting requirements because he remained in custody. He then contacted the Ombudsman to complain that during the parole process, and up to the day he was to be released on parole, the Parole Board knew he was on an Immigration hold. Mr. B contended that the Board's handling of his case was unreasonable and unjust.

As a result of a an investigation, the Ombudsman concluded that the Ontario Board of Parole's decision to grant Mr. B parole subject to a condition that it knew would likely not be met was unreasonable, unjust and contrary to law. Furthermore, the

Ontario Board of Parole's decision to revoke parole in these circumstances was unjust and contrary to law. In addition, the Ombudsman found that the refusal of the Ontario Board of Parole to re-credit Mr. B with remission earned prior to being granted parole was in accordance with legislative provisions which appear unjust.

The Ombudsman issued a number of recommendations in a tentative report which were ultimately accepted by the Parole Board. These included that the Parole Board should take the necessary steps to ensure that any notation on Mr. B's records about being a parole violator be amended appropriately; that the Board adopt a policy that when facts are known at the time of a parole hearing which would make compliance with standard conditions impossible, the Board should consider varying the conditions; and finally, that the Board ensure that its decisions are based on criteria prescribed by law. Although the results of this investigation did not directly have any impact on Mr. B's particular circumstances, the Board discontinued its practice of suspending parole in similar cases and instead now permits offenders to remain on parole while under immigration detention.

defining our mission

Resolution



The solving of a doubt, problem, question;
successful conclusion of a dispute



CASE STORIES



Guidelines for flying school

Mr. C owned and operated a flight training school, which received an Ontario Student Assistance Program (OSAP) designation in 1990 and was audited periodically with no major problems until 1994, when he was advised the school did not appear to be in compliance with OSAP administrative guidelines. The Ministry of Education and Training at that time conducted a survey of the students and requested records for the school. In July 1995, the Ministry notified Mr. C that the school’s OSAP designation was to be suspended. The Ministry identified a number of problems and requested explanation and further documentation. Mr. C corresponded and met with Ministry officials over the following six weeks, but the designation was revoked in August 1995.

Mr. C complained to the Ombudsman that the Ministry had inadequate monitoring and review procedures, that the Ministry ought to have conducted an on-site audit in order to properly understand the operation of a flight training school, and that the review in 1995 had been unfair. On review of information provided by both the complainant and the Ministry, the Ombudsman found the Ministry had provided the complainant with proper notice of its decision, an opportunity to respond, and adequate reasons for the final decision to revoke his school’s OSAP designation. It did not appear to her that any further information to support the complainant’s position could have been provided by an on-site audit.

Although the Ombudsman did not support the complaint, she suggested to the Ministry that its administrative guidelines could be more specific and inclusive to ensure that private schools’ operating standards meet the requirements of the Ministry. The Ministry indicated in response that it would develop a performance agreement for private schools obtaining OSAP designations.

Improving conditions for psychiatric residents

Ms. Y, who is a resident of a psychiatric institution, contacted the Ombudsman to request assistance with a number of issues. She complained that: staff frequently entered her room without knocking, or immediately after giving a brief knock, at any time day or night; the water temperature for showers was never hot but ranged from cool to lukewarm and the shower room was not very clean; a large solarium was never opened for patients use; there was excessive noise because of the limited space and the number of patients on the ward and staff were very noisy in the halls during the night; the hall lights were very bright and shone directly into her room every night; the food was monotonous, there was little choice and it was sometimes inedible.

During an investigation by Ombudsman staff, a tour of the residents’ ward was conducted. The relevant documentation including the hospital’s policies and procedures were reviewed and discussions were held with both hospital personnel and the complainant. The outcome of the investigation produced the following conclusions:

During her first three months on the ward the complainant was placed under constant observation because of the acuity of her illness. A staff member was accordingly at her side to protect her own health and safety and the health and safety of others. Although she lacked privacy as a result of this level of observation, the hospital’s actions were not considered unreasonable given the purpose of constant observation. The water temperature was found to be lukewarm. It had been originally set at 99 degrees fahrenheit but has since been increased to 104 degrees fahrenheit, thereby resolving this concern.

The hospital is now opening the solarium for patients’ recreational use all day long, with the

exception of an occasional meeting or when there are several patients on the ward who are acutely ill. On such occasions, the solarium is used as an intensive care unit. There are various factors contributing to noise and some are beyond the control of the staff while others could be managed more closely. Steps have been taken to eliminate, as far as possible, the factors that originate on the ward that the staff have the ability to control.

The doors of the patients’ rooms are closed during the night. There are night lights in the centre of the patients’ rooms which were working properly. Nurses carry flashlights when they make their hourly rounds in the night to check on the patients. When someone is on constant observation, that individual is assigned to a bed closest to the door and the door is left open during the night so that the staff member assigned can sit outside the room and observe the patient throughout the night. As a result the lights in the hall may shine in the room. The lights in the hall are supposed to be dimmed at night. Since the dimmer switch did not appear to be working and only every other light was on, a requisition was submitted as a result of the complaint to check all of the lights. While it is not possible to turn the lights off completely, it was clear that the hospital could make some arrangements to lessen the intensity of the lights.

The complaint about the food stemmed from the fact that Ms. Y had not been filling out her own menus. Once she started doing so and her request for more fruit and milk was approved, her complaint was resolved. The complainant expressed concern that other patients, like herself, may not be aware that they can fill out their own menus. Accordingly, the Ombudsman encouraged the staff to explain the menu selection process to the patients.

Balancing Public and Private

Mr. and Ms. K alleged that the Ministry of Natural Resources (MNR) had failed to properly monitor a public boat launch and fishing area located adjacent to their property. As a result they were prevented from the quiet enjoyment of their own property. They wanted the Ministry to either sell them a portion of its land to be used as a buffer zone, or to post the existing buffer with “no trespassing” signs. The Ombudsman investigated the Ministry’s management of its property and found the

Ministry had taken satisfactory steps to address the concerns of the complainants. These included posting “no littering” and “no camping” signs and hiring a maintenance person to clean up the garbage on a regular basis. The Ombudsman concluded that the Ministry had a duty to balance the rights of neighbours with those of the public for whom access to the area is an important matter, and that it had done so in this instance.

Road access a disability issue

Mr. A, a recreational hunter and fisherman, complained that a policy of the Ministry of Natural Resources to close a logging road to public use during certain periods of the year meant that people with mobility disabilities were not able to access a tourist lake. Mr. A contended that the Ministry’s decision to deny access to the public via the logging road was unreasonable and unfair.

Following an investigation, the Ombudsman found that the Ministry has the legislative authority under the Public Lands Act to close access roads temporarily or seasonally to the public for resource management and public safety. However, in reviewing the issues brought forward by Mr. A, the Ombudsman was concerned with the effect of the Ministry’s

tourism policies upon people with disabilities, and she advised the Deputy Minister of these concerns in a report of her investigative findings.

During subsequent discussions, the Ministry explained that the Local Citizens Committee, which was established to provide community views on the Ministry’s management of natural resources, had not considered the impact of the Ministry’s policy upon persons with disabilities. As a result of the Ombudsman’s findings, the Deputy Minister agreed to direct Local Citizens Committees throughout northern Ontario to invite persons with disabilities to participate in discussions aimed at addressing the access needs of persons with mobility disabilities.

defining our mission

Fairness

Justice; equity; legitimacy;
impartiality; honesty

CASE STORIES

Compensation for breach of contract

Mr. P complained that a Local Roads Board, supervised by the Ministry of Transportation, had awarded him a contract to clear the roads of snow in a northern Ontario community. However, Mr. P contended that he did not have the opportunity to fulfill the terms of the contract because the Ministry held another competition and awarded the contract to someone else. As a result, Mr. P wanted to be compensated for breach of contract.

After investigating the matter, the Ombudsman concluded in a tentative report issued to the Ministry that its decision to disregard the arrangements made by the Local Roads Board was unreasonable, in light of the

previous practice of allowing the Board to represent it in awarding the contract. She recommended that the Ministry compensate Mr. P for the value of the work he was unable to perform due to the Ministry's actions and omissions. After being advised of the findings of the Ombudsman's investigation, and the reasons for her conclusions and recommendations, the Ministry of Transportation suggested a meeting to address Mr. P's concerns directly with him. The Ombudsman agreed and the Ministry successfully negotiated a settlement with Mr. P which included a formal apology for its actions. The Ministry also made changes to clarify its tendering practices.

Background check after the interview

Mr. C complained to the Ombudsman that he had been unfairly turned down by the Ontario Provincial Police for a job as constable. He had applied twice. He believed that in the first instance, the recruiter who interviewed him had been biased against him for no reason. On the second application, Mr. C believed that he hadn't been accepted because the first recruiter's opinion had been taken into consideration.

When the Ombudsman investigated Mr. C's complaint, she found that it was the O.P.P.'s practice, with people who were applying for a second time, to have the recruiter who was going to interview the applicant review that applicant's first-time application record prior to the interview. The Ombudsman considered this an unfair practice because, by examining a previous application before conducting the inter-

view, the recruiter may be influenced by what was in the record, instead of judging the applicant on his or her performance in the interview.

The Ombudsman outlined her findings to the O.P.P. and suggested they change this practice. The O.P.P. replied that in recruiting people to become police officers, it was very important to conduct an exhaustive background check to know everything possible about the persons applying, including why they might not have been accepted on a previous application. The Ombudsman responded by suggesting that any previous application could be reviewed following an interview. As a means of resolving the issues raised by the complaint, the O.P.P. agreed to accept the Ombudsman's recommendation and consequently changed its hiring practices.

Waiver doesn't cover lost items

Inmate Mr. Y complained to the Ombudsman that a number of personal property items went missing during his incarceration at a young offender facility. Specifically, he had lost a walkman, a portable CD radio and a collection of cassette tapes. He complained that the institution did not treat his loss seriously and was refusing to compensate him. The Ombudsman was not able to resolve this matter informally as initial inquiries revealed the institution was taking the position that it was not liable for these losses because the inmate had signed a waiver for the personal property items to be turned over to his possession.

Following an investigation, which included a review of the circumstances surrounding the loss of the property and discussions with officials of the Ministry of the Solicitor General and Correctional Services, the Ombudsman suggested to the Ministry that the waiver did not absolve the facility of its obligations. There were mitigating factors, including the transfer of the inmate between institutions around the time of the loss, and the possible interference by other inmates, which made it unfair to place the onus on the inmate for the security of his possessions. In view of the Ministry's normal policy and practice in these matters, it was eventually agreed that the waiver did not relieve the institution of its responsibility, and the Ministry would ensure that compensation would be provided to the inmate for the estimated value of the lost goods.

Tribunal ruling upheld

Ms. T complained that the Workers' Compensation Appeals Tribunal (WCAT) unfairly denied her appeal of entitlement to compensation benefits subsequent to August 26, 1981, and no pension was awarded as a result of her compensable accident on July 13, 1981. At this time, while performing her regular job duties, the complainant bruised the left side of her ribs. There was no obvious contusion or abrasion and her treatment was conservative. Her employment with the company was terminated in July 1981, and she received unemployment insurance from 1981 to 1982. In March 1982 she filed a claim at the WCB for compensation for the pain stemming from the injury. Her claim was initially denied and after WCAT granted her appeal, the WCB paid her temporary total disability benefits from July 15, 1981 to August 26, 1981. On February 13, 1990, she had a pension assessment and the result was that she had no residual impairment arising out of the July 13, 1981 injury and no pension was awarded. The complainant's current disability was also found to be unrelated to her work and was related to her previous non-compensable musculo-skeletal problem.

She disagreed with the decision and appealed to the WCAT who denied her appeal. This denial formed the basis of her complaint to the Ombudsman. The Ombudsman conducted an investigation of the Tribunal's proceedings and found its decision was reasonable and the process fair. She concluded Ms. T's claims could not be substantiated and issued a letter of non-support of the complaint.

Reviewing the release of medical information

Mr. T, an injured worker, contacted the Ombudsman in October 1995 to object to a Workers' Compensation Appeals Tribunal (WCAT) decision in which he was denied increases to his permanent impairment award and to his pension. WCAT was notified by the Ombudsman that the injured worker contended the decision was unreasonable as it relied too heavily on one psychiatric medical report. In its response to the Ombudsman inquiry, WCAT provided a copy of the case description.

The materials were reviewed and summarized in a letter to the injured worker who indicated that he had made a submission on the post-hearing medical evidence but he had never seen the reports in question. He stated that copies of the reports were given to his family doctor, who told the injured worker's daughter to give them to the injured worker's representative, not to the injured worker.

A review of WCAT's administrative file revealed that a determination had been made prior to receipt of the post-hearing medical reports that they would be released through the injured worker's family doctor, and not directly to the injured worker as he did not have a representative. The Ombudsman was concerned that WCAT had no guidelines with respect to the issue of access to a worker's file, and that the hearing panel may not have had access to all of the facts relevant to the case in coming to its decision. Consequently, the Ombudsman wrote to WCAT with recommendations to develop guidelines for the release of information and to reconsider its decision in this case.

By letter of October 3, 1996, WCAT replied that the Ombudsman's recommendations were under consideration and a decision was then issued in February, 1997. A new hearing panel granted the injured worker a reconsideration hearing. The panel members also expressed their support for the Ombudsman's recommendation regarding guidelines for access to files. Satisfied that WCAT had implemented her recommendations, the Ombudsman advised the parties that the file would be closed and asked to be kept apprised of the outcome of the particular case.

Drawing to a conclusion

Mr. R, an architect, contacted Ombudsman Ontario with a complaint about the Ministry of Housing. The Ministry had paid Mr. R 50% of the fees he had submitted for drawings he had done for a non-profit housing organization. The Ministry indicated that Mr. R's drawings were incomplete and were not suitable for tendering. Mr. R disputed the Ministry's position and believed he was entitled to 75% of his total fees, the maximum allowable, because the drawings were completed to specification and were therefore suitable for tendering. The Ombudsman's staff contacted the Ministry and the Ministry agreed to review Mr. R's drawings, if he would resubmit them.

When Mr. R re-submitted his drawings, but the Ministry failed to respond, he again contacted the Ombudsman's office. The Ombudsman's staff contacted the Ministry and following a review of the file, the Ministry conceded its original position was incorrect. The Ministry wrote to Mr. R and acknowledged that his drawings and specifications were completed

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CASE STORIES

Continued from page 18

well beyond the level originally authorized and agreed to pay him an additional \$53,230.50, representing 75% of the amount of his fees.

Designated wetland

Ms. S owned a farm property which was designated as a provincially significant wetland, but she was unaware of this designation until she received her municipal tax notice. She was dissatisfied with the fact that she had not been given notice of the designation and had no opportunity to comment on it. She also disagreed with the designation itself as she claimed that her property had only become wetland as a result of the improper installation of a municipal drain. As a result of her complaint, the Ombudsman staff arranged for a Ministry of Natural Resources (MNR) biologist to visit the property and explain why the designation had been applied. He did so and confirmed the earlier assessment, which was based on the presence of existing wetland vegetation. With respect to the lack of notice, MNR indicated it had been an oversight and their policy division was working on a notification policy for the public. In the interim, as a result of suggestions by the Ombudsman, the Ministry's district offices were instructed to obtain permission before entering on to anyone's land. The Ombudsman concluded her investigation by accepting that the Ministry had properly designated the property a wetland and requesting a copy of the new notification policy for review.

Extending the time limits

Ms. N had filed a claim with the Ministry of Labour against her former employer for unpaid wages and vacation and termination pay. The Ministry advised Ms. N in writing that it was closing her file because she had not provided the Ministry with the documentation she had been asked to provide. Ms. N did not receive the Ministry's letter until after the fifteen day time limit, as legislated by the *Employment Standards Act*, within which she could appeal the Ministry's decision. Because she had been away from her home on business, Ms. N asked the Ministry to consider her absence to be a "special circumstance" and to allow her to appeal the decision. The Ministry denied her request and as a result Ms. N asked the Ombudsman for assistance.

During the investigation, Ms. N provided a credit card statement to the Ombudsman's staff that showed she had been out of town when the Ministry's letter was sent to her and that she had submitted her written appeal to the Ministry within 15 days of the date she returned home. The Ombudsman's staff provided Ms. N's credit card statement to the Ministry and asked the Ministry to reconsider its decision not to allow Ms. N to appeal, since it was not possible for her to comply within the time limits. The Ministry accepted this suggestion and agreed to grant Ms. N's request for a review of her claim.



On the road again

Mr. P's wife has a permanent physical disability. To accommodate her needs he bought a van that had been modified to provide her with basic comforts consisting of a toilet, fold-down bed and cooking facilities. These modifications were needed because the couple live in northern Ontario where roadside services are not always available.

Mr. P applied to the Ministry of Finance for a rebate of the retail sales tax, which is normally given on vehicles used to transport a person with a permanent physical disability. In this case, the Ministry refused to give the rebate because the van was classified as a motorized mobile home as a result of its modifications, and such vehicles are not eligible for the rebate. It was apparent in this decision that if Mr. P had bought an unmodified van the Ministry would have granted the rebate.

The Ombudsman's investigator discussed the problem with Ministry staff and it was agreed that if the registration of the vehicle were changed, the rebate would be provided. The Ministry contacted the Ministry of Transportation (MTO) office where Mr. P's vehicle had been registered and was informed that the registration could be changed. However, when Mr. P tried to re-register the vehicle he was unsuccessful. As a result, the Ombudsman investigator reviewed the case with another MTO official, who agreed to make the necessary change. The vehicle was re-registered as a van and Mr. P subsequently obtained rebate on the retail sale tax.

Need for clear information

Mr. R applied to the Ministry of Transportation for a permit to allow him to construct a driveway from a proposed commercial operation to a highway in Northern Ontario. The Ministry refused his request, advising that the property had insufficient frontage on the highway to meet the Ministry's minimum spacing requirements. Mr. R contacted the Ombudsman for assistance in reviewing his application. The investigation found that the Ministry's minimum frontage requirements apply only in the circumstance

where an individual applies for a property severance, which Mr. R was not doing. Also, the minimum frontage quoted by the Ministry applied to a particular highway corridor in a different area. However, the Ombudsman found that because the property had access to an existing municipal road which did have access to the highway, the application did not conform to the Ministry's general corridor management policies. Consequently a letter of non-support of the complaint was issued, with suggestions to the Ministry to provide clear and accurate information concerning the reasons for its decisions when denying applications in such cases.

Keeping a watch on competitions

Ms. L competed for a Word Processing position at the Workers' Compensation Board (WCB) and was dissatisfied with the process. She complained to the Ombudsman that the various administrative tests that were required were conducted by a sister-in-law of one of the candidates. Ms. L also believed that it was not appropriate for a conventional clock to be used as a timing device during testing where time restraints were imposed.

The Ombudsman investigated by reviewing the competition file and conducting interviews with the manager involved, the individual that administered the competition tests and the WCB human resources specialist involved with this competition. During the course of the investigation it was revealed that the manager involved with the competition did not seek to determine qualifications and requirements as they were outlined in the job posting.

As a result of the Ombudsman's review, it was concluded in a tentative report issued to the WCB that there were a number of omissions related to the conduct of this competition and that the WCB failed in these omissions to properly consider the qualifications of the various candidates. As a result of these findings, the Ombudsman recommended that the WCB should utilize proper and accurate timing mechanisms when administering tests that require skills to be measured in a definite time period. The Ombudsman also recommended that the WCB

develop a policy concerning the familial relationship between candidates involved in competitions and those involved in the administration of those competitions. Finally, the Ombudsman recommended that the WCB should train managers in the review and design of job postings to ensure that the qualifications and requirements outlined in the posting are adhered to by the managers administering the competitions.

In its response, the WCB stated that it was prepared to adopt and implement the Ombudsman's recommendations. As a result, a directive was issued to all human resources specialists confirming the need to use a stopwatch when administering tests that require skills to be measured in a definite time period. With regard to the issue of familial relationships, the WCB's anti-nepotism policy was revised to include all familial relationships, including those of an in-law nature.

The issue of the manager's failure to consider the qualifications outlined by the job posting was addressed by implementing a new recruitment and selection operating procedure which requires the hiring manager to work closely with the WCB human resources specialist to both develop and adhere to the criteria outlined in the job posting. The issues brought to the Ombudsman by Ms. L resulted in policy changes that will improve this government agency's conducting of job interviews. As well, during the investigation the Ombudsman found that other administrative problems existed with the conduct of this competition and as a result of the Ombudsman's recommendations, new policies have been implemented to prevent such cases from recurring.

CASE STORIES

Managing the forest rebates

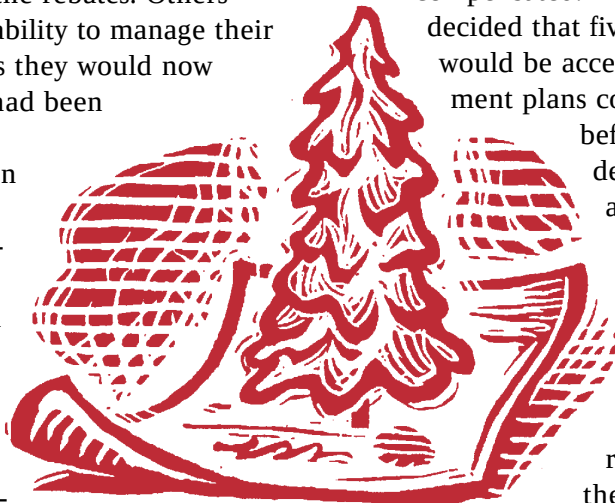
On an annual basis since 1973, the Managed Forest Tax Rebate program of the Ministry of Natural Resources (MNR) had refunded to over 10,000 eligible landowners a portion of the municipal taxes paid on their cultivated woodlots, which were assessed as residential rather than agricultural lands. In 1993, the Government cancelled the program as a cost-saving measure.

Landowners who had signed agreements with the Ministry for the provision of services and advice complained to the Ombudsman that there was a contractual obligation for continued payment of the rebates. Others complained that their ability to manage their forests was impaired, as they would now incur expenses which had been partially offset by the rebates. An investigation by the Ombudsman found that while woodlot owners had sound business and ecological reasons to maintain their forests in good condition, the Ministry has the authority to cancel pro-

grams without incurring liability.

The Ombudsman also considered complaints about other losses incurred as a result of the program's cancellation. Some woodlot owners had already started in 1991 the preparation of the certified active forest management plans they would need to qualify for the 1992-1995 programs. Because the program was eventually reinstated in 1996, the Ombudsman made a recommendation that those who had incurred inventory expenses in 1991, and who would now need to take new inventories in order to qualify for the reinstated program, should be compensated. In response, the Ministry decided that five year old inventories would be acceptable, that management plans could be submitted

before the scheduled deadlines, and also agreed to notify all landowners of these changes. As landowners would no longer be out-of-pocket, the Ombudsman accepted these measures as a reasonable resolution of the issues raised.



Cost-cutting out of line

The Ministry of the Solicitor General and Correctional Services is responsible for providing inmates of its jails and detention centres with basic supplies for personal hygiene and for writing letters. There is a policy covering all institutions in the province which contains a list of items that every inmate is entitled to receive free of charge. The list includes a comb, a toothbrush, toothpaste, and a pencil.

Mr. O complained to the Ombudsman that the institution in which he was incarcerated had began to make him and all its inmates, many of whom are without any funds, pay for

these items. This initiative was evidently taken as a cost-cutting measure. The Ombudsman investigated and determined that individual institutions did not have the authority to deviate from the Ministry's province-wide policy. As a result of an intervention of the Assistant Deputy Minister, Correctional Services Division, the institution eventually complied with the Ministry policy and reimbursed Mr. O for the value of the items he had purchased. As a result of this investigation, the Ministry agreed to monitor the enforcement of its policy and to ensure all institutions continue to provide these basic items to inmates free of charge.

Making accommodation work

Inmate Mr. P complained to the Ombudsman that the institution where he was incarcerated was failing to provide kosher eating utensils. He had complained to the institution that his access to a kosher menu was compromised by the necessity of using non-kosher utensils. In response to inquiries by the Ombudsman, the facility maintained that it did not have the resources to ensure kosher practices were followed other than during the preparation of meals. It argued that managing the use of utensils was an impractical burden to implement.

As a result of an investigation into the matter, the Ombudsman recommended to the Ministry of the Solicitor General and Correctional Services that it issue a policy with respect to the observance of kosher menus which would clarify the importance of including the use of utensils. The Ombudsman also urged the Ministry to develop further policies to guide the administration of faith and religious practices in its institutions to ensure that inmates were treated consistently throughout the system. The Ministry agreed to implement these recommendations and to instruct the institutions to make appropriate accommodations.

A case of mistaken identification

Mr. O was offered employment by the Metropolitan Toronto Housing Authority (MTHA), but the offer was withdrawn when he was identified, on the basis of a verbal description, as the person involved in an altercation with MTHA security as a result of parking in a fire lane. An investigation by the Ombudsman of a complaint brought by Mr. O revealed that the car in question was registered to another person. The Ombudsman concluded that the identification was wrong because it was therefore based on speculation, and the withdrawal of the offer of employment was based on a mistake of fact. She recommended in her report to the MTHA that it should correct its records by removing any reference to Mr. O's involvement in the altercations, apologize for its withdrawal of an offer of employment, and notify Mr. O of future job opportunities with an undertaking to objectively consider any application he might make. The MTHA accepted the recommendations and agreed to write to Mr. O a letter that would correspond to the suggestions made by the Ombudsman.

Ombudsman Fairness Standards

The Ombudsman recently published a Fairness Standards document which is used in evaluating the decisions and actions or omissions of governmental organizations. These standards serve as a reference guide for reviewing complaints and are also used to govern internal procedures used by Ombudsman staff. The document reflects the Ombudsman's interpretation of the language used in the *Ombudsman Act*. The Fairness Standards document has been distributed to governmental organizations, and is available by contacting an Ombudsman office or through our Internet Web site at www.ombudsman.on.ca.

Purchasing the right to flood

Mr. B contended that the negligent operation of a dam by Ontario Hydro located downstream of his property had resulted in flood damages to his property and buildings. The Ombudsman investigated and found that she could not categorically conclude that Ontario Hydro had caused the flooding to his property. However, the Ombudsman did find that should Ontario Hydro operate the dam at the level that it indicated it could under a water power lease, then Mr. B's property might in the future be subject to flooding as a result. Because Ontario Hydro had not purchased the right to flood his property, as it had with other properties in the area, and did not have a prescriptive right to flood, the Ombudsman recommended that Ontario Hydro purchase from Mr. B the right to flood his property. In response to these findings issued in a tentative report, Ontario Hydro agreed to enter into negotiations with Mr. B to purchase flooding rights, and indicated to the Ombudsman that it was prepared to offer Mr. B \$19,350 for these rights. The Ombudsman agreed this was a reasonable proposal and the file was closed.

Following the guidelines for severance pay

Eight former seasonal employees of a forestry nursery brought a complaint to the Ombudsman that they were entitled to severance pay following the closure of the nursery. They contended that it was unreasonable of the Ministry of Natural Resources (MNR) not to pay severance pay to all employees who were on staff when the nursery closed. They further contended that, by only paying severance pay to some employees, the Ministry was not providing equal treatment to all its former nursery employees.

Following an investigation, these complaints were supported by the Ombudsman in a tentative report to the Ministry which contained a recommendation that severance pay with interest be paid to those seasonal employees whose jobs were abolished, and who were eligible to receive severance pay pursuant to the Employment Standards Act and in accordance with the Ministry's current guidelines.

The Deputy Minister of MNR accepted in full the Ombudsman's recommendation. He indicated further that the implementation of this recommendation would be applied to an additional eleven individuals whose seasonal positions at the nursery were eliminated and who appeared to fall within the Ombudsman's recommendation. Subject to confirmation of their employment histories, these individuals would also be awarded severance pay and the processing of these payments would begin immediately.

CASE STORIES

The case stories in this section involve the successful application of informal resolution strategies employed by the staff of Ombudsman Ontario. These cases are a sample of the day-to-day work involving complaints which do not reach the formal investigation stage. In each of these cases a successful outcome resulted from cooperation by the governmental organization involved which produced benefits for all parties in avoiding a lengthy investigation process.

Paying back the overpayment

Mr. B contacted an Ombudsman regional Office because he was unable to receive an explanation from Canada Pension and Family Benefits as to why the Ministry of Community and Social Services (MCSS) was issuing him, on a regular basis, letters discussing an overpayment. For two years, Mr. B had been asking staff at the local Income Security (CPP) and Income Maintenance (MCSS) offices to explain to him why an overpayment in excess of \$3,000 remained outstanding when his family benefits allowance was terminated in 1994. No one seemed to have the time to listen to his questions or to answer them to his satisfaction.

An Ombudsman representative contacted the Ministry and received information on the

retroactive Canada Pension Disability award and the resulting overpayment. The Ombudsman representative drew a chart of the information to illustrate how the CPP award, broken down by taxation years, had to be calculated by MCSS for the months covered and how this had created the overpayment. Mr. B was pleased to finally understand the source of the problem. A few weeks later, the Ombudsman representative was contacted by an MCSS supervisor to express appreciation for taking the time to explain to Mr. B why he owed money to the Ministry. Mr. B had gone to the Ministry office and presented a series of post-dated cheques to repay the Family Benefits program and referred to the Ombudsman as providing the reason for his compliance.

French language service

Ms. B is a Quebec resident but her child was born in Ontario. She had been trying to obtain the child's birth certificate for a year, without success. The application forms were being returned to her, but she didn't know why. Ms. B could only speak and read French, and the information sent to her was in English. She contacted Ombudsman Ontario for assistance.

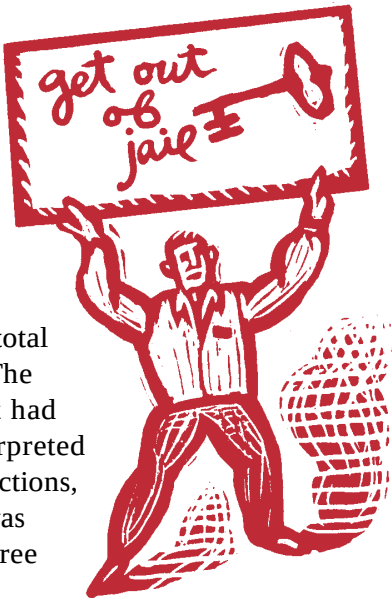
An Ombudsman representative contacted the Office of the Registrar General. She discovered that Ms. B's child had not been registered and

as a result, Ms. B would have to apply for a Delayed Registration before obtaining a birth certificate. The representative explained the language barrier issue and suggested the office should communicate with Ms. B in French. A French Language Services representative from the Office of the Registrar General then contacted Ms. B directly to advise her as to what she needed to do in order to obtain the birth certificate and the matter was quickly resolved.

Mistaken sentence

Inmate Mr. P contacted the Ombudsman to complain that he was being illegally incarcerated past his date for release and was now serving a sentence which had not been imposed. He insisted that the warrant for his sentence would show there had been a mistake. He had contacted his lawyer who advised him it would cost \$500 to conduct a review of a closed case, even though his contention was that there had been a misinterpretation of the instructions by the judge, which were based on an agreement between the lawyer and the crown attorney. The inmate said the judge handed down a sentence of two months concurrently and four months consecutively, for a total of four months, but that the correctional institution was showing a sentence of six months on his record.

An Ombudsman representative called the inmate's institution to ask for a check of the file. The records clerk agreed to check with the court to confirm that the information sent to the institution was correct. It was indicated this had already been done, but they would do so again at the Ombudsman's request. This time, as a result of contacting the judge's secretary, the records clerk was informed that a check of the transcripts of the case, along with the judge's warrant, clearly indicated that the judge had intended the sentence to be a total of four months. The clerk of the court had evidently misinterpreted the judge's instructions, and the inmate was indeed to be set free immediately.



Health card denial overturned

Ms. N, a recipient of general welfare benefits, was forced to leave an abusive husband shortly after they were married. Because she was in receipt of benefits as a sole support parent in her married name, her pharmacy informed her they would no longer issue Ontario Drug Benefits to her because her general welfare drug card and her health card had different names. At the same time, the local health office would not issue a new card to her in her married name because she could not produce an original Record of Marriage. Ms. N did provide a Social Insurance Card, a copy of the Particulars of Marriage and the Acknowledgment of Receipt of a Statement of Marriage from the Registrar General, all in her married name. In addition, her lawyer attempted, without success, to get the Record of Marriage from her spouse without putting her at risk.

The Ombudsman's staff contacted the Ministry of Health and asked if they would accept a photocopy of the Record of Marriage the welfare office would have taken when the couple were married. The welfare caseworker agreed to make a copy and it was sent by courier to the Ministry of Health office. A few days later Ms. N received a telephone call from the local office asking that she come in and have her picture taken, so they could produce a replacement card in her married name.

Relief from court and eviction

Ms. Y came to an Ombudsman office on a Friday to complain that she was an elderly woman facing eviction by the Local Housing Authority. Her rent payments had been late several months in a row due to a series of unforeseeable circumstances. She then underwent surgery for an aneurysm behind her eye and incurred expenses for medication and eyeglasses, causing her rent to be late again. In an attempt to improve her situation, Ms. Y cancelled her cable TV services, but unknown to her, the cable payment for the following month was automatically deducted from her account, causing the rent cheque to bounce. After resolving the problem with the cable company

and the bank, she found the landlord was away and unavailable for a week. As a result, she was facing eviction and court proceedings. Ms. Y received notice on a Thursday that she was to attend court out of town the next Monday. But she had no money to travel and by Friday noon had not received confirmation that Legal Aid would provide representation. The Ombudsman staff contacted the landlord and he agreed to meet with Ms. Y immediately to review her situation. The landlord called back the same day to say that court proceedings had been cancelled and that Ms. Y had agreed to provide all payments in cash to avoid any similar problems in the future.

Refugee retains health card

In November 1996 Ms. D received a letter from the Ministry of Health (OHIP) indicating that her health card would expire on November 30, 1996. The letter explained that her health coverage would end because on her application for a health card she indicated her status as a refugee. The Ministry advised Ms. D that her health card would be reinstated if she provided proof of citizenship such as a birth certificate or a passport. Ms. D did not have a passport and could not find her birth certificate. Dissatisfied with the Ministry's decision,

Ms. D contacted the Ombudsman.

An Ombudsman representative called the Ministry and explained Ms. D's dilemma. The Ministry was further advised that Ms. D had misplaced her birth certificate and it would take 4 to 8 weeks until she received her new certificate. The Ombudsman representative requested the Ministry extend Ms. D's health coverage for 90 days, which would give her enough time to apply and receive her birth certificate. The Ministry agreed and extended Ms. D's coverage until February 14, 1997.

CASE STORIES

Correcting the income category

Mr. E is a senior who contacted an Ombudsman office regarding a delay in receiving a response to his application for the Senior's Drug Program. The complainant had applied to the program and had been incorrectly placed in an income category higher than his own. He was declared ineligible for certain benefits because of this error. The complainant had written to the program about

this issue and submitted a revised form. He had not received a response within three months and was unsuccessful in reaching anyone to discuss the problem. An Ombudsman representative contacted the Program and as a result of this intervention, the complainant was correctly placed in a lower income category and was determined to be eligible for a reimbursement.

Reviewing a pension calculation

Mr. C contacted the Ombudsman to express his dissatisfaction with a delay in the processing of his pension by the Ontario Pension Board. Mr. C also expressed his concerns that, in the processing of his pension application, staff at the Board indicated that he may not have been entitled to buy back the years that he did, and that his pension would therefore be significantly reduced. Mr. C reported that he had worked seasonally for 38 years, but that he had not been called back to work for the last few seasons. Now that he was of retirement age, the Ministry prepared documentation to retroactively date his severance, which would nullify all of the buy-back he had paid for since that date. As a result of an inquiry made by the Ombudsman office, Mr. C's file was reviewed closely by the staff and legal counsel to the Board. In the end, the Ministry submitted new documentation with a current termination date, and Mr. C was granted a pension based on his total contributions and years of service.

Review produces policy change

In 1991 Ms. P applied for and was granted a bursary to attend a nursing program. A condition of the bursary stipulated that the student work at a qualifying facility for a period of time after she had completed the nursing program. Should the student not fulfill this condition, the Ministry of Education and Training required that the student repay the bursary. Unfortunately, when Ms. P had completed half of her time, she was assaulted and injured on the job by a patient. After undergoing surgery as a result of her injury, she was told by her specialist that she could never return to nursing.

After some time had passed, Ms. P received a letter from the Ministry requesting that she pay back half the bursary, as she had only worked half of the required hours. Ms. P did not agree with the Ministry and asked for a review of its decision. The Ministry reviewed but upheld the decision. Ms. P then contacted the Ombudsman for assistance and an Ombudsman representative contacted the Ministry to discuss the matter. The Ministry conducted a review of both its decision in this case and of its bursary policies. Following this review, the Ministry reported to the Ombudsman that it had decided to change its policy on this matter to allow for discretion and would be sending a letter to Ms. P informing her that she was not required to reimburse the Ministry.

Not everyone reads the mail

Mr. C contacted an Ombudsman office because the hydro had been cut off at his house in a small community in northern Ontario. When an Ombudsman representative made inquiries, it was discovered that a number of notices had been mailed to Mr. C advising him of his outstanding account. However, it was soon determined that Mr. C could not read the notices that were sent to him because he was illiterate. Arrangements were accordingly made for payment and the hydro was reinstated. In order to accommodate this situation, Ontario Hydro agreed to telephone Mr. C or his designate, should there be a problem with the account in the future.

Applying the Ministry policy

Ms. B was an inmate who required protective custody because a threat was made towards her while she was housed in the general population area. She was placed in segregation and not afforded any privileges, a practice which is contrary to the Ministry's policies and procedures. There is no protective custody area at the institution. She was denied television, a mattress and blanket during the day, access to telephone, pencil and writing paper and was not allowed to smoke.

This issue was brought to the attention of the Superintendent of the facility who refused to alter the practice. A review of other jails and detention centres was conducted which revealed that they afforded the same privileges to protective custody inmates housed in segregation as to inmates in general population. As a result of further enquiries by Ombudsman staff, officials of the Ministry of the Solicitor General and Correctional Services intervened and the issue was eventually resolved. The Ombudsman received a letter from the facility confirming it would provide the same privileges to protective custody inmates housed in segregation as those in the general population area.

Re-opening a closed file

In 1995, Ms. S complained to the Employment Standards Branch of the Ministry of Labour regarding the actions of her employer. Following its investigation, the Branch did not take any action against the employer. Dissatisfied with the Branch's decision, Ms. S appealed to the Director of the Employment Standards Branch. Two weeks later, Ms. S received a letter from the Branch acknowledging her request for a review.

Approximately one year later, an Ombudsman representative met with Ms. S while visiting her community during an outreach trip. She was

dissatisfied with the Branch's delay in responding to her appeal and asked for assistance. As a result of an enquiry to the Branch's head office, it was discovered that the Branch had indeed reviewed Ms. S's file. They had not changed the original decision but failed to communicate to Ms. S their findings. Her file remained closed with no further action. The Branch reviewed, once again, Ms. S's request for an appeal and ultimately determined that her complaint against the employer should be sent for a hearing before an adjudicator of the Office of Adjudication.



CASE STORIES

Complaint changes mail procedures

Mr. O contacted the Ombudsman’s office to complain that the remand centre in which he was incarcerated had received a package of mail addressed to him, but had withheld most of it. Apparently, four or five letters in the Farsi language and one card in English had all been delivered or sent to the institution by a friend of the complainant. The friend’s note had been given to the inmate, but the other items had been retained by the institution as all correspondence to inmates (other than certain privileged mail, such as from the Ombudsman) is examined for contraband and scanned by staff. The letters in question went missing and no one would give any information about them to the inmate.

An Ombudsman investigator made a series of inquiries with the institution and had discussions with the inmate’s friend and lawyer. Initially, the institution’s representative was maintaining that either the correspondence had never been received or had been given directly to the inmate at court, without going through the proper channels. However, two troubling issues were apparent. One was that none of the mail in question showed up in the institutional log book, where all incoming correspondence is required to be noted. Also, the inmate had received the friend’s card but it had only his unit number written on the accompanying envelope, which suggested it had been enclosed in another envelope or package. The Ombudsman’s office was able to verify that the friend had delivered all five to six pieces of correspondence, inside one envelope, to the lawyer at court. He in turn had passed this along to his staff, who had forwarded the package inside a law firm envelope to the remand centre.

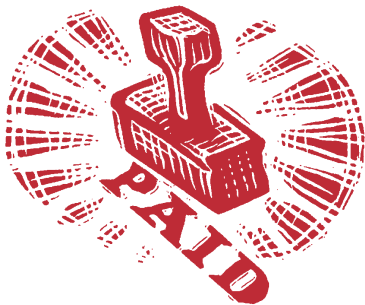
As a result of these inquiries, it was evident that the mail had indeed been received through official channels. It appeared that someone in the facility had lost the Farsi language items. In view of this case, and because there had been previous complaints regarding correspondence-handling at this institution, the institution was asked to take measures to avoid such problems. In response the staff agreed to have all future problematic items forwarded to the Security Manager. It could then be vetted, translated or otherwise processed (and logged) to ensure proper procedures were followed. While the complainant’s mail was, unfortunately, never recovered, the Ombudsman’s office was able to inform him of the procedural changes implemented by the institution.

Sensitivity to Aboriginal spirituality

Inmate Mr. P complained to the Ombudsman that the correctional staff at his facility threw sacred medicine into the garbage and toilet during searches of inmates. He further complained about his experience with the “native son’s program”, which provides for regular spirituality sessions involving inmates and outside volunteers. Inquiries were made with the institutional chaplain and senior officials who indicated there had been a history of problems with the program, including concerns about authenticity of elders, non-native attendance, inappropriate program content and the lack of direction and procedures.

There also did not appear to be any program description or proposal. A program review had been conducted by the institutional chaplain two years earlier. This review indicated only that the program did not have a mechanism in place for evaluation. There did not appear to be any information about such matters as pro-

gram content, activities, membership or other guidelines. The chaplain advised an Ombudsman representative that he did not have the time to “monitor” or sit in during the native son’s program. During further inquiries, the policy analyst of the Ministry of the Solicitor General and Correctional Services responsible for native programming indicated that she is available to provide a liaison with institutions regarding such programs. As a result, the facility agreed to consult with the Ministry about its program and to develop a constitution and program outline for it. The Ministry agreed to review this program, to develop an appropriate program description and to provide an update to the Ombudsman. The facility also agreed to provide staff sensitivity training as a result of the complaint by Mr. P. and to consult with the Ministry to assist with this training.



Outstanding payment had been paid

Ms. Y received a call from a local collection agency which advised her that she had an outstanding balance from 1989 with Ontario Hydro in the amount of \$175.00. The collection agency further advised Ms. Y that if she did not pay this amount in full, Ontario Hydro would disconnect her service. Ms. Y explained to both the collection agency and Ontario Hydro that she had paid this amount in 1992. Unfortunately, she could not find the receipt provided by Ontario Hydro as proof of payment.

Ms. Y was dissatisfied that Ontario Hydro and the collection agency insisted on receiving payment for the outstanding balance and contacted the Ombudsman for assistance. As a result of an informal enquiry, Ontario Hydro searched Ms. Y’s hard file and found a copy of a 1992 letter issued by Ontario Hydro to Ms. Y requesting payment of \$175.00 which was stamped paid. Ontario Hydro agreed to call the collection agency to advise them of this and also agreed to apologize to Ms. Y for the inconvenience.

Deductions Cancelled

Ms. B contacted the Ombudsman to complain that her family benefits social worker had told her she could pay to her spouse money from an insurance claim for housekeeping services and it would not affect her entitlement. Ten months later, she was told this was against the rules. As a result, the Ministry had assessed an overpayment of \$2000, and began to make deductions from her benefits. Following an appeal to the Social Assistance Review Board, she was told the decision to collect the overpayment was correct.

An Ombudsman representative contacted the Ministry and pointed out that its policy allowed for discretion whether to deduct money as an overpayment. Following discussions with an Income Maintenance supervisor, who happened to be the original worker on the case, the Ministry agreed to write off the amount as an administrative error, and the repayment was suspended.

Errors in letter writing

Ms. W is a Workers’ Compensation Benefits (WCB) recipient who complained to the Ombudsman that her employer had requested access to her medical information. She felt that this was unfair and appealed to the Workers’ Compensation Appeals Tribunal (WCAT). Following this action, she received a letter from WCAT which had been addressed to her employer confirming that the employer had decided to withdraw its request for copies of her medical information.

Six weeks later she then received a letter from WCB addressed to her employer stating that they had forwarded the copies of her medical information to the employer, as per the employer’s request. An Ombudsman representative contacted the WCB adjudicator, and pointed out the agency’s error. It responded by indicating the memo from WCAT was not written clearly. As a result, WCB misinterpreted the letter to read that the worker, and not the employer, had withdrawn the request. The WCB said it would immediately contact the employer and request the file be returned to them and would contact Ms. W to apologize both over the phone and in writing. They would also adjust her file records to reflect the error that had been made.

Making use of discretionary power

Ms. W approached the Ombudsman requesting assistance relating to a decision of the Ontario Employment Practices Branch of the Ministry of Labour. She had filed a complaint with the Branch against her former employer citing that she had been dismissed from her job after being absent on Pregnancy and Parental Leave. An Employment Standards Officer advised Ms. W that the Branch had not found her employer to be in violation of the applicable policy. Ms. W was advised that she had 15 days to appeal this decision.

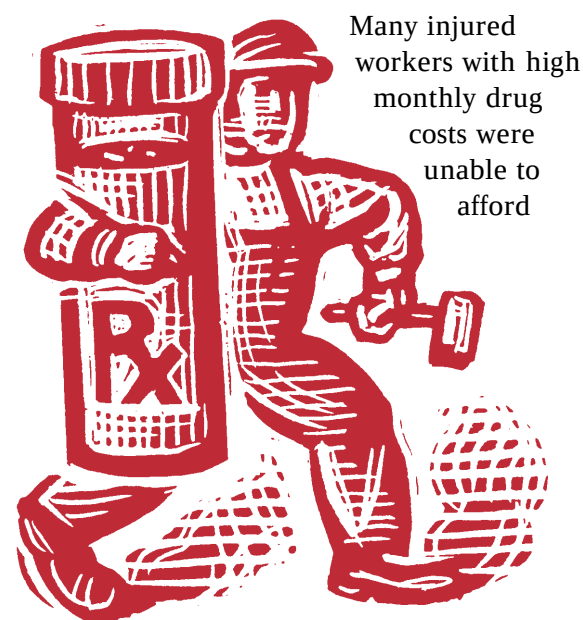
Ms. W did appeal the Officer’s decision but was denied because she had filed the appeal seven days late. She approached the

Ombudsman for assistance, indicating that she had incurred the short delay because she had decided to retain a lawyer. In reviewing the available information, including Employment Standards policies, it was noted that the officer has the power to allow an extension of the 15 day time period under certain circumstances, including “time to consult counsel”. The Ombudsman investigator contacted the Acting Director of the Branch to discuss Ms. W’s complaint, including the Branch’s discretionary powers in cases such as this. He agreed to review the file and subsequently advised that he would grant a further hearing.

CASE STORIES

Providing up front prescriptions

Over a period of several years, pharmacists filling prescriptions for injured workers in a Northern region experienced delays in obtaining reimbursements from the Workers' Compensation Board (WCB). By 1996, most of the drug stores in the area refused to accept drug claims from WCB recipients and requested that injured workers pay for the medication up front, and then later receive reimbursement from the board.



Many injured workers with high monthly drug costs were unable to afford

their medication and as they also experienced delays in receiving reimbursements from the Board, some did not refill their medication, while others experienced financial hardship in trying to cover the cost of the medication.

Mr. C, an injured worker with a 100% disability, required a wide range of medication for his compensable injuries. Because he is on a fixed income, the delay in receiving reimbursement from the Board, combined with his ongoing medication needs, were causing him extreme financial hardship. WCB Health Care staff and Vocational Rehabilitation staff of the Ministry of Community and Social Services at first worked in cooperation to submit his claims manually through the system. They also undertook to discuss this problem with their regional managers. Following suggestions by an Ombudsman representative and after much dialogue, the Board announced that as of November 1, 1996 a new drug coverage policy would be in effect. Certain drug stores were identified as participating pharmacies who would accept prescriptions for medication for work related injuries or disease, and injured workers would no longer bear the initial cost of their medication.

Bringing all the parties together

Mr. R, a student from a northern college, contacted a regional Ombudsman office with two complaints against the college. The first was that he had been expelled from the college without a reason. The second concerned a complaint against a faculty member which he believed the college had refused to address. Following discussions with the complainant and several calls with the college, an Ombudsman representative suggested to both parties a meeting to discuss the complaints and to seek a mutually satisfactory conclusion.

The meeting was attended by three college faculty members who were all directly involved with Mr. R, and by the complainant and a friend of his who provided moral support. The first complaint was addressed successfully when it was established that Mr. R was not expelled from the college, but his program enrollment was terminated and he would be given an opportunity to enter an upgrading program. The matter of the second complaint was resolved through face to face discussions where the issues were talked through to everyone's satisfaction.

Determining eligibility as a matter of health

Ms. K, an Aboriginal woman, wrote to the Ombudsman to seek assistance. She had moved into a new community 6 months earlier to accept a job but unfortunately had suffered an attack of kidney failure and was unable to take up her job. She was also not eligible for disability benefits from her employer and as a result was forced to apply for general welfare assistance.

Living in a new community, with serious health concerns, Ms. K learned that she would have to undergo kidney dialysis three times a week for three hours for the rest of her life, or until she could have a kidney transplant. Her doctors recommended a special medical diet to maintain her health which only put a further strain on her meagre finances. In need of financial help, she asked her First Nation for assistance, but was told they were unable to help her. The federally appointed "Indian Agent" said she was ineligible for assistance because she wasn't living on a reserve. She was also told there probably wasn't much money available even if she lived on reserve. The Ombudsman's office was her last resort.

An Ombudsman representative made inquiries and determined that although Ms. K was on municipal welfare, she was eligible for the more generous disability benefits provided by the Province under the Family Benefits Act. In addition to the increased income, she would be eligible for a subsidy to cover the cost of her medically-necessary special diet. Further inquiries to the Ministry of Community and Social Services brought an immediate response and the beginning of a resolution to Ms. K's problems. Ministry staff asked the municipality to forward them the welfare file for a determination of her eligibility for disability benefits. The municipality responded promptly. A Ministry supervisor called Ms. K to outline the application process and to refer her to the case worker who would help her complete her application.

Clarifying the rules for liability

Mr. G requested the Ombudsman's assistance when his vehicle was damaged by a Ministry of Transportation work crew. He had submitted a claim to the Ministry two days after the accident in the form of an invoice for reimbursement. This was forwarded to the department which handles such claims, and was later forwarded to the Ministry's insurance agent. Mr. G received a letter from the insurance agent, indicating they were investigating the claim and would advise him of their findings. The letter also noted that "there are statutory limitations which affect the liability of the Crown and its servants", including a ten-day notice requirement and a three-month limitation period following which any claim is "statute barred". After Mr. G had not heard from the agent, he telephoned and learned that he should have submitted a Statement of Claim before the three-month period had expired, and there-

fore he could not be reimbursed the money he spent on repairs.

He was not aware, and the letter from the agent did not make clear, that he was required to file a specific Statement of Claim. In his view, he had submitted a claim in the form of an invoice. In reviewing the letters sent by the government's insurance agent, it was evident that they were not explicit as to what was required of someone who was submitting a claim. Although an Ombudsman representative was able to assist in resolving this matter when the agent agreed to remit a cheque to Mr. G, it was apparent the same practice may affect other individuals throughout the province who have similar claims against the government.

The Ombudsman wrote to the Ministry to bring forward this concern and as a result, the government's insurer agreed to amend the letter which claimants receive in the event of a claim against the crown.

Getting diabetic medication on time

Mr. L called the Ombudsman with a problem he was having in receiving his welfare cheque and drug card. Although he had contacted his local welfare office during the previous week and had been told both cheque and card were in the mail, Mr. L had still not received them. This created a critical situation for Mr. L because of his diabetic condition, for which he required medication that he could not obtain without the drug card. A telephone call by an Ombudsman representative to his welfare caseworker resulted in the caseworker telephoning Mr. L's drug store to indicate that he did have coverage and the card was on its way. As a result, Mr. L was able to obtain his medication immediately.

Cheques processed but not in the mail

Following a five year dispute, Mr. M, a young First Nations man, was awarded a Workers' Compensation Board (WCB) claim entitlement and a permanent disability award in a decision made in December of 1995. By March of 1996, he still had not received any funds. Despite numerous agencies tracing the process of the payments, the complainant had not received either the monthly pension benefits or his back pay. Following an inquiry by an Ombudsman representative to WCB, it was discovered that the cheques had been processed but not forwarded to WCB treasury for payment. To remedy this problem, the cheques were then manually taken through the process in three days and sent by courier to the WCB office, where they were immediately forwarded to Mr. M.

CASE STORIES

Tracking down vital information

Mr. P Jr. contacted the Ombudsman on behalf of his ailing father, who had been recently admitted to hospital. Mr. P Sr. was born at home in another province in the 1920s and had lived in Ontario most of his life. He had no need of medical attention until the recent event that temporarily incapacitated him, and had never obtained a health card from any province. Upon admission, he was required to pay for his hospital expenses because he did not have an Ontario health card.

In his attempts to obtain a health card for the senior Mr. P, Mr. P Jr. was unable to acquire the requisite documents to prove his father's place and date of birth. The Ministry of Health refused to accept a photocopy of Mr. P's Sr. passport from 1948, his only documentary proof of his birth. The Vital Statistics Division of the province in which Mr. P Sr. was born stated that birth certificate records for that period were destroyed in a fire. Mr. P

Jr. attempted to certify the information through an affidavit sworn under oath, but the Ministry would not accept it. Mr. P Jr was in the process of contacting all the church parishes in the community in hopes that they kept baptismal records, when he brought his case to the Ombudsman.

An Ombudsman representative contacted the Ministry of Health and learned that it accepted two other types of record for the purposes of establishing birth information. One of those methods, requesting a search of census data from Statistics Canada, was free of charge. The representative contacted Statistics Canada, confirmed that such a search would take about thirty days, and requested that a search request form be mailed directly to Mr. P Jr. Mr. P Jr was relieved to learn that the form was on the way and that he need not incur any further expense in obtaining the necessary information to get a health card for his father.

Assisting the complaint process

Ms. S first contacted an Ombudsman office to complain that the Public Guardian and Trustee (PGT) had erroneously transferred her now-deceased grandmother's account to British Columbia. Ms. S was one of the heirs, and believed that the PGT's error had cost her her share of the estate. Her inquiries to the Public Guardian's office in British Columbia seemed to show that the estate had been paid out to other relatives who were not named in the valid will. However, despite efforts by Ms. S and a lawyer, the problem remained unresolved. Ms. S was on the verge of abandoning her efforts as too costly and unlikely to succeed. She told an Ombudsman representative that the PGT had seemed uncooperative and reluctant to answer her questions.

The Ombudsman representative explained the role of the Ombudsman as a last resort, but also suggested that Ms. S write a letter to the PGT explaining, in her own words, what she thought they had done wrong and what she wanted them to do to fix the problem. The Ombudsman representative also described the elements of an effective complaint letter and assured Ms. S that Ombudsman Ontario would look into her complaint if this approach did not solve the problem. Ms. S wrote the letter, providing a copy to the Ombudsman's office. Three months later, Ms. S called back to say that the PGT had written to confirm that it would pay out the residue of the estate to her and the other heirs as soon as they provided proof of identity.

Affidavit enables immigrant eligibility

Immigrants who want to be qualified as teachers in Ontario schools need to obtain letters of eligibility from the Ministry of Education and Training. However, they may find it difficult to obtain the necessary documents from their countries of origin. Ms. A, who had worked as a teacher in Argentina, had been trying since 1978 to obtain a letter of eligibility. She had worked in the field of adult education in Ontario since 1979, but this was as an unqualified teacher, at a much lower salary than for qualified teachers. She had not been issued a letter of eligibility because she had not provided letters from her former employers in Argentina to confirm that she was a teacher in good standing. Ms. A had sent two letters to Argentina to request such a letter, but she had not received a response, and as a result contacted the Ombudsman to seek assistance.

Ms. A acknowledged the need to protect pupils, but she believed that her conduct and character could be judged from her years working as a teacher in Ontario. Her supervisor had written a letter in which she stated that Ms. A was well-known in the field of adult literacy, and attested to Ms. A's honesty, integrity and compassion. After a number of inquiries to the Ministry of Education by an Ombudsman representative, the Ministry indicated that if Ms. A could not get a letter from the Institute where she took her teacher training, the letter from her supervisor might be sufficient. In the end, Ms. A provided an affidavit attesting to her training, and she was given a one-year letter of eligibility, which would enable her to qualify for a letter of standing and permanent qualification.

Delayed pension money finally arrives

Ms. J had been involved in a long dispute with her ex-spouse about her share of his Ontario Public Service pension. This dispute required a series of rulings from the Ontario Pension Board (OPB), but Ms. J could not afford a lawyer. She first contacted the Ombudsman in early 1995 to complain about how long the process was taking. An Ombudsman representative made inquiries to the OPB on several occasions during the decision and appeal process.

In the spring of 1996, Ms. J called the Ombudsman representative to say that the OPB had made its final ruling in her favour, but had not sent any money, even though more than two months had passed. Ms. J described the decision over the telephone and said she thought the Board was reluctant to begin payments because the case was precedent-setting and they were likely expecting a court challenge by the pension holder. The Ombudsman representative made a final inquiry to the Ontario Pension Board. The Board acknowledged that the decision was in Ms. J's favour and that the time for the pension holder to contact the Board had expired. A few weeks later, the OPB sent Ms. J a cheque for more than \$9,000 which had accumulated over the length of the appeal process, and began issuing cheques for the monthly amount she had won in the Board ruling.

Compensation for property lost in the shuffle

Inmate Mr. D complained that his personal clothing was missing upon arrival at the Rideau Correctional Centre (RCC) after being transferred from the Quinte Detention Centre (QDC) to the Rideau Correctional Centre. His clothing, except for his shoes, was not in his property bag when he arrived. He complained at RCC and they contacted QDC, who advised that the inmate told them to throw out his clothing. The inmate maintained that he did not make such a request. He was expecting to change into it before he was transferred to RCC but was brought down for transfer late and told to get on the bus without having an opportunity to change before being transferred. The inmate requested compensation for the items thrown out but his request was refused.

Ombudsman staff obtained the relevant copies of the inmate's personal property declaration (PPD). These included the forms completed upon admission to QDC and transfer to RCC. The initial PPD indicated that the inmate was admitted with jeans, t-shirt, socks, underwear, shoes, and other valuables. The PPD prepared when he was transferred from QDC to RCC also indicated that these items were transferred. RCC confirmed however that these items were not in the property bag when it was opened. Although QDC maintains that clothing was thrown out as requested by the inmate, there was nothing to this effect recorded on the PPD forms.

Staff at QDC were interviewed. The policy

manual of the Ministry of the Solicitor General and Correctional Services was reviewed. The information gathered indicated that the procedure followed when transferring inmates and clothing is as follows: the inmate is brought down the night before transfer, the PPD is reviewed, signed and the inmate's property bag is sealed. Inmates are not transferred in institutional clothing and so the civilian clothing they intend to wear is not placed in property bag but is kept available so the inmate can change into it the next morning.

The QDC admitted that they ought to have recorded on the PPD that the inmate told them to dispose of his clothing. Notwithstanding this, QDC was not prepared to compensate the inmate. They agreed to remind staff that clothing items disposed of at the request of the inmate should be recorded on the PPD and signed by staff and the inmate. According to Ministry policy, the institution is responsible for inmate property while the inmate is in their custody. Following a review of the files, Ombudsman staff reminded the facility of its obligation to compensate the inmate for lost clothing. In response, it was agreed to compensate Mr. D half the cost of the clothing, given that the jeans and t-shirt were not in good condition, as documented on the PPD. This was considered to be a reasonable resolution and the inmate was accordingly compensated for the articles disposed of by the institution.

Serving with equity: report of a journey

In October last year Roberta Jamieson published the document *Serving With Equity: Report of a Journey*, which was presented as a workshop paper at the International Ombudsman Institute conference in Buenos Aires, Argentina (see story, p. 29). This 52 page paper provides an in-depth account of the development of equitable service delivery at Ombudsman Ontario and is available by contacting one of our offices or through our Web site at www.ombudsman.on.ca.

The following is an excerpt from the Ombudsman's Preface to the document.

In Canada, as in a growing number of countries around the world, the willingness of governments to subject their ongoing administrative functions to the independent scrutiny of an Ombudsman institution has become an important measure of the quality of democratic governance.

Serving with Equity: Report of a Journey tells the story of our journey at Ombudsman Ontario in discovering, and then serving the full panorama of the very diverse people of Ontario. This story describes our experience in applying the principle of service equity – that is, how we adjust the way we deliver our service so that it is relevant and appropriate to each person who may wish to bring forward an issue related to any Ontario government organization.

I was appointed Ombudsman in the autumn of 1989, fourteen years after the office was established by the Legislature in 1975. As might be expected, I came to the post with my own particular outlook shaped by a combination of circumstance, heritage and experience. This included a view of government and institutions which serve the public as seen from a First Nations perspective, one shaped by having been excluded and marginalized in many ways. As a woman, I had experienced the discrimination and disadvantage which is common in a patriarchal society. As a woman who entered the male-dominated profession of law, I felt that discrimination very acutely.

All this influenced my approach to becoming an Ombudsman. I was particularly aware that many institutions do not recognize the diversity of faces and voices which constitute the full range of the people they serve, and instead assume that everyone has the same needs, desires and status. In the name of equality, these institutions extend to everyone the same treatment. The result may be unfair and unjust to anyone who is different.

In the case of Ontario and Canada, this has usually meant that all people are generally assumed to share the characteristics associated with those who are Christian, male, white, literate, heterosexual and able-bodied. Most of these assumptions had always been challenged by First Nations, but a broader social challenge began to take shape in Canada, as elsewhere in the world, in the 1960s and then gained momentum in the 1980s. People became more aware of human rights, particularly those relating to gender and race. There was a call for human rights commissions to adopt a more systemic approach to dealing with discrimination.

In addition, Canada had begun to feel the effects of changes in its demographic make up as immigration patterns shifted from predominantly western Europe to Asia, Africa and the Caribbean. Between 1988 and 1990 about 186,000 immigrants whose first language was neither French nor English arrived in Toronto. The traditional way of defining “equality” in the face of such rich diversity ceased to have

relevant meaning. Increasingly, the call was for equitable treatment.

Like others, we were experiencing a growing demand for greater accountability of elected and public officials and institutions generally. At the same time, rapid technological change was profoundly altering the way we “do business”. In the context of this rapidly changing environment, most public institutions began to address fundamental questions about the way they operated, including the application of their policies, practices, and procedures. In such a process, these institutions found themselves at a crossroads: attempting to maintain the status quo at the risk of becoming irrelevant, or making fundamental adjustments in their way of doing business to respond to the new realities.

This is the crossroads Ombudsman Ontario found itself contemplating in 1990. There was a sense that entire sectors of the public, including many of Ontario's most vulnerable people, were not being served by the Ombudsman.

By 1991 we had conducted an opinion survey which confirmed that persons who were a member of a racial minority, a recent immigrant, a person with a disability or a single parent were more likely to have contact with government, more likely to have difficulties, and at the same time less likely to know the Ombudsman existed. It was clear that we had a great deal of work to do to make the Ombudsman's service accessible to all who required it.

One of the key features of the Ombudsman concept which originally attracted me is its flexibility – the Ombudsman has the wide discretion and the ability to adjust her process so as to accommodate differences. I knew this would be critically important if we were going to provide services which would be truly accessible to those people of many different social locations who make up our public: people with disabilities who do not have the mobility to come to our offices or people who do not have the bus fare; people who cannot read our printed materials; people who speak languages other than English or French; people whose cultural approaches to registering complaints and presenting evidence may not be accommodated by standard institutional approaches.

As we began to hear the voices of diversity, we heard that many complaints against government officials related directly to inappropriate treatment. We began to understand that if we were to handle these complaints with integrity and credibility, we ourselves had to do our best to practice service equity throughout our own organization. While this conclusion may seem self-evident, the magnitude and impact of the changes we would be called upon to make were not quite so apparent.

The credit for our progress lies with Ombudsman Ontario staff. They gathered the data, did the analysis, identified problems, sought solutions, engaged in reflection, and went through the required training. Our journey is far from over. We still have much to do, yet we can feel satisfaction from what we have done. We are now better able to identify amongst our clients those who are most vulnerable and in most need of our service. We have begun to evaluate those areas of the public service which are of greatest concern and are particularly problematic to people who are economically disadvantaged, people of colour, youth and the elderly and Aboriginal and First Nations people. We have begun to conduct systemic reviews and investigations into the barriers which have become a part of the administration of government.

Most of all, we have begun to change the way we think about our way of relating to each other and to every individual we serve.

Because the Ombudsman's recommendations have the potential of profoundly affecting the way government serves the diverse sectors of the public, the Ombudsman is strategically equipped and situated to advance an agenda for service equity.

Internationally, the Ombudsman concept is being adopted by many countries as an essential element to improve the quality of democracy. Where the recognition and protection of human rights is a priority, the Ombudsman process is being used with great success. These dual themes – democracy and human rights – make it all the more important that the service offered by the Ombudsman encompasses all sectors of the population. This can happen only if equitable service is offered.



PUBLIC EDUCATION

Highlights of Ombudsman Ontario's public education activities

The challenge to maintain and develop the Ombudsman's public education program has been made enormous by the loss of almost a quarter of our employees, a number of whom were originally hired because of their community-based experience and public education expertise. Despite the difficulties associated with this loss and the diminished opportunities for public education with government organizations because of their own restructuring and downsizing activities, it has been a busy and productive year. We have made presentations to and worked with a number of agencies, including the Society of Ontario Adjudicators and Regulators, the Ontario Municipal Board, the Ontario Insurance Commission, the Ontario Human Rights Commission and the Family Support Plan program.

We continue our contacts with constituency staff of Members of Provincial Parliament and we have made presentations to numerous legal clinics and housing co-operatives around the province. We have

also attended with our public education resource booth at large gatherings such as the International Plowing Match in Selkirk, the Seniors' Fair in Windsor, the Mattawa Trade Show, conferences of Teachers of English as a Second Language, the Canadian Council on Refugees, the Somali Youth Society, the Canadian Hearing Society Mayfest, and the Metro Toronto Access and Equity Day in recognition of the international day for the elimination of racism.

Activities this year have focused on reaching out to seniors, youth, Francophones, people who are HIV-positive or living with AIDS, injured workers and First Nations people. We made our first visit to the First Nations community of Constance Lake and Couchiching. We also made a presentation to staff and patients at the Brockville Psychiatric Hospital and staffed a booth at the conference of the Community Survivor Development Initiative. Below is a list of the many Ontario communities we have visited this year as part of our public education program.

Alban	Grey County	Ophir	Sault Ste. Marie/Ranking	Thessalon/Algoma
Amherstburg	Guelph	Ottawa	Scarborough	Thunder Bay
Aroland	Haileybury	Owen Sound	Simcoe	Tillsonburg
Atikokan	Haldman-Norfolk	Parry Sound	Sioux Lookout	Timmins
Attawapiskat	Hamilton	Peawanuck	Sioux Lookout North	Toronto
Beardmore	Hanmer	Pembroke	Smiths Falls	Township of Moore
Belle River	Hawkesbury	Perth	St. Charles	Wabagoon
Belleville	Hearst	Peterborough	St. Thomas	Wallaceburg
Blind River	Ignace	Port Dover	Stoney Point	Waterloo Region
Blind River/Algoma	Kashechewan	Red Lake	Sturgeon Falls	West Bay
Bracebridge	Kenora	Renfrew	Sudbury	Wikwemikong
Brantford	Kingsville	Rexdale		Windsor
Brockville	Kitchener	Rocky Bay		Woodslee
Bruce County	Leamington	Sandy Lake		Woodstock
Bruce Mines/Algoma	Lindsay	Sarnia		
Cambridge	Little Current			
Cape Croker	Little Rapids Algoma East			
Casselman	London			
Chatham	Manitowadge			
Chelmsford	Mattawa			
Constance Lake	Middlesex County			
Dryden	Monteith			
East York	Moose Factory			
Elliot Lake	Moosonee			
Englehart	Nakina			
Essex	New Liskeard			
Etobicoke	Noelville			
Fort Albany	Norfolk County			
Fort Frances	North Bay			
Garson	North York			
Geraldton	Onegaming			



Public Education Activity by Region

Regional Office	# of Activities	Audience
KENORA	65	1,032
LONDON	38	7,840
NORTH BAY	27	2,306
OTTAWA	30	1,678
SAULT STE MARIE	65	1,039
SUDBURY	62	1,065
THUNDER BAY	54	671
TIMMINS	29	386
TORONTO	106	4,237
WINDSOR	95	3,285
TOTAL	571	23,539

Working with communities of psychiatric and mental health consumers and survivors

An increasing number of clients with a range of mental health challenges have approached Ombudsman Ontario for information and services during the past year. At the same time, we identified a need for a greater ongoing presence in provincial psychiatric hospitals and to ensure that we are well-positioned to receive and deal effectively with complaints from the psychiatric and mental health communities.

To meet these goals, we engaged in a consultation process to help us understand and clarify the range of issues faced by this community. Our objective was to listen and learn from pro-

professionals, family and friends, consumers/survivors and service providers who are involved with members of this community. We wanted to be informed on how best to provide Ombudsman services to meet the needs of people with mental health concerns, as well as to inform others about our services. We also wanted to better understand the first-hand experience of current and past patients of the psychiatric systems. As a follow-up to these consultations we have begun an organization-wide training to enhance the awareness and sensitivity of all staff, both to the issues involved and to the clients who use Ombudsman services.

Letters from clients

“A week after I had mailed my set of letters, one to your office, one to [the governmental organization] and one to the manager of the same, I heard back. It is truly amazing the power that your office has! I am convinced I would have gotten nowhere without your office. I think it would be great if the manager could adopt a practice such as the one your office has, of advising people that their request has been received and is being dealt with. Thank you for your prompt response to my letter.”

“It was my good fortune to have [Ombudsman staffperson] answer the telephone. After two months of no human contact, it was a pleasure to finally talk to someone! I can’t begin to tell you how terrific she was – very professional and sympathetic in this situation. I am happy to report that due to her diligence, it seems that the problem will soon be resolved. In this time of stress, job cutbacks and general discontent, I was delighted to find such a person in your office.”

“This is to thank you for your letter and for your prompt response to my inquiry. Although the end result was less than I had hoped, I would like to thank you very much for your efforts on my behalf, and for the detailed explanation that you have provided.”

“It has been a few weeks since I informed you that [the governmental organization] has agreed to pay me most of what they have held back in non-payments. To date they

have paid me all but a few claims which we are clearing up and which will be paid. I wish to thank you for all you have done on my behalf, as this was an extremely difficult and emotional task that has gone on for nearly ten months. Your intercession was an important factor in changing the minds of the bureaucracy.”

“Many thanks for your accessibility on such an impromptu basis. I recognize that you have a heavy case load. So I am very impressed with your turnaround time. My faith in government integrity is quickly being restored.”

“I have now received compensation from [the governmental organization] based on your recommendations as outlined in your letter of June 19, 1996. It is comforting to know that there is an avenue available to vent our concerns with government bureaucracy. Better yet, it is reassuring that our concerns are listened to, investigated and concluded, regardless of the outcome.”

“I have received the enclosed letter from the [governmental organization], offering a 47% settlement of my account. My creditors have accepted this offer, so I have signed and returned the lease. This means that if everything goes according to plan the matter has been resolved, and you can finally close your file. I have to say that none of this would have happened without the involvement of the Ontario Ombudsman - I could not even get a reply to a letter without

them receiving a push from you. The consultants and contractors join me in thanking you for your active help in bringing this to a conclusion.”

“We would like to take this opportunity to thank you for your immediate response to our letter which outlined our problems. Yours were the first letters of response from all the organizations we communicated with.”

defining our mission

Public



Of or concerning the people as a whole; of, relating to, or being in the service of the community or nation; accessible to or shared by all members of the community



Ombudsman Ontario Organization Chart

Ombudsman: Roberta Jamieson	March, 1997			
Executive Assistant: Laurie Hall				
Executive Coordinator: Fiona Crean	Policy, Legal, Research & Communications Communications Coordinator: Gene Long Administrative Secretary: Dean Morra Research Assistant: Sherrie Nicholson Policy Advisor: Michael Orr Legal Advisors: Laura Pettigrew / Wendy Ray	Information Systems Data Technician: Suzanne Bernier Closed File Analyst: Joyce Coolman Records Analyst: Jackie Correia Programmer Analysts: Kwasi Frimpong / Dianne King	Human Resources / Administration Human Resources Coordinator: Joyce Leonard Administrative Assistant: Janet Rose	Finance Manager: John Allan Accounting Assistant: Dianne Griffin Accounting Analyst: Judith Lee Client Services Representative: Wolfgang Schulz
Director, Investigations & Complaint Resolution Murray Lapp	Intake & Public Education - Regions Manager: Lise Corbeil (Ottawa) Administrative Secretary (Ottawa): Annick Laflèche Ombudsman Representatives: <i>Kenora:</i> Paula Eyler <i>London:</i> Robin Bosworth / Mike Sauer <i>North Bay:</i> Kim Barclay <i>Ottawa:</i> Julie Bertrand / Lira Hugh <i>Sault Ste Marie:</i> Hannalie Ethier / Pauline Gignac <i>Sudbury:</i> Jean Dennie/ Danielle Barbeau-Rodrigue <i>Thunder Bay:</i> Mary Carl / Micheline Gagné <i>Timmins:</i> Gilberte Clément <i>Windsor:</i> Pamela Young / David Simpson	Intake & Public Education - Toronto Manager: Alison Irons Administrative Secretary: Zalina Deodat Ombudsman Representatives: Kwame Addo Calvin Blackwood Millicent Dixon Steven Drawbell Barbara Lee Lourine Lucas David Paradiso Jo-Ann Terrence Bilingual Receptionists: Don Cheff / Manuela Popa	Corrections Manager: Victor Marcuz Administrative Secretary: Lourdes Legardo Investigators: Sue Haslam (P/T) James Nicholas Mary Elizabeth Nugent Cathy Rea Ombudsman Representatives: Rosie Dear Esla Hutchinson George LaRosa Joe Semenciw	Investigations Manager: Nora Farrell Administrative Secretary: Betty Baker Senior Investigators: Tim Arkell / Perry Gerhard Investigators: Christine Angus-Jones / Lorraine Boucher Gerry Carlino / Mary Jane Fenton (P/T) Anita Glasier / Barbara Hirst Thomas Irvine / Eva Kalisz Barbara Kiesecker / Allan Lee Kathy Penfold / Matilda Presner Faye Rodgers / Elizabeth Virc Elizabeth Weston / Barbara Worthington (P/T) Word Processing Operators: Maureen Bourns / Jackie Holmes

INTERNATIONAL

Global Ombudsmanship

Roberta Jamieson was elected this year as the North American Regional Vice-President of the International Ombudsman Institute (I.O.I.) at the organization's Sixth Quadrennial Conference held in Buenos Aires, Argentina in October. Ms. Jamieson has played an active role as a board member of the I.O.I. for the last four years and presented a paper to the conference on service equity and the Ombudsman.

The theme of this conference was "The Ombudsman and the Strengthening of Citizen Rights: the Challenge of the XXI Century". Over 800 delegates attended, representing 121 Ombudsman offices from 86 countries, as well as numerous United Nations and other international agencies. The conference, which was conducted in the three official languages of the I.O.I., French, English and

Spanish, adopted a declaration which reaffirmed the "essential characteristics" of Ombudsman institutions as independence, accessibility, flexibility and credibility. As part of her duties as an I.O.I. board member, Ms. Jamieson also had a busy year providing expertise and assistance at a number of regional meetings of I.O.I. member institutions and other related events. In August she was invited as a guest speaker to attend a conference of 21 African countries who either have

an Ombudsman or intend to establish one. This meeting was hosted in Pretoria by the newly-appointed Public Protector of South Africa, Selby Baqwa. Ms. Jamieson was also invited to the former Soviet republic of Moldova to participate in a workshop co-sponsored by the United Nations Development Programme and attended by representatives from 12 countries of the Commonwealth of Independent States. Finally Ms. Jamieson was a guest speaker at the First Congress of the Iberoamerican Federation of Defenders of the People, Attorneys, Commissioners and Chairmen of Public Human Rights Commissions, held in Queretero, Mexico in April last year. Ms. Jamieson's attendance at each of these events was sponsored by the host organizations.



Nelson Mandela, the President of South Africa, welcomed delegates and guests to a meeting of African countries promoting Ombudsman practices. President Mandela recently appointed his country's first Public Protector. Photographed at a conference of the International Ombudsman Institute in Buenos Aires, along with Roberta Jamieson, are the Hon. Jackson I. Edokpa, Chief Commissioner of Nigeria, Ms. Justice Florence N Mumba, Investigator-General of Zambia, and Timothy Christian, Dean of Law, University of Alberta.

Ombudsman as International Resource

Ombudsman Ontario staff are increasingly being called upon to provide orientation, training and expertise to Ombudsman institutions contacting us from abroad by correspondence and visits to our office. In October 1996, a senior investigator from the Philippines Ombudsman's office spent several days in training on investigative procedures. This training included an orientation to our complaint process, as well as addressing investigative techniques and issues of jurisdiction. Three members of the Namibia Ombudsman's office were also given a week of intensive orientation, with specific focus on our case manage-

ment system and the work of regional offices. They also spent time visiting a regional office, examining in detail our Intake operations. Over the past year, we have been developing and refining our own case management system. This information has been widely sought and shared internationally. As well as providing training on this system to the visitors from the Philippines and Namibia, we also worked with a delegation from Estonia. Other visitors this year came to our office from Austria, China, Trinidad and Tobago, Ghana, South Africa, Tanzania and New South Wales, Australia.

Assisting in Peru

In the context of providing expertise abroad, the Canadian Volunteer Advisors to Business (CESO International Services) sponsored the Executive Coordinator of Ombudsman Ontario to conduct a needs assessment of the newly created Defensoria del Pueblo's Ombudsman in Peru. In October, the Executive Coordinator spent ten days in the country providing a range of advice and making a number of recommendations specific to management structure, program delivery, policy, administration and corporate supports. She was able to provide assistance in developing a number of organizational tools, including an employment systems checklist, job descriptions, performance indicators, and a model for strategic planning and work objectives. The challenges for the Ombudsman of Peru are both complex and numerous. The Executive Coordinator's advice and recommendations were made in the context of implementation designed to meet local needs and provide culturally appropriate services.

Public education thank-you letters

"Thanks so much. Once again, you left an audience excited and proud to live in Canada. Once again, you left a group of women, many of whom were feeling powerless prior to your visit, feeling that they have more control over their lives. No one wants to feel like a victim. The Ombudsman organization gives residents of Ontario an ally in combatting injustice. Even if we don't need you now, it's good to know that you're there if we need you.

"I would like to thank you for the many times that you have assisted people in this community. I work for Family Services of The Salvation Army. Many of the people that we see have been trying to find information from government offices. Some may have been caught between two or three levels of government bureaucracy. Very often they are unaware of your

services. I am always pleased to be able to offer your phone number to many of these people. I know that you will be of assistance to them. Thank you again for being such a valued resource. Keep up your excellent work."

"On behalf of the volunteers and staff of Crisis Intervention, I want to thank you for the fine presentation you made. Several of us had no idea of the potential scope of your organization. We also appreciated the many examples you made that reflected your work. Once again, many thanks!"

"We would like to thank-you for enlightening us about Ombudsman Ontario. Your love for your work is obvious and encouraging. It's comforting to know that you are there to uphold the law of the land for fair and just treatment for all."

defining our mission

Education

Being educated; course of instruction; development of character or mental powers; the knowledge and development resulting from an educational process

FINANCIAL HIGHLIGHTS

Ombudsman Ontario

Statement of Expenditures

For the Year Ended March 31, 1997

Expenditures	1996/97 Estimates \$	1996/97 Actual \$ (Note 3)	1995/96 Actual \$
Salaries and Wages	4,675,800	4,623,035	5,472,947
Employee Benefits (Note 3)	116,7900	117,5987	815,266
Transportation and Communication	518,500	455,267	391,701
Services	1,909,800	1,929,364	1,921,315
Supplies and Equipment	243,700	262,298	325,121
Sub Total	8,515,700	8,445,951	8,926,350
Less Miscellaneous Revenue	0	6,401	9,208
Total Expenditures	8,515,700	8,439,550	8,917,142

See accompanying notes to financial statement.

Approved:

Roberta Jamieson

Ombudsman

Notes to Financial Statement march 31, 1997

1. Accounting Policies

a) *Basis of accounting.* The Office uses a cash basis of accounting which, in the case of expenditures, is modified to allow an additional thirty days to pay for goods and services pertaining to the fiscal year just ended.

b) *Furniture, equipment and leasehold improvements.* Expenditures on furniture, equipment and leasehold improvements are expenses at the time of purchase.
2. Expenditure and Miscellaneous Revenue

Expenditures are made out of moneys appropriated therefor by the Legislature of the Province of Ontario. Miscellaneous revenue is deposited into the Consolidated Revenue Fund.
3. Pension Plan

The Office provides pension benefits for all its full-time employees through participation in the Public Service Pension Fund (PSPF) established by the Province of Ontario.

The Ontario Public Service Employees' Union Pension Act, 1994 provides for a reduction of the employer's contributions to the PSPF for each of the three fiscal years ending 1995-1997. For the current fiscal year, the impact of these reductions on the Office's pension expense was a reduction of \$419,400.

The Office's contribution related to the PSPF for the year was \$108,409 (1996 - \$122,805) and is included in employee benefits.
4. Restructuring Costs

Included in the 1996/97 Estimates for Salaries and Wages, Employee Benefits and Services is a restructuring fund totaling \$1,153,200, for the necessary downsizing as a result of a 20 per cent budget reduction. The actual restructuring cost for 1996/97 was \$1,084,469.

Salary Disclosure

The following list of those earning \$100,000 or more for the year 1996 is being reported in accordance with the Public Sector Salary Disclosure Act, 1996:

Crean, Fiona - Executive Coordinator		
Salary:	\$110,000	Benefits: \$317
Jamieson, Roberta - Ombudsman		
Salary:	\$114,639	Benefits: \$3,295

Office of the
Provincial Auditor
of Ontario



Bureau du
vérificateur provincial
de l'Ontario

Box 105, 15th Floor, 20 Dundas Street West, Toronto, Ontario M5G 2C2
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(416) 327-2381 Fax: (416) 327-9862

Auditor's Report

To the Ombudsman

I have audited the statement of expenditures of Ombudsman Ontario for the year ended March 31, 1997. This financial statement is the responsibility of that Office's management. My responsibility is to express an opinion on this financial statement based on my audit.

I conducted my audit in accordance with generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, this financial statement presents fairly, in all material respects, the expenditures of Ombudsman Ontario for the year ended March 31, 1997, in accordance with the accounting policies described in note 1 to the financial statement.

Toronto, Ontario
April 28, 1997

K.W. Leishman
K.W. Leishman, CA
Assistant Provincial Auditor

Ombudsman's Presentations

The following is a list of places and events where the Ombudsman spoke or presented papers in 1996-97:

April: First Congress of Ombudsman & Human Rights Commissioners and Defenders of the People of Iberoamerica Queretero, Mexico Uvic Institute for Dispute Resolution National Gathering on Making Peace and Sharing Power Victoria, British Columbia	Victoria University and the Foundation for International Training Forum on Building Civil Society Toronto, Ontario
May: Leaders-in-Action Youth Forum Toronto, Ontario Women's Canadian Club of Toronto Toronto, Ontario The First North American Conference of Ombuds Associations St. Louis, Missouri United Nations Development Programme Second International Workshop on Ombudsman and Human Rights Institutions Co-sponsored by Commonwealth of Independent States Chisinau, Moldova Institute for International Research Toronto, Ontario	August: International Ombudsman Institute South Africa Investigations Workshop Delegates from 20 African countries in attendance Pretoria, South Africa September: Six Nations of the Grand River Agricultural Fair Ohsweken, Ontario International Plowing Match Selkirk, Ontario Society of Adjudicators & Regulators Conference Toronto, Ontario American Judges Association Conference Toronto, Ontario October: Ontario Provincial Police Commissioned Officers' Conference Orillia, Ontario International Ombudsman Institute Board of Directors Meeting Buenos Aires, Argentina International Ombudsman Institute Sixth International Ombudsman Conference Buenos Aires, Argentina
June: Canadian Political Science Association Annual Conference Brock University St. Catharines, Ontario Grand River Employment & Training Post Secondary Education Conference Mohawk College Brantford, Ontario TD Bank Access-Ability Day Toronto, Ontario	November: Brockville Psychiatric Hospital Brockville, Ontario Chamber of Commerce Hawkesbury, Ontario



Can we talk to your group?
Call or write to have Ombudsman Ontario speak to your group. It's free of charge! We'll tell you more about what we do. We'll also tell you how you can best communicate with government.

Newcomer Centre Ottawa, Ontario Maison Thérèse Dallaire Ottawa, Ontario Ministry of Consumer and Commercial Relations Presentation to Tanzanian Ministers and Senior Public Service Staff Toronto, Ontario Ontario Human Rights Commission Commissioners Meeting Toronto, Ontario	Constance Lake First Nation Constance Lake, Ontario Ontario Municipal Board Board Meeting Toronto, Ontario March: Consumer Survivor Development Initiative Annual Conference Toronto, Ontario Metro Hall Forum on Anti-Racism, Access and Equity Toronto, Ontario Beta Sigma Phi Honourary Degree Installation Ceremony Brantford, Ontario
January: Couchiching First Nation Couchiching, Ontario United Native Friendship Centre Fort Frances, Ontario Fort Frances Jail Fort Frances, Ontario Confederation College Fort Frances, Ontario	

We speak your language

We will help you in any language. Ombudsman Ontario staff can speak or write in thirteen languages and information sheets are available in more than twenty. We will also arrange a translator if you need one. Some of our material is produced on computer disk and audio tape. We are also committed to the use of plain language to explain what we do and how we can help. For more information contact one of our offices listed on the back cover.

February: Monteith Correctional Centre Monteith, Ontario Canadian Mental Health Association Timmins, Ontario

Ombudsman Ontario Regional Offices

- 1

Kenora Office

12-308 Second Street S.
Kenora, Ontario P9N 1G4
(807) 468-2851 (Tel)
468-2853 (Fax)
468-2972 (TTY)
1-800-417-3255
- 2

London Office

920 Commissioners Road E.
London, Ontario N5Z 3J1
(519) 668-0511 (Tel)
668-7187 (Fax)
668-7182 (TTY)
1-800-519-9070

- 3

North Bay Office

450 Main Street W. Unit #2
North Bay, Ontario P1B 2V2
(705) 476-5800 (Tel)
497-9931 (Fax)
476-4156 (TTY)
1-800-895-3422
- 4

Ottawa Office

227 Rideau Street
Ottawa, Ontario K1N 5X8
(613) 239-1487 (Tel)
239-1489 (Fax)
789-7386 (TTY)
1-800-721-9909

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Sault Ste. Marie Office

143 Great Northern Rd.
Unit #2
Sault Ste. Marie,
Ontario P6B 4Y9
(705) 945-6914 (Tel)
945-6916 (Fax)
945-6884 (TTY)
1-800-303-8745

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Sudbury Office

66 Elm Street, Suite #108
Sudbury, Ontario P3C 1R8
(705) 564-3116 (Tel)
564-3084 (Fax)
670-0328 (TTY)
1-800-583-8218
- 7

Thunder Bay Office

125 North Cumberland St.
Thunder Bay, Ontario P7A 4M4
(807) 345-9235 (Tel)
345-0378 (Fax)
346-9130 (TTY)
1-800-430-7663

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Timmins Office

85 Pine St. S., Suite 108
Timmins, Ontario P4N 2K1
(705) 268-2161 (Tel)
268-8377 (Fax)
268-2885 (TTY)
1-800-459-4660

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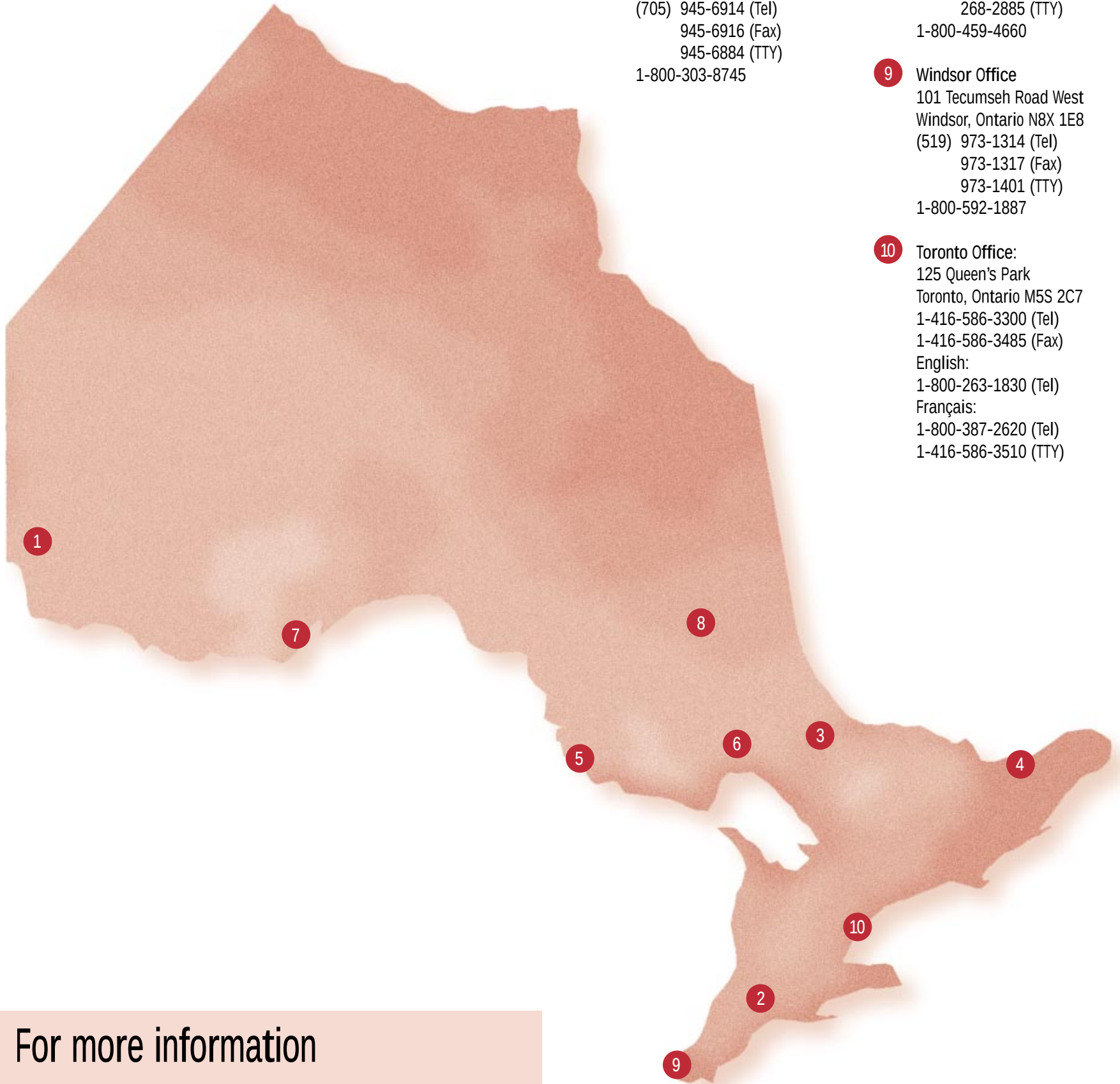
Windsor Office

101 Tecumseh Road West
Windsor, Ontario N8X 1E8
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973-1401 (TTY)
1-800-592-1887

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Toronto Office:

125 Queen's Park
Toronto, Ontario M5S 2C7
1-416-586-3300 (Tel)
1-416-586-3485 (Fax)
English:
1-800-263-1830 (Tel)
Français:
1-800-387-2620 (Tel)
1-416-586-3510 (TTY)



For more information

If you would like more information about Ombudsman Ontario or would like to file a complaint, call or write any of the Regional Offices on this page. We can also be reached at our Web site www.ombudsman.on.ca.

This annual report is available in English and French on both diskette and audio cassette.

It is also available in large print format.

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**OMBUDSMAN
ONTARIO**

**APPENDIX
to the
1996-97 Annual Report**

**Ombudsman's Case Report:
Own Motion Investigation
of the Family Support Plan**

June 10, 1997

EXECUTIVE SUMMARY

Ombudsman's Case Report:

Own Motion Investigation of the Family Support Plan

Following the decision of the Family Support Plan (FSP) on August 15, 1996 to close its regional offices and centralize its program delivery in Downsview, the Ombudsman received hundreds of complaints. While the Ombudsman regularly handles complaints about the Plan's operation, these calls and inquiries were increasingly characterized by high levels of desperation and personal crisis. The effects of the sudden office closings were widely reported at the time and were the subject of frequent comment in the Legislature.

Despite efforts by the Ombudsman through the Fall of 1996 to resolve individual complaints, the FSP was not taking timely steps to address these complaints, a resulting backlog was occurring, and no effective remedy to what appeared to be larger problems was in sight. Consequently, on November 15 the Ombudsman gave the Family Support Plan and the Attorney General notice of her intent to investigate, on her own motion, how the Plan managed the transition from its previous method of program delivery to the newly re-organized method. The Ombudsman's investigation focused on the planning for the period of transition and the implementation of this plan.

As a result of an intensive three month investigation, the Ombudsman found that the manner in which the transition was carried out by the Family Support Plan caused hardship for individuals whom the Plan was designed to benefit. It also created many difficulties for payors and income sources. On this basis the Ombudsman concluded in a tentative report issued to the Attorney General on February 28, 1997 that during the transition period, the Family Support Plan was wrong in its failure to:

- ensure an adequate level of service for its clients
- retain sufficient trained personnel to ensure provision of essential services
- monitor its enforcement actions
- adequately notify its clients of the availability of, and eligibility criteria for, reimbursement of expenses incurred due to delay

In cases such as this, recommendations by the Ombudsman cannot undo the personal despair and distress experienced by the Plan's clients during the period in question, even though complainants were assisted as much as possible at the time by Ombudsman staff in finding solutions. However, there are measures that can be taken to prevent similar circumstances from occurring in other government programs and to ensure that the Ministry is accountable in the future for the administration of the Plan.

To achieve these goals the Ombudsman made a number of recommendations in her report. The Ministry accepted these recommendations, while taking issue with some aspects of the investigative report. Following a series of meetings with Ministry and Plan officials, the Ombudsman issued a final report which reflected input from the Ministry, confirmed the Ombudsman's conclusions and recommendations, and set out in more detail the means by which the recommendations would be implemented. The following is a list of the recommendations and undertakings:

Recommendation 1: *that the Ministry of the Attorney General and the Family Support Plan evaluate the restructuring experience and share the lessons of this experience with other government agencies.*

- the Ministry will address concerns regarding the human resources and labour relations aspects of the re-organization with the appropriate divisions of Management Board Secretariat
- the Ministry will use the FSP experience as a case study in its guide to the planning of "business improvement exercises". The case study will be shared with the Cabinet Office Centre for Leadership, to be used across government with Ministries undergoing similar restructuring exercises
- Director of the Family Support Plan, the Deputy Attorney General, and the Attorney General will share the analysis of the FSP experience with their respective colleagues at Cabinet and other senior decision-making levels who are involved in similar restructuring exercises

Recommendation 2: *that the Ministry of the Attorney General and the Family Support Plan apologize for the frustration and hardship experienced by clients and other stakeholders as a result of the failure to provide an adequate level of service during the transition.*

- the Attorney General noted that on more than one occasion he has publicly apologized and plainly and unambiguously accepted responsibility for the service disruptions which occurred. The Ministry will continue to make clear as the re-organization is implemented that it accepts responsibility for any service disruptions.

Recommendation 3: *that the Family Support Plan notify its clients of the availability of, and eligibility criteria for, reimbursement of expenses incurred due to delay.*

- the Ministry will add information regarding reimbursement to its automated data response system, which is used by approximately 18,000 callers a day. The message will reflect the Ministry's undertaking to ensure that clients have access to Plan staff who can assist with applications for reimbursement. The Attorney General has undertaken to ensure that improved client communications is a focus of the Plan's operations.

OMBUDSMAN

ONTARIO

**Ombudsman's
Conclusions and Recommendations
Pursuant to section 21 of the Ombudsman Act**

**Own Motion Investigation of
The Family Support Plan**

Re: File No. 115074

March 27, 1997

The Complaint

I have been investigating how the Family Support Plan (referred to as FSP or the Plan) managed the transition from its previous method of service delivery to its proposed

re-organized method of service delivery. The investigation has focused on the transition period, which began on August 15, 1996, and which, according to the 'FSP Business Report' was to have been completed approximately six months later. Central to this review was an examination of the adequacy of service levels to members of the public.

Background

My office has received thousands of complaints about the Family Support Plan since its inception.

The most frequently expressed concern has been the Plan's inability to communicate effectively with its clients. Any system relied upon by people for income is likely to be under intense scrutiny and will be the source of complaint. In the case of the FSP, persons who are recipients may have no alternative but to rely on the Plan for their income. This fact heightens the responsibility of the FSP to provide adequate service.

On August 15, 1996, all eight Regional offices of the Family Support Plan were closed as a result of an initiative to centralize services in Downsview. At this time, approximately 300 out of a total staff of 352 were given layoff notices.

The public was notified of the cessation of counter service by notices posted at each FSP office and on Court premises. The notices indicated that the Plan should be contacted for further information. Persons calling the Plan's central inquiry number received a message advising them to call another number. If they did so, a message was taken by a message-taking service and the caller was advised that only urgent calls would be returned over the next week.

My office first became aware of changes to the Plan on August 15, 1996, when clients complained to us about their inability to contact the FSP. By September, 1996, the number of calls which my office received about the Plan began to escalate. Increasing distress and frustration about lack of access were expressed by clients contacting my office. FSP clients had greater difficulty in reaching FSP staff to discuss their cases. It was not unusual for people to report that they had been calling the Plan for days at a time without being able to talk to an Inquiry Clerk. By the end of September, we were receiving reports from recipients whose cases had formerly been in compliance, advising that they were now experiencing delays with respect to receipt of payments.

By the end of October, 1996, it appeared that the situation had deteriorated as the number of calls to my office regarding the transition had doubled over the previous month. My staff experienced delays of one month or more in trying to obtain responses to their inquiries. Some support recipients advised my office that they were owed several installments of support payments. Many stated that they were desperate because they could not pay their rent, or their heating bills, or buy necessities for their children. Their concerns were exacerbated by the fact that they could not directly contact the Plan. Clients often stated that they had left messages which either were never returned or were not returned in a timely fashion by FSP staff. Others reported the same experience with correspondence. Many clients indicated that their inability to receive information added to their frustration and sense of helplessness, contributing to their dissatisfaction with the services provided by FSP during the transition.

Similarly, I received complaints from payors who claimed that they had forwarded money to the FSP to be processed, but who later learned that the money had not been credited to their accounts and that their accounts had been placed in arrears. Employers complained to me that they had deducted funds, in compliance with Support Deduction Notices. They claimed that there were delays in the processing of these funds and the crediting of the FSP accounts. The consequence was confusion and considerable anxiety that applied not only to recipients, but also to the payors and employers, who were attempting to meet their obligations.

Despite many reassurances on the part of FSP that client needs would be dealt with, inquiries by my staff remained unanswered or inadequately addressed. Given the ongoing gravity and nature of the complaints I was receiving, I initiated an investigation on my own motion. I advised the Attorney General of my intention to investigate the matter in a letter dated November 15, 1996.

The Minister's Position

The Attorney General, Mr. Harnick, responded by letter, dated November 21, 1996, in which he advised that the FSP had not been functioning properly and that its reorganization had been undertaken to improve the effectiveness of the service over the long term. Mr. Harnick stressed that considerable improvement had already occurred to that point. He noted that the Plan was answering about half of all calls, instead of only six percent as was the case previously. He cited a 25% increase in productivity regarding the

processing of the cheques, and increased use of direct deposit by recipients. He also predicted that the new Family Responsibility Office would be capable of ensuring that more support monies would be directed to the recipients than had been possible under the FSP.

On February 28, 1997, I issued a summary relating to tentative conclusions and recommendations that I was considering making under section 21 of the Ombudsman Act. The Attorney General responded by letter dated March 10, 1997. Meetings were held on March 21, 25 and 27, 1997,

with various officials from the Ministry of the Attorney General (the Ministry), including the Deputy Attorney General on two occasions.

In his letter of March 10, 1997, the Attorney General noted that when he took office, the Plan was receiving 50,000 client phone calls per day and he suggested that this was a "telling indication of long-term, poor client service". He also indicated that the government believed, in good faith, that the "re-engineering" of the Plan would bring about better service at a lower cost. Both the Minister and Ministry staff have emphasized that the reorganization of the plan was carried out in conjunction with legislative changes aimed at providing better service through strengthened enforcement.

The Investigation

While I acknowledge the Attorney General's position regarding the long-standing need to address problems with the Plan, and recognize that the reorganization took place in connection with legislative amendments intended to improve support enforcement, my investigation focused solely on the issue of service delivery during the transitional period. I have not made an assessment of the likelihood of success of the new organizational structure, or of the merits of the legislative amendments relating to support enforcement. What I have investigated is the journey that the Plan embarked on in August, 1996, when it reorganized the method of service delivery.

During my investigation, we interviewed 24 individuals drawn from current government employees, former employees and private sector partners, including officials from the Royal Bank (the Bank).

The materials provided to my office by the FSP included a lengthy 'FSP Business Report' which contained a nine page Transitional Plan.

During the interviews my investigators were advised of the preparation of at least three Cabinet documents. These documents purportedly contained legislative and policy information and the history and projected outcomes of the new organizational structure. Some portion of these documents has been referred to as the 'MB20'. The Business Report, which contains a section entitled, "Milestones," indicated that a Cabinet document had been approved on July 17, 1996 and the same or another document had been approved by Management Board on August 13, 1996. It was my opinion that the

information in this document might be useful in assisting me to understand how it was intended that an acceptable level of service was to be achieved during the transition.

After a number of requests were made for this document, on February 24, 1997, the Attorney General certified that to produce the document might involve the disclosure of the deliberations of the Executive Council, and access to this document was denied pursuant to cl. 20(1)(b) of the Ombudsman Act.

My investigators were advised that the decisions regarding the planning of the transition were made by the Cabinet. The Ombudsman Act does not apply to the deliberations and proceedings of the Executive Council (s. 13(b).) Without the 'MB20' document, it has been difficult to determine where Cabinet decision-making ended and the Ministry and FSP decision-making began. My investigation has been limited as a result.

The following is the information on which I have based my conclusions and recommendations.

The FSP Re-Engineering

The Minister has emphasized that it was the history of problems with the FSP which was the driving force behind the changes at the Plan. However, the information I have received suggests that part of the impetus for what the FSP has termed the re-engineering of the Plan was fiscal in nature. My investigators were advised that, in the autumn of 1995, the Ministry had informed the FSP that, by 1998, it would be required to reduce its operating budget by 35%. It was expected that a 20% fiscal savings would be achieved in 1996 and 15% savings would be achieved in the 1997 fiscal year. Although I was given no documentary evidence to confirm these figures, they were substantiated by various individuals during the course of my investigation. My staff were also advised that the FSP had requested that the Ministry limit the first year fiscal savings to 15%.

However, it is my understanding that this request was denied.

My investigators were advised that in order to meet both its fiscal and efficiency objectives, the Plan undertook an evaluation of its services and resources. I understand that several options for change were considered and staffing requirements were apparently addressed in each.

Considerations included the positions and skills required, staffing levels and associated costs.

My investigators were advised by a number of FSP staff that financial savings were as important as the desire to reconfigure operations in order to improve services. It was frequently speculated in various interviews that the layoff notices were given to 85% of the staff to meet the Ministry's fiscal target in which salary costs would be dramatically reduced.

The deliverables of the business plan listed in the Business Report were improved justice service for support recipients and children fiscal savings efficient and effective public service program.

However, it remains unclear how financial considerations were weighed in the planning of the reorganization. Cabinet documents which may have revealed the priority placed on fiscal savings have been shielded from my review through certification by the Attorney General. Consequently, I have not been able to confirm the significance of financial considerations in the Plan's reorganization, or in the approach adopted regarding layoffs. While fiscal savings was one goal, it is certainly clear that it was not the only goal. The fact that legislative changes were introduced in an attempt to strengthen support enforcement, also indicates that fiscal considerations were not necessarily the overriding objective of the transition. However, the manner in which the transition was carried out, through massive layoffs and a period of time where only essential services were to be provided, may indeed have been dictated by financial concerns.

Pre-Transition

My investigation revealed that by January 1996, one of the options considered by the FSP was a plan to centralize its operations. Subsequently, in late January, 1996, a confidential document outlining this option found its way into the hands of FSP employees. We learned that the employees, upon receiving this information, began to question the Ministry and the FSP about its intentions.

My investigation identified that after a protest by staff to the Deputy Minister's Office, employees were encouraged to submit cost-saving proposals. Until the Minister's announcement, FSP staff were told that no details could be provided, as no decision had been made by the Cabinet. This was conveyed both through the Ministry and FSP's senior management. In interviews with my investigators, both FSP and other Ministry staff advised that the inability of FSP employees to obtain specific information on the Plan's future, coupled with the Ontario Public Service Employees Union (OPSEU) strike in March 1996, resulted in low staff morale and increased levels of stress due to uncertainty about the Plan's future.

In May of 1996, a management team comprised of senior FSP managers, regional managers and regional counsel, was advised that Cabinet would be considering a proposal for a new consolidated organization. A committee of senior FSP managers began seriously considering how a centralized organization would function if a decision was taken to consolidate the business of the FSP. My information indicates that the work of this group was handed over to two project directors recruited from outside the Plan. They began the operational planning for the implementation of the transition in June, 1996. A number of FSP corporate and operational managers advised that they had no knowledge whatsoever of how the input they provided was being factored into the planning of the reorganization.

As the project directors had no knowledge of the Plan's daily operations, they had to rely on FSP personnel for specific program information. The perception of some of those interviewed by my staff was that this information was being provided in a vacuum, and that the lack of a contextual understanding on the part of the project directors detracted from the usefulness of the information being provided. A number of these individuals who provided input later became members of the transition team, but only after the transition had begun.

The committee which was established in the spring of 1996, included a number of FSP Regional Managers. The committee considered various scenarios to improve service delivery, including a centralized model. The Minister has indicated that many of the suggestions made by managers and staff were incorporated into the new program. These included legislative changes to provide stronger enforcement tools and operational changes to the automated call response system and technology system. It appears that input regarding the issue of service delivery during the transitional period was not sought prior to August 15, 1996.

The transition was initiated on or about August 15, 1996, with the delivery of layoff notices to the affected FSP staff. My investigation revealed that on August 14, 1996, managers were informed about the regional office closures and the layoff notices to be issued the next day to the majority of Plan staff. One person reported to my investigators that the Assistant Deputy Minister was in communication with the managers throughout the day on August 14th but it was not until late afternoon that day that she informed them the program would be centralized and staff would be laid off. The oral instructions provided to Regional Managers were that the offices were to provide essential services, as had been defined in the Business Report, until the closure of their offices. The majority of regional staff and some head office staff were to receive layoff notices and could elect either to take pay-in-lieu of notice and leave immediately or to stay and work through the notice period. In addition, remaining staff were expected to execute the physical move. My investigators were told that there were no specific instructions provided to the Regional Managers as to how essential services would be delivered with whatever staff remained. The regional offices suspended counter services that same day or shortly thereafter, and immediately locked their doors to the public.

The Transition

According to the Business Report, the centralization would be accomplished by applying the OPSEU essential services strike plan model during the period from August 15, 1996 to October, 1996. FSP managers had had experience with this model during the strike in February and March, 1996. Senior Ministry staff advised me that it was determined that the program could provide essential services, including enquiry, cheque processing, "hot tips" enforcement and limited financial adjustments with one third of staff augmented by temporary personnel, staff from other divisions, consultants and the Plan's private sector partner. The Transitional Plan forecasted that it would take approximately six months to move from the regional model to a centralized organization.

Human Resources

As staff are essential to the provision of services, one of the primary issues I considered in my investigation was staffing levels. Staff layoff notices were given to approximately 300 employees or 85% of the FSP staff on August 15, 1996. Notice was given to Regional Managers at a later date.

All those receiving layoff notices were given the option of taking "pay-in-lieu" or of working their notice, a decision which had to be made within three days. Our review found that approximately 60% of the staff who received layoff notices left rather than working the six month notice period.

The investigation shows that the "take-up" rate of pay-in-lieu of notice was projected to be between 25% and 50%. Because a larger number of employees left the organization instead of working their notice, fewer employees than expected remained to carry out both the Plan's essential services and the relocation to Downsview.

My investigators were advised that these "take-up" rate estimates were based on the Ministry's limited experience with other layoff situations and its consultation with Management Board Secretariat. Senior Ministry staff advised my investigators that the implementation of the human

resources aspect of the reorganization was one of the first major restructuring projects subject to the new OPSEU Collective Agreement and as such was a "learning experience" for all parties.

Although service delivery during the initial phase of the transitional period was to be based on the OPSEU essential services strike plan, the strike plan called for a certain number of people to remain in specific positions in designated locations. According to Senior Ministry officials, the layoff on August 15, 1996, was based on the Ministry's belief that a maximum of 50% of staff would leave and that the operation could be run with a third of the staff complement. Senior Ministry officials have also advised that although consideration was given to requiring certain individuals to work their notice period, this approach was rejected.

The collective agreements governing FSP employees provide that the pay-in-lieu of notice option is a management prerogative, to be used in accordance with its operational requirements. I

understand that requiring the employees to work their notice period was not considered to be a viable option, as the Ministry had fears about the possibility of employee sabotage, lower productivity and poor staff morale.

The rationale given for not staging the issuance of layoff notices was to prevent staff who were not laid off from being disadvantaged in competing for new positions in the organization. This was because under the newly-negotiated Collective Agreement, the

first opportunity to apply for restricted positions was given to persons on the surplus list. Therefore, any FSP staff not laid off immediately would be disadvantaged when they were later laid off, as they would only have access to new positions if vacancies remained.

The information provided to my staff indicates that 125 employees (program-wide) was considered to be the number of people required to perform the Plan's essential services during the transition. According to the Business Report, the figure of 125 was arrived at when it was determined that the 98 people who were considered essential for delivery of services during the OPSEU strike were inadequate to meet the demands.

My investigators were advised that the Downsview location had been selected as the site for the centralized operation, in part because it was thought that more Regional staff in southern Ontario might be interested in applying for the new positions. As a result, the requisite 40-kilometre residency restriction on application for new positions was removed in order to permit employees within commuting distance to apply for the Downsview positions. The reasons given to my investigators for this "incentive" was that it would be desirable if the former employees who had knowledge of the program applied for the new positions in Downsview, and it was thought that eliminating the 40-kilometre restriction would encourage employees who had been laid off to apply for the positions and work out their notice period. It appears that the assumption that the Downsview location would attract the majority of staff from surrounding areas (e.g., Hamilton and Whitby offices) was wrong. My staff were advised these personnel left in greater numbers than anticipated. This was one of the factors which led FSP to rely on the hiring of a large number of temporary staff in order to provide essential services.

The Business Report provided for the hiring of temporary and contract personnel if staffing levels fell below the 125 staff level deemed necessary. My investigators were advised that 60 temporary employees were hired from August 16, 1996 onwards to do basic updates, open the mail and process cheques. These temporary personnel supplemented the existing contract personnel who were working out their notices. It is worthy of note that my investigators were advised that prior to the transition, temporary personnel were already being used extensively.

Service Delivery

Central Inquiry

On August 15, 1996, the FSP ceased to provide counter services to the public and the regional office doors were locked. Service to the public was now to be provided by mail, fax and telephone only. The public was notified of the cessation of counter service and initially informed about how to access the Plan by the posting of signs at the entrance points to Regional offices and the Courts. My investigators were advised that the public was unable to access the Plan during the first week of the transition, as staff had either departed, having taken "pay-in-lieu" within the three days allotted for making this decision, or were attending information and/or counselling sessions.

Callers were advised that only urgent messages would be returned.

The Central Inquiry system consisted of two Call Centres - one in Sudbury with a staff complement of eight, the other in Toronto with a complement of seven. The Transitional Plan indicates that it was intended to have both Call Centres operational until October, 1996, when the calls would be re-routed and the inquiry lines eventually transferred to the Downsview location.

However, when employees at both Call Centres received their layoff notices on August 15, 1996, all those in the Sudbury Call Centre opted to take the pay-in-lieu and to leave the same day. This action necessitated an immediate re-routing of all calls to the Toronto Call Centre.

In the Toronto Call Centre staff levels decreased by 50%, which left four people to respond to all inquiries from throughout the province. It is my understanding that during the ensuing weeks, staff were "borrowed" from those who were still at work in Regional offices. In addition, a service consisting of approximately 22 temporary personnel, the majority of whom could only take messages, was put in place late in September. This provided the caller with the option of being placed "on hold" until someone was available to take the call, or to call another telephone number where they could leave a message with a person. While the public was now able to get through to the Plan, they were not getting adequate information. Given the volume of calls and the limited number of experienced FSP personnel available to respond, calls were not returned in a timely manner.

While Mr. Harnick advised in his response to my letter of intent to investigate that there was a significant increase in the number of calls being answered, it was the experience of my office that providing only a message-taking service resulted in greater frustration for many clients, who were still unable to get basic information about their case, or who were told that someone would get back to them, without knowing who, or in what time frame.

My staff received complaints from clients who had left messages with the Plan that were not returned. In some cases where client calls were returned, they were told their case was too complex or that a supervisor would call back the next day, and then they would wait in vain for the call. Such clients would then contact my office seeking intervention on their behalf.

One of the proposed actions in the Business Report was to inform the Ombudsman and MPPs' offices of the FSP's reduction in services. In Ombudsman Ontario's case, this did not occur.

When complaints reached a very high level in my office, an emergency case-handling strategy had to be improvised so that FSP could deal with the large increase in complaints from Ombudsman Ontario. In the past, Ombudsman inquiries were directed to FSP regional offices. Since these offices no longer existed, all inquiries had to be sent through various designated personnel, first at 720 Bay Street, then at the Downsview office and

finally at the Sudbury office. This ad hoc response, which itself was unsuccessful, heightened my concerns about the FSP's service delivery.

Ombudsman Ontario's volume of complaints increased by 51% from July to October, 1996.

Constituency assistants from various MPP's offices advised my staff that the number of complaints they received during the transition period also increased significantly.

FSP mailed letters to clients and other stakeholders in September, 1996 to advise them of the changes in service delivery. As the FSP continued to experience problems and delays in processing and posting payments, income sources were contacted directly by telephone to clarify cheque processing issues, such as where to send payments or how to format support deduction information. Confirmation of the information was sent by facsimile. I understand that these and other actions brought many cases back into compliance.

Cheque Processing

In the Minister's response to my letter of intent to investigate, he indicated that as a result of the reorganization, there had been a 25% increase in the productivity of the processing of cheques.

Prior to the transition, the processing of payments was done by account representatives in each of the Regional offices, who reviewed the remittance to ensure that it was ready for processing. It is my understanding that if any of the required information was missing, the cheque was placed in a "suspense" account until the requisite information could be found. Once this information was identified, the cheque was processed manually within a 24 to 48 hour period.

It is my understanding that in April, 1996, the FSP began a "controlled phase-in" of the Electronic

Data Interchange (EDI) initiative that it had developed with the Bank. This initiative would allow the Bank to electronically process FSP's payments. This was to be a gradual process. As a result, one month prior to the transition, the Bank was processing 33% of FSP's cheques. The remainder of the cheques continued to be processed manually at the Regional offices.

Until recently, the Bank was unable to process any payment that was incomplete, as it had no means of either manually or electronically verifying the payor, case number, or payment amount.

Therefore, all incomplete payments were returned to FSP for manual processing. My investigators have been advised that in response to the volume of manual processing required, FSP has recently developed a CD ROM that provides the Bank with the

necessary information to identify an account without any breach of FSP's confidentiality provisions.

As of August 15, 1996, a significant portion of the cheque processing was being done manually.

While this was considered an "essential service", I note that the individuals who performed this function all received notice of layoff and were given the option to take pay-in-lieu of working the notice period. I understand that the cheque processing function was then delegated to remaining personnel, temporary personnel and additional service was requested from the Bank.

According to the information obtained in the course of my investigation, the vast majority of staffing resources during the transition went to processing payments, as had occurred during the OPSEU strike. However, it is my understanding that the requirements for the volume of cheques to be processed, within the expected time of 24 to 48 hours, exceeded the capacity of the numbers of staff who remained to perform the work. When this point was reached, the Regional Offices were instructed to bundle up whatever cheques they were unable to process and send them to the Bank.

As I understand it, the Bank had been advised of pending changes to the Plan but it was never provided with any specific information until later in the transition period. My investigators were also told that it appeared the Ministry assumed the Bank would be able to immediately process a greater volume of cheques. The Bank, however, was not able to meet these unrealistic expectations.

During the transition, I understand that the FSP's 55 Yonge Street location began to receive cheques from the Regional offices as they closed, as well as the "excess" of cheques from the Bank that could not be processed in a timely manner. As it was clear that the remaining FSP staff could not be expected to handle the volume of cheques, a significant number of temporary staff were hired to assist in the daily functions and to clear the seven to ten-day backlog that had occurred in some instances. It appears that by November, 1996, FSP's remedial actions, coupled with staff working overtime and double shifts, brought the cheque processing time back in line with the Plan's expectations.

It is my understanding that the Bank continues to return to the FSP any cheque that it is unable to process in a timely manner, or that it has been unable to clear from the suspense account. I have been advised that the Bank has been able to increase its resources and it is now accurately processing up to 80% of FSP payments.

On September 12, 1996, the Ministry issued a press release stating that the Ministry acknowledged computer problems had created delays in the processing of support payments in the past two months. On September 25, 1996, the media reported that the Ministry had announced that it would reimburse FSP participants for expenses incurred as a result of the delays in receiving payments. On January 14, 1997, in response to

questions in the Legislature, the Attorney General advised that information on compensation could be obtained through the Plan's automated telephone system and he provided a number to call. The message said that if a recipient has NSF charges, or interest penalties for late rent or mortgage payments, during the time period September and October, 1996, he/she should submit a claim, including receipts, to the FSP. The Plan also advised my staff on March 20, 1997, that it will reimburse individuals for interest penalties for late utility payments, as well.

My investigators were advised that no notices were mailed out to FSP clients to advise them of the availability of compensation or the compensation criteria. FSP staff have advised that as of February 28, 1997 there were 15 applications for compensation relating to the transition. Ten individuals have received compensation totalling \$526.00. The remaining five are under consideration.

Enforcement Action

One of the primary obligations of the FSP is to enforce support orders. The Transition Plan provided that enforcement would take place where "hot tips" were received. FSP personnel were unable to provide any information on the level or the range of enforcement actions taken as the Ministry only tracked compliance rates during this period. Ministry staff have advised that enforcement actions were recorded in individual files, but that compiling reports to track enforcement during the transition was not regarded as a priority. My investigators were told that no statistics were available. However, they were advised that cheque processing was given a priority above all else.

Analysis

The stated long-range purpose in restructuring the Plan was to ensure that all those entitled to support payments would receive them in a timely fashion. I fully support this goal and hope that the Plan is successful in achieving it. However, in reviewing the FSP's transition to a centralized organization, it appears to me that far greater emphasis should have been placed on the quality of service provided to clients.

While I find it difficult to accept that all decisions relating to the transition planning were made by Cabinet alone, this is what my investigators were advised. I am precluded from reviewing the decisions made by Cabinet. However, it is ultimately the Family Support Plan that is responsible for the administration of the Family Support Plan Act and which must be held accountable for service delivery during the transition.

While cheque processing is an extremely important function of the Plan, it does not appear that adequate preparation was done to ensure that cheque processing during the transition would not be disrupted. Assumptions were made about the availability of the technology, which were invalid.

The delays in cheque processing led to severe hardship on the part of FSP clients. As FSP recognized there were such problems, it established a scheme for reimbursement of

expenses incurred due to delay. However, the criteria for reimbursement are restrictive. No proactive steps have been taken to make potentially affected clients aware of the availability of and criteria for reimbursement. Given that the Plan took responsibility for the cheque processing delays, it is incumbent on the Plan to adequately publicize the availability of the scheme to all who may be eligible.

The staffing levels during the initial period of the transition also contributed to the delays in cheque processing and the inability of the Plan to adequately respond to other client needs. The Business Report indicated that initially only essential services would be provided, similar to a "strike" situation. This may have been acceptable, if staffing levels had remained sufficient to provide core services. However, this was not the case. Laying off 85% of the staff simultaneously and extending the option of taking pay in lieu of notice to all those who were laid off, led to a situation where those employees who remained worked under extraordinary pressure in an attempt to meet the Plan's objectives. Although this was not intended, it was the predictable result of the manner in which the layoffs were managed.

The approach adopted by the Ministry left too much to chance. Unlike the OPSEU strike plan, there was no guarantee that the right staff would remain in the right places and in the right numbers to ensure adequate service delivery. While I recognize that there may have been some difficulties associated with requiring certain individuals to work out their notice periods, I believe that this is an option that the Ministry should have considered more thoroughly. An employee working his or her notice period would still have had the advantage of being on the surplus list when applying for job openings. Although concerns of sabotage and poor morale were raised, these are challenges to be managed in a way that ensures adequate service delivery. On balance, I believe more emphasis should have been placed on the Plan's obligation to serve its clients.

Assumptions regarding the attractiveness of the Downsview location and the general likelihood that a greater number of employees would decide to work out their notice period proved wrong. The result was that a large number of untrained temporary staff had to be used and the FSP had to respond to the transition in crisis mode. Cheque-processing and communications with the public all appear to have suffered as a consequence.

Unfortunately, the Plan did not monitor overall levels of enforcement activity during the essential services portion of the transition. There appear to be no data to indicate how many "hot tips" were received or "actioned" during the period from August 15, 1996 to November, 1996. Based on the information provided during this investigation, it is not clear to what extent enforcement action was taken. The evidence my investigators received was that cheque processing was given priority.

Given this, and the fact that cheque processing suffered for a period of time, I am very concerned that enforcement activities may well have declined during this period.

According to the Plan's legislative mandate, the enforcement of support orders is a primary obligation. The Ministry has indicated that overall monitoring of enforcement was not a priority.

However, I believe that the effort involved in tracking overall levels of enforcement activity would have demonstrated public accountability for this core function.

It may be that some of the difficulties the FSP experienced during the transition could have been avoided if better internal communication had existed. While an attempt was made to solicit input from all staff following the "leaked document" incident of January, 1996, and the Plan later requested input on various possible service improvements, employees and managers alike expressed the view that they had no notion of how or whether their feedback was taken into account. Indeed, many managers do not appear to have been consulted in a constructive manner about key issues during the planning of the transition and appear to have been only notified about the critical issue of layoffs and altered service delivery on the eve of the transition.

FSP clients communicated an acute level of frustration and desperation to my office which they attributed to the inadequate service provided during the transition period. My own staff experienced tremendous difficulty getting inquiries answered and appropriately addressed. It may have been that the Plan was answering more calls during this period, but quantity does not necessarily result in quality. The quality of service actually delivered remained unacceptable.

The manner in which the transition was carried out by the FSP resulted in hardship for the recipients that the Plan was designed to benefit. It also created many difficulties for payors and income sources. Very important lessons can be learned from this experience, particularly with the prospect of continued restructuring and further reductions throughout the public service.

By November, 1996, the Plan was in a position to provide more than essential services. However, my office continues to receive many complaints regarding service provision by the FSP. I am concerned that the effects of the period when only essential services were to be provided may not have subsided. I will continue to monitor this situation closely and if necessary, I will conduct a further review of the FSP operations.

Conclusions

1. The Family Support Plan's omission to ensure an adequate level of service for its clients during the transition was wrong.

[Ombudsman Act, R.S.O. 1990,c.0.6, s. 21(1)(d)]

2. The Family Support Plan's omission to retain sufficient trained personnel to ensure the provision of essential services during the transition was wrong.

[Ombudsman Act, R.S.O. 1990,c.0.6, s. 21(1)(d)]

3. The Family Support Plan's omission to monitor its enforcement actions taken during the transition was unreasonable.

[Ombudsman Act, R.S.O. 1990,c.0.6, s. 21(1)(b)]

4. The Family Support Plan's omission to adequately notify its clients of the availability of and eligibility criteria for reimbursement of expenses incurred due to delays was unreasonable.

[Ombudsman Act, R.S.O. 1990,c.0.6, s. 21(1)(b)]

Recommendations

1. The Ministry of the Attorney General and the Family Support Plan should evaluate the restructuring experience with a view to sharing the lessons of the experience with other Ontario

government bodies which may be considering restructuring and which may be assisted by the knowledge of the experience.

[Ombudsman Act, R.S.O. 1990,c.0.6, s. 21(3)(g)]

2. The Ministry of the Attorney General and the Family Support Plan should apologize for the frustration and hardship experienced by clients and other stakeholders as a result of their omission to provide an adequate level of service during the transition.

[Ombudsman Act, R.S.O. 1990,c.0.6, s. 21(3)(g)]

3. The Family Support Plan should adequately notify its clients of the availability of and the eligibility criteria for reimbursement of expenses incurred due to delays.

[Ombudsman Act, R.S.O. 1990,c.0.6, s. 21(3)(b)]

Ministry's Undertakings in Response to the Ombudsman's Recommendations

The Ministry has expressed reservations about certain aspects of my tentative report and conclusions. However, I am pleased to confirm that the Minister has accepted or already taken action respecting my recommendations. A number of undertakings have also been given as to how my recommendations will be implemented. The Ministry has also agreed to advise me of how it has carried out its undertakings by the end of June, 1997.

Recommendation #1

The Minister has agreed that it is desirable to share the analysis of this experience within the Ministry and with others in government. He has indicated that senior management has already begun to share this experience. The Ministry has also undertaken to carry out the following actions over the next several months.

The Ministry has undertaken to specifically address my concerns regarding the human resources and labour relations aspects of this re-organization with those divisions of the Management Board of Cabinet responsible for human resources and labour issues.

The Ministry is developing a guide to the planning of "business improvement exercises". It will address both policy and operational issues. The Ministry has undertaken to use the FSP

experience as a case study. This case study will be prepared by the Ministry and will be shared with the Cabinet Office Centre for Leadership, to be used across government with Ministries undertaking similar restructuring exercises.

The Ministry has also indicated that the Director of the Family Support Plan will share this experience with all Directors of the Ministry at the Assistant Deputy Ministers' and Directors' meeting in June, 1997.

The Deputy Attorney General has undertaken to share this experience with his colleagues in Ministries undergoing similar exercises and with the Deputy of Management Board of Cabinet who is responsible for the approval of all restructuring exercises across government.

In addition, the Ministry has advised that the Attorney General will share this experience with his colleagues in Ministries undergoing similar exercises and with the Chair of Management Board of Cabinet who is responsible for the approval of all restructuring exercises across government.

I have encouraged the Ministry to circulate my report as a means of maximizing the learning experience.

I find that the Ministry's proposals for sharing the lessons of the restructuring experience adequately and appropriately address my first recommendation.

Recommendation #2

The Minister has noted that he plainly and unambiguously accepted responsibility for the service disruptions which took place and has apologized publicly on more than one occasion. He has also indicated that as changes to the Plan continue to be implemented, the Ministry will continue to make it clear that it accepts accountability for service disruptions, whenever they happen. I find that the Minister's apology in the Legislature and the media, as well as the commitment to continue to acknowledge accountability, adequately and appropriately satisfies my second recommendation.

Recommendation #3

The Minister has accepted my recommendation that the Plan adequately notify its clients of the availability and eligibility criteria for reimbursement of expenses incurred due to delays. The Ministry has advised that the cost of a direct mailing to all clients would be prohibitive. However, the Ministry has undertaken to add information regarding reimbursement to the information available on the automated data response system menu. I understand that this system is used by approximately 18,000 callers a day. The Ministry has also undertaken to ensure that clients will have access to Plan staff who can assist them with applying for reimbursement and that the automated message will reflect this. The Ministry has advised that this additional information should be available on the system by the middle of May, 1997.

The Minister has also given me his commitment to ensure that better client communications is an important focus of the Plan's operations.

I find that these proposals are an adequate and appropriate response to my third recommendation.