

THE RIGHT PATH



VISION Equitable treatment for all.

MISSION The Alberta Ombudsman provides oversight of the Provincial Government to ensure fair treatment through independent investigations, recommendations and education.

VALUES INTEGRITY, RESPECT,  
ACCOUNTABILITY AND  
INDEPENDENCE

We also value a working environment that fosters personal and professional growth and development, collaboration and teamwork, and innovation and creativity.

*“We help Albertans navigate through bureaucracy. Like a ship in the ocean, these subtle corrections are made continually, ensuring the passage is a smooth one for the passengers.”*

Peter Hourihan,  
Alberta Ombudsman



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Peter Hourihan

# Message from the Ombudsman

## Helping Albertans navigate through bureaucracy

I am pleased to introduce the 47th Annual Report of the Alberta Ombudsman for the 2013 – 2014 fiscal year. I have held this position for the past two-and-a-half years, and we have undergone numerous changes and advancements, seeking to optimize the service we provide to Albertans.

This is extremely important. When Albertans contact our office, they're likely to already be frustrated. Chances are they've been on the phone with government authorities, written letters or filled out forms, perhaps stood in line, appealed decisions, and argued for what they feel is right. That's why we felt the concept of navigation would be an appropriate theme for this year's annual report.

Navigation is something our office is consistently engaged in. In fact, you might say it's one of our specialties. Our expertise with navigation applies to both the public entities we investigate, and the services we provide individual Albertans when they complain of unfair treatment.

Over the past year, our activities have all

been, in some way, aimed at helping the public navigate the complex system of government, agencies, boards, commissions and other entities. We've sought to help authorities improve processes and decision-making. We know decision-makers in the public service face their own challenges.

### GETTING THE WORD OUT

One way we've done this is through awareness. In fact, one of our strategic priorities is to raise awareness of what our office does by showing how we help Albertans with complaints, and how we work with the authorities behind those complaints.

This year, our mission on that front has ramped up. In addition to our usual activity in Edmonton and Calgary, we visited several communities to hold formal community presentations and consultations with investigators. In the south, we visited Lethbridge and Medicine Hat. In the Peace Country, we travelled to Grande Prairie and Peace River. In central Alberta, we journeyed to Red Deer and Lacombe. In every community, we met first-hand with Albertans



who had complaints and concerns regarding unfair treatment.

These are valuable meetings. In many cases, people simply don't know what our office does, how we work, or how to navigate through the bureaucracy to find the answers and accountability they're looking for. Even if we can't help someone directly (either their complaint is non-jurisdictional, or they haven't yet gone through the required steps to take on an appeal or review), our office will help guide them in the right direction.

Our awareness efforts extend to government and other authorities under our jurisdiction. Our last annual report contained a guidebook for decision-makers. Its aim was two-fold. First, the goal was to help them write clear and fair decisions. Second, the guidebook sought to help them learn about the administrative fairness guidelines that drive our work and should be the basis for their interactions with the public. We have provided guidebooks to folks throughout the past year, and have received positive feedback on their usefulness.

We also created an e-newsletter aimed directly at employees of government and other public bodies who typically interact with our office during investigations and inquiries. We're calling it *Ombudsman at Work*, and the mission is to highlight success stories and best practices. By shining a light on positive

work done by those in and near government, we hope to inspire similar behaviour in areas that may need improvement.

We also continue to meet with Deputy Ministers, heads of other authorities and professional colleges, and visit MLA constituency offices to ensure there is a broad understanding of our role. Moving forward, we plan to investigate opportunities to provide more hands-on awareness and educational efforts.

#### MORE MEANINGFUL INFORMATION

In addition to our normal reporting of complaint numbers and types, this year's annual report also brings back a feature from previous issues: the numbers of recommendations stemming from our investigations into the various public entities under our jurisdiction. We also include examples of our recommendations, as it's important for government, and the public, to be aware of what we're asking of the public sector – and how they change and adjust their practices and policies.

#### FINE-TUNING OUR OPERATIONS

Last year, I was appointed Alberta's first Public Interest Commissioner. One of the requirements of the *Public Interest Disclosure (Whistleblower Protection) Act* is a review of the legislation by 2015. We think this is an ideal time to also focus on the *Ombudsman*



Ombudsman Peter Hourihan speaks with CTV reporter Stephanie Weibe, following a public presentation in Red Deer in March 2014.

Act, our governing legislation. Although it has seen some updating, the Act is more than four decades old, and we feel it's time the Alberta legislative assembly considered more updated and consistent language. This will modernize the legislation, and bring it more into line with the acts governing other independent legislative offices. (For example, the Public Interest Commissioner's own governing legislation has a stated purpose, while the *Ombudsman Act* lacks one.)

We also have three own motion investigations underway. Of course, the foundation of our work largely rests on investigating individual complaints, which not only address each complainant's concerns, but often address

issues which benefit all Albertans. Our work will continue to focus on individual complaints, and making sure the average Albertan is being treated fairly, but we also want to focus on our own motion investigations to ensure systemic problems are being addressed. I will be able to report on the findings of these current own motion investigations in next year's report.

This year we visited all 10 provincial correctional facilities. It was an excellent opportunity to view the conditions of the institutions, and get the word out to correctional staff and inmates of the services we provide – and the importance of those services.

As noted, the past year has been particularly busy as we have added the Public Interest Commissioner's role to our overall operations. While it is a separate office, we share staff and resources. This approach has allowed us to hire a communications manager to support both offices. I am pleased to report that on the Ombudsman side of our operations, we have not lost any efficiencies or personnel, and we've strengthened our communications presence – as can be seen through our awareness efforts.

We are also making progress updating and improving our technological capacity. In particular, a new case management system will be implemented in 2014, and will improve how our analysts and investigators manage and report their investigations and other contacts with the public – and the public sector. This will strengthen our critical analysis capacity, enabling us to focus on priorities and provide better information to the legislative assembly, and to Albertans.

We continue to advance our strategic planning efforts, and ensure we are delivering the best and most efficient service to Albertans. Our office continues to embrace our value-added services (like our alternative complaint resolution and informal resolution processes, as well as our referral service), and we will keep exploring initiatives to enhance our work and meet the needs of our clients.





Peter speaks with the Rotary Club in Grande Prairie during a visit to the region in October. Joining him on the trip was a team of investigators, who met with several residents with concerns about unfair treatment.

I am often asked to explain the biggest change we made in the past year to improve fairness for Albertans. My answer won't make headlines. That's because our recommendations generally involve more subtle shifts or changes in policies and procedures to ensure Albertans in similar situations are treated fairly.

As I mentioned at the outset, we help Albertans navigate through bureaucracy. Like a ship in the ocean, these subtle corrections are made continually, ensuring the passage is a smooth one for the passengers.

# Our Role

The Alberta Ombudsman has the authority to investigate decisions, actions and recommendations made by a jurisdictional authority. Individuals who have concerns or complaints about the fairness of administrative actions by Alberta government departments, agencies, boards, commissions, designated professional organizations, and the patient concerns resolution process of Alberta Health Services may bring these matters to the Ombudsman. Contact may be made by a phone call to the office, through a letter, through the online complaint form located on our website, or in person.

If the initial contact is made by phone, the call will be directed to an intake officer who determines the caller's issues and whether the concern is with an agency jurisdictional to the Ombudsman. If the concern is not jurisdictional, the caller is referred to the appropriate source for information or assistance.

## **APPEAL MECHANISMS**

The caller may have a concern regarding the actions of a jurisdictional body but may not have used all available appeal processes. The *Ombudsman Act* requires complainants to pursue resolution through these processes before seeking help from the Ombudsman. If all appeal processes are not exhausted, the

intake officer will provide information on options and processes available to the caller.

Callers with a jurisdictional complaint who have completed the appeal processes may be able to resolve their complaint through informal resolution. For example, the caller may be an inmate who brought a concern to the correctional centre director but has not received a response. Rather than ask the inmate to make a formal written complaint to the Ombudsman, the intake officer may contact the director, provide information and inquire about the status of the inmate's concern. The intake officer may determine the director's response was sent but not received or the call may prompt a more timely response to the inmate. Whatever the outcome, such informal action by our office is an attempt to successfully resolve the issue in a timely fashion.

For all other oral complaints, the intake officer explains the process of making a written complaint by online complaint form or by letter. The caller is advised of the process that occurs once the Ombudsman receives a written complaint.

## **COMPLAINT ANALYSIS**

The *Ombudsman Act* states all complaints to the Ombudsman shall be in writing. A complaints analyst reviews written complaints. The analyst will consider whether:

- The complaint is about a department or agency under the authority of the *Ombudsman Act*.
- The complainant has exhausted all avenues of appeal.
- The complaint is a matter before the courts.
- The complainant has been directly affected by the action or decision being complained about.
- The complainant has third party representation.
- The complainant has come forward in a timely manner.

The analyst will also identify the issues within the complaint. Anonymous complaints are not acted upon.

If the Ombudsman accepts the complaint, there are two options for resolution: an Alternative Complaint Resolution (ACR) may be attempted or the matter may proceed to a formal investigation. In both cases, the file is assigned to an investigator.

#### ALTERNATIVE COMPLAINT RESOLUTION

The ACR process is a less formal process for handling complaints. It may be pursued for

the following complaints:

- Those which may have a reasonable chance of resolution within 21 days.
- Those which involve fewer or less complex issues and are specific to the complainant.
- Where a less formal complaint resolution would be appropriate.

In order to proceed with an ACR, the process must be agreed to by both the complainant and the complained-about department. After the issues are clarified with the complainant, a department representative is contacted and possible avenues of resolution are discussed. Examples of potential resolutions include the provision of additional information exchanged between parties or negotiation of further actions by either party. The Ombudsman's investigator facilitates the complaint resolution but does not advocate for the interests of either party. If the matter is successfully resolved, the file is closed. If ACR is unsuccessful, the matter is reconsidered for formal investigation.

#### FORMAL INVESTIGATION

A formal investigation begins with correspondence to the complainant and the Deputy Minister responsible for the department or the head of the agency. If the complaint involves actions of more than one department,

files are opened with each department. The correspondence outlines the parameters of the issues for investigation and the letter to the department usually includes a copy of the complaint letter or the details from the online complaint form. The department is asked to provide a written response, which should include all relevant documentation, policy and legislation. The investigator reviews this response and files materials relevant to the complaint and interviews appropriate department staff members to determine if there is additional information related to the identified issues. The investigator also interviews the complainant to obtain any additional information or clarification of the issues. The investigator may interview anyone believed to have information relevant to the investigation and request copies of all pertinent documents that the complainant or others may have in their possession.

Once all information is gathered, the investigator analyzes the information based on the principles of administrative fairness and prepares an investigation report. This report identifies the issues investigated and provides background for the complaint. Information relevant to each issue is described and analyzed and conclusions are explained. Based on the analysis and conclusions, the investigator recommends a resolution for each issue to the Ombudsman.

## ADMINISTRATIVE UNFAIRNESS

If administrative unfairness is identified, the issue is supported. The issue is not supported if the actions or decisions do not demonstrate administrative unfairness and are consistent with legislation, policy and the principles of administrative fairness. For administratively unfair issues, the Ombudsman recommends a remedy that must be consistent with the nature of the unfairness. For example, if a decision was written in an administratively unfair manner, the Ombudsman may recommend the decision be rewritten or amended to rectify the deficiencies. If a hearing was conducted in an administratively unfair manner, the Ombudsman may recommend the decision be set aside and a new hearing held.

## INVESTIGATION CONCLUSION

At the conclusion of the investigation, the Ombudsman reports his findings on unsupported complaints to the complainant and the department or agency investigated. The decision identifies each issue investigated and the findings or conclusions.

On supported complaints, the Ombudsman shares his findings and recommendations with the Deputy Minister of the department or agency head and gives that person the opportunity to respond. When the

Ombudsman makes a recommendation, he relies on the power of persuasion as he does not have the authority to require an action. There are occasions when the Deputy Minister or agency head agrees with the findings of administrative unfairness but will offer a different option for resolution. The recommendation for final resolution will be one that is acceptable to both the Ombudsman and the Deputy Minister or agency head. Once agreement is reached on a resolution, the conclusion is shared with the complainant. On the very rare occasion when no agreement is reached between the Ombudsman and the Deputy Minister or agency head, the Ombudsman has the power to report to the Minister, the Lieutenant Governor in Council and ultimately to the legislature.

Most recommendations for resolution result in an action that directly impacts the complainant. Other recommendations correct a systemic issue that affects more than one person and improves the process or system within a department or agency.

## OWN MOTION INVESTIGATIONS

The Ombudsman has an additional investigative power to conduct an own motion investigation, initiated at his own discretion. For example, an own motion investigation may result from a number of questions about the administrative fairness of a program that have come to the Ombudsman's attention through various investigations. When commencing an own motion investigation, the Ombudsman advises the Minister and the public and reports publicly on his findings upon conclusion.

## COMMITTEE-REFERRED OR MINISTERIALLY-ORDERED INVESTIGATIONS

The *Ombudsman Act* contains two other ways in which the Ombudsman may commence an investigation: a committee of the Legislative Assembly may refer a matter to the Ombudsman for investigation or a Minister of the Crown may order the Ombudsman to conduct an investigation.



# Administrative Fairness

## INTRODUCTION

Natural justice and administrative fairness are at the core of Ombudsman investigations. Natural justice is to administrative fairness what due process is to criminal law. For example, if an accused is not informed of his or her rights, there is an error in process. Similarly, if an individual is denied a service but is not informed of their right to appeal, the process is flawed.

The application of administrative fairness in decision-making affects people in a variety of ways. They range from administrative tribunal decisions (including workers' compensation benefits, income support benefits, or disciplinary sanctions for inmates in provincial correctional centres), to situations where there is a less formal (or no formal) process.

The Alberta Ombudsman uses the following guidelines to assess whether a situation has been dealt with in an administratively fair manner.

## CHAIN OF LEGISLATIVE AUTHORITY

What legislation created the authority or power to make a decision? And who can make that decision?

The powers of government departments, agencies, boards, commissions, designated

professional organizations, and the patient concerns resolution process of Alberta Health Services are derived from statute. Legislation may grant the organization the ability to make decisions, or it may grant the decision-maker the authority to exercise discretion based on parameters set out in legislation or in policy.

Another element of chain of legislative authority is the understanding of the decision-maker. The decision-maker must be able to understand he or she has authority to make a decision, and that the decision is consistent with legislation, regulation or policy.

## DUTY OF FAIRNESS

Duty of fairness means there must be procedural fairness in decision-making. Greater procedural protection is required if there is:

- No right of appeal established within a statute.
- No further appeal mechanism within a department, agency, board or professional body.
- A substantial effect on an individual's rights (such as loss of financial benefits).

Decisions made by administrative bodies often have a more immediate and profound impact on people's lives than a court decision. Flowing from these decisions is a duty to act fairly and to make procedurally fair decisions.

The duty of fairness is flexible, depending on the statute involved and the nature of the decision. The degree of fairness depends on the effect of the decision on the rights of the individual, and whether legislation established an avenue of appeal.

### PARTICIPATION RIGHTS

Was the individual given a full and fair opportunity to present his or her case to the decision-maker? Was there full disclosure of the case against the person, to the person?

A decision-maker should ensure a person has sufficient time to respond when requesting information. A tribunal should also invite all parties to provide written submissions or present orally at a hearing. These actions provide a meaningful opportunity to be heard.

### ADEQUATE REASONS

Canadian courts impose a common law obligation on administrative decision-makers to provide adequate reasons.

There must be a rational connection between the evidence presented and the conclusions reached by the decision-maker. The decision-maker should be able to answer the question, “Why did you make that decision?”

It is not enough to outline the evidence and

arguments made by the parties. There must be a rational connection drawn between evidence and conclusions, including a clear explanation of how relevant legislation, regulation or policy was applied. Decision-makers should also be able to explain what evidence was rejected, and why it was rejected. A well-written decision must address the major arguments raised by all parties. While decision-makers are not required to address every point or piece of evidence, they must address the major evidence they relied on (or rejected) to make the decision.

### APPREHENSION OF BIAS

Decision-makers must demonstrate impartiality and independence when making decisions. “Impartial” applies to the state of mind or attitude of the decision-maker so there is no bias, either real or perceived. Impartial decisions are based on objective criteria. To be “independent,” the decision-maker must be free from interference by the executive and legislative branches of government and from other external forces such as business interests, corporate interests or other pressure groups.

Decision-makers should declare real or perceived conflicts of interest. The appearance of impartiality is necessary to maintain confidence in the decision-making process. In cases where it appears decision-makers are not objective, even when they feel they could make an unbiased and



fair decision, they must disclose the potential conflict or excuse themselves from the case.

Decision-makers should guard against forming opinions about the person or the case before reviewing the documentation and hearing from all parties. An appearance of bias might result from the behaviour of a decision-maker at a hearing, such as repeatedly silencing a party, or behaving in an aggressive or sarcastic manner. If the decision-maker was involved in the case prior to the hearing, it may appear they have prejudged the matter.

#### LEGITIMATE EXPECTATION

The principle that regular practices or promises of an administrative decision-maker should be considered forms the basis of legitimate expectation. For example, a person has a legitimate expectation that a submitted application form will be processed.

When a person challenges a decision, it is administratively fair for the decision-maker to honour promises made about following procedure, unless the decision-maker is unable to do so. In that case, the decision-maker must ensure the decision is made as fairly as possible.



Failing to meet legitimate expectations may be as simple as an official failing to follow through after agreeing to take action or write a decision letter; it becomes more complex if the authority fails to follow what may be considered a regular process without explanation, therefore treating an individual in an unfair manner.

#### EXERCISING DISCRETIONARY POWER

Discretionary decision-making can be established in policies, legislation and guidelines. Discretionary decisions cannot be made in bad faith, for an improper purpose,

or based on irrelevant considerations. Although decision-makers enjoy considerable deference which allows them to make their own decisions and determine the scope of their jurisdiction, discretion must still be exercised within a reasonable interpretation of legislation.

When exercising discretionary decision-making powers, the decision-maker must do only what he or she is authorized to carry out.

#### WAS THE DECISION REASONABLE?

This final fairness guideline is one that flows through all our investigations. A reasonable decision does not equate to whether the decision is wrong, or whether a different conclusion could have been reached. Rather, a reasonable decision shows how the decision-maker considered and assessed the arguments and evidence. If this does not appear in the decision, the complainant is left wondering how their circumstance was considered.

# STRAT PLAN

2013 – 14 STRATEGIC PLAN UPDATE

# EGIC

## INTRODUCTION

Our strategic planning process involves all employees, and includes an ongoing review process to ensure we meet not only our goals, but also Albertans' expectations. Our collaborative and progressive approach emphasizes continuous improvement to ensure our processes and interactions are effective.

Over the past year, we continued to progress our four strategic priorities:

- 1. Enhanced awareness of the Alberta Ombudsman.**
- 2. Provide an excellent service.**
- 3. Foster a positive work environment.**
- 4. Explore technology.**

We have been travelling throughout the province to bring awareness of our office to Albertans. This interaction allows us to improve on our structure and processes to meet Albertans' needs. By focusing on professional development for investigators and support for personnel, we assure they are well positioned to provide the best possible service.

An analysis of our work processes has also led to changes which have improved our service delivery. We aim to ensure the technology we use maximizes our efficiency and effectiveness, while still providing the security expected of an independent legislative office. Our key messages and approach have not changed, and minor adjustments were made to things like our logo and other branding materials as we attempt to ensure our external message is clearly aligned with our goals.

The Strategic Plan will continue to help us achieve our goals. It provides a snapshot of our activities, successes and challenges and offers both an internal and external perspective on our value to Albertans. It will also guide us in our budgeting and spending, which remain results-based.

Our Strategic Plan provides stability to our long-range focus and flexibility to ensure our short, medium and long-term goals address future challenges. We are committed to being innovative, and to changing as required to provide the best service to Albertans.

# Strategic Priority One:

## Enhanced awareness of the Alberta Ombudsman

**Goal:** Increased awareness of the Alberta Ombudsman's office with government authorities.

**2013 – 14 Targets:**

- Meet with authority heads as needs arise.
- Meet with health profession college heads as follow-up to 2012 – 13 annual report.
- Continue meetings with Deputy Ministers.
- Continue to meet with MLA constituency office staff.
- Develop a quarterly e-newsletter aimed at jurisdictional public bodies.
- Distribute our Administrative Fairness Guidebook (target audience is public service employees with authorization to make front-line decisions).

**Results:**

- Ombudsman and Deputy Ombudsman held 22 meetings with authority (11) and health profession college heads (11) throughout the year.
- Meetings held with seven Deputy Ministers.
- Meetings held with 34 MLA constituency offices.
- Two issues of quarterly e-newsletter distributed to target audience (December 2013 and March 2014).

**Goal:** Increased awareness with Albertans.

**2013 – 14 Targets:**

- Presentations and community tours (with focus on seniors and rural areas).
- Redesign Ombudsman website.
- Facebook page launch.

**Results:**

- Hosted 33 presentations and community tours (including visits to Peace River, Grande Prairie, Lethbridge, Medicine Hat and Lacombe).
- Website redesigned and launched October 2013, including a home page photo/news carousel, a search function, and a language translation feature.
- A social media feasibility study will be completed this year.

**Goal:** Enhance awareness of the office through rebranding.

**2013 – 14 Targets:**

- Redesign the Ombudsman logo.
- Redesign Ombudsman publications and promotional items.

**Results:**

- Following the redesign of the Ombudsman logo and brand (and the development of identity guidelines) in September 2013, the website, brochure, business cards, stationery and other materials were subsequently altered to reflect our new corporate branding colours and corresponding logo.



# Strategic Priority Two:

## Provide an excellent service

**Goal:** Reorganize the office structure to improve service delivery.

**2013 – 14 Targets:**

- Create an own motion protocol to include benchmarks.
- Develop criteria for analysis of own motion issues to investigate.
- Monitor team structure and effectiveness.

**Results:**

- Criteria for analysis of own motion issues to be incorporated into Ombudsman policy manual, to be finalized in 2014 – 15.
- Three own motion investigations were launched in 2013 – 14.
- A protocol to be developed based on results of current own motion investigations.
- Evaluation of team structure identified need for additional investigative resources; hiring process commenced.

**Goal:** Establish effective performance measures.

**2013 – 14 Targets:**

- Conduct a mid-year evaluation of the effectiveness and applicability of performance measures.

**Results:**

- Progression request process based on performance evaluation and experience implemented.

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**Goal:** Review internal processes and identify opportunities for efficiencies.

**2013 – 14 Targets:**

- Review current work processes to identify areas for improvement.

**Results:**

- New policies and processes relating to file intake and analysis implemented.
- New electronic investigation reporting process implemented.

- New electronic file management process implemented.
- Project team commenced design of a new case management system which is scheduled to go live in June 2014.
- Review of policy manual commenced in 2013 – 14 and revision of policy manual to be completed in year 2014 – 15.

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**Goal:** Ensure communication with complainants and government authorities is consistent and effective.

**2013 – 14 Targets:**

- Effectively communicate the Ombudsman’s role, process and findings.
- Complete investigations and make findings in a timely manner.
- Create a recommendations database.

**Results:**

- Regularly scheduled meetings held with authorities; six meetings to review investigation results.
- 185 formal investigations completed in 2013 – 14 – 24% of which were closed in under six months and a further 41% closed within one year.
- 35 Alternative Complaint Resolution files completed – 43% of which were concluded in 10 days or less and a further 23% concluded in 20 days or less.
- 2.9% increase in number of files carried over at fiscal year-end.
  - » Oral complaints are up 14% from 2012 – 13.
  - » Written complaints are up 11% from 2012 – 13.
- Recommendations database created in current system on an interim basis pending implementation of new case management system in June 2014.

# Strategic Priority Three:

## Foster a positive work environment

**Goal:** Define and validate a positive work environment.

**2013 – 14 Targets:**

- Review internal code of conduct.
- Institute employee recognition program.
- Review the integration of both Edmonton and Calgary offices.
- Implement professional development opportunities for staff.

**Results:**

- A code of conduct and guidelines for a recognition program for staff is complete.
- Improving communication and integration between the Calgary and Edmonton offices has been enhanced through improved video conferencing equipment to ensure better quality connections to discuss operational matters and issues.
- The organizational structure continues to support the integration of the Calgary and Edmonton offices.
- Comprehensive information on development opportunities is available to staff, with on-going review of professional development to enhance staff performance.

**NOTE:** Positive work environment activities will be an ongoing operational business requirement. Therefore, this priority will be removed from future strategic plans.

# Strategic Priority Four:

## Explore technology

**Goal:** Ensure technology is used effectively.

**2013 – 14 Targets:**

- Explore new case management options and e-file tools (software solutions, portable scanners).
- Acquire new case management system; configure and test new system; develop plan to deal with former case tracking system data.
- Staff training for new case management system; implement new system.

**Results:**

- Over the course of 2013 – 14, new technologies were incorporated to improve efficiencies and procedures. The majority of effort was dedicated to the competition, selection, and implementation processes for new case management software.

- The new software will allow the migration to a paperless environment, improve investigation efficiency, and provide better metrics and statistical reporting for the office.
- Implementation and customization of the new software encompassed both Q3 and Q4.
- Other innovations include continuing to explore shared services with other independent offices of the Legislature to maximize effort and efficiencies.
- Implementation has been divided into two phases, with Phase 2 and staff training scheduled for Q1 and Q2 of 2014 – 15.

**Goal:** Maintain credibility through secure technology.

**2013 – 14 Targets:**

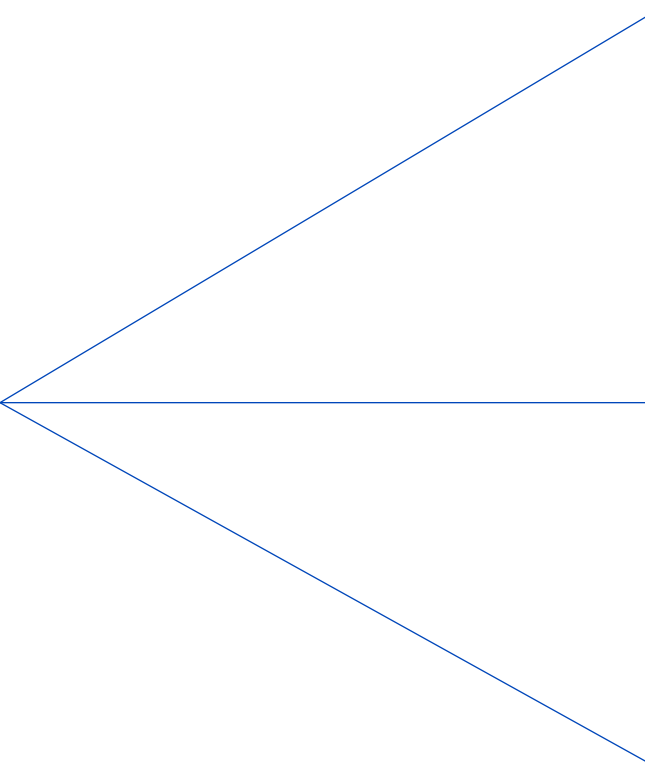
- Removed from the 2013 – 14 and 2014 – 15 strategic plans, as it is an ongoing business requirement.

# Efficient Investigations

Our aim is to conduct thorough and comprehensive investigations – while ensuring we employ the right type of investigation for the right complaint<sup>1</sup>. At the same time, we try and improve our efficiency and the time required to conduct and complete an investigation.

Since 2009 – 10, our office has closed an ever-growing number of investigations within one year – while taking on a growing number of investigations. This means we are making progress in managing our investigations more efficiently – which means helping more Albertans get the answers and solutions to their concerns.

<sup>1</sup>We employ various types of investigations depending on the nature of the complaint. These range from informal (for example, we often help callers by making inquiries on their behalf, which can take, in some cases, a matter of hours to resolve) to more formal, and often lengthier, investigations. Other complex factors also influence the time taken to complete an investigation, including historical issues, multi-jurisdictional bodies, and overlapping legislation and departments. As well, the number of investigators in our office has grown in recent years.



FOUR YEARS AGO (2009 – 10)

- 140 investigations closed.
- 68 were less than a year old.

TWO YEARS AGO (2012 – 13)

- 172 investigations closed.
- 106 were less than a year old.

LAST YEAR (2013 – 14)

- 185 investigations closed.
- 121 were less than a year old.

# Building Better Relationships to Deliver Better Outcomes

As the Director of Administration for the Edmonton Remand Centre (ERC), Kevin Kieser knows the value of developing and fostering positive relationships – no matter how busy and hectic his office gets.

And when it comes to working with Alberta Ombudsman investigators, Kieser and his team have taken a responsive, proactive approach to Ombudsman requests for information, particularly during investigations.

“I’ve always believed in the personal touch, and recently we’ve been able to develop some positive relationships with Ombudsman investigators,” says Kieser. “That gives us the ability to help develop a familiarity with our operations, and the complexities of a jail environment and the people that work here. For us, that’s a good thing.”

Kieser and his team have worked closely with Daniel Johns, an Ombudsman investigations manager, and Kirsty Larsen, an investigator. To date, the cooperation has helped both sides.

“We often receive calls from inmates that result in us looking for further information from the ERC,” explains Larsen. “Kevin and his staff have been very helpful in looking into my

inquiries, and getting back to me in a very timely fashion and, if required, his office will get further information and updates to the inmates. And when it comes to investigations, they’re also quick to respond to requests for interview bookings, as well as providing further information and answers.

“Having contacts within the ERC who are helpful, cooperative, and respond in a timely fashion allows for a much smoother process.”

When Ombudsman staff investigate a complaint at the ERC, they often work directly with Kieser and his staff, who coordinate interviews and file reviews.

Over the past two years, between April 1, 2012 and March 31, 2014, the Ombudsman received 164 oral complaints from inmates at the ERC, as well as 52 written complaints. Currently, there are six active investigations underway.

“I track and very diligently work with the managers who assist us and gather the information, and try as much as possible to work within the timelines,” reports Kieser. “We then connect with the Ombudsman investigator who’s been assigned to the case. There’s been some great interaction between Ombudsman investigators and our people working on these cases, to make sure we understand what the Ombudsman is looking for.”



KEVIN KIESER

**EDMONTON REMAND CENTRE**  
**Our Mission Vision and Values**

**Our Mission**  
*The Edmonton Remand Centre, as part of an integrated justice system, together with our stakeholders, contributes to the safety of all Albertans by providing humane, safe, secure custody of inmates in accordance with established procedures, while encouraging and assisting inmates to becoming contributing members of society.*

**Our Vision**

*We provide inmates with:  
 A safe, secure and respectful environment  
 Opportunities to make positive self-improvement  
 Positive role-modeling*

**We provide staff with:**

*A safe, secure and respectful environment  
 Opportunities to learn, grow and be successful and commit to continuous improvement  
 Opportunities to be members of engaged, collaborative and committed teams  
 Opportunities to be recognized as professionals.*

**We provide our stakeholders with:**

*Clear understandings of their contributions to our Centre, our commitment to continuous improvement and that we value their commitment to improving the operation of the Centre*

**Our Values**

*Be understanding and considerate  
 Be accountable  
 Act with integrity*

*Be respectful  
 Be trustworthy and trusting  
 Be fair and consistent*





It's not always easy, however.

"One of our biggest challenges here on an ongoing basis is providing the information to the person seeking it in such a way that it makes sense," says Kieser. "The jail world is quite a bit different from any other world that I can think of. It's just different here, and the challenges are different, so anything we can do to help people better understand is helpful."

The other factor is the sheer challenge of operating a facility the size of the ERC. It features seven living pods, with each boasting four living units. Most living pods

have an inmate population of just under 300 inmates.

"One living pod population is bigger than the majority of the other jails in the province, and many in Canada," said Kieser. "Essentially, we're running seven jails. It can be a challenge running something of this magnitude, as well as trying to get processes in place so everybody understands everything."

Case in point: a recent meeting with an Ombudsman investigator and ERC staff led to some initial confusion and hesitation about sharing information,

*"In the end, if we can bring down the number of complaints that go to the Ombudsman, which would suggest we're doing a better job of providing a better service, our core business, that's a good thing. It's all about trying to do a good job."* – KEVIN KIESER

largely due to security concerns. Because Kieser understood the requirements of the Ombudsman's office, he was able to work with both sides to ensure the information was provided.

"There's really virtually nothing we can't share with the Ombudsman's office, so if we can educate people on our end, it just makes it easier for everyone who's involved in assisting us to better understand that."

In the future, the Alberta Ombudsman expects to conduct more own motion investigations (which are investigations the office can launch should trends or issues in a particular organization or area be identified). Kieser says he would welcome an opportunity to work with the office to identify issues, and work to solve them.

"Let's say the Ombudsman's office gets a number of complaints about something going on in our organization, and is beginning to see

a pattern developing," he says. "I would hope the office would make contact with us. In fact, Daniel Johns recently let it be known it isn't the first time the Ombudsman received a complaint about a specific issue.

"That's helpful, because sometimes we're up to it in our ears so much around here that we might not even see patterns developing. So, from a systemic point of view, if there's a growing concern, it may be appropriate for the Ombudsman to consider notifying the director and say, 'We need to get together and have a chat because we see a pattern developing,' for example.

"Our public service principles are based on accountability, respect, excellence and integrity. We have a mission, vision and values statement that talks about respect in working with our partners. These are all the principles that guide me when I'm making decisions."

IT MIGHT  
BE LEGAL  
BUT IS  
IT FAIR?

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# Fair or Legal?

It might be legal, but is it fair?

That's one of the underlying questions we ask ourselves when government authorities and individual Albertans collide with each other as both navigate the complex maze of policies, procedures, processes and public entities that make up the province's public service.

The concept isn't explicitly spelled out in our governing legislation, the *Ombudsman Act*. But as Sandy Hermiston, the Alberta Ombudsman's legal counsel points out, its genesis can be found in Section 21 of the Act. As an operating principle, the fair vs. legal concept provides our office with a unique perspective and ability that few, including courts of law, can deliver on.

"That part of the Act talks about findings made after an investigation," says Hermiston. "It gives the Ombudsman the ability to render an opinion a particular action or decision was unreasonable, unjust, oppressive, based on a mistaken fact, or was just wrong; that sort of thing.

"When we use terms like 'unjust' or 'unreasonable,' those words really reflect the idea something is not fair, and yet not necessarily illegal. When you hear the word 'unjust,' certainly no one would think you meant illegal.

“The Ombudsman can say, ‘I recognize it may not have met the test of being illegal, but I can say it wasn’t fair and wasn’t just.’”

For example, a recent complaint involved an Albertan who complained about the treatment by a review committee’s decision involving a professional college. The college’s written decision used exclamation points and concise bullets, leaving the complainant with the uncomfortable notion they were being yelled at. The decision also largely failed to respond to some of the individual’s specific arguments.

“It’s not illegal,” explains Hermiston. “But is it fair? Is it behaviour that makes you as an Albertan feel you were treated fairly? This is supposed to be an impartial tribunal. Someone has brought a complaint forward, and claimed a regulated member of the college did something wrong. The college is in charge of making sure their member behaves professionally, protecting the public interest, and the tribunal responds by using exclamation points and not fully answering the complainant’s issues.”

Of course, because we are guided by the concept of administrative fairness (see our guidelines on page 12), we don’t want to take the place of a decision-maker, and we cannot take the role of the courts.

“At the same time, if the merits of a decision

don’t look good, we’re going to look at them and say something,” says Hermiston. “We have a fairly broad mandate, and because all we have is the power of moral suasion, there is no harm in expressing an opinion about whether the decision was right or wrong, fair or unfair, or going beyond what a court might say. If we see something that doesn’t pass the smell test, we’re going to say so.”

Complainants aren’t always pleased when we find they were not treated unfairly. This is understandable. When an Albertan brings a complaint to our attention, particularly with a benefits-driven program (such as those available through the Workers’ Compensation Board, Assured Income for the Severely Handicapped, or Income Supports), their expectation is clearly, in their minds, something was unjust. And yet, if we determine a government department or agency treated someone fairly, there can be a disconnect with the complainant’s unhappiness with the decision, or the policy that drives the decision.

“It can be a difficult conversation to have with people who have been dealt with fairly, yet they clearly don’t see it that way,” says Joe Loran, the Deputy Ombudsman. “Even in cases where we find there has been unfair treatment, our recommendations may be to change or alter an internal procedure or practice. It doesn’t always help the complainant get the outcome they were seeking.

“What’s important is we improve the process for the next person who might have otherwise

encountered unfair treatment or an unfair decision. Sometimes the outcome is we've helped provide a clearer path for the next Albertan who deals with a particular ministry or agency."

*"If we see something that doesn't pass the smell test, we're going to say so."*

#### A LOOK BACK...

Of course, these sentiments are nothing new – either for Albertans, government authorities, or past Ombudsman offices.

Previous holders of the Ombudsman position have made similar findings and observations. Whether based on the number of cases received, the types of complaint, or the frustration experienced by members of the public, it is easy to see parallels in decades past.

As one former Ombudsman noted in a paper presented to a conference in 1989:

"In the final analysis, the simple question to be answered is this: did the tribunal on the facts of a particular case act fairly toward the person claiming to be aggrieved? It seems to me that this is the underlying question which the courts have sought to answer in all the cases dealing with natural justice and with fairness.

"When we talk about justice it is often like talking about beauty, it is in the eye of the beholder. There are two main constituents in relation to most complaints received by the Ombudsman. The first constituent of course is the citizen and the second is the government bureaucracy.

"I suppose in many citizens' eyes justice is only done if they have total redress of the complaint which they have lodged with the Ombudsman office. We all know that in many instances, after investigation, the Ombudsman's office comes to the conclusion that there is little or no merit to the complaint. Of course there is some merit or indeed complete merit in the complaint registered. In each of these scenarios there are pitfalls in so far as the citizen believing that he or she has received justice."

Paper presented by F.D. Jones, Q.C.  
Federal-Provincial Conference of Ombudsmen  
Quebec City, Quebec  
1989



NAVIGATING

A COMPLEX

ENVIRONMENT

Our job, at its simplest, is helping Albertans navigate the complexities of government when they encounter difficulty with a process, or have a complaint about how they were treated.

Of course, there's nothing simple about it.

Departments, agencies, boards and commissions all continue to evolve, and, over the years, the mandates they oversee grow more complicated and often involve multiple entities with some interest or jurisdiction over the issue. As they adapt, change and attempt to meet the needs of all Albertans, so too does the way their services are delivered.

Even if they don't necessarily get bigger, provincial departments and agencies can change their internal structures, making interactions with a single department or agency more challenging. Or, departments might be merged into a so-called 'super ministry' (as was the case with the amalgamation of several departments to create Human Services). In other cases, one ministry may work with another to deliver or monitor programs – or, multiple departments interact with a single regulatory body on overlapping issues.

These aren't bad things, of course. But as government grows more complex, and as processes continue to evolve (particularly

through technology), it can be increasingly difficult for Albertans, and the government entities we investigate, to understand their rights, roles and responsibilities.

We know this because, day in and day out, Albertans continue to have challenges in navigating changing processes, procedures, and, most importantly, receiving only limited or incomplete information. At the same time, government authorities also struggle to help deliver programs and services as efficiently as possible, considering the structures and internal processes they too must navigate.

For many Albertans, finding the right path through a government's bureaucracy can be like finding their way through a maze. The comparison is apt: one common definition of a maze is an intricate network of pathways, the solution of which is an uninterrupted path from a starting point to a goal.

Finding the right path through a maze can be challenging. Staying on that path, especially in a constantly evolving environment, can be even trickier.



Our role is to find that path to fairness. The following examples illustrate the challenges involved.


### INTERCONNECTED PATHWAYS

An individual complained to our office about problems accessing coverage of the Alberta Health Care Insurance Plan (AHCIP) through Alberta Health. After reviewing the complainant's concerns, we learned another provincial department, Service Alberta, has an agreement with Alberta Health to investigate health care insurance applications.

Service Alberta's Special Investigations Unit determined the complainant did not have a

valid Alberta driver's licence, one of the pieces of identification required to be considered for AHCIP. When the complainant went to a motor vehicle registry outlet to apply for a driver's licence, it turned out Service Alberta had flagged the individual's name due to its questions about the complainant's province of residency.

This meant the individual was unable to obtain the driver's licence Alberta Health was asking for to support their AHCIP application. While those concerns may be legitimate, our initial analysis determined government does not have an appeal or review process if someone is unable to apply for a driver's licence.



This case illustrates how complex and confusing government can be, and how difficult it can be for individuals to properly navigate its twists and turns.

### DELEGATED AUTHORITY LEADS TO COMPLEXITY

Some government bodies under our jurisdiction delegate or contract some services and functions to outside agencies. This can add a layer of complexity to an investigation.

For example, the province allows its Child and Family Services Authorities to maintain agreements with delegated authorities to manage parts of its foster care services,

including recruitment, screening and training. The authorities' home care assessments may also be contracted to an outside agency.

So when it comes time to investigate a complaint, examining and analyzing the various roles and responsibilities among the many players involved can lead to increased time and steps.

### HEALTH CARE COMPLAINTS – THE (PARTIALLY) OPEN DOOR

While the Ombudsman has jurisdiction over the provincial government, one related area where we have only a small piece of jurisdiction is health. Specifically, we can investigate complaints regarding how

someone's complaint was dealt with by Alberta Health Services (AHS) through the patient concerns resolution process only.

Say, for example, you have a complaint about how a family member was treated in a provincially funded hospital. Your first call is not to our office, but to AHS's Patient Relations Department. If you've made your way through the patient concerns resolution process, and you're not happy with how you were treated, our office might be able to investigate your complaint – provided our analysis shows a possibility that administrative fairness standards might have been compromised. (For a detailed explanation of what those standards are, please see page 12).

The *Ombudsman Act* restricts our authority to investigate complaints about care and treatment at AHS facilities to the

Patient Concerns Office. For example, we look at whether that office followed relevant legislation and regulations. Did the right person(s) make the decision? Was a complainant provided the necessary and correct information related to appeals and hearings?

Of course, this doesn't mean substantive changes can't come from an investigation related to these areas. We may find a policy is in conflict with legislation, and then recommend the policy be aligned with the legislation. Furthermore, if we determine the practice of a department or an authority is not aligned with its own policy, we recommend it be aligned. For example, if legislation mandates an authority's response to a complainant be provided in 30 days, but in practice it's taking a department 45 days, we may recommend the practices or policies be changed to reflect the legislation's requirements.

Our office can also investigate health-related complaints under the *Protection for Persons in Care Act* (complaints related to the Appeals Secretariat, the panel that reviews appeals of a director's decision), as well as programs and services funded by Human Services' Persons with Developmental Disabilities program.

### AUDIT CONFUSION

The Persons with Developmental Disabilities (PDD) program runs several homes across the province for disabled adults. Those homes are operated through shared service agreements with the province, municipalities and private contracted agencies.

These agencies are required to submit annual financial statements and reports to help PDD verify funding is being used according to their contracts.

One agency contacted our office complaining it was unfairly sanctioned following an audit conducted by PDD. The agency disputed part of the first audit, so it requested an independent audit. PDD administrators pushed back against the request, and ultimately our investigation resulted in a recommendation PDD develop guidelines to allow for requests of an independent or re-audit.

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*Navigating government can be confusing and painstaking for someone personally involved in a situation where they feel they've been treated unfairly, or don't know where to turn. We can help them find their way through the maze. For a department or authority employee, the complaint or concern may seem simple or straightforward, but they work in that realm every day, and are usually accustomed to the intricacies of their policies and procedures. Our office keeps in mind that the individual Albertan who needs assistance does so rarely. Our goal is to bridge that gap, and help find that path to fairness.*

# Year In Review

April 1, 2013 to March 31, 2014

- 3,847 ORAL COMPLAINTS RECEIVED (UP 14% FROM 2012 – 13)
  - 243 INFORMAL RESOLUTION
  - 809 REFERRED TO OTHER REMEDY OR APPEAL
  - 2,298 NON-JURISDICTIONAL
  - 291 WRITTEN CORRESPONDENCE REQUESTED
  - 206 OTHER
- 1,008 WRITTEN COMPLAINTS RECEIVED (UP 11% FROM 2012 – 13)
  - 161 NEW FORMAL INVESTIGATIONS
  - 38 NEW ALTERNATIVE COMPLAINT RESOLUTION (ACR) FILES
  - 808 DECLINED FOR INVESTIGATION (REFERRED TO OTHER REMEDY OR NON-JURISDICTIONAL)
  - 1 PENDING
- 36 TOTAL ACR ISSUES
  - 28 SUCCESSFULLY RESOLVED THROUGH ACR
  - 2 UNSUCCESSFUL (NOT TRANSFERRED TO FORMAL INVESTIGATION)
  - 6 DISCONTINUED
- 239 FILES CARRIED FORWARD FROM PREVIOUS YEARS
- 1,001 FILES CLOSED AS OF MARCH 31, 2014
  - 185 FORMAL INVESTIGATIONS COMPLETED CONTAINING 223 ISSUES
    - 51 SUPPORTED ISSUES
    - 27 PARTIALLY SUPPORTED ISSUES

- 114 UNSUPPORTED ISSUES
- 31 DISCONTINUED ISSUES
- 781 NO INVESTIGATION INITIATED
  - 326 REFERRED TO OTHER REMEDY OR APPEAL
  - 14 OTHERWISE RESOLVED (WITHOUT COMPLETING A FULL INVESTIGATION)
  - 276 NO AUTHORITY TO INVESTIGATE
  - 13 DECLINED ON DISCRETIONARY GROUNDS
  - 138 INFORMATION PROVIDED
  - 14 NO RESPONSE REQUIRED/POSSIBLE
- 35 ACR FILES CLOSED
- 246 FILES CARRIED FORWARD TO 2014 – 15

**OF THE 1,008 WRITTEN COMPLAINTS RECEIVED, THE MOST COMMON AUTHORITIES BY VOLUME OF COMPLAINTS ARE:**

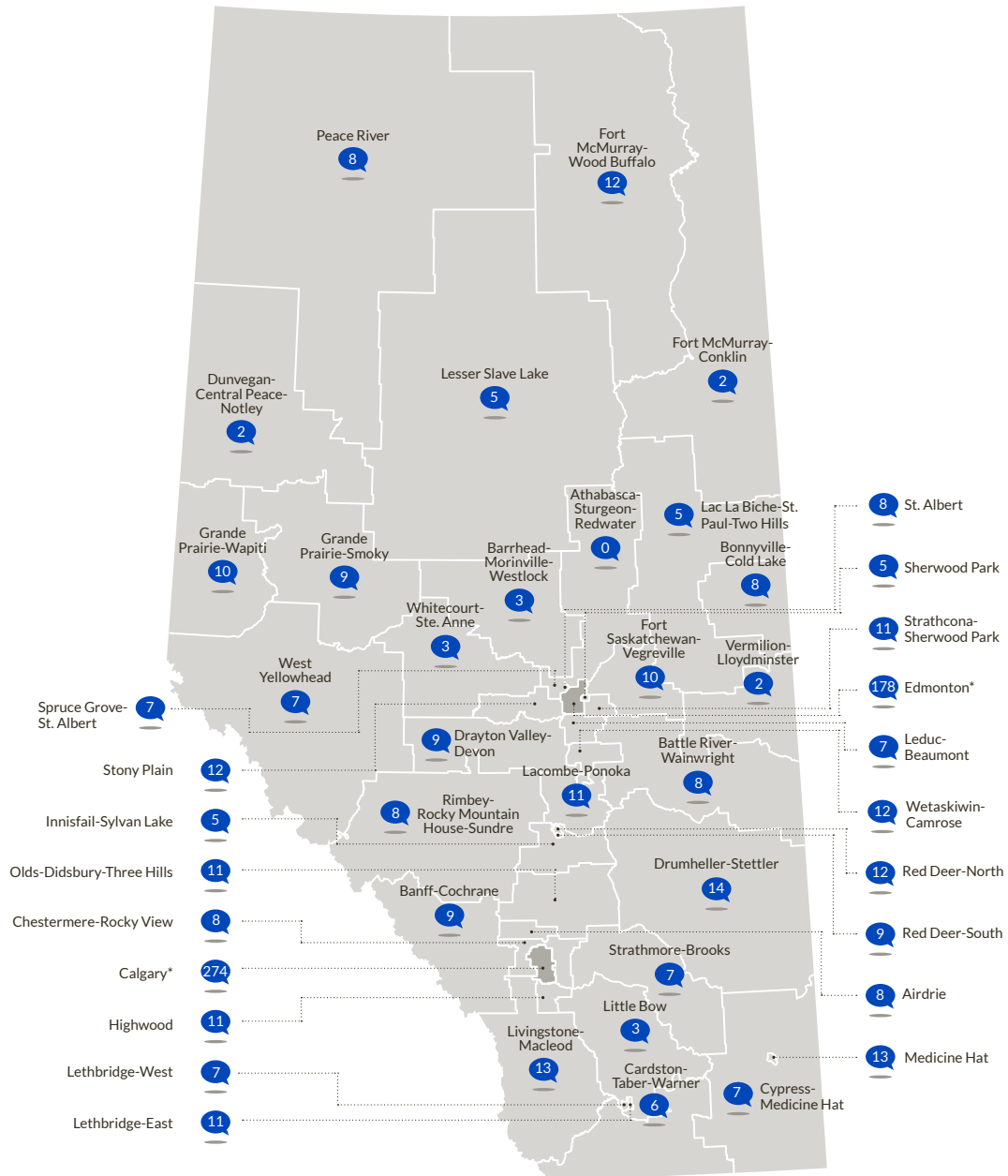
- 171 JUSTICE AND SOLICITOR GENERAL (INCLUDES CORRECTIONAL SERVICES: 109; MEP: 46)
- 148 HUMAN SERVICES (INCLUDES CHILD AND FAMILY SERVICES REGIONAL AUTHORITIES: 43; AISH: 27; APPEALS SECRETARIAT: 19; INCOME AND EMPLOYMENT SUPPORTS: 32)
- 54 WORKERS' COMPENSATION BOARD
- 52 HEALTH PROFESSIONS (INCLUDES COLLEGE OF PHYSICIANS AND SURGEONS OF ALBERTA: 36)
- 30 APPEALS COMMISSION FOR ALBERTA WORKERS' COMPENSATION

# Complaints by Electoral Division

The figures on the map refer to written complaints received between April 1, 2013 and March 31, 2014 and do not include complaints that originated in provincial correctional centres (109), Alberta Hospital (1), out of province (79), and no city/address specified/unknown (29).



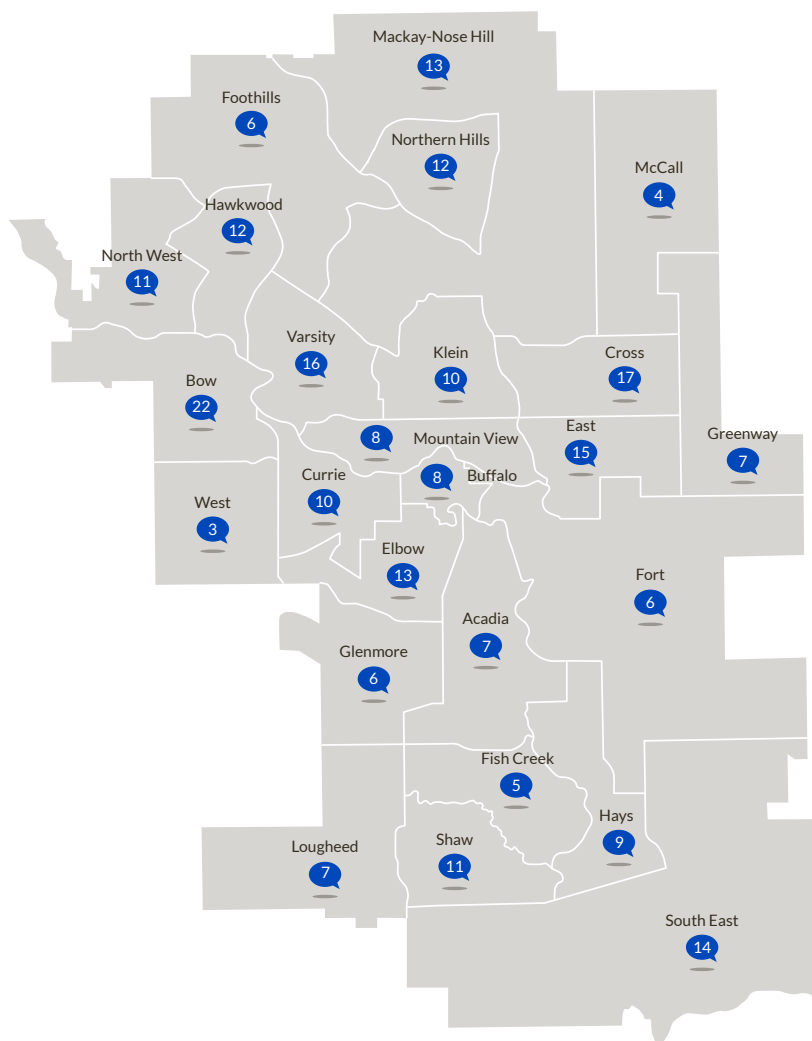
\*Denotes multiple electoral divisions in region.





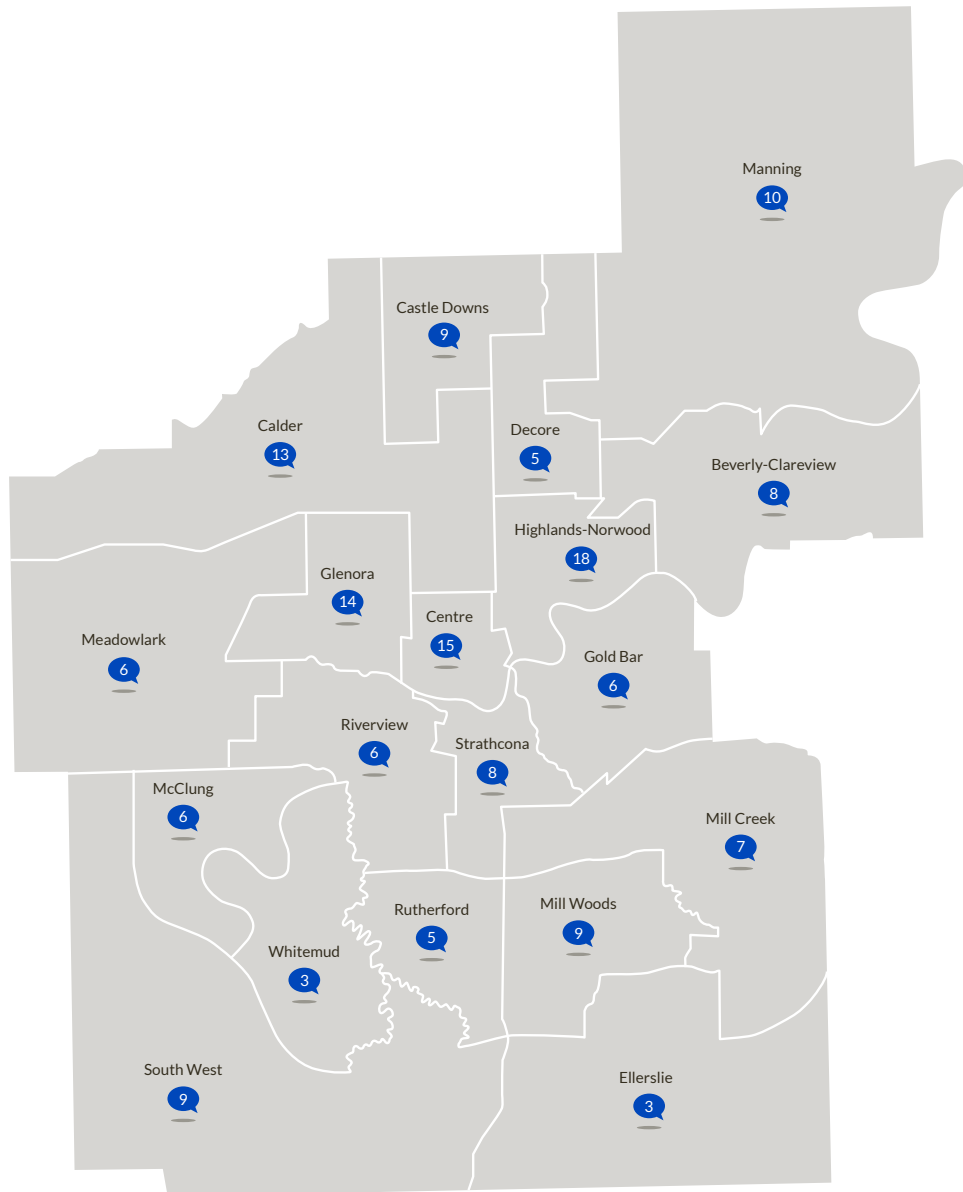
# Calgary Electoral Divisions:

The figures on the map refer to written complaints received between April 1, 2013 and March 31, 2014 and do not include complaints without an address (22).



# Edmonton Electoral Divisions:

The figures on the map refer to written complaints received between April 1, 2013 and March 31, 2014 and do not include complaints without an address (18).



# Correctional Centre Visits

In 2012 – 13, the Alberta Ombudsman received 83 written complaints involving provincial correctional services.

These covered a variety of areas including inmate complaints about the unfair removal of property from a cell, triple bunking, withholding of mail, assaults by staff, and denial of telephone calls.

With 10 correctional centres located across Alberta, it can be challenging for investigators to assess policies and procedures and understand the challenges of the environment without a first-hand look at a facility.

So, throughout October, the Alberta Ombudsman and a revolving group of investigators paid visits to all 10 institutions: the Calgary Correctional Centre, Calgary Remand Centre, Calgary Young Offender Centre, Edmonton Remand Centre, Fort Saskatchewan Correctional Centre, Lethbridge Correctional Centre, Medicine Hat Remand Centre, Peace River Correctional Centre, Red Deer Remand Centre, and the Edmonton Young Offender Centre.

“The trips were important to help us develop a better understanding of correctional policies,

and a deeper appreciation for the challenges correctional centres face,” said Kamini Bernard, a Calgary-based Ombudsman investigator who organized the visits. “Just as important, though, the tours were also a chance for correctional staff to become more familiar with our office, the types of complaints we receive and the work we do.”

The tours also provided an opportunity to speak with inmates and to view facility conditions first-hand. During one visit, for example, an investigator was able to meet separately with both a correctional centre director, and an inmate, to discuss the inmate’s complaint. During other visits, investigators, correctional centre staff, and inmates shared their own experiences and perspectives.

For Ombudsman investigators, it was a great opportunity to gain perspective on the unique situations and issues occurring in the various facilities.

“We found the institutions had many similarities in overall philosophy, but we also noted some differences,” said Bernard.

These included the age and layout of the facilities, access to local volunteers and services, offender backgrounds (such as the prevalence of gang issues), and available programming, including eyeglass recycling and bike repair, she said.

The tour demonstrated correctional services' goal of providing consistency where possible, and making valuable use of the opportunities and volunteer base available in each community.

"One thing I noted in particular was the smaller correctional centres had less concerns about violence and gangs, though conversely they were also in smaller and more rural areas, and did not have the same access to community services and volunteers," said Bernard. "Overall, we were very impressed by the professionalism, dedication, and competence of the staff at each centre."

The new Edmonton Remand Centre particularly impressed the team with its state-of-the-art features, as well as security features absent from the older facilities visited by the Ombudsman.

"We were also impressed by the youth facilities," said Bernard. "They have some great partnerships with their local school boards to ensure the educational component of a youth's incarceration is not lost once they are released. They are able to share the information with schools so a youth can pick up from where they left off during their time in the centre. They also have year-round intake into school and graduations as well. It

is a challenge for both the young offender and the facility when the curriculum is determined based on the progress of the student, and the time sentenced in the facility."

For Alberta Ombudsman Peter Hourihan, this first tour was a success.

"Our goal was to enhance the dialogue between our office and the correctional centre directors who make decisions about inmate complaints," said Hourihan. "I found the personnel were dedicated to ensuring inmates had equal access to the appropriate services, and were treated as fairly as possible given the environment. They are certainly dedicated and approach their duties with professionalism. This was borne out by the programming in place and their collective efforts to seek opportunities for rehabilitation."

The Ombudsman is considering visiting the facilities regularly, perhaps every two years, he said.

# Credibility and Collaboration Matters

Diann Bowes, an investigations manager with the Alberta Ombudsman, knows how important credibility and collaboration are when it comes to investigations involving provincial government entities.

She's worked with the Ombudsman for more than 40 years, and brings a wealth of expertise and knowledge to the office. This is one of the reasons why she was asked to speak at the United States Ombudsman Association's 34th annual conference in Indianapolis, Indiana, in October.

Bowes shared her experience with about 20 other investigators from across the globe, including representatives from Ombudsman offices from Pakistan, Hong Kong, Alaska, Hawaii and Barbados.

"Probably the most critical cornerstone of our office is our credibility," she told her colleagues.

That credibility has been forged since our inception in 1967 (our 50th anniversary will be in 2017).

"Over those years, we've invested time and energy with government departments and agencies to convince them we should be working in collaboration; that we have the same goal of ensuring systems are working well," said Bowes.

"This has been a lengthy process," she added.

"In the early years, our relationship with many government departments was less than congenial. But, as departments became more familiar with us, and as they discovered our recommendations were well-founded and based on solid evidence, our credibility and the working relationships throughout government improved."

One example of this changing dynamic is with designated professional organizations, or colleges, which have been subject to scrutiny by the Ombudsman since the Alberta government passed the *Health Professions Act* in 2001. (The Ombudsman currently has authority over 26 professional colleges; on the health front, these include colleges such as those governing physicians and surgeons, dentists, hearing aid practitioners, psychologists, and pharmacists. The Ombudsman also oversees colleges governing the accounting, veterinary medical, and agronomy professions, among others.)

“There are professional colleges who have been autonomous, self-governing entities in the past, but which are now struggling with the oversight role of the Ombudsman, in part because of increased demands by society for accountability,” explains Bowes. “What that means for us is an enhanced education role with the colleges.”

In fact, a recent investigation with one of the colleges resulted in a top-to-bottom review of not only its registration processes, but its entire governance process.

“What made that investigation somewhat unique was the responsiveness of the senior management within that college. They recognized, very early on, the nature of the problems facing them.”

The Ombudsman community is relatively small, reports Bowes, so meetings like this are valuable for trading new ideas and best practices.

“It’s very valuable to find out from colleagues what’s working, what the innovations are, and what they’re having problems with,” she says. “You can really learn a lot by attending the sessions, but also by engaging in conversations between the sessions.”

Joe Loran, the Deputy Ombudsman, also attended the conference, and shared our experience regarding the strategic reorganization of our office.

“We reviewed our operations, and restructured our office to better manage case loads and ensure we meet our strategic priorities,” said Loran. “This has resulted in improved service delivery, improved efficiencies in managing all levels of investigations, and heightened staff morale and employee engagement.”

## Did you know...

- The concept of the ombudsman has been around for quite some time.
- The Romans explored the concept, as did China’s Han Dynasty and the Christian Church in medieval Europe.
- Still, it took a little later – the 18th century – before something more recognizable to us today was created.
- In 1722, Peter the Great appointed a Procurator General for the Russian Empire. This ‘eye of the Czar’ was responsible for both the enforcement of laws, and protection against excessive administrative actions.
- By 1809, the Swedish constitution established the modern model for the office of the ombudsman.
- Alberta was a pioneer in the field, having opened the first parliamentary ombudsman’s office in North America in 1967.

# Promoting Fairness Awareness Across Alberta

One of our strategic priorities is increasing awareness of how our office can help Albertans. And one of the best ways we can build awareness is by going straight to Albertans, at home in their communities.

Since May 2013, we have visited Lethbridge, Medicine Hat, Grande Prairie, Peace River, Red Deer and Lacombe. From seniors' centres to legion halls, public libraries to community service organizations, we've worked with several organizations to hold public meetings, conduct information sessions, and provide opportunities for local residents to meet one-on-one with our investigators.

So far, the trips appear to be generating more interest in our office. Calls have increased in the communities we've visited (see charts on the following page).

"It's great to meet and inform Albertans about what exactly our office does, what we can investigate regarding complaints of unfair treatment, and the different ways we help people find the answers they're looking for," said Peter Hourihan, the Alberta Ombudsman.

"Once we explain what we can do, and what we can't do, people come away with a better understanding of how the process works. Making those personal connections certainly helps."

In Red Deer, for example, a dozen people met with investigators in March 2014. In Lacombe, 14 residents booked appointments. If these consultations lead to investigations,

the Ombudsman's office will inform the individuals and begin working with the department or agency being complained about.

For Ombudsman investigators, community visits help assist their understanding of the specific needs and issues at play in different regions of the province.

"The rural tours allowed us to promote awareness of the work we do to areas that normally would not get a lot of direct exposure to our office," said Chad Bouman, an investigator based in our Edmonton office.

"The opportunity to sit down and talk with Albertans really gives us a chance to appreciate first-hand the diversity of issues that Albertans are currently dealing with. Meeting people locally allows us to capture the issues occurring in the area. This often reveals that many people are having similar problems with the same government offices."

Bryan Michta, a Calgary-based investigator, agrees.

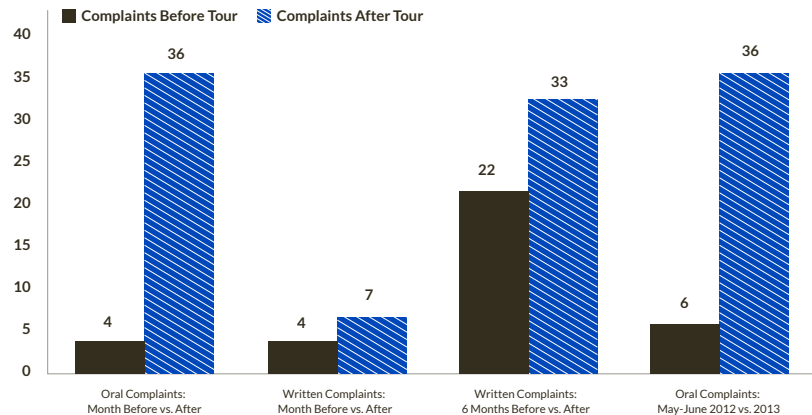
“Our visits to communities outside Calgary and Edmonton provide an important forum to meet with people, listen to their concerns, and talk about the work we do,” he said. “Creating an opportunity to sit down with someone who feels they have not been treated fairly by the provincial government, and provide immediate feedback and options to address their concern, is effective and well-received.”

Our office is always planning additional visits to Alberta communities throughout the year. If your organization or community would like a presentation or visit from Ombudsman staff, contact us toll free at 1.888.455.2756.

## INCREASED AWARENESS OF OMBUDSMAN'S OFFICE WITH ALBERTANS

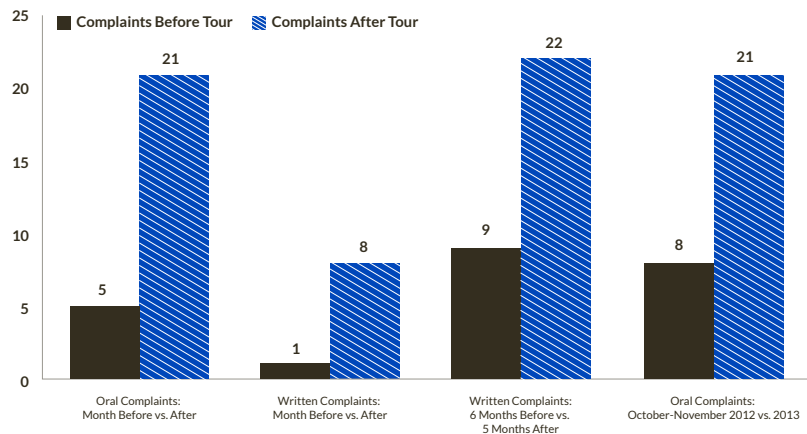
### *Lethbridge and Medicine Hat May 29 – 30, 2013*

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### *Grande Prairie and Peace River October 7 – 10, 2013*

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# Flood Preparation

## OMBUDSMAN PREPARES FOR FLOOD SUPPORT COMPLAINTS

The Alberta government responded quickly to the disastrous floods that hit so many communities, and impacted so many Albertans, in June 2013.

The province created the Disaster Recovery Program (DRP), a government-funded program designed to help provide qualified applicants with the basic essentials of life, restore affected homes to pre-disaster functional condition, and maintain the viability of small businesses and farms.

To ensure our office is fully prepared to deal with any complaints that might arise out of the disaster, once all avenues of appeal and review are complete, Alberta Ombudsman Peter Hourihan invited Colin Lloyd, Managing Director at the Alberta Emergency Management Agency (AEMA), to speak with investigators about the program, including appeals and status. As of March, over 10,400 applications for financial assistance have been received, according to Lloyd (who has since moved to Service Alberta to take on an Assistant Deputy Minister role).

The appeals process is where the Ombudsman's office will potentially become involved. With the deadline to apply for the DRP expiring March 31, 2014, the internal

appeals process will begin to ramp up. Eventually, complaints of unfair treatment could be directed to the Ombudsman's office, once all necessary appeals have been exhausted.

"We look for issues that could impact Albertans and determine what role our office could have, and prepare accordingly," said Hourihan. "While our expectation is the appeals process will be managed fairly, we do want Albertans – and government – to know we will be ready to respond to complaints if people feel they have been treated unfairly.

"The AEMA has indicated clearly to us their intent is to work with applicants in a sensitive and efficient manner," said Hourihan. "We all understand how traumatic the flood was on Albertans. As the efforts continue to progress on assisting Albertans, our goal is to ensure, when the time comes, we'll be well positioned to respond to Albertans' complaints."

Last summer, after the floods, the Ombudsman visited communities hard hit by the floods, including Drumheller and Canmore. He also met with MLA Rick Fraser, one of the associate ministers appointed to oversee flood relief efforts, as well as MLA staff in various constituency offices.



Colin Lloyd, former Managing Director of the Alberta Emergency Management Agency (AEMA), met with Ombudsman Peter Hourihan and staff in March to provide an update on the province's Disaster Recovery Program.



Communities across southern Alberta were hit hard by the floods. The Ombudsman's office stands ready to deal with complaints related to the Disaster Recovery Program's appeals process.

OWN



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MOTION

INVESTIGATION

UPDATE

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Last year, the Alberta Ombudsman created a special investigations team. Its mission was to conduct own motion investigations, which can be triggered at any time, on any matter of public interest under our jurisdiction, by the Ombudsman.

A year later, the team has three investigations underway.

“We want to increase our exploration of systemic issues, so we’ve assembled a team of investigators to delve into the issues that may be behind some of the individual complaints our office receives,” said Peter Hourihan, the Alberta Ombudsman.

For example, a resident at a provincially funded facility may complain staff are treating her unfairly. This could be a one-off event. However, a number of similar complaints could indicate a more systemic issue, a pattern of unfair behaviour – and that’s when an own motion investigation should be launched. Of course, to determine what the systemic issue is, and to track the outcome of investigations, the own motion team takes a proactive approach. It tracks trends, analyzes

internal and external data, reviews previous complaints and investigations, and monitors news and other information sources.

The three current investigations relate to: issues identified with the Citizens’ Appeal Panel and the provincial department of Human Services; delivery of health care at the Edmonton Remand Centre (ERC) and the management of the patient concerns resolution process at the facility via Alberta Health Services; and the Disciplinary Board Hearing process for provincial corrections.

The Human Services investigation is determining whether appellants are given adequate time and information to prepare for their hearings. Specifically, the investigation will focus on the actions of administrators in the department of Human Services, including timeliness, adherence to policy, and the adequacy of information.

“We’ve had long-standing concerns that Human Services is not managing their role properly in this appeal process,” explained Diann Bowes, manager of the own motion team. That could be a significant problem, she adds.

“We’re talking about people who are being potentially denied financial assistance to survive. These appeals are regarding benefits for income support for families and individuals, or benefits under the Assured Income for the Severely Handicapped, or AISH, program. A lot of these appeals are denials of AISH, and AISH of course is a program designed for the severely handicapped. These are individuals who are permanently unable to earn enough to support themselves.”

Another own motion investigation is reviewing whether the patient concerns resolution process of AHS at the ERC is functioning appropriately. This investigation will focus on inmate access to the process; the policy governing the process; contact points within the process; and the working knowledge of staff involved in the process.

“We know it can be challenging for the average individual on the street to access the health system, and the patient concerns resolution process is designed to help people,” says Bowes. “Our observation has been for the person on the street, there is smoother access to the Patient Concerns Office than inmates in a correctional centre.”

As Bowes points out, there is added value to own motion investigations, since “we have opportunities to make some wide-ranging recommendations to fix systems we may not

necessarily have the opportunity to do on individual investigations.”

For example, the team is able to take a more in-depth look at the *Patient Concerns Resolution Process Regulation*.

The Regulation is up for review in 2016, so this may be an opportunity to look into it and consider some possible improvements.

#### OWN MOTION INVESTIGATIONS- A TRANSPARENCY TOOL FOR GOVERNMENT

While the own motion team is new, the Ombudsman has launched 72 own motion investigations since our formation in 1967. In fact, one of our earliest own motion investigations, in 1973, dealt with the escape of patients from Alberta’s mental hospitals (as they were called at the time). Other reports have looked into the adequacy of day care licencing investigations (1993), conditions at remand centres (1981), foster care recruitment and screening processes (1980), and grazing leases (1976).

In 2006, an Ombudsman own motion investigation revealed a significant number of Albertans were unfairly treated after the former Agriculture and Food ministry failed to inform them of a change in the timeframe to apply for compensation under the Remote Area Heating Allowance Program. The department reimbursed 31 qualified Albertans.



Joe Loran, Deputy Ombudsman, and Diann Bowes, an investigations manager, discuss an own motion investigation report.

More recently, the Ombudsman released *Prescription for Fairness – Special Report: Out of Country Health Services* in 2009. The report centered on the Ombudsman’s investigation into whether the former Health and Wellness ministry met the needs of Albertans trying to access out-of-country health services not available in Canada, or not available in a reasonable timeframe. (52 of the 53 recommendations were accepted, and are being implemented.)

Provincial cabinet ministers can also order the Ombudsman to launch a special investigation. Since 1967, we have completed 10 such investigations, ranging from the 1989 investigation into the scandal surrounding the collapse of the Principal Group of Companies, to a report that looked into the death of a steelworker who committed suicide in the Calgary Workers’ Compensation Board office in 1991.

Both own motion and ministerial-ordered investigations are important tools which allow the Ombudsman to investigate matters to ensure Albertans are treated fairly, and processes and policies are in place to meet this expectation.

The last ministerial-ordered investigation occurred in 1995. These investigations can be an effective way to demonstrate accountability and transparency.

# Reaching Out to Those in Need

Last winter, staff in our Calgary office donated 80 items to the Seniors Secret Service, a charity that works closely with seniors groups, housing facilities, outreach programs and health care providers.

These organizations provide the Seniors Secret Service with anonymous profiles of isolated seniors, including their age, gender, hobbies, needs and preferences. The Seniors Secret Service then identifies a number of volunteer Secret Santas, who purchase gifts for their anonymous senior.

“There are lots of people in need of a donation,” said Joanne Roper, an investigations manager. “We hear from seniors quite often in this line of work, and we wanted to do our part to help seniors, in particular, who may need a little boost at Christmas or on their birthday.”

The office collected items including gloves, slippers, travel mugs, chocolate, calendars, and toiletry items.

In 2012, the Seniors Secret Service program delivered 1,977 birthday gifts, and 2,582 Christmas presents.

This is the second year the Ombudsman’s Calgary office supported this charity.

In Edmonton, 23 staff provided donations to Santas Anonymous through a Secret Santa gift exchange in the office. This is the second year staff donated to Santas Anonymous.



Staff in our Edmonton office (l - r Stacey Cuthbert, Diann Bowes, Suzanne Richford and Karen Hasson) organize a collection of gifts donated by staff to Santas Anonymous.



FINAL

CASE

SUMMM

2014



ARIES

# 1

## Citizens' Appeal Panel raises questions... and sparks investigation

A complainant was denied eligibility for Assured Income for the Severely Handicapped (AISH) benefits, so he appealed to the Citizens' Appeal Panel (the Panel).

Our investigation found it took more than a year for the hearing to be scheduled, even though the complainant asked about it several times, and was reassured it would be heard. In fact, his complaint had not been properly entered into a database. In addition, the investigation found unsupported information was used against the complainant. Specifically, a consultant's report was used in deciding against the complainant, even though the Panel administrator acknowledged she did not have a copy of it, or even understand it.

The administrator also claimed the complainant refused to grant the department access to some information, which was not true. Moreover, the administrator did not provide copies of the appeal information to the complainant before the hearing in a timely manner as required by department policy.

Finally, the Panel included irrelevant information while making its decision.

The department agreed to correct its decision, and the Panel agreed to rehear the appeal. Beyond this specific case, however, the actions of the department in preparation for the hearing caused the Ombudsman concern, particularly since several other investigations found similar problems. So, as a result of the similar files, the Ombudsman opened an own motion investigation to look at the process used by administrators in making decisions and sharing information with the complainants prior to Panel hearings.

This investigation will be completed in the next reporting year.

# 2

## Rehearing a rental dispute

A single mother complained about a Citizens' Appeal Panel (the Panel) decision that upheld a decision to deny her damage deposit and first month's rent. In the same decision, the Panel varied a portion of the director's decision, and determined she did meet criteria for a household start-up benefit – but also found she failed to meet the criteria for the damage deposit and first month's rent.

The Panel cited sections of the *Income and Employment Supports Act*, as well as sections of the *Income Support, Training and Health Benefits Regulation*, which provide information regarding eligibility criteria and the financial resources to be considered when determining eligibility.

However, our investigation revealed the Panel failed to explain how these sections applied in her case. The Panel outlined the circumstances that led to its decision

to vary the director's decision regarding the household start-up benefit. However, the Panel failed to apply these same circumstances when they denied the damage deposit and first month's rent, and they did not provide adequate reasons for the decision.

Our office recommended the matter be heard again, so the Panel could reconsider all evidence – and provide a decision that links the evidence to the decision, and explains how appropriate sections of the legislation and regulations were applied. The Panel agreed to the rehearing.

# 3

## Unlocking pensions... and a fair outcome

A complainant wrote to us raising concerns about the Financial Hardship Unlocking (FHU) program (operated by the Alberta Treasury Board and the provincial department of Finance) partially unlocking pension funds. The Locked-In Account Advisory Committee initially reviewed the complainant's matter in 2012, and denied his request to receive his complete pension. The Committee decided the individual did not satisfy all the requirements of financial hardship.

After appealing the decision, the individual received a portion of his locked-in pension funds. The complainant argued more than adequate documentation was provided with his initial application.

The Alberta government later made changes to the FHU program, and one of those was the elimination of the Committee. We opened a file to attempt an alternative complaint resolution (or ACR). Our analyst unit contacted the Deputy Superintendent of Pensions to determine whether this matter could be reviewed. The Deputy Superintendent reviewed the complainant's file, and agreed to discuss the issue directly with the complainant.

Following that conversation, the Deputy Superintendent agreed to release the complainant's remaining locked-in pension funds.

# 4

## Child care miscalculation

A complainant believed his Child Care Subsidy was miscalculated, resulting in an overpayment he was asked to return. The complainant appealed the decision on the 29th day (out of a possible 30-day appeal period).

However, an administrative snag held up his letter until after the 30th day. Child and Family Services authorized Service Alberta to collect the overpayment from the individual. This meant the overpayment went to collection before the complainant's appeal had been completed.

The appeal request was accepted and the file was reviewed regarding the calculations, which were found to be accurate and completed according to policy. The complainant was advised of this by letter.

However, our investigation found the decision to engage Service Alberta to collect the outstanding balance prior to the appeal process taking place was not administratively fair. The department recognized the possibility of this occurring in the future, and made proactive policy changes extending the time to 45 days from the decision prior to sending outstanding balances for collection. This allows additional time following the appeal period for processing, and represents steps taken to ensure this does not occur again.

An apology letter was sent to the complainant.

5

## Inmate complaint sparks own motion investigation

An inmate complained about the unfairness of the Disciplinary Board Hearing process used in Alberta's correctional centres. The Ombudsman was unable to complete the investigation because the department lost relevant information.

As the inmate had been released, there was no remedy for him, but the uncompleted investigation raised questions. As a result, the Ombudsman opened an own motion investigation to take a comprehensive look at the disciplinary hearing process. The investigation will be completed in the next reporting year.

6

## Follow the process – and do so formally

A medical professional complained about a competency requirement imposed by their college. An Ombudsman investigation found the college had the right to impose the requirement, provided it followed the process outlined in the schedule establishing the college under the *Health Professions Act*.

The college followed the process informally, but did not document its decisions in accordance with the schedule.

As there was no point in telling a college to rescind a requirement it clearly had the authority to impose only for the lack of documentation, the Ombudsman recommended formal motions (the documentation) be passed in accordance with the schedule.

# 7

## Government employee let go, and let down

An employee from an Alberta government department complained to our office shortly after being terminated from their position. After receiving Long Term Disability Income benefits, the employee participated in a Gradual Return to Work (GRTW) plan.

The department terminated the employee's position shortly after the employee was deemed fit for full-time work, based on a frustrated employer-employee relationship. Ultimately, the employer decided the employee was unable to fulfill the employment contract. Our investigation focused on both the fairness of the actions of staff within the department (related to how the GRTW process was handled, as well as the fairness of the decision to terminate the employee).

Our investigation found the department had policies and guidelines surrounding the GRTW process; however, staff within the department failed to follow them consistently. Combined with a lack of communication

between stakeholders, the GRTW plan was not monitored appropriately. We recommended the department ensure employees who monitor GRTW plans, or who supervise difficult employees, are made aware of best practices and follow department policies and guidelines. The department accepted the recommendation, and proactively started the process with staff.

Regarding the employee's termination, our investigation found the department provided the employee with expectations, but did not indicate failure to meet the expectations may result in termination. We determined the department did not follow policy and best practices to manage the employee's performance, and provided no official warnings of termination. We determined the decision to terminate the employee was not administratively fair.

We recommended changing the employee's termination from 'with cause' to 'without cause,' and for the department to take appropriate action in situations where termination is without cause. The department complied with this recommendation.



## Pension payment problem?

A complainant alleged the Local Authorities Pension Plan (LAPP) withheld information regarding a request to have his pension paid out in a lump sum, one-time payment. This was the second time the complainant contacted our office about the board's decision. In an earlier investigation, we found the board's decision was administratively unfair, and recommended the board rehear the matter – and the board accepted.

Our more recent investigation into the rehearing found the board's decision was administratively fair. It considered the arguments and evidence submitted by each party, and provided adequate reasons for its decision.

While the complaint was not supported, we recommended the board further improve its process. The Ombudsman recommended the board cite specific sections of legislation, and indicate how each section applies to a decision. During the investigation, questions arose about who finalized the decision. The board was able to provide documentation, which clearly showed its role in finalizing the decision, but failed to attach it to the file.

The Ombudsman recommended the board ensure this documentation be attached to the file so the process is clear. The LAPP had also recently made significant changes to its process of appeal; however, the link to the process on its website was out of date. We requested the website be updated to reflect the changes.

# 9

## Drilling for answers

A dentist complained he was denied a trade name for a proposed clinic he had submitted for approval by the Alberta Dental Association and College (ADA+C). The name was originally denied by the ADA+C executive council, but after receiving new information, the dentist submitted the name for reconsideration. The ADA+C accepted the new information for review, but its executive council denied the trade name once more.

Our investigation looked at both denials of the trade name. The investigation determined the ADA+C's initial denial was administratively fair: it provided adequate reasons showing why the executive council

believed the name did not apply with the Code of Ethics. However, the second denial offered no reasons, other than to repeat and confirm the name was not approved.

The Ombudsman recommended, and the ADA+C agreed, to provide the dentist with a letter clearly explaining the reasons behind the decision.

## Fair decision by WCB, but more work required

An injured worker claiming Workers' Compensation Board (WCB) benefits complained to our office.

The WCB referred the worker to a medical panel to receive an opinion regarding his specific medical issues. The injured worker initially complained to the Medical Panel Office (MPO) about the conduct of the panel, and then to our office, as he felt the response from the MPO was unfair.

Our investigation determined the complainant still had outstanding concerns he wished to address with the MPO. Although our investigation found the MPO's response to

be administratively fair, the Ombudsman recommended the worker be provided an opportunity to submit his outstanding concerns in writing.

We also determined the MPO needed to update its information package about medical panels, to align with the updated *Medical Panels Regulation*. A recommendation to use more concise language in its client satisfaction survey was also made. The MPO accepted all recommendations, and provided our office with copies of the updated policy and survey in a timely manner.

## Discrimination complaint leads to unfair treatment?

An individual complained to the Alberta Human Rights Commission about an issue of discrimination. While the complaint was settled prior to a hearing, the complainant had concerns regarding the investigation – and the fact the Commission’s position changed in relation to the public remedy it originally considered to be appropriate.

The issue was whether or not the responses provided to the complainant by the director of the Commission were administratively fair.

In this case, we found the responses of the Commission: provided detailed responses to the complainant’s concerns; explained the position taken by the Commission regarding the public and private remedy aspects of the

complaint; explained why the Commission determined the public remedy originally considered would cause more harm than good; and advised the complainant that their concerns about a staff member of the Commission had been considered. The Commission also found the complainant had been apprised of the progress on the file. Furthermore, the staff member acted professionally in dealing with the complainant.

As the investigation determined the responses were administratively fair, the Ombudsman did not support the complaint against the Commission.

# 12

## Timelines matter

A frustrated senior complained about a decision by the College of Physicians and Surgeons of Alberta to dismiss their complaint.

The complainant asked the College's complaints director to request a review of the decision via letter. However, the complaints director did not forward the letter to the Complaint Review Committee (CRC), because he determined the letter had not been mailed to the appropriate individual at the College.

In his response to the complainant, the complaints director also claimed the letter requesting a review was not received within the timelines.

Our investigation found an error was made in calculating the timeline for review – and the complainant was within the appropriate timelines. In addition to this, our investigation found the College made no attempt to contact the complainant to determine the intent of their letter, or assist them with the process.

Previous Ombudsman investigations into the College resulted in recommending further inquiries be made with complainants to understand their intentions as well as ensuring requests for review are forwarded to the CRC. The Ombudsman recommended, and the College agreed, to assist the complainant in completing a request for review, and subsequently forwarding the request to the CRC.

## Remand centre complaint

The issue for investigation was whether the response of the Calgary Remand Centre (CRC) to the complainant's Request for Interview form (RFI) regarding concerns about unfair visitor practices was administratively fair.

Our investigation found although the complainant's visitors had been added to her visiting list, it was unclear this had been completed based on the response of the visiting coordinator to the RFI. Subsequent responses from the security manager and director did not provide any clarity with respect to the approval of the visitor list. Additionally, we determined there were a number of avenues of assistance to which the complainant could have been referred;

however, the complainant was not advised of these options.

The Ombudsman recommended the CRC: ensure staff are aware of assistance available to inmates to assist in completing visiting application forms; and amend internal CRC procedures and visiting application forms to reflect the options and assistance available.

The recommendations were accepted and implemented by the CRC.

## Working it out with Alberta Works

An Albertan wrote to the Ombudsman complaining about treatment by a caseworker at Alberta Works. The Ombudsman suggested the complainant write to the area manager to explain their concerns. The complainant wrote to the area manager, but received no response.

When our office tried to contact the area manager to facilitate a response, we were told the complainant's letter might not have received a reply because Alberta Works had

been undergoing staffing changes. Our office submitted a copy of the complainant's letter, and the new Alberta Works area manager responded to the complainant, referring them to a new supervisor and a career and employment consultant.

The complainant agreed to work with these new referrals to address their primary need – to secure different employment.





# OMBUDSMAN RECOMMENDATIONS

# AN NDATIONS

Every year, the Alberta Ombudsman makes recommendations to Alberta government departments, agencies, boards, commissions, professional associations and colleges, and other jurisdictional entities.

This year, we delivered 99 recommendations following investigations into unfair treatment. These ranged from requesting a department issue an apology or rehear an appeal, provide additional clarifying information to a complaint, or develop or improve processes to better improve the services Albertans receive. The following section highlights examples of the type of recommendations we provide:

## RECOMMENDATION TO OCCUPATIONAL HEALTH AND SAFETY

An Albertan was injured on the job, and contacted our office following an Occupational Health and Safety (OHS) investigation of the incident. During its investigation, OHS decided not to send an investigation report to Alberta Justice—a submission that would have led to the consideration of charges against the complainant’s employer.

While OHS’s investigation identified a number of potential violations of the *Occupational Health and Safety Act* and the Safety Code, it did not recommend a review by Alberta Justice.

Ultimately, we determined OHS’s decision was administratively fair: several reasons were provided, and protocol was followed. However, we recommended OHS develop a formal process for referring files to Alberta Justice for review for potential prosecution, and that OHS write the complainant to explain why the investigation report was not referred to Alberta Justice.

OHS accepted and implemented the recommendations (and in fact had proactively revised its policy to refer certain files to Alberta Justice for preliminary screening).

## RECOMMENDATION TO PATIENT CONCERNS OFFICE

Following surgery and discharge from an Alberta health facility a number of years ago, a senior was prescribed a drug that required assistance of a home care nurse or licensed practical nurse.

But when the senior called Home Care for assistance, she was told because she had medical training, she could administer the drug herself. The senior was uncomfortable with this, and complained to the Alberta Health Services (AHS) Patient Concerns Office that she was being denied competent nursing care. She then contacted our office after receiving an unsatisfactory response from AHS. The senior was also concerned staff in the Health department had given misinformation about her to the patient concerns investigators.

Our investigation revealed the Patient Concerns Office had fallen short in some key areas. The senior was never provided with an adequate explanation why her complaint would not be investigated further. Nor was the senior advised of the Ombudsman’s authority to investigate her concerns. An incorrect reference was also made to legislation affecting how much information could be shared with the senior. Finally, in a letter from the Patient Concerns Office, the complainant was told the complaint process had been finalized, yet there was reference to an opportunity to appeal – certainly a confusing and unclear message.

We recommended the Patient Concerns Office address these issues, and AHS has indicated they have accepted the recommendations and would apologize for how the senior’s concerns were managed and explain how its processes have changed.

AUTHORITY	NUMBER OF RECOMMENDATIONS
Alberta Corporate Human Resources	6
Alberta Human Rights Commission	7
Alberta Pensions Services Corporation	1
ATB Financial	3
Appeals Commission for Alberta Workers' Compensation	5
Medical Panel Office	1
Patient Concerns Resolution Process	15
<b>GOVERNMENT DEPARTMENTS</b>	
Environment and Sustainable Resource Development	5
Health	1
Human Services <sup>1</sup>	24
Justice and Solicitor General <sup>2</sup>	11
Municipal Affairs	1
Treasury Board and Finance	7
<b>PROFESSIONAL ASSOCIATIONS AND COLLEGES</b>	
Certified Management Accountants of Alberta	2
Alberta Veterinary Medical Association	1
Alberta College of Optometrists	1
Alberta Dental Association and College	1
College and Association of Registered Nurses of Alberta	1
College of Dental Technologists of Alberta	1
College of Hearing Aid Practitioners of Alberta	1
College of Physicians and Surgeons of Alberta	4
<b>TOTAL</b>	<b>99</b>

<sup>1</sup> The Department of Human Services includes the following areas (brackets indicate number of recommendations we have made): Appeals Secretariat (2), Child Care Services (1), Child Intervention Services (7), Health Benefits Exception Committee (3), Income and Employment Supports (2), Employment Standards (4), Public Guardian (2) and Public Trustee (1).

<sup>2</sup> Justice and Solicitor General includes Correctional Services (8 recommendations) and the Maintenance Enforcement Program (3).

# FINANCIAL STATEMENTS

March 31, 2014





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# Independent Auditor's Report



## To the Members of the Legislative Assembly

### REPORT ON THE FINANCIAL STATEMENTS

I have audited the accompanying financial statements of the Office of the Ombudsman, which comprise the statement of financial position as at March 31, 2014, and the statements of operations and cash flows for the year then ended, and a summary of significant accounting policies and other explanatory information.

### MANAGEMENT'S RESPONSIBILITY FOR THE FINANCIAL STATEMENTS

Management is responsible for the preparation and fair presentation of these financial statements in accordance with Canadian public sector accounting standards, and for such internal control as management determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

### AUDITOR'S RESPONSIBILITY

My responsibility is to express an opinion on these financial statements based on my audit. I conducted my audit in accordance with Canadian generally accepted auditing standards. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.

An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgment, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.

I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

### OPINION

In my opinion, the financial statements present fairly, in all material respects, the financial position of the Office of the Ombudsman as at March 31, 2014, and the results of its operations, its remeasurement gains and losses, and its cash flows for the year then ended in accordance with the Canadian public sector accounting standards.

[Original signed by Merwan N. Saher, FCA]

Auditor General  
July 10, 2014  
Edmonton, Alberta

# Statement of Financial Position

As at March 31, 2014

	2014	2013
<b>Assets</b>		
Cash	\$ -	\$ 400
Receivables	16,021	-
Prepaid Expenses	6,290	4,780
Advances	2,300	2,300
Tangible Capital Assets (Note 3)	85,389	91,083
	<b>\$ 110,000</b>	<b>\$ 98,563</b>
<b>Liabilities</b>		
Accounts Payable and Accrued Liabilities	\$ 105,003	\$ 69,781
Accrued Vacation Pay	224,579	193,637
	<b>329,582</b>	<b>263,418</b>
<b>Net Liabilities</b>	<b>(164,855)</b>	<b>(214,107)</b>
Net Liabilities At Beginning Of Year	(3,125,356)	(2,870,568)
Net Operating Results	3,070,629	2,919,820
Net Financing Provided from General Revenues		
	<b>(219,582)</b>	<b>(164,855)</b>
Net Liabilities at End of Year	<b>\$ 110,000</b>	<b>\$ 98,563</b>

The accompanying notes and schedules are part of these financial statements.



# Statement of Operations

Year ended March 31, 2014

	2014		2013
	<u>Budget</u>	<u>Actual</u>	<u>Actual</u>
<b>Revenues</b>			
Other Revenue	\$ -	\$ 1,194	\$ 1,046
	-	1,194	1,046
<b>Expenses - Directly Incurred (Note 2(b) and Schedule 2)</b>			
Salaries, Wages and Employee Benefits	2,976,000	2,531,393	2,354,734
Supplies and Services	383,000	567,932	508,534
Amortization of Tangible Capital Assets	-	27,225	8,346
<b>Total Expenses</b>	<b>3,359,000</b>	<b>3,126,550</b>	<b>2,871,614</b>
<b>Net Operating Results</b>	<b>\$ (3,359,000)</b>	<b>\$ (3,125,356)</b>	<b>\$ (2,870,568)</b>

The accompanying notes and schedules are part of these financial statements.

# Statement of Cash Flows

Year ended March 31, 2014

	2014	2013
<b>Operating Transactions</b>		
Net Operating Results	\$ (3,125,356)	\$ (2,870,568)
Non-Cash Items included in Net Operating Results:		
Amortization of Tangible Capital Assets	27,225	8,346
Provision for Vacation Pay	30,941	
	(3,067,190)	(2,827,416)
Increase in Accounts Receivable	(16,021)	-
Increase in Prepaid Expenses	(1,510)	(4,780)
Decrease in Advances	-	1,000
Increase in Accounts Payable and Accrued Liabilities	35,222	3,115
Cash Applied to Operating Transactions	(3,049,499)	(2,828,081)
<b>Capital Transactions</b>		
Acquisition of Tangible Capital Assets	(21,530)	(91,739)
Cash Applied to Capital Transactions	(21,530)	(91,739)
<b>Financing Transactions</b>		
Net Financing Provided from General Revenues	3,070,629	2,919,820
Decrease in Cash	(400)	-
Cash, Beginning of Year	400	400
Cash, End of Year	\$ -	\$ 400

The accompanying notes and schedules are part of these financial statements.

# Notes to the Financial Statements

March 31, 2014

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## NOTE 1 AUTHORITY AND PURPOSE

The Office of the Ombudsman (the Office) operates under the authority of the *Ombudsman Act*. The net cost of the operations of the Office is borne by the General Revenue Fund of the Province of Alberta. Annual operating budgets are approved by the Standing Committee on Legislative Offices.

The Office promotes fairness in public administration within the Government of Alberta, designated professional organizations, and the patient concerns resolution process of Alberta Health Services.

## NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES

These financial statements are prepared in accordance with Canadian public sector accounting standards.

### (a) Reporting Entity

The reporting entity is the Office of the Ombudsman which is a legislative office, for which the Alberta Ombudsman is responsible.

The Office operates within the General Revenue Fund. The Fund is administrated by the Minister of Finance. All cash receipts of the Office are deposited into the Fund and all cash disbursements made by the Office are paid from the Fund. Net Financing provided from General Revenues is the difference between all cash receipts and all cash disbursements made.

### (b) Basis of Financial Reporting Revenues

All revenues are reported on the accrual basis of accounting.

## NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (CONTINUED)

### (b) Basis of Financial Reporting

#### Expenses

##### Directly Incurred

Directly incurred expenses are those costs the Office has primary responsibility and accountability for, as reflected in the Office's budget documents.

In addition to program operating expenses such as salaries, supplies, etc., directly incurred expenses also include:

- Amortization of tangible capital assets.
- Pension costs, which are the cost of employer contributions during the year.
- Valuation adjustments which represent the change in management's estimate of future payments arising from obligations relating to vacation pay.

##### Incurred by Others

Services contributed by other entities in support of the Office's operations are not recognized and are disclosed in Schedule 2.

#### Assets

Financial assets are assets that could be used to discharge existing liabilities or finance future operations and are not for consumption in the normal course of operations. Financial assets of the Office are limited to accounts receivable, and employee travel advances.

Tangible capital assets of the Office are recorded at historical cost and are amortized on a straight-line basis over the estimated useful lives of the assets as follows:

- Computer hardware and software 3 years.
- Furniture and office equipment 10 years.

The threshold for capitalizing new systems development is \$250,000 and the threshold for major system enhancements is \$100,000. The threshold for all other tangible capital assets is \$5,000.

## NOTE 2 SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND REPORTING PRACTICES (CONTINUED)

### (b) Basis of Financial Reporting

#### **Liabilities**

Liabilities are recorded to the extent that they represent present obligations as a result of events and transactions occurring prior to the end of fiscal year. The settlement of liabilities will result in sacrifice of economic benefits in the future.

#### **Net Liabilities**

Net liabilities represent the difference between the Office's liabilities and the carrying value of its assets.

Canadian public sector accounting standards require a net debt presentation for the statement of financial position in the summary financial statements of governments. Net debt presentation reports the difference between financial assets and liabilities as net debt or net financial assets as an indicator of the future revenues required to pay for past transactions and events. The Office operates within the government reporting entity, and does not finance its expenditures by independently raising revenue. Accordingly, these financial statements do not report a net debt indicator.

#### **Valuation of Financial Assets and Liabilities**

Fair value is the amount of consideration agreed upon in an arm's length transaction between knowledgeable, willing parties who are under no compulsion to act.

The fair values of cash, accounts receivable, advances, and accounts payable and accrued liabilities are estimated to approximate their carrying values because of the short term nature of these instruments.

## NOTE 3 TANGIBLE CAPITAL ASSETS

2014

	Cost	Accumulated Amortization	Net Book Value
Computer hardware and software	\$ 155,215	\$ 70,838	\$ 84,377
Furniture and other office equipment	33,387	32,375	1,012
	<b>\$ 188,602</b>	<b>\$ 103,213</b>	<b>\$ 85,389</b>

2013

	Cost	Accumulated Amortization	Net Book Value
Computer hardware and software	\$ 133,685	\$ 46,953	\$ 86,732
Furniture and other office equipment	33,387	29,036	4,351
	<b>\$ 167,072</b>	<b>\$ 75,989</b>	<b>\$ 91,083</b>

The total cost of tangible capital asset additions for 2013 - 14 is \$21,530 (2012 - 13 is \$91,740).

## NOTE 4 CONTRACTUAL OBLIGATIONS

Contractual obligations are obligations of the Office to others that will become liabilities in the future when the terms of those contracts or agreements are met.

Estimated payment requirements for the unexpired terms of these contractual obligations are as follows:

2014 - 15	\$ 16,520
2015 - 16	16,520
2016 - 17	13,141
	<b>\$ 46,181</b>

## NOTE 5 DEFINED BENEFIT PLANS (IN THOUSANDS)

The Office participates in the multi-employer Management Employees Pension Plan and Public Service Pension Plan. The Office also participates in the multi-employer Supplementary Retirement Plan for Public Service Managers. The expense for these pension plans is equivalent to the annual contributions of \$268 for the year ended March 31, 2014 (2013 – \$210).

At December 31, 2013, the Management Employees Pension Plan reported a surplus of \$50,457 (2012 – deficiency \$303,423), the Public Service Pension Plan reported a deficiency of \$1,254,678 (2012 – deficiency \$1,645,141) and the Supplementary Retirement Plan for Public Service Managers reported a deficiency of \$12,384 (2012 – deficiency \$51,870).

The Office also participates in the multi-employer Long Term Disability Income Continuance Plan. At March 31, 2014, the Management, Opted Out and Excluded Plan had an actuarial surplus of \$24,055 (2013 – surplus \$18,327). The expense for this plan is limited to the employer's annual contributions for the year.

## NOTE 6 STATEMENT OF REMEASUREMENT GAINS AND LOSSES

As the Office does not have any transactions involving financial instruments that are classified in the fair value category and has no foreign currency transactions, there are no remeasurement gains and losses and therefore a statement of remeasurement gains and losses has not been presented.

## NOTE 7 APPROVAL OF FINANCIAL STATEMENTS

These financial statements were approved by the Ombudsman.

# Schedule 1 – Salary and Benefits Disclosure

Year Ended March 31, 2014

	2014			2013
	Base Salary <sup>(1)</sup>	Other Cash Benefits <sup>(2)</sup>	Other Non-Cash Benefits <sup>(3)</sup>	Total
<b>Senior Officials</b>				
Ombudsman <sup>(4)(5)</sup>	\$ 242,688	\$ 34,296	\$ 9,976	\$ 286,960
Deputy Ombudsman <sup>(6)</sup>	\$ 157,910	\$ 1,850	\$ 41,834	\$ 201,594
				\$ 268,321
				\$ 170,230

(1) Base salary includes regular base pay.

(2) Other cash benefits include pension-in-lieu and lump sum payments.

(3) Other non-cash benefits include the employer's share of all employee benefits and contributions or payments made on behalf of employees including pension, health care, dental coverage, group life insurance, short and long-term disability plans, professional memberships and tuition fees.

(4) Automobile provided for April 1, 2013 – March 31, 2014, no dollar amount included in other non-cash benefits.

(5) The Alberta Ombudsman was appointed as the Public Interest Commissioner effective June 1, 2013, however, he does not receive additional remuneration for this role. The salary and benefits reflected on this statement is the Ombudsman's full remuneration. The financial statements reflect 75% of his total salary and benefits to Alberta Ombudsman and 25% to the Office of the Public Interest Commissioner. The 75/25 apportionment represents the Ombudsman/Commissioner's actual time engagement for each Office.

(6) The Deputy Ombudsman commenced on May 22, 2012. The position was vacant from May 31, 2011 until May 22, 2012.



# Schedule 2 – Allocated Costs

Year Ended March 31, 2014

	2014			2013	
	Expenses Incurred by Others				
Program	Expenses <sup>(1)</sup>	Accommodation Costs <sup>(2)</sup>	Telephone Costs <sup>(3)</sup>	Total Expenses	Total Expenses
Operations	\$ 3,126,550	\$ 268,924	\$ 11,492	\$ 3,406,966	\$ 3,173,493

(1) Expenses – Directly Incurred as per Statement of Operations.

(2) Accommodation costs are allocated by square metres.

(3) Telephone costs are the line charges for all phone numbers.

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