

Specialty Ombudsman Offices: The New Breed of Structural Heretics

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Specialty Ombudsman Offices in Ottawa such as the Military Ombudsman and Veterans Ombudsman are becoming more numerous, even though the federal government has never seen fit to establish a classic parliamentary Ombudsman Office for the whole public service. In addition, there are other independent officers of Parliament without the “Ombudsman” designation who fulfill ombudsman-like duties such as the Official Languages Commissioner and the Correctional Investigator. We also find that the term “Ombudsman” is widely used today in both the private and public sectors for executive customer-service desks or as a synonym for dispute resolution, as in the case of the Canada Post Ombudsman. Purists have occasionally bemoaned this spread in the use of the term, seeing it as a watering-down of the concept (Rowat 2007a and 2007b).

At the very least, this situation leads us to recall J. E. Hodgetts’ authoritative depiction of the origins and development of the Canadian public service between 1867 and 1970 – *The Canadian Public Service* (1973). He used the term “structural heretics” to refer to the myriad of non-departmental administrative organizations that comprise the public sector – that is, those entities that constituted a departure from the ministerial department model (1973: 138-56). His categorization included mainly crown corporations, regulatory agencies, and advisory bodies plus an assortment of other entities. Hodgetts did not, however, include coverage of the Ombudsman probably because, at the time of writing, it had yet to advance from being a new idea to a fixture in Canada. Though he did make the following very brief mention in respect to the Commissioner of Official Languages: “since 1969, the Commissioner of Official Languages has been accorded a status akin to that of the Auditor General in performing his ‘ombudsman’ functions” (Hodgetts 1973: 148). Of course, the term “structural heretic” was problematic because it was so broad in coverage; nevertheless, it did direct attention to those public sector organizations that were unlike the more typical ministerial departments normally associated with the Westminster model of parliamentary, responsible government.

In any case, with the plethora of specialty Ombudsman Offices that have emerged in recent years, we may refer to them as a new breed of structural heretics. As such, we are faced with an interesting research question as to whether these specialty Ombudsman Offices meet the defining attributes of the classical parliamentary (or legislative) Ombudsman or if they have more in common with the executive (or corporate) Ombudsman. Accordingly, by identifying, describing, and assessing the mandates, structures, procedures, and performance of several specialty Ombudsman Offices, we will tackle this research question.

Before proceeding, and as a backdrop, it should be noted that this paper is a continuation and extension of research and writing on the Ombudsman institution in Canada. The project began with the coordination of an eleven-member research team that assessed the ten provincial and territorial Ombudsman Offices in Canada – this collection will be released later this year (Hyson Forthcoming). Additional Ombudsman research endeavours have included a commissioned study on a proposed RCMP Ombudsman (Hyson 2007), conference papers on e-government and Ombudsman web sites (Hyson 2008a and 2008b), and other on-going Ombudsman research spin-offs.

The following discussion will proceed by first clarifying the controversy in respect to specialty Ombudsman Offices by identifying the role of the classical Ombudsman and reviewing the debate in respect to the use of the title by other – similar albeit not the same – complaint-handling organizations. We will later describe and compare the following specialty Ombudsman Offices found in the federal public sector: Military Ombudsman, Veterans Ombudsman, Post Office Ombudsman, Privacy Commissioner, Correctional Investigator, and Commissioner of Official Languages. This choice of specialty Ombudsman Offices for inclusion was mainly arbitrary in that they are the most familiar to the author. As well, the intent was to include a wide range of examples – some have been around for several years while others are relatively new; some already have strong credentials of impartiality while others appear intuitively suspect. This selection will at least expose us to these new structural heretics, and enlighten us to the particular role of these entities in the federal administrative arena. As this conference paper is the author’s initial examination of the topic, the information on the case studies has been gleaned mainly from the web sites of the specialty Ombudsman Offices; alternative, more penetrating research methodologies including interviews will have to wait until a later occasion.

The Controversy: The Classical Ombudsman vs. Alternative Usage

a. The Classical Ombudsman

It was perhaps inevitable with the worldwide spread of the original (Swedish) Ombudsman idea during the latter part of the 20th century that there would be variations in adaptation in other forums – pushed and tugged to meet local needs or particular circumstances. While some variations were relatively minor, others were more significant which has led to controversy. So we need to identify at the start the pith and essence of the parliamentary (or legislative) Ombudsman concept; in turn, this will allow us to review the objections that alternative usage of the term constitutes a distortion of the original concept.

This year (2009) marks the 200th anniversary of the parliamentary Ombudsman idea but it took awhile to be adopted elsewhere – only first spreading to Finland in 1919 and then Denmark in 1955 before multiplying rapidly throughout the world since the 1960s and 1970s (Caiden 1983a and 1983b; Gellhorn 1967; Gregory and Giddings 2000; and Rowat 1968 and 1985). Even at this time, there were variations in the particulars of each of these parliamentary Ombudsman institutions when first created but eventually the classical notion congealed. One of the more exhaustive definitions of the classical model is that of Larry Hill (1974: 1077) which is worth quoting at length:

... the classical Ombudsman is (1) legally established, (2) functionally autonomous, (3) external to the administration, (4) operationally independent of both the legislature and the executive, (5) specialist, (6) expert, (7) nonpartisan, (8) normatively universalistic, (9) client-centered but not anti-administration, and (10) both popularly accessible and visible.

More specifically, the classical Ombudsman must be established and mandated by statutory (or constitutional) law in order to have the authority as well as the legitimacy to

fulfill its task. This legal mandate to investigate public complaints about administrative decisions is critically important because it establishes a degree of certainty allowing for the development of trust between administrators and populace. As such, the Ombudsman has jurisdiction over the whole public service where administrative decisions impact the populace. As well, the fact that the statutory mandate is set through open, public debate establishes a democratic specter to the Ombudsman's role with lines of accountability – through appointment and annual reports – to Parliament. Points 2, 3, and 4 in the above Hill quotation further ensure the Ombudsman's independence, while the accessibility and visibility ingredients of point 10 ensure its recognition, acceptance, and trust by the public. The Ombudsman officer and staff are able to specialize within their field of jurisdiction with no other responsibilities, and are experts in handling complaints and assume their duties from a nonpartisan perspective. To handle effectively a wide variety of complaints, the Ombudsman needs to be appreciative of the different situational circumstances that give rise to complaints and must be well aware of diverse imperatives and norms that come into play. Finally, point 9 about not being anti-administration is most essential if only because some administrators may initially be suspicious if not defensive about coming under the monitoring of an "outside" watchdog; indeed, in actual fact, the Ombudsman cannot legally reverse an administrative decision and often finds in favour of the administrator.

Other scholars have largely echoed Hill's definitional perspective, but have in addition emphasized the Ombudsman's investigative attributes. For example, emphasis is often placed on both the Ombudsman's availability to the public, and its access to administrators and their files. As well, the Ombudsman's work is conducted discreetly and normally avoids the kind of unnecessary controversy that often occurs when grievances go public. Thus, the Ombudsman sometimes finds that the grievance was due to a simple misunderstanding, or that the administrator made in fact the correct decision, or that there is an immediate solution that can quickly settle the dispute. If we take a closer look at how the Ombudsman works in respect to dispute resolution, as Gregory Levine has done (2007: 59), its decision-making style stands in sharp contrast to that of the judiciary. Whereas the latter is adversarial in nature and relies upon the power to issue binding orders, the Ombudsman relies upon a combination of investigative and persuasive skills, and, ultimately if necessary, the possibility of making the case public through its reports to Parliament. Yet another characteristic is that the Ombudsman only considers a grievance once all existing administrative grievance-handling appeal options have been exhausted. That is, since many administrative entities have their own grievance-handling mechanisms, a person with a grievance must first follow that route before approaching the Ombudsman.

There is great variation in staff resources among Canada's ten provincial and territorial Ombudsman Offices that has a bearing on the institution's capacity, but most complaints are handled quickly usually within a month (Hyson Forthcoming). This quickness of service is one of the more attractive qualities of the Ombudsman institution. As well, besides considering individual complaints, an Ombudsman often has the power to initiate an investigation of a systemic issue; in fact, there seems to be a tendency today for Ombudsman officers and staff in Canada to be more proactive than their predecessors

by initiating systemic investigations. It seems as if we are witnessing the maturing of the Ombudsman profession in Canada (but this idea has to take its turn on my research agenda).

The preceding discussion has served to identify the essential attributes of the classical parliamentary Ombudsman institution as a complaint-handling mechanism, which can serve later as a basis for our assessment of the specialty Ombudsman Offices. Before proceeding, however, we need to consider the notion of “independence” as in the case of an independent officer of the legislature, especially in respect to the Ombudsman idea. More specifically, we need to ponder the nature of this official independence, as well as how and why it is granted to certain public institutions.

We have already noted Hodgetts’ comments made in 1973 about structural heretics. In addition, we can recall from a much earlier time a contribution by a pioneer of the political science profession in Canada, R. MacGregor Dawson’s *The Principle of Official Independence* (1922), while, more recently, Paul Thomas (2003) has examined a few independent officers of Parliament. Together, these three sources provide a disparate array of examples of official independence in Canada including crown corporations, regulatory commissions and tribunals, Office of the Auditor General, Elections Canada, the judiciary, royal commissions and other commissions of inquiry, Public Service Commission, Privacy Commissioner, Canadian Human Rights Commission, the Royal Canadian Mounted Police, and Office of the Commissioner of Official Languages. To probe each of these cases would be far too tangential to our focus, and, besides, would be just repetitive of what these scholars have already commented. Instead, we need to remain focused on the case of the Ombudsman, especially because it was not covered in these three earlier studies. We need to establish the specific meaning of “official independence” in respect to the Ombudsman institution. That is, how can a public institution, with a statutory mandate, appointed by and accountable to the legislature, publicly funded, with *in camera* access to public officials and documents, be officially independent?

Here, we may turn to a most illuminating discussion by Sir Guy Powles (1966) who, as New Zealand’s first Ombudsman, on an earlier visit to Canada had explained that the institution was not just a Scandinavian idea but was also compatible with the Westminster model of parliamentary-responsible government. There were two stages to Powles’ account. First, as a representative body, Parliament had always fulfilled in part the function of seeking redress of public grievances – a point stressed by Powles with reference to John Milton’s 1644 book (1961), *Areopagitica*. Admittedly, in the context of mid-seventeenth century England when Milton wrote, and even earlier with the Magna Carta of 1215 or the origins of Parliament in the thirteenth century, the notion of expressing grievances was not the same as we find in the modern administrative state. Traditionally, the expression of grievances related mainly to what we would call today the input side of government including the submission of petitions and bills to parliamentarians to initiate legislative action. As for those grievances specifically in respect to administration, parliamentarians were limited to asking a few, general questions. But, if this task had always been a critical component of Parliament’s role, how did Powles jump from the 1640s to the 1960s to justify the Ombudsman idea? This

brings forth the second stage of Powles' exposition, namely that the advent of the welfare state following World War II meant that public administrators were making more decisions directly impacting the populace, and these decisions were much more technical in nature. According to Powles, this increased role of administrators at a time when administrative justice was weak resulted in a countless number of complaints about alleged administrative wrong doings. Legislators, however, usually lacked the knowledge, authority, and skills to investigate let alone settle these highly complex administrative grievances. Moreover, any value that had once existed with asking questions in Parliament had dissipated with the advance of party discipline and partisanship. Within this context, Powles maintained that the Ombudsman as an independent officer of the legislature would provide a specialized service for the handling of public complaints. Referring to the experience with the Ombudsman in his home country of New Zealand, Powles observed (1966: 153) that the institution was "a means whereby Parliament reaches out and places a restraining finger upon an erring administration or raises a warning hand to it."

Interestingly, a few years later, the federal Committee on the Concept of the Ombudsman (1977: 5) stated the same position with its observation that, although the public had "gained access to a wide range of government services and support systems" with the growth of government over the decades following the Great Depression, they had "also become increasingly vulnerable to the decisions of civil servants." Gregory J. Levine (2007: 56; also see Levine 2004) has also noted that Justice Dickson (as he then was) of the Supreme Court of Canada had similarly observed in the *British Columbia Corp. v Friedmann* decision of 1984 that the rise of the Ombudsman idea was a direct response to the growing size and complexity of government of the modern welfare state. Furthermore, in the absence of an accessible and effective complaint-handling mechanism through which to seek redress for their complaints, as professor Donald C. Rowat depicted in 1982 (33), some victims of administrative errors were resorting to extreme forms of protest. Now that we have identified both the defining attributes of the classical Ombudsman and the reasons why it was so eagerly adopted in the 1960s and 1970s, we may turn our attention to the more recently established spin-offs from the original idea, namely the specialty Ombudsman Offices.

b. Alternative Usage

Our focus here is restricted to alternative usage within the public sector in respect to specialty Ombudsman Offices; we are not going to look at usage of the Ombudsman designation in the private sector (such as by banks) or as used by some universities and hospitals. The late Donald C. Rowat (2007a and 2007b) was perhaps the most critical of the unchecked spread use of the Ombudsman designation; meanwhile, the authors in Linda Reif *et al.*'s edited collection (1993; also see Reif 2004) seem more accepting of the spread and concentrate on describing the new variants – or "hybrids" – of the classical model. Similarly, Michelle LeBaron (2009) is quite comfortable in discussing executive, organizational, and advocate Ombudsman Offices as well as the classical Ombudsman in her coverage of Ombudsman in universities, colleges, banks, and news media. While the debate over the alternative usages has sometimes been petty, use of the

“organizational” category is obviously most irksome because, as Rowat observed (2007a: 46), all Ombudsman Offices are organizations and they deal with administrators who work for and in organizations. The concerns raised by Rowat are not just a matter of semantics but they go to the heart of ombudsmanship, as we noted earlier in the paper with our coverage of Hill, Levine, and Powles. In any case, since we are looking in this paper only at specialty Ombudsman Offices in the public sector, we can avoid some of the problems that occur when coverage includes both the public and private sectors.

Much of Rowat’s concerns were with the executive model of Ombudsman in both the public and private sectors where the executive or management has established a grievance-handling or customer service desk. The decision to establish such a mechanism is a matter of executive whim, and sometimes blatant opportunism, and more of a public relations gambit than a commitment to citizen (or human) rights. In situations like this, use of the popular Ombudsman term is more a matter of cosmetics or “packaging” in order to more readily connect with and be accepted by the public. But as an executive (or managerial) appointee, the executive (or corporate) Ombudsman is part of the managerial chain of command and is beholden to the manager; the mandate is usually limited as to what the Ombudsman can investigate; and there are no transparent lines of accountability to the public (or Parliament or its equivalent). The case of the Post Office Ombudsman discussed below demonstrates these problems with the executive model. There are also problems with perception when the minister of a department (or the board of directors of a crown corporation) appoints an executive Ombudsman because the latter must be seen as independent as well as be independent in fact, in order to avoid any suspicion of partiality and thereby establish credibility in the eyes of the public. A similar situation exists when an executive Ombudsman submits the annual report to the minister or board of directors, even if the report is automatically relayed to Parliament and the Ombudsman Office posts the report on its web site. Thus, these concerns raised by Rowat are valid and should not be forgotten when we assess the case studies in the next section.

We also need to be critically aware when we examine those specialty Ombudsman Offices that are not of the executive model but then are not 100% replicas of the classical Ombudsman model. In fact, most of the case examples below fall into this gray area and we will call this type of specialty Ombudsman the “legislative model” because, in terms of actual performance, they are very similar to the classical model. It is interesting, however, that some specialty Ombudsman Offices that do not have a strong statutory mandate use an advisory committee. For example, some of these legislative specialty Ombudsman Offices were not established through parliamentary debate and do not have a statutory mandate; however, the presence of an advisory committee can regularly keep the specialty Ombudsman Office apprised of shifts in societal values and of public concerns. Thus, an advisory committee composed of members of the public such as that found with the Military Ombudsman (discussed below) can serve to ensure independence and impartiality in operations, establish transparency and lines of accountability to the public, and foster trust and credibility in serving society. Second, a few legislative specialty Ombudsman Offices are in the field of human rights, such as the Correctional Investigator and the Privacy Commissioner (both are discussed below), their independence and integrity have been enhanced by constitutional law and the human

rights tradition in this country. Finally, some legislative specialty Ombudsman Offices like the Commissioner of Official Languages (again discussed below) have had very strong and effective leadership with highly professional and dedicated staffs, contributing to a proactive role. Consequently, the maturity of these institutions – as reflected in their commitment to administrative justice, their detailed reports, and their sophisticated web sites – provides for much of their legitimacy. This last point suggests that, regardless of the formal or legal attributes of legislative specialty Ombudsman Offices, there are always other factors involved as to actual performance. In fact, in respect to a related matter, parliamentary scrutiny of the specialty Ombudsman Offices is often lacking even where there are clear formal lines of accountability through the submission of annual reports to Parliament. So we often find that the cadre of professional ombudspople is more committed than politicians to resolving administrative grievances.

Case Examples

a. Commissioner of Official Languages

The Office of the Commissioner of Official Languages was spawned by the considerable research effort and discourse generated by the Royal Commission on Bilingualism and Biculturalism of the late 1960s, and was then originally mandated by the Official Languages Act of 1969 with the office opening the following year. It is thus the oldest of our six case examples; indeed, as was noted at the outset of this paper, the Commissioner of Official Languages did receive a one-line mention by Hodgetts in respect to its ombudsman-like duties. But, since the office started in 1970, which was the last year of his scope of coverage and had yet to establish a track record, Hodgetts did not describe let alone assess its role.

Thus, as we take a closer look at the Commissioner of Official Languages, we can see that in many ways the position approximates that of the classical parliamentary Ombudsman. The Commissioner is clearly an independent officer of Parliament, which appoints the officer and to which the Commissioner reports annually. These arrangements allow for clear lines of accountability, impartiality in operations, and visibility to the public. As well, even though the Commissioner is limited to grievances in respect to official languages (English and French), the Commissioner's scope of jurisdiction is the whole public service (plus other federal entities). The legitimacy of the Commissioner's work is no doubt enhanced by the convention of alternating between Anglophones and Francophones to the seven-year position.

A distinguishing feature of the Office of the Commissioner of Official Languages is that it is not just mandated to handle complaints; in fact, if necessary, it may appeal to the Federal Court on a complainant's behalf. Besides the handling of complaints, the Commissioner and office are also mandated to research and educate the public in respect to language issues, and to monitor service in both languages by federal institutions with the aim of making recommendations for improvement. So, as an institution, the Office of the Commissioner of Official Languages is multifaceted, and, with its lengthy history, it has a very credible track record.

b. Military Ombudsman

The Military Ombudsman, whose formal title is the “National Defence and Canadian Forces Ombudsman,” is perhaps the specialty Ombudsman with one of the highest public profiles. Although the Military Ombudsman has only been present since 1998, its first incumbent (André Marin) served during its first seven formative years during which the office established its record of credibility. It also became a model for other specialty Ombudsman Offices in general. (By the way, Marin subsequently moved on to become Ontario’s current Ombudsman; and he has also served a term as president of the Forum of Canadian Ombudsman.)

A moment of reflection on the formal title, as noted above, is quite revealing because the Military Ombudsman is not restricted to only military personnel but also is available to civilian employees of the National Defence department and others including immediate family members, cadets, and individuals on exchange with or seconded to the Canadian forces. Moreover, coverage is not restricted to individuals with a current connection but the Military Ombudsman’s jurisdiction also includes former military personnel, public employees, and their immediate family members. (We will return to this inclusion in a later discussion of the Veterans Ombudsman.)

In terms of its official independence, the Military Ombudsman is not part of the management chain of command of the military or the defence department – a separation that provides for impartiality and fairness. However, the Military Ombudsman does report directly to the Minister of National Defence and receives directions from the same, and the Military Ombudsman’s budget is part of the department’s budget. These connections with the minister and the department could be worrisome, but incumbent officeholders and staff have established a sound performance record of independence. The fact that the Military Ombudsman maintains its own very effective web site allows it to communicate directly with its clientele, all parliamentarians, the media, and the general public; indeed, as we will see below, digital democracy has the potential to go around the legal formality of statutory law to allow public entities to be transparent and accessible to the populace.

Another, most pertinent, feature of the Military Ombudsman is the presence of an advisory committee that consists of ten voluntary members, including current military personnel from different ranks, veterans, and family dependents. As such, this Advisory Committee provides for an avenue of accountability by keeping the Military Ombudsman apprised of the concerns that are most pressing from the perspective of its clientele.

c. Veterans Ombudsman

At the risk of sounding too flippant, the question “why?” must be asked in respect to the Veterans Ombudsman. That is, as noted above, the responsibilities of the Military Ombudsman would appear to include those of the Veterans Ombudsman. No doubt, the establishment of the Veterans Ombudsman was based upon good intentions to have a special office to address the unique problems of the veterans community. But one has to wonder whether this is an example of too many layers of bureaucracy rather than better service delivery. Certainly, there is a plausible argument to be made that, given the volume of programs delivered by the Veterans Affairs department and the administrative errors that can occur, there is need for an Ombudsman service. But, rather than have a

separate entity named the Veterans Ombudsman, the duties could be assigned to a sub-unit within the Military Ombudsman Office.

As it is, the Veterans Ombudsman is appointed following open competition by Order in Council, and reports to the Minister of Veterans Affairs who also sets the Veterans Ombudsman's budget. Technically, the Veterans Ombudsman is appointed as a "special adviser" to the Minister of Veterans Affairs in accordance with the Public Service Employment Act. There is no direct, annual link with Parliament, although, on receipt of the Veterans Ombudsman's annual report, the Minister of Veterans Affairs must table it in Parliament. The Veterans Ombudsman has a specific mandate to handle individual complaints in respect to benefits and services received by veterans and their dependents, and to consider emerging and systemic issues. For added amplification, there is a "Veterans Bill of Rights" that offers a set of guidelines to be followed.

In any case, the Veterans Ombudsman is so new – only within its first year of operations – there is still little conclusive that we may say. Though with a relatively large staff of thirty and the sincere commitment of the first incumbent (Patrick Stogran), the Veterans Ombudsman has the potential to make headway. Although an advisory council like that of the Military Ombudsman may be appointed, there is none currently listed on the web site of the Veterans Ombudsman which is problematic, as is the lack of annual reporting to Parliament to allow for periodic parliamentary review. Ombudsman Stogran has forged strong links with veterans advocacy groups, but these links of accountability may be too personalized and ill defined, unlike the institutionalized reporting links provided by a parliamentary committee or even an advisory council. For example, Ombudsman Stogran has assumed the task of reaching out to find those veterans who have "fallen through the cracks" – such as the homeless – and are not receiving those benefits or services for which they are qualified. While laudatory, such proactive action may not be sustained; especially given Stogran's relatively short tenure of three years, and this drives home the need for a parliamentary mandate and periodic rounds of parliamentary accountability review.

d. Canada Post Ombudsman

The Canada Post Ombudsman was clearly established as, and remains, an executive dispute-resolution body that started operations on October 1, 1997. This position is formally chosen and appointed by Canada Post's Board of Directors; the current Ombudsman is Nicole Goodfellow who was appointed for a three-year term in July 2008 and who came from a thirty-year career with Canada Post; and she reports directly to her Board of Directors. This arrangement is quite different from the classical Ombudsman who is appointed by and serves the legislature, and from those specialty Ombudsman Offices that have advisory bodies providing all-party input comparable to the legislature.

When we examine the mandate of the Canada Post Ombudsman, it again is faulty relative to the classical Ombudsman model. The specific limitation here is that the Canada Post Ombudsman cannot examine complaints in respect to Canada Post's "subsidiaries". This would presumably include postal outlets located in private retail outlets, where so many members of the public have their only and most direct contact

with Canada Post and experience administrative wrongdoings.

e. Privacy Commissioner

The first thing that grabs a person's attention on looking at the web site of the Office of the Privacy Commissioner of Canada is the statement under the word "Welcome" that the Privacy Commissioner is an Officer of Parliament, and that she – Jennifer Stoddart is the current Privacy Commissioner – reports directly to both Houses of Parliament. It is a simple statement but it clearly establishes the impression of independence and credibility. Unlike so many other specialty Ombudsman Offices that report through or are closely tied to a minister, the Privacy Commissioner appears to be independent, which is so indefinably important in the sphere of dispute resolution. Moreover, her mandate is statutory based to investigate complaints under two laws – the Privacy Act and the Personal Information Protection and Electronic Documents Act. Finally, and again unlike so many other specialty Ombudsman whose reports eventually go to Parliament and are made public online, the Privacy Commissioner frequently testifies before parliamentary committees – an archival list of her parliamentary appearances is available on the office's web site. Thus, in respect to the Privacy Commissioner's links with Parliament, the relationship is the ideal and should serve as the model for other specialty Ombudsman.

Actually, the Privacy Commissioner has a relatively broad mandate – to resolve individual complaints, to investigate incidents that come to its attention, to audit compliance with federal privacy laws, and to engage in both research of privacy issues and outreach educational work. Since 2004, there has also been an External Advisory Committee that is composed of people drawn from a wide range of fields, meets twice a year, and provides directional advice to the Privacy Commissioner.

f. Correctional Investigator

According to Part III of the Corrections and Conditional Release Act (CCRA), the Office of the Correctional Investigator serves as an Ombudsman for federal offenders by investigating their individual complaints and by making recommendations to the Correctional Service on systemic matters. Having been originally established in 1973 under the Inquiries Act in response to the recommendations of an inquiry into a 1971 riot at Kingston Penitentiary, the Correctional Investigator received a more clearly defined parliamentary mandate with the passage of the CCRA in 1992. The Correctional Investigator thus approximates the classical Ombudsman model by being statutorily based. Indeed, explicit references to the Ombudsman ideal are found in several of the online items of this Office's web site; as well, the current incumbent (Howard Sapers) notes in his online biography having published articles on the Ombudsman, human rights in corrections, and the prevention of crime. Nevertheless, a frequently repeated point of criticism made over the years by incumbent Correctional Investigators has been the fact that annual (and special) reports must be directed to the Minister of Public Safety, who then tables them in Parliament. Regardless of the formality of this paper trail, the fact of the matter is that these reports are now more readily available on the Internet to the general public.

Yet another matter needs to be stressed namely that, during the Correctional Investigator's relatively long history (over thirty-five years), there have been some high profile issues in respect to the human rights of correctional inmates. These incidents have sometimes led to inquiries and recommendations that, in turn, have strengthened the independence and mandate of the Office of the Correctional Investigator. The role of the Correctional Investigator in respect to the criminal justice system has also been strengthened since 1982 with the inclusion of legal rights in the Charter of Rights and Freedoms. We notice here something that we have also seen with a couple of other specialty Ombudsman: those engaged in an area where there is firmly established record of human rights tend to approximate the Ombudsman ideal.

A certain professionalism characterizes the Correctional Investigator's work and is evident in the thoroughness of its annual reports. This is especially evident in how the Correctional Investigator tallies the extent to which Corrections Services Canada has responded to its previous recommendations.

On a closing note to these case examples, it should be added that all six specialty Ombudsman Offices have complaint forms online on their web sites. As well, some of the web sites are very informative and well maintained (i.e., regularly updated), while other web sites (such as that of the Veterans Ombudsman because it is so new) are notably unrevealing. This same generalization can be made of the annual reports of these specialty Ombudsman Offices because some like the Language Commissioner, Correctional Investigator, Military Ombudsman, and Privacy Commissioner have established records of producing very detailed and responsive annual reports, that contribute to their reputations of impartiality and credibility. A final matter in respect to these specialty Ombudsman web sites (and web sites in general) is how well known are they – what portion of the public are aware of their existence and actually consult them on a regular basis?

Conclusion

The foregoing discussion has revealed a new breed of structural heretics in the Canadian administrative state. Even though the federal government has not established a classical Ombudsman for the whole public service, it has created a number of specialty Ombudsman Offices. The debate over the different types of Specialty Ombudsman Offices, especially the distinction between executive and legislative types, has been somewhat arcane at times, but at least it has drawn our attention to these structures. We have also been reminded of the pith and essence of the Ombudsman idea; so, rather than getting bogged down with the etymological debate, we need to move on to examine actual performance. The case examples presented in this paper have set the stage for the next research endeavour by highlighting the items that need to be addressed as to whether these structures actually provide effective redress of the public's administrative grievances.

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Veterans Ombudsman

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