

# Ombudsman

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National Defence and Canadian Forces  
Défense nationale et Forces canadiennes

# Annual report

66-899

# How to Contact Us

## For complaints

**TOLL-FREE HOTLINE:** 1-888-828-3626

### **OFFICE ADDRESS**

Office of the DND/CF Ombudsman  
Carriageway Building  
55 Murray Street, Suite 500  
Ottawa, ON K1N 5M3

Tel: (613) 992-0787

Fax: (613) 992-3167

### **INTERNET SITE**

[www.ombudsman.dnd.ca](http://www.ombudsman.dnd.ca)

# Ombudsman



National Defence and Canadian Forces  
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*June 1999*

The Honourable Art Eggleton, P.C., M.P.  
Minister of National Defence  
National Defence Headquarters  
Mgen G.R. Pearkes Building  
101 Colonel By Drive  
Ottawa, Canada  
K1A 0K2

Dear Minister,

I am pleased to submit for tabling in the House of Commons the first annual report from the Office of the Ombudsman.

My report covers roughly the last nine months of our activities, beginning from my appointment to the end of the fiscal year in March.

Sincerely,

André Marin  
Ombudsman

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# Looking Ahead

**A**s Ombudsman I am mandated to act on the Minister's behalf, independent of the chain of command, as a neutral and objective sounding board, mediator and reporter on matters related to the Department of National Defence and Canadian Forces (DND/CF). The creation of the Office is a positive initiative to ensure openness, transparency and accountability within DND/CF.

As stated on numerous occasions, I intend to run a credible and efficient office capable of meeting the diverse needs of the constituency to achieve just and equitable resolution of issues. To achieve our common goal to better DND/CF, it is important that we work together, that we not be afraid to question our existing practices, and that we strive to improve and build on what has already been accomplished.

During the consultations about how to set up the office, we met a variety of people whose comments, contributions, questions and commitment are the foundation for this office. I would like to take this



opportunity to thank everyone who helped set up this office in one way or another. I would also like to thank the members of my staff for their hard work and dedication during this process.

I look forward to a long and positive relationship with all members of DND/CF and eagerly await becoming operational. Your comments have been heard — your Ombudsman is listening.

Sincerely,

A handwritten signature in black ink, which appears to read "André Marin". The signature is fluid and cursive, with a long horizontal line extending to the right.

André Marin  
Ombudsman

# Introduction

THIS IS THE FIRST ANNUAL REPORT FOR THE OFFICE OF THE OMBUDSMAN, REPRESENTING A SIGNIFICANT MILESTONE FOR THE DEPARTMENT OF NATIONAL DEFENCE AND CANADIAN FORCES (DND/CF). THIS REPORT COVERS THE PERIOD FROM THE APPOINTMENT OF THE OMBUDSMAN ON JUNE 15, 1998, TO THE END OF MARCH 1999. THIS TIME FRAME WAS SELECTED SO THAT NEXT YEAR THE REPORTING SCHEDULE WILL COINCIDE WITH THE FISCAL YEAR.

Soon after the Ombudsman position was established, it was characterized as a "pioneering position." Indeed, the first priority of the Office was to lay a sound foundation and develop an effective operational framework. The fundamental building blocks of transparency, openness and accountability were emphasized during this process. With these responsibilities have come several challenges, including staffing, finding a location for the office, funding, reporting, developing a mandate and complaint process, as well as tackling privacy and access issues. This report describes how the Office has met these challenges, particularly the challenge of establishing the Office as a credible organization capable of initiating positive change.

# Consultation Process

One of the first tasks the Office embarked on was the development of an operational framework to define and clarify what the mandate and mission of the Office of the Ombudsman should be. A consultation plan was developed to gather input from a broad cross-section of stake holders and other ombudsmen. To gather information quickly and efficiently, two consultation teams were created. The Ombudsman headed one team and the Senior Policy Advisor the other.

Between August and December 1998, the consultation teams met with more than 15 000 civilian and military members of DND/CF — from the three elements and of all ranks — in various parts of the country, plus Belgium, Israel, Germany and Bosnia. DND/CF personnel were encouraged to offer their comments via other media such as the Defence Information Network (DIN) and military newspapers and magazines. To study and compare terms of reference and operational frameworks, a variety of civilian and military ombudsmen and ombudsman-like institutions were also consulted.

The consultations resulted in a 183-page report entitled *The Way Forward — Action Plan for the Office of the Ombudsman*. The report includes 67 recommendations with a detailed rationale supporting each recommendation.

This report was presented to the Minister of National Defence on January 20, 1999. Since then, the Office has been discussing concerns related to the action plan with DND/CF representatives. Unfortunately, these discussions have not resolved all of the outstanding issues; both parties, however, are seeking avenues to reach agreement.



The paramount issue is to establish the Office of the Ombudsman as an effective and credible body with clear and explicit rules that ensure confidentiality of access to its members and that guarantee the independence and impartiality of its decision-making process. The Office is also striving to develop an operational framework that not only respects existing channels and avenues, but could also co-exist with a strong chain of command. The Office views ombudsmanry as a fluid concept capable of adapting to the specific and particular needs of the institution it is intended to serve.

# The Way Forward and Beyond

**T**he *Way Forward* was formally presented to the Minister of National Defence on January 20, 1999. On February 1, André Marin gave another presentation to the Deputy Minister and the Chief of Defence Staff, including two volumes of notes of the Office's internal consultations that reflected the views and opinions expressed to the Office about how it should function. This report and direct input from stakeholders was left with the Department to evaluate how the recommendations could be implemented. The Ombudsman and staff remained available at all times to assist the Department and provide any further information as required, based on the knowledge and experience gained from the consultations and the library of materials compiled on other ombudsmen's models.

Since then, the Office has been busy as complaints and phone calls continued to flow in, and stakeholders were advised of the progress made in presenting the Ombudsman's report and the status of the Office.

Preparations were also under way to move to the Office's permanent location, which took place on March 1, 1999. The Office also continued to liaise with other ombudsmen and obtain their advice on issues such as complaints intake, case file management, conduct of investigations, reporting and the selection of a computerized case tracking management system.

To expedite the discussions with DND/CF on the implementation of *The Way Forward*, the Ombudsman agreed at the outset to adopt an interim framework; matters requiring the agreement of other federal departments and bodies would be dealt with at a later stage.

Nonetheless, DND/CF circulated *The Way Forward* to other government departments for their input on issues beyond DND jurisdiction, such as staffing, confidentiality and the need to be exempt from compelled disclosure of information under the *Access to Information Act* and the *Privacy Act*. These departments included the Department of Justice, the offices of the Information Commissioner and the Privacy Commissioner, the Ethics Counsellor (Industry Canada), the Public Service Commission, the Privy Council Office, the Department of Veterans Affairs and the Auditor General of Canada.

The Ombudsman also formally presented the action plan to:

- the Auditor General;
- the Information Commissioner (the Ombudsman raised the need for an exemption from the *Access to Information Act* to meet the unique and compelling need for confidentiality of DND/CF case files); and



- the Minister's Monitoring Committee on Change and the Minister's Advisory Board on Canadian Forces Gender Integration and Employment Equity, two agencies with which the Office will be working closely to monitor trends and change within the Department.

The Office has also taken steps during this period to install a direct toll-free line (1-888-828-3626) for the calls and complaints it expects to receive once the Office becomes operational. This line will allow persons from across the country and abroad to contact the Office free of charge. The Office has been hiring and training staff to take calls and receive complaints in a sensitive and professional fashion. The 1-888 line will also allow DND/CF members to receive advice, assistance and referrals from the Office on all types of complaints about alleged injustice and unfairness within the Department, and be the point of referral to the Office from other sources in the Department, including the DND/CF Help Line.

On March 3, 1999, the Office received *Draft Interim Terms of Reference*, the first official response from the Department to *The Way Forward* report. Since then, the Office has undertaken extensive discussions and negotiations with representatives of the Department, including the DND/CF Legal Advisor, the Judge Advocate General, the Deputy Minister and the Chief

of Defence Staff. Throughout these discussions, the Office stressed how the model proposed in *The Way Forward* was designed to operate as an independent civilian oversight body, serving the unique needs of DND/CF, while fully respecting existing mechanisms, including the chain of command. The Office also ensured that the principles of independence, neutrality, confidentiality, and an effective and credible review process were reflected in the final product and that there be a principled approach to the development of the Ombudsman's mandate.

**THE MODEL PROPOSED IN  
THE WAY FORWARD WAS  
DESIGNED TO OPERATE AS  
AN INDEPENDENT CIVILIAN  
OVERSIGHT BODY, SERVING THE  
UNIQUE NEEDS OF DND/CF.**

At the time of going to press with this report (June 1999), the latest document, *Ministerial Directives*, sets out the Office's mandate, its constituency and the situations in which the Office will be able to intervene and deal effectively with complaints. The directives, along with several outstanding issues, will be presented to the Minister of National Defence shortly for approval. Once

approval is obtained, the Office will be ready to open its doors and officially begin dealing with complaints, including close to 300 cases that it has already received.

It is anticipated that these directives will be incorporated into regulations under the *National Defence Act* as soon as possible. They will serve to establish the Office as a strong independent civilian oversight agency, capable of contributing to positive long-term progress and change within the Department.

# Communications and Outreach

The communications strategy achieved its two main objectives:

1. building awareness about the creation of the Office, and
2. inviting input into the consultation process.

The Office's outreach activities focused mainly on promoting the objectives of the DND/CF Office of the Ombudsman to DND/CF members and other interested members of the defence community.

- **Announcement of Appointment:** André Marin's appointment as Ombudsman was announced on June 9, 1998 (to take effect on June 15), at a joint news conference with the Minister of National Defence, followed by a blitz of national and local media.
- **Identity:** To establish an identity that is distinct from DND/CF, the Office developed the logo below. The logo symbolizes balance, fairness and impartiality. The Office also began developing a Web site with a different look and feel to further emphasize its arm's-length relationship to DND/CF.
- **Speaking Opportunities:** The Ombudsman has accepted invitations for several speaking engagements and delivered major speeches, including at the Defence Ethics Conference in Ottawa and at the Royal Canadian Military Institute in Toronto.
- **Media:** The Ombudsman has been interviewed by several media outlets, including base newspapers, local radio stations and community newspapers. The Office has been the subject of many positive articles, including major features in the *Toronto Sun*, *Macleans*, the *National Post*, *Le Soleil*, and the *Ottawa Citizen*. An hour-long interview with CPAC was aired several times and the Association of Canadian Studies printed an article in the winter edition of its bulletin. These media initiatives further built awareness of the Office and invited the wider community — such as retired members and families — to participate in the consultation process.
- **Outreach:** As part of the consultation process, representatives from the Office visited several DND/CF facilities to address members and answer their questions about the role and functions of the Ombudsman. The opportunity to meet face to face with the Ombudsman or his staff and to have an open and frank discussion was well received.

## Ombudsman



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In addition, the Office invited input from the membership through a letter published in the *Maple Leaf* and via the DIN. A similar invitation was inserted in *Esprit de corps* to invite comments from the wider defence community.

- **Networking:** Background information about the Office was distributed at the United States Ombudsman Association annual conference in Detroit, the National Ombudsman Investigator's Workshop in Halifax, and at the *Colloque des Ombudsmans et des Responsables du traitement de plaintes du secteur public* in Montréal. As a result, several other ombudsmen are now aware of the DND/CF Office of the Ombudsman and many participated in the consultations.

The feedback indicates DND/CF personnel, the media and other government departments are aware of the Office of the Ombudsman. Confusion remains, however, about how the Office fits into the department and how it will function in relation to the other oversight and review mechanisms currently being implemented by the department.

As soon as the *Ministerial Directives* for the Office are sanctioned, the communications strategy will focus on informing stakeholder groups about how they can reach the Office and how it can help them.

# Gearing Up!

## Human Resources

Since André Marin's appointment as Ombudsman, one of the top priorities has been to get the Office up and running, to serve DND/CF members and the Canadian public as soon as the Office's mandate is sanctioned.

A skilled and loyal staff is essential to an effective and independent Office. The cooperation of DND/CF personnel specialists made it possible to establish staffing arrangements quickly.

The Office has received support and exemplary service from staff in the Assistant Deputy Minister's (Human Resources — Civilian) office. They and the Defence Minister's staff have been helpful in ensuring that the resources required to operate the Office effectively are in place within the fastest possible timelines. They have also helped the Ombudsman navigate the myriad policies and procedures that touch on the staffing process within DND and the public service. The Office is grateful for their assistance.

Until the mandate is formally established and permanent staff can be hired, key members of the staff have been hired temporarily through a variety of staffing methods.

Many staff members have been brought aboard via secondments and Interchange Canada agreements. Current staff members are primarily civilians with backgrounds in law, law enforcement and investigations. The sole

military staff member serves in an administrative capacity and is expected to assume a new posting later this year.

Through such staffing methods and other means, the Ombudsman is confident the Office staff will serve DND/CF members and the Canadian public in a professional and caring manner.

## Location

The first office was located on the 24<sup>th</sup> floor of the Export Building at 234 Laurier Avenue in Ottawa. With independence as the hallmark of the ombudsman institution, it soon became apparent that physical location of the Office would be a major factor in

the attainment of that objective. Other factors such as convenience for the Office's constituents, safety measures, protection of confidentiality and the type of office equipment needed were also taken into consideration. For the Office to achieve a high level of confidentiality and credibility with its constituency, the location had to meet all these requirements.

After visiting several locations, the Carriageway

Building at 55 Murray Street in Ottawa was chosen. Not only did it have space readily available and reasonable rental rates, but it is also within walking distance of National Defence Headquarters. Other

**WITH INDEPENDENCE AS THE HALLMARK OF THE OMBUDSMAN INSTITUTION, IT SOON BECAME APPARENT THAT PHYSICAL LOCATION OF THE OFFICE WOULD BE A MAJOR FACTOR IN THE ATTAINMENT OF THAT OBJECTIVE.**

DND/CF members in the Ottawa–Hull area also have convenient access to the Office. The Office of the Ombudsman is the sole occupant of the building's 5<sup>th</sup> floor, offering added security for its occupants and the information contained within. The area is 495 m<sup>2</sup> and has been renovated to stipulated specifications, including an access system to the office itself and limited access through the staircase. The elevators also have access control for traffic outside of business hours.

## Case Tracking Management System

The Office conducted a comprehensive review and evaluation of several available systems including those used by other ombudsmen's offices.

An efficient case tracking management system (CTMS) is essential to ensure that the Office deals with cases effectively and expeditiously. The multiple functions of switchboard, reception, intake analysis and workload management are all incorporated. The system will also provide a comprehensive information base enabling the Office to identify trends and possible systemic issues at the earliest juncture.

Because the Office is committed to protecting the confidentiality of the individuals who turn to the Ombudsman for assistance, the information stored in the CTMS will be protected by firewalls integrated within the system itself.

# Complaints

Tables 1 and 2 show the type of complaints received by the Office and from whom as of March 31, 1999. They include only those cases where the Office received a written complaint or a specific request was made that a file be opened. These complaints were received despite informing persons that the Office is not yet operational, and that they should wait, pending receipt of the official operating framework. The following figures do not include a large volume of telephone complaints and inquiries, where no file was opened.

Some complaints involved multiple issues of concern, and in some cases, systemic issues were raised or it was alleged that more than one person was directly affected. The Defence Minister's office, other Members of Parliament, and other sections within DND/CF have forwarded complaints to the Ombudsman.



Table 1

**TYPES OF COMPLAINTS RECEIVED (AS OF MARCH 31, 1999)**

Sexual assault/sexual harassment	22
Military Police/National Investigation Service/military justice	25
Administrative (pension, benefits, allowances, etc.)	68
Harassment/abuse of authority/retaliation/discrimination	63
Release/discharge	33
Recruiting/pay/promotions/postings	29
Delays in redress of grievance	13
Medical treatment	8
Other	29
<b>Total</b>	<b>290</b>

Table 2

**ORIGINS OF COMPLAINTS RECEIVED (AS OF MARCH 31, 1999)**

CF members	97
Reserve Force members	14
Former CF or Reserve Force members	76
Cadets	5
Civilian employees (including retired employees)	24
Family members of constituents	13
Non Public Fund (NPF) employees	1
Contractors with DND/CF	3
Private citizens and other groups	14
Anonymous	5
<b>Total</b>	<b>252*</b>

*\*Several complainants raised more than one issue.*

# Budget

Since the Ombudsman's appointment last year, the Office has been busy preparing to become operational as soon as its mandate is confirmed. This has included hiring staff, renting and renovating a location for the Office, travel associated with the consultations, and the purchase of office furniture and equipment required to operate the Office.

The Office's total budget for the 1998–1999 fiscal year was \$1 495 000. Actual expenditures for 1998–1999 were \$1 300 290; personnel costs accounted for \$201 453 and professional and special

services accounted for \$234 146, together about one third of all expenditures. Costs associated with setting up the Office, including rent, fit-up, furniture and equipment amounted to \$709 329, or more than half of all expenditures. The remaining \$155 362 covered all other expenditures including travel, postage, telephone, office materials and supplies, and communications.

The following represents an accounting of actual expenditures during the period June 15, 1998, to March 31, 1999.

## SUMMARY OF EXPENDITURES (JUNE 15, 1998 TO MARCH 31, 1999)

	Actual
Salaries and employee benefit plan contributions	\$201 453
Office rent	61 052
Office fit-up	299 271
Office furniture	153 376
Transportation	89 124
Communications and public outreach	28 650
Professional and special services	234 146
Materials and supplies	28 855
Acquisition of computer and other equipment	195 630
Training and professional dues	5 675
Rentals	474
Miscellaneous	2 584
<b>Total</b>	<b>\$1 300 290</b>

# Staff

André Marin  
*Ombudsman*

Gareth Jones  
*Senior Policy Advisor*

Barbara Finlay  
*Policy Advisor*

Marc Pilon  
*Policy Advisor*

Marc Pinault  
*Policy Advisor*

Mimi Lepage  
*Policy Advisor*

Robert Malo  
*Policy Advisor*

Barbara Theobalds  
*Director, Communications  
and Media Liaison*

Richard Inomata  
*Comptroller*

Carole Labelle  
*Administrative Assistant*

Althea Basudde  
*Communications Trainee*

Claire Lemay, Warrant Officer  
*Administrative Clerk*

Hélène Rivest  
*Administrative Clerk*

Andrée Bénard  
*Receptionist/Secretary*