

ACCESS & AWARENESS INQUIRY



**Parliament
of New South Wales**

**Report of the Joint
Committee on the
Office of the
Ombudsman**

September 1994

**PARLIAMENT
OF
NEW SOUTH WALES**

**REPORT OF THE JOINT COMMITTEE
ON THE
OFFICE OF THE OMBUDSMAN**

**INQUIRY INTO THE LEVEL OF UNDERSTANDING
OF YOUNG PEOPLE, ABORIGINES, MEMBERS OF ETHNIC COMMUNITIES
AND MINORITY OR DISADVANTAGED GROUPS, OF THE ROLE
OF THE OMBUDSMAN AND THE EXTENT OF THEIR ACCESS TO HIS OFFICE.**

TOGETHER WITH MINUTES OF PROCEEDINGS

SEPTEMBER 1994

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TABLE OF CONTENTS

COMMITTEE MEMBERSHIP	6
COMMITTEE PHOTOGRAPHS	7
CHAIRMAN'S FOREWORD	8
FUNCTIONS AND POWERS OF THE COMMITTEE	11
TERMS OF REFERENCE	14
CHAPTER 1 - CONDUCT OF INQUIRY	15
1.1 Announcement of Inquiry and Call for Submissions	15
1.2 Submissions Received	15
1.3 Public Hearings	17
1.4 Ombudsmen Survey	19
1.5 General Meeting	19
CHAPTER 2 - BACKGROUND	20
2.1 Reports to Parliament	20
2.1.1 Effective Functioning Report	20
2.1.2 Ombudsman's Report on Allegations of Police bias against Asian Students	21
2.1.3 Toomelah Report	22
2.2 Funds and Resources Inquiry	22
2.3 Management Review	25
2.4 Follow-up Action by the Ombudsman	26
CHAPTER 3 - ACCESS AND AWARENESS STATISTICS	27
3.1 Commonwealth Awareness Survey 1992	27
3.2 Client Survey NSW Ombudsman	30
3.3 The Value of Client Surveys	32
3.4 Data Collection	33
CHAPTER 4 - COMMONWEALTH INQUIRIES	38
4.1 Senate Inquiry Findings December 1991	38
4.2 Administrative Review Council Multicultural Australia Project	39

TABLE OF CONTENTS

CHAPTER 5 - CURRENT STRATEGIES	42
5.1 Management Review Findings	42
5.2 Fact Sheets and Reports	43
5.3 Outreach Campaigns and Speaking Engagements	44
5.4 Youth Publications	45
5.5 Aboriginal and Torres Strait Islander people	46
5.6 Prison Visits	47
5.7 Ethnic Affairs Policy Statement (EAPS)	48
CHAPTER 6 - EVIDENCE: PROBLEM AREAS	54
6.1 Management Review Findings	54
6.2 Administrative Review Council Project	54
6.3 Ethnic Community Groups	56
6.4 Pamphlets	58
6.5 Media	62
6.6 Multilingual Phone Service	63
6.7 Fear of Authority and Reprisals	64
6.8 Self-esteem, Individual Rights, Outcomes	67
6.9 Aboriginal and Torres Strait Islander People	68
6.10 Youth	70
6.11 Prisoners	77
CHAPTER 7 - STRATEGIC PLANNING	79
7.1 Access and Awareness Programs - Strategic Planning	79
CHAPTER 8 - RECOMMENDED STRATEGIES	84
8.1 Management Review Report	84
8.2 Recent Office Initiatives	84
8.3 Ethnic Media	88
8.4 Aboriginal Media	90
8.5 Community Workers and Networks	91
8.6 Interpreter Services	98
8.7 Public Meetings and Speaking Engagements	99
8.8 Ethnic Affairs Policy Statement	100
8.9 Aboriginal Community Education Plan	102

TABLE OF CONTENTS

8.10 Aboriginal Class Actions	106
8.11 Part-time Aboriginal Field Officers	107
8.12 Prisoner Orientation Program	111
8.13 Youth Liaison Strategy	113
8.14 One-Stop Shop	120
8.15 Role of Parliament	122
8.16 Language Barriers	123
8.17 Telephone Complaints	124
8.18 Test Cases and Casebook Series	125
8.19 Country Visits	126
CHAPTER 9 - COMPARATIVE INFORMATION	129
9.1 International Ombudsman Conference - Vienna 1992	129
9.2 International Ombudsman Institute Workshop	130
9.3 Ontario Ombudsman Review	133
9.4 International Ombudsmen	136
9.4.1 New Zealand	136
9.4.2 Norway	137
9.4.3 Britain	138
9.5 The Australian Context - Information Exchange	143
CHAPTER 10 - OMBUDSMEN SURVEY	148
10.1 Problem Areas	148
10.2 Current and Proposed Strategies	150
10.3 Target Groups	155
10.4 Dedicated Liaison Officers	157
10.5 Measurement of Success	158
10.6 Corporate Plan and Performance Measures	159
10.7 Ethnic Affairs Policy Statement	163
10.8 Statistics - Complaint Numbers	164
10.9 Surveys	166
10.10 Interpreting and Translation Services	167
10.11 Communication Methods	168
CHAPTER 11 - COST FACTOR	171
SUMMARY OF RECOMMENDATIONS	174

TABLE OF CONTENTS

BIBLIOGRAPHY 185

APPENDIX 1 - Office of the Ombudsman - Ethnic Affairs Policy Statement July 1992 to June 1993

APPENDIX 2 - Survey of Australian Ombudsmen and their responses.

APPENDIX 3 - Minutes of Proceedings

COMMITTEE MEMBERSHIP

LEGISLATIVE ASSEMBLY

Mr A. Fraser MP - Chairman (elected Chairman 28.10.93)
Mr A. Humpherson MP
Mr K.J. Moss, MP
Mr M. J. Richardson, MP
Mr P.C. Scully, MP
Mr A.H. Windsor, MP

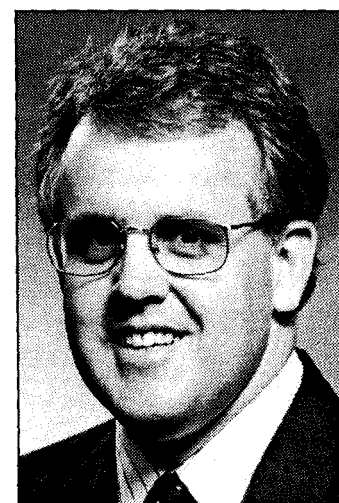
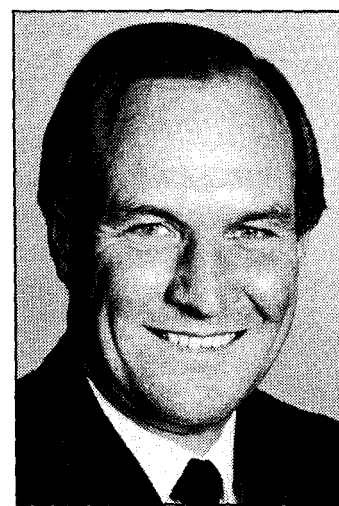
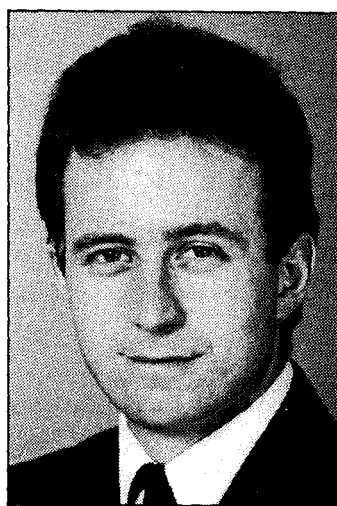
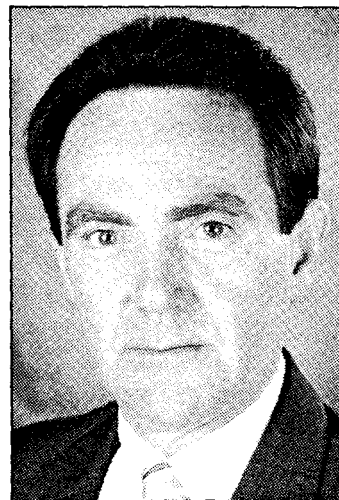
LEGISLATIVE COUNCIL

The Hon. Dr. M.A. Burgmann, MLC
The Hon. L. Coleman MLC
The Hon. S. Mutch MLC - Vice-Chairman

SECRETARIAT

Ms H. Minnican	Project Officer
Ms V. Lovett	Assistant Committee Officer
Ms R. Miller	Clerk to the Committee

COMMITTEE PHOTOGRAPHS



Committee on the Office of the Ombudsman (Left to Right)

Andrew Fraser MP (Chairman), Andrew Humpherson MP, Kevin Moss MP, Michael Richardson MP, Carl Scully MP, Antony Windsor MP, The Hon Dr Meredith Burgmann MLC, The Hon Lloyd Coleman MLC, and The Hon Stephen Mutch MLC (Vice-Chairman).

CHAIRMAN'S FOREWORD

The Committee commenced this inquiry in the context of comments by the New South Wales Ombudsman in which he expressed concern about several access and equity issues facing the Office. In particular, the Ombudsman commented that the right of review available through the Office was of no use to a person who was not aware of it. People who were Aboriginal, of non-English speaking background, in custody, resident outside the Sydney area, or with poor written communication skills were perceived by the Ombudsman as experiencing specific difficulties in gaining access to his Office.

During its inquiry the Committee heard evidence from representatives of public sector agencies involved in the delivery of services to some of these groups, community groups, legal services and several authors of submissions. These individuals highlighted specific problem areas which they had encountered in relation to access to, and awareness of, the Ombudsman's Office among members of the particular groups to whom they provided services. The Committee endeavoured to provide an appropriate background to these observations and comments by highlighting the findings of relevant reports and surveys. A questionnaire addressing some of the issues being examined by the Committee was sent to Ombudsmen throughout Australia in order to gain more current information on initiatives by other Ombudsmen which could prove useful to the New South Wales Ombudsman.

In particular, the Committee was mindful of the findings of the Administrative Review Council, following its inquiry into access to administrative review by members of Australia's Ethnic Communities (July 1991), and the Senate Standing Committee on Finance and Public Administration, which reviewed the Commonwealth Ombudsman's Office in 1991. In addition to surveys conducted by the Commonwealth and New South Wales Ombudsmen, these reports offer the most recent analysis of access and awareness issues facing Ombudsmen in Australia. These earlier inquiries point to the need for the development of strategies and programs targeted at specific, vulnerable or disadvantaged groups as a means of improving their awareness of Ombudsmen and their access to Ombudsmen's Offices and the services they provide.

The recommendations contained in the Committee's report reflect those problem areas perceived by witnesses and authors of submissions to the Committee. They offer suggestions to the New South Wales Ombudsman for the planning of the Office's access

Chairman's Foreword

and awareness strategies and are aimed at improving understanding among the community of the services provided by the Office and increasing its accessibility. The Committee is reassured by the direction being taken by the New South Wales Ombudsman in this area of the Office's operations and noted recently planned initiatives which were referred to by the Ombudsman during the General Meeting with the Committee in June 1994.

The Committee acknowledges that measuring the success of access and awareness programs is a difficult task but believes that an attempt should be made to do so in order that an assessment may be made of developments in this area of the Office's operations. Consequently, it supports surveys of complainants and public authorities by the Ombudsman and regards the collection of relevant statistical information as an integral part of the Office's access and awareness strategies. As a means of integrating this information the Committee also recommends that the Ombudsman should consider preparing an annual Access and Awareness Plan for the Office which would outline details of initiatives undertaken for each year, outcomes, and performance measures and targets. The Ombudsman's regular General Meetings with the Committee are regarded as an ideal vehicle for the discussion of such a Plan and its effectiveness.

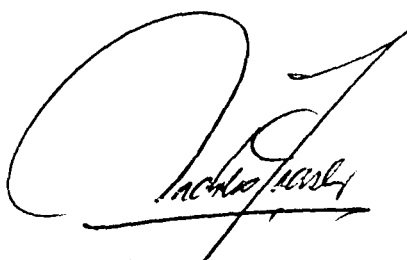
The Committee has recommended that the Ombudsman should consider making provision for any additional costs in relation to access and awareness strategies in the Office's annual budget estimates. These costs would vary depending upon the Office's current access and awareness programs and the recommendations which the Ombudsman might choose to implement.

On behalf of the Committee, I would like to thank those individuals and organisations who gave evidence or made submissions to the Committee. The Committee benefited from the expertise of witnesses such as Mr Stepan Kerkyasharian, Chairman of the Ethnic Affairs Commission, and Professor Cheryl Saunders, a former President of the Administrative Review Council. Representatives of legal services, Aboriginal and community groups provided the Committee with valuable insights into the experiences and perceptions of their clients.

The Committee is grateful to the Australian Ombudsmen who participated in the Committee's survey and gave their permission to reproduce their survey responses in the report. The material obtained through the survey gave the Committee comprehensive information about the access and awareness programs and initiatives adopted by the New South Wales Ombudsman's contemporaries.

Chairman's Foreword

I appreciate the efforts of the members of the Committee who examined the issues raised in a constructive and bi-partisan manner: an approach which is reflected in the unanimous approval given to the report. Finally, I would like to thank the staff of the Committee for their assistance in conducting the Committee's inquiry.

A handwritten signature in black ink, appearing to read 'Andrew Fraser', written in a cursive style with a large initial 'A'.

Andrew Fraser MP
Chairman

FUNCTIONS AND POWERS OF THE COMMITTEE

The Committee on the Office of the Ombudsman is constituted under Part 4A of the Ombudsman Act 1974. The functions of the Committee, which are set out in section 31B (1), are as follows:

- ◆ to monitor and to review the exercise by the Ombudsman of the Ombudsman's functions under this or any other Act;
- ◆ to report to both Houses of Parliament, with such comments as it thinks fit, on any matter appertaining to the Ombudsman or connected with the exercise of the Ombudsman's functions to which, in the opinion of the Joint Committee, the attention of Parliament should be directed;
- ◆ to examine each annual and other report made by the Ombudsman, and presented to Parliament, under this or any other Act and to report to both Houses of Parliament on any matter appearing in, or arising out of, any such report;
- ◆ to report to both Houses of Parliament any change that the Joint Committee considers desirable to the functions, structures and procedures of the Office of the Ombudsman;
- ◆ to inquire into any question in connection with the Joint Committee's functions which is referred to it by both Houses of Parliament, and to report to both Houses on that question.

These functions may be exercised in respect of matters occurring before or after the commencement of this section of the Act.

The Committee is not authorised:

- ◆ to investigate a matter relating to particular conduct; or
- ◆ to reconsider a decision to investigate, not to investigate or to discontinue investigation of a particular complaint; or
- ◆ to exercise any function referred to in subsection (1) in relation to any report under section 27; or
- ◆ to reconsider the findings, recommendations, determinations or other decisions of the Ombudsman, or of any other person, in relation to a particular investigation or

Functions of the Committee

complaint or in relation to any particular conduct the subject of a report under section 27; or

- ◆ to exercise any function referred to in subsection (1) in relation to the Ombudsman's functions under the Telecommunications (Interception) (New South Wales) Act 1987.

The Statutory Appointments (Parliamentary Veto) Amendment Act, assented to on 19 May 1992, amended the Ombudsman Act by extending the Committee's powers to include the power to veto the proposed appointment of the Ombudsman and the Director of Public Prosecutions. Section 31BA of the Ombudsman Act therefore provides:

- "(1) The Minister is to refer a proposal to appoint a person as Ombudsman or Director of Public Prosecutions to the Joint Committee and the Committee is empowered to veto the proposed appointment as provided by this section. The Minister may withdraw a referral at any time.
- (2) The Joint Committee has 14 days after the proposed appointment is referred to it to veto the proposal and has a further 30 days (after the initial 14 days) to veto the proposal if it notifies the Minister within that 14 days that it requires more time to consider the matter.
- (3) The Joint Committee is to notify the Minister, within the time that it has to veto a proposed appointment, whether or not it vetoes it.
- (4) A referral or notification under this section is to be in writing.
- (5) In this section, a reference to the Minister is;
 - (a) in the context of an appointment of Ombudsman, a reference to the Minister administering section 6A of this Act; and
 - (b) in the context of an appointment of Director of Public Prosecutions, a reference to the Minister administering section 4A of the Director of Public Prosecutions Act 1986."

Functions of the Committee

Under section 6A of the Ombudsman Act:

"6A(1) A person is not to be appointed as Ombudsman until:

- (a) a proposal that the person be appointed has been referred to the Joint Committee under section 31BA; and
 - (b) either the period that the Joint Committee has under that section to veto the proposed appointment has ended without the Committee having vetoed the proposed appointment or the Committee notifies the Minister that it has decided not to veto the proposed appointment.
- (2) A person may be proposed for appointment on more than one occasion.
- (3) In this section and section 31BA, "appointment" includes re-appointment.

Any evidence taken by the Committee in exercising these powers must be taken in private and treated confidentially (s.31H(1)). No public disclosure is permitted about whether or not the Joint Committee or any of its members has vetoed, or intends to veto, the appointment of an applicant (s.31H(1B) and (1C)).

TERMS OF REFERENCE

In previous reports and submissions to the Committee the Ombudsman stated that:

"The availability of information about access to services provided by the Ombudsman are matters of fundamental equity and fairness."

He raised particular concerns about access to his Office by Aborigines, people of non-English speaking background, people in custody, young people and disadvantaged groups.

The Committee therefore, resolved to conduct an inquiry into the level of understanding of young people, Aborigines, members of the ethnic communities and minority or disadvantaged groups, of the role of the Ombudsman and the extent of their access to his Office.

CHAPTER 1 - CONDUCT OF INQUIRY

1.1 Announcement of Inquiry and Call for Submissions

In view of the ongoing concerns expressed by the New South Wales Ombudsman about access and equity issues the Committee resolved on 23 February, 1993 to conduct an inquiry into:

"The level of understanding of young people, Aborigines, members of ethnic communities and minority or disadvantaged groups of the role of the Ombudsman and the extent of their access to his Office."

These terms of reference were published in major metropolitan newspapers, in accordance with Parliamentary Committee practice, on 6 March 1993. A list of submissions received by the Committee is attached.

In response to a submission by Mr Kerkyasharian, Chairman of the NSW Ethnic Affairs Commission, which suggested writing directly to several key ethnic community organisations, the Committee sought submissions from:

- (i) the Albury/Wodonga Ethnic Communities' Council;
- (ii) the Ethnic Communities' Council of NSW;
- (iii) the Ethnic Communities' Council of Newcastle and the Hunter Region Inc.;
- (iv) the Federation of Ethnic Communities' Councils of Australia Inc.;
- (v) the Illawarra Ethnic Council;
- (vi) the Anglican Home Mission Society Care Force;
- (vii) the Ethnic Communities Council of Wagga Wagga.

Unfortunately, the Committee failed to receive any responses to its requests.

1.2 Submissions Received

The Ombudsman did not make a submission to the Committee partly because he felt that his views and position on this issue had been stated in previous submissions to the Committee for other inquiries and in several Reports to Parliament. (Letter dated 16 March, 1994)

Chapter 1 - Conduct of Inquiry

Submissions were received from the following individuals and organisations:

Mr Stepan Kerkyasharian Chairman	Ethnic Affairs Commission of NSW	2.4.93
Ms Carol Vleeskens Senior Manager	South Western Sydney Burnside Khimer Program	5.4.93
Mr Michael Williams	former Community Worker Summer Hill	10.3.93
Mr Bernie Shipp Solicitor	Adolescent Legal Service Youth Resource Program Burnside	20.4.93
R H Kellaway	Hazelbrook 2779	1.4.93 & 8.3.93
Mrs Elizabeth Ballard	Marulan NSW 2579	2.4.93
Mr John Fox-Little	Potts Point NSW 2011	12.4.93 & 2.4.93
Mr Fritz Schroeder	Hornsby NSW 2077	28.3.93
Mr Joseph Rizzo	Smithfield NSW 2164	30.4.93
Ms Theresa O'Sullivan Children's Solicitor	Marrickville Legal Centre and Children's Legal Service	3.8.93
Aboriginal Justice Committee	NSW Law Society	29.6.93
Mr Ken Buckley Vice-President	NSW Council for Civil Liberties Inc.	4.8.93 (late submission)

Chapter 1 - Conduct of Inquiry

1.3 Public Hearings

The Committee formally resolved to take evidence from the following individuals and organisations:

Mr S Kerkyasharian	Chairman NSW Ethnic Affairs Commission
Mrs Edna McGill	Chairperson NSW Ethnic Communities' Council
Chairman	Aboriginal Justice Committee NSW Law Society
Professor Cheryl Saunders	former President Administrative Review Council
NSW Community Justice Centres	
NSW Council for Civil Liberties	
Aboriginal Legal Service	
Anti-Discrimination Board	
NSW Law Reform Commission	
Adult Migrant Education Service	
Mr Bernie Shipp	Solicitor Adolescent Legal Service, Burnside
Burnside Khmer Program	
Mr Michael Williams	former community worker, Summer Hill
Mr Brian Burdekin	Commissioner Human Rights and Equal Opportunity Commission
Prisoner's Action Group	
Representative - Royal Commission into Aboriginal Deaths in Custody.	

Chapter 1 - Conduct of Inquiry

Although it was not possible to hear from all of the groups and individuals listed above, the Committee held public hearings on 29 June and 3 August, 1993 and finally took evidence from the following witnesses:

Tuesday - 29 June 1993

Professor Cheryl Saunders	former President Administrative Review Council
Mr Bernard Shipp	Solicitor Burnside Adolescent Legal Service
Ms Margaret Hole (Councillor and Chair) Mr James Evans (Solicitor and Member)	Aboriginal Justice Committee NSW Law Society
Ms Heather Kepski	Manager, Education Counselling Unit Adult Migrant English Service
Ms Joan Masters	Deputy Director Adult Migrant English Service

Tuesday - 3 August 1993

Mr Stepan Kerkyasharian	Chairman NSW Ethnic Affairs Commission
Ms Lily Trimboli	Principal Policy Officer NSW Ethnic Affairs Commission
Ms Jan Devos	Casework Supervisor Burnside Khmer Program
Mr Min Hauv Yorth	Welfare Worker Burnside Khmer Program
Mr Geoffrey Scott	State Manager Aboriginal and Torres Strait Islander Commission

Chapter 1 - Conduct of Inquiry

Mr Stephen Friend

Solicitor
Aboriginal Legal Service

Ms Theresa O'Sullivan

Solicitor - Youth Justice
Coalition/Marrickville Legal Centre

1.4 Ombudsman Survey

Prior to finalising its report the Committee conducted a survey of Australian Ombudsmen requesting responses to several questions regarding the access and awareness strategies used to promote their role and work. The questions and the respondent's answers are detailed in Chapter 10: Ombudsmen Survey.

1.5 General Meeting

The Committee held a General Meeting with the Ombudsman on 23, June 1994 in which several questions were asked about recommendations made by the Management Review Team concerning the Office's public awareness strategy. The Deputy Ombudsman and Assistant Ombudsman (General Area) also participated in the meeting. Evidence given by the Ombudsman and his staff in response to these questions is included in this report where relevant to the Committee's inquiry.

CHAPTER 2 - BACKGROUND

In several reports to Parliament as well as submissions for previous inquiries by the Committee the Ombudsman has drawn attention to access and equity issues affecting various groups and individuals in the community requiring the services of his Office.

2.1 Reports to Parliament

2.1.1 Effective Functioning Report

In his Report entitled "The Effective Functioning of the Office of the Ombudsman" the Ombudsman stated that:

*"The right to make a written complaint to the Ombudsman, which is also an essential prerequisite for an investigation under both the Ombudsman Act [S.12(1)] and the Police Regulation (Allegations of Misconduct) Act [S.6(1A)], is not, of itself, a sufficient guarantee either of access or availability in an equitable fashion. In recognition of this, successive Ombudsmen have implemented programs to ensure that the services of his Office are available to those groups disadvantaged by geographical or special circumstances."*¹

Such programs and initiatives included: regular visits to prisons and juvenile institutions by Ombudsman Officers (in co-operation with the Department of Corrective Services and the Department of Family and Community Services); a 008 telephone service for residents outside the Sydney Metropolitan area (introduced in 1989); public awareness visits; the creation of a position of Investigation Officer (Aboriginal complaints); meetings with Aboriginal community representatives; multi-lingual pamphlets and meetings with various ethnic organisations.²

However, the Ombudsman noted several difficulties which were preventing him from consolidating these programs. For instance, he stated that prison visits had been reduced due to a lack of resources and an increase in the number and complexity of complaints³. A reduction in public awareness visits outside the Sydney Metropolitan area was similarly

¹ Effective Functioning Report, 21 June 1991, p.31. - Note the relevant provisions of the PRAM Act have since been amended by the Police Service (Complaints, Discipline and Appeals) Amendment Act 1993.

² *ibid* pp. 31-38.

³ *ibid* pp. 32-3

Chapter 2 - Background

highlighted. Lack of funds and facilities were cited as an obstacle to updating and printing the Office's multi-lingual pamphlets last printed, at that stage, in 1988-89⁴.

2.1.2 Ombudsman's Report on Allegations of Police bias against Asian Students

In his report on "Allegations of Police Bias against Asian Students" dated 25 June, 1993 the Ombudsman recounted the details of a confrontation between a group of Asian students and a group of non-Asian students at Turrumurra Railway Station on 18 October, 1991. The report concerned the handling of that incident by Police.

The contents of the report highlighted the significant role played by the Ombudsman in such cases and the need to undertake initiatives to overcome barriers preventing people from complaining to the Office. The Ombudsman claimed that the father of one of the Asian boys arrested by Police "had not known of the existence of the Ombudsman"⁵.

According to the report, the Ombudsman's Office played a vital role in gathering evidence which the Police had not been able to obtain during their interviews with the Asian students involved in the incident. Apparently, Police had been unable to obtain statements or evidence from any of the four Asian students arrested or their families. Attempts by an officer of the Ombudsman resulted in interviews being held with two of the arrested students⁶.

The Ombudsman's findings on this particular incident accentuate the importance of promoting awareness and understanding of his Office and its functions among members of the community who may require his services but would not know of his Office or who might be afraid to use it because of language difficulties, mistrust of the complaint process or fear of retaliation.

⁴ *ibid* p.37

⁵ Report on Allegations of Police bias against Asian Students p.2. Another Asian man questioned by Police had declined to have anything to do with the complaint.

⁶ *ibid* p.3

Chapter 2 - Background

2.1.3 Toomelah Report

The Ombudsman's special report on the Office of Aboriginal Affairs dated 12 November, 1992 emphasised the importance of public awareness visits for Aboriginal people wishing to complain about public sector services. A written complaint from a representative of the Toomelah Aboriginal Land Council on the Toomelah Aboriginal Co-operative was received by the Ombudsman on 1 February, 1991. The complaint concerned a number of government authorities, including the Office of Aboriginal Affairs⁷.

The Ombudsman's subsequent investigation examined:

- (i) the action of the Office of Aboriginal Affairs following requests by the Toomelah Local Aboriginal Land Council for assistance;
- (ii) the actions of the Office of Aboriginal Affairs in relation to the alleged failure of government departments and the Moree Plains Shire Council to provide services to the Toomelah community.⁸

Significantly, the original complaints by Toomelah residents about the delivery of State Government services were made to the Ombudsman during a public awareness visit to Toomelah on 21 November, 1990⁹.

2.2 Funds and Resources Inquiry

In his submissions to the Committee on its inquiry into the funds and resources available to the Ombudsman to perform his functions, Mr Landa restated his belief that:

*The availability of information about and access to services provided by the Ombudsman are matters of fundamental equity and fairness.*¹⁰

He argued that if you are:

⁷ Toomelah Report para. 2.4

⁸ *ibid* para. 2.7

⁹ *ibid* para 2.3.

¹⁰ NSW Ombudsman's Office - Submission 1, 28/8/92 para 4.50 p.48

Chapter 2 - Background

*"Aboriginal, from a non-english speaking background, in custody, live outside the Sydney region or lack written communication skills then your access to the Office of the Ombudsman is being curtailed by the erosion of the Ombudsman's resources."*¹¹

Developing this argument further in his second submission, dated 7 December 1993, the Ombudsman presented the following statistics concerning decreases in prison and public awareness visits¹²:

	1989-90	1990-91	1991-92
Prison Visits (29 adult prisons in NSW)	36	20	27
Visits to Juvenile Institutions (9 juvenile institutions in NSW)	12	5	3
Country Public Awareness Visits	33	11	0

The Ombudsman estimated that the "true shortfall" for the cost of maintaining an optimum level of visits to prisons and juvenile institutions would be \$46,000. A properly managed program of community visits was estimated to require \$31,000.¹³

With regard to dissemination of information the Ombudsman asserted:

"A right of review by the Ombudsman of administrative actions by NSW public authorities is of no use to a person who is not aware of it."

¹¹ Submission 1 28/8/92 para 4.51

¹² Submission 2 7/12/92 paras. 7.9-7.11

¹³ Submission 2, 7/12/92, paras 7.12 and 7.13

Chapter 2 - Background

The Ombudsman submitted that additional funding of \$5,000 was required to produce a minimum print run of 2000 copies of the Office's annual report which was seen as a major vehicle for "considerable free publicity" and cost \$12,000 to print in 1991-2.¹⁴

A further \$34,000 was sought by the Ombudsman to supplement the Office's printing budget of \$28,000 for the 1992-93 financial year. This amount would cover the cost of printing multilingual and information pamphlets as follows:

- * general role/functions services (English) - \$7,000 per pamphlet for a print
- * general role/functions/services (multilingual) run of 4000 copies
- * problems with police (English)
- * problems with police (multilingual)
- * how to solve a dispute with the government department (self-help for complainants)
- * FOI - independent review.

In addition to this the Office's other information costs were:

	\$
* Special reports to Parliament (6 per annum)	24,000
* Ombudsman's newsletter	7,000
* Display stands for Law-week	5,000
* Office manual	2,000 ¹⁵

Outcome of Inquiry

Due to other efficiencies which the Committee felt the Ombudsman could make in the management of his Office the Committee did not recommend an increase in funds. Recommendation 21 of the Committee's Funds and Resources Inquiry Report stated that:

"In view of the scope for further efficiencies in the operation of the Ombudsman's Office, as recommended by this report, and the further initiatives of the Ombudsman in relation to his information technology proposals and negotiations

¹⁴ *ibid*, para 7.14

¹⁵ *ibid*, paras 7.15-7.17

Chapter 2 - Background

relating to his leasing arrangements, the Committee does not recommend any increase in funds for the Office."

2.3 Management Review

The Office's public awareness strategy was examined by KPMG Peat Marwick Management Consultants during its 1993 Management Review of the Ombudsman's Office, conducted under the direction of the Joint Committee and in co-operation with the Ombudsman. The strategy was considered by the Review Team to be one of several factors which may impact upon the effectiveness and efficiency of an organisation.

The KPMG Peat Marwick Management Review Team noted in their report:

"Based on our assessment of the Ombudsman's public awareness strategy, we believe that the strategies adopted to promote public awareness of the Ombudsman make appropriate use of a restricted budget. However, problems would appear to exist in raising the level of awareness of the Ombudsman within particular segments of the community, such as:

- * *Aboriginal and Torres Strait Islanders;*
- * *people from non-English speaking backgrounds;*
- * *youths;*
- * *people with lower levels of education; and*
- * *non-professional members of the work force.*

The promotional efforts should be focussed on achieving greater coverage of stories about the Ombudsman in leading ethnic newspapers and the Koori Mail to attempt to overcome the current awareness problems. In order to ensure that cases can be reported in the press they must first be included in the annual report. The Ombudsman's Office must therefore be sure that cases selected for inclusion in the annual report include a selection of cases involving Aboriginal complainants and complainants from people from non-English speaking backgrounds.

The Ombudsman and Deputy Ombudsman (and possibly the Assistant Ombudsmen) should undertake public speaking engagements as an economical and effective means of promoting the Ombudsman's Office.¹⁶

¹⁶ Management Review Report - section 6.4 pp.44-45

Chapter 2 - Background

In short, the Committee supported the findings of the Management Review Team in relation to the Office's access and awareness strategies and made the following recommendations in its Funds and Resources Report:

Recommendation 14 - The Committee recommends that the Ombudsman create an Aboriginal Liaison Officer position to focus exclusively on non-investigation work promoting the Ombudsman's Office throughout the Aboriginal and Torres Strait Islander community.

Recommendation 15 - The Committee recommends that the Ombudsman should accommodate those recommendations relating to Public awareness visits which were contained in KPMG's report.

2.4 Follow-up Action by the Ombudsman

In accordance with Recommendation 14 the Ombudsman has attempted to fill an Aboriginal Liaison Officer position. However, on two occasions selected candidates have withdrawn their application. He is still endeavouring to appoint someone to this position.

At the General Meeting on 23 June 1994 the Ombudsman gave the Committee details of several new public awareness initiatives undertaken by his Office since the conclusion of the Management Review. These are referred to in more detail in Chapter 8: Recommended Strategies.

CHAPTER 3 - ACCESS AND AWARENESS STATISTICS

ACCESS AND AWARENESS STATISTICS

A key indicator of levels of access among various sections of the community to the New South Wales Ombudsman are surveys conducted by Ombudsmen to measure access and awareness levels plus client satisfaction. Recent surveys of this kind by the Commonwealth and New South Wales Ombudsmen have afforded valuable statistical information directly relevant to this Committee's Inquiry. The findings of the surveys are referred to below.

3.1 Commonwealth Awareness Survey 1992

In June 1992 the Roy Morgan Research Centre Pty. Ltd. reported the results of a public awareness survey it had conducted on behalf of the Commonwealth and Defence Force Ombudsman. Although the report focussed on the Commonwealth Ombudsman it also contained findings about survey results relating to State Ombudsmen. The survey comprised a total of 2960 personal interviews conducted nationally of people aged 16 years and over. As a recent source of information on awareness of Ombudsmen, and the Ombudsman concept generally, the Committee was mindful of the survey conclusions when conducting its inquiry. The results of the survey which were of relevance to the Committee's Inquiry are summarised below¹⁷.

The Research Centre found that 60% of people were aware of their State Ombudsman. In comparison with other State Ombudsmen, the New South Wales Ombudsman ranked equal third in level of awareness among State Ombudsmen at 67%. The highest awareness was in the Northern Territory (81%) followed by South Australia (69%), Tasmania (67%) and Queensland (46%)¹⁸.

Other findings included in the survey report which related to State Ombudsmen were based on such factors as sex, age and education. The researchers found that on the basis of:

- (i) **sex** - a higher proportion of men were aware of State Ombudsmen (65%) when compared with women (55%);

¹⁷ Public Awareness Survey June 1992, Roy Morgan Research Centre Pty. Ltd., p.i

¹⁸ *ibid* pp.ii-iii

Chapter 3 - Access and Awareness Statistics

- (ii) **age** - people aged 35-49 were more likely to be aware of the State Ombudsman (72%) compared to other age groups. People aged 16-24 were least likely to be aware of Ombudsmen with only 36% aware of the State Ombudsman;
- (iv) **education** - people with a university education were more likely to be aware of the State Ombudsman (75%) than people with lower levels of education. The people least likely to be aware of State Ombudsmen were those with primary to secondary education (48%)¹⁹.

Other conclusions regarding awareness levels made on the basis of country of birth, language spoken at home, aboriginality and time in Australia, were as follows:

- (i) People born in English speaking countries other than Australia were more likely to be aware of the State Ombudsman than those born in Australia or a non-English speaking country - only 43% of people born in a non-English speaking country were aware of the State Ombudsman;
- (ii) People who spoke a language other than English at home were less likely to be aware of Ombudsmen than those speaking English - only 37% of those speaking a language other than English had heard of the State Ombudsman;
- (iii) The group of people least likely to be aware of Ombudsmen were Aboriginal or Torres Strait Islander people - only 30% had heard of the State Ombudsman (however, the survey highlighted that this figure was based on the responses of the small number of Aboriginals and Torres Strait Islanders surveyed - 41 in all);
- (iv) Only 33% of people who had arrived in Australia in the last five years had heard of the State Ombudsman compared to 61% of those in Australia for a longer period.
- (v) People receiving a service pension were more likely to be aware of both the Commonwealth and State Ombudsmen when compared to any other group²⁰.

The researchers also drew conclusions about the means by which people became aware of the Ombudsman. According to the survey report:

- (i) the majority of people (63%) develop an awareness of Ombudsmen through media reports;

¹⁹ ibid pp.iii-iv

²⁰ ibid pp.v-vi

Chapter 3 - Access and Awareness Statistics

- (ii) 10% of people become aware through advertising; and,
- (iii) 9% became aware through word of mouth²¹.

The Report suggested that an effective information strategy for increasing awareness among people of non-English speaking background would be to place stories and reports about the Ombudsman in ethnic newspapers with high circulations. Some of those newspapers suggested included: The Asian Herald (Chinese), Nea Patrida (Greek), Neos Kasmus (Greek), Tiva Tuan San (Vietnamese), Il Glabo (Italian), Makadenski Glas (Yugoslav/Macedonian), Novosti (Yugoslavian/Serbian) and Nova Daba (Yugoslavian/Croatian)²².

The survey also examined the number of people who had contact with Ombudsmen. It was found that:

- i) approximately 201,000 people had contact with the NSW Ombudsman;
- ii) people in remote areas²³ were more likely to have had contact with an Ombudsman (9%) than people living in capital cities (6%) or country areas (5%);
- iii) a slightly greater proportion of men (7%) than women(4%) had contact with an Ombudsman;
- iv) those with a tertiary level of education were more likely to have had contact with an Ombudsman when compared to people with a lower level of education;
- v) 59% of those who had contact with an Ombudsman thought Ombudsmen to be either totally or partially independent from the government, whereas 22% felt Ombudsmen were either totally or partially controlled by the government.

²¹ ibid p.vii

²² ibid p.vii

²³ People living in remote areas were identified as people living more than twenty kilometres away from a population centre of 2000 people.

Chapter 3 - Access and Awareness Statistics

Of the people who had contacted an Ombudsman 63% found the process of contacting the Ombudsman easy and 75% of those who had done so felt that it was important that people should be aware of the Ombudsman²⁴.

3.2 Client Survey NSW Ombudsman

In March-May 1993 the New South Wales Ombudsman engaged AGB McNair consultants to conduct a survey on the expectations and levels of satisfaction of complainants with existing Office procedures. It was intended to use the information provided by the survey to modify Office procedures where necessary in order to ensure greater customer service and client satisfaction. Significantly, the results of the Ombudsman's survey, despite its focus on satisfaction levels, provided valuable information about awareness of his Office and the methods used by the public to access it. The Ombudsman gave the Committee details of the results of the AGB McNair survey as part of his submission to a General Meeting held with the Committee on 23 June, 1994. The survey involved a four-page questionnaire being mailed to a random sample of 1783 complainants which constituted 31% of the total complainants to the Office. The response rate for the survey was 34 per cent.²⁵

The AGB McNair survey report indicated:

"Perceptions of the Ombudsman's role were basically accurate. The main roles expected of the Ombudsman was as an investigator, independent assessor and the last resort to get justice.

Complainants from non-English speaking backgrounds (NESB) generally saw the Ombudsman as someone to argue the case for themselves (46 per cent) compared with only 22 per cent among English speaking complainants.²⁶

Also, of relevance to the Committee's inquiry was the finding that of the respondents to the survey: 42% were country people; 14% were from non-English speaking backgrounds; 64% were male and 32% female; 63% were 40 years of age or over and only 6% were

²⁴ *ibid* p.viii

²⁵ NSW Ombudsman Annual Report 1992-3 p.13

²⁶ Overview of the Complainant Satisfaction Survey, Ombudsman's Answers to Questions on Notice for the General Meeting on 23 June, 1994 - dated 19 May, 1994

Chapter 3 - Access and Awareness Statistics

under the age of 25. On the basis of this information the Office concluded that its Media Officer should use this demographic data to design targeted publicity campaigns.

Other questions put to complainants related to the following areas:

- i) **Finding out about the Ombudsman** - 27% sourced the media, 27% sourced friends\relatives, 15% legal advisors, 12% the Office's pamphlets; 11% general knowledge and 6% politicians. Women relied more than men on friends\relatives (34%:22%) and the Office's pamphlets (15%:9%).

The media had the greatest impact on older complainants but was a less influential source of information about the Ombudsman for people of non-English speaking background. The latter relied more on pamphlets, legal advisers and referrals by politicians. Legal advisors and politicians were sourced more by police complainants.

- ii) **Ability to locate facilities easily** - 70% said they found the Office easily; 62% said they found the Office's telephone number easily. Gender, educational qualifications, age and area did not appear to affect this issue.

A large percentage of police conciliation complainants did not make their complaint direct to the Office and had a significantly lower positive response to this issue than other groups.

- iii) **Ease of understanding communications** - 80% said yes on this issue. NESB complainants needing assistance had a significantly higher response as did people dissatisfied with the Ombudsman's findings.

The Office drew several conclusions about how its procedures and practices should be modified in view of these survey results. It concluded that the media was still its best means of communicating information about the role, function and access of the Office to the public and should continue to be used wherever possible to promote the Office. It considered that: media stories should be developed to illustrate the work of the Office; targeted stories for ethnic press should be developed; multi-lingual pamphlets should be developed as a priority and distributed widely to ethnic organisations; and, pamphlets and information packages should be sent to youth and women's centres, community legal centres and aged and pensioner centres. In relation to the ability of complainants to easily locate facilities and understand communications the Office concluded that it must continue

Chapter 3 - Access and Awareness Statistics

to make its correspondence and other communications clear and easy to understand and that its staff should be reminded to use plain English.²⁷

3.3 The Value of Client Surveys

The results of the New South Wales Ombudsman's survey are supported by those of the Commonwealth Ombudsman's survey in regard to both the level of awareness of State Ombudsmen among sections of the community and the means by which people access Ombudsmen offices. It was apparent from both surveys that the media is a vital source to be used in distributing information about the role of the Ombudsman and the work of his Office. Other common findings were that factors such as language, education, and cultural background also affected access to, and awareness of, Ombudsmen generally.

The Committee feels that complainant surveys serve as valuable indicators of the success and effectiveness of the Ombudsman's access and awareness strategies and as such are regarded by the Committee as a worthwhile, informative management tool. It believes that evaluation of these strategies is a vital part of the process by which they can be improved and agrees with the Ombudsman that regular client surveys would provide valuable feedback to the Office on its procedures and operations.

However, it considers that improvements in the access and awareness strategies, as a result of changes to practices implemented due to survey results, would only be discernible if surveys were conducted on a regular and frequent basis. Without such comparative data the Committee does not believe the Ombudsman would be in a position to monitor the effectiveness of developments in the strategy and would not have sufficient information about complainants, or methods of accessing his Office and publicising its work, to fully utilise the resources available to the Office for access and awareness initiatives.

During the General Meeting on 23 June, 1994 the Ombudsman advised the Committee that the Office is planning a further client survey (probably in the next three months) and that a "companion expectation and satisfaction survey" of public authorities is also planned. The Committee supports the Ombudsman's efforts in conducting these surveys and sees them as an integral part of his work and a valuable mechanism to be used in planning the Office's access and awareness strategy. The cost of the 1993 AGB McNair survey was funded from the Ombudsman's budget allocation for the 1992-93 financial year and was

²⁷ *ibid*

Chapter 3 - Access and Awareness Statistics

not an item subject to supplementation. At a cost of \$8,241, the Committee agrees with the Ombudsman that such surveys do constitute "value for money".²⁸

Recommendation 1:

The Committee recommends that the Ombudsman should consider continuing to conduct client satisfaction and awareness surveys on a regular basis as a method of measuring the effectiveness of the Office's access and awareness strategies, identifying barriers to easy access, and establishing benchmarks for these programs.

Clients in this sense refers to both the complainants and public authorities using the services provided by the Ombudsman.

3.4 Data Collection

The 1993 Access and Equity Annual Report (Office of Multicultural Affairs²⁹) states that:

"Commonwealth programs relating to equity have generally suffered from inadequate evaluation due to lack of relevant performance indicators, especially ethnicity data."

²⁸ Ombudsman's submission on KPMG Peat Marwick's Final Management Review Report, dated 2/8/93, p.11

²⁹ The Access and Equity Strategy was introduced by the Federal Government in 1985 to require institutions at Federal level to ensure that services and programs met the needs of immigrants of non-English speaking background. Ministers were required to provide the Minister for Immigration and Ethnic Affairs with an annual statement on the measures taken by Departments within their responsibility to ensure Access and Equity in service and program delivery to immigrants. Following a review of the strategy in 1986 all portfolios were required to produce a three-year Access and Equity Plan, identifying barriers to access, initiatives to address these barriers and performance and evaluation measures. The Office of Multicultural Affairs was given responsibility for coordinating and monitoring the Strategy upon its creation in 1987. The Strategy was extended in 1989 to include all Australian residents facing barriers relating to their race, religion, culture or language. The Strategy no longer applied to immigrants only but included Aboriginal and Torres Strait Islander people, as well as children of non-English speaking background. (Source Access and Equity Evaluation Report 1992 pp. 16-17)

Chapter 3 - Access and Awareness Statistics

It noted that Australian Public Service data bases "are generally defined by the demands of financial administration, rather than program evaluation".³⁰ The report further detailed that:

"Effective planning and evaluation of [Access & Equity] performance cannot be undertaken without relevant performance indicators in the form of ethnicity data.

. . . .

While some service delivery agencies appear to have extensive ethnicity data on existing clients, which is of some use for evaluation purposes, few are in a position to assess this against broader community data."³¹

Although this section of the 1993 Access and Equity report relates to Commonwealth agencies and the mechanisms supporting an equitable delivery of services by these agencies, the Committee considers that significant parallels may be drawn on the issue of access and awareness data available to the New South Wales Office of the Ombudsman.

The Committee believes that it is desirable for:

- i) information from client surveys conducted by the Office to be organised so that sufficient relevant data about complainants may be produced to enable the Office to assess and monitor the composition of its client base.
- ii) the Ombudsman to be able to compare information about the Office's client base for different areas of his jurisdiction. For example, it may be useful to compare the levels of access to the Ombudsman, and awareness of his role, for groups whose complaints relate to the Police Area with those whose complaints relate to the General Area. This could assist in pinpointing difficulties experienced by particular groups of complainants in making specific types of complaints or in complaining about specific agencies.
- iii) information gained by the Office about its own client base to be supported by information concerning the population of New South Wales which was readily available elsewhere, for example, through Australian Bureau of Statistics Census material and survey data. Statistics collected by the

³⁰ *ibid* Executive Summary

³¹ Access and Equity Annual Report 1993 pp.24-25

Chapter 3 - Access and Awareness Statistics

Ombudsman concerning complainants could be assessed against a background of statistical information concerning the community generally.

- iv) the Ombudsman to be able to assess how many members of specific groups, such as, Aboriginal and Torres Strait Islander people, or people of non-English speaking background, access his Office and in relation to what types of complaints. Similarly, factors such as cultural background, race, or socio-economic background could be relevant to systemic complaints.

Certain witnesses appearing before the Committee also regarded collection of statistical information concerning the background of complainants as essential to any meaningful assessment by the New South Wales Ombudsman of access and awareness strategies. Although recording such information may raise privacy concerns the Committee did not consider that these were insurmountable or that they constituted a reason for not gathering any complainant background information. The confidentiality issue was addressed by Mr Kerkyasharian in evidence to the Committee:

CHAIRMAN: *In your submission you stated there was not any quality of data on the number of people of non-English speaking background who had made complaints to or been complainants to the Ombudsman. Is there any way that that can be overcome and that that data can be obtained?*

Mr KERKYASHARIAN: *...I do not see that requiring major resources, particularly now with technology and computerisation. It would be a simple matter of asking a few additional questions and ensuring that those are recorded; such as the ethnic background, the cultural background of the individual, whether the complainant was a migrant or not, also perhaps some data as to the nature of the incident, whether the complainant believes that he or she was disadvantaged or hard done by because of his or her background. I can understand that some concerns may exist here, privacy concerns, in that some people may not wish to refer to their ethnic background.*

Of course those wishes of those individuals should be respected, and that in itself gives rise to the question as to whether, if allowances of that nature are made—...data collected under such circumstances would be valid or not. It is my view that it is better to collect data under such circumstances than not to collect data at all. ...

Chapter 3 - Access and Awareness Statistics

It is also important for the Ombudsman to ascertain what people think the cause of the initial incident was which gave rise to the complaint—whether it was discrimination in the opinion of the complainant... 3.8.93 pp.2-3

The Committee feels that if the Ombudsman considers collecting such data the following principles should be observed:

- appropriate aggregation to prevent identification;
- only essential data should be collected;
- anonymity should be guaranteed; and,
- participation should be voluntary.

The Committee feels that surveys of the type suggested in Recommendation 1 need to be supported by adequate information technology if the results they provide are to be used productively over a period of time, to determine the effectiveness of the Office's access and awareness strategies and, to monitor access and awareness difficulties and trends among complainants. Any access and awareness strategy undertaken by the Office, in the Committee's opinion, should be complemented and supported by a comprehensive database capable of collating relevant statistics and information obtained by the Office from a variety of sources.

In its Report upon the Funds and Resources Available to the Ombudsman the Committee made a number of recommendations aimed at overcoming deficiencies within the Office's existing Information Technology System. One such reported deficiency was the inability of the information technology system to record demographic details of complainants.

In accordance with Recommendation 13 of that Report the Ombudsman recently advised the Committee that the Office had completed both a strategic and tactical plan in relation to an Information Technology Strategy. These plans had been submitted to the Office of Public Management in February 1994 and, subsequently, were approved and forwarded to Treasury. The Ombudsman was waiting for an indication of the outcome of this application at the time of his meeting with the Committee.³² The Committee remains concerned that the Office has not been able to implement its information technology system strategic and tactical plans as this limits the benefits which the Office could obtain from client surveys and its existing complaints area records. An example of the limitations of the Office's current Information Technology System is that it is incapable of

³² General Meeting Evidence, 23/6/94 and Submission dated 19/5/94 Answer 14.

Chapter 3 - Access and Awareness Statistics

differentiating complaints on the basis of geographical postcodes and as a result the Ombudsman cannot compare the proportion of complainants from country as opposed to city areas, or indicate the number of country cases which are declined.³³

The Assistant Ombudsman (General Area) indicated in the June 1994 General Meeting that the Office had not intended to gather statistics from the series of awareness programs it was planning but that it would consider such action if the Committee suggested it.³⁴ The Committee believes that statistics would be a useful adjunct to the awareness programs undertaken by the Ombudsman and that the Office's Information Technology System should be improved to permit the collation of statistical information obtained through this area of the Office's operations.

Recommendation 2:

The Committee recommends that the Ombudsman should consider ensuring that the Office's Information Technology System Strategic and Tactical Plans provide it with the capacity to collect and collate the statistics and information necessary to develop access and awareness initiatives and monitor their effectiveness. This reflects the Committee's opinion that a comprehensive database of relevant statistics and information should be an integral part of the Office's Access and Awareness Strategy and is crucial to its success.

The Committee further recommends that the Government give consideration to the allocation of the resources required to overcome any deficiencies within the Office's current Information Technology System.

The Committee also recommends that the Ombudsman should consider gathering and collating statistics on the access and awareness programs planned by the Office, for example, client surveys and advertising campaigns, and that data collection should be regarded as an integral part of these programs.

³³ Evidence, 23/6/94 p.8

³⁴ *ibid* 23/6/94 p.24

CHAPTER 4 - COMMONWEALTH INQUIRIES

4.1 Senate Inquiry Findings December 1991

In December 1991 the Senate Standing Committee on Finance and Public Administration reported on its Review of the Office of the Commonwealth Ombudsman. As part of its review of the Ombudsman's performance the Committee examined access and equity issues. The Committee regarded accessibility of the Ombudsman to all sections of the community as a "key indicator of performance."³⁵

The Senate Committee heard evidence that there were problems with the Commonwealth Ombudsman's performance in access and equity areas. For example, former office-holders and other witnesses commented that little advertising of the Commonwealth Ombudsman had occurred. Another observation was that low-income and disadvantaged groups might not have adequate access to the Ombudsman's Office.³⁶

In the absence of any comprehensive statistics on community awareness of the Commonwealth Ombudsman and his functions the Committee conducted two surveys. Though small in scope, a survey of complainants found a tendency for complainants to be better educated and more likely to be of English-speaking background than the Australian community as a whole. Knowledge of the Ombudsman was not attributed to specific advice or research in relation to the complainant's current complaint.³⁷

On the basis of this research, information from surveys in other countries and the Administrative Review Council's Report on Administrative Review, the Senate Committee concluded that although there was no evidence that low-income and disadvantaged groups had been "crowded out" by the Office's other demands it appeared that more could be done to increase their awareness of the Office and the Office's credibility. The Committee felt that this would be best achieved through targeted promotion activities rather than general publicity campaigns. Consequently, the Senate Committee recommended:

"...that the Ombudsman promote to a greater degree the services provided by the Office, targeted to low-income and disadvantaged groups. As part of the promotion campaign the Ombudsman should review the publicity currently given to the Office in publications and public contact areas of the main government service

³⁵ Senate Finance and Public Administration Committee Report p.74

³⁶ *ibid* p.74

³⁷ *ibid* pp.74-75

Chapter 4 - Commonwealth Inquiries

*providers and ensure that the Office is adequately promoted through these means. The Ombudsman should also actively encourage agencies which do not already include reference to appeal rights and the Ombudsman in their brochures, pamphlets and correspondence to do so, and should work with agencies in developing suitable means of conveying information to clients about their rights of review.*³⁸

However, the Senate Committee did not offer any specific initiatives as a means of implementing its recommendations although it did refer briefly to the Administrative Review Council's (ARC) Administrative Review Project and the strategies used by the Council to target specific community groups when marketing the Commonwealth Ombudsman and administrative review concepts. Nor did the Senate Committee comment on methods by which the success of such strategies could be measured. These issues require a fuller treatment if "access and equity" are to be used as a measure of an Ombudsman's performance. The ARC's Report offers the most comprehensive treatment of the target and marketing strategies available to Ombudsmen to promote their services in Australia's ethnic communities.

4.2 Administrative Review Council Multicultural Australia Project

The Administrative Review Council commenced its Multicultural Australia Project in December 1989 with funds supplied through the National Agenda for a Multicultural Australia. The Council's Project targeted two communities: the Vietnamese community of Footscray, Melbourne, and the Turkish community of Auburn in Sydney. The Project involved two surveys. The first of these surveys was conducted in May 1990 to establish the existing level of knowledge of the administrative review system among members of the target communities. During the next several months the Council initiated a series of community education and intervention activities, followed by a second survey to measure the effect of these activities³⁹.

The initial survey indicated that there was widespread ignorance of the existence of administrative review agencies and limited understanding of the concept of administrative review. Consultations with fifteen ethnic communities around Australia confirmed that ignorance about administrative review and a sense of alienation from government were

³⁸ *ibid* pp.75-76

³⁹ Administrative Review Council Access to Administrative Review by Members of Australia's Ethnic Communities pp.1-2

Chapter 4 - Commonwealth Inquiries

widespread⁴⁰. The Council subsequently undertook an intervention program in both communities targeting the public, community workers and government services. It endeavoured to inform members of each target community about their rights in dealing with government agencies and encourage them to exercise those rights. It arranged a program of training and familiarisation sessions for community workers to make them better informed and confident enough to deal with review agencies. The Council also tried to involve a wide range of officials in the public education and community workers' training programs and sought to encourage Government officials to be more aware of the difficulties facing ethnic communities and make their services more accessible. The Council's intervention program was evaluated in order to measure the effectiveness of each initiative⁴¹.

The second survey conducted by the Council in March 1991 showed that the intervention program had been a success in that the members of both target communities were better informed about the concept of administrative review and the role of each review agency. They also seemed more prepared to complain or appeal against administrative decisions when necessary.

Although the Council's Project focussed on ethnic communities, excluding aboriginal people, youth and other minority or disadvantaged groups, some of the conclusions and recommendations contained in the report are relevant to this Committee's inquiry. The Council found that members of ethnic communities do not have effective access to administrative review mainly because review agencies have failed to adequately publicise themselves and their services.⁴² The Council concluded that review agencies have a responsibility to make themselves accessible to all community members. It recommended that basic marketing techniques could be adopted by review agencies and considered the Commonwealth Ombudsman to be well-placed to take a leading role in such initiatives⁴³. The projects conducted by the Council as part of its inquiry highlighted the need for imaginative, and creative access strategies by review agencies and its recommendations are examined in closer detail in relevant chapters of the Committee's report.

⁴⁰ *ibid* p.3

⁴¹ *ibid* p.2

⁴² *ibid* p.3

⁴³ *ibid* p.4

Chapter 4 - Commonwealth Inquiries

The Committee concurs with both the ARC and the Senate Committee in their support for targeted public awareness strategies as distinct from purely general public awareness strategies. It considers that sufficient information is available to the New South Wales Ombudsman through client surveys and complaint statistics to enable him to pinpoint particular sections of the community with a poor awareness of his role and limited contact with his Office. Consequently, the Committee felt that the Ombudsman, whose current public awareness strategy is comprised of a mixture of targeted initiatives and initiatives with a more general application, is in a position to increase his use of target strategies and monitor their success.

Recommendation 3:

The Committee recommends that in addition to general access and awareness programs the Ombudsman should consider developing targeted programs aimed at groups identified as having a low awareness or understanding of the Ombudsman's role and the services provided by the Office.

The Committee further recommends that the Ombudsman should consider conducting a particular pilot project aimed at a different target group each year, in consultation with representatives of the group selected, and that the effectiveness of each project should be measured through feedback and follow-up surveys.

CHAPTER 5 - CURRENT STRATEGIES

5.1 Management Review Findings

The strategies already employed by the Office to increase access to, and awareness of, the Ombudsman were examined during the Management Review performed by KPMG Peat Marwick Management Consultants as part of the Committee's inquiry into the funds and resources available to the Ombudsman.

The Management Review Team found:

"The Ombudsman's Office currently uses three key methods to promote public awareness of the role and function of the Ombudsman within the community. These are:

- * the annual report;*
- * fostering and maintaining good media relations in order to gain press coverage; and*
- * public awareness visits to regional centres. Whilst no public awareness visits were made in 1991/92, due to budgetary cutbacks, visits have resumed in 1993, albeit at a restricted level.*

Other methods employed by the Ombudsman's Office to increase the level of public awareness include:

- * speaking engagements to various community groups, Sydney based technical colleges, the Police and Corrective Services;*
- * the presentation of papers to various conferences and government bodies;*
- * the provision of brochures discussing the role and functions of the Ombudsman to community centres, public authorities and the law society for distribution. Brochures are also available at the Ombudsman's Office;*
- * liaison with public authorities in order to develop an awareness within these organisations. This is facilitated at present by the promotion of the CHIPS project to public authorities;*
- * the submission of reports to Parliament⁴⁴.*

⁴⁴ Management Review Report KPMG Peat Marwick Management Consultants, July 1993 p.44

Chapter 5 - Current Strategies

Details of these initiatives which were provided by the Ombudsman in his Annual Report for 1992-3, are summarised below. Fuller discussion of these programs occurs in Chapters 6 and 8.

5.2 Fact Sheets and Reports

During the 1992-93 financial year the Ombudsman published a series of fact sheets on the Office to replace existing pamphlets which had not been updated for five years. Fact sheets with the following titles were created:

- | | | |
|---------------------------------------|---|---|
| * General - an overview of the Office | - | Both the General and Police brochures will be translated into |
| * Police | | major community languages |
| * Local Government | | |
| * Prisons | | |
| * Guarantee of Service | | |

The Annual Report for 1992-93 also advised of the Ombudsman's intention to extend the pamphlet series to cover such topics as the History of the Ombudsman, Understanding the Public Sector and the Art of Complaining, Aboriginal Access, Youth, and Freedom of Information. In addition to these pamphlet publications the Ombudsman has published Guidelines for Effective Complaint Management and made six special reports to Parliament during 1992-93⁴⁵.

In relation to police complaints the Joint Committee was concerned in its first inquiry that in the context of developing a police conciliation process, there should be a mechanism whereby individuals who chose not to be involved in the police conciliation process could be deemed to have failed to conciliate the matter and gain access under the Ombudsman scheme.

Following discussion of the exact form this mechanism should take the Committee concluded on the basis of evidence that "a well balanced pamphlet, setting out in positive terms the role of the Police Service together with information about how those who are

⁴⁵ Ombudsman's Annual Report 1992-93 p.26

dissatisfied can take further action"⁴⁶ was something the Police and Ombudsman's Office could work on to develop further.

The police pamphlet was composed and the Ombudsman explained in his Annual Report for 1992-93 that:

"Under the new Police Service (Complaints, Discipline and Appeals) Act, 1993, the Office is required to provide both the Police Service and the Department of Courts Administration with a supply of the police pamphlets for distribution to all police stations and courts.

*Information of the Ombudsman and the police complaints system should now be available to the public from all police stations and district courts."*⁴⁷

5.3 Outreach Campaigns and Speaking Engagements

Outreach campaigns - As reported in the Ombudsman's Annual Report for 1992-93 the public awareness strategies undertaken in late 1992 involved *"two low cost outreach campaigns [which] were undertaken, in conjunction with other agencies"*. The first campaign was conducted between November and December 1992, at the invitation of the Department of Community Service (DOCS) which supplied the funds for this exercise. Staff from the Office, including the Ombudsman, participated in forums organised by DOCS in Liverpool, Grafton, Narrandera, Parramatta, Armidale, Chatswood, Newcastle, Narooma and Orange. The forums were held to discuss proposals for a new complaints and appeals mechanism for DOCS, and focussed on issues arising from new disability services legislation. The opportunity was taken during these forums to inform those attending about the role and functions of the Office.⁴⁸

The NSW Ombudsman also conducted a six day campaign with the Commonwealth Ombudsman at Westfield Shopping Square from 23-28 November 1992. The Ombudsman reported that staff available at the Square took twenty three written complaints and referred many other people to other agencies and advised about the role and functions of the Office. All costs associated with the campaign were paid by the Commonwealth

⁴⁶ Joint Committee Report upon the Inquiry into the role of the Ombudsman in investigating complaints against Police, p.44

⁴⁷ Ombudsman Annual Report 1992-93 p.26

⁴⁸ *ibid* pp.23-4

Chapter 5 - Current Strategies

Ombudsman's Office including publicity and the translation of material into community languages.⁴⁹

Speaking engagements - The Ombudsman gave speeches on thirteen occasions from August 1992 to June 1993. These speaking engagements are listed in the Annual Report and included several speeches on the role of the Ombudsman which were given to Clerks of the Local Court, the SES Orientation Program (Premier's Department) and the Law School of NSW University. Other talks covered such topics as Customer Satisfaction in the Public Sector, Police Complaints and Mediation. Assistant Ombudsman, Greg Andrews, delivered four talks at conferences, public sector management workshops, and courses on customer satisfaction, monitoring service quality, and a customer focus in the public sector.⁵⁰

Visits to country areas and prisons - Further initiatives referred to in the Annual Report included a formal public awareness campaign in country areas and a program of visits to country gaols. The latter was designed to be educational although a number of complaints were taken. In addition to the country visits the Office recommenced regular visits to Newcastle and Wollongong which apparently were well attended by members of the public seeking advice. The Ombudsman reported that by 30 June 1993, a total of 85 people had been interviewed at the monthly Newcastle visits and 22 at the bi-monthly Wollongong visits.⁵¹

5.4 Youth Publications

Attempts to reinforce awareness of the Office among youth were made through several strategies referred to in the Annual Report for 1992-3. The major initiative during that year was the sponsoring of a special edition of the national Legal Eagle on the role of the Ombudsman (a curriculum support publication for legal studies, currently a secondary school subject in NSW). The Ombudsman hoped that,

"With the provision of the detailed curriculum support edition on the Ombudsman, the chances that students would choose the topic of the Ombudsman for specialist study is greatly increased."

⁴⁹ *ibid* p.24

⁵⁰ *ibid* p.27

⁵¹ *ibid* p.24

Copies of this publication were sent to every high school in NSW.⁵²

5.5 Aboriginal and Torres Strait Islander People

In relation to access to the Office by Aboriginal and Torres Strait Islander people the Ombudsman explained in the Annual Report for 1992-93 that:

"A further evaluation of the position of investigation officer (Aboriginal complaints) was commenced. The evaluation consisted of a survey of key Aboriginal groups to obtain information on awareness and levels of satisfaction with various aspects of the Ombudsman's handling of complaints from and about Aboriginal people; together with an analysis of complaint statistics and procedures employed in the Office for handling such complaints." ⁵³

This officer spent a higher proportion of time than other investigation officers, on outreach and public awareness functions. As the Ombudsman believed this investigation officer should be "especially responsive to the needs of Aboriginal prisoners and juveniles in juvenile justice centres" the officer visited a number of institutions during the year. A more comprehensive program of visits was planned for 1993-94. The investigation officer (Aboriginal) also participated in a number of interdepartmental committees and working parties, particularly with the Police Service.⁵⁴

Police sponsored initiatives involved a visit to the Northern Territory, focussing on the Night Patrol Program which is a social control program whereby Aboriginal people play a key role controlling antisocial behaviour and minor criminal inflations in their own communities. The visit was part of the NSW Police/Aboriginal Working party examining strategies to encourage improved relations. The recommendations of the working party, were still being formulated at the time the 1992-93 Annual Report was written.

The investigation officer (Aboriginal) participated in two committees with police developing training videos to sensitise police to Aboriginal issues and was a member of the Office of Juvenile Justice Advisory Council working party on Aboriginal perspectives.

⁵² *ibid* p.27

⁵³ *ibid* p.8

⁵⁴ *ibid* p.24

Chapter 5 - Current Strategies

An outreach visit was made by the Ombudsman and the investigation officer (Aboriginal) on 15 and 16 February 1993, to the Taree/Purfleet Aboriginal community. Complaints raised by the community during the visit alleged overzealous police patrolling, harassment of Aboriginal youth and cell conditions at Taree Police Station. These issues were raised at a meeting with the relevant Chief Inspector of Police and several undertakings subsequently were made. Other complaints regarding the Local Council were taken up and resolved⁵⁵.

5.6 Prison Visits

Significantly, the Ombudsman receives more complaints against the Department of Corrective Services than any other single public authority, with the exception of the Police Service. As the Ombudsman explained in his 1992-93 Annual Report, prison supervisors are required under Section 12(3) of the Ombudsman Act to "take all steps necessary to help inmates and detained persons to make a complaint to the Ombudsman if they wish."⁵⁶

Ombudsman officers visit correctional centres and juvenile institutions to hear complaints and provide general advice, however, the Ombudsman claims that such visits are infrequent and the current level of prison visits inadequate. During 1992-93 thirty visits were made to 23 of the main State gaols including all but three country gaols which were last visited in June 1992. The Ombudsman has reported that in these circumstances the primary purpose of visits to prisons is to enable investigation officers to gain knowledge of conditions and developments throughout the State's correctional centres and to establish contact with senior staff. One of the purposes served by prison visits is to make inmates aware of their rights under the Ombudsman Act.⁵⁷

The Department of Corrective Services recently changed its policy regarding telephone contact by prisoners with the Office of the Ombudsman. In June 1993 this policy was changed so that any phone calls made by prisoners to the Ombudsman would be counted as additional to their normal telephone call entitlement: usually one call a week. Previously many prison governors included such calls in a prisoner's telephone call entitlement by treating them as a private matter.⁵⁸

⁵⁵ *ibid* pp.24-25

⁵⁶ *ibid* p.122

⁵⁷ *ibid* p.122

⁵⁸ *ibid* p.122

Another development in relation to prison complaints was the introduction of a prisoner's complaint form approved by the Commissioner for use from June 1992. The form contains directions on how inmates should proceed initially with their complaints to gaol governors or official visitors. It also explains what matters the Ombudsman is unable to investigate and indicates that serious complaints are given priority. After delays the complaint form was published in the Corrective Services Bulletin on 17 June 1993. The forms are available to inmates through various outlets in the correctional centre and inmates are advised of the form on reception. The Department covers the cost of envelopes and postage and has undertaken not to obstruct inmates from contacting the Ombudsman even if they do not use the complaint form or do not initially discuss the complaint with the Governor or official visitor. The use of the complaint form was to be closely monitored during the year after its introduction.⁵⁹

5.7 Ethnic Affairs Policy Statement

On 3 August, 1993 the Committee took evidence from Mr Stepan Kerkyasharian, Chairman of the Ethnic Affairs Commission of NSW, in relation to the Office of the Ombudsman's Ethnic Affairs Policy Statement. Mr Kerkyasharian explained to the Committee that:

Mr KERKYASHARIAN: . . . *The Ethnic Affairs Commission has the delegated authority from the Premier through the Minister to ensure that all Government departments, instrumentalities and agencies, which of course includes the Ombudsman, develop an ethnic affairs policy statement in which they outline strategies for such participation and that they lodge annual reports with the Ethnic Affairs Commission. It is our responsibility to approve those statements in the first place, to receive the annual reports, to approve them or make suggestions for amendments.* 3.8.93 pp.1-2

He stated that the Ombudsman's Office had submitted regular annual reports in accordance with the requirements of the Ethnic Affairs Commission's policy statements program and that "*in general terms the Ombudsman's Office [had] been very positive in its approach to the issue of communicating with people of non-English speaking background*". In Mr Kerkyasharian's opinion the Ombudsman is "*an instrument which ensures that the participation of people in all aspects of life in New South Wales is carried out without any*

⁵⁹ *ibid* p.123

Chapter 5 - Current Strategies

*prejudices and that no artificial barriers are put up in front of people simply because of their religious or cultural or ethnic backgrounds.*⁶⁰

Mr Kerkyasharian indicated that some of the Office's strategies, in terms of providing and disseminating information to people of non-English speaking background, and ensuring staff awareness of the issues related to dealing with such persons, had not been fully implemented. The reason for this, as he understood it, was "*not necessarily the lack of motivation but perhaps, as the Ombudsman would claim, the lack of sufficient resources*".⁶¹ The strategies contained in the Office's Ethnic Affairs Policy Statement for 1992-93, which was lodged with the Commission on 28 July 1993, and the action taken in relation to these strategies, is summarised in tabular form on the following pages. A full copy of the Office's EAPS statement can be found at Appendix 1. Problem areas and deficiencies within the EAPS program and their possible causes are discussed in Chapter 3.

The Ombudsman's Office has advised that its 1992-93 EAPS statement is about to be replaced by a document reflecting the Government's new Charter of Principles for a Culturally Diverse Society. The EAC was preparing guidelines to assist the Office in preparing its new statement. The Charter of Principles for a Culturally Diverse Society was approved by Cabinet in February 1993 and launched by the Premier in March.

The Charter follows on from the Ethnic Affairs Policy Statement (EAPS) Program introduced in 1983 and outlines four principles to guide all government activity. These principle are as follows:

- "1. All individuals in NSW should have the greatest possible opportunity to contribute to, and participate in, all levels of public life.
2. All individuals and public institutions should respect and accommodate the culture, language and religion of others within an Australian legal and institutional framework where English is the primary language.
3. All individuals should have the greatest possible opportunity to make use of and participate in relevant activities and programs provided and/or administered by NSW government institutions.

⁶⁰ Evidence 3.8.93 pp.1 and 2

⁶¹ *ibid* p.2

Chapter 5 - Current Strategies

4. All NSW public institutions should recognise the linguistic and cultural assets in the NSW population as a valuable resource and utilise and promote this resource to maximise the development of the State."

The Charter is supported by other documents and strategies developed for its implementation. These include:

- (i) an operation manual directed at Chief Executive Officers in the Public Sector, informing them of their roles and responsibilities in implementing the principles of the Charter; and,
- (ii) instructions for senior managers in a culturally diverse society offering instructions on how to develop monitor and evaluate strategies to put the Charter's principles into practice.⁶²

The Charter is intended as a compliment to the EAPS Program.

⁶² EAC 1992-93 Annual Report p.14

OFFICE OF THE OMBUDSMAN - ETHNIC AFFAIRS POLICY STATEMENT JULY 1992 - JUNE 1993

GOAL 1: Provide services by the Office of the Ombudsman which are culturally sensitive and appropriate to complainants from non-English speaking backgrounds.

STRATEGIES	ACTION TAKEN	FORWARD PLANNING
Strategy 1 - To publicise the objectives of the Ethnic Affairs Policy Statement and familiarise staff with the Policy Statement and its Annual Report.	Distribution of EAPS Statement and information to all new staff at individual and group induction sessions - continued distribution of EAPS information to all staff. Staff resurveyed for community language ability and interest in obtaining a CLAS allowance - nil response. EAPS Annual Report 1991-92 available to all staff. EAPs Committee failed to meet during 1992-93.	Possible reduction in services to public due to budget situation, and staff reductions. Only most fundamental activities planned e.g. induction and distribution of EAPs. Increase in public awareness visits for 1993-94.
Strategy 2 - Increase staff awareness about language and cultural issues and the delivery of services to complainants of non-English speaking backgrounds.	Updated Migrant Referral manuals and Interpreter/Translation directories obtained from Ethnic Community Council. Staff advised of new arrangements for use of interpreters. Induction course training on use of interpreters. Induction course on EAPS.	In-house Induction and Selection Techniques courses planned. Re-establish formal meetings with representatives of EAC.
Strategy 3 - Develop procedures on how to deal appropriately with complainants from non-English speaking backgrounds.	Relevant sections of Office Procedures Manual updated.	Review procedures and ensure relevant section in Procedures Manual has a section on dealing appropriately with people of NESB.
Strategy 4 - Make knowledge of and sensitivity to the needs of people from diverse cultural backgrounds an essential qualification in the recruitment of Assistant Investigation Officers and Investigation Officers.	Part of EEO Management Plan. All Investigation Officer and Assistant Investigation Officer positions have been advertised in these terms.	All vacant investigative and non-investigative positions to be advertised in these terms.

GOAL 2: Ensure that the Office of the Ombudsman has appropriate facilities and the capacity to deal with complainants who are not conversant with the English language.

Strategy 1 - Ensure adequate provision of interpreting facilities.	Installation of conference facility telephones in interviewing rooms and locations throughout Office. Survey of staff willing to act as language facilitators. In-house language facilitators assist with oral and written complaints from people of NESB.	Staff to be re-surveyed annually Community Language Allowance Scheme testing to continue.
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STRATEGIES	ACTION TAKEN	FORWARD PLANNING
<p>Strategy 2 - Ensure adequate provision of translation facilities by the Office.</p>	<p>Maintenance of separate budget item for translations services. Accredited translators approached direct and translation fee negotiated.</p>	<p>Maintain present system.</p>
<p>GOAL 3: To ensure that the ethnic communities are aware of the services of the Office.</p>		
<p>Strategy 1 - Effective use of the multilingual publicity fact sheets (in 9 community languages) about the Ombudsman's Office and its work on investigation of police matters.</p>	<p>Fact sheets (pamphlets) rewritten on: Ombudsman's Office; Police Complaints; Guarantee of Service; Juvenile Issues; Aboriginal Issues; Local Government. Translation of fact sheets into 9 community languages.</p>	<p>Reprint fact sheets including multilingual fact sheets.</p>
<p>Strategy 2- Use of ethnic media to publicise the services of the Office.</p>	<p>Media Officer reviews and updates media list from information supplied by Ethnic Affairs Commission and a media monitoring company. Media releases re Ombudsman's Reports sent to Ethnic Media. Media releases released to ethnic media and linked to public awareness visits when undertaken. Review of ethnic media distribution list.</p>	<p>Limited contact between Office and ethnic community groups due to inadequate funding. Public awareness visits slightly increased from 1992-93 but still inadequate. Awaiting Joint Committee Report.</p>
<p>Strategy 3A) - Arrange and run an information sessions about the Ombudsman's Office and its services. Invite key personnel from those Government and community agencies which have a large ethnic clientele.</p>	<p>Ombudsman, Deputy Ombudsman and Investigation Officers spoke to community groups about the role of the Ombudsman and the work of the Office.</p>	<p>Office to respond to requests and continue to address key organisation e.g. Police Service, Corrective Services, institutions and community groups.</p>
<p>Strategy 3B) - Address training sessions conducted by government and community agencies for key service and liaison personnel who work mainly with ethnic communities so that they are aware of the services of the Office.</p>		
<p>Strategy 3C) - Address community groups of people of non-English speaking backgrounds when approached.</p>		
<p>Strategy 4 - Arrange for the design of new Ombudsman publicity posters for display in public transport vehicles and in community centres and agencies, including text in several community languages; and presenting an image which is readily understandable by a wide range of potential complainants of all backgrounds.</p>	<p>Preparation and printing of 3 posters in Arabic, Chinese and Italian and distribution to outside agencies.</p>	<p>Postponed until further funds available.</p>

GOAL 4: Ensure that the grievances of ethnic communities against State public authorities are monitored and action taken to follow up where appropriate.

STRATEGIES	ACTION TAKEN	FORWARD PLANNING
<p>Strategy 1 - Assist public sector authorities to develop and implement their own internal complaint handling mechanisms ensuring that the needs and requirements of people of non-English speaking background are addressed.</p>	<p>Extensive survey of appropriateness of complaint handling mechanisms in public sector authorities. Publication of CHIPS "Guidelines for Effective Complaint Management" and distribution in public sector. CHIPS project - analysis of mediation for complaint and dispute resolution. Co-operation with OPM on Government's Guarantee of Service and complaint management in public sector. Approached EAC for support to ensure non-English speaking background "customers" in public sector understand what services, standards and complaint resolution to expect from government agencies.</p>	<p>CHIPS and mediation courses to continue. Continued liaison by Senior Executive Assistant with OPM on CHIPS. Proposed training courses and one-day seminars for particular organisations. Treasury Guideline to be issued on reporting standards complaint handling procedures. Pursue with EAC proposal for telephone-based multilingual information service agencies to provide information etc. in different languages.</p>
<p>Strategy 2 - Investigate possible inclusion of ethnic newspapers in the Office press monitoring program and make recommendations on implementation if appropriate.</p>	<p>In house monitoring ethnic press. Reduction of full media monitoring service due to lack of funds. Report to Parliament on Allegations of Police Bias Against Asian Students reported in media including Chinese Press.</p>	<p>-</p>

GOAL 5: To ascertain the degree of usage of the Office by various Ethnic communities so that a proper assessment of the adequacy and appropriateness of service can be made.

<p>Strategy 1 - Examine the issue of data collection on current usage of the Office by people of non-English speaking background and made recommendations accordingly.</p>	<p>Completion of questionnaire for distribution to non-English speaking background communities but survey not conducted due to lack of funds.</p>	<p>-</p>
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CHAPTER 6 - EVIDENCE: PROBLEM AREAS

Identified Problem Areas

In order to ascertain any deficiencies or difficulties with the Office's current access and awareness strategies the Committee sought evidence from relevant interested individuals and various organisations having direct experience of this area of the Office's operations. As an introduction to this stage of the inquiry the Committee noted the findings of the KPMG Peat Marwick Management Review Team.

The Chapter identifies the problem areas raised by witnesses to the Committee and other secondary sources.

6.1 Management Review Findings

KPMG Peat Marwick arrived at the following conclusion about the Ombudsman's public awareness strategy in its report on the Management Review of his Office:

"Based on our assessment of the Ombudsman's public awareness strategy, we believe that the strategies adopted to promote public awareness of the Ombudsman make appropriate use of a restricted budget. However, problems would appear to exist in raising the level of awareness of the Ombudsman within particular segments of the community, such as:

- * *Aboriginal and Torres Straight Islanders;*
- * *people from non-English speaking backgrounds;*
- * *youths;*
- * *people with lower levels of education; and*
- * *non-professional members of the work force.*"⁶³

6.2 Administrative Review Council Project

Commenting on a review by the Administrative Review Council, entitled "Access to Administrative Review by Members of Australia's Ethnic Communities", Professor Cheryl Saunders (former Council President) gave a wide-ranging description of the obstacles preventing a better understanding of, and access to, the Ombudsman among ethnic groups. Although these problems were obvious in relation to the two particular ethnic groups

⁶³ Management Review Report pp.44-45

Chapter 6 - Evidence: Problem Areas

targeted in the project the Committee believes they are widespread in ethnic and other minority groups.

According to Professor Saunders:

Professor SAUNDERS: ...People are ignorant of the existence of bodies such as the Ombudsman. They have a lack of understanding of how the bodies work. There are language problems that are obvious in the case of ethnic communities but with other disadvantaged groups there are other sorts of language problems—the use of officialese and overcomplicated language, for example. There is a fear of authority and apprehension about government. Again, this is particularly obvious with certain ethnic groups which have come from countries that lack benevolent governments. But again it is a problem in a different way with other disadvantaged groups—people who may have fallen foul of the law, for example, from time to time.

There are problems concerned with the complexity of the system. ... There were problems about perceptions of the speed and effectiveness of the system. If the Ombudsman or any of the review bodies is going to take a long time to complete a review, people will be less willing to use them. There was a concern or perception that perhaps the review arrangements were not going to be all that effective, were not going to deliver what people wanted. That is a real problem to combat with the Ombudsman. You cannot advertise the Ombudsman by guaranteeing a result because we all know that statistically that is impossible. So you have to get a more complicated message across: go to the Ombudsman and if you are right you will get a remedy. That is not a terribly saleable message."

29.6.93 p.3

The Professor's overview encompassed a large portion of the issues presented to the Committee during its inquiry. For instance:

- (i) ignorance of the Ombudsman's existence;
- (ii) lack of understanding of how the Ombudsman's Office works;
- (iii) language difficulties for people of non-English speaking background;
- (iv) difficulties with the use of officialese and overcomplicated language;
- (v) fear of authority and government;
- (vi) perceptions of the speed and effectiveness of administrative review;
- (vii) the perception that review by the Ombudsman will not produce results.

These issues are explored more closely throughout this chapter.

6.3 Ethnic Community Groups

The Ethnic Affairs Commission pinpointed the following problems with the Office's current access and awareness programs:

It is our view therefore that the Office of the Ombudsman has attempted to address access issues regarding people of non-English speaking background.

However, there are a couple of points we would like to raise. Firstly, the Ombudsman initiatives in terms of conducting community information services have been curtailed and although this affects the community at large it has a specific impact on people of non-English speaking background. This is because people of non-English speaking background do not have access to information through mainstream media sources therefore, targeted community information strategies are an integral part of ensuring they are informed. Secondly, there is no qualitative data on the number of people of non-English speaking background who have approached the Office of the Ombudsman as complainants. Therefore, it is difficult to make a clear assessment of the effectiveness of the information strategies aimed at people of non-English speaking background.

Finally, we are of the view that accessibility and knowledge of the Office of the Ombudsman is inextricably tied to both effective overall planning and adequate resources.⁶⁴

The Committee perceived a greater role for the Ethnic Affairs Commission in assisting the Office with its investigation of complaints involving people of non-English speaking background. Several options for such assistance were canvassed by Mr Kerr in the following discussion with Mr Kerkyasharian:

Mr KERR: *In the Ethnic Affairs Policy Statement the comment is made that both, I guess, the Ethnic Affairs Policy Statement strategy and the complaints handling in the public sector would benefit from the greater involvement and assistance from the Ethnic Affairs Commission. Do you agree with that statement?*

Mr KERKYASHARIAN: *I do. A good example of this would be the Turramurra incident. We played a key role in that immediately after the incident took place. Perhaps we could have been of greater assistance if we had been subsequently*

⁶⁴ Submission, 2/4/93

Chapter 6 - Evidence: Problem Areas

approached by the police and the Ombudsman's Office at the point when they were conducting their own investigations. It is regrettable that the internal affairs at the time did not approach us at all, although I had at least one officer assigned to the case full time and we have had meetings with the parents and the children involved.

Mr KERR: *When was the first time the Office of the Ombudsman contacted you? Did you become involved in it at all?*

Mr KERKYASHARIAN: *No. I am bringing up this case because I think it is a very good example. When the incident occurred the first people the community turned to were in fact the Ethnic Affairs Commission...Subsequently, when internal affairs was investigating the matter and the Ombudsman's Office was investigating the matter, we were not involved at all, although we had a lot of information and we had a natural affinity with the people. So I see a role in the Ethnic Affairs Commission in the sense that we do enjoy the confidence of people of non-English speaking background and, therefore, people can come to us feeling a bit secure, and we can then be the conduit to pass or reflect that confidence on to the Ombudsman.*

Mr KERR: *So basically they should seek to involve you early?*

Mr KERKYASHARIAN: *Yes. They should seek to involve us at two levels. One, in terms of using interpreters, but also at another level by seeking the assistance of our liaison officers, who are in day-to-day contact with community people, know the community, know who is what and what is what and what the networks are. There could in fact be a great partnership if it were to eventuate.*

Mr KERR: *Are there any other ways the Commission could become more involved in these two initiatives?*

Mr KERKYASHARIAN: *We can assist in terms of organising seminars for community workers. We could assist in the organisation of public meetings for publicising the Ombudsman. 3.8.93 pp.8-9*

The Committee was particularly concerned about the evidence that neither the Ombudsman's Office nor the Police Service approached the Commission for any assistance or advice during any stage of the investigation of the Turrumurra Railway incident. As Mr Kerkyasharian indicated, the Commission had been in an ideal position to provide information and assistance in the investigation. The Committee is not in a position to

Chapter 6 - Evidence: Problem Areas

determine why the Commission was not consulted on that occasion but believes the Ombudsman and Police Service may benefit in future from contacting the Commission in the early stages of any similar cases. Mr Kerkyasharian's comments indicate that the Commission would be willing, and would possess the capacity, to provide the Ombudsman with assistance in facilitating contact with ethnic groups with members involved in complaints under investigation.

The Office may be able to use intermediaries from the community involved to assist in obtaining details of the circumstances of the complaint from the complainant and witnesses.

Recommendation 4:

The Committee recommends that the Ombudsman should consider consulting with the Ethnic Affairs Commission where the Commission may be able to provide expert advice and assistance in liaising with members of particular ethnic community groups.

6.4 Pamphlets

The Chairman discussed the effectiveness of multilingual pamphlets about the Ombudsman with Mr Kerkyasharian at the public hearing on 3 August, 1993. It is evident from Mr Kerkyasharian's comments that in his view the effectiveness of pamphlets is limited and may in fact have unwanted consequences.

Mr KERKYASHARIAN: ...The culture of producing pamphlets in various languages I guess started about 15 years ago. At the time it was a fairly good idea but I think a lot has happened since. We have had the development of ethnic radio and great technological advances have taken place. We have a very efficient interpreter service now which is run by the Ethnic Affairs Commission...and sometimes producing various pamphlets can be a waste of money. That is a view the Ethnic Affairs Commission has taken and has stated publicly on a number of occasions. Producing pamphlets has a number of risks involved in it. In some cases the target people themselves might be illiterate in their own first language, and therefore, it does not reach to them. The information can be out of date due to a change of regulation or legislation in Parliament. Therefore, at best, that all has to be pulped, but at worst it can still linger around in the system and give out wrong information to people who have no other channel of getting accurate information. 3.8.93 pp.6-7

Chapter 6 - Evidence: Problem Areas

Other witnesses indicated that literacy levels among some groups of their own language was not adequate enough to make a pamphlet strategy effective. Ms Devos, Casework Supervisor with the Burnside Khmer Program, told the Committee:

Ms DEVOS: ...At this stage we are not aware of any information in the Khmer language that is available to non-English speaking Khmers on the role of the Office of the Ombudsman. There has been little publicity in that respect, either in written or verbal form through ethnic radio and through Cambodian newspapers in Sydney. In terms of publicising the role of the Office of the Ombudsman we feel a number of things need to be taken into account. I would like to briefly mention those. The first is that the literacy levels of the targeted group in which we are interested, that is Cambodians, are quite low in terms of their own language. That makes it very difficult for them to acquire English, and therefore any information about the Office of the Ombudsman needs to be not only in written form but, even more importantly, in verbal form so that it is accessible to those people who do not speak, read or write in their own language." 3.8.93 p.15

The comments made by Mr Kerkyasharian and Mr Devos are consistent with the findings of the Office of Multicultural Affairs, in its 1992 Report on the Evaluation of the Access and Equity Strategy, and the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs, in its report on the implementation of the strategy in relation to Aboriginal and Torres Strait Islander peoples. The Office of Multicultural Affairs reported that although agencies made considerable effort to disseminate information through translated material many clients preferred other media, particularly radio.⁶⁵ The Report showed that "a considerable proportion of those targeted by translated materials have low levels of education and some are illiterate in their own language". Other difficulties included: the use of dialect for which a single translation cannot be provided, and the complexity of language and technical terms used.⁶⁶

The predominant conclusion was that information should be delivered in a wide range of formats including print, videos, ethnic press and the electronic media. Ethnic media and radio were favoured by clients over multilingual leaflets.⁶⁷

⁶⁵ Evaluation Report p.4

⁶⁶ *ibid* p.44

⁶⁷ *ibid* p.45

Chapter 6 - Evidence: Problem Areas

The Standing Committee on Aboriginal and Torres Strait Islander Affairs found:

*"Many Aboriginal and Torres Strait Islander people also have low levels of literacy. This alone poses a significant barrier to access to services. These people are unable to read or fully understand signs and written material, they are unable to complete forms without assistance and for many the shame and potential embarrassment is enough to deter them from entering a government office. The importance of outreach services ... cannot be overemphasised in providing access to many services for people with literacy difficulties."*⁶⁸

The Office of Multicultural Affairs also reported that Aboriginal and Torres Strait Islanders discounted written information as a means of communicating, preferring radio, TV and oral information.⁶⁹

Professor Saunders highlighted the importance of making pamphlet information available to community workers simple and intelligible for ease of reference:

Professor SAUNDERS: ...The sorts of reasons that came across for a lack of knowledge among community workers were, first, that they tended to turn over fairly quickly, particularly in individual ethnic communities...Second, they tend to be extremely busy...So for those workers I think it is important that simple, intelligible information is produced, probably in pamphlet form. If they ever get around to having access to computers, information could be produced in that form. But they must be able to refer to it quickly. 29.6.93 p.6

Recommendation 5:

The Committee recommends that during the process of composing information pamphlets about the Ombudsman's role and the work of the Office in languages other than English, the Ombudsman's Office should consider seeking confirmation from peak community groups and the Ethnic Affairs Commission that the translation selected for use by the Office is appropriate and would be easily understood by members of the group being targeted.

⁶⁸ Report of the House of Representatives Committee on Aboriginal and Torres Strait Islander Affairs, Rhetoric or Reality?, November 1993 p.21

⁶⁹ Access and Equity Evaluation Report p.51

Chapter 6 - Evidence: Problem Areas

The Committee also heard evidence that any pamphlet or information distributed by the Ombudsman to youth had to be conveyed in a form appropriate to them. Ms O'Sullivan told the Committee:

CHAIRMAN: *Does the Ombudsman have pamphlets available within your organisation? Is there a rack with pamphlets that would be made available to you?*

Ms O'SULLIVAN: *Yes, I think there is a pamphlet but it is not written in a form that a child would read. Any information I have ever seen has been directed towards adults. The only information I have ever seen about the Ombudsman's Office that is directed towards children was in Streetwize Comics, about 10 years ago. 3.8.93 p.41*

In Mr Shipp's opinion it was best to have appropriate material distributed to youth through the people working directly with them, e.g. local youth centre workers, rather than directly to the young people themselves. He explained to the Committee:

Mr SHIPP: *...We have found that it is better to provide that information through the people who work directly with the young people rather than through the young people themselves, which picks up a point which another Committee member made, that sometimes it is better to go through those who young people place most trust in rather than directly to the young people themselves. The workers at the local youth centres or refuges, or indeed some staff in government departments themselves, are the ones young people place their trust in—school councillors, those sort of people.*

CHAIRMAN: *You mentioned the Streetwize contribution of the Ombudsman. Would that still be an appropriate avenue for him to try to get his wares on the table for young people?*

Mr SHIPP: *Yes, I think it would. It is held in high esteem by young people and by educators generally, by schools, by people in legal education positions. The best thing about the Streetwize comic is that it is very thoroughly researched and passes through a number of hands before it comes out in print. It normally contains in a very simple way the main messages that are meant to be put across. Yes, I would fully support that process. 29.6.93 pp.27-28*

Chapter 6 - Evidence: Problem Areas

Recommendation 6:

The Committee recommends that the Ombudsman should consider designing a series of information pamphlets specifically for young people. In the process it is recommended that the Office consult experienced youth workers to obtain advice on the presentation of the information contained in the pamphlets and that local youth centres should be one of the outlets used for distributing the pamphlets.

The Committee further recommends that the Ombudsman should make regular contributions to young peoples' publications.

Recommendation 7:

The Committee recommends that the Ombudsman should consider continuing to contribute information about his role and the services provided by the Office in *Legal Eagle* and that a specific information package should be designed for educational courses which include the Ombudsman as a subject for study.

6.5 Media

In preference to multilingual pamphlets, Mr Kerkyasharian seemed to favour the use of other forms of ethnic media, in particular, radio. This option was supported by other witnesses. For example, Ms Devos, of the Burnside Khmer Program saw the use of radio as one effective way to "maximise the outreach of information to the widest population in the Khmer group". In Ms Devos's opinion:

"That is one of the mediums to which most Cambodians listen throughout the week, and naturally it reaches those people who are illiterate. When using Cambodian or ethnic radio to disseminate any information, the other thing we want to mention is that it is vitally important that the information not only be given in a conceptual form but also that it be presented in a tangible way, for instance by providing vignettes of situations so that people understand the relevance and meaningfulness of the information for them personally... 3.8.93 pp.15-16"

6.6 Multilingual Phone Service

The Committee also heard evidence that attempts had been made by the Ombudsman to establish a telephone-based multilingual information service. However, in Mr Kerkyasharian's opinion such an initiative was a "costly option" which would need initial investment. Apparently the proposal was first made in 1989-90 and the Ethnic Affairs Commission had organised a meeting with various service departments, for example, Health and the Police Service. Mr Kerkyasharian explained that the service did not materialise "simply because it required, relatively speaking substantial amounts of money." He estimated at least one million dollars in setting up the service and other establishment costs. However, he did see potential for such a service to eventually become "self-funding" by hiring its services out.

Asked by Mr Kerr if there were "substantial benefits" to be derived from such a telephone information service Mr Kerkyasharian replied:

Mr KERKYASHARIAN: I see benefits derived to a great extent but it is a costly option. It is a costly option in the sense that once a service of that nature is established, it has to be available round the clock and it has to be very positive in its response because the last thing we would want is to publicise a telephone number and then have people in their hour of need or in desperation turning to that telephone number and not getting a response. It is a very positive and immediate way of addressing these issues, but there is a cost involved and it would require that initial investment. 3.8.93 pp.9-10

Like his State counterparts, the New South Wales Ombudsman makes use of interpreting and translation services in dealing with complainants from non-English speaking backgrounds. Although the Ombudsman's staff were provided with updated Interpreter/Translation directories the only training they obtained in the use of interpreters was given during Induction Courses.⁷⁰ As the Office of Multicultural Affairs highlighted in its Access and Equity Evaluation Report training for staff was an important aspect of making the use of interpreter services a success.⁷¹ The Committee considers that the Ombudsman should make full use of available interpreter services, in preference to establishing a Multilingual phone service.

⁷⁰ Ombudsman's Office, Ethnic Affairs Policy Statement 1992-93 p.5

⁷¹ Access and Equity Evaluation Report p.40

Chapter 6 - Evidence: Problem Areas

In this regard it wishes to draw attention to KPMG Peat Marwick's suggestion in its Management Review Report that "the Ombudsman should make greater use of interpreter/translator services in order to improve the relative effectiveness of the Ombudsman's dealings with people from NESB".⁷² The Ombudsman expressed concern over this survey finding in his response to the Management Review Report.⁷³ The Committee believes this is a crucial issue and agrees with the ARC's conclusion that the use of trained and qualified translators and interpreters cannot be overstated.⁷⁴

Recommendation 8:

The Committee recommends that the Ombudsman should continue to improve his Office's utilisation of existing interpreting and translation services, such as the Telephone Interpreter Service, as necessary when dealing with complainants.

6.7 Fear of Authority and Reprisals

Another obstacle to increased awareness of, and access to, the Ombudsman among certain community groups was a fear of authority and government. Professor Saunders' opening remarks on this point were endorsed by Mr Min Hauv Yorth, a Welfare Worker with the Burnside Khmer Program. Mr Yorth spoke of the particular experience of the Khmer community which made its members fear reprisals for making complaints. He explained to the Committee:

***Mr YORTH:** ...In the Khmer culture it is very hard to approach through the high level of people, people in high positions, as well as the bureaucratic people. In our culture there is no experience of this type of Committee. That blocks our community from getting access to that information. We believe that the change can happen only from the top to the grass roots level, not from the grass roots level to the top... The role of the Ombudsman should be made well known in the community, so that people can be sure that there are no reprisals, no retaliation if they take complaints and things like that, and then things will happen.*

⁷² Management Review Report p.23

⁷³ Ombudsman Submission 2/8/93 p.11

⁷⁴ Administrative Review Council Report p.53

Chapter 6 - Evidence: Problem Areas

...It is necessary to publicise and talk to the community and so on, to reassure them that their interests are well protected if someone makes a complaint. We are so scared. We still fear, because we have experienced torture, trauma and so on and it is impossible to take up issues. 3.8.93 p.16

It was obvious to the Committee that such a cultural experience did not promote the concept of a right to complain about decisions made by government departments and public authorities. Indeed the cultural experience of the Khmer group meant its members had been so preoccupied with issues of survival that Mr Yorth did not believe they would consider raising matters with the Ombudsman. He advised the Committee that members of the Khmer Community were "preoccupied by the image of survival" and other issues such as feeding starving families back home in Cambodia.

Professor Saunders perceived this to be a type of apprehension not confined to the ethnic community. Asked by the Chairman if she thought the Australian community had a similar fear or apprehension of government, Professor Saunders replied:

***Professor SAUNDERS:** I do not really know. I do not think the average Australian has a particular apprehension of government. On the contrary, I think we are well known for being a community that criticises government fully and freely. But I do think that particular groups in the community do. They seem to be the disadvantaged groups; the poorer groups who do not understand the system very well and groups who have either run up against the law in one way or another or come from families in which there is a tradition of running up against the law and being pretty suspicious of it, I think it is a problem that is dotted around the community, at the very least. 29.6.93 p.14*

Fear of reprisal was associated with reluctance among young people to make complaints about police to the Ombudsman. Mr Shipp and Dr Burgmann discussed this issue during the public hearing on 26 June, 1993:

***Dr BURGSMANN:** ...However, you seem to be suggesting that it is pointless putting out comics about the Ombudsman and advertising on television unless the perception among the kids who have used the Ombudsman is that it works. The real problem is achieving a better success rate for juveniles who have tried to use the service. Is it perceived that the Ombudsman's Office will not regard what it is doing as confidential? There seems to be an implication that young people fear repercussions. Is that because, in some situations, inevitably the informant will be known or is it a feeling that in some way the Ombudsman is tied up with police?*

Chapter 6 - Evidence: Problem Areas

Mr SHIPP: *I think it is mainly because investigations are conducted at a local level... However, coming back to your question, the feeling among young people who see that everything is happening at a local level is that they are unable to maintain the confidentiality of their complaints and the Act contains no protection against potential victimisation or repercussions for those young people who make those complaints...*

The young people whom I have spoken to in relation to these matters simply do not feel that they can confidently make complaints without repercussions coming to them for those reasons. Apart from the question of whether they are likely to have any success or achieve their desired aim, they feel that even if they do it will not be worth it because other things might happen to them as a result...

Dr BURGEMANN: *...What you are saying is that unless that sort of thing can be solved, no amount of fantastic publicity will increase young people's access to, awareness of or confidence in the Ombudsman.*

Mr SHIPP: *The publicity will be seen to be false, that is the problem. 29.6.93 pp.23-24*

Similarly, Ms O'Sullivan regarded fear of victimisation as a major barrier to young people having increased contact with the Ombudsman's Office. In relation to police complaints she commented:

Ms O'SULLIVAN: *...I have written to the Ombudsman's Office about the problems that arise with complaints made by my clients. The fact is the word gets around that it is not worth making a complaint to the Ombudsman's Office because of what happens when you make a complaint to the Ombudsman's Office. It is like being charged again because another police officer will question the complainant and take a statement and make one feel like one has done something wrong. Then in almost every case the complaint is not sustained because the police will deny the allegation. It is very difficult for a young person to receive any satisfaction. It is not worth what they perceive to be the risk of victimisation. That affects the access of other young people to the Office, because of the word of mouth through the grapevine. They do not see good results and so they do not bother.*

Mr MUTCH: *If you had a special unit in the Ombudsman's Office for children do you think that there should be no police attached to that at all?*

Ms O'SULLIVAN: I think it would be best if police were not attached to that. It would be best to have people who had skills in dealing with young people as well as investigation skills. 3.8.93 pp.43-44

6.8 Self-esteem, Individual Rights, Outcomes

An author of one of the submissions to the Committee, Mr Michael Williams, sought to explain barriers to access and awareness as having much more fundamental, underlying causes than availability of information and levels of understanding.

Mr Williams claimed:

"Naturally those groups identified by the Committee are those least likely to pursue action via the Office of the Ombudsman or in any other way. However, the Committee would be taking a very narrow and ineffectual stance if it were to focus only on the question of "availability of information" and "the level of understanding" of various people and groups.

To take this stance is to assume that the problem lies with those people and groups. That they are at fault and that all that is necessary is for them to change by being more informed, reading more pamphlets and knowing that the person behind the Ombudsman's desk doesn't always wear a suit and tie.

While such strategies for improved knowledge and action are needed, they would not begin to scratch the surface of the problem. The fundamental problem concerning the issues of access, equity and fairness for the identified people and groups revolves around questions of credibility, esteem, attitudes to rights, speed of operations and perceptions of likely outcomes". (submission 10/3/93)

In order for the Office to improve its credibility, Mr Williams maintained that:

"it would need to show in what way it is different and how it can assist the people and groups concerned in real and concrete ways. That is to say, on their terms and from the point of view of the identified people. Not by the definition of the 'Bureaucracy'. Results in bureaucratic terms simply do not count."

He also saw low esteem as another barrier for some complainants:

"It is an unfortunate fact in our society that many people have low self-esteem. They do not believe that they are important or that anyone would listen to them.

Chapter 6 - Evidence: Problem Areas

The result is that complaints and protests are far more likely to come from just those people and groups that are comparatively advantaged."

He linked the issue of self-esteem to the attitude people possessed about individual rights: *"Peoples whole lives influence their self-esteem and attitude to agencies such as the Ombudsman. However, most people do believe that they have rights, even if they also believe that they are being trampled upon. This belief can and should be built upon."*

A further problem perceived by Mr Williams was delays. He stated:

"Nothing contributes more to peoples attitudes of hopelessness than delay. Few people can maintain their anger and concern over a long period. The perception that any complaint will take time is probably the most immediate factor in people deciding to give up...Any change in the perception that complaining means time would have an immediately beneficial effect. As would the elimination of long periods of silence when some time is needed."

He identified perceptions of likely outcomes as a problem area which required the Office to determine the exact outcome sought by a complainant: In Mr William's opinion:

"The reason why people wish to complain and need to see 'justice' done should be thoroughly understood. People generally will articulate the specific decision they disagree with or they money they didn't get, etc. However, it is the feelings of outraged individuality, the powerlessness in the face of a faceless bureaucracy, the loss of self-esteem, etc, that people most need to see remedied.

Thus a long period on investigation and final reversal of an original, now out of date, decision may not really be the point. Apologies, recognition that they weren't listened to, that their point of view is valid despite the 'official rules', all these are vital."

6.9 Aboriginal and Torres Strait Islander People

Several witnesses to the Committee presented evidence on the difficulties experienced by Aboriginal and Torres Strait Islander people in developing an awareness of the role of the Ombudsman and gaining access to him.

Mr Scott, State Manager of the Aboriginal and Torres Strait Islander Commission made the following remarks in his opening statement to the Committee:

Chapter 6 - Evidence: Problem Areas

Mr SCOTT: ...Initially ATSIIC supports the role and functions of the Office of the Ombudsman in maintaining the accountability of government service providers. We see the Ombudsman's role as an independent and less formal channel through which Aboriginal and Torres Strait Islander people can seek a hearing of their complaints and solutions to their problems in relation to those services that can and should be provided.

In saying that the position of the indigenous population must be noted and acknowledged, and culturally appropriate measures must be adopted to facilitate access to all services generally and to the Office of the Ombudsman specifically. Aboriginal and Torres Strait Islander people are disproportionately reliant on the bureaucratic system of government delivered services. Aboriginal and Torres Strait Islander people occupy a position at the lower end of the socioeconomic scale and as a consequence are dependent on the system to a greater degree than the general population. Aboriginal and Torres Strait Islander people rely on, and have significant interaction with, Government agencies providing public housing, local government services, health services and educational facilities. With this reliance on bureaucracy Aboriginal and Torres Strait Islander people require adequate access which entails an understanding of the services and programs available and if problems are encountered, which in practice is quite often, a knowledge and understanding of the process to which problems and complaints can be directed...

In conclusion, to enable the Ombudsman's Office to provide a less formal and more accessible mechanism to resolve complaints and issues, the most urgent need from the ATSIIC point of view is the development of an outreach program to inform and educate the Aboriginal community about the role and powers of the Ombudsman's Office. These programs should, in the first instance, target major Aboriginal organisations and ATSIIC regional councils. The provision of sufficient resources to then meet the expectation and demands of the community is vital to both the integrity of the Office of the Ombudsman and the public perception of accountability. 3.8.93 pp.21-23

These comments were supported by representatives of the Aboriginal Justice Committee of the Law Society. Mr Evans, a member of the Committee, highlighted three major issues which need to be addressed if problems with access to, and awareness of, the Ombudsman among aboriginal communities were to be addressed. These issues were defined as:

Chapter 6 - Evidence: Problem Areas

*"...first, access and understanding; second, the powers of the Ombudsman's Office; and, third, the method of lodging complaints with the Ombudsman's Office."
29.6.93 p.31*

Elements of the Ombudsman's Aboriginal and Torres Strait Islander outreach program and other aspects of the Office's access and awareness strategy in relation to this particular group are discussed further in the Chapter 8 of the report.

6.10 Youth

Lack of awareness of the Ombudsman was a problem highlighted by those witnesses dealing with issues affecting youth. For instance both Mr Shipp and Ms O'Sullivan, cited examples of difficulties experienced by young people using their services. In her opening remarks to the Committee, Ms O'Sullivan stressed the lack of advocacy services available to young people in a variety of circumstances, such as, detention centres and juvenile justice centres. She stated:

Ms O'SULLIVAN: ...By way of some general comments on young people, many young people can be seen to be doubly disadvantaged due to such factors as disability, institutionalisation, language disability, sex and or race discrimination, and poverty. Young people are subject to a vast array of legislative and administrative provisions which regulate directly what they can and cannot do and what they are and are not entitled to. In addition, they are regulated by way of provisions which determine how they are to be treated; that is, by their parents, courts, tribunals, panels, law enforcement officials, teachers, government and non-government agencies that have a mandate to deal with children. It is increasingly clear that young people have little knowledge and little say about these matters. I refer the Committee to the 1986 Report on the Legal Aid Needs of Youth conducted by O'Connor and Tilbury. This report provides significant evidence that:

Young people lack access to services which provide advocacy in relation to their rights with key social institutions. They frequently lack the knowledge and the information that would permit them to assert their own rights and they lack access to structures which would facilitate youth advocacy.

...I understand that the Ombudsman's Office receives proportionately few complaints from young people. There is no special children's Ombudsman here, as there are in other countries. The lack of resources in the Office of the Ombudsman has eroded the role of official advocate in the area of complaints about the policing of young people... They see the Office of the Ombudsman as well meaning but not worth the effort or the risk of victimisation.

Chapter 6 - Evidence: Problem Areas

Although there are official visitor schemes operating in juvenile justice centres and care institutions, they are limited by how often the official visitors can visit, which is usually once a month unless they make a special arrangement. These visitors are not seen to be independent, nor are they independent. There is a need for a specialist independent investigating and monitoring arm, such as a Commissioner for Children or a Children's Ombudsman... 3.8.93 p.39

Mr Shipp, reported a lack of appropriate promotional material directed at young people:

***MR SHIPP:** We, in our work, have seen very little promotional material from the Ombudsman's Office aimed directly at young people. As I have indicated in my submission, the Streetwise comic is very popular among young people and deals with a range of legal issues. There was an issue, about five or six years ago which was devoted to the Ombudsman's Office and, in my opinion, it was highly appropriate, very well researched, excellently written and used a diagrammatic form which I think was quite accessible to young people and understood by the majority of them.*

This document—it is a comic—is widely distributed to schools, youth centres and a range of places where young people gather. I am not aware of any other material that has been specifically directed to assist young people who may be considering complaining in areas where the New South Wales Ombudsman has jurisdiction. That is a matter of great concern to us... 29.6.93 p.17

According to Mr Shipp the vast majority of young people he dealt with were unaware that there was a remedy available for the police conduct about which they complained to him. The youths concerned came from a variety of backgrounds, both non-English speaking and Australian, and included school students. Most were under the age of 18.

Chapter 6 - Evidence: Problem Areas

Recommendation 9:

The Committee recommends that the Ombudsman should consider designating an investigation officer to specialise in dealing with complaints from young people and that this officer should have specific training for this role.

Should this measure be adopted, it is suggested that the Investigation Officer (Youth) should have an advisory role in the Office's preparation of pamphlets and other information about the Ombudsman targeted at young people, and that he or she should be involved in the Office's youth outreach campaigns, including visits to youth centres, and juvenile justice centres and talks to students.

Perceptions of delay in the handling of complaints was cited by Mr Shipp as another factor in the reluctance of some youth to approach the Ombudsman. This is apparent in the following discussion:

Dr BURGSMANN: You make a point that it is also the inordinate amount of time that responses take that is a problem because kids move on, and also in their life an immediate response is what they are after.

Mr SHIPP: Well, yes, it is, but that is not to suggest that that is possible. We recognise that you cannot on the one hand request that complaints be properly investigated and then require an immediate answer. There needs to be a lag time, ... But I think things could be improved, particularly by allowing a bit more flexibility in the ways in which complaints are dealt with. They do not all need to be dealt with in such a formal manner... Delay is certainly a problem and any steps that could be taken to improve the process, or at least to provide information as that process is going on, would have to improve the perception of the system by the young people. That is the other problem. There are long periods between communications at the moment. That is a step that could be taken without a great deal of extra resources for the Ombudsman's Office. There could be that requirement for continuous communication to be provided... 29.6.93 p.25

The Committee felt the issue of delays in relation to regular feedback to be a significant factor affecting perceptions of the Ombudsman's effectiveness among several groups of complainants.

Chapter 6 - Evidence: Problem Areas

This issue was identified by complainants who participated in the AGB McNair survey. The KPMG Peat Marwick Management Review Team stated that the Ombudsman's complainant survey showed approximately one in three respondents felt they were not kept regularly informed on the progress of their complaint. The Team suggested this could be achieved by the Ombudsman's staff by an informal telephone call instead of formal letters or reports.⁷⁵ The Ombudsman responded to this finding and told the Committee he had reminded all staff "that regular communication with complainants has always been regarded as a hall mark of the Office".⁷⁶

Recommendation 10:

The Committee recommends that the Ombudsman should ensure that complainants generally are fully informed of the nature of the complaint process and likely turnaround times for each stage of that process, and that they are regularly advised on the progress of their complaint.

Similarly, the requirement that complaints to the Ombudsman must be in writing also was regarded as a barrier to access by young people. Mr Shipp outlined the reasons for this in evidence to the Chairman:

***CHAIRMAN:** Complaints to the Ombudsman have to be in writing. Is that a difficulty for young people?...*

***Mr SHIPP:** It was a point I was going to raise. It is not a problem for some young people. Some of the reports that have been done tend to suggest that it is the better educated people in society who tend to complain. That is a problem. The requirement for the complaint to be in writing adds to that problem. I find in my work in relation to other matters that young people are potentially embarrassed because anything that involves them putting pen to paper is embarrassing... They are simply not able to complete the forms that are required. That means that it requires the intervention of another person—a community worker, a youth worker, a solicitor, a parent or whoever it might be. Some of these complaints are so confidential or private that the young people do not want to talk to anybody else,*

⁷⁵ Report p.23

⁷⁶ Submission 2/8/93 p.11

Chapter 6 - Evidence: Problem Areas

and that deters some young people from following through with complaints. So a system that would enable an initial verbal complaint followed by perhaps a personal interview might be more suitable, although I concede that the office might have to have a lot more resources for that to take place. 29.6.93 p.26

With regard to youths in detention centres Ms O'Sullivan stressed that advocacy services for such young people were inadequate. She advised the Committee that:

Ms O'SULLIVAN: There is a huge gap in the delivery of advocacy services for young people. The gap is for young people in detention centres and care institutions where there is no regular advocacy service which visits them or represents them in their cases.

Dr BURGMANN: Do they have something like the prison visitors system?

Ms O'SULLIVAN: They have an official visitor who visits once a month, but is unlikely to take on a case and represent them in a complaint to the Ombudsman. They report to the Minister; they do not actually represent a young person like a legal representative might do from the prisoners' legal service. They are also visited by Young Lawyers who visit a detention centre, Yasmar, on a rostered basis.

Dr BURGMANN: Is that voluntary?

Ms O'SULLIVAN: That is a voluntary service, but they do not take on cases like the prisoners' legal service can do. They just give advice on the evening that they are out there...

...Every report refers to this gap—that there is no legal service for young people in detention centres. The Legal Aid Commission has not said whether it will address this need, and it is unlikely given the problems it has with its resources at the moment. No, nothing is being done to address that problem as far as I am aware. That is important when you are looking at access to a complaints mechanism such as the Ombudsman's Office.

Dr BURGMANN: Because there is no way of getting there.

Ms O'SULLIVAN: That is right. There are inadequate advocacy services for young people, as there are. I am one of three children's solicitors in the whole State. 3.8.93 pp.47-48

Chapter 6 - Evidence: Problem Areas

The Committee took further evidence that children who are arrested or in custody do not receive any information about the Ombudsman until they are in a detention centre. Ms O'Sullivan asserted:

Dr BURGEMANN: I refer to children who are arrested or in custody. Are they given information about the Ombudsman at any stage? Would the police, community welfare or any other group say anything to them about the Ombudsman?

Ms O'SULLIVAN: As far as I know that does not happen until a young person finds themselves in a detention centre. There is general information there about their rights, but it is not in a form that they take in. There is a perception that the information given to them at the detention centre is about the workings of the detention centre, so they see the Ombudsman as just another arm of the bureaucracy which is in charge of them while they are in the detention centre.
3.8.93 p.45

Ms O'Sullivan estimated that Commonwealth statistics on awareness of the Ombudsman among youth were reflected in N.S.W.:

CHAIRMAN: ...The Commonwealth Ombudsman conducted a survey in 1992 and drew a conclusion that people between the age of 16 and 24 are the least likely to be aware of the Ombudsman. Is that fair to say, is that reflected in New South Wales as well?

Ms O'SULLIVAN: Yes. The overwhelming majority of my clients have never heard of the Ombudsman's Office. If they have heard of it they do not know what it does. **3.8.93 p.42**

Recommendation 11:

The Committee recommends that the Ombudsman should ensure that young people who are arrested or in custody should be advised by the authorities involved in their care of the Ombudsman's existence, powers and the services provided by the Office.

The Committee further recommends that the Ombudsman should consider designing a specific information package about the Ombudsman which can easily be understood by young people and distributed to them upon admission to detention centres and other care institutions.

The level of education of young people also was examined by the Committee as a determining factor in the level of awareness of the Ombudsman and access to his Office among this group. Some witnesses linked a young person's standard of education to their preparedness and inclination to exercise their right to complain. For instance:

Mr MOSS: I wish to follow up the issue that those who are better educated are more likely to complain. I do not know whether that is because those who are better educated are better at letterwriting or whether it is because those who are better educated are better informed. I know of young people who may not be able to put pen to paper but who can be pretty tenacious and who have a real sense of justice and stick up for their rights. So I think those who may be better educated are just better informed of their rights. I do not think the letterwriting issue is a real problem.

Mr SHIPP: No, but they are also more confident in exercising those rights. I think that is the crucial point.

Dr BURGMANN: Uppity. The better educated you are the more likely you are to believe that you should not be treated in that way. 29.6.93 pp.28-29

While Mr Shipp placed emphasis on education initiatives as important he felt that "word of mouth" ultimately was the most effective method of communication with young people. He commented:

Mr SHIPP: ...I take your point that, generally speaking, unless you have a particular complaint at that moment the young person is not terribly interested, but the same could be said about a range of matters about which young people are

Chapter 6 - Evidence: Problem Areas

educated—sexual health, education and legal issues—yet we find that if the matter is presented in a sufficiently interesting way and is potentially relevant to the young person because of case studies submitted to that young person, he or she will look at it. It has to be a certain type of young person who will be interested in it, but word of mouth is really the way to go. If you provide certain information that is sufficiently understandable by some young people, that information will be passed on by word of mouth, but at the moment that does not occur, in my view it is only negative information about the Ombudsman's Office. 29.6.93 p.21

6.11 Prisoners

Access and awareness problems for youths in custody also seemed to apply to adults in N.S.W. prisons. Mr Friend, a Solicitor with the Aboriginal Legal Service, gave evidence that many aboriginals in prison did not know they had a right to complain to the Ombudsman in certain circumstances. He discussed this issue with the Chairman:

CHAIRMAN: *I cannot quote you exactly but when mentioning prisons you said there are many people who had not had contact with the Ombudsman. Is that to say that those people had asked to be contacted by the Ombudsman or is it to say that they did not know they had the right to contact the Ombudsman in various instances?*

Mr FRIEND: *The latter—and also the fact that no one from the Office of the Ombudsman would ever go to the prison, in any event.*

CHAIRMAN: *Does your organisation have an outreach service to the prisons?*

Mr FRIEND: *We have a prisons unit. We have field officers who go to prisons. Obviously, our organisation has limited resources so that we can empathise with the Ombudsman in that respect. We try to get to the bulk of prisons, particularly the metropolitan gaols, and Bathurst, Lithgow and Grafton prisons in particular...*

We can and do advise people in relation to the making of complaints but we do not have contact with all Aboriginal prisoners—not as many of them as we would like to have contact with. We are not involved in all cases that involve Aboriginal people, for example cases which involve a black upon black situation. It is the policy of the Aboriginal Legal Service, and always has been, that it does not represent either party in that type of case... 3.8.93 p.32

Chapter 6 - Evidence: Problem Areas

Commenting on such difficulties and the role played by aboriginal legal services, Mr Scott told Dr Burgmann that:

Mr SCOTT: At the moment the prisoners have a problem with respect to access. There is a prisoner visitor scheme⁷⁷, which was a response to the Aboriginal deaths in custody recommendations. We do not have any information as to how that is working. 3.8.93 p.27

He could not supply any anecdotal evidence as to whether prison visitors helped with access to other government departments. Any complaints directed to ATSIC were usually referred on to the legal services.

Recommendation 12:

The Committee recommends that the Ombudsman should consider approaching service groups who visit specifically disadvantaged groups in custody such as Aboriginal and Torres Strait Islanders, who are visited by Aboriginal Legal Services, about arranging for these groups to distribute information about the Ombudsman to their clients during prison visits.

The Committee further recommends that the Ombudsman also should consider consulting with these service bodies about the most appropriate method of providing such information which should be received by members of these groups at the time of their admission into custody.

⁷⁷ Official Visitors are appointed to every correctional centre in NSW and receive complaints from staff and inmates. They are required to visit their centre of appointment once a fortnight and report in writing to the Minister every six months. (Source: Corrective Services Annual Report 1993 p.78)

CHAPTER 7- STRATEGIC PLANNING

7.1 Access and Awareness Programs - Strategic Planning

The Office's Corporate Plan for 1993-95 illustrates how its public awareness and education strategies relate to the Office's overall aims and objectives.

As presented in the Office's Corporate Plan its Mission Statement is:

"To safeguard the public interest by

- * providing independent redress of complaints
- * promoting better complaint handling and responsiveness by public authorities."

One of the supporting corporate goals for this mission relates directly to issues of access and awareness. Corporate Goal 8, that is, "Access" is defined as:

"To increase community awareness of the role of the Ombudsman and promote access to the Office for disadvantaged groups."

The two outcomes specified for this goal are:

- * increased public awareness of the role of the Ombudsman; and
- * increased use of the services of the Ombudsman by disadvantaged groups throughout NSW.

The strategies adopted by the Office to achieve these outcomes included:

- * liaising with peak community interest groups to identify issues of concern and expand knowledge of Ombudsman's role;
- * promoting the image and role of Ombudsman through a variety of communication channels to maintain high public profile and credibility;
- * providing outreach service to persons in custody, country residents and aboriginal communities;
- * targeting media campaigns to expand the knowledge of the role of the Ombudsman and availability of services among disadvantaged groups;
- * promoting use of 008 phone number for public enquiries for country residents; and
- * implementing the Ethnic Affairs Policy Statement policy.

Chapter 7 - Strategic Planning

The major initiatives reported for 1993 in relation to this goal were:

- (i) the review of the implementation of a prisoners's complaint form in NSW correction centres;
- (ii) the re-introduction of monthly public awareness visits to Newcastle and Wollongong;
- (iii) a series of public awareness visits to county areas and aboriginal communities;
- (iv) the development and distribution of pamphlets on the role and function of the Ombudsman;
- (v) the production of a newsletter for members of Parliament on the work of the Ombudsman;
- (iv) a seminar for representatives of peak community interest groups and information brokers who can disseminate information about the Ombudsman to specific disadvantaged groups; and
- (vi) a review and update of the Office's EAPS program.

As with all Corporate Goals outlined in the 1993-95 Plan Goal 8 was assigned a set of measures of performance and targets for their accomplishment. These are given in the table below.

Performance Measure	Target
Number of visits to juvenile and adult correctional centres.	All visited at least once by 30 June 1993.
Number of outreach visits conducted by Investigation Officer (Aboriginal Complaints).	Five visits conducted by 31 December 1993.
Issue of updated multilingual pamphlets.	By 30 June 1993.
Number of public awareness visits to country centres.	Ten completed by June 1993.
Number of special reports to Parliament.	Four presented by 31 December 1993.
% of respondents to complainant survey who indicate accurate perception of the Ombudsman's role.	Baseline being set

Chapter 7 - Strategic Planning

Inches of unpaid newspaper columns that mention Ombudsman.	Baseline being set
Number of media interviews given by Ombudsman.	Baseline being set.
% increase in number of complaints lodged by Aboriginal communities or individuals.	Baseline being set.

The material supplied in the Ombudsman's Reports to Parliament and the Office's Corporate Plan indicated to the Committee that the NSW Ombudsman has undertaken a program of strategies and initiatives aimed at improving the awareness of his role, and access to his Office, by individuals and groups generally recognised as experiencing particular barriers to access and awareness.

The Committee recognises the Ombudsman's efforts in this area however, it remains concerned that these programs should be coordinated, extended, regularly monitored and costed. By adopting such a strategy the Committee believes that the Ombudsman would obtain a comprehensive ongoing access and awareness plan, reflective of his commitment to equal access by all members of the public to the services provided by his Office. Costing of initiatives undertaken for relevant programs would enable the Ombudsman to gauge the resources required for this area of his operations and would be consistent with a system of program budgeting.

The Committee regards that evaluation is a necessary adjunct to the introduction of any new strategies by the Office, however, it recognises there are difficulties in making any type of quantitative or qualitative evaluation. Professor Saunders commented on the ARC's project evaluation in evidence:

***Professor SAUNDERS:** It was very hard to evaluate how successful particular interventions were compared to others. All we were able to do in the end was to say, "Over this period we did all these things". They worked in the sense that the level of understanding of their communities increased tremendously. But the response to things like videos and columns in the magazines TV was such that we certainly were of the opinion that those things had worked. 29.6.93 p.7*

The Committee is aware of the Ombudsman's efforts to evaluate other programs undertaken by his Office and believes such assessments are warranted for the Office's access and awareness strategies. Incorporating targets and outcomes in the EAPS and

Chapter 7 - Strategic Planning

relevant sections of the Corporate Plan, as presently done by the Ombudsman, would appear a legitimate means of monitoring the implementation of such strategies. The client surveys undertaken by the Office to date would offer some indication from complainants of the effectiveness of these strategies, however, additional measures of effectiveness may be needed.

Development of an Access and Awareness Plan would enable the Ombudsman to continue to: monitor the achievement of performance targets for access and awareness initiatives; strategically plan access and awareness programs over a number of years; measure the effectiveness of initiatives aimed at particular target groups; and modify his public awareness strategy to accommodate newly identified barriers to access and awareness. The Committee acknowledges that the elements of such a plan are already provided by the Ombudsman in a number of Office publications, in particular, the Corporate Plan and Annual Report, however, it believes that it would be beneficial to consolidate this information into a document designed specifically as a plan for the Office's access and awareness strategy.

The Committee envisages that such a Plan would provide detailed information on:

- i) the extent of each access and awareness program, for example, number of prison visits and institutions involved;
- ii) activities undertaken in each program, for instance, the number of complaints taken during country visits;
- iii) evaluation of each program including outcomes, such as, related increases in complaint numbers, benefits for complainants and client groups etc.;
- iv) performance measures and targets for each activity;
- v) ways to improve the effectiveness of each access and awareness program;
- vi) estimated costs for each program and the Office's public awareness strategy overall; and,
- vii) client feedback relevant to access and awareness programs.

The Committee endorses access and awareness strategies as a significant and worthwhile facet of the Office of the Ombudsman's operations and believes that an annual Access and Awareness Plan of the type recommended would enable the Office to coordinate and

Chapter 7 - Strategic Planning

structure its strategies in this area over a period of time, for instance, by formulating planning cycles for each program.

Recommendation 13:

The Committee recommends that the Ombudsman should consider preparing an annual Access and Awareness Plan building on the strategy presently outlined in Goal 8 of the Office's Corporate Plan for 1993-5.

If this recommendation is adopted it suggests that the Access and Awareness Plan should contain details of relevant initiatives to be undertaken by the Office for the particular year, outcomes, performance measures and targets, and overall strategies. It could include particulars of the programs to be undertaken, for example, country visits, speaking engagements, or visits to prisons. Similarly, details of pilot projects for specific target groups and the results of these projects also may be recorded in the Plan.

As the Ombudsman discusses operational and management issues with the Committee at General Meetings it is recommended that any Access and Awareness Plan developed by the Office be regularly reviewed by the Committee at each General Meeting.

CHAPTER 8 - RECOMMENDED STRATEGIES

8.1 Management Review Report

The Ombudsman agreed with many of the points raised in submissions to the Committee and by his own admission acknowledged the need for further initiatives in promoting access and awareness:

"My Office clearly is not doing enough to enhance the level of understanding of young people, Aborigines, members of ethnic communities and minority or disadvantaged groups of the role of the Ombudsman and the extent of their access to my Office." (letter dated 7 July 1993).

KPMG Peat Marwick recommended in its report upon the Management Review that:

"The promotional efforts should be focussed on achieving greater coverage of stories about the Ombudsman in leading ethnic newspapers and the Koori Mail to attempt to overcome the current awareness problems. In order to ensure that cases can be reported in the press they must first be included in the annual report. The Ombudsman's Office must therefore be sure that cases selected for inclusion in the annual report include a selection of cases involving Aboriginal complainants and complaints from people from non-English speaking backgrounds.

The Ombudsman and Deputy Ombudsman (and possibly the Assistant Ombudsmen) should undertake public speaking engagements as an economical and effective means of promoting the Ombudsman's Office."⁷⁸

8.2 Recent Office Initiatives

Since the completion of the Management Review and the Committee's public hearings for this inquiry, the Office of the Ombudsman has advised of several new access and awareness initiatives recently undertaken. In his submission to the Committee for the General Meeting held in June 1994 the Ombudsman explained:

"The office is planning a series of awareness programs, targeting some of the groups identified by KPMG Peat Marwick.

⁷⁸ Management Review Report p.45

Chapter 8 - Recommended Strategies

The Office was recently nominated by the Ethnic Affairs Commission as a key organisation in the Government's NSW Charter of Principles for a Culturally Diverse Society. We are currently working closely with the Commission, community workers and community groups to develop a detailed education/awareness strategy for people whose first language is either Arabic, Chinese, Croation, Greek, Italian, Serbian, Turkish or Vietnamese. Liaison with community groups will help determine the best means of reaching these groups and the type of information they require. At this stage it is thought the final strategy will involve:

- * distribution of an information pamphlet in each language specified*
- * a speakers program for ethnic community groups in the Sydney metropolitan region*
- * speakers program tied in with our community awareness visits for ethnic groups in country NSW*
- * an education program for the ethnic media*
- * provision of media releases and reports to the ethnic media*
- * advertising in the ethnic media.*

The office is also in the preliminary stages of developing an awareness program for women. An investigation officer has already been nominated to deal with all investigations relating to domestic violence. We are currently organising to speak to community workers and coordinators of women's groups. This will allow us to determine the needs of women in relation to the work of the office and help ensure women throughout NSW from different ethnic and sociological backgrounds are aware of our services.

A new Aboriginal Liaison Officer is about to take up duty⁷⁹ and will work with the public relations officer to develop a public awareness strategy for Aboriginal people and Torres Strait Islanders.

The office's information brochures continue to be distributed through community centres, community justice centres, libraries, juvenile justice workers and other community based groups. (Answer 25, submission 19/5/94)

However, on further questioning during the meeting the Assistant Ombudsman (General Area) indicated that although this strategy had been planned by the Office not all the .

⁷⁹ At the time the Committees prepared its report this applicant had withdrawn and the Ombudsman had renewed his efforts to fill this position.

Chapter 8 - Recommended Strategies

initiatives concerned had been fully implemented partly because the Office was waiting for this Committee's report. It also was waiting on advice from other advisory groups and organisations. For example, in relation to its plan to advertise in the ethnic media the Office was partly dependent on advice from "various ethnic groups and organisations" and the outcome of discussions of the effectiveness of different sorts of advertising. At the time of the General Meeting the Office was considering a number of alternatives to advertising in the press, including renting space on the end of ethnic videos.⁸⁰ Consequently, the Committee has made several recommendations suggesting priorities and additions to access and awareness strategies planned by the Ombudsman since the commencement of this Inquiry.

In arriving at these recommendations the Committee paid particular attention to those strategies used by the Administrative Review Council in its project on access to administrative review by members of Australia's ethnic communities. These strategies were recapped by its former Chairman in evidence:

Professor SAUNDERS: ...As far as the solutions were concerned, review bodies need to do the obvious things. They need to provide better information, to provide it in a simple form and to provide it in an appropriate language. But information in that way is not sufficient if you want to really increase access to these review bodies. We talked a lot about the pamphlet syndrome, the room filled up with pamphlets in a million different languages but which were still not getting the message across to the community. We concluded—many of these conclusions may be obvious to you—that the information that is produced needs to be in a form that the target group is most likely to use, whatever that is...

The review bodies need to be accessible. It is not enough for people to sit in their offices, even if they are shopfront offices. They need to go out to the communities. I know that the New South Wales Ombudsman has attempted to do that. We tried to persuade the Ombudsman to set up at markets and railway stations from time to time. I think that is important. We need to be able to show that the Ombudsman is relevant and useful. That is a problem. In general, people's interests are not caught by these arrangements until they have a problem that the Ombudsman needs to be able to solve. It is too late to start advertising the Ombudsman at that point.

⁸⁰ Evidence 23/6/94 p.25

Chapter 8 - Recommended Strategies

We tried to combat that by using a problem-based approach in some of the material that we put out. For example, in the Vietnamese television magazines, we ran a sort of dorothy dix column. People wrote in with mock problems and solutions were provided by the wise, all-knowing Ombudsman. In the end, people started writing in with genuine problems, so it is working well. Our next conclusion was that solutions cannot be general. They always need to be targeted specifically to different groups. Solutions may be different for different groups. The Ombudsman may be assisted in working out what those solutions will be by getting in people from specific communities to work with him...

Clearly, in identifying solutions it is necessary to bear in mind some of those specific problems or causes to combat the cultural unfamiliarity of the Ombudsman or the fear particular ethnic communities may have of government. One device which we found useful was to identify some figure in the history or the culture of those communities—a King Solomon type figure, or whatever you identify an ombudsman as being...we tried to think of ways of making the message as simple as possible....Similarly, we should try to develop the notion of a one stop shop...
29.6.93 pp.4-5

The Administrative Review Council's Project highlighted the need for information about the Ombudsman concept to be provided in a creative and innovative way. Methods of communications employed by the Council during its project included: newspapers and magazines, radio, video, public meetings and phone-ins. The Council was critical of the use of pamphlets referring to the "pamphlet syndrome." Although it found some of these methods of communication more effective with certain ethnic community groups than others, it recommended:

"All forms of publicity (press, radio, TV, posters, handbills, public meetings, etc.) can be effective but none is invariably appropriate for all target groups or for all purposes".⁸¹

The Committee agrees with the Council's belief that administrative review agencies should design their publicity activities imaginatively and use key publicity and marketing strategies, such as, trialing, targeting and measuring.⁸²

⁸¹ ARC, Access to Administrative Review by Members of Australia's Ethnic Communities p.54

⁸² *ibid* pp.54,33

8.3 Ethnic Media

According to the results of a survey conducted by the Commonwealth Ombudsman in 1992 the majority of people surveyed, 63 percent, have an awareness of the Ombudsman through media reports, 10 per cent have an awareness through advertising and nine per cent through word of mouth.

Prior to becoming Chairman of the Ethnic Affairs Commission Mr Kerkyasharian was head of SBS radio for nine years. The Chairman of the Committee sought Mr Kerkyasharian's opinion on the aforementioned statistics in view of this previous experience. Mr Kerkyasharian agreed with the Commonwealth Ombudsman's overall conclusion, stating that:

"Some surveys have been carried out. One was done by a university in Victoria about a year ago. It showed that something like 60 per cent of the members of the ethnic community received their information either directly or indirectly through ethnic radio. Ethnic radio was the primary source of information and word of mouth became the secondary source of information. There would be a lot of value in the Ombudsman's Office using ethnic radio as a means of disseminating information." 3.8.93 p.4

He also advised the Chairman that the New South Wales Ombudsman's Office had not used ethnic radio in its strategies in recent times.

In Mr Kerkyasharian's opinion ethnic radio initiatives by the Office would be one of the most cost-effective methods of disseminating information about the Ombudsman to members of ethnic communities. He told the Committee that:

Mr KERKYASHARIAN: *For the more cost-effective method of disseminating information I would put forward three options and three proposals which are not mutually exclusive—in fact, they can be used with each other. One would be to perhaps conduct some talkback programs on ethnic radio, on SBS radio, in targeted community languages.*

Again, the Ombudsman could send one of his officers to the radio station, and the radio station would provide a broadcaster who would translate. The second would be for the Ombudsman - this is something I referred to earlier - to conduct half-day seminars for some community workers, and the Ethnic Affairs Commission can assist in that process. The third option would be where it has identified some communities - and I think perhaps this third strategy could be adopted with some

Chapter 8 - Recommended Strategies

communities such as the Vietnamese and Chinese communities and some of the other more recently arrived communities - the Ombudsman's Office can call a public meeting in the relevant suburb, the Ethnic Affairs Commission would supply an interpreter, and I would expect that something like 300 or 400 people would turn up at such a public meeting where the Ombudsman could talk about the office and its functions. The interpreter would interpret all of that to the people and the Ombudsman or his officers would respond to questions, and then by word of mouth one will find that as a result of just one public meeting like that something like 2,000 or 3,000 people of a particular community would be informed and would have an increased awareness of the existence of the Office of the Ombudsman and what it does. Something like that is not resource intensive. It is just about three or four hours of the time of four people plus the hire of the hall and the broadcast of the message. You could not even print 500 pamphlets with that money." 3.8.93 p.7

The Ombudsman indicated in the answers he supplied to the Committee for the General Meeting that his Office planned to advertise in the ethnic media but in evidence the Assistant Ombudsman (General Area) explained that these plans had not been completely finalised. The Office's final course of action would be partly dependent upon advice from various ethnic groups and organisations concerning the effectiveness of different types of advertising and a number of alternatives were being considered.⁸³

Recommendation 14:

The Committee recommends that the Ombudsman should consider advertising in ethnic newspapers, radio, video and magazines in targeted community languages.

It further recommends that when discussing his work with members of a cultural group unfamiliar with the Ombudsman concept, the Ombudsman should consider making use of cultural symbols and methods easily identified by the group concerned which would assist in making the information provided more tangible.

⁸³ Evidence 23/6/94 pp.24-25

8.4 Aboriginal Media

The Committee also discussed with witnesses the use of Aboriginal radio stations to distribute information about the Ombudsman through the Aboriginal community. Mr Evans, a member of the Law Society's Aboriginal Justice Committee held that: *"With regard to increasing understanding through education and communication the most effective means would be through Aboriginal owned and run media outlets - radio, newspaper and television."* He claimed this would be *"far more cost-effective measure than a glossy pamphlet style campaign given that many Aboriginal people are not likely to read this form of communication"*. 29.6.93 pp.31-2

Although the number of Aboriginal radio stations in New South Wales may be very limited the Committee was advised that some of the Northern Territory and Western Australian radio stations collect parts of the NSW rural communities. In fact members of the Aboriginal Justice Committee had become aware of the Aboriginal-owned media outlets only after they started inquiring about them. Dr Burgmann discussed this point with the Aboriginal Justice Committee representatives:

Dr BURGSMANN: Yes, but in terms of radio stations and television stations, they are mainly in the Northern Territory or Western Australia?

Ms HOLE: That is right.

Mr EVANS: Some of them, I think Imparja does collect some of the rural New South Wales communities. It is broadcast that far. Particularly I know that they do get to places like Broken Hill where there is a significant Aboriginal population. 29.6.93 p.34

She also asked Mr Scott whether there were any particular programs on radio which would be listened to by Aboriginal people. He explained that the only radio for Aboriginal people in New South Wales was 2WEB in Bourke which covered northwest New South Wales. However, he did feel that 2WEB was well patronised and agreed that the Ombudsman should use the station to contact Aboriginal people. (3/8/93 p.24)

Mr Friend also supported the use of radio as the most effective way of promoting awareness of the Ombudsman in the Aboriginal community. He told the Chairman:

Mr FRIEND: In my view, through local radio stations. That is a very effective way of getting word around quickly and comprehensively; through the dissemination of materials to Aboriginal groups, and I do not just mean the

Chapter 8 - Recommended Strategies

Aboriginal Legal Service but Land Councils and Aboriginal housing companies in particular. They would be the most effective ways, so far as I can see. 3.8.93 p.36

Recommendation 15:

The Committee recommends that the Ombudsman should consider advertising his services through media outlets, that is, radio, newspaper and television, servicing the Aboriginal and Torres Strait Islander people of New South Wales.

8.5 Community Workers and Networks

One of the community support services which gave evidence to the Committee was the Burnside Khmer Program. The Program which is based in Cabramatta and is a welfare, counselling and community development program for the Cambodian (Khmer) community in New South Wales provided the following information about its services. It has close liaison with government and non government agencies and provides information, assistance and counselling in such areas as health, education, social services, housing and immigration as well as facilitating services and programs which lead to a greater involvement by the community in matters which affect them. The Program is staffed by seven bilingual Khmer workers and two non Khmers.

Representatives of the Program advised the Committee that as a result of funding provided by the Department of Immigration and Ethnic Affairs, it was completing a comprehensive study of needs and issues relevant to the Khmer community. According to its submission, two of the areas shown by the report to affect needs in all other areas are language proficiency and lack of awareness of services and rights.

The submission explained that:

"Few Khmers know about the Office of the Ombudsman and of those who do only a small handful would know how to access it. Still less would dare to do so.

Khmers, because of past experience, fear all authorities and avoid them whenever possible. The Office of the Ombudsman as a perceived authority is, therefore, not accessible to Khmer because of ignorance of its existence or lack of understanding of its procedures."

Chapter 8 - Recommended Strategies

As a result the Program concluded that, "there was a need for information on the Office of the Ombudsman covering such areas as access, procedures, confidentiality, and costs to be available in plain language." It also outlined "a need for action to be taken to reassure Khmer (and a number of other groups who have survived torture and trauma) that accessing the Office of the Ombudsman will not lead to reprisals by government or other agencies."

On the basis of the Program's experience with the Khmer community, it recommended:

- "5.1 That provision be made for information on the role of the Office of the Ombudsman in plain language and that this be translated into Khmer language.
- 5.2 That steps be taken to reassure Khmer people that access to the Office of the Ombudsman will not lead to reprisals.
- 5.3 That funding be provided to allow these steps to be taken."

A general view held by many witnesses during the inquiry was that community workers were under-utilised as a tool in disseminating information about the Ombudsman despite being perhaps the best placed people to do so. This view was supported by the findings of the Administrative Review Council (ARC).

As part of its strategy for its ethnic community project the ARC targeted two specific community groups in order to assess the level of awareness of the Ombudsman among these groups. The Council found "that the most effective way for review agencies to make themselves accessible to members of ethnic communities is through community workers". In the Council's view community workers possessed the following skills useful for administrative agencies seeking increased awareness: they are "almost always bilingual, are remarkably committed to improving the conditions of their community and, most important, have the confidence of their clients".⁸⁴ Consequently, the Council recommended:

1. Administrative review agencies (and other government agencies) should develop closer links with ethnic community workers. This should include

⁸⁴ Administrative Review Council Report op.cit., p.64

Chapter 8 - Recommended Strategies

training and familiarisation sessions and the encouragement of community workers to approach agencies for help and advice.⁸⁵

This strategy was taken up by the Chairman with Mr Kerkyasharian in evidence:

CHAIRMAN: *I refer to the method of disseminating information about the Ombudsman into the community. There has been a recommendation that the Ombudsman should employ agents, such as community workers, with specific target groups and educate those groups in relation to the Ombudsman's activities. It has also been recommended that the Ombudsman should identify parts of the community where the need for his services is greatest and carry out a properly planned targeting of those groups with publicity. Do you have any views in that regard?*

Mr KERKYASHARIAN: *The Commonwealth carried out a report on access to administrative review by members of ethnic communities, which went to the Attorney-General...Page 74 of that report refers to the project intervention strategies in the Vietnamese and Turkish communities.*

In December 1990 a representative of the Ombudsman's Office attended and took an active part in a training session for Turkish community workers. At that point no complaints had been lodged with the Ombudsman by the Turkish community...

Soon after the information session 16 people felt that they had a legitimate cause to complain to the Ombudsman. That indicates the valuable work community workers can do.

There is a network of workers throughout Australia and New South Wales and a lot of these workers are actually funded by government, either State, Commonwealth or, in some cases, local government. They usually operate out of an office, a migrant resource centre or club premises in the community and they see something like 10, 20 or 30 people a day—people who go to the workers simply because they cannot communicate with their own environment; they do not feel confident enough to communicate with their own environment. So, there are readymade reference points out in the community spread right throughout the city and right throughout the State. If some of these community workers were brought in and trained to some extent—it does not have to be an extensive training

⁸⁵ *ibid* p.65

Chapter 8 - Recommended Strategies

program, it could be a half-day seminar perhaps for various community workers—those community workers could actually operate as agents. We are not talking about a large investment. This is not something that requires enormous resources to be given to the Ombudsman in this particular case. It simply means developing a network or developing contact with that network which is already out there.

3.8.93 pp.5-6

The option of training community workers was not considered expensive by Mr Kerkyasharian. Although the Commission does not conduct information sessions for such workers, as this was considered the responsibility of the Ombudsman, it was prepared to offer assistance, for example, in developing strategies for such initiatives. He discussed this issue with Mr Mutch:

***Mr MUTCH:** The Committee heard some evidence about the deplorable lack of knowledge from some social workers even in the existence of the Office of the Ombudsman. The Administrative Review Council has found that training sessions for community workers are probably the most effective means by which communities could be informed about the Ombudsman. Do you agree with this? Does the Commission currently conduct any form of training or information sessions for community workers?*

Mr KERKYASHARIAN:** I agree with the statement. We do not conduct information sessions of the kind referred to in that report. We consider that to be the responsibility of the relevant government departments and instrumentalities, and in this particular case I consider that to be the responsibility of the Office of the Ombudsman. We are certainly there to assist them. There are something like 89 State Government instrumentalities and, therefore, the Ethnic Affairs Commission does not have the resources to do this across the board for all those departments. But we are certainly there to assist them in developing their strategies. The initiatives must come from them. That is the whole purpose of the Ethnic Affairs Policy Statement. That is where the commitment should be made by them and the initiative should come from them. But I fully endorse the implications of your question, that the Ombudsman should be more proactive in that area. **3.8.93 pp.10-11

The proposal that community workers should be trained about the Ombudsman was supported by several witnesses appearing before the Committee. For instance, representatives of the Khmer Burnside Program envisaged that scope existed for the Ombudsman, or representatives from his Office, to address Khmer Community workers

Chapter 8 - Recommended Strategies

through existing community agencies. According to Ms Devos a structure currently existed which could be utilised by the Ombudsman for such educative initiatives.

Dr BURGMANN: Therefore, probably an appropriate way for the Ombudsman to obtain access to the Khmer community would be through the Burnside Centre?

Ms DEVOS: It would need to be looked at more carefully, how that was actually done, but we would certainly be an important information and access point for people to access the role of the Ombudsman's Office. There is also another group I should mention called the Khmer Community which is different from our group, and they are also an important link with the Cambodian community in that area...

Ms DEVOS: There is a Khmer interagency which meets regularly in the area, on which Khmer representatives who are working, say, in government departments and in our program meet once a month.

Dr BURGMANN: So there is a structure there?

Ms DEVOS: Yes, and one of the things we were going to suggest was that representatives of the Ombudsman's Office speak to that group as a starting point to inform the workers. 3.8.93 pp.18-19

Ms Devos clearly favoured education of community workers as a means of encouraging the general Khmer population to use the Office. She claimed:

Mr DEVOS: ...We believe there needs to be an intermittent step, or I guess it can run concurrently with educating the general Khmer population, but we feel it is important that the community workers who work with the Khmer population need to be better educated about the role of the Ombudsman's Office...Just as with those communities, community workers in the Khmer community are a vital link between the Government departments and the general population. Apart from often being unaware of the avenues they have to make complaints, most people will be hesitant to do that unless encouraged, perhaps by the community worker whom they trust and who can take them through the steps. We believe that in fact those community workers are not adequately educated at this stage, therefore they are not encouraging the general Khmer population to use the Office. 3.8.93 p.17

Ms O'Sullivan informed the Chairman that education initiatives should be aimed at all community workers including youth workers. She made the following remarks on this point to the Chairman:

Chapter 8 - Recommended Strategies

CHAIRMAN: *The Administrative Review Commission recommended training about the Ombudsman for community workers. Today we have heard from a number of people to the effect that community workers do not have a good understanding of the role of the Ombudsman. Is that also reflected in youth community workers?*

Ms O'SULLIVAN: *There is definitely a need for better education of all community workers, including youth workers, with respect to the Ombudsman. Generally, there is not a lot of information around about the role of the Ombudsman's Office. 3.8.93 p.45*

Mr Kerkyasharian believed that a cost-effective means of disseminating information would be for the Ombudsman to conduct "half-day seminars" for community workers. Another witness suggested visits to the Office by community workers as part of a more comprehensive training program. Professor Saunders discussed this idea with the Chairman:

CHAIRMAN: *You suggest there should be a training regime for community workers.*

Professor SAUNDERS: *There needs to be information that is cheap and understandable and ideally if you can put in place a training regime that is fairly short but effective and get them along to it, obviously that is a good thing.*

CHAIRMAN: *How would you see that training regime? Would it be conducted by the Ombudsman or by someone else?*

Professor SAUNDERS: *Yes, I think it is a good idea for it to be conducted by the Ombudsman or whoever it is you are trying to sell. I think it is a good idea for the Ombudsman to have these people in so that they see the Office, they understand how it works, who is on the phone and how complaints are dealt with to strip away some of the mystery of it all... 29.6.93 pp.9-10*

Discussing the ARC's project with the Committee, Professor Saunders explained:

Professor SAUNDERS: *...The methodology that we used in the report was to identify two particular communities to bear the brunt of our interest over a year and a half. Those communities were the Turkish community in Auburn, New South Wales, and the Vietnamese community in Footscray, Victoria. Those two communities were selected simply because they represented different ethnic groups*

Chapter 8 - Recommended Strategies

in areas in which there was a concentration. There was no particular reason for singling out the Turks and the Vietnamese, but there was a reason for singling out some groups. We thought that to make the project work properly we needed to really have a go at two communities rather than spreading the net right across Australia.

The project began by trying to measure awareness in those communities of the administrative review system, including the Ombudsman. Then a number of measures were trialed to increase their awareness. Finally, there was another round of measurement. Our conclusion was that the measures collectively had been effective, and you will find the statistics to that effect in our report...We targeted the people of the communities themselves. Secondly, we targeted community workers who worked in the communities. Thirdly, we targeted the review bodies to try to make them take action that was likely to lift awareness not just over the period of the project but as a whole... 29.6.93 pp.2-3

Community workers in this context meant those actually working in a particular community:

Professor SAUNDERS: . . . *The community workers I was talking about tended to be...the ones who actually work in the ethnic community. For example, there were community workers in the Turkish community speaking Turkish and coming from that community. The problem of communication is not between the members of the community and that person. Those were the people whose knowledge of the Ombudsman tended to be limited and patchy... 29.6.93 p.11*

Recommendation 16:

The Committee recommends that the Ombudsman should consider developing a training program for community and youth workers providing information on the Ombudsman's functions and powers, his jurisdiction, the work of the Office, and the complaints process.

If the Office was to adopt this program, it is recommended that the program should consist of a half-day seminar conducted at the Office and lectures and discussions at established service centres, for example, community centres, migrant resource centres and youth centres.

Chapter 8 - Recommended Strategies

Another means of reaching communities suggested by Professor Saunders was through the community leaders. According to Professor Saunders:

Professor SAUNDERS: ...There are other opportunities for getting into communities; if you can work out who the community leaders are, obviously that is an important thing and I think that by the time we had concluded our project, again we were pretty well aware of who the leaders, or at least communicators were in those two particular ethnic communities we were working with and we have retained good relationships with them ever since. But again, it is quite a laborious task to work that out for each community. 29.6.93 p.11

8.6 Interpreter Services

Telephone interpreter services were regarded as one means by which the Office could overcome the language difficulties experienced by some complainants. This suggestion was made to the Chairman by Professor Saunders:

CHAIRMAN: With the straightout practical problems associated with an ethnic person ringing the Ombudsman's Office, how would you see the Ombudsman getting over that problem because such a variety of people could ring in?

Professor SAUNDERS: Yes, it is a real problem. Various different ways—one is to use the telephone interpreter services. I know that they are far from perfect and there is often a long delay in using them and so on, and there are tensions within the ethnic communities themselves about people who are accredited interpreters, but nevertheless, if you have nothing better, that is a mechanism that is there. At the very least we thought that Ombudsman officers or people on Ombudsman telephones needed to be trained to use the interpreter service so that they had some understanding of it. Another possible way of doing it—again it is a bit complicated—is to ensure that there was somebody who spoke the language of each of the main ethnic groups in the Ombudsman's Office on particular days of the week and to try and get that message through. I do not know that the Ombudsman has yet tried that or even that he is going to, but that is a way of doing it. 29.6.93 p.10

The Committee has discussed difficulties with the use of telephone interpreter services in section 6.6 of the Report. It concluded that the Ombudsman should improve the use of such interpreter services by his Office.

Chapter 8 - Recommended Strategies

Recommendation 17:

The Committee recommends that the Ombudsman should explore the possibility of arranging for members of ethnic and Aboriginal and Torres Strait Islander communities capable of providing interpreter services, being available at the Office during specific times which would be advertised beforehand in the media.

8.7 Public Meetings and Speaking Engagements

Problems associated with public meetings, according to witnesses, indicate that this form of promoting awareness of the Ombudsman may have limited benefits. In fact, representatives of the Burnside Khmer Program suggested that for public meetings to be worthwhile they needed to be preceded by an initial education process:

***CHAIRMAN:** Mr Kerkyasharian, the previous witness from the Ethnic Affairs Commission, suggested it is perhaps better to have a meeting with a large number of people, if possible a one-on-one discussion, rather than pamphlets...*

***Mr YORTH:** I think to meet all the people in large group is better than a leaflet, pamphlet or flyer, because people can see you face to face or see the practicality and can speak to you, whatever the question is.*

***Ms DEVOS:** We actually run a number of information sessions through our program...We do not get a great deal of people to those meetings, I would have to say, and with something like this there would have to be an initial process of education, if you like. A number of things need to go hand in hand and a number of avenues need to be used to inform people, but I think that if you just said, "We are having a meeting to explain the role of the Ombudsman", initially people would not see that as being relevant to them at all. In fact, we may not get many Khmers attending. Obviously part of our role is to encourage them to attend, but there may need to be some information on ethnic radio as a lead-in to that meeting.*

***CHAIRMAN:** Your view is that ethnic radio is the best vehicle to put the message across?*

***Ms DEVOS:** Yes. 3.8.93 pp.19-20*

Recommendation 18:

The Committee recommends that the Ombudsman should consider arranging public meetings in various target communities and that these meetings should be preceded by advertising in local and ethnic media.

8.8 Ethnic Affairs Policy Statement

It was apparent to the Committee that both the Ombudsman's Office and the Ethnic Affairs Commission had not fully liaised on certain aspects of the Office's access and awareness strategies. This was initially noticed in comments made by the Ombudsman in his Ethnic Affairs Policy Statement and were matters pursued by the Chairman of the Committee with the Chairman of the EAC, Mr Stepan Kerkyasharian.

The specific comments made by the Ombudsman in the 1992-93 EAPs statement were:

"As was reported last year, because of the extreme difficulties operating in this Office during the reporting year, particularly in terms of work load and severe budgetary constraints, there has not been the same level of time or staff commitment available for the implementation of EAPS. Similarly, the productive liaison with the Ethnic Affairs Commission enjoyed in previous years has not been as frequent.⁸⁶ ...

As was reported last year, without the previous assistance of EAC in conducting such courses, this Office has relied on previous materials and in-house training to remind staff of procedures for use of interpreters and to heighten inter-cultural awareness.⁸⁷ ...

The EAC representative assigned responsibility for this Office has not had any contact with this Office for some time. It is hoped that formal meetings with Ethnic Affairs Commission representatives will be re-established as this is a very valuable way of exchanging information, obtaining feedback as to progress, ideas

⁸⁶ p.4

⁸⁷ p.6

Chapter 8 - Recommended Strategies

as to further developments and assistance in the implementation of EAPs during this time of severe financial constraint."

In response to the Chairman's questions about the meanings of these statements Mr Kerkyasharian concluded:

Mr KERKYASHARIAN: *With regard to the comments made on pages 4 and 6 of the Ombudsman's 1992-93 Ethnic Affairs Policy Statement—to which your earlier questions related—I can only say that there is need for the Ombudsman's Office to reassess its position regarding its own EAPS responsibilities. Under the Government's EAPS policies the onus is on the Ombudsman's Office to take the initiative and to be proactive. It is not for the Ethnic Affairs Commission to approach the Ombudsman or any government instrumentality and say, "This is where we want you to start taking the initiative".*

Our role is simply to assist and advise. In my capacity as chairman of the Ethnic Affairs Commission I will not accept any report which says, "We could not do this because you did not contact us". In my view, that is buck passing, to put it bluntly...

CHAIRMAN: *...I want to be clear in my own mind that there is no cost structure between you and the Ombudsman. Do you provide any service on a negotiated basis, normally free?*

Mr KERKYASHARIAN: *I suppose there is a resource aspect to this. We would normally charge only for interpreter and translator services. If we were to sit down and have a meeting with the Ombudsman and assist the Ombudsman's Office in the drawing up of its EAPS strategy, we would not charge for the time of our officers in providing what I would call a consultancy service. But I would say that some of the strategies that would have to be developed as a result of that, and which would then need to be implemented by the Ombudsman, might require additional funds. For example, if one of the strategies agreed on was an advertising campaign in ethnic newspapers, that would obviously require the Ombudsman to contribute some funds for payment of those advertisements. I suppose that is what he would be referring to. I cannot see any direct cost associated with the Ombudsman's interaction with the Ethnic Affairs Commission except where he uses interpreters and translators.. 3.8.93 pp.13-14.*

The Committee regards these differences of opinion as a potentially limiting factor in the Office's attempts to increase levels of access and awareness. However, it perceives this

Chapter 8 - Recommended Strategies

problem to be one that could be easily overcome through further liaison between the Office and the Ethnic Affairs Commission. Indeed, it notes that since Mr Kerkyasharian's evidence the Ombudsman has advised that his Office has consulted with the EAC on the Charter of Principles for a Culturally Diverse Society. The Committee believes that continued consultation by the Ombudsman with the Commissioner would be of benefit to the Office's access and awareness strategy.

8.9 Aboriginal Community Education Plan

One suggestion made to the Committee was that awareness of, and access to, the Ombudsman among Aboriginal people would be improved through a community education plan. Mr Evans of the Law Society's Aboriginal Justice Committee estimated that the 30% awareness level cited for Aborigines in the Commonwealth Survey was probably much lower, especially among Aborigines in rural areas, Aboriginal youth and those who have come in contact with the criminal justice system. According to Mr Evans:

"...A community education plan is needed to increase awareness of and understanding of the functions of the Ombudsman. When a matter is rejected by any government department or, for that matter, a complaint is made by any individual, it should be incumbent on the department to automatically notify the complainant of the avenues of appeal, including the Ombudsman's Office. This step would go some way towards increasing awareness of the Office of the Ombudsman as an avenue of appeal.

It is understood that the Office of the Ombudsman employed an Aboriginal person to assist Aborigines to gain access to that office. It is suggested that a more appropriate way of encouraging access and understanding among Aborigines would be to employ part-time Aboriginal field officers, albeit part-time in the various Aboriginal communities, to field and refer complaints to the Ombudsman. This would also be a direct and cost-effective way of establishing ongoing channels of communication between Aboriginal communities and the Ombudsman's Office. This would need to be run in conjunction with both an internal and external education program for the Ombudsman's staff and for Aboriginal communities."
29.6.93 p.31

The role of the Aboriginal Justice Committee in providing education to Aborigines on access and their legal rights was later canvassed by the Chairman with Mrs Hole, as follows:

Chapter 8 - Recommended Strategies

CHAIRMAN: *Has the Law Society any program in train for the further education of members of the Aboriginal community as to their legal rights, including access to the Ombudsman?*

Ms HOLE: *Yes, the Aboriginal Justice Committee was set up two years ago to address that and other issues; to attempt to educate particularly Aboriginal persons in relation to how they can get into the law or how to understand the law. We try to do that in various ways. One is by sending some of our committee out to the youth to explain legal issues and the practice of law. So, yes, we do have a program.*

CHAIRMAN: *Do you have any specific program on the availability of the Ombudsman to the Aboriginal community?*

Ms HOLE: *Not really, but we can include it. Certainly, after today we will.*
29.6.93 p.37

The importance of utilising existing Aboriginal community organisations or groups in any access and awareness strategy was stressed by Mr Scott in his discussion of this issue with Dr Burgmann:

Dr BURGSMANN: *Your major recommendation is the outreach programs, on the basis that the Ombudsman's Office cannot be effective unless people use it. Have you had any thoughts about appropriate ways in which outreach programs could be conducted?*

Mr SCOTT: *It is more about providing an increased awareness and understanding of the role and function of the office and how people can have access to the office. There are major Aboriginal organisations and community groups out there, which in the first instance should be targeted.*

Dr BURGSMANN: *You are suggesting a person from the Ombudsman's Office should approach the various groups to arrange a meeting with the people, or is there a media link? Do people read the Koori Mail? In terms of access to the Aboriginal community in New South Wales how would you go about that if you were the Ombudsman?*

Mr SCOTT: *The Koori Mail is one obvious example. It is very well accepted paper in the Aboriginal community as a means of getting messages out. Again I*

Chapter 8 - Recommended Strategies

would suggest face to face meetings with both the community groups and the Aboriginal councils...

Mr SCOTT: Pamphlets tend to be put aside. To have a real impact I think it should be face to face. 3.8.93 pp.23-24

Mr Scott supported a suggestion by the Chairman that the Aboriginal Legal Service was one agency which could assist in promoting the Ombudsman's work.

CHAIRMAN: Do you know of any promotions where the Ombudsman has worked with the Aboriginal Legal Service to promote his role?

Mr SCOTT: Not off hand, I do not know of any specifics.

CHAIRMAN: Do you think it would be worthwhile to pursue that, that the Ombudsman should do a promotion through the Aboriginal Legal Service which appears to have a high profile, as a manner of getting his office to the people?

Mr SCOTT: I think it would be worthwhile. 3.8.93 pp.25-26

Discussing further the idea of community education initiatives with the Chairman, Mr Scott gave the following evidence:

CHAIRMAN: You mentioned community education units, have they been funded or is it a proposal?

Mr SCOTT: Each of the legal services in New South Wales was given a substantial increase in funding out of the funds from the Royal Commission into Aboriginal Deaths in Custody reports. Under those each of the councils had the option to address those initiatives. At this stage they have not reported back to us, [on] where they are at with each of those.

CHAIRMAN: Do you see those as a possible vehicle for a joint promotion of the Ombudsman?

Mr SCOTT: I think it would be. Part of community education is what is available. 3.8.93 p.26

Chapter 8 - Recommended Strategies

Recommendation 19:

The Committee recommends that the Ombudsman should consider implementing a community education plan about his work and services for Aboriginal and Torres Strait Islander people, and that such a plan should be devised in consultation with relevant Aboriginal and Torres Strait Islander advisory groups.

The Committee further recommends that the Ombudsman should consider liaison with other bodies providing legal education to Aboriginal and Torres Strait Islander people to prevent duplication of effort.

The Ombudsman advised the Committee during the General Meeting held on 23 June, 1994 that he had been unable to fill the position of Aboriginal Liaison Officer as recommended by the Committee on the basis of the 1993 Management Review Report. The Office had circulated details of the position to all contacts within its network in the Aboriginal community without success. On two separate occasions preferred applicants had withdrawn after being offered the position. Consequently, the position remained unfilled and the Office had not conducted any projects relevant to this position on a contractual basis although a consultant had been engaged to assist in a significant investigation. At the time of the General Meeting the Ombudsman had formally advertised the position in the *Koori News* and was considering the option of sharing staff with another agency to overcome the vacancy, believing that a part-time appointment was preferable to leaving the position unfilled.⁸⁸

The Committee remains of the view that the Aboriginal Liaison Officer should be a full-time appointment and hopes the Office is able to fill the position on that basis. However, should this not prove possible the Committee believes the Ombudsman should consider engaging appropriately qualified persons on a contractual basis to conduct projects which would have been performed by the Aboriginal Liaison Officer. In the absence of a full-time liaison officer, the Committee supports the Ombudsman's use of consultants in significant investigations affecting members of the Aboriginal and Torres Strait Islander communities although it would not recommend that such an arrangement should continue in the long-term.

⁸⁸ Evidence 23/6/94 pp.15-16

Recommendation 20:

The Committee recommends that the Ombudsman should continue to endeavour to fill the position of Aboriginal Liaison Officer on a full-time basis as recommended in the Funds and Resources Report.

The Committee further recommends that in the interim the Ombudsman should consider engaging a suitably qualified person on a contractual basis to conduct projects which would have been performed had the position of Aboriginal Liaison Officer been filled.

In conducting Aboriginal outreach campaigns the Committee felt the Ombudsman should pay regard to the findings made by Commonwealth bodies in relation to the Access and Equity Strategy's relevance to Aboriginal and Torres Strait Islander peoples. In particular it wishes to draw attention to the emphasis placed on consultation and "direct contact" if possible "in venues where Aboriginal people felt at home and comfortable".⁸⁹

8.10 Aboriginal Class Actions

In order to increase the level of access by Aborigines to the Ombudsman the Law Society recommended that Aborigines should be able to make a complaint to the Ombudsman as a class action as well as on an individual basis. Mr Evans explained this idea to Dr Burgmann during evidence:

"Dr BURGANN: ...Are you suggesting a change to the Act so that a class action can occur?"

Mr EVANS: That would be the intended method by which we would be seeing our proposals put forward to you. Taking up on that point, the collective method of lodging a complaint would also be one way of recognising the form or the process of decision-making within Aboriginal communities. Often in groups your complaints which are to be taken up, especially those which affect communities themselves, are taken up as communities rather than as individuals and it does not necessarily need to confine itself to police relations with Aboriginal people. It could range over all administrative bodies and if those complaints do affect the

⁸⁹ Access and Equity Evaluation Report p.51

Chapter 8 - Recommended Strategies

particular community, it is almost a decision that needs to be made collectively rather than individually. 29.6.93 p.33"

Although the idea of class actions was supported by Mr Friend he did suggest that formally permitting class actions might prove unnecessary as a complaint lodged by a community, for example, would probably be dealt with anyway. He made the following comment to the Chairman:

CHAIRMAN: *The Aboriginal Justice Committee recommended in its submission that Aboriginal people might be more likely to lodge complaints with the Ombudsman if they could submit them collectively rather than the present method whereby a complaint must be signed and lodged by the individual complainant. Do you have any comments on that suggestion?*

Mr FRIEND: *I see nothing wrong with complaints being lodged collectively but I would have thought that, if it is a collective complaint—for example, a complaint on behalf of a community—it would be handled collectively, anyway. It would usually be the leader of the community who would lodge the complaint. The bulk of complaints—complaints against the police, for example—are usually individual but I can see a situation, in a prison for example, in respect of which we would adopt that suggestion, yes. 3.8.93 pp.31-32*

The Committee agrees with Mr Friend's comments that the Ombudsman should be able to accommodate complaints made collectively or by Aboriginal community representatives. He has already done so in his Toomelah report.

8.11 Part-time Aboriginal Field Officers

The Aboriginal Justice Committee of the NSW Law Society made several recommendations in its submission to the Committee for increasing awareness of the Ombudsman among Aboriginals and Torres Strait Islanders. Its access and understanding strategy focussed on four major areas: education, communication, administration and field staff. The submission identified the following needs in each of these areas:

Education - A community education plan: placing the onus on departments to automatically notify a complainant of avenues of appeal including the Ombudsman.

Communication - Promotion of the Ombudsman through Aboriginal owned and run media outlets (radio, newspaper and television) rather than pamphlets, which are not likely to be read by Aboriginal people. Communication between the

Chapter 8 - Recommended Strategies

Ombudsman and Aboriginal organisations such as the NSW Aboriginal Land Councils and offices of the Aboriginal Legal Service.

Field staff - Ombudsman should employ part-time Aboriginal Field Officers in various Aboriginal communities to field and refer complaints to the Ombudsman; to be run in conjunction with an internal and external education program for Ombudsman's staff and Aboriginal communities.

Administration - Overcoming the Administrative obstacles faced by Aboriginal complainants - the "paper war of attrition".

Another problem area regarding access identified by the Aboriginal Justice Committee (AJC) came under the heading "Powers". That is, the powers of the Ombudsman, which in turn affect his credibility and perceived effectiveness.

The AJC related that the Ombudsman was not seen as an effective form of redress because Aboriginal people understood that his ultimate power was to make a report to Parliament and that he had no enforcement powers. The Ombudsman's "track record" in effectively dealing with complaints and taking action also was seen as a problem by Aboriginal people. The Toomelah Report was considered by the AJC as "the only notable success" in this regard and it held that that report should be used as the basis for a communication campaign as well as a means of establishing credibility.

The perception that the Ombudsman was ineffective relating to police complaints was described as central to the problem of Aboriginal people seeking redress through the Ombudsman's Office. According to the AJC, the Ombudsman's Office needed to target the entire system of police/aboriginal relations in order that the Ombudsman may provide services to Aborigines.

The proposal that the Ombudsman should employ part-time Aboriginal Field Officers in various Aboriginal communities and the role of aboriginal community workers in increasing awareness of the Ombudsman was canvassed by the Committee with representatives of the Aboriginal Justice Committee. Dr Burgmann in questions to Mr Evans and Ms Hole:

***Dr BURGMANN:** The other point I take up is your suggestion that there be part-time field officers for the Ombudsman in, presumably, rural Aboriginal communities and perhaps in town also. That is a wonderful idea but, of course, the Ombudsman reckons he is struggling with the money he has got now. Is there*

Chapter 8 - Recommended Strategies

a way in which people who are already working, perhaps in the legal service, could be used?

Mr EVANS: *I could not really speak on behalf of the legal services in that regard. Maybe they are avenues that the Ombudsman's Office could try to explore.*

Dr BURGMANN: *Of course, it would be probably unusual, would it not, for a complaint to go in to the Ombudsman from an Aboriginal person that had not gone through one of the Aboriginal agencies. They would have gone to the land council or the legal service?*

Ms HOLE: *Their first resource, yes. We did discuss this in so far as the Ombudsman could use field officers already there for other agencies. That is a matter for negotiation between the different agencies but that could happen.*
26.6.93 p.34-35

Dr BURGMANN: *It is probably the only practical way?*

Ms HOLE: *That is right because obviously it may not be necessary to have a field officer full time doing something, but part of the duties might be to receive comments that could be referred to the Ombudsman.* **29.6.93 pp.34-35**

The concept of field officers also received support from Mr Friend who suggested that part-time community field officers could form a significant adjunct to the services usually provided by the Office through an Aboriginal Liaison Officer. He discussed this idea with the Chairman.

CHAIRMAN: *You spoke about more Aboriginal investigators working with the Ombudsman to investigate police complaints. One of the recommendations of the report, that may or may not form part of another inquiry we are conducting into the financial aspects of the Ombudsman, recommends that the title Investigation Officer Aboriginal Complaints be changed to Aboriginal Liaison Officer to better reflect the role of that position. Further, that there also should be a specialised unit that would look at police matters within the Ombudsman's Office as well. The recommendation is to change the Investigation Officer Aboriginal Complaints to Aboriginal Liaison Officer but that there also be a specialised unit to look into police complaints within the Office of the Ombudsman as against what happens now which is a generalisation of all complaints. They are just put through a machine type arrangement and come out under general inquiries. Do you have any comments about that recommendation?*

Chapter 8 - Recommended Strategies

Mr FRIEND: From our point of view I think the second step is a good step. The first step, I do not think a change in the titles will necessarily achieve a lot by itself. I would assume that the Investigation Officer or the designated Aboriginal Investigation Officer would become the Liaison Officer whose task would be to go out into the different Aboriginal communities and do as I suggested in relation to the part-time field officers, handling field complaints and referring them to other Investigation Officers. That is how I understand the change is to take place whereas, as I understood, the situation particularly when Joyce Clague was working there is that she would become involved in a particular complaint after the complaint had been lodged and would follow that up rather than the other way round. Certainly I do see a role for that more proactive role which the change in title would mean.

CHAIRMAN: You are suggesting that it should go further than liaison, to go out as an actual field officer to sell the Ombudsman, and field complaints that may be appropriately referred to the Ombudsman?

Mr FRIEND: Yes. My last submission is that it would probably be ideal. It would not be a full-time job. I am taking up from what was suggested by the Aboriginal Justice Committee of the Law Society that part-time positions—even on an agent basis—be created so that there would be people in the communities whose job it was within that community to field complaints and refer them to the Office...If it could be cost effective, that would be one way of receiving complaints outside the Sydney metropolitan area and, in particular, in Aboriginal communities because many of them are fairly remote. In our submission that is the best way that could be achieved... 3.8.93 pp.30-31

Consultation with Aboriginal and Torres Strait Islander bodies such as Regional Councils was emphasised by the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs as a necessary step in planning, designing and delivering services to this group.⁹⁰ The Ombudsman Committee believes that the NSW Ombudsman should be capable of undertaking such consultation through a full-time Aboriginal Liaison Officer and a well developed network of contacts among Aboriginal and Torres Strait Islander community leaders.

⁹⁰ Rhetoric or Reality? see Recs 29, 30, 19, 13 etc.

Chapter 8 - Recommended Strategies

Recommendation 21:

The Committee recommends that the Ombudsman should consider consulting with Aboriginal and Torres Strait Islander community groups, Land Councils, Legal Services and other bodies as to their preparedness to act as distribution points for information about his services.

It is further recommended that the Ombudsman should maintain a contact network with representatives and leaders from Aboriginal and Torres Strait Islander communities within New South Wales.

Recommendation 22:

The Committee recommends that the Ombudsman should continue to include public meetings in the Aboriginal outreach campaigns about the Ombudsman's role and services and it is suggested that these public meetings be advertised beforehand in Aboriginal and Torres Strait Islander media.

8.12 Prisoner Orientation Program

The Ombudsman explained in his Annual Report for 1992-93 that one specific problem identified in relation to access to, and awareness of, the Ombudsman by prisoners was that prisoners of non-English speaking background may not be aware of services provided to prisoners by the Ombudsman. This issue was broached by Dr Burgmann with Mr Kerkyasharian:

***Dr BURGANN:** I am particularly interested in the problems of prisoners of non-English speaking background. Are you aware of ways in which they get knowledge of the Ombudsman? Do they experience problems in having access to the Ombudsman? For instance, would they be aware that a representative of the Ombudsman's Office was coming to the gaol?*

***Mr KERKYASHARIAN:** I am not aware of the way the Ombudsman's Office relates to prisons and corrective services. Prisoners of non-English speaking background would not be aware of that. That highlights a serious discrepancy. I*

Chapter 8 - Recommended Strategies

am not aware of any prisoners of non-English speaking background having complained to the Ombudsman. No such cases have come to my attention over the last three or four years that I have been the Chairman of the Ethnic Affairs Commission.

Dr BURGMANN: *I am interested in whether they even know that the Ombudsman exists. You seem to doubt it.*

Mr KERKYASHARIAN: *My immediate reaction is that prisoners of non-English speaking background would not be aware that they have recourse to the Ombudsman. I doubt that they have been informed.*

Mr WINDSOR: *How do you suggest we overcome that?*

Mr KERKYASHARIAN: *...This shortcoming could be addressed by the Department of Corrective Services instituting a proper orientation program, for want of a better word, for new inmates of non-English speaking background. In other words, when prisoners are first brought into the prison they should be made aware of all their rights, and an interpreter should be present to ensure that they understand the information that is being given to them. The availability of the Ombudsman for recourse should be mentioned. The primary responsibility rests on the Department of Corrective Services in this particular case. It should liaise with the Ombudsman and other instrumentalities, such as ICAC, so that a proper information package can be made available to prisoners upon arrival, telling them what their rights are and how they can access these instrumentalities. 3.8.93 pp.4-5*

The Committee considers that any access and awareness strategy targeted at prisoners, generally, would have to accommodate the needs of specific group of prisoners, including ethnic prisoners and Aboriginal and Torres Strait Islanders.

The Committee notes that the Ombudsman has stated that his visits to correctional institutions are inadequate and believes that prison visits should be conducted regularly. It notes the significant decrease in such visits⁹¹ in recent years as part of the decrease generally in visits made by the Ombudsman. This is evident in the following figures supplied in the Funds and Resources Report.

⁹¹ Visits in this table refers to visits to prisons, country areas, detention centres etc.

Chapter 8 - Recommended Strategies

YEAR	NO. VISITS	+INCR/-DEC%
1986	77	15
1987	92	-11
1988	81	-41
1989	40	-4
1990	36	-6
1991	30	-9.4
1992	20.6	-47

The Committee acknowledges that through an initiative by the Ombudsman's Office complaint forms were introduced for distribution to all prisoners.

Recommendation 23:

The Committee recommends that on their admission to gaol all prisoners should continue to be given information about the Ombudsman and the process by which they may make complaints to his Office.

8.13 Youth Liaison Strategy

Ms Teresa O'Sullivan drew the Committee's attention to several reports relevant to the issue of access to, and awareness of, the Ombudsman among young people.

These included:

- i) The Parliamentary Standing Committee on Social Issues Report on Juvenile Justice 1992, in particular Recommendation No 134 which states: "That a position be created in the Office of the Ombudsman, that would be responsible for the co-ordination of complaints made by children, including those in the Juvenile Justice system, and for the establishment of a system of education and information for children about the role of the Ombudsman. Adequate resources should be made available to assist in the creation of this position."

Chapter 8 - Recommended Strategies

- ii) The Kids in Justice Report 1990 Recommendation no 45 which states: "A range of measures needs to be taken to make the Ombudsman's Office more accessible and effective to young people who wish to complain about their treatment in the juvenile justice system. This should include the following:
- * the appointment of a Children's Ombudsman or Deputy Ombudsman (Children) and the establishment of a separate Unit to deal with complaints by children and young people;
 - * Creation of the position of Youth Liaison Officer in the Ombudsman's Office;
 - * Implementation by the Ombudsman Office of a Youth Liaison Strategy including the production of specially designed stickers, comics, brochures and posters for distribution to institutions, schools and youth centres;
 - * Measures to reduce the time frame for dealing with complaints by the Ombudsman Office and the agencies concerned to a time frame more appropriate to children and young people."

Ms O'Sullivan also made reference to the Youth Justice Coalition's response to the 1993 Green Paper on Juvenile Justice which stressed that the Green Paper did not mention a police complaints mechanism. It was essential in the Coalition's view that young people have "access to an independent 'child friendly' arbiter to handle their complaints," and that they also have access to independent legal advocacy services.

The Ombudsman's Office was stressed by the Coalition as a major element in an effective complaints mechanism for young people:

"The Ombudsman's Office is the primary external complaints mechanism for the juvenile justice system. Young people are, however, often distrustful of the internal and Ombudsman's Office appointed investigating police and can be disillusioned by the outcome of any investigation. The investigating police officers often have not skills in dealing with young people and the written reports prepared by the investigating police may be seen to be biased and based on ill informed judgements and pre-conceptions about the young complainant."⁹²

Mr Bernie Shipp, a Solicitor representing the Burnside Adolescent Legal Service claimed in his submission that:

⁹² Included in submission tabled 3/8/93

Chapter 8 - Recommended Strategies

"The question of access of young people to the Office to the Ombudsman falls into 2 distinct categories:

- (i) the extent to which they possess any information or basic knowledge about its existence and/or functions...
- (ii) if such knowledge does exist, whether the young person is willing to use the Ombudsman to lodge a complaint."

Some of Mr Shipp's concerns with regards to police complaints may be addressed by the new police complaints legislation introduced in July 1993. However, they are still valid observations which the Committee believed should be noted.

Mr Shipp's submission contained the following observation about the means by which young people access information:

"Young people access information in a number of ways which have implications for the way in which the Office of the Ombudsman should be promoting its functions.

Information will be digested if it is (amongst other things)

- * *relevant and useful*
- * *interesting*
- * *provided by a trustworthy source*
- * *in a readily understandable form*

'Word of mouth' advertising - although not necessarily the most accurate - is vital to the proper promotion of an item of information amongst groups of young people. Streetwise comics (originally produced by Redfern Legal Centre Publishing) is a good example of an attempt to communicate information to young people in a digestible form. The Ombudsman's Office has appeared (once) in Streetwise over the comic's 10 year life in a very clever and simple piece. We would recommend further contributions of this nature."

Mr Shipp recommended that:

"Promotion should be directed through the traditional sources of information for young people - pop and rock magazines, afternoon (informative) T.V. programs (e.g. A Country Practice or Home and Away), noticeboards at Youth Centres, Youth Refuges, pinball parlours etc. The forms of promotional material should take into account the range of circumstances young people find themselves in - at home supported by parents, unemployed and homeless, at school, in detention centres or other residential or foster care. Where these young people go to get their information is likely to vary greatly.

Chapter 8 - Recommended Strategies

This sort of information should also be included in the training of youth workers and social workers."

Mr Shipp also commented that:

"Young people's access to the Ombudsman's Office is affected not only by their knowledge of its existence, but by the extent to which they perceive it will make a difference. That is, an understanding of the functions of the Office of the Ombudsman is useless without a simultaneous willingness to use the processes designed to have complaints investigated. How are these impressions gained? It is principally through word of mouth, i.e. through an experience personal to the young person or relayed by another person. The degree to which young people are willing to use the Ombudsman's Office will be affected by this information."

In conclusion he made several recommendations aimed at improving the perception of the Ombudsman among young people. These recommendations were to:

- "(i) Ensure that investigations are totally impartial.*
- (ii) Promote the concept of conciliation of complaints as referred to at pages 30-32 of the Ombudsman's Annual Report 1992.*
Young people who we have spoken to do not on the whole want to end the career of the police officer the subject of the complaint. They do want a sense of satisfaction that their complaint has been treated seriously and impartially, and without threat of retaliation. In many cases, an apology is sufficient.

In our view, much of this could be achieved by way of conciliation. Given the vulnerable position of many young people, this process should not be carried out by a police officer, but by a person employed by the Office of the Ombudsman. It could be conceivably carried out quite quickly and without the present need to interview so many people.

- (iii) Deal with complaints without delay.*

Complaints made by under 18s should be given priority. There should be regular feedback to the young person about the status of their complaint. Slowness in processing complaints means young people are disillusioned by the system. Whilst they wait, they educate their peers that there is seemingly no point in lodging a complaint as nothing happens. Their

Chapter 8 - Recommended Strategies

perceptions are valid; many adolescents are not able to delay gratification very effectively."

Disseminating information about the Ombudsman to youth would only be effective in the view of Mr Shipp, if it was put in an accessible and appropriate format. This point was raised by him in the following discussion:

Mr MOSS: *Promotion of the Ombudsman among young people is limited and, I think, will occur more through people like yourself, promoting to youth the Ombudsman's availability through youth workers who in turn can spread the message. With a lot of kids, no matter how much you emphasise their rights, it will go in one ear and out the other. It is not until they are confronted with the problem that they really concentrate on that sort of thing.*

Mr SHIPP: *Yes, I agree with you, but it is possible to provide information directly to young people in a way that is specifically accessible to them...The key is the way in which the information is presented; if it is presented in the form sent out by the Ombudsman no one will be terribly interested. 29.6.93 pp.20-21*

The CHAIRMAN later asked:

CHAIRMAN: *Apart from word of mouth and the Streetwize comic, do you have any other ideas about how to tap into youth about the awareness of the Ombudsman.*

According to Mr Shipp:

Mr SHIPP: *I think that would have to be researched. As I indicated in the submission, any promotional material has to take into account the range of residential situations young people find themselves in. Those who are in residential care and foster homes, in detention, homeless, living at home with parents, those who go to school and those who do not go to school access different media depending on where they are and their access to television and written material and all that sort of thing. I would like to see a range of material provided which takes into account the range of circumstances young people live in. Other than that, I could not indicate specific forms of media. 29.6.93 p.28*

In order to achieve greater access and awareness among youth Ms T O'Sullivan suggested the implementation of a youth liaison strategy in accordance with recommendations in the "Kids in Justice" Report.

Chapter 8 - Recommended Strategies

She discussed the elements of this strategy with the Chairman:

CHAIRMAN: *In the "Kids in Justice" report, you made recommendations about a children's Ombudsman and you suggested that there should be an implementation of the youth liaison strategy, including the production of specially designed stickers, comics, brochures, posters for distribution to institutions, schools and youth centres. Has any of that strategy been implemented by your organisation, by the Ombudsman or by any other body that you know of, to publicise the awareness of the Ombudsman?*

Ms O'SULLIVAN: *As far as I know, the Ombudsman's Office has not implemented any such strategy. As part of our work with community legal education, we include information about the Office of the Ombudsman, but that is limited given the resources of an organisation such as ours.*

...There was once an article in Streetwise comics giving information about the Ombudsman's Office, and also general information that we know through our experience with preparing complaints to the Ombudsman's Office—giving that information to young people in a way that they are likely to be interested in and to understand. But as far as I know, there is no other dissemination of this information or no strategy to provide that information. 3.8.93 p.40

Use of radio targeted specifically at youths also was seen as a worthwhile means of disseminating information about the Ombudsman to this particular group.

Dr BURGEMANN: *We have heard from other groups about ways in which the media can contact areas, for instance, the Ethnic Affairs Council said that ethnic radio is obviously very important. Is there a radio program that would be particularly useful, or a station that would be more accessible to kids?*

Ms O'SULLIVAN: *Yes. A lot of the kids that I work with are involved in Radio Skid Row, Radio Redfern, and the small community radio stations. Some kids actually work there and say that a lot of their peers listen to it. And, of course, there is Triple J. The best way to find out about how to contact young people is to ask young people and get a reference group of young people. 3.8.93 p.42*

Another issue canvassed during the inquiry was the need for the Office to conduct a "youth impact study". According to the "Kids in Justice" Report the Ombudsman's Office should undertake a youth impact study with a view to improving its services to young people. To the best of Ms O'Sullivan's knowledge such a study had not been performed.

Chapter 8 - Recommended Strategies

Access to the Ombudsman's Office also had to be considered in terms of the ways in which a young person approaches an adult institution. This point was made by Ms O'Sullivan in the following evidence:

CHAIRMAN: We need to make young people aware of the role of the Ombudsman.

Ms O'SULLIVAN: We also need to look at access, not just young people knowing about the Office. They need a way to get to the Office. It is an adult institution.

CHAIRMAN: Do you think the young person making a complaint to the Ombudsman should be accompanied by an adult at all times?

Ms O'SULLIVAN: During an interview?

CHAIRMAN: Yes. They have to make a written complaint to start with, which creates a problem. If they reach the interview stage should they be accompanied by an adult?

Ms O'SULLIVAN: Yes, I think they should be given that choice. I have issued complaints on behalf of clients and they have usually asked that I be present when they are being interviewed. Sometimes a parent is also present. 3.8.93 pp.48-49

Other components of a possible Youth Liaison Strategy included training youth workers about the Ombudsman.

Recommendation 24:

The Committee recommends that the Ombudsman should consider formulating a Youth Liaison Strategy incorporating the production of the following material as suggested in the "Kids in Justice" Report for distribution to institutions, schools and youth centres: specifically designed stickers, comics, brochures and posters.

The Committee further recommends that the Ombudsman should consider conducting a Youth Impact Study to evaluate the success of his Liaison Strategy with a view to improving his services to young people.

8.14 One-Stop Shop

Dr Meredith Burgmann raised the idea of a "one-stop shop" for complainants gaining access to the Ombudsman by a 008 phone number. She discussed the concept with Professor Saunders in the following exchange:

***Dr BURGSMANN:** ...We could eliminate a large amount of advertising by various groups if we set up in every State a one stop shop with one phone number. So all advertising and everything else would be carried out at this one stop shop and people at that establishment could say, "Try the neighbourhood dispute centre", or whatever is required. The Ombudsman is madly advertising that he exists, various Aboriginal organisations are advertising that they exist and no one is getting anywhere.*

***Professor SAUNDERS:** I could not agree more. At the Commonwealth level, which is where we were operating, the problem is easier...The administrative review system is deliberately set up to be integrated. All those bodies that were set up at the same time are supposed to complement one another. The oversighting body, the Administrative Review Council, is there to co-ordinate...*

Of course, people were doing their own thing and as everyone became more concerned about access, they did more of their own thing. So there were pamphlets and new initiatives everywhere. One of our key recommendations was to say, "Stop all that". It is certainly desirable for everyone to have his or her own strategy for dealing with these matters, but we also need a co-ordinated strategy...

***Dr BURGSMANN:** But we need a State and Federal organisation. Complainants will never know whether it is a Federal or State organisation, particularly Aboriginal complainants, because it is really complicated.*

***Professor SAUNDERS:** That becomes complicated, so far as resources are concerned... You are saying, "We want you to be a one stop shop where someone can come with any problem—Commonwealth, State or local—and you need to cover every portfolio and every language". You are asking for something that is quite sophisticated. It may be possible eventually. 29.6.93 pp.7-8*

The Committee believes that a one-stop shop of the type discussed by Dr Burgmann and Professor Saunders would be an impractical initiative for the Ombudsman for two main reasons:

Chapter 8 - Recommended Strategies

- (i) it is resource intensive and would demand a high level of inter-agency support, commitment and co-ordination;
- (ii) the trend among administrative review agencies has been towards decentralisation of their services not centralisation, for example, the Commonwealth Ombudsman has established offices in a number of Australia's capital cities.

The Access and Equity Evaluation Report noted that a one-stop shop centre funded jointly for fifteen years in Coburg (Melbourne) by the State and Commonwealth Government became less effective when the Commonwealth opened local regional offices.⁹³

A one-stop shop would require coordination of effort by agencies as wide-ranging as the Ombudsman, Health Care Complaints Commission, Social Security Appeals Tribunal, Administrative Appeals Tribunal and others.

Nevertheless, the Committee fully supports any efforts made by the Ombudsman to share facilities and resources with other Ombudsmen, for example, through co-location of offices. It also encourages the Ombudsman to consider joint initiatives with his inter-state and Commonwealth counterparts.

For example, the Ombudsman conducted two joint public awareness campaigns during 1992-3: one with the Department of Community Services, the other with the Commonwealth Ombudsman. The campaign with the Commonwealth Ombudsman was conducted for six days during November 1992 at Westfield Shipping Square and all costs, including publicity and translation services, were paid by the Commonwealth Ombudsman. Ombudsmen staff took complaints, referred people to other agencies and advised members of the public about the role and functions of the Office.⁹⁴

⁹³ Access and Equity Evaluation Report p.45

⁹⁴ Annual Report 1992-3 p.24

Chapter 8 - Recommended Strategies

Recommendation 25:

The Committee recommends that the New South Wales Ombudsman should continue to undertake joint public awareness initiatives with other Australian Ombudsmen aimed at the promotion of the Ombudsman concept.

The Committee further recommends that the New South Wales Ombudsman should consider entering into arrangements with other Ombudsmen which would facilitate easier access to the Office by complainants as well as quicker processing of their complaints.

In this regard the Committee notes that one form of the "one-stop shop" concept which the Ombudsman may find feasible as a joint venture is the production of a compendium of available review agencies operating at local, state and commonwealth levels.

8.15 Role of Parliament

In his evidence to the Committee during the General Meeting held on 23 June, 1994 the Ombudsman cited results obtained from the 1992 Client Satisfaction Survey conducted by his Office which found that only six per cent of survey respondents had nominated politicians as the source from which they learnt of the Ombudsman. The Ombudsman interpreted this statistic as an indication that members of Parliament were unaware of his role and the Office and that target strategies had to be developed to improve this situation.

The Chairman of the Committee asked the Ombudsman whether he believed that the low percentage survey result for politicians may have been due to politicians resolving potential Ombudsman complaints before they could be referred to the Office. Although the Ombudsman acknowledged that this could be the case he stated that he felt "it indicates a gap of communication that we have not got the message through enough."⁹⁵ The Ombudsman currently provides Members of Parliament with executive summaries of his reports but had concluded that this measure was insufficient.

The Committee considers that the survey result relating to sourcing of complaints by politicians may be the product of a number of factors in addition to awareness of the Ombudsman. Nevertheless, it views the services provided by the Ombudsman to be an

⁹⁵ Evidence 23/6/94 p.19

Chapter 8 - Recommended Strategies

extension of the role performed by Members of Parliament in taking up the grievances of their constituents. Consequently, it believes efforts should be made to give greater support to the Ombudsman in his role as a traditional officer of Parliament. Although the reports of the Parliamentary Committee may be debated in Parliament the Committee considers that it would be valuable for Members to debate the role of the Ombudsman and the work of his Office in a general debate. Such an opportunity could be afforded by holding a debate at the time the Ombudsman's Annual Report is tabled in Parliament each year by noting the report and moving a motion for a debate upon it. This would enable Members of Parliament to discuss the Ombudsman's powers, jurisdiction and the services provided by his Office in a wide-ranging debate not restricted to the subject of the Committee's inquiries or the Ombudsman's special reports to Parliament.

Recommendation 26:

The Committee recommends that a general debate should be held at the time the Ombudsman's Annual Report is tabled in Parliament each year and that the debate should enable a wide-ranging discussion of the Ombudsman's powers and jurisdiction, and the services provided by his Office.

8.16 Language Barriers

The Committee received evidence from various witnesses that language difficulties presented barriers to members of certain sections of the community who might require the services of the Ombudsman. The Committee wishes to note that such barriers applied not only to members of ethnic communities but also to Aboriginal and Torres Strait Islander people and young people. For young people literacy levels were a factor in their ability to access the Ombudsman.

In addition to providing interpreter services, this Committee considers that the New South Wales Ombudsman should ensure that the level of language used by his Office does not pose a barrier to access and understanding of his role. Plain language was seen as an essential part of the Ombudsman's access and awareness programs and the Committee agrees with the ARC that administrative review agencies' publicity should avoid complexity by carrying a basic message.⁹⁶

⁹⁶ ARC Access to Administrative Review by Members of Australia's Ethnic Communities, 1991, p.4

Chapter 8 - Recommended Strategies

Recommendation 27:

The Committee recommends that the Ombudsman should provide every assistance to complainants in formalising their complaint in accordance with the current legislative requirement that complaints be put in writing.

Recommendation 28:

The Committee recommends that the Ombudsman should continue to encourage his officers to use plain language in all correspondence and documentation.

It is further recommended that the Ombudsman should consider undertaking a review of the Office's publications and written resource material, including information pamphlets, complaint forms, and standard correspondence, to ensure that all documentation produced by the Office accords with a "plain language policy".

8.17 Telephone Complaints

At present the Office takes telephone calls from complainants and where necessary may assist a complainant in putting their complaint in written form. The Office's CRIS (Customer Response Information System) system, installed in the enquiries section of the Office, records data on all telephone inquiries received by the Office. In the case of complaints within the Ombudsman's jurisdiction, it has the capacity to record information about the public authority concerned, the nature of the complaint and the action taken. It also may produce a variety of statistical reports and contains response screens which can be used by operators to prompt them with appropriate advice and referral information.⁹⁷

The Committee was of the view that as the Ombudsman's Office has recently introduced a software package which enables it to record data from complaints made by telephone, the Ombudsman should examine the possibility of using the CRIS system, or a similar software package, to generate complaints received in this way into formal complaints. Given that the CRIS system is used to record information about the nature of a complaint and the authority concerned, the Committee felt that it would be worthwhile for the Ombudsman to explore whether this system could be slightly expanded so that the details

⁹⁷ Answers to Questions on Notice, General Meeting 23/6/94, Answer 20.

Chapter 8 - Recommended Strategies

recorded on the data base could be used by one of his officers to record the complaint for the complainant's verification.

It was envisaged that a procedure might be adopted whereby the details of a complaint made to the Office by telephone could be recorded on the CRIS system and used by an officer to generate a written record of the complaint. This document could be sent to the complainant for confirmation that the nature and specific details of the complaint as recorded are correct and the complainant would be required to sign the complaint record and return it to the Office.

Such a process was similar to current arrangements for complainants requiring assistance in documenting their complaint in writing and in the Committee's opinion would enable the Ombudsman to utilise technology already available to the Office. It was seen as one way of overcoming problems experienced by complainants with poor literacy or little education who may as a result have found the legislative requirement to put complaints to the Ombudsman in writing to be burdensome or a complete barrier to complaining.

Recommendation 29:

The Committee recommends that the Ombudsman should consider examining ways to modify the CRIS System currently in use in the Office's Inquiries Section to:

- i) enable his officers to record telephone complaints in document form; and,
- ii) provide the documented record of a complaint made by telephone to the complainant for verification.

8.18 Test Cases and Casebook Series

The Ombudsman is at present considering an awareness initiative involving the preparation of a compendium of cases in a summarised form for distribution to the rural press, suburban press and ethnic media. Issues included in the compendium would focus on areas of interest which would raise the Ombudsman's profile in the communities and groups targeted.⁹⁸ The Committee endorses the Ombudsman's consideration of a casebook series. The New Zealand Ombudsman produces a compendium of cases and the Committee's

⁹⁸ Evidence 23/6/94 p.25

Chapter 8 - Recommended Strategies

survey of Australian Ombudsman showed that the Queensland Parliamentary Commissioner for Administrative Investigations and the Western Australian Parliamentary Commissioner for Administrative Investigations similarly produce casebook publications.

Recommendation 30:

The Committee recommends that the Ombudsman should consider selecting cases of public interest for publication in a major newspaper on a regular basis.

It is further recommended that the Ombudsman should consider producing a casebook series which would contain cases of public interest to provide tangible illustrations of his role and functions.

Recommendation 31:

The Committee recommends that the Ombudsman should consider arranging for publication of Ombudsman case notes of public interest and test cases in the ethnic media and aboriginal media where relevant to these communities.

8.19 Country Visits

During the General Meeting with the Committee, the Ombudsman referred to the fact that he was not proud to have called himself the "urban Ombudsman" for some time: a reference to his view that there was a lack of contact between his Office and country residents.⁹⁹ However, he explained that this situation had improved since the Management Review Team completed its review in 1993. At that time the Ombudsman had made no public awareness visits to regional centres in 1991-92 and had resumed them in 1993 "at a restricted level".¹⁰⁰

The Ombudsman explained in his Annual Report for 1992-93 that the Office's management committee had decided to launch a formal public awareness campaign in

⁹⁹ Evidence 23/6/94 p.8

¹⁰⁰ KPMG Peat-Marwick Management Review Report p.44

Chapter 8 - Recommended Strategies

country areas allied to visits to country gaols. The visits were mainly educational in purpose and their success was measured by the amount of media coverage and worthwhile complaints received.¹⁰¹

He advised the Committee at the General Meeting that the situation had since improved stating:

"I think we are addressing that inequity to a large extent. Our problem is not as great today as it has been in the past. We have resolved some of those issues. We are not in the same precarious financial position as we were 12 or 18 months ago."¹⁰²

Public awareness visits by the Ombudsman and his staff to country areas usually involve addressing police, sometimes in conjunction with the Assistant Commissioner (Professional Responsibility) about conciliation, speaking to local government staff, liaison with the member of Parliament for the area, liaison with community centres, and taking complaints. The Assistant Ombudsman provided the following description of a country visit and the preparation made beforehand:

Mr WINDSOR: *You recently visited some country areas. Can you give the Committee an overview as to the amount of time you spend in a particular area, whether there are any trends in the complaint patterns, and how many of the complaints you receive are genuine complaints? I know that is a generalised question, but there was a lot of talk last year in the review about not being able to access country areas. When you arrive at a country area are the complaint levels high in the sense of being genuine? Are many people coming to you?*

Mr ANDREWS: *It varies depending on the area and whether there is a particularly contentious issue at the time. In the information we sent to you we outlined the various country centres we visited in the last few months. We have been advertising those visits ahead of time and getting people to ring our office on our toll free number to book an appointment. We found that very useful because a lot of people, when they do that, say what their complaint is about and they make the booking through our inquiry staff and they deal with the complaint there and then. While we may see people at the actual visit, we have actually dealt with*

¹⁰¹ Annual Report 1992-93 p.24

¹⁰² Evidence 23/6/94 p.8

Chapter 8 - Recommended Strategies

many more complaints through our normal inquiry process at the office. I do not think we could say there is any particular trend, and the complaints we get are on the same basis as any written complaint we get. I do not think there is any great perception that they are invalid in any way.

I think perhaps we probably get more premature complaints than we would normally get in writing, and we just provide people with advice about how they should deal with those complaints. Again, if there is a controversial issue in a particular area we will get a lot of response. Our visit to Coffs Harbour recently was like that. We were inundated. Two weeks before we even got there the time we had available was booked up. We also spoke with twice as many people over the phone prior to the visit, because there were a lot of things happening, particularly with the Council at that stage.¹⁰³

The Committee welcomes the resumption of country visits by the Ombudsman and agrees that intense publicity beforehand is a key element in their success.

Recommendation 32:

The Committee recommends that the Ombudsman should consider formulating a regular schedule of visits to major regional centres in rural New South Wales and it is suggested that these visits be vigorously advertised beforehand in the local media.

¹⁰³ Evidence 23/6/94 p.18

CHAPTER 9 - COMPARATIVE INFORMATION

International Trends

In its examination of the New South Wales Ombudsman's public awareness strategy, the Committee felt that it was essential for the Ombudsman's strategy to be placed in an international context. Consequently, it examined relevant papers and speeches delivered at international conferences and workshops, and also conducted a survey of Australian Ombudsmen.

9.1 International Ombudsman Conference - Vienna 1992

As the South Australian Ombudsman noted in his survey response to the Committee access and equity issues were the subject of significant discussion by Ombudsmen and other participants of the Fifth International Ombudsman Conference in 1992.

At a plenary session during the Conference the Ontario Ombudsman, Dr Roberta Jamieson, presented a paper entitled "The Ombudsman: hearing from other Cultures," which dealt with

- * "What the Ombudsman concept might have to offer nations who are struggling to locate the just balance between people and government.
- * ... what other indigenous cultures might have to offer to strengthen the Ombudsman concept.
- * ... what [Dr Jamieson] might offer to help bridge the gap between institutions such as the Ombudsman and indigenous peoples or those of other cultures in the population."

In exploring these questions Dr Jamieson raised many issues concerning the concept of Ombudsmanship in a rapidly changing world.

According to Dr Jamieson it is important to ensure that existing knowledge about Ombudsmanship was shared while simultaneously "encouraging accommodation of traditional concepts and mechanisms for the resolution of disputes between people and authority." By accommodating different cultures and building on traditionally appropriate methods of dispute resolution she envisaged that those involved in the work of Ombudsmanship could assist governments to "adapt Ombudsmanship to cultural difference."

Referring to a quote by Stephen Owen (Canadian Ombudsman) Dr Jamieson stated that: "Both cultural heritage and current political reality make it essential that we interpret the

Chapter 9 - Comparative Information

concept of Ombudsmanship in a broad way so that it can realize its maximum effect in very different situations." Dr Jamieson argued further that if indigenous people were to be accommodated in Ombudsmanship, new ways and new institutions would have to be found to approach such a challenge. She did not believe that the Ombudsman model should be limited to the classical model and felt that the latter could be enhanced and enriched by different cultural heritages and institutions.

With regard to indigenous people, Dr Jamieson pointed out that the internationalisation of human rights meant that greater emphasis was being placed on promoting and respecting the rights and characteristics of indigenous peoples. In this context she noted that the Swedish Ombudsman had issued a special report with recommendations for changes which were needed to bring commitments with respect to indigenous peoples. As a result she claimed that the parameters within which the Ombudsman operated would change. Ms Jamieson urged Ombudsmen to examine what degree of contact they had with indigenous people and what factors might prevent Ombudsmen and indigenous people from coming together more often.

During the ensuing debate participants at the conference drew on the own experiences to answer the questions raised in Dr Jamieson's paper. African delegates, for example, from Uganda explained how they had adapted a Eurocentric Ombudsman model to suite their own specific conditions. In Uganda's case these conditions included poverty, illiteracy, corruption and violation of human rights and the Ombudsman institution had been established in light of these conditions. Mr Ian Knight, Northern Territory Ombudsman, stated that the session would have been enhanced if it had been developed further so that suggestions had been made as to how traditional or indigenous ways of resolving complaints could be adopted.

The subject is obviously of concern to many Ombudsmen and the South Australian Ombudsman advised the Committee that the issue of access and awareness is seriously being considered by the Board of Directors of the International Ombudsman Institute as one of the themes for the International Conference planned for 1996. (letter 13/4/94).

9.2 International Ombudsman Institute Workshop

At a workshop convened by the International Ombudsman Institute in August 1992 Ombudsmen, their staff, academics and other individuals supporting the Ombudsman concept held seminars and informal discussions on a broad range of issues relevant to developing countries currently in the process of establishing Ombudsmen offices. The workshop, which was entitled "The Ombudsman: Diversity and Development," included

Chapter 9 - Comparative Information

participants from Argentina, Brazil, Costa Rica, Chile, Trinidad, Puerto Rico, Mauritius, Canada and the United States.¹⁰⁴

One of the speakers, Mr Brent Parfitt, Deputy Ombudsman for Children and Youth in British Columbia, Canada presented a paper on public education of the role of the Ombudsman. Within his paper he examined closely the difficulties experienced by some people and groups in accessing Ombudsmen and understanding the functions they perform. The groups singled out in this study as being vulnerable included people such as street kids, children and youth under government care, and persons who are differently abled.¹⁰⁵ Some of Mr Parfitt's observations and suggestions are generally applicable to individuals and groups experiencing similar difficulties in relation to the Ombudsman's Office in NSW.

In Mr Parfitt's view the Ombudsman's Office is placed "in a unique position to identify particular segments of the public who are especially affected by government decisions and actions". In attempting to achieve "Fairness for all in British Columbia" he stressed that the Ombudsman not only had to monitor administrative acts and decisions of provincial government but also had "to practice equity by assuring access to the services of [the] office to all."¹⁰⁶

The British Columbian Ombudsman adopted a "plain language policy" in 1991. This entailed a review of all written documents for simplicity in their organisation and presentation of ideas. Vocabulary, sentence length and complexity, type style and size, and the use of graphics were scrutinised to ensure they met the simple literacy standard. If this standard was not met the document was rejected.¹⁰⁷

In the case of people confined to institutions due to mental or physical health or as a result of legal sentence Mr Parfitt stated:

¹⁰⁴ The Ombudsman. Diversity and Development, (eds) Linda Reif, Mary Marshall, Charles Ferris, Edmonton 1993 pp.v-vi.

¹⁰⁵ *ibid* p. viii

¹⁰⁶ *ibid* p.161

¹⁰⁷ *ibid* p.167

Chapter 9 - Comparative Information

"Their daily existence is controlled by the regulations, policies, practices and conduct of the bureaucracy."¹⁰⁸

At the Workshop, Mr Parfitt (Deputy Ombudsman for Children and Youth, British Colombia)¹⁰⁹ advised that during the past ten years children and youth had been acknowledged as being particularly affected by government decisions and actions. This situation had been recognised through the creation of Commissioners for Children and Children's Ombudsman in Norway, New Zealand, Israel and various European countries¹¹⁰. In 1986 the National Conference of Canadian Ombudsmen had agreed to a "Declaration of Principles on Handling Complaints For and About Children."

The Canadian conference stressed several aspects of handling complaints from children and the participants agreed that such complaints should receive priority. Most children's needs were recognised as immediate and it also was considered important that the complaint should be responded to in the environment in which it had arisen. Participants in the Canadian Conference agreed that:

- (i) Ombudsman staff dealing with such complaints needed specific training to increase their awareness of children's rights and protection issues;
- (ii) if possible, a child should be personally involved in the complaint process and its outcome;
- (iii) if a child was unable to advocate for his or her rights direct action should be taken to obtain services which would represent the child's best interests; and,
- (iv) all provincial jurisdictions should practise regular information sharing with regard to investigative methodology and complaint outcomes for children's complaints. The outreach program initiated by the British Colombian Deputy Ombudsman to educate youth about the role of the Ombudsman included the distribution of a brochure to schools and chain stores well patronised by youth. Media coverage included television appearances, radio talk shows and hotline programs, and newspaper stories. The Ombudsman also gave speeches at venues ranging from local high schools and aboriginal

¹⁰⁸ *ibid* p.162

¹⁰⁹ This position was created by the then Ombudsman of British Colombia in 1987. The position and its functions are defined by statute. *ibid* p.165

¹¹⁰ *ibid* p.164

Chapter 9 - Comparative Information

friendship centres to organisations such as the British Columbia Medical Association. Lectures were provided regularly to child care schools, social work, public health and university courses.¹¹¹ The child and youth team uses the United Nations Convention on the Rights of the Child ratified by Canada in 1991.¹¹²

In relation to people with disabilities the Ombudsman's Office in British Columbia assisted in the production of a video "to assist public employees in serving people with disabilities". The video focussed on "attitudinal barriers to quality service" as opposed to physical access issues. This initiative was a response by the Office to complaints about the lack of education or knowledge among public employees about disabled people. The Office wanted to promote change in the attitudes of public service employees in addition to responding to complaints.¹¹³

Video also was being considered as part of the Office's review of its publication of annual and public reports. It was thought reports may be more widely accessible in a multilingual province if distributed on video tape.¹¹⁴

9.3 Ontario Ombudsman Review

In April 1993 the Ontario Legislative Assembly's Standing Committee on the Ombudsman presented its report on the review of the Ontario Ombudsman's Office. The Committee's inquiry, was announced on 23 July, 1992 having been outlined in its Nineteenth Report dated 28 May, 1992. The terms of reference for the inquiry were:

"That the Standing Committee on the Ombudsman undertake a comprehensive review of the Office of the Ombudsman which should include but not be limited to:

- * An examination of all aspects of the Ombudsman Act.
- * The scope of the Ombudsman's jurisdiction.

¹¹¹ *ibid* p.166

¹¹² *ibid* p.167

¹¹³ *ibid*

¹¹⁴ *ibid*

Chapter 9 - Comparative Information

- * The performance of the Office of the Ombudsman in the exercise of its powers and functions.
- * The adequacy of the resources of the Office of the Ombudsman to perform its various functions.
- * The relationship of the Office of the Ombudsman to other organisations involved in hearing complaints about government actions.
- * The mandate of and role to be played by the Standing Committee on the Ombudsman.¹¹⁵

As part of this review the Committee examined issues relating to awareness of, and access to, the Ombudsman and made an assessment of the Ombudsman's public education and outreach programs. Drawing on reviews conducted in other jurisdictions, in particular Australia,¹¹⁶ the Ontario Committee made several recommendations aimed at improving this area of the Ontario Ombudsman's operations.

The Ontario Ombudsman apparently had taken a number of initiatives directed at improving awareness of her jurisdiction and mandate. These initiatives followed a survey by the Ombudsman in 1991 which revealed that 69% of people were aware of the Ombudsman and generally had an accurate understanding of his/her role and functions. However, the same survey also indicated that the groups and individuals with the highest proportion of complaints were the least likely to be aware of the Ombudsman's services.¹¹⁷

As a result of the survey the Ombudsman's Office launched a publicity campaign in 1992 and developed strategic public education initiatives for the Ombudsman's district offices targeting the groups identified in the survey as vulnerable. The Ombudsman also had developed a computerised information system based on census and other demographic data to identify sections of the population not being served or supported by the Ombudsman's public education initiatives.

¹¹⁵ Standing Committee on the Ombudsman, Ontario Legislative Assembly, Review of the Office of the Ombudsman, 1993 p.1

¹¹⁶ The reviews referred to in the Ontario Report were the Review of the Office of the Commonwealth Ombudsman by the Senate Standing Committee on Finance and Public Administration, the Administrative Review Council's Access to Administrative Review by Members of Australia's Ethnic Communities and a review of the Quebec Public Prosecutor.

¹¹⁷ The groups identified as the least likely to be aware of the Ombudsman included respondents who were: members of a racial minority; had arrived in Canada in the last five years; were limited in the daily tasks they could perform because of health problems; or were a single parent.

Chapter 9 - Comparative Information

The Ontario Committee supported the continuation of these measures, however, it felt that problems still persisted in relation to public awareness. The Committee's concerns centred upon the failure to monitor the effectiveness of these strategies. It felt that the Ombudsman would be able to identify how best to utilise the limited resources available for such activities if the effectiveness of the different strategies available was monitored and measured. Consequently, the Committee stated that it believed the Ombudsman should "develop a detailed, comprehensive plan of action" to be presented to the Committee for discussion and feedback. It suggested that the Ombudsman include this plan in a proposed Ombudsplan which outlined proposed activities for each year and was to be presented to the Committee.

The Committee also felt it was important that government departments and agencies should be required to make information on the Ombudsman's services available at all their public service contact points. The Committee concluded by saying that, like the Australian Senate Committee, it believes that "effective public education requires proper planning; the targeting of groups and the measuring of results."

Accordingly, it recommended:

2. That the Ombudsman present, as part of an annual ombudsplan, proposed public education initiatives for each fiscal year.
3. That the Ombudsman, in developing a public education program, target those groups least likely to be aware of the Ombudsman's services, and that information on the process followed in reviewing complaints be provided; and that government departments agencies be required to make information on the Ombudsman's services available at all public service contact points.
4. That the Ombudsman report annually on the public education activities undertaken, and that this include a statement of specific objectives, the nature and number of activities undertaken, and an evaluation of how effective those programs were in advancing the state objectives.
5. That the Act be amended to provide that the Ombudsman may engage in public education to inform members of the public of the Ombudsman's function.¹¹⁸

Referring to the last recommendation the Committee explained that it felt that it was important that Ontario's Ombudsman legislation reflected actual practice and that "all Ombudsmen have and should promote the public's awareness of the services they

¹¹⁸ Standing Committee on the Ombudsman, Ontario Legislative Assembly, *op.cit* p.148

Chapter 9 - Comparative Information

provide."¹¹⁹ This Committee agrees with further arguments advanced by the Ontario Standing Committee on the Ombudsman, that an Ombudsman's effectiveness is dependent upon complainants coming to him.: "In other words, awareness is the key to making available the recourse for injustice that the Ombudsman provides."¹²⁰

Recommendation 33:

The Committee recommends that the Ombudsman Act 1974 be amended to provide that the Ombudsman may educate and advise public authorities, public officials and the community about his powers and functions, and the services provided by the Office.

9.4 International Ombudsmen

9.4.1 New Zealand

The New Zealand Ombudsmen reported in their Annual Report for the year ended 30 June 1993 that they had conducted the following activities as part of their Publicity and Public Awareness Programs:

- i) Clinics - used to enable people living outside main centres to discuss their grievances with investigating staff, obtain advice and guidance or difficulties experienced when dealing with central and local government departments and organisations. The clinics were held in rural communities and provincial centres (Cost of clinics approx. \$7000)¹²¹
- ii) Citizens Advice Bureaux - The Office maintained contact with Citizens Advice Bureaux during clinics and visits by the Ombudsmen to cities and towns outside the main centres. Investigative staff also participated in training sessions for Bureaux volunteers upon request.

¹¹⁹ *ibid*, pp.17-24

¹²⁰ Direct quote see p.20 Review of the Office of the Ombudsman by the Ontario Legislative Assembly Standing Committee, April 1993; see also p.viii of The Implications of the Citizen's Charter for the Work of the Parliamentary Commissioner for Administration by the UK Select Committee on the Parliamentary Commissioner for Administration. 5/2/92

¹²¹ New Zealand Ombudsmen, Annual Report 1993 pp.45 and 48

Chapter 9 - Comparative Information

- iii) Speaking engagements - speaking engagements included local authorities, universities, special interest groups, conference and training seminars.¹²²

9.4.2 Norway

After twenty five years of service the Parliamentary Ombudsman of Norway, Audvar Os wrote a review article which contained the following details about the Norwegian Ombudsman's information services. He argued that his main responsibility was the handling of individual complaints and, therefore, "the activities of the Ombudsman are largely dependent on the initiative of the party affected, which requires the average citizen to be familiar with the Office of the Ombudsman."¹²³

A survey conducted in Norway in 1986 had shown that 60% of the population had heard of the Civil Ombudsman but only 40% had a clear understanding of what functions he performed. It also revealed that the Ombudsman was "less known among people with low incomes and little education, and among single persons than among people who had high incomes, higher education or were married."

Promotional measures used by the Norwegian Ombudsman included:

- i) publication of brochures in various languages including both Norwegian and foreign languages (e.g. English, French and German);
- ii) regular contact with the Ministries of Health and Social Affairs, and the Ministry of Justice, to ensure brochures were distributed in prisons, psychiatric hospitals and major health institutions (available at all times and known to clients);
- iii) inclusion of the Office of the Ombudsman in the general information issued locally by individual health and corrective services institutions;
- iv) campaigns in daily newspapers on a one to two year basis (also advertisements placed in weeklies);
- (v) participation by the Ombudsman in the Norwegian Broadcasting Corporation's radio program on social issues - complaint cases presented and discussed;
- (vi) participation by the Ombudsman and staff in courses and conferences;

¹²² *ibid* p.45

¹²³ "The Norwegian Ombudsman for Public Administration 25 years of service" by Audvar Os p.17

Chapter 9 - Comparative Information

- (vii) inclusion of information about the Ombudsman in social studies textbooks (supported by the Ministry of Church and Education);
- (viii) inclusion of complaint cases of general interest in the Ombudsman's annual reports;
- (ix) inclusion of summaries of complaint cases found in the Ombudsman's annual reports in a computerised central data base containing Norwegian legislation, court documents etc. (commenced in 1987);
- (x) distribution of selected decisions to the Norwegian News Agency on a fortnightly basis (since 1970); and,
- (xi) coverage by local papers about cases from their district.¹²⁴

All complaint case details are released subject to confidentiality restrictions.

9.4.3 Britain

Parliamentary Commissioner for Administration - In his Annual Report for 1992 The Parliamentary Commissioner for Administration¹²⁵ outlined in his Management Plan that efforts to promote public awareness about the Office were continuing. The Office's Management Plan was due to be revised in 1993. Public awareness was cited as one of his key objectives and priorities. The primary role of the Commissioner remained the fulfilment of his statutory duty to "consider all complaints referred to him and either explain with reasons why he is not investigating certain complaints or to undertake a full and impartial investigation of all other complaints."¹²⁶

¹²⁴ *ibid* pp.17-19

¹²⁵ Parliamentary Commissioner for Administration was established by the Parliamentary Commissioner Act 1967. In 1973 the Health Service Commissioner for England, Scotland and Wales was created. The Commission for Local Administration in England was established in 1974. The Administration Commissioner investigates central government departments, the Health Commissioner investigates health authorities; and the Local Administration Commissioner investigates maladministration by Local authorities. Ombudsman and Parliamentary Commissioner are interchangeable terms in this section.

A Select Committee was established under House of Commons standing order 126 to examine reports of the Parliamentary Commissioner for Administration, Health Service Commissioner for England, Scotland and Wales and the Northern Ireland Parliamentary Commissioner for Administration, which are laid before the House and matters in connection therewith. The Committee is comprised of nine members of the House of Commons.

¹²⁶ Annual Report p.57

Chapter 9 - Comparative Information

In the public awareness area the Parliamentary Commissioner had accepted requests to participate in phone-ins, radio and television interviews. The Commissioner and his staff had delivered speeches about the Office upon request and at seminars and conferences. Details of the Office were provided in official and other publications, and free information leaflets about the role of the Parliamentary Commissioner and his powers were circulated to as many organisations and individuals as possible.¹²⁷

In a paper prepared for the New South Wales Ombudsman during the Funds and Resources Inquiry, the Secretary for the Parliamentary Commissioner for Local Administration advised that the UK Government had been supportive of the review of the Citizen's Charter published in November 1992¹²⁸ and had announced measures to assist citizens in making complaints. These measures included establishing a telephone helpline (called Charterline) which would amongst other things direct inquirers to such officers as the Ombudsman.¹²⁹

Select Committee - In February 1992, the Select Committee on the Parliamentary Commissioner for Administration released a Report entitled: "The Implications of the Citizen's Charter for the Work of the Parliamentary Commissioner for Administration." The Committee was concerned that the Charter program would lead to confusion about complaint mechanisms and divert attention away from the Commissioner's role. Under the Charter program complainants could use lay adjudicators and senior civil servants as well as internal complaint and review procedures. In view of this situation the Committee supported "central guidance" in which complainants not satisfied with an agency's internal review of their complaint would be directed to the Parliamentary Commissioner for Administration. The Committee recommended that leaflets about how to complain about Government services should mention the role of the Commissioner.

The Select Committee's inquiries and reviews on the Parliamentary Commissioner for Administration emphasise the importance of public awareness about the Commissioner's

¹²⁷ *ibid* p.57

¹²⁸ Citizen's Charter - White Paper published by the United Kingdom Government in July 91 with aim of improving the quality of public services and making them more responsive to their users. The Charter contains a statement of principles about what the citizen is entitled to expect from public services. (Select Committee Report 5/2/92)

¹²⁹ Paper by GD Adams, Secretary, Commission for Local Administration in England, dated 30/11/92, "The UK Ombudsmen and Government." para 12.

Chapter 9 - Comparative Information

role and work. In its review of the Parliamentary Commissioner for Administration's Annual Report for 1989¹³⁰ the Select Committee made two recommendations aimed at increasing awareness of his office among Members of Parliament. The Committee stated that it considered "more should be done to spread knowledge about the Parliamentary Commissioner's work among MPs."¹³¹ The Select Committee suggested to the Commissioner that a copy of the information leaflet about his office should be sent to all Members of Parliament with a covering letter. The Committee also felt that one of the best ways to raise Members' consciousness of the Parliamentary Commissioner's role and work was through debate on the floor of the House of Commons.¹³² The Committee recommended that: "a half day debate on the work and role of the Parliamentary Commissioner for Administration take place in Government time during the current season of Parliament, and ideally before Easter."

The Committee reviewed the Parliamentary Commissioner for Administration's Annual Report for 1990 in July 1991¹³³ and noted that publicity concerning the Barlow Clowes affair had boosted general awareness of the Office's role. It also noted that the Parliamentary Commissioner's Administration had written to every member of the House of Commons enclosing a revised and reissued guidance leaflet on his role and functions. The debate which later took place in the House of Commons, was expected to further enhance awareness of the Commissioner's services among members. The Committee clearly stated in its report that:

¹³⁰ House of Commons, vol. 129, 19/12/90

¹³¹ It should be noted that under the Parliamentary Commissioner Act 1967 section 5 complainants are required to have an MP refer their complaint to the Parliamentary Commissioner. Apparently in 1989 only 361 MPs had used the Parliamentary Commissioner, Report p.xii.

¹³² *ibid* p.xiii

¹³³ House of Commons, vol. 368 10/7/91 p.vi. The Barlow Clowes case refers to the Ombudsman's investigation of the role of the Department of Trade and Industry in relation to the collapse of the Barlow Clowes Company whose clients were mostly small investors. The Commissioner found instances of maladministration on the Department's part and believed there was a strong case for compensation for some investors.

Chapter 9 - Comparative Information

"Since the Parliamentary Commissioner can only investigate matters arising from complaints, publicity and awareness are important to the functioning of his Office".¹³⁴

In 1993 the Select Committee undertook a wide-ranging review of the Parliamentary Commissioner for Administration and released its report to Parliament entitled "The Powers, Work and Jurisdiction of the Ombudsman" on 23 November 1993.¹³⁵ One of the issues considered by the Committee during its review was the case of access by members of the public to the Parliamentary Commissioner. The Committee made several recommendations of interests to this inquiry and asserted that:

"It is vital that the Office of the Ombudsman is publicised effectively if appropriate complaints are going to reach him."¹³⁶

It had received evidence that there were many people who still were ignorant of the Parliamentary Commissioner's services and that more could be done to publicise his work. The Ombudsman felt that the success of the Citizen's Charter had partly contributed to the increase in the number of complaints by making the public aware of the standards of service they should expect and, internal and external complaint mechanisms.

In light of speculation about the level of public awareness the Committee felt that there "should be continued research on the work and effectiveness of the Ombudsman system."

Consequently, it recommended:

"... that the Ombudsman's Office conduct a survey into public awareness of the Office of the Parliamentary Ombudsman and Health Service Ombudsman."

It also recommended a survey of complainants to identify areas in which the work of the Ombudsman's Office could be improved, that is, "a consumer satisfaction survey."

¹³⁴ *ibid* p.vi

¹³⁵ House of Commons, volume 33, 1993-4 session

¹³⁶ *ibid* p.ix

Chapter 9 - Comparative Information

Interestingly, it noted that a similar survey conducted in the Netherlands had an awareness level of the Ombudsman's work of 93%.¹³⁷

As complaints to the Parliamentary Commissioner are required to be referred by Members of Parliament (the "MP filter") the Committee argued that there was a great need to educate Members in the work of the Ombudsman. The Committee claimed that it failed to understand how the Government could place heavy emphasis upon the Ombudsman's links to Parliament and see this as being consistent with "a denial of any time in the Chamber to consider the Ombudsman's reports to the House". It argued that, as was the case in the Netherlands, the Ombudsman's Annual Reports should be seen "as an opportunity for Parliament to review and debate the administration performance of Government departments."

The Committee stated:

"We believe it is essential that a debate be held each session on the work of Parliamentary, Health Service and Northern Ireland Ombudsmen".¹³⁸

It supported further publication initiatives by the Ombudsman, for example, a periodic newsletter and noted the Ombudsman's survey of MPs indicated disappointingly that 54.3% of MPs said they "hardly ever" or "never" read Ombudsman reports. The Committee also urged all departments, health authorities and trusts to make the work of the Ombudsman known.¹³⁹

It considered that the MP filter should be retained "coupled with concerted attention to the means whereby access to the Ombudsman could be strengthened and enlarged."¹⁴⁰

Finally, the Committee concluded:

"We do not believe that there is a single easy formula which will make the Ombudsman's Office generally known. We do consider that efforts in the past

¹³⁷ *ibid*

¹³⁸ *ibid* p.x

¹³⁹ *ibid*

¹⁴⁰ *ibid* p.xx

Chapter 9 - Comparative Information

have borne fruit and that there must be a sententious reappraisal of how best to publicise the Ombudsman's services and an exploration of all those ways that might forster increased accessibility."

9.5 The Australian Context - Information Exchange

In order for the Joint Committee to place the Ombudsman's access and awareness strategies in a broader context a survey was sent to other Ombudsmen within Australia requesting responses to specific questions as well as any other relevant data. The questions and the answers from the survey have been collated at the end of this section of the report and appear in full at Appendix 2. While the Committee recognises that the jurisdictions of Ombudsmen in Australia vary it was felt that a survey of the type conducted would provide valuable insights into different access and awareness strategies currently in use across the country. The major similarities and differences are examined below and this section highlights some strategies which the Committee believes warrant consideration by the New South Wales Ombudsman.

Only one State Ombudsman did not perceive any specific problem areas in relation to community awareness and understanding of his role and functions. However, he did believe there was a general problem in making the public aware of his existence and purpose. This was connected to secrecy provisions in legislation and lack of resources for publicity. Other Ombudsmen did experience specific problems and identified several groups experiencing difficulties including people of non-English speaking background, recently arrived immigrants, those with limited education, Aboriginal and Torres Strait Islanders, young people and people with physical and intellectual impairment. There was some disagreement as to whether "socio-economically deprived people" should be included with these groups.

Strategies which were employed by most Offices included:

- (i) locally promoted public awareness visits - sometimes involving hearing complaints;
- (ii) lectures and talks e.g. schools, Citizen's Advice Bureaus, Legal Advisory Services etc.
- (iii) media promotion e.g. newspapers, radio and television;
- (iv) publication and distribution of annual report.

Victoria and South Australia, had arrived at an arrangement aimed at promoting improved access to the Offices for residents of both states with particular benefit to regional

Chapter 9 - Comparative Information

communities. Under the arrangement residents of one state who may have interests affected by administrative action in the other state may utilise the service of whichever office is most accessible to raise their complaint. Each Office has undertaken to assist the other by facilitating access for such persons. Complaints are channelled to the relevant Office of the Ombudsman with jurisdiction in relation to the complaint.

The Committee feels that the NSW Ombudsman should consider whether such co-operative arrangements with other Ombudsmen may be of use to his Office. The South Australian Ombudsman regarded that such a process would quite "often be cheaper and more effective for the Office concerned as well as being more convenient and more economical to the public."

The Joint Committee identified several initiatives which it believed should be drawn to the attention of the New South Wales Ombudsman. These were:

- (i) the publication at regular intervals of an Ombudsman Casebook Series by various newspapers in Queensland and Western Australia;
- (ii) the Co-operative arrangement between the South Australian and Victorian Ombudsman.

The New South Wales Ombudsman currently publishes details of cases which may be in the public interest in his Annual Report to Parliament. However, this publication occurs every twelve months and in the Committee's view may be supplemented with a more regular publication in a newspaper or relevant serial. In the case of Western Australia, for example, a regular column in the State's major Sunday newspaper is devoted to reprinting case notes from the Ombudsman's Annual Report.

The Co-operative arrangement between the South Australian and Victorian Ombudsman also may be a useful type of strategy for the New South Wales Ombudsman to pursue as much as practicable. The Committee feels that, on the basis of the evidence it has received, scope exists for the NSW Ombudsman to pursue joint access and awareness initiatives and arrangements with other State and Commonwealth agencies operating in areas relevant to his Office's access and awareness strategies. Such organisations would include the Ethnic Affairs Commission, Community Legal Services, and the Office of Multicultural and Ethnic Affairs. In this regard the Committee notes the Ombudsman's past and current work with the Office of Public Management on the Guarantee of Service, and with the Attorney General's Department and other relevant authorities regarding the promotion of a Mediation Service in the public sector.

Chapter 9 - Comparative Information

The South Australian Ombudsman has developed strategies to establish direct personal links with Aboriginal Tribal Groups who often have an identified "spokesperson" with whom an informal contact arrangement is made. He also has recently reactivated a contact program with major ethnic communities.

Several concerns were raised by the Australian Ombudsmen surveyed about access and awareness strategies. These included:

- (i) "over-promotion" - raised by one Ombudsman as a potential problem because of the possibility that it may convey the wrong information to the public about the role of the Ombudsman - for example, that he is "a Public Advocate, ... a Political Alternative, or ... a General Complaints Office."
- (ii) pamphlets - regarded by some Ombudsmen as not as effective as oral communication or direct contact and networking. A similar difficulty applied to newspaper coverage as only literate persons could be contacted this way.

Target groups were selected by the majority of Ombudsmen surveyed - only two Ombudsmen had not implemented any target strategies. Other Ombudsmen had selected target groups for access and awareness strategies on the following criteria:

- (i) gender
- (ii) ethnicity - Aboriginal and Torres Strait Islanders included
- (iii) English as a second language
- (iv) physical disability
- (v) mental disability
- (vi) geographic isolation

The Commonwealth has a policy of targeting approximately five agencies each year focussing communication and consultation activities on the potential clients of these agencies. Young people were identified as another target group as were prisoners. However, although most State Ombudsmen identified particular target groups only one Ombudsman had any staff dedicated for this purpose (the Commonwealth Ombudsman had an Aboriginal and Torres Strait Islander Liaison Officer). Some Ombudsmen indicated that they had considered establishing such staff but had not received adequate funding to do so.

Measurement of the success of access and awareness strategies posed difficulties and only one or two Ombudsmen seemed to use mechanisms such as surveys to measure their performance in this area. Some suggested an increase in complaint numbers as a possible

Chapter 9 - Comparative Information

performance indicator although this Committee considers that the cause of such increases varies and may be the result of factors other than access and awareness strategies.

Only the Commonwealth and New South Wales Ombudsmen are required to prepare formal statements on their Office's access policies and programs. These are submitted on an annual basis in accordance with Federal and State Government policies.

Generally Ombudsmen Offices do not keep statistics regarding the number of complaints from people of non-English speaking background, Aborigines or other minority of disadvantaged groups. A number of the Ombudsmen raised particular difficulties with the process of gathering such information from complainants. The Commonwealth Ombudsman considered that asking complainants for details of their personal background "would be unduly intrusive and [would] inhibit open communication with the Office." The South Australian Ombudsman indicated that he felt it is not possible to identify all cases of aboriginality or ethnicity and that only a reasonable assessment of such background may be made in appropriate cases. The only circumstance in which some of the Ombudsmen surveyed felt that such personal details should be recorded was if these facts were relevant background to the complaint. The Northern Territory Ombudsman was the major exception among those surveyed by the Committee. His Office plans to reintroduce provisions to enable it to collect data about people from non-English speaking backgrounds on 1 July, 1994. He also collected statistics regarding the number of complaints from Aboriginal people. The Committee noted that from the responses to the survey question on statistics that Ombudsmen Offices in Australia, generally, do not maintain detailed statistics on the ethnicity, racial background or other personal details of complainants.

At present the majority of Australian Ombudsmen have conducted, or intend to conduct, complainant satisfaction surveys. The frequency with which such surveys occurred was sometimes dependent upon available funds.

Although the Ombudsmen surveyed indicated that their Offices do not provide official translations all indicated that such services could be accessed through established official services such as the Translation Interpreter Service. Some Offices did have staff capable of understanding a number of languages but only one Office recorded having an accredited interpreter.

Opinion varied among Ombudsmen on the most successful methods for communicating more information about their Offices. The Commonwealth Ombudsman highlighted the complexities associated with achieving a successful communication strategy. These included ensuring the appropriateness of the form of communication chosen for the

Chapter 9 - Comparative Information

selected target group and the need for the communication method chosen to be accessible. Other Ombudsmen indicated that newspapers, radio and television were found by their Offices to be effective methods of communication. Both the Northern Territory and South Australian Ombudsmen emphasised "favourable word of mouth recommendations" as being an effective channel of communication. In the case of the South Australian Ombudsman this involved developing information networks through professional persons and an "effective person to person referral system."

Recommendation 34:

The Committee recommends that the Ombudsman should consider commencing an information exchange program with other Australian Ombudsmen about access and equity issues, and public awareness strategies.

CHAPTER 10 - OMBUDSMEN SURVEY

Access and Awareness Issues in Ombudsman

Jurisdictions other than New South Wales

10.1 Problem Areas

- (1) Do you see any problem areas in relation to awareness and understanding in the community of your role and function?
-

Commonwealth

Inevitably the answer to this must be yes. A survey in 1992 revealed that only 54 per cent of the community was aware of the Commonwealth Ombudsman, compared with 60 per cent awareness for the respective state ombudsmen. Lack of awareness seems largely to be correlated with the various factors that indicate disadvantage in Australia: a non-English speaking background; recent arrival in the country; in receipt of income support from the government; limited education; youth; and low income level generally. To this one would also have to add, from other evidence, Aboriginal and Torres Strait Islanders and those with physical and intellectual impairment.

Northern Territory

Available information indicates that citizens in the Northern Territory generally exhibit a higher level of awareness of the Ombudsman's role and function than do citizens in other jurisdictions.

The number of approaches received, when expressed in terms of the population, is comparable to a similar high level of awareness prevalent in the ACT. Whilst there is no real evidence to support a definitive explanation for why this is so, co-incidentally, both the ACT and the NT have disproportionately high public sector employment levels. In addition, the NT has a growing Defence Force presence.

Chapter 10 - Ombudsmen Survey

Problem areas identified relate to the disproportionately low number of approaches made by:

- (a) Aborigines
- (b) Women
- (c) Persons of Greek or Asian origin.

Queensland

I see no specific problem area. I see a general problem in alerting the public to the existence and purpose of my Office. Secrecy provisions in governing legislation and a lack of resources for publicity purposes are probably the main two causes for this. This is no doubt a common problem for many review bodies except perhaps those that deal with crime and corruption, matters in respect of which media are very interested.

South Australia

The South Australian Ombudsman's views on this question were contained in a cover letter in which he commented:

"The issue of access and awareness with essentially a centralised Office having an ever-increasing and multifarious jurisdictional growth will be one of concern to many Ombudsmen as evidenced by the comparable and extensive writings to be found in various places in the world. This very subject provoked considerable discussion at the Fifth International Conference of Ombudsmen held in Vienna in 1992 and is seriously being considered by the Board of Directors of the International Ombudsman Institute as one of the themes of the next International Conference in 1996."

The Ombudsman discussed specific difficulties encountered by various groups in his advice about access and awareness strategies. (see question 2).

Tasmania

I can only say that I suspect that Aborigines, young people and people of non-English speaking backgrounds have an insufficient appreciation of the service my office has to offer. As indicated above, I do not think this applies to prisoners. I would also be disinclined to say that socio-economically deprived people are generally ignorant of the role of the Ombudsman considering that so many and varied complaints appear to come from that area.

Chapter 10 - Ombudsmen Survey

Western Australia

Yes. As outlined in my last two annual reports, the public awareness survey commissioned by the Commonwealth Ombudsman and conducted in June 1992 showed that more needed to be done to increase public awareness of my office, as well as the other jurisdictions elsewhere in Australia. I note that there was a higher awareness in NSW than in WA.

Victoria

Problem areas - obviously any member of the community not being aware of the existence and the function of the Ombudsman is a concern. However, knowledge appears to be minimal within disadvantaged groups such as the poorly educated, non-English speaking, youths, and Aborigines. However such lack of information is not uniform and many members of such groups are well aware of the existence of the Ombudsman and utilise the service.

10.2 Current and Proposed Strategies

- (2) **What strategies are currently employed by your Office to promote a greater understanding and awareness of the Ombudsman and his functions?**

If not, are there proposals to initiate such strategies in the future?

Commonwealth

The Office has undertaken a number of small scale initiatives aimed particularly at Aboriginal and Torres Strait Islander and non-English speaking background communities. Whilst valuable undertakings in their own right it has to be admitted that they were of an ad hoc nature. A comprehensive access and equity strategy is currently being developed to ensure a managed approach to those sectors of the community most in need of information about review mechanisms. Needless to say its success will be influenced to a considerable extent by the resources that can be obtained for its implementation.

Chapter 10 - Ombudsmen Survey

Northern Territory

Awareness strategies:

Annual Report - This, and the associated media coverage, provide an opportunity to increase awareness. The format and style of the Annual Report are being reviewed to ensure wide circulation and understanding.

Publication of a Corporate Plan for the Office

Visits - Regular visits to other centres are made by various investigation officers, to receive complaints, investigate current complaints, give talks, attend meetings, and to generally be seen to be accessible and available to members of the public. All visits of this nature are promoted in the newspapers, radio, TV, public notice boards, and by personal letter to Members of the Legislative Assembly, and the local Municipal Council.

Lectures and Talks - Over a number of years a program has been developed which caters for Year 11 and 12 High School students throughout the NT and University students. Invitations/requests for speakers from this Office, received from any interest group, are carefully considered to ensure that the most appropriate member of staff is selected to make the presentation. Such groups would include, young homeless housed in government funded shelters, pensioners, etc.

Advisory brochures/pamphlets - At present a simplified brochure is distributed to the public. An expanded brochure is also produced and is supplied to complainants where appropriate. Both brochures are under review both as to content and appropriate languages. A card is to be produced in a number of languages.

Messages on hold - A recorded series of messages about the Ombudsman's role and functions that automatically play, when a telephone caller is placed on hold. This has now been followed by a number of Ombudsmen's Offices.

Corporate membership - Being a corporate member of the Friends of the Darwin Symphony Orchestra provides promotional space in performance programs. Material is tailored to the particular performance theme.

Newspaper space - Occasionally newspaper advertising space is purchased to publicise the services provided. More recently, this material has been in languages other than English.

Television - Occasionally, time is bought on the Aboriginal TV station in Alice Springs. Voice overs are translated into one of the three major Aboriginal languages.

Chapter 10 - Ombudsmen Survey

Competitions - Participation in the Northern Territory Public Sector Annual Report Awards.

Queensland

The basic strategy is a comprehensive program of visits to major provincial, rural and near metropolitan centres to enable citizens to put their concerns directly to representatives of my Office. The visits are preceded by advertisements in the local media and perhaps a news article, and often generate interest in the local media afterwards.

I believe that for this reason my Office is far better known and understood in non-metropolitan areas than metropolitan areas.

A second strategy is to ensure that my annual report to Parliament is written and presented in such a way as to be of interest to the media. Issues are not sensationalised but are selected for what might appeal to the public interest.

A third strategy is the publication at regular intervals of the Ombudsman Casebook Series by various newspapers.

A fourth strategy is to respond to media inquiries as far as my Act permits.

Some of the strategies I have mentioned are contained in the article on "Public Awareness" which appears in the enclosed Annual Report.

South Australia

The South Australian Ombudsman referred to some of his Office's access and awareness initiatives in his cover letter and also attached relevant sections of his annual reports to Parliament. His comments in the cover letter were as follows:

"When I was appointed to Office, I commenced an active program of direct personal networking with the appropriate State agencies and community organisations. This has been a long but rewarding process. I appointed a part-time Aboriginal Liaison Officer who was located in the Northern town of Port Augusta and had extensive contacts with the aboriginal communities. I became a member of the state Multicultural Forum and rely extensively on direct personal networks in promoting awareness about the Ombudsman functions.

In 1986, I commenced and have maintained a regular program of circuit complaint hearings in all regional centres of the State on a regular basis. For it has been my

Chapter 10 - Ombudsmen Survey

early experience that metropolitan awareness was much higher than that in the country areas. All has been carried out in a balanced fashion with due regard for the needs of the public and the limited resources of my Office. Over-promotion of the Ombudsman may in my opinion defeat the primary objects of an effective awareness program and convey to the general public the wrong impressions of the Ombudsman role viz, the Ombudsman is a Public Advocate, the Ombudsman is a Political Alternative, or the Ombudsman is a General Complaints Office etc.

Also for a number of years I kept up an active program of contact with major ethnic communities. These results however of this contact program appear to be negligible. I believe that the reason for this was the lack of continuity of contact with appropriate networks. The contact program has however been reactivated.

More recently, I have developed new strategies with direct personal links with Aboriginal Tribal Groups and have extended these across the border with the former Victorian Ombudsman, Norman Geschke. Aboriginal groups themselves often have direct links that are not separated by political or administrative boundaries. These joint efforts were achieved with the Victorian Ombudsman in pursuance of a specific Cooperative Arrangement entered into last year. (See Attachment 1) What happens in the case of Aboriginal groups is that a "spokesperson" for the group is identified and an informal arrangement is entered into between this Office and the Official Spokesperson for the group. Contact is maintained with the Spokesperson and through this network, the Aboriginal people learn about the South Australian Ombudsman jurisdiction and other Ombudsman jurisdictions.

A similar understanding exists with the Office of Multicultural and Ethnic Affairs with whom I maintain contact and it is through such networks that contact is established with ethnic communities. Although I have had now for a number of years pamphlets in various languages, I have not found such "written" communication to be effective. However, much more needs to be done by way of direct contact and networking with social workers and other persons who have immediate contact with ethnic communities.

Most, if not all Ombudsman to a varying degree also release information to the media. This is I think a legitimate process of public education, but often fraught with other difficulties, for the media will only inform the literate in the context of a story of interest".

Chapter 10 - Ombudsmen Survey

Tasmania

We address community service groups, schools, police and prison officers in training and take part from time to time in in-service public service training courses. We are in the process of having informative posters printed for the purpose of placing them in strategic places in the community. We have no other plans afoot just now but the matter will be the subject of further reviews as the opportunity arises.

Western Australia

There is a range of strategies, which include:

- * Regional visits
- * Addresses to schools
- * Brochures
- * Printed media reports
- * Radio and television interviews and comment
- * Distribution of my annual report

A recent development has been the commencement of a regular column in the State's major Sunday newspaper (The Sunday Times) which reprints case notes from my 1993 Annual Report (sample attached). From feedback I have received, this initiative is having the desired effect of increasing public awareness of the existence of my office and the function it performs. As I acknowledged in my 1993 Annual Report, this initiative followed a similar successful scheme promoted by the Queensland Ombudsman.

Victoria - See answer to question 2.

10.3 Target Groups

(3) Are particular target groups selected for access and awareness strategies?

If so, how are these target groups selected?

Commonwealth

The approach being adopted by the Office is to target, say, five agencies each year and to focus communication, consultation and liaison activities on the actual and potential clients of those agencies. Within those client bases particular attention will be paid to those facing major communication barriers.

Northern Territory

Yes.

Target groups are selected on the basis of their:

- (a) gender
- (b) ethnicity - Aboriginal and Torres Strait Islanders
- (c) English as a second language
- (d) physical disability
- (e) mental disability
- (f) geographic isolation

Queensland

Brochures publicising my Office have been printed in languages other than English and circulated through relevant ethnic organisations. Advertisements have also been placed on Brisbane ethnic radio.

Visits are made regularly to a number of Aboriginal and Torres Strait Islander Councils throughout the State. These visits attract varying degrees of interest from the local community. However, on anecdotal evidence at least, it would seem that local Aboriginal and Torres Strait Islander Legal Services and other such organisations may provide similar services to this Office in those communities and are perhaps more accessible.

Chapter 10 - Ombudsmen Survey

My officers visit nearly every prison in the State at least once a year and make themselves available to inmates for discussion. Prisons provide the largest single area of complaint for this Office. My staff have spent considerable time working with the Queensland Corrective Services Commission to ensure that inmates have direct and speedy access to this Office's services.

I am currently considering the question of access by young people to my Office and discussions are proposed with the Department of Family Services.

My Office is perhaps unusual, if not unique, in Australia in that I conduct a regular program of visits to regional areas throughout Queensland including Aboriginal and Torres Strait Island Councils and non-metropolitan prisons.

South Australia

Yes aboriginal people, ethnic communities. My selection of targets programmed with other events, such as regional circuits.

Tasmania

No.

Western Australia

No work has yet been undertaken in this area.

Victoria - See answer to question 2.

10.4 Dedicated Liaison Officers

- (4) Do your staffing arrangements include provision for officers specially dedicated for this purpose, for example, a Youth Liaison Officer or Aboriginal Liaison Officer?
-

Commonwealth

An investigation officer was appointed in 1993 as Aboriginal and Torres Strait Islander liaison officer. The approach to be taken in future, in part depending on the settling of resource issues, will be to appoint agency liaison officers whose task will include the function of outreach and liaison with those client groups mentioned above.

Northern Territory

No. Employment of an Aboriginal Liaison Officer (either direct or by arrangement with the Commonwealth Ombudsman) has been under consideration.

Queensland

Funding has been sought for officers of this nature but has not been forthcoming.

South Australia

No special staffing arrangements currently in existence. Communications effected between the Ombudsman personally or his delegate.

Networks include Office of Multicultural and Ethnic Affairs, Children's Interest Bureau and the Office of Aboriginal Affairs as well as spokespersons within Ethnic Communities and aboriginal Tribal Groups or other aboriginal organisations.

Tasmania

No.

Chapter 10 - Ombudsmen Survey

Western Australia

No. I have suggested to the Government that a position of Aboriginal Liaison Officer be created, but so far my suggestion has not been acted upon.

Victoria

Dedicated Staff - no such staff are available.

10.5 Measurement of Success

- (5) If access and awareness strategies are currently employed, how is their success measured?
-

Commonwealth

These measures are yet to be finalised, but are likely to include follow up with focus groups, and small scale client surveys.

Northern Territory

The success of access and awareness strategies is measured by the collection, collation and analysis of appropriate data.

Queensland

The success of the strategies outlined above is difficult to measure. Suffice to say that complaint numbers are increasing significantly each year particularly in the area of prisons. Insofar as an increase in the complaint numbers is a measurement of whether prisoners are aware of my services, I believe the strategies are a success.

The overall increase in demand for services by this Office which has been in the order of some 100 per cent in five years.

Chapter 10 - Ombudsmen Survey

South Australia

The only measurement so far achieved is the identity and sources of certain complaints. There has been an appreciable increase of relevant complaints in the aboriginal context in recent years.

Tasmania - See next question.

Western Australia

Apart from the 1992 survey mentioned above, no formal attempts have been made to measure the success of our strategies.

Victoria

Measure of success - no particular strategies are employed to measure success.

10.6 Corporate Plan and Performance Measures

- (6) **Are access and awareness strategies incorporated in your Office's Corporate Plan?**

If so, do these programs have performance measures?

Commonwealth

The Corporate Plan does include components dealing with access and awareness. In addition the Federal Government requires all Departments and certain Statutory Authorities, including the Ombudsman, to contribute a statement to an Access and Equity annual Report to the Prime Minister. A copy of the Guidelines for these Statements, prepared by the Office of Multicultural Affairs, is attached. You will note that performance indicators and evaluation are included. A triennial Access and Equity Plan was also developed for the period 1991-94.

Chapter 10 - Ombudsmen Survey

Northern Territory

Yes. Specific criteria for public awareness contained in the Corporate Plan are:

- "1. At least 4 community organisations will be addressed in each year.
2. At least 3 different locations will be visited each year to receive complaints.
3. At least 1 media interview will be held each year.
4. A detailed brochure providing information about the Ombudsman in the English language will be distributed each year.
5. A summary brochure providing information about the Ombudsman in a number of languages, including English, will be distributed each year.
6. Entries will be maintained in at least two major directories circulating in the Northern Territory."

Queensland

Accessibility to my Office by all sections of the Queensland community is one of the five goals outlined in the current Corporate Plan for my Office.

To date however it has not been possible to formulate meaningful verifiable performance measures. I have refrained from developing or putting forward performance measures which cannot be verified.

South Australia

Attachment 3 contained the following relevant Office objectives and performance indicators for the Office's 1994 Charter:

Aim of the Office

"To independently investigate and determine complaints from members of the public concerning SA government and local government agencies and to promote fairness in public administration."

Relevant Strategies

- * "Promote services and access to the Office on a state-wide basis.
- * Employ appropriately skilled and experienced officers and enhance training and development for all staff."

Chapter 10 - Ombudsmen Survey

Relevant Objectives

- * "To promote public awareness of the role and function of the Ombudsman.
- * To facilitate direct access to the Ombudsman for the Aboriginal communities and persons of Aboriginal background.
- * To facilitate direct access to the Ombudsman for persons of non-English speaking background.
- * To facilitate direct access to the Ombudsman for persons including minors, who for cultural, physical or intellectual reasons would be at a disadvantage in effecting official communications."

Performance Indicators

"Publicity and Education Program

- * Community or educational groups have been addressed by the Ombudsman and staff.
- * Information has been provided to maximise public awareness.
- * Published reports were appropriate and timely.
- * Distribute to the community relevant information pertaining to the role and function of the Ombudsman.
- * Address the community on the role and function of the Ombudsman.
- * Publish reports as may be necessary or in the public interest.
- * Maintain and promote equity of access to persons of Aboriginal and non-English speaking background and to all persons regardless of sex, race, physical or mental impairment, sexuality, religion or age."

Tasmania

The Tasmanian Ombudsman's Office Mission Statement is:

"To investigate and resolve complaints from members of the public against government authorities and in partnership with those authorities to achieve optimum standards of efficiency and fairness in public administration."

One of the Office's Corporate objectives is:

"To increase and develop public awareness of the role and function of the Ombudsman."

Chapter 10 - Ombudsmen Survey

The Office's Publicity and Education Program aims to:

"Provide for adequate funding of publicity and awareness initiatives.
Distribute relevant publications to community groups, educational institutions and the general public.
Regularly address community and educational groups regarding the role and function of the Ombudsman.
Provide for timely and accurate media releases."

The Performance Indicators associated with this program were:

- "* all selected community or educational groups have been addressed by Ombudsman staff.
- * publications have been widely distributed to maximise public awareness.
- * media releases were appropriate and timely."

The Corporate Strategy relating to this part of the Office's Corporate Plan was to:

"Widely advertise available services and means of access to the Office."

Western Australia

In his 1993 Annual Report the Western Australian Ombudsman stated that:

"The subsidiary objectives for both the Specified Public sector organisations and the Police Force and Police Department Programs are -

- * to develop community awareness of the office and the services it provides;
- * to develop an understanding of the role of the Ombudsman for those agencies within jurisdiction;
- * to provide a service to all areas of the State."

Effectiveness Indicators for these objectives included:

- " * Number of talks given to schools and community organisations. (42)
- * Number of radio and television interviews given. (8)
- * Number of talks to government agencies etc. (6)
- * Number of annual reports distributed to agencies within jurisdiction. (382)
- * Number of regional centres visited. (23)

Chapter 10 - Ombudsmen Survey

- * Number of complaints per 10 000 electors. (Country 21; Metropolitan 23) (p.29 1993 Annual Report)

One of the functions and objectives listed for the Office was:

"To develop community awareness of the Office of the Ombudsman and the service it provides."

Victoria

Corporate Plan - The Corporate Plan includes access and awareness strategies. These aspects do not have performance measures.

10.7 Ethnic Affairs Policy Statement

- (7) **Is your Office required to produce an Ethnic Affairs Policy Statement? (If the answer to this question is "yes" a copy of the policy and any other relevant documents would be appreciated).**
-

Commonwealth

As noted in the Commonwealth Ombudsman's answer to question 6 the Ombudsman like all Departments and certain Statutory Authorities, is required by the Federal Government to contribute a statement to an Access and Equity Annual Report to the Prime Minister Guidelines for these statements are prepared by the Office of Multicultural Affairs. (See attached response for copy of access and Equity Guidelines with which the Commonwealth Ombudsman must comply.)

Northern Territory

Not at this time.

Queensland

No.

South Australia

No.

Tasmania

No.

Western Australia

No.

Victoria

No such requirement or policy exists.

10.8 Statistics - Complaint Numbers

- (8) Does your Office maintain statistics regarding the number of complaints from people of non-English speaking background, Aborigines or other minority or disadvantaged groups?
-

Commonwealth

No. It is considered that to ask complainants for information about their personal background, for example their race, ethnicity, or physical or intellectual capacity, would be unduly intrusive and inhibit open communication with the Office.

Northern Territory

Provision to collect data about people from non-English speaking backgrounds will be re-introduced on 1 July 1994.

Aborigines - yes.

Other minority/disadvantaged groups - No.

Chapter 10 - Ombudsmen Survey

Queensland

No, other than complaints by prisoners. Otherwise I don't see how it would be possible to collate such statistics.

South Australia

Statistics too generalised in this regard. Although it is relatively easy to maintain statistics of complaints from distinct tribal groups it is not possible to identify all cases or aboriginality or ethnicity, especially in cases when the cultural background is not relevant to the complaint itself. Only reasonable assessment of such background may be made in appropriate cases. In certain cases this Office may be specifically alerted to the cultural background as part of the "res gestae" of the case (i.e. relevant background).

(See extracts from Annual Reports - attachment 4 of response)

Tasmania

No.

Western Australia

No, we do not require complainants to provide this information and we have no way of knowing this detail.

Victoria

Statistics - No specific statistics are maintained regarding complaints from disadvantaged groups. However, in relation to complaints against Police statistics are kept concerning those complaints in which a complainant's racial or national origin was a relevant factor.

10.9 Surveys

- (9) Does your Office conduct complainant satisfaction surveys and, if so, how frequently?
-

Commonwealth

One such survey was conducted, in February of this year, of 4000 complainants. As mentioned above it is intended to conduct similar follow up surveys as part of the access and equity strategy.

Northern Territory

No. The first survey will be undertaken in 1994/95.

Queensland

My Office is in the process of laying the groundwork for such a survey. Surveys will be conducted as and when funds permit.

South Australia

No. Only evidence arising out of direct correspondence from complainants which may be obviously indicative of "satisfaction" or "dissatisfaction".

Tasmania

No, these surveys have not been undertaken yet but it is anticipated that such a survey will be commenced in the not too distant future. It would indeed be most helpful and particularly relevant for the Ombudsman to have this information as a means of evaluating and improving his own standards of service delivery.

Western Australia

We have considered doing so, but, so far, we have not conducted any such surveys.

Chapter 10 - Ombudsmen Survey

Victoria

Complainant satisfaction survey - One such survey was conducted by a Ph D student in 1988. No further survey has been attempted.

10.10 Interpreting and Translation Services

(10) What type of interpreting and translation services are offered by your Office?

Commonwealth

Access to the Community Translating and Interpreting Services run by the Department of Immigration and Ethnic Affairs is provided to complainants in need of assistance.

Northern Territory

My Office does not provide interpreting/translation services. Arrangements are able to be made to utilise the Translation Interpreter Service (TIS). Access to written document translators is readily available.

Queensland

None. Any problems are resolved on a case by case basis and indeed I can recall only one problem in recent times and this was easily overcome.

South Australia

Although a number of officers including the Ombudsman speak various languages other than English, only one officer is an accredited interpreter in the Spanish Language. The Office is capable of understanding the Slavonic languages, Greek and Spanish. However, when official translations or interpretations are necessary, arrangements may be readily effected by arrangement for accredited interpreters.

Chapter 10 - Ombudsmen Survey

Tasmania

We offer no interpretation service directly from this office but when it has occasionally become necessary, the Telecom Interpreter Service is utilised.

Western Australia

My investigating staff can assist complainants to prepare complaints, but the office does not offer any interpreting or translation services. Persons who require such services are directed to the Translating and Interpreting Service (T.I.S.) - see attached entry in the Perth White Pages.

Victoria

Translation - Several members of staff are competent in languages other than English. The services of the State Government interpreting and translation service are accessible by this Office.

10.11 Communication Methods

- (11) What methods of communicating more information about your Office do you think would be most successful and why (e.g., radio, newspapers, pamphlets, public meetings)?
-

Commonwealth

This is not a question, in our view, that can be answered simply, depending as it does on the audiences to be reached. Attached is a summary outline of those factors that should be taken into account when planning a communication strategy in order to overcome the communication barriers that exist for many sectors of the community. (See "Access and Equity Process" Commonwealth Ombudsman Survey response - Appendix 2)

Northern Territory

Whilst there will always be a need to use traditional methods of trying to convey meaningful information, such as brochures, I am convinced media coverage of the

Chapter 10 - Ombudsmen Survey

activities of the Ombudsman, addressing community groups and favourable word of mouth recommendations are the most effective methods of communicating information about the Ombudsman's Office.

Queensland

On regional visits I often ask complainants how they learned of my being in the area and invariably the answer is "through the local newspaper". This may mean that the matter has received more publicity in the newspaper than for example, the local radio station, but over time I have formed the view that newspapers are probably a more effective medium, either via advertisements or news articles, than radio or television. Perhaps newspapers provide more detail than radio or television "clips".

This Office does provide pamphlets upon request but not as part of any publicity program. I have not considered the possibility of public meetings.

South Australia

Television and Radio have been found to be a more effective process of mass communication of general information concerning role and function of the Ombudsman. Previous surveys have shown that radio and local country newspapers are particularly effective in country regions. Public meetings are sometimes useful in the case of special situations that permit discussion and exchange of views, but have only a limited outreach. The most effective process however, seems to be in my State, that of networking through professional persons and organisations whose more simple message to complainants is "Go see the Ombudsman" which often results in some further communication with the Office that has an educative value for the inquirer. The range and cross-section of complaints across all socio-economic groups and cultural groups of society, including both populated and remote areas of the State suggest to me that a moderate degree of "advertising" of services may be necessary to advance awareness, but the higher order of understanding will be better achieved by release and publication of reports of significance and announcements having a public interest content. It is also my practice to disperse the Ombudsman Annual Reports from time to time with libraries, community groups such as Rotary, Probes or Schools and other organisations. Each year however, new targets must be identified and set in order to maintain a vitality in the service awareness message, which if repeated in its usual prosaic form with the same target groups and in competition with all the other service awareness messages that are directed at all communities will become stale, uninteresting and ineffective. It is a matter of psychological reality (mnemonics) that only the most horrible of cases or the most colourful of events will be remembered best and longest. Continuing awareness will be best achieved in this State by developing information networks and effective person to person referral systems.

Chapter 10 - Ombudsmen Survey

Tasmania

Possibly media advertisements, particularly television and newspapers, because of their wide coverage of the population and their ease and subtlety of presentation.

Western Australia

I believe that all methods of communication should be used to improve public awareness. T.V. and radio broadcasts, followed by newspapers, would probably be the most successful because they reach the widest audience.

Victoria

Future methods - I believe that a strategy involving a range of methods of communicating information is the preferred option. It appears that the best method of disseminating information is by word of mouth and it is our aim to target those persons who are active in the community and to encourage them to advise others of the office.

CHAPTER 11- COST FACTOR

Current Activities - The New South Wales Ombudsman currently undertakes several programs and activities of an educational nature. These programs aim at educating officials within the public sector about complaint handling techniques and other standards of public administration. Other programs are directed at the public and include programs to increase understanding and awareness of the Ombudsman's role and functions. These access and awareness activities have been referred to elsewhere in this report but are listed below for ease of reference.

Current

- Client Surveys - complainants and agencies
- Country Visits
- Visits to Newcastle and Wollongong
- Aboriginal outreach (incl. visits to juvenile justice centres, gaols, country areas)
- Publications - Fact Sheets and Information brochures
Annual Report
Special Reports to Parliament
- Speaking Engagements
- Visits to gaols
- Visits to juvenile detention centres
- Interpreting and Translation Services

Planned

- Work with EAC, community workers and community groups on an education/awareness strategy for certain groups of non-English speaking background.
- Awareness program for Women
 - designated officer for domestic violence investigations
 - liaise with women's groups and community workers.
- Aboriginal Liaison Officer

Costs under an expanded Public Awareness Strategy - In response to the Management Review Report the Ombudsman submitted to the Committee that:

Over the past 3 years, in reports to Parliament and in evidence and submissions to the Committee, the Ombudsman has emphasised the importance of a properly designed, targeted and funded public awareness strategy. The consultants conclude (6.4):

Chapter 11- Cost Factor

Based on our assessment of the Ombudsman's public awareness strategy, we believe that the strategies adopted to promote public awareness of the Ombudsman make appropriate use of a restricted budget.

The issue, however, is not the efficient and effective use of a restricted budget, but that the budget is inadequate to raise the level of awareness and understanding of the role of the Ombudsmen among important minority groups. The Ombudsman believes that the Committee's current inquiry on awareness and access will provide an opportunity for the development of a more comprehensive strategy to address the needs of minority groups. (2/8/93).

The Committee carefully considered the Ombudsman's concerns about the inadequacy of resources within his budget to raise the level of awareness and understanding among important minority groups of his role. It concluded that, in view of the evidence taken during hearings and in light of the information obtained on public awareness strategies undertaken by other Australian and overseas Ombudsmen, that there are a number of initiatives which the Ombudsman might utilise to consolidate the effectiveness of his current public awareness program. It is the Committee's opinion that the Ombudsman should have the opportunity to take such initiatives in the interest of improved access to, and awareness of, his role and the work of his Office.

Some initiatives suggested by witnesses may be undertaken by the Office at low cost and the Committee feels that the Ombudsman should attempt to undertake such activities as soon as possible. The Committee is not in a position to estimate the extent of the resources need to undertake all of the additional activities suggested in this report. Given that additional initiatives in this area of the Office's operations would require additional resources, the Committee resolved that the Ombudsman should include sufficient funds for an expanded access and awareness program in his budget estimates. The Office's budget allocation is, of course, subject to the same appropriation process which applies to all inner-sector budget agencies, however, as the Committee recommended in its report on the Funds and Resources Inquiry the Ombudsman may submit his Office's budget estimates to the Joint Committee prior to sitting of Estimates Committees. The Committee has indicated that it is prepared to discuss the Ombudsman's budget estimates with him and examine any issues he may wish to raise in that context. It is intended that the Committee would take evidence from the Ombudsman regarding his budgetary requirements and budget performance for the previous year and report to the Premier and Treasurer Estimates Committee at the time it is convened.

The Committee believes that the Ombudsman should apply his budget allocation to enable him to pursue a properly planned public awareness strategy. In the Committee's view the need to ensure that the Ombudsman is able to perform his functions in the most effective

Chapter 11- Cost Factor

way possible should be the overriding determinant in the formulation and implementation of his Office's public awareness strategy. The Committee concluded that the Ombudsman should be encouraged and supported in conducting a full, comprehensive public awareness strategy to assist those members of the community identified by research as experiencing particular difficulties in accessing or understanding his role as an independent source of review about police conduct and administrative decisions in the public sector.

Recommendation 35:

The Committee recommends that the Ombudsman should consider making provision for the costs of additional access and awareness activities in the annual budget estimates and that, in accordance with Recommendation 18 of the Funds and Resources Inquiry Report, he may discuss such items in the budget estimates with the Committee.

SUMMARY OF RECOMMENDATIONS

Recommendation 1:

The Committee recommends that the Ombudsman should consider continuing to conduct client satisfaction and awareness surveys on a regular basis as a method of measuring the effectiveness of the Office's access and awareness strategies, identifying barriers to easy access, and establishing bench marks for these programs.

Clients in this sense refers to both the complainants and public authorities using the services provided by the Ombudsman.

Recommendation 2:

The Committee recommends that the Ombudsman should consider ensuring that the Office's Information Technology System Strategic and Tactical Plans provide it with the capacity to collect and collate the statistics and information necessary to develop access and awareness initiatives and monitor their effectiveness. This reflects the Committee's opinion that a comprehensive database of relevant statistics and information should be an integral part of the Office's Access and Awareness Strategy and is crucial to its success.

The Committee further recommends that the Government give consideration to the allocation of the resources required to overcome any deficiencies within the Office's current Information Technology System.

The Committee also recommends that the Ombudsman should consider gathering and collating statistics on the access and awareness programs planned by the Office, for example, client surveys and advertising campaigns, and that data collection should be regarded as an integral part of these programs.

Recommendations

Recommendation 3:

The Committee recommends that in addition to general access and awareness programs the Ombudsman should consider developing targeted programs aimed at groups identified as having a low awareness or understanding of the Ombudsman's role and the services provided by the Office.

The Committee further recommends that the Ombudsman should consider conducting a particular pilot project aimed at a different target group each year, in consultation with representatives of the group selected, and that the effectiveness of each project should be measured through feedback and follow-up surveys.

Recommendation 4:

The Committee recommends that the Ombudsman should consider consulting with the Ethnic Affairs Commission where the Commission may be able to provide expert advice and assistance in liaising with members of particular ethnic community groups.

Recommendation 5:

The Committee recommends that during the process of composing information pamphlets about the Ombudsman's role and the work of the Office in languages other than English, the Ombudsman's Office should consider seeking confirmation from peak community groups and the Ethnic Affairs Commission that the translation selected for use by the Office is appropriate and would be easily understood by members of the group being targeted.

Recommendations

Recommendation 6:

The Committee recommends that the Ombudsman should consider designing a series of information pamphlets specifically for young people. In the process it is recommended that the Office consult experienced youth workers to obtain advice on the presentation of the information contained in the pamphlets and that local youth centres should be one of the outlets used for distributing the pamphlets.

The Committee further recommends that the Ombudsman should make regular contributions to young peoples' publications.

Recommendation 7:

The Committee recommends that the Ombudsman should consider continuing to contribute information about his role and the services provided by the Office in *Legal Eagle* and that a specific information package should be designed for educational courses which include the Ombudsman as a subject for study.

Recommendation 8:

The Committee recommends that the Ombudsman should continue to improve his Office's utilisation of existing interpreting and translation services, such as the Telephone Interpreter Service, as necessary when dealing with complainants.

Recommendations

Recommendation 9:

The Committee recommends that the Ombudsman should consider designating an investigation officer to specialise in dealing with complaints from young people and that this officer should have specific training for this role.

Should this measure be adopted, it is suggested that the Investigation Officer (Youth) should have an advisory role in the Office's preparation of pamphlets and other information about the Ombudsman targeted at young people, and that he or she should be involved in the Office's youth outreach campaigns, including visits to youth centres, and juvenile justice centres and talks to students.

Recommendation 10:

The Committee recommends that the Ombudsman should ensure that complainants generally are fully informed of the nature of the complaint process and likely turnaround times for each stage of that process, and that they are regularly advised on the progress of their complaint.

Recommendation 11:

The Committee recommends that the Ombudsman should ensure that young people who are arrested or in custody should be advised by the authorities involved in their care of the Ombudsman's existence, powers and the services provided by the Office.

The Committee further recommends that the Ombudsman should consider designing a specific information package about the Ombudsman which can easily be understood by young people and distributed to them upon admission to detention centres and other care institutions.

Recommendations

Recommendation 12:

The Committee recommends that the Ombudsman should consider approaching service groups who visit specifically disadvantaged groups in custody such as Aboriginal and Torres Strait Islanders, who are visited by Aboriginal Legal Services, about arranging for these groups to distribute information about the Ombudsman to their clients during prison visits.

The Committee further recommends that the Ombudsman also should consider consulting with these service bodies about the most appropriate method of providing such information which should be received by members of these groups at the time of their admission into custody.

Recommendation 13:

The Committee recommends that the Ombudsman should consider preparing an annual Access and Awareness Plan building on the strategy presently outlined in Goal 8 of the Office's Corporate Plan for 1993-5.

If this recommendation is adopted it suggests that the Access and Awareness Plan should contain details of relevant initiatives to be undertaken by the Office for the particular year, outcomes, performance measures and targets, and overall strategies. It could include particulars of the programs to be undertaken, for example, country visits, speaking engagements, or visits to prisons. Similarly, details of pilot projects for specific target groups and the results of these projects also may be recorded in the Plan.

As the Ombudsman discusses operational and management issues with the Committee at General Meetings it is recommended that any Access and Awareness Plan developed by the Office be regularly reviewed by the Committee at each General Meeting.

Recommendations

Recommendation 14:

The Committee recommends that the Ombudsman should consider advertising in ethnic newspapers, radio, video and magazines in targeted community languages.

It further recommends that when discussing his work with members of a cultural group unfamiliar with the Ombudsman concept, the Ombudsman should consider making use of cultural symbols and methods easily identified by the group concerned which would assist in making the information provided more tangible.

Recommendation 15:

The Committee recommends that the Ombudsman should consider advertising his services through media outlets, that is, radio, newspaper and television, servicing the Aboriginal and Torres Strait Islander people of New South Wales.

Recommendation 16:

The Committee recommends that the Ombudsman should consider developing a training program for community and youth workers providing information on the Ombudsman's functions and powers, his jurisdiction, the work of the Office, and the complaints process.

If the Office was to adopt this program, it is recommended that the program should consist of a half-day seminar conducted at the Office and lectures and discussions at established service centres, for example, community centres, migrant resource centres and youth centres.

Recommendation 17:

The Committee recommends that the Ombudsman should explore the possibility of arranging for members of ethnic and Aboriginal and Torres Strait Islander communities capable of providing interpreter services, being available at the Office during specific times which would be advertised beforehand in the media.

Recommendations

Recommendation 18:

The Committee recommends that the Ombudsman should consider arranging public meetings in various target communities and that these meetings should be preceded by advertising in local and ethnic media.

Recommendation 19:

The Committee recommends that the Ombudsman should consider implementing a community education plan about his work and services for Aboriginal and Torres Strait Islander people, and that such a plan should be devised in consultation with relevant Aboriginal and Torres Strait Islander advisory groups.

The Committee further recommends that the Ombudsman should consider liaison with other bodies providing legal education to Aboriginal and Torres Strait Islander people to prevent duplication of effort.

Recommendation 20:

The Committee recommends that the Ombudsman should continue to endeavour to fill the position of Aboriginal Liaison Officer on a full-time basis as recommended in the Funds and Resources Report.

The Committee further recommends that in the interim the Ombudsman should consider engaging a suitably qualified person on a contractual basis to conduct projects which would have been performed had the position of Aboriginal Liaison Officer been filled.

Recommendations

Recommendation 21:

The Committee recommends that the Ombudsman should consider consulting with Aboriginal and Torres Strait Islander community groups, Land Councils, Legal Services and other bodies as to their preparedness to act as distribution points for information about his services.

It is further recommended that the Ombudsman should maintain a contact network with representatives and leaders from Aboriginal and Torres Strait Islander communities within New South Wales.

Recommendation 22:

The Committee recommends that the Ombudsman should continue to include public meetings in the Aboriginal outreach campaigns about the Ombudsman's role and services and it is suggested that these public meetings be advertised beforehand in Aboriginal and Torres Strait Islander media.

Recommendation 23:

The Committee recommends that on their admission to gaol all prisoners should continue to be given information about the Ombudsman and the process by which they may make complaints to his Office.

Recommendation 24:

The Committee recommends that the Ombudsman should consider formulating a Youth Liaison Strategy incorporating the production of the following material as suggested in the "Kids in Justice" Report for distribution to institutions, schools and youth centres: specifically designed stickers, comics, brochures and posters.

The Committee further recommends that the Ombudsman should consider conducting a Youth Impact Study to evaluate the success of his Liaison Strategy with a view to improving his services to young people.

Recommendations

Recommendation 25:

The Committee recommends that the New South Wales Ombudsman should continue to undertake joint public awareness initiatives with other Australian Ombudsmen aimed at the promotion of the Ombudsman concept.

The Committee further recommends that the New South Wales Ombudsman should consider entering into arrangements with other Ombudsmen which would facilitate easier access to the Office by complainants as well as quicker processing of their complaints.

Recommendation 26:

The Committee recommends that a general debate should be held at the time the Ombudsman's Annual Report is tabled in Parliament each year and that the debate should enable a wide-ranging discussion of the Ombudsman's powers and jurisdiction, and the services provided by his Office.

Recommendation 27:

The Committee recommends that the Ombudsman should provide every assistance to complainants in formalising their complaint in accordance with the current legislative requirement that complaints be put in writing.

Recommendation 28:

The Committee recommends that the Ombudsman should continue to encourage his officers to use plain language in all correspondence and documentation.

It is further recommended that the Ombudsman should consider undertaking a review of the Office's publications and written resource material, including information pamphlets, complaint forms, and standard correspondence, to ensure that all documentation produced by the Office accords with a "plain language policy".

Recommendations

Recommendation 29:

The Committee recommends that the Ombudsman should consider examining ways to modify the CRIS system currently in use in the Office's Inquiries section to:

1. enable his offices to record telephone complaints in document form; and,
2. provide the documented record of a complaint made by telephone to the complainant for verification.

Recommendation 30:

The Committee recommends that the Ombudsman should consider selecting cases of public interest for publication in a major newspaper on a regular basis.

It is further recommended that the Ombudsman should consider producing a casebook series which would contain cases of public interest to provide tangible illustrations of his role and functions.

Recommendation 31:

The Committee recommends that the Ombudsman should consider arranging for publication of Ombudsman case notes of public interest and test cases in the ethnic media and Aboriginal media where relevant to these communities.

Recommendation 32:

The Committee recommends the Ombudsman should consider formulating a regular schedule of visits to major regional centres in rural New South Wales and it is suggested that these visits be vigorously advertised beforehand in the local media.

Recommendations

Recommendation 33:

The Committee recommends that the Ombudsman Act 1974 be amended to provide that the Ombudsman may educate and advise public authorities, public officials, and the community about his powers and functions, and the services provided by the Office.

Recommendation 34:

The Committee recommends that the Ombudsman should consider commencing an information exchange program with other Australian Ombudsmen about access and equity issues, and public awareness strategies.

Recommendation 35:

The Committee recommends that the Ombudsman should consider making provision for the costs of additional access and awareness activities in the annual budget estimates and that, in accordance with Recommendation 18 of the Funds and Resources Inquiry Report, he may discuss such items in the budget estimates with the Committee.

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**APPENDIX 1 - Office of the Ombudsman - Ethnic Affairs
Policy Statement July 1992 to June 1993**

OFFICE OF THE OMBUDSMAN

ETHNIC AFFAIRS POLICY STATEMENT

STRATEGIES

IMPLEMENTATION

FURTHER ACTION TO BE TAKEN

JULY 1992 TO JUNE 1993

INTRODUCTION

During the reporting year, there has been a decrease in activity in relation to some of the Ethnic Affairs Policy Statement Strategies. This has been for a variety of reasons including limited funding, high investigative complaint workload, stringent prioritising and staff reductions.

Despite this, there have been some positive outcomes such as the Joint Parliamentary Committee on the Ombudsman's Inquiry into the access and understanding of the role of the Ombudsman by young people, Aborigines, members of ethnic communities and minority and disadvantaged groups.

In addition, the work related to developing complaint handling procedures in the public sector, known as CHIPS, will have undoubted benefit for people from non-English speaking backgrounds who wish to make complaint about public sector organisations.

The Ombudsman's Office itself has been under review by the Joint Parliamentary Committee on the Ombudsman. At the time of writing, a draft final report has been received which recommends quite significant changes to the Office's structure. Any changes which may occur arising out of such recommendations may of course have implications for the Ethnic Affairs Policy Statement.

GOAL 1:

Provide services by the Office of the Ombudsman which are culturally sensitive and appropriate to complainants from non-English speaking backgrounds.

STRATEGY 1: To publicise the objectives of the Ethnic Affairs Policy Statement and familiarise staff with the Policy Statement, and, its Annual Report.

IMPLEMENTATION:

- a) Request that an Officer of the Ethnic Affairs Commission regularly come to address an office staff meeting and brief staff on Ethnic Affairs Policy Statements.
- b) Provide literature about Ethnic Affairs Policy Statements to staff before the staff meeting.
- c) Circulate copies of the Ombudsman's Ethnic Affairs Policy Statement to all staff and seek suggestions for further improvements.

RESPONSIBILITY: a), b) & c) Executive Officer

TARGET DATES:

- a) Ongoing
- b) Ongoing
- c) Ongoing

ACTION TAKEN, JULY 1991 - JUNE 1992

The EAPS Committee did not formally meet during the 1992/93 Financial Year. This occurred for a number of reasons including:

- the absence of the EAPS Co-ordinator who was on leave
- a number of EAPS Committee members resigning from the organisation
- the increased workload of staff and the inability to commit time to work on the EAPS.
- rationalisation by senior management of competing demands.

During this period however, the Ethnic Affairs Policy Statement continued to be publicised throughout the Office in the following manner:

1. At individual induction sessions all new staff were provided with written and oral information on EAPS.
2. There have been two formal Induction Training Courses held for new staff during the reporting year. The EAPS Co-ordinator/Acting EAPS Co-ordinator discussed the Ethnic Affairs Policy Statement, the EAPS program and the

Office's continued commitment to its strategies and goals. Information has been and continues to be circulated to all staff.

3. A resurvey was undertaken of staff who could speak a community language and would be interested in obtaining a CLAS Allowance. No staff member indicated an interest.
4. The EAPS Annual Report for 1991/92 was made available to all staff.

OUTCOME:

As was reported last year, because of the extreme difficulties operating in this Office during the reporting year, particularly in terms of work load and severe budgetary constraints, there has not been the same level of time or staff commitment available for the implementation of EAPS. Similarly, the productive liaison with the Ethnic Affairs Commission enjoyed in previous years has not been as frequent. This is regrettable but in all the circumstances, understandable. Information will continue to be distributed and publicised.

FORWARD PLANNING:

The budget situation for 1993/94 and forward years is such that the Ombudsman may well be required to reduce his services to the public. In addition, staff levels may have to be further reduced adding to the burden on already overworked staff. In these circumstances it is difficult to plan more than the most fundamental of activities such as induction and distribution of EAPS and associated material.

Last year, the number of public awareness visits was considerably reduced owing to limited funding. During the current financial year (1993/94), although funding remains extremely tight, it is intended to do more public awareness visits because not to do so would continue the isolation of non-metropolitan New South Wales access to this Office.

STRATEGY 2: Increase staff awareness about language and cultural issues and the delivery of services to complainants of non-English speaking backgrounds.

IMPLEMENTATION: a) Obtain copies of migrant referral manuals and interpreter directories for use by Assistant Investigation Officers and the Library.

b) Organise staff development courses (with the assistance of relevant authorities) for all staff who deal with complainants, covering the following topics:

- Interviewing techniques.
- Experience and procedures in dealing with clients of non-English speaking backgrounds.
- Use of existing facilities and resources in and out of the office in assisting clients from non-English speaking backgrounds.
- How to use an interpreter.
- Inter-cultural understanding and awareness.
- Use of clear, simple English in spoken and written communications.

c) Provide information to new staff at induction on this Office's Ethnic Affairs Policy Statement and its implementation.

d) Provide information and training about language and cultural issues when conducting selection techniques courses.

RESPONSIBILITY:

- a) Executive Officer
- b) Executive Officer
- c) Human Resource Manager
- d) Executive Officer/Human Resource Manager

TARGET DATE:

- a) Update each year
- b) At least two/year
- c) Every new staff member to be provided with information at induction.
- d) Ongoing

ACTION TAKEN: a) Updated Migrant Referral manuals have been obtained from the Ethnic Community Council in addition to new Interpreter/Translation directories. Staff have been kept advised as to the new arrangements in relation to the use of interpreters. The proper use of interpreters was reinforced at the recent Induction Courses during 1992/93.

b) Apart from the training provided in the Induction Course about the use of interpreters, the Office simply did

not have sufficient funds during the reporting year as in previous years to conduct further specific courses on the use of interpreters. As was reported last year, without the previous assistance of EAC in conducting such courses, this Office has relied on previous materials and in-house training to remind staff of procedures for use of interpreters and to heighten inter-cultural awareness.

c) One full day Induction Course was held in 1992/93 at which new staff were informed about the Office's Ethnic Affairs Policy Statement and its implementation. This course was in addition to individual inductions provided at the time of commencement of employment.

d) There were no Selection Techniques Workshops held during the reporting year. This was due to high workload and staff shortages.

OUTCOME:

There have been some restrictions on the ability of the Office to provide as many training courses as would have been liked. Despite staffing and funding difficulties, the staff of the Office continue to be provided with up-to-date information on the services, including interpreters, available to people from non-English speaking backgrounds. Information continues to be disseminated in a variety of ways, including Referral Manuals, internal memoranda, circulars from the Ethnic Affairs Committee and at staff meetings.

Strategy 2 is extremely important and is recognised by the appointment of EAPS representatives to the Training Committee. This Committee meets monthly to consider, plan and prioritise the training needs of the Office.

FORWARD PLANNING: During the current reporting year, it is likely that most training will be conducted in-house due to lack of resources.

Induction and Selection Techniques Courses have been planned.

The EAC representative assigned responsibility for this Office has not had any contact with this Office for some time. It is hoped that formal meetings with Ethnic Affairs Commission representatives will be re-established as this is a very valuable way of exchanging information, obtaining feedback as to progress, ideas as to further developments and assistance in the implementation of EAPS during this time of severe financial constraint.

RESPONSIBILITY: Executive Officer/EAPS Committee

TARGET DATE: Ongoing

STRATEGY 3: Develop procedures on how to deal appropriately with complainants from non-English speaking backgrounds.

IMPLEMENTATION: Constitute a new section in the Office Procedures Manual for supply to all officers and ensure that it is reviewed annually and updated when the manual itself is updated.

RESPONSIBILITY: EAPS Co-ordinator/Executive Officer

TARGET DATE: Annual review and update of procedures at time of manual amendment.

ACTION TAKEN: The review of the Office Procedures Manual will again take place towards the end of 1993. The updated manual will continue to have a section on procedures for dealing effectively and sensitively with complaints from non-English speaking backgrounds.

OUTCOME: The Office continues to use facilitators/translators as they are required as outlined in the procedures manual.

FORWARD PLANNING: To review the procedures and ensure that the new Manual and its updates includes a section on procedures to deal appropriately with complainants from non-English speaking backgrounds.

RESPONSIBILITY: EAPS Co-ordinator

TARGET DATE: Review annually.

STRATEGY 4: Make knowledge of and sensitivity to the needs of people from diverse cultural backgrounds an essential qualification in the recruitment of Assistant Investigation Officers and Investigation Officers.

IMPLEMENTATION: Include reference to that qualification in the text of job advertisements.

RESPONSIBILITY: Executive Officer/Human Resource Manager

TARGET DATES: Ongoing

ACTION TAKEN: As reported during the previous year, this strategy is also part of the Equal Employment Opportunity Management Plan. All Investigation Officer and Assistant Investigation Officer positions to date have been advertised in the above terms.

OUTCOME: With this essential requirement for Investigation/Assistant Investigation Officer positions, the Office continues to see the benefit in Officers being recruited with broad skills. This obviously improves the service we provide to complainants from non-English speaking backgrounds.

FORWARD PLANNING: Advertisements for all vacant Investigative positions and non-investigative position that deal with the public are advertised in terms of this strategy.

RESPONSIBILITY: Human Resource Manager

TARGET DATE: Ongoing.

GOAL 2:

Ensure that the Office of the Ombudsman has appropriate facilities and the capacity to deal with complainants who are not conversant with the English language.

- STRATEGY 1:** Ensure adequate provision of interpreting facilities.
- IMPLEMENTATION:**
- a) Review the location and the use of the conference facility telephones and make recommendations on usage to the Executive Officer.
 - b) Conduct a survey of community language skills of all staff and ascertain willingness and ability to act as a language facilitator in cases where the service of a qualified interpreter is not immediately available.
 - c) Compile the list of language facilitators and circulate to staff.
 - d) Update the abovementioned list regularly.
 - e) Organise training courses on interpreting skills (with the assistance of relevant authorities) for staff members who are willing to act as language facilitators.
 - f) Investigate the need for and the willingness of staff members with appropriate language skills to participate in the Community Language Allowance Scheme and make recommendations in this area.
- RESPONSIBILITY:**
- a) EAPS Committee
 - b) & c) EAPS Co-ordinator/Human Resource Manager
 - d) Human Resource Manager
 - e) & f) Executive Officer/Human Resource Manager
- TARGET DATES:**
- a) Ongoing - ensuring the facilities remain adequate and relevant.
 - b) - g) Ongoing.
- ACTION TAKEN:**
- Conference facility telephones have been installed in the Interviewing Rooms and a number of similar telephones have been placed in various locations throughout the Office. An additional dual handset was purchased for the Enquiry Section of the office.
- A survey of staff who were willing and able to act as language facilitators was conducted in June 1992 and the results circulated to all staff. A further survey will be undertaken in the current reporting year.
- OUTCOME:**
- Progress continues to be made on this strategy. In-house language facilitators have been identified and continue to assist with oral and written complaints from people of non-English speaking backgrounds.

Information on CLAS has been circulated to all staff.

FORWARD PLANNING: A re-survey has been and will continue to be conducted annually.

The Community Language Allowance Scheme testing will occur as appropriate.

RESPONSIBILITY: Human Resource Manager/EAPS Co-ordinator

TARGET DATE: February, 1994

STRATEGY 2: Ensure adequate provision of translation facilities by the Office.

IMPLEMENTATION:

- a) Establish a budget item for translations and make appropriate provisions for each reporting year.
- b) Investigate available translation facilities in the Government and private sectors and make recommendations to the Executive Officer on the most effective means of providing translations for the Office.

RESPONSIBILITY:

- a) Executive Officer
- b) EAPS Committee

TARGET DATES:

- a) Ongoing
- b) Ongoing review

ACTION TAKEN: A separate budget item has been maintained. No request for translation facilities has been denied for budgetary reasons. Accredited translators are now approached directly and the translation fee negotiated.

OUTCOME: An efficient and effective service continues to be provided by this Office to persons from non-English speaking background. Expenditure on translations during the 1992/93 Financial year was \$ 26 06 . 6 9

The Office has a Directory of Translators to ensure that the Office referrals for translations are undertaken by professional and accredited Translators and Interpreters.

FORWARD PLANNING: It is intended to maintain the present system.

RESPONSIBILITY: EAPS Co-ordinator/Executive Officer

TARGET DATE: Ongoing.

GOAL 3:

To ensure that the ethnic communities are aware of the services of the Office.

STRATEGY 1:

Effective use of the multilingual publicity fact sheets (in 9 community languages) about the Ombudsman's Office and its work on investigation of police matters.

IMPLEMENTATION:

- a) Prominent display of pamphlets in the reception area of the Office.
- b) Ensure that all officers are aware of the existence of the pamphlets and of languages included.
- c) Review and update previous multicultural distribution list and draw up a new list of distribution to government and community agencies including prisons, children's institutions etc. Assistance with distribution lists will continue to be obtained from Ethnic Affairs Commission, Department of Corrective Services etc. The Ombudsman has a legislative requirement to provide multilingual pamphlets to Police Stations and Local Courts.
- d) Enter the new distribution list for pamphlets on word processor.
- e) Distribution of the pamphlet according to the above mentioned lists.
- f) Review the use and relevance of the pamphlets and make recommendations for reprinting; possible amendments to translations; whether additional languages required etc.

RESPONSIBILITY:

- a) Information Officer
- b), d) & e) Executive Officer
- c) & f) Media Officer

TARGET DATES:

- a) Ongoing
- b) Ongoing
- c) Ongoing as updated
- d) Ongoing as updated
- e) Ongoing
- f) Ongoing

ACTION TAKEN:

All the pamphlets now known as Fact sheets were rewritten in the reporting year. The Office now has facts sheets on:

The Ombudsman's Office
The Police Complaints
The Guarantee of Service
Juvenile Issues
Aboriginal Issues
Local Government

The fact sheets were being translated into nine community languages during July/August 1993.

OUTCOME:

This Office receives complaints written in a language other than English and continues to have these translated. The number of requests for information and referrals from ethnic community organisations also continues.

FORWARD PLANNING:

The Ombudsman committed funds to reprinting fact sheets during the 1992/93 and 1993/94 financial years, including some multilingual fact sheets.

RESPONSIBILITY:

EAPS Committee/Media Officer

TARGET DATE:

August 1993

STRATEGY 2: Use of ethnic media to publicise the services of the Office.

IMPLEMENTATION:

- a) Review and update existing list of ethnic newspapers and draw up a new list of ethnic newspapers in the nine languages covered by the multilingual fact sheets.
- b) Prepare and issue media releases where appropriate to the listed newspapers using available translations.

RESPONSIBILITY:

- a) Media Officer
- b) Executive Officer

TARGET DATES:

- a) Ongoing
- b) Ongoing

ACTION TAKEN:

- a) The Media Officer continues to use information provided by the Ethnic Affairs Commission and a media monitoring company to review and update our media list.
- b) Media releases about the services of the Office have in the past been linked with the Public Awareness Campaigns and are released to the appropriate ethnic media just prior to a Public Awareness Visit. Because of scarce financial resources, there have however been few Public Awareness Visits in the reporting year.
- c) In addition, media releases, if relevant, are sent to the Ethnic Media in relation to the Ombudsman's Reports to Parliament.
- d) The ethnic media distribution list has been and continues to be reviewed three times each year immediately prior to the commencement of State Parliamentary sitting.

The updated media list will also be used for dissemination of information relating to public awareness visits if and when they occur.

OUTCOME: The skills, knowledge and contacts of the Media Officer have continued to be invaluable in ensuring that the work of this Office is promoted in the ethnic media. During the reporting year there was a significant investigation and subsequent report to Parliament of the Police treatment of Chinese juveniles in Turramurra. This report received wide publicity in the Chinese press.

RESPONSIBILITY: Media Officer/EAPS Co-ordinator

TARGET DATE: Ongoing

FORWARD PLANNING: The contact between this Office and ethnic community groups has continued to be limited. This is a deplorable position but one which has occurred because of the continual erosion of the Office's funding to the point where even basic maintenance expenditure is inadequate. Despite numerous submissions to the Premier, the Treasury and the Joint Parliamentary Committee on the Ombudsman, no relief has been provided. Hence public awareness campaigns and intrastate travel for the purpose of investigation, while slightly increased during the 1992/93 financial year, are still not frequent enough.

At the time of reporting, a report is awaited from the Joint Parliamentary Committee on the Ombudsman's Inquiry into the access/level of understanding of the role of the Ombudsman by Aborigines, members of ethnic communities, young people and disadvantaged groups. The results of this Inquiry, it is hoped, may result in additional funds for this Office to enable us to implement strategies to address the needs of people from non-English speaking backgrounds.

STRATEGY 3:

A) Arrange and run an information sessions about the Ombudsman's Office and its services. Invite key personnel from those Government and community agencies which have a large ethnic clientele.

B) Address training sessions conducted by government and community agencies for key service and liaison personnel who work mainly with ethnic communities so that they are aware of the services of the Office.

C) Address community groups of people of non-English speaking backgrounds when approached.

IMPLEMENTATION:

A) Encourage and arrange for the Ombudsman and staff to attend seminars/provide information about the role of the Ombudsman.

B) a) Compile a list of such training sessions and possible dates when sessions are being held.

b) Decide on target organisations for each reporting year and approach these organisations about participation in training sessions.

c) Consult with, and allocate Investigation Officers to address training sessions on the services of the Ombudsman.

C) Be receptive to any requests for the Ombudsman/staff to address community groups for people from non-English speaking backgrounds when approached.

RESPONSIBILITY:

A) Executive Officer/Media Officer

B) a) b) & c) Executive Officer/Media Officer

C) Media Officer.

TARGET DATES:

A) Ongoing

B) a), b) & c) Ongoing

C) Ongoing

ACTION TAKEN:

During the reporting year, the Ombudsman, Deputy Ombudsman, Assistant Ombudsmen and Investigation Officers spoke to community groups about the role of the Ombudsman and the work of the Office.

OUTCOME:

These information and training sessions are extremely important in not only publicising and explaining the work of the Ombudsman, but essential to ensure that the clientele of these various organisations, who may be from a non-English

speaking background, are provided with accurate information about the Ombudsman's role.

The Office has continued to try and meet each request for speakers to address or participate in forums and seminars.

FORWARD PLANNING: The Office will respond to requests as they occur and also continue to address key organisations such as the Police Service, the Department of Corrective Services and institutions and community groups etc.

RESPONSIBILITY: Media Officer/Executive Officer.

TARGET DATE: Ongoing

STRATEGY 4: Arrange for the design of new Ombudsman publicity posters for display in public transport vehicles and in community centres and agencies, including text in several community languages; and presenting an image which is readily understandable by a wide range of potential complainants of all backgrounds.

IMPLEMENTATION: Consult with Ethnic Communities Council and Ethnic Affairs Commission personnel about possible designs for such a poster. Enquiries should also be made with graphic designers with expertise in this area.

RESPONSIBILITY: Media Officer

TARGET DATES: June 1993

ACTION TAKEN: Three posters in Chinese, Italian and Arabic have been prepared and printed. These continue to be distributed to various outside agencies.

OUTCOME: In the past, there have been attempts to design a new poster for the Office of the Ombudsman. This is a complex task because of the difficulty in finding a concept or design for the "Ombudsman" which can be translated into a number of community languages.

While the usefulness of having a multicultural poster is accepted, due to the Office's worsening financial position, and as was the case last year, work on this strategy has been postponed.

FORWARD PLANNING: No further action is planned until such time as funds become available.

RESPONSIBILITY: EAPS Committee/Media Officer

TARGET DATE: Review as at December 1993

GOAL 4:

Ensure that the grievances of ethnic communities against State public authorities are monitored and action taken to follow up where appropriate.

STRATEGY 1: Assist public sector authorities to develop and implement their own internal complaint handling mechanisms ensuring that the needs and requirements of people of non-English speaking background are addressed.

IMPLEMENTATION:

- 1) Survey public authorities to ascertain if they have internal complaint handling procedures and at what level.
- 2) Liaise with OPM in terms of development of complaint handling procedures.
- 3) Develop model complaint handling manual.
- 4) Liaise with Ethnic Affairs Commission to ensure the model covers needs of people from non-English speaking background.

TARGET DATE: Ongoing

ACTION TAKEN:

- 1) An extensive survey of public sector authorities was undertaken to ascertain whether or not they had appropriate complaint handling mechanisms.
- 2) The Office of the Ombudsman's project on complaint handling in the public sector (CHIPS) has further advanced with the publication of "Guidelines for Effective Complaint Management". These Guidelines have been distributed widely in the public sector.
- 3) Mediation. The Office's CHIPS project has examined the role of mediation for resolving a range of complaints and disputes.
- 4) The Office of the Ombudsman and the Office of Public management (OPM) have continued to work together to ensure a consistent and co-ordinated approach to the government's Guarantee of Service and complaint management within the public sector.
- 5) This Office and the OPM have each approached the Ethnic Affairs Commission to enlist its support and expertise in an attempt to ensure that the public sector's "customers" from non-English speaking backgrounds know what they may expect from government agencies in terms of services, standards and the resolution of problems and complaints. This involves determining appropriate community languages for translation of core information.

It is disappointing that little progress has been made in this regard.

RESPONSIBILITY: Senior Executive Assistant/EAPS Co-ordinator

OUTCOME: The survey of public sector authorities revealed that approximately 85% of authorities did not have complaint-handling procedures for staff working in this area, 80% did not have a specific complaint handling unit and 80% did not compile or receive comprehensive reports of complaints received and outcomes achieved (being thereby deprived of the feedback needed to produce necessary change).

Mediation courses for staff of public authorities are being provided by the Office of the Ombudsman and will continue during the current reporting year. These four day courses include a specific session on "Cross-cultural Issues in Mediation". At the time of reporting fifty-nine people from twenty-seven agencies have been trained in the first two courses (March and June 1993).

There has been wide-ranging public sector support for these initiatives and some private sector groups have provided assistance in particular areas.

This EAPS strategy and indeed the CHIPS project itself would benefit from the greater involvement and assistance of the Ethnic Affairs Commission.

FORWARD PLANNING: The CHIPS project will continue as will the mediation courses. The Senior Executive Assistant continues a valuable liaison with OPM on this project. Training courses specific to particular organisations are proposed, and a series of one-day seminars for particular groups will be held.

There is now commitment to obtain sector wide common reporting standards on complaint handling procedures and will be evidenced by issuing a Treasury Guideline supported by OPM.

Attempts have been made and will continue to be made to pursue with the Ethnic Affairs Commission a proposal for a telephone-based multilingual information service which will enable agencies to provide information, answer queries and broadcast the complaint handling mechanisms, statements of services in different languages.

RESPONSIBILITY: Senior Executive Assistant/EAPS Co-ordinator

TARGET DATE: Ongoing

STRATEGY 2: Investigate possible inclusion of ethnic newspapers in the Office press monitoring program and make recommendations on implementation if appropriate.

RESPONSIBILITY: Media Officer

TARGET DATES: Ongoing

ACTION TAKEN: Monitoring of the press is now largely done in-house, however, the "Media Monitors" Service reports any comment in the press about the Ombudsman's Office. Because of budgetary constraints, the full media monitoring service had to be reduced. As reported previously, a Report to Parliament concerning police and juvenile members of the Chinese community was heavily reported by the Chinese Press and other media outlets. This coverage was monitored through the media monitoring service.

RESPONSIBILITY: Media Officer

TARGET DATE: Ongoing

GOAL 5:

To ascertain the degree of usage of the Office by various Ethnic communities so that a proper assessment of the adequacy and appropriateness of service can be made.

STRATEGY 1: Examine the issue of data collection on current usage of the Office by people of non-English speaking background and made recommendations accordingly.

- IMPLEMENTATION:**
- a) Decide what data is necessary and how it can be utilised.
 - b) Consult similar organisations to gain information on how they approached this issue.
 - c) Consult with Ethnic Affairs Commission in relation to information/guidelines as to effective data collection method.
 - d) Decide on techniques required to collect data.

RESPONSIBILITY: Executive Officer/Media Officer

TARGET DATES:

ACTION TAKEN: As was reported last year, a questionnaire was completed for distribution to members of non-English speaking background communities. The Premier refused a request for funding to conduct the survey and the project was unable to progress. Subsequently, the Joint Parliamentary Committee on the Ombudsman has undertaken an Inquiry into the level of understanding of young people, Aborigines, members of ethnic communities and minority and disadvantaged groups of the role of the Ombudsman and the extent of their access to his Office.

OUTCOME: The Parliamentary Inquiry advertised the abovementioned Inquiry in major metropolitan newspapers on 6 March 1993 with the closing dates for submissions on 2 April 1993. The report on this Inquiry is awaited.

FORWARD PLANNING:

RESPONSIBILITY: Executive Officer/Media Officer

TARGET DATE: Further work on this strategy may be possible following the results of the Parliamentary Committee on the Ombudsman's Inquiry.

APPENDIX 2 - Survey of Australian Ombudsmen and their responses.

SURVEY QUESTIONS

1. Do you see any problem areas in relation to awareness and understanding in the community of your role and function?
2. What strategies are currently employed by your Office to promote a greater understanding and awareness of the Ombudsman and his functions?

If not, are there proposals to initiate such strategies in the future?
3. Are particular target groups selected for access and awareness strategies?

If so, how are these target groups selected?
4. Do your staffing arrangements include provision for officers specially dedicated for this purpose, for example, a Youth Liaison Officer or Aboriginal Liaison Officer?
5. If access and awareness strategies are currently employed, how is their success measured?
6. Are access and awareness strategies incorporated in your Office's Corporate Plan?

If so, do these programs have performance measures?
7. Is your Office required to produce an Ethnic Affairs Policy Statement? (If the answer to this question is "yes" a copy of the policy and any other relevant documents would be appreciated).
8. Does your Office maintain statistics regarding the number of complaints from people of non-English speaking background, Aborigines or other minority or disadvantaged groups?
9. Does your Office conduct complainant satisfaction surveys and, if so, how frequently?
10. What type of interpreting and translation services are offered by your Office?
11. What methods of communicating more information about your Office do you think would be most successful and why (e.g., radio, newspapers, pamphlets, public meetings)?

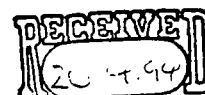


COMMONWEALTH & DEFENCE FORCE
OMBUDSMAN

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18 April 1994

Mr Andrew Fraser MLA
Chairman
Committee on the Office of the Ombudsman
Room 1144
Parliament House
Macquarie Street
SYDNEY NSW 2000



Dear Mr Fraser

Thank you for your letter of 30 March 1994 in which you sought information on access and awareness strategies employed by this Office.

I attach for your information responses to the questions set out in the attachment to your letter. If you require any elaboration please do not hesitate to contact me.

Yours sincerely

██████████

Richard Mills
Acting Commonwealth Ombudsman

Access and Awareness Strategies in Ombudsman Jurisdictions: Commonwealth

1) Do you see any problem areas in relation to awareness and understanding in the community of your role and function?

Inevitably the answer to this must be yes. A survey in 1992 revealed that only 54 per cent of the community was aware of the Commonwealth Ombudsman, compared with 60 per cent awareness for the respective State ombudsmen. Lack of awareness seems largely to be correlated with the various factors that indicate disadvantage in Australia: a non-English speaking background; recent arrival in the country; in receipt of income support from the government; limited education; youth; and low income level generally. To this one would also have to add, from other evidence, Aboriginal and Torres Strait Islanders and those with physical and intellectual impairment.

2) What strategies are currently employed by your Office to promote a greater understanding and awareness of the Ombudsman and her functions?

If not, are there proposals to initiate such strategies in the future?

The Office has undertaken a number of small scale initiatives aimed particularly at Aboriginal and Torres Strait Islander and non-English speaking background communities. Whilst valuable undertakings in their own right it has to be admitted that they were of an ad hoc nature. A comprehensive access and equity strategy is currently being developed to ensure a managed approach to those sectors of the community most in need of information about review mechanisms. Needless to say its success will be influenced to a considerable extent by the resources that can be obtained for its implementation.

3) Are particular target groups selected for access and awareness strategies? If so, how are these target groups selected?

The approach being adopted by the Office is to target, say, five agencies each year and to focus communication, consultation and liaison activities on the actual and potential clients of those agencies. Within those client bases particular attention will be paid to those facing major communication barriers.

4) Do your staffing arrangements include provision for officers specially dedicated for this purpose, for example, a youth Liaison Officer or Aboriginal Liaison Officer?

An investigation officer was appointed in 1993 as Aboriginal and Torres Strait Islander liaison officer. The approach to be taken in future, in part depending on the settling of resource issues, will be to appoint agency liaison

officers whose task will include the function of outreach and liaison with those client groups mentioned above.

5) If access and awareness strategies are currently employed, how is their success measured?

These measures are yet to be finalised, but are likely to include follow up with focus groups, and small scale client surveys.

6) Are access and awareness strategies incorporated in your Office's Corporate Plan?

If so, do these programs have performance measures?

The Corporate Plan does include components dealing with access and awareness. In addition the Federal Government requires all Departments and certain Statutory Authorities, including the Ombudsman, to contribute a statement to an Access and Equity Annual Report to the Prime Minister. A copy of the Guidelines for these Statements, prepared by the Office of Multicultural Affairs, is attached. You will note that performance indicators and evaluation are included. A triennial Access and Equity Plan was also developed for the period 1991-94.

7) Is your Office required to produce an Ethnic Affairs Policy Statement?

See above.

8) Does your Office maintain statistics regarding the number of complaints from people of non-English speaking background, Aborigines or other minority or disadvantaged groups?

No. It is considered that to ask complainants for information about their personal background, for example their race, ethnicity, or physical or intellectual capacity, would be unduly intrusive and inhibit open communication with the Office.

9) Does your Office conduct complainant satisfaction surveys and, if so, how frequently?

One such survey was conducted, in February of this year, of 4000 complainants. As mentioned above it is intended to conduct similar follow up surveys as part of the access and equity strategy.

10) What type of interpreting and translation services are offered by your Office?

Access to the Community Translating and Interpreting Services run by the Department of Immigration and Ethnic Affairs is provided to complainants in need of assistance.

11) What methods of communicating more information about your Office do you think would be most successful and why?

This is not a question, in our view, that can be answered simply, depending as it does on the audiences to be reached. Attached is a summary outline of those factors that should be taken into account when planning a communication strategy in order to overcome the communication barriers that exist for many sectors of the community.

AGENCY STATEMENT GUIDELINES

1. STRUCTURE OF AGENCY STATEMENTS

Each statement should address the key features in implementation of access and equity (A&E) requirements in ten sections under the headings set out below. **Each section should include two sub-sections – one dealing with A&E for people of non-English speaking background, and the other dealing with A&E for Aboriginal peoples and Torres Strait Islanders.**

Attached is a checklist to assist agencies in assessing their A&E performance.

All recommendations of the 1992 A&E Evaluation Report can be addressed under these headings in the following manner:

(a) Planning

Recommendations 1a, 19, 20, 21, 33, 34 & 42

Agencies, where possible, should report on provisions for A&E in corporate and program (especially mainstream) planning, including at regional and client contact levels. It is essential that *budget* provisions for A&E implementation at all those levels be addressed including allowances for the cost of any additional demand for services as a result of A&E activity.

(b) Evaluation and Audit

Recommendations 1b, 19, 23b, 24, 25 & 32

Agencies must report on the A&E component of all evaluation and audit activity, especially in mainstream programs.

(c) Performance Indicators

Recommendations 1c, 19, 23a, 26, 27, 28, 29 & 36

Agencies should report on use of ethnicity data for planning and evaluation purposes at central, regional and local level, including the use of broad ethnicity data (rather than simply data on existing clientele). Agencies should report on the extent to which they have found OMA's ethnicity data manual useful.

(d) Public Accountability

Recommendations 1d, 19, 22, 30 & 31

Agencies should report on the extent of A&E reporting in Annual Reports and other documents.

(e) Language Services

Recommendations 1e, 2, 3, 4, 5, 7, 8, 9 & 10a&b

This involves all language services (translating and interpreting services, use of TIS, literature in community languages, use of 'ethnic' media, advertising, use of promotional (videos, displays etc) and general promotion of services to NESB and Aboriginal and Torres Strait Islander clients.

Special focus: Language services for women: The report *Women and Language Services* (Commonwealth/State Council on non-English speaking Women's Issues, 1992) highlighted deficiencies in the provision of language services to women, especially for Arabic, Turkish and Vietnamese speakers and particularly in health and welfare contexts. OMA has undertaken to report on this specific matter in the 1994 A&E Annual Report and requires relevant agencies to cover the matter in this section of their statement.

(f) Staff Training

Recommendations 1f, 6, 10d, 14, 15, 16, 35, 41 & 42

This involves the extent of cross-cultural training and access and equity training provided to staff at all levels, particularly at the client contact level. This includes the cross-cultural or A&E content of mainstream courses, and special courses. OMA would appreciate knowing details of particular courses, ie names and duration of course and course providers.

(g) Consultation

Recommendations 1g, 10e, 11, 12 & 43

Agencies should give details of consultations (as distinct from simply communication) with NESB client groups for planning and evaluation purposes. To what extent have agencies found OMA's consultation and negotiation manual useful?

(h) Participation

Recommendations 1h, 10e, 11 & 13

'Participation' in this context means the inclusion of representatives of A&E client groups on advisory, decision-making and review bodies. Agencies should include details of numbers/percentages of NESB and Aboriginal and Torres Strait Islander members, mechanisms for ensuring their participation (targets, quotas), method of recruiting NESB and Aboriginal and Torres Strait Islander members, use of NESB and Aboriginal and Torres Strait Islander databases.

(i) Funded Programs

Recommendations 1i, 17 & 18

This is an important but neglected area. A&E accountability for funded programs ensures that services funded indirectly by the Commonwealth meet A&E requirements. This is particularly important for programs delivered by State/Territory and local governments and involves principally *mainstream* projects, as distinct from NESB or ethno-specific projects where A&E is implicit. Contractual arrangements between agencies and the bodies they are funding should cover A&E accountabilities.

(j) Coordination

Recommendations 1j, 10c, 37, 38, 39, 40 & 43b

This should detail the agency's liaison and co-operative activities with other agencies, particularly Commonwealth agencies, for the purposes of information exchange, consistency and cost-effectiveness.

(k) Special focus: A&E for South Sea Islanders

In 1994 the Government is placing special emphasis on political and social justice for South Sea Islanders – that is, the descendants of indentured labourers brought to

Australia in the nineteenth and early twentieth centuries. Agencies should report on A&E measures for this group, especially in the areas of health, housing, education, small business assistance and heritage.

(l) Other

Recommendation 43a and other A&E initiatives or measures not elsewhere identified

2. STATEMENT SOURCES

It is not intended that any department or agency should undertake a new review to report on their A&E performance. Existing secondary sources will suffice. This can include A&E reporting in (draft) 1993-94 Annual Reports, Program Performance Statements, corporate plans, program evaluation reports, program reviews, audit reports, A&E plans and other existing documentation. Departments and agencies should, however, include in their A&E statements all relevant A&E information contained in other documents.

3. LEVEL OF DETAIL

It is not intended that departments or agencies should exceed one page per heading, that is, their full contribution should not exceed 11-12 pages. Where appropriate, some departments, particularly those with a predominantly service delivery role, may need to exceed one page per heading.

4. COVERAGE

The reporting period is July 1993 to June 1994. A&E measures initiated prior to June 1993 but yielding results during the reporting period should be included.

Certain headings in the statements, and many individual recommendations under them will have no or limited applicability to certain departments and agencies. In these cases a "not applicable" response will suffice.

5. STYLE AND CONTENT OF STATEMENTS

Like the 1993 Report the 1994 A&E Annual Report is intended to be a progress report on implementing the Government's A&E Strategy. Department and agency statements should where possible point to corroborative evidence of claims made and provide specific illustrations of measures taken. Instances of "good practice" are welcome.

On the other hand, where obstacles to implementing A&E measures have been encountered or where outcomes have been disappointing, these too should be identified. Such admissions are more likely to be seen as evidence of good intention and effective evaluation than as "black marks" against the agency.

Departments and agencies should place particular emphasis on A&E measures and outcomes at the regional and local level. It is therefore important that they liaise with regional managers in formulating their statements.

6. STYLE AND CONTENT OF THE A&E ANNUAL REPORT

The 1994 A&E Annual Report will broadly follow the format and style of the 1993 Report. The theme will be "Participation", and associated research commissioned by OMA will centre on the participation of A&E target groups in Government decision-making and in providing community feedback on the effectiveness of A&E measures generally and in particular Commonwealth programs.

The "Implementation" section will adopt an analytical cross-portfolio approach to assessing progress towards Government policy objectives through implementation of A&E Strategy measures. While examples will be used throughout to illustrate strengths and weaknesses, the Report will not comprehensively assess the A&E performance of any individual organisation. The Report will attempt to treat departments and agencies in a fair and balanced way.

Particular attention will be paid to the Performance Indicators section and agencies' use of ethnicity data for planning and evaluation purposes. This was identified by the 1993 A&E Annual Report as an area which is particularly deficient across all departments and agencies.

7. FUTURE DIRECTIONS

It may well be the case that in reaching findings and conclusions, recommendations or advice to Government on the future conduct of the Strategy may emerge. If there is a view in your organisation about future directions for A&E which you would like to place on the record please do so in a covering letter to your contribution.

8. DUE DATE

Statements should be lodged with OMA by no later than Wednesday 31 August 1994.

Further clarification and guidance on preparing A&E statements can be obtained from the Access Equity and Legal Section of the Office of Multicultural Affairs. Contact either Mr Con Pagonis on 271 5479 or Ms Liz Harvey on 271 5601 for more information.

Our fax number is 271 5939 and the address for correspondence is:

*Senior Adviser
Access Equity and Legal Section
Office of Multicultural Affairs
Department of the Prime Minister and Cabinet
3-5 National Circuit
BARTON ACT 2600*

CHECKLIST FOR A&E REPORTING

PROGRAM ISSUES

To what extent have your regional/area managers identified key A&E target groups within their areas which require attention in relation to specific departmental programs?

What emerging A&E target groups have regional/area managers identified in the last 12 months and what are their major needs?

Do your regional/area managers promote awareness of accurately and consistently collecting 'country of birth' and 'preferred language' data?

What use is made of such information in the management of A&E?

STAFF TRAINING

What type of A&E, cultural awareness and language services training is conducted in both Central Office and in the regions?

What training packages do you use?

Do staff receive cultural awareness and language services training before working on the counter? Provide descriptions.

How many members of the SES, regional and area managers attended an A&E training course in the past 12 months?

How many people of non-English speaking background (1&2), Aboriginal people, Torres Strait Islanders and South Sea Islanders are on your staff? As a percentage and by level?

Do you check for the possession of language and cross-cultural skills in recruitment? How, and with what results.

If it is policy to recruit counter and other client-contact staff as above, how are the implementation and effectiveness of this policy monitored, in terms of improving A&E for people facing barriers of culture, language, race or religion?

CONSULTATION AND PARTICIPATION

Do your regional/area managers have any established processes for consulting with community representatives of A&E target groups?

What form do these take?

Do community groups participate in the design of programs?

LANGUAGE SERVICES

What significant language service needs have regional/area managers identified over the past 12 months?

How are language service needs identified?

Are there any constraints which have prevented regional/area managers from meeting language services demands?

How many staff are being paid LAPA?

Are the interpreter needs of individual clients recorded?

MEASURES FOR JUDGING PERFORMANCE

How are your A&E priorities determined, both at CO and in the regions? Do you make any special efforts in areas with very heavy concentrations of particular groups?

How often are priorities reviewed and on what basis?

By what means are A&E outcomes monitored at the regional/area level?

What performance indicators or standards are used in determining the overall effectiveness of A&E strategies both in CO and at regional/area level?

How often is there assessment of the success (or otherwise) of A&E strategies implemented in the regions/areas?

BUDGET

How much do you spend on A&E measures?

What proportion of your budget is spent on TIS or other interpreting services?

What would be the cost of fully funding A&E measures that met needs for interpreting?

What proportion of your budget is spent on A&E/cross-cultural training?

COUNTER STAFF ISSUES (targeted on an office in an area with a high percentage of a particular NESB group)

What proportion of staff was born in a NESB country or has NESB parents?

What proportion of staff speaks a language other than English?

What proportion of staff receives LAPA?

What proportion of staff has heard about the Commonwealth Government's A&E Strategy?

How many training sessions on A&E or cultural awareness have Senior Program Managers completed in the past 12 months?

Access & Equity Process

1. **Identify target groups**
2. **Target groups generally**
of specific agencies
of particular actions
3. **Form of message required**
usefulness incl. comprehensibility
visibility
credibility
accessibility
4. **Media for message**
appropriateness
accessibility
timeliness
ability to duplicate

Description

1. **Identify Target Groups**
 - This is simply a process of determining from available data and consultation which groups require greater access to the organisation.
2. **Target Groups**
 - those who are the clients of particular agencies or consumers of their programs or services;
 - those who are generically the subject of actions of agencies, eg. migrants, those with physical disabilities, sole parents, etc.;
 - those, who may be in either of the above, who are disadvantaged by virtue of: physical or intellectual impairment; geographical location; ethnicity; literacy; culture; religion; language capacity; or social isolation.
3. **Form of Message**

Usefulness

 - The message to be communicated must meet the needs of the recipient. It must convey the right amount of information to enable the recipient to take appropriate action (or not to) if that person so decides (including how to contact the organisation or where to get further information).

Visibility

 - Clearly the message must be in a form that it can be located at the time that it is needed. Information on rights of review following an unfavourable determination, for example, should be included in the same

communication. In other circumstances it may be necessary to provide a 'flag' to further information, eg. a poster which indicates where information may be obtained when a person needs it.

Credibility

- The message must be believable and have authority. That is it should convey as accurately as possible what the organisation can do for the recipient without unrealistically raising expectations. In some circumstances it will be appropriate to cite the authority on which the organisations powers are based.

Accessibility

- It must be in a form that is not only comprehensible by the intended recipient but also of a style or presentation that is appropriate.

4. Media for Message

Appropriateness

- A number of considerations apply here. For example printed material is not much use to a blind person; audio tape/video/cartoon may be more appropriate for people from a culture without a written tradition; inclusion in another agency's publication may be the best medium on some occasions, whereas a separate publication reinforcing the independence of the organisation may be the appropriate medium on another.

Accessibility

- The medium chosen should be one which the target group is known to use eg. ethnic broadcasting or newspapers for some from non-English speaking backgrounds, Imparja TV or CAAMA for some Aboriginal groups, Radio Print Handicapped, and so on. FREECALL 1800 telephone numbers can also be an important medium where further information is required but they will be least used by those facing language barriers.
- Community opinion leaders, information 'gatekeepers', MPs, and 'trusted others' are the most effective way, however of reaching most groups who face communication barriers. The use of kits prepared for these people can be especially effective. In some cases associated training may be necessary. The key in these circumstances is that the kit is in a very 'user friendly' format which enables its ready use as a reference by non-experts.
- The use of appropriate technology is also an often overlooked consideration. Information stored on disk or on file servers in government agencies with frequent public contact or in community organisations with an information or advocacy role, can provide a very useful medium. In particular the message can be in a variety of forms that can be selected for the needs of the inquirer and it is in a non-corruptible format

Timeliness

- The key to any message reaching its intended target is the capacity of the medium to deliver it when it is most needed. As mentioned above, information on rights of review or complaint, and how to go about it, are best conveyed to a potential complainant at the time and place that the unfavourable determination is conveyed or unacceptable behaviour takes place. In the case of the latter, clearly this is unlikely to occur, so it is necessary that there be a general awareness of how to find out about one's rights to seek a remedy.

Ability to duplicate

- Whilst this is linked to both appropriateness and accessibility it is a matter that needs to be considered in its own right - and rarely is. In essence it means that in choosing media for transmission of the message it is critical to ensure that the medium itself is able to deliver the message as intended and that the receiver is able to duplicate that message. This encompasses consideration of matters as various as colour and type size through to what a person can recall from a 30 second television advertisement.



OMBUDSMAN

for the

NORTHERN TERRITORY OF AUSTRALIA

and

Delegate of the Commonwealth Ombudsman

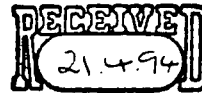
Our Ref: G93/058

Your Ref:

19 April 1994

Mr. Andrew Fraser MP
Chairman
Committee on the Office of the Ombudsman
Room 1144, Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr. Fraser,



I acknowledge receipt of your letter dated 30 March 1994 received in this office on 5 April 1994. This letter is forwarded initially by facsimile, the original being forwarded by mail with the Annual Report enclosed.

I am pleased to supply the following responses to the questions you ask in relation to Access and Awareness strategies.

Access & Awareness Strategies - Ombudsman for the Northern Territory

1. Available information indicates that citizens in the NT generally exhibit a higher level of awareness of the Ombudsman's role and function than do citizens in other jurisdictions.

The number of approaches received, when expressed in terms of the population, is comparable to a similar high level of awareness prevalent in the ACT. Whilst there is no real evidence to support a definitive explanation for why this is so, coincidentally, both the ACT and the NT have disproportionately high public sector employment levels. In addition, the NT has a growing Defence Force presence.

Problem areas identified relate to the disproportionately low number of approaches made by:

- (a) Aborigines
- (b) Women
- (c) Persons of Greek or Asian origin.

2. Awareness strategies:

Annual Report

This, and the associated media coverage, provide an opportunity to increase awareness. The format and style of the Annual Report are being reviewed to ensure wide circulation and understanding.

Publication of a Corporate Plan for the Office

Visits

Regular visits to other centres are made by various investigation officers, to receive complaints, investigate current complaints, give talks, attend meetings, and to generally be seen to be accessible and available to members of the public. All visits of this nature are promoted in the newspapers, radio, TV, public notice boards, and by personal letter to Members of the Legislative Assembly, and the local Municipal Council.

Lectures & talks

Over a number of years a program has been developed which caters for Year 11 & 12 High School students throughout the NT and University students. Invitations/requests for speakers from this Office, received from any interest group, are carefully considered to ensure that the most appropriate member of staff is selected to make the presentation. Such groups would include, young homeless housed in government funded shelters, pensioners, etc.

Advisory brochures/pamphlets

At present a simplified brochure is distributed to the public. An expanded brochure is also produced and is supplied to complainants where appropriate. Both brochures are under review both as to content and appropriate languages. A card is to be produced in a number of languages.

Messages on hold

A recorded series of messages about the Ombudsman's role and functions that automatically play, when a telephone caller is placed on hold. This has now been followed by a number of Ombudsmen's Offices.

Corporate membership

Being a corporate member of the Friends of the Darwin Symphony Orchestra provides promotional space in performance programmes. Material is tailored to the particular performance theme.

Newspaper space

Occasionally newspaper advertising space is purchased to publicise the services provided. More recently, this material has been in languages other than English.

Television

Occasionally, time is bought on the Aboriginal TV station in Alice Springs. Voice overs are translated into one of the three major Aboriginal languages.

Competitions

Participation in the Northern Territory Public Sector Annual Report Awards.

3. Yes.

Target groups are selected on the basis of their:

- a) gender
- b) ethnicity - Aboriginal & Torres Strait Islanders
- c) English as a second language
- d) physical disability
- e) mental disability
- f) geographic isolation

4. No. Employment of an Aboriginal Liaison Officer (either direct or by arrangement with the Commonwealth Ombudsman) has been under consideration.

5. The success of access and awareness strategies is measured by the collection, collation and analysis of appropriate data.

6. Yes. Specific criteria for public awareness contained in the Corporate Plan are:

- "1. At least 4 community organisations will be addressed in each year.
- 2. At least 3 different locations will be visited each year to receive complaints.
- 3. At least 1 media interview will be held each year.
- 4. A detailed brochure providing information about the Ombudsman in the English language will be distributed each year.
- 5. A summary brochure providing information about the Ombudsman in a number of languages, including English, will be distributed each year.
- 6. Entries will be maintained in at least two major directories circulating in the Northern Territory."

7. Not at this time.

8. Provision to collect data about people from non-English speaking backgrounds will be re-introduced on 1 July 1994.

Aborigines - Yes

Other minority/disadvantaged groups - No

9. No. The first survey will be undertaken in 1994/95.


10. My Office does not provide interpreting/translation services. Arrangements are able to be made to utilise the Translation Interpreter Service (TIS). Access to written document translators is readily available.

11. Whilst there will always be a need to use traditional methods of trying to convey meaningful information, such as brochures, I am convinced media coverage of the activities of the Ombudsman, addressing community groups and favourable word

of mouth recommendations are the most effective methods of communicating information about the Ombudsman's Office.

I hope the provision of this information will be of assistance to you. Once your final report is complete, I would be most interested in receiving a copy.

Yours sincerely,


I.V. KNIGHT
Ombudsman

Encl.



QUEENSLAND

PARLIAMENTARY COMMISSIONER FOR ADMINISTRATIVE INVESTIGATIONS
(OMBUDSMAN)

Your Ref.

In reply please quote

25th Floor, Jetset Centre
288 Edward Street
BRISBANE QLD. 4000

Telephone (07) 229 5116
Facsimile (07) 221 0836

19 April 1994

Mr A Fraser MP
Chairman
Committee on the Office of the
Ombudsman
Room 1144 Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Fraser

I refer to your letter received on 5 April last requesting advice in relation to access to my Office by various community groups.

Attached is a statement in the format requested, as well as a copy of the 1992/93 Annual Report of my Office which your Committee has also requested.

I trust the information is of assistance. If I can advise further please let me know.

Yours faithfully


F N Albietz
Commissioner

ATTACHMENT 1

Access and Awareness Strategies in Ombudsman jurisdictions other than New South Wales

- (1) **Do you see any problem areas in relation to awareness and understanding in the community of your role and function?**

I see no specific problem area. I see a general problem in alerting the public to the existence and purpose of my Office. Secrecy provisions in governing legislation and a lack of resources for publicity purposes are probably the main two causes for this. This is no doubt a common problem for many review bodies except perhaps those that deal with crime and corruption, matters in respect of which media are very interested.

- (2) **What strategies are currently employed by your Office to promote a greater understanding and awareness of the Ombudsman and his functions? If not, are there proposals to initiate such strategies in the future?**

The basic strategy is a comprehensive program of visits to major provincial, rural and near metropolitan centres to enable citizens to put their concerns directly to representatives of my Office. The visits are preceded by advertisements in the local media and perhaps a news article, and often generate interest in the local media afterwards.

I believe that for this reason my Office is far better known and understood in non-metropolitan areas than metropolitan areas.

A second strategy is to ensure that my annual report to Parliament is written and presented in such a way as to be of interest to the media. Issues are not sensationalised but are selected for what might appeal to the public interest.

A third strategy is the publication at regular intervals of the Ombudsman Casebook Series by various newspapers.

A fourth strategy is to respond to media inquiries as far as my Act permits.

Some of the strategies I have mentioned are contained in the article on "Public Awareness" which appears in the enclosed Annual Report.

- (3) **Are particular target groups selected for access and awareness strategies? If so, how are these target groups selected?**

Brochures publicising my Office have been printed in languages other than English and circulated through relevant ethnic organisations. Advertisements have also been placed on Brisbane ethnic radio.

Visits are made regularly to a number of Aboriginal and Torres Strait Islander Councils throughout the State. These visits attract varying degrees of interest from the local community. However, on anecdotal evidence at least, it would seem that local Aboriginal and Torres Strait Islander Legal Services and other such organisations may provide similar services to this Office in those communities and are perhaps more accessible.

My officers visit nearly every prison in the State at least once a year and make themselves available to inmates for discussion. Prisons provide the largest single area of complaint for this Office. My staff have spent considerable time working with the Queensland Corrective Services Commission to ensure that inmates have direct and speedy access to this Office's services.

I am currently considering the question of access by young people to my Office and discussions are proposed with the Department of Family Services.

My Office is perhaps unusual, if not unique, in Australia in that I conduct a regular program of visits to regional areas throughout Queensland including Aboriginal and Torres Strait Island Councils and non-metropolitan prisons.

- (4) Do your staffing arrangements include provision for officers specially dedicated for this purpose, for example, a Youth Liaison officer or Aboriginal Liaison Officer?**

Funding has been sought for officers of this nature but has not been forthcoming.

- (5) If access and awareness strategies are currently employed, how is their success measured?**

The success of the strategies outlined above is difficult to measure. Suffice to say that complaint numbers are increasing significantly each year particularly in the area of prisons. Insofar as an increase in the complaint numbers is a measurement of whether prisoners are aware of my services, I believe the strategies are a success.

The overall increase in demand for services by this Office which has been in the order of some 100 per cent in five years.

- (6) Are access and awareness strategies incorporated in your Office's Corporate Plan? If so, do these programs have performance measures?**

Accessibility to my Office by all sections of the Queensland community is one of the five goals outlined in the current Corporate Plan for my Office.

To date however it has not been possible to formulate meaningful verifiable performance measures. I have refrained from developing or putting forward performance measures which cannot be verified.

(7) Is your Office required to produce an Ethnic Affairs Policy Statement?

No.

(8) Does your Office maintain statistics regarding the number of complaints from people of non-English speaking background, Aborigines or other minority or disadvantaged groups?

No, other than complaints by prisoners. Otherwise I don't see how it would be possible to collate such statistics.

(9) Does your Office conduct complainant satisfaction surveys and, if so, how frequently?

My Office is in the process of laying the groundwork for such a survey. Surveys will be conducted as and when funds permit.

(10) What type of interpreting and translation services are offered by your Office?

None. Any problems are resolved on a case by case basis and indeed I can recall only one problem in recent times and this was easily overcome.

(11) What methods of communicating more information about your Office do you think would be most successful and why (e.g., radio, newspapers pamphlets, public meetings)?

On regional visits I often ask complainants how they learned of my being in the area and invariably the answer is "through the local newspaper". This may mean that the matter has received more publicity in the newspaper than, for example, the local radio station, but over time I have formed the view that newspapers are probably a more effective medium, either via advertisements or news articles, than radio or television. Perhaps newspapers provide more detail than radio or television "clips".

This Office does provide pamphlets upon request but not as part of any publicity program. I have not considered the possibility of public meetings.

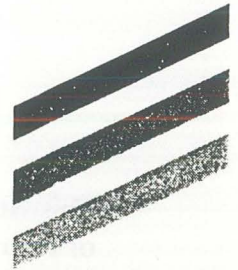


F N Albietz
Commissioner



SOUTH AUSTRALIA

OMBUDSMAN



RE
13.4.94

Enquiries
Telephone
My Reference
Your Reference

CONFIRMATION OF FAX

13 April, 1994

Mr Andrew Fraser, MP
Chairman
Committee on the Office of the
Ombudsman
Room 1144
Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Fraser

I refer to your letter relating to an enquiry into access to services provided by the Ombudsman which was received by this Office on 5 April 1994.

The issue of access and awareness with essentially a centralised Office having an ever-increasing and multifarious jurisdictional growth will be one of concern to many Ombudsmen as evidenced by the comparable and extensive writings to be found in various places in the world. This very subject provoked considerable discussion at the Fifth International Conference of Ombudsmen held in Vienna in 1992 and is seriously being considered by the Board of Directors of the International Ombudsman Institute as one of the themes of the next International Conference in 1996. (*See Attachment A*)

There will be no universal solution but I am sure that there is much to be gained by comparing the practical measures which are being adopted throughout the world with varying degrees of success.

There are Ombudsman jurisdictions, viz in some Canadian Provinces which you will find make ample provision for multi-lingual skills and employ persons of different cultural background within the Ombudsman Office. There are other jurisdictions, such as my own, when other practical measures must be adopted to achieve within the necessary financial constraints the same objectives. The population of South Australia is under 1.5 million. Distinct and separate Aboriginal tribal groups inhabit various parts of the State. Others reside in the metropolitan area of Adelaide or regional centres and country towns.

This State enjoys as do most parts of Australia a diversity of cultures, with concentrations of ethnic communities in both the metropolitan area and other parts of the State.

When I was appointed to Office, I commenced an active programme of direct personal networking with the appropriate State agencies and community organisations. This has been a long but rewarding process. I appointed a part-time Aboriginal Liaison Officer who was located in the Northern town of Port Augusta and had extensive contacts with the Aboriginal communities. I became a member of the State Multicultural Forum and rely extensively on direct personal networks in promoting awareness about the Ombudsman functions.

In 1986, I commenced and have maintained a regular programme of circuit complaint hearings in all regional centres of the State on a regular basis. For it has been my early experience that metropolitan awareness was much higher than that in the country areas. All has been carried out in a balanced fashion with due regard for the needs of the public and the limited resources of my Office. Over-promotion of the Ombudsman may in my opinion defeat the primary objects of an effective awareness programme and convey to the general public the wrong impressions of the Ombudsman role viz, the Ombudsman is a Public Advocate, the Ombudsman is a Political Alternative, or the Ombudsman is a General Complaints Office etc.

Also for a number of years I kept up an active programme of contact with major ethnic communities. The results however of this contact programme appear to be negligible. I believe that the reason for this was the lack of continuity of contact with appropriate networks. The contact programme has however been reactivated.

More recently, I have developed new strategies with direct personal links with Aboriginal Tribal Groups and have extended these across the border with the former Victorian Ombudsman, Norman Geschke. Aboriginal groups themselves often have direct links that are not separated by political or administrative boundaries. These joint efforts were achieved with the Victorian Ombudsman in pursuance of a specific Cooperative Arrangement entered into last year. (*See Attachment 1*) What happens in the case of Aboriginal groups is that a "spokesperson" for the group is identified and an informal arrangement is entered into between this Office and the Official Spokesperson for the group. Contact is maintained with the Spokesperson and through this network, the Aboriginal people learn about the South Australian Ombudsman jurisdiction and other Ombudsman jurisdictions.

A similar understanding exists with the Office of Multicultural and Ethnic Affairs with whom I maintain contact and it is through such networks that contact is established with ethnic communities. Although I have had now for a number of years pamphlets in various languages, I have not found such "written" communication to be effective. However, much more needs to be done by way of direct contact and networking with social workers and other persons who have immediate contact with ethnic communities.

Most, if not all Ombudsman to a varying degree also release information to the media. This is I think a legitimate process of public education, but often fraught with other difficulties, for the media will only inform the literate in the context of a story of interest.

I now refer to your specific questions.

I now refer to your specific questions.

1. Discussed above.
2. See Extracts from Annual Reports to parliament. (*See Attachment 2*)
3. Yes aboriginal people, ethnic communities. My selection of targets programmed with other events, such as regional circuits.
4. No special staffing arrangements currently in existence. Communications effected between the Ombudsman personally or his delegate.

Networks include Office of Multicultural and Ethnic Affairs, Children's Interest Bureau and the Office of Aboriginal Affairs as well as spokespersons within Ethnic Communities and Aboriginal Tribal Groups or other aboriginal organisations.

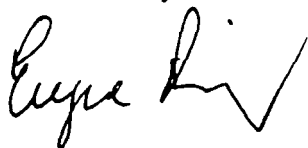
5. The only measurement so far achieved is the identity and sources of certain complaints. There has been an appreciable increase of relevant complaints in the aboriginal context in recent years.
6. Yes. (*See Attachment 3*)
7. No.
8. Statistics too generalised in this regard. Although it is relatively easy to maintain statistics of complaints from distinct tribal groups it is not possible to identify all cases of aboriginality or ethnicity, especially in cases when the cultural background is not relevant to the complaint itself. Only a reasonable assessment of such background may be made in appropriate cases. In certain cases this Office may be specifically alerted to the cultural background as part of the "res gestae" of the case (i.e. relevant background).

(*See extracts from Annual Reports – See Attachment 4*)

9. No. Only evidence arising out of direct correspondence from complainants which may be obviously indicative of "satisfaction" or "dissatisfaction".
10. Although a number of officers including the Ombudsman speak various languages other than English, only one officer is an accredited interpreter in the Spanish Language. The Office is capable of understanding the Slavonic languages, Greek and Spanish. However, when official translations or interpretations are necessary, arrangements may be readily effected by arrangement for accredited interpreters.
11. Television and Radio have been found to be a more effective process of mass communication of general information concerning role and function of the Ombudsman. Previous surveys have shown that radio and local country newspapers are particularly effective in country regions. Public meetings are sometimes useful in the case of special situations that permit discussion and

exchange of views, but have only a limited outreach. The most effective process however, seems to be in my State, that of networking through professional persons and organisations whose more simple message to complainants is "Go see the Ombudsman" which often results in some further communication with the Office that has an educative value for the inquirer. The range and cross-section of complaints across all socio-economic groups and cultural groups of society, including both populated and remote areas of the State suggest to me that a moderate degree of "advertising" of services may be necessary to advance awareness, but the higher order of understanding will be better achieved by release and publication of reports of significance and announcements having a public interest content. It is also my practice to disperse the Ombudsman Annual Reports from time to time with libraries, community groups such as Rotary, Probus or Schools and other organisations. Each year however, new targets must be identified and set in order to maintain a vitality in the service awareness message, which if repeated in its usual prosaic form with the same target groups and in competition with all the other service awareness messages that are directed at all communities will become stale, uninteresting and ineffective. It is a matter of psychological reality (mnemonics) that only the most horrible of cases or the most colourful of events will be remembered best and longest. Continuing awareness will be best achieved in this State by developing information networks and effective person to person referral systems.

Yours sincerely

A handwritten signature in black ink, appearing to read 'E Biganovsky', with a stylized flourish at the end.

E Biganovsky
OMBUDSMAN

Attachment A

Internationales
Ombudsmann-Institut

International
Ombudsman Institute

Volksanwaltschaft
der Republik Österreich

Austrian Ombudsman Board
Volksanwaltschaft



Fünfte Internationale
Ombudsmann-Konferenz

vom 11. - 16. Oktober 1992 in Wien

Fifth International
Ombudsman Conference

Oct. 11th - Oct. 16th, 1992 in Vienna

Bericht
Report

et d'assistance pour les victimes d'accidents. Voilà Monsieur le président, je pense, pour terminer, que cette intervention en équité doit devenir une des bases de nos institutions.

S. Ramón ESCOBAR, Venezuela

Señor Presidente:

En primer lugar quiero invitar a los asistentes a esa reunión a que lean un papel que se ha distribuido en inglés, perdón, en español, en inglés y en francés en donde se explican las funciones que tiene el Ministerio Público en Venezuela.

Quiero decir lo siguiente: El fiscal general de la República, que es mi función en Venezuela, es un funcionario electo por el parlamento por 5 años, igual que el Presidente de la República. Y además de eso es la cuarta personalidad del Estado. Primero el Presidente de la República, después el presidente del parlamento, el presidente de la Corte y después el fiscal general. Tiene por lo tanto funciones constitucionales.

Ahora bien, es muy importante que se sepa que esta institución es el producto del mestizaje cultural venezolano y latinoamericano. Es un producto muy original de Venezuela porque yo tengo las funciones que tiene en España por ejemplo el fiscal general del Estado y que tiene el Defensor del Pueblo. Esto podrá ser metodológicamente bueno o malo, pero es así en Venezuela y estamos haciendo una experiencia importante en esta forma.

En este momento por ejemplo el fiscal general tiene a su cargo la defensa de los derechos humanos, las reclamaciones por los servicios públicos, los juicios por corrupción que es muy alta en Venezuela como en otros países de América Latina y del mundo. Y además de eso tiene una función rectora en la sociedad a tal punto de que la credibilidad y las encuestas de opinión revelan que el grado de aceptación que tiene en la opinión pública el fiscal general es una de las más altas cuotas de simpatía y de apoyo de opinión. De modo que esto revela que en Venezuela como en otros países de América Latina hay una reacción que es necesario tomar en cuenta. Hay una crisis profunda en América pero esa crisis no hay que verla hoy como la vieja confrontación entre dictadura y democracia, sino como una lucha dentro de la misma democracia por hacerla más decente, más honesta y más eficiente. Y en el caso venezolano el fiscal general y el Ministerio Público están envueltos en una confrontación en todos estos frentes a la vez: la lucha contra la corrupción, la lucha por los derechos humanos y la lucha por la mejora o la mejoría y la eficiencia de los servicios públicos.

Quiero subrayar algo que considero fundamental: hay que dejarle ambiente a la originalidad. Cada país y cada cultura tiene su originalidad. No podemos aspirar a que haya un solo modelo de Ombudsman. Hay muchas maneras de hablar en prosa sin saberlo, como en época de Molière. Hay muchas maneras de ser Ombudsman. En el caso venezolano es una, puede haber otras.

Y termino diciendo lo siguiente: Ayer se conmemoró el Quinto Centenario de América. Y en el siglo XVI hubo un Ombudsman en América, algo que ennoblece a la cultura hispana en América y algo que ennoblece a cualquier pueblo del mundo. Fue el fraile Bartolomé de las Casas que frente a las corrientes esclavistas de la época levantó la bandera de los derechos humanos de los pueblos originales de América, de las razas aborígenes. Así como hubo esa variedad entonces puede haber otras variedades hoy. O sea que el campo del Ombudsman tiene que fertilizarse con todas las culturas, y no crearse un modelo mecánico, estricto de Ombudsman, sino dejar la creatividad a todos los pueblos para enriquecer la lucha por la libertad, por la dignidad y los derechos humanos.

Wednesday, 14 October - plenary session

Topic: **The Ombudsman and other cultures**

Chair: Steven OWEN, Ombudsman, Canada

Mr. Stephen OWEN, Chairman

Good morning, ombudsman colleagues, officials, and observers from around the world. We have the, I think, interesting prospect this morning of comparing some of our different cultural outlooks, and

considering how these bear on the work of ombudsmanship. The rapid expansion of democracy around the world, of course, and the corresponding expansion of the ombudsman concept has presented us with extraordinary challenges and also opportunities. We have the fundamental principles of ombudsmanship, which have been developed in the European models and spread around the world. But we also have the challenge of, while remaining true to those fundamental principles of fair treatment of citizens by their governments, and the holding of governments accountable to individual citizens, we also have the challenge of adapting these principles to different forms of government, but also to different cultural settings. And this raises two important questions for us, I think, at least. How can the classical ombudsman model be made useful to democratic situations in other cultures - both from a cultural point of view and from a democratic institutional point of view. But every bit as important: How can we all draw on the very rich mix of cultural backgrounds that is represented in this room and in the world ombudsman community. How can we draw on traditional principles of fairness and democracy, and social government, to strengthen the concept of ombudsmanship.

We are very fortunate this morning to have as our speaker Roberta Jamieson, who is the ombudsman for the province of Ontario in Canada. Ontario has more than one third of the people of Canada within its province, and Roberta Jamieson received 33000 complaints last year in her role as ombudsman. Fortunately she has a very able staff to assist her in that. Ms. Jamieson has a very interesting background, to say the least. She is a member of the Mohawk nation, which is part of the Iroquois Confederacy. She was the first North American Indian woman to receive her law degree from the University of Western Ontario. She has been distinguished by receiving four honorary Doctor of Law degrees from different universities. She is a former chairperson of the Indian Commission of Ontario. She has served on a national commission in Canada which travelled across the country to look at ways of achieving self-government for aboriginal people in Canada, and she has had a distinguished career in alternative dispute resolution, recognized nationally and internationally for her important work. Ms. Jamieson's cultural background raises an interesting prospect for us, as we think of how our cultures influence each other in international affairs. Interestingly, the early political thinkers of the European Enlightenment, including Thomas Moore, de Montaigne, Thomas Payne, Rousseau, and then later de Tocqueville, all - somewhat romantically perhaps, but - drew on early ethnographic studies of the American Indian culture in contrasting the liberty that they recognized within these cultures compared to what Montaigne called the virtual enslavement of the people of Europe in the 17th and 18th centuries. And they looked very much towards the American Indian cultural model as an inspiration for ideas of political enlightenment. The early settlers, colonizers from Europe in the Americas were often, of course, fleeing the oppression of Europe of the time. And they looked back to their political thinkers, some of the French and English political thinkers of the Enlightenment for the inspiration for the American Revolution. Interesting play back and forth. And, of course, the American Revolution became the inspiration for the subsequent political revolutions in Europe. The European revolutions unleashed political thought across a wide spectrum of different political models and thinking, one of which was pacific anarchism which, back across the Atlantic, was picked up by Thoreau, as he retreated to nature and developed his ideas of civil disobedience, which was of course picked up by Gandhi in the early 20th century and became the inspiration for the movement that led to the independence of Pakistan and India, which in turn led to the end of colonial governments around the world. And we find ourselves back in the Americas now, finally paying some attention to - some serious attention, I hope - to the several hundred years of injustice that colonial government and now the dominant European society, particularly in North America, the injustice that they've caused to the American Indian culture. And some movements towards real self-government for aboriginal people in the Americas is now taking place. And we have an interesting circle internationally and of course, that's just one example of the strains of influence, cultural influence that bind the world, and which this group is an interesting and important example of. I do not want to suggest that the whole political democratic development of the world can be traced back to the Mohawk nation, but clearly it is an example that is very helpful to us.

In our workshop this morning, following Ms. Jamieson's speech, we have the opportunity to draw on the wide richness of our international ombudsman community, where we will have participants speaking from different cultural backgrounds as diverse as the ombudsman from Guatemala and El Salvador to Tanzania, Uganda, Zambia, India and Pakistan, and Papua New Guinea, and this promises to be an immensely rich and important discussion and perhaps example from our particular discipline

into much wider international considerations. So with that introduction I would like to invite Roberta Jamieson to address us

Lecturer: Roberta JAMIESON, Ombudsman of Ontario, Canada

The Ombudsman:

Learning from other Cultures by Roberta JAMIESON, Ombudsman of Ontario, Canada

It seems deliciously poetic that on this 500th anniversary of the arrival of Columbus in the Americas that a Mohawk should be giving a lecture in Europe to a group of people who are dedicated to fairness and justice

1492 evokes different thoughts for different peoples - Europeans tend to view this event of history in one light, and those from Africa or Asia may respond quite differently. And of course, from the viewpoint of the Original Peoples of the Americas, the response will be something quite different still. You will forgive me, then, if I see the post-1492 events from a different perspective than that which is accepted as history by the industrialized world. I'm afraid we all have had our mindsets profoundly misoriented by a sanitized self-justifying "official" version of the truth which continues to be taught to each new generation of students

You will understand that I might not perceive the highly celebrated anniversary of 1492 not as one of "discovery", but one of encounter of two cultures in which each had something to share with the other. From my perspective, Columbus discovered nothing - the world he encountered was already known.

It was the home to millions of human beings whose lives for generations to come would be profoundly affected by "being discovered".

Columbus, and those who followed him generally encountered in the Americas friendly, intelligent, generous peoples who had successfully woven a daily lifestyle around spiritual principles.

The diaries of explorers are filled with their wonder about the advanced state of medicine, the knowledge of astronomy, the progress of agricultural sciences. Cortez could not believe the organized economy, the clean and beautiful cities with their parks and schools which he found in Mexico. Most significantly, as European front-runners were followed by learned travellers and observers, they found sophisticated people with progressive concepts of freedom, liberty, human rights. They found political organizations with men and women having an equal voice in community and political affairs.

They saw and wrote about highly-organized governments and confederations, justice systems, and mechanisms to reduce and resolve conflict.

The European writers were amazed that the leaders considered themselves to be servants of the people, and because of their constant giving, were often materially poor.

Imagine how this must have seemed to Europeans whose views of human beings revolved on the concept of the divine right of kings and queens who were needed to manage the affairs of subjects incapable of governing themselves! Rousseau and other philosophers wrote on the meaning of this newly-discovered phenomena with excitement. The discovery was revolutionary, and in fact, led to revolution in the Americas, France, and elsewhere. Tragically, the encounter of two cultures was largely one-sided.

Entire peoples disappeared in an invasion of greed, arrogance, brutality, self-created myths of superiority and self-assumed God-given right.

Those who survived were submitted to state-and-church sanctioned colonial controls and official marginalization which in many countries continues to this very day.

While it is usually not attributed to Columbus, the concept of discovery and its companion, colonialism, extended beyond the Americas into Africa, Asia, India, Australia and the Pacific.

The full depth of this sad truth is available to all those who pursue it in the accounts of the day, and the result is there for all to see.

Around the world, the indigenous, original People, the First Nations as we call ourselves in Canada, encounter tragic problems even with those governments which the world judges to have high standards of democracy.

Even in prosperous nations, the indigenous people often live in circumstances which the United Nations defines as abject poverty, the poorest of the poor.

Worse, the victims of these officially-sanctioned actions are often blamed for their condition by citing it as proof of some inherent inferiority that gives justification to the events of history.

On every continent, you will find indigenous peoples dealing with severe problems arising from geographical and cultural isolation, problems of overt and unconscious racism and discrimination, problems of language and cultural misunderstanding, lack of awareness of rights, responsibilities and process, problems of people just having given up trying to be heard and understood.

Often majority populations deny the very existence of indigenous communities. For five hundred years, the ill-fated scenario has been playing itself out. The attitudes which accompanied Columbus are nearing their inherent dead end, and the search is on for a way out. The curtain has not yet opened on the final act.

In 1992, we find ourselves still unable to enjoy a celebration of human progress. Rather we found the world's leaders gathered on the anniversary in Brazil at an Earth Summit trying to decide what must be done so that life on the planet will not come to an end. Both worlds, you see, have been the losers in the encounter. Can you imagine where we might be today if instead of colonizing there had been an exchange of ideas? if peoples had entered into joint ventures? exchanged professors? taught each other appropriate technologies? What an opportunity!

A few decades ago, it was widely assumed that Original Peoples would simply fade from the face of the Earth. This fate was said to be the result of their inability to adjust to the modern world.

In North America, the passing of the Vanishing Indian was noted with a mixture of sadness and pride in civilization's advance. It was only a question of time.

But the Western World, a victim of its own practices, now finds itself its own race against time for survival.

If we can both hold out long enough, we might be able to address the question which has gone unanswered for 500 years: what do we have to teach each other which will help ensure our respective survival?

Fortunately, I am able to join you not as a quaint remnant of the past, a curiosity who has survived the harsh currents of history, but rather as a messenger to suggest a path to the future.

I am sorry if my words thus far have been harsh to your ears, but the preamble is a necessary one. Unless you consider these thoughts, you will be unable to make much sense of the rest of what I have to say.

It is particularly important for this conference to be aware of the issues because unfortunately, we seem to find parliamentary government and colonialism walking the path of history hand-in-hand.

Ironically, we also find the Ombudsman is also generally the offspring of parliamentary government. The net result and fact is that Ombudsmen are generally found in countries which have colonized indigenous populations.

As purveyors of fairness and justice, we must make sure we are not associated with the abusive injustices of colonial thinking.

I have been thinking for over a year now about what I might say today that would be helpful.

My thoughts spiralled around three basic questions

I wondered what the Ombudsman concept might have to offer nations who are struggling to locate the just balance between people and government

Conversely, recalling my own experience, I wondered what other indigenous cultures might have to offer to strengthen the Ombudsman concept

And third, I wondered what I might offer to help bridge the gap between institutions such as the Ombudsman and indigenous peoples or those of other cultures in the population

Let me first help to bring our minds together to appreciate our common circumstances.

We are meeting at a time of exciting, frightening, challenging rapid change in a world that is being reshaped by technology and exponential population growth.

Technological change simultaneously assaults us and fascinates us with its miracles. Technology is making the global village a reality, while at the same time making survival in that village more difficult.

New institutions are being formed as obsolete or irrelevant institutions fade away. The Commonwealth of Independent States could not even be imagined when the last International Conference of Ombudsman was held and new nations which could not be found in any official atlas are now members of the United Nations.

We have the option and opportunity of adapting our offices to a world, a very different world than that which has spawned widespread establishment of the Ombudsman institution. We cannot risk ignoring the opportunities which are open to us now.

Changes are taking place in every direction at once and the world seems to have come full circle. Empires accustomed to vanquishing external threats are eaten away from within. A two-way redistribution of power is reshaping planetary politics.

It seems that as people accustomed to determining their own destiny find themselves subject to global forces and controls necessary to create massive supranational entities - the North American Free Trade Agreement, or the European Community, for example - our human nature causes us to look to our cultural and religious roots for a human-scale grouping.

A positive sense of identity and a community in which it can be expressed and which can offer us support is fundamental to our humanness.

The shift from small to large often is counterbalanced by a shift from large to small. We see the rise of nationalism, ethnic pride and/or the resurgence of long-suppressed tribal ties.

This human struggle for empowerment tends not to respect artificially-drawn borders.

In some cases, that means liberation. In other cases, it means tragedy. Like beautiful flowers, many rich cultures are fragile, and once crushed are not easily renewed. As new circumstances unfold, different groups are articulating their aspirations, making demands, insisting upon change. Each has their own interpretation of civil rights and liberties, and often there is conflict one with the other.

We are witnessing a demystifying of governments of all stripes - people are demanding almost unrealistic levels of accountability while at the same time demanding that government relieve them of responsibility for achievement. The people are letting politicians know that their edicts will no longer be accepted at face value.

We are encouraged with the spread of democracy and protection of human rights in Mexico, in Central and South America, and elsewhere. The people of Eastern Europe are demanding new accountability of their leaders.

To succeed today, governments are having to learn how to include a wide variety of sectors in their decision-making.

Where nation-states can gracefully incorporate pluralism, the redistribution of power is likely to be peaceful. Where there is unfortunate coercion to maintain the status quo, thwarted redistribution of power explodes into tragic violence.

In every case, we have to ask: what does this mean to the Ombudsmanship?

We are also witnessing the growth of multinational corporations with more employees than some countries have people, and with annual outputs greater than many nations. These supranational entities are not limited by borders or loyalties. They are free to shop around for the location and the government that will offer them the best deal.

Decisions made by a company may affect the lives of hundreds of thousands of people more severely than any decision made by government. How do all these changes affect the role of the Ombudsman?

In every aspect of our lives, the easily understood conflicts of individuals and government are being overtaken by complex multiparty issues which cannot be solved through adversarial processes—end use disputes and environmental concerns, to cite two examples.

Complex configurations of interests find themselves in intense confrontation in new arenas, unresponsive to resolution by laws, courts or edicts.

Almost all modern conflict includes and involves government in some dominant role.

That means Ombudsmen are well placed jurisdictionally and philosophically to give effective leadership in the consensual resolution of such disputes.

That is why I am addressing you today.

I have hope - well-founded, I believe - that Ombudsman can and will begin to address a number of challenging questions:

Is it possible that the indigenous cultures may offer us some guidance in evolving the role of Ombudsman as we enter the 21st Century?

Is it possible that the position of leadership in conflict resolution which Ombudsmen have attained will enable us to assist in putting longstanding issues to rest so that indigenous people will be able to make their full contribution to the world?

I am the eternal optimist, even after 500 years. I am confident we can do this.

We have the flexibility to help governments move towards the future in practical direction, a trait not often found in courts whose adherence to precedent is more likely to keep them in the past. As well, laws with respect to indigenous people have often supported political convenience more than fairness. The only way out of the maze is to facilitate political rather than legal resolution.

I am encouraged because I see a reversal of a number of worrisome trends.

In the dehumanized industrialized world, we are seeing renewed appreciation of the need to reinvent and reaffirm universal human values—family, peaceful coexistence, respect.

Even companies are rediscovering participatory management and cooperative teamwork being essential to their success.

There is palpable desire in societies which have embraced individualistic materialism to return to a new spirituality and harmonious living with the natural world.

Both in Canada and around the world, I see many people coming to the realization that survival individually, collectively, and perhaps even as a species depends on our ability to accommodate change and diversity.

This means a willingness to do things differently, a willingness to explore new ways to reduce conflict and resolve disputes. This means being open to new ways of seeing the world.

Ironically, all these things which are now so eagerly sought by those whose development is leading them headlong into danger are the very things which indigenous people have known well before 1492. Sustainable development, acceptance of diversity, respect for the environment, nonviolence in human affairs, etc., are now being rediscovered and appreciated and have been well-known principles among indigenous peoples.

So I am optimistic too because of the current of the times, the way the wind is blowing.

I am encouraged because against the landscape of changing paradigms and resurgence of human values, Ombudsman institutions are being created in more and more countries.

People are looking for ways to ensure their governments are fair. Could I issue a gentle word of caution?

As we help peoples of other nations achieve higher degrees of human rights and administrative fairness, we must be constantly alert lest with the best of intentions we act in a way which repeats or compounds the colonial experience which so many of these countries are struggling to shrug off.

In other words, we must ensure that we share what we know about Ombudsmanship while at the same time encouraging accommodation of traditional concepts and mechanisms for the resolution of disputes between people and authority. In the process, I am sure you will discover strengths, insights, and traditional knowledge.

You will find people who are willing to join with you as joint participants in creating change.

Through our own self-analysis, we must make sure we accept that Western culture does not and did not have a monopoly on concepts associated with fairness, justice, and democracy.

The role of Ombudsman as willing listener, vigorous investigator, master persuader, and skillful mediator seeking balanced resolution is manifested in many shapes and means in the rich bouquet of the world's cultures.

Can we share and be culturally sensitive? Of course. Can we recognize what other generations did not that all cultures have inherent value?

Can we build on existing traditionally appropriate ways of settling disputes between people and government? There is no doubt that we can.

We can demonstrate that we have adapted our own way of thinking so we can assist governments to adapt Ombudsmanship to cultural difference.

Can we find that flexibility? As Stephen Owen has said, "Both cultural heritage and current political reality make it essential that we interpret the concept of Ombudsmanship in a broad way so that it can realize its maximum effect in very different situations."

If indigenous people are to be accommodated, we have to find new ways, new institutions to approach this challenge

We have to discover how to take into account the dynamics and differing perspectives.

We must understand we are developing partnerships it is not good enough for one side to offer to open its doors to let the other side in.

I hope that those Ombudsmen who, like myself, have indigenous roots will see that it is not necessary for us to be limited to the classical Ombudsman model. We are free to turn to our own heritage for guidance. As we enrich our own practice, we will also enrich the international Ombudsman community in the process

The world has been deprived for too long of the full contribution of indigenous peoples.

Western institutions and political science are considered as prestigious, worthy of academic investigation, discussed in the literature, the subject of international conferences. Indigenous people, however, are only the object of study of anthropologists.

The result is that indigenous institutions are ridiculed and put down as quaint and antiquated.

Indigenous people are pressured to consider their own institutions and practices to be inferior habits to be put behind them as part of their acculturation process.

It is important that when it comes to Ombudsmanship that we do not follow the same pattern.

Since my appointment as Ombudsman of Ontario, I have been able to draw upon my background as a member of the Mohawk Nation, a Canadian First Nation of indigenous people, to assist me in non-adversarial conflict resolution.

Like many peoples of the world, the Mohawk People have their own sacred messenger who gave them rules on which to base their lives and governments.

The conduct of Mohawk affairs is based on the Great Law or the Great Peace which mandated all citizens to be peacemakers.

The Great Peace instructs us to be generous, to consider all criticism with great care before rejecting it, to place unity and peace at the top of our hierarchy of values.

The Great Peace instructs us how to conduct ourselves in debates so that reaching consensus will be easier. It established a bicameral system of representative government.

Certain sectors of every community were given the responsibility to guard their neutrality so they may always be useful in resolving conflict resolution.

Provisions are made for balance between youth and elders, man and women, the admission of new peoples "to strengthen the house by adding new rafters".

Mechanisms were put in place for grievances to be heard, for executive order to be overridden, for referenda - and above all, to maintain the Great Peace.

You may be interested, in a historical aside, that the framers of the United States Constitution were strongly influenced by the Great Law. As they sought to establish their experiment in democracy, they were unable to find useful models in Europe.

Also interesting is the well-established historical fact that the social and economic structure which arose from the Great Law highly influenced the writings of Engels who so strongly influenced Karl Marx.

At any rate, my experience in finding within my own heritage guidance for my role as Ombudsman led me to suspect that other cultures might offer similar guidance.

And true, almost every people had developed some means to obtain redress against the abuse of authority and to obtain support and protection for the exercise of their rights.

I began to wonder if the practice of Ombudsmanship around the world might be enriched if all Ombudsmen could learn of the rich heritage of traditional practices.

Now I know all of this may be pure heresy for many present. Even the idea that within the Western context Ombudsman might resolve issues between people and government by the use of conciliation or mediation has been met with a degree of resistance by those who adhere to the Classical Ombudsman style of formal investigation, absolute determination of the facts, and then rendering a decision. Yet it is a fact, if we will acknowledge it, that the origins of the Swedish Ombudsman who is our historical progenitor came from the kind of cross-cultural contact I am advocating.

In 1709, King Charles the Twelfth was forced by the Russians to seek refuge in Turkey, where he saw the workings of the office known as Quazi'ul'Quzat. On his return to Sweden, King Charles made a beginning in taking moves which would lead to greater accountability of government administrators.

It took a century for that seed to grow to become the Office of Ombudsman in 1809, and another century and more before the Swedish model became an object of attention in the English-speaking world.

It was not until 1967 that the Ombudsman concept took root in the Americas in Alberta.

We can go back even further in history to see the benefits of cross-cultural enrichment.

The Turkish Institution in turn was the result of the Muslim religion and culture, whose Holy Prophet - and may Peace be upon him - used to hear the grievances of the people at the mosque in Medina as an example for the Caliphs.

An officer known as the Mohtasib went through the city daily accompanied by assistants to assure himself that all officials were performing their tasks correctly and morally.

He had the authority to undo an executive order which was unjust on religious grounds.

That historical inspiration led to the Pakistan Office of the Wafaqi Mohtasib being established in 1983 on the sound foundation of religiously-sanctioned principles of accountability, justice and fair play.

The Pakistani cultural perspective sees the Ombudsman as a bridge between the bureaucracy and the citizens. The Ombudsman's non-confrontational approach results in a better appreciation of the view of the one by the other. The same cultural principles lead to the dispensing of substantive justice based on the dictates of natural justice.

Our Pakistani colleague offers us all rich insights in informal conciliation, mediation, and amicable resolution of grievances without written memoranda or issuing of official notices, even the flexibility to assist in informal resolution of issues which are outside formal jurisdiction.

The Pakistani Ombudsman I am sure can offer us valuable wisdom brought forward from the past which will be helpful to us as we attempt to bring about the necessary evolution of the Ombudsman so we can be relevant to the 21st Century.

Another example the Chinese offer us is the historical antecedent of the Censorate which goes back to the era of Kublai Khan in closely monitoring maladministration which adversely affected citizens' rights.

We have yet to adequately explore what this historical precedent might offer for our future.

The Australasian and Pacific Ombudsmen have a rich variety of cultures to draw from so as to develop culturally-appropriate roles and processes.

I am grateful to Jesus Maanao of Guam for providing me with another excellent example of what we might learn from other cultures. As an unincorporated territory claimed by the U.S., Guam has a cultural diversity which incorporates the Eastern, the Western, and the Fourth or Aboriginal world.

The Original People of Guam have a cohesive society with cultural traditions extended into a family system and clans of a unique "chamorro" nation.

The Ombudsman of Guam is called "Suruhanu", a chamorro term meaning a healer, a wise capable person with special powers who can resolve grievances.

The Suruhanu embodies the principle of the chamorro way of life to come to the aid of a person who needs help.

I believe if we all knew more about the chamorro and Suruhanu traditions, we would find new insights into how we can better perform our mandates as Ombudsmen.

From New Zealand, we as Ombudsmen can be instructed and guided by the Principles arising from the Treaty of Waitangi with the Maori people or tangata whenua.

It contains the Principle of Redress, in which governments are expected to assume the responsibility for providing effective processes for the resolution of grievances in the expectation that reconciliation can occur. In other words, there is the principle that parallel to the Ombudsman, attitudes and environments must be created within government which will allow the Ombudsman to operate more effectively.

I am told by our colleagues John Robertson and Helen Hughes, New Zealand's Parliamentary Commissioner for the Environment, that the 152-year-old treaty is becoming an important document in shaping the everyday life of all New Zealanders.

The Maori are sharing with the country a well-developed system of conflict resolution and their strong attachment to the concept of consensus.

Maori meeting houses are dedicated to the talking out of differences to arrive at a consensus for amicable resolution.

The requirement is that there be both honesty and candour on the one hand, and an obligation to listen and acknowledge all points of view on the other.

Building such an institutional base for conflict resolution and consensus-building is a task which still lies before other New Zealanders.

Cultural principles have been taken into official account in New Zealand by a protocol consultation, a principle means of building consensus.

It is acknowledged, for instance, that silence by the tangata whenua does not constitute approval and that the cultural values of both sides are to be recognized and accepted as valid.

The Treaty of Waitangi also offers us some insight into how an Ombudsman can combine special treatment and equal treatment. The Treaty speaks of duality, which implies cultural distinctiveness, and unity, which implies common purpose and community.

The balance between the two is achieved through cooperation. Thus the Treaty adopts the iwi or tribal concept that parties in dispute are obliged to approach an issue in a spirit of reasonable cooperation.

That seems to me particularly important for this Conference to understand, because I have noticed there is a great pride amongst us in ensuring that all persons who request our assistance are treated with the highest standard of service.

You might say, "They are all treated equally." Yet the experience of indigenous people would say, "That's not good enough." "Equality is not equity." Canadian courts have found that the practice of "equality" can sometimes be discriminatory against peoples with characteristics which are not shared by the majority.

You see, people in majority situations often are unable to see their own culture. What they look out as being culturally-neutral equality is, in fact, deeply tied to their own cultural values and is, for them, culturally appropriate.

If we understand this, we will realize that true equality means offering culturally-appropriate services rather than the same services.

Within our cultural context we accommodate differences. We stay open later to accommodate workers. We build ramps to accommodate those who find stairs difficult. We assist complainants who are not able to write their complaints. But we still have things to learn about accommodation of indigenous peoples.

How do we accommodate people from cultures where complaining is considered to be discourteous? Or people whose protocol requires that complaints be expressed only through an elder or a chief? Or people whose experience tells them that complaining will only cause their people increased problems?

How do we deal with complaints which deal with injustices which have been carried on continuously for a century or more? How do we deal with complaints that a government is failing to comply with international law? For those among you who still have lingering doubts that we Ombudsmen can learn from other cultures and that we should ensure that we are offering culturally-appropriate services, I must now tell you that new developments are likely to force change however welcome or unwelcome that might be.

The world is changing, and we must change with it. Even where the requirement to change does not come from internal pressures or enlightenment, it will come about because of international conventions which all nation states will be required to enforce.

Human rights have become internationalized.

No longer can countries plead that abuses within their borders are private domestic matters which can be kept from the scrutiny of the world.

Soon after nearly a decade of drafting and negotiating, there may be an international convention for indigenous people. The Convention is likely to note that indigenous peoples have often been deprived of the human rights and fundamental freedoms, resulting in the dispossession of lands and resources, as well as in poverty and marginalization.

It will point out the urgent need to promote and respect the rights and characteristics of indigenous peoples which stem from their history, philosophy, cultures, spiritual and other traditions, as well as from their political, economic, and social structures

It will endorse, encourage and mandate efforts to consolidate and strengthen the societies, cultures, and traditions of indigenous peoples, through their control over development affecting them or their lands and resources

The right of indigenous people freely to determine their relationships with the States in which they live, in a spirit of coexistence, is likely to be entrenched.

Our right to self-determination, to exist in peace and security as distinct peoples in accordance with international law, the right to practice and teach spiritual traditions, the right to use and promote our own languages, all that will require respect by governments.

That means Ombudsmen may soon receive complaints about the right to have the dignity and diversity of indigenous culture and history reflected in all forms of education and public information, or that a government has failed to take effective measures to eliminate prejudices and to foster good relations

Our Swedish colleagues have already accepted the fact that under international law, Sweden has incurred obligations towards indigenous people for instance, it understands the natural environment must not be interfered with in such a way as to jeopardize the survival of a people. Obligations are recognized that resources for the survival and development of the culture must be guaranteed.

The Swedish Ombudsman has issued a special report with recommendations as to changes which must be made to bring Sweden in line with its international commitments with respect to indigenous peoples. Certainly the parameters within which the Ombudsman operates will change as a result.

If at this time you are having little contact with indigenous people, you may wish to ask why this might be so. What is there about the Ombudsman, or about indigenous people, which does not bring them together more often? In some cultures, those suffering may not consider themselves to be "victims".

In other cultures, it is considered bad form for a person to advocate on his or her own behalf, that being a community responsibility. In some cultures, disagreeing with established authority may not be considered appropriate other means are used to express discontent with the expectation that corrective action will take place.

The view of many indigenous

cultures emphasizes preventative rather than remedial action, and "complaints" may take on very different form and substance which an Ombudsman might not at first recognize. There may be well-founded fear that repressive actions will be taken if a complaint is made against powerful government. I said I was optimistic and encouraged, and I would like to leave you this morning in that same spirit. We are so well placed to offer leadership in fairness and justice within our own countries.

What could be more appropriate on the 500th anniversary of 1492 that we take some leadership in setting out a new direction for the next 500 years with respect to indigenous people?

What could be more appropriate than we as Ombudsmen assisting the people of other countries to establish culturally-appropriate mechanisms to deal with newly-emerging rights and issues? I trust that in the workshop which will follow, you will express concerns or doubts as well as enthusiasm and commitment.

As we would say in Mohawk, "Tah ne tol" -those are all my words. We might also conclude by saying "Ohna-geh-wah-he", or "that's it for now, isn't it?" In other words, let's consider this the beginning of a fruitful dialogue, not the end of a lecture.

May we meet again soon.

Mr. Stephen OWEN, Chairman

Thank you, Roberta Jamieson, for that fascinating and, I think, to us all inspiring historical and philosophical analysis and cultural journey, and professional challenge to us all, to meet the needs and opportunities of cultural diversity, and the richness within which we have in our own ombudsman community. We will break now for 20 minutes, to start the workshops at 25 to 11. Thank you.

Working Group 1

Topic **The Ombudsman and other cultures**

Chair and reporter Abdallah NUNGU, Chief Ombudsman Tanzania

Mr. Abdallah NUNGU, Chairman

Ladies and gentlemen, Prof. Pickl, I think we are ready to start our discussions in group 1. The topic, dear gentlemen, is very clear: the Ombudsman and other cultures. We heard the introductory speech by Mr. Owen and Ms. Jamieson. They have given us the frame of the topic, and it was very, very interesting. I wish to take this opportunity to thank them all very much. Unfortunately, I myself as the chairman of this discussion group, I have no previous experience at all on this subject of the indigenous people, but I am sure I am going to benefit from these discussions. What we want here is to learn from each other's experience on the subject. This is a very complex and delicate subject. We definitely know who the indigenous people are. It is admitted that there are about 250 million indigenous people around the world, or say in all the 5 continents. We know their problems, what they have been, and what they are fighting for, either individually or collectively through their organizations. We know what the international community, especially the UN, non-governmental organizations, individual governments, etc., we know what they are doing or what they have failed to do. In Africa, and especially in my country, as it is in other continents, we have different complicated cultures. I am sure my colleague ombudsmen from Africa will tell us their experience. Ms. Jamieson has put before this plenary session a number of questions, the important one being: How can the ombudsman institution deal with issues related to the problems facing the indigenous people today? Now, after having said a few words, the floor is open for your discussion, so that at the end we can answer these questions put before us, and I would ask you as you stand please to say your name and the country you come from, before you start discussing. I have here a list of those delegates interested to say or to discuss. So I say thank you and let us now welcome the first speaker, Ms. Mumba.

Ms. Florence MUMBA, Zambia

Thank you very much, Mr. Chairman. I am very grateful to Ms. Jamieson for her very interesting address. In dealing with this subject, drawing from my own experience in Zambia, we do have various tribes of Zambians, but strictly speaking we do not have the problem which is understood as that of the indigenous people, as the way we understand it in the western sense. In Zambia we have about 73 tribes officially known, and all these tribes have their own traditions, particularly if you look at the issue of problem-resolution. The various tribes have their own traditions and they have their own cultures, but we have one unifying factor in that everybody is treated as equal by whoever is ruling. And the political system which we have incorporates everybody's ideas, everybody's traditions. We have reached our crossroad right now, whereby we are trying to codify what we call traditional law. This is really a compilation of various traditions of the various tribes which we have in Zambia, so that we can find a way of unifying them and perhaps reach one system of government, which would take into account the various interests of our very different tribes in Zambia. We are doing that right now. We have what we call "received law", and this is the statutory law left by our colonizers, the British, from whom we got our independence in 1964. We have a written constitution. The present written constitution which we have, which is binding in Zambia, has an article, Art. 23, which puts our own traditional law above the constitutional considerations in matters such as family law - these are issues dealing with marriages, divorces, custody and other family issues. We feel, looking at the problems of the different cultures and how to fuse them - but there is one interesting aspect to our legal system, and this is that we have an act which governs the jurisdiction of the subordinate courts - these are magistrates courts - and one of the provisions in that act says that in a dispute regarding traditional law in the aspects of any tradition, any tribe, if the court has to take a decision, and if it has to apply traditional law, the court has discretion to disregard the traditional law, if the court finds that the traditional law is repugnant to the rules of natural justice. Now, the rules of natural justice really are

defined according to the social values in our own culture, and they change with time, they change with society values, so that in Zambia today one really cannot say what is in accordance with the rules of natural justice, whether or not that particular tradition is not good, is primitive, as you like to call it, or is not just, so that when you look at the statutory law, which is a written law, and the traditional law, we are still looking for a certain direction, we are still looking for an identity of what the Zambian Law should be. Some years back, I think 7 or 8 years back, we established what we called a Law Development Commission. Now the objective of this commission is really to look at the statutory law which we have, which is mainly the received law from the British system, and our traditional laws. And we do as much research as possible throughout the country, getting the people's views, and we try to fuse these two systems, so that we find a Zambian identity in as far as the legal system is concerned, which would be acceptable to all the traditions of all our tribes in Zambia, so that relating to the subject matter which we have this morning, the Zambian people are all treated as equal, we have recognized our traditional differences according to our different tribes and we are searching for a common solution. The benefit which I have derived from Ms. Jamieson's address is to really have the courage and encourage all the people belonging to various different tribes in our country to put forward their submissions when the time comes for whatever we intend to do, and to encourage and respect everybody's views, so that whatever law we come up with will be acceptable to everybody, will be seen as just, and not only just, but also fair. During the time when we were under the colonial system, there were some tribes which were said to be inferior to other tribes, because the colonialists really didn't understand the depths of our traditions, they didn't actually do any research before they called some tribes inferior. Simply because they could not accept the traditions of those tribes they called inferior, they just called them inferior. And they made the other tribes within the same country of Zambia regard their colleagues, fellow blood tribes as inferior. And since we got independence, we have fought very hard against this system of government, and we made sure that there was equality before the law, there was equality for political rights, there was equality in every aspect of the Zambian life, and we are still striving to reach that ideal. So that's all I can contribute, Mr. Chairman. Thank you very much.

Mr. Abdallah NUNGU, Chairman

Thank you so much, Ms. Mumba. Now, I call upon Mr. Charles Maino.

Mr. Charles MAINO, Papua New Guinea

Thank you, Mr. Chairman. Ladies and gentlemen, colleagues. I've just been imposed upon the task of reporting this group session. However, in situations like this, one has to take the burden. Maybe, like all ombudsmen, I don't have one to report to except Victor, so if I have any complaints, no doubt I will complain to him. As a background, friends, Papua New Guinea is - you may be wondering, where is that little island? It's in the Pacific, north of Australia. It has 20 provinces. Surprisingly, there are 700 different languages - not dialects, different languages. We have a population like Puerto Rico, of 4 million people. One may wonder how such an island could have 700 different languages. Geographically, it is very mountainous. As a result, isolated communities found themselves in their own valleys, and they developed their own cultures, customs, traditions and, of course, languages. We have self-government since 72, and during that period of self-government, we had a constitutional planning committee, which consisted of members of the House of Assembly, which went around the country collecting views as to what is to be included in our constitution. If anyone of you has seen our constitution, it's about the longest constitution in the world, it has about 220 provisions. We achieved independence in 1975, and when the constitution was adopted, it has various provisions instituting ombudsmen commissions. Some of you, especially those of you who are parliamentary commissioners, will probably be surprised to find out how the ombudsman institution is created under the constitution. But as we have witnessed from the previous speakers, having adopted the idea of an ombudsman institution, one has to look at one's own environment to see what can be adopted, to suit that particular environment, to suit that particular requirement of the country. And basically, in the line of such thinking, our ombudsman commission, while being instituted in the constitution, has very important provisions. The commission consists of three members: a chief ombudsman and two ombudsmen. The ombudsmen appointment committee is not the parliament, but it consists of the prime minister, the chairman, the chief justice, the leaders of the opposition, and chairman of the parliamentary appointment committee. They are five members, there is no quorum, their decision must be made unanimously before a person can be appointed as an ombudsman. One of the important criteria they take into account is that the members of the commission must not be from the same region

- they must be from different areas. And one of the important criteria is that they must be politically neutral, must not belong to any political parties, and must not be a member of a party, nor a member of a provincial government, or the parliament. The functions of our institution has two - unlike many of you, except what I heard from group three yesterday, from our colleague from India, who says that they do investigate and look into matters of corruption within the public service. We have two important roles. One is, of course, a traditional ombudsman role, which many of you have. Over and above that we have a leadership code role. We enforce leadership code, and this is also enshrined in the constitution. So we have the traditional ombudsman role from the New Zealand experience, and of course adopted our leadership code from Tanzania, and modified it to suit our requirements. In Tanzania, I understand, it need only apply to the members of parliament. In our situation, it applies to all members of parliament, all members of the provincial governments, judges, auditor general, public prosecutor or director of public prosecution, all departmental heads, and, to say the least, all those important public office holders are subject to leadership code. Unlike in other ethic commissions, where the leaders only file the annual statements when they assume duties of a leader and after they finish, we have a requirement that they file the annual statements of their assets and liabilities every year. With all those functions, the constituent assembly also felt that the commission needs safeguards. There are very powerful provisions governing us. One of those is that the members of the commission, being constitutional office-holders, are not subject to direction or control by any person or authority. We have tested those provisions, at least early this year. I was summoned to appear before parliament and explain certain cartoons in a report, and apologize with my colleagues. Having tested that, we appeared before them, explained the cartoons, but refused to apologize, which led to certain constitutional crisis. However, at the end of the day, the members of parliament, even about to pass a resolution to send us to jail, concluded that they couldn't do that. There are other provisions which give us, or impose on the government and the government agencies to provide staff, funds and facilities for the effective performance of constitutional office-holders, and that includes the ombudsman. This is not in an act of parliament, it's all in the constitution. There are other provisions, of course, to safeguard the independence of the ombudsman institution in my country, but I'm not here to feed you with all those headaches. With the relevance of today's topic, the main question is: What parallels, if any, can we draw from a modern institution of an ombudsman to the various tribes in one's own cultures. One of the biggest things, if I may say so plainly: In many of our indigenous cultures, you find that when the colonial powers went to a country, as indicated by Zambia, instead of learning and finding out the norms of governing in that particular society, instead of learning the traditions and customs of that particular society, they imposed what they believed to be the only way to govern. But for many years, in these native tribes, they had their own means and norms of governing and ruling their own societies. They had their chiefs, their tribal elders, who had authority to conciliate and even mediate between parties, which is of course similar to many of our functions. We try to solve and help parties, by getting parties together. That is one of those important areas, even in a traditional society. In my country, one of the terms referred is to a Melanesian type of settling disputes, that is: Get to the table and talk about it. Get all parties together and see if you can find a solution. And of course, you and I do that every day. In our traditional tribes, and I am sure in many indigenous tribes, such solution of problems or settling of disputes did exist before any colonial powers ever got there, and still do so in their own traditional ways. In order to give that recognition in courts, we have a Native Customs Recognition Act. This has been there since many years before independence, and is still operative. And by doing so, the courts, although maybe constituted by Australian or English or New Zealand judges, the questions of custom are usually raised in the courts by virtue of this Native Customs Recognition Act, and it is one of those very important laws we have that allows the natives to plead their customs in defence. One typical example: I was a prosecutor before. Being a prosecutor myself, I had a case where an accused person said "In a traditional society, the only means of solution I have is a payback. If Mr. A killed my brother, the only solution is for me to kill him." The question is whether that can be recognized under this Act. Of course we had a provision that where it conflicts with the written law, then that custom cannot be recognized. There are many other provisions, but ladies and gentlemen, the important thing is, in many ways, that parallels can be drawn, and where there is an ombudsman institution, it is always advisable, before trying to solve what the problem is, to find out exactly what sort of means and norms do they have in solving their problems and see if such means and norms can be adopted and can be used by our institution when we deal with them. Unless that is done, the means of solving a problem cannot really get down to them or cannot be fully understood by them. Thank you very much.

Mr. Abdallah NUNGU, Chairman

Thank you very much, Mr. Maino, for your contribution. As we have a number of discussants, may I ask you gentlemen to take a little bit less time in discussing. Now, Mr. Ruzindana from Uganda.

Mr. Augustine RUZINDANA, Uganda

Mr. Chairman, ladies and gentlemen. First of all, I'd like to start by thanking Ms. Jamieson for her paper this morning. It was an extremely good paper. It was a paper that encouraged me. I have, myself, written a small paper which is available for distribution. But before I have that speech, I was going to give some explanatory words for my first page. If you look at the first page, I was explaining why I did write the paper, that when some of us who are here attended the fourth international conference in Australia, we did feel some grievance in the way we had no room for participation as Africans. At that time, we were classed as the 4th group. There were Africans, Asia, South America, - the whole of it was lumped together as the 4th group. Now, of course the worlds, in general, are three, there is a Third World, but in the ombudsman institution, there was a fourth one, and that was ourselves. Now, we as Africans have, for a long time now, got used to struggling for our rights, and we did meet on our own and said that we should have a regional meeting in Africa and, among other things, work out ways of better participation in future conferences. And we had a first meeting in Kampala in 1990. I have a few copies of the report of that meeting. I intended to send copies to you when I go back home. Now, when I listened to Ms. Jamieson this morning, I was encouraged and I feel I don't need to explain, that we as a group felt that we had the right, at least to share our experiences with the rest of the ombudsman community. So, that is my introduction to my remark, and I am sorry, Mr. Chairman, that you asked us to say few words, but I felt that we should actually make this clear, that we in Africa actually don't fit within the definition of the indigenous people. No, because the non-indigenous people are the exception, we are not the exception. In North America, in South America, and in other places, the indigenous people are relatively exterminated. We resisted extermination ourselves, and so we are on our own, and the mistakes we make are our mistakes, without any other peoples to compare ourselves to. So I thought we should at least see other experiences, not in a comparison with the Eurocentric ombudsman concept, as we have come to understand it. Although we have adopted it, and I illustrated in my paper: We have adopted it within our specific conditions. Our specific conditions, unfortunately, are not so good to be proud of. They are conditions of poverty, they are conditions of illiteracy, they are conditions of systems that don't work, they are conditions of corruption, of violation of human rights, and therefore these are not conditions anybody can be proud of. But nevertheless, these are conditions, these are the environment within which we have to work as an institution. And we, as people who work in Africa, must develop or evolve the proper methods to deal with the conditions and the problems generated by them. And I think, if you read the report of our meeting in 1990 and the subsequent meetings in ??? and Lusaka, you will see that each of our institutions has tried to bring out the way we do things within the general framework of the traditional ombudsman institution. Now we, in Uganda, we started our institution in 1986. As you may know, Uganda has had a bad history, and we are known for repression, for violation of human rights, personified by a character called Amin. But the whole world does not know that this character has since, he departed about 12 years ago, and he is not actually resident of the continent of Africa. Now we have been trying to rectify what has been going wrong for a very long time, and we have found that the institution of the ombudsman has to be adapted to rampant violation of human rights, of corruption, of abuse of power, and so on, and this is what we have tailored our institution to be. The institution is set up by statute, and the statute clearly spells out what the functions are, enforcing the rule of law, protect human rights, eliminate corruption and on top, the other traditional ombudsman functions. We have powers of access to all officials, to all information, and officials in our case, unlike other institutions, include ministers. Because of our specific situation, our ministers in many cases also engage in administrative acts and decisions. They, for example, sign contracts, or sometimes they negotiate them, and so on, and we do look into how they do these things. Our jurisdiction is a very wide one, it includes all government departments, all semi-governmental departments, and to some extent independent institutions like cooperative unions and trade unions. Like all other ombudsmen, we are immune from prosecution in the way we undertake our official functions. In other words, opinions we express officially, investigations we undertake are not subject to prosecution or any other authority. We are not under the control of any other authority. We initiate our own investigations, and we receive complaints and investigate them as we see fit, without the control of anybody. But we are responsible to the president and the parliament. Our reports are supposed to be made to both those authorities, and the law stipulates how they are made. Now,

in my paper, I tried to have an overview of other African institutions, and there are general common features of reporting to the president, and so on, because of the historical conditions within our societies. Now, Mr. Chairman, I think I have talked for a long time, and if I have expressed some unorthodox views, I would like to apologize to anybody that may have been offended, but I wanted to express openly what a lot of people have felt. And since we are ombudsmen, I think that is fair, that there should be no grumbling underhand, and so on, that it should come out openly, and we have ways of rectifying them, as we normally do with the problems of other people. It is true that a lot of these people you are calling indigenous have felt that they were marginalized, and this thing has to find a remedy within the ombudsman community. Thank you very much Mr. Chairman.

Mr. Abdallah NUNGU, Chairman

Thank you very much, Mr. Ruzindana, for your brave and clear discussions. Now I call upon Mr. Carpio from Guatemala to take the floor, please.

Mr. De Leon CARPIO, Guatemala

Thank you Mr. Chairman, Ladies and Gentlemen. Thank you, Ms. Roberta Jamieson, for the brilliant and excellent conference today. The words that I will say, you can read the English version in this document on page number 43, and in the French version in page 21, and now I am going to speak in my own language, Spanish.

El deber de contribuir a la solución del problema étnico-nacional nos concierne a todos en mi país Guatemala. Yo soy el Ombudsman, I am the parliamentary national Ombudsman of my country Guatemala, Central America.

La fragmentación étnica de nuestro país debe ser comprendida como un problema socio-cultural y no solamente como un conflicto racial ya que aún si la división se da entre dos grupos, los indígenas y los no indígenas, las diferencias cualitativas se fundamentan sobre bases materiales, diferentes posibilidades de oportunidades, niveles de discriminación y de opresión de los unos hacia los otros, sobre una historia y tradiciones con una gran diversidad de orígenes, sobre raíces comunes que aun caminando juntos no conducen a horizontes de unidad.

El problema no consiste en eliminar las diferencias, sino en hacer efectivos los derechos de las etnias indígenas ya que alcanzar condiciones de igualdad para todos los sectores de la sociedad requeriría que se pase del discurso a las acciones, de la formalidad a los hechos reales. Es decir que la democracia se construya basada sobre prácticas concretas, posibles de alcanzar.

La constitución política de mi país Guatemala garantiza la libertad y garantiza la igualdad para todos los seres humanos. Ninguna persona puede ser sometida a servidumbre ni a otra condición que menoscabe su dignidad. Asimismo los diversos grupos étnicos entre los que figuran los de ascendencia maya.

El Estado de mi país, al igual que otros países del mundo, respeta y promueve sus formas de vida, costumbres, tradiciones, sistemas de organización social, el uso del traje indígena en hombres y mujeres, sus idiomas y dialectos.

El Estado es asimismo responsable de proteger y respetar las formas de tenencia de la tierra preservando el sentido de pertenencia hacia ésta que caracteriza a los indígenas.

La Declaración Universal de los Derechos humanos establece que todos los seres humanos tienen los mismos derechos sin ninguna diferencia, sin ninguna distinción.

La Convención americana sobre los derechos humanos, la declaración americana de los mismos, de los deberes del hombre, la Convención internacional para la eliminación de toda forma de discriminación racial establecen que no debe haber ninguna distinción o preferencia basada en la raza, color, linaje u origen nacional o étnico, que tenga como resultado la eliminación al reconocimiento, goce y ejercicio en las mismas condiciones de los derechos humanos y las libertades fundamentales de la persona.

Sin embargo, mi país Guatemala presenta una característica multiétnica, multicultural que mantiene las diferencias claramente establecidas. Esto se hace evidente en los bajos niveles de desarrollo que presentan las regiones norte, noroeste y suroeste, donde a pesar de que en ellas se concentra el 67% del total de la población las situaciones de crisis son dramáticas y se comparan con las regiones urbanas.

Estos niveles de injusticia se reflejan en el 89,5% de pobreza extrema del sector indígena y el 74,2% del sector no indígena. La mortalidad infantil es de 76,2 por mil, el analfabetismo entre las mujeres es de 71,9%, la educación bilingüe no cubre más que el 5% de las escuelas, y del 8% de los niños mayas que comienzan la escuela un 20% finalizan el cuarto grado de los 6 años que cubren la educación primaria.

Finalmente quiero informar que toda esta información en un país de 9 millones de habitantes como es Guatemala donde el 50% o 80% es indígena nos confirma la existencia de un problema agrario, a la falta de tierras necesarias para cubrir las necesidades alimenticias y de trabajo de la mayoría de la población guatemalteca. En este caso nuestra constitución política establece que el Estado es responsable de la provisión de tierras y de la promoción de leyes para proteger y garantizar este derecho.

Las denuncias que se refieren a este derecho evidencian la carencia de políticas adecuadas a fin de proveer este servicio a la población necesitada y que los medios de adjudicación de tierras utilizados por el Estado obedecen a criterios políticos, aparte de ser lentos y complejos.

Finalizo diciendo que en mi calidad de Ombudsman y dada la característica especial de mi país, he propuesto, me he propuesto que la realización de estas actividades se adecuen a las necesidades y condiciones de las personas dirigiendo las resoluciones pertinentes a las autoridades correspondientes, sobre todo al Instituto de Transformación Agraria.

En mi calidad de Ombudsman mantengo y mantendré una actitud de vigilancia permanente hacia el cumplimiento de este derecho, particularmente en beneficio de las comunidades indígenas. Esta es la situación de los indígenas en mi país. Muchas gracias.

Mr. Abdallah NUNGU, Chairman

Thank you very much, Mr. Carpio. I hope we shall all have copies of the English version, because there was no translation at the moment, so I am sure all delegates will have a copy, so that you understand what he actually said. Now, after thanking Mr. Carpio for his contribution, let me call the Pakistan ombudsman, please - then he will say his name - I don't know whether the gentleman is around. He's not here. Now, I call upon Mr. Feng Ti Yu, from China - vice-minister.

Mr. Feng TI YU, China

I am Feng Ti Yu, Vice-Minister of Supervision of the Republic of China. I am very glad to have the chance to participate in the conference, to learn full experience from other countries. I believe that the work of ombudsmen and other administrative supervisory organs in countries is very important, for they are the protectors of the rights of the people. Although the backgrounds of the history and the culture, the political and economic systems of each country are different, yet in the field of supervision they all face many common problems. China's administrative supervisory organs would very much like to learn and study good experiences in the supervisory field from other countries, set up and develop good relations with them. Thank you very much.

Mr. Abdallah NUNGU, Chairman

Thank you so much, Mr. Feng Ti Yu

S. Jorge MADRAZO, México

My name is Jorge Madrazo, and I am deputy president of the Mexican national ombudsman. In order to start discussion, I have a question addressed to Dr. Jamieson. But I would like to express some background to this question. Current Mexican population is about 85 million people, and 11 million are indigenous. We have 56 different cultures, with a great diversity of principles, beliefs, religions,

decision-making processes, customs and traditions. The only thing that they have in common is poverty. The indigenous represents the very source, the origin of our Mexican nationality. Nevertheless, only in January 1992, the Mexican constitution was amended to recognize that Mexico is a multicultural and pluri-ethnic country, and that the indigenous communities have the right to use their own languages, customs and specific forums of social organization. Also the constitution established the obligation of the federal and the state congresses to approve the statutes in order to assure the access to justice for all indigenous people. The Mexican ombudsman has the special problem to attend the complaints coming from the indigenous community with a different strategy used with other complainants, because we are working directly in the Indian soils, we are working with them in situ. Up to the present, the National Commission of Human Rights has published six different general reports on this topic. Up and down our studies, we have found the same problem. That is, the conflict of law: on one hand, the federal and the state legislation, and on the other the traditional law of the indigenous. The question is: If Mexico is only one national state, with a single rule of law, with a clear majority and 56 minorities, beyond consideration and mediation, which are the best formulas to solve the conflicts of law, the conflict between federal and state legislation and traditional law of the indigenous?

Mr. Abdallah NUNGU, Chairman

Thank you very much for that question. Now, Ms. Jamieson is going to answer your question right away. Prof. Pickl is also going to ask another question.

Prof. Viktor PICKL, Österreich

Thank you, Mr. Chairman. Ms. Jamieson, you mentioned the bridge from the Islamic law system to Sweden in ombudsmanship, and you mentioned also Pakistan as a bridge. To me, Pakistan's ombudsmanship has another bridge more: the name of the Pakistani ombudsman is "Mohtasib", and this is the ancient Arabic name coming since the Kalif Omar II. At that time, in the 7th century, he created the "Mohtasib", and the Pakistani ombudsman with the same name is really a bridge to the ancient system. Thank you very much, Mr. Chairman.

Mr. Abdallah NUNGU, Chairman

Thank you so much, Prof. Pickl.

Ms. Roberta JAMIESON, Canada

Thank you. I hope I understood the question. First of all, Prof. Pickl, I think that you make a very good point, and I will simply acknowledge that that is a very good point that should be taken into consideration. So you see, we have much to learn. I'm sorry the Pakistani ombudsman is not with us. Perhaps he will be in the plenary session when this workshop reports, and will have an opportunity to comment then. On the question that was put forward by the representative from the Human Rights Commission in Mexico, I know something of the work of the Human Rights Commission in Mexico, and I know something about the work that they have done with indigenous people, with the Indian people there. I think in the first year that the Human Rights Commission was in existence - I think I am correct by saying that they succeeded in freeing over 1100 indigenous people who had been improperly imprisoned. And I congratulate the Commission on that initiative. Much more work - you know there are many challenges there for you - but I congratulate you on that. I had an opportunity to go to Mexico City and be part of a conference there, and I learned a great deal. I think that the question that you posed has to do with how complicated it is to accommodate difference, when you have one country that is trying to live by one law, and then you have scores of different nations within it who live according to their own laws. I can say only this to you, that flexibility is the key, that our survival - I believe in the world - depends very much on our ability to accommodate difference. And I don't think it is any longer an option to ignore difference in favour of conformity, and I don't think it's an option to ignore difference because it's administratively easier, because ultimately the solutions will not be found. People who have lived a certain way their entire history will find only acceptance, will accept the solutions that are found, that will accommodate their world view. Those will be the lasting solutions, which I think is a point that was already made by - I don't know whether it was Florence Mumba or Charles Maino - but that the solutions that must be found to these conflicts between individuals and between individual and government must respect the different points of view, otherwise they are not truly solutions and they will not be accepted as solutions. I agree it is difficult, but I think as ombudsmen, here again we

are uniquely equipped. Why? Because our area of review allows us to go beyond strict legal interpretation of statutes. This is the beauty of being an ombudsman. You are able to take into account the laws - yes. The reality of the environment in which you live - yes. The history and social and economic circumstances of the people - yes. And so too, the political realities of the environment. A tall task, but one that we are uniquely equipped to face. And I say to you that the key to it is flexibility, the willingness to accommodate difference. It is a challenge, but it is one that we are uniquely equipped to meet. I also will say to you that the strategies that are required in dealing with indigenous peoples' issues are very different. In my own case, when I go or my staff go to villages of indigenous people, communities, many of them in Ontario you can only reach by aeroplane landing on the ice, if there is no airstrip, or in the water, and in those communities perhaps the elder will present the issue, perhaps the chief will present the issue on behalf of the community, there will be issues that are presented that will be older than 12 months. All these things, if I wanted to, I could narrowly look at my Ombudsman Act and say "I'm sorry I can't listen to your complaint. It's over a year old." It might have to do with violation of treaty rights by the government of some years ago, which continues. I could say "I'm sorry. Unless you are the person adversely affected, and you put your complaint in writing I won't take it." I could do those things, but I think I would not be serving those people. And there are simple things that we as ombudsmen can do to accommodate the different approaches of indigenous people. Not can do, are obliged to do. Otherwise we are not providing the service we require. Does that mean using many, many different languages? Yes. I use translators all the time. Does that mean producing written material in different languages? Yes. Is that expensive? Yes, there are cost implications, and that's one of our struggles. But it can be done, indeed it must be done, because otherwise we will not be providing the service we say is available to all people in our various countries and states and provinces. I don't know if that responds to your question, but I tried my best. Thank you.

Mr. Abdallah NUNGU, Chairman

So you are satisfied? Good, thank you very much. Now, another speaker, please.

Ms. Florence MUMBA, Zambia

Thank you, Mr. Chairman, for giving me a second opportunity, but I'm not really speaking, I'm just saying that after listening to the various versions of our topic today, I would like to suggest that the topic of the discussion today, in my view, is not really correct when you say "The ombudsman and the other cultures". Because this, when you leave it like that, to me, you are really excluding these "other cultures" from the ambit of the jurisdiction of the ombudsman. I would like to propose that the topic should be "The ombudsman and different cultures". Thank you.

Mr. Augustine RUZINDANA, Uganda

Mr. Chairman, I do agree that the title is not appropriate, but I would like to suggest that maybe it would best be in the following way: "The ombudsman and non-European cultures". I think that is a bit more appropriate than "different cultures", because that's what it means in this sense.

Mr. Abdallah NUNGU, Chairman

Now which is which? Which should be the appropriate, please?

Mr. Ian KNIGHT, Australia

I should say initially that I think the title is correct, because I understood the speaker was addressing a particular group of people, namely the original inhabitants of a particular country. And that was the purpose of the paper that she delivered, and that those cultures within a country which were not indigenous need to take certain steps to recognize the indigenous culture. And that I don't think it's really appropriate to label particular indigenous cultures. The object is to try to protect, or adopt special measures to protect the original inhabitants of particular countries. So far as Australia is concerned, our research has not disclosed that the aboriginal people have conflict resolution procedures of the type that Roberta Jamieson referred to that we could try to adopt. It may be that our research is inadequate and when we return to Australia we will try and pursue that. While I found the paper that was delivered interesting, one area that concerned me was that it was walking a fine line between suggesting that ombudsmen should promote or assist indigenous people in their aspirations, as opposed to merely adopting measures which would help resolve complaints that they may have. If it's the former, then that may place ombudsmen in some danger of becoming politicized. And that may

do damage to the office. I have no problem with the paper if it is suggesting that we should try to adopt traditional ways of resolving complaints. I think that is a very useful idea to explore. I think the paper should go on or should be developed in future to suggest ways how we may actually adopt traditional or indigenous ways of resolving complaints. It would be helpful, for example, if Roberta could say how I would persuade public service chiefs, and how I would persuade non-indigenous Australians to actually adopt different techniques. That would be a large culture-shift for my countrymen. One solution may be to employ indigenous people in one's office. But that can create problems, because there are many different tribes, for example, in my country. And to employ a person from one of those tribes may in fact present more problems than it helps to solve. So I would be interested to hear from Roberta how, in practice, we could adopt indigenous techniques from other countries into a different culture.

Mr. Abdallah NUNGU, Chairman

Thank you very much Mr. Knight. I think Prof. Pickl wanted to clarify about the title, the topic.

Prof. Victor PICKL, Osterreich

Thank you Mr. Chairman Justice Mumba and Mr. Ruzindana, as we discussed this topic in the board, we felt like you. Please read the explanation. Here you can see: The ombudsman institution has been developed primarily in the western world, but all cultures have had some government. Indigenous peoples are among those who maintain these ways. It seems to me we are thinking about the same. Thank you.

Mr. NUNGU,

So you think the paper should remain as it is?

Hr. Prof. PICKL,

No, it's to be explained like you said.

Mr. Mark ROY, USA

My name is Mark Roy, I am the representative of the US Association of Ombudsmen to the UN. Perhaps the appropriate title for this group could have been "The role of the ombudsman in a multicultural society". That will embrace all cultures within this country.

Mr. Abdallah NUNGU, Chairman

Yes, there is a question raised by our colleague from the Northern Territory of Australia. Ms. Jamieson is going to answer the question.

Ms. Roberta JAMIESON, Canada

I'll answer it as best I can. First of all, on all this discussion of the topic title. I am encouraged, you know, because it tells me that there is a lot of thinking, there is a lot of debate, there is some discussion that's going on, and what a wonderful outcome. So, maybe there'll be a further discussion at a further conference devoted to this topic, or some refinement of this topic. And I would be thrilled if that were the case. Now to Mr. Knight's question. You posed quite a number of questions. First of all: How do you - the first one I want to pick up on is: How do you convince public servants that using some of these methods will work? I myself have been involved in doing just that. For a number of years I chaired negotiations involving representatives of government - two levels, federal and provincial - and indigenous people. We had a lot of discussions and debates etc. about these questions. One of the most controversial issues had to do with the administration of justice, policing on territorial, traditional lands. The indigenous people wanted their own system of policing, and other people, other governments found that they had some concerns about that. How do you convince people that it's possible that they should open their minds to it? I think first of all, if we look around, at least in my experience, and I don't think I'd be too bold to say in Australia's experience that what we're doing now is hardly a success where indigenous people are concerned. So I think if we take stock, a real hard look at ourselves in the mirror, we can see that in many ways we've failed. And so first of all acknowledge that there is failure and that there is a desperate need to improve, and I think most public servants I've found will admit that and, in fact indeed or every day express frustration with "How can we do that better" and will be right on board to look for ways. Secondly, I think they get on board by seeing that it works. And they see that it works in itty-bitty little demonstrations, incremental steps, the

same way we create change everywhere. That time, painstaking, time-consuming way of changing attitudes and minds. How did we do it in Ontario in policing? We tried it. And what we found is that those communities where traditional police and systems of justice are being implemented are working much, much better. The hard, cold, statistical facts will show you that the number of arrests has gone down, the fact that the conflicts are being resolved between people as opposed to putting somebody on a plane and taking them out of the community to a jail somewhere far away - courts are now being held on some reserves, policing is run by the people. Those things are changing, and they are changing the environment, they are reducing the complaints, and so it is happening. I think if you are looking for examples abroad, there are a number. But I am sure in the Australian experience there must be some small examples you could use. I would encourage you to talk to them. I wouldn't presume to tell you what would work for Australia. I think only the aborigines, the indigenous people in Australia could tell you that. I would encourage every ombudsman who's in a country where indigenous people are located or where there are large populations of racial minorities where you want to know: What are the different strategies? Ask them, they'll tell you. They're probably only too willing to let you know how to do it. I think I'll stop there, because you raised so many questions and I don't want to give another speech. I'll stop there.

Mr. Abdallah NUNGU, Chairman

Does that answer your question, sir? Good. Another speaker? Yes, please.

Mr. Keith ANDERSON, New Zealand

Dr. Pickl prompts these few words by having mentioned the word "bridge" already, and I wish to say a few words about the metaphorical bridge from one culture, the one where we stand right now, each of us, to another. I take it, we must assume that everyone present here today, Justice Mumba and fellow ombudsmen want to understand other cultures. The lecturer, Ms. Jamieson, has said that we must do so, otherwise or failing which international events will overtake us. I would like just to speak from my own starting point, but - not egotistically but as a help, I think, to others from the very large cultural group which is that of European descent. I've spent 24 years living and working in another cultural group - that of the Melanesian country of Papua New Guinea. You've already heard something about Papua New Guinea and the ombudsman there from chief ombudsman Charles Maino. My experience has been, I am pleased to say, successful. After that long period of apprenticeship I have been accepted in that country, and that didn't come easily. It comes with great effort. My advice to all of us here who wish to make that step across the border, as it were, to another culture is to, if you possibly can, go and live in another culture. I realize that's not possible for many, but for those who can: go and live there. That on its own doesn't help completely. One must not only work among the people - that's done quite often - but one must socialize with them and actively, overtly and actively endeavor to understand in what way they - or what is their custom or many customs, and in what way they are like us and in what way they differ from us, us being the European group where I stand right now. I think if we do this, it does take time. It took, in my case, a number of years. But without this effort that I have made, I would not have been, 14 years after arriving in Papua New Guinea, I could never have been appointed an ombudsman in that country. I was appointed in 1979, and without in any way blowing my own trumpet, Mr. Chairman and ombudsmen, I have been - I'll quote two examples only to illustrate the acceptance I have attained in Papua New Guinea among that cultural group of people. The former chief ombudsman once described me publicly as: "You are one of us." Another ombudsman, a lady, Ms. Jean Kikido, who's retired now the same as myself, and with whom I had many arguments during my time of office, said to me on the day of my retirement: "Keith, you understand us". Those few words, they mean a great deal to me, and they reflect acceptance that we have to aim for, if we wish to understand another culture. In my case, I am not multicultural, I am bicultural, but I do think that the differences I have learnt over those years largely apply to many other cultures as well. With those few remarks, Mr. Chairman, I will conclude.

Mr. Abdallah NUNGU, Chairman

Thank you very much for your kind remarks. Do we have any other gentleman or lady who would like to contribute?

Mr. Hisao TSUKAMOTO, Japan

Thank you Mr. Chairman. My name is Tsukamoto, and I represent the Management and Coordination Agency of the Japanese Government, which manages a complaint handling mechanism called "administrative counselling system", on which a paper has been available for distribution on the tables. As to the question of this debate, we do not have the indigenous people problem in the strict sense of the word. However, we have a different problem, which I think is quite related to the matters in question, which is the situation currently witnessed by our country. It is the increase and the inflow of foreign workers. Workers coming in from countries like Iran, Bangladesh, Brazil and Peru and other countries, who are, because of industrial location, starting to form a quasi-community of their own. And of course, the administrative counselling system is applicable to these people. However, I would like to ask - I'm afraid it's rather out of context for this discussion, but I should appreciate if you could give us guidance as to this question: Can we draw a parallel in this question of foreign workers and indigenous people problems, particularly when a country in question does not have an ombudsman system. Thank you very much

Mr. Abdallah NUNGU, Chairman
Thank you so much

Mrs. Roberta JAMIESON, Canada

Tough question. First of all, on the question of indigenous people. I was always under the impression that there were Ainu in Japan, no? Thank you

I am familiar with the Ainu because indigenous people from around the world have been in contact for years and this is why I am aware that there are some people in Japan. So thank you for that clarification. I tried to make the point in my paper that most countries would say that they treat everybody equally. I guess my point was that in the case of indigenous people - the way I made it in the paper was that indigenous people would say that's not good enough in their case. And the reason is, because when you accord everyone equality, you do it within a certain cultural context. For example, if we say as ombudsmen, everyone is able to write me their complaint, and I will receive it and I will act on it, well you could say that's a kind of equality. But if people don't write, or don't write in a language, or if people do things very differently, then you have to question: Is that equality? Are there different measures that you have to take beyond that to accord equity? And I would say as ombudsmen we have to be concerned very much with equity, which I say, in the case of indigenous people, requires something more. The point you ask has to do with can you draw parallels when you have large populations of immigrants to a country. I think the position of indigenous people and the position of new immigrants are different in this. If you are an indigenous person, that is your homeland, that is where your people originated, you are what makes that place in the Earth different. And so I think your relationship to that bit of the world is different than the relationship of people coming to inhabit that part of the world. In the Americas, we have both experiences. We have people who have always been there, and we have people who have come by boat, by plane and different ways. We have large populations of recent immigrants, and what are the challenges for the ombudsman on that? I think there are special challenges.

I think they are different. In my case, in Ontario, I have over 10 million people in the province of Ontario. I have a huge population of recent immigrants, of visible minorities. In the Toronto area, we are looking at a telephone system that will accommodate 140 languages, and we are looking at specific strategies of dealing with those segments of our population. We have many people call my office who speak Mandarin, who speak all kinds of languages that you could imagine. That has its challenges, and they have mostly to do with access of service. I would say only to you, though, that the position of people who are new to a country is very different from those who have always been there. Why? Because the people who have always been there have only that country to look to to safeguard their survival. They can never go back to their homeland, they can never return to their country of origin, to learn their language, to get their culture enriched, to feed their soul. They have only the country in which they were born and reside. And that provides a special demand on the government. Because for that country to survive as a separate entity, the identity of the indigenous people must survive. That's what makes it different.

Mr. Abdallah NUNGU, Chairman
Yes, please.

Mr. Norman GESCHKE, Australia

Melbourne in Australia was largely an English-speaking country until after World War II. Since then, with immigration, Melbourne is now the third largest Greek city in the world. In the suburb in which I live, 46% of the people do not speak English at home. We have the indigenous culture, the wave of 150 years of people immigrating to Australia, largely from the European stock. And since then, like Ontario has, people coming from all over the world with many languages. As director of consumer affairs, I tried to produce some publications which could meet with this. There were 43 major languages in Melbourne. But language is not the only problem, and an ombudsman's role is with communication. And I am very interested to learn from others how they've managed to be able to communicate with very small minority groups, where there may be less than 50 or 60 families in the whole of the community speaking one language. It is not much good having an ombudsman, giving rights to everybody, unless those people know of the rights and are able to exercise them. And I feel very guilty that in my office, no matter what we've tried to do, I know in my heart that there are a vast number of people out there who need my help but whom I am unable to communicate with.

Mr. Abdallah NUNGU, Chairman

Thank you very much for the question. I think it's a statement rather than a question. Mr. Geschke. Would you like Ms. Jamieson to make any comment at all? No.

Mrs. Pirkko KOSKINEN, Finland

I am the deputy ombudsman of Finland. I wanted to ask the floor, because I slightly disagree with what Dr. Jamieson said about the immigrants. Of course, the position of the indigenous people and immigrants is different, just because the indigenous people have always been there. But even so, quite a few of the immigrants do not have the possibility to go back. And regardless of the fact whether they can go back to their home countries or not, we as ombudsmen face all the time the problem: How do we serve these people best?

Ms. Roberta JAMIESON, Canada

I don't think we disagree in that. If I gave that impression, it's wrong. I agree with you that many, many people who come to Canada, who come to the Americas, can never go back. The difference between indigenous and non-indigenous people is, when the indigenous culture, when the language - well, let me use my own example. In my community, the language of Mohawk is spoken, and it's only spoken in our communities. It is spoken nowhere else in the world. And when that leaves us, when that is gone, there is nowhere else to go. And it's that language that is indigenous to the land, to the people. And that's simply the difference I was trying to make. Unlike someone who speaks Italian, for example, or whatever language, if you're in my community and you're speaking Italian, there are other places for you to speak Italian. There are no other places where you can speak Mohawk or learn it, or keep it alive. That's why it's so crucial that we recognize those things.

Mr. Abdallah NUNGU, Chairman

Yes, I think because we have about ten minutes more to go, you will be possibly the last speaker.

Mrs. Pilar HERRERA, Canary Islands

Pilar Herrera from Canary Islands, deputy ombudsman from Canary Islands. I have heard Ms. Jamieson about the population in your country, with different cultures and different languages, and I would like to know if you have a special law. For example your Ombudsman Law, does it recognize or include special rules for indigenous people? Or if you have - because I agree with you in the paper, everybody is equal, but actually it's not true. And I want to know if you have sentences, for example of the Constitutional Court, which establish rules of positive discrimination for these people?

Mr. Abdallah NUNGU, Chairman

Thank you very much.

Mrs. Roberta JAMIESON, Canada

First of all, the Act that set up my office, the law that set up the ombudsman, is a provincial law. Canada has ten provinces, and it is a provincial law that created the ombudsman. There is no special provision in it for dealing with indigenous peoples. What there is in it, I believe, is a mandate and a discretion broad enough to allow me to carry out my responsibilities with respect to indigenous peoples and their special concerns. We also have an Ontario Human Rights Code that is provincial. We also have federal human rights legislation for the country as a whole, and in Canada, many of you may know, we are also in the middle of constitutional revision. One of the hot topics is the rights of aboriginal people, the original peoples in Canada, and one of the provisions that is being put forward in a referenda package that will be voted on on October 26th has to do with giving special additional recognition to indigenous rights with respect to self-government. Recognition of their inherent - the fact that they have always governed themselves. That is being hotly debated and, depending on how the referenda goes, may be part of the constitutional foundation of the country. So it is right now squarely before the public of Canada.

Mr. Abdallah NUNGU, Chairman

Ladies and gentlemen, it seems that we have now come to an end to our discussion, and I don't think there is anybody who wants to contribute. In that case, Mr. Maino will make a brief summary of what we have discussed.

Mr. Charles MAINO, Papua New Guinea

Ladies, gentlemen and colleagues, for purposes of reporting tomorrow morning, in general terms of course, there have been various comments made in relation to the title, one being, should it be "The ombudsman and different cultures", or "The role of the ombudsman in different cultures or societies", and of course the third one was the title as it stands. In the course of various speakers, there were few points raised, although there were indigenous cultures raised by many of the speakers. There are points raised by our colleagues from Australia and, of course, in other countries too that it is not only indigenous people in those various countries that become the issue, but people from other countries migrating to various countries. So really they're not the indigenous cultures of that particular country, but there are various and other cultures in a particular country that one has to take into account in the role of an ombudsman. That means, even in European countries, although there may not be indigenous people, but it's a country made up of people from various countries, various backgrounds, so it seems that the executive committee, when talking about the title, rather than coming to "ombudsmen and different cultures", I think it's because of the wider concept they have come up with the title "Ombudsmen and other cultures", to accommodate a general atmosphere, a general application not only to indigenous people, but in countries where people from various backgrounds, people from various countries, living together and working together where an ombudsman institution operates. So with those general comments, then of course issues have also been raised that maybe in future workshops or seminars organized by the IOI, maybe to venture into areas in what ways can an ombudsman accommodate and look at, or adopt means or take steps to accommodate various cultures or different cultures operating in a particular society where an ombudsman operates. So these are the areas that we explore into, and hopefully that we'll present a report tomorrow that will accommodate the general views of this workshop no. 1. Should any one of you feel that your views in some ways should be accommodated, we'll certainly appreciate your approach to us. Thank you.

Mr. Abdallah NUNGU, Chairman

Thank you, Mr. Mino, for the summary. Now will that be our views tomorrow in the plenary session. Is there anything you would like to add? I think it's accepted. Now, it's already 12.30 and I have to thank you again for your participation.

I thank you so much and I wish you a good afternoon.

Attachment 1.

CO-OPERATIVE ARRANGEMENT BETWEEN OMBUDSMAN OF SOUTH AUSTRALIA AND THE OMBUDSMAN OF VICTORIA

WHEREAS it has been a common experience for an Ombudsman in Australia to receive public complaints which may require, for jurisdictional reasons, referral to another more appropriate review or investigative body viz., Ombudsman in another State or Federal jurisdiction;

AND WHEREAS it is appropriate and timely to provide formal public recognition to this function as an additional, normal and valuable attribute of the public equity and access aspect of the Ombudsman role, particularly in regions where the members of the communities have relevant interests and dealings with several jurisdictions by reason either of a joint application of Federal and State law or relevant administrative action or by reason of a person who is resident in one State having relevant dealings with the laws and administrative actions of another State;

AND WHEREAS there now exists an informal co-operative process involving the Ombudsman in each State and the Commonwealth regarding referrals of complaints and joint investigations whenever it may be necessary and appropriate;

AND WHEREAS the Ombudsman must continue to fulfil the demands of a good complaints- investigation system with due regard to reasonable and economic utilisation of resources, that is to say:

- that the process of referral must be readily accessible and conspicuous to users of the system viz., the general public
- that the process is simple to invoke and operate, putting complainants at ease and with the stages of the process being clearly set out and responsibility clearly shown.
- that the process is informal, cost effective and offers prompt action to the public
- that it is confidential

NOW, SUBJECT TO THE PROVISIONS OF THE OMBUDSMAN ACT 1972 (SA) AND THE OMBUDSMAN ACT, 1973 (VIC)

**THE OMBUDSMAN OF AND
SOUTH AUSTRALIA
EUGENE BIGANOVSKY**

**THE OMBUDSMAN OF VICTORIA
NORMAN GESCHKE**

HEREBY JOINTLY DECLARE a reciprocal co-operative arrangement that will fulfil the said demands of a good- complaints investigation system and provide for a fair and a more cost effective access in circumstances when the residents of one State may have a matter of complaint relating to the administrative actions occurring in the other State.

- . The Ombudsman of Victoria and the Ombudsman of South Australia may further facilitate such access if it be necessary and convenient to do so by delegation of investigative powers to each other pursuant to the provisions of section 11 of the Ombudsman Act,1973 (Vic) and section 9 of the Ombudsman Act, 1972 (S.A.)
- . **AND** the Ombudsman of Victoria and the Ombudsman of South Australia may further facilitate such access by appropriate written referral of matters in accordance with jurisdictional requirements.
- . **AND** the Ombudsman of Victoria and the Ombudsman of South Australia may in facilitating the said access provide such further practical assistance as will enable each office to carry out its lawful and proper functions in the most economic and cost effective manner possible with due regard to the requirements of the enabling powers and requirements of each respective Act of Parliament.
- . **AND** the Ombudsman of Victoria and the Ombudsman of South Australia may further provide each complainant with such practical advice as will enable such complainant to pursue the matter of complaint effectively with each office in the most economic and cost effective manner possible for each office concerned.
- . **AND** do all such other things as will facilitate reasonable, convenient and economic cooperation in the case of referral of complaints or the conduct of joint investigations as may be necessary and appropriate in any case.
- . **AND** further facilitate exchange of such ancillary information and know-how, subject to the requirements of each Act as will assist each Ombudsman in the carrying out and execution of their respective statutory functions and the Ombudsman role.

DATED

January 1993

Ombudsman for Victoria
Norman Geschke

Ombudsman for South Australia
Eugene Biganovsky

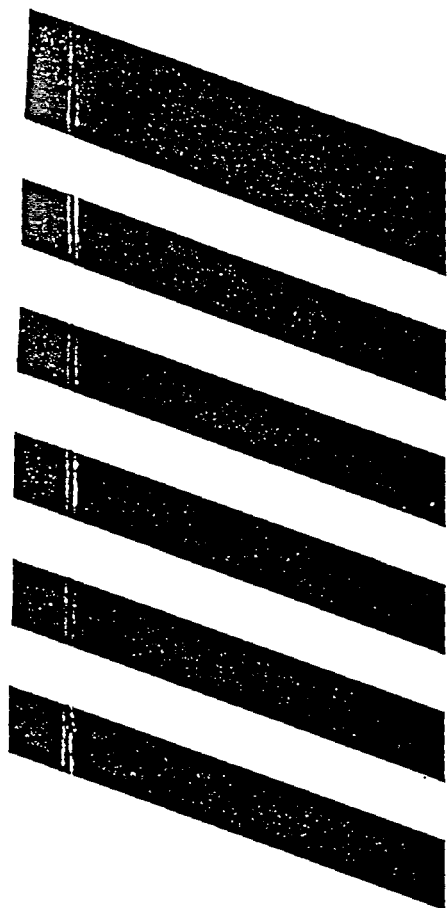
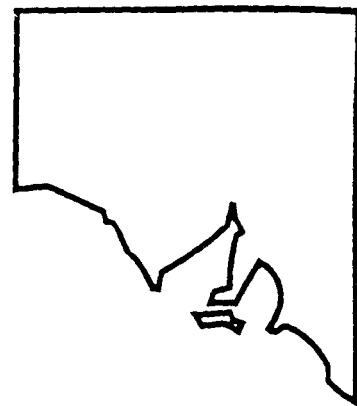
PRESS RELEASE

RECIPROCAL ARRANGEMENT BETWEEN THE SOUTH AUSTRALIAN OMBUDSMAN AND VICTORIAN - OMBUDSMAN OF PARTICULAR BENEFIT TO REGIONAL COMMUNITIES OF THE SOUTH EAST OF S.A. AND SOUTH WEST OF VICTORIA

THE SOUTH AUSTRALIAN OMBUDSMAN MR EUGENE BIGANOVSKY WILL BE VISITING THE SOUTH EAST BETWEEN WEDNESDAY 20TH JANUARY AND FRIDAY 22ND JANUARY 1993 ACCOMPANIED BY THE OMBUDSMAN OF HONG KONG MR ARTHUR GARCIA (officially styled, Commissioner for Administrative Complaints). MR GARCIA WILL BE PRESENT AS AN OBSERVER OF THE SOUTH AUSTRALIAN SYSTEM OF DIRECT PUBLIC ACCESS BY REGIONAL COMMUNITIES TO THE OMBUDSMAN OF SOUTH AUSTRALIA. LEGISLATION IN OTHER COUNTRIES DOES NOT ALWAYS ENABLE THE PUBLIC TO HAVE DIRECT ACCESS TO THE OMBUDSMAN. MR. GARCIA WILL ALSO VISIT THE OFFICE OF THE VICTORIAN OMBUDSMAN IN MELBOURNE.

ON THURSDAY 21 JANUARY 1993 THE SOUTH AUSTRALIAN OMBUDSMAN MR BIGANOVSKY AND THE VICTORIAN OMBUDSMAN MR NORMAN GESCHKE WILL MAKE A PUBLIC ANNOUNCEMENT OF A "COOPERATIVE ARRANGEMENT" THAT WILL PROMOTE IMPROVED ACCESS TO THEIR OFFICES FOR RESIDENTS OF BOTH STATES WITH PARTICULAR BENEFIT TO REGIONAL COMMUNITIES. PAST EXPERIENCE HAS SHOWN THAT RESIDENTS OF THE SOUTH- EAST OF SOUTH AUSTRALIA AND SOUTH WEST OF VICTORIA MAY HAVE RELEVANT INTERESTS THAT ARE AFFECTED BY ADMINISTRATIVE ACTION IN THE OTHER STATE. EACH OMBUDSMAN OFFICE WILL ASSIST THE OTHER IN THIS REGARD BY FACILITATING ACCESS TO SUCH PERSONS. THIS MEANS THAT THE PERSON MAY UTILISE THE SERVICE OF THE OFFICE MORE ACCESSIBLE TO SUCH PERSON AND CHANNEL THE CONCERN THROUGH SUCH OFFICE WITH A REASONABLE EXPECTATION THAT THE MATTER WILL REACH THE OMBUDSMAN HAVING JURISDICTION IN RELATION TO THE MATTER OF COMPLAINT.

SUCH PROCESS WILL QUITE OFTEN BE CHEAPER AND MORE EFFECTIVE FOR THE OFFICE CONCERNED AS WELL AS BEING MORE CONVENIENT AND MORE ECONOMICAL TO THE PUBLIC. THE OMBUDSMAN SYSTEM IS UNIQUE IN THAT IT PROVIDES " FREE " ACCESS TO THE COMMUNITY AND ITS FLEXIBLE PROCEDURES USUALLY RESULT IN SPEEDY REMEDIES. SUCH PROCESS WILL BE ENHANCED IN THE COUNTRY AREAS BY THE CO-OPERATIVE ARRANGEMENT. THE CO-OPERATIVE ARRANGEMENT BETWEEN THE S.A. OMBUDSMAN AND THE VICTORIAN OMBUDSMAN WILL BE FIRST LAUNCHED IN MT GAMBIER BY HIS WORSHIP THE MAYOR OF MOUNT GAMBIER, (MR. F. (DON) MCDONNELL) DURING A RECEPTION HOSTED BY THE MAYOR AT THE COUNCIL CHAMBERS ON THURSDAY EVENING.



21st

ANNUAL REPORT

OF THE

SOUTH AUSTRALIAN

OMBUDSMAN

1992-93

It has been a difficult year for the Office. Strained at times to maintain the requisite level of productivity, only hard effort and a high degree of mental agility on the part of the Office has achieved another credible series of just and fair results in keeping with its corporate mission. The Office has also strived to maintain procedural flexibility, personal and direct complainant accessibility, and informality in public communication. The investigative team has endured increasing demands with a revived spirit of enterprise and showed their continued willingness to adopt methodological transformation in order to fulfil their tasks with the best possible results. Considerable pressures and difficulties were endured by the remaining few during times of absence by other members of the Office.

THE OMBUDSMAN OFFICE - AN OVERVIEW

A significant feature of the South Australian Office has always been its lean size.

- The total permanent investigative resources of the Office during the year were the Ombudsman, the Deputy Ombudsman and four Investigation Officers, two Preliminary Investigation Officers, and the Ombudsman's administrative assistant who also has the dual role of assisting with the preliminary investigations and providing direct administrative assistance to the Ombudsman. Clerical support staff consisted of two officers.

Members of the public have been surprised when confronted with the reality of the size of the Office which has failed to match the magnitude of their expectations. However, leanness has also shown some distinct advantages. It has generally promoted a higher degree of direct personal contact and communication between the members of the public and the Ombudsman. The Ombudsman and the Office have a direct "hands-on" knowledge of all matters of significance at any particular time. Flexibility and informality in complaint handling and certainly in investigative methodology has usually resulted in an effective deployment of resources and has been normally conducive to a high degree of efficiency, particularly on those normal occasions when a matter of complaint has been based on rational considerations of fact rather than an expression of subjective desire or political preference on the part of a complainant or an interest group. Unfortunately, there will always be occasions when even those most efficient will be frustrated by actions and events which are not within the control of the Office.

During the year several administrative arrangements were effected to counter the financial and staffing problems that were experienced at the close of the previous year.

The financial position has been brought back to an even keel. Valuable assistance has been provided by a temporary arrangement involving secondment of a legally qualified officer from the Department of Correctional Services who has been assigned investigative work excluding matters relating to that Department.

AN OMBUDSPLAN—A LONG-TERM COMMITMENT TO EFFECTIVE FAIRPLAY

In my previous Twentieth Report to Parliament I referred at some length to the development and establishment of a Charter for the Office as a means of ensuring good service to the people of South Australia during increasingly difficult circumstances. The apparent precariousness of last year's situation has been overcome by the provision of sufficient funding as suggested by me and assistance by the temporary officer. However, an organisation cannot be effective if it only reacts to a crisis.

The New Zealand Ombudsman has developed an Ombudsplan. This comprehensive plan combines, as I see it, all the virtues of an Office Charter (setting out the Ombudsman's mission, goals and strategies) with regard to economic and practical realities of the Office as a live working plan. There is also, I think, a need not only to "measure" complaint/investigation requirements in a more "empirical" manner (rather than just react to the fact of growing numbers when that occurs) but also to "predict" in a rational manner future trends that may affect the Office. The New Zealand Ombudsman has in all of its principal aspects become a more mature form of Parliamentary Ombudsman institution. The essential features of the Ombudsplan may be adapted to the conditions of the South Australian Ombudsman Office. I am of the opinion that a South Australian Ombudsplan will provide a better and more reliable basis for identifying and developing performance indicators and implementation of the statutory functions of the Ombudsman.

OFFICE OF THE OMBUDSMAN FOR
SOUTH AUSTRALIA

OFFICE CHARTER

Office Aim

To independently investigate and determine complaints from members of the public concerning SA government and local government agencies and to promote fairness in public administration.

Office Objectives

- * To investigate and determine complaints of defective public administration.
- * To promote fairness of administrative action.
- * To promote improved communication between agencies and the public.
- * To identify and advise agencies of deficiencies in legislation and policies.
- * To promote public awareness of the role and function of the Ombudsman.
- * To facilitate direct access to the Ombudsman for the Aboriginal communities and persons of Aboriginal background.
- * To facilitate direct access to the Ombudsman for persons of non-English speaking background.
- * To facilitate direct access to the Ombudsman for persons including minors, who for cultural, physical, or intellectual reasons would be at a disadvantage in effecting official communications.

Office Strategies

- * Provide a professional, objective and high quality service in a timely, fair and sensitive manner.
- * Investigate complaints without undue formality.
- * Promote services and access to the Office on a statewide basis.
- * Advise officers in agencies, where appropriate, on methods of reducing grounds for complaint.
- * Employ appropriately skilled and experienced officers and enhance training and development for all staff.
- * Adopt and maintain modern technology and systems as may be conducive to optimum levels of efficiency and effectiveness.

Performance Indicators

Programme objectives will have been met when:

Complaints Investigation Programme

- * Each complaint has been effectively commenced within 14 days of receipt in the Office.
- * The average completion time for investigations is less than 120 days for formal investigations, and less than 10 days for informal investigations.
- * Every action taken on a complaint has been adequately recorded.
- * All legislative requirements have been observed.
- * Systemic deficiencies have been identified and dealt with.

Publicity and Education Programmes

- * Community or educational groups have been addressed by the Ombudsman and staff.
- * Information has been provided to maximise public awareness.
- * Published reports were appropriate and timely.

Support Services Programme

- * All staff have attended courses relevant to their needs and those of the Office and statutory training requirements have been met..
- * Statutory reporting requirements have been met.
- * The Office record system has provided prompt access to and retrieval of required information.

Outcomes for 1992/93 and specific activities for 1993/94 in pursuance of Office Objectives:

1. *Investigation and resolution of complaints and provision of feedback to agencies on deficiencies noted.*

In 1992/93 the Office received a record 2501 complaints and 23 FOI review applications and finalised 2521 matters with no increase in permanent staffing. Examples of areas where there have been benefits to complainants as a result of the investigation are contained in Schedule IIA and examples of changes to administrative practices as a result of deficiencies being referred to agencies are contained in Schedules III and IV.

The Office will continue to provide the core service of investigation of complaints against agencies within the Ombudsman's jurisdiction and will use all appropriate opportunities to provide feedback to agency staff both informally and formally where deficiencies are noted, and will encourage action to correct such deficiencies.

Estimated total cost for 1993/94: \$696,000

2. *Regional visits to ensure accessibility to the Ombudsman for all, regardless of where they live.*

In 1992/93 the regional visit programme was slightly reduced on past years, partly because of initial funding difficulties but also because of the pressure of incoming complaints. Page 47 details the regional visits undertaken in 1992/93.

A program of regional visits, including twice yearly visits to the major country regions of the South East, the Riverland and the Iron Triangle, and visits to other locations, will continue in 1993/94.

A special access programme is being devised for all aboriginal communities and the programme will be extended to ethnic communities.

Estimated cost, including travelling, advertising, salaries, etc for 1993/94: \$15,000

3. *Raising of awareness of the Ombudsman by talks to community groups and involvement in "Law Week".*

In 1992/93, talks about the Ombudsman were given to community organisations including Rotary, Lions, Probus, and other groups, and school groups. During Law Week, the Ombudsman Office hosted visits as part of the "Law Walks" and informative lectures were given. During regional visits local communities were informed about the role and function of the Ombudsman through the local media.

It is in the public interest that the educative commitment of the Ombudsman should be maintained. Another practical and useful process of effecting community awareness is by publication pursuant to section 26 of the Ombudsman Act of special reports relating to those investigations of the Ombudsman which may be in the public interest.

Estimated Cost for 1993/94: \$4,000

Special arrangements will be brought into effect to facilitate access to the Ombudsman by Aboriginal communities, persons of non-English speaking background and any other persons, including minors who for cultural, physical, intellectual reasons would be at a disadvantage in effecting official communication.

4. *Maintain awareness of activities of Ombudsmen within the Australia and Pacific region and elsewhere in the world.*

During 1992/93, the Ombudsman attended the International Ombudsman Conference in Vienna where the Ombudsman made valuable contacts in the world wide Ombudsman movement and gained useful information about the operations of other Ombudsman's Offices. The South Australian Ombudsman was elected Director and Executive Secretary of the International Ombudsman Institute.

It is a matter of high utility that the Office maintain an awareness of developments relating to the establishment and function of the Ombudsman around the world and particularly in the Australasian and Pacific region. To this end, the Ombudsman will attend the Annual Conference of Australia and Pacific Ombudsmen in Perth and a meeting of the International Ombudsman Institute in New Zealand.

Estimated cost for 1993/94: \$6,000

5. *Consideration of applications for external review under the Freedom of Information Act.*

23 new applications for review were received in 1992/93 and 22 matters were finalised. Refer to page 41 for further details.

The provisions of the Freedom of Information Act and the cognate provisions of the Local Government Act provide the Ombudsman with the role of considering applications for review of determinations of agencies and deciding whether they are properly made. This function will continue in accordance with the Act. Some increase in applications for review is anticipated.

Estimated cost for 1993/94: \$20,000

6. *Development of Staff to enable them to efficiently and effectively perform their duties.*

In 1992/93, financial restrictions limited staff attendance at training courses, but a number of staff attended short courses and there were some in-house training sessions.

Within the resources of the Office, staff will attend appropriate external courses and conferences and will participate in in-house training. Staff will also continue to attend whenever appropriate seminars arranged by the S.A. Chapter of Australian Institute of Administrative Law (of which the S.A. Ombudsman is the Chairperson). During September 1993 several staff will attend the first FOI conference.

Estimated cost for 1993/94: \$7,000

Assessment of performance of Ombudsman Office:

In addition to the above activities, the Office will continue to monitor its own performance against established indicators and will attempt to develop further relevant and measurable indicators.

Quantitative indicators established:

- (1) Complaints completed per staff member.
- (2) Cost per completed complaint.
- (3) Average elapsed time for completion of investigation. (Target of < 120 days for formal matters and < 10 days for informal investigations.)
- (4) % with benefit to complainant.
- (5) Complaint commenced within 14 days of receipt.

To date methods to measure items (1) to (3) above been established. The Office will develop appropriate methods to measure items (4) and (5) and will continue to consider appropriate indicators of quality of work.

In respect of items (1) to (3) above, the following table demonstrates the performance of the Office:

Year/ No of staff	Type	Finalised Complaints per Staff member	Cost per finalised Complaint	Average Time (days)	Number of complaints finalised
1989/90 9.8 staff	Informal	137.0		10.0	1343
	Formal	75.6		145.5	741
	Total	212.6	\$289.55	58.1	2084
1990/91 10.8 staff	Informal	134.3		9.5	1450
	Formal	57.1		155.5	617
	Total	191.4	\$307.07	53.0	2067
1991/92 10.8 staff	Informal	146.8		10.2	1585
	Formal & FOI	62.7		146.6	677
	Total	209.5	\$320.31	50.6	2262
1992/93 10.8 staff	Informal	164.1		9.8	1772
	Formal & FOI	69.4		123.9	750
	Total	233.5	\$290.84	43.7	2522

The expenditure in respect of the normal operations of the Office has been kept within the reasonable limits of my budgetary allocation. The budgetary particulars are provided in **Appendix A** to this Report.

The staff resources are provided in **Appendix B** to this Report.

* * *

The staff Organisation Chart is provided in **Appendix C** to this Report.

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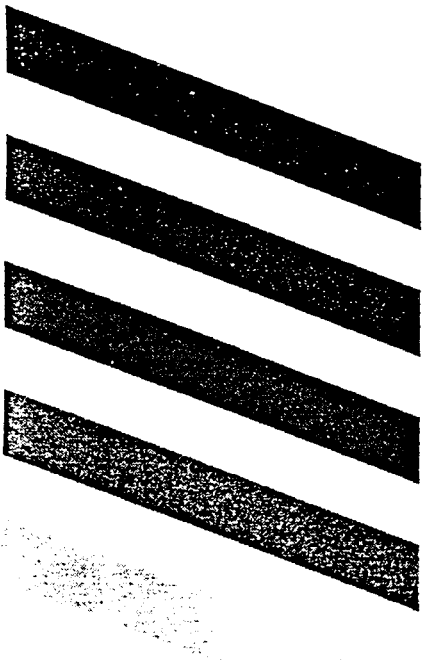
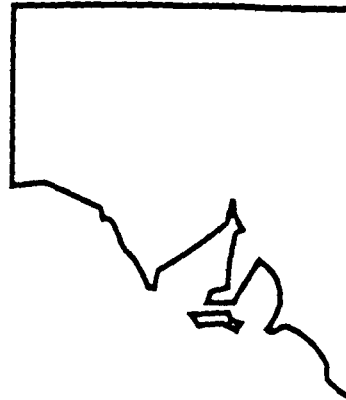
The comprehensive Running List of complaints requiring investigation during the year and the result of the investigations are provided in **Appendix D** to this Report.

* * *

A statistical account of all complaints received is shown in **Appendix E** to this Report.

HIGHLIGHTS OF EVENTS

Having regard to the substantial increase in complaints in the previous year, I have introduced during the year the practice of report follow-up and consultation with the principal officers of agencies which have recorded against them substantially increased levels of public complaint to the Ombudsman or when specific patterns of complaint may emerge



OFFICE CHARTER

1994

SOUTH AUSTRALIAN OMBUDSMAN

THE OFFICE OF THE OMBUDSMAN FOR SOUTH AUSTRALIA

THE OFFICE CHARTER

Aim of the Office

To independently investigate and determine complaints from members of the public concerning SA government and local government agencies and to promote fairness in public administration.

Objectives of the Office

- To investigate and determine complaints of defective public administration.
- To promote fairness of administrative action.
- To promote improved communication between agencies and the public.
- To identify and advise agencies of deficiencies in legislation and policies.
- To promote public awareness of the role and function of the Ombudsman.
- To facilitate direct access to the Ombudsman for the Aboriginal communities and persons of Aboriginal background.
- To facilitate direct access to the Ombudsman for persons of non-English speaking background.
- To facilitate direct access to the Ombudsman for persons including minors, who for cultural, physical or intellectual reasons would be at a disadvantage in effecting official communications.

Strategies of the Office

- Provide a professional, objective and high quality service in a timely, fair and sensitive manner.
- Investigate complaints without undue formality.
- Promote services and access to the Office on a state-wide basis.
- Advise officers in agencies, where appropriate, on methods of reducing grounds for complaint.
- Employ appropriately skilled and experienced officers and enhance training and development for all staff.
- Adopt and maintain modern technology and systems as may be conducive to optimum levels of efficiency and effectiveness.

Performance Indicators

Programme objectives will have been met when:

Complaints Investigation Programme

- Each complaint has been effectively commenced within 14 days of receipt in the Office
- The average completion time for investigations is less than 120 days for formal investigations, and less than 10 days for informal investigations.
- Every action taken on a complaint has been adequately recorded
- All legislative requirements have been observed
- Systemic deficiencies have been identified and dealt with
- Treat all complainants as individuals
- Investigate complaints promptly, thoroughly and impartially.
- Devise appropriate remedies for defective administration.
- Provide all parties with adequate information as to the current stage and status of the investigation.
- Provide all complainants with intelligible and adequate reasons for any conclusive opinion made pursuant to the Ombudsman Act.
- Maintain effective levels of communication, clarity, accuracy and truthful content in all correspondence and reports.
- Maintain confidentiality of all information pursuant to the Act.
- Comply with all legal and ethical requirements.

Publicity and Education Programme

- Community or educational groups have been addressed by the Ombudsman and staff.
- Information has been provided to maximise public awareness.
- Published reports were appropriate and timely.
- Distribute to the community relevant information pertaining to the role and function of the Ombudsman.
- Address the community on the role and function of the Ombudsman.
- Publish reports as may be necessary or in the public interest.
- Maintain and promote equity of access to persons of Aboriginal and non-English speaking background and to all persons regardless of sex, race, physical or mental impairment, sexuality, religion or age.

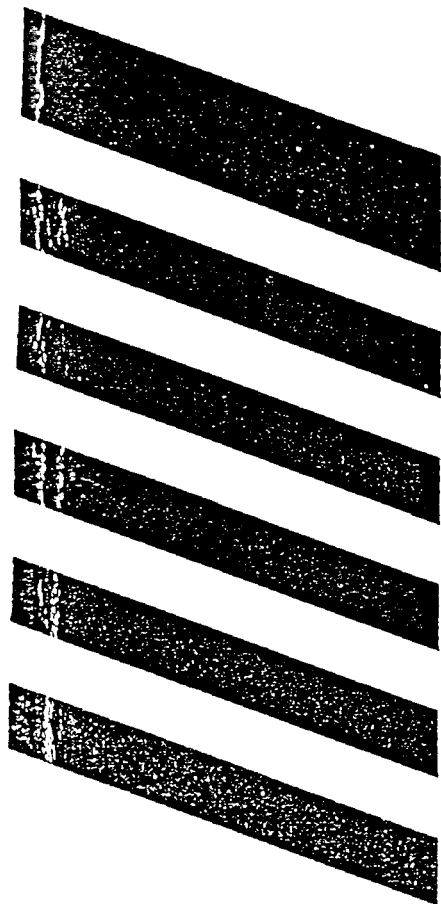
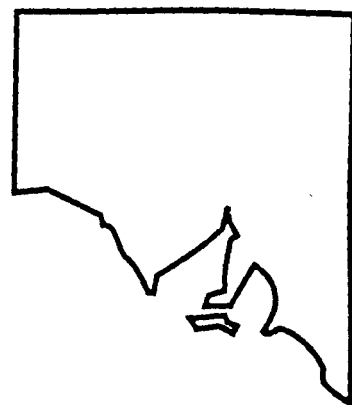
Support Services Programme

- All staff have attended courses relevant to their needs and those of the Office and statutory training requirements have been met.
- Statutory reporting requirements have been met.

- The Office record system has provided prompt access to and retrieval of required information.
- Maintain effective and efficient work practices.
- Provide for effective recording of evidence in serious cases (see section 18(5)).
- Maintain effective communication within the Office.
- Comply with all statutory requirements.
- Monitor the sufficiency of financial, physical and human resources and if necessary, reallocate resources or seek additional resources.
- Maintain effective information systems.
- Provide appropriate staff training.

Personal Conduct

- Cheerful application of skills to all tasks.
- Treatment of all complainants as individuals.
- Maintain professional standards of decorum without rancour and acrimony and avoidance at all times of bias, prejudice or prejudgment.
- Maintain professional standards of demeanour and personal appearance.
- Maintain high standards of written and oral communication with complainants, witnesses and officialdom.
- Maintain accurate records or summaries of all relevant information including witnesses' statements or interviews.
- Provide timely and accurate responses and reports.
- Exercise any delegated functions in accordance with the performance standards applicable to the Office of Ombudsman, having due regard to the primary aims and objectives.
- All official communication should be in plain and simple English.
- All pamphlets, instructions and public advice shall have a "user-friendly" content.



20th

ANNUAL REPORT

OF THE

SOUTH AUSTRALIAN

OMBUDSMAN

1991-92

Most agencies have the complete account of the case and all other relevant information pertaining to legislation, policy or practice and their application to the circumstances of the case. Accordingly, most if not all complainants would mostly immediately derive the benefit of an independent investigation which normally involves a practical opportunity for rational and objective challenge through the Ombudsman of any official assertion of fact or opinion that may be considered inaccurate or wrong and the existence of which would otherwise appear to obstruct the path to a reasonable resolution of the administrative concern. Quite independently of this relatively uncomplicated procedure, the Ombudsman conducts an objective review of all the relevant facts and circumstances of the matter under investigation. Thus an inarticulate or otherwise disadvantaged complainant would be provided with an opportunity equal to the normally well-organized, articulate and much more powerful agency during a rational and objective process of evaluation of facts that would normally take place during any investigation.

Such liberty to complain extends equally to all, regardless whether the complainant be of mild or meek disposition or one who may be less temperate, quarrelsome and inclined during such occasions to hyperbolic expression. However I have drawn a firm line as to the kind of conduct that will not be tolerated. I have for the first time now effectively 'banned' one unruly complainant from the precincts of my office after he had assaulted a member of my staff. Nor do I think it necessary that I should tolerate offensive language or conduct in the precincts of the Ombudsman Office. In such circumstances the complainant has been and would be directed if he so chooses to make his complaint in writing.

There were also circumstances when the allegations were sufficiently serious to warrant a statement by way of solemn declaration of fact or statement of evidence on oath; but even in such cases, the procedure which I have adopted was simple and flexible to put the complainant or witness at ease in order to elicit a full and accurate account of the matter.

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Aboriginal communities

This Office has been fortunate in having had the assistance of Mr Charles Jackson throughout the year as a regional assessment officer at Port Augusta. Although due mainly to Mr Jackson's election as a member of the Aboriginal and Torres Strait Islander Commission and his ever-increasing commitment elsewhere, there was necessarily, a progressive lessening of his capacity to assist with the work of this Office, I think that individual complaints from Aboriginal communities to this Office showed there to have been a growing awareness of the Ombudsman role. I therefore formally record my appreciation to Mr Charles Jackson for his efforts in this regard and note that with the conclusion of the annual contract, a suitable appointment has yet to be made. I have made a number of enquiries in this regard and had proposed to appoint a suitable person on a contract basis on the same terms and conditions as applied with Mr Jackson as soon as may be practicable, but such appointment must now be deferred indefinitely until adequate resources have been secured in order that such function be exercised subject to appropriate control by the Ombudsman.

In this context I note the earlier useful comments of Mr Jackson relating to his role:-

"(As) an Ombudsman's representative..I have seen many benefits as a consequence of having an Aboriginal person in the position. Those benefits are positively reflected in the rapport that has developed between State Government Departmental representatives and myself. ..Having an Aboriginal person in this position has also been a benefit to the Port Augusta Community both Aboriginal and non-Aboriginal. It has assisted in breaking down some of the conflicts and tensions that inevitably exist as well as raising the level of cross cultural interaction.

Of all the matters I have considered in my role as an Ombudsman's Representative none has been more important than the need for improved communication. To effect communication at a cross cultural level has been doubly rewarding."

Shortly before the conclusion of the arrangement Mr Jackson wrote to me as member of ATSIC:-

"I believe it is appropriate that I should write to you and express my sincere thanks to you and your staff for the warmth and the welcome shown to me during my appointment with the Ombudsman Office. With the experience I have gained in dealing with officials at all levels within State Government Departments I have gained an appreciation of the process to achieve a result.

I would like to suggest that you continue this program because of the unique status it has in the community of South Australia and the many results achieved on behalf of Aboriginal people.

Once again thank you for this opportunity to be associated with you and trust that the Ombudsman's Office will continue providing a worthwhile service to the community."

Mr Jackson informed me also that **one of the main achievements in this arrangement was the improvement of communication between the aboriginal people and various agencies.** I think that alone would support the continuation of a like arrangement if it can be once again put into effect.

The **principal virtues** of any effective Parliamentary Ombudsman's Office must include **convenience of access, flexibility of investigative procedures and the credibility** of its function which relates as much to the actual processes of the Office itself as to the essential characteristics of the Ombudsman (viz, **independence and accountability**). In securing appropriate appointments that would promote better access to the Ombudsman care must be exercised to ensure that regard be had to these **fundamental and essential characteristics of the Ombudsman** and that matters of convenience alone do not place such essential features of the Office at risk. For instance, I would think to be entirely repugnant to the scheme of the Ombudsman Act if an officer acting on behalf of the Ombudsman were also to hold a part time or permanent position within an agency subject to my investigation. **It is further important to maintain some continuing presence in the Northern area of the State especially with the opening of the new Port Augusta prison.**

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As stated in my previous Nineteenth report, largely by reason of such awareness of the existence of the Ombudsman two separate aboriginal communities complained to me about administrative actions or omissions of the Heritage Branch of the Department of Environment and Planning. After a lengthy hearing of the complainants at Port Augusta, reports were sought from the Department. After considering the reports provided and other relevant submissions and providing the complainants with an extended opportunity to deal with these matters of which they did not avail themselves, I then discontinued my investigation. The principal benefit of the investigation however was the opportunity to provide the complainants, independently of the processes which they had already exhausted, with an opportunity to seek external review and obtain further information that they did not appear to have. As to one of the principal complaints that there was failure to consult with the aboriginal community concerning a particular major development proposal I was advised as to the nature and degree of the consultation which did in fact occur; and accordingly, I was satisfied that the Community and its Committee had been adequately consulted.

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A complaint was referred to me by the Port Adelaide Information Centre and I had the benefit of hearing the complainants who were of Vietnamese background. I was informed that a travel agent referred my complainants to an officer who happened to be her spouse in the Office of Multicultural and Ethnic Affairs.

My complainants could not read or write in the English language. They alleged that the officer did not assist them as required and referred their concern back to his wife, the travel agent. She assisted the complainants and referred them to another member of the family who was an interpreter, whereby the complainants incurred a charge, which they considered unnecessary.

I had of course no interest in the reasonableness or otherwise of the actions of any private firm or individual, but I was concerned with any allegations of impropriety relating to an officer of the Office of Multicultural and Ethnic Affairs, particularly any suggestion that there may have been a conflict arising from any familial link.

Although the amount of money expended by the complainants was not substantial, the allegations were serious. I could have taken formal evidence; but considered in the circumstances of the case there was sufficient information for the matter to be referred forthwith to the principal officer in order for there to be an internal investigation relating to the conduct of the officer concerned. If there was evidence of

AN OMBUDSMAN FOR THE STATE OR ONLY THE CITY

"I have set a task of making 100 visits per year to country towns" (N. Geschke, Ombudsman of Victoria, Annual Report No. 17)

"One of my major objectives has been to ensure there is adequate public awareness among all segments of the population in any part of Ontario about how to access the Ombudsman's services . . . I am also acutely aware of how much needs to be done to meet the challenge of providing services to remote communities" (R. Jamieson, Ombudsman Ontario Annual Report 1991 - 1992)

Mine has been a much less ambitious programme for regional residents, limited by the available resources which I have at any particular time. Generally speaking, I have managed to maintain some four to six regional visits each year endeavouring to combine all investigative, complaint and promotional activity together. Such regional access is an essential aspect of investigation work.

There has been a continuing public demand for direct access to the Ombudsman in the country areas. This has been evidenced not only by the relatively high volume of complaints in country areas **during and after** my regional visits but also the increasing number of telephone calls utilizing the Ombudsman toll-free telephone number.

Moreover, given the nature of many complaints, a view of the site or locality forms part of the investigation and relevant information may be provided by witnesses who would otherwise not be able to travel to Adelaide. Many individual complainants commended the Ombudsman Office for making itself more accessible; and have stated that by reason of age or state of personal finances direct contact (apart from telephone communication) would have been almost impossible. In fact, a number of complainants would not have been able to communicate their concerns in writing and others would have found it equally difficult to convey their concerns solely by telephone.

My regional visits however are few when compared to the degree of Ombudsman access provided to the public in other nations or States.

I do not have the resources to deliver the necessary level of service to the South Australian community. Alas, I am essentially a metropolitan based body in the third largest Australian State which has a population of 1.458 million people. **It is a matter of vital importance that adequate provision be made to enable all South Australians to have reasonable access to the Ombudsman. This important aspect of the Ombudsman function is now in serious jeopardy because of inadequate funds. Urgent provision to the sum of \$20,000 should be made to maintain equity of access throughout the whole of State and to maintain a sensible practical approach to investigations involving local government matters and other agencies having regional presence.**

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I visited most of the regional Councils within my jurisdiction in order to discuss the preparation of a protocol that would assist in the effective investigation and resolution of complaints and the setting up of Local Government Complaints handling procedure. The existence of the Ombudsman does not imply an abdication of responsibility on the part of the agency itself to deal with a matter of complaint as quickly and efficiently as it should at first instance and failing a reasonable resolution of the matter, the complainant may then seek the assistance of the Ombudsman Office. Likewise, nor should any complainant abdicate the responsibility of divulging an administrative concern to the agency and provide it with a reasonable opportunity to have it resolved in the first instance.

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With distance, communication may not always be as effective as it should, but the combined effect of regional visits, access to a toll-free telephone and the preparedness of the Office to adopt a more active approach in considering the primary sources of information has often led to a better understanding of the

issues and earlier resolution than would otherwise have been the case. In more complicated matters and whenever it appeared appropriate, meetings were held on site and direct dealings were held with the agency or Council. When the principal officer furnished adequate information by way of a report, a tentative opinion of the Ombudsman has been sufficient to prompt favourable consideration of the matter by the agency. Transcripts of evidence have been an exception rather than a rule. **All the more reason that a maximum degree of direct contact be maintained with the members of the public and agencies.** In fact if it were not for the very limited human resources within the Office and increasing demands upon my own availability, I would have endeavoured to have a more regular presence with bimonthly visits to principal regional centres. Direct and informal contact during investigation in fact provides a direct cost saving to all concerned. If I am compelled to reduce all my communications to written interrogatories and written responses the resulting workloads will lead to inevitable bureaucratic paralysis of the Ombudsman process. A desk-bound investigator would be of little value to the Ombudsman. A desk-bound Ombudsman would be of little value to the people of the State.

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The contractual arrangement for an aboriginal contact officer at Port Augusta has come to an end, principally because of that officer's appointment as Commissioner with the Aboriginal and Torres Strait Islander Commission. **There is a need to maintain direct links with prisons or correctional institutions in regional locations.**

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Throughout the year complaints were heard and investigations or inspections carried out in the following regional centres and country towns:

November 1991	Port Broughton Port Pirie Port Augusta Hawker Quorn Whyalla Stone Hutt Peterborough Oodlawirra Clare	Total: 31 complaints
December 1991	Loxton Renmark Murray Bridge Berri	Total: 14 complaints
December 1991	Bordertown Naracoorte Mount Gambier Millicent Robe Kingston	Total: 23 complaints
April 1992	Ceduna Port Lincoln Butler Tanks Arno Bay Whyalla Port Augusta	Total: 14 complaints

May 1992 Mannum
 Waikerie
 Berri
 Renmark
 Naracoorte
 Mount Gambier
 Robe
 Millicent Total: 30 complaints

June 1992 Wakefield Plains
 Port Pirie
 Peterborough
 Mount Remarkable
 Quorn Total: 13 complaints

Intensive Cattle Feedlot - Alleged Delay by Council in Acting upon Complaint - Reasonable - Construction of Dams

During my visit to Clare in December of 1991 a number of complainants (mostly local residents) complained to me about the administrative actions of the Council in relation to the establishment of an Intensive Cattle Feedlot.

They supplied me with an abundance of letters and other documents relating to the matter and urged that I inspect the locality, which I did.



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Initially I intimated that I would proceed to an early consideration of the matter in December 1991 or January 1992, but after more careful consideration of the information provided decided that it would be more appropriate if I were to proceed with a preliminary investigation for the purposes of determining (a) my jurisdiction in the matter (b) the true nature and extent of the administrative actions or omissions which may be the subject of an Ombudsman investigation and (c) whether or not the complainants (or any of them) were in fact directly affected by any of the pertinent administrative actions and to what extent.

Soon thereafter I became cognisant of the existence of an application by the South Australian Planning Commission against the owner-operator of the feedlot and an order of the District Court dated 12 February 1992.

I then received a separate "complaint" from the District Council of Blyth-Snowtown.

I pursued my concerns with the Mayor and the Chief Executive Officer of the District Council of Clare and was provided with a their account and number of relevant copy documents.

Eventually the complaint to me was expressed by the principal complainant in the following terms: 1) alleged unreasonable delay by Council in acting upon information concerning the establishment of the feedlot 2) alleged misleading official communication that Council had the matter under proper control 3) and alleged misleading information by Council that the feedlot had been approved by the Council. Having had the benefit of all the information provided to me I considered that the Council responded sufficiently to all these allegations. As to the issue of "delay" this was of course a matter of fact and degree. The notion of reasonableness (in the context of unreasonable delay) can only be sensibly applied with regard to all the surrounding circumstances of the case. "Reasonable" is a relative term and the facts of the case must be considered in order to determine what constitutes an unreasonable administrative practice.

"The word 'reasonable' has often been declared to mean "reasonable in all the circumstances of the case". The real question, in my opinion, was to determine what circumstances were relevant. In determining this question regard must be paid to the nature of the (administrative action). A circumstance which had no relation to the (matter of administration) but which depended entirely upon the personal . . . desires of the (complainant) would not, in my opinion, be a relevant circumstance in determining what was reasonable" (Opera House Investment Pty Ltd. v. Devon Buildings Pty Ltd (1936) 55 CLR 110, 116,117). I considered that what was implicit in reasonableness of administrative action (including execution of the action within a reasonable time) was the notion of "reasonable diligence" that has been judicially defined:-

"The meaning of this expression is, not doing everything possible, but the doing of that which, under ordinary circumstances, having regard to expense and difficulty, can be reasonably required" (The Europa (1863))

Plainly, consideration of administrative action and its timely occurrence must take into account the nature of the action in the context of the existing resources and the state of knowledge or information available to the agency such as the Council. A complainant cannot reasonably expect a local Council to formulate "guidelines" for feedlots that would be acceptable on a state-wide basis. Nor can a complainant reasonably expect a local council to step into a dispute with an operator/developer without sufficiently and fairly exploring all the relevant circumstances of the case.

I intimated that there was no evidence of defective administration or maladministration. Undoubtedly, there may always be some improvement made to an administrative practice or procedure following any investigation or inquiry. In the instant case it appeared to me that any reasonable planning authority confronted with a similar "development" would have some difficulty in assessment and evaluation of such development in the absence of appropriate "guidelines" and would have to seek appropriate advice on the matter.

Given however that the matter was properly before the Court and the planning processes must run their normal and proper course it would be premature and inappropriate for my investigation to continue as a full investigation.

I therefore postponed further consideration of the matter until after the conclusion of the planning and judicial processes. It may well be that the only administrative issue of any importance would be the apparent lack of "guidelines" concerning "feedlot" development. Other issues raised on complaint appeared to be incidental to any of the principal concerns.

I should also note that I was mindful of the interests of the "developer/operator" who was not a complainant but if the investigation was to continue, may well have relevant information on the matter. Furthermore, there were other members of the community who probably held views that were different to those of the complainants. In the sense that certain complainants were affected by what they described as the "nuisance" aspects of the development, they may have been more directly affected than others and

could have also pursued relief through the Courts. I am not of course able to proffer opinion or advice to members of the public on the law of nuisance.

I also noted the concerns of the adjoining Council, **the District Council of Blyth-Snowtown** especially in relation to the matter of construction of dams which could affect the adjoining Council area. That Council quite properly in my opinion stated that:-

"In relation to proposed review of the Local Government Act, it would be appropriate where dams are being constructed that could affect land in adjoining Council areas that those adjoining Councils should be consulted before approval is given to allow construction. It would also be appropriate where Soil Conservation Boards are in existence for consultation (to take place) with (the) Board(s)."

I heard the submissions of the District Council of Blyth- Snowtown separately during 29 June 1992.

As the matter had become one of public interest and media report, I published pursuant to the provisions of **section 26** of the Ombudsman Act so much of the information as I considered appropriate in order to provide a correct account as to the nature and stage of my inquiry of the matter. My publication was in response to questions by Radio 5CK (at Port Pirie). Otherwise, I did not consider it appropriate to divert my waning resources to the evaluation of a local political dispute or merely to bolster support for the opposition to the feedlot. The investigation had not been concluded during the year.

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Flooding of Property - Joint Inspection Required - Minor Reconstruction

A complainant expressed concern that construction of a minor road had altered the natural flow of water and caused excess water to flow onto his property. As his property and the road were on opposite sides of a boundary between two Councils, the District Council of Lower Eyre Peninsula and the Corporation of the City of Port Lincoln he approached both Councils in order to have the matter rectified. Both Councils denied that the construction of the road had caused any additional water flow.

When I sought reports from the Councils, the District Council of Lower Eyre Peninsula produced evidence that water always flowed through the complainant's property. It said that it was unfortunate that the Ombudsman inspected the site without reference to the Councils involved. **"Had a joint inspection been possible, the matter may well have been resolved then and there."** I wholeheartedly agree. As it was, there were a number of matters that had to be dealt with on that day and it was simply not possible to make better arrangements and secure the consent of the parties to a joint inspection and conference.

I do however think that wherever this is possible, such process is far more convenient, efficient and less costly. **It highlights the need for maintaining a set program of regular regional visits.**

Both Councils in fact produced contour maps to show the true flow of water. Nevertheless a remedy was discovered which involved minor reconstruction of the road to prevent flow onto the complainant's property.

I considered this to be a reasonable resolution to the problem.

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District Council of Elliston - Reticulated Water Scheme - Relevant Considerations

I received a complaint from a group of ratepayers, residents at Port Kenny who considered that the District Council of Elliston had acted unreasonably in relation to its consideration of a restricted reticulated water scheme for the township of Port Kenny.

I received a comprehensive report from the Council and had the benefit of a personal discussion with the Mayor and the Chief Executive Officer at Elliston during my visit to the West Coast. This information

indicated that in 1988 the residents of Port Kenny requested that the Council supply the township with suitable water supply.

Subsequent investigations made by the Department of Mines and Energy showed that there was a reasonable supply of water at a Water Reserve some 4 kilometres from the township. Council subsequently agreed to facilitate the provision of two underground bores and suitable holding tanks at the Water Reserve and residents were to cart water from the Reserve as they required.

In 1990 the Port Kenny residents approached the Council and requested the relocation of the water holding tanks from the Water Reserve to within the township. Council agreed to the relocation and the water holding tanks were subsequently placed behind the hall located in Port Kenny.

Council then accepted a deputation from the Port Kenny Water Committee and subsequently formed the opinion that not all residents of Port Kenny had been adequately canvassed by the Committee concerning their opinion relating to the installation of a restricted reticulated water supply. A questionnaire was forwarded by Council to the residents. Of a total of 76 that were sent out, there were 60 responses, with 31 voting "Yes" and 27 voting "No".

Council informed me that after some considerable deliberation it resolved not to support the Water Committee's request for funding to facilitate the proposal on the basis that:-

1. . . . residents divided in their opinion on the proposals
2. . . . not sufficient majority . . . to proceed
3. . . . (insufficient) consideration to full implications of the proposal
4. . . . the costing submitted to Council . . . insufficient in detail as to ascertain the final cost to individual residents.

I considered that Council had an absolute discretion and that I should only interfere if it could be shown on the information or evidence disclosed during my investigation that Council did not consider all the relevant information or that the decision made by Council occurred as a result of an error or a defect in the administration of the Council. Council was at liberty to choose such option as it considered appropriate having regard to all the relevant facts before it. This must remain an essential feature of local government or government decision-making that may only be effectively influenced by the process of lobbying and democratic elections. It was of no concern to the Ombudsman.

I advised the complainants that:-

"a stage may be reached..when it can be demonstrated by the evidence that it would not be reasonable for the local government body to ignore an essential need on the part of some community and that continued deprivation of water supply would constitute an unreasonable decision or omission on the part of such body. Regard would be had to the degree of hardship, inconvenience or detriment suffered by the complainants in such cases. If however an aggrieved person can show that the Council has failed to consider relevant matters or considered irrelevant matters then it may be cause for my intervention. My recommendations are by reason of the express provisions of the Ombudsman Act predicated on a finding of defective administration."

The information provided to me also showed that the Department of Mines and Energy did not support the scheme and recommended that the town water supply be satisfied at the present time by the use of the pipeline to the town with storage facility and standpipe or other preferred delivery system. The Department also considered that reticulation to individual consumers would inevitably result in increased per capita consumption.

My meeting with the Principal Officer and the Chief Executive Officer enabled a satisfactory completion of my investigation.

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Floodwaters - Extraordinary Rainfall - Investigation - Further Review by Ombudsman

The value of on-site inspections emerges in many cases of complaint. The owner of a holiday house at Port Broughton complained that floodwaters entered his house causing "considerable damage". The complainant alleged that the flooding occurred as a direct result of an inadequate Council storm-water pipe located on an easement at the rear of his property. Furthermore I was advised that the Local Government Association Mutual Liability Scheme had informed the complainant that Council cannot accept liability for the damage.

I received a most comprehensive report which indicated amongst other things:-

"The Ombudsman appears to misunderstand the situation, because there is not a stormwater pipe in the easement at the rear of ... (the) property. The only underground drain is the culvert under ... (the road). This culvert did not cope with the storm of June 10, 1991 as there were reports of water flowing over the road ..."

The storm ... was an infrequent event; possibly a 1 in 50 year event ..."

"The culvert in question has been in existence for approximately 35 years. If adjacent developments have impinged on its ability to manage stormwater, it is only to an insignificant extent. Similar flooding has not been experienced previously and the rains in question were of unique severity."

This information was confirmed by an analysis of records held by the Bureau of Meteorology indicating that the average monthly rainfall for Port Broughton in June is 45mm, which information was based on 106 years of records. The total rain for June in 1991 was 146.1 mm, this being the wettest month recorded in the district in 106 years.

I was also informed by Council that it commissioned design work in respect of drains that would be relevant to the concerns, but that the completion of the work was dependent on budgetary constraints. When I indicated that there was in my opinion no error or defect of administration, the complainant claimed that my view of the matter was misconceived and that I should personally inspect the locality and review the matter.

I further heard the Mayor and the Chief Executive Officer and other officers and employees of the Council. The subject land and the locality were inspected. I was of the opinion that the District Council of Port Broughton had no legal or moral obligation to compensate the complainant for flood damage to his



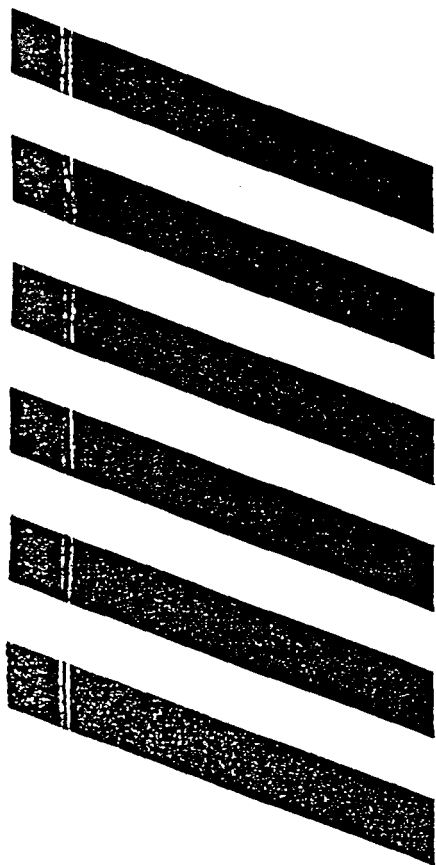
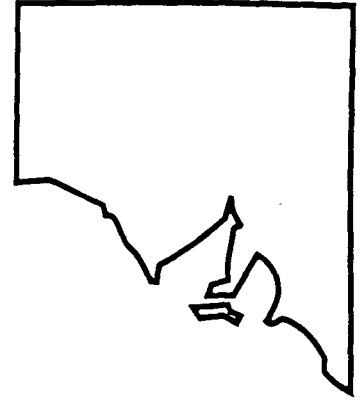
property. There was no basis for finding any administrative act of the Council to be defective. As the only real damage sustained was the loss of a carpet, it was my informal suggestion to the Council that should it find in its possession a suitable length of excess carpet it could as a gesture of good will offer it to the complainant. As to the complainant's particular concerns about the Local Government Association Mutual Liability Scheme I advised that these be raised with the Secretary-General of the Local Government Association.

District Council of Tumby Bay - Weeds - Offer of Ex Gratia Payment

A complaint was received against the District Council of Tumby Bay concerning the alleged accidental introduction of weeds into three rubble pits on the complainant's land. As the result of prior arrangement Council had access to the pits for purposes of supply of rubble.

The complaint had been discussed with the Council. The property was inspected by the Mayor and also separately, by my investigating officer. The District Council of Tumby Bay decided in an attempt to resolve the matter to offer an ex gratia payment of \$500. The complainant sought the reinstatement of the pits to near as possible to their original state or after the removal of the weeds by spraying, monitoring of the pits for re-growth. I considered Council's offer to be reasonable. The complainant expressed dissatisfaction that the inspection by this Office did not involve inter alia "(recognition) of the weeds at fault". I think much can be expected of the Ombudsman and much can be achieved, but botanical studies are simply beyond the normal scope of administrative investigations and there must be a reasonable limit to the scope of any investigation. I can only say that the investigating officer had to endure a very bumpy cross-country ride with the complainant to reach the area of the pits on the subject property at the conclusion of a long working day. What more can be expected of my staff?

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**EIGHTEENTH
ANNUAL REPORT
OF THE
SOUTH AUSTRALIAN
OMBUDSMAN
1989 - 90**

REGIONAL VISITS AND INVESTIGATIONS

“Individuals are also parts of groups, societies, and cultures. Truth must operate and emerge both within and between all of these separate levels. It is little wonder, then, that the concept ‘truth’ is seldom understood and equally shared by all people.” (A.D. Yarmey, The Psychology of Eyewitness Testimony)

South Australia is the third largest Australian State, comprising 984,000 square kilometres with most of its population of some 1.423 million persons living in the metropolitan area of Adelaide. Most of the complaints were, as may be expected, from the metropolitan area.

Another significant proportion of the South Australian community lives in a number of regional centres and towns, including Whyalla, Port Pirie, Port Augusta, Port Lincoln, Mt Gambier and Berri which are the subject of regular visits by this Office.

It is therefore not only necessary and proper that these and other communities which reside in the more sparsely settled areas of the State have adequate access to the Office of the Ombudsman, but also desirable that a real and practical opportunity be provided for such persons to state and, in some cases, explain or even expatiate if necessary, the nature of the grievance.

With resource constraints casting some necessary practical limitations as to the shape which any regional investigation may take, the Ombudsman Office has provided the best it can possibly offer in terms of a convenient and practical access, including an opportunity to be heard, to such communities and local agencies.

This year I have maintained regular visits to various regional centres as set out in the Schedule below, not only to hear new complainants who could otherwise have some practical difficulty in conveying a grievance to this Office but also to take up every opportunity to further an investigation which may have required some local inspection, interview of witnesses, or the hearing of local residents having a common concern or complaint in which the issues of administration have a wider application.

I have, in accordance with my practice as described at pages 9 and 10 of my previous Seventeenth Annual Report, met with or heard Councils and other agencies so as to provide the full opportunity for a response to any draft report or correspondence in which I have intimated an adverse inference or opinion pertaining to the administrative action which is the subject of my investigation.

During May of this year a Toll Free telephone number—(008) 182150—was established for the Office to meet the practical convenience of regional communities.

Also, since early February 1990, a resident of Port Augusta, who is of aboriginal descent and was appointed on a part-time contract basis pursuant to the provisions of section 12 of the Act has acted on my behalf as a preliminary investigation officer for the Northern region of the State, with particular focus on aboriginal communities, and assisted me with complaints involving aboriginal persons. In the five months of operation, this officer has accepted 17 complaints on my behalf.

In the relatively short period of time, Mr Charles Ronald Jackson, has accompanied me on visits to several regional centres and assisted me in the early stages of a complaint inquiry. Furthermore, a number of complaints and matters of administration relating to the aboriginal communities have been forwarded to this Office through this investigator. In several instances I am pleased to note that Mr Jackson's assistance has led to a better understanding of the complaint and a more equitable result for the aboriginal complainant. The benefits of this position have been obtained at the small cost of \$1700 for the five months of operation.

As the appointment is relatively new there will be some scope for its further development and determination of future shape in the months ahead. I have also noted that the New South Wales Ombudsman has a full-time permanent aboriginal person now on staff in an advisory capacity. In several Provinces of Canada, from my reading of the various annual reports, I note that the Ombudsman has staff with wide-ranging language and cultural skills in order to meet the needs of the wider Canadian community. I will be discussing the subject of such appointments with other Ombudsmen during the 11th Conference of Australasian and Pacific Ombudsmen to be held in the Solomon Islands in October 1990.



Complaints which relate to uses or development of land, environmental concerns, conditions of roads, damage by floods or street trees are but some of the typical situations when a view of the locality may prove to be invaluable in the process of resolution of the grievance.

Such a view assists not only in the elucidation of the complaint itself but also with the clarification of any response by an agency and will often promote a reasonable compromise that will satisfy both the complainant and the agency. Often this Office has heard both formally and informally complainants and officers representing agencies on a site which has given rise to a dispute concerning administrative action, providing each with a better opportunity to explain a matter of opinion or perception of an issue of fact.

It would be most unfortunate if resource limitations of this office were to hinder what often are such informal, relatively inexpensive "quick fix" operations which are often more appreciated by the general public and the agencies than the longer drawn out formal investigations which are more likely to occur in cases where the administrative issues are of greater complexity.

In my previous Reports I have often stated that one of the hallmarks of successful Ombudsmanship is the relative informality of the process of investigation. However, there will always be a significant number of occasions when neither an agency nor a complainant will be responsive to any quick practical solutions, but will attack or defend middle ground positions, either to capitalize on the fullest possible "win", or seek a total exoneration for a decision, or pursue the maximum ambit of every conceivable benefit or advantage. Informality could then give the wrong appearance of favouring or leaning towards a particular side, even though my function remains strictly investigative and recommendatory in nature. All notices of intention to conduct investigations which are formal are then appropriately worded as mandatory requirements for reports or responses and depending on the relative seriousness of the allegation on complaint my procedures are accordingly adjusted to provide each party with a full opportunity to be heard, with witnesses, and inspection of documents, if necessary, and views as may be appropriate in order to determine whether the relevant act relating to a matter of administration was in fact defective in any of the ways referred to in section 25(1) of the Act.



Complaints were heard and investigations carried out at the following country centres during the year.

November 1989	Bordertown	
	Port Lincoln	
	Whyalla	
	Port Augusta	
	Port Pirie	
	Warooka	
	Walleroo	Total: 11 complaints

OMBUDSMAN

and
Delegate for the Commonwealth Ombudsman



My Reference:

Your Reference: AL3.01 RG:CH



14 April 1994

Mr Andrew Fraser MP
Chairman
Committee on the office of the Ombudsman
Room 1144 - Parliament House
Macquarie Street
SYDNEY NSW 2000

Dear Mr Fraser

I am pleased to respond to your letter of 30 March, 1994, although I fear that I will be able to offer you little that would be helpful.

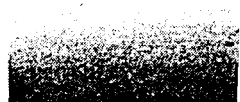
Mine is a small agency with resources which have recently been depleted from their previously barely adequate levels. Whilst I strongly suspect that the facility offered by the Ombudsman in this state is less appreciated than it should be by the groups mentioned in your letter, I have no empirical data to support that view. The only exception I would make would be in respect of persons in prison who I am confident know of my role and make good use of it.

My answers to your questions are as follows:

1. I can only say that I suspect that Aborigines, young people and people of non-English speaking backgrounds have an insufficient appreciation of the service my office has to offer. As indicated above, I do not think this applies to prisoners. I would also be disinclined to say that socio-economically deprived people are generally ignorant of the role of the Ombudsman considering that so many and varied complaints appear to come from that area.

Telephone: (002) 34 9200 (Toll free) 008 001 170 Fax: (002) 24 0094

23 Kirksway Place Hobart Tasmania 7000
G.P.O. Box 960k Hobart Tasmania 7001



2. We address community service groups, schools, police and prison officers in training and take part from time to time in in-service public service training courses. We are in the process of having informative posters printed for the purpose of placing them in strategic places in the community. We have no other plans afoot just now but the matter will be the subject of further reviews as the opportunity arises.
3. No.
4. No.
5. Please refer to enclosed copy of the Office's corporate plan.
6. Yes, see corporate plan
7. No.
8. No.
9. No, these surveys have not been undertaken yet but it is anticipated that such a survey will be commenced in the not too distant future. It would indeed be most helpful and particularly relevant for the Ombudsman to have this information as a means of evaluating and improving his own standards of service delivery.
10. We offer no interpretation service directly from this office but when it has occasionally become necessary, the Telecom Interpreter Service is utilised.
11. Possibly media advertisements, particularly television and newspapers, because of their wide coverage of the population and their ease and subtlety of presentation.

Yours sincerely



R F X GREEN
OMBUDSMAN



OFFICE OF THE OMBUDSMAN



TASMANIA

**CORPORATE
PLAN**

Mission Statement

To investigate and resolve complaints from members of the public against government authorities and in partnership with those authorities to achieve optimum standards of efficiency and fairness in public administration.

Corporate Objectives

- To resolve complaints of defective public administration.
- To improve administrative procedures and processes.
- To effect better communication between government agencies and the public.
- To identify and advise government agencies of deficiencies in legislation and policies.
- To increase and develop public awareness of the role and function of the Ombudsman.

Programmes

Complaints Investigation

- Investigate complaints promptly, thoroughly and impartially.
- Devise appropriate remedies for defective administration.
- Keep all parties appropriately informed throughout the investigative process.

Publicity and Education

- Provide for adequate funding of publicity and awareness initiatives.
- Distribute relevant publications to community groups, educational institutions and the general public.
- Regularly address community and educational groups regarding the role and function of the Ombudsman.
- Provide for timely and accurate media releases.

Support Services

- Develop and pursue productive work standards which conform to contemporary management practices.
- Establish effective communication within the Office.
- Comply with statutory requirements.
- Provide for adequate financial, physical and human resources.
- Maintain effective information systems.
- Provide appropriate staff training and encourage multi-skilling.

Performance Indicators

Programme objectives will have been met provided that:—

Complaints Investigation Programme

- each complaint has been dealt with effectively and within a time frame proportional to its complexity.
- every action taken on a complaint has been fully documented.
- all legislative requirements have been observed.
- systemic deficiencies have been identified and dealt with.

Publicity and Education Programme

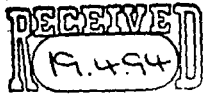
- all selected community or educational groups have been addressed by Ombudsman staff.
- publications have been widely distributed to maximise public awareness.
- media releases were appropriate and timely.

Support Services Programme

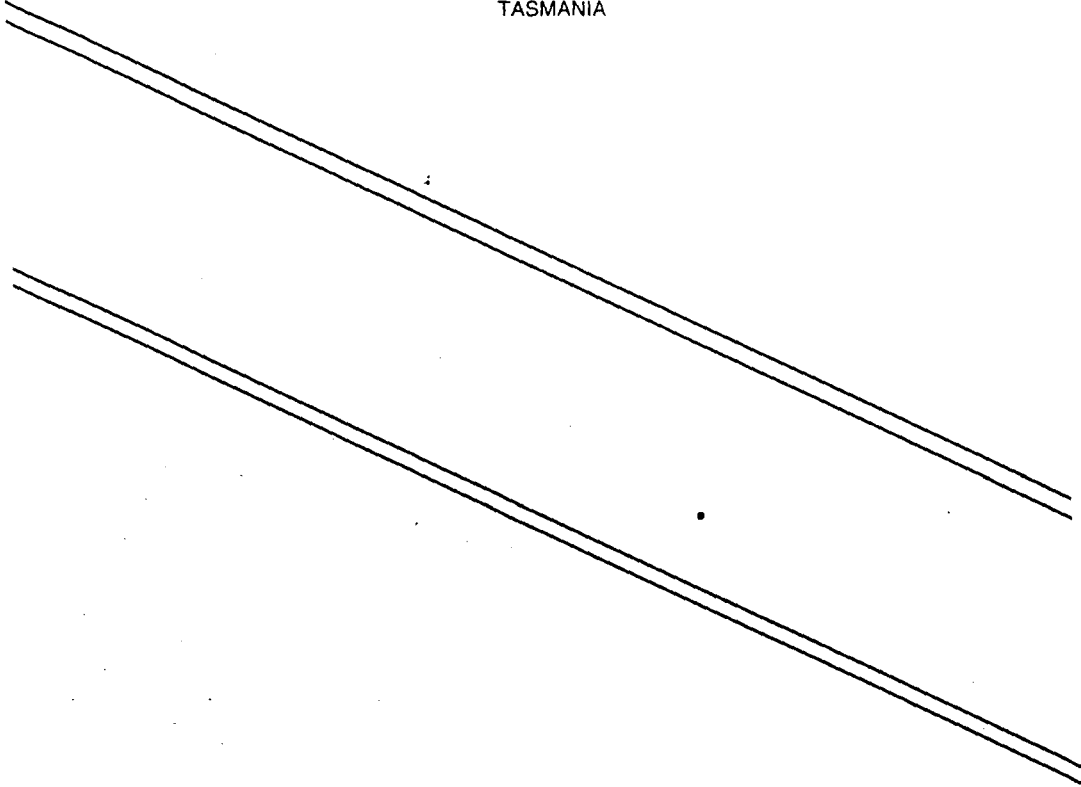
- all staff have attended courses relevant to their needs and those of the Office.
- statutory reporting requirements have been met.
- the Office's record system has provided prompt access to and retrieval of required information.

Corporate Strategies

- Provide professional and high quality service in a timely, fair and sensitive manner.
- Investigate complaints flexibly and where possible informally.
- Develop harmonious relationships with government agencies.
- Assist in educating public officers in methods of eliminating grounds for complaint.
- Widely advertise available services and means of access to the Office.
- Employ appropriately skilled and experienced officers and enhance training and development for all staff.



TASMANIA



Office of the Ombudsman Tasmania

23 Kirksway Place
Hobart 7000
P. O. Box 960K
Hobart 7001

Phone: (002) 34 9200
(008) 00 1170
Fax: (002) 24 0094



THE OMBUDSMAN
VICTORIA AUSTRALIA

& The Deputy Ombudsman (Police Complaints)

H/901/1/JK

Our Ref:

Your Ref:

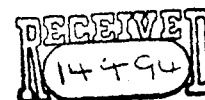
Mr R Seamer

Contact:

Telephone: 603-8818

7 April 1994

Mr A Fraser M P
Chairman, Committee on
the Office of the Ombudsman
Parliament House
Room 1144
Macquarie Street
SYDNEY. 2000



Dear Mr Fraser,

I refer to your letter of 30 March concerning knowledge of the role of the Ombudsman.

The availability of information about the Ombudsman within disadvantaged groups in the community is an issue which concerns many Ombudsmen and, unfortunately, limitations of funds and resources restricts the amount of effort that can be put into improving the situation. Regrettably, as a new Ombudsman has not yet been appointed following the retirement of Norman Geschke, it has been difficult to direct adequate resources to providing the responses you have sought. However, the following is a basic response to the questions you have raised. If you require elaboration I would be happy to endeavour to assist. Needless to say I would be very interested in the outcome of your enquiries if such information is available.

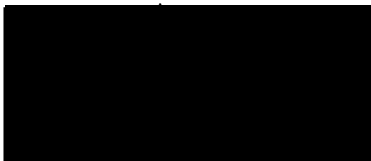
1. Problem areas - obviously any member of the community not being aware of the existence and the function of the Ombudsman is a concern. However, knowledge appears to be minimal within disadvantaged groups such as the poorly educated, non-English speaking, youths, and Aborigines. However such lack of information is not uniform and many members of such groups are well aware of the existence of the Ombudsman and utilise the service.
- 2 & 3 Strategies - We conduct a country visits program aimed at spreading awareness and ease of access throughout the state. Special attention is directed to schools, service organisations, Citizens Advice Bureaux, Legal Advice Services, etc. on the basis that such organisations have contact with members of disadvantaged groups. Attention is also directed to Members of Parliament and the media in an effort to 'spread the word'. Pamphlets have been produced in the main community languages to assist the dissemination of information.

4. Dedicated Staff - no such staff are available.
5. Measure of success - no particular strategies are employed to measure success.
6. Corporate Plan - The Corporate Plan includes access and awareness strategies. These aspects do not have performance measures.
7. Ethnic Affairs Policy Statement - No such requirement or policy exists.
8. Statistics - No specific statistics are maintained regarding complaints from disadvantaged groups. However, in relation to complaints against Police statistics are kept concerning those complaints in which a complainants racial or national origin was a relevant factor.
9. Complainant satisfaction survey - One such survey was conducted by a Ph D student in 1988. No further survey has been attempted.
10. Translation - Several members of staff are competent in languages other than English. The services of the State Government interpreting and translation service are accessible by this office.
11. Future methods - I believe that a strategy involving a range of methods of communicating information is the preferred option. It appears that the best method of disseminating information is by word of mouth and it is our aim to target those persons who are active in the community and to encourage them to advise others of the office.

I trust that this information is of use to the Committee.

As requested I enclose copies of the 1992/93 Annual Reports.

Yours sincerely



(B.W. Perry)
ACTING OMBUDSMAN

fra.jk



WESTERN AUSTRALIA

Parliamentary Commissioner for Administrative Investigations

(STATE OMBUDSMAN)

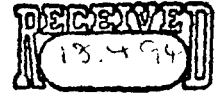
Your Ref

Our Ref PC 24:RE:AE:KH

Enquiries Mr Errington

Date 15 April 1994

Mr A Fraser MP
Chairman, Committee on the Office
of the Ombudsman
Parliament of New South Wales
Parliament House
Macquarie Street
SYDNEY NSW 2000



Dear Mr Fraser

re: Awareness and Access

Thank you for your letter of 30 March.

The issues of awareness and access are fundamental for the effective and efficient provision of an ombudsman service to the community. While the service is available to all members of the community, there is clearly a lack of awareness within the community and there is the concern that the members of the community most in need are often least likely to use the service.

I have commented on both these issues in my last two annual reports and, for ease of reference, I attach relevant extracts for your information. While efforts are continuing, much more must be done to achieve a much improved level of awareness in the community.

In relation to the particular questions you have raised, I provide the following comments:

(1) Yes. As outlined in my last two annual reports, the public awareness survey commissioned by the Commonwealth Ombudsman and conducted in June 1992 showed that more needed to be done to increase public awareness of my office, as well as the other jurisdictions elsewhere in Australia. I note that there was a higher awareness in NSW than in WA.

(2) There is a range of strategies, which include:

- Regional visits
- Addresses to schools
- Brochures
- Printed media reports
- Radio and television interviews and comment
- Distribution of my annual reports


A recent development has been the commencement of a regular column in the State's major Sunday newspaper (The Sunday Times) which reprints case notes from my 1993 Annual Report (sample attached). From feedback I have received, this initiative is having the desired effect of increasing public awareness of the existence of my office and the function it performs. As I acknowledged in my 1993 Annual Report, this initiative followed a similar successful scheme promoted by the Queensland Ombudsman.

- (3) No work has yet been undertaken in this area.
- (4) No. I have suggested to the Government that a position of Aboriginal Liaison Officer be created, but so far my suggestion has not been acted upon.
- (5) Apart from the 1992 survey mentioned above, no formal attempts have been made to measure the success of our strategies.
- (6) Please refer to pages 113 and 29 of the enclosed extracts from my 1993 Annual Report.
- (7) No.
- (8) No; we do not require complainants to provide this information and we have no way of knowing this detail.
- (9) We have considered doing so, but, so far, we have not conducted any such surveys.
- (10) My investigating staff can assist complainants to prepare complaints, but the office does not offer any interpreting or translation services. Persons who require such services are directed to the Translating and Interpreting Service (T.I.S.) - see attached entry in the Perth White Pages.
- (11) I believe that all methods of communication should be used to improve public awareness. T.V. and radio broadcasts, followed by newspapers, would probably be the most successful because they reach the widest audience.

None of my above comments are confidential and I have no objection to them being included in the Committee's report.

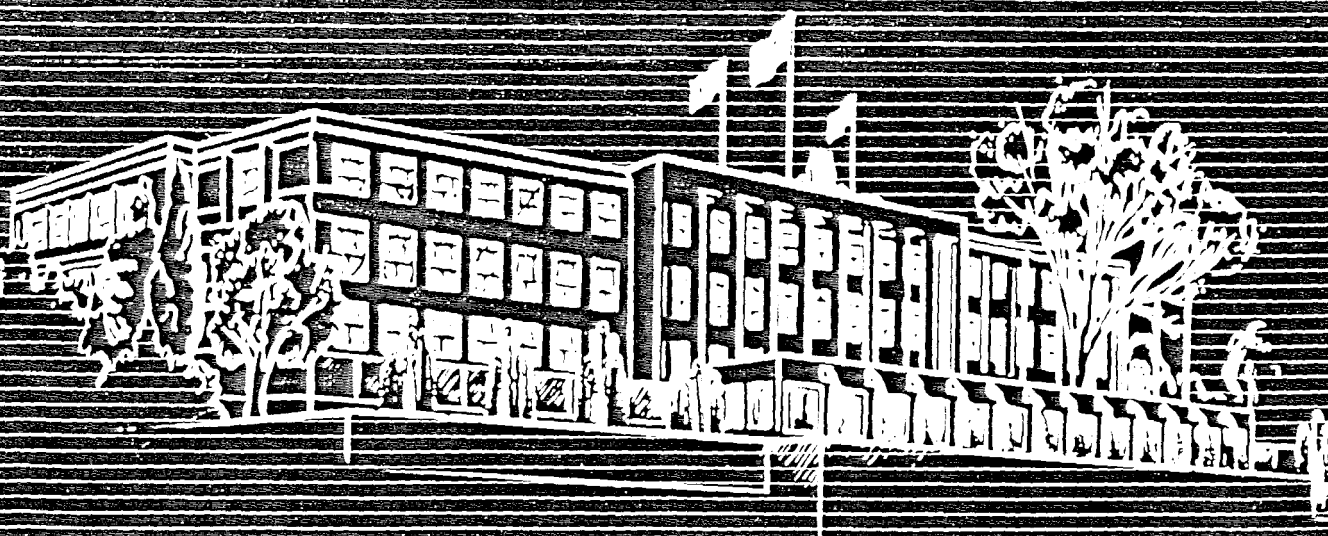
Should you require any further information, please do not hesitate to contact me.

Yours sincerely


R. EADIE
Parliamentary Commissioner for
Administrative Investigations

Parliamentary Commissioner for Administrative Investigations

WESTERN AUSTRALIA



ANNUAL REPORT 1992

State Ombudsman

AWARENESS AND ACCESS

Public awareness

A fundamental problem facing most Ombudsmen is that those who might be most needy of their services are often least likely to use them. The better educated and more politically aware make more use of Ombudsmen than do the underprivileged or disadvantaged. To find out the extent of the problem, the Commonwealth Ombudsman, Mr Alan Cameron, commissioned consultants to conduct a public awareness survey with the aim of finding out what level of knowledge there is in the community about the Commonwealth, State, and Territory Ombudsmen.

The survey entailed face to face interviews of 2400 people aged 18 and over right across Australia (approximately 250-300 of them in Western Australia). At my suggestion, questions on the awareness of the Ombudsman's role in relation to complaints about police officers were included in the questionnaire. To have conducted a really meaningful survey of public awareness in Western Australia, involving interviews with, say, 650 people, would have cost in the region of \$7 000 to \$9 000. Given the present climate of budget restraint, that would not have been a practical proposition. However, the information expected to be provided by the survey commissioned by the Commonwealth Ombudsman will be useful, and it will be provided to me free of cost.

Access

- It is of fundamental importance, in my view, that the services of the Ombudsman be accessible to as many residents of the State as possible. As noted in the Report of the Administrative Review Council to the Commonwealth Attorney General in 1987, "a right of review is of no value to a person who is not aware of it."¹

While I can, of course, receive complaints by post as well as in person, people living in outlying areas of the State are at some disadvantage in being unable, without varying degrees of inconvenience, to call in person at

my office—something which is taken for granted by residents in the metropolitan area. It was partly with this in mind that I undertook an extensive programme of regional visits during the course of the year, along with members of my investigation staff.

REGIONAL VISITS

The regional visits referred to above were made to 23 main centres outside Perth, from Albany to Wyndham. Appendix D lists details of the towns visited and the interviews held. During my regional visits, site inspections were carried out and discussions held with local council officers, prison staff and police officers, in relation to current complaints. Complainants were also interviewed. As time permitted, the opportunity was taken to talk to students at schools and colleges (see Appendix C). Informal discussions were also held with the staff of several of the schools visited, and some staff lodged complaints with me.

It is my practice to contact the senior ranking police officer in the centres I visit, and I often visited the lockups. I made a point of meeting the local Members of Parliament where practicable. I also met the Aboriginal, Police and Community Relations Committee in those areas where a Committee had been established (refer page 65). My evenings were taken up in addressing local service clubs and organisations on the role of the Ombudsman (refer Appendix C).

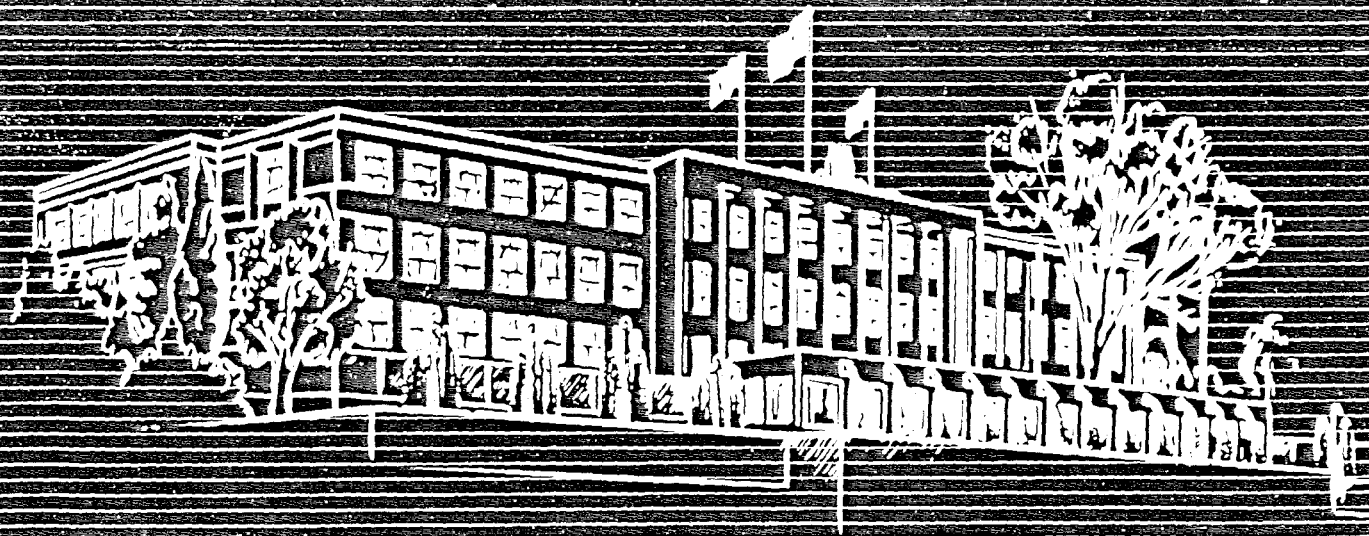
I am always grateful to the media for the advance publicity given to my visits. I readily accepted many invitations for radio and newspaper interviews to increase knowledge of the services provided by my office.

I would like to place on record my appreciation to the staff of regional offices and local councils for their co-operation in arranging appointments for members of the public to visit me, and for the use of their facilities.

¹ Administrative Review Council, *Access to Administrative Review Stage 1: Notification of Decisions and Rights of Review*, Report No. 27, AGPS, Canberra, 1987, p. 9

Parliamentary Commissioner for Administrative Investigations

WESTERN AUSTRALIA



ANNUAL REPORT 1993

State Ombudsman

enabling a complaint to be resolved by a telephone call, rather than by lengthy correspondence. The problem in this State is that the Act currently provides that I cannot deal with a complaint unless it is in writing. This requires that, even where complaints could be resolved quickly, cheaply, and to everyone's satisfaction by face-to-face discussion or by telephone, I must insist upon the complainants putting their complaint in writing if I am to deal with them in accordance with the Act.

There are, of course, many occasions when members of the public are in a crisis situation and require urgent assistance. Asking them to put their complaint in writing, in that situation, is patently unreasonable and in such circumstances my staff endeavour to assist them as far as possible, but the matter cannot be recorded as a complaint received by my office.

The existing situation invites comment in two respects: first, it is clearly an undesirable situation from the point of view of the public as well as my office, and the Act needs to be amended as soon as possible (see also page 6); and, secondly, it is misleading to judge the workload and performance of the office simply on the basis of the number of written complaints received and dealt with. To underline this point, the footnotes to Tables 2 and 3 in Chapter 3 indicate that the statistics do not include the large number of oral enquiries which were received and dealt with during the year.

Methods of investigation

In my report last year I mentioned that, partly in an effort to speed up the handling of complaints, I had deliberately changed my approach from fully formal investigations to informal investigations and enquiries. This approach has been continued in the past year. Generally, formal investigations have been commenced only where the complaint involves important issues on which I may wish to make significant recommendations, or involves serious allegations of maladministration, or where the organisation under investigation is being uncooperative.

AWARENESS AND ACCESS

Public awareness

In last year's report (page 4), I mentioned that Ombudsmen faced a fundamental problem in that those who might be most needy of their services are often least likely to use them because they lack awareness of the Ombudsman and his role. To find out the extent of the problem, a survey was conducted during June 1992 by the Roy Morgan Research Centre Pty Ltd, on behalf of the Commonwealth Ombudsman's office. The results of the survey, which consisted of a total of 2,960 personal interviews nationally of people aged 16 years or more, were made available to my office free of charge.

The survey collected information on the public awareness of State Ombudsmen as well as of the Commonwealth Ombudsman. Awareness of the State Ombudsman was highest in the Northern Territory (81%), followed by South Australia (69%), Tasmania (67%), New South Wales (67%), Victoria (59%), Western Australia (53%), Australian Capital Territory (49%) and Queensland (46%).

The majority of people (64%) developed an awareness of the Commonwealth and State Ombudsmen through media reports, 10% through advertising and 9% through word of mouth.

Clearly, the survey results indicate that more needs to be done in Western Australia to increase public awareness of the Ombudsman's office.

I have given consideration to what can be done to increase public awareness. Appendix B lists the various groups I have addressed during the year. In May I appeared on Radio Station 6PR's evening talk-back programme and discussed my role and the service provided by my office. I have also given numerous interviews on regional radio in various parts of the State. Also, taking up an initiative of the Queensland Ombudsman, I have written to the major newspapers throughout the State and suggested that they consider publishing a regular column devoted to casenotes from my annual report. Some interest has been shown and I am hopeful that something of this nature may be achieved in the year ahead. I will also continue to consider what else can be done to enhance public awareness of my role.

Access

It is of fundamental importance, in my view, that the services of the Ombudsman be accessible to as many residents of the State as possible. As noted in the Report of the Administrative Review Council in 1987, "a right of review is of no value to a person who is not aware of it."¹

While I can, of course, receive complaints by post as well as in person, people living in outlying areas of the State are at some disadvantage in being unable, without varying degrees of inconvenience, to call in person at my office—something which is taken for granted by residents in the metropolitan area. It was partly with this in mind that I again undertook an extensive programme of regional visits during the course of the year, along with members of my investigation staff.

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It is my practice to contact the senior ranking police officer in the centres I visit, and I often visited the lockups. I made a point of meeting the local Members of Parliament where practicable. I also met the Aboriginal, Police and Community Relations Committee in those areas where a Committee had been established (refer page 39). My evenings were taken up in addressing local service clubs and organisations on the role of the Ombudsman (refer Appendix B).

I am always grateful to the media for the advance publicity given to my visits. I readily accepted many invitations for radio and newspaper interviews to increase knowledge of the services provided by my office.

I would like to place on record my appreciation to the staff of regional offices and local councils for their cooperation in arranging appointments for members of the public to visit me, and for the use of their facilities.

AMENDMENTS TO THE PARLIAMENTARY COMMISSIONER ACT

Problems of jurisdiction

I mentioned again in my last annual report (page 5) the attempts which have been made over a number of years to obtain amendments to the Parliamentary Commissioner Act ("the Act") in order to rationalise the position as to jurisdiction. At present there are far too many gaps in my jurisdiction.

In my last annual report I indicated that the previous Government proposed to amend the Act to replace the present schedule of inclusion with a schedule of *exclusion*. As I explained, this meant that all government departments, local authorities and statutory authorities would be subject to my jurisdiction unless specifically excluded. Furthermore, it appeared that the list of exclusions (if there was one) was likely to be very much smaller than indicated earlier.

While no draft Bill had been prepared at the time of reporting, I was hopeful that the matter would be dealt with by the end of 1992. That did not happen. I am aware that the matter was receiving some attention prior to the issue of Part II of the Report of the Royal Commission into Commercial Activities of Government and Other Matters ("the Commission"). I gather that action was postponed because of the need to consider changes to the Act in the light of the Commission's recommendations affecting my office (see my separate comments on the Commission's recommendations at pages 7-8).

Since it came into power, I have fully briefed the present Government on the matter. However, I notice that no mention was made in the Governor's Speech at the opening of Parliament of any intention to introduce a Bill to effect the necessary changes to my Act. I hope that this does not mean that early resolution of the problem is unlikely.

¹ Administrative Review Council, *Access to Administrative Review Stage 1: Notification of Decisions and Rights of Review*, Report No. 27, AGPS, Canberra, 1987, p.9.

- Indian Ocean Territories—The Ministry of Premier and Cabinet sought my opinion on the means of providing an ombudsman service for the clients of State Government agencies operating on the Christmas and Cocos (Keeling) Islands.
- Official Corruption Commission Amendment Bill 1992—The Chairperson of the Select Committee on the Official Corruption Recommendations forwarded a preliminary draft of the Bill to me for comment. Further information about this issue is given at page 10.
- Police—Both the current and the previous governments requested my opinion on police complaint handling systems.

Key Performance Indicators

The principal objectives¹ for both the Specified Public Sector Organisations Program and the Police Force and Police Department Program are—

- To provide an effective and efficient system for handling complaints about the administrative actions of State Government Departments, local government authorities and certain statutory authorities, and about both the administrative actions and conduct of members of the Police Force and Police Department;
- To assist in improving the quality of public administration and enhancing public confidence in it.

Specified Public Sector Organisations Program

Effectiveness Indicators

- Percentage of allegations finalised where complainants received assistance² 81%
- Number of improvements to practices and procedures 76
- Number of occasions on which requests were received for advice on legislation, review machinery and improvements to public administration 4

Efficiency Indicators

- Average time taken to finalise allegations 22 weeks
- Allegations finalised per equivalent staff member³ 129

Police Force and Police Department Program

Effectiveness Indicators

- Percentage of allegations finalised where complainants received assistance² 51%⁴
- Number of improvements to practices and procedures 1
- Number of requests for advice on police complaints procedure 2
- Number of allegations where police took further investigatory action at the instigation of the Ombudsman 60

¹ The wording of my objectives has been revised from that shown in my report last year, in order to more accurately convey their intent. The substance of the objectives has not changed.

² Categories of assistance are shown in Table 4 on page 19.

³ The staff figure used for the purposes of this calculation includes the Ombudsman and Deputy Ombudsman, Corporate Services and Investigation Officers.

⁴ Allegations that were monitored only are not included in the calculation of this figure because the categories of assistance included in the Office's statistical system are not applicable to them.

Efficiency Indicators¹

- Average time taken to finalise allegations 10 weeks
- Allegations finalised per equivalent staff member² 157

Subsidiary Performance Indicators

The subsidiary objectives for both the Specified Public sector Organisations and the Police Force and Police Department Programs are—

- to develop community awareness of the office and the services it provides;
- to develop an understanding of the role of the Ombudsman for those agencies within jurisdiction;
- to provide a service to all areas of the State.

Action to meet these objectives is usually taken jointly for both programs and so it is not practicable to have separate performance indicators for each program.

Effectiveness Indicators

Number of talks given to schools and community organisations		42
Number of radio and television interviews given		8
Number of talks given to government agencies etc.		6
Number of annual reports distributed to agencies within jurisdiction		382
Number of regional centres visited		23
Number of complaints per 10 000 electors	Country	21
	Metropolitan	23

Certification

The above performance indicators have been prepared and are reported as indicators of the performance of the administration of the Office of the Parliamentary Commissioner for Administration Investigations for the year ended 30 June 1993.



R EADIE
Parliamentary Commissioner for
Administrative Investigations
(Accountable Officer)

¹ Allegations monitored only are included for the purpose of these calculations.

² The staff figure used for the purpose of this calculation includes the Ombudsman and Deputy Ombudsman, Corporate Services, and Investigation Officers.

FUNCTIONS AND OBJECTIVES

What is the purpose of the Parliamentary Commissioner Act?

The legislation, which was enacted in 1971, provides for the appointment of a Parliamentary Commissioner for Administrative Investigations (or State Ombudsman, as he is better known) -

- to investigate administrative acts or omissions in government departments, local authorities and specified statutory authorities; and
- to make recommendations to redress the effect of defective administration and to prevent its recurrence.

By an amending Act, the Ombudsman's jurisdiction was extended from 1 July 1985 to include complaints about the conduct of members of the Police Force.

What are the objectives?

The effective implementation of the Parliamentary Commissioner Act, in the context of the provisions referred to above, requires the attainment of certain objectives¹ -

- to provide an effective and efficient complaint handling system
- to assist in improving the quality of public administration and enhancing public confidence in it
- to identify and, where appropriate, investigate areas of defective administration notwithstanding that complaints have not been received about them

- to develop community awareness of the office of the Ombudsman and the service it provides
- to develop understanding of the role of the Ombudsman for those organisations within jurisdiction
- to provide a service to all areas of the State.

How are the functions of the Ombudsman regulated?

The Parliamentary Commissioner Act contains provisions which regulate the functions of the Ombudsman. By way of illustration -

- The Ombudsman is an independent person responsible to Parliament - not to a Minister of the Crown
- The Ombudsman may, at any time, lay before each House of Parliament a report on any matter arising in connection with the exercise of his functions
- The Act gives the Ombudsman wide investigative powers, including those of a Royal Commission. Subject to Rules of Parliament, his procedure in an investigation may be regulated in such manner as he thinks fit
- The Ombudsman cannot investigate a decision of a Minister of the Crown but may investigate a recommendation made to a Minister
- Investigations may be commenced by the Ombudsman in response to -
 - a written complaint from any person or organisation (whether incorporated or not) affected by the administrative act or omission;

¹ These objectives have been reviewed and amended since my last Annual Report.

Corporation owed employee \$3000

THE State Ombudsman is an independent and impartial person, responsible to Parliament, not to the government of the day.

His role is to investigate and, where practicable, resolve complaints about the administrative actions of State Government agencies and local government authorities, and the conduct of members of the police force.

This is the first in a new weekly column series designed to give readers a better understanding of the role of the Ombudsman and the services provided by his office.

ABORIGINAL AFFAIRS PLANNING AUTHORITY — Failure to pay wages owing.

COMPLAINT: The complainant had worked for an Aboriginal corporation in the north of the State. The corporation was funded by the Authority. The complainant visited my office and alleged that she had received no wages for a period of three months.

INVESTIGATION: My investigating officer contacted the Authority and was advised that the state of the corporation's records made it difficult to determine whether the complainant had been paid or not. I followed this up with a letter to the Authority and it arranged for an audit of the accounts of the corporation.

OUTCOME: The audit revealed that an amount in excess of \$3000 was owing to the complainant and the corporation was requested to make the necessary payment to the complainant.

DEPARTMENT FOR COMMUNITY DEVELOPMENT —
Refusal of assistance for foster children.

COMPLAINT: During the year I received complaints from nine families concerning the refusal of the Department to

The Ombudsman's Casebook

ROBERT EADIE



provide (or continue to provide) them with financial assistance for other people's children in their care. A non-government advocacy agency had assisted them to prepare their complaints.

INVESTIGATION: For many years the Department had a policy of paying financial assistance called "Private Foster Rates" to persons caring for other people's children who were not under the statutory care or control of the Department.

In assessing eligibility for this assistance, the Department took into account factors such as the financial means of the carers, the intended length of the placement and the overall welfare of the children concerned. The assistance was intended to be short-term while the parents resolved the crisis situation which prevented them caring for their children themselves.

However, the policy was not interpreted consistently and there were anomalies in its application — for instance, some placements received assistance for considerably longer than the 12 months allowed for in the policy.

In December 1991, after a review, private foster rates were discontinued and a new form of assistance called Emergency Child Support Subsidy was introduced. The eligibility criteria for the subsidy, which were approved by the then Minister for Community Services, were more stringent than those for private foster rates.

This meant that some families in receipt of private foster rates

were no longer eligible for assistance and that new applicants, who could have been expected to have received private foster rates in similar situations in the past, were not successful in their applications for the subsidy.

The Parliamentary Commissioner Act specifically excludes me from investigating or questioning the merits of decisions made by Ministers of the Crown and so I could not question the eligibility criteria for the Emergency Child Support Subsidy. I was limited to enquiring into whether the Department had properly considered the applications for assistance and consistently applied the criteria.

FINDING: In all but one case, the complainants' situations clearly did not meet the criteria for Emergency Child Support Subsidy and I was unable to be of practical assistance to the families concerned. However, in the other case, assistance had been discontinued due to a clerical error and staff changes had caused delays in having the matter reviewed.

OUTCOME: The Department reviewed the case of the complainant whose assistance had been wrongly discontinued. This resulted in the complainant being found eligible for assistance at a higher rate than she previously had been receiving.

Assistance was reinstated and payment was made for arrears.

COMPLAINTS to the State Ombudsman should be directed in writing to: The State Ombudsman, GPO Box X2204, Perth, WA 6001.

Community

Perth Business Hours 321 9333
After Hours (Freecall) 008 251 9777
Non-Metropolitan W.A. (Freecall) 008 112 4777

Translating and Interpreting Service (T.I.S.)

English
If you have difficulty communicating in English ring the Translating and Interpreting Service. Don't hang up, your call will be answered (Local call cost only)

Portuguese **Português**
Se tiver dificuldade em comunicar-se em Inglês, queira telefonar ao Serviço de Traduções e Intérpretes. É favor não desligar pois há-de-se responder à sua chamada (incorre-se apenas o custo local).

Romanian **Limba Română**
Dacă nu stăpîniți limba engleză, telefonați Serviciului de Traducători și Interpreți. Nu închideți, așteptați pînă vi se răspunde (convorbirea este taxată ca o convorbire locală).

Serbian **Српски**
Ако имате потешкога са комуницирањем на енглеском језику телефонирајте служби за преводње и тумачење. Не спуштајте слушалицу, одговорићемо на ваш позив (по цени локалног позива).

Macedonian **Македонски**
Ако имате потешкотни со зборувањето на англиски јазик тогаш телефонирајте и на Службата за преведување и толкување. Не спуштајте ја слушалката, ќе ви одговориме на позивот (по цена само на локален позив).

Hungarian **Magyar**
Ha nehezen érteti meg magát angolul, hívja fel telefonon a Fordító és Tolmács-Szolgálatot. Várjon türelemmel, amíg válaszolnak, ne tegye le a kagylót. A hívást helyi beszélgetésként díjazták.

Czech **Česky**
Jestliže máte potíže domluvit se anglicky, zavolejte Překladačskou a Tlumočnickou Službu. Nezavěšujte, váš telefonní hovor bude odpovězen. (Za cenu místního hovoru).

Indonesian Bahasa Indonesia
Jika ada kesukaran untuk berkomunikasi dalam bahasa Inggris telponlah Pelayanan Terjemahan Tertulis dan Lisan. Jangan putuskan pembicaraan, telpon anda akan dijawab (Ongkosnya sama dengan ongkos telpon setempat).

Italian **Italiano**
Se ha difficoltà ad esprimersi in inglese telefoni al Servizio Traduzioni e Interpretariato. Non riattacchi, risponderemo alla sua chiamata (al costo di una telefonata urbana).

Turkish **Türkçe**
Eğer İngilizce İletişim kurmakta güçlük çekiyorsanız Sözlü ve Yazılı Tercüme Servisi'ni telefonla arayın. Hemen kapatmayın, telefonunuza cevap verilecektir (yalnızca yerel telefon konuşması flatıdır).

Filipino **Tagalog**
Kung kayo ay nahihirapang makipag-usap sa Ingles, tawagan ang Translating and Interpreting Service. Huwag ninyong ibaba ang telepono, sasagutin ang tawag ninyo (Halaga lang ng tawag na lokal).

Greek **Ελληνικά**
Αν δυσκολεύεστε να συνεννοείστε στα αγγλικά τηλεφωνείτε στην Υπηρεσία Μεταφραστών και Διερμηνέων. Μην κλείσετε το τηλέφωνό σας κάποιος θα σας απαντήσει (κοστίζει μόνο όσο ένα τοπικό τηλεφώνημα).

Lao **ພາສາລາວ**
ຖ້າທ່ານມີຄວາມລຳບາກກ່ຽວກັບການຄິດຕໍ່ ເປັນພາສາອັງກິດ ຂໍໃຫ້ທ່ານໂທສະສັບ ທ່ານ ບໍລິການແປພາສາທາງໂທສະສັບ ຂໍທ່ານຢ່າໄດ້ວາງສ່ວນ. ຈະມີຄົນມາຮັບສ່ວນຂອງທ່ານເອງ (ເສັ້ນຄ່າໂທສະສັບ (ຂັດຂ້ອງຖືກເອົາມັນ)

Croatian **Hrvatski**
U slučaju poteškoća sa razgovaranjem na engleskom jeziku molimo nazovite Prevodilačku i Tumačku Službu. Ne spustite slušalicu, vaš poziv će biti odgovoren. (Cijena poziva je kao za mjesni poziv).

Vietnamese **Tiếng Việt**
Nếu quý-vị gặp khó khăn vì không thạo tiếng Anh nên điện thoại Dich-Vu Phiên-Dịch và Thông-Ngôn. Đừng bỏ máy, sẽ có người trả lời quý-vị (Chỉ phải trả tiền điện thoại địa phương).

Polish **Po polsku**
Jeśli masz trudności w porozumiewaniu się po angielsku zadzwoń do Urzędu Tłumaczeń. Nie odkładaj słuchawki, ktoś się z pewnością odezwie (koszt tylko rozmowy miejscowej).

Arabic **اللغة العربية**
إذا كنت تجد صعوبة في التفاهم باللغة الانكليزية، اتصل هانفيا بخدمة الترجمة الكتابية والفورية. لا تقفل الخط لانك سوف تتلقى ردا على مكالمتك. (تكلفة مكالمة محلية فقط).

Chinese **中文**
如果您用英語交談有困難，請打電話給「口筆譯服務處」。請不要把電話掛斷，有人會接您的電話（按當地電話收費標準付費）。

Spanish **Español**
Si tiene dificultad para comunicarse en inglés, llame al Servicio de Traducción e Interpretación. No cuelgue, se contestará su llamada. (Al costo de una llamada local).

Persian **فارسی**
اگر گفت و شنود بزبان انگلیسی برایتان مشکل است به سرویس ترجمه شفاهی وکتبی تلفن کنید. تلفن را قطع نکنید، حتماً جواب داده خواهد شد (هزینه این تلفن فقط برابر هزینه تلفن محلیست).

Korean **한국어**
영어도 의사소통 하는데 어렵음이 있으면 '번역 및 통역 봉사소'도 전화하십시오. 전화를 끊지 마시고 당신의 전화를 받을 때까지 기다리십시오. (시-내 전화요금)

Khmer **ខ្មែរ**
បើអ្នកមានការលំបាកក្នុងការនិយាយទាក់ទងគ្នា ជាភាសាអង់គ្លេស ចូរទូរស័ព្ទទៅមន្ទីរបកប្រែភាសា ។ សូមកុំដាក់ទូរស័ព្ទចុះ គេនឹងឆ្លើយ ឮបទៅទូរស័ព្ទអ្នកមិនទាន់ (តម្លៃទូរស័ព្ទចម្ងាយតាមតំបន់ទេ) ។

Thai **ไทย**
ถ้าท่านมีความยากลำบากในการติดต่อเป็นภาษาอังกฤษ กรุณาโทรศัพท์ท่หน่วยบริการ การแปลและล่ามอย่างรีบวางสาย ท่านจะได้รับคำแนะนำ (เสียค่าบริการที่ตามอัตราที่ใช้ในท้องถิ่นเท่านั้น)

*Calls made from a mobile phone to a "13" or "008" number will incur normal mobile phone charges — see page 13.

APPENDIX 3 - Minutes of Proceedings



**MINUTES OF PROCEEDINGS OF THE
COMMITTEE ON THE OFFICE OF THE OMBUDSMAN**

Tuesday, 29 June, 1993
Waratah Room, Parliament House, Sydney - 10.30 a.m.

Members present:

LEGISLATIVE COUNCIL

The Hon. Dr. M. Burgmann, The Hon. L. Coleman.

LEGISLATIVE ASSEMBLY

Mr J. Turner (Chairman), Mr P. Scully, Mr K. Moss.

Ronda Miller (Clerk), Helen Minnican (Project Officer) and Peita Burgess (Assistant Committee Officer) were also in attendance.

Apologies

Mr M. Kerr, The Hon. S. Mutch, Mr A. Windsor, Mr B. Morris.

Professor Cheryl Saunders, Professor of Law, Melbourne University, took the oath and acknowledged receipt of summons.

Evidence concluded and the witness withdrew.

Mr Bernard Martin Shipp, Solicitor, Burnside Adolescent Legal Service, affirmed and acknowledged receipt of summons.

Evidence concluded and the witness withdrew.

Ms Margaret Colleen Hole, Councillor and Chair Aboriginal Justice Committee, NSW Law Society affirmed and acknowledge receipt of summons.

James Patrick Evans, Solicitor, Member of the Aboriginal Justice Committee, NSW Law Society affirmed and acknowledge receipt of summons.

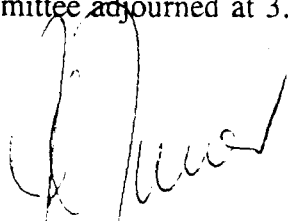
Ms Hole and Mr Evans answered questions put to them by the Committee. Evidence concluded and the witnesses withdrew.

Heather Ann Kepski, Manager Educational Counselling Unit, Adult Migrant English Service, affirmed and acknowledged receipt of summons.

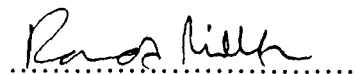
Melva Joan Masters, Deputy Director, Adult Migrant English Service, affirmed and acknowledged receipt of summons.

Ms Kepski and Ms Masters answered questions put to them by the Committee. Evidence concluded and the witnesses withdrew.

Committee adjourned at 3.50 p.m..



.....
CHAIRMAN



.....
CLERK



**MINUTES OF PROCEEDINGS OF THE
COMMITTEE ON THE OFFICE OF THE OMBUDSMAN**

Tuesday, 3 August, 1993
Waratah Room, Parliament House, Sydney - 10.30 a.m.

Members present:

LEGISLATIVE COUNCIL

The Hon. Dr. M. Burgmann, The Hon. L. Coleman, The Hon S Mutch MLC.

LEGISLATIVE ASSEMBLY

Mr J. Turner (Chairman), Mr M. Kerr, Mr K. Moss, Mr A. Windsor.

Ronda Miller (Clerk), Helen Minnican (Project Officer) and Grace Penrose (Assistant Committee Officer) were also in attendance.

Apologies

Mr B. Morris, Mr C. Scully.

Mr Stepan Kerkyasharian, Chairman, NSW Ethnic Affairs Commission, and Ms Lily Trimboli, Acting Principal Policy Officer, took the oath, acknowledged receipt of summons and spoke to the Commission's submission. The Committee questioned the witnesses. Questioning concluded, the witnesses withdrew.

Ms Jan Devos, Casework Supervisor, Burnside Khmer Program, and Mr Min Hau Yorth, Welfare Worker, affirmed, acknowledged receipt of summons and spoke to the Commission's submission. Questioning concluded, the witnesses withdrew and members of the public were excluded.

The Committee deliberated on the schedule of witnesses. At 11.55 am the Committee adjourned until 12.15 pm.

The Chairman tabled the Final Report of KPMG Peat Marwick on the Management Review of the NSW Office of the Ombudsman by KPMG Peat Marwick and addendum to Final Report dated 23 July 1993.

Mr Geoffrey William Scott, State Management, Aboriginal and Torres Strait Islander Commission, made an affirmation and acknowledged receipt of summons. Mr Scott addressed the Committee and answered questions put to him by the Committee. Questioning concluded, the witness withdrew.

Meeting of the Committee on the Office of the Ombudsman
3 August 1993

The Committee adjourned for luncheon at 1.00 pm until 2.00 pm.

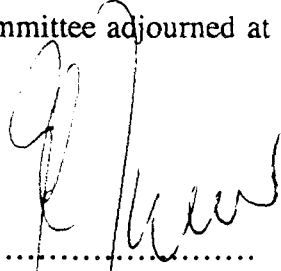
Mr Stephen Friend, Solicitor, Aboriginal Legal Service, made an affirmation. Acknowledged receipt of summons. Questioning concluded, the witness withdrew.

At 2.45 pm the Committee adjourned until 3.00 pm.

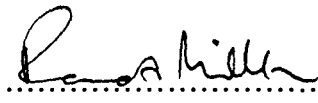
Theresa O'Sullivan, Youth Justice Coalition/Marrickville Legal Centre, made an affirmation. Acknowledged receipt of summons. Questioning concluded, the witness withdrew.

Committee resolved to consider any submissions put by Ms Jodi Sherrin and Mr Buckley who were unable to attend the hearing.

Committee adjourned at 3.40 p.m..



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CHAIRMAN



.....
CLERK



Room 1144
Parliament House
Macquarie Street
SYDNEY NSW 2000

Telephone: 230 2737

MINUTES OF THE MEETING OF THE JOINT COMMITTEE
ON THE OFFICE OF THE OMBUDSMAN

Tuesday, 19 July 1994
Waratah Room, Parliament House, 10.00 a.m.

Members Present:

LEGISLATIVE COUNCIL

The Hon. Dr. M. Burgmann, The Hon. L Coleman, The Hon. S. Mutch (Vice-Chairman).

LEGISLATIVE ASSEMBLY

Mr A Fraser (Chairman), Mr K Moss, Mr A Humpherson, Mr A Windsor.

Apologies

Mr C Scully and Mr M Richardson.

In attendance:


Ms R Miller (Clerk), Ms H Minnican (Project Officer), Ms V Lovett (Assistant Committee Officer).

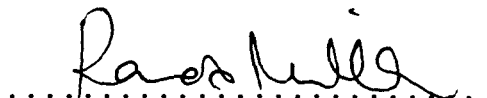
The Chairman opened the meeting and the Committee considered the draft report on Access and Awareness, previously circulated.

The Committee deliberated on the draft recommendations.

The Chairman advised that the corrected draft report would be circulated and a further meeting would be held to consider adopting the full report.

The meeting closed 12.15 p.m.


.....
Chairman


.....
Clerk



Room 1144
Parliament House
Macquarie Street
SYDNEY NSW 2000

Telephone: 230 2737

MINUTES OF THE MEETING OF THE JOINT COMMITTEE
ON THE OFFICE OF THE OMBUDSMAN

Monday, 1 August 1994
Waratah Room, Parliament House, 2.00 p.m.

Members Present:

LEGISLATIVE COUNCIL

The Hon. Dr. M. Burgmann, The Hon. L. Coleman.

LEGISLATIVE ASSEMBLY

Mr A. Fraser (Chairman), Mr K. Moss, Mr M Richardson.

Apologies

The Hon S Mutch, Mr A Windsor, Mr C Scully and Mr A. Humpherson.

In attendance:

Ms H Minnican (Project Officer) and Ms V Lovett (Assistant Committee Officer).

The minutes of the meeting held on 21 April 1994 were read and adopted on the motion of Dr Burgmann, seconded by Mr Richardson.

The minutes of the meeting held on 23 June 1994 were read and adopted on the motion of Mr Moss, seconded by Mr Richardson.

The minutes of the meeting held on 19 July 1994 were read and adopted on the motion of Mr Coleman, seconded by Mr Moss.

The Committee considered the redrafted report, as previously circulated.

Recommendation 1 - The Committee resolved to adopt the recommendation as amended.

Recommendation 2 - The Committee deliberated on Recommendation 2. The Committee resolved, on the motion of Mr Coleman, seconded by Mr Richardson, that the recommendation, as amended in para 2, stand part of the Report.

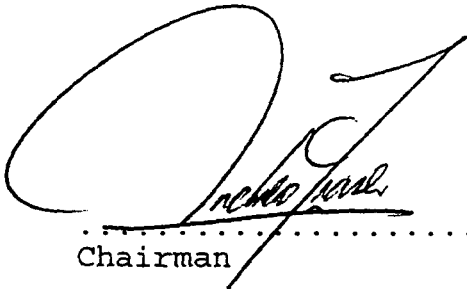
Recommendation 9 - adopted as amended.

Recommendation 17 - The Committee resolved, on the motion of Dr Burgmann, seconded by Mr Moss, that the recommendation as amended be adopted.

The Committee resolved that recommendations 3-8, 10-16 and 18-35 be adopted.

The Committee resolved that the Chairman, Project Officer and Committee Clerk be permitted to correct stylistic, typographical and grammatical errors and further resolved that the draft report be the Report of the Committee and that it be signed by the Chairman and presented to the Clerk prior to the next sitting together with the minutes of evidence.

The Committee adjourned at 3.55 p.m.



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Chairman



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Clerk