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**Official Report
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(Hansard)**

Thursday 17 June 2004

**Journal
des débats
(Hansard)**

Jeudi 17 juin 2004

**Standing committee on
the Legislative Assembly**

Organization

Ombudsman Ontario
2003-04 Annual Report

**Comité permanent de
l'Assemblée législative**

Organisation

Ombudsman Ontario
Rapport annuel 2003-2004

Chair: Linda Jeffrey
Clerk: Douglas Arnott

Présidente : Linda Jeffrey
Greffier : Douglas Arnott

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LEGISLATIVE ASSEMBLY OF ONTARIO

STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY

Thursday 17 June 2004

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE

Jeudi 17 juin 2004

The committee met at 1542 in committee room 1.

ELECTION OF CHAIR

Clerk of the Committee (Mr Doug Arnott): Honourable members, it is my duty to call upon you to elect a Chair for the committee from among yourselves. Are there any nominations, please?

Mr Bob Delaney (Mississauga West): I nominate Linda Jeffrey as Chair.

Clerk of the Committee: Are there any further nominations, please?

Mr Ernie Hardeman (Oxford): For the sake of providing the opportunity for everyone to put on a campaign for the leadership of this great committee, I think it would be inappropriate to just nominate one and then have an immediate election. Maybe I should nominate Rosario, but I think it's a foregone conclusion. We've had such a good Chair in the past that I don't think anyone else could challenge that. So I will not make any further nominations.

Clerk of the Committee: Are there any further nominations? There being no further nominations, I declare Mrs Jeffrey elected Chair of the committee.

ELECTION OF VICE-CHAIR

The Chair (Mrs Linda Jeffrey): Thank you, committee. We have the election of the Vice-Chair before us as our first order of business. Are there any nominations?

Mr Kim Craiton (Niagara Falls): I'm pleased to put forward the name of Mario Racco as Vice-Chair of this committee.

The Chair: Are there any other nominations? All those in favour? That's carried. Congratulations, Mr Racco.

APPOINTMENT OF SUBCOMMITTEE

The Chair: We need to appoint our subcommittee on committee business.

Mrs Donna H. Cansfield (Etobicoke Centre): I move that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of any member thereof, to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee be necessary to constitute a meeting; and

That the subcommittee be composed of the following members: the Chair of the committee as Chair, Mr Hardeman, Mr Marchese and Mr Sergio; and

That substitution be permitted on the subcommittee.

The Chair: Any discussion? Seeing none, all those in favour? It's carried.

Our agenda today is a special one. We have the Ombudsman here, but before we begin with the Ombudsman, I would beg indulgence of the committee to do a little bit of business prior to that so we can devote all our attention to Mr Lewis's report.

One of the issues on the agenda is the report to the House on assignment of ministries and offices. It's item 5 on your agenda. Is there any discussion on that item, or can we move that we receive it—move receipt, and we will be presenting it to the House? Can I have a mover? Mr Hardeman has moved receipt.

Is that carried? Thank you; that's carried.

The only other item we have, because we have a couple of new members, as a courtesy, is with regard to the NCSL annual meeting. We did distribute the information about the conference. We were offering members of the committee an opportunity to attend it. Members were canvassed, but because we have some new members, it would be fair to offer those new members an opportunity to have a look at the materials and perhaps canvass them in the interim, send those requests to subcommittee, and if we could authorize the subcommittee to then present the request and a budget submission to the subcommittee on committee business.

Any discussion? That's carried. Thank you very much.

OMBUDSMAN'S REPORT

The Chair: Our next item is one we've all been looking forward to: the report of our Ombudsman. Mr Clare Lewis, you have the floor.

Mr Clare Lewis: Thank you, Madam Chair and members of the committee. Congratulations to the new members. May I say that having watched the federal debate on Tuesday evening, it's a great pleasure to see the lack of rancour in the election process here today.

I am very pleased to have you do me the courtesy of receiving me today. I believe each of you has a copy of my report, and the addendum report, which is our special

report on autism, which I also delivered to the Speaker this morning for the Legislative Assembly.

In the back of the report you will find a CD-ROM. The CD-ROM has the report in English and French. It has the autism report in English and French. It also has a riding report for your purposes. A few years ago I had some inquiries from members as to what the complaint trends were in their ridings. I thought, if they want to know, that I'd do it across the board, so we now provide you annually with that information and it's on the CD-ROM. You can look at it and you'll see what ministry programs your constituents are concerned about or are raising complaints about. If you have any questions, not only today but subsequently, or your constituency officers do, I'm certainly available to answer any questions you may have.

This is my fifth and final report. As Madam Chair knows, I held a press conference this morning with regard to it and went on and on, and I'll try not to do it to you. But I wanted to repeat something I said this morning because to some degree I see this report as a celebration of my staff and the work they have done with me for the past four years. As I said also, I don't know what will happen in the next seven months, and it can all go sour, but they've come a long way and a lot of good has been done.

Every photograph on the front is a member of my staff and every photograph inside is a member of my staff. They are not stock photos.

What did we do this year? We've gone about as far I think I can go in retooling the office internally. I don't think there's an awful lot more I can offer there as a change agent so it's probably a good time for me to move on. But I'm able to report at this stage—and I could not have done so when I first appeared before the committee in January 2000—that the relationship of this office with the Legislative Assembly on the whole is cordial and is positive. With the committee, I hope that's again the case.

1550

With government itself and with the public service, as I told the deputy ministers when I first met with them in January 2000—and I may have mentioned this to you the last time—I'm not interested in "Gotcha"; I'm interested in results. I think we've worked to that end positively on the whole throughout the past four years. I've only been before this committee once to argue a case, because I only felt the need on one occasion. We either were able to resolve it, or I didn't think that my assertions were worth troubling you with and raising it to the level of the Legislative Assembly. On the whole, it's because we've had sufficient response.

A good example of that is the autism report itself, which is actually framed in a form that would be a prelude to coming here to do battle. I wasn't initially satisfied with responses, but they came to a level that I felt was the best I could achieve. The ministry has recognized deficiencies in the planning for the autism program. They have taken and are taking positive steps. Our office will

monitor the implementation of those steps, but, as I mentioned this morning at the press conference, this is a very important and difficult item for government—whatever government.

Autism became a very real issue for governments in the late 1990s. There was little knowledge as to the degree of the condition and what was involved. The last government responded to the very strong wishes of parents for treatment. It's not part of the health ministry agenda; it's children's psychological stuff and it's just not covered by that, as most children's mental health issues are not, so the government responded. But the public was led to believe, just through the ministry's first public statements, that they were going to be able to treat all children suffering from autism. The problem with that is, they didn't know what "all" was. That's not even certain today, but it was an awful lot bigger than was originally assumed.

The autism report is symptomatic of the approach I took this year, which was to use my own motion authority. We cranked on day by day solving individual complaints, or rejecting them, as the case may be, but resolving a great many successfully. We found opportunity to do these own-motion investigations which suck up the individual complaints and approach systemic problems in a way that we hope, in the future, will reduce the complaint loads. We tried to get to the roots of the problems.

In autism we took a very narrow approach because two major issues are being litigated today in the superior courts. The Supreme Court of Canada, last week, was hearing the arguments on autism out of British Columbia, with Ontario intervening against the applicants. That's a case which is designed to determine whether the court can tell government how much it has to fund for autistic treatment. First of all, is it to be covered by government and, if so, to what degree? There are some huge issues there for governments, and that's one part of the argument.

In Ontario, the issue that's being disputed in our superior courts is whether the program must be offered after age six. Generally speaking, it has been argued by many health experts, and certainly by governments who offer treatment, that the resources are best used and the training is best successful when the child is under six years of age, preschool. So that's—

Interruption.

Mr Craitor: That happens all the time.

Mr Lewis: Something I said? It's a pretty raucous group after all.

Those two big issues are being litigated. I didn't think it was appropriate for me to get involved. The courts are better suited, and anyway, they can make orders and I can only recommend.

What concerned me were the delays and the waiting lists for children who were eligible to get service. We looked at the whole thing from the point of view of why that is the case. Our findings were essentially that originally the Ministry of Community and Social Services had

not adequately planned its approach and they did not have the persons trained. It's important to understand the ministry doesn't provide the service; the ministry provides the funding and local agencies provide the service.

It began in early 2000, but it wasn't until the end of 2002 that announcements were made on training and giving people intensive behavioural intervention training, which is very, very difficult. So they simply weren't able to meet the demand, and we found, to my concern, that at the end of December 2002 there were 432 children who had been diagnosed as autistic and eligible for treatment who were aged out. They had reached age six, they had not received treatment, and many of those children had been on the list for 18 months. I used the strongest word in the whole report with that, and my statement was that I believe that to be unconscionable, because there are still hundreds of children out there who are in this position.

I am very pleased to be able to report that—and I don't for a moment think this is only because of the Ombudsman—the new Ministry of Children and Youth Services has been addressing this matter quite seriously and has essentially accepted much of what I have said. You'll notice in the separate report on autism I have included a letter of May 7 from the ministry, which was their final response. I actually reissued my report because I didn't like their first response, and I gave them a second chance before I came here to argue. They did respond, and it's clear there are now efforts being made to address, and, most importantly, from my point of view—and it's consistent throughout much of the stuff I did—they've learned the lessons about preplanning, being able to know what your market is and to meet it.

That's easy for me to say, you know. I'm not the one responsible for creating the program, but that's the job I'm given. It's like the press, you know. After the battle, after the war, they come riding over the hill and they shoot all the wounded, right? I always have that sense, and I feel a little awkward about it, but in fact that's what the Ombudsman does: deals with the problems that have occurred and why, and asks what we can do to change them.

I'm here to tell you about the Family Responsibility Office yet again. I know that every member of the House has their constituency office being barraged, or at least called on frequent occasions: "What can you do about the FRO? I can't get my money," or, "The FRO is collecting the money, and it shouldn't be paid any more," depending on what is happening.

As I said this morning, FRO has been an equal-opportunity stake maker when it came to either collecting too much money or not collecting enough. There are reasons for that that aren't because they don't want to do it. The bottom-line reason, which I was reporting on in 2001, is that they don't have the technological support that supports the program: the computer systems and the case management system.

1600

I'm displeased and disappointed to report that while there were 1,451 complaints to my office in 2001, they

were 1,466 this year. Nothing appears to have changed. However, the request for proposal for the technology has now been posted. After preliminary expressions of interest were made, they're hopeful to be able to start working on the integrated service delivery system—or at least to award the contract in December. That's some movement on a very important issue. And I care about that issue because individuals often on the verge of, if not in, poverty are suffering because money is not getting to the spouses and children.

The government is out a pile of money because they have subordination rights to social assistance, which the government has been required to give because of the inadequacy of the collection of payments. While I know that my successor will be here reporting to you for about the next year or so at least, I do have some hope that we're going to be moving in the right direction.

By the way, I want to point out to you, if you're interested, that starting at page 55, you'll find seven pages of FRO case stories that are quite instructive on just what is happening. And they're by no means definitive; they're just an example. There are over 80 case stories covering the market, all the ministries in the report. I won't bore you with them, but they are there if you're interested in looking at them.

Corrections: I have said this year that I'm not going to go out being known only for corrections, so I'm not leading with corrections this year. That's my largest number of complaints: 7,600 this year, I think. But it's a natural thing. What I am able to say is that some of the overcrowding has decreased. I think it will happen again. It's not all just because we don't have enough jails. You can never build enough.

There are things happening in our courts which create overcrowding in jails, and that's not just because they're giving them a lot of sentences. There are delays in hearings, so people who have been denied bail are sitting in detention much longer than they did at one time before they get to trial. Personally, I think some of the guys—a lot of defence counsel won't agree with me, but I've been around a long time; I was a defence prosecutor and a judge—are staying in jail waiting, doing their time in the jails rather than getting themselves to trial too fast because judges are starting to get sensitive and give them three-times credit for time they spend in a correctional facility awaiting trial, if you know what I mean.

Judges used to always pretty well give an accused who'd been in jail credit for double time because they weren't eligible for parole while they were in. Well, now we're hearing stories of judges saying, "Oh, the conditions are deplorable. The poor fellows, we're going to give them triple credit." I've dealt with a lot of people in the correctional system. They're not unwise to that, and some of them are just doing the time because they're going to get less time in the long run, which is not the problem or the fault of corrections. It's a complicated world.

I have made special mention that, in my view, the senior Ministry of Correctional Services officials have

done a great deal and have made considerable effort to ameliorate some of the issues in the prisons and they have worked very hard and co-operatively with us, I must say—because we're on their case all the time—to achieve a level of living standard within the prisons that is commensurate with a civil society. That doesn't mean kids' camp. I'm not talking about that, because they're not. All you need to do is go and spend some time and you'll see that fast enough. I know I'll be reading about corrections for years, but it's doing a little better.

I've taken the position with the Minister of Municipal Affairs and Housing regarding the Tenant Protection Act, which I think needs some fine-tuning, that certainly some of the forms need to be changed. In my view, it operates just a little too quickly to be healthy. I can just report that I think you probably know the minister is looking at a possible review of the act and has at least received our views positively.

I'm going on and on and I don't want to. I'd be delighted to hear any questions you may have.

Mr Hardeman: A pleasure, Mr Lewis. When we toured the offices, I had a question. It sounded somewhat like I didn't know what I was talking about and I still don't. It's the issue of your office and the Provincial Auditor's office doing exactly the same thing for the people of Ontario, coming from two different directions.

One of the areas that that has come up in: I had the opportunity to sit on public accounts, and a discussion for meeting after meeting was about the request for proposals to change the computer system in the FRO offices, to do a better job of getting the money from the payer to the children that are entitled.

It seems to me, with this report, that you've done a considerable amount of work through the Ombudsman's office to deal with exactly the same scenario from the other side. The children and their mothers have a right to complain because they're not getting the government services they should be getting. But when you then do it under your own motion, it seems that you are doing exactly the same thing that the Provincial Auditor did for months on end, to tell the public accounts committee of the same government of what needed to be done to provide a uniform service for the people of the province.

Can you explain to me why that shouldn't be considered a duplication of services? Even though they came for different reasons, they came to do the same job and end up with the same conclusion. Obviously, in your report it's very evident that the solution is a better system within FRO and better case management. That's exactly what the Provincial Auditor came up with too. It seems to me we did a lot of work and a lot of duplication there.

Mr Lewis: Not with much success, Mr Hardeman, because we've been ignored for a long time. I want to say to you that the purposes for our coming at this issue—and they were quite separate—were not because of duplication. What happened was the auditor, in the normal course of his responsibilities, does reviews of programs every few years. It's sort of a value-for-money kind of audit. That's what he was doing. He was doing a value-for-money audit.

He does not receive or investigate any complaints from the public about the delivery of individual service. That's my job. What I do is, I received in 2001, the year that I did my study that you're talking about, and again this year, 1,450 to 1,460 complaints from aggrieved citizens. I am pleased and in fact proud to continue addressing each of those complaints individually, because we actually help people on the ground and in an individual case, which the auditor cannot and is not mandated to do.

But for me to receive these and say, "Oh, it doesn't matter why this happens. All I can do is solve the issues as they arise"—and if they get to me, by the way. Not everybody comes to me. You know that.

It's not good enough. How do we stop it happening? I wanted to know, why is it happening? This happened independently of the auditor. It doesn't mean we didn't talk to each other at any point. You're right, we were both looking at it. Our perspectives were different, but that's very rare.

There's all kinds of stuff that comes across my desk that looks like human rights cases. Generally speaking, we will defer to the human rights commission; privacy issues we will defer to the Privacy Commissioner; if it looks like integrity—so there's a lot of deference given.

1610

But I understand your concern, Mr Hardeman. If I were in the business of doing a lot of duplication of something another officer of the Legislature was doing, I would probably be much more concerned.

We've got a grievously flawed program here, and a lot of people are being hurt. There is an answer, and that answer ought to be attended to. I think I would have been remiss had I come only before the Legislative Assembly on an annual basis with a report setting out a bunch of cases where FRO didn't do it well. I have an obligation, it seems to me, to say why they didn't do it well and what they could do to fix it, and that's what I did.

Now, I would suspect that on a close examination you would find the auditor's report is far more exhaustive in terms of the inner workings and so on than mine was, because they did a value-for-money audit. I didn't do that. I worked deductively from what was right in front of me. OK? That's all I can say to you, sir.

Mr Hardeman: I'm not complaining or finding fault with what you've done. I want to state that upfront.

Mr Lewis: I understand that.

Mr Hardeman: During that same period of time that you did the work on this, there was nothing that got more phone time in my office in Woodstock than the FRO office. You're totally right: It wasn't working. It's working better, but it's still not working properly. I'm not finding fault with your doing it. I just want to make sure it's clear in my mind, that I understand what the Ombudsman's office in mandate is doing.

It goes to the other one on the autism issue. When we look at that, to start with, we're dealing with the people who spoke to the Ombudsman's office about the unfairness and the treatment they were getting from govern-

ment based on, first of all, age discrimination. For whatever reason, they were not getting the service that government said others were getting so that they would be treated fairly.

When you do that investigation, does that lead to the policy decision that government made to do that or is it just like at the end of the day your report could say, "I know it isn't right, but according to the policy that is the way it is"?

Mr Lewis: No, we didn't do that. We neither supported nor opposed the policy. We accepted the policy for what it was. That's the government's decision. What we did was, we looked at what was going wrong with the implementation of the policy. Nobody else was doing this, by the way, although courts are doing it in different areas and they're not doing what I did, so I want you to know.

Mr Hardeman: This isn't duplication.

Mr Lewis: All right?

Mr Hardeman: OK.

Mr Lewis: This is ours, and the auditor wasn't there yet, but if he ever looked at it, I bet he'd have something to say.

We found that there were no statistics being kept that were necessary. We collected and we created the statistics from the community organizations so that we knew what was happening out in the field. We learned that they were being dealt with in each region disparately from another. The ministry has now come back and said, "You know what? You're right. We do have to create an administration centrally to provide equity in treatment around the province." OK?

The bottom line on this problem is, it's a huge money issue. This is going to be a \$100-million program for sure and it will still not exhaust it. It's already mounting up tremendously. I know government is all about choices and the demands are there, but the problem with this one is that once the program was started, there were a lot of public expectations raised—I don't think deliberately but by error—that shouldn't have been raised. We're just saying, be really cautious about what you promise. The demand has flourished. It's a program that needed to be gone back over and reinvented, but they're doing it. Does that help?

Mr Hardeman: Yes. I just want to say that similarly with that program, that's another one that was discussed at public accounts, and public accounts could not get the statistics and the information from the ministry relating to the program either.

Mr Lewis: Come and see me.

Mr Hardeman: I appreciate that fact that you have this in your report. Thank you.

Mr Lewis: I hope you look at it. It's interesting. This isn't a case of bad people, you know. I want to make it clear. That program came upon government with a lot of pressure and a lot of demand, so they responded. The ministry did what ministries do: They respond to the political imperative. But they didn't have the time and the luxury that was necessary, which I have.

Mr Rosario Marchese (Trinity-Spadina): Just a couple of things. Rather than asking a question on autism, I'll make a remark, because I've got three other questions I wanted to ask you, plus a statement I wanted to make at the end of it.

Autism is a serious issue, as we all know, and families are burdened incredibly by the problem. It assigns families to lifelong care of that individual, so as government, we have an incredible responsibility to help solve it. It is indeed costly, but what are we here for except to deal with such problems? But we'll leave that report for another day. I'll ask you three other questions.

Your face-to-face meetings with ministers, you report briefly, is a different approach that you have used. Do you find that to be much more persuasive and effective in terms of your work rather than submitting a report to which they respond?

Mr Lewis: Yes. Well, both work, but they each have their way—or generally work. I've tried to meet with a number of ministers, latterly especially. I get pressured too, just like governments? So I get the advocacy groups coming to me and pushing, and I get the complaints.

I'll give you an example, and the best example is the one about the Tenant Protection Act. I'd already spoken to that in my first year of service. I appeared before the staff of the Ontario Rental Housing Tribunal. I've got concerns about the lack of discretion that's available to the tribunal because of the way the act operates. So I wrote Mr Gerretsen a letter and I said, "I have some concerns. Rather than coming to you with a whole bunch of complaints"—I did address some complaints, and you'll see a couple of them in here, where people actually lost money they could have and should have had, and we got a little bit of money back. But I thought there was a much broader problem that can't be resolved on a case-by-case basis. It's up to the minister whether he wants to address it. I'm just giving him an argument.

I'm hopeful that my submissions in that area will be of some value and that they will receive some positive response. They may not. I've spoken to ministers before, sometimes in correctional areas. I've never been badly received, I don't mean that, but I haven't had accord on a point of view.

My job is twofold, as I see it, and it goes back to what Mr Hardeman was saying. It's addressing individual complaints, making recommendations, correction of error, and sometimes redress, if it's appropriate. But it's also trying to eliminate some of the complaints that occur. That's why in this report you'll see that I've emphasized with a lot of ministries that I really think it's important that they be setting up internal complaints processes. The Workplace Safety and Insurance Board just did it. They set up a fair practices commission, I think it's called. Yes. I'm sorry, Ms Pettigrew is my senior counsel. I do apologize. She had a lot to do with that report. Anything bad is hers. We get a lot of workers' comp complaints. So they've set up an internal organization. It's even got investigative authority within the department.

I've set out in this report some of the views, the criteria which I think an effective complaints resolution system needs, and if that reduces our account, good. I think it's to the benefit of everybody if complaints are resolved early. There still will be a need for people like me, but I hope they can reduce the numbers.

Mr Marchese: I am convinced that it's incredibly frustrating for your office as a whole in terms of being able to meet face to face with the minister, which I think is very good, by the way, but ultimately you have to wait for his or her response to solving problems. So you're recommending, based on all of the hearings you've had with individuals, sometimes groups, and at the end of the day you can only be at the mercy of the response. It must be frustrating from time to time.

1620

Mr Lewis: Yes, but if I can respond, I actually don't have a problem with that. I mentioned this morning I'm now the president of the International Ombudsman Institute, and our office operates very much the same way as they do throughout the world, as recommending organizations. I think that's very important in a democratic society. You're the folk with the responsibility and those in government have the accountability. I don't think it is appropriate for me as Ombudsman to say to the government, "Guess what? You're wrong. Do it." A court can do that in appropriate circumstances, but I'm not a judge.

Frankly, an Ombudsman is not valuable unless they have some regard from the assembly and from the public service, because, believe me, you can get twisted around by the public service. They've been around for a lot of years and they're very complex. So I think it's important that because our power, such as it is, is persuasive it requires us to be responsible—that doesn't mean we don't screw up occasionally; we do—and not ask for more than we have a right to ask, and to give people room. So I think it works, I really do.

Mr Marchese: I respect your position, and that's what the Ombudsperson does. That's the role of the office.

We used to have discussions in the old days—we're talking six to nine years ago—when we wanted to address systemic issues, because looking at individual cases might solve an individual problem, but we all understand that some issues are systemic in nature. I think the Ombudsman's office has dealt with issues like that.

In what ways have you looked at systemic problems vis-à-vis many of the various programs you've looked at, and how has that helped to reshape your work a little bit?

Mr Lewis: Corrections is an excellent example: 7,600 complaints this year. We have done some very interesting work with respect to, for instance, the private jail, Penetanguishene—a pilot project, a lot of problems in the early days and a lot of political anger up in the region, in Penetanguishene, about it and so on. Again, we did what we did with autism. It was the planning process. They did a pretty good job, but there were things that fell between the cracks.

So we looked at two big issues: They were health care for the prisoners and food availability, including special meals and so on. We found some real problems. I was asked by a member of the press this morning, "Was that because the private corporation was denying health care in order to save money?" I found no evidence of that. What I did find within the system were inadequacies in process, in getting the requisition for drugs, for dental or other care through to the health services department. That's been very helpful. It works.

We've done our own motion investigations on overcrowding, we've done them on provision of clothing, found out that the old Don Jail, the Toronto Jail, went really sour last year on—that's probably the right word. We had a prisoner who didn't get a change of clothing for 45 days, and 30 was about normal. There were reasons for it, and we were able to address it. Now they get what the ministry policy is.

So we've done our own motions, and we've done them well. One that I cut off this morning was the registrar general. You're all familiar with the issues with the birth certificates and so on. Well, 9/11 came along, and there was tremendous pressure to improve security. The ministry, over two governments, has implemented over 100 special procedures within the program in order to secure documentation: names, birth certificates, death certificates.

Then it went south. You've got huge lineups. You've got tremendous waiting, where people can't get birth certificates for their babies. In fact, I think that's true of my latest grandchild. The mother should stay home anyway, right? The hell with all this travel.

We went and did, actually, a fairly brief examination, and we have an undertaking that they should be back in shape by the end of July. I don't know. I'm going to be watching. I don't think current statistics sustain that, but I have the obligation to see what they do.

So I agree with you, Mr Marchese. I think it is important for the Ombudsman to look for systemic issues. My office is no stranger. You get ingrained in processes which seem, by nature of repetition, to be the right thing to do, and they aren't always. That's what we spend a lot of our time internally doing, which is creating new policies, procedures. Process has become very important within Ombudsman Ontario in the last three years to, I think, a beneficial result.

Mr Marchese: The final question has to do with the reorganization of your office. You spoke about that in your press conference and said that the way you've reorganized has caused more work for you—

Mr Lewis: It did.

Mr Marchese: —but, you pointed out, with much more effective results. Could you briefly explain again why that was a better thing to do?

Mr Lewis: The structure of the office was the Ombudsman, the executive director and then everybody else, right? So I had an executive director and an assistant reporting to me, and I knew what I was given. I've

experienced this before. This is not just government; it's people.

I felt the office was in some difficulty. I knew that going in. You're no stranger to it. You've been here a long time, right? I had a pretty fair idea of what I was walking into. I think I was little shocked at how difficult things were in the office. But, for some time, I really wasn't having much traction in changing it, and so I decided that the way to do it was to increase and spread accountability throughout the organization, and make myself more accountable.

What I did was, I decided to take the two senior counsel, one of whom is here, Laura. One person I made the new director of complaints resolution and investigations—you've met her; I brought Lenna Bradburn to you—and another person the director of corporate services. I created these positions. They had operational team meetings every two weeks. In the alternate two weeks, we have senior team meetings, which I attend, and as often as is necessary.

What's happened is, as we have developed strategic planning in the office, we've developed new human resources policies. We've done a human resources audit and created new policies in response. We've just completed a financial audit, and we're now moving to a new financial services model within the organization.

I couldn't believe the paper, the stuff that was coming to me that I had to be engaged in for process. It was hard work, but it also got me involved and knowledgeable in what was going on. Every once in a while, I could say, "No, I don't like this," or I could give guidance, which was more frequently the case. I just think it's been a very, very good process.

I'm not kidding you. It's been a lot more work. I said to my wife one day, "I don't know. Jeez. The older I get the harder I'm working. I've only got seven months left." But that's been a good thing.

I said publicly this morning, and I'm going to say it to you, that I think I will be quite pleased with the office I hand over to my successor, who will be nominated by you, I hope. And I hope you'll pick a person who will carry it on because I think I've gone about as far as I can go as a change agent internally. You probably know me well enough to know that I've never kept a job too long anyway.

1630

Mr Marchese: Mr Lewis, in case we don't see each other again—I'm not sure whether the committee is going to meet with you—I want to take this opportunity to say that when we hired you, when I was one of the individuals who was part of the hiring, there was unanimity in your appointment. You are a well-respected individual and we thank you for your service.

Mr Lewis: That's very kind of you. Thank you, Mr Marchese.

Mrs Cansfield: A couple of questions: In your report you identify—and I'll go to the FRO because the year starts with 2000 and it goes all the way to 2004, so obviously there was a theme in terms of the number of

complaints. Why did it take you four years to do your own-motion?

Mr Lewis: It didn't.

Mrs Cansfield: You did it last year? I mean, you identified the problem all the time—

Mr Lewis: I did the own-motion in 2001.

Mrs Cansfield: I'm sorry; I misread then. You did it in 2001, but the government did not act upon it and each year you have raised the issue and each year the numbers have remained relatively the same in terms of complaints?

Mr Lewis: If I could qualify that to some degree, I'd agree in a general sense. It's not that the government did nothing. In fact, I was very bullish about it in 2001 because FRO was then within the Attorney General's ministry. I went to the deputy minister, saying, "Look, this is a serious computer issue." We came to an agreement in 2001 that this was the case. The ministry undertook to go forward to Management Board—I'm not sure how it works, cabinet, management board—to seek funding at that time for the study that would be required to determine what the need was. They did go forward. It wasn't quick, but I believe Management Board accorded money for that study and ultimately that study was done.

You had it right that it didn't happen overnight. And yes, I kept complaining as time went on because the issue never changed. Neither did the complaint numbers. Eventually, I guess there's now going to be some action; at least I'm told there is. In fact, I can give you a statement as to what the most recent position is—or I could if I had brought the right document. Laura, do you have the briefing notes? I think I have it. No, I don't. I've been mixing up my briefcases today.

The ministry has informed me that \$40 million over four years has been allocated to the FRO in the recent Ontario budget. I'm told these funds are to be used to enter into a competitive process to acquire a technology solution to support a new case management model. I must say that I understand that the RFP process is now complete and that there is an expectation, depending on how many companies compete, that they will be starting in December to implement.

Ms Cansfield, it's not that nothing was done, but there are always competing pressures.

Mrs Cansfield: Thank you, sir. I was just reading from what was previous. It said, "Not much has changed since then." You go on to say, "The case stories highlighted in this report demonstrate grave continued inefficiency, which is simply unjustified, particularly for those in need."

"My view remains unchanged three years later"—

Interjection.

Mrs Cansfield: I'm just suggesting that you now have the monies that have been allocated, and hopefully this will change.

What I'm trying to get at is the theme issue. You identified a theme that has been consistent over a number of years. You identified it in your annual report on a regular basis, and then sometimes you go forward and do your own case motion, so that you can do even more in-

depth analysis because there isn't sufficient information. How do you determine that theme? Is it just by straight numbers? Is it by a simple consistency in the kinds of complaints? How do you determine a theme?

Mr Lewis: We did it by looking at the numbers. We also examined what the problems were. Why were these errors occurring? There were no proper bring-forward systems. These are technological issues. You can't do it on an abacus any more. At least, we don't know how to do it. What has happened is that this whole flow issue has become a matter of public despair. It's just working badly.

Having said that, trillions of dollars go through every year and get to where they belong, but there are so many people who don't get them or who have them taken from them who shouldn't have them taken from them that it's just become an inadequate process. It ought not to be. I've expressed in my press release today that my greatest disappointment in my term of office is that what I thought was going to be cured earlier has remained with the same number of complaints.

Mrs Cansfield: One of my other questions has to deal with—I think we actually spoke about it earlier in your office, and you've identified it, as well, on page 43 of your report. It's also in a number of your case studies. The issue comes down to accessibility. They can't get hold of somebody, and when and if they do, that person on the other end of the telephone isn't necessarily always the friendliest person. You alluded to some reasons for that when we met, but yet I didn't see it included in your statement as an area of grave concern. Yet the consistency in the complaints is that it seems to be a concern. It's certainly been a concern in my office.

Mr Lewis: I have some more information. Do you have the letter from FRO, Laura? Sorry, I was switching briefcases.

I've received some information because I've been pushy about this. I knew I was coming before you and to the Legislature, and I thought I'd give the director of FRO another shot at explaining what's going on. On June 4 she responded to me, and she set out a number of things that have been going on, one of which is the work with the case management system and the computer process.

However, she has outlined brand new non-technological planning and programs they have put in place, and one of them has to do with phone answering. These are only reported on for the months of February and March, 2004, but I've got a document here that sets out these new initiatives that have been taken, with respect to credit bureau, for instance: 56,000 letters went out to people who were not responding. They went to the credit bureaus. They went to the individuals, saying, "We're going to the credit bureau. You think you're a bloodless stone. We're going to squeeze it out of you because we're going to put the pressure on the credit bureau." And they can do that. They got back 11,000, but 56,000 went out.

1640

They have moved into a new initiative on the client services unit, which has to do with "diverting routine

calls away from the enforcement office"—because you know you can't get through; that's what you're talking about—"freeing them up to focus solely on enforcing court orders," which is a nice thing. "FRO now handles approximately 30% more calls per day. As of February 1, 2004, phone calls to FRO where the client had a payment or general information question are answered in less than four minutes."

They've got feedback. They claim that the average call-wait time in February-March was 2.9 minutes, that they received a total of 12,841 calls in that unit, and that the total calls received in that unit and the call centre were 48,000. Do you know the automated information line on FRO received 370,562 calls in the month of February—that was during the week—and 52,000 on the weekend?

They're starting to address this stuff. They have undertaken an actual calling of the—they call them the clients. It's called registration calls. "Another dedicated unit created recently endeavours to contact approximately 400 new clients per week within 48 hours of their case being registered. FRO welcomes them, explains the program, in addition to the clients' responsibilities. FRO also uses the contact opportunity to update any incomplete or missing information, which streamlines the enforcement process."

They have already, in February and March, a monthly average of 1,080 of those calls and their performance target is 1,200. They've got feedback. They wanted the Ombudsman to see that some people are happy, so they're getting calls back now from both support recipients and payers that things are—at least they're talking to a voice and they're getting some attention.

I've never thought this was malfeasance, that people just didn't want to do their jobs, but I think a lot of people got so damned frustrated in that office that sometimes service levels dropped. All I can say is that I hope these improvements are going to work. But without the technological case management stuff, it's never going to go away.

Mrs Cansfield: Thank you. I have one other question. I know you wouldn't put it in an annual report, but do you keep statistics that you've identified in here, riding by riding, on a long-term basis so that you can do a comparative analysis year to year over a five-year term? For example, if they drop or go significantly higher, where there's such consistency, would you consider investigating why?

Mr Lewis: We could, but we've only been doing a collection of those statistics in the last three years, I think, and providing them to you. One of the areas in which it became very evident that we were getting an undue number of complaints was because they had a jail, so Midland gets a heck of a lot of complaints that you wouldn't necessarily get in Etobicoke, although you do have a jail. That's really the only area where I think we've been able to see undue numbers of complaints.

There's actually another side to that question, Ms Cansfield, and that's community education, community

awareness of the complaints process. Those 22,000 complaints and inquiries aren't indicative of what all the complaints are out there. Altogether too many people don't know who the Ombudsman is or how the service is available. In the mid-1990s when the office was, along with the rest of government, severely constrained, it lost 30% of its budget, I believe, and about 33% of its staff. One of the things that was first to go was community education.

I have to tell you that personally I thought the office was oversized at the time with 134 people, but be that as it may, it had its approaches. So when I got into office, I found to my surprise that there was a tremendous imbalance of where the complaints were coming from. I didn't look at it from a riding point of view, but a regional point of view. The one area that really troubled me was the greater Toronto area: hugely underrepresented in the complaints, given the proportion of the 11-plus million people that the greater Toronto area represents—enormous. The north was overrepresented. I think western Ontario still has a fairly high number of complaints, if you examine this.

We've had to rob Peter to pay Paul to do this. In the last two years I have created a new community education program. We have a supervisor of community education.

Last evening, I appeared at the Centre for Addiction and Mental Health in celebration of their launch of a photo-novella program of really interesting photo books in new immigrant communities, particularly in the francophone immigrant communities. They are to deal with depression, post-traumatic stress disorder, gambling, alcohol and drugs. I was there. There were 100 or so people there.

I took the opportunity to say, "By the way...." These are, to some degree, marginalized communities. My office cares about marginalized communities too. We're available. We have a service. This is becoming very effective. It's starting to be reflected in our complaint numbers.

I appeared before the annual meeting of the Social Workers of Ontario. Why? I didn't really particularly want to talk just to the social workers; I wanted to reach their clients. That was the way to do it. What we tried to do is target organizations that have large constituencies that ought to know about our service. I'm really pleased with that social worker speech. I said to my staff, "I think I finally found my groove when I wrote that one, and now it's time to go."

But I can tell you, we've had a lot of response from the social workers asking for us—not me, but my staff—to go out and speak to groups.

As I've mentioned this morning, I'm not looking to empire-build or to seek complaints. I used this expression before and I mean it: "An uninformed community is a deprived community." They have a right to know about this important provincial government service. So I'm trying to get it out there.

I hope that my successor will see that as an imperative. It took me a little pulling to do it. I was very public

when I was police complaints commissioner. I've been a little less so. It's getting kind of relaxed, but I think it's part of the job.

Mrs Cansfield: I agree with you. Just one last question, and then I'll finish. When you do your analysis, do you write—and there are the obvious ones, like the Family Responsibility Office, but do you send the different ministries and government agencies a letter that says, "We've had X number of complaints about your ministry this year"?

Mr Lewis: Oh, yes. They know.

Mrs Cansfield: You do? Great. And do they come back and say: "Thank you. We're going to fix this"?

Mr Lewis: Often. I met with one of the ministries yesterday afternoon, just before I went to the Centre for Addiction and Mental Health. They were interested to know what I had to say, but they had a pretty good idea. They were there with their staff, and they knew what my issues were with that ministry. I met with the minister, the deputy and some other staff. I think that they're interested. I hope, though, that on the whole—I certainly haven't had any bad experience. They see it as a value. There are going to be mistakes. Nobody wants to perpetuate mistakes. So let's get them solved, and let's do it in a responsible way.

I can tell you that my office is no different. We make them. We have a complaints-against-us process. It's not pure; I don't have an independent overseer in the same way, but I can tell you, I settled a case during my term that was 10 years old, and it was a disaster.

1650

The first phone call I got before I got a congratulation after you, as the Legislature, appointed me, but before I took office, was when I was still down at alcohol and gaming, and it was a man who said to my executive assistant, "I want Lewis to talk to me before he talks to any of his staff about this complaint." This was unbelievable, and I did. I only—what?—two or three months ago put that to bed. There's a reference to it in the report

I thought our conduct was well below standard, to put it kindly. My contribution to this was that we got it done. But this thing started and all the problems occurred over a period of the first five years—two or three years. Although it's very complex, this case should have been dealt with in about one to two years. The ministries were bad too, and they conceded that they were bad.

He was a difficult complainant—very difficult, very smart, very determined. We did badly and I said so and I paid him money. I made him an offer and he rejected it. He asked for a huge amount. I said, "Come on."

Mrs Cansfield: I'm glad you settled the case, and I'm sure the person who follows you is as well.

I too would like to say that I think the people of Ontario have been well served by your thoroughness and your wisdom and your willingness to take on the difficult issues and to come forward. Those are big shoes that are going to be hard to fill. Thank you, sir.

Mr Lewis: You'll do well.

The Chair: Mr Sergio, you have the floor.

Mr Mario Sergio (York West): As well, I want to thank you for the contribution you have made working on behalf of and helping people in Ontario. I know that this is not the end for you, that you're going to go somewhere else, and I wish you well.

Just a couple of quick comments with respect to the program that was established some three years ago, the intensive behavioural intervention program for children. In 2002 you were advised that some 173 children were indeed assessed and eligible for services. That was out of some 900 waiting for both the eligibility and assessment for service. There seems to be a large disparity there. The answer that you got from the ministry at the time was that they didn't keep any record as to waiting periods, waiting times and stuff like that. I say that because you have mentioned you have punctuated timing and eligibility and treatment as soon as possible.

Is the ministry or the new department now logging this waiting time or is it still not being done?

Mr Lewis: The waiting list still exists, but I think they're starting to try to come under control. I'm sure they're now becoming aware of the need for the statistical base, the need for bringing some control over how this program is dealt with throughout the province by individual agencies. They've got care providers out there in one region who are allowing children over age six in, and they've got another one that's not allowing them in after age four or something, so it has to be smoothed out.

Mr Sergio: I guess my point is, it's not that we should have a waiting period for both eligibility and assessment for services. I think we should try to identify and offer those services as quickly as possible

Mr Lewis: I agree.

Mr Sergio: But if ministries and the various agencies are not even now collecting data, information, as to waiting periods, how can we assess? In 2002, there were still 900 kids not assessed. How can we deliver the service as quickly as possible if we don't keep track of collecting information with respect to time?

Mr Lewis: You'll have to do it; no question about it. It has to be done, and it will be done, I trust. It's also going to require money. It's going to require dollars and it's going to require a trained cadre of persons competent to do the work. I don't mean the statistical gathering; I mean the actual intensive behavioural intervention. It's really hard stuff and nothing I want to do.

Mr Sergio: Can you touch briefly on what you have done with respect to this huge backlog of children waiting to be assessed, and the collection of information?

Mr Lewis: I don't want to underplay this, but all I've been able to do is highlight the problem. The ministry now has the responsibility, and I am confident that there is a real concern today to address it. This is a new ministry with some new staff now assigned without a vested interest in the prior planning. I think that matters; I think that counts. We're all protective of our own conduct. They're going to have to get their share at the

cabinet table. That's where the money is going to come from, or Management Board.

Mr Craitor: It has been a pleasure to meet you and it's the second time I got to listen to you. You've got a hell of a great laugh too.

I was interested in page 47, where you show the complaints by riding. Can I, as the member for Niagara Falls, access the 106 complaints? Can I actually look at them to see what they were for?

Mr Lewis: Can you get to see what they are?

Mr Craitor: Yes.

Mr Lewis: No, and I have to tell you why. My counsel, as recently as this morning, muzzled me in the press conference. They're always on my case because I'm garrulous, as you can see, and I like to talk and explain and whatever. But the Ombudsman Act states that (a) my investigations must be conducted in private, and (b) that I have an oath—and I have taken the oath—of confidentiality. So, unless I report something to the Legislature, I can't talk about it.

For instance, I got caught this morning because there's a case in here, and I'm not going to go into it, that involved an amount of money in flow, that hadn't been passed—

Mr Marchese: Thank God you didn't have names.

Mr Lewis: I never have the name or I would have wanted to say it, right? They won't let me have names. It's always Mr A and Miss S.

The reporter quite reasonably said, "How much money was lost here?" I don't know; I turned to Laura because I figured Laura or Lenna would know, and they're going like this. It's not that I couldn't have told that amount; I could have told the amount if I'd reported it. But because I didn't report it to the Speaker, I can't even tell you their names. That seems to me to be pretty silly. These lawyers, what are they going to do: sue me because I tell the amount? No. But if I told the name, you bet it would be serious.

I can well appreciate why you would like to know, because you care about what's going on in your riding. But I can't divulge it. I'll tell you where it does happen, though, that you could know. Members of the Legislative Assembly have the authority under my act to lodge complaints with me on behalf of their constituents. But you shouldn't do it without their permission. They'll get upset sometimes if all they want is to talk to you and then all of a sudden they find me or my staff calling them. But you can talk to them and say, "I haven't been able to address it sufficiently because I don't have an investigative authority, but maybe the Ombudsman can. Do you want me to pass this on?" I must receive your complaint. Once I receive it, unless I get the consent of the complainant, I can't tell you what I've done, not on an individual-case basis. There's good reason for that. There's generally the whole issue of protection of the privacy of the individuals, and it's also protection of the ministry. I think it was a balancing act when the statute was created.

What I can do is tell you the broad sweep of cases that came out of your riding. By the way, I was at the opening of the new Fallsview Casino on Tuesday last week. I remember when I used to run the commission. I wasn't allowed to gamble when I went to the other openings, but I could this time and I want you to know, sir, that my wife and I made our obligatory contribution to the coffers.

Mr Craitor: If you had called me, I would have made sure you won.

Mr Lewis: I'll have to have you investigated.

Interjections.

Mr Craitor: I'm only asking to try to ensure that I'm doing a good job as an MPP: So I can access in general the inquiries, just not the specific names?

Mr Lewis: It would depend on the nature, probably. There are the agencies that are complained about.

Mr Craitor: That I could ask.

Mr Lewis: You can get that. You don't have to come to me for it. It's right here on this CD. If you look at the back, you'll find that there is an index, and there is a report there by riding which will tell you how many FRO complaints came out of your riding.

Mr Craitor: That's actually what I was looking for. I didn't really need to know the individuals; I just wanted to know if you could get access from the different ministries.

Mr Lewis: Oh, yes, you can get all that.

Mr Craitor: The only other question I have is, do you have contact with your colleagues elsewhere in other provinces who provide the same services?

Mr Lewis: I do. In fact, I hosted a meeting of my colleagues across the country. There is no federal ombudsman of general jurisdiction. However, one that we treat as a colleague is the Official Languages Commissioner of Canada, who reports to Parliament. Each of the provinces, except Prince Edward Island, has an om-

budsman. We meet on occasion and we talk quite regularly. But beyond that, I am president of the International Ombudsman Institute, so I have met with ombudsmen throughout the world.

In Quebec City in September, every four years there's an international conference held, and it's going to be held in Quebec City. But I was in Korea only a month ago, at the invitation and expense of the Korean government, to address the Asian Ombudsman Association. I've been in Taiwan, at their expense. I was in Azerbaijan twice last year at the invitation, the first time, of the European Council and the second time of the United Nations Development Programme. That was really interesting. I was at a round table dealing with the 10 human rights ombudsmen of the former Soviet republics. That was at no cost to this government. So, yes, I'm very involved.

Many of the problems are similar, a lot of the issues are similar, although, coming from Canada, we have to be pretty grateful, from some of the things I've seen.

Mr Craitor: Thank you very much.

The Chair: Any more discussion or questions? Seeing none, thank you, again, for a wonderful presentation and for your candour. We always enjoy having you here.

Mr Lewis: I hope you'll allow me to come once more before I leave.

The Chair: We'd love to have you back.

Committee, the only news I have is that the subcommittee will likely be meeting at the beginning of next week. We're still trying to set that up. All other meetings will be here, based on the legislation that has been passed on to the subcommittee and which I believe is being negotiated by the House leaders. I don't have any dates on that yet.

Could somebody move adjournment? Thank you, Mr Delaney. We're adjourned.

The committee adjourned at 1704.

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