



Citizens' Representative Message



Welcome to fall!

Well, that summer certainly zipped by. It did not, however, slow things down here at the OCR. This summer, especially the period of heat warnings for the Avalon, was especially busy on the corrections side of our mandate. The issues at HMP garnered a fair amount of public attention and we received a higher rate of calls than we would during a normal summer. Thankfully, we were able to alleviate a lot of complaints with the valued assistance and input from staff of the Penitentiary. Our monthly meetings with senior correctional officials were also quite beneficial in pinpointing specific trends in complaints for them, and in turn, we received feedback on what steps were being taken to try to tackle those issues inside. It is indeed encouraging to see the Department of Justice and Public Safety move toward making working conditions better for correctional officers, who, in higher numbers will be able to open up more programming, recreation,

and medical escorts for inmates who need it. At the end of each monthly call, two things normally happen; there is an exchange of offers to reach out and contact each other anytime something new or urgent comes up; and, an acknowledgement of the inherent value in regular communication between us. While we deal with incarcerated persons from different angles, we do serve the same population. Oversight in corrections is very much a part of each provincial Ombudsman's mandate and is important to ensure that our correctional system is transparent and adherent to the policy-based and internationally established norms that apply to the treatment of prisoners. Independent external oversight has proven time and again, worldwide, to be the gold standard of administrative and rights-based fairness in correctional facilities.

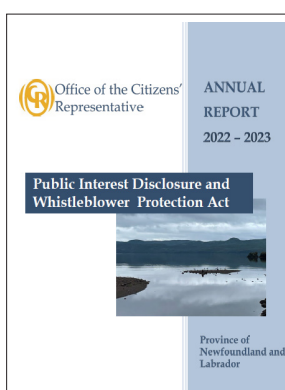
This fall will be a busy one for our Office as we prepare to release a systemic investigative report that will highlight the concerns of another vulnerable population in our province. Stay tuned!

Bradley Moss

Public Interest Disclosure and Whistleblower Protection Act

The OCR released its Annual Report for 2022-2023 in June, 2023. This report highlights the progress and activities in carrying out our mandate under the Public Interest Disclosure and Whistleblower Protection Act (the Act) for the fiscal year, including statistics and compliance results.

The Act provides a confidential process for public service employees to disclose wrongdoing and to be protected from reprisal for doing so. This report provides useful information including the disclosure process and definitions that may assist in understanding requirements of the program. Additionally, it provides an overview of the services available under the Act and what can be expected upon contact with the OCR. Contact is



confidential and welcomed by the OCR for any employee who may have questions about making a disclosure under this Act, including if the contact may be for advice only.

Please feel free to review this Report available on our website: <https://www.citizensrep.nl.ca/pdfs/PIDAReport2022-2023.pdf>

Copies of this Report can also be produced upon request.

What We Offer

We have numerous presentations available for public servants and the general public on our full range of services, including the provincial whistleblower program, and tips on how to navigate difficult complaints for frontline workers. Presentations are available by calling (709) 729-7647 or via email at citrep@gov.nl.ca

Seeking Fairness

A citizen lodged a complaint against the Crown Lands Division of the Department of Fisheries, Forestry and Agriculture (the Department). The complaint was in relation to an application for Crown land that was initially approved, then subsequently cancelled. The citizen also alleged experiencing delay and confusion with respect to the Department's complaints management process.

The citizen had applied for a parcel of land for which another applicant had previously applied. The parcel of land was backing on the citizen's property. In light of both applications, the Department initially made a discretionary decision and attempted to accommodate the citizen and divide the land in question with the applicant who previously applied for the parcel of land. This decision was eventually reversed and the Department honoured the original application in accordance with the long-standing policy provisions of first come, first served with respect to the processing and approval of applications for the same parcel of land.

Using discretion and allowing flexibility with respect to the application of policy based on the circumstances

was reasonable. In this situation, however, the exercise of discretion led to an unfair outcome for the first applicant and, in fact, had an effect contrary to what was intended. Ultimately, the decision-making process did not make sense to the citizens affected.

The specific process that the Department follows in receiving, responding to, and resolving complaints was also unclear.

Following investigation, the OCR made the following recommendations:

1. The Department review Policy AP.028 (Applications: Acceptance/Non-Acceptance) to determine if latitude exists for discretionary decision-making.
2. The Department develop clear guidelines and/or a complaints management policy that ensures complaints received are dealt with fairly, promptly and in an efficient manner.

The Department accepted both recommendations and committed to undertaking a review in consultation with the Department of Justice and Public Safety.

Finding Solutions

A citizen made a complaint to our Office having been denied Medical Care Plan (MCP) eligibility upon returning home to NL from living in Ontario for two years. MCP, a division of Health and Community Services, advised the citizen was denied coverage as they were not considered a Canadian citizen.

The citizen advised they were born in another country, with their family moving to Newfoundland and Labrador more than 70 years ago. The citizen resided in this province since moving here, except for a recent brief period in Ontario. The citizen

previously had MCP coverage up until the move to Ontario, leading to confusion as to why there was no current eligibility.

Upon contact by the OCR, MCP committed to reviewing the citizen's current application and their historical file with the intent of reaching out to the citizen directly. The citizen later informed the OCR that MCP staff did reach out to them; advised the application was approved; and that an MCP card was being mailed to them.



Questions / Comments?

Is your department, agency or community group interested in learning more about the OCR, its services and processes? Do you have a suggestion or question to be addressed in a future edition of *OCR Insights*? Call us at 1-800-559-0079 or (709) 729-7647, or e-mail citrep@gov.nl.ca

 www.citizensrep.nl.ca

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