

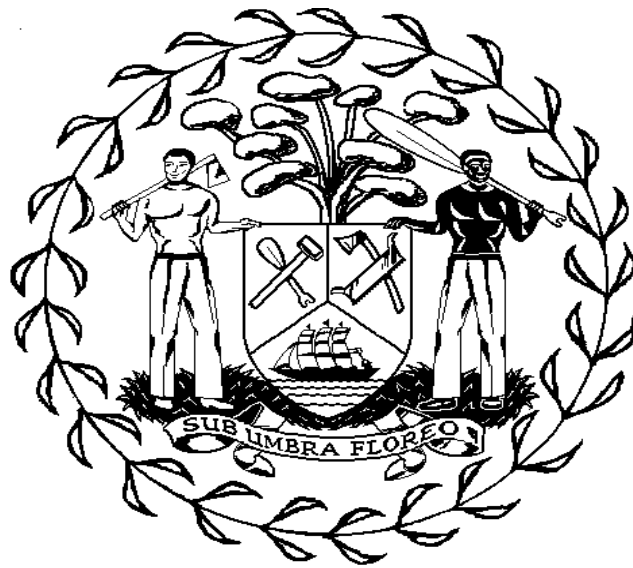
2003-2004

THE Fifth
ANNUAL REPORT
OF
THE OMBUDSMAN



"Truly a haven of Democracy"

The **FIFTH ANNUAL** **REPORT** OF THE **OMBUDSMAN**



Prepared for laying before the Senate of Belize and the House of Representatives pursuant to Section 28(2) of the Ombudsman Act, No. 7 of 1994

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FOREWORD



- ❖ *Belize will reach the apex of the culture of rights when we are able to accept the other person as equal, notwithstanding his/her differences, or disadvantages.*

- ❖ *An authentic culture of rights includes a firm grasp of the fact that the human person is a social being and that this has implications that may lead to a foregoing or a curtailment of the exercise of a given right.*

- ❖ *Rights considered as set apart and in contradiction to the common good and the public interest will continue to contribute to the development of a culture of egoism. On the other hand, the human person must stand delicately poised between what the proper maturing of his own selfhood requires and what the community requires of him to help others achieve the fulfillment of their selfhood. Wherever any successful attempt is made to exaggerate either of these poles, i.e., self or society, it results in aberrations that dehumanize the human person.*

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(1 April 2004)

Ref: 5/AROMB/2004

Mr. Phillip Zuniga, OBE, SC
President of the Senate
National Assembly
Belmopan

Dear Mr. President,

I have the honour to present the Ombudsman Annual Report which covers the period 1 April, 2003 – 31 March, 2004.

The report is submitted in accordance with Section 28(2) of the Ombudsman Act, Ch. 5 of the Laws, which states: -

“The Ombudsman shall submit to the National Assembly an annual report relating generally to the execution of his functions.”

Respectfully,

Paul Rodriguez
(Ombudsman of Belize)

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(1 April 2004)

Ref 5/AROMB/2004

Hon. Elizabeth Zabaneh, O.B.E
Speaker of the House of Representatives
The National Assembly
Belmopan

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Paul Rodriguez
(Ombudsman of Belize)

STAFF

OMBUDSMAN	Mr. Paul Rodriguez, B.A, OBE
INVESTIGATOR	Mr. Lionel Castillo J.P.
OFFICE ADMINISTRATOR	Miss Sharon Flowers

STAFF GOALS: -

1. To greet every visitor with a cheerful and caring smile.
2. To listen to every complainant as though his/her problem is the only one in the world.
3. Not to take sides between the complainant and the authority against whom the complaint is made.
4. To seek to uncover the facts and the truth in every case.
5. To improve the quality of life of everyone by contributing to an enhanced understanding of the culture of human rights.

To be fair and transparent in all that we decide and recommend.

INTRODUCTION: A SUMMARY

The Table below gives a somewhat comprehensive view of one of the primary facets of the role of the Ombudsman. The report on complaints is as follows:-

New Formal Complaints	244
Old Formal Complaints (those carried forward from previous years)	170
Informal Complaints	314
Total	<u>728</u>

❖ ***The following table*** is a bird's eye view of how our office performed in the handling of complaints. We performed as follows:-

Total complaints received 1 st April 2003 – 31 st March 2004	558
Total complaints resolved (Including cases carried forward from previous years)	669
Unresolved Cases	59

The issue of how long it takes to resolve a complaint is crucial, for the effectiveness of the role depends on a speedy delivery of justice.

- **Informal Complaints:** These were all resolved in a few hours or a few days – all 314 of them.
- **Formal Complaints:** The time of resolution ranged from one thousand and sixty (1060) days, (see chart – Ministry of Lands) to one (1) day.

Nota Bene: See the chart for each department on page 42.

- ❖ **We also embarked** on a vigorous initiative to conscientise the nation about human rights. Our office devised two human rights tests, and the Ombudsman personally gave one test to every Standard VI class in Belize City and has embarked on doing the same for all other primary schools countrywide. A start was made to give the higher level test to Fourth Forms of all high schools, but we have not yet reached all of them. (See Human Rights Quizzes on pages 44. For a balanced view on rights see address on page 60).

- ❖ **Our office continued** to fill a very important need to pacify the streets. Through the efforts of our Investigator Mr. Lionel Castillo firearms have been taken off the streets. In carrying out this initiative he has had the active support of the Police and of other agencies.

- ❖ **Another aspect** of the pacification initiative is to render assistance to those who are accused of running afoul of the law. This includes:-
 1. giving common sense advice;
 2. turning over those who are wanted by the police and are afraid of going to the station by themselves;
 3. assisting those who wish to hand over a firearm.

- ❖ **Our office believes** strongly in the need for improving governance and has actively participated in initiatives to bring this about. This year the Ombudsman requested that all ministries of government appoint a Liaison Officer to take active role in facilitating the requirements of the Ombudsman for documentation and information. (See list of LO's on page 68).

It is foreseen that these officers will play a key role in promoting efficiency, transparency and accountability.

❖ ***The Office has embarked*** on a crucial initiative to conscientise the Police Department and to restore public confidence in policemen. Along with the Human Rights Commission of Belize and the Police Department of Internal Affairs and Discipline, we have been holding conferences with each formation of the Police. This is a countrywide initiative and should result in an increased consciousness in the Police of their need to be frontline workers for human rights. (See report of last meeting on page 55).

❖ ***Finally,***

On Tuesday, 23rd March, 2004, the Ombudsman gave an address on behalf of the most disadvantaged of the disadvantaged – the mentally disabled: See pages 62.

Signed:

**Paul Rodriguez
(Ombudsman)**

8th April 2004

THE REPORT ON EACH DEPARTMENT

During the past year there has been an increased responsiveness to the requirements of good governance. One yardstick by which this may be measured is cooperation with the Ombudsman.

The summary of our work already shows only fifty-nine (59) cases left unresolved at the close of business at 5 p.m. on 31st March, 2004.

This section will review each government department. In some cases a significant case file will be presented. With some supporting documentation.

One unresolved case has been reported to the National Assembly, and this section starts with that case.

MINISTRY OF HOUSING

Four (4) complaints were received. One remains open. This case was reported to the National Assembly in a Special Report.

It is a significant case because failure to act decisively by the Head of Department made it necessary for the Chief Executive Officer to seek a legal opinion from the Solicitor General's Office. The Ministry chose to play it safe and follow the advice given by the government's legal office. The Ombudsman disagreed with the opinion. What follows is the main document of the report sent to the National Assembly. (See page 13).

(The same report was sent to the Speaker of the House of Representatives and to the President of the Senate).

Ref 1082/EZOMB/2004

30th March 2004

**Hon. Elizabeth Zabaneh, O.B.E
Speaker of the House of Representatives
The National Assembly,
Belmopan,
Belize**

Dear Madam Speaker:

**RE: SPECIAL REPORT FROM THE OMBUDSMAN, COMPLAINT OF DARREN
BANKS VS MINISTRY OF HOUSING**

By your leave, this Special Report is being made in accordance with Section 21, Subsection (2) of the Ombudsman Act, Chapter 5 of the Laws of Belize, which says:

"Where the Ombudsman has made a recommendation under subsection (1), and within the time specified or a reasonable time thereafter, he is of the opinion that no adequate action has been taken in pursuance of his recommendation, he shall lay before the National Assembly a special report on the case."

In pursuance of the above provisions, the Ombudsman has duly informed the Chief Executive Officer of the Ministry of Housing that it is his considered opinion that the complainant's claim for payment of salary for the period 11th October, 2002, to 19th February, 2004 is fair and just according to the Government Workers Regulations, Section 25, subsection (4) and considerations of natural justice. (See Appendix A).*

On the other hand, the Ministry of Housing respectfully acting on the advice of two Crown Counsels in the Solicitor General's Office, have taken the view that Mr. Darren Banks upon his incarceration on a charge of murder on 11th October, 2002, broke his employment contract with the Government of Belize (See *Appendix B and C), because of his inability to be present at work.

If Government Workers Regulation, Section 25, subsection (4) did not exist, the Ombudsman would have conceded already and not upheld the complaint. In a letter of 22nd March, 2004, the Ombudsman informed the Ministry of Housing of his opposing views. In paragraph 3 he said:- *"Without Regulation 25(4) my immediate answer would have been 'yes'. However, this regulation clearly gives Government Workers a privilege which no other employees enjoy. The regulation was made by those who know the Labor Laws but who thought it fitting to accede to Government Workers certain entitlements that are unique to their contract of service."* (See Appendix D). *

Regulation 25, subsection (4) clearly sets out the procedure to follow when a worker is accused of a crime, and in the same Appendix D, the Ombudsman commented as follows:-

"It may be obvious in retrospect that the framers of the Government Workers Regulations did not take into account a possibility that a worker might be one day remanded into prison for an extended period of time, and therefore there was no specific provision to deal with that eventuality. It may be that this is the time to effect an amendment. However, that amendment must not affect Mr. Banks."

Madam Speaker, on Thursday, 19th February, 2004, the Supreme Court of Belize found Mr. Banks not guilty of the charge that had been placed against him. Therefore, he was absent from work for reasons beyond his control. It would therefore be a contradiction now for the Ministry of Housing to decide that Mr. Banks should be punished for his inability to report to work.

The Ombudsman, therefore, submits that the Ministry of Housing should withdraw its dismissal of Mr. Banks contained in a letter written to him on 1st October, 2003. This letter made his dismissal retroactive to 11th October, 2002, which I believe is ultra vires being against the accepted legal principle that a benefit may be retroactive but never punishment (See Appendix E) *

Finally, I submit that a government which has demonstrated a very high respect for workers rights, cannot allow this unfortunate decision of the Ministry of Housing to stand.

Respectfully,

**Paul Rodriguez
(Ombudsman)**

***Appendices not reproduced in this report.**

LANDS DEPARTMENT

There was a sharp increase in the resolution of complaints. This was due to the appointment of the Commissioner himself as Liaison Officer for the Ministry. The record shows the following:-

Cases Closed: 27

Cases left open 8.

The following cases are worthy of mention:-

Case No. 1041

This case concerned the complaint of a citizen who claimed that a parcel of land developed by his family was sold to another person in 1980. When the Ombudsman made the Ministry of Lands aware of the person's concern and his demand for compensation, within a reasonable time they agreed to make a substitute acceptable parcel available and a cash settlement. The complainant accepted, and the Ombudsman closed the file.

One aspect of the case the Ombudsman did not investigate was "*Whodunit*". Because of the lapse of time – twenty three years (23 yrs), he thought this would be like searching for a needle in a haystack. Therefore whoever caused this mistake should take heed for the future.

Case No 161

A long-outstanding case was finally resolved when the Ministry of Lands accepted the argument that a parcel already paid for under the LOP plan of the 1993-98 era was a contract that had to be respected, no recommendation by a Lots Committee being necessary.

This case is remarkable, if for no other reason than it took nine hundred and sixty (960) working days for it to be resolved; whereas the issue was very straight forward. With a will it should have been resolved in twenty working days.

Speed in resolving disputes is one of the most important characteristics of the work of the Ombudsman. Therefore this issue will be addressed on page 67.

Case No 1032

This case is interesting because it raised the issue of negotiating leased national lands.

The complainant was aggrieved when Mr. Diego Cal did not surrender to her half of a parcel on which he lived in fulfillment of an agreement which earned him two thousand three hundred dollars (\$2300.00)

The Ombudsman closed this case with the following letter to the complainant:-

Dear Ms. O,

Thanks for all the information you gave me, including that of the relationship of Mr. Diego Cal and the Minister of State, interesting as that is.

However, the crux of the problem you have is that the only evidence of a claim you have is the receipt for money you paid Mr. Diego Cal after he committed himself verbally to surrender possession of half of the parcel he lives on to you.

It is crucial for you to understand that Mr. Diego Cal made a promise to you to divide a leased lot belonging to the Government of Belize. This he did not have the authority to do, for only the Minister of Lands has the legal authority to change a lease, something he may do upon application being made by the leasee, in this case Mr. Diego Cal.

Do you know if he made such an application?

I would now advise you to make him aware that he needs to file an application for a lease to half of the parcel be passed to you. Be sure to insist that he give you a copy of that application.

If he refuses to do the above, you must tell him that he has to return your money, or you will take him to court.

Respectfully,

**Paul Rodriguez
(Ombudsman)**

P.S. I am enclosing a copy of this letter that you can give to him.

Later, the Minister of State, Hon. Ismael Cal verbally informed the Ombudsman that he had intervened and helped Mrs. Blanco with land and house.

Case No 849

This one is noteworthy because it involved a person's complaint who hoped that the Ombudsman could uphold an act, illegal though it was.

This file was closed with the following letter to the complainant:-

23rd February 2004

Dear Mr. S,

RE: REQUEST FOR HELP TO OBTAIN LAND

A letter a 12th February, 2004, from the Ministry of Lands has informed me that you were taken to court and were ordered to remove yourself from the parcel you unlawfully occupy. You are therefore obliged to obey.

However, what you should now do is go through the normal process of applying for a parcel. Government has committed itself to making thirty thousand lots available during the next four years.

Please apply. I believe you will be given a favourable response.

Thanks for using our services.

Respectfully,

**Paul Rodriguez
(Ombudsman)**

DEPARTMENT OF CORRECTIONS

In the last Ombudsman Report 2002 – 2003, 16 cases in all were reported. Eleven were resolved; five were left open.

This report shows that nineteen (19) cases were closed, including the five (5) carried over from last year. In effect, there were only fourteen (14) complaints – two (2) less than last year. Should we conclude, then, that the privatized management of Hattieville Prison is only slightly better than what it was before?

Prison International evaluated the Belize Prison in August of 2003. That study on page 3 said, inter alia:-

- “1. The various projects and initiatives underway at the Belize Central Prison are very consistent with the mission of the Kolbe Foundation. This consistency is providing a very needed message and direction to staff and inmates.*
- “2. Excellent progress has been made in a very short period of time.*
- “12. The collaborative effort that is evolving in Belize will go a long way to make the Central Prison a model correctional program that will be the envy of other countries.”*

However, the Prison is a human institution still needful of transparency and the objective, unbiased eyes of watchdog agencies.

Case No 980

When an inmate complained that the Chief Officer had unjustifiably attacked and hit him, the Ombudsman initiated an investigation.

An impartial witness, Inspector Robert Mariano, happened to be on the spot investigating a murder. He witnessed when the inmate attacked and hit the Chief Officer. The inmate continued to threaten, and the Chief hit him on the mouth once. Although, this was an act of retaliation and not self defence, the latter being professionally permissible but not the former; the Ombudsman could not uphold the complaint of the inmate. He had initiated the violence.

Postscript: A few months later the Chief Officer resigned after accusations were made that he and his boss had pepper – sprayed a prisoner.

THE POLICE DEPARTMENT

A total of one hundred and one (101) cases involving the Police Department were resolved. Only thirteen (13) were left open.

During this year there seems to have been an awakening in the Police Department that without the cooperation of oversight agencies there would be no confidence and trust of the police by the Belizean Community.

Commissioner Zetina and his Commander of Internal Affairs and Discipline ASP Robert Mariano are at the head of the effort to establish and enforce rules of behaviour that reflect transparency and accountability.

The Internal Affairs and Discipline Department have enthusiastically joined the Human Rights Commission and the Ombudsman in the initiative to conscientise policemen in the field about human rights observance and the role of the Ombudsman in improving the perception of their work by the community.

So far conferences have been held by the three agencies in Corozal, Punta Gorda, Independence, San Ignacio and Benque Viejo Del Carmen. (See page 53 for a report on the last conferences).

The above expressions by no means signifies that there are no obvious flaws, as these cases below will show:-

CASE NO 1080

In December 2003, the Mayor of San Ignacio complained the police in his municipality were refusing to enforce that section of the liquor licensing law which requires payment of a special fee for an extension of time.

In early January, the Ombudsman wrote the Commissioner of Police making him aware of the concerns of the mayor.

Two days later a memorandum from the Commissioner referred to directives from Headquarters that the concerns of the mayor were not being addressed.

In a letter dated 13th January, 2004, the officer in Command of the Cayo Formation replied to the Ombudsman about the Mayor's concerns. His letter, as follows, below:-

Dear Sir,

"I refer to your correspondence in which you mentioned about the Mayor of San Ignacio Town. Sir, this man is plain mischievous and childish. He believes that I am a strong supporter of the P.U.P the two places he mentioned, the proprietors

are known die hard P.U.P's. Both of these establishments are licensed as Night Club. This permits them to open until 2:00 a.m. and that is exactly what happens. I do not get out of my bed at night to check any club. I have my men working at night who check liquor premises and found all in order. If the Mayor has a problem with these places not paying extension it is his duty to write them and let them pay or even take legal action against them to recover whatever he knows they owe.

"On the 31.12.03 at 11:50 p.m. the mayor got on stage at the New Years count down and said he is proud of the San Ignacio Police because of the way they police the town for the holiday because there was not one single incident of violence or theft, which was true. Absolutely not one incident occurs in this town over the Christmas holiday. The Commissioner of Police applauded us because he said I am the best formation Commander country wide because I kept my town under control. I knew for certain that the mayor has something personal against me. Please advice him to act professionally. I can assure you that I am not condoning any type of irregularity in this town."

**Officer Commanding
Cayo (Police) District**

To which the Ombudsman replied, as follows:-

19th January 2004

**Mr. Carmen Zetina
Commissioner of Police
Police Headquarters
Belmopan,
Belize**

**ATTENTION: SR. SUPERINTENDENT G. NICHOLAS OFFICER
COMMANDING, CAYO**

Thanks for your letter of 13th January, which I just received. Allow me to share in the Commissioner's words of congratulations to you for your efforts during the Christmas season.

However, I refer you to your own words in your letter written to the Ombudsman, as follows: "**when I read my daily report they states that they check all liquor premises and found all in order.**"

It seems that the following questions are fair, based on what you said above:-

1. Do you ever personally or through a senior officer check reports written by the men under your charge?
2. Even if you do not as a matter of established practice adhere to this fundamental principle of good management, i.e., to check on the work of your men, after receiving a complaint from the Mayor, don't you think you were bound to check?

Is it established practice in your formation to rely on the Mayor to take matters to court to force compliance that should be part of the normal work of the Police?

With respect, I do not believe that your record of service during the Christmas Season justifies neglect of duty at other times. However, this is a statement of principle; for I cannot judge that you were neglectful until you have answered the three questions above.

Respectfully,

**Paul Rodriguez
(Ombudsman)**

**Cc. Mr. Allan Usher, CEO
Mayor of San Ignacio**

The officer did not reply in writing to the above letter, which he should have. However, a few weeks later the Ombudsman learned from the Mayor's office that the Mayor and Commanding Officer had met and sorted out their differences, which is what the Ombudsman thought best from the beginning.

CASE NO 1059

This case concerned the complaint of Mr. Shelton Tillett who had been arrested by the Police. Through his attorney he complained to the Ombudsman that when he was detained two thousand dollars (\$2,000.00 US.) was taken from him. The attorney continues:-

"I spoke to you subsequently and you admitted that the amount was in Police custody but that it was not found in the possession of any one. This I find to be strange since my client was escorted to the station along with the money and the Police were contemplating filing charges pertinent to the possession of same.

In any event I hereby lodge an official claim on my client's behalf. You had indicated that it was your intention to pay the money into the Government Treasury. If this had been done then kindly provide us with a copy of the pay-in receipt so we can follow-up with our claim. If not then we request that, after the usual Police formalities, the money be returned to my client.

I anticipate your kind cooperation and hope to hear from you on or before the 28th November, 2003."

Thanks.

**I remain,
Yours respectfully,**

Ellis R. Arnold

Through a letter of 4th December, 2003, the Ombudsman was informed that the money would be returned but that it had been picked up off the ground.

Later on the Ombudsman was informed that the money had been returned. He then closed the case.

CASE NO 1033

After his mother died in police custody, the son complained to the Ombudsman. The incident about which the complaint deals happened in Corozal Town in October, 2003.

The Ombudsman closed this case after the following letter to the Commissioner of Police:-

Dear Commissioner:

RE: UNTIMELY DEATH OF MARTHA LORENZO

Thank you for your quick attention to a matter that I believe has given your organization a black eye. It was a scandal that you could have done without and one that could have been avoided if WPC Tillett had demonstrated more restraint, professionalism, sensitivity and maturity.

I believe that it was generally known in Corozal Town that Ms. Martha Lorenzo was mentally unstable. How is it that WPC Tillett did not know this? How is it that none of her superior officers knew this?

I believe it showed immaturity by WPC Tillett to have taken the words of Ms. Lorenzo seriously, even if they were abusive. Coming from a mental patient her words should have been regarded differently, meriting perhaps a call to the health facilities to obtain help for Ms. Lorenzo.

I find it hard to believe that our peace officers seem to believe that the solution to every problem is to arrest, and then to use physical force to effect the arrest, if there is resistance.

Hopefully continuous training will cause our police officers to develop into competent, sensitive, mature, professional servants preserving public order.

Finally, I do agree with you that at this point in time there does not seem to be any evidence to link the cause of death of Ms. Martha Lorenzo to any direct action of WPC Tillett or any other police officer.

Let us continue to build bridges of understanding and confidence: Police – Community by changing police attitudes and behaviour.

Respectfully,

**Paul Rodriguez
(Ombudsman)**

**Cc. Dr. Salim Manii
Human Rights Commission of Belize**

ISSUE NO 1

CASE NO 937

This case at first involved a complaint from an inmate of Hattieville Prison who claimed that his conviction had been overturned by the Privy Council, yet he was still in prison.

The Ombudsman quickly wrote the Registrar General who immediately caused what needed to be done to be so done. The person was then released. Apparently the paper work had been properly channeled, for the Registrar had written the prison on the matter from the 29th of May, 2003. So the dating on a copy of her letter revealed. At any rate, on the 14th of July, 2003, the Ombudsman closed the case, after he learned that the inmate had been released.

ISSUE NO 2

CASE NO 937

The second issue involved was the handling of this case by the different public agencies involved in this sort of matter.

The following was gleaned out of the Privy Council judgment:-

Deficiencies in handling of case

1. Murder happened on 7th July, 1995; principal crown witness was not interviewed until 12 December, 1995 – almost 5 months later. Why?
2. Accused not arrested until 13th August, 1998, in relation to another matter.
3. Slip by Prosecutor referring to the man R as Aurelio Pop. When as a matter of fact it had not been established that R and Pop were one and the same person.
4. Defence Counsel also failed his client by re-enforcing the impression that R and Pop were one and the same person.
5. No proper identification.
6. Judge did not properly instruct the jury on the necessity of ID parade.
7. The evidence identifying the appellant as the gunman had emerged as the result of the leading question by prosecution counsel. The judge therefore should have cautioned the jury.

Signed:

**Paul Rodriguez
(Ombudsman)**

Afterwards, because the Police were involved in this case and their work seemed to have been far less than satisfactory, the Ombudsman wrote the present Commissioner this letter:-

Ref 937/CZOMB/2003

14th July 2003

**Mr. Carmen Zetina
Commissioner of Police
Police Headquarters,
Belmopan, Belize**

Dear Commissioner:

RE: AURELIO POP CASE AND KEY FAILURES OF THE POLICE

A few weeks ago the Privy Council after reviewing the conviction for murder of Aurelio Pop quashed it. Pop had been charged and found guilty of the murder of George Chavez, which occurred in July of 1995.

In their review of the case, their lordships listed two crucial mistakes made by the Police.

1. The one and only Crown witness was interviewed five (5) months after the murder;
2. No identification parade was held.

Crucial mistakes were made by others, but since we can do nothing about them comment is valueless.

Of course, we know that guilty or not, Aurelio Pop is now a free man whereas he should at least be in jail; and there is nothing you or I can do about that. Therefore the purpose of this letter is to express to you my confidence that you will not allow such mistakes to be repeated under your watch.

Respectfully,

**Paul Rodriguez
(Ombudsman)**

LABOUR DEPARTMENT

The Ombudsman has had a close and good working relationship with the Belize City branch of the Labour Department. More effort will be needed on all fronts to ensure that this relationship becomes better all over the whole country.

Eight (8) complaints were made against Labour; six (6) were resolved; and two (2) remain open.

The following case is interesting and noteworthy, because it centers on an issue that is a point of law, i.e., that notice pay is a civil matter and cannot be enforced by the Labour Department.

CASE NO 837

Though all her other benefits had been paid by her former employer, dissatisfied she went to the Labour Department. They were willing to help her prepare a civil suit to take the matter to court, but that was the limit of what they could legally do.

In justification of their position, Labour Inspector Adelfino Vasquez wrote the Ombudsman and, inter alia, said:-

8th April 2003

“The department stands ready to help but there are certain limitations, which are beyond our scope and when this is conveyed to clients it gives us a negative image as being impotent and incapable to fulfill our mandate. I must make it clear that our mandate must not be confuse as a Pro Worker Institution but rather as an institution that help Workers and Employers, Workers Organizations and Employers Organizations in abiding and complying with what is statute in the Law.

“I thank you for your understanding and hope that your help might bring about a positive result, thank you once again.”

Sincerely Yours,

**Adelfino Vasquez
For Labour Commissioner**

The Ombudsman met with the Chairman of the Board of the former employer. While he held on to his position that his company had discharged all its legal obligations, he would pay an ex gratia amount equivalent to what the

complainant would receive if her suit were taken to court and she were successful. He would do this out of consideration for services rendered.

He did. The Ombudsman closed the file after he received a thank you note from the satisfied complainant.

IMPORTANT NOTES:-

1. Section 24 of the Government Workers Regulations provides as follows:-

(1) Notice of termination of contract of service for an indefinite time given either by the Head of Department or the worker, shall be of the following respective durations, if the worker has been in the employment of the Department continuously –“

The notice is for employment periods ranging from two (2) weeks to two (2) years; and ranges from three (3) days to four (4) weeks.

The regulation further requires a cash payment for default by either side equivalent to the value of the time for the given worker.

Should not the above provisions be incorporated into the Labor Act?

2. The lady who made this complaint sent a “*thank you*” letter soon after she received her cheque.

A “thank you” note is more than nice. It helps the Ombudsman to more efficiently manage his cases.

THE MINISTRY OF HEALTH

During this period there were only two (2) complaints against this ministry. One case still remains unresolved; the other was finally resolved after six hundred and sixty (660) working days. Actually it had been resolved before, but no one bothered to inform the Ombudsman, as should have been done. Below is a summary of this case:-

CASE NO 502

CASE NOTE

CASE NO 502

After more than thirty three months, the Ombudsman finally closed this file having learned that the complainant had been re-instated in the ministry that had dismissed him.

The complaint concerned the dismissal of a Public Health Inspector who was injured in a traffic accident while on duty. The injuries sustained required extensive treatment at home and abroad.

In 1996 he returned to the ministry claiming that he was ready to return to work. However, he was informed that his post had been filled and there was no vacancy. In 1999 he was informed that he had been dismissed for abandoning his post, a charge that the complainant rejected.

In October 2001 a former supervisor of the complainant wrote a letter to the Ombudsman affirming that he had never absented himself from work without permission. On the other hand, proof of the charges requested by the Ombudsman from the ministry was never made available.

The Ombudsman was glad to hear, almost one year and a half after the fact, that the complainant had been re-instated.

Signed:

**Paul Rodriguez
(Ombudsman)**

CASE NO 996

AN UNRESOLVED CASE

When a resident complained about the parking lot of Xtra House Supermarket on Orange Street, the Ombudsman immediately informed the Principal Health Inspector of the complaint through the letter below:-

Ref 996/JBOMB/2003

27th August 2003

**Mr. John Bodden
Chief Public Health Inspector
Nursing School
Belize City, Belize**

Dear Sir,

RE: XTRA HOUSE PARKING LOT

The above-mentioned lot seems to have become a problem to the, residents of the area, because it is used as a garbage dumping site and a public latrine.

Perhaps the first step to a solution is to recommend to the owners to put a fence with a gate that is locked after business hours.

I look forward to your reaction.

Respectfully,

**Paul Rodriguez
(Ombudsman)**

Todate even after a follow up letter, an email and a fax sent, no one has bothered to send even an acknowledgment of the letter etc. to the Ombudsman. However, the Ombudsman Act, Chapter 5, Section 18 (1) says:-

...the Ombudsman may at any time require (emphasis mine) any officer or member of an authority, or any other person who, in his opinion, is able to give

any assistance in relation to the investigation of any matter, to furnish such information and produce any document or thing in connection with such matter and may be in the possession or under the control of that officer or member or other person.”

The operative word is “require”. In his letters the Ombudsman usually “requests” that being his style to avoid seeming arrogant, but the law empowers him to require.

JUDICIARY

The working relationship of the Ombudsman with the whole of the Judiciary continues to be useful to the cause of justice for all Belizeans.

The interventions on behalf of citizens were as follows:-

Supreme Court	- one (1) resolved - none (0) open
Magistrate's Court	- nine (9) resolved - two (2) open
Registrar General	- five (5) resolved - none (0) open
Director of Public Prosecutions	- three (3) resolved - one (1) open

Nota Bene: The Director of Public Prosecution is not really a part of the Judiciary. The office is established by the Constitution as an independent authority to oversee the prosecution of cases. See Section 108 of the Constitution. However, we have included it here, because its work is crucial in the delivery of justice in many cases.

CUSTOMS DEPARTMENT

There were two (2) complaints and they were both resolved with the Ombudsman not upholding the complaints.

CASE NO 1068

In this complaint after investigation it appeared to the Ombudsman that the citizen had tried to use his office as a shield. He closed the case with this note.

CASE NOTE

CASE NO 1068

This case concerned a complaint of physical abuse against Customs Officers. The officers produced evidence showing that the complainant was charged with the evasion of customs duties and that the probable cause of whatever injuries he sustained may have been his effort to escape by running into a cane field and falling. The Ombudsman gave him an opportunity to answer the charges made by the officers. When he failed to do so within a reasonable time, the Ombudsman closed the case not upholding his complaint.

Signed:

**Paul Rodriguez
(Ombudsman)**

CASE NO 815

After investigating this case, the Ombudsman still had doubts, but he was not able to prove them. He therefore wrote this letter to the Comptroller of Customs:-

18th July 2003

**Mr. Everard Lopez
Comptroller of Customs
Port Authority
Port Loyola
Belize City, Belize**

Dear Mr. Lopez,

Bearing in mind our interview of Friday, 18th July, specifically with reference to the above-mentioned case, I hereby recommend the following affecting procedures for the handling of cash by Customs Officers:

1. Customs Officers dealing with members of the public who need to pay duties or fines, or any other sums of money into revenue must direct the member of the public to the cashier. The officer should **not** handle the cash.
2. One officer and one only should be in charge of the safe. No other person but the assigned officer should have access to the safe.
3. The cashier and that officer alone is responsible for cash in the drawer. No one else must have access to the drawer, except upon a handing over by the cashier.

Please let me have your reaction to these recommendations as soon as possible.

Respectfully,

**Paul Rodriguez
(Ombudsman)**

Another very important point that the Ombudsman did not make was that the computers should be programmed to give the exact times of payments received

AREA REPRESENTATIVES

One complaint was received against an Area Representative. This was sent by the Mayor of San Ignacio against the Area Representative of Cayo Central Division. The Mayor objected when he received a letter from the Representative informing him that he could not attend his meeting to plan the September Celebrations and that he had already been empowered to coordinate the official celebration along with his colleague from the Cayo North.

It is noteworthy that the matter was quickly resolved, and the Ombudsman closed the case with this letter to the Mayor:-

Ref 1017/ACOMB/2003

9th September 2003

**Mayor Alfonso Cruz
Town Council
San Ignacio – Santa Elena
Cayo District
Belize**

Dear Mayor,

On the eve of the 205th Anniversary of the Battle of St. George's Caye, I am delighted to learn from you that you and your Town Council have reached a suitable and amicable arrangement to plan the national celebrations. Bearing this in mind, I am confident that mutually acceptable solutions may be reached in the handling of other issues which involve the input of other groups.

Respectfully,

**Paul Rodriguez
(Ombudsman)**

Cc. Cabinet Secretary

CIVIL MATTERS – OR ALTERNATE DISPUTE RESOLUTION (ADR)

In an article published in THE BELIZE LAW REVIEW, vol 1, No 4 of January 2002, beginning on page 11, Dr. Alfred Fiadjoe, Professor of Law at the University of the West Indies, recommended the Office of the Ombudsman as the place where the cause of justice may be pursued which sometimes eludes the ordinary citizen.

He said:-

“After preparing this speech, I decided to visit the reports of the Ombudsman of Belize, to see if I was being a hindrance or an asset to his cause. I did not have far to go. This is what the Ombudsman publicly acknowledged last year in his presentation to the Bench and Bar Colloquium right here in Belize.

“What did Hamlet Prince of Denmark, have to say about “the laws delay? If a citizen does not get justice from our Supreme Court, whither is he going to turn? Whither?”

(at p. 52, 2001 Belize Law Review, vol 1, No 2).

‘I now reply publicly to his rhetorical question. To the Ombudsman – I dare suggest.’

As Dr. Fiadjoe suggests the Ombudsman should be involved in Alternate Dispute Resolution. He has been, especially this past year.

During this reporting period he has handled sixty (60) civil matters; forty eight (48) were resolved and twelve (12) remain open. Here are examples:-

CASE NO 1058

Elders of the Shipyard Mennonite Community came to the Ombudsman to seek help. The report is as follows:

Ref 1058/OIOMB/2004

REPORT – SHIPYARD MENNONITES

After an incident in the community of Shipyard, which resulted in the detention of five of their youths, following their own report, certain leaders of the Mennonite Community sought the intervention of the Ombudsman.

1. The first issue brought to the Ombudsman was the detention of the youths. They were released by the policeman in Guinea Grass; who was ordered to do so by a Justice of the Peace supported by his attorney. Therefore, this resulted in their questioning of the powers of a Justice of the Peace and the jurisdiction of the Police.

Answer of the Ombudsman –

- a) The Police Department of Belize has jurisdiction over the whole territory of Belize, only excepting the properties of foreign embassies.
 - b) The Justice of the Peace acted beyond his powers in ordering the policeman to release five youths, who had been reported by their own parents for acts of damage to property.
2. The second issue arose from an offer by the Ombudsman to meet with the Elders of the Shipyard Community and with the youths. This took place on Friday, 27th February at Shipyard.

a) Meeting the Elders:-

After the Elders expressed a hearty welcome, the Ombudsman commended the Mennonites for their way of life, one that emphasizes the importance of the whole group.

Secondly, he suggested that the Elders and the parents of the Community should make an effort to provide wholesome, innocent recreation or else the young people might be tempted to leave their way of life regarding it as boring.

b) Meeting three of the youths who had been detained.

The Ombudsman praised the way of life of the Shipyard Mennonites referring to how they show care and concern for one another and how they help each other in concrete practical ways.

Given a chance to speak, the three youths expressed sorrow for the trouble they had caused their parents and promised not to do so again. They then each took turns and shook hands each with his own father.

Signed:

**Paul Rodriguez
(Ombudsman)**

CASE NO 1006

The Manager of Delta Construction Company (Bliss Institute contractors) approached the Ombudsman to mediate between them and a sub-contractor who had earlier complained against the company. They both agreed to meet with the Ombudsman. The case was closed with the correspondence below:-

Dear Mr. Walton,

RE: INTERVENTION ON YOUR BEHALF WITH DELTA CONSTRUCTION COMPANY

Yesterday evening by 5 O'clock p.m. you were to submit a clear, type-written page of all your claims against Delta. That sheet was to specify exactly what works you did, the agreed contract price and the payments actually made to you. You failed to deliver on this commitment as of the time of my writing of this letter 9:15 a.m., Friday, 29th August. Therefore, I believe you should accept this matter as closed.

To review for your greater understanding. When you made claims for additional payments, Mr. Angel Garcia, Supervisor for Delta, went through each project page by page with you to satisfy you that his records were correct.

According to Mr. Garcia, when you expressed disagreement, he allowed you to go through the figures you had. After mutually agreeing that the figures you presented amounted to fifty-two thousand plus dollars, which was lower than what his figures of fifty-four thousand plus dollars showed, you agreed to accept his higher total, and he paid you the difference of fifteen hundred dollars. I have in my possession a copy of a letter duly signed by you which discharges any further claim by you against the company.

Finally, I believe, having looked at all the available facts, that Delta has satisfied all justifiable claims you had against them as of yesterday's date. I therefore urge you to move on in peace and give Mr. Garcia a warm handshake of friendship to let him understand that you are now at peace with the results of the mediation by the Ombudsman.

Respectfully,

**Paul Rodriguez
(Ombudsman)**

Cc. Mr. Angel Garcia, Delta Supervisor

THE PRIVY COUNCIL

Finally, we end this section with this note. It did strike the Ombudsman as a bit humorous that a citizen would appeal to him over a judgment of the Privy Council. However, we did feel honoured that he should express such confidence. This credibility we intend to increase and never to cause diminution of it by our own deliberate action.

CASE NO 966

CASE NOTE

CASE NO 966

As a last resort a businessman from the Free Zone sought assistance from the Ombudsman to change a decision handed down by the Supreme Court of Belize, the Appeals Court, and the Privy Council.

The Ombudsman urged the complainant to move on with his life, because he had appealed to the highest tribunal available to Belizeans and his case had failed. That being so, there was nothing the Ombudsman could do to change a judgment of that highest court.

Signed:

**Paul Rodriguez
(Ombudsman)**

SUPPORT FOR CCJ

The following is a brief statement sent to the National Assembly by the Ombudsman expressing his support for the Caribbean Court of Justice:-

Ref HC/IBOMB/2004

1st March 2004

*Hon. John Briceño
Chairman,
House Committee
Constitutional & Foreign Affairs Committee
House of Representatives
National Assembly,
Belmopan
Belize*

Dear Honourable,

RE: THE CARIBBEAN COURT OF JUSTICE (CCJ)

The Ombudsman of Belize takes this opportunity to applaud the initiative of the Government of Belize and the other member governments of the Caribbean who have embarked on the process of returning judicial sovereignty to our peoples. The legislative action now being taken should conclude this process and should be a cause for increased national and regional pride, and for great rejoicing.

This court, staffed with the best legal minds of the region and of the Commonwealth, can only fail if our peoples are timid and believe that they are incapable of reaching the highest standards of moral, ethical and intellectual accomplishment.

The Ombudsman of Belize regards the creation and establishment of the Caribbean Court of Justice as a most signifcal historical development.

Respectfully,

*Paul Rodriguez
(Ombudsman)*

A SUMMARY OF ALL THE DEPARTMENTS

Ministry or Department or Authority	Cases Resolved	Open	Total	Average Time of Resolution
Police Department	101	13	114	194 days
Lands Department	27	8	35	341 days
Department of Corrections	19	2	21	16 days
Magistrates Court	9	2	11	18 days
● Family Court	15	4	19	224 days
Labour Department	6	2	8	105 days
Ministry of Health	1	1	2	660 days
Ministry of Budget Planning	1	0	1	300 days
Ministry of Immigration & Nationality	7	4	11	82 days
K.H.M.H.	1	1	2	150 days
Registrar General	5	0	5	71 days
Ministry of Home Affairs	1	0	1	63 days
Ministry of Housing	2	3	5	480 days
Family Services	11	1	12	145 days
Social Security	8	0	8	138 days
Ministry of Foreign Affairs	2	0	2	70 days
Port Authority	3	0	3	142 days
Customs	2	0	2	105 days
Public Utilities Commission	1	0	1	1 days
General Post Office	2	0	2	60 days
Ministry of Sports	1	0	1	280 days
Ministry of Works	1	1	2	22 days
Agriculture Department	2	0	2	41 days
Department of Vital Statistics	1	0	1	1 day
Fisheries Department	1	0	1	28 days
Department of the Environment	1	0	1	180 days

Education Department	3	0	3	26 days
Belize Defence Force	2	0	2	251 days
University of Belize	1	0	1	1 day
Belize City Council	1	0	1	1 day
Orange Walk Town Council	2	0	2	107 days
Seine Bight Village Council	1	0	1	1 day
Punta Gorda Liquor Licensing Board	1	0	1	3 days
Sandhill Village Council	1	0	1	620 days
Solicitor General	1	0	1	6 days
Supreme Court of Belize	1	0	1	220 days
Director of Public Prosecutions	3	1	4	44 days
Public Service Commission Directorate	1	0	1	120 days
Area Representatives	2	0	2	11 days
Civil Matters	48	0	48	14 days

N.B. ● Family Court – the main reason why cases take so long to be closed is that complainants do not bother to report to the Ombudsman after their complaints have been resolved.

OTHER INITIATIVES INTENDED TO IMPROVE GOVERNANCE.

1. The Schools Conscientisation program: A holistic view of human rights.

Two quizzes with answers

HUMAN RIGHTS QUIZ FOR JUNIOR COLLEGES & HIGH SCHOOL

Your answers to the following questions will reveal to you how much you appreciate your own human rights and those of others.

1. If you are solicited by a friend who is homosexual to engage in sexual activity, which of the four responses would be the best, bearing the principles of human rights in mind.
 - a) Get angry and threaten to kick him/her in the butt.
 - b) Say thanks but no thanks, explaining that you are deferring your first experience for your wife or husband.
 - c) Laugh at him/her and expose him/her to ridicule.
 - d) Walk away and never speak again to him or her.

2. You are walking down the street with a friend and he or she starts shouting rude remarks at a scantily-dressed girl. Your best reaction would be:
 - a) Holler some remarks of your own.
 - b) Immediately move away from your friend to make it obvious that you are not part of his or her harassment.
 - c) Go to the person and apologize for your friend.
 - d) Ignore the whole thing.

3. While you are riding home from school, your friend shows you two sticks of weed, one for you and one for him/her. Which is the best course of action?
 - a) Call the police and report him/her.
 - b) Tell him or her you want none of it and leave.
 - c) Advise him about the risk he is taking and leave him
 - d) Report him/her to the Principal.

4. We all meet beggars on the streets. Approached by a young healthy one, what is your best response to a request for a dollar?

- a) "You lazy bum, you!"
- b) "Get lost!"
- c) "You are letting yourself down. Try to look for a job."
- d) Give him the dollar, if he is willing to do a little chore to earn it.

5. Which one of the following is a violation of human rights.

- a) To fire an unqualified employee
- b) To terminate an employee who is habitually absent.
- c) To fire an employee because he wears a beard and long hair
- d) To refuse a promotion because of incompetence

6. Which of the following is not a human right:

- a) Freedom of conscience
- b) Right to privacy
- c) Right to private property
- d) Right to fish anywhere, anytime

7. One of the following is the most fundamental principles of Belize jurisprudence. Which?

- a) A person is innocent until proved guilty.
- b) Hearsay evidence should be disregarded.
- c) A person is guilty until he proves himself/herself innocent.
- d) The two sides must be heard.

8. One of the answers below is the best attitude to have when you are approached by a policeman.

- a) Be respectful
- b) Proclaim your innocence
- c) Threaten to report him/her.
- d) Run

9. True or False

Fundamental rights are all absolute.

10. Write a brief paragraph (50 words) on the importance of observing human rights to preserve and enhance civilization.

ANSWERS TO THE QUESTIONS

1. b
2. c
3. c
4. d
5. c
6. d
7. a
8. a
9. f
10. (Do your best)

Explanations and analysis of questions and answers.

1. The best attitude is expressed in answer b, because it expresses confident self knowledge about one's feelings of self assurance while it shows respect and kindness to the person soliciting sex. Answer (d), while expressing vocally no sign of disrespect may be more devastating to the one soliciting because it may tell him/her that he/she is not worthy of human friendship because of his/her sexual orientation. It is cruel to make a person feel that way.

Answers (a) and (c) express a prelude to violence. But, whereas a person is entitled to use violence in defence of life or personal integrity, it is not necessary to do so to reject a solicitation.

2. Answer (c) is the best. It shows a maturity that may actually win the admiration of the harassed person.

Answer (a) reveals that you also think it is alright to sexually harass people in public. It is not. Answer (b) is a good response too, but in this case perhaps words are better than actions only. Answer (d) may show that you are cool; but if you are willing to put up with every fault your friend has you may be saying to him/her that being in his/her good books is the most important thing to you – even if it lands you in jail.

3. Answer (c) may be the best. At one and the same time you are safeguarding yourself and doing a friendly thing to advise your friend that he is breaking the law and may be getting started on a career of self-destruction. Answer (d) may in certain circumstances be necessary. If your friend is influencing younger students to start using drugs, then consideration of loyalty to your friend may be outweighed by the need we all have to promote and protect the common good.

Answer (a) may become necessary in view of what has been said about the common good, but it may be a betrayal of a confidence a friend has placed in you, and this may result in a complete loss of influence over the person. Answer (b) is not a bad choice. If you have spoken to the friend already and he/she refuses to change, then you should do what you must to protect yourself.

4. Answer (d) is the best. There is hardly anything worse you can do to damage a person's sense of self-worth than to humiliate him/her, for whatever reason. It is much better if you can help the person help himself/herself. Paying a person to do a job tells that person you respect him/her as being able to take care of himself/herself.

Answers (a) and (b) are both preludes to violence. There is no need to threaten violence to anyone who has become so helpless that he/she can do no better than beg. Answer (c) is not a bad answer, but it is a bit preachy, and some of these persons simply do not have the self-confidence or the desire to look for a job.

5. The correct answer is (c). If the person wearing long hair and a beard considers these essential signs of his religion, then to deprive him of employment for this reason alone is contrary to the human rights principle of religions freedom. Imagine telling a Christian he/she cannot wear a chain with a cross while he/she is at work.

Answers (a) and (b) are legitimate reasons for terminating the employment of an employee. Answer (d) is not correct, because a promotion is not a human right. Promotions should be awarded on the basis of performance and merit.

6. Answer (d) is not a human right. The laws of the land may legitimately restrict the exercise of our freedoms in certain areas and at certain times to protect the common interest. For instance, Belize has a law restricting catching conchs at a certain time of the year to protect the species from extermination (1st July to 30th September).

7. Answer (a) is the correct answer. Upon this principle rests the safety of all citizens against state power which at times may become overbearing and insensitive to the rights of citizens. Answer (b) is also an important principle of our system of justice, but (a) is primary.

8. Answer (a) is the best attitude to have not only to policemen but to everyone you come into contact with. To be respectful at all times in all places is a near perfect observance of all human rights. If we all did this our nation would make a significant leap into a future world civilization of peace and harmony.

Answer (d) is something you want to avoid at all costs. Running from the Police would justify his shooting you to stop you and effect an arrest. If the policeman is a conscientious law officer doing his duty, he will facilitate you in your threat to report him. Answer (b) is not the correct one. Innocence or guilt has to be proved or disproved in a court of law. It does not take place by proclaiming.

9. The correct answer is "false".

No right is absolute. Your rights are limited by my rights; my rights are limited by yours. Only if you were living in the universe by yourself, could your rights be absolute. As long as we live in communities our rights have to be limited for the common good.

QUIZ FOR PRIMARY SCHOOLS

1. A right is:
 - a) Doing what is right.
 - b) Doing what you feel like.
 - c) What is due to you as a human being.

2. True or False
 - a) A policeman can arrest the Governor General.
 - b) A policeman can arrest the Prime Minister.

3. Does a policeman have the right to stop you and ask you to show him your bicycle papers?

Yes or No

4. Which one of the phrases below describes accurately the way you should behave when a policeman approaches you.
 - a) Tell him loudly you are innocent.
 - b) Be respectful
 - c) Get angry because he stopped you.
 - d) Threaten to report him or her.

5. Having a right to an education means:
 - a) Your mother should bring you to school in a car every day.
 - b) Your father must buy you a Michael Jordan tennis for you to wear.
 - c) The teacher must teach you, no matter how you behave.
 - d) You must do your part and listen in class and do your homework.

6. My right to freedom of movement means:
 - a) I can go anywhere I want to go.
 - b) I can go into your yard, whether you like it or not.
 - c) I can go anywhere that a law does not forbid me to go.

7. True or False? Human Rights means there are no restrictions on my behaviour, provided I am enjoying myself.

8. Only one of the following is a human right. Which?

- a) Go to any school I want to.
- b) Ease myself in public, if I feel like.
- c) Tell you off, if I feel like.
- d) Be protected from bodily harm.

9. Which one of these statements is true?

- a) My human rights have no limits.
- b) The police should not arrest children.
- c) My rights are limited by your rights.
- d) The Police cannot search your home.

- Prepared by the Office of the Ombudsman

QUIZ FOR PRIMARY SCHOOLS

- ANSWERS

1. c
2. (a) True, (b) True
3. Yes
4. b
5. d
6. c
7. False
8. d
9. c

Score ten points for each correct answer. 10 correct – excellent
8 – 9 superior 7& below needs more drilling in correct human rights principles.

EXPLANATORY NOTES ON QUIZ FOR PRIMARY SCHOOLS

Question 1:

Too many children and a good many grown-ups too seem to think that to have rights means you are free to do as you like. Obviously, this cannot be the true meaning of a human right. If that were so and everyone acted accordingly, civilization would soon collapse, for we would all then follow our basic instincts which constantly cry out to be satisfied. We would reduce ourselves to the condition of beasts, who kill when they feel like and eat, even if it means taking away food from another person. Therefore “doing what you feel like” cannot possibly be what is meant by a right. Nor is (a) the correct answer. “Doing what is right” belongs to the realm of morality, of good and evil. The correct answer is (c). The Belize Constitution, 1990, page 5, sec 3 clearly sets out the rights of persons, but with equal clarity states that the rights of each person is subject to respect for the rights and freedoms of others and for the public interest.

Question 2(a) and (b) True or false.

The answer for both is “true”. These are simple questions designed to make students aware that in a free and democratic society no one, no matter how high or wealthy, is above the law. Every single individual may be arrested, if he or she breaks the law.

Question 3

The correct answer is “yes”.

The question was designed as a starting point to letting students realize that the Police, because they are by the Constitution and the “Police Act” empowered to preserve law and order have the duty and obligation to question any person, if they should have reason to believe that he or she may have committed a crime or may be able to shed light on one with a view to apprehending the offender.

The question and answer also looks to the formation of a healthy respect and confidence in those who are burdened with the task of preserving peace and tranquility in our land.

Question 4

The correct answer is (b).

This question, as the above, is designed to initiate in young citizens and engender in them a healthy, constructive attitude towards the Police.

Every person no matter what his station in life deserves to be treated with respect, the policeman even more so, because he is empowered by law to arrest and charge.

Question 5

The correct answer is (d).

Every citizen, every person must know that every right bears corresponding responsibilities and duties. The fact that a child has a right to education makes it the duty of parents to do what is necessary to ensure that children go to school. However, no parent by himself or herself can build a school or pay teachers, so governments do these using taxpayers money. Nevertheless, no matter how beautiful the school or good the teachers, no one can force a person to learn and become educated. Each student must do his part; study, listen in class, do homework and make it possible for the teacher to teach.

Question 6

The correct answers is (c)

Clearly if (a) or (b) were correct there would be an irreconcilable conflict between the freedom of movement of a person and another's right to private property and to the privacy of his home.

Question 7

The correct answer is "false".

Section 3 of the Belize Constitution states very clearly that all the freedoms of the individual are subject "to respect for the rights and freedoms of others and for the public interest..." In other words, your rights are limited by my rights.

Question 8

The correct answer is (d).

Obviously, a right cannot possibly mean doing whatever you like and getting any and everything you want. Getting an education is a right, but the school also has a right to determine who its students will be, provided the terms and conditions of entry are exercised without discrimination of any kind: Answers (b) and (c) are clearly not rights. Easing oneself is an action that human dignity dictates should be done in private. Telling a person off may be a violation of his right to privacy or may constitute provocation.

Question 9

The correct answer is (c)

Answer (a) cannot be correct. It has already been established from the Belize Constitution that the freedoms of the individual are subject “to respect for the rights and freedoms of others and for the public interest...” Answer (b) is wrong because one of the laws of the land tells us that the age of criminality is ten (10). Answer (d) is also untenable, because to do their duty, which includes doing investigation to find evidence to prove that a crime was committed, may require that the Police search your house. Ordinarily, he should have a search warrant, except in the case of searching for drugs, weapons or ammunition.

2. The Confidence Building Program: Police, H.R.C.B and Ombudsman

Human Rights Workshop – Police Internal Affairs and Discipline, Human Rights Commission, Ombudsman

Present: ASP Robert Mariano, IAD
Mr. Godsmen Ellis, H.R.C.B.
Mrs. Maria Gamero, H.R.C.B
Miss Jennifer Holden H.R.C.B
Cpl. Jesus Pott, IAD
Mr. Lionel Castillo, Investigator
Mr. Paul Rodriguez, Ombudsman

Meeting on Wednesday, 24th March, San Ignacio Formation

1. ASP Mariano opened the meeting. He emphasized that he would continue to do his best as the head of the disciplinary arm of the Police. However, while he would zealously work to eradicate wrongdoing he pledged to be objective and fair to all officers who had to face disciplinary charges. He referred to his record as a defender of those who were charged and insisted that a sense of justice and fairness is still part of who he is.
2. The Ombudsman then made his presentation. He emphasized the following points:-
 - One of his main goals as Ombudsman is to promote the culture of law and order throughout the Nation Belize.
 - No one may exclude himself from the spread of the culture of human rights.
 - Each policeman has a grave responsibility to himself, family and society to promote law and order for everyone, including himself.
 - He is determined to assist in every way he can to restore trust between the police and the community.
3. Mrs. Gamero of the Human Rights Commission made the following points:-
 - The source of Belize's Human Rights culture are the Belize Constitution and The Universal Declaration of Human Rights.

- Every public official is a human rights worker, especially the Police.
 - The Human Rights Commission of Belize does not exist to defend criminals; it defends anyone whose rights are being abused, even the policeman.
4. Mr. Godsman Ellis, Vice President of the Human Rights Commission gave lucid explanations of the Basic Human Rights Standards for Law Enforcement Officers. He emphasized the following:
- The Police must have special concern for the weak and disadvantaged;
 - Use the minimum of force when policing unlawful but peaceful assemblies;
 - Arrest no person unless there are legal grounds to do so;
 - Refuse to obey any order to inflict torture on any person.

At the beginning of the meeting the gathering of policemen did not seem friendly, but as the meeting progressed and they were free to express their misgivings; they opened up and asked many questions. These concerned the following:-

- The Human Rights Commission seem to favour criminals;
- Who is concerned about the rights of the victims of crime;
- Who is concerned about unfair treatment that they receive from superiors?
- IAD tribunals are not always fair.
- IAD tribunals are not always fair. ASP Mariano assured the gathering of policemen that he would ensure that Commissioner be made aware of all their administrative grievances. He again emphasized that all tribunals would be conducted fairly and to further guarantee this the Human Rights Commission will be invited to be observers at all disciplinary tribunals. He also explained that the offer had also been made to the Ombudsman, but he had to refuse because he is one of the persons they may appeal to in case they are aggrieved.

Finally, by the end of the meeting the friendliness of the atmosphere contrasted sharply with how it seemed at the beginning.

Benque Viejo Formation Meeting on Wednesday, 24th March, 2004

Basically the same messages were conveyed to the officers of this formation. However, there was a marked difference in the attitudes of the men compared to the San Ignacio Formation. The following were obvious:-

- All officers were properly uniformed and appeared to be on duty.
- Although some had their misgivings, they were friendly and respectful.
- The officers in charge attended the meeting and promoted participation by their active participation.
- Officers made an effort to keep the speakers supplied with water.

The team arrived back to Belize City about 7:30 p.m., having had a private meeting with OIC G. Nicholas and earlier with the Magistrate of San Ignacio, Mr. Patrick Rosado, who asked for more training for officers who work in the courts, more human rights training for all officers and for greater availability of the Ombudsman.

Signed:

**Paul Rodriguez
(Ombudsman)**

3. The Gun Amnesty Program

GUN AMNESTY PROGRAM

AUGUST – SEPTEMBER, 2003

The program was commenced on Wednesday, 6th August, 2003 with a press conference held at the Princess Hotel Majestic Room at 10.am. Speaking at the conference were CEO Home Affairs Allan Usher, Dr. Cardo Martinez, Police Commissioner Zetina and Major Errol Gentle.

The Gun Amnesty program gives anyone who has in possession an unlicensed firearm a chance to deliver up the weapon to the Office of the Ombudsman without fear of prosecution. However, after the amnesty period of 30 days anyone caught with an illegal weapon will be prosecuted to the full extent of the amended Crime Control and Justice Act.

Moreover, even during the Amnesty, the Police will not take a holiday from doing its part in its ongoing effort to remove illegal weapons off the streets.

On Thursday afternoon the program of Amnesty was given a boost when two persons at different times surrendered a 12-gauge shotgun and a snub-nosed 38 revolver. Both weapons were received by the Ombudsman, no questions asked.

Signed:

**Paul Rodriguez
(Ombudsman)**

4. The Streets Pacification Program

CASE NOTE

CASE NO 990

The Office of the Ombudsman facilitated a gun amnesty program by making himself and his office available as the main location where illegal weapons could be surrendered without fear of prosecution.

Even after this program was completed, the Office of the Ombudsman continues the street pacification program by encouraging offenders to surrender weapons and themselves for turning over to the Police.

The Ombudsman must hesitate to supply more information on this initiative because confidentiality and credibility are important to its continued success.

Signed:

**Paul Rodriguez
(Ombudsman)**

5. An Address to Teachers

(Given at the National Catholic Teacher's Conference 28th February, 2004, Belmopan)

During the past five hundred years or so several movements, especially in Europe and America, have had a far-reaching impact on humankind. The Age of Discovery and Exploration, the Protestant Reformation, the Age of Slavery and Colonialism, and the Rise of Democracy are to be counted among the most significant. These were sparked mostly by bold, individual initiatives.

It took a tremendous self-confidence in one man to defy the accepted scientific dogma of the day that the earth is flat and that if you sailed too far out to sea, you would fall off the edge of the world. Columbus dared to follow his own idea, and he proved that the world is round.

When Martin Luther, in defiance of the one established church of the day, declared "*Here I stand; I can do no other,*" he was in fact proclaiming what everyone accepts today: that the individual is free to believe what he wants, and no one should coerce his conscience.

Western Man became so self-confident and arrogant that to develop his enterprises in the new world he thought it was alright to enslave human beings from Africa and bring them to America to do his work and enrich himself.

Our self-confidence and arrogance has brought us to the state where we believe we no longer need God.

Our self-confidence has brought us to that state where we believe we do not even need one another.

We have been exaggerating our own importance as individuals to such an extent that we have been treading the path to our own self destruction.

The truth is that without community, without one another we are nothing. We are offsprings of community. Without community we cannot develop to our full potential as persons. We are social beings. We need one another.

Therefore any understanding of human rights which makes us believe and act as a law unto ourselves may be a tragic misunderstanding of what they really mean. Rights are inalienable, but not absolute, could never be. My rights are limited by your rights; your rights are limited by mine.

Rights considered as set apart and in contradiction to the common good and the public interest will continue to result in the further development of a culture of egoism. On the other hand, the human person must stand delicately poised between what the proper maturing of his own selfhood requires and what the community requires of him to help others achieve the fulfillment of their personhood. Wherever any successful attempt is made to exaggerate either of these poles, i.e. self vs society, it results in aberrations that dehumanize the human person.

Perhaps, the number one problem of our Civilization is that we seem to have forgotten that man is a social being. To begin to correct this failure, perhaps we should start instilling a strong sense of patriotism.

The People of Belize is the community that has nurtured us; we should in return love them and do all we can to improve their quality of life.

6. Having Regard for the Most Disadvantaged – the Mentally Disabled

(23rd March 2004 at BIM)

PROTECTING AND PROMOTING THE HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS OF PERSONS WITH MENTAL DISABILITIES AND THEIR FAMILY MEMBERS

I believe we need a Conference Csar – someone who will keep in touch with all national agencies to help coordinate the timing of conferences. This would help to avoid what is happening to me today.

There are two very important conferences taking place as I speak. Helpage is meeting at Fort George Hotel; the education sector is meeting at Princess and here we are at BIM, and I should be at all of these conferences. Unfortunately, I have not yet learned to tri-locate.

After being asked to do this presentation, I started doing a bit of research under the impression that the world community would have formulated some convention, which might be more all-embracing than what our legal framework includes. Well, I was surprised: there is no convention. We therefore need to put our intellectual resources to work to bring about our own national conscientization plan.

Our starting point may be the Universal Declaration of Human Rights and our own Belize Constitution, especially at Section 3, which says:

“Whereas every person in Belize is entitled to the fundamental rights and freedoms of the individual, that is to say, the right, whatever his race, place of origin, political opinions, colour, creed, or sex...”

Thereafter the specific rights are enumerated, providing for a removal of all forms of discrimination and even those against the mentally disabled.

However, allow me to divert here. Rather than talking about what is, I choose rather to talk about what ought to be. The simple reason is there is not much that I see to talk about. Therefore I focus in this talk more on the promotion and the understanding of rights that need to be understood before we can move to conscientise our national community of the need to deal compassionately with the disadvantaged.

Perhaps a very brief sketchy historical review would be of some help.

The idea of justice and rights have been part of the mental baggage of our race for thousands of years. However, the most significant expression of it happened about three thousand years ago when Moses received the tablets of the law. Review them briefly:-

Honour your father and your mother
Thou shalt not steal
Thou shalt not kill
Thou shalt not bear false witness

Thou shalt not steal is simply another way of implying that we each have a right to private property.

How about the right to life? “Thou shalt not kill”

Do we have a right to a good reputation and a good name? “Thou shalt not bear false witness.”

But for about 2500 years no one talked about rights. The philosophers and theologians spoke about justice, which means giving everyone his due, especially Augustine of Hippo and Thomas Aquinas; Augustine in the fourth century AD; Aquinas in the thirteenth.

In the 1500's, 1600's and 1700's the right that would be talked about most is the divine right of kings, expounded principally by Louis XIV, who declared; The state, that's me. This doctrine said that kings ruled by appointment by God and the duty of subjects was to obey. Of course, that claim to a right to govern came under severe fire in the latter part of the Eighteenth Century.

In that same century, the French philosopher Jacques Rosseau wrote this about what he thought of the claim of kings: The consent of the governed forms the only true basis of legitimate government. That principle became the philosophical basis for representative government, which today we know as democracy.

Unfortunately, this movement of history was not one that continued to spiral upward, for during that same century the founding of new communities in America led to the greatest violations of human rights that this world has ever witnessed. Indigenous populations were wiped out or decimated, Africans were uprooted from their homes and transported like cattle or worse to do forced labour for the benefit of their owners. Even after slavery was outlawed, its ill effects of discrimination and racism continued to be expressed through Segregation and white supremacy even in the land of the free – America.

Perhaps in the history of the world the greatest awakening to the need to promote a culture of rights came when the Allied Armies liberated Europe after the Second World War. The Americans, British and Russians found concentration camps where millions of Jews, Christians and ethnic peoples had been systematically exterminated as so much vermin. This experience moved the conscience of the world and the forty eight nations who had formed the United Nations promulgated the Universal Declaration of the Rights of Man in 1948.

Since 1948 the number of nation states have quadrupled. All former colonies have assumed the right to self determination and have claimed the right to be governed by representatives they choose in free elections. They have mostly assumed the basic ingredient of democracy, which means the right to vote. All these nations have lined up behind the banner of human rights promotion, at least in principle. But we all know that the promotion of human rights is more than a matter of principle. It has to be expressed in policies which result in programs and in concrete deeds which empower individuals to reach their full maturity of development.

Here is where we may stick a pin and come to Belize and ask what specific programs exist to promote mental health that are:

1. preventative

2. curative

Quite frankly all initiatives dealing with the disabled do not seem to attract significant national attention for any extended period of time. Whatever attention it gets lasts a week that is quickly forgotten. The truth is that the overwhelming tendency is to deal with the beautiful, the intelligent, the healthy and the happy. Very, very few of us have any time whatsoever to deal with those who are poor, ugly, troublesome, or disabled.

Therefore it seems to me that no significant organized regard will be paid to the rights of the mentally disabled and their families before society becomes more compassionate. For this to happen our community must become conscientised to a point where a significant number of us fully realize that when one member of our society suffers we all in some way are diminished unless we do something to relieve that suffering as much as we can.

The lack of organized national commitment does not mean that we should throw up our arms in surrender. Our response to fill this lacuna must be a signal, two watchwords,... "Be respectful". This is a trumpet call to refrain from discrimination whether the person is rich or poor; beautiful or ugly; smart or foolish; tall or short; fat or slender; white or black; healthy or sick; whole or disabled. It should be a clarion call to having due regard for the disadvantaged as much as for the empowered.

There are somethings we may never be able to achieve for the disabled, whether mental or other. The mentally disabled may never become a rocket scientist. However, like all other human beings, he or she may be helped to live a dignified life, enjoying the simple pleasures of life. Actually, if we are to achieve a sense of wholeness in this life, we must develop the frame of mind where we embark on the search to learn to appreciate the simple joys of life. This is true as well for the disabled as for the normal.

After the Rise of Democracy in the Eighteenth Century, the development of a fuller expression of the values which promote and enhance democracy was sidelined by the various initiatives of nations to build empire, to enrich themselves. We must beware that in our age the move to globalize business and economies do not again sweep aside the initiative to humanize the world through the universal application of all human rights. This in effect means taking care of the needs of the vast majority – the able as well as the disabled; the poor and the disadvantaged.

This is the challenge of our day that faces all governments: how to take care of the big picture of development without ignoring the needs of those who are least capable of taking care of themselves.

HOW LONG MUST IT TAKE?

Dr. Alfred Fiadjoe in his article already referred to on page 34, in advocating greater efficiency to the operations of the Ombudsman, says:

“First on my list is the need to address the question of inordinate delay in the settlement of disputes between the individual and the State. It is a problem which is common to all the offices of the Ombudsman that I am aware of. To address the problem, I would give the Ombudsman a fast track authority to encourage settlements of disputes between the individual and the State. Once the Ombudsman invokes a fast track authority, then parties should be obligated to fall into compliance in accordance with the terms set out by the Ombudsman. (see page 15 of ‘Access to Justice – where does the Ombudsman of Belize fit? Vol. 1 No 4).”

- ❖ In this reporting period almost all of the three hundred and fourteen (314). Informal Complaints were resolved within a day. This tends to show that where resolution depends more on to Ombudsman action, the results are far more people friendly. Where the office of the Ombudsman depends on others for their input, the time it takes is less considerate of the needs of people.

- ❖ In order to speed up the process the Ombudsman this year requested that each Ministry appoint a Liaison Officer. This person would be a point person for his initiatives. He or she would see to the following especially:-
 1. Immediate response to the requirements of the Ombudsman.
 2. Within the limits of his/her duties be a PR Person for good governance.

During this past year the Formal case that took the longest to resolve was a land case. It took one-thousand and sixty days to close. The longest case on record was a land matter (referred to on p.7) which took nine hundred and sixty (960) working days to resolve. The shortest one took one day.

LIAISON OFFICERS

NAMES OF LIAISON OFFICERS	MINISTRIES
Mr. Lincoln Blake Jr.	Ministry of Economic Development
Ms. Ayesha Borland	Ministry of Foreign Affairs
Ms. Margaret Ventura	Ministry of the Public Service
Mr. Alfredo Cruz	Ministry of Housing & Transport
Ms. Julia Gordon	Ministry of Tourism, Investment & Culture
Ms. Ruth Meighan	Ministry of Health
Dr. Carla Barnett	Ministry of National Development
Mr. Raymond Morris	Ministry of Agriculture & Fisheries
Mrs. Lenina Ken Franco	Ministry of Education, Youth & Sports
Mrs. Hyacinth Wagner	Ministry of Foreign Trade
Ms. Rosalie Saldivar	Ministry of Public Works
Mr. Allan Usher	Ministry of Home Affairs
Mr. Armin Cansino	Ministry of Natural Resources & the Environment