

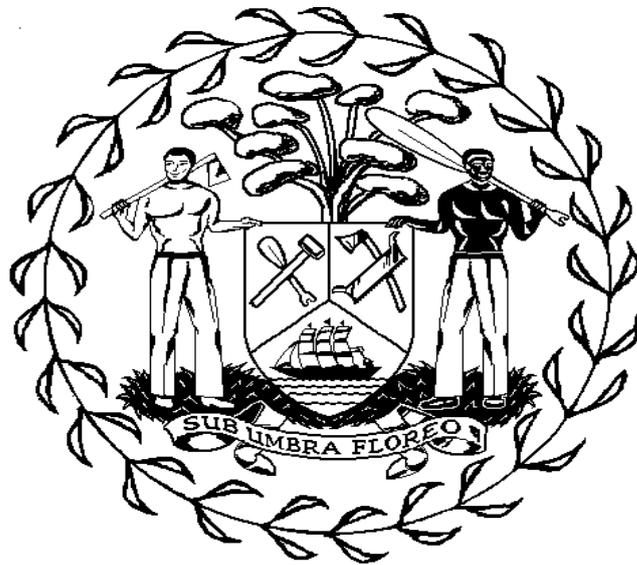
2011

**THE ELEVENTH
ANNUAL REPORT
OF
THE OMBUDSMAN OF
BELIZE**



"Truly a Haven of Democracy"

THE ELEVENTH
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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(18th January, 2012)

Ref: 3/AGOMB/2012

Hon. Andrea Gill
President of the Senate
National Assembly
Belmopan

Dear Madam President,

I have the honour to present the Ombudsman Annual Report which covers the period of January 1 2011 to December 31 2011.

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,



Cynthia Pitts
(Ombudsman of Belize)

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Hon. Emil Arguelles
Speaker of the House of Representatives
The National Assembly
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Respectfully,



Cynthia Pitts
(Ombudsman of Belize)

OMBUDSMAN'S MESSAGE

This year, I have attended several international conferences to further my goal of improving the work of the Office of the Ombudsman. A particularly notable and recurrent theme was the desire of international institutions to assist in the establishment of National Human Rights Institutions or NHRIs. This was particularly evident at two events I attended organised by the Commonwealth secretariat and UN Human Rights Unit respectively. Both the Commonwealth and the United Nations were particularly anxious to assist in establishing such institutions.

Of course, this begs the question as what exactly an NHRI is and what function they perform within national, regional or international society. First and foremost they are concerned with the protection and promotion of those rights fundamental to all human beings. Internationally these Human Rights are embodied in the 1991 Paris principles. For any Human Rights institution to be effective in any level of our increasingly interconnected global society it is essential that they have these rights at their core.

Belize's Ombudsman Act is all but silent on the issue of 'rights', human or otherwise. This mirrors the approach of most Caribbean countries and thus is not altogether unsurprising. They all adopt the more classical approach, limiting themselves to administrative acts of a State when considering allegations of corruption and injustice. Section 12 of our act however breaks this particular mould. Unlike other National Acts, it does not preclude the Ombudsman from investigating claims of interference with fundamental rights and freedoms of the Belize constitution in tandem with an individual seeking redress in the Supreme Court.

This offers a degree of protection that sets our Act and the Ombudsman Office apart from others in the region. In order to continue to serve as an example for the region it is essential for Belize to establish a National Human Rights Institution. This would firstly give firm expression to its commitment to upholding fundamental rights. Moreover it would demonstrate its desire to further the fundamental political values of the Commonwealth drawn from the International Bill of Rights. These two factors would dramatically enhance Belize's influence and prestige in the field of human rights protection.

Thus it was that in 2009 when presenting its Universal Periodic Review (UPR) in Geneva, the Belize Government supported two of the recommendations formulated during the interactive dialogue between those states that were present. These were namely to conduct a systematic evaluation of the merits of establishing an National Human Rights Institution as well as the feasibility of establishing such

an institution in Belize. This was a bold and truly admirable action of our Government as human Rights Institutions protect the rights of citizens in every aspect of their life. This demonstrated then that the Government was prepared to consider much greater levels of scrutiny, accountability and transparency.

The introduction of a Belize Human Rights Institution (BHRI) would mean the introduction of a far different system than that currently represented by the Ombudsman's Office. The pertinent issue however would remain the *protection and promotion of*, fundamental human rights. It is submitted that because of the benefits of Section 12 of the Ombudsman Act, establishing an NHRI in Belize would be a relatively straight forward task. It is suggested that in order to achieve this aim, it may be more practicable to confer the mandates of the Ombudsman and any future NHRI upon a single institution.

Whatever the form the future BHRI takes, its objective would still be to effectively monitor good governance in Belize, and to support the Democracy we enjoy. The State has made a bold step of supporting the recommendations made in furtherance of its presentation of the UPR in Geneva. Its continued commitment to transparency and accountability should be demonstrated by following up on these recommendations. It is encouraged therefore to proceed to the next level and establish the Belize National Human Rights Institution it so clearly desires.



Cynthia Pitts
Ombudsman for Belize

Conferences and Seminars

The Ombudsman regularly attends conferences and seminars in Belize and other countries in order to ensure that the Office of the Ombudsman remains as efficient and effective as is possible.

<i>February</i>	XLIV 44th meeting of CCPDH, Panama
<i>March 21 – 23</i>	T&T – Establishment of National Human Rights Institutions
<i>June 15 – 16</i>	Elimination of Racial Discrimination, Belize
<i>June 21 -23</i>	Gender Culture of the Law, Jamaica
<i>July</i>	UN Women/CAROA/ACCP, Barbados Strengthening the Response of the Administration of Justice for Victims of Gender Based Violence
<i>September</i>	International year for People of African Descent, Panama
<i>November 14 – 16</i>	State of the Nation’s Children Conference
<i>December 5 – 6</i>	Human Rights and Shadow Reporting, Belize

Summary: 2011 Complaints

This year, as with every year, we have overcome great challenges. With only a skeletal staff the Office of the Ombudsman continues to have an impact through the exercise of its mandate. We have endeavoured to provide justice, the promotion of human rights and good governance in the hope of a more compassionate society:

Our office received by letter, fax, e-mail, telephone and in person: _____

Total Complaints	<u>183</u>
<u>Formal Cases</u>	<u>140</u>
Informal Cases	43
Cases closed	23
Awaiting response from authority	91
Cases under investigation	26

POLICE DEPARTMENT



Case 506

A Belize District resident made a complaint to the Ombudsman that centred on Police Officers from the Stann Creek and Belmopan Formations. The complainant alleged that the Stann Creek Police had interfered with the service of a warrant. Moreover the Belmopan Police had been reluctant to serve the warrant in the first place as the accused was the brother of a police officer. The investigating officer wrote to the Police Commissioner, the Police

CEO and the IAD on two occasions. The warrant was eventually served. The accused paid arrears of \$1000 and was imprisoned for three months.

Case 382

A Belize City resident visited the Office of the Ombudsman to complain that the police had taken possession of her SUV. The SUV had been taken whilst it was being driven by the complainant's son. During the search of the vehicle a 9mm handgun was discovered under the driving seat. The Ombudsman called the Eastern Division Police and subsequently the complainant was informed that they could collect the SUV as well as make a claim for damage done to the vehicle.

For further Police statistics please consult Appendix

DEPARTMENT OF HUMAN SERVICES

Case 350

A concerned parent sought the assistance of the Office regarding the training of Human Development Officers. The complainant had written to the Department of Human Services themselves but had not received a reply. The Ombudsman contacted the Department and received a reply detailing the training procedure for Human Development Officers. They noted that the complainant's comments had been accepted and would prove integral to the continued development of the training. The letter was forwarded to the complainant who declared himself satisfied with the response.

MINISTRY OF TRANSPORT

Case 474

A Corozal resident contacted the Ombudsman to seek assistance in applying for a medical exemption to the newly implemented law banning heavily tinted windows on vehicles. The complainant was suffering from skin cancer which is caused and aggravated by UV radiation that emanates from strong sunlight. The investigating officer wrote to the Ministry of Transport on the complainant's behalf to explain the situation. However, they were informed that the exemption request had not received approval and the complainant would have to abide by the tint regulations as stipulated.

Case 383

A former Ministry of Transport employee made a complaint to the Office of the Ombudsman regarding an allegation of wrongful termination. The complainant said that no one had ever suggested their work was unsatisfactory or had ever discussed with them their performance as is required by Section 46(2) (c) the Labour Act. The investigating officer contacted the Ministry to establish whether they considered the termination of the complainant lawful. The Ministry replied promptly with a detailed description as to why the complainant's contract had been terminated. The investigating officer and the complainant were satisfied that the termination was in fact lawful.

CUSTOMS DEPARTMENT

Case 427

An Orange Walk Town resident visited the Office of the Ombudsman to complain about excessive charges by Customs Officers. The complainant did not dispute that he was acting in contravention of the Customs Act. However the amount calculated by Customs Officer was significantly above the goods street market value. The investigating officer contacted the Customs Department who provided evidence for how they calculated the value of the goods. This did not explain the charges to the claimant's satisfaction and as such they decided to take the matter to court via an attorney.



OFFICE OF THE SUPERVISOR OF INSURANCE



Case 378

A Belmopan resident visited the Office of the Ombudsman regarding their insurer. The complainant alleged that they had not received any money from said insurer after their house was damaged in the hurricane. The Ombudsman wrote to the Office of the Supervisor of Insurance. The Supervisor investigated the case and it was later established that only the complainant's main property was insured and not the property that had been damaged in the hurricane. The complainant was disappointed with this response but was satisfied that the complaint had at least been concluded.

KOLBE PRISON FOUNDATION

Case 503

A concerned parent visited the Office of the Ombudsman after learning their son was being repeatedly beaten by other inmates. Of concern to the complainant was that the son was not receiving the regular medication required for their long-standing medical condition. The investigating officer phoned the CEO of Kolbe and the matter was quickly resolved. The complainant's son received immediate medical attention and was moved to a different holding cell.

BELIZE PORT AUTHORITY

Case 411

A Belize City resident sought the assistance of the Ombudsman in obtaining the minutes from meetings of the board of directors of the Belize Port Authority. They had been refused on the grounds that the requested period was over too long a period of time and that the complainant had previously been associated with the board. The request was described as unreasonable and disingenuous. The Ombudsman contacted the Belize Port Authority on the behalf of the complainant and the minutes for the requested period were made available to them.



Special Reports

FIVE YEARS AND STILL WAITING

During the burglary of the complainant's home, jewellery to the value of \$24,650.00 was stolen. In July 2007 the burglar was tried in the magistrate's court in absentia, having already escaped from police custody. During the trial the complainant's jewellery was presented as evidence. A guilty verdict was returned and the jewellery was ordered to be returned to the complainant. However, by 2009 the complainant had still not managed to recover her jewellery from the police and as such contacted the Office of the Ombudsman.

In 2008 the Officer in Charge of the Prosecution Branch had investigated the situation and had written to the Commissioner. They recommended that the complainant be compensated. It was established that the jewellery had been auctioned by the police five months after the trial without notifying the complainant.

In 2010 a judicial hearing was convened after repeated correspondences from the Ombudsman's Office were ignored. At the hearing the Officer in Charge (OC) of the Prosecution Branch and the then Exhibit Keeper, gave evidence in order to assist the Ombudsman's investigation. The outcome of the hearing supported the view of the OC of the Prosecution Branch. This was without a doubt a case which fell into the category of 'abuse' as described in Section 21 of the Ombudsman Act:

"...complainant has sustained injustice, injury, or abuse in consequence of a fault in the administration of that authority..."

This special report has been presented in order to highlight this issue and the many other cases like it. Furthermore it is hoped that at least in this case, the matter can be finally resolved. This can only occur, if the recommendation to compensate the complainant is finally carried out.

A case such as this illustrates the need for an Ombudsman's Office to assist in the fostering of a climate among citizens that justice will prevail. When there is no hope of justice prevailing and a lack of confidence in the judicial system then ultimately our ability to maintain law and order begins to erode.

INDUSTRIAL HEMP

This case dates back approximately two years, since when a considerable amount of time and energy has been spent trying to bring it to a conclusion. Whenever it looked like the problem was solved the office received another letter from the

complainant informing us that he was once more having a problem with another government authority.

The complainant had been importing hemp oil for more than eight years when he approached the Ombudsman's Office for assistance in early 2010. He had been doing so in order to manufacture medicinal ointment. However, as hemp is a part of the cannabis family, it had the potential to be viewed as a prohibited substance under the Misuse of Drugs Act. Consequently, the National Forensic Lab had been randomly selecting quantities of oil and conducting tests in order to determine if the oil was prohibited under the act. However, for the eight years prior to him coming to our office, there had not been an issue with the complainant importing the oil.

When the complainant came to us for assistance it was because he wanted to import hulled hemp seeds and other hemp-based products. This however meant going through the Belize Agricultural Health Authority (BAHA) in order that they could grant a permit for such products to enter the country. BAHA denied the complainant a permit without an explanation. The complainant requested to know why he had been denied a permit. It was after he had been passed from one official to another that he finally gave up and contacted our office.

We knew from the beginning that we needed to make sure that the office was on a firm legal footing. This was a considerable task given that there are only two professional qualified individuals in our office. However, despite this we managed to formulate a convincing legal basis for our position.

A failure to act sometimes known as 'omission' is still considered abuse under the Ombudsman Act. We submitted therefore, the abuse in this case took the form of a failure, by BAHA, to provide an explanation of their actions. This garnered the not unexpected response that the seeds were classified as "cannabis" and the importation of cannabis was prohibited under the Misuse of Drugs Act.

This however at least opened up a limited degree of dialogue. The complainant brought to our attention the Single Convention on Narcotic Drugs and Psychotropic Substances. Belize has been a signatory state of this convention since December 18, 2001. Of particular note is Article 28 of the Convention:

"This Convention shall not apply to the cultivation of the cannabis plant exclusively for industrial purposes (fibre and seed) or horticultural purposes."

This potentially conflicts with the misuse of drugs act, as interpreted by BAHA as the complainant submitted that hemp fell under the 'industrial' title. Unfortunately this alone was not enough to prove our position, as it does not settle which legal source has supremacy. Fortunately it is a settled legal principle both of customary

international law and treaty law that a state party to a treaty cannot use its own domestic law as a barrier to meeting its obligations under international law. This is perhaps most succinctly stated in the Vienna Convention of the Law of Treaties (VCLT) Article 27:

‘A party may not invoke the provisions of its internal law as justification for its failure to perform a treaty...’

BAHA's interpretation of the Act, although potentially an accurate description of Belizean law, was nevertheless also potentially in violation of the treaty. As such the Office requested a legal opinion from the Solicitor General's Department. The opinion concluded by stating that ‘...the importation of industrial hemp seeds does not contravene any laws or regulations of Belize and that importation permits should be granted for products of this nature.’ Thus, regardless of international law, the Act did not cover the substance in question and BAHA's interpretation of the Act had been incorrect. Subsequent analysis of the seeds proved that they were industrial hemp and thus were finally allowed to be imported.

Two months after the legal opinion was issued the complainant contacted the Ombudsman's Office yet again to inform us that his hemp seeds were confiscated by BAHA. An explanation was sought from BAHA. They failed to respond. We informed BAHA that by not doing so they were guilty of an offence under Section 30 and asked them to do the following:

1. Return the products to the complainant or if they had been destroyed, compensate him for his loss
2. Send a written statement to the complainant outlining the policy regarding the importation of hemp products.

At this point we finally received a response from BAHA. They claimed that they had been told by the Commissioner of Police that the Police Department had no objection to the hemp oil being imported however they would not agree to the importation of the seeds. The Police Department had promised to communicate these sentiments in writing, for which BAHA were still waiting. However, this explanation was given 8 months after the legal opinion of the Solicitor General's Office was given. Furthermore, the complainant's products were never returned to him nor any compensation provided.

In addition, 6 months later the complainant contacted the Ombudsman's Office yet again to complain that the Customs Department was denying him entry of his hemp seed oil. On this occasion this was rectified when we intervened, however the fact that we were required to intervene again, serves as a further example of the ridiculousness of the complainant's situation.

I have gone into this case in some detail to make the point that if the repetitive cycle of complaints is to end there has to be a review of the law in this area. Primarily, there needs to be clearer guidelines for public officials. However this needs to be supported by better communication between the different relevant authorities.

I imagine the importation of hemp is not on the majority of the governments immediate agenda, nor anyone else's for that matter. However, the case as a whole demonstrates certain deficiencies in the manner that public officials communicate with this office and each other. For that reason I have included this case in this year's special reports. Furthermore, in the interests of justice and fairness I have submitted the above mentioned reform of the law, which again could equally be applied to other areas.

MADNESS AT THE MINISTRY OF HEALTH

The complainant was an employee of the Ministry of Health in 2007 as a regional health manager. They sought the assistance of the Ombudsman's Office in June 2010 after many months of communication with said ministry. The complainant was frustrated and unsure as to how, or if they could move their case along.

When the complainant came to the office he had been moved to the Ministry of Health Headquarters and assigned to the Planning Unit. The Public Service Regulations stipulate that a Public Officer who is posted to another location is entitled to 'commuted subsistence allowance' for an initial thirty day period. After that period the Accounting officer of the Department is required to receive clearance from the Financial Secretary for any further payments. Payment of the allowance is permitted for no longer than three months, however they can be extended to six months in exceptional circumstances, such as if a posting lasts longer than three months. In those circumstances the employer, in this case the Ministry of Health, is required to apply for an extension. No requests were made for extending the posting period or the payment of their allowance. Thus the complainant only received their allotted allowance for the first thirty days.

In 2009 the complainant was transferred to the post of Director Environmental Health with reduced salary. This was curious, given that the post of Director of Environment entailed more responsibilities than the complainant's previous position as a Regional Manager. More significantly, the complainant was in a high enough position in their profession to be on the highest pay scale. Whilst the Ministry of Health was supportive of the complainants efforts to regularize matters, all their attempts to do so from 2007 onwards were unsuccessful.

After 3 years, when the complainant came to the Ombudsman Office for assistance, our investigation revealed an administrative breakdown in the Ministry of Health. This had been the cause of the complainant having not received the aforementioned allowance. Furthermore, this appeared to explain the disparity between receiving a promotion that inexplicably had a lower salary.

Once this breakdown had been identified, the attempts to correct the situation made by the Ministry of Health were equally futile. The Ministries of Public Service and Finance refused the Health Ministries requests to amend the error. The position of the Ministry of the Public Service was that their records did not support what the complainant had alleged. Instead they stated that the Ministry of Health posted the complainant to their new location for ninety days with effect from May 2007 in preparation for a transfer. However, thereafter there was no indication that the complainant was transferred or if the posting was extended.

Most interesting is the fact that in July 2009 the recommendation for the complainants transfer on appointment to the post of Director Environmental Health had been submitted by the Ministry of Health. This recommendation had been approved by the Ministry for Public Service. In addition, a memorandum dated May 4, 2010 from the CEO of the Ministry for Public Service to the CEO of the Ministry of Health ended with:

“While this Ministry sympathizes with [the complainant] for the position he now finds himself in, you are informed that we are unable to consider any additional financial compensation”.

The Ombudsman’s recommendation conveyed to the Ministry of Public Service on November 18, 2011 was:

My recommendation therefore, in accordance with Section 21 (1) of the Ombudsman Act is that [the complainant] be paid commuted allowance for the period July 2007 – May 2009.

For the reasons which I have stated, my recommendation is that [the complainant] should receive emoluments which should not be [less] than the total sum of the financial benefits that he was receiving before the transfer. Such emoluments would be separate and apart from the commuted allowance which he should have received and was denied.

The Ombudsman also added:

...in Section 12 (1) of the Ombudsman Act it states:

‘.....where the Ombudsman has reasonable cause to believe that-

(b) any person... has or may have sustained injustice, injury or abuse as a result of any action taken by an authority or an officer or a member of such authority, Arising out of or connected with the exercise of the administrative functions of the authority...the Ombudsman may investigate the action so taken.'

...in the Act “authority” is defined as:

‘A Ministry, department or agency of Government’

The injustice in this case arose from a lack of coordination and organization between as well as within different government departments. The recommendation I made was on the basis that the supremacy of departments of state should not be utilized under any circumstances, either directly or indirectly (as in the case above), as a means to abuse or circumvent a citizen’s right to be treated in a just manner.

SMASH AND GRAB:

DAMAGE TO A COMPLAINANT’S CAR WHILST HELD BY POLICE

The complainant’s car was damaged and a compact disc (CD) player stolen whilst being held as evidence by the Police. The complainant claimed compensation for the damages caused to the vehicle and the replacement of the CD player. After the claim failed, the complainant came to the Ombudsman’s Office in September 2010 to seek assistance in obtaining compensation.

In September 2010, the Ombudsman wrote simultaneously to the Commissioner of Police, the Officer in Charge of the Prosecution Branch and the exhibit keeper responsible for keeping the evidence. Subsequently, a judicial proceeding was convened in December 2010 for which the Officer in Charge of the Prosecution Branch, the exhibit keeper and the complainant were summoned.

During the hearing, the exhibit keeper produced a report from January 2010 that claimed he had reported the damages to his superiors. The Officer in Charge (OC) of the Prosecution Branch produced a correspondence that they had written to the Commissioner of Police that confirmed the purported damage and theft of the CD player. Based on the evidence presented at the hearing the Ombudsman recommended that the complainant be compensated for his loss. This was submitted by the complainant and agreed by the Ombudsman to be \$1,037.00.

In June 2011 this recommendation was submitted to the Commissioner of Police and officials of the Ministry of Police. Six months passed without any action being taken. In December 2011 our office contacted the Commissioner of Police. We informed him that we would be presenting this Special Report to the National Assembly concerning case. The relevant officials at the Ministry of Police were informed at the same time.

At the time of this writing the complainant has still not been compensated. Nor have they received any correspondence from the police concerning the future likelihood of being compensated. This Special Report has been written due to this lack of responsiveness. Once a public department has refused to cooperate, the Ombudsman's only course of action is to present such reports before the National Assembly in the hope that the matter can be finally resolved.

Commentaries:

DEFUSING PASSIONATE FEELINGS

The Ombudsman's Office is not always able to give the complainant the solution which they desire. The primary purpose our office is to get the authority to reply and to find an appropriate and just solution to the matter. Unfortunately some complainants do not always find such solutions satisfactory. Such was the situation when the new settlement of Harmonyville at Mile 41 on the Western Highway was still experiencing its early birthing pains.

A representative of the residents who had occupied and developed the area for several years prior to 2011, travelled to our office to complain that they were being unfairly treated by the Ministry of Natural Resources and the Environment. They were exceptionally upset when they arrived and when to great lengths to explain how they were fearful of losing their land. The representative informed us that several of the residents had claimed they had lived on the land for as long as thirteen (13) years. The fear that they would be removed and their land given to new residents, was a hard burden for them to bear. It was clear that if their concerns were not addressed they would protect their land by any means necessary.

Our staff listened to each complainant attentively. After careful and thorough analysis, it was clear that the fear and suspicion that of the residents had was because of a breakdown in communication. A large degree of misinformation had clearly crept into the village, and the residents were not receiving an accurate picture of the situation. We sent various correspondences to everyone involved in the planning of the proposed project that threatened their land.

In taking this action we intended to impress upon the Ministry the plight of these nearly 300 local residents, many of whom were interviewed on a one to one basis by our office. Unfortunately, no response was received to our correspondence. At this stage of the complaint, we can only hope that the ministry has intended to take into account the concerns of these vulnerable individuals.

SOCIAL SECURITY BENEFITS AMENDED

The resolution of this case was one of the highlights of 2011. It was gratifying to see the Government quickly amend an unjust element of the legal system. It is precisely for this reason that this office came into being. This case demonstrates how the system should work.

The case was about a widow who at the time of her husband's death was receiving her pension based on her pensionable wages. The death of her husband entitled her to collect a second pension under the Law governing social security, based on her husband's pensionable wages. Unfortunately under Belizean Law governing pensions, no one is permitted to receive more than one pension at any one time. In cases of conflict, the claimant receives whichever is the larger of the two pensions.

In this case, the husband's pension was slightly larger. Consequently, the complainant ceased receiving her own pension and started receiving her husband's. This seemed a bizarre situation given that the pension she had stopped receiving was her own. Consequently she was denied her own pension that had earned through a lifetime of hard work

Two years prior to contacting the office the complainant had already written a letter to the Ministry of Finance. However, they never received a reply. The office took on the case and supported the widow's position. The Legal Financial Advisor in the Ministry also lent their support.

Fortunately, within a few months a Statutory Instrument was passed which gave discretion to the Social Security Sector for persons to receive two pensions. As a result, the complainant was awarded their past monthly pensions that had been withheld and was permitted to receive both pensions. Moreover, this will undoubtedly have a beneficial effect for others in a similar situation.

THE EIGHT YEAR APPEAL

The complainant came to the Ombudsman's Office in December 2010 to seek assistance in acquiring information regarding a case heard in 2003. The complainant had successfully won the case but defendant appealed in 2004. The Magistrate had originally ordered that they be given \$3500.00 in compensation.

The complainant had been making frequent visits to the Registry of the Supreme Court for almost a year prior to contacting the Ombudsman's Office, attempting to find information as to when the appeal would be heard. The complainant had even assisted the Registry in locating the defendant when she was promptly informed that the reason the appeal had not been heard was because the defendant could not be located.

When the defendant was located he was given ten (10) days to submit the grounds of his appeal. Despite the fact that he failed to do so, a date was set for the appeal, for which he then failed to appear. There was more than satisfactory evidence that the defendant had been served a notice of appeal. However, for reasons only known to the Judge, they decided to show an abundance of caution. As such, another date was set, and the defendant sent a second notice.

The second hearing of the Appeal was adjourned due to ill health on the part of the judge, furthering delay in the proceedings. When the Appeal was finally heard the defendant's appeal was dismissed and the Magistrates Court's decision upheld. However, by this time it was now June 2011.

Throughout the entire process the defendant was unjustifiably belligerent towards the complainant. The situation became increasingly volatile between them, to the point that various third parties had issued threatening messages to the complainant. On several occasions she was advised to report these threats to the police.

Not unsurprisingly, the complainant failed to commence payments as he had been ordered. This marked the beginning of the magistrate's courts '*...distress process...*' By now it was September 2011. The complainant became understandably frustrated as what they saw as a failure to act on the part of the court system. Their only point of contact was our office, who consistently informed them of how the case was progressing.

Contrary to logical reasoning, the court appearances failed to cease in June of 2011. The defendant's refusal to commence payments meant a return to the magistrate's court. At the first hearing the complainant was present but the defendant again, failed to appear. When the complainant attended court the second time in spite of her objection an adjournment date was given which they believed was incomprehensively extended, given that they had already waited for eight years. Fortunately, their tenacious determination enabled the complainant speak to the Chief Magistrate who then rescheduled the date to an earlier hearing.

Finally however, the defendant was ordered to pay the complainant \$4,000.00 in monthly instalments of \$200.00. The defendant claimed this was all they could afford. Whilst this brought a potential conclusion to matters, it means that it will take another year and eight months before the complainant is recompensed and only if the defendant pays consistently.

The details of this case are all important. The complainant, like the majority of Belizean citizens did not have the means to contract a Lawyer to assist in their affairs. Moreover, she was not aware of the Ombudsman's office, until 8 years

after she had begun her complaint. The system was treating the complainant unfairly, and it was only through her tenacity and dogged persistence that the case was not lost. We hope that with our assistance, the complainant will be fully recompensed in the coming years.

Informal Complaints

- A Belize City resident visited the Ombudsman's Office following the sentencing of her brother:
 - i. She had begun to have concerns that his appeal had not been formally lodged.*
 - ii. The Ombudsman spoke to the Clerk of the Court and it was established that there was no record of an appeal being made by the complainant's brother.*
 - iii. The complainant was advised to ask her brother to speak to his attorney if he still wanted to appeal his sentence.*

- A former refugee visited the office to enquire about land which he understood to have been given to him as a refugee:
 - i. The Ombudsman advised the client to contact the 'Help for Progress' Office in Belmopan as all such matters dealt with through this organisation.*

- A Belize City resident sought the assistance of the Ombudsman regarding a restraining order being sought by his wife:
 - i. The Ombudsman explained the nature of the restraining order and advised that he should listen carefully to the reasons why his wife was bringing this action.*
 - ii. However it was made clear that he should feel prepared to give his account of the facts.*

- A concerned mother visited the Office of the Ombudsman after she learned that her son had been refused parole despite undergoing a recommended rehabilitation programme:
 - i. The Ombudsman wrote a letter to the prison authorities inquiring as to the chance of the complainant's son receiving a parole hearing.*

- A businessman contacted the office to receive assistance in petitioning the Liquor Licensing Board:
 - i. The complainant was advised of the procedures that are required to be followed when applying for a liquor license.*

- A concerned parent visited the Office of the Ombudsman after her son was injured when a prison van was overturned whilst transporting inmates to prison:
 - i. The mother wanted her son to be transferred from the KHMH to a hospital in Belmopan so he would be closer to his family.*
 - ii. The Ombudsman contacted the KHMH on the complainant's behalf.*
 - iii. However, the son did not think that he required further hospital care and that he had been returned to prison.*

- A man who had been squatting on a piece of land for a number of years sought the assistance of the Ombudsman after learning it was to be taken away from him and replaced with a road:
 - i. The Ombudsman visited the land in question and spoke with the Government Representative in charge of the project.*
 - ii. The Government representative stated that the complainant was not being evicted but that he would be required to give up a piece of his land to form a road for a new property being built.*

- A complainant sought the assistance of the Office of the Ombudsman after he was widely reported in the media as being involved in an incident which resulted in two young men being fatally shot.
 - i. The complainant had been detained as part of Police investigations but was not charged, however his employers wanted him to officially clear his name.*
 - ii. The investigating officer contacted the Police Press-Officer and explained the situation; the Press-Officer promised to contact the media and rectify this case.*

Feedback

From time to time people write to the Office of the Ombudsman to express their gratitude for the help provided. Among the correspondences we received in 2011 were the following positive comments:

“I want to sincerely thank you for the time you spent...”

“I hereby thank the Office of the Ombudsman... May God continue to bless your office.”

“Your professionalism and concern is greatly appreciated.”

“Thank you again for looking into this matter and taking the time to hear about this truly unbelievable matter.”

“I am heavenly thankful for your help...”

“Please continue and thanks for your help...my daughter will be happy when she gets the good news...”

THANK YOU

The Ombudsman and her staff are always pleased to receive feedback from anyone who has sought the assistance of the office.

Send an email to ombudsman@btl.net
or write to us at 91 Freetown Road, Belize City, Belize District

How to Make a Complaint to the Ombudsman



Before making a complaint to us, have you already contacted the government department or authority to complain?

Please note that we do not usually investigate complaints if you have not raised the complaint with the department or authority first. However, if you feel you have a good reason not to contact it first then please call us on **223-3594 / 223-3198** to discuss.

Before you contact us please try to write down all of your communications with the department or authority; such as letters, telephone conversations and meetings. Please also record dates, the subject of the communications and the names and contact details of the people who you dealt with.

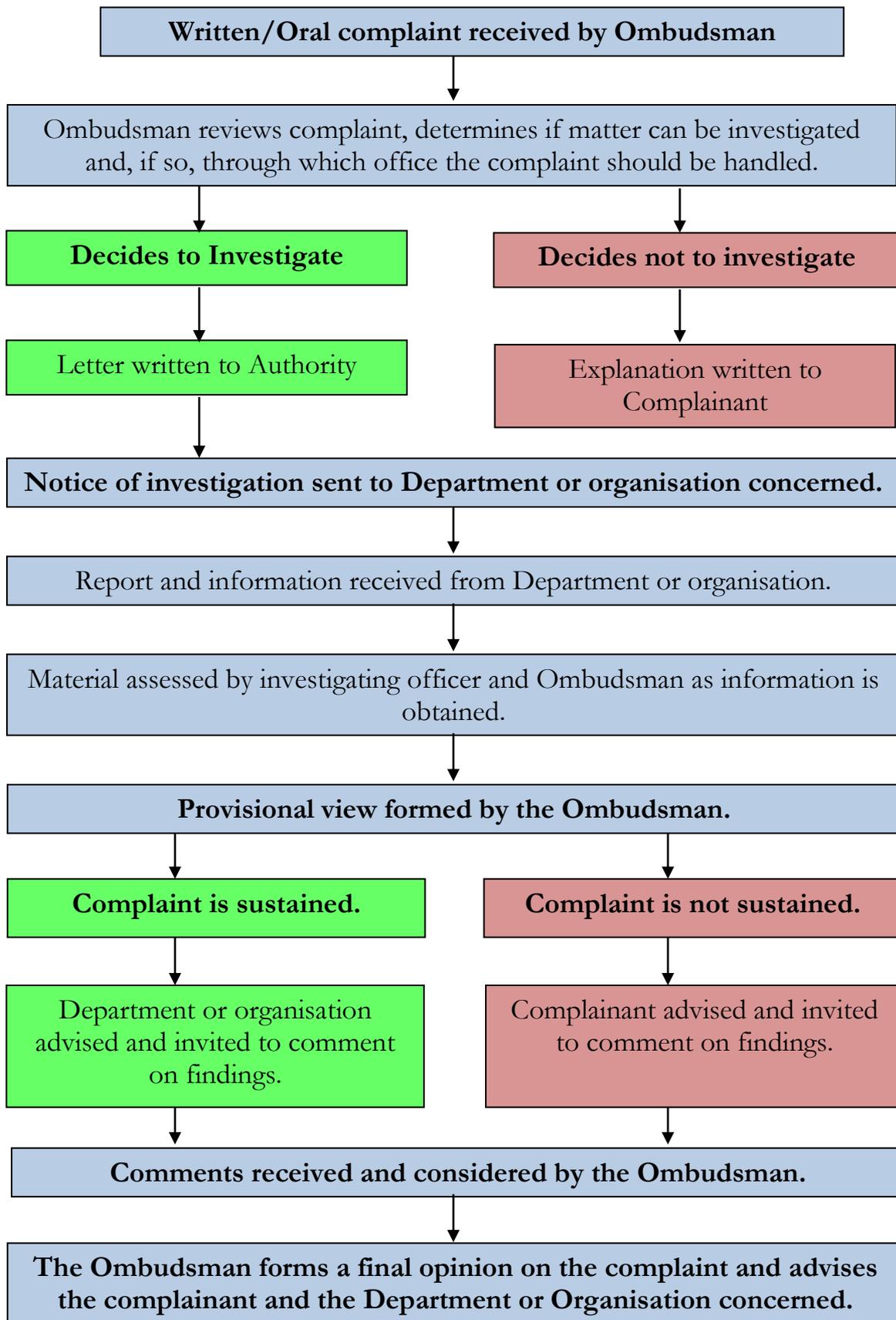
There are several ways to make a complaint:

Written complaints – download our written complaint form from our website - <http://www.ombudsman.gov.bz>. Once you have completed it you can either e-mail it to ombudsman@btl.net or post it to us at 91 Freetown Road, Belize City.

Telephone – call us on 223-3594 or 223-3198 during office hours (9:00am to 5:00pm, Monday to Friday).

Walk-ins – visit our office during office hours to make your complaint in person. To avoid waiting, we recommend that you contact us first to arrange an appointment.

Complaint Process



The Ombudsman Act

The Ombudsman's authority to investigate complaints is detailed in the Ombudsman Act. The legislation allows the Ombudsman to produce annual reports and special reports available to the public.

The full text of the Act can be found at:

<http://www.belize law.org/lawadmin/PDF%20files/cap005.pdf>.

It states the following in regards to the powers of the Ombudsman. Namely that the Ombudsman:

- **Section 2**
 - shall regard “authority” as meaning a Ministry, department or agency of Government, the Belize Police Department, a City or Town Council or any other statutory body.
- **Section 4**
 - will serve terms lasting three years.
- **Section 12**
 - may investigate where he has reasonable cause to believe that an authority has been guilty of corruption or wrongdoing or any person may have sustained injustice, injury or abuse as a result of any action taken by an authority.
 - shall not be precluded from investigating any matter where it is open to the complainant to apply to the Supreme Court for redress for contravention of provisions for the protection of fundamental rights and freedoms.
- **Section 13**
 - may investigate on his own initiative or on a complaint made to him.
- **Section 14**
 - may hear complaints made by any person or body of persons but complaints made by an authority.
- **Section 15**
 - may refuse to undertake a an investigation if he believes
 - the complaint is trivial
 - the complaint is frivolous
 - the complainant has deferred for too long

- the complainant lack sufficient interest
- no investigation is necessary
- **Section 17**
 - may adopt whatever procedure he considers appropriate and may obtain information from such persons and in such manner, and make enquiries as he thinks fit.
- **Section 18**
 - may require any officer or member of a public authority to furnish and produce any document in relation to the investigation of any matter.
- **Section 20**
 - may enter any premises occupied by any authority in order to inspect any document or record therein in respect of any matter under investigation.
- **Section 21**
 - shall inform the principal officer of the authority concerned the result of his investigation and, if necessary, his recommendations for action to be taken by that authority.
- **Section 25**
 - shall regard as secret and confidential all documents, information and things disclosed to them in execution of any of the provisions of this Act.
- **Section 29**
 - shall, when investigating a complaint, record in a register:
 - the name of the complainant
 - the subject matter and date of the complaint
 - the Ombudsman's decision respecting the complaint
- **Section 30**
 - Every person who wilfully contravenes section 14, makes any false statement to the Ombudsman or who obstructs, hinders or resists the Ombudsman shall be guilty of an offence and liable to summary conviction.

United Nations Universal Declaration of Human Rights 1948 (UDHR)

The rights and freedoms enshrined in the Belize Constitution are similar in many respects to the rights universally recognised in the UN's 1948 Declaration of Human Rights. Belize is bound by the Declaration as a Member State of the United Nations.



The text of the UDHR can be found on the UN Website:

<http://www.un.org/en/documents/udhr/>

In order to increase awareness of Human Rights in everyday society the text has been replicated and condensed below:

- Article 1** Everyone is born free and equal in dignity and rights.
- Article 2** Everyone is entitled to all the rights and freedoms in this Declaration
- Article 3** Everyone has the right to life.
- Article 4** No one shall be held in slavery or servitude.
- Article 5** No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.
- Article 6** Everyone has the right to be treated equally by the law.
- Article 7** All are equal before the law and are entitled without any discrimination to equal protection of the law.
- Article 8** Everyone has the right to ask for legal help when their rights are not respected.
- Article 9** No one shall be subjected to arbitrary arrest, detention or exile.
- Article 10** Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal.
- Article 11** Everyone has the right to be presumed innocent until proven guilty.

- Article 12** No one shall have their privacy, family, home or correspondence arbitrarily interfered with.
- Article 13** Everyone has the right to freedom of movement and residence within the borders of each state and the right to leave any country, including his own, and to return to his country.
- Article 14** Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- Article 15** Everyone has the right to a nationality.
- Article 16** Men and women have the right to marry and found a family.
- Article 17** Everyone has the right to own property and possessions.
- Article 18** Everyone has the right to freedom of thought, conscience and religion.
- Article 19** Everyone has the right to freedom of opinion and expression.
- Article 20** Everyone has the right to assembly and association.
- Article 21** Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- Article 22** Everyone has the right to social security and is entitled to economic, social and cultural rights.
- Article 23** Everyone has the right to work, the right to equal pay for equal work and the right to a decent income and working conditions. Everyone also has the right to form and to join trade unions.
- Article 24** Everyone has the right to rest and leisure.
- Article 25** Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services.
- Article 26** Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages.

Article 27 Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

Article 28 Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29 Everyone has duties to the community in which alone the free and full development of his personality is possible.

Article 30 Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

Human Rights Treaties and Belize

In addition to being bound by the UN Declaration, Belize has either signed or ratified number of other Treaties. These texts are listed below in order of ratification or signature, and are also available on the UN Website given above.

- 17th March 1986:** *1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) [ratified]*
- 2nd May 1990:** *1989 Convention on the Rights of the Child (CRC) [ratified]*
- 16th May 1990:** *1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) [ratified]*
- 1st February 1996:** *Agreement establishing the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean [ratified]*
- 10th June 1996:** *1966 International Covenant on Civil and Political Rights (ICCPR) [ratified]*
- 6th September 2000:** *1966 International Covenant on Economic, Social and Cultural Rights (ICESCR) [signed]*
- 14th November 2001:** *1966 International Convention on the Elimination of Racial Discrimination (ICERD) [ratified]*
- 14th November 2001:** *1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (CMW) [ratified]*
- 9th December 2002:** *1999 Optional Protocol to Convention on the Elimination of All Forms of Discrimination against Women (OP-CEDAW) [ratified]*
- 1st December 2003:** *2000 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC) [ratified]*
- 1st December 2003:** *2000 Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (OPSC) [ratified]*

9th May 2011: *2006 Convention on the Rights of Persons with Disabilities*
[ratified]

There are also a number of human rights treaties Belize has yet to sign or ratify that are given below in order that they were opened for signature by the UN:

16th December 1966: *Optional Protocol to the International Covenant on Civil and Political Rights*

26th November 1968: *Convention on the non-applicability of statutory limitations to war crimes and crimes against humanity**

15th December 1989: *Second Optional Protocol to the International Covenant on Civil and Political Rights, aiming at the abolition of the death penalty*

18TH December 2002: *Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*

13th December 2006: *Optional Protocol to the Convention on the Rights of Persons with Disabilities*

10th December 2008: *Optional Protocol to the International Covenant on Economic, Social and Cultural Rights*

It is submitted, that this does not appear to fit with the humanitarian Government implied membership in the previous list of treaty systems. It is suggested that ministers should push for the ratification of the treaties above in order to continue to further Belize's reputation as a bastion of rights protection.

Furthermore, it is also suggested that Belize fully ratify the International Covenant of Economic Social and Cultural Rights (ICESR). Once it has been ratified and implemented into Belizean law, citizens will be able to fully benefit from its protection.

*This treaty deals specifically with matters of humanitarian law, which is a separate but related matter to human rights law. In particular it deals with issues surrounding the activities of the armed forces during internal and interstate armed conflicts

STAFF

OMBUDSMAN	Ms. Cynthia Pitts
LEGAL OFFICER	Mr. Ian Gray
LEGAL ASSISTANTS	Mr Adam Jackson Mr. James Campbell
LEGAL INTERN	Mr. David Lawne
OFFICE ADMINISTRATORS	Miss. Sharon Flowers Miss. Trina Lizama

In addition, in order to supplement our small staff we attempted to develop relationships with other voluntary organizations. Among the most successful was the relationship that developed with Challenges Worldwide, a Non-Profit Organization based in Edinburgh, Scotland.

They sent several volunteers with a background in law to the office for periods of at least of three months. Their help was very much appreciated, especially so in setting up our Facebook account, <http://www.facebook.com/#!/profile.php?id=100003382819843> and reviewing the existing webpage,

Thanks are also due to Ms. Yasmini Guerra who interned as a social worker in the office for six months. She was most helpful in dealing with the residents of Valley of Peace when we were investigating their land complaints.

Ombudsman Contact Details:

Tel: 223-3594 or 223-3198

Fax: 223-3198

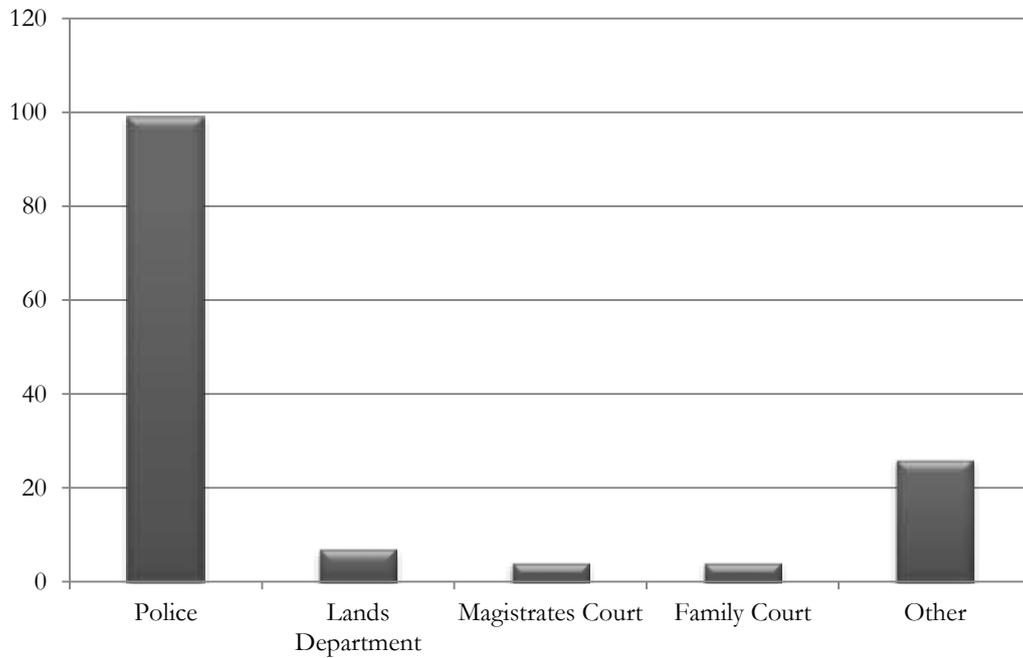
Email: ombudsman@btl.net

MONDAY – FRIDAY

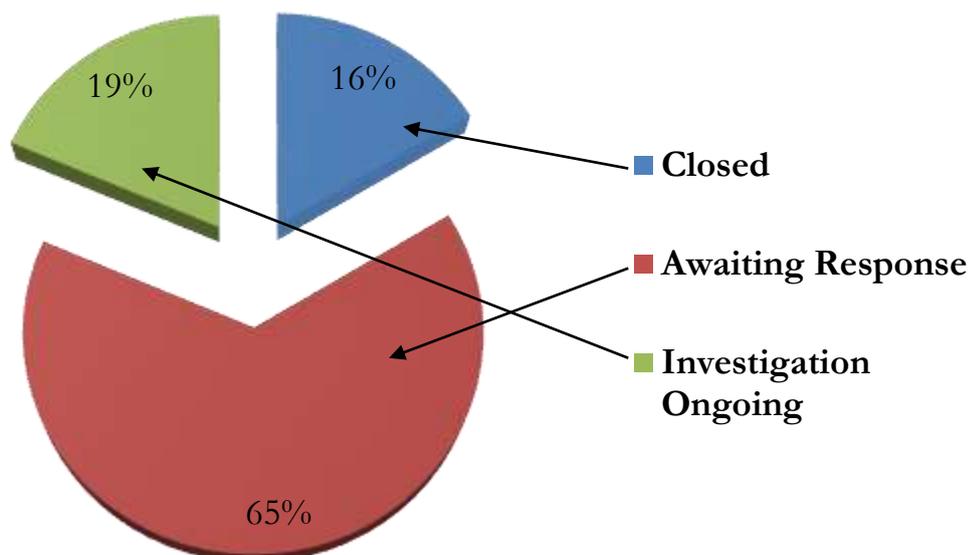
9:00 a.m. – 5:00 p.m.

Appendix - Statistics

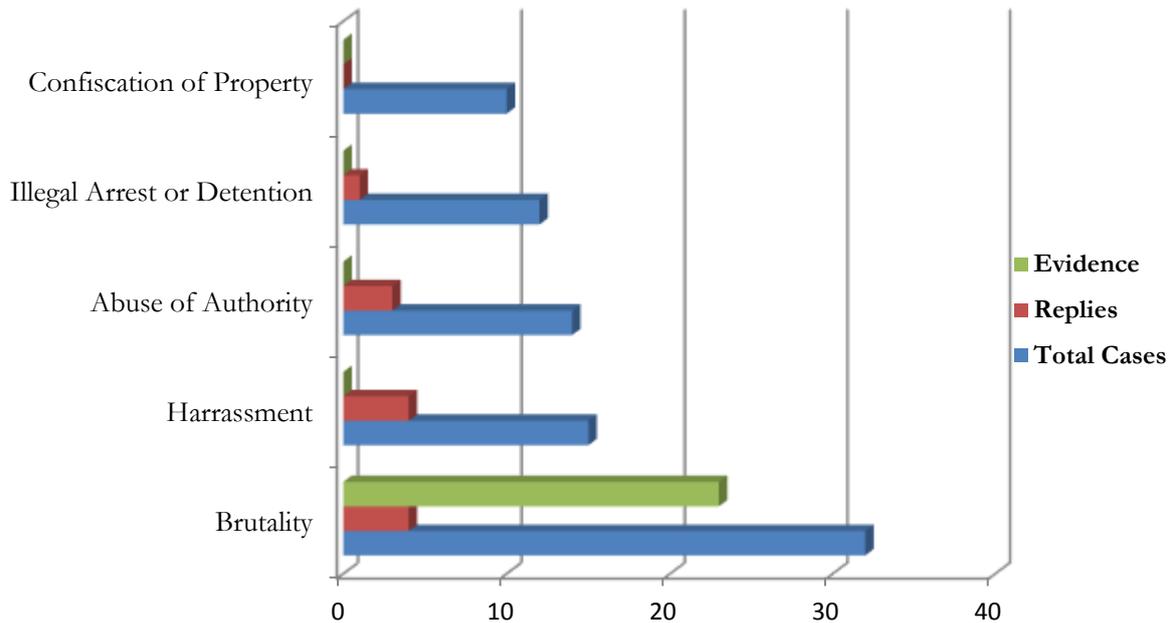
Complaints by Department – Total: 140



Resolution of Complaints



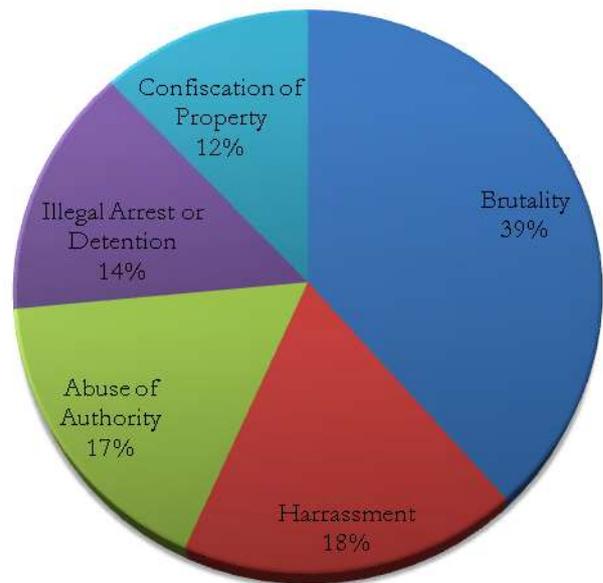
Police Cases: (Total: 99)



By Subject:

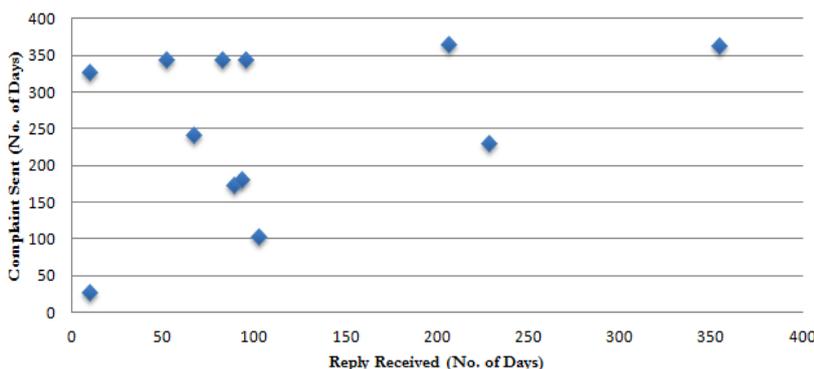
Of the 99 police cases the largest number of complaints was in relation to police brutality. These make up over a 1/3 of all of the complaints received by our office in relation to the police.

Of the cases, less than 10% have been replied to at the time of this writing. These were almost entirely in relation to the charges of harassment and brutality.



By Replies Received:

Police Correspondence (Total: 11 Replies)



In regards to the replies that our office did receive there was little correlation if any between when the original complaint was sent, and when our office received a reply. Few dealt with the issues that had been raised.

The Office of the Ombudsman, Belize

Ministry or Department or Authority	Complaints	Closed	Awaiting Response	Investigation Ongoing
Police Department	99	13	70	16
Lands Department	7	0	7	0
Family Court	4	0	2	2
Magistrates' Court	4	1	2	1
Ministry of Transport	2	0	0	2
Belize City Council	2	0	1	1
Belize Coast Guard	2	0	2	0
Kolbe Foundation	2	1	1	0
Human services	1	1	0	0
Social Services	1	1	0	0
Social Security	1	0	0	1
Office of the Supervisor of Insurance	1	0	0	1
General Registry	1	0	0	1
Belize Port Authority	1	1	0	0
Ministry of Natural Resources	1	0	1	0
National Fire Service	1	0	0	1
Customs Department	1	1	0	0
Sister Cecilia Home	1	0	1	0
Bar of Association	1	0	1	0
Labour Department	1	0	1	0
Belize Defence Force	1	0	1	0
Cayo District Education Council	1	0	1	0
Unclassified	4	4	0	0

