

2009

THE NINTH
ANNUAL REPORT
OF
THE OMBUDSMAN OF
BELIZE



"Truly A Haven Of Democracy"

THE NINTH 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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The Belize Ombudsman

The Office of the Ombudsman
91 Freetown Road
Belize City
Central America
Tel: 501-223-3594 / 501-223-3198
Fax: 501-223-33198
Email: ombudsman@btl.net

(6th January, 2012)

Ref: AGOMB/2012

Hon. Andrea Gill
President of the Senate
National Assembly
Belmopan

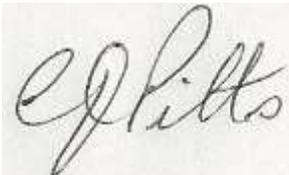
Dear Madam President,

I have the honour to present the Ombudsman Annual Report which covers the period of January 1 2009 to December 31 2009.

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
Belmopan

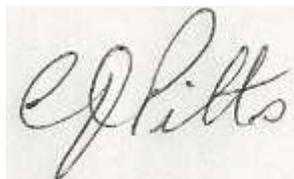
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OMBUDSMAN'S MESSAGE

The second Ombudsman to be appointed to the post of Ombudsman since it was introduced in 1999 took up her appointment on 1st January 2009. This Report, which is the Ninth Report, therefore covers the period 1st January 2009 – 31st December 2009. The Eighth Report had covered the period 1st June 2006 – 30th June 2007. The first appointed Ombudsman retired in February 2008. A new Ombudsman was appointed in January 2009 and the report covers the period commencing with the tenure of the new appointment.

The jurisdiction of the Ombudsman is found in Section 12 of the Ombudsman Act which states:

- “where the Ombudsman has reasonable cause to believe that
- (a) An authority or an officer or member of an authority has been guilty of corruption or other wrongdoing; or
 - (b) Any person or body of persons 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 (whether before or after the commencement of this Act), the Ombudsman may investigate the action so taken...”

“Authority” is defined as “a Ministry, department or agency of Government”. There is no doubt that the jurisdiction of the Ombudsman extends to a Ministry, and an Ombudsman could very well be investigating the actions of a Ministry who is carrying out the wishes of a Minister. This is where the character of an Ombudsman is very important. Will he or she be strong to deal with the matter in an unbiased manner without regard to what the consequences could be?

In discharging the role the Ombudsman is required to act independently and impartially in a non-adversarial way. The Ombudsman is neither an advocate for the complainant nor for the public authority concerned. He ascertains the facts of the case and reaches an impartial and independent conclusion on the merits.

The Belize Ombudsman

When the Ombudsman investigates a complaint by a citizen and that citizen is able to have the satisfaction of having his or her problem solved, and in some cases, receive some form of redress where there has been abuse or injustice, this is evidence of “good governance”. The Government did not have to appoint an Ombudsman. Anyone having a problem with the administration could have taken the matter to the courts for redress; there is also a Legal Aid Centre which represents persons at an affordable cost. Nevertheless, an Ombudsman was appointed by the Governor General acting on the recommendation of both Houses of the National Assembly. The Ombudsman’s clear mandate is to address citizen’s grievances against government ministries, government agencies, statutory bodies, the Police Department and local councils.

It is said that the office of the Ombudsman takes on the character or “face” of the person who is the Ombudsman. If the Ombudsman is caring and demonstrates that he or she will fight for the rights of the client the ombudsman office is considered to be a good one and doing its job.

I am proud to say that the small team of two persons who in addition to me constitute “staff”, has always reacted to complaints with empathy and concern and that might be the reason why the office is apparently regarded favourably by the public. Yes, we provide a listening compassionate ear and we do give much needed legal advice, however, we would really like to be able to do much more than is presently done.

Shortly after my appointment I had the good fortune to attend a Seminar in Trinidad and Tobago sponsored by the Caribbean Association of Ombudsman. It was facilitated by the Ombudsman of Ontario, Canada who introduced us to an exciting vision of how the Ombudsman could be an advocate for the public interest in good governance instead of concentrating on resolving individual grievances through many layers of procedures. We were determined to try this new concept of the systemic investigation. Unfortunately it became increasingly apparent that with a technical/professional staff of only two we could not do it.

When complaints of physical abuse by the police number over 100 and too many appear to be unprovoked then a systemic investigation is certainly needed to determine why this is so. Is there something more that the training can do? Is a human rights component still present in the training?

This approach when addressing many similar complaints in a particular area, for example land issues, is highly recommended, however, with a staff of two

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who are kept busy with the daily influx of individuals who seek help it is difficult to do.

It became apparent that one of the difficulties faced by the office is the lack of responses from the agencies to which letters were sent requesting their comments on the complaints lodged. The Act provides for summonses to be sent to persons from whom information was requested. If they did not attend then their absence was to be treated like an absence from the Supreme Court. This follows from Section 18 of the Act which states that:

“... the Ombudsman shall have the same powers as a Judge of the Supreme Court in respect of the attendance and examination of witnesses and the production of documents”.

Even though the provisions are present to issue summonses there was a certain reluctance to do so because of the time and man power needed to do this, and the related additional procedure which would have to be initiated if they did not show up when summoned. The office needs to be well equipped for any such eventuality.

Meetings were held with the Police and the Lands Departments to discuss difficult problems. The Commissioner of lands was even summoned when there was an unusually long silence from his Department. Thankfully he came and we did not have to go into warrant mode for his failure to attend.

The area in which the office gave most assistance was in the giving of legal advice, explaining legal procedures and in hands on personal assistance to persons in custody of the Police. Persons who were suffering injuries allegedly received from the police and were being denied medical attention were pleased to receive this type of assistance. No hour was too late or too early for us to go to the Police Station and request that the detainee be brought out and if necessary taken to the hospital accompanied by staff. Mothers were most grateful and I think it was a surprise to some to understand that our team did not consider our work a nine to five job.

The appointment of an Ombudsman is evidence that the Government desires accountability and transparency in the manner it manages its affairs. The office does have limited resources and if it had more would do more. During 2009 the British High Commissioner graciously donated various pieces of office equipment. We thank them very much for their generosity. The US Embassy

The Belize Ombudsman

also helped out by putting us in touch with a volunteer who came and spent about 6 months in San Ignacio and assisted with the complaints in that area. Volunteers are always welcomed and we look forward to having more of them to help us.



Cynthia Pitts
Ombudsman for Belize

PROFILE OF AN OMBUDSMAN

- He/she is impartial
- He/she does not take sides until after an investigation
- He/she supports his/her opinion based on facts, truth, justice, fairness and compassion
- He/she does not support criminal behaviour
- He/she promotes the dignity of every human being

STAFF

OMBUDSMAN	Ms. Cynthia Pitts
INVESTIGATOR	Mr. Lionel Castillo
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.



Conferences and Seminars

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

International Conferences

- **San Salvador, El Salvador, 13th – 17th March 2009:**
‘Electoral Observations and 40th Meeting’
The Ombudsman was a part of the team of Central American Ombudsmen who observed the General Election in El Salvador. After the elections the 40th meeting of the Council of the Central American Ombudsmen was held where, among other things, the Annual Plan for the organization for the period 2008-2009 was discussed and accepted.
- **Trinidad & Tobago, 23rd – 25th March 2009:**
‘Advanced Investigations Training’
Systemic Investigation of the underlying causes of government maladministration which is reflected in many complaints about the same issue
- **Panama City, Panama Republic, 1st – 3rd May 2009:**
Electoral Observations and 41st Meeting of the Central American Ombudsmen.
- **Panama City, Panama Republic, 30th – 31st July 2009:**
‘Towards the strengthening of the CCPDH on the rights of the people deprived of their liberty’. Seminar on Prison Systems
- **San Salvador, El Salvador, 11th – 13th November 2009:**
‘Ethics and Democracy’
- **Port of Spain, Trinidad & Tobago, 23rd – 24th November 2009:**
‘Meeting of the Commonwealth Forum of National Human Rights Institutions (Climate Change & Human Rights)’

Belize Seminars

- 7th – 8th December 2009 Belize Chamber of Commerce
‘Human Rights Reporting’
- 11th December 2009 Radisson Fort George
‘Right to Health’ workshop.

Belize Lectures

- February 2009
Police Training School
- April 2009
Ladyville Police Station
- October 2009
Human Rights Seminar on the Role and responsibilities of the
Ombudsman, Benque Viejo
 - Human Rights Seminar for Government Officers
- November 2009
Saint John’s Junior College 6th Form (Evening Division)
- December 2009
University of Belize
 - Sexual Harassment Forum

COMPLAINTS SUMMARY

Amidst great challenges with a skeletal staff the Office of the Ombudsman continues to have an impact in the exercise of its mandate of justice, the promotion of human rights, good governance and compassion:

Our office received by letter, fax, e-mail, phone and personally:

Total Complaints	332
Informal Cases	139
<u>Formal Cases</u>	193
Cases closed	74
Cases awaiting response	68
Unresolved	51

**How to contact the Ombudsman
by phone:**

**Tel: 223-3594
223-3198**

Fax: 223-3198

Email: ombudsman@btl.net

Complaint Summaries

THE POLICE



The total number of complaints against the Police was 100, of which 35 were resolved, and 44 still require a response. Investigation will continue in the cases that remain open.

Case 26

A Belize City resident contacted the Ombudsman to complain that the police were refusing to return his firearm. The resident had been arrested and charged for discharging a firearm in public but the case was ultimately dropped. The Ombudsman contacted the Police Commissioner and he explained that the firearm could not be returned as the resident had had his firearm license revoked in accordance with the Firearm Act. It was agreed that since the firearm was his property it could be returned as long as he made arrangements to pass the firearm to someone licensed to carry the weapon.

Case 5

A police corporal requested the assistance of the Ombudsman Office in seeking his reinstatement in the Police Department following the dismissal of his case at an Internal Affairs and Disciplinary Proceeding. The Ombudsman contacted the commissioner stating that the corporal was requesting his pay during his interdiction as well as his reinstatement. Following a meeting of the Ombudsman, the Assistant Commissioner and the Head of Internal Affairs and Discipline the corporal was reinstated and the whole of his salary during his interdiction was paid to him.

Case 102

A Ladyville resident asked the Ombudsman to investigate why a Coroner's Inquest had not taken place following the death of his son. The deceased was mentally challenged and died after being shot in the eye by a Police Constable. The Ombudsman contacted the relevant police station and the case was subsequently referred to Internal Affairs & Discipline who later informed the Ombudsman that the Police Constable responsible had been criminally arrested and charged. The Ombudsman has now contacted the Chief Magistrate regarding the Coroner's Inquest.

Case 93

A Police Special Constable contacted the Ombudsman for assistance in obtaining two months pay she did not receive when she transferred to a new department. The Ombudsman contacted the Commissioner who in turn referred the case to Internal Affairs and Discipline. Eventually the Special Constable received all monies owed to her.

Case 31

A Belize City resident complained to the Ombudsman after being knocked down whilst riding his bicycle. The individual complained that he was knocked off his bike when the driver of a police vehicle opened the door without checking it was safe to do so. The complainant was taken to the KHMH by the driver who did not identify himself to the complainant. After complaints to the Police Station, Internal Affairs & Disciplinary and the Traffic Department had no effect the complainant sought the assistance of the Ombudsman.

Following correspondence with the Police Commissioner the Ombudsman was informed by IAD that the police officer involved was no longer a member of the Belize Police Department due to his being charged and arrested for a different offence. This type of response is not satisfactory and the Ombudsman is still seeking a statement from the former police officer regarding this complaint.

Lands Department

Case 106

A businessman sought the assistance of the Ombudsman's office in obtaining the title to land which his company legally owned. The Lands Department had seemingly refused to complete the procedure necessary to transfer ownership from the legal owners to the company. Despite first being contacted in early October 2009 the Lands Department has failed to provide a response to the Ombudsman's enquiries.

BELIZE DEFENCE FORCE

Case 123

A BDF Lance Corporal sought the assistance of the Ombudsman in appealing the punishment given to her as a result of her involvement in a dispute between other officers. The Ombudsman wrote to the Brigadier General, noting that although she had appealed her appeal had never been heard. The case was eventually referred to the Security Services Commission set aside the original punishment; reinstating the Lance Corporal and restoring all benefits to which she had been deprived.



MINISTRY OF HEALTH

Case 339



This case illustrates well the difficulties the Office of the Ombudsman frequently has in investigating complaints. A Belize City resident complained to the Ombudsman because her neighbour had been doing spray jobs, an activity which the authorities had done nothing to stop and which was causing her health problems. The Ombudsman has sent at least three letters to the Ministry of Health regarding the complaint but has not yet received a reply. This is despite the fact that under the Ombudsman Act the Ombudsman's office may

require any member of a public authority to “*furnish such information and produce any document*” in relation to an investigation. The failure of public authorities to disclose such information leads to many cases remaining open.

BELIZE CITY COUNCIL

Case 87

A council employee contacted the Ombudsman’s Office upon being informed that he was being forced to retire from his position in one month. The Ombudsman contacted the Council and was able to establish that section 35 of the Belize City Council Act allowed them to require officers to retire once they had reached a certain age. However the Council did inform the Ombudsman of the gratuity payments and pension benefits to which the complainant was entitled so he could be advised accordingly.



Informal Complaint Summaries

Informal complaints are complaints where the Ombudsman has been able to provide advice or assistance to a complainant but it has not been necessary to open a complaint file.

- A public official sought the Ombudsman's advice regarding whether he was able to resign from public service. He was informed of the resignation procedure and the appropriate ministry was contacted on his behalf.
- A resident who had worked for various employers over a period of years asked the Ombudsman about his pension rights. Resident advised to contact the Labour Department but if was not satisfied he should return to the Ombudsman Office.
- A mother contacted the Ombudsman as she wanted to know if a custody case was pending after a Government Official came to her home and carried out an investigation regarding her and her child. The Ombudsman contacted the Human Services Department and advised accordingly.
- A police officer contacted the office after pay owed to him, after he had been wrongly put on interdiction, was not paid. The police officer was advised to make a claim to the appropriate ministry for payment.
- A Dangriga resident sought the assistance of the Ombudsman after she felt she had been badly treated by the local Magistrate. She had a custody case calling the next day but was unable to afford an attorney. The Ombudsman advised her to record any incidents that indicated any bias shown by the Magistrate and provided her with a copy of the Domestic Violence Act so she could represent herself better in court.

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- A concerned mother phoned the Ombudsman after she received a confusing phone call from prison regarding the medical care of her son. The Ombudsman contacted the prison and it was eventually learnt that her son had been refusing to receive a medical vaccination but that there was no urgent medical care required.

- A Punta Gorda resident contacted the Ombudsman when the father of her child failed to make maintenance payments despite being ordered to by the court. The Ombudsman advised the resident to go directly to a specific official at the Family Court and inform them that the father had been constantly moving from one location to the next in attempt not to make any payments.

- A Belize City resident came to the Ombudsman's office alleging they had been wrongly accused of a criminal offence and the victim of police brutality. Resident was advised by the investigating officer to try and ascertain the names of the police officers involved and to determine the status of the medical form.

- A resident sought assistance after their father was charged with a criminal offence. They were advised to get an attorney as soon as possible and to apply for bail at the Supreme Court.

Feedback

From time to time people write to the Office of the Ombudsman to express their gratitude for the help provided. Correspondence in 2009 included the following positive comment.

“I am writing to thank you for all of the help that you have provided for us.”

“I am so glad that there is at least one person in Belize that will listen and hear what is really going on...”

“Thank you all so much, you have worked so hard to help...”

“I will tell my friends and family members of you.”

“Once again thank you, thank you, 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.



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.

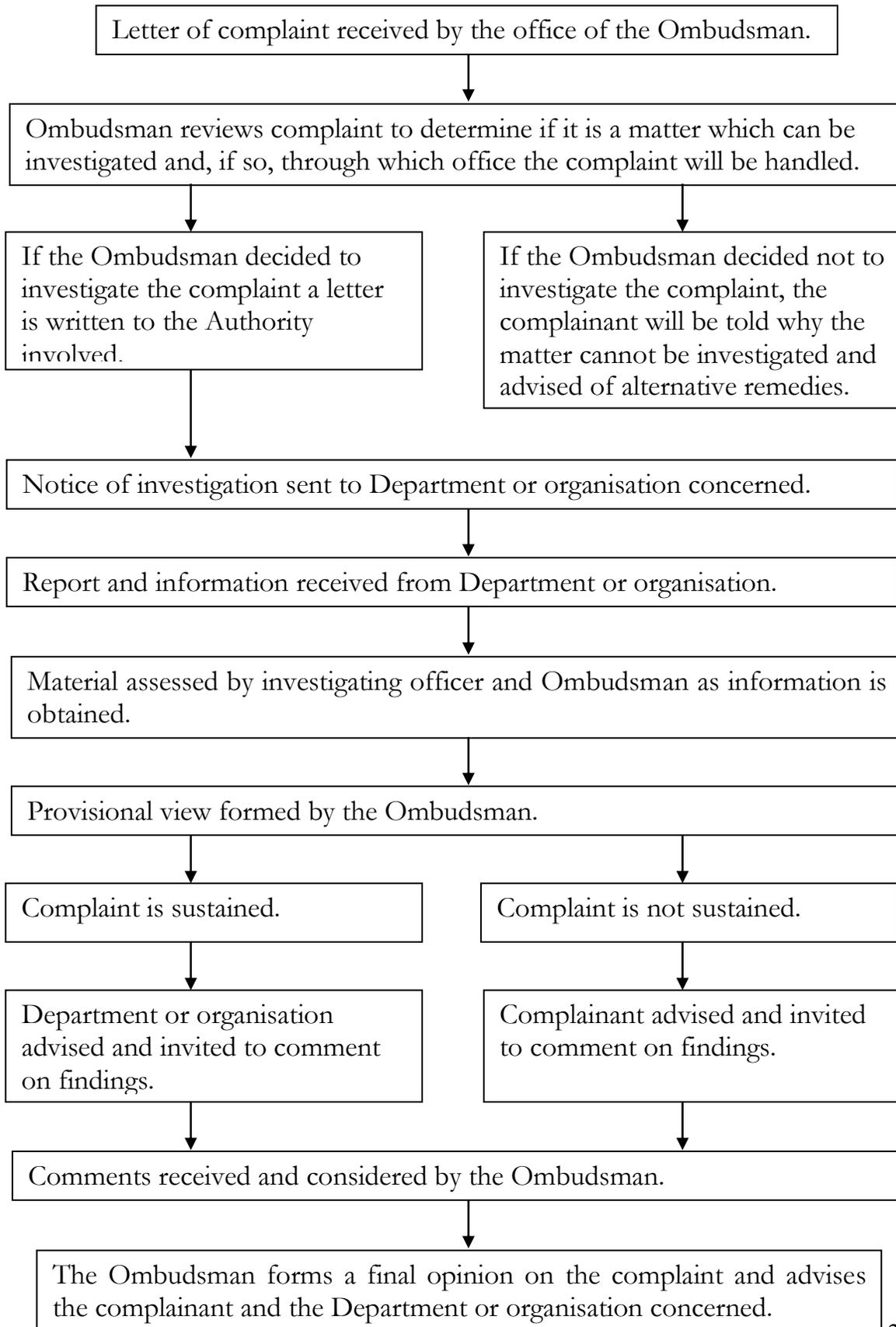
There are several ways to make a complaint:

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

Walk-ins – you can 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



Ombudsman Act

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

The Ombudsman Act can be found at <http://www.belizeaw.org/lawadmin/PDF%20files/cap005.pdf>. It provides 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.

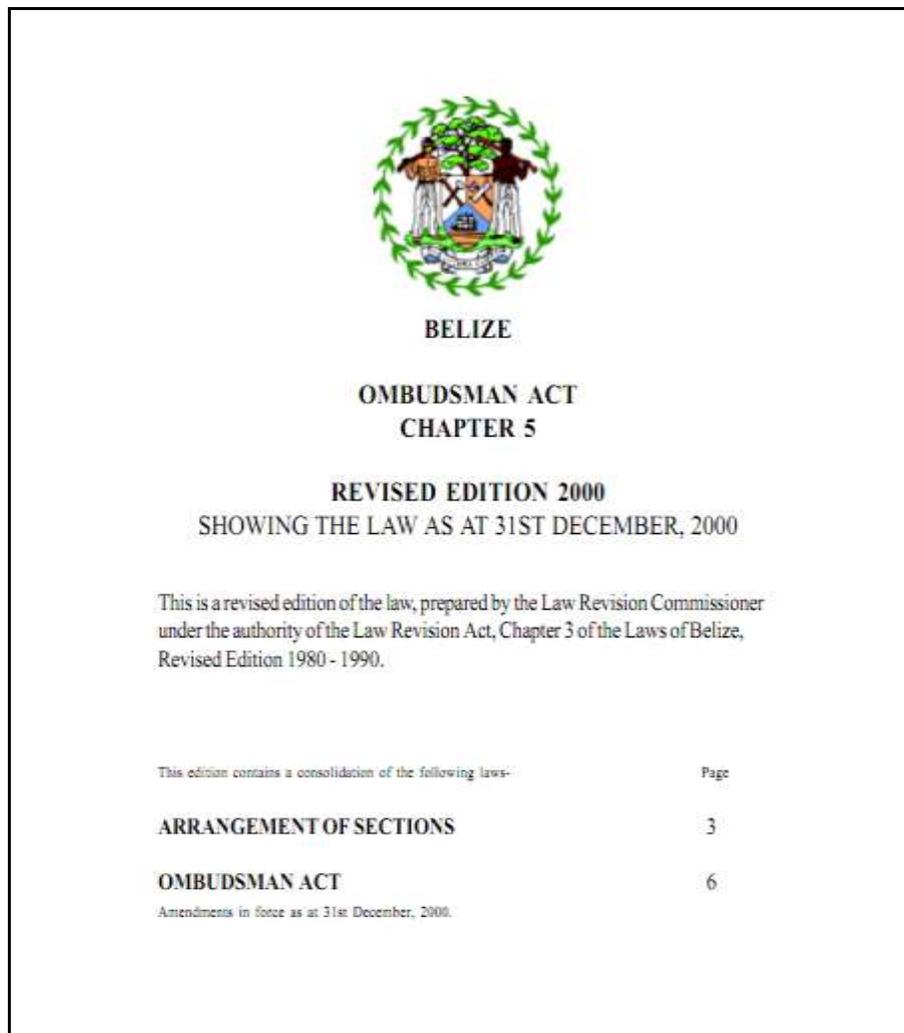
- **Section 15**
 - may refuse to undertake a an investigation if he believes
 - the complaint is trivial
 - the complaint is frivolous
 - the complainant has deferred for too long
 - the complainant lack sufficient interest
 - no investigation is necessary
- **Section 17**
 - may adopt whatever procedure 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

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



Below is an abridged version of the Declaration. The full Declaration is available at <http://www.un.org/en/documents/udhr/>.

- 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 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.

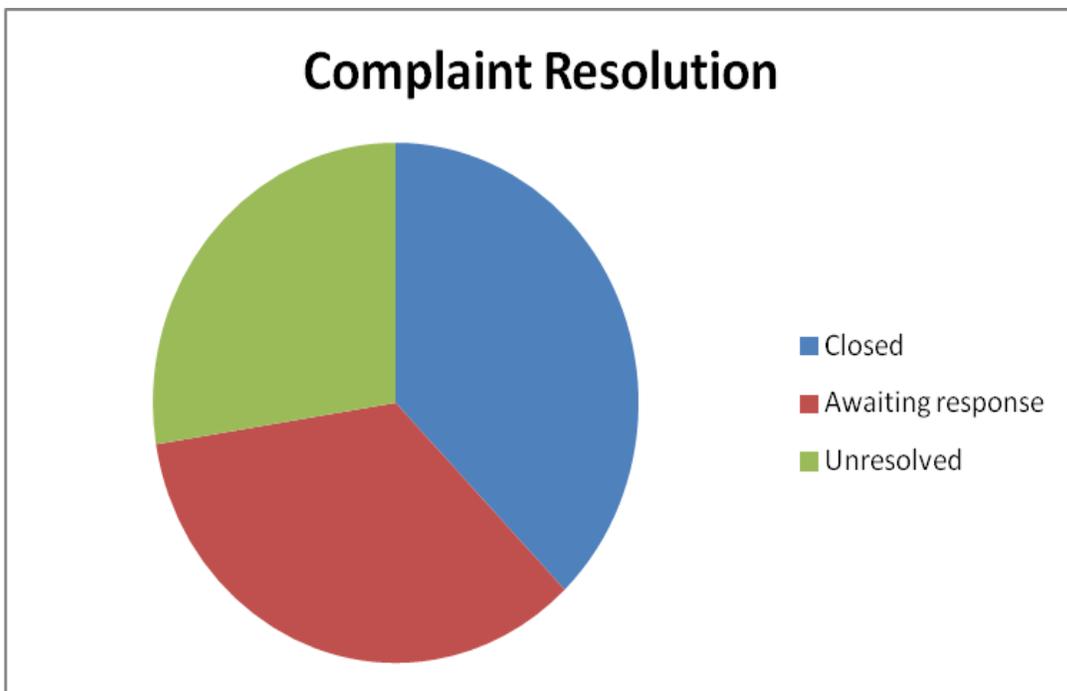
Article 28 Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

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.

Appendix - Statistics

193 Cases



SUMMARY OF DEPARTMENT COMPLAINTS

Ministry or Department or Authority	Complaints	Closed	Awaiting Response	Investigation Ongoing
Police Department	100	35	44	21
Lands Department	19	3	15	1
Prison	11	3	2	6
Social Security	8	8	0	0
Family Court	5	4	0	1
Magistrate Court	3	1	1	1
Supreme Court	3	3	0	0
Belize City Council	3	1	0	2
Ministry of Education	2	2	0	0
Ministry of Finance	2	1	1	0
KHMH	2	2	0	0
Ministry of Health	2	1	0	1
Belize Defence Force	2	0	0	2
Belize Coast Guard	1	0	0	1
Coral Beach Realty	1	0	0	1
Public Service	1	1	0	0
Income Tax	1	1	0	0
Agriculture & Fisheries	1	1	0	0
BTL	1	0	0	1
Housing Department	1	1	0	0
Transport Department	1	0	0	1
Ministry of Rural Development	1	0	0	1
Human Development	1	0	0	1
Service Commission	1	1	0	0
Alcade's Court	1	0	0	1
Ministry of Agriculture	1	1	0	0

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Department of Environment	1	0	1	0
Accountant General	1	1	0	0
Forestry Department	1	0	0	1
Social Services	1	1	0	0
Director of Public Prosecution	1	0	0	1
Clerk of Court	1	0	1	0
Area Representative	1	0	0	1
National Fire Station	1	1	0	0
Unclassified	10	1	3	6