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IN BRIEF

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15 October 2007

Veterans Ombudsman: Origins and Challenges

INTRODUCTION

On 3 April 2007, the government announced the creation of a Veterans Bill of Rights and the establishment of the Office of the Veterans Ombudsman.⁽¹⁾ This was in line with the commitment made by the Conservative Party during the campaign for the 23 January 2006 federal elections. On 15 October 2007, the Minister of Veterans Affairs announced the appointment of Colonel Patrick B. Stogran as Veterans Ombudsman. This document briefly examines the factors that led to the establishment of the Veterans Ombudsman's office and the challenges it faces.

DEMANDS FOR A VETERANS OMBUDSMAN

Although many injured veterans obtain the disability benefits and services they need from Veterans Affairs Canada, some experience delays during the application process or do not receive all the assistance they expect. They can appeal departmental decisions concerning their disability benefits to a quasi-judicial body called the Veterans Review and Appeal Board (VRAB). However, some veterans advocated the institution of the role of ombudsman to identify systemic problems that cause delays and to assist individuals seeking benefits and services.⁽²⁾ They pointed out that the creation of a Veterans Ombudsman was proposed as early as 1967 by a member of the Woods commission, which studied the modernization of veterans' benefits.⁽³⁾

ROLE OF MILITARY OMBUDSMAN

Some veterans also suggested that the Ombudsman for the Department of National Defence and the Canadian Forces could fulfil the role of Veterans Ombudsman. The military ombudsman has produced a number of reports dealing specifically with complaints from

veterans, but these concerned issues within the jurisdiction of the Department of National Defence, including military service pensions.⁽⁴⁾ The mandate clearly indicates that issues concerning disability benefits and services administered by the Department of Veterans Affairs cannot be examined.⁽⁵⁾ The military ombudsman was willing to play a greater role with respect to veterans' issues, if the mandate were modified accordingly.⁽⁶⁾ However, some were concerned that, even with an expanded mandate, the military ombudsman would probably continue to focus on military issues.

OMBUDSMEN IN OTHER COUNTRIES

Military ombudsmen in other countries also deal mainly with complaints from military personnel and have limited if any involvement with veterans' issues. One exception is Australia, where the Defence Force Ombudsman investigates complaints from veterans concerning the Department of Veterans Affairs as well as those from military personnel. The duties of the military ombudsman are carried out by the same person who acts as the Commonwealth Ombudsman, i.e., the parliamentary ombudsman for the whole country. Thus, Australian veterans have access to an ombudsman who reports to Parliament (through the Prime Minister) and who, unlike Canada's military ombudsman, has a legislated mandate.

The United Kingdom does not have a military ombudsman, but its Parliamentary and Health Service Ombudsman examines complaints concerning government departments and agencies, including the Veterans Agency.⁽⁷⁾ In the United States, few ombudsmen focus on veterans' issues. The state of Missouri has a Veterans Ombudsman who assists military personnel and veterans. Within the US Department of Veterans Affairs, the ombudsman of its Board of Veterans' Appeals (similar to the VRAB) deals mostly with customer service issues and does not intervene in the substance of appeal decisions.

REPORT OF THE STANDING COMMITTEE ON VETERANS AFFAIRS

During 2006, Veterans Affairs Canada examined these and other examples of ombudsmen to pave the way for the establishment of the Veterans Ombudsman's office. The House of Commons Standing Committee on Veterans Affairs also considered various ombudsmen models and heard testimony from veterans, ombudsmen, and departmental officials. In February 2007 it tabled a report, *A Helping Hand for Veterans: Mandate for a Veterans Ombudsman*, which recommended the creation of a Veterans Ombudsman with a legislated mandate who would report directly to Parliament and have sufficient resources to work in an independent and impartial fashion.⁽⁸⁾ In short, the committee envisioned the Veterans Ombudsman as an officer of Parliament who, like the Commissioner of Official Languages and the Information Commissioner, would be a parliamentary ombudsman.

ESTABLISHMENT OF THE OFFICE OF THE VETERANS OMBUDSMAN

The government reaffirmed its commitment to establish the Office of the Veterans Ombudsman in the March 2007 Budget speech. The Budget Plan stated that the new office would have a budget of \$5.3 million in 2007-2008 and \$6.3 million in subsequent years.⁽⁹⁾ This is essentially the same annual budget as the military ombudsman.⁽¹⁰⁾ The Budget Plan also allocated an additional \$13.7 million per year to Veterans Affairs Canada to improve services to veterans and to ensure "that concerns raised by the Ombudsman are addressed without delay."

On 3 April 2007, Prime Minister Stephen Harper announced the Veterans Bill of Rights and the establishment of the Office of the Veterans Ombudsman. According to the terms and conditions of employment outlined in Order in Council PC 2007-0530, the Veterans Ombudsman is appointed by the Governor in Council as a special adviser to the Minister of Veterans Affairs in accordance with the *Public Service Employment Act*. Thus, the office was not established through new legislation as recommended by the standing committee. However, the procedure followed by the government was the same one used for the other new ombudsmen appointed in 2007, including the Federal Ombudsman for Victims of Crime, the Taxpayers' Ombudsman, and the Procurement Ombudsman.

CHALLENGES

The Notice of Vacancy printed in the *Canada Gazette* on 14 April 2007 states that the Veterans Ombudsman

will act as a neutral, impartial and objective reviewer of complaints and systemic issues related to the programs and services of Veterans Affairs Canada; systemic issues related to the VRAB; and complaints from individuals related to the Veterans Bill of Rights.⁽¹¹⁾ Thus, the new ombudsman will deal with a wide variety of complex issues, ranging from the needs of veterans from the Second World War and the Korean War in long-term care centres to applications by recently injured military personnel for the benefits and services provided since 2006 by the New Veterans Charter.⁽¹²⁾

During the investigation of complaints concerning this wide variety of issues, the ombudsman, at least in the early stages, will need to win the trust of veterans, especially those who are sceptical about the impartiality of the office given that its reports are submitted to the minister. The ombudsman will have to demonstrate the ability to investigate complaints quickly and effectively despite their complexity and to make the most appropriate recommendations for resolving problems. Given the quasi-judicial nature of the VRAB, the Veterans Ombudsman is restricted to the review of systemic issues concerning the appeal process. As a result, the ombudsman will need to clearly explain to veterans what can and cannot be done with regard to complaints about VRAB decisions to avoid creating expectations that cannot be met.

Perhaps one of the greatest challenges faced by the Veterans Ombudsman will be to determine how to deal with complaints where there is not a clear line between issues within the jurisdiction of the Department of National Defence and those for which Veterans Affairs is responsible. For example, some veterans complain about the clawback or deductions of their Service Income Security Insurance Plan (SISIP) Long Term Disability benefits, a National Defence issue, when they start receiving disability benefits from Veterans Affairs. In recent years, the military ombudsman has issued a report and numerous letters about these deductions, but can only wait for National Defence authorities to take action.⁽¹³⁾ Some veterans may forward complaints on this question to the Veterans Ombudsman, who might be in a quandary while deciding how to respond. Although the mandate is limited to Veterans Affairs issues, the Veterans Ombudsman may come under significant pressure to play a role in resolving problems faced by veterans in general, not just the clients of Veterans Affairs Canada. If nothing else, the Veterans Ombudsman may have to establish as quickly as possible a close working relationship with the military ombudsman to avoid duplication of effort and to collaborate effectively on issues where both departments are involved.

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- (1) For the Veterans Bill of Rights and announcements concerning the Veterans Ombudsman, see <http://www.vac-acc.gc.ca/clients/sub.cfm?source=bor/broc>.
 - (2) See, for example, *Ombudsman Report on Veterans Affairs Canada, Veterans' Ombudsman Independent Client Evaluation (V.O.I.C.E.)*, November 2005, <http://www.veteranvoice.info/ARCHIVE/VACombudsman2005.pdf>.
 - (3) See Canada, *Report of the Committee to Survey the Organization and Work of the Canadian Pension Commission to the Honourable the Minister of Veterans Affairs* (Woods commission), Part IV Miscellaneous Areas (Volume III), 22 March 1968, pp. 1240-88. The report was drafted in 1967, but was sent to the minister only in 1968 after it was translated.
 - (4) See the *Canadian Forces Superannuation Act*.
 - (5) See paragraph 16, Limitations, of the Mandate of the Ombudsman for the Department of National Defence and the Canadian Forces available on the Ombudsman's website, <http://www.ombudsman.forces.gc.ca/au-ns/man/md-dm-eng.asp>.
 - (6) See for example the testimony of André Marin during the 5 May 2004 meeting of the Subcommittee on Veterans Affairs of the House of Commons Standing Committee on National Defence and Veterans Affairs. See also Mr. Marin's statement during the 7 April 2005 meeting of the Standing Committee on National Defence and Veterans Affairs.
 - (7) However, all other avenues of resolving a dispute must be exhausted before a complaint can be considered.
 - (8) See <http://cmte.parl.gc.ca/Content/HOC/committee/391/acva/reports/rp2711640/acvarp02/acvarp02-e.pdf>.
 - (9) See Canada, Department of Finance, Budget Plan (Budget 2007), Chapter 6, p. 256, <http://www.budget.gc.ca/2007/pdf/bp2007e.pdf>.
 - (10) See the table concerning the Office of the Ombudsman for the Department of National Defence and the Canadian Forces in Canada, Treasury Board, *Main Estimates, Report on Plans and Priorities* (Department of National Defence), Part III, 2007-2008, Section 3, http://www.tbs-sct.gc.ca/rpp/0708/ND-DN/nd-dn06_e.asp.
 - (11) Canada, *Canada Gazette*, Part I, Vol. 141, No. 15, 14 April 2007, pp. 881-3, <http://canadagazette.gc.ca/partI/2007/20070414/pdf/g1-14115.pdf>.
 - (12) For information on the New Veterans Charter, see <http://www.vac-acc.gc.ca/clients/sub.cfm?source=Forces/nvc&CFID=4479256&CFTOKEN=44984816>.
 - (13) See the military ombudsman's letter of 15 June 2007 to the Minister of National Defence, <http://www.ombudsman.forces.gc.ca/mr-sm/lc/2007/sisip-rarm02-eng.asp>.