



# OMBUDSMAN FOR THE NORTHERN TERRITORY OF AUSTRALIA

## Twenty-Seventh Annual Report 2004-2005

The Honourable Clare Martin, MLA  
Chief Minister  
Parliament House  
DARWIN NT 0801

Dear Chief Minister

In accordance with the provisions of Section 28(1) of the *Ombudsman (Northern Territory) Act 1978*, the Annual Report on the Office of the Ombudsman for the year ending 30 June 2005 is submitted to you for tabling in the Legislative Assembly.

The report covers a period before the appointment of the current Ombudsman and is therefore submitted jointly with the Deputy Ombudsman.

Yours sincerely

Carolyn Richards  
Ombudsman

Vic Feldman  
Deputy Ombudsman

October 2005

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## STATEMENT OF ACCOUNTABLE OFFICER

We advise in respect of our duties as Accountable Officers, and to the best of our knowledge and belief:

- (a) proper records of all transactions affecting the Office were kept and employees under my control observed the provisions of the *Financial Management Act*, the *Financial Management Regulations* and Treasurer's Directions;
- (b) procedures within the Office afforded proper internal control, and a current description of these procedures can be found in the *Accounting and Property Manual* which has been prepared in accordance with the *Financial Management Act*;
- (c) no indication of fraud, malpractice, major breach of legislation or delegations, major error in or omission from the accounts and records existed;
- (d) in accordance with Section 15 of the *Financial Management Act* the internal audit capacity available to the Office is adequate and the results of internal audits were reported to me;
- (e) the financial statements included in this Annual Report have been prepared from proper accounts and records and are in accordance with Part 2, Section 5 of the *Treasurer's Directions* where appropriate; and
- (f) all actions have been in compliance with all Employment Instructions issued by the Commissioner for Public Employment.

In addition, we advise that in relation to items (a) and (e) the Chief Executive Officer (CEO) of DCIS has advised that to the best of his knowledge and belief, proper records are kept of transactions undertaken by DCIS on my behalf, and the employees under his control observe the provisions of the *Financial Management Act*, the *Financial Management Regulations* and Treasurer's Directions.

The CEO of DCIS also advises all financial reports prepared by DCIS for this Annual Report, have been prepared from proper accounts and records and are in accordance with Treasurer's Directions Part 2, Section 5 and Part 2, Section 6, where appropriate.

VIC FELDMAN  
Deputy Ombudsman  
Acting Ombudsman (24/3/05 – 30/6/05)

CAROLYN RICHARDS  
Ombudsman



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# 1. INTRODUCTION AND OVERVIEW

## OMBUDSMAN'S FOREWORD

This is the twenty seventh Annual Report of the Ombudsman for the Northern Territory. The previous Ombudsman, Mr Peter Boyce, ended his two terms and ten years of service in March 2005. Mr Vic Feldman then acted in his place. During the reporting period they guided the team at the Ombudsman's Office in achieving the outcomes described in this Annual Report.

It is significant to note that during this financial year there has been 39% more approaches to the Office than in the previous year. The number of approaches to the Office has doubled since 2001/2002 (1638 – 3275) without any increase in staff numbers. In the period 2004/2005 there has been a 28% increase in the number of matters finalised. This all adds up to a major increase in productivity that indicates substantial improvements in processes, dedication and professionalism of all staff within the Office.

I took up the position of Ombudsman on 29 August 2005, four weeks before I am finalising this report. My observations on the Office and the statistics provided in this report are that:

- the workload of those managing inquiries has reached saturation point. Any further increase in approaches is likely to stretch resources available for this purpose and impact on the ability to resolve complaints in a timely manner;
- I am concerned at the backlog of long standing complaints against police. The timeframe in which they are being finalised is unacceptable. Only 54% of police complaints were finalised within the benchmark time of 180 days. Many are taking over a year to complete. This is not a reasonable timeframe and is a cause of criticism of this Office. The delays are occurring mainly in the Office of the Ombudsman after receiving all necessary information from the Professional Responsibility Command of NT Police. Redressing this backlog will be a top priority. I am not yet in a position to determine whether the reason for the backlog is the accumulation of a long time inadequate personnel establishment or an aberration in what is the normal workload. Whatever the reason the result is unacceptable.

One of the major objectives of the Office is to work with agencies, local government councils and police to improve the quality of services provided to the public. To achieve this, the Ombudsman makes recommendations and suggestions for improvement as a result of undertaking inquiries and investigations. It is pleasing to note how effective the Office has been in this regard. Of the 108 recommendations made throughout the year, 102 were adopted and implemented in some form.

The Office has continued to operate within budget but only at the expense of reducing funding available for discretionary activities such as access and awareness, staff development and training. This approach puts the interests of the persons approaching the Office above the welfare of the staff and, in the short term, at times of overload, is the



only way to compensate for reduced operational expenditure. There is a limit beyond which activities can be reduced and an unacceptable quality of service and an unfair burden on staff morale and diminished job satisfaction and, ultimately, productivity occurs. The situation with the backlog of complaints against police not undertaken or completed suggests to me that that limit has already been reached and is encroaching on non-discretionary functions. This is not an acceptable outcome and is one that I will be asking government to review prior to next year's budget allocation. The value that government places on finalising a complaint within a reasonable timeframe is reflected in the allocation of resources and ultimately government must effect that priority.

It was mentioned in the 2003/2004 Annual Report that a Cabinet Submission to amend the *Ombudsman (Northern Territory) Act* was deferred. The government and myself are keen to have the review finalised and the Act amended before the end of 2005. All stakeholders are working co-operatively to try and achieve this end. The government is also considering enacting another piece of legislation which will impact on the operations of the Office of the Ombudsman, the Public Interest Disclosure Act. The functions given to the Ombudsman under that proposed Act will dovetail with the functions now carried out under the *Ombudsman (Northern Territory) Act*.

The Office of the Ombudsman, over the past twelve months, appears to have made a difference and contributed to improving the administrative practice of government agencies and local government councils. It has monitored the conduct of police and contributed (so far as possible) to improving police practices and procedures. The citizens of the Northern Territory and members of the Legislative Assembly can be confident that they have an Ombudsman's Office that is fair, impartial and effective.

I commend all staff of the Office for their hard work, dedication and professionalism in carrying out their duties in an environment that is often pressured and stressful. I am fortunate to have such a dedicated team working with me and pledge myself to maintain the high standards of the office and not to disappoint the rightful expectations of the citizens of the Northern Territory for the Office of the Ombudsman.

## OVERVIEW

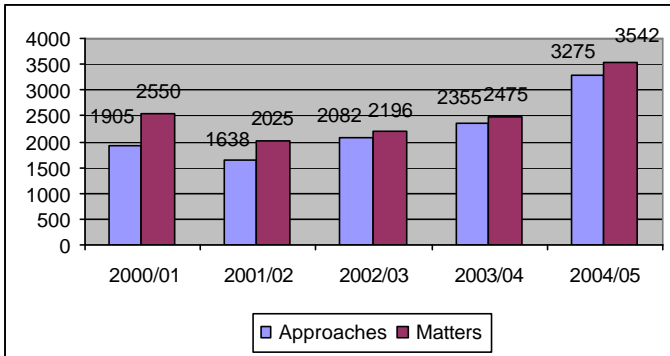
### WORKLOAD

#### Number of Approaches Received and Matters Raised

'Approaches' are the number of contacts made by individuals or entities to the Office seeking assistance and includes enquiries and complaints. 'Matters raised' are the specific issues raised in a complaint, which can be multiple.



**Graph 1: Comparison of total approaches and matters over past five years**

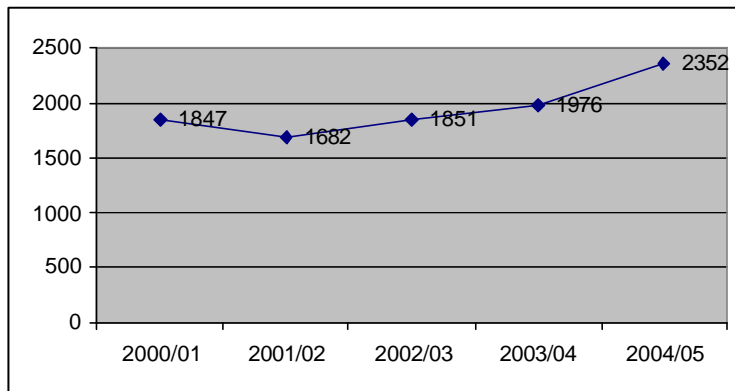


During this financial year the Ombudsman's Office received 3275 approaches which consisted of 3542 matters of complaint. Since the last financial year, there has been an increase of 39% (920) in the number of approaches and 43% (1067) in matters of complaint

**Approaches finalised during the year**

Graph 2 depicts the number of approaches finalised over the past five financial years. It can be seen from this that there has been an increase in the number of approaches finalised this year (2352) compared to last year (1976). This represents an overall increase of 28% in the output of the Office.

**Graph 2: Approaches finalised over the past three years**



**EFFICIENCY**

Table 3 and Graph 4 indicate the Ombudsman's overall efficiency in finalising complaints.

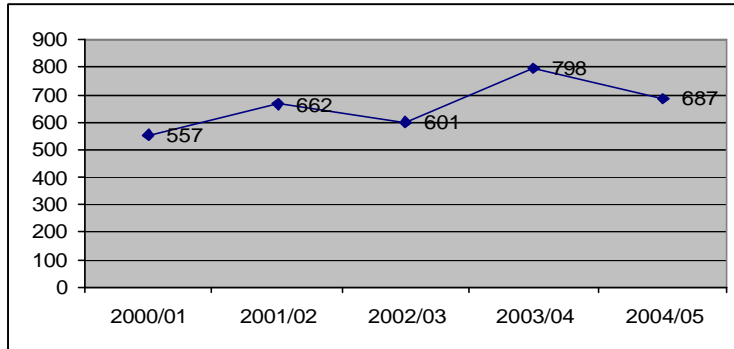
**Table 3: Time taken to close complaints**

Performance Benchmark	2003/04 % meeting target	2004/05 % meeting target
<b>General complaints:</b> 65% of complaints should be finalised within 90 days.	63%	94%
<b>Police complaints:</b> 60% of complaints should be finalised within 180 days.	66%	54%



The time taken to finalise general complaints has improved substantially when compared against the benchmark. On the other hand, complaints against police are taking longer to finalise.

**Graph 4: Cost per finalised approach over three years (General and Police)**



The cost per finalised approach is calculated by dividing the total funds expended on the complaint resolution activity (refer to page 14) by the number of approaches that were finalised during the year. Using that simplistic methodology there appears to have been a decrease from \$798 in 2003/04 to \$687 in 2004/05. The difference is 14% but is only an indicator as the methodology does not take into account work in progress.

### **BUDGET SNAPSHOT**

The 2004/05 budget for the agency of the Ombudsman was divided into two separate programs. For budget purposes, Treasury has determined that the 'Agency' of the Ombudsman is one activity with two separate programs. This ensures the separate budget allocations for the Office of the Ombudsman and the Health and Community Services Complaints Commission are able to be administered together, but maintained as separate statutory entities in accordance with the legislation. The total expenditure for the year was **\$2,293,000**. This expenditure was divided between the two programs as follows:

- the Office of the Ombudsman **\$1,739,000**
- the Health and Community Services Complaints Commission **\$554,000**

To some extent the division is arbitrary as some common costs cannot be easily divided.



## 2. ABOUT THE OFFICE OF THE OMBUDSMAN

The Ombudsman for the Northern Territory is established and operates under the *Ombudsman (Northern Territory) Act 1978*.

### VISION

To have:

- a Northern Territory public sector that is recognised and respected as providing a fair, efficient and quality administrative service to the public; and
- the Office of the Ombudsman evidencing best practice in the provision of its service.

### MISSION

The mission of the Office of the Ombudsman is to:

- resolve complaints in an appropriate, fair, just and independent manner;
- assist Parliament in safeguarding the public interest; and
- work in co-operation with NT public sector agencies for improvement in quality of service to the public.

### GOALS

1. Complaints are resolved in a timely and effective manner.
2. Government agencies act and deliver services in a fair, equitable and impartial manner.
3. The public are aware of, able to access, and are educated and informed about the role and functions of the Ombudsman.
4. The Office of the Ombudsman meets all its legislative and employment responsibilities.

### SERVICE STANDARDS

The services provided by the Ombudsman aim for the highest quality, to be open to scrutiny and accountable. As such, the Office has developed service standards against which it can be measured. These service standards are provided in detail at Appendix E, page 105.





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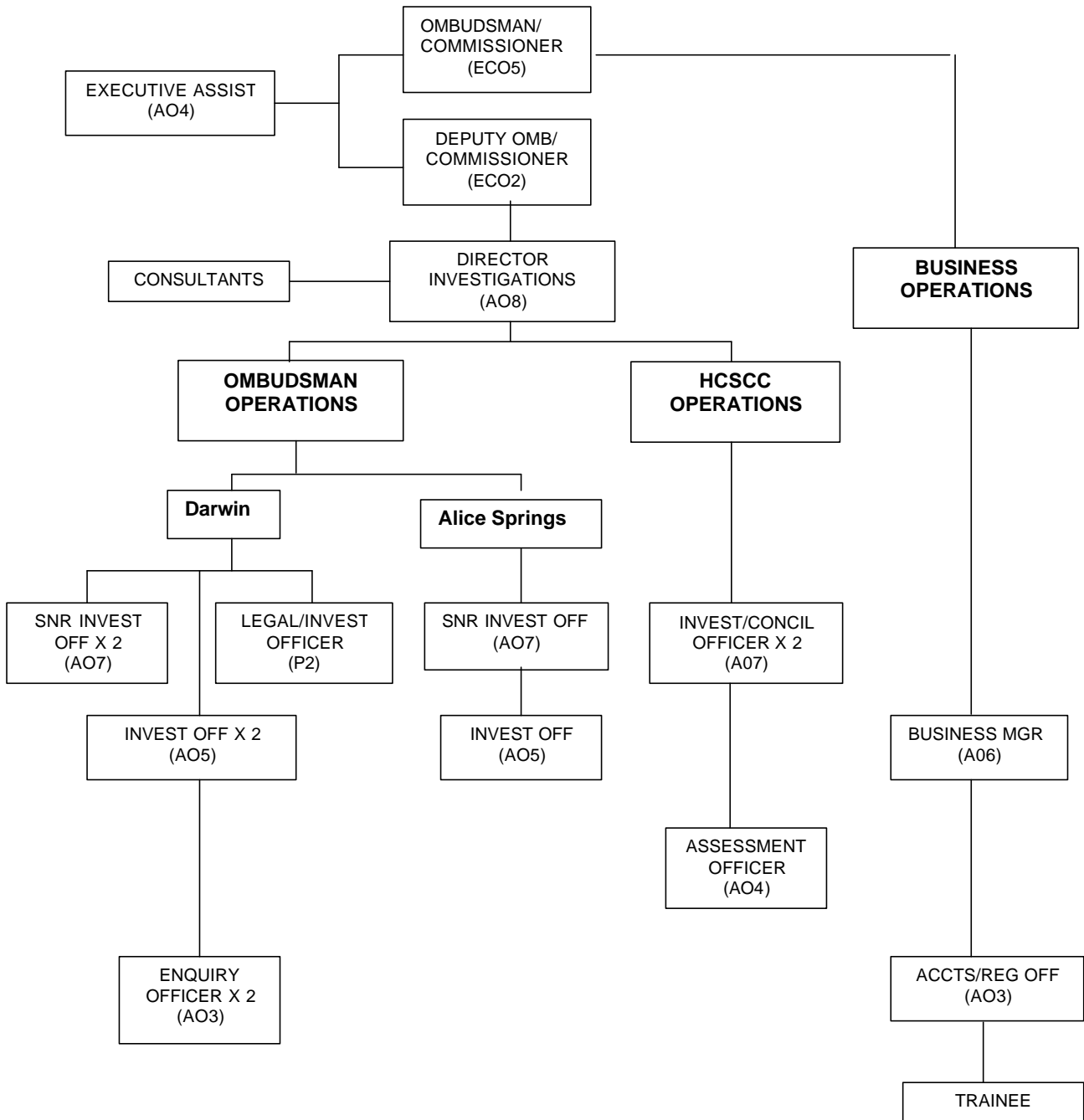
## **FUNCTIONS OF THE OMBUDSMAN**

The functions of the Ombudsman are:

1. To investigate any administrative action by, in, or on behalf of, any Northern Territory Government Agency or Local Government Council to which the *Ombudsman (Northern Territory) Act* applies.
2. To investigate any action taken, or refusal to take action, by a member of the Police Force of the Northern Territory, whether or not that action was an administrative action, where that action was, or was purported to be, for, or in connection with, or incidental to, the exercise or performance of that member's powers or functions as a member of the Northern Territory Police Force.
3. Pursuant to Section 9 of the *Health and Community Services Complaints Act* the Ombudsman is also appointed as the Commissioner for Health and Community Services Complaints. The Commission reports separately to the Legislative Assembly.
4. Pursuant to a co-location agreement with the Commonwealth Ombudsman, to provide administrative support to a representative of the Commonwealth Ombudsman's Office who is co-located within the Office of the Ombudsman in Darwin.
5. Pursuant to Section 48 of the *Legal Practitioners Act 1974* and by virtue of the role as Ombudsman for the Northern Territory, to act as a Statutory Member of the Legal Practitioners Complaints Committee.
6. To act as a member of the Northern Territory Law Reform Committee.
7. To consider requests from the Law Society of the Northern Territory for assistance in carrying out its functions.



## ORGANISATIONAL STRUCTURE



**Note:**

The organisation chart includes reference to the Health and Community Services Complaints Commission (HCSCC) to illustrate the relationship between relevant positions in the Ombudsman's Office, and to show the shared human resources included under the expenses of the Office of the Ombudsman.



## STAFFING

**Table 5: Ombudsman's establishment**

Position Level	Estab
Ombudsman ECO5 <sup>1</sup>	1
Deputy Commissioner ECO2 <sup>2</sup>	1
Administrative Officer 8	1
Administrative Officer 7	3
Professional Level 2	1
Administrative Officer 6	1
Administrative Officer 5	3
Administrative Officer 4	1
Administrative Officer 3	3
Trainee	1
<b>Total</b>	<b>16</b>

## FINANCES

Financial statements are provided at Appendix F, page 107. These statements show that the Office of the Ombudsman had a reasonable financial result during the year and, importantly, did not exceed budget allocation. The total expenditure by the Ombudsman's Office for the year 2004/05 was **\$2,293,000**.

### EXPENDITURE AGAINST LOCATION

The Office of the Ombudsman has offices located in Darwin and Alice Springs. The total expenditure for 2004/05 was \$2,293,000 and this was expended against each office as follows:

- Darwin Office \$2,063,700 (90%)
- Alice Springs Office \$229,300 (10%)

### FINANCIAL ITEMS OF SIGNIFICANCE

The following items were of significance in relation to the Ombudsman's 2004/05 budget:

- Funding for EBA adjustment – 5% increase to salaries \$29,000.
- One-off funding for the following items:
  - Completion of Executive Contract \$52,000
  - Costs associated with the Review of the *Ombudsman (Northern Territory) Act* \$46,000
  - Recruitment costs for NT Ombudsman \$16,000
  - Maternity leave \$21,000

<sup>1</sup> The Ombudsman for the Northern Territory is also the Commissioner for Health and Community Services Complaints.

<sup>2</sup> The Deputy Ombudsman is also the Deputy Commissioner for Health and Community Services Complaints.



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## **LEGAL PRACTITIONERS COMPLAINTS COMMITTEE**

The Ombudsman is appointed, pursuant to section 48 of the *Legal Practitioners Complaints Act, 1974*, as a statutory member of the Legal Practitioners Complaints Committee by virtue of holding the statutory position of Ombudsman for the Northern Territory.

The role of the Legal Practitioners Complaints Committee is to hear complaints of professional misconduct made against legal practitioners.

In 2004/05, the Ombudsman was not been involved in any complaints concerning legal practitioners.

## **NORTHERN TERRITORY LAW REFORM COMMITTEE**

The Ombudsman is a member of the Northern Territory Law Reform Committee which is chaired by the Hon. Austin Asche, AO, QC.

During the year, the Ombudsman has attended meetings of the Committee where possible.



### 3. PERFORMANCE

The *Ombudsman (Northern Territory) Act* provides the Ombudsman with the power to investigate administrative actions, decisions, practices and procedures of government agencies, statutory bodies, local government councils and the NT Police.

The activities the Ombudsman undertakes are:

1. To provide an independent, just, fair and accessible mechanism for resolving complaints.
2. To utilise the information gained through the complaint resolution process to improve the delivery of services provided by agencies.
3. To promote access and awareness of the role of the Ombudsman to the public and agencies.
4. To ensure the Office of the Ombudsman meets all its legislative and employment responsibilities.

#### OVERALL PERFORMANCE

The overall performance of the Ombudsman during 2004/05 (as stated in Budget Paper No. 3) follows:

Performance Measures	Unit of Measure	2000/01 Achieved	2001/02 Achieved	2002/03 Achieved	2003/04 Achieved	2004/05 Achieved
Quantity	1. Number of approaches	1905	1638	2082	2355	3275
	2. Number of access and awareness visits	46	30	37	36	30
Quality	1. Percentage of reviews of decisions requested	Not available	Not available	11	2.7%	3%
	2. Percentage of consumer satisfaction feedback	Not available	Not available	Available from 01/01/04	74%	61%
Timeliness	1. Percentage of complaints closed within 90 days.					
	a) General	71%	64%	62%	63%	94%
	b) Police (180 days)	30%	14%	49%	66%	54%
	2. Percentage of formal investigations resolved within 180 days	Not available	Not available	0%	0%	0%

**Note:** A new case management system commenced at the beginning of 2002/03 and therefore some of these Performance Measures were not available under the previous computerised case management system. The benchmark for the resolution of Police Complaints increased to 180 days in 2003/04.



## ACTUAL EXPENDITURE ON OMBUDSMAN ACTIVITIES

Actual expenditure to undertake the Ombudsman's activities for 2004/05 was \$1,739,000

It is estimated that of the \$1,739,000 expended, the proportions spent on each corporate goal of the Ombudsman during 2004/05 were as follows:

**Table 6:** *Expenditure of funds against corporate goals*

GOAL	2001/02 \$000	%	2002/03 \$000	%	2003/04 \$000	%	2004/05 \$000	%
1. Resolution of Complaints	1,203	77.5	1,114	77.5	1,267	78.5	1,200	69
2. Equitable and Impartial Delivery of Services	78	5	72	5	81	5	157	9
3. Access and Awareness	39	2.5	36	2.5	24	1.5	35	2
4. Management of the Office	233	15	216	15	242	15	348	20



## ACTIVITY 1: RESOLUTION OF COMPLAINTS

### DESCRIPTION

To provide an independent, just and accessible mechanism for resolving complaints against Territory Government agencies, police and local government councils.

### OUTCOME

Resolution of complaints against Territory Government agencies, police and local government councils.

### OUTPUTS

1. Accept enquiries and complaints.
2. Assess complaints in a timely, fair and independent manner.
3. Investigate complaints in a timely, thorough and independent manner.
4. Take appropriate action as a result of investigations.

### COST

Total expenditure by the Ombudsman's Office on this activity was:

69% of Ombudsman's actual expenditure	\$1,199,910
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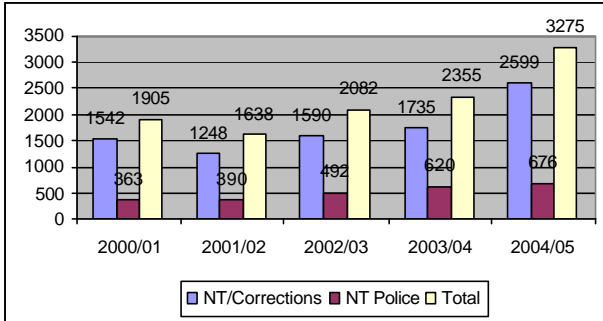
### OVERALL HIGHLIGHTS

#### APPROACHES (ENQUIRY/COMPLAINT NUMBERS) OVERALL

Approaches to the Office are made up of enquiries and complaints received in person, by telephone, by email, via the internet or in writing. Many enquiries can and are handled quickly. A detailed statistical analysis of all enquiries and complaints received during 2004/05 can be found at Appendix C, pages 85 to 99 and examples of case studies are at Appendix A, pages 40 to 83.



**Graph 7: New approaches for NT Agencies, NT Police and combined**



There has been a rise in the number of approaches for both the police (9%) and general (50%) jurisdictions this year which has culminated in a 39% increase in the number of approaches overall.

A comparison between approaches received over the past five years broken down between enquiries and complaints is provided at table 8.

**Table 8: Comparison between approaches received over past 5 years**

Approaches	2000/01	2001/02	2002/03	2003/04	2004/05
Enquiries	1045	850	1472	1804	2141
Complaints	860	780	610	551	1134
<b>Total</b>	<b>1905</b>	<b>1638</b>	<b>2082</b>	<b>2355</b>	<b>3275</b>

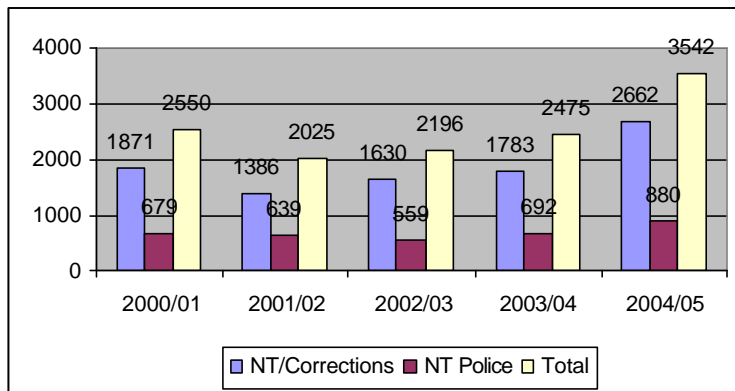
Compared to last year there has been a 19% increase in the number of enquiries received while the number of formal complaints dealt with has increased by 105%.

Of all approaches to the Office, 35% were dealt with as formal complaints under the Act. In previous years 23% of all approaches were dealt with on a formal basis.

### OVERALL MATTERS OF COMPLAINT

Many people who approach the Ombudsman are aggrieved by more than one matter. Refer to Appendix C, pages 91 to 99 for a detailed breakdown of the matters complained about.

**Graph 9: Total matters of Enquiries/Complaint**

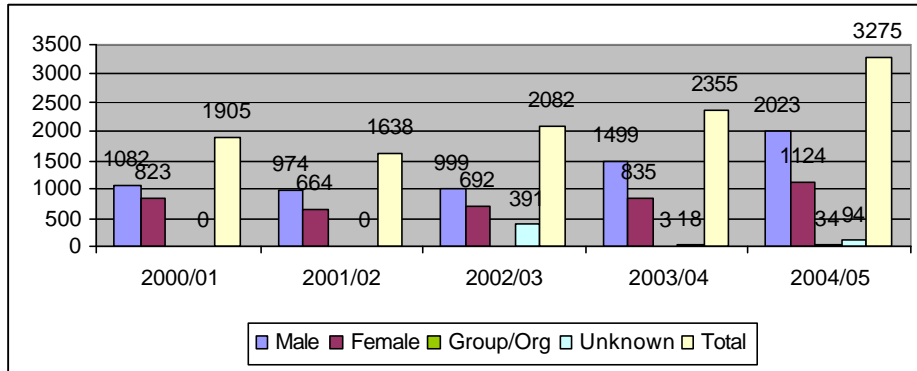






## WHO COMPLAINS?

**Graph 10: Gender Breakdown all Enquiries/Complaints**



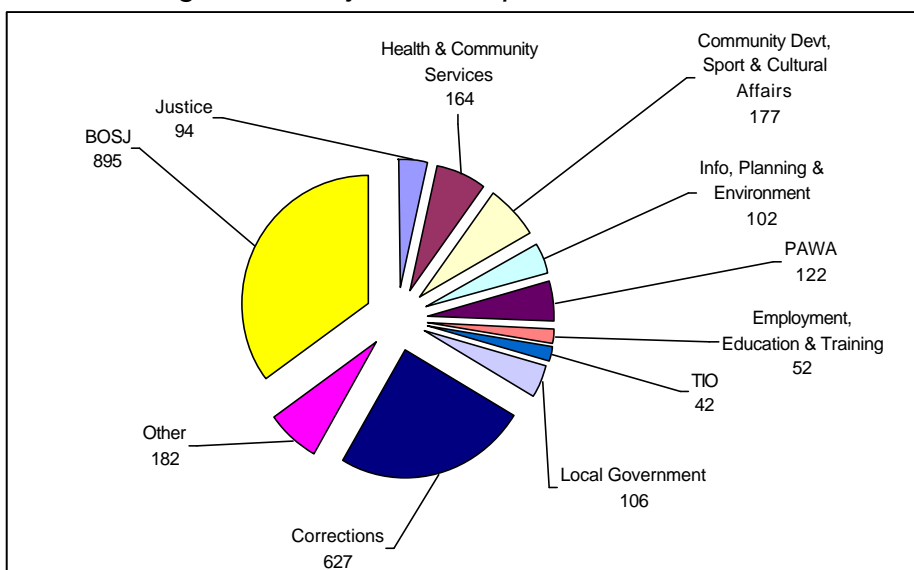
As Graph 10 shows, over the past five years the gender breakdown of people approaching the Office has only varied slightly. The above percentages can be compared with the overall male to female ratio in the Northern Territory which is 52:48, a somewhat different situation to that in other parts of Australia where the percentage is the reverse.

## NORTHERN TERRITORY AGENCIES (INCLUDING NT CORRECTIONAL SERVICES)

### WHICH AGENCIES DO PEOPLE COMPLAIN ABOUT?

Chart 11 below provides a breakdown of agencies that have been the subject of complaint, excluding complaints against Police, over the past year.

**Chart 11: Agencies subject to complaints**



**Note:** BOSJ refers to complaints made to the Ombudsman concerning bodies that are outside the jurisdiction of the Ombudsman and complainants were referred to appropriate bodies to action.



Agencies included in the Other category are:

- Anti Discrimination Commission (1);
- Batchelor Institute of Tertiary Education (7);
- Bushfires Council NT (4)
- Business, Industry and Resource Development (18);
- Charles Darwin University (21);
- Department of the Chief Minister (6);
- Corporate and Information Services (21);
- Development Consent Authority (7);
- Legal Aid Commission (17);
- Ombudsman for the NT (18);
- Police, Fire and Emergency Services (administrative actions only, 30);
- Port Authority (Darwin) (1);
- Teacher Registration Board (2);
- Tourist Commission (2);
- Treasury (27).

The following table compares the past two financial years according to the agency concerned.

**Table 12:** Agency approaches over previous two years

<b>Agencies</b>	<b>2003/04</b>	<b>2004/05</b>	<b>Variation %</b>
Correctional Services	362	627	73
Health & Community Services	104	164	58
Community Development, Sport & Cultural Affairs	121	177	46
Infrastructure, Planning & Environment	84	102	21
Justice	83	95	2
TIO	35	42	20
Employment, Education & Training	51	52	2
PAWA	44	122	177
Local Government	66	106	61
Other	98	181	85
Out of Jurisdiction	687	895	30
<b>TOTAL</b>	<b>1735</b>	<b>2563</b>	<b>48</b>

Similar to 2003/04, the greatest number of approaches was from prisoners about the activities of Correctional Services. These approaches increased from the previous year by 73%, that is, from 362 approaches to 627. Contact with the Ombudsman continues to increase since prisoners have had greater access to a telephone line whereby they can contact the Ombudsman's Office directly and where this call is free and not monitored. It is important to note that the intent of the Act is that the Ombudsman be an office of last resort. Therefore 153 complaints were declined and were referred back to Correctional Services to deal with in the first instance.



In relation to the two major Corrections facilities, the variation over the two years is as follows:

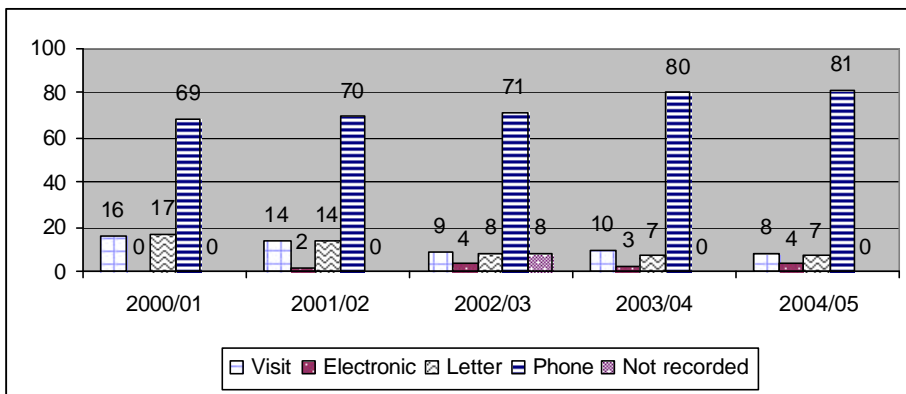
**Table 13:** Approaches about Correctional Centres over previous two years

Facility	2003/04	2004/05	Variation
Alice Springs	185	173	-12
Darwin	176	443	267

### MEANS OF APPROACH

The Ombudsman's Office can receive complaints in a number of ways. 81% of complaints were received by telephone.

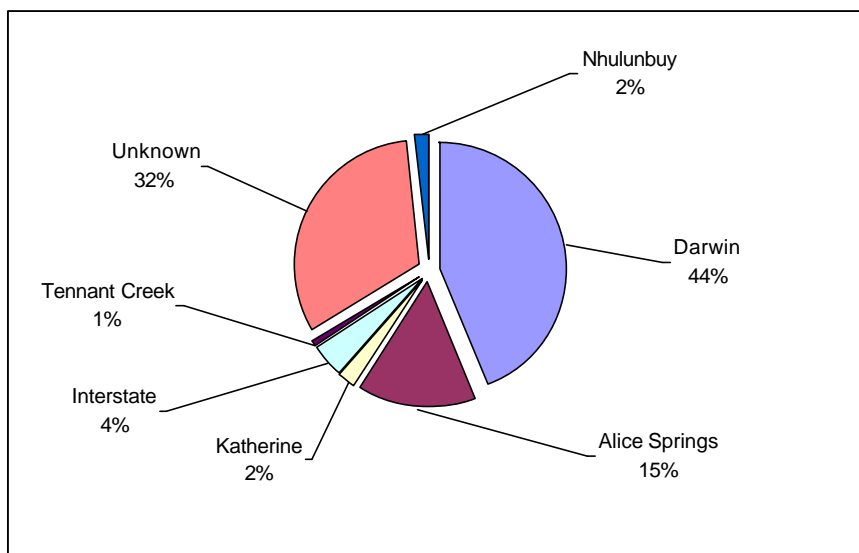
**Graph 14:** Means of approach to the Ombudsman by %



The manner in which complainants approach the Ombudsman's Office has not significantly changed over the past four years.

### GEOGRAPHIC SOURCE OF COMPLAINT

**Chart 15:** Geographic source of complaint





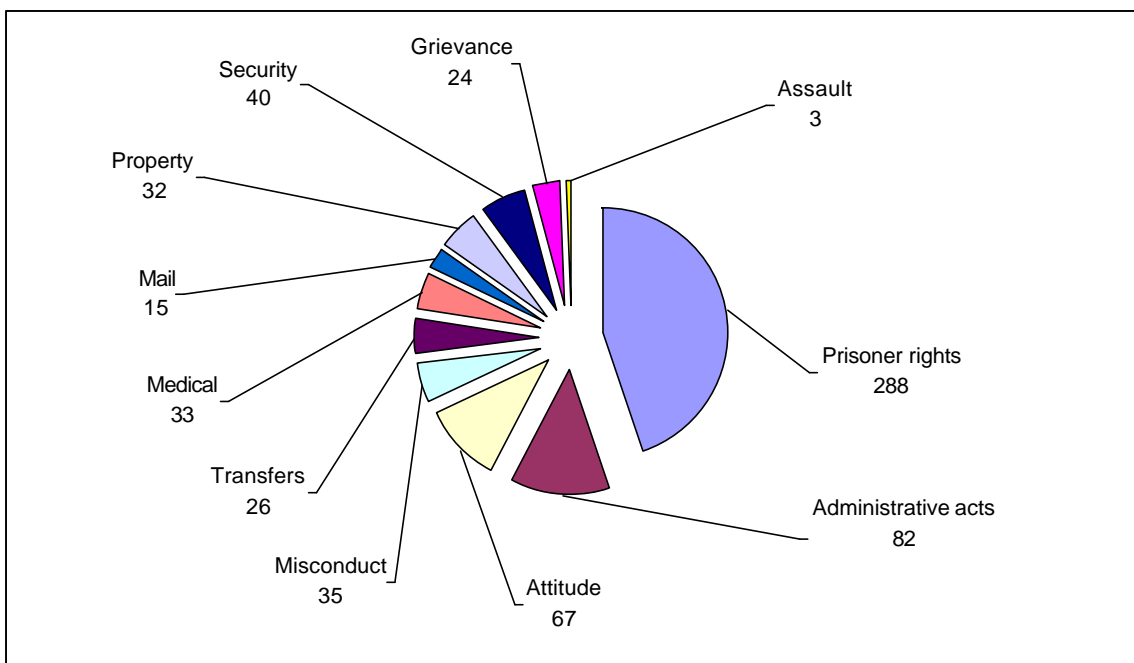
## MATTERS COMPLAINED ABOUT

Information is recorded about the matters described in every enquiry and complaint. Different matters are identified for complaints against Correctional Services and those for the remainder of NT agencies, including local government.

The matters people complained about for these two areas were as follows:

### Correctional Services

**Chart 16: Matters Raised in Enquiries/Complaints for Correctional Services**



There were 628 approaches in respect of NT Correctional Services (362 in 2003/04) raising 675 matters of complaint (376 in 2003/04). As can be seen from Table 17 there has also been a marked change from last year in the major matters complained about.

**Table 17: Corrections matters most complained about – Five year comparison**

Matter	2000/01		2001/02		2002/03		2003/04		2004/05	
	No.	%	No.	%	No.	%	No.	%	No.	%
Prisoner rights	84	35%	29	22%	75	27%	133	35%	288	45%
Administrative acts	39	16%	22	17%	99	36%	125	33%	82	13%
Attitude	25	10%	33	25%	33	12%	19	5%	67	10%
Transfers	15	6%	5	4%	22	8%	19	5%	26	4%
Medical	11	5%	13	8%	12	4%	18	5%	33	5%

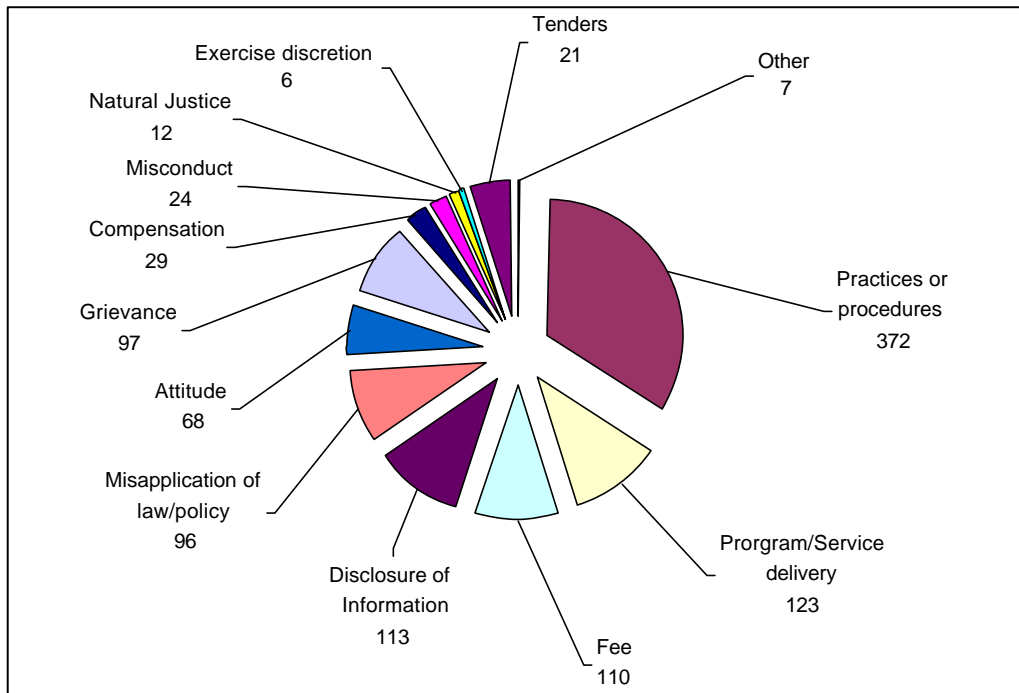
There has been a significant decline in complaints relating to administrative acts and significant increases in complaints about prisoner rights.



## NT Agencies (excluding Correctional Services)

There were 1070 approaches in respect of NT agencies, excluding those out of jurisdiction and NT Correctional Services (696 in 2003/04) raising 1113 matters of complaint (720 in 2003/04).

**Chart 18:** *Matters Raised in Enquiries/Complaints for NT Agencies (excluding Correctional Services)*



**Table 19:** *Matters most complained about – Five year comparison*

Matter	2000/01		2001/02		2002/03		2003/04		2004/05	
	No.	%.	No	%		%	No	%	No	%
Practices & procedures	332	20%	399	32%	201	28%	244	28%	372	33%
Service Delivery	237	15%	99	8%	63	9%	46	9%	123	11%
Fees	82	5%	52	4%	84	12%	82	12%	110	10%
Disclosure of information	72	4%	36	3%	80	11%	80	11%	113	10%
Misapplication of law/policy	54	3%	25	2%	67	9%	72	9%	96	9%
Attitude	50	3%	57	5%	70	10%	69	10%	68	6%

There has been an increase in complaints about agency practices and procedures (244 in 2003/04 compared to 372 in 2004/05). Matters associated with service delivery, fees, disclosure of information, misapplication of law and attitude of staff have all remained constant.

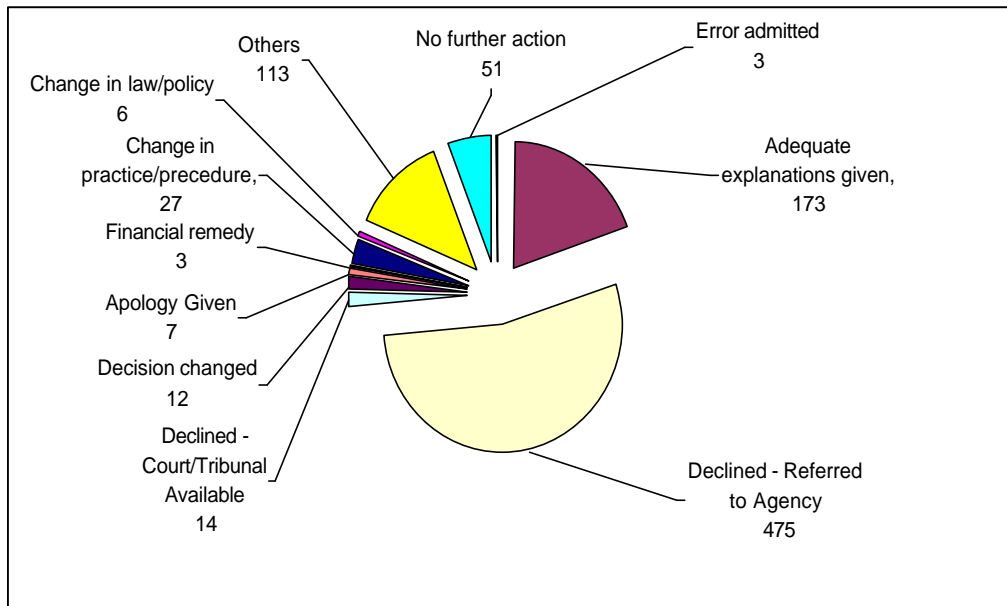


## OUTCOMES OF FINALISED COMPLAINTS

### Outcomes Achieved

Chart 20 identifies the outcomes achieved from matters of complaint finalised in 2004/05.

**Chart 20:** Outcomes achieved from finalised complaints (NT Agencies)



Of significance is the fact that:

- 54% of cases were declined for investigation after the details were obtained and referred back to the Agency to resolve;
- less than 1% (10% in 2003/04) of cases that were accepted by the Office of the Ombudsman were resolved by the department admitting an error had occurred; and
- 3% (6% in 2003/04) of accepted cases resulted in a change in practice or procedure.



## Extent to which outcome favoured the complainant

**Chart 21:** *Extent to which outcome favoured the complainant (NT Agencies)*

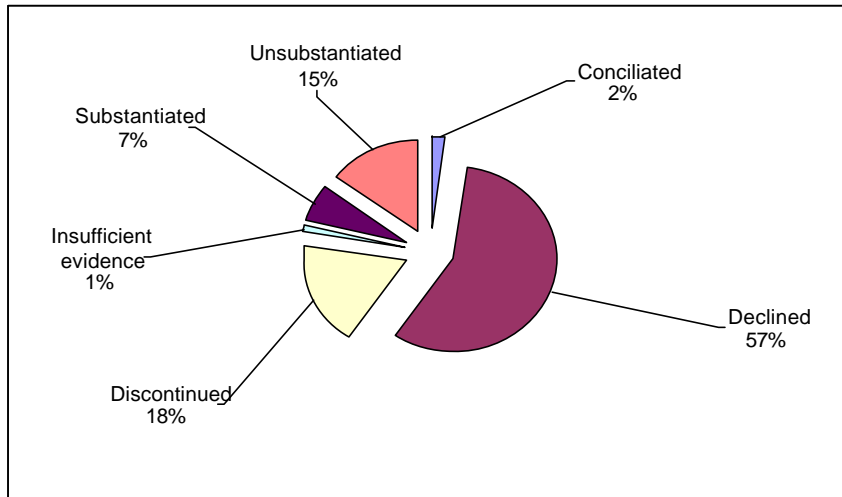


Chart 21 above sets out the practical outcome of complaints. This chart reflects an assessment made by the case officer as to whether the issues associated with each complaint were substantiated or not.

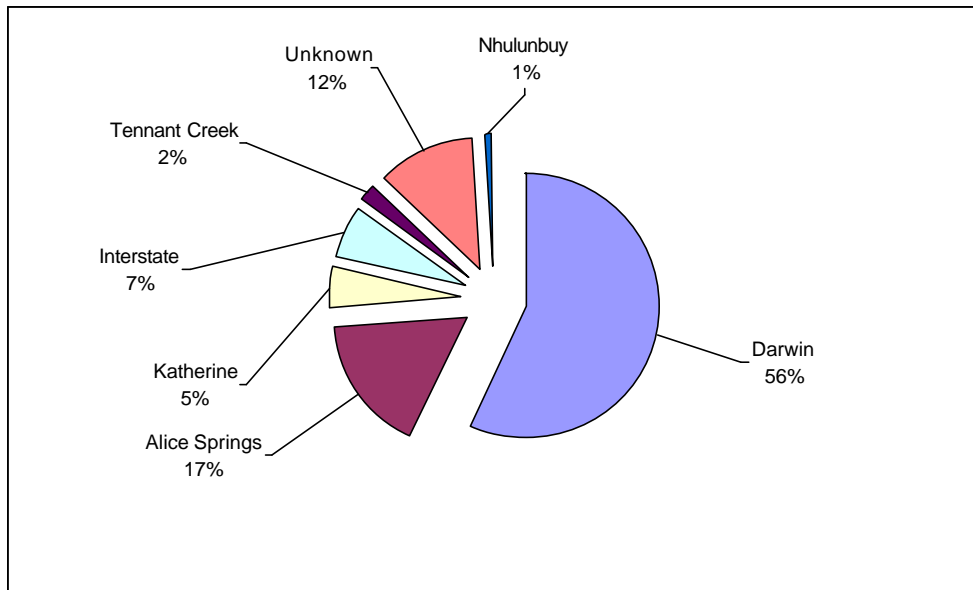
I would make one important observation here and that is, that the majority of complaints received by the Ombudsman are resolved by other than formal investigation processes. In effect, informal dispute resolution processes are utilised to generate, wherever possible, timely and relevant outcomes for both complainants and agencies. It is the encouragement of this process, which has resulted in 18% of issues being discontinued, often after some form of resolution has been received, and 2% being specifically conciliated by this Office.



## NORTHERN TERRITORY POLICE

### GEOGRAPHIC SOURCE OF COMPLAINT

*Chart 22: Geographic source of complaint*



As is the case with complaints against other NT agencies, Darwin continues to be the area where the majority of police complaints come from (56%) with Alice Springs being the next largest area (17%). 15% of approaches regarding police came from areas outside the major population centres.

These figures reinforce the desirability of undertaking access and awareness campaigns outside of the two major centres of Darwin and Alice Springs. Funding levels and increases in core workload have significantly reduced the Access and Awareness Program.

### MANNER OF APPROACH

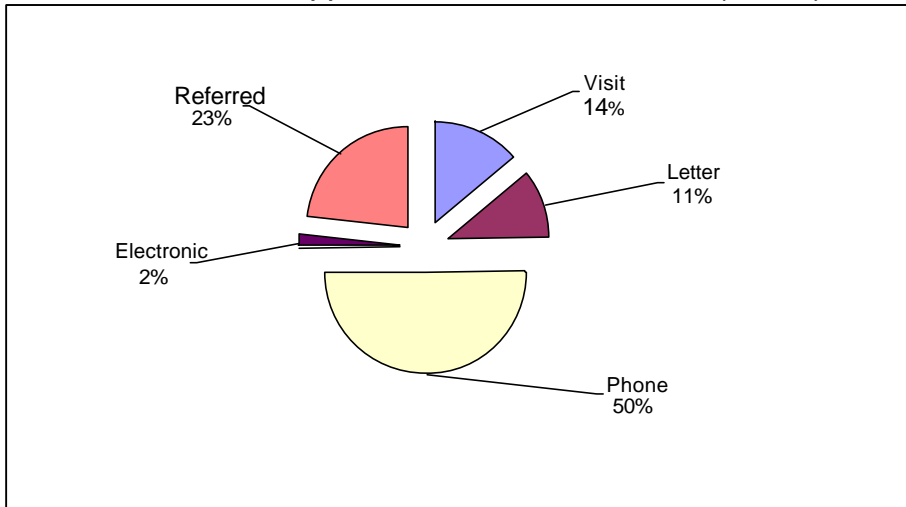
Persons making complaints against police may do so directly to my Office, to the Commissioner of Police or to a police station. The legislation requires that I notify the Commissioner of Police as to the receipt of such complaints and, similarly, the Commissioner of Police is required to notify me of complaints received by the NT Police.

Chart 23 shows, as in previous years, most people (50%) lodged their complaints against police to my office by telephone. 23% of complaints were lodged directly with police whilst 77% were lodged directly to my Office. 11% of complaints regarding police were received in a written form.





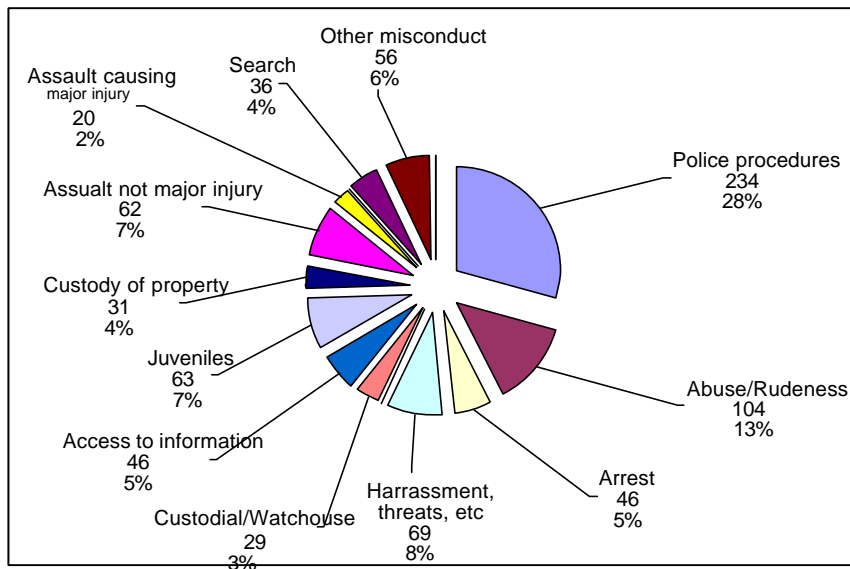
**Chart 23: Manner of approach to the Ombudsman (Police)**



**MATTERS COMPLAINED ABOUT?**

Information is recorded about the matters described in every enquiry and complaint received about police. The twelve matters most complained about are depicted in Chart 24.

**Chart 24: Matters Raised in Complaints (Police)**



In addition, complaints were also received in relation to the following matters:

- Breach of rights (20)
- Traffic (17)
- Corruption (15)
- Quality of Investigations (14)
- Prosecutorial discretion (11)
- Seizure/use of firearms (6)
- Other misconduct (5)



- Inadvertent wrong treatment (4)
- Warrants (2)

The three most common matters complained about concerned issues associated with police procedures (28%), abuse and rudeness (13%) and harassment/threats etc. (8%).

### HOW COMPLAINTS WERE FINALISED

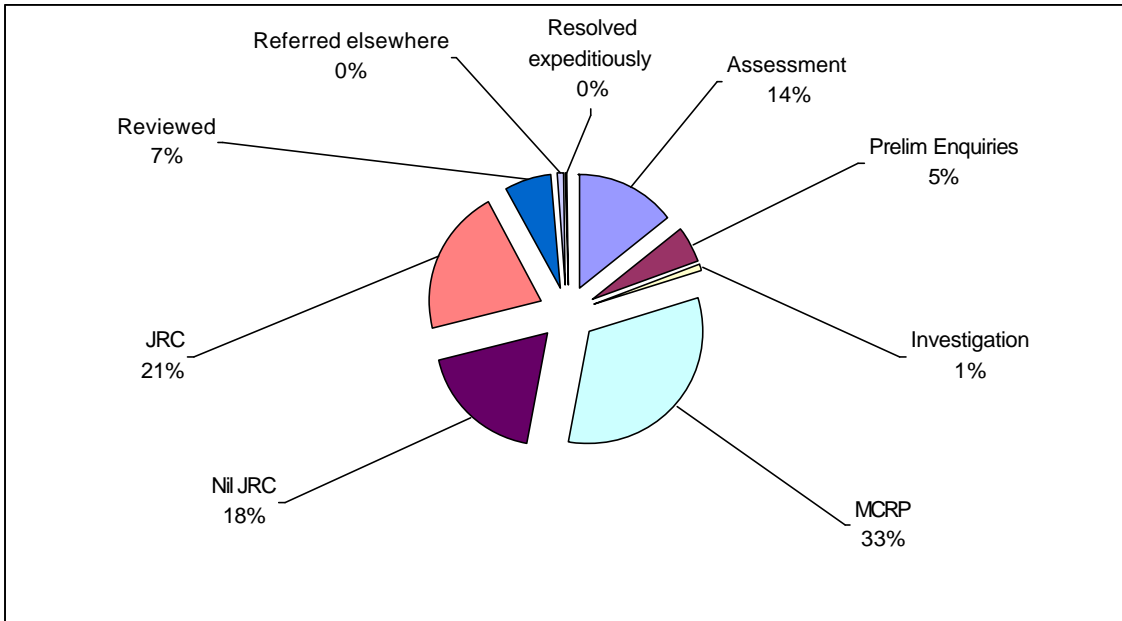
In all, 395 complaints were finalised in 2004/05.

Complaints against police are dealt with in various ways depending upon the severity of the allegation and the seriousness of the conduct complained about. The following chart gives the proportions of complaints and the way they were resolved. In reading the chart the following are the explanations for the acronyms:

- **JRC** – The Joint Review Committee (JRC) is established pursuant to the ‘Guidelines Between Commissioner of Police & Ombudsman For The Handling Of Complaints Against Police’ and is charged with the oversight of the more serious investigations against police. The JRC comprises of the Commander of the Professional Responsibility Command (PRC) as a representative of the Commissioner of Police and the Deputy Ombudsman as a representative of the Ombudsman. These complaints are initially investigated by the PRC and their report together with all documents are reviewed by the Ombudsman’s Office and a joint report on the outcome of the investigation is then signed off by the JRC and provided to the complainant and the Commissioner of Police. The complainant may seek a review of the JRC decision by the Ombudsman.
- **Nil JRC** – These are complaints where, by agreement with the Ombudsman’s Office, they are investigated by the PRC without oversight from the Joint Review Committee. The outcome of the PRC investigation is provided by it direct to the complainant and a copy is provided to the Ombudsman. The complainant may seek a review of the Nil-JRC report by the Ombudsman and, if that occurs, all the evidence and documents obtained by the PRC are provided to the Ombudsman.
- **Minor Complaints Resolution Process (MCRP)** – These are complaints where, by agreement with the Ombudsman’s Office, after considering details of the complaint, the PRC of the Police Force investigates the complaints and the complaint is conciliated directly between the Police Force and the complainant and an agreement is signed between the parties once concluded.
- **Investigation** – This is a matter investigated solely by the Office of the Ombudsman.
- **Reviewed** – These are matters that have been finalised under either the Minor Complaints Resolution Process, the Nil JRC process or the JRC process which are then referred by the complainant for the personal review of the Ombudsman.



**Chart 25: Finalisation of complaints (Police)**



Of the 395 complaints finalised, 201 complaints or 51% were referred to police to investigate and respond to the complainant directly in accordance with the guidelines, agreed to between the Commissioner of Police and the Ombudsman, for the handling of complaints against police. Of this, 129 were resolved through the Minor Complaints Resolution Process (MCRP) and 72 through the Nil JRC process.

83 or 21% of the complaints finalised were through the Joint Review Committee (JRC) process in which police investigate the complaint and provide a report to the Ombudsman's Office for review, after which the JRC responds to the complainant. The JRC comprises of the Deputy Ombudsman as a representative of the Ombudsman and the Commander of the Professional Responsibility Command of NT Police as a representative of the Commissioner of Police.

I am particularly pleased that of the 395 complaints finalised, 33% were resolved by utilising the MCRP process.

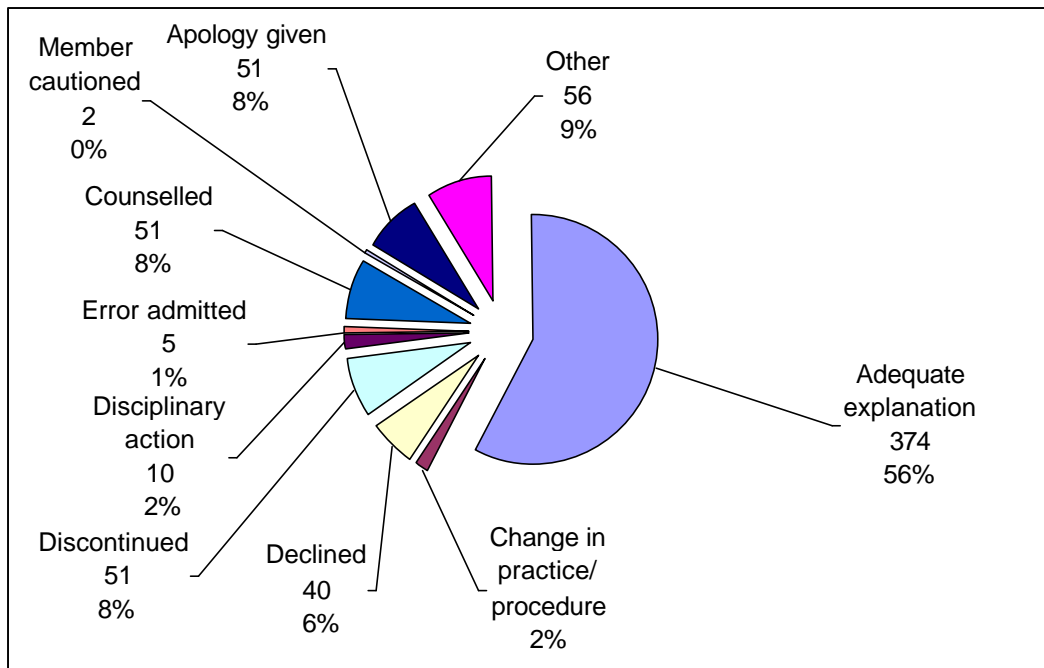
## **OUTCOMES OF FINALISED COMPLAINTS**

### **Outcomes Achieved**

Chart 26 below shows the outcome of complaints and the action taken by the NT Police to implement recommendations. As can be seen the outcome most achieved (61%) was to provide an adequate explanation to the complaint. This was followed by members of NT Police being counselled (8%) and the issuing of an apology by police (8%).



**Chart 26: Outcomes achieved from finalised complaints**

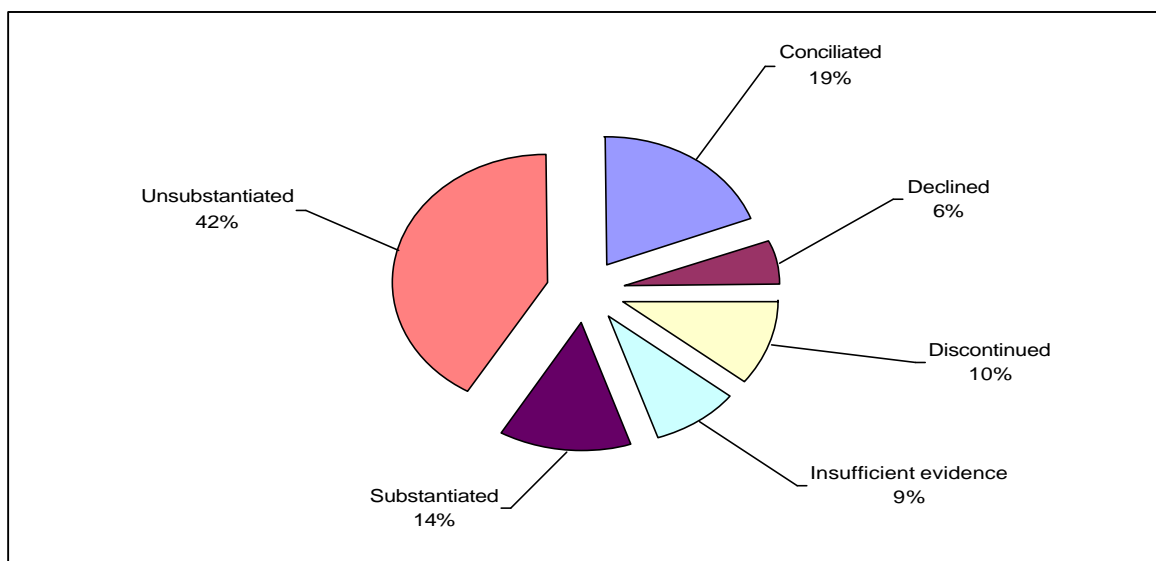


### Extent to which outcome favoured the complainant

Chart 27 below sets out the practical outcome of complaints. This chart reflects an assessment made by the case officer as to whether the issues associated with each complaint were substantiated or not.

42% of the issues of complaint were not substantiated. This is the same percentage as last year. Once again, 9% of the issues of complaint could not be determined one way or the other as there was insufficient evidence to make such a decision.

**Chart 27: Extent to which outcome favoured the complainant (Police)**





## ACTIVITY 2: IMPROVE THE DELIVERY OF SERVICES

### DESCRIPTION

To utilise the information gained through the complaint resolution process to provide reports and make recommendations to address any defective administration and improve the delivery of services.

### OUTCOME

Agencies improving the manner in which they deliver services to ensure they are fair, equitable and impartial.

### OUTPUTS

1. Recommendations made to agencies and other appropriate bodies.
2. Follow-up on implementation of recommendations.

### COST

Total expenditure by the Office on this activity was:

9% of Ombudsman's actual expenditure	\$156,147
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### HIGHLIGHTS

During the year, the Ombudsman made 108 recommendations to government agencies, local councils and the NT Police of which 102 were adopted and implemented in some form.

### RECOMMENDATIONS IMPLEMENTED

#### 1. PURCHASE AND GIFTING OF A 4WD

The Ombudsman undertook an 'Own Motion' investigation into the adequacy of the administrative actions of the Department of Community Development, Sport and Cultural Affairs (the Department) and a local government council (the Council) in relation to the events surrounding the purchase of a 4WD vehicle and the subsequent 'gifting' of that vehicle by the Council to a number of Traditional Owners of that community. The 'Own Motion' investigation was initiated as a result of remaining concerns after having finalised



preliminary inquiries into a separate complaint concerning the administrative actions of the same Council.

During the course of that preliminary inquiry, the Council's Chief Executive Officer (CEO) advised that in 2002, the then Minister for Local Government provided funding of \$35,000 to the Council in order to purchase a vehicle. The CEO explained that the Council had not requested the vehicle, rather, a number of the community's Traditional Owners had requested the vehicle. The CEO advised that despite the fact that the Council had not requested the grant, it '*had to go through the [local government council's] books.*'

The CEO also advised that the vehicle and its registration papers were subsequently signed over to one of the Traditional Owners. According to the CEO, this transaction occurred under the umbrella of a 'gift', as the vehicle was never requested by or intended for the Council.

On the face of the information provided by the Council's CEO, the transaction appeared to be highly irregular in that the Council appeared to have been used inappropriately as a 'conduit' for the provision of a vehicle to the Traditional Owners. As a result, an 'Own Motion' investigation was initiated into the matter.

The investigation into the matter was a lengthy and elaborate process. A number of Departmental staff, members of Council, and the Council's CEO were interviewed in relation to the transaction which was the subject of the investigation. In addition, extensive documentation was obtained from all relevant bodies in an effort to better scrutinize the events in question.

Having carefully considered all the available evidence and the responses provided by relevant parties to the Ombudsman's preliminary findings, the Ombudsman formed the opinion that the administrative actions of the Department and the local government council were, at various times:

- contrary to law;
- unreasonable;
- based wholly or partly on a mistake of law or fact; or
- wrong,

within the meaning of sections 26(1)(a), 26 (1)(b), 26(1)(f) and 26(1)(g) of the *Ombudsman (Northern Territory) Act*.

The systemic issues identified included:

- a lack of appropriate administration by the Department of 'Special Purpose Grant' funding to local government councils;
- small council organisations were having difficulty meeting or achieving the operational requirements imposed on them by local government legislation and general principles of good public administration;



- a lack of clear understanding or knowledge of responsibilities/functions under the *Local Government Act* by council Chief Executive Officers and council members; and
- a lack of understanding as to the appropriate identification and management of conflicts of interest by council Chief Executive Officers and council members.

In light of the findings, a number of recommendations under section 26(2) of the *Ombudsman (Northern Territory) Act* were made and included:

1. That the Department establish and implement an appropriate protocol with the Minister for Local Government to facilitate the sharing of relevant information in all instances where a community government organisation applies for 'needs based funding' under the Local Government Funding Program;
2. That the Department advise the Ombudsman on what mechanisms are in place or would be implemented to ensure that information received from local governing bodies about their Special Purpose Grant applications, including formal acceptances of such grants, is accurate;
3. That the Department instigate an appropriate ongoing training program for all departmental staff to inform them of their respective obligations and responsibilities under relevant legislation, particularly the *Local Government Act*;
4. That the Department obtain legal or other advice as to the possible avenues for recovery of the grant money provided to the Council;
5. That the Department report to the Ombudsman as to the specific action(s) it proposed to take as a result of the finalised 'compliance audit' report on the Council;
6. That the Department facilitate or promote an appropriate ongoing training process to familiarise the Council's staff, its CEO and members of the Council with the requirements and obligations of the *Local Government Act*;
7. That the Council implement an appropriate ongoing training process to familiarise Council's staff, its members and CEO with the requirements and obligations of the *Local Government Act*;
8. That there should be a complete review of the Council's policies in regard to the duties and responsibilities of Council's staff, its members and CEO;
9. That the Council implement a policy pertaining to the management of conflict of interest situations;
10. That the Minister for Local Government refer the findings with regard to the possible contravention or failure to comply with the provisions of the *Local Government Act* by the Council's CEO to the relevant agency responsible for the administration of the *Local Government Act* with a view to determining whether any further action is required against the CEO;



11. That the Council immediately implement a practice of including on any agenda in respect to a Council meeting, a statement which highlights to members of Council their need to declare any actual or possible conflict of interest; and
12. That a copy of the investigation report be provided to the Auditor-General for his consideration and advice as to what action, if any, he deems appropriate in the circumstances.

The Ombudsman also decided to report on this particular investigation to the Legislative Assembly because of the significance of the subject matter; the seriousness of the identified maladministration; and the systemic issues that led or contributed to that maladministration.

The responses to the Ombudsman's recommendations by both the Department and the Council, were very encouraging. In short, they adopted a pro-active and positive attitude to give effect to the report's recommendations. One significant example of this was that the Council had agreed to repay the \$35,000 in equal instalments over two years via a reduction in their operational grant.

## **2. REFORM OF CHILD PROTECTION SYSTEM (DHCS)**

The need for reform in the area of child protection has been recognised by the Territory government for some time. In 2003 the government initiated a reform agenda. Titled 'Caring for Our Children', the agenda consisted of a two-pronged approach, one being a review of the *Community Welfare Act* and development of new legislation for children and families; the other being work to build a better child protection system in the NT to improve outcomes for children. The Ombudsman's Office participated in the reform process with the Ombudsman sitting on the Interdepartmental Coordination Committee, which included the various agencies with responsibility for some aspects of child protection.

While this process was underway in 2003, the Ombudsman received a complaint against Family and Childrens Services (FACS) relating to a child protection investigation it had recently conducted. A child protection investigation is carried out when FACS has reason to believe that a child is being, or may be at risk of being, maltreated by a member of his or her family. The investigation is carried out by trained staff of the child protection team within FACS.

The complainant was the mother of a young child who had been hospitalised with a life-threatening injury. The FACS child protection investigation had found the mother responsible for the injury and the child had been removed from the mother's care. A separate police investigation had, however, been unable to identify a perpetrator and no charges had been laid against any person.

The mother, who maintained her innocence in regard to the assault, complained to my Office about the process and outcome of the FACS investigation. Her complaint detailed





numerous allegations of poor practice and process, erroneous or unlawful determinations and unprofessional conduct.

An investigation was commenced and the Department requested to respond to the complainant's allegations. In its response, the Department acknowledged some isolated instances of deficient action. However its general view was that while this particular case had been challenging, it had been managed appropriately. It noted that the challenges arose from the difficulty in determining the perpetrator and from the anxious state of family members, which made communicating and working with them difficult at times.

As the Ombudsman's investigation progressed, indications of some systemic defects in FACS' administrative processes began to emerge, which contradicted the Department's view that there were no underlying problems. After careful consideration of all the available evidence, which included the FACS case file, Ministerials and interviews with the child protection officers, the Ombudsman put preliminary views to the Department for further consideration. On review of the matter, the Department agreed that some systemic issues were apparent. The Department had in fact already recognised some of these issues by this stage, both as a result of some internal reviews conducted and as a result of progress in the Caring for Our Children reform agenda.

The Ombudsman's investigation identified that:

- There was an inadequate level of planning and management of the child protection investigation. Insufficient effort was put into considering strategies for proceeding with the investigation or for making contingency plans. There was inadequate case management when strategic decisions needed to be made. As a result, the focus of the investigation was not centred on the welfare of the child as clearly as it should have been and clear justification for decisions not always evident. It also resulted in the complainant feeling very much 'in the dark' as staff felt unable to give her any indication of what the outcomes might be.
- There was a breakdown of defined roles and responsibilities by members of the child protection team, which impacted on the effectiveness of the investigation process. The causes of this appeared to relate to inadequate training, not entirely effective leadership and high workload.
- There was insufficient attention given to FACS' responsibility to maintain a family service orientation, with the emphasis on gathering evidence and determining the perpetrator taking precedence over the need to support and assist the family. As a consequence the mother's rights were not fully acknowledged and her relationship with her child was affected.
- While the FACS' determination of maltreatment was a decision open to it in the circumstances, the Ombudsman was critical of the subsequent decision making process which resulted in the child being taken interstate and away from any direct contact with the mother, who had previously been the child's only custodial parent. The evidence was that there had been insufficient consideration of all alternatives before FACS made a determination with such a significant impact on both child and family.
- There were multiple instances of FACS failing to maintain confidentiality, suggesting a lack of commitment by the Department toward confidentiality obligations.



- While the majority of the complainant's allegations of unprofessional conduct were unsustainable or unresolved, some evidence of inappropriate conduct was found which indicated a need for improved training of child protection staff.

Acknowledgment by the Department that there were some systemic issues to address paved the way for acceptance of the recommendations made by the Ombudsman. The Department advised a number of initiatives to address the recommendations, some of which were in direct response to the investigation report and some of which had been developed independently as a result of the child reform agenda. In summary, these initiatives include:

- The development of an NT FACS training framework which will provide comprehensive training to child protection staff and address a number of the administrative deficiencies identified in my investigation and which resulted from inadequate training and supervision. Implementation of this initiative commenced in March 2005.
- The establishment of forums to facilitate communication and sharing of knowledge between FACS and other bodies with an interest in child protection and welfare such as the Family Court, Federal police and lawyers. This initiative commenced in December 2004.
- The development and trialing of a model for workplace coaching covering issues of leadership, team building and behaviour change. The trial was carried out in 2005.
- A bulk recruitment strategy to fill vacancies in the child protection area, which commenced in October 2004.

As the *Community Welfare Act* is currently under review and new legislation is likely to be implemented in the near future, a number of recommendations relating to review of policy are necessarily on hold until new legislation is implemented. At that time significant policy development will be necessary and the Department has been requested to ensure that the Ombudsman's policy recommendations are given consideration at that time.

Reform and improvement of child protection system in the Northern Territory is an ongoing process, which will not cease once the new legislation and associated policy is implemented. It is clear that this is recognised by the Department and its extensive efforts to address training, resourcing and other major issues needs to be acknowledged.



## ACTIVITY 3: ACCESS AND AWARENESS

### DESCRIPTION

To educate and inform the public about the role and functions of the Office of the Ombudsman and promote and facilitate access to its services.

### OUTCOME

Ombudsman's services being known and appropriately accessed by users throughout the Territory.

### OUTPUTS

1. Distribute Ombudsman brochures.
2. Provide a brochure in 10 different ethnic languages.
3. Give presentations on the Ombudsman's role and functions.
4. Utilise the media (radio, television and newspaper) to educate the public and increase awareness about the Ombudsman.
5. Visit rural and remote communities.

### COST

Total expenditure by the Office on this activity was:

2% of Ombudsman's actual expenditure	\$34,699
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### HIGHLIGHTS

The program has two distinct objectives:

- raising public awareness about the Ombudsman's role and functions; and
- facilitating a complainant's access to the Ombudsman's services.

In all other States and Territories in Australia, the Ombudsman only has an Office in the capital city of their respective State or Territory. In contrast, in the Northern Territory, the Ombudsman has offices located in both Darwin and Alice Springs. The Northern Territory Government has maintained a commitment to provide services and access to services to Territorians in Central Australia, hence the Alice Springs Office is an integral part of the goal of providing access to the Ombudsman and promoting awareness of it.



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## **ACCESS AND AWARENESS THROUGHOUT THE TERRITORY**

A detailed breakdown of sessions and conferences attended is provided at Appendix B, page 84.

### **Written Material**

The Office has continued to distribute its pamphlets and posters throughout the Northern Territory and to target organisations and consumer groups.

### **Community Newsletters**

Information concerning the Office has appeared in newsletters produced for and by many community groups, including those living in remote areas, professionals, and organisations which service specific communities. This method reaches the Territory's diverse population at minimum cost.

### **Advertising**

The Office advertised in newspapers, newsletters and radio during the year.

### **Website**

People throughout the Northern Territory, and indeed worldwide, can access the Ombudsman through our website [www.ombudsman.nt.gov.au](http://www.ombudsman.nt.gov.au). By logging onto the site people can make a complaint, access information (including the latest Annual Report), review our legislation or ask questions without the need to formally contact the Office.

The Public Sector Accounting Group Inc, which presents awards to Northern Territory Public Sector organisations in order to recognise achievements in the quality of Websites and to encourage and promote improvements in Websites, awarded the 2004 'Best Accessibility' Award to our website.

During the year, our website received 4,684 hits.



## ACTIVITY 4: MANAGEMENT OF OFFICE OF THE OMBUDSMAN

### DESCRIPTION:

To ensure the Ombudsman meets all legislative and employment responsibilities and that the Office of the Ombudsman is well managed and resourced.

### OUTCOME:

Operations of the Office of the Ombudsman are carried out in accordance with the Ombudsman's legislative and employer responsibilities.

### OUTPUTS:

1. Production of an Annual Report.
2. Compliance with the *Ombudsman (Northern Territory) Act*.
3. Compliance with the *Financial Management Act* and *Public Sector Employment and Management Act*.
4. Compliance with policies and procedures associated with:
5. Equal Employment; and
6. Occupational Health and Safety.
7. Compliance with the *Information Act*.
8. Management of resources.
9. Continuous review cycle.
10. Strategic Plan.
11. Annual Business Plan.
12. Five Year Corporate Plan.

### COST

Total expenditure by the Office on this activity was:

20% of Ombudsman's actual expenditure	\$346,993
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### CORPORATE GOVERNANCE

As the accountable officer for the Office of the Ombudsman, the Ombudsman has the responsibility under the *Financial Management Act* for the efficient, effective and economic conduct of the Office.

Under the *Ombudsman (Northern Territory) Act*, the Ombudsman is independent of the Government and is not accountable to a Minister, but rather to the Legislative Assembly as a whole. However, under the Administrative Arrangements Orders, where relevant, the *Ombudsman (Northern Territory) Act* is the administrative responsibility of the Chief Minister.



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## **EQUITY AND MERIT PROGRAM**

The Ombudsman for the NT has an Equal Opportunity Management Plan with the following objectives:

- Foster an understanding and commitment to equity and diversity principles, activities and outcomes by all employees in the agency.
- Equity and diversity in all HRM policies and practices.
- Eliminate workplace discrimination and harassment.
- Balancing work, family and cultural responsibilities.

Through its Equity and Merit Plan the Office of the Ombudsman aims to ensure best and fairest employment practices.

The Office of the Ombudsman has an Aboriginal and Career Development Plan and continues to examine how to improve the Ombudsman's ability to provide culturally appropriate services to Aboriginal people.

## **STAFF TRAINING AND DEVELOPMENT PROGRAMS**

A performance appraisal framework has been implemented to meet the needs of the Ombudsman's Office.

A major objective achieved through the implementation of this program is the development of individual annual training and development programs for all staff.

This process is incorporated into the Business Plans for both the Ombudsman's Office and the Health and Community Services Complaints Commission.

Expenditure on staff training and development during 2004/05 amounted to \$9,905.

This is represented by a total figure of 629 training hours and comprised 40 training opportunities.

## **OCCUPATIONAL HEALTH AND SAFETY PROGRAM**

The health, safety, security and well being of staff continues to be monitored in accordance with the Ombudsman's Office Occupational Health and Safety Management Plan. The presence of health and safety risks within the office is consistently being assessed as low. During the year there were nil reported days lost as a result of reported injuries.



When necessary, the OH&S Officer consults with and seeks advice from the OH&S DCIS Consultant on any important OH&S issues that may arise.

The office has a contract with Employee Assistance Service (EAS) of the Northern Territory (EAS) to provide some employee assistance services including counselling and other advisory and training services to staff on an as needs basis.

During the year:

- A full workplace inspection and ergonomic workstation review of the Alice Springs Office by a DCIS OH&S Consultant was undertaken. Potential hazards identified have been action addressed and appropriate recommendations implemented.
- Work Life Balance Toolbox sessions were attended at EAS.

During 2004/05 the combined number of sick day absences for both the Ombudsman for the NT and the Health and Community Services Complaints Commission amounted to 121 days.

## FOI ANNUAL REPORTING REQUIREMENTS

Section 11 of the *Information Act* sets out the information a public sector organisation must publish annually in relation to its process and procedures for accessing information. A detailed description of the Office's obligations under Section 11 of the Act are provided at Appendix D, pages 100 to 104.

## RECORDS MANAGEMENT

Part 9 of the *Information Act* relates to Records and Archives Management. This section sets out the obligations, standards and management of records and archives to be complied with.

In accordance with Section 134 of the *Information Act*, the Ombudsman for the Northern Territory:

- (a) keeps full and accurate records of its activities and operations; and
- (b) is in the process of implementing practices and procedures for managing its records necessary for compliance with the standards applicable to the organisation through the implementation of a Records Management Plan.

The Records Management Plan for the Ombudsman's Office incorporates the Health and Community Services Complaints Commission and is designed to achieve the following objectives:

- records management staff fully trained;
- adoption of new methods and technologies for keeping and managing records; and
- become fully compliant with the *Information Act (2003)* and the NTG Standards for Records Management.



## Appendix A

### CASE STUDIES

#### NT AGENCIES

##### 1. Not a 'one-off' after all!

##### Department of Employment, Education and Training (DEET)

This office received several complaints from parents of children attending a school holiday program. During the program, children had been directed by carers to mop up urine and, in misunderstanding that direction, also cleaned up excrement in the toilet.

Preliminary inquiries commenced into this matter pursuant to section 17A(1) of the *Ombudsman (Northern Territory) Act*. Those enquiries involved assisting the school to coordinate a response directly with the parents involved.

Judging from the report to this office from the school council it was assessed that the school's principal had acted promptly and appropriately at the time at an individual level, to deal with this incident. Apologies were offered by the school and an outline of changes proposed by the school was given.

In lodging their complaints, these parents also expressed their concern that this type of incident does not occur again. The Program itself has regrettably since closed. However, this office was concerned that this was now the second such incident at a school in the Northern Territory. A similar matter was dealt with by this office earlier in 2003. Regrettably the facts were very similar.

At that stage, the Department said it had reservations about this office's proposed recommendation about that matter, being that the department make it clear to all Principals that any similar action by teaching staff would not be tolerated and the individual concerned would be appropriately disciplined; on the basis that the matter was "one-off".

The department after this second incident, acknowledged that it was now appropriate to issue a directive to Principals via General Managers that children are not under any circumstances to be directed to clean up human waste. It also updated its formal policies to that effect.

##### 2. Ombudsman is an Office of Last Resort

##### Department of Health & Community Services (DHACS) – Dawn House

The complainant approached this office to complain that an organisation known as 'Dawn House' had acted beyond its charter or otherwise wrongly or unlawfully in that it had:





- Assisted his wife in planning her abduction of his daughter;
- Refused to give him access to his daughter;
- Provided inappropriate legal advice to his wife;
- Assisted his wife in seeking an 'Domestic Violence Order' when she had no grounds for making the application and it failed to check if there was any history of violence;
- Acted inappropriately in trying to prevent him from speaking with his wife during access visits.

As a result of initial enquires conducted by this office, it was noted that Dawn House provided accommodation and support to women and children escaping domestic and family violence. In addition, it provided broader community services including training, advocacy, community education and acts as an auspice body for appropriate projects. Dawn House is funded by the Department of Health and Community Services under the Supported Accommodation Assistance Program (SAAP), a jointly funded NT and Australian Government program. The outputs and outcomes that the Department expected were that women were provided with the services that they need to keep them safe and to help them regain their lives in non-violent situations. It was noted that Dawn House had no jurisdiction over any children as they remained in the care and control of their mother at all times.

This office was advised that each SAAP funded service is required, under the terms of its contract with the Department, to have an internal complaints handling process. The Department also funded the Employment Assistance Service (EAS) to provide an independent SAAP Complaints Service. This service offered an initial telephone contact on the Freecall telephone number and could result in face to face mediation if disputes were not resolved.

This office was also informed that this service had proven to be useful for SAAP 'clients' because their complaint could usually be resolved relatively quickly. Unfortunately, in this instance, it appeared that the complainant would not be able to access the SAAP Complaints Service as it was intended for 'clients' of the service rather than third parties. With this in mind, this office approached the Department directly, in particular, Family and Childrens Services, to assist in establishing how the complainant's concerns could best be addressed/resolved.

During this meeting it was agreed that there was some scope, under the terms of the Department's formal agreement with Dawn House, for the Department to inquire into 'third party complaints' against that organisation which relate to the provision of its services. Importantly, as a result of the discussions it was agreed that in the circumstances, it would be appropriate that the Department be provided with an opportunity to address/resolve the complainant's issues of complaint against Dawn House in the first instance.



### **3. Hey, isn't that you?**

#### **Northern Territory Police, Fire & Emergency Services (PFES)**

The complainant, a builder who was in the process of tendering for works that were proposed for police premises, approached this Office to complain about the manner in which his details were being displayed by the Police. In this regard the complainant advised that as a part of the tendering process he and all the other potential tenders had been invited to view/inspect the normally secure areas of the police premises in order to assist them in preparing an accurate tender. However, during the inspection it had come to his attention that his details were being displayed by police in an area whereby all the builders who were present that day could see them. The complainant was concerned that the confidentiality of police records (specifically those that identified him as a person of interest) had been breached, and that this may have a detrimental impact on his business.

The complainant's concern was put to the then Professional Responsibility Command (PRC) of Police who were asked to provide comment on the circumstances surrounding this matter. In responding, PRC recognised that there had been a 'breach of police confidentiality' however it had been due to unforeseen circumstances. Furthermore, PRC stated that in order to prevent a similar situation from reoccurring, a blind would 'be immediately installed' to cover the notice board (where the complainant's details had been on display) in future circumstances where the members of the public are required to visit the area in question. Additionally, PRC provided a brief summary of the protocols in place to prevent breaches in confidentiality when members of the public were required to attend the premises and on the face of it they did not appear to be unreasonable.

To resolve this matter expeditiously this office facilitated a meeting between the Officer In Charge (OIC) of the relevant police unit and the complainant, with a view that the OIC could provide the complainant with an apology and advise him of the measures that are in place, or that would be put in place, to prevent a similar situation from occurring in the future.

### **4. Tender Process improved**

#### **Department of Community Development, Sport & Cultural Affairs (DCDSCA) - Indigenous Housing Authority of the NT**

A building consultant made a complaint to this office being unsuccessful in three successive Indigenous housing tenders, despite being the lowest bidder. The decisions to award the contracts were taken by local Indigenous Community Housing Organisations.

Preliminary inquiries were undertaken with the Department of Community Development, Sport & Cultural Affairs (DCDSCA) to find out about the reasons for the three decisions and the legislative and policy framework around Indigenous housing program delivery in the Northern Territory. The Ombudsman found that the former Department of Local Government should not have signed off on these contracts without receiving full justification for the decisions. At the time inquiries were initiated, DCDSCA had already recognised that problems existed and had been reviewing the program management arrangements. While no specific remedy was available to the complainant due to the time



that had lapsed, a number of general outcomes were achieved that will lead to an improvement in Indigenous housing tender arrangements in the future.

Since the Ombudsman's inquiries:

- The Department has undertaken to provide increased monitoring of local tender decisions
- Additional training has been provided to staff of the Indigenous Housing Authority and Indigenous Essential Services about tender processes
- A new appeals mechanism has been introduced to resolve disputes arising from Indigenous housing projects
- The use of a list of pre-qualified consultants is being phased out
- Indigenous housing program delivery is moving towards a regionalised model, allowing for more thorough program management
- A study into the future directions and structure of the Indigenous Housing Authority has developed a number of recommendations that will now be the subject of negotiations between the NT and Federal Governments and possible legislative change.

Even though the complainant did not receive any benefit himself, he was pleased that his complaint had contributed to significant improvements in tender processes for Indigenous housing in the Northern Territory.

## **5. Split Personalities?**

### **NT Treasury - Procurement Review Board (PRB)**

This office received a complaint from an unsuccessful tenderer against the Power and Water Corporation for rejecting their tender on the basis of insufficient accreditation by the relevant accrediting body. The complainant had lodged an appeal against the decision with NT Treasury's Procurement Review Board (PRB) (the relevant review body) but their appeal was unsuccessful. The complainant also had the option of referring the matter to NT Treasury's Procurement Reference Group (PRG), another review body (now known as Procurement Policy), but declined to do so and approached this office for assistance.

Interestingly, although inquiries into the matter showed nothing untoward with the agency's tendering process in general, it identified a situation whereby there was potential for a "conflict of interest" situation to arise, particularly in relation to when a matter is referred and considered by both, the PRB and the PRG. In short, the particular "conflict of interest" situation identified was that a senior officer, in addition to being the Chairman of the PRB that approved the recommendation of agencies referred to it to award tenders, was also a senior member of Procurement Policy, whose role is to also consider appeals and complaints against decisions of the PRB. Effectively, this meant that this officer was in a position of reviewing his/her own decision/s and as such, there appeared to be a conflict of interest situation.

When this matter was raised with the agency, it advised, among other things, that the issue would be addressed as part of a review of the role of the PRB and in the context of rationalising resources and effective use of procurement expertise. The agency further



advised that as part of that review, the roles of the PRB members (and to some extent Procurement Policy) had been reviewed and redefined in terms of the specific functions to be performed; and that this action was seen by the agency as addressing the conflict of interest issue. However, it also advised that in some circumstances, this officer might still be called upon to act in a capacity in both roles but only in limited circumstances.

While this office acknowledged the likelihood of this situation occurring was relatively low, this office advised the agency that it was desirable that a government process not only be fair and equitable but also be seen to be fair and equitable. It does not matter whether a conflict of interest or duty (as is the case in this particular instance) is actual or reasonably perceived to exist by a third party. Both circumstances would negatively impact on the public confidence and the integrity of the system. In some cases a conflict of interest may be acceptable (or unavoidable) particularly where the holding of one public sector position is the prerequisite or qualification for the holding of another position. However, in most cases, as a matter of principle, a conflict of interest should be avoided or be disclosed and carefully managed.

This office contended that the best way to ensure that conflict of interest/duty issues are properly addressed is to adopt a *process* oriented approach of ongoing training and information awareness sessions to staff. It was suggested to the agency that it would be in its best interest to develop clear conflict of interest policy and guidelines for its implementation. In short, where it is necessary for a senior officer of Procurement Policy to temporarily act as Chairman (or other capacity) on the PRB, then appropriate measures should be considered to manage this particular situation and to eliminate any possible conflicts of interest.

On the whole, this office was pleased that the agency has acted positively in attempting to address the situation. In recognition of the positive steps being taken by the agency and after informing the complainant of the outcome, no further action was taken in the matter.

## **6. Vanished Into Thin Air?**

### **Department of Corporate Information Services (DCIS)**

This office received a complaint received from an applicant (who had applied for a vacancy in a public sector organisation) in relation to the DCIS' handling of his application. (DCIS is the agency responsible for carrying out recruitment services for public sector organisations). The applicant advised this office that he had lodged his application by hand delivering it to the nominated location by 3pm (before the nominated closing time) on the nominated closing date, (being a Friday).

However, he received a letter from DCIS a few days later advising that his application was received late, after the closing date and therefore would not be considered. The complainant approached DCIS to have the decision changed. However, DCIS was unable to do anything about the matter without adversely affecting the other applicants.

Inquiries commenced with DCIS to obtain an explanation as to what had happened to the complainant's application. Following an internal inquiry into the matter, DCIS advised that it could not conclusively determine what had happened to the applicant's application when



received. DCIS advised that, on discovering the applicant's application on the following Monday (following the weekend) it immediately contacted the source agency from where the vacancy had originated as to whether it was prepared to accept the late application.

That agency decided not to accept a late application (as it would be unfair to all the other applicants) and the complainant was advised of this. However, the applicant rightly contended that in lodging his application before the nominated closing time, it was not a late application. Further inquiries by DCIS failed to determine what had happened to the application, other than that it might have been overlooked.

DCIS advised this office that nothing more could be done for the complainant and it could not reverse the situation. However, in order to avoid a recurrence of this type of situation, DCIS advised that it had already taken steps and amended its recruitment procedures by implementing a receipting system whereby future applicants would be issued with a receipt for any application being hand delivered. A copy of this procedure was provided to this office. The explanation and details of the remedial action taken by DCIS was accepted.

Prior to concluding the matter, it was also noted that DCIS had not provided the complainant with a full explanation of the outcome of its inquiries. This office was of the view that the complainant was at least entitled to an explanation and in the circumstances, an apology. The matter was discussed with a senior officer of DCIS and appropriate recommendations made to improve and strengthen aspects of DCIS' recruitment procedures, particularly in the areas of receiving on-line applications, informing applicants of the date and time in lodging applications on line and providing information about late applications. It was also recommended that DCIS write a letter of apology to the complainant. DCIS agreed to the recommendations and wrote a letter of apology to the applicant.

## **7. Out of Sight! Not Out of Mind!**

### **Department of Infrastructure Planning & Environment (DIPE)- Building Advisory Services (BAS)**

In late November 2002, the complainant in this matter, a resident in a rural area, contacted this office to complain that there was an unsecured demountable located at a property adjoining his own, and that Building Advisory Services (BAS) would do nothing about it. The complainant e-mailed photographs of the demountable which showed a large structure sitting on a foundation comprised of stacks of timber pallets. It looked precarious to say the least. The complainant said that he had been trying for months to get BAS to do something about it but to no avail. He said he was concerned for his family's safety because of the impending cyclone season. The complainant also said that there were many non-compliant structures in the area but he could not get BAS to do anything. He also complained about the complaint handling processes of BAS.

This office undertook preliminary inquiries in the matter through BAS who advised that they had issued statutory notices to the building owner under the *Building Act*, but that they could not do anything further as the structure was not "ruinous and dangerous". BAS also advised that the matter had been sent to their legal department as the owner had not complied with the notices. This office queried whether BAS could use powers under s121



of the *Building Act* and remedy the situation themselves. With the matter still unresolved, in January 2003 this office commissioned a structural engineers report in order to assess whether the structure actually posed a danger to the complainant in the manner asserted. At the same time, the building owner commenced works to secure the building.

With the building secured, it was determined that further inquiries were needed as this office had some concerns about the way BAS had handled the matter. For example, it transpired that they had been notified about the problem some considerable time earlier. This office was also in possession of an expert report stating that the structure had posed a danger to the complainant and his property in the event of a cyclone. After reviewing the enforcement regime under the *Building Act*, the following issues were examined:

- Whether or not BAS had wrongly assessed the danger posed by the structure (by not assessing that it posed a danger to the complainant or his property in the event of a cyclone). This involved consideration of whether some other process would or could have been followed in the event that the structure was identified as being a danger; whether the structure actually posed a danger; and whether BAS had conducted an adequate assessment of the danger.
- Whether BAS had acted expeditiously in taking the action that it took
- Whether BAS had a duty to inspect the wider area in response to a generalised complaint from the complainant that there were numerous non-compliant structures in the area
- Whether the complainant's matter had been adequately handled by BAS generally

As a result of inquiries conducted by this office, it was found (among other things) that:

- The enforcement provisions of the *Building Act* provided for a continuum of enforcement action. There was a general lack of understanding among BAS staff as to the workings of the enforcement provisions. There were no written procedures or guidelines to assist BAS in making assessments as to which type of enforcement action was appropriate.
- Although BAS had selected the appropriate course of action in this case, it was found that BAS had failed to make a comprehensive assessment of the danger posed by the structure and in fact wrongly assessed that the structure did not pose a danger.
- BAS had failed to action the matter expeditiously and there was no tracking procedures in place to follow up on compliance with statutory notices.
- BAS had the power to remove or secure the structure in the event that the owner failed to comply with statutory notices but did not consider using this power until the situation became critical and BAS was in receipt of legal advice stating that BAS had a duty of care towards the complainant. Criticism was not directed at BAS for seeking advice as BAS was required to act fairly towards the land owner; however it was found that BAS should have taken such advice well in advance.
- It was accepted that BAS did not have the resources to conduct a lot by lot survey of the area and noted the Department's advice that BAS would respond to written complaints about identified properties. However, it was recommended that BAS should at least assess the risk involved in failure to act by conducting a visual



survey of the area, and consider sending a letter to landowners in the area reminding them about the need for compliance with the *Building Act*.

- BAS could have handled the complainant's matter more sensitively.

A number of recommendations were made mainly aimed at improving practices and procedures within BAS and some issues to be considered as part of the Department's review of the *Building Act*. It was pleasing to note that the Department accepted the majority of the recommendations and it was especially pleasing to note that at the time of finalising this matter, the Department had undertaken to establish an internal complaints process.

### **8. It's Not Over Until It's Over Department of Justice (DOJ)**

A complainant approached this Office to lodge a grievance about the actions taken by the Property Agents Licensing Group (PALG) and the Registrar of Lands Business and Conveyancing Agents (Registrar).

The complainant advised that he had lodged a written complaint with the PALG against a licensed property agent, who had been hired to manage his rental property. In that particular complaint, he had raised concerns about the treatment and nature of service that he had received from the agent during the period of his employment, and requested that the agent be held accountable for his actions. The complainant also submitted a 'chronology of events' which allegedly transpired over the term of the agency contract. Following inquiries by the PALG the complainant was advised by way of letter, that an investigation had been conducted and no evidence could be found to support a breach of the Act by the agent. The complainant was further advised that the PALG was unable to provide further assistance in relation to the complaint.

As a result, the complainant then wrote to the Registrar, expressing dissatisfaction with the PALG's findings and requesting that the matter be more thoroughly examined by an 'objective and impartial' party. The Registrar subsequently wrote to the complainant outlining the results of his review and indicated that there were no proven or substantiated offences of breaches under the *Agents Licensing Act*.

The complainant responded to the Registrar's letter expressing dissatisfaction with the results of the review and disputed its findings. He also requested that the matter be further reviewed and that the Registrar direct him to the "*appropriate avenue for dealing with this matter*". The Registrar later wrote to the complainant advising that unless there were "*additional substantial and substantiated matters to be presented*", the matter was closed.

With that in mind, the issues identified by this office were as follows:

- That the staff of the PALG did not conduct a proper investigation into the complaint against a licensed real estate agent;



- That the Registrar upon request that the investigation be reviewed, refused to review the matter and declared the matter closed without providing any avenue for recourse;
- The manner in which the PALG, and later the Registrar, handled and treated the complaint.

Extensive inquiries were conducted with the parent agency – the Department of Justice - within the context of these issues, and it was invited to comment on a number of preliminary opinions reached by this office. Following this process, this office prepared a final report which, in short, found:

- It appeared that the PALG had not considered or sought all of the relevant information before making its finding in relation to the complaint against the property agent;
- Concerns that the process of inquiry adopted in this particular instance did not appear to provide the complainant or the property agent with a reasonable level of transparency, fairness and accountability;
- That the Registrar's decision to 'close' the matter was inappropriate in the circumstances. Indeed, the complainant had a statutory right to lodge his grievance with the Agents Licensing Board for consideration – under section 68(3) of the *Agents Licensing Act* – and should have been informed of this by the Registrar.
- The complaint handling process followed in this particular instance appeared unsatisfactory in that the PALG did not advise the complainant:
  - (a) the role of the PALG, the Registrar, and the ALB in the complaint handling process, and the implications of any findings;
  - (b) that the Registrar would not be applying for disciplinary action to be taken against the agent by the ALB;
  - (c) of the complainant's right to lodge a complaint with the ALB in his own name;
  - (d) the correct format for lodging an application for disciplinary action against a licensed agent under the Act.

Importantly, as a result of the inquiries conducted by this office, the Department wrote to the complainant advising, among other things, that the Registrar would treat his complaint about the licensed real estate agent as an application to the ALB (under section 68(3) of the *Agents Licensing Act*).

This approach appeared to be reasonable in the circumstances and was the appropriate avenue to resolve the concerns raised about the conduct of the licensed real estate agent. Given the outcome achieved, this office did not propose taking any further action regarding the complainant's specific issues of concern.

Moreover, the Department advised this office that it had since implemented formal complaint, disciplinary application and hearing procedures. It was observed that these procedures were intended to assist the PALG and the ALB in receiving and dealing with





complaints and applications in relation to Agents and representatives for disciplinary action, and other applications under the *Agents Licensing Act*. It was also observed that the procedures balanced the need for expeditious hearing with the requirements of procedural fairness in a flexible fashion.

Given the outcomes of our inquiries, it was determined that no further action was necessary in the circumstances.

## **9. It's In The Post!**

### **Department of Local Government Sport and Cultural Affairs (DCDSCA) - (Territory Housing)**

The complainant originally approached this Office seeking to lodge a complaint against Territory Housing, as a rental payment that he had made at Australia Post had not been credited to his account. In this regard the complainant asserted that he had a receipt which evidenced the fact that he had made the rental payment to Territory Housing through Australia Post approximately a year earlier, yet this payment had not been credited to his account and Territory Housing had been persistently chasing him for the arrears.

It was determined to formally assess the complainant's matter to determine whether or not his substantive issue of complaint could be expeditiously resolved by this office. On the information obtained during the initial inquiries with Territory Housing, it appeared that the complainant's primary issue of concern – his dispute with Territory Housing over the misapplied rental payment – had been expeditiously resolved. Furthermore, it was noted that the Director had identified that the time taken by Territory Housing to resolve the complainant's matter was an issue of concern; and importantly, the Director indicated that he would be taking steps to ensure that "*problems of this nature*" were resolved in a timely manner in the future.

Therefore, given the Director's acknowledgment in this regard and his proposed course of action, it was determined that further inquiries by this office into the complainant's specific issue of complaint would be highly unlikely to result in a more meaningful or useful result for the complainant.

In so saying however, the inquiries conducted by this office identified broader and possible systemic issues of concern relating to misapplied rental payments and the operation of the suspense accounts that are used to hold such payments. As such, it was decided to pursue these concerns outside the context of the complainant's specific issue of complaint and under the banner of Preliminary Inquiries pursuant to section 17(A) of the *Ombudsman (Northern Territory) Act*.

During the course of the preliminary inquiries conducted by this office, the newly developed Financial Management Analysis Branch of Territory Housing established what this office considered to be appropriate auditing and accounting controls to properly manage the operation of the suspense account; and moreover satisfied this office that the concerns that had arisen from this office's inquiries into this matter had also been identified by the Department (primarily through its 03/04 external financial audit) and reasonable steps were being taken to address these concerns.



In this respect it was identified that although the suspense accounts were in excessive credit, the misapplied receipts had been posted to the correct debtor codes within the general ledger, which in effect reduced the overall level of debt shown by each of the categories for Territory Housing (i.e. rent, maintenance etc).

Furthermore this office was advised that the Territory Housing Debt Management Strategy had highlighted possible solutions to reduce the number of transactions being posted to the suspense accounts; one for example was by introducing bar-coded tenant cards as an alternative to the current magnetic strip cards being used. This solution had been proposed as the magnetic strips tended to wear out and often would not swipe forcing the tenants account number to be manually entered and opening the gate for human error.

In light of the action that had, and continues to be taken by Territory Housing it was determined that further investigation of this matter was unnecessary. Indeed, this office was generally encouraged by the proactive role the Financial Management Analysis Branch appeared to be taking to improve the administrative practices that surround the receipt of monies and the operation of suspense accounts. As such it was decided to close the file on this matter.

#### **10. FACS Not Considering the Facts!**

##### **Department of Health and Community Services (DHACS) Family & Children Services (FACS)**

The complainant approached this office seeking to complain about the actions of FACS during its dealings in matters relating to the complainant's child. In this respect the complainant was generally asserting that FACS had developed the belief that he was at fault, and as a result, their actions failed to give appropriate priority to his child's interests and furthermore jeopardised his child's welfare. Specifically, the complainant was concerned that:

- That FACS had taken insufficient action to ensure the safety of his child;
- That he felt that FACS had made comments which were an unacceptable use of 'scare tactics';
- That FACS failed to interview him in relation to allegations that were made against him;
- That there had been an unreasonable number of case workers dealing with the various allegations involving his child;
- That FACS had failed to adequately investigate the concerns he had raised about injuries to his child;
- That FACS allowed a situation where his child was repeatedly interviewed by both FACS and Police.

Preliminary inquiries of the Department of Health and Community Services, and more specifically FACS, were conducted by this office in relation to this matter. During the course of the inquiries, the complainant was interviewed and FACS was requested to provide a response to the various elements of complaint that had been raised by the complainant; a review of the relevant policies and procedures, as well as the relevant legislation as provided by the *Community Welfare Act*, was also conducted.



After carefully considering all of the relevant information that was obtained through inquiries, it was determined that, in the main, the complainant's issues of complaint could not be substantiated; and moreover, that the actions of FACS appeared to have been reasonably open to them in the circumstances.

In so saying however, it was noted that when FACS responded to the issue relating to the use of 'scare tactics', it acknowledged that although the comments were simply intended to be a 'strong warning' to the family of the consequences (that could be expected if the child suffered further maltreatment), they were somewhat ill-timed. To this extent, FACS commented that the action it took might have been better placed as a last resort rather than the first response.

That said, this office concluded that whilst there may have been other courses of action open to FACS in the circumstances, its actions were based on a correct interpretation of the powers afforded to it under the *Community Welfare Act*, and as such were not inappropriate or unduly threatening.

## **NT CORRECTIONAL SERVICES**

### **1. Why Isn't Anyone Listening?**

A Solicitor wrote to the Ombudsman on behalf of a prisoner about the laying of misconduct charges against her client.

By way of background, the prisoner alleged he was in the process of making a telephone call to his family from his block when a prison officer directed him to 'hang-up' the phone as he was not allowed to make the call before 8.30am. The prisoner alleged he had tried to explain that he was making his call within the permitted time, when the officer became very angry and proceeded to yell and swear at him. The prisoner officer claimed that their instructions were ignored and that the prisoner displayed a 'belligerent attitude' during the incident.

As a result of this incident, the prisoner was subsequently found guilty of a charge of misconduct and penalised by of way 10 days loss of privileges. The prisoner formally appealed this decision, asking that the time of the phone-call be checked, stating that other (unidentified) prisoners witnessed the incident in question. His appeal was unsuccessful.

Following preliminary inquiries conducted by this Office, which included viewing a broad range of documentation obtained from the Professional Standards Unit and the prisoner's legal representative, this Office wrote to the then Acting Commissioner expressing concern that on the whole, the effect of the decision (on appeal) denied the prisoner a full and proper opportunity to identify possible witnesses to the incident in question. Ultimately, it appeared to have adversely affected his ability to challenge the evidence against him. The basis for this view was that the information set out in the prisoner's letter of appeal appeared to be of such a nature that it warranted further scrutiny by NT Corrections in an open and transparent forum.



The response received from Correctional Services was viewed by this Office as positive. Though they were of the view that the prisoner had been given ample opportunity to identify witnesses whom he claimed supported his version of events, they also acknowledged shortcomings in the letter of reply to the prisoner's appeal. In this respect, they advised that the agency had taken steps to ensure in future appeals, any relevant matters raised by prisoners through the appeal process would not only be considered by the relevant officer, but also addressed in letters of response to prisoners.

Upon clarification of the 'steps' that would be taken by NT Correctional Services (regarding matters of this nature) and viewing them as not unreasonable, the prisoner's legal representative was advised that this Office did not intend pursuing the matter as no further meaningful or useful outcome could be achieved in the circumstances.

## **2. Snail Mail**

A prisoner contacted this Office to complain that he was experiencing substantial delays between the time he handed his outgoing mail to the prison staff and the time that the letters were actually being posted. In this regard, the complainant advised this office that he had experienced these delays on a number of occasions, when sending both personal and legal letters and was particularly concerned about any delays as some of the letters were subject to specific time frames that needed to be adhered to.

As a part of an assessment of this matter this office determined that it would be appropriate to examine the issues raised by the complainant in the context of the overall effectiveness of the prison mail system. To this extent, it was decided to conduct a physical inspection/analysis of the system with a view to firstly identifying and obtaining any and all material related to the specific issues raised by the complainant, and secondly, to determine whether it would be feasible, and/or possible, to conduct an audit of the system to ascertain whether or not the concerns raised by the complainant were indicative of broader systemic issues.

Following preliminary inquiries, which included the inspection and subsequent evaluation of the mailing system and a review of the documented policies and procedures, this office determined that there was insufficient evidence/information available to resolve the complainant's issue of complaint, nor was there sufficient information on which to base a meaningful/useful audit of the mailing system.

In this respect, whilst not being critical of or suggesting that there were any evident problems with the system, this office came to the conclusion that a few minor improvements to the processes in the mailing system might result in a substantial increase to the transparency and accountability of the system and additionally create the ability to conduct meaningful and useful audits of the system.

As a result of these conclusions, the Director of NT Correctional Services acknowledged that there was a need for all administrative processes within NT Correctional Services to be as transparent and accountable as possible. As such, an additional step – being that the mail is now date stamped on the day it is received by the prison and on the day that it



is posted – has been introduced. The amended mailing processes/system to allow for more accurate information to be established and monitored in relation to the amount of time that mail is handled in the prison's administrative processes, as well as for audit purposes.

### **3. Food! Glorious Food!!**

This office received a complaint from a prisoner concerning the issue of special meals/diet at the prison. Inquiries were conducted into the issue with the Professional Standards Unit to obtain information on the agency's policy and position on this issue.

During inquiries, it was noted that the agency did not have a specific documented policy on the issue of special meals/diets for prisoners. The only reference found that could be connected to the issue of prisoners' special meals is in section 72 of the *Prisons (Correctional Services) Act*, which stated that the Director shall comply with the directions of a Visiting Medical Officer (VMO) relating to the maintenance of the health of a prisoner. This appeared to be a broad statement and open to interpretation.

When queried, the agency advised that if written advice is obtained from the VMO stating that a particular meal/diet is required for a prisoner due to a specific medical condition, then it would be considered. However it appears that this policy is not documented or made widely known to prisoners and staff. When discussed with staff of the agency in terms of addressing this situation, the agency undertook to include information about its policy on special meals/diets, in the *Prisoners Information Handbook*, which is issued to all prisoners when they first enter prison.

Turning to the prisoner's particular complaint, the agency advised this office that if the prisoner wished to have a special diet, then he would need to see the VMO and have it specifically stated in writing that the special diet/meal requested is due to a diagnosed medical condition or that the prisoner's current diet is having a negative effect on his health. The VMO would also need to specify what particular dietary requirements the prisoner needed in order to address his particular medical condition. Upon receipt of this written notification, the agency would then consider the request.

This office then advised the prisoner to put in a request to see the VMO to commence this process. He was also advised that should he encounter any difficulties in obtaining the special diet after applying through the VMO, then he should notify the Superintendent in the first instance to give him the opportunity to address the situation. Thereafter, if he still remained aggrieved or dissatisfied with the Superintendent's response, he could again contact this office via the normal channels for further consideration. Given the agency's response and prompt action to address this situation, it was not considered to take any further action in this matter.



#### **4. Alleged Victimisation**

A prisoner complained of victimisation by a group of prison officers. Various incidents were cited as examples, some of which had resulted in disciplinary charges being laid against the prisoner. Allegations of this sort are extremely difficult to prove, especially in the absence of any witnesses. Witnesses nominated by the complainant could not confirm actually having seen the incidents complained about.

The treatment of prisoners has always been an area which requires special attention by this office, in view of their complete dependence on the actions and decisions of public sector employees, which makes them more vulnerable than many other groups in society to the actions of government officials. For this reason, among others, this office determined to conduct a formal investigation into the allegations.

However, during the course of the investigation, which was unfortunately protracted, most of the prison officers against whom the allegations were made had departed and the prisoner was transferred to another prison. The Department initiated a review of Correctional Services and a new Director was appointed. In light of all these changes, it was decided that rather than attempting to determine the veracity of the allegations, the investigation would focus on the more general issue of what mechanisms NT Correctional Services had in place to detect, minimise and deal effectively with any incidence of victimisation of prisoners by prison officers.

On reviewing the legislation, procedural requirements (including NT Correctional Services Code of Conduct) and the processes in place to oversee and reinforce the conduct of prison officers and to respond to complaints by prisoners, this office was reasonably satisfied that there was no cause for concern about the mechanisms in place for preventing, minimising and dealing with the type of misconduct by prison officers, which was the subject of the investigation. In particular it was found that the Prisoner Telephone System (PTS), introduced after this complaint was lodged, was an important mechanism for prisoners. The PTS enables prisoners to contact the Ombudsman's office at any time, free of charge and without requiring the permission of, or monitoring by, Correctional Services staff. Prisoners are thus able to complain directly to this office should they be subject to any action by prison officers that they consider to be unjustified or unreasonable.

This office had no cause for concern about the adequacy of induction training for prison officers and was advised that refresher training in the expected standard of conduct of prison officers in their dealings with prisoners is planned for the future, among other topics to ensure prison officers maintain their essential knowledge base.

It is also noteworthy that no complaints of a similar nature have been received by this office in recent times. Nevertheless, should any such complaints be received in the future it goes without saying that they will be treated with the utmost seriousness by this office.



## 5. Where's My Protection?

A prisoner contacted this office expressing concerns that he and fellow prisoners had not been adequately protected from an attack by a prisoner who he believed was mentally ill and who had a history of violence when suffering mental health episodes.

In this particular case, it was not the complainant who had been assaulted, but another prisoner. The complainant asserted that prison officers were well aware of the assailant's mental health and that there were warning signs two days before the attack indicating that he was likely to become violent (which the complainant alleged he brought to the attention of NT Corrections staff). Despite this, the complainant said that nothing was done to remove him.

It was noted that the allegations focused on the actions, or more correctly, the inactions of NT Corrections' staff, who the complainant believed should have heeded his previous warnings about the assailant.

Using this incident as an example, the prisoner complained that NT Corrections' management was failing to comprehensively manage prisoners who were mentally ill. He asserted that this lack of management can and does lead to violent episodes by the mentally ill prisoners and other prisoners were sometimes injured as a result.

The complainant also asserted that prison officers were also worried about sudden violent behaviour by mentally ill inmates. He claimed that this put the prison officers under more stress in carrying out their normal duties and as a result, the prison officers sometimes become unreasonable and bad tempered in their handling of the prisoners in general.

Preliminary inquiries conducted into the matter found that there was a dispute as to the factual circumstances surrounding the incident in question. NT Corrections asserted that unless a person is deemed insane by the courts, or Forensic Mental Health Services assess a person to be mentally ill, then they are not treated any differently from other prisoners. In short, it was asserted that the assailant in this particular instance was not assessed as being mentally ill and that there was no warning that he was going to commit an assault.

Further inquiries and discussions continued and correspondence was exchanged between the Superintendent, the Professional Standards Unit, and the Forensic Mental Health Unit (of the prison concerned) with a view to properly addressing the complaint.

One of the significant points which emerged as a result of inquiries were that the responsibility for mentally ill prisoners was divided between different agencies; that is, the day to day management of these prisoners was clearly a matter for the Correctional Centre involved, and the responsibility for the specialist assessment and treatment of mentally ill inmates was a matter for Forensic Mental Health (which operates under the umbrella of the Department of Health and Community Services with some assistance from the 'Correctional Medical Service', (a private company contracted to provide medical services to the prisons in the NT).



In this office's report to the complainant, it was noted, among other things, the variation between the complainant's account and that of the prison staff, advising that nothing significant turned upon the different recollections. The complainant was also provided with general information relating to the management of mental health issues by Corrections and advised that this office did not propose taking any further action regarding the matter.

The prisoner subsequently wrote back to this office disputing the outcome of the inquiries and effectively stated that this office had accepted NT Correctional Services version over that of his own. After further consideration of this correspondence, the complainant was advised that it was decided to further investigate his complaint.

This office made further inquiries of NT Corrections with a view to properly determining the scope of the investigation. This involved obtaining and reviewing a broad range of documentation from NT Correctional Services relevant to the complaint, including, block journal records, NT Corrections' internal memorandums and the assailant's 'Initial Security Assessment'.

The complainant's version of events was measured against the background of NT Corrections responses and documentary material. On the whole, this office reached the conclusion that further inquiries by this office would not change NT Corrections position and was also of the view that it would have to be accepted that there were conflicting accounts in regards to the complainant's specific allegations. This office was unable to reach a firm opinion, on the balance of probabilities, as to which version was the most accurate.

It was stressed to the complainant that this finding did not mean that this office disbelieved his account, or indeed any account; it simply meant that on the available evidence this office could not determine the matter one way or another. The factors which led to this office believing that this was a reasonable conclusion were as follows:

In support of NT Corrections version of events

- NT Corrections documentation tended to suggest that prison officers had previously taken action when the prisoner in question had exhibited problematic behaviour or when that behaviour had been drawn to their attention. This office observed that the Officers' responses had appeared to have been appropriate within the context of the process adopted by NT Corrections for dealing with prisoners suffering mental health issues.
- The assailant's formal 'security assessment' did not indicate that he was unsuitable for placement in the 'general population';
- Comments by senior NT Corrections staff in the incident report relating to the assault (which was complained about) were to the effect that there were no references from the Psychiatric Nurse which would have alerted or warned officers of an impending assault.

In support of the complainant's version of events

- the complainant's allegation that he warned a prison officer about the assailant's behaviour two days before the assault, could not be entirely dismissed in light of the fact that a block journal for the relevant period could not be located and might have contained relevant information;
- an incident report regarding the assault (prepared by a senior NT Corrections staff member shortly after the incident in question) noted that the complainant had stated to that





Officer (who asserted he had spoken with a number of prisoners about the assault) that the complainant had previously warned about the change in the assailant's behaviour. In this office's view, this contemporaneous record went some way to supporting the complainant's version of events.

In light of this information, and given the time that had lapsed since the incident in question, this office was of the view that this matter would remain unresolved. In all the circumstances, it was considered that this office had taken the complainant's specific allegations about the assault as far as was necessary and could not see that any further investigation would serve any useful purpose.

One of the most influential factors taken into account in reaching this position was the fact that NT Corrections mental health programs had already been the subject of extensive review by the Department of Justice. This area was considered as part of a more holistic examination undertaken by the Department's contractor – a Management Consulting Firm – into NT Correctional Services adult custodial operations. Relevantly, it was observed that the review report made the following comment:

*Mentally disordered offenders are a chronic management problem in prisons. In addition to the additional health care needs they have, their behaviour is disruptive to other inmates, especially in the close quarters of a cell block – there is nowhere for other inmates to go to get away from the unusual behaviour.*

This statement appeared to effectively echo the complainant's concerns which were raised as a consequence of the incident in which a prisoner was assaulted. Importantly, the review made certain recommendations as to how to address the problems associated with the management of prisoners suffering mental health disorders. This office was fully supportive of any process which was designed to develop or improve NT Corrections' capacity to appropriately manage offenders suffering mental disorders. With this in mind, the review's proposals in this area appeared to be a very positive step in the right direction.

As a result, this office determined to formally consult with NT Corrections senior management regarding the general concern underlying the complainant's initial approach to this office – that NT Correctional Services management was failing to comprehensively manage prisoners who were mentally ill – outside the context of a formal investigation and outside the specifics of the complaint.

At the time of this decision, it had been this office's understanding that the Northern Territory Government had accepted all of the recommendations of the review into adult custodial operations, and that NT Corrections was currently working towards the implementation of the same. That being the case, it remained for this office to ascertain what progress NT Correctional Services had made towards the implementation of the Report's recommendations, particularly in relation to their mental health programs.

The complainant was advised that, in a general sense, the outcome of any further formal investigation by this office into his specific issues of concern would be overshadowed by the effect of the Government's acceptance of the comprehensive recommendations to improve Corrections' mental health programs. It was therefore decided to close the file in



regard to his specific issues of complaint and the complainant was advised that this office would be dealing directly with the Department of Justice on the broader issue of NT Corrections future direction regarding their general management of prisoners suffering mental disorders.

This office subsequently wrote to the Department about the outcome of inquiries into the complainant's specific concerns about the assault and in relation to the wider issue mentioned above. This office later received a positive reply from the Chief Executive Officer of the department stating that his Department was committed to the implementation of all recommendations from the Review in a timely and informed manner. That being the case, and on the basis of the information provided by the Chief Executive Officer regarding their progress, there was no need for any further involvement by this office and the file was closed.

## **6. Excessive Lockdowns**

The complainant in this matter complained that the incidence of lockdowns and the cancellation and shortening of sport periods had been increasing at the Correctional Centre in which he was housed.

This office conducted a number of inquiries in relation to this matter including looking at a similar complaint from a prisoner at the same Correctional Centre and the response from the Chief Executive Officer (CEO) of the Department of Justice to that complaint. Enquiries were also made with the Superintendent of the prison about the complaint.

This office was informed that in early 2004 that a review of Northern Territory Correctional Services was completed. This review included staffing issues and their effect on the number of lockdowns, and also the issue of sporting opportunities for inmates. The CEO had previously advised this office that the NT Government had accepted all of the recommendations of the Review and NT Correctional Services were in the process of implementing the Review recommendations and negotiations had begun with key stakeholders.

NT Corrections assured this office that it would continue to try and give prisoners as much out of cell time as is possible, however the reality of the situation was that lockdowns would occur from time to time due to issues that were beyond the control of prison management.

The Superintendent explained that there were staffing issues that affected lockdowns and the availability of sport periods. The Superintendent advised, however, that a number of new recruits were currently in training and were expected to be available in the near future. NT Corrections were also in the process of advertising for more recruits and these measures would hopefully decrease the incidence of lockdowns and allow for normal sport periods.

Given the above, the complainant was advised that it was the opinion of this office that the administrative actions of NT Corrections on this issue, at that point in time, were not unreasonable in the circumstances.



The complainant responded a few weeks later, advising that the incidence of lockdowns had decreased and that sports periods had returned to normal.

## LOCAL GOVERNMENT COUNCILS

### 1. Take Me To Court Palmerston City Council

The complainant in this matter advised this office that the Palmerston City Council had discontinued a court action against her after she had traveled to the Darwin Magistrates Court in answer to a Council issued summons from interstate. The Court matter was in relation to disputed rates payments. A Notice of Discontinuance was filed by the Council's agents at 3.35pm the day before the scheduled hearing without any formal notice to the complainant. The complainant also disputed the rates assessment by the Council which included interest.

Inquiries by this office established that the disputed rates originated from unpaid rates in the 2002/2003 rates period. A 2002/2003 rates notice was sent to the complainant and the first instalment was paid on time. The second instalment was not received by the due date and a reminder letter was sent to the complainant. A further letter was forwarded by the Council regarding the overdue payment. At this point, the Council referred the matter of collecting the debt owed to them to a debt collecting agency. At this point the debt consisted of the second and third instalments of the 2002/2003 rates, interest accrued and fees incurred by the Council in attempting to recover the money owed to date.

Due to a lack of response from the complainant, the Council then lodged a Statement of Claim for Debt or Damages in the Local Court.

This office ultimately came to the conclusion that the Council had utilised the provisions of the *Local Government Act* in an attempt to recover overdue rates and charges payments from the complainant in relation to the 2002/2003 rates period. As new rates notices were issued, the debt became larger. The levying of interest and charges was in accordance with the provisions of the Act and all payments from that time were allocated as per the Act (i.e. to the oldest debt first).

The Court, Council and their debt collecting agent were not aware that the complainant was going to appear before the Court in person. Up to this point the complainant had advised all parties that teleconferencing was to be utilised for the Court proceedings. The Discontinuance process had begun on the day before the Court hearing was scheduled. The Council's debt collecting agent attempted to contact the complainant regarding the discontinuance and left messages on her mobile phone.

Given the above, it was this office's opinion that the administrative actions of the Council were not unreasonable in the circumstances.



## **2. Mediation – sometimes it just doesn't work Darwin City Council (DCC)**

The complainant approached this Office to lodge a grievance about the conduct of their landlord, the Darwin City Council, over the period of their tenancy agreement. After extensive consultation with the complainant, this office identified the following elements of complaint:

- The decision of the DCC not to approve certain major building works on the leased premises was unlawful or otherwise unreasonable;
- That an external building certifier engaged by the DCC to inspect and report on existing buildings on the complainant's leased premises was the business partner of the husband of a senior DCC employee;
- That at a meeting of the Development Consent Authority (DCA), a staff member of the DCC made certain adverse oral representations to the DCA which were also contained in a letter from that staff member to the DCA. It was alleged that this particular letter had not been endorsed by the DCC;
- that the internal processes of the DCC, in circumstances where there was a planning application in respect of one of their own properties, were unreasonably protracted and inadequate;
- That a DCC Alderman, as an owner of a private business - which was alleged to be in direct competition with the complainant's business – should not have taken part in, or otherwise been present during, any discussion/deliberation of the full Council, or at any of its Committee meetings, relating to the complainant's business or to the leased premises.

This office determined that the majority of the issues of concern could possibly be resolved through a mediation/conciliation process. At the time, it was thought that this mechanism would possibly facilitate the resolution of a complex complaint – which included issues of a commercial nature – and avoid a lengthy and resource intensive process of ongoing investigation and reporting.

To this end, this office engaged the services of an experienced Barrister and Mediator to facilitate and manage this process. The Ombudsman then formally delegated, pursuant to section 12 of the *Ombudsman (Northern Territory) Act*, the power for this professional to resolve the complaint by mediation/conciliation under section 17A of the Act.

The reasoning as to why most of the issues were progressed by way of mediation/conciliation was summarised in a briefing paper and forwarded to the complainant and appropriate persons from the DCC prior to the mediation/conciliation conferences with a view to ensuring that the parties:

- were fully aware of the grounds for the mediation/conciliation;
- had a clear starting point for negotiations;
- used the dispute resolution process efficiently and effectively by focusing discussions on the matters outlined in the briefing document;
- were advised of the preliminary views of the office in relation to the elements of complaint.



Shortly after conducting lengthy mediation/conciliation sessions, the appointed delegate formally advised this office that he had reached the conclusion that this complaint was not realistically capable of expeditious resolution by mediation/conciliation.

The question then became: what action, if any, should this office take in light of the fact that the mediation/conciliation had failed to expeditiously resolve the complaint? This office formed the view that continuation of the investigation into the complaint, as a whole, was unnecessary or unjustified pursuant to section 18(1)(d) of my Act.

Some of the factors this office considered as influential in reaching this conclusion were:

- During the mediation/conciliation conferences the complainant was provided with numerous opportunities to fully canvass/discuss their specific issues of concern with Council.
- Despite being presented with these opportunities, it was this office's understanding that the complainant's focus moved away from addressing/resolving the issues in the sense contemplated by the briefing paper, and towards outlining general grievances about the DCC in terms of what the complainant viewed as Council's responsibilities and duties under the lease as landlord and as adjoining landowner to the complainant.
- These were more in the nature of legal matters between landlord and tenant which fell outside this office's purview. Indeed it was our understanding that the complainant's focus during the mediation/conciliation conferences tended to suggest that the main stimulus for their complaint to this office was to have this office assist in their pursuit of securing compensation from the Council. In this regard, it was felt that in this particular instance, the complainant's claim for damages was best dealt with through legal avenues.
- Council's representatives advised the complainant that in light of the fact that Council has a number of newly appointed members, it was open to the complainant to lodge a new submission in relation to a key development proposal regarding their business. In this regard, this office formed the view that this approach would provide both parties with a fair opportunity to clearly articulate their positions after proper consideration of all relevant information.
- This office was satisfied that the CEO of the DCC had already taken appropriate action to address shortcomings in the DCC's administrative procedures when considering development applications relating to Council owned property. These shortcomings related to Divisions within Council not pursuing a co-ordinated approach when considering development applications relating to Council owned property. In this respect, correspondence was viewed which persuaded this office that sufficient action had been taken within the DCC to implement measures which reduced the possibility of a similar situation occurring in the future.



- In relation to issue of a conflict of interest, having formally investigated this particular aspect of the complaint, this office was not convinced that the Alderman had a real or perceived conflict of interest when matters related to the complainant's business were raised for discussion and determination by the DCC during the relevant periods.

By way of background, it was observed that this allegation, though broad in nature, was serious in its implications. In this respect, it was our understanding that the crux of the allegation was that the Alderman, as a consequence of their personal commercial interests, brought some adverse influence to bear, or was biased in the performance of their public duties, when matters relevant to the complainant's business at the leased premises were raised by Council or any of its committees.

It seemed to this office that the merits of the allegation against the Alderman turned on the question of whether their business could be properly regarded as a true 'competitor' of the complainant's business. In other words, was there a sufficient commercial nexus between the Alderman's business and the complainant's business, which gave rise to an 'interest' that could improperly influence the performance of the Alderman's official duties and responsibilities (both in reality and from the perception of a reasonable onlooker)?

After a thorough examination of the factual circumstances of the case, this office formed the view that it could not reasonably be established that a sufficient commercial nexus existed between the trading activities or operations of the two businesses in question and as a result, this Office concluded that there had been no conflict of interest.

### **3. Shed a Little Light On Me! Palmerston City Council**

An owner of a small shed situated on an industrial property in the Palmerston Municipality was unhappy with the Palmerston City Council's (Council) decision to increase the rates for his shed from \$112 to \$300. The complainant felt that this increase was unjustified.

When he contacted Council for an explanation, Council explained to him that the *Local Government Act* (the Act) dictated how rates were to be applied. Council advised that the Act restricted Council to applying the same differential rate in the dollar to all properties situated within a specified zone. That is, Council is unable to apply a different rate to individual parcels of land on the same zone whether it be industrial, commercial, strata titled sheds, irrespective of their limited economic value.

However, Council advised that the Act did allow Council to waiver a ratepayer's rates on the basis off financial hardship, but only if the property was the family home and was not held for investment purposes.

Council informed the complainant that as part of a Council-wide initiative to assist such ratepayers, Councils' in the Northern Territory had, through its Local Government office, approached the NT Government and proposed an amendment to the Act to allow Councils



the power to set a different rate to specified parcels of land, in the same zone and Council was awaiting advice on the outcome of this approach.

Prior to finalising inquiries, Council informed this office that its approach to the Northern Territory Government to amend the Act had been successful and the Act had been amended. In short, this meant that, as the result of the amendment to the Act, Councils could now change the way it applied rates to such ratepayers and charge a different rate for such parcels.

Council advised that it could now charge a separate minimum for small parcels or storage units not intended for residential use in the Municipality of Palmerston located on a single parcel, and would be charged a minimum rate of \$158. This was a significant outcome for all owners of these particular types of properties and represented a substantial saving for them.

Council advised that it would contact the ratepayer and provide him with a full explanation of the new rates applicable. On advising this office that he was satisfied with the situation and after acknowledging Council's response, this office took no further action in the matter since it had been resolved.

## **NT POLICE FORCE**

### **1. Up in arms!**

The complainant was seeking to complain about the force that was used by police when taking him into custody for the breach of a Domestic Violence Order (DVO). In this respect, the complainant asserted that he was just *'having a cup of tea'* when the police arrived, and *'went into action'*. He alleged that the *'big'* police officer hit him and twisted his arm up behind his back which caused him considerable pain and led him to believe that his arm may have been broken.

When the complainant appeared in court some four days later, following a further but unrelated arrest, he complained about his sore arm and the Magistrate adjourned the matter so the police could take him to the hospital. A medical examination of the complainant showed that the arm was not broken, but bruised.

A detailed investigation of this complaint was subsequently conducted by the Professional Responsibility Division (PRD) under the supervision of the Joint Review Committee (JRC). An investigation report was prepared which took into account information relating to the arrest, medical reports detailing the injuries suffered by the complainant and interviews of police officers involved and the witnesses nominated by the complainant.

The JRC report concluded that there was no doubt that the police used force when they arrested the complainant. In this regard both police officers agreed that they grabbed the complainant's arms and pulled them up behind his back in a *'compliance hold'*. They stated that they did this when they were restraining the complainant after he had tried to run away.



The complainant denied that he tried to get away from the police, however, the JRC noted that a number of the witnesses, nominated by the complainant, supported the evidence of the police to this effect. Most of the witnesses agreed that police 'grabbed' the complainant's arm. However, there were discrepancies as to how exactly this was done.

Police are entitled to use force during a lawful arrest. In respect of whether the arrest was lawful, the JRC was satisfied that police acted within the parameters of the *Police Administration Act* in deciding to arrest the complainant for the alleged breach of the DVO. However, the JRC noted that the force used by police must be reasonable in the circumstances. The JRC also noted that the complainant not only tried to run away after his arrest but that he struggled against police before being placed in the van.

In essence the JRC accepted that a degree of force was used when the police restrained the complainant by holding and pulling his arms behind his back. It was also acknowledged that this restraint resulted in the pre-existing injury to the complainant's arm being aggravated. However, whilst this was unfortunate, it did not, in itself, prove that the force used was excessive. On the available evidence, the JRC was satisfied that the force used by police for the purpose of restraining the complainant during his arrest, was not excessive, and as such his complaint was not substantiated.

## **2. Boys on Bikes**

The complainant was the foster carer of the boy in question and complained that he was out riding his bike late at night and was pulled over by police. She said that police accused the boy of breaking into a house and searched him which involved him having to drop his shorts and threatened him that he and his mates would be "flogged".

A detailed investigation of this complaint was subsequently conducted by the Professional Responsibility Division (PRD) under the supervision of the Joint Review Committee (JRC). The investigation involved interviewing the boy and all police officers involved in the incident, as well as checking police records.

It transpired that police had received a call that night informing them that a resident had two intruders in her yard. Police then saw two juveniles riding bikes near the property in question. The boy was questioned about the intrusion, with which he denied any involvement, and was "pat searched". One police officer told him that he was going to break into the wrong house one day and be flogged by the occupier. He then sent him home.

The JRC found that it was reasonable to stop the boy in the circumstances as police had significant information about his past conduct. It was also determined that it was reasonable for police to question him. Police denied strip searching him but said they did feel around the top of his shorts which again, was found to be reasonable in the circumstances. The JRC found insufficient evidence to sustain the allegation that police had threatened to flog him. No recommendations were made to police as a result of the investigation.





### **3. Better Off Not Knowing**

The complainant's father contacted police and advised that he was unhappy with the action taken by police in respect of the complainant's domestic violence allegations against her husband. He also advised that he was concerned that the complainant's husband had been receiving information about the complaints from a particular police officer. A short time later, the complainant contacted the Domestic Violence Unit and requested that the matter be referred to the Professional Responsibility Command for investigation. It was the complainant's belief that a police officer was providing her husband with information about her complaints. The complainant advised that the police officer lived next door to the complainant's husband and they were good friends. The complainant further complained that she was unhappy with some aspects relating to the investigation of her domestic violence complaints.

The matter was investigated on behalf of the Joint Review Committee by the Professional Responsibility Command.

In interview, the complainant also alleged that the officer gave information to her husband about the police investigation into her complaints of domestic violence and other matters. She also alleged that the officer intimidated her and failed to provide her with assistance after she had been subjected to domestic violence. She further alleged that her husband forced her to sign a cash business cheque for \$3000 which he gave to the police officer. When she asked why this was occurring, her husband told her that she 'was better off not knowing'. Further, she complained that there are a number of details in a statement she provided to police about a domestic violence incident which she believed did not reflect the facts.

None of these complaints were found to be substantiated. While being interviewed, the police officer stated that he believed that another officer had allowed the complainant access to police records and resources to type up statements for Family Court proceedings. Whilst this was likewise not found to be substantiated, the investigator did establish that another police officer had accessed police computer records regarding the complainant's domestic violence matters inappropriately. That officer was counselled in relation to his duties and obligations under the NT Police Code of Conduct.

### **4. Street Struggle**

The complainant in this matter alleged he observed two cars parked near a fast food outlet in Darwin. It appeared to the complainant that the occupants of one of the two vehicles, two middle aged men, were harassing four youths in the other vehicle.

The complainant stated that as he approached one of the middle aged men (whom the complainant since discovered was a police officer) the man ran at him and pushed him. The complainant said to him "don't push me". The man responded by saying "I can do whatever I like – I'm the police". The complainant asked him to show some identification. The police officer did not show the complainant any identification and pushed him four more times.



The complainant stated that he then took a swing at the man. At this stage, the two police officers jumped on the complainant and threw him to the ground and pushed his head into the concrete. One of the police officers asked the other whether he had the “mace spray”. This police officer then proceeded to spray the mace approximately two centimetres from the complainant’s eyes. The complainant also stated that the police officers handcuffed him and stomped on the handcuffs in order to make them as tight as possible.

The complainant was then transported to the police watchhouse where he was charged with resisting arrest and assaulting police officers. Whilst in the watchhouse the complainant alleged that his requests for medical assistance were ignored.

A detailed investigation of the allegations was conducted by the Professional Responsibility Command of the Northern Territory Police Force on behalf of the Ombudsman and under the supervision of the Joint Review Committee (JRC).

The investigation found that police were lawfully performing their duties in questioning the occupants of the car. From the evidence of a number of the police witnesses the complainant was quite intoxicated at the time of the confrontation with the police officers. The complainant attempted to strike a police officer who then restrained him. The complainant continued to resist the police officer and when the second officer became involved the complainant struck the second officer in the jaw with his fist. Eventually the complainant was subdued and handcuffed after an application of OC spray. The allegation that the police officers intentionally over tightened the bracelets was denied by the officers involved and no other evidence gathered supported the complainant’s claim.

The fact that the police officers used force in arresting the complainant was not denied. The JRC found that there was no evidence to support the assertion that the force used was unnecessary or excessive.

With respect to the allegations that on a number of occasions the complainant was pushed by the police officers and that the police officers failed to show identification upon request, the complainant withdrew these allegations when interviewed as part of the investigations.

The allegation that two Police Officers failed to act on request for medical assistance was substantiated. The JRC recommended that these officers receive counselling for their failure to take action to bring the complainant’s request for medical assistance to the attention of the Watchhouse Keeper whilst he was in police custody.

## **5. Placing themselves on duty**

The complainant (17yo) alleged that late one night he had an argument with his girlfriend (15yo) at his girlfriend’s house. As a result of the argument, the girlfriend jumped over a fence and ran into the neighbouring park. The complainant chased the girlfriend into the park and grabbed her. The complainant alleged that as he was trying to carry her back to the house, two drunk off-duty police officers came out of nowhere and attacked the complainant. He claimed they threw heavy blows to his head for about 5 to 10 minutes, then got him to the ground and started to kick him, rendering him almost unconscious.



After a while two paddy wagons came with about four uniformed Police officers. The complainant was allowed to go home and later went to the Hospital. The complainant alleged that he had concussion and was kept under observation for about nine hours.

This complaint (that the off duty police officers should not have intervened or used force, and that the force was excessive) was investigated by the Professional Responsibility Command of the NT Police Force, on behalf of the Joint Review Committee.

The PRC investigation found that two off-duty officers were nearby when they heard the girlfriend's screams. They believed that a female was being assaulted, possibly sexually, and required immediate assistance. Another resident, as well as the girlfriend's stepmother were also concerned enough to call for police attendance. The JRC was of the opinion that this assumption by the officers was reasonable in the circumstances.

When the officers reached the park, they saw the complainant with his girlfriend in a headlock. The officers put themselves on duty and went to provide assistance. All police officers have sworn to uphold the law and are therefore obliged to take action in situations that warrant it. The JRC was of the view that the decision by the officers to place themselves on duty was an appropriate action on their part.

The officers identified themselves as police officers at the earliest possible moment. There was no evidence that the complainant was under a misapprehension about this. The JRC noted that whilst the officers acknowledge that they had both consumed some beer in the preceding hours whilst off duty, there was no evidence that they were drunk or affected by alcohol to any extent. There is no evidence to suggest that their decision to intervene for the girlfriend's safety was unreasonable.

In regard to the use of force, it was clear that the complainant was grabbed by one of the officers, hit several times by the other and that he was forced to the ground by both officers. The JRC noted that section 27(e) of the *Criminal Code Act* states in order to prevent the commission of an offence, the application of force is justified provided it is not unnecessary force and it is not intended and is not such as is likely to cause death or grievous harm.

The officers believed on reasonable grounds that the complainant was committing, or about to commit an offence. The JRC noted that the complainant was not arrested at the time, because the girlfriend did not want to lay a complaint at that time. The complainant was, however, later charged with assault. The JRC was therefore of the opinion that the officers were justified in using force to stop him.

None of the uniformed Police that arrived at the scene later noticed any injuries to the complainant that were consistent with him having been assaulted for "5 to 10 minutes" until nearly unconscious. The girlfriend's stepmother saw no injuries on the complainant, but saw blood on his clothes (which was from the other officer who was hit by his colleague by mistake). The complainant's father also saw no injuries on the complainant. The hospital medical report stated that the complainant sustained abrasions and soft tissue injuries and had symptoms consistent with concussion. The JRC concluded that there was insufficient evidence to sustain the complaint of excessive force.



## 6. A Sobering Thought

The complainant was waiting at the traffic lights to cross a major street when a police van pulled up and two officers got out. One of the officers caught hold of the complainant's arms and told her to get into the back of the van because she was drunk. The complainant told the police officers that she did not drink and therefore was not drunk, however they refused to listen and allegedly manhandled the complainant into the back of the van. A friend of the complainant confirmed that she did not drink but he was allegedly told to shut up or he would be put into the paddy wagon as well.

The complainant stated that she was taken in the paddy wagon to the watchhouse. She again told the police officers involved that she was not drunk as she does not drink alcohol. The officers would not listen to her and put her in the cells with a number of other persons where she was locked up for a number of hours prior to being released.

The complainant advised that she did not drink alcohol and had not done so for approximately four years. The complainant at the time had acquired brain injury as a result of alcohol abuse in the past, had an unsteady gait as a result of a major knee operation, also approximately four years ago and was blind in one eye. The complainant assumed that the police officers involved were under the mistaken belief that she was affected by alcohol due to her unsteady gait and also the fact that she had some slurring of speech due to her brain injury.

A detailed investigation of the issues of complaint was conducted by the Professional Responsibility Command of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC).

The JRC found that there was insufficient evidence to substantiate the complaints, but recommended that one of the police officers receive managerial guidance as to her responsibility to bring the issue to the attention of the Watch Commander where there is any doubt about a person's intoxication.

The JRC findings were subsequently reviewed by the Ombudsman at the complainant's request.

The Ombudsman found that as the complainant was clearly of the view that she was not drunk and had told the police officers this on a number of occasions, she had every reason to question why she was being apprehended. The police officer should have left the complainant in no doubt as to why she was being apprehended and not just assumed that "it was obvious to her". It was recommended that the police officer receive managerial guidance to this effect. The Ombudsman also found that the Watch Commander should have been asked to reassess the complainant to consider whether she was intoxicated.

The Ombudsman also pointed out that Section 133 of the *Police Administration Act* was not brought to the complainant's attention so that she could decide whether she might apply to a magistrate for her release. It was recommended to the Commissioner that this issue be clarified in the Police Custody Manual.



## 7. Party Pooper

The complainant, a 14 year old, was at home with no adult supervision when a party got out of control. Police attended and dispersed the crowd. Once it was established that there was no adult supervision at the property and the complainant had said she had no adult relatives in town at the time, police decided to take her into protective custody under the provisions of the *Community Welfare Act*. Contact was made with one of the complainant's parents and she was released into the care of a suggested responsible adult without charge. The complaint concerned issues of rudeness by police during her detention; not being given reasons for her detention; that confidential police information was disclosed to a school friend; and that she should not have been subjected to a breath test.

The Professional Responsibility Command, under the supervision of the Joint Review Committee, conducted an investigation and interviewed the complainant and all police officers involved in the incident.

The allegation that police had been rude and discourteous was not substantiated, however, it was found that a senior police officer had in fact accessed and disclosed confidential information about the incident, which then became public knowledge at the complainant's school. The JRC was also concerned that the officer who took the complainant into custody had not complied with the provisions of the *Community Welfare Act* and had no power to subject her to a breath analysis, although it was found that the officer had been acting in good faith and with the best interests of the complainant in mind. As a result of the investigation, the officer responsible for disclosing information was formally counselled and he also personally apologised to the complainant.

NT Police have now set up a Police Information Integrity Working Group on which the Ombudsman's office is represented. This Group will develop policies, procedures and operational practices which will ensure the security and integrity of information held by police.

The officer responsible for taking the complainant into custody was given educational counselling on the application of the *Community Welfare Act* and his powers to subject a person to a breath analysis.

## 8. Difficult to Investigate

The complainant alleged that she had been sitting with a relative when they were approached by police. Police searched her shopping bag which was filled with food and one of the officers took out an empty juice bottle and for no reason, hit the complainant on the mouth with it. The officers allegedly laughed at the complainant and then walked away.

The matter was subject of an investigation by the Professional Responsibility Command of the NT Police under the supervision of the Joint Review Committee.



The investigation of this serious complaint was initially limited due to the inability of police to locate the complainant or her relative. Several attempts were made to locate them without success and once they were finally located and interviewed, almost seven months had elapsed since the incident. Due to the length of time since the event, neither the complainant nor her relative could remember many details of the incident and said they would not be able to identify the officers involved. The investigation revealed that there was no evidence to prove or disprove the allegation.

As a result of the difficulties experienced in locating the complainant in this case, and similar difficulties in other investigations, a recommendation was made that a meeting be arranged between senior representatives from Police and Aboriginal Legal Services. The purpose of these meetings was to discuss strategies that might be implemented to address the difficulties experienced locating complainants who have no regular place of abode.

A meeting was held at the Ombudsman's office with representatives from two Aboriginal Legal Services and a representative from Police. Various options were discussed and some agreement reached in regard to providing a very comprehensive initial letter of complaint and complainant contact details where appropriate and possible.

## **9. Love thy Neighbour**

This complaint against police arose as the result of an ongoing dispute between neighbours that came to a head during an incident which involved verbal abuse and threats of violence. Police attended and the complainant alleged that he was arrested without reasonable basis, that police acted unlawfully and improperly in threatening to arrest everyone in the complainant's household and take the children to "welfare", and that police failed to investigate the complainant's allegation that the neighbour had threatened his life and had therefore committed an offence.

All police officers involved with the incident were interviewed, as were all witnesses who had been at the complainant's residence at the time. All relevant police records were reviewed. Attempts were made to interview the neighbour involved in the dispute and other witnesses but these people did not consent to being interviewed.

On the basis of the evidence available, the Joint Review Committee (JRC) found that it was not unreasonable for the police to arrest and charge the complainant. The incident involved an escalating dispute between neighbours and police enquiries at the time suggested that the complainant had breached the peace. Although all charges against the complainant were subsequently dismissed, the presiding Magistrate did not find that there was no case to answer which suggested that there was at least some basis to the laying of the charges. The JRC did find, however, that police were somewhat quick to reach the conclusion that the complainant was at fault in the neighbour dispute, and that this may have escalated the dispute. It was recommended that the officers involved be given managerial guidance on how to deal with neighbour disputes.



The available evidence suggested that police had been endeavouring to rectify the emotionally charged situation by reminding all people present of their obligation to keep the peace. The officers also told those present that they would arrest anyone they thought was committing an offence and if all adults were arrested then the children would be taken into care. The JRC found that since not everyone present had heard the comments complained of and evidence that some witnesses were adversely affected by alcohol, there was insufficient evidence to support the complainant's allegation.

The complainant's allegation that police refused to take his complaint that his neighbour had threatened his life was investigated. Police who were present recall the complainant wanting to make such a complaint but also recall that he was affected by alcohol and was told that he could make his complaint at the station the next morning. The JRC found that due to the level of intoxication of some of the parties, it would have been unwise to attempt to take statements and conduct interviews at that time. The complainant did not pursue the making of a complaint and in fact came to no harm and a police officer did recall him admitting that his neighbour had no means to carry out his threats. The JRC found that the actions of police were reasonable in the circumstances.

## **10. Rough Justice**

The complainant alleged that when she was arrested by Police they did not inform her of the reason for the arrest and they used excessive force resulting in significant bruising to her arm. In addition the complainant alleged that a female Police Auxiliary in the watchhouse was very rough in dealing with her and when she initially requested to go to hospital, the request was refused.

A detailed investigation of the complaint was conducted by the Professional Responsibility Division of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC).

The Police records indicated that the complainant was not arrested on the night in question, but was taken into protective custody. Police officers advised that the complainant was informed on numerous occasions as to why she was being taken into custody. The JRC concluded that there was ample evidence that the complainant was told by Police the reason why she was apprehended that night.

Police admitted to using force on the complainant when they visited the complainant's unit and again when she was taken into protective custody. It was noted that police are able to use force to overcome active resistance when performing their duties. The question was therefore, whether such force was excessive.

The police officers involved stated that on both visits, scuffles broke out leading to the complainant being 'ground stabilised' by officers. The NT Police Defensive Tactics Manual describes 'ground stabilising' as when police members place one shin diagonally across the subject's back from the shoulder to the middle of the back, leaving the toes on the ground next to the subject's shoulder. The police member rests their body weight on the shin. The subject's closest arm is grasped using a compression hold and is bent to the subject's back. The police member's other knee is placed on the subject's ribs to stop the



subject's elbow from moving out. The subject's arm is bent off of their back to effect control/compliance on the wrist and shoulder of the subject.

The JRC noted that a Use of Force report was completed, which stated that force was used on the complainant because of her 'violent behaviour'. On the evidence of both the complainant and the officers present, the JRC was satisfied that the use of force in taking the complainant to the ground was justified, and was not excessive.

The complainant's allegation that she was treated roughly by a female Auxiliary in the watchhouse was substantiated. The JRC was informed that the Auxiliary had been charged with a disciplinary offence as a result of her actions toward the complainant.

The manner in which the Auxiliary spoke to the complainant was also considered unprofessional by the JRC and the JRC recommended that she have brought to her attention that when dealing with difficult prisoners the use of such language and the use of language which could be perceived as a threat is inappropriate and unprofessional.

The JRC also noted that it did take some time for the complainant to be conveyed to the hospital, however, the request was not refused. The JRC was of the opinion that the allegation that the complainant's initial request to go to hospital was refused was not substantiated.

## **11. Caught in Cross-Fire**

The complainant was caught up in an operation by the Tactical Response Group (TRG) members of the NT Police, leading to him being apprehended and he and his vehicle being searched. He complained about the way this was carried out, in particular:

- That he was verbally abused by apprehending police
- That he had a gun pointed at him during his apprehension
- That police tied his hands together too tightly and slammed him against the side of a fence
- That while apprehended, police photographed him, and removed his mobile phone and wallet
- That he was not offered an explanation as to the reason for his detainment.
- That police caused damage to his mobile phone, vehicle and CD stacker

A detailed investigation of the complaint was conducted by the Professional Responsibility Division of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC).

The JRC was satisfied that intelligence was such that it justified the high-risk status of the operation. The person of interest was not the complainant but his friend, who was with the complainant at the time.

In respect of the circumstances surrounding the search of the complainant and his vehicle the JRC concluded that TRG members had reasonable cause to do so, and that the





complainant's detention during the search was reasonable. The JRC found that the complaint about swearing was unsubstantiated, based on the complainant's own confession that he could have been wrong about this, together with the denials by the relevant TRG members and the evidence of the independent civilian witnesses that no swearing occurred. The JRC concluded that the complainant did have a weapon pointed directly at him and that this was reasonably justified in the circumstances and in accordance with procedures for such operations.

The JRC found that the flexi-cuffs were certainly applied firmly, but there was no evidence to suggest that the TRG member used unreasonable force or knowingly used the flexi-cuffs to restrict circulation. There was also no evidence to support the allegation that the complainant was slammed against the side of the fence. On the evidence available, the JRC concluded that the complainant was offered an explanation as to the reason for him being detained. The JRC also concluded that there was no evidence to suggest police damaged the complainant's property.

The JRC found that it was lawful and reasonable for police to remove his phone and wallet during the search, but that police had no lawful authority to obtain information from his phone or take photographs of him. The JRC recommended to the Commissioner of Police that any such information and photographs be returned or destroyed, that the complainant receive a written apology, that the members involved be counselled as to the law around searches.

The JRC was concerned that, in such high risk-situations, the treatment of persons in company with a person at the time of his arrest seemed unclear, and that there appeared to be something of a 'grey area' in relation to what police can lawfully do in respect of persons caught up in a high-risk apprehension.

The JRC recommended that the Commissioner of Police review the TRG's Standard Operating Procedures to clarify the powers of police in respect of persons caught up in a high-risk apprehension, particularly as they relate to detention, searching and restraint. This has now been incorporated into future Territory Response Section training programs and the Standard Operating Procedures.

## **12. Mistaken identity**

The complainant in this matter advised this office that while he was driving to a friend's house, he was stopped by police. However, at that time the complainant did not know that it was the police who had pulled him over. A man got out of the vehicle and approached the complainant but he did not show him any identification. The complainant also stated that the police car was unmarked and without proper police lights. The complainant drove off before the man could speak to him. A pursuit then took place and the complainant stopped his vehicle when he saw 'properly' marked police cars. The complainant said that police dragged him out of his vehicle, causing his car window to shatter and, as a result, he injured his arm. It was alleged that the police then pushed the complainant's face down into the dirt and handcuffed him. It was further alleged that the complainant was charged for possessing a weapon because the police found a 'steak knife' in his car. The complainant was taken to the cells and charged. When asked about the charges, that complainant alleged that police intimidated him by saying, 'do you want to stay here'.



A detailed investigation of this complaint was conducted by the Professional Responsibility Command of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC).

The investigation established that none of the complainant's allegations could be substantiated. The Police Officers that first attempted to pull the complainant over had done everything reasonably expected of them to identify themselves as Police Officers. The pursuit was called off due to dangerous speeds being required. A marked Police vehicle then noted the complainant going through a red light, and this car and the initial unmarked car then reactivated the pursuit. Force was used to arrest the complainant, however due to the complainant's resistance, this force was considered by the JRC to have been reasonable in the circumstances. Although charges of carrying an offensive weapon were eventually dropped, the JRC was of the opinion that it was not unreasonable for them to be laid in the circumstances. The complainant had told the Police at the time of his arrest that the knife was for self-defence. Comments by Police regarding "do you want to stay here", when the complainant was to be bailed, were found by the JRC to have been made in an attempt to explain to the complainant the procedure of Police bail, and to advise that the Courts were the appropriate place to dispute any resulting charges.

One issue that did arise from the investigation into this complaint was whether the members adhered to the 'Urgent Duty Driving' policy' (UDD) when they reactivated the pursuit. It was found by the JRC that the failure of the officers involved to request and gain the approval of the Communications Supervisor to reinstate the pursuit was not in accordance with the NT Police UDD policy. The JRC recommended that the members involved receive educational counselling regarding the requirements of adhering to the UDD policy.

### **13. Lady Justice took her time**

The complainants had operated a licensed tavern for a number of years. After being served with a 'Notice to Quit', the complainants left the premises and removed most of the furniture and fittings. The matter was reported as a theft to police and investigated by local Detectives. A number of search warrants were executed upon premises controlled by the complainants and a large quantity of the fixtures and fittings reported as stolen were located and seized by police. Many of the items seized as exhibits were stored outside of the Police Property Office deteriorated as a consequence of this exposure to the elements. The complainants asserted that they had been making cash payments to the Business Manager to purchase the fixtures and fittings and that the matter was a civil dispute, not a criminal matter.

A detailed investigation of the complaint was conducted by the Professional Responsibility Command of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC).

The JRC emphasised that the Director of Public Prosecutions (DPP) was responsible for the institution, preparation and conduct of the criminal matters on behalf of the Crown, and for the carriage of the complainants' particular matter at the committal stage and beyond.



That being the case, the real concern for the JRC became whether the Police's actions during the course of the complainants' prosecution gave rise to any issues of concern which should be addressed or remedied.

In this regard, the JRC found that there was no evidence to support the allegation of a malicious prosecution by Police. However, at a stage where the DPP was heavily reliant on Police support, Police did not make available sufficient resources to allow for the proper management of the complainants' matter. The Police actions and decisions during the course of the criminal proceedings were not properly responsive or procedurally sound, and the inference was open that Police had deliberately delayed or hindered the DPP's attempts to prepare the complainants' matter for trial as a means to frustrate the complainants.

As a result, the JRC recommended that the Commissioner of Police inform appropriate officers of the JRC's findings and its concerns regarding the allegations and that the Commissioner take such action as he considers necessary in order to prevent a re-occurrence of the deficiencies identified in the Police's handling of the complainants' matter. The new initiatives established included:

- Regular audits by managers of all investigations allocated to members under their control;
- Fortnightly meetings with supervisors and Officer in Charge to identify case loads, issues and specific requirements of lengthy investigations; and

The issues surrounding Police's long term storage practices were referred to an internal working party with a view to reviewing and enhancing existing protocols.

#### **14. Unwelcome warrant**

The complainant in this matter advised this office that in 1996, allegations of trespassing and assault were made against him and two of his friends. As a result of this, police informed the complainant that he should come in for an interview. The complainant cooperated with the police, and was later told by one of his friends that the police had dropped the matter. The complainant heard nothing more about it from the police and, as far as he was concerned, the matter was closed.

Five years later in 2001, the complainant was called as a defence witness in a fraud case. The case was against one of the complainant's friends allegedly involved in the matters in 1996. The complainant was not a major witness in the case but was called to substantiate the claims of another witness. At this point, the complainant stated that his friend told him that she had received a warrant for her arrest on charges related to the 1996 allegations and suggested that the complainant check to see whether there was a warrant out for him as well.

Subsequently, the complainant discovered that there was a warrant issued for him. The complainant went to court about five times and, on each occasion, the matter was further



adjourned. As a result of the charges against the complainant, he was withdrawn as a witness in the fraud case.

In October 2002, the complainant's legal representative brought an action in the Supreme Court seeking a declaration that the charges brought against him in 2001 were an abuse of process. The charges were dropped in around April 2003.

The complainant believed that the police had no new evidence or reason to reactivate the 1996 matter and that the charges were only re-activated in order to discredit him as a witness in the fraud case against his friend.

A detailed investigation of the complaint was conducted by the Professional Responsibility Command of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC).

It was noted that the evidence contained on the Police file in question certainly supported the charges as originally laid and that the complainants had not absconded, or been charged with any offences. The matter was therefore forwarded to the Director of Prosecutions.

Eventually, the Director of Public Prosecutions dropped all charges for the 1996 matter because of the length of time that had elapsed since the incident occurred.

The JRC was of the view that there was insufficient evidence to support the complaint that the investigating officer resurrected the assault and trespass charges against the complainant in order to discredit him as a witness in the fraud trial. Indeed, the evidence suggested that the assault and trespass charges languished because the court was initially provided with incorrect information as to the status of the witnesses. The evidence further suggested that there were entirely proper reasons why the charges were re-instigated and they were only dropped ultimately because of the passage of time and after due consideration by the Director of Public Prosecutions in the exercise of his prosecutorial discretion.

## **15. Handle with Care**

The complainant stated that he was stopped by police in his car on a major Darwin road at approximately 2 am. He had two passengers with him in the car who were witnesses to his arrest. The complainant alleged that police grabbed him, unnecessarily "tied" his hands, pushed him to the ground and then threw him into the police car. He said police swore at him when he was arrested. He also claimed that he was bleeding when he arrived at the watch house but was provided with no medical attention.

A detailed investigation of the complaint was conducted by the Professional Responsibility Command of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC). The investigation involved interviews with the complainant, his passengers, all police officers involved, the watch house video and various other police records.



After interviewing everyone involved (including the civilian witnesses) it was determined that the complainant had refused to get of his car and had to be forcibly removed. Police sought advice from their Operational Safety, Tactics and Training Techniques specialist who deemed that the force used was not excessive in the circumstances.

The allegation that police swore at the complainant was sustained as one of the officers admitted that he may have sworn during the arrest. This officer was given managerial guidance in respect of this aspect of the complaint.

The allegation that no medical treatment was provided was also sustained. On the watch house tape, the complainant could clearly be heard expressing concern about his high blood pressure. It was noted in the offender journal that the complainant had grazing to his elbows and knees but no mention was made of his blood pressure. Managerial guidance was recommended for the auxiliary officer concerned but she resigned from the police force before this could occur.

## **16. Unlucky Escape**

The complainant in this matter alleged that he was assaulted by two police members after his arrest. Whilst being transported to a watchhouse the complainant managed to escape from the rear of a Police cage vehicle and jumped from the moving vehicle. The complainant alleged that while he was lying on the ground, having jumped from the vehicle, the officers kicked him on the elbow, jaw and neck. The complainant said that he did not resist and was lying still. The complainant also said that at this time there were three police officers present and one was holding him still and the others hit him with closed fists on the jaw and neck as well as kicking him in the ribs.

A detailed investigation of this complaint was conducted by the Professional Responsibility Division of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC). The police investigation officer spoke to the complainant, approached Police members present at the scene of the alleged assault, and an Ambulance Paramedic.

The police evidence was that the complainant fell to the ground after he had jumped from the Police vehicle. The Police members present were concerned for the complainant's welfare and denied hitting or kicking the complainant.

The JRC considered that the available evidence supported that of the police to the effect that the complainant was already on the ground by the time the police reached him. It thus could not sustain the complainant's allegation that his arm was twisted and was pushed to the ground by the police after he jumped from the van. The complainant's injuries of grazes to knee, elbow and hand were consistent with him falling over after jumping from the cage. There was however no medical evidence to support the complainant's allegations that he was punched to the head, elbow, neck and jaw and kicked in the ribs or back.

The JRC also commented that the place where the complainant was lying when the alleged assault took place was only a few metres from a relatively busy road in the middle



of the afternoon. There was evidence to the effect that a number of people had stopped to observe the incident or slowed down as they passed. The JRC commented that if the incident occurred as alleged in the initial complaint, it would be unlikely that a member of the public would not complain about the matter.

In relation to the manner in which the complainant managed to escape from the police vehicle's cage, it was established that the complainant effected his escape by manipulating the locking mechanism of the cage door by putting his fingers through the mesh. Investigation revealed that this particular cage door had not been equipped with the fine mesh which prevents a prisoner from putting their fingers through to operate the lock, and which is fitted to most other vehicles. The Officer in Charge stated that it was observed that this cage car had a new cage which had not been fitted with an area of smaller grill mesh as had all the other vehicles. The vehicle was subsequently fitted with the mesh.

The JRC recommended that the NT Police either ensure that all police cage vehicles are fitted with the smaller mesh preventing the opening mechanism being accessed by prisoners, or ensure that the practice of fitting a padlock and/or handcuffs is standard for all NT Police.

Police later notified this office that all cage vehicles would be checked when serviced or changed over to ensure double meshing had been fitted to prevent this type of incident occurring again.

## **17. Assault of a Juvenile at the Watch House**

A 17 year old boy was arrested by Police for allegedly breaking into a Police Station. The juvenile alleged that whilst being interviewed at the Police Station after his arrest, he was assaulted by Police.

The juvenile alleged that while two police officers were interviewing him another police officer entered the police interview room yelling at him angrily. This police officer then hit him hard on the left arm, grabbed him around the neck and pushed him into a door frame. The juvenile also alleges that on the way to the Police cells he was pushed by the same officer and this caused him to lose his balance and fall against a Police vehicle, striking his head and chest on the bonnet of the vehicle.

A detailed investigation of the complaint was conducted by the Professional Responsibility Command (PRC) under the supervision of the Joint Review Committee (JRC). The JRC interviewed a number of witnesses to the incidents, the complainant and the Police Officers present at the watch-house.

The JRC concluded that whilst it was appropriate for the police officer to approach the complainant in the watch-house, the manner in which the officer then involved himself in the complainant's interview was improper, unnecessary and unprofessional. As a result, disciplinary action was initiated against the officer.



The JRC also raised concerns that the two witnessing police officers had not reported the actions of their acting superior officer to an appropriate Officer and due to this the JRC recommended that disciplinary action also be taken out against these officers.

### **18. “They push me with the bullbar like a bullock”**

The complainant alleged that he and other people were in a creek behind a shop, when a Police vehicle arrived. The complainant advised that he was not doing anything unlawful or disorderly, and was minding his own business. Despite the fact that the complainant was not causing any trouble, he advised that the Police drove into him and hit him with the bullbar intentionally. When the complainant questioned the Police actions he said that the Police merely laughed and eventually removed themselves from the vicinity.

The complainant further alleged that the same two Policemen were involved in an earlier incident at the same place. The complainant alleged that he and his daughter were with a group of people when the same Policemen arrived and stole blankets and kangaroo tails with the intention of taking them to the dump.

A detailed investigation of the complaint was conducted by the Professional Responsibility Command (PRC) of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC). The investigation involved speaking with all of the people identified by the complainant as witnesses to the alleged incident, the Police officers involved and a Town Council staff member.

When interviewed by the police investigator, the complainant stated that the Police vehicle did not hit him, although it did frighten him by driving slowly behind him. While some witnesses indicated that they thought the vehicle hit the complainant, the complainant said that this was not the case, as did the police involved and two other witnesses. This allegation was therefore not sustained.

The information gathered during the course of the investigation also indicated that Police did remove some blankets from the area, however, there was no evidence to support the allegation that the blankets were stolen, as alleged in the complaint. Similarly, there was no evidence to support the allegation that police stole kangaroo tails and took them to the dump.

While the available evidence did not support the allegations contained in the complaint, the JRC noted that as a result of this complaint, the practice of ‘herding’ people with a police vehicle was ceased immediately as it was considered to be unsafe with the risk of potential injury.

### **19. Complaint of assault by police (NT Police)**

The complainant was with a group of friends near a shopping centre when police approached the group and tipped out their containers of alcohol and asked them to move on. As they were leaving the scene the police allegedly called out remarks that were particularly offensive to the complainant, who had just gone through a traditional manhood



ceremony. The complainant swore at the officers who then returned to the scene and conducted a search of the complainant.

The complainant alleged that during the search one of the police officers pulled his hand with a lighted cigarette in it up behind his ear and burned him with it.

A detailed investigation of the complaint was conducted by the Professional Responsibility Command (PRC) of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC).

Since the complainant had been unable to identify the officers concerned, much of these enquiries involved establishing which officers had had dealings with the complainant on the night in question. Once the officers were identified, they admitted apprehending and searching the complainant but denied the assault. After interviewing all possible witnesses, and even compiling a photo ID board in an attempt to have the complainant positively identify the officer involved, there was insufficient evidence to substantiate the allegation.

The enquiries did, however, highlight areas of deficiency in the officers' record keeping concerning the incident and also found the search conducted to be unlawful in the circumstances. The police officers were ultimately charged with disciplinary offences under the *Police Administration Act*.

## **20. Change to General Orders**

Police were called out by neighbours reporting juveniles acting suspiciously in a suburban area. A juvenile was apprehended and subsequently searched in the police paddy wagon and jewellery was found in his underpants and shoe. He was conveyed to the police station and interviewed in the presence of his grandmother, who then made a complaint to police on behalf of her grandson alleging, among other things, that police had assaulted him in the paddy wagon and strip-searched him in a public place.

A detailed investigation of the complaint was conducted by the Professional Responsibility Command (PRC) of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC).

The JRC considered both the legality of the search of the juvenile and the manner in which the search was conducted. It found that the search was conducted in the rear of the paddy wagon, with the male officer the only person able to see the juvenile in a state of undress, which in any case did not expose his naked body as he retained his long shirt. The search was conducted after the officers were advised by a home owner of the theft of jewellery. A 'pat down' search of the juvenile revealed a bulge in his shorts and the strip search was conducted when the juvenile refused to hand over the property subsequently found to have been concealed in his shorts.

In relation to the manner in which the search was conducted, the JRC found that while the search was conducted in a public place, sufficient consideration was given to the juvenile's privacy.





On being asked to review the finding, the Ombudsman upheld the JRC's finding on the grounds that the juvenile was not exposed to public view or to the female officer, he was given a prior opportunity to voluntarily relinquish the stolen property and the search was based on reasonable suspicion and therefore was not capricious or gratuitous.

In relation to the legality of the search, the *Police Administration Act* permits body searches without a warrant in circumstances of seriousness and urgency, of a person reasonably suspected by police to be carrying anything connected with an offence. However, the *Juvenile Justice Act* requires that police shall not "cause the juvenile to do anything in connection with the investigation of an offence" unless in the presence of a parent or guardian".

The JRC found that the police officer, in conducting the search in the absence of a parent or guardian, failed to adhere to the *Juvenile Justice Act*. However, in the absence (at the time) of a Police General Order clarifying the circumstances under which a juvenile may be searched, the JRC did not consider the action merited disciplinary action. It did, however, recommend that NT Police seek legal advice to determine whether, in the event of conflict between the two Acts, the *Juvenile Justice Act* takes precedence. It also recommended that an education campaign be undertaken to ensure that police are aware of their responsibilities under the *Juvenile Justice Act* when searching juveniles.

The Police General Order on dealings with juveniles has since been amended to clarify the circumstances in which juveniles may be searched. It now states that while juveniles in lawful custody may be searched for weapons, any search relating to the recovery of evidence should conform with the provisions of the *Juvenile Justice Act*, that is, only be conducted in the presence of a parent or guardian.

## **21. "Don't worry it will be destroyed" (NT Police)**

The complainant in this matter advised that he purchased a carton of "Stars and Stripes" UDL cans from a Bottle Department with a few of his friends. As the complainant and his friends were walking home some of his friends began drinking some of the cans, however the complainant did not consume any.

When the complainant was about 20 to 30 metres from his home, a Police Officer arrived in a vehicle. The Police Officer ordered the complainant's friends who were drinking to tip out their cans. The complainant kept on walking and the Police Officer pulled up in front of him, leaned through the window, and grabbed the carton (18 unopened cans left in the carton) from him. The Police Officer drove off saying "don't worry, it will be destroyed". The complainant tried to ask for the carton back and explain that he was on his way home, but the Police Officer drove off. The complainant was not given a receipt for the unopened cans and he was concerned that the Police Officer may have taken the cans for his own personal consumption.

A detailed investigation of the complaint was conducted by the Professional Responsibility Command (PRC) of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC).



The Police Officer told the investigator that he saw the complainant standing in the middle of the road holding an opened carton of Stars and Stripes Bourbon. The Police Officer drove next to the complainant and grabbed the carton and put it on the passenger's seat next to him. He was asked about the conversation he had with the complainant and he told the investigation officer, *"I've said to him that they'd be destroyed and he said but sir whatever and I said no they're gonna be destroyed, they're open, and I drove off"*. He said he assumed that the complainant was walking into town, but did not clarify this with him. He and his partner, who resumed duties with him after a meal break, told the investigator that they tipped the alcohol out at a nearby park.

The *Summary Offences Act* provides that police can seize alcohol, which is in opened containers, from a person who is drinking within 2 kilometres of licensed premises. The Police can also seize alcohol which is in unopened containers, if they have reason to believe that that alcohol is the source of liquor from which the person is likely to continue to drink in contravention of the two kilometre law. Unopened containers of alcohol can also be seized in the above circumstances from anyone in the immediate vicinity of someone who is contravening the 2 kilometre law.

In this case, whilst the complainant was not the person drinking, the cans he was holding were seized as he was in the "immediate vicinity". However, the legislation also states that if the cans are unopened, the officer must take them back to the police station where they must be destroyed. If the cans are opened, however, they may be tipped out on the spot.

The JRC concluded that the Police officer in this matter did not make sufficient enquiries to satisfy himself that he was entitled to seize the unopened cans held by the complainant. The unopened cans were also not destroyed in accordance with the legislation. As a result, the Police Officers involved were formally counselled regarding the requirements of the legislation and the complainant received an apology. The complainant also accepted a settlement of 18 cans of similar alcohol as was seized.

## **22. Missing Money**

A complaint was made by a person taken into protective custody that money was stolen from his property while he was held at the watch house.

A detailed investigation of the complaint was conducted by the Professional Responsibility Command (PRC) of the Northern Territory Police on behalf of the Ombudsman, under the supervision of the Joint Review Committee (JRC).

A check of the video tapes of the watch house and interview of apprehending members and watch house staff was unable to either prove or disprove the allegation. However, the investigation found that failure to follow procedures for prisoner search contributed to the failure to determine the matter.

There appeared to be some variance of opinion among watch house staff as to what would constitute an acceptable search of prisoners. The Custody Manual requires full particulars of every item taken from a prisoner. If the person has a bag, the member who is to have custody of the prisoner should "in their own interest, record every item therein."



In this case, the bag in the property of the prisoner was simply recorded as “bag personal” and the contents were not viewed or itemised. Thus there was no record of whether money, which the prisoner later claimed was stolen at the watch house, was actually in the prisoner’s possession when he was received at reception.

The complainant received a ‘without prejudice’ payment of the amount allegedly stolen in recognition of the fact that police failed to adequately record his property while he was in police custody.

As a result of this complaint, police undertook to reinforce with Auxiliaries and Recruits at training, the need to thoroughly search prisoners and properly account for their property when they are received at the watch house.



## Appendix B

### ACCESS AND AWARENESS SESSIONS

As part of the public awareness program the following occurred:

**Visits made:** Alice Springs

**Talks:**

Speaker	Date	Details
Wayne Sanderson, Investigation Officer	15 July 2004	Prison Officer in Training Course, Alice Springs
Elizabeth Jacob, Senior Investigation Officer	13 September 2004	Prison Officer in Training Course, Darwin
Peter Boyce, Ombudsman	8 October 2004	Charles Darwin University Criminal Law Students
Peter Boyce, Ombudsman	17 March 2005	Institute of Public Administration, Darwin Chapter
Cindy Bravos, Director Investigations	22 April 2005	NT Police – Small Station Management Course, Darwin
Elizabeth Jacob, Senior Investigation Officer	11 May 2005	Batchelor Institute of Indigenous Tertiary Education

### 3. Conferences/Meetings

Peter Boyce, Ombudsman	1 July 2004	Australian Institute of Administrative Law Forum, Hobart
Peter Boyce, Ombudsman	7-10 September 2004	International Ombudsman Conference, Quebec
Peter Boyce, Ombudsman	4-5 November 2004	5 <sup>th</sup> National Investigations Symposium, Sydney
Peter Boyce, Ombudsman	9 February 2005	Australasian and Pacific Ombudsman Region Meeting, Wellington, New Zealand
Peter Boyce, Ombudsman	10-11 February 2005	22 <sup>nd</sup> Australasian & Pacific Ombudsman Conference, Wellington, New Zealand



## Appendix C

### DETAILED COMPLAINT STATISTICS FOR 2004/05

#### ENQUIRIES/COMPLAINTS RECEIVED

##### NT AGENCIES (INCLUDING CORRECTIONS AND LOCAL GOVERNMENT)

As detailed in Table 28, a total of 2599 new approaches were made about NT agencies, excluding complaints against police. Of the total 2954 active approaches for the year, 1872 or 63% were finalised. This resulted in 163 approaches remaining open as at 30 June 2005.

*Table 28: Enquiries/Complaints open during 2004/05 (NT Agencies)*

ITEM	2000/01	2001/02	2002/03	2003/04	2004/05
Open as at 1 July	80	138	5	165	127
Received during the year	1542	1248	1590	1734	2599
<b>Total for the year</b>	<b>1622</b>	<b>1386</b>	<b>1595</b>	<b>1899</b>	<b>2726</b>
Finalised during the year	1484	1301	1430	1772	2563
<b>Still open as at 30 June</b>	<b>138</b>	<b>85</b>	<b>165</b>	<b>127</b>	<b>163</b>

##### NT POLICE

As detailed in Table 29, a total of 676 new approaches were made about NT police. Of the total 900 active complaints for the year, 674 or 75% were finalised. This resulted in 226 approaches remaining open as at 30 June 2005.

*Table 29: Enquiries/Complaints open during 2004/05 (Police)*

ITEM	2000/01	2001/02	2002/03	2003/04	2004/05
Open as at 1 July	65	74	103	181	216
Received during the year	363	390	492	623	676
<b>Total for the year</b>	<b>428</b>	<b>464</b>	<b>595</b>	<b>804</b>	<b>892</b>
Finalised during the year	355	381	421	588	674
<b>Still open as at 30 June</b>	<b>73</b>	<b>83</b>	<b>174</b>	<b>216</b>	<b>218</b>



## NUMBER OF ENQUIRIES/COMPLAINTS MADE BY AGENCY

The following is a detailed breakdown of the number of enquiries/complaints received by the Office of the Ombudsman for each Agency.

### NT AGENCIES (EXCLUDING CORRECTIONS AND LOCAL GOVERNMENT)

AGENCY	2001/02	2002/03	2003/04	2004/05
<b>Aboriginal Areas Protection Authority</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Auditor General</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Batchelor Institute of Tertiary Education</b>	<b>0</b>	<b>4</b>	<b>5</b>	<b>7</b>
<b>Bushfire Council NT</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>4</b>
<b>Business, Industry and Resource Development</b>	<b>0</b>	<b>15</b>	<b>7</b>	<b>18</b>
Asian Relations and Trade	0	0	3	4
Industries and Business	0	1	2	5
Mines and Energy	0	14	2	7
Primary Industry and Fisheries	0	0	0	1
NT Veterinary Board	0	0	0	0
<b>Charles Darwin University</b>	<b>10</b>	<b>14</b>	<b>13</b>	<b>22</b>
<b>Chief Ministers</b>	<b>2</b>	<b>4</b>	<b>3</b>	<b>6</b>
Department	0	0	0	0
NT Electoral Office	1	0	2	0
NT Remuneration Tribunal	0	0	0	0
Protocol and Public Relations	0	1	0	0
Women's Policy	0	0	0	0
Ethnic Affairs	0	0	0	0
Office of Senior Territorians	0	0	0	0
Office of Indigenous Policy	0	0	0	0
Office of Territory Development	1	3	1	6
<b>Community Development, Sport and Cultural Affairs</b>	<b>103</b>	<b>99</b>	<b>121</b>	<b>177</b>
Arts and Museums	87	81	97	162
Territory Housing	7	6	12	4
Local Government	0	1	1	0
NT Libraries	0	8	6	6
Pool Fencing Authority	2	2	1	3
Sport and Recreation	4	0	2	0
Remote Communities Aboriginal	0	0	1	2
Regional Development	0	0	0	0
<b>Corporate and Information Services</b>	<b>14</b>	<b>14</b>	<b>12</b>	<b>21</b>
Corporate and Information Services	4	2	3	6
Contracts Branch	2	9	3	11
Finance	1	0	3	3
NT Fleet	2	0	0	0
Property Management	1	0	0	0
Salaries	3	2	3	1



Communications	1	1	0	0
<b>Darwin Port Authority</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>Development Consent Authority</b>	<b>0</b>	<b>3</b>	<b>9</b>	<b>7</b>
<b>Employment, Education and Training</b>	<b>54</b>	<b>62</b>	<b>47</b>	<b>45</b>
Curriculum and Assessment Division	0	0	0	1
Strategic Services and Operations	6	0	1	6
Operations Support Branch	3	1	0	0
Operations – North	4	1	1	3
Operations - South	0	1	5	0
Pre School	0	1	1	0
Primary School	13	8	16	15
High School	5	2	8	8
College	3	0	1	0
Territory Schools Sports Council	0	0	0	0
NTETA	3	2	0	3
Work Health	4	23	1	0
NT Worksafe	0	0	3	4
NT Open Education Centre	0	2	0	3
Financial Services	0	0	0	2
<b>Health and Community Services</b>	<b>90</b>	<b>74</b>	<b>104</b>	<b>164</b>
Acute Care Policy	0	0	11	3
Acute Care Alice Springs Hospital	0	0	4	4
Acute Care Royal Darwin Hospital	0	0	5	1
Acute Care Gove Hospital	0	0	0	1
Acute Care Katherine Hospital	0	0	0	3
Acute Care Tennant Creek Hospital	0	0	0	1
Acute Care Systems Performance	0	0	0	1
Adoptions and Substitute Care	3	2	0	0
Aged and Disability Services	7	4	8	0
Child and Family Protective Services	6	3	0	0
Community Dental Clinic	2	0	0	0
Community Health Centre	0	1	5	0
Community Services Aged Care and Disability Program	0	0	0	15
Community Services Alcohol and Other Drugs Program	0	0	0	2
Community Services Policy and Partnership	0	0	0	1
Disability Services Bureau	0	0	0	0
Environmental Health	3	3	0	0
Executive & Legal Services	5	9	6	8
Family and Children's Services	26	30	48	99
Health Professionals Licensing Services	3	3	0	5
Health Services Community Health	0	0	0	5
Health Services Policy	0	0	0	3
Health Services Remote Health	0	0	0	3
Hospitals	22	0	0	0
Mental Health Services	3	0	6	0
Menzies School of Health	0	0	0	0



Organisation Development & Performance				
Human Resources & Workforce	0	0	0	6
Organisation Development & Performance				
Principal Nursing Advisor	0	0	0	1
PATS	5	3	4	0
Pensioner Concessions Unit	3	1	0	0
Centre for Disease Control	0	0	1	0
Professional Registration Boards	2	7	1	0
Public Health Services	2	7	1	0
Remote Health Services	1	4	1	0
Sexual Assault Referral Centre	0	0	0	0
Strategic Policy and Finance	0	0	3	2
<b>Industrial Land Corporation</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
Industrial Land Corporation	0	0	0	0
TDZ	0	0	0	0
<b>Infrastructure, Planning and Environment</b>	<b>65</b>	<b>74</b>	<b>84</b>	<b>103</b>
Lands, Planning and Environment	12	12	14	12
Natural (Water) Resources Division	1	4	4	0
Planning Appeals Tribunal	0	0	0	0
Planning Authority	4	2	5	3
Planning Authority Support	1	0	0	0
Plumbers, Drainers and Licensing Board	0	0	0	2
Valuer-General	0	0	0	0
Transport and Works (No Longer Exists)	6	9	6	0
Darwin Bus Service	0	0	1	4
Marine Branch	2	0	0	0
Motor Vehicle Registry	26	23	28	30
Road Development	0	1	4	6
Transport Division	0	5	3	4
Parks and Wildlife	5	2	8	10
Bush Fire Council	0	0	0	0
Territory Wildlife Park	0	0	0	0
Alice Springs Desert Park	0	0	0	0
Building Advisory Services Branch	8	16	11	24
Public Transport Branch	0	0	0	4
Executive	0	0	0	2
Construction Division	0	0	0	1
Land Administration	0	0	0	1
<b>Justice</b>	<b>82</b>	<b>79</b>	<b>86</b>	<b>96</b>
Fines Recovery Unit	2	0	18	18
Anti-Discrimination Commission	6	3	3	3
Community Corrections	2	0	2	2
Consumer Affairs	11	13	18	15
Coroner's Office	3	6	0	5
Correctional Services (Administrative)	0	15	6	11
Office of Courts Administration	7	13	11	4
Crime Prevention	0	0	0	0
Escort Agency Licensing Board	1	0	0	0





Family Law Court	0	0	0	0
Land Titles Office	2	1	0	0
Legal Practitioners Complaints Committee	0	0	1	0
Magistrates Court	8	1	3	1
Public Prosecutions	3	9	7	13
Public Prosecutions – Victims Support Unit	1	1	0	1
Public Trustees Office	10	10	10	13
Registrar Generals Office	4	5	3	3
Solicitor for the NT	2	0	1	2
Supreme Court of the NT	0	0	0	3
Small Claims Court	2	2	3	2
Property Agents Licensing Board	1	0	0	0
<b>Legal Aid Commission (NT)</b>	<b>16</b>	<b>11</b>	<b>13</b>	<b>17</b>
<b>Department of the Legislative Assembly</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>
Legislative Assembly	0	0	0	0
Table Officers – Clerk	1	0	0	0
Building Management	0	0	0	0
<b>Office of the Commissioner for Public Employment</b>	<b>3</b>	<b>7</b>	<b>10</b>	<b>4</b>
<b>Ombudsman and Health and Community Services Complaints Commission</b>	<b>6</b>	<b>5</b>	<b>4</b>	<b>18</b>
Ombudsman	6	5	4	16
Health and Community Services Complaints Commission	0	0	0	2
<b>Police, Fire and Emergency Services</b>	<b>17</b>	<b>14</b>	<b>12</b>	<b>30</b>
Police Administration (not member)	14	11	8	28
Emergency Services	0	0	0	1
Fire Services	3	3	4	1
<b>Power and Water Authority</b>	<b>55</b>	<b>65</b>	<b>44</b>	<b>122</b>
Electric Generation and Supply	43	52	29	99
Non Electricity Sewerage Drainage or Water Issues	0	0	0	6
Public Water Supplies	4	2	8	12
Public Sewerage and Drainage Services	1	1	1	1
Water Operations	1	1	3	0
Water Services	5	9	3	4
PAWA - Admin	1	0	0	0
<b>Teachers Registration Board</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>4</b>
<b>Territory Insurance Office</b>	<b>44</b>	<b>44</b>	<b>35</b>	<b>42</b>
<b>Tourist Commission</b>	<b>1</b>	<b>3</b>	<b>0</b>	<b>2</b>
<b>Treasury</b>	<b>7</b>	<b>12</b>	<b>21</b>	<b>27</b>
Department	2	2	2	2
Commissioner of Taxes	1	0	1	8
Racing, Gaming and Licensing	2	7	16	11
Superannuation	1	0	0	1
Procurement Review Board	1	3	2	5



## CORRECTIONAL SERVICES

Sections	2001/02	2002/03	2003/04	2004/05
<b>Correctional Services</b>	<b>89</b>	<b>265</b>	<b>362</b>	<b>627</b>
Executive	8	5	1	2
Correctional Centre – Darwin Prison	37	174	176	446
Correctional Centre – Alice Springs Prison	39	81	185	173
Juvenile Justice	3	5	0	6
Parole Board of the NT	2	0	0	0

## LOCAL GOVERNMENT COUNCILS

Local Government Council	2001/02	2002/03	2003/04	2004/05
<b>Councils</b>	<b>53</b>	<b>89</b>	<b>66</b>	<b>104</b>
Alice Springs Town Council	8	8	2	14
Bagot Community Council	0	0	0	2
Borroloola Community Government Council	0	1	0	0
Coomalie Community Government Council	6	2	4	7
Elliot District Community Government Council	4	1	0	0
Darwin City Council	12	39	22	27
Jabiru Town Council	1	0	7	14
Katherine Town Council	3	7	2	2
Litchfield Town Council	2	5	5	0
Palmerston Town Council	7	4	6	15
Pine Creek Community Government Council	2	0	0	0
Tennant Creek Town Council	6	0	1	0
Galiwinku Community Council	0	0	0	2
Other	2	22	17	21

## AGENCY OUT OF JURISDICTION

<b>Agency out of Jurisdiction</b>	<b>537</b>	<b>652</b>	<b>687</b>	<b>895</b>
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## MATTERS IN ENQUIRIES/COMPLAINTS RECEIVED

Information is recorded about the matters described in every enquiry/complaint, and often more than one matter is recorded against a complaint. Standard matter descriptions are used and these are grouped under categories.

An understanding of the matters raised in complaints can serve to highlight areas where service and administrative improvement is warranted. This section provides information about the total number of enquiries/complaints received against the different categories.

### NT AGENCIES (INCLUDING LOCAL GOVERNMENT)

MATTER	CATEGORY	2001/02	2002/03	2003/04	2004/05
Practice or Procedures	Inadequate	76	40	79	107
	Unreasonable	179	38	38	77
	Failure	69	63	46	69
	Wrong	50	24	17	23
	Other	25	36	64	100
		<b>399</b>	<b>201</b>	<b>244</b>	<b>376</b>
Attitude/Behaviour of Staff	Rudeness	25	9	12	15
	Harassment	11	6	16	23
	Threats and intimidation	7	10	2	3
	Discrimination	3	9	12	4
	Use of physical force	2	0	0	2
	Assault	0	3	0	0
	General issues only	0	6	6	3
	Other	9	27	21	18
	<b>57</b>	<b>70</b>	<b>69</b>	<b>68</b>	
Fees and Charges	Level of charge/fee	31	36	28	32
	Penalties for no payment	5	6	13	13
	Other	16	42	41	66
	<b>52</b>	<b>84</b>	<b>82</b>	<b>111</b>	
Grievance/ Complaint Procedures	Failure to investigate/respond	14	23	20	68
	Dealings with the Omb's Office	2	0	1	1
	Inappropriate techniques	5	2	2	5
	Other	8	10	5	25
		<b>29</b>	<b>35</b>	<b>28</b>	<b>99</b>



Information	Negligent/improper disclosure	4	6	9	11
	Refusal to give access to records/info	8	4	6	11
	Refusal to alter records/info	1	0	0	4
	Fail to maintain confidentiality of info	3	5	5	6
	Loss of documents	0	6	1	5
	Failure to consider 3 <sup>rd</sup> party	0	0	0	2
	Other	20	59	59	74
		<b>36</b>	<b>80</b>	<b>80</b>	<b>113</b>
Service – Program Delivery/Entitlement to Service or Program	Delayed action or response	19	13	6	23
	Failure to act/delay in action	25	12	8	29
	Poor or inadequate service	15	6	6	24
	Failure to advise or consult	7	3	7	6
	Failure to deal with reasonably	5	2	5	9
	Refusal to act	15	3	2	0
	Failure to provide benefit/entitlement	11	10	5	25
	Other	2	14	7	8
	<b>99</b>	<b>63</b>	<b>46</b>	<b>124</b>	
Natural Justice	Denial of procedural fairness	10	22	4	8
	Failure to give reasons	0	8	7	2
	Other	0	2	9	3
	<b>10</b>	<b>32</b>	<b>20</b>	<b>13</b>	
Misconduct	Conflict of interest	1	3	5	3
	Corruption	1	4	12	4
	Dishonesty	1	2	2	4
	Neglect	1	1	1	2
	Accepting benefits/favours	0	0	0	0
	Other	3	13	6	12
	<b>7</b>	<b>23</b>	<b>26</b>	<b>25</b>	



Misapplication or Law/Policy	Faulty procedures	7	14	29	16
	Objection to law	2	8	9	4
	Objection to policy	3	4	9	27
	Unreasonable demand	4	3	4	9
	Failure to enforce	0	6	5	7
	Use of statutory powers	6	2	5	3
	Other	3	30	11	29
		<b>25</b>	<b>67</b>	<b>72</b>	<b>96</b>
Tenders/ Contractual Matters	Tender practices, procedures	6	7	6	37
	Contractual issues	2	1	8	7
	Admin of contract payments	1	0	5	2
	Other	2	2	2	10
		<b>11</b>	<b>10</b>	<b>21</b>	<b>56</b>
Damages and Compensation	Action re: property	1	9	10	2
	Damages/loss of property	7	9	4	8
	Injury to person(s)	6	5	0	4
	Other	4	18	12	15
		<b>18</b>	<b>41</b>	<b>26</b>	<b>29</b>
Exercise of Discretion – as envisaged by s26(1)(d)	Wrong	0	3	1	3
	Improper purposes	0	0	0	1
	On irrelevant grounds	0	0	1	0
	Irrelevant consideration	0	0	0	2
	Other	0	3	3	0
		<b>0</b>	<b>6</b>	<b>5</b>	<b>6</b>

### CORRECTIONAL SERVICES

MATTER	CATEGORY	2001/02	2002/03	2003/04	2004/05
Administration Acts or Omissions	Delay	1	3	7	22
	Refusal to act	1	0	1	10
	Refusal to provide a service	1	3	3	2
	Practice or procedure	16	6	3	12
	Misapplication of law/policy	0	1	6	1
	Disclosure of information	1	0	3	1
	Procedural fairness/natural justice	2	0	3	0
	Exercise of discretion	0	0	10	2
	Corrections issue only	0	75	75	0
	Other	0	11	14	31
		<b>22</b>	<b>99</b>	<b>125</b>	<b>81</b>



Assault – Unreasonable/ Excessive Use of Force	By prison officers	5	2	7	2
	By prisoners	0	3	1	1
	By police officers	0	0	0	0
	By education/training staff	0	0	0	0
	By health care workers	0	0	0	0
	Other	0	0	0	0
		<b>5</b>	<b>5</b>	<b>8</b>	<b>3</b>
Attitude/Behaviour of Staff	Threats	13	13	3	6
	Harassment	14	6	4	35
	Other	6	14	12	26
		<b>33</b>	<b>33</b>	<b>19</b>	<b>67</b>
Misconduct/Behaviour of Staff	Segregation/separate confinement	1	1	0	5
	Loss of privileges	0	1	4	11
	Unreasonable/incorrect procedure	1	4	4	5
	Other	0	2	1	14
		<b>2</b>	<b>8</b>	<b>9</b>	<b>35</b>
Security Measures/Issues	Protection from other prisoners	0	2	2	7
	Cell search	0	0	1	0
	Strip search	0	0	0	0
	Drug testing	0	2	6	2
	Classifications	0	1	1	21
	Tactical response action to major	0	0	0	0
	Other	1	1	4	11
		<b>1</b>	<b>6</b>	<b>14</b>	<b>41</b>
Prisoners Rights and Privileges	Parole	2	5	0	14
	Work and day release	2	6	3	6
	Social/sporting amenities	0	0	1	7
	Telephones/teleconference	3	9	21	52
	Visits	4	5	5	11
	Accommodation	1	4	11	19
	Education, training	2	4	6	4
	Food, nutrition	4	2	10	55
	Recreation, hobbies	4	2	3	8
	Other	7	38	73	111
	<b>29</b>	<b>75</b>	<b>133</b>	<b>287</b>	
Grievance/Complaint Procedures	Access to superintendent	0	2	10	8
	Failure to investigate adequately	1	1	0	0
	Improper techniques	0	0	0	1
	Dealings with Ombudsman	0	0	0	2
	Other	0	5	2	13
	<b>1</b>	<b>8</b>	<b>12</b>	<b>24</b>	



Mail	Censorship and confidentiality	3	0	1	8
	Failure to dispatch	0	5	3	3
	Delays in receiving or dispatch	1	0	3	0
	Other	0	1	2	4
		<b>4</b>	<b>6</b>	<b>9</b>	<b>15</b>
Medical/Health Issues	Delay to provide service	6	7	6	2
	Inadequate medical service	3	3	1	2
	Other	4	2	11	30
	<b>13</b>	<b>12</b>	<b>18</b>	<b>34</b>	
Property Issues	Loss of/failure to account for	8	1	6	8
	Refusal or failure to release	1	1	0	5
	Refusal by PO's to receive gift	0	0	0	0
	Other	0	1	4	19
		<b>9</b>	<b>3</b>	<b>10</b>	<b>32</b>
Transfers – Intra and Interstate	Refusal	2	14	6	9
	Delays	1	1	2	2
	Other	2	7	11	15
		<b>5</b>	<b>22</b>	<b>19</b>	<b>26</b>
Other	-	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>

## NT POLICE

MATTER	CATEGORY	2001/02	2002/03	2003/04	2004/05
Abuse/ Rudeness/ Misdemeanour	Abuse, incivility, rudeness	63	41	38	77
	Racist	4	2	0	7
	Traffic abuse, incivility, rude	13	5	5	4
	Dress and bearing	2	0	1	2
	Police complaint issue only	0	5	12	0
	Other	6	21	16	17
		<b>88</b>	<b>74</b>	<b>72</b>	<b>107</b>
Arrest	Unjust/unreasonable arrest	18	2	13	9
	Unlawful arrest	9	2	9	7
	Transfer to a mental institution	0	0	2	4
	Unreasonable force	23	6	17	15
	Assault	4	5	7	3
	Apprehension for intoxication	5	1	2	1



	No reason given/warrant	3	1	5	6
	Use of power of arrest	2	1	2	0
	Use of handcuffs	3	1	1	0
	Other	3	0	8	2
		<b>70</b>	<b>19</b>	<b>66</b>	<b>47</b>
Assault Not Major Injury (Physical/Mental)	Without proceeding to arrest	8	12	9	6
	Prior to or during an arrest	12	8	11	24
	En route to police station	2	0	5	4
	At watchhouse	5	3	5	10
	In police cell	1	0	0	0
	During interview/questioning	1	2	3	3
	During search of premises	1	0	0	0
	During crowd control	3	4	3	0
	At other place of detention	2	5	3	4
	Other	9	7	9	12
		<b>44</b>	<b>41</b>	<b>48</b>	<b>63</b>
Assault Causing Major Injury (Physical/Mental)	Without proceeding to arrest	0	3	0	1
	Prior to or during an arrest	3	5	8	10
	En route to police station	0	0	0	2
	At watchhouse	0	3	0	3
	In police cell	1	0	0	0
	During interview/questioning	1	0	0	0
	During search of premises	0	0	0	0
	During crowd control	0	1	0	0
	At other place of detention	1	2	0	0
	Other	0	2	5	4
		<b>6</b>	<b>16</b>	<b>13</b>	<b>20</b>
Breach of Rights	Fail to provide/delay	2	15	4	3
	Unreasonable treatment	20	21	22	8
	Other	1	21	28	9
		<b>23</b>	<b>57</b>	<b>54</b>	<b>20</b>
Complaint Against Police Procedures	Failure to receive a complaint	5	8	3	21
	Failure to consider action	13	10	28	24
	Bias, prejudice	8	10	37	9
	Delay in investigation	9	21	22	26
	Failure to investigate	10	42	61	51
	Inadequate investigation	10	11	14	33





	Intimidation of complainant/witness	16	0	5	3
	Improper techniques	22	34	47	44
		<b>93</b>	<b>136</b>	<b>217</b>	<b>211</b>
Corruption, Favouritism, Personal Advantage, Other Criminal Conduct	Accepting benefits/favours	2	1	0	1
	Gaining personal advantage	0	2	0	2
	Conspiracy/cover up	5	1	2	3
	Motor vehicle use	0	2	0	0
	Drug/alcohol use	1	0	0	4
	Fraud	0	0	0	0
	Perjury or false statement	0	3	0	2
	Other	3	5	3	3
		<b>11</b>	<b>14</b>	<b>5</b>	<b>15</b>
Custodial/Watch house/Detention	Refuse access to legal advice	2	0	0	0
	Access to medical treatment	6	0	2	6
	Care and hygiene issues	3	0	0	4
	Body searches	0	0	0	0
	Restraint/manhandling	1	0	0	6
	Padded cell	0	0	0	0
	Other	1	5	12	14
		<b>13</b>	<b>5</b>	<b>14</b>	<b>30</b>
Custody of Handling Property	Damage to property in custody	3	3	0	0
	Failure/delay return property	6	17	8	20
	Handling of exhibits/drugs	1	1	0	0
	Failure to properly record	0	4	0	4
	Other	8	6	5	7
	Loss of property in custody	1	0	0	0
	Failure to provide receipts	3	0	0	0
		<b>22</b>	<b>31</b>	<b>13</b>	<b>31</b>
Entry and/or Search	Faulty search procedures	8	8	4	13
	Unnecessary search/entry	9	3	0	7
	Unnecessary force/damage	3	1	2	9
	Strip/intimate search	2	0	1	0
	Other	9	5	1	10
		<b>31</b>	<b>17</b>	<b>8</b>	<b>39</b>



Failure to Perform Duty	To take crime report/investigate	4	4	4	2
	Domestic situation	5	2	2	6
	Restrain & custody order	1	0	0	0
	Failure to provide ID as police	2	0	1	2
	Traffic	2	1	1	1
	Other	22	12	5	9
		<b>36</b>	<b>19</b>	<b>13</b>	<b>20</b>
Firearms	Discharge/use of firearms	0	2	1	4
	Seizure of firearms	1	0	0	0
	Other	2	0	2	2
	<b>3</b>	<b>2</b>	<b>3</b>	<b>6</b>	
Harassment, Threats, Excessive Attention	Threats/victimisation	19	10	7	11
	Repeated traffic tickets	0	0	1	2
	Bona fide/warrant checks	0	0	6	2
	Surveillance	3	10	7	12
	Other	24	26	39	46
	<b>46</b>	<b>46</b>	<b>60</b>	<b>73</b>	
Inadvertent Wrong Treatment	Property damage	1	1	0	2
	Other	12	4	5	2
	<b>13</b>	<b>5</b>	<b>5</b>	<b>4</b>	
Information (incl photographic fingerprint info)	Failure to notify/give info	14	2	4	7
	Inappropriate access/use of info	2	1	0	3
	Inappropriate disclosure of info	11	4	2	13
	Incorrect/inaccurate records	1	1	2	5
	Provide false/incorrect info	6	0	0	2
	Failure to ensure confidentiality	0	0	4	7
	Improper acquisition/retention	2	0	0	0
	Information management	0	0	0	0
	Treatment/use of crime Intelligence	0	1	0	3
	Other	5	2	3	6
		<b>41</b>	<b>11</b>	<b>15</b>	<b>46</b>
Investigations	Delay in investigating	3	1	6	8
	Failure to interview witness	1	2	5	0
	Fabrication of/false docs	0	0	0	1
	Conduct of interviews	2	2	5	2
	Fail to disclose evidence	3	0	0	0
	Other	9	1	14	3



	Review of Nil JRC decision	1	2	0	0
	Review JRC decision	1	0	0	0
		<b>20</b>	<b>8</b>	<b>30</b>	<b>14</b>
Juveniles	Arrest	1	4	0	4
	Interview	0	0	0	0
	Detention	1	0	0	47
	Notification of parents/guardian	4	0	0	3
	Other	0	7	0	9
		<b>6</b>	<b>11</b>	<b>0</b>	<b>63</b>
Practice and Procedures	General Orders	2	0	0	0
	Keeping of records	0	0	1	0
	Other	6	26	31	24
		<b>8</b>	<b>26</b>	<b>32</b>	<b>24</b>
Prosecutorial Discretion	Refusal to prosecute	9	0	2	7
	Inappropriate prosecution	2	0	0	1
	Victims charter	0	0	0	0
	Misuse of prosecution power	1	1	0	2
	Other	5	0	3	1
		<b>17</b>	<b>1</b>	<b>5</b>	<b>11</b>
Traffic	Traffic	11	6	2	17
		<b>11</b>	<b>6</b>	<b>2</b>	<b>17</b>
Warrants	Failure to execute	0	0	0	0
	Improper execution	1	4	1	0
	Other	5	0	2	2
		<b>6</b>	<b>4</b>	<b>3</b>	<b>2</b>
Other Misconduct	Misuse-office/police power	16	1	5	5
	Conflict of interest	0	0	1	1
	Other	15	9	8	11
		<b>31</b>	<b>10</b>	<b>14</b>	<b>17</b>



## Appendix D

### FREEDOM OF INFORMATION

#### INTRODUCTION

The object of the *Information Act* (the Act) is to extend, as far as possible, the right for a person to access government and personal information held by government, and to have personal information corrected if inaccurate. Some information is exempt from this process.

The Office of the Ombudsman is a 'public sector organisation' for the purposes of the Act and the information held by it may be the subject of an application under the Act. The Act requires an agency to make a decision on application within 30 days, but this may be extended if consultations are required. An applicant may have to pay processing charges. Internal review of decisions is available to applicants whose applications are refused. External review, through the Information Commissioner, became available as of 1 July 2004.

Under Section 11 of the Act, a public sector organisation must publish a statement about its structure and functions, kinds of government information usually held, a description of the organisation's procedures for providing access and a description of the organisation's procedures for correcting information.

Information concerning the organisation and functions of the Ombudsman can be found as follows:

- organisation (refer page 10 of this Annual Report)
- functions (refer page 9 of this Annual Report)

#### INFORMATION HELD BY THE OFFICE OF THE OMBUDSMAN

Broadly speaking, the Ombudsman holds information in the following categories:

- (a) information related to inquiries and investigations into complaints against any Northern Territory Government Agency, Local Government Council or the actions of a member of the NT Police Force. This information includes: complaints; correspondence and consultations with complainants and agencies; and other information sources such as background material, records of conversation, analysis and advice and reports;
- (b) information related to the Ombudsman's role as the chief executive of an NT agency with a particular set of responsibilities, in terms of the development or implementation of administrative process, policy or legislation; and
- (c) information related to the Ombudsman's management of his office, including personnel, contracting and financial records and information about asset management.



The following are specific types of information held by the Ombudsman:

### **1. Administrative and policy files**

The Ombudsman keeps files of correspondence and other documents, indexed by subject matter, on issues concerning office administration and management.

These files are usually housed in Darwin, although Alice Springs has some administrative files relating to its own operations. There are also files of documents on a wide range of policy and general questions concerning the Ombudsman's functions and powers, the operation of the office and the approach taken by the Ombudsman to particular classes of complaints.

Such files may relate to the Ombudsman's jurisdiction over a particular body or over particular classes of actions, or they may represent the recording and consolidation of information on subjects or issues that have arisen in the course of investigations.

Access to information held on these files may be provided depending on the content of the relevant documents. Charges may also apply (see 'Procedures for Providing Access to Information' below).

### **2. Complaint files**

The Ombudsman keeps files of documents relating to each written complaint made under the *Ombudsman (Northern Territory) Act*. The files are indexed in several ways, including the complainant's name, the agency complained about and the subject of the complaint.

The Ombudsman maintains a computer-based register of all complaints. The Office also keeps records on special forms for some oral complaints received. A paper based file is also maintained.

Paper records have previously been stored in the office where the complaint was received, although there are occasions when files created in one office are located in another office. On completion of inquiries, complaint files or documents are stored in the Darwin office.

Access to the information on these files is generally restricted depending on who is seeking the information. Some information may be accessible under the *Information Act* and complainants will generally have a greater right of access to their own file than a third party (see 'Procedures for Providing Access to Information' below).

### **3. FOI request files**

The office keeps files relating to requests under the *Information Act* for access to documents in the possession of the Ombudsman. A register of such requests will also be kept by the Ombudsman.



Some information on these files may be accessible (see 'Procedures for Providing Access to Information' below).

#### **4. Legal opinions**

The Ombudsman maintains a copy of legal opinions it has been provided with. These opinions cover issues arising during the investigation of complaints and issues involving the Ombudsman's functions and powers.

Access to information contained in legal opinions files may be provided depending on the content of the relevant documents. Charges may also apply (see 'Procedures for Providing Access to Information' below).

#### **5. Annual reports**

Copies of the current Annual Report and some previous Annual Reports are available on the Ombudsman's website at [www.ombudsman.nt.gov.au](http://www.ombudsman.nt.gov.au). Some printed copies of the current Annual Report are available free of charge soon after publication (subject to availability).

#### **6. Brochures**

The Ombudsman has a range of brochure material available to the public. The material details the functions of the Ombudsman and provides a guide to using the services of the office. Some printed copies of these brochures are available free of charge from the Ombudsman's Offices in Darwin and Alice Springs and some are available on the Ombudsman's website at [www.ombudsman.nt.gov.au](http://www.ombudsman.nt.gov.au).

#### **7. Manuals and guidelines**

The Ombudsman has the following manuals:

- **FOI Manual:** The Manual provides Ombudsman staff with guidance on dealing with FOI requests.
- **Procedures Manual:** This sets out general information about the role and functions of the Ombudsman and the policies and procedures applicable to officers dealing with complaints.

Access to information contained in these manuals may be provided depending on the content of the relevant documents. Charges may also apply (see 'Procedures for Providing Access to Information' below).

#### **8. Service Standards**

The Ombudsman's Service Standards set out the standards of service you can expect. A copy of the Service standards is available on the Ombudsman's website at [www.ombudsman.nt.gov.au](http://www.ombudsman.nt.gov.au). Charges may apply where a hard copy is requested (see access arrangements below).



## DISCLOSURE OF INFORMATION

The information the Ombudsman holds may be disclosed:

- (a) As required by law (although the relevant legislation provides substantial protection for investigation information);
- (b) On request, for example in relation to information sought by a complainant about the investigation of his or her own complaint, where the documents are routine, an ongoing investigation will not be prejudiced and there is no other interest likely to be adversely affected by disclosure; or
- (c) As required under the *Information Act*. The Act creates a general right of access to documents held by government sector organisations, subject to exemptions which recognise the need to protect sensitive personal and commercial information and some government records. Where a person makes a request under the Act, an agency must respond within specified times and the applicant is able to seek internal and external review of any adverse decision.

## PROCEDURES FOR PROVIDING ACCESS TO INFORMATION

### 1. Documents available

The following documents are available for inspection or purchase on request:

- **Brochures:** No charge
- **Annual Report:** \$20.00 for the purchase of a hard copy of the report
- **Service Standards:** No charge
- **Procedures Manual:** \$75.00 for the purchase of a hard copy
- **FOI Manual:** \$50.00 for the purchase of a hard copy.

### 2. Administrative Arrangements for Access to Information

General inquiries and requests for access to documents may be made in person, by telephone or in writing at either the Darwin Office or the Alice Springs Office. Alternatively, current or past complainants or respondents may choose to approach the relevant Case Officer directly. Each office is open between 8.00am and 4.30pm on weekdays. Access via these arrangements are free.

### 3. Access Under the Information Act

A person may apply for access to information under the provisions of the *Information Act*. A processing charge may apply. Inquiries about this process should be directed to the FOI Coordinator on 8999 1974. An application form can be obtained by phoning 8999 1818.



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## **PROCEDURES FOR CORRECTING INFORMATION**

Inquiries about correcting personal information should be directed to the relevant Case Officer or the FOI Coordinator on 8999 1974.





## Appendix E

### SERVICE STANDARDS OF THE OFFICE OF THE OMBUDSMAN

#### THE OMBUDSMAN'S STAKEHOLDERS:

The Ombudsman's stakeholders are:

- Community members of the Northern Territory.
- Government Agencies and Statutory Authorities.
- Local Government and Community Councils.
- The Northern Territory Police Force.
- The Legislative Assembly of the Northern Territory.

#### THE OMBUDSMAN'S COMMITMENT:

##### 1. Fairness

- You will be treated fairly and with respect.
- You will be given the right to be heard during the complaint process.
- Our decisions will be balanced, taking into account all available evidence and points of view.
- We will explain our decision and reasons to you.

##### 2. Independence

- Our staff are independent, objective and impartial.

##### 3. Professionalism

- Our staff are ethical and honest and will respect your confidentiality.
- Our staff will be courteous, helpful and approachable.
- Our staff are trained and competent and will provide information about our role and processes.
- Our staff will declare any interest which conflicts with the duty to properly determine complaints.
- Our staff will provide appropriate referrals if your complaint is beyond our jurisdiction.

##### 4. Accountability

- We will act lawfully and in accordance with the *Ombudsman (Northern Territory) Act*.
- We will treat complaints against this Office seriously and with integrity.
- We will be open and transparent in all our dealings.



- We are responsible for the appropriate use of our resources and will act on a complaint according to the nature and seriousness of the grievance and the reasonable needs of other complainants.

## **5. Accessibility**

- Our ordinary office hours are 8.00 am to 4.30 pm Monday to Friday.
- Staff will visit regional centres on a regular basis.
- Toll free telephone access within the Northern Territory will be maintained.
- Information material about our work will be freely available.
- Staff are trained in the use of translation and interpreter services.
- We will use plain language in our letters and interviews.
- You are welcome to bring a friend or mentor with you to talk with us, or to assist you in your complaint.
- Wheelchair access is provided at both Darwin and Alice Springs Offices.

## **6. Timeliness – unless otherwise advised**

- Your complaint will be assessed within 7 days and you will be promptly informed of the action taken.
- Telephone, facsimile and email messages will be answered promptly.
- Letters will be acknowledged within 7 days of receipt.
- You will be informed of the progress of the complaint regularly and ordinarily every 6-8 weeks.
- We will be flexible in our approach and try to achieve a conciliated resolution of the complaint when appropriate.
- We will respond promptly to letters and requests for information.

## **7. What the Ombudsman cannot do**

The Ombudsman must comply with the terms of the *Ombudsman (Northern Territory) Act*. The Act states that he cannot:

- provide legal advice or representation;
- act as an advocate; or
- assist with complaints about politicians, most employment disputes, decisions of the courts or actions of private individuals or businesses.



## Appendix F

### CERTIFICATION OF FINANCIAL STATEMENTS

The accompanying Financial Statements in respect of the operation of the Ombudsman for the Northern Territory have been prepared in accordance with the *Financial Management Act* and the Treasurer's Directions. They represent a true and accurate disclosure of all financial transactions during the year under review.

The Ombudsman Activity consists of two programs:

- Ombudsman; and
- Health and Community Services Complaints Commission (HCSCC).

We the undersigned have received an assurance from DCIS that the functions they undertake on our behalf are carried out in accordance with the Treasurer's Directions and we are not aware of any circumstances, as at 30 June 2005, or occurring since the end of the financial year, to date, which would render any of the particulars included in the accompanying financial statements misleading or inaccurate.

CAROLYN RICHARDS  
Ombudsman and Accountable Officer

KAREN LEWIS  
Business Manager

Date:

Date:



## Budget Comparison

	<b>Published Budget 2004-05 (1)</b>	<b>Final Estimate 2004-05 (2)</b>	<b>Actuals 2004-05 (3)</b>	<b>Budget Variance (1) – (2)</b>	<b>Actual Variance (2) – (3)</b>
	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>	<b>\$000</b>
Output Appropriation	1797	1818	1970	21	28
Statement of Financial Performance					
Operating Revenue (a)	2106	2146	2302	40	156
Operating Expenses (b)	2121	2161	2293	40	132
Net Operating Surplus/Deficit	-15	-15	9	0	24
Statement of Cash Flows					
Net Cash from Operating Activities (c)	0	0	-9	0	-9
Net Cash from investing and financing activities	-52	-52	0	0	0
Statement of Financial Position					
Change in Equity	-205	-166	-138	39	28

### Variances:

(a)	- EBA adjustment	29
	- Recognise savings under new messaging contract	- 8
	- Adjust DCIS services receive Free of Charge	4
	- Apprenticeship funding	15
(b)	- Review of Ombudsman Act	46
	- Completion of Executive contract	52
	- One off funding for unexpected personnel costs	34
(c)	- Overpayment to employee (recovery payment arrangement)	-9



**OMBUDSMAN FOR THE NORTHERN TERRITORY**  
**STATEMENT OF FINANCIAL PERFORMANCE**  
**For the year ended 30 June 2005**

	NOTE	2005 \$'000	2004 \$'000
<b>OPERATING REVENUE</b>		2005 \$'000	2004 \$'000
Taxation revenue			
<i>Grants and subsidies</i>			
Current		0	0
Capital			
<i>Sales of goods and services</i>			
Output revenue		1,970	1,869
Other agency revenue		44	28
Miscellaneous revenue			
Services received free of charge	12	288	274
Profit/Loss on disposal of assets		0	0
<b>TOTAL OPERATING REVENUE</b>	2	2,302	2,170
<b>OPERATING EXPENSES</b>			
Employee expenses		1,589	1,486
<i>Administrative expenses</i>	3		
Purchases of goods and services		393	376
Repairs and maintenance		0	1
Depreciation and amortisation	6	22	29
Other administrative expenses	12	288	274
<i>Grants and subsidies</i>			
Current			
Capital			
Community service obligations			
Interest expense		0	0
<b>TOTAL OPERATING EXPENSES</b>	2	2,293	2,166
<b>NET OPERATING SURPLUS/ (DEFICIT)</b>	11	9	4
Net Increase/(decrease) in asset revaluation reserve			
<b>TOTAL REVENUES, EXPENSES AND VALUATION ADJUSTMENTS RECOGNISED DIRECTLY IN ACCUMULATED FUNDS</b>			
<b>TOTAL CHANGES IN ACCUMULATED FUNDS FROM NON-OWNER RELATED TRANSACTIONS</b>			

*The statement of financial performance is to be read in conjunction with the notes to the financial statements.*



**OMBUDSMAN FOR THE NORTHERN TERRITORY**  
**STATEMENT OF FINANCIAL POSITION**  
**For the year ended 30 June 2005**

	NOTE	2005 \$'000	2004 \$'000
<b>ASSETS</b>			
<b>Current assets</b>			
Cash and deposits	4	(9)	52
Receivables	5	3	5
Prepayments		1	1
Inventories			
Advances and investments			
Other assets			
<b>Total current assets</b>		<u>(5)</u>	<u>59</u>
<b>Non-current assets</b>			
Receivables			
Prepayments			
Advances and investments			
Property, plant and equipment	6	63	18
Other assets			
<b>Total non-current assets</b>		<u>63</u>	<u>18</u>
<b>TOTAL ASSETS</b>		<u>58</u>	<u>77</u>
<b>LIABILITIES</b>			
<b>Current liabilities</b>			
Deposits held			
Payables	7	(19)	(31)
Borrowings and advances		0	0
Provisions	8	(177)	(208)
Other liabilities			
<b>Total current liabilities</b>		<u>(196)</u>	<u>(238)</u>
<b>TOTAL LIABILITIES</b>		<u>(196)</u>	<u>(238)</u>
<b>NET ASSETS</b>		<u>(138)</u>	<u>(161)</u>
<b>EQUITY</b>			
Capital	10	107	122
Accumulated funds	10	30	39
<b>TOTAL EQUITY</b>		<u>138</u>	<u>161</u>

*The statement of financial position is to be read in conjunction with the notes to the financial statements.*



**OMBUDSMAN FOR THE NORTHERN TERRITORY  
NOTES TO FINANCIAL STATEMENTS  
For the year ended 30 June 2005**

	NOTE	2005 \$'000 (Outflows)/ Inflows	2004 \$'000 (Outflows)/ Inflows
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
<i>Operating receipts</i>			
<i>Receipts from sales of goods and services</i>			
Output revenue received		1,970	1,869
Other agency receipts		78	58
Interest received			
<b>Total operating receipts</b>		2,048	1,928
<i>Operating payments</i>			
Payments to employees		(1,614)	(1535)
Payments for goods and services		(442)	(399)
Interest paid		0	0
<b>Total operating payments</b>		(2,057)	(1,934)
<b>Net cash from/(used in) operating activities</b>	11	(9)	(6)
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
<i>Financing receipts</i>			
Proceeds of borrowings			
Deposits received			
Capital appropriation			
Equity injection			
<b>Total financing receipts</b>			
<i>Financing payments</i>			
Repayment of borrowings			
Finance lease payments			(4)
Equity withdrawals		(52)	
<b>Total financing payments</b>			(4)
<b>Net cash from/(used in) financing activities</b>			(4)
Net increase/(decrease) in cash held		(61)	(11)
Cash at beginning of financial year		52	63
<b>CASH AT END OF FINANCIAL YEAR</b>	4	(9)	52

*The statement of cash flows is to be read in conjunction with the notes to the financial statements.*



## 1 STATEMENT OF SIGNIFICANT ACCOUNTING POLICIES

### (a) Objectives and funding

The Ombudsman for the Northern Territory includes the Health and Community Services Complaints Commission. The Ombudsman's role is to receive, investigate and resolve complaints made by members of the public about any administrative action to which the *Ombudsman (Northern Territory) Act* applies. The Commission's role is to inquire into, conciliate, investigate and resolve health and community services complaints within the Northern Territory.

The Department is predominantly funded by Parliamentary appropriations. The financial statements encompass all funds through which the Department controls resources to perform its functions.

In the process of reporting on the Department as a single Agency, all intra Agency transactions and balances have been eliminated.

### (b) Central Holding Authority

The Central Holding Authority is the 'parent body' that represents the Government's ownership interest in Government controlled entities.

The Central Holding Authority also records all Territory items. Territory items are revenues, expenses, assets and liabilities controlled by the Government and managed by Agencies on behalf of the Government. The main Territory item is Territory revenue, which includes taxation and royalty revenue, Commonwealth general purpose funding (such as GST revenue), fines, and statutory fees and charges.

The Central Holding Authority also holds certain Territory assets not assigned to agencies as well as certain Territory liabilities that are not practical or effective to assign to individual agencies such as long service leave.

### (c) Basis of accounting

The financial statements have been prepared in accordance with the requirements of the *Financial Management Act* and Treasurer's Directions.

Except where stated the financial statements have been prepared in accordance with the historical cost convention.

These financial statements do not comply with Australian Equivalents to International Financial Reporting Standards, as Australia is not adopting these requirements until reporting periods commencing on or after 1 January 2005. However the potential impact on accounting policies that will arise from the transition to the new standards is disclosed in Note 22.

The following is a summary of the material accounting policies, which have been adopted in the preparation of the financial statements.





**(d) Changes in accounting policies**

The accounting policies adopted are consistent with those of the previous year.

**(e) Revenue recognition**

Revenue is recognised at the fair value of the consideration received net of the amount of goods and services tax (GST). Exchanges of goods or services of the same nature and value without any cash consideration are not recognised as revenues.

***Output revenue***

Output revenue represents Government funding for Agency operations and is calculated as the net cost of Agency outputs after taking into account funding from Agency revenue.

The net cost of Agency outputs for output appropriation purposes does not include any allowance for major non-cash costs such as depreciation.

Revenue in respect of this funding is recognised in the period in which the Agency gains control of the funds.

***Grants and other contributions***

Grants, donations, gifts and other non-reciprocal contributions are recognised as revenue when the Agency obtains control over the assets comprising the contributions. Control is normally obtained upon receipt.

Contributions are recognised at their fair value. Contributions of services are only recognised when a fair value can be reliably determined and the services would be purchased if not donated.

***Sale of goods***

Revenue from the sale of goods is recognised (net of returns, discounts and allowances) when control of the goods passes to the customer.

***Rendering of services***

Revenue from rendering services is recognised in proportion to the stage of completion of the contract.

***Interest revenue***

Interest revenue is recognised as it accrues, taking into account the effective yield on the financial asset.

***Sale of non-current assets***

The profit or loss on disposal of non-current asset sales is included as revenue at the date control of the asset passes to the buyer, usually when an unconditional contract of sale is signed.

The profit or loss on disposal is calculated as the difference between the carrying amount of the asset at the time of disposal and the net proceeds on disposal.

***Contribution of assets***

Contributions of assets and contributions to assist in the acquisition of assets, being non-reciprocal transfers, are recognised, unless otherwise determined by Government, as revenue at the fair value of the asset received when the entity gains control of the asset or contribution.



**(f) Goods and services tax**

Revenues, expenses and assets are recognised net of the amount of goods and services tax (GST), except where the amount of GST incurred on a purchase of goods and services is not recoverable from the Australian Tax Office (ATO). In these circumstances the GST is recognised as part of the cost of acquisition of the asset or as part of an item of the expense.

Receivables and payables are stated with the amount of GST included.

The net amount of GST recoverable from, or payable to, the ATO is included as part of receivables or payables in the Statement of Financial Position.

Cash flows are included in the Statement of Cash Flows on a gross basis. The GST components of cash flows arising from investing and financing activities which is recoverable from, or payable to, the ATO are classified as operating cash flows.

Commitments and contingencies are disclosed net of the amount of GST recoverable from, or payable to, the ATO.

**(g) Interest expenses**

Interest expenses include interest and finance lease charges and are expensed as incurred.

**(h) Cash and cash equivalents**

For the purpose of the Statement of Financial Position and the Statement of Cash Flows, cash includes cash on hand, cash at bank and cash equivalent assets controlled by the Agency. Cash equivalents are highly liquid short-term investments that are readily convertible to cash.

Bank overdrafts are carried at the principal amount.

**(i) Inventories**

Inventories are carried at the lower of cost and net realisable value. Costs have been assigned to different classifications of inventories as follows:

- *Raw Materials* are valued at average cost.
- *Work in Progress* is valued using absorption costing with raw materials incorporated at the average cost at time of issue, and the labour and overhead costs are valued using standard costs.

**(j) Receivables**

The collectibility of debtors or receivables is assessed at balance date and specific provision is made for any doubtful accounts.

Trade debtors to be settled within 30 days and other debtors to be settled within 30 days, are carried at amounts due.

**(k) Property, plant and equipment**

***Acquisitions***

All items of property, plant and equipment with a cost, or other value, equal to or greater than \$5,000 are recognised in the year of acquisition and depreciated as outlined below.



Property, plant and equipment below the \$5,000 threshold are expensed in the year of acquisition.

The cost of property, plant and equipment constructed by the Agency includes the cost of materials and direct labour, and an appropriate proportion of fixed and variable overheads.

### **Complex assets**

Major items of plant and equipment comprising a number of components that have different useful lives, are accounted for as separate assets. The components may be replaced during the useful life of the complex asset.

### **Subsequent additional costs**

Costs incurred on property, plant and equipment subsequent to initial acquisition are capitalised when it is probable that future economic benefits in excess of the originally assessed performance of the asset will flow to the Agency in future years. Where these costs represent separate components of a complex asset, they are accounted for as separate assets and are separately depreciated over their useful lives.

### **Construction work in progress**

As part of Stage 1 of *Working for Outcomes*, Department of Infrastructure, Planning and Environment is responsible for managing general government capital works projects on a whole of Government basis. Therefore appropriation for most capital works is provided directly to the Department of Infrastructure, Planning and Environment and the cost of construction work in progress is recognised as an asset of that Department. Once completed, capital works assets are transferred to the Agency.

### **Revaluations**

Assets belonging to the following classes of non-current assets are progressively revalued on a rolling basis with sufficient regularity to ensure that an asset's carrying amount does not differ materially from its fair value at reporting date:

- Land;
- Buildings;
- Infrastructure assets;
- Cultural assets; and
- Self generating and regenerating assets.

Fair value is the amount for which an asset could be exchanged, or liability settled, between knowledgeable, willing parties in an arms length transaction.

Other classes of non-current assets are not subject to revaluation and are measured on a cost basis.

The unique nature of some of the heritage and cultural assets may preclude reliable measurement. Such assets have not been recognised in the financial statements.

### **Depreciation and amortisation**

Items of property, plant and equipment, including buildings but excluding land, have limited useful lives and are depreciated or amortised using the straight-line method over their estimated useful lives.

Amortisation applies in relation to intangible non-current assets with limited useful lives and is calculated and accounted for in a similar manner to depreciation.



The estimated useful lives for each class of asset, for the current year, are in accordance with the Treasurer's Directions and are provided as follows:

	<u>2004</u>	<u>2003</u>
Buildings	N/A	N/A
Infrastructure assets	N/A	N/A
Plant and equipment	10 Years	10 Years
Leased plant and equipment	N/A	N/A
Cultural assets	N/A	N/A
Self generating and regenerating assets	N/A	N/A

Assets are depreciated or amortised from the date of acquisition or, in respect of internally constructed assets, from the time an asset is completed and held ready for use.

**(l) Leased assets**

Leases under which the Agency assumes substantially all the risks and benefits of ownership are classified as finance leases. Other leases are classified as operating leases.

***Finance leases***

Finance leases are capitalised. A leased asset and a lease liability equal to the present value of the minimum lease payments are recorded at the inception of the lease.

Lease payments are allocated between the principal component of the lease liability and the interest expense.

***Operating leases***

Operating lease payments made at regular intervals throughout the term are expensed when the payments are due, except where an alternative basis is more representative of the pattern of benefits to be derived from the lease property.

**(m) Payables**

Liabilities for trade creditors and other amounts payable are carried at cost which is the fair value of the consideration to be paid in the future for goods and services received, whether or not billed to the Agency. Trade creditors are normally settled within 30 days.

**(n) Employee benefits**

Provision is made for employee benefits accumulated as a result of employees rendering services up to the reporting date. These benefits include wages and salaries and annual leave. Liabilities arising in respect of wages and salaries and annual leave expected to be settled within twelve months of the reporting date are measured at their nominal amounts based on remuneration rates which are expected to be paid when the liability is settled.

No provision is made for sick leave, which is non-vesting, as the anticipated pattern of future sick leave to be taken indicates that accumulated sick leave is unlikely to be paid.

Employee benefits expenses are recognised on a net basis in respect of the following categories:

- wages and salaries, non-monetary benefits, annual leave, sick leave and other leave entitlements; and



- other types of employee benefits.

As part of the introduction of *Working for Outcomes*, the Central Holding Authority assumed the long service leave liabilities of Government Agencies, including Ombudsman for the Northern Territory.

**(o) Superannuation**

Employees' Superannuation entitlements are provided through the NT Government and Public Authorities Superannuation Scheme (NTGPASS), Commonwealth Superannuation Scheme (CSS) and non-government employee nominated schemes for those employees commencing on or after 10 August 1999.

The Agency makes superannuation contributions on behalf of its employees to the Central Holding Authority or the non-government employee nominated schemes. Any liability for government superannuation is met directly by the Central Holding Authority and the Agency has and will continue to have no direct superannuation liability.

**(p) Rounding of amounts**

Amounts in the financial statements and notes to the financial statements have been rounded to the nearest thousand dollars.

**(q) Comparatives**

Where necessary, comparatives have been reclassified and repositioned for consistency with current year disclosures.



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**STATEMENT OF FINANCIAL PERFORMANCE BY OUTPUT GROUPS**

	Output Group 1		Output Group 2		Total	
	2005 \$'000	2004 \$'000	2005 \$'000	2004 \$'000	2005 \$'000	2004 \$'000
<b>OPERATING REVENUE</b>						
Taxation revenue						
<i>Grants and subsidies</i>						
Current		28				28
Capital						
<i>Sales of goods and services</i>						
Output revenue	1416	1343	554	528	1970	1871
Other agency revenue	44				44	
Interest revenue						
Miscellaneous revenue	216	205	72	68	288	274
Profit/Loss on disposal of assets						
<b>TOTAL OPERATING REVENUE</b>	<b>1676</b>	<b>1576</b>	<b>626</b>	<b>594</b>	<b>2302</b>	<b>2170</b>
<b>OPERATING EXPENSES</b>						
Employee expenses	1199	1095	390	391	1589	1486
<i>Administrative expenses</i>						
Purchases of goods and services	302	284	92	93	394	377
Repairs and maintenance	0	1				1
Depreciation and amortisation	22	29			22	29
Other administrative expenses	216	205	72	68	288	273
<i>Grants and subsidies</i>						
Current						
Capital						
Community service obligations						
Interest expense						
<b>TOTAL OPERATING EXPENSES</b>	<b>1739</b>	<b>1614</b>	<b>554</b>	<b>552</b>	<b>2293</b>	<b>2166</b>
<b>NET OPERATING SURPLUS/ (DEFICIT)</b>	<b>(63)</b>	<b>(38)</b>	<b>72</b>	<b>42</b>	<b>9</b>	<b>4</b>



	<u>2005</u> <u>\$'000</u>	<u>2004</u> <u>\$'000</u>
<b>3 OPERATING EXPENSES</b>		
The net operating surplus/(deficit) has been arrived at after charging the following expenses:		
<b>Administrative Expenses:</b>		
Consultants (1)	29	24
Advertising (2)	0	4
Marketing and Promotion (3)	3	2
Document Production	20	17
Legal Fees	27	8
Recruitment (4)	22	2
Training and Study	18	41
Official Duty Fares	15	19
Travelling Allowance	8	7
(1) Includes marketing and promotion consultants.		
(2) Does not include recruitment advertising or marketing and promotion advertising.		
(3) Includes advertising for marketing and promotion but excludes marketing and promotion consultants' expenses, which are incorporated in the consultants' category.		
(4) Includes recruitment related advertising costs.		
<b>4 CASH AND DEPOSITS</b>		
Cash on hand		
Cash at bank	(9)	52
On call or short term deposits		
	<u>(9)</u>	<u>52</u>
<b>5 RECEIVABLES</b>		
<b>Current</b>		
Trade debtors	0	1
Less: Provision for doubtful trade debtors	<u>0</u>	<u>0</u>
	0	1
Sundry debtors		
Interest receivable		
Other receivables	3	4
<b>Non-current</b>		
Other receivables		
<b>Total receivables</b>	<u>3</u>	<u>5</u>
<b>6 PROPERTY, PLANT AND EQUIPMENT</b>		
<b>Plant and equipment</b>		
At cost	77	10
Accumulated depreciation	<u>(14)</u>	<u>(6)</u>
	63	4
<b>Computer Software</b>		
At cost	70	70
Accumulated depreciation	<u>(70)</u>	<u>(56)</u>
	0	14
<b>Leased Computer Software</b>		
At capitalised cost	9	9
Accumulated amortisation	<u>(9)</u>	<u>(8)</u>
<b>Total property, plant and equipment</b>	<u>63</u>	<u>18</u>



**PROPERTY, PLANT AND EQUIPMENT (Continued)**  
**Reconciliations**

Reconciliations of the carrying amounts of property, plant and equipment at the beginning and end of the current financial year are set out below:

	Note	Plant & Equipment	Leased Plant & Equipment	Total
<b>30 June 2005</b>				
<b><u>Cost/Valuation</u></b>				
Balance at the beginning of the year		80	9	89
Additions		66		66
Disposals				
Transfers (net)	11 (a)			
Revaluation (net)	11 (b)			
Balance at the end of the year		146	9	155
<b><u>Accumulated depreciation</u></b>				
Balance at the beginning of the year		62	8	70
Depreciation and amortisation		21	1	22
Disposals				
Transfers (net)	11 (a)			
Revaluation (net)	11 (b)			
Balance at the end of the year		83	9	92
<b><u>Written down value</u></b>				
Balance at the beginning of the year		18	0	18
Balance at the end of the year		63	0	63
<b>30 June 2004</b>				
<b><u>Cost/Valuation</u></b>				
Balance at the beginning of the year		80	9	89
Additions				
Disposals				
Transfers (net)	11 (a)			
Revaluation (net)	11 (b)			
Balance at the end of the year		80	9	89
<b><u>Accumulated depreciation</u></b>				
Balance at the beginning of the year		38	4	42
Depreciation and amortisation		24	4	28
Disposals				
Transfers (net)	11 (a)			
Revaluation (net)	11 (b)			
Balance at the end of the year		62	8	70
<b><u>Written down value</u></b>				
Balance at the beginning of the year		42	5	47
Balance at the end of the year		18	0	18





	<b>2005</b>	<b>2004</b>
	<b>\$'000</b>	<b>\$'000</b>
<b>7 PAYABLES</b>		
Trade creditors	(14)	(31)
Other creditors	(4)	0
	<u>(19)</u>	<u>(31)</u>
<b>8 BORROWINGS AND ADVANCES</b>		
<b>Current</b>		
Loans and advances		
Finance lease liability (Note 15)	0	(4)
	<u>0</u>	<u>(4)</u>
<b>Total borrowings and advances</b>	<u>0</u>	<u>(4)</u>
<b>9 PROVISIONS</b>		
<b>Current</b>		
<i>Employee benefits</i>		
Annual leave	(140)	(157)
Leave loading	(13)	(24)
• <i>Other current provisions</i>		
Other provisions	(25)	(26)
	<u>(177)</u>	<u>(208)</u>
<b>Non-current</b>		
Other provisions		
<b>Total provisions</b>	<u>(177)</u>	<u>(208)</u>
<b>10 EQUITY</b>		
<b>(a) Capital</b>		
Balance at the beginning of year	122	122
Equity injections	(66)	0
Equity withdrawals	52	0
Balance at the end of year	<u>107</u>	<u>122</u>
<b>(b) Accumulated funds</b>		
Balance at the beginning of year	39	44
Current year operating surplus / (deficit)	(9)	(4)
Balance at the end of year	<u>(30)</u>	<u>39</u>



	2005 \$'000	2004 \$'000
<b>11 NOTES TO THE STATEMENT OF CASHFLOWS</b>		
<i>Reconciliation of net operating surplus / (deficit) to net cash used in operating activities.</i>		
<b>Net operating surplus/(deficit)</b>	9	4
<i>Non-cash items</i>		
Depreciation	21	24
Amortisation	0	4
(Profit)/loss on disposal of non-current assets		
<i>Changes in Assets and Liabilities</i>		
Decrease/(Increase) in receivables	2	7
Decrease/(Increase) in prepayments	0	(1)
Decrease/(Increase) in inventory		
Decrease/(Increase) in other assets		
(Decrease)/Increase in accounts payable	(12)	(29)
(Decrease)/Increase in provision for employee benefits	(29)	(11)
(Decrease)/Increase in other provisions	(1)	1
<b>(Decrease)/Increase in Deferred Income</b>	<u>0</u>	<u>(7)</u>
<b>Net cash flows from/(used in) operating activities</b>	<u>(9)</u>	<u>(6)</u>

## 12 SERVICES RECEIVED FREE OF CHARGE

Corporate and information services	288	274
Internal audits and reviews – Risk Management Services	22	28

## 13 FINANCIAL INSTRUMENTS

### (a) Interest Rate Risk

The Ombudsman for the Northern Territory does not charge or incur interest charges in relation to financial assets and liabilities. The average interest rate is not applicable to this Agency.

	Weighted Average interest rate %	Fixed Interest Maturity					Total \$'000
		Variable interest	Under 1 year	1 to 5 years	Over 5 years	Non- Interest bearing	
		\$'000	\$'000	\$'000	\$'000	\$'000	
<b>2005 Financial Assets</b>							
Cash Assets		N/A	N/A	N/A	N/A	N/A	0
Receivables		N/A	N/A	N/A	N/A	3	3
						3	3
<b>Financial Liabilities</b>							
Accounts Payable		N/A	N/A	N/A	N/A	(19)	(19)
Borrowings and Advances		N/A	N/A	N/A	N/A	N/A	0
Lease Liabilities		N/A	N/A	N/A	N/A	N/A	0
						(19)	(19)
<b>Net Financial Assets (Liabilities)</b>		<b>Nil</b>	<b>Nil</b>	<b>Nil</b>	<b>Nil</b>	<b>(16)</b>	<b>(16)</b>



Weighted	Average interest rate %	Fixed Interest Maturity				Non-Interest bearing	Total
		Variable interest	Under 1 year	1 to 5 years	Over 5 years		
		\$'000	\$'000	\$'000	\$'000	\$'000	\$'000
<b>2004 Financial Assets</b>							
Cash Assets		N/A	N/A	N/A	N/A	N/A	0
Receivables		N/A	N/A	N/A	N/A	5	5
						5	5
<b>Financial Liabilities</b>							
Accounts Payable		N/A	N/A	N/A	N/A	(31)	(31)
Borrowings and Advances		N/A	N/A	N/A	N/A	N/A	0
Lease Liabilities		N/A	N/A	N/A	N/A	N/A	0
						(31)	(31)
<b>Net Financial Assets (Liabilities)</b>		<b>Nil</b>	<b>Nil</b>	<b>Nil</b>	<b>Nil</b>	<b>(26)</b>	<b>(26)</b>

### (b) Credit Risk

The Ombudsman for the Northern Territory principally deals with the Commonwealth and Northern Territory Government Agencies. In respect of any dealings with organisations external to Government, the Agency has adopted the policy of only dealing with credit worthy organisations and obtaining sufficient collateral or other security where appropriate, as a means of mitigating the risk of financial loss from defaults.

## 14 CONTINGENT LIABILITIES AND CONTINGENT ASSETS

### a) Contingent liabilities

The Ombudsman for the Northern Territory has two contingent liabilities.

1. As a result of an Agreement for enhancements to the ProActive Complaint Management System. The liability may arise where a third party relies on incorrect information supplied by the system. The risk to the Territory under the Agreement is considered to be minimal and the contingent liability resulting from this undertaking is unquantifiable
2. As a result of a finance lease required to purchase required Microsoft Licences over a two year period. There is a general indemnity clause, indemnifying the Lessor employees, officers, directors, agents and assignees against Claims arising from or in connection with the agreement. The risk to the Territory under the Agreement is considered to be minimal and the contingent liability resulting from this undertaking is unquantifiable.

## 15 WRITE OFFS, POSTPONEMENTS AND WAIVERS

The Ombudsman for the Northern Territory had no write offs, postponements or waivers in 2003-04 and 2004-05.

## 16 DISCLOSING THE IMPACT OF ADOPTING AASB EQUIVALENTS TO IASB PRONOUNCEMENTS

The Ombudsman for the Northern Territory is managing the transition through attendance at information sessions and seminars.

An assessment of the impact resulting from the adoption of Australian Equivalents to International Financial Reporting Standards (IFRS) has been conducted. The conclusion is that there will be no material impact on the Ombudsman for the Northern Territory.



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## HOW TO CONTACT THE OMBUDSMAN

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22 Mitchell Street  
Darwin

Alice Springs  
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Centrepont Building  
Hartley Street  
Alice Springs

### By Telephone:

(08) 8999 1818



or

1800 806 380 (Toll Free)

### By Email:

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DARWIN NT 0801



### Via the Internet:

[www.ombudsman.nt.gov.au](http://www.ombudsman.nt.gov.au)



### Obtaining copies of the Annual Report

This report is available at our website at <http://www.ombudsman.nt.gov.au>

Copies are also available upon request.