



ONTARIO'S WATCHDOG
CHIEN DE GARDE DE L'ONTARIO

OPENING REMARKS
Annual Report 2007-2008
André Marin

I am pleased to present to you the 33rd Annual Report of the Ombudsman of Ontario and my third Annual Report since I was appointed Ombudsman on April 1, 2005.

Every year, we report on the resolution of tens of thousands of citizens' complaints that affect millions of Ontarians. The Annual Report is a tool for monitoring the provincial government's pulse and diagnosing bureaucratic malaise. It is also a time for introspection and to reflect on oversight ideals and reform.

As in past years, we've uncovered a treasure trove of government maladministration on both small and large scales. Legal Aid Ontario's "not my job" mentality in its handling of legal bills paid through the Ministry of the Attorney General is a good example of sloppy bureaucracy. My report, *A Test of Wills*, documented LAO's abject failure to properly scrutinize the costs of the legal defence of former police officer turned murderer Richard Wills. It was a glaring illustration of public servants forgetting that their duty is to serve the public, not their own misguided motives, and their dereliction of duty cost us \$1.2 million.

In the case of the Ministry of Government and Consumer Services' oversight of Tarion Warranty Corporation, the public was left dazed and confused about what the bureaucrats' job actually was. The Ministry sent mixed messages to consumers about how much it could do for homeowners concerned about Tarion's practices. The truth was, it could do almost nothing.

The most common symptoms of bad bureaucracy are rulitis, policy paralysis and "customer disservice syndrome." These maladies persisted this year, leaving many Ontarians in what I can only describe as the "twilight zone" of public service. Rulitis is the rigid application of a rule at the expense of common sense. Policy paralysis manifests itself by indecision and apathy as a result of a bureaucrat not finding a rule in his toolbox to resolve a glaring problem. So citizens are left hanging. Customer disservice syndrome is most commonly found when the government is in a monopolistic position and holds citizens at its mercy. In contrast to the ethos that "the customer is always right," bureaucrats hit with this syndrome turn the tables on Ontario citizens by presuming the customer is always wrong.

We've succeeded time and time again this year in improving the provincial bureaucracy and making the government more attuned to the governed. Our report is full of these



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positive stories. But this success is not ours alone. It is shared with all those who recognized where their duty lay and then took decisive action. We could not have achieved the outcomes we did without the government's co-operation, from the Premier on down. Again this year, we have found the government to be co-operative and responsive to our work.

One of the best examples of the system working as it should is the result of our investigation into the Ontario Lottery Corporation (OLG). We found and denounced an inept organization that was lumbering along, putting profit over public service. I recommended a series of measures to reinvent the relationship between this big government money machine and the citizens of Ontario by emphasizing public trust. The government's response was dramatic as it moved to revamp the lottery system. Buying a lottery ticket is now a completely different experience. Our lottery system is a much more rigorous and trustworthy one and now likely one of the most secure in the world.

This year saw my office's jurisdiction grow in a whole new direction. Starting on New Year's Day, new legislation kicked in making the Ombudsman's office the default enforcer of "sunshine laws" that make sure municipal governments hold their meetings in public. The 445 municipal councils of Ontario have, for over a decade, been under a legal obligation to hold their meetings in a public forum, with only a few narrow exceptions, but this principle was more blue-sky thinking than a binding legal rule. As a result, it was not unusual for municipalities to only pay lip service to openness and transparency. The only recourse for a citizen left in the dark was a costly court battle against the municipality. But now, they can complain to an investigator, and in about 200 municipalities, that investigator is my Office.

This brand-new area of jurisdiction is an important one for me. In the coming year, the office of the Ombudsman will dedicate specialized resources to ensure that municipalities understand their "sunshine" obligations and citizens understand their rights to transparent municipal government. We will also ensure that complaints about illegal secret meetings are aggressively investigated. To ensure that these objectives are met, I am announcing today the creation of the Open Meeting Law Enforcement Team, or OMLET – an investigations unit dedicated solely to Ontario municipalities. OMLET will be an important resource in ensuring that municipal councils comply with the law.

Last but not least, I would be remiss in my reporting duties if I did not once again use this opportunity to comment on the dismal state of oversight of the MUSH sector. Municipalities, universities, school boards, hospitals, long-term care facilities and children's aid societies in the province have become almost a law unto themselves. They have carved themselves a nice, comfortable niche – a zone of immunity against oversight. It continues to baffle me that the provincial government can talk out of both sides of its mouth on this. How can it assume control over badly managed areas of the MUSH sector



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while at the same time refusing to subject it to the checks and balances that could have potentially prevented scandals from developing in the first place?

Just in the last few weeks, the government not only railed against the excesses and incompetence of the Toronto Catholic school board, it took it over by appointing a supervisor. The same kind of action has happened in hospitals across the province. In fact, 2007 was a banner year for hospital takeovers. It has become an all-too-predictable sequence of events: Allegations of mismanagement or poor service at a hospital lead to the provincial government swooping in and taking over. In fact, with the annual health care budget eating up a whopping \$40 billion, or 40% of the government's total spending, it's unthinkable that this sector isn't subject to the same kind of oversight as the rest of government.

All of the other provinces give their ombudsman the power to investigate hospitals and long-term care facilities. Five of them give their ombudsman the power to investigate school boards. Why should Ontario continue to lag behind? For 33 years, ombudsmen in this province have argued that the MUSH sector should not escape our scrutiny. That is one tradition that I think we all would like to see come to an end.