

Well, a good morning, afternoon or evening to you, wherever you may be in the world.  
And thank you to the AORC for this invitation.

It's my pleasure to speak to you today.

The webinar's goal has been stated as enhancing awareness and understanding of the vital role played by Ombudsman Institutions and promoting and protecting human rights and fostering a culture of respect for fundamental freedoms and accountability and diverse context.

I think that aligns very well with the mission of Ontario's Ombudsman, which is to be an effective agent of positive change for the people of Ontario by enhancing government and public sector fairness, accountability, transparency, as well as a promotion and respect for rights.

So I think that that aligns well with today's themes and it's my pleasure to speak to you today about that.

I will share some information about how we fulfill our mission as an ombudsman institution in the province of Ontario, in Canada and particularly with respect to promoting human rights in our specific context.

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I would like to begin today with an acknowledgement that the Ombudsman's office is in the City of Toronto, and that the City of Toronto sits on a traditional territory of many indigenous nations, including the Missisaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee, and the Wendat peoples. We believe it is important to offer Land Acknowledgment as a way to recognize, respect and honour this territory, the treaties, the original occupants, their ancestors, and the historic connection that they still have with this territory. As part of our commitment to reconciliation, our Office provides educational opportunities to help our staff learn more about our shared history and the harms that have been inflicted on Indigenous peoples. We are working to establish mutually respectful relationships with Indigenous people across the province. So, Miigwetch. Thank you.

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So I'm speaking to you today from the Canadian province of Ontario. You'll see it here on the slide. Canada's population is about 40 million people, and Ontario, as Canada's most populous province, is about 14 million people. And we work out of Ontario's capital city, Toronto, which has about 3 million people.

So our staff of 186 people deal with about 25 000 cases per year, and we're pleased to say that more than half are resolved within two weeks. Unresolved cases may lead to investigations and we are very successful in conducting impactful investigations that lead to positive social, and policy changes.

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I'd like to share with you that I was in a panel discussion at an event for Law students last week, and I was asked if my organization was a catalyst for justice, and I replied that it most certainly is. First of all, with respect to access to justice I remember that as a trial lawyer, I used to say 'Rights don't do you much good if you don't know about them'. So, our work begins with facilitating access to justice. By raising awareness of rights, we help people who are struggling to access services or are not being treated fairly by government. For example, while we do not advocate for individuals, our interventions help people get hearing dates for tribunals, obtain

written reasons for administrative decisions, or have applications for benefits that were rejected due to technical errors get reconsidered.

And we also are catalysts for justice in outcomes. Our interventions lead to changes that see justice done in a number of ways, such as seeing that rights are respected, that people are treated fairly by government, and that laws and policies are improved to deliver more fair outcomes.

For example:

- Our recommendations on the use of solitary confinement will ensure that human rights are respected;
- Our recommendations to address cuts to French-language programs at a university will ensure that language rights are respected in the future;
- Our recommendations to children's aid societies are aimed at ensuring that rights of vulnerable children and youth are respected and that their voices are heard.

So the promotion and protection of rights is at the heart of our mission and mandate.

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Something I quote quite often when I explain the ombudsman role is a decision by the Supreme Court of Canada in *British Columbia vs. Friedman*. And it talks about how– the important role of the Ombudsman to counter situations where individual rights are being crushed or ignored by the bureaucracy. And what the Supreme Court has said is that the Ombudsman represents society's response to problems of potential abuse and supervision. The unique characteristics of the Ombudsman render them capable of addressing many concerns left untouched by the traditional bureaucratic control devices.

The Ombudsman is impartial. The services are free and available to all.

Because the Ombudsman operates informally, investigations do not impede the normal process of government. Most importantly, the Ombudsman's power of investigation can bring to light cases of bureaucratic maladministration that would otherwise pass unnoticed.

The Ombudsman can bring a lamp of scrutiny to otherwise dark places, even over the resistance of those who would draw the blinds.

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So you can see here on this slide an example of some of our engagement with human rights. In our work, we look at fairness and in taking and resolving complaints, we encounter many issues where people– people's rights, have been infringed upon, or they have been treated unfairly by a public body.

Our office oversees more than 1,000 public sector bodies, including provincial and municipal agencies, as well as services in French and child welfare services.

Many of these cases include our most vulnerable citizens, inmates and correctional facilities, young people in youth detention or youth justice facilities, or children receiving welfare services from the province.

Other examples include people who may have rights to specific social benefit programs or services but are unable to access these services. Or perhaps they experience delays or hardships in receiving them.

Now we have oversight of many of Ontario's administrative tribunals, one of which is directly responsible for determining whether an individual's human rights had been violated.

When we find that an individual was not treated fairly, we make recommendations to the tribunal to address the problem or address any underlying problems related to Ontario government legislation, policies or programs applicable to the tribunal.

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I can tell you that we receive between 3,000 and 5,000 complaints every year about correctional facilities.

We do a lot of work to ensure that inmates know about us and how to easily reach us.

You'll see here our poster, which is posted on the ranges within correctional facilities.

We also use these confidential self-sealing blue letters, which guards are not allowed to open after the inmate has completed it and sealed them to be sent to us.

We work proactively with correctional facilities and the relevant ministry to flag complaints and resolve issues. We share statistics on the complaint numbers with senior staff at the facilities as well as the top areas complained about, and as mentioned when warranted, we will launch an investigation into individual cases or systemic issues.

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And one such area, and my focus for today, will be Ontario's adult correctional centres.

In one case in particular, that severely impacted the rights of inmates. I will not refer to federal corrections as they are beyond the scope of my authority as a provincial Ombudsman.

Recent media reports show that among the average 9,000 people in custody of provincial detention centres in Ontario on any given day, 82% are usually in pre-trial detention, while it only 15% have been sentenced.

The remaining 3% are usually in custody for other reasons, such as immigration detentions, police lockups or federally-sentenced offenders.

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So we continually monitor complaint trends in corrections and we prioritize cases where urgent medical care is needed.

Here are some of the issues you see on the slide, which we monitor regularly and will escalate for senior officials as needed.

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So let me tell you a little bit about segregation in Ontario, and what that means.

Segregation is also the common— also commonly referred to as solitary confinement, and that is the practice of confining an individual in custody to a cell by themselves, separate from the general population, with limited social interaction, and supervised or restricted privilege—privileges and programs. Some refer to those in segregation as being placed in a prison within a prison.

Inmates who are segregated can be— can be denied access to amenities and programs, even basic dignities such as shower access, exercise and fresh air.

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Between April 1<sup>st</sup> of 2013 and March 31<sup>st</sup> of 2017, our Office received 827 complaints about segregation and there were 560 inmates in segregation in Ontario at any given time.

So we saw an increase in these numbers over the years and we made a submission to government to try to improve some of the processes surrounding segregation.

However, not much changed.

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In October of 2016, we became aware of a 24-year old indigenous man named Adam Capay who had been held in segregation in a Thunder Bay jail for more than 1,500 days.

That's over four years, and yet the ministry had neglected to include his placement in the statistics regarding segregation placement and the durations. He was living in a Plexiglas-fronted cell under bright lights, which were never dimmed. So obviously, important issues of administrative unfairness and human rights were at play. We knew through complaints, that some inmates were being segregated, sometimes without justification, and that their segregation stays were not being tracked properly.

We discovered that the correctional system and its processes for tracking and monitoring segregated inmates really needed a complete overhaul.

The growing number of complaints about segregation proved that this was a burgeoning, systemic issue.

The issue affected individuals across the province and affected a variety of policies and processes, not to mention the human impact was significant.

So we decided to do a systemic investigation.

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Our investigation was completed relatively quickly.

It revealed a systemic failure of tracking in the segregation of inmates and particularly vulnerable inmates.

We discovered numerous instances of inaccurate and even inconsistent information used to justify lengthy segregations.

In one case, for example, the ministry identified five inconsistent segregation start dates for one particular individual's segregation period.

Our review also found significant deficiencies in insuring inmates with mental illness or physical disabilities were physically monitored.

Ultimately, we made 32 recommendations to limit segregation placements and strengthen oversight of them.

I'm happy to say that the ministry accepted all of these recommendations and so far, has implemented 29 of them.

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Now the media and social media coverage was extensive, and this put a lot of pressure on the ministry and the government to accept our recommendations, and that is part of our procedures.

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So the Ontario government responded that it would address my report and recommendations and create new legislation.

The new legislation was passed in May of 2018, substantially changing the laws of segregation and reforming many aspects of correctional services in Ontario.

Since the report was published, my Office continues to monitor and resolve individual cases as they arrive.

And of course, we do have the power to reopen our investigations when and if necessary. So this case is one example of how the ombudsman institution can promote and protect human rights and foster a culture of respect for fundamental freedoms and accountability.

Ontario Ombudsman Paul Dubé  
Transcript – Webinar on Promoting Human Rights

I thank you very much for your attention.

I wish you a stimulating and informative webinar, and if you'd like any more information about my Office the next slide, please will have the information to contact us.

So thank you very much for your attention.