

BY EMAIL - Harjit.Sajjan@parl.gc.ca

July 25, 2017

The Honourable Harjit S. Sajjan, Minister of National Defence
Department of National Defence
National Defence Headquarters
Major-General George R. Pearkes Building
101 Colonel By Drive
Ottawa, ON K1A 0K2

Dear Minister Sajjan,

RE: Report from the National Defence and Canadian Forces Ombudsman titled “The Case for a Permanent and Independent Ombudsman Office”

I am writing on behalf of BC Civil Liberties Association (“BCCLA”) to express our support for the National Defence and Canadian Forces Ombudsman’s (“Ombudsman”) recent report calling for a permanent and independent office established clearly in legislation.

It is dismaying that the Ombudsman that serves your department – the largest department in government - has not enjoyed functional independence since the creation of the office in 1998. Independence is a pillar of the ombudsman philosophy, along with impartiality, fairness and confidentiality.

As you will know, the report calling for a permanent and independent Ombudsman meticulously outlines how the office is consistently hampered due to the lack of functional independence from the department subject to its review. The BCCLA concurs with the sole recommendation of the report: to follow through on the initial intent to legislate the office. While the Ombudsman cites a number of administrative efficiencies that would result, it is clear that the main benefit is to eliminate the possibility of a conflict of interest and compromised investigations.

To properly function, the Ombudsman needs credibility in the eyes of the constituents and the public. The perception of independence is essential. Unfortunately, the current governance framework, and the resulting frustration by those who have occupied the office, make it clear that the Ombudsman is an extension of the organization that it is mandated to review. This undermines the very concept of an ombudsman.

Every person who has occupied the office has reached the conclusion that a legislated mandate is needed. As far back as the Somalia Commission of Inquiry 20 years ago, we have seen the recommendation for a legislated independent civilian review body and both the first and the incumbent Ombudsman have provided a solid case for independence, including draft model legislation. We say this clear and definitive conclusion can no longer be ignored.

Your response to the report defends the current unlegislated model, arguing that it “mirrors almost all other similar offices across government.” However, the governance frameworks for the handful of existing ombudsman offices are inconsistent and are not optimal models for administrative oversight.

For instance, the Procurement Ombudsman is contemplated in legislation and has a specific regulation governing its mandate. In contrast, the Taxpayers Ombudsman, the Veterans Ombudsman and the Ombudsman for Victims of Crime are established under public service legislation enabling the appointment of a special advisor to a minister by an Order in Council.

Unlike these other offices that serve Canadians, the National Defence and Canadian Forces Ombudsman is not contemplated or established by any act of Parliament or by an Order in Council. Simply put, the only other national ombudsman models that fall into a similar category are the CBC and Canada Post Ombudsman offices.

In fact, we note that Canada is an outlier both in the context of provincial governments and comparable foreign governments in that there is no central ombudsman that serves the entire public service. The lack of a national ombudsman deprives Canadians of a basic part of the

machinery of a modern democratic state. Ideally, the patchwork of organizational ombudsman offices would be combined and housed under an umbrella institution that reports directly to Parliament. This would raise the profile of the national ombuds system and likely make it more accessible to Canadians. We realize that this is an ambitious goal but one that is ultimately desirable and achievable for citizens and the government alike.

At a minimum, we think that legislation should be enacted to enshrine the independence and permanence of the Ombudsman serving your department. This action would support Canada's new Defence Policy ("Strong, Secure, Engaged"), its recognition that the success of Canada's defence depends on people, and that the military and civilian workforces benefit from a positive, fair and supportive workplace. A legislated and functionally independent Ombudsman would be vital to these efforts through the ability to correct administrative wrongs and to ensure the democratic accountability of the department.

In summary, we urge implementation of the sole recommendation of The Case for a Permanent and Independent Ombudsman Office (March 2017).

We would be very happy to engage in discussions with you toward this important end.

Yours truly,



Micheal Vonn
Policy Director

cc: The Right Honourable Justin Trudeau, P.C., M.P., Prime Minister of Canada
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The Honourable Kent Hehr, P.C., M.P., Minister of Veterans Affairs and Associate Minister of National Defence, kent.hehr@parl.gc.ca

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