

## WHY ARE ARMED FORCES PERSONNEL RELUCTANT TO COMPLAIN?

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### Reluctance in the Armed Forces

Armed forces personnel may be reluctant to complain in cases of maladministration or non-respect for human rights. An institutional culture of loyalty and respect for authority may sometimes translate into a discouragement to complain. Complaining or denouncing an irregular situation is sometimes seen as a sign of disrespect for authority or lack of loyalty to the institution. There are many reasons for not complaining, including the personal nature of a complaint, which may dissuade one to file one. Sexual harassment and assault are examples of problems that may affect both men and women in the military.<sup>i</sup> However, fear of retaliation, negative repercussions for career progress or being posted elsewhere, are also recurrent reasons for not reporting.<sup>ii</sup>

Though institutional culture may be a problematic factor, sometimes it is the lack of trust in complaints mechanisms that may dissuade one from complaining. Knowing that confidentiality will be respected throughout the investigation process is essential in enabling a strong support for complainant filling. In addition, it is the military's responsibility to insure that personnel are aware of the existence of complaint mechanisms, their rights, and options. Moreover, leadership is another factor that plays an important role in ensuring high standards among members of the institution, and the sense of accountability.<sup>iii</sup>

### Ombuds Institutions: Enabling Complaint Filing and Addressing Underreporting

A first step to enabling complaint filing is through education and awareness-raising activities that will ensure military personnel know their rights and the options available, formal and informal, for making complaints (see Table 1<sup>iv</sup>). A next step is developing trust amongst military personnel. Making sure that personnel are aware of the support and protections available when filing a complaint will also help establish trust and thus encourage complaints. Another factor that facilitates complaint filing is ease of access.<sup>v</sup> Ensuring access is not an issue can diminish underreporting. Thus, complaint filing should be available through different means and forms (in person, by email, by fax, by phone, a hotline, etc.). Access to complaint filing can also be extended and made available to both current and former personnel, as well as their immediate family.<sup>vi</sup> Giving a voice to family members can support military personnel that fear coming forward with their grievances.

#### **Table 1: Policy concerning complaints, and information to personnel about the complaints mechanisms**

Should clearly set out the following:

- Informal and formal processes for making complaints.
- Where a potential complainant can anonymously receive information and advice on the complaints process.
- How a complaint can be made (for example, whether it has to be in writing) and what details need to be included in it.
- How the complaint will be acknowledged.
- The support services that can be offered to a complainant.
- How a complainant's confidentiality is protected, including until what point (if any) a complaint can be made anonymously.
- The rights of the accused person(s).
- The investigation process, including timeframes.
- How and at what stages of the complaints process the complainant and accused will receive information about the investigation.

Regardless of the type of ombuds institution with mandate over the armed forces (IG, specialized military ombudsman, or general ombudsman)<sup>vii</sup>, to ensure trust, the institution must deal with complaints and grievances in the most independent and neutral way possible.<sup>viii</sup> For IGs, for example, it is especially important to maintain neutrality and some distance from the chain of command, because a perception of a lack of

impartiality –whether real or not – will discourage personnel to feel comfortable filing a complaint without fear of retaliation. Building confidence in the complaints process is essential to overcoming underreporting.

While complaints are often viewed as a symptom of a malfunctioning system that permits abuse to occur, one might also observe that a large number of complaints could also be perceived as a positive sign.<sup>ix</sup> A large number of complaints may reflect the credibility of the ombuds institution and trust of personnel in its ability to resolve their complaints fairly and effectively. Conversely, a small number of complaints does not necessarily mean there is a lack of problems, but the opposite. Underreporting of complaints may actually be a consequence of a fear of raising complaints, due to issues such as retaliation or being accused of disloyalty, or simply a lack of knowledge of the institution.<sup>x</sup> Thus, when analysing complaints, there may be many less obvious factors contributing to the numbers of complaints received. An increase in complaints may not always be a negative thing, and a decrease in complaints may not be a positive sign. It is important that to remain critical when analysing complaint numbers.

Ombuds institutions can also do more than just analyse complaints received, but instead undertake efforts to better understand those that are not filing complaints. Is it because they do not have complaints or because they do not know of or trust the institution? In the United Kingdom, the armed forces conduct an annual survey to monitor attitudes of personnel on different decisions and policies in the armed forces.<sup>xi</sup> The Service Complaints Ombudsman had several questions inserted into the survey to gain a better picture of prevalence of bullying, discrimination and harassment, and whether personnel who experienced such problems came forward with complaints.<sup>xii</sup> The survey has provided great insight into how the Ombudsman can better engage with personnel to overcome barriers that discourage them to seek help.

Another important domain in which ombuds institutions play a role in is whistleblowing. Whistleblowing is, however, different from grievances in that it is usually a matter of public interest. Grievances are a matter of personal interest and usually do not have impact on the wider public.<sup>xiii</sup> Whistleblowing, on the other hand, may have bigger consequences and even relate to a systemic problem. In this sense, handling these types of complaints can be even more sensitive as there may be more at stake for the individual, and for the institution

#### **Questions for discussion:**

1. Why are armed forces personnel reluctant to complain even when they acknowledge they have a problem?
2. How do ombuds institutions overcome this reluctance to make a complaint?
3. How can ombuds institutions build trust and manage expectations of complainants?
4. What are examples of good practice on whistleblower protections, and how can ombuds institutions protect individuals from this?
5. What are ways in which ombuds institutions can determine if their efforts to break down barriers are working?
6. Does your office conduct attitude surveys or questionnaires with individuals who have sought their services? What about within the armed forces as a whole?

<sup>i</sup> Dao, James. "In Debate Over Military Sexual Assault, Men Are Overlooked Victims." The New York Times, The New York Times, 23 June 2013, [www.nytimes.com/2013/06/24/us/in-debate-over-military-sexual-assault-men-are-overlooked-victims.html](http://www.nytimes.com/2013/06/24/us/in-debate-over-military-sexual-assault-men-are-overlooked-victims.html)

<sup>ii</sup> Deschamps, Marie. "External Review into Sexual Misconduct and Sexual Harassment in the Canadian Armed Forces (External Review Authority, National Defence and the Canadian Armed Forces 2015), p.iii

<sup>iii</sup> *Ibid*, p.21

<sup>iv</sup> Bastick, Megan, *Gender and Complaints Mechanisms: A Handbook for the Armed Forces and Ombuds Institutions* (Geneva: DCAF, 2015)

<sup>v</sup> Buckland, B. and McDermott, W. *Ombuds Institutions for the Armed Forces : A Handbook* (Geneva: DCAF, 2012), p.63

<sup>vi</sup> Government of Canada, National Defence. "Ministerial Directives." National Defence and Canadian Forces Ombudsman, 7 Dec. 2016, [www.ombudsman.forces.gc.ca/en/ombudsman-about-us/ministerial-directives.page#rightcomplain](http://www.ombudsman.forces.gc.ca/en/ombudsman-about-us/ministerial-directives.page#rightcomplain) See "Right to Complain"

<sup>vii</sup> Refer to ICOAF's website ([www.icoaf.org](http://www.icoaf.org))

<sup>viii</sup> Buckland, B. and McDermott, W. *Ombuds Institutions for the Armed Forces : A Handbook* (Geneva: DCAF, 2012), pp.29-37

<sup>ix</sup> McVeigh, Karen. "US Military Sexual Assault Reports Soared 50% in 2013, Says Pentagon." The Guardian, Guardian News and Media, 1 May 2014, [www.theguardian.com/world/2014/may/01/military-sexual-assault-reports-soar-pentagon-report](http://www.theguardian.com/world/2014/may/01/military-sexual-assault-reports-soar-pentagon-report)

<sup>x</sup> Example of underreporting of child abuse in military-families: Olson, Wyatt. "Report: Child Abuse in Army Families under-Reported in 'Broken' System." Stars and Stripes, Stars and Stripes, 13 Dec. 2016, [www.stripes.com/news/report-child-abuse-in-army-families-under-reported-in-broken-system-1.444287#.WWy27U195aQ](http://www.stripes.com/news/report-child-abuse-in-army-families-under-reported-in-broken-system-1.444287#.WWy27U195aQ)

<sup>xi</sup> Results from the 2017 armed forces continuous attitude survey (AFCAS) can be found at:

<https://www.gov.uk/government/statistics/armed-forces-continuous-attitude-survey-2017>

<sup>xii</sup> *Ibid* p.15

<sup>xiii</sup> Nugent, Coreen. "The Distinction between a Grievance and Whistleblowing." Opt For Learning, Opt For Learning, [www.optforlearning.co.uk/2011/09/the-distinction-between-a-grievance-and-whistleblowing/](http://www.optforlearning.co.uk/2011/09/the-distinction-between-a-grievance-and-whistleblowing/)