



**For Immediate Release**  
**Office of the Ombudsman**  
**PR06-002**  
Feb. 8, 2006

## **OMBUDSMAN CALLS FOR APOLOGY LEGISLATION**

**VICTORIA** – Acting Provincial Ombudsman Howard Kushner today released Special Report No. 27 *The Power of an Apology: Removing the Legal Barriers*. The report focuses on the importance of an apology when a person has been treated unfairly by a public agency and encourages government to introduce legislation to enable public agencies to say “I am sorry.”

“My experience as Ombudsman has demonstrated to me the power of an apology in settling disputes,” said Kushner. “However, too often I hear from public agencies that they will not apologize, for fear that their apology will be used against them as acknowledgement of liability in any potential civil action.”

Kushner stated that his office has recommended that public officials apologize to individuals who experienced unfairness. Kushner said that, in place of an apology, some officials are willing to express their regrets, but that regrets may not satisfy a person’s need for an apology. “A sincere apology conveys more than regret,” notes Kushner. “The person who apologizes is taking responsibility for the actions in question. Saying ‘I am sorry’ often allows a person to forgive and move on.”

“In considering this matter, I have become aware of numerous studies that have identified the power of apology in settling disputes, both in the public and the private sector,” Kushner said. “I will continue to make recommendations that public officials apologize as appropriate. It is my hope that this report will generate a dialogue that leads to agreement on the power and fairness of an apology, with appropriate legislative provisions to ensure that there are no barriers to saying I am sorry.”

Kushner reported that, in response to a recommendation by Bruce Barbour, the Ombudsman for New South Wales in Australia, the government of New South Wales introduced legislation providing protection to public service agencies by prohibiting an apology from being admitted in courts as an acknowledgement of liability.

The Office of the Ombudsman is an independent office reporting to the Legislative Assembly. The office has authority to investigate complaints about provincial and civic public services.

[One backgrounder attached.](#)

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- If the Ombudsman believes a public agency has treated a person unfairly, the Ombudsman may recommend that the agency apologize to the person. Complaints have been settled as a result of a sincere apology for a mistake or wrongdoing from a public service employee.
- Kushner believes that taking responsibility for one's actions and issuing a sincere apology is often a fair and appropriate response.
- In British Columbia, public service employees frequently advise that they are discouraged from apologizing out of concern that their apology will be admitted as evidence of liability or negligence in potential civil action.
- In the past, the Ombudsman recommended public apologies from the provincial government to former students attending Jericho Hill Provincial School for the Deaf and former Sons of Freedom Doukhobor children who were confined in New Denver. In both cases, the government expressed its regret.
- The government of New South Wales, Australia, introduced legislation to protect public agencies that have admitted responsibility for action and apologized from having the apology admitted to court as evidence of liability or negligence.
- Howard Kushner, Acting Ombudsman, asks the Attorney General to consider implementing legislation similar to that of New South Wales to enable public agencies to apologize without fear of subsequent civil action.
- Numerous studies have identified the positive impact of a sincere apology, including significant reduction in medical malpractice lawsuits in jurisdictions that protect apologies from being used in court as evidence of negligence.
- Kushner's report identifies the positive impact of apologies in resolving long-standing disputes, including:
  - A personal apology from Prime Minister Paul Martin to Chinese Canadians for government policies from the 1880s to the 1920s, including the imposition of the Chinese Head Tax
  - A long-awaited apology to the First Nations people on the west coast of Vancouver Island when the descendants of Captain Robert Gray apologized for the abduction and insult to the Tla-o-qui-aht chief and his great family and for the burning of Opitsaht 200 years earlier
  - South Africa's Truth and Reconciliation Process
  - Former President Bill Clinton's apologies to victims of civil conflict in Rwanda who might have been spared had the United States intervened and to people of El Salvador for policies of previous American administrations

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