# Annual Report

# 1988

# OMBUDSMAN FOR CORRECTIONS



State of Minnesota

## STATE OF MINNESOTA

# OMBUDSMAN FOR CORRECTIONS

## REPORT FOR THE PERIOD
## JULY 1, 1987 — JUNE 30, 1988



Submitted to
The Honorable Rudy Perpich
Governor, State of Minnesota
pursuant to Section 241.45
Subd. 2 of the Minnesota Statutes

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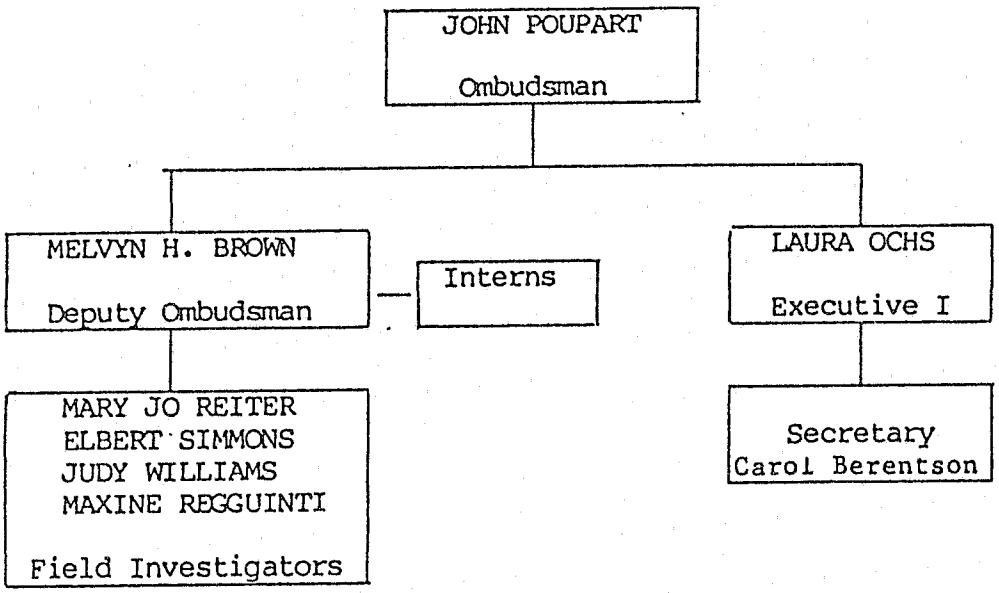
# BUDGET — FISCAL YEAR 1988

| | ORIGINAL | ACTUAL EXPENDITURES |
|---|---|---|
| Personnel Services | $296,570 | $296,137 |
| Rents & Leases | 22,180 | 22,179 |
| Repairs & Maintenance | 1,426 | 1,414 |
| Printing & Binding | 1,962 | 1,962 |
| Data Processing & System Services | 3,265 | 3,265 |
| Communications | 2,060 | 2,034 |
| Travel | 10,207 | 10,107 |
| Fees/Other Fixed Charges | 425 | 425 |
| Equipment, Material, & Supplies | 2,704 | 2,537 |
| TOTAL | $340,799 | $340,060 |
| Closing Budget Adjustment (Cancellations) | 739 | |
| GRAND TOTAL | $340,060 | |

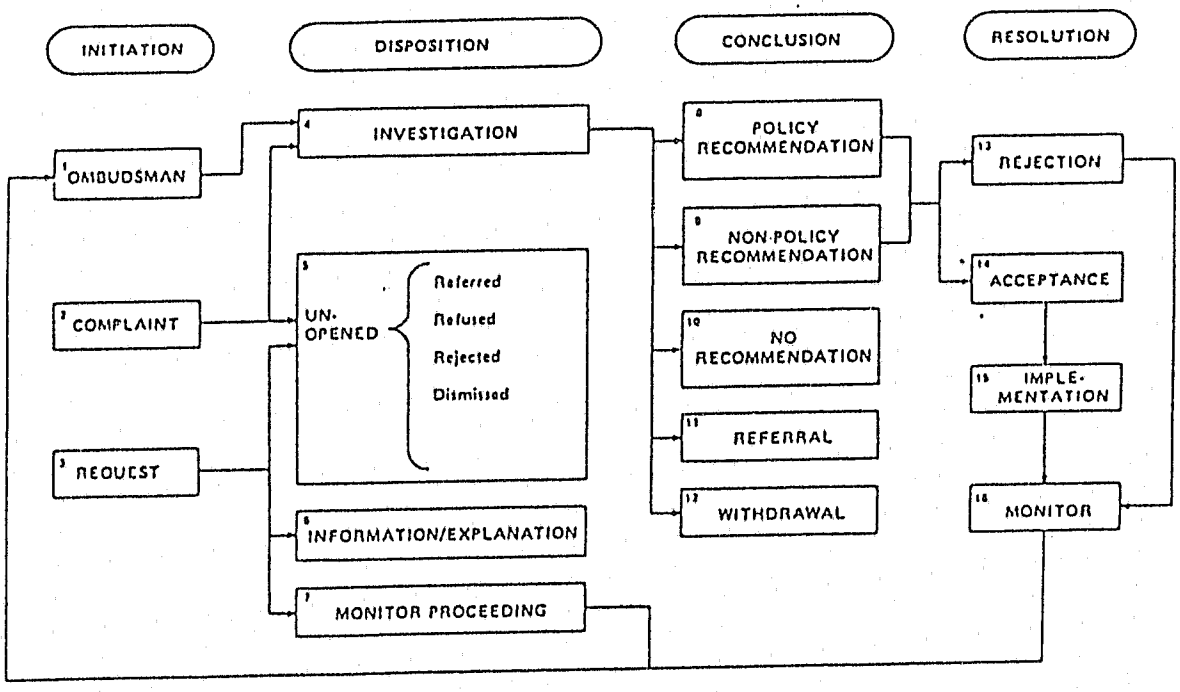
# ORGANIZATION CHART

Figure I




CASE PROCESSING PROCEDURE

Figure II



# WHAT IS AN OMBUDSMAN

As government bureaucracies expand and citizens' voices are diminished amid the steady shuffling of files and memos and the constant chirping of telephones, grievances from the public against government are often not given serious consideration. Elected officials, whose time for constituent complaints has become limited, and a clogged court system, two traditional avenues for resolution of complaints, contribute to a picture where citizens and government are severely disjointed. This separation and lack of communi- cation between bureaucracies and the people give rise to executive and administrative mistake and abuse of power. Who can protect a citizens' rights and hold public officials accountable? Where can a frustrated citizen turn to receive an answer?

For many people all over the world governed by both national and local institutions, the Ombudsman (pronounced am'-budz-mən) provides services that are receptive to a disgruntled citizen. The Ombudsman concept in the U.S. and Minnesota may seem a novelty, but in the Scandinavian countries, the Ombudsman has existed for almost 200 years. "Ombudsman" is a Swedish word meaning "protector or defender of citizen rights", says Dr. Daniel G. Hill, Ombudsman for the province of Ontario, Canada.

The American Bar Association has a lengthier and perhaps more appropriate version. They say, "The Ombudsman is an independent governmental official who receives complaints against government agencies and officials from aggrieved persons, investigates, and, if the complaints are justified, makes recommendations to remedy the complaints."

Ideally, an Ombudsman should be completely independent of any government agency or official to insure a climate for free criticism and to escape conflicts of interest. In actuality, it is not uncommon for an Ombudsman to be appointed by a department head. For example, in Minnesota the Long Term Care Ombudsman is appointed by the commissioner of the Department of Human Services. On the other hand, some Ombudsmen are appointed by the Governor or legislature. The Minnesota Ombudsman for Mental Health and Mental Retardation, like the Corrections Ombudsman is appointed by the Governor and is also a separate state agency. No matter who is responsible for creating an Ombudsman position, independence for an Ombudsman is crucial and must be a primary concern. However, an Ombudsman is not an omnipotent official who reigns supremely over incompetent

bureaucrats, he or she is subject to the same kinds of checks and balances that curb unrestrained power and make the system work. In fact, a positive aspect of an Ombudsman is that his responsive, active role within the government system shows citizens government cares about them.

A common misconceived notion of the Ombudsman in America is that he or she serves only as an advocate. This misconception can cause undue problems for an Ombudsman. An advocate invariably takes the client's side of the issue or works on behalf of an interest group. An Ombudsman, on the other hand, seeks out facts in terms of law, policy and procedure and makes a determination, based on the results of the investigation, on where the complainant could have possibly "fallen between the cracks" of a bureaucracy. Often an Ombudsman may conclude that the client's story does not hold and that the particular bureaucracy is not at fault.

If an Ombudsman served only as an advocate he or she would tend to create polarity between issues and between people; the very thing which a successful Ombudsman is to avoid. It must be emphasized that an Ombudsman has a responsibility to see that government systems are fair and efficient and he or she works to reduce, if not eliminate conflict. As one field investigator puts it, "An Ombudsman should work himself out of a job."

The following list of standards define the "classical Ombudsman", a model that the Ombudsman for Corrections emulates:

1. A governmental official created by constitution, charter legislation or ordinance;

2. An official whose independence is guaranteed through

   a) a defined term of office and/or

   b) appointment by other than the executive and/or

   c) custom;

3. An official of high stature;

4. An official with the responsibility to receive and investigate complaints against governmental agencies;

5. Freedom of the official to investigate on his or her own motion;

6. An official who may exercise full powers of investigation to include access to all necessary information both testimonial and documentary;

7. The ability of the official to criticize governmental agencies and officials and to recommend corrective action;

8. An official with the power to issue public reports concerning his or her findings and recommendations;

9. An official who is restricted from activities constituting a personal, professional, occupational or political conflict of interest; and,

10. An official with freedom to employ and remove assistants and to delegate administrative and investigative responsibilities to them.

# THE MINNESOTA OMBUDSMAN FOR CORRECTIONS

In the early 1970's in the U.S., prison security and safety became national issues. Television captured the fiery riot at Attica which symbolized to many people an alarming trend of prison unrest. Besides the growing potential for riots and violence in those days, prisons in the U.S. (and Minnesota) were plagued with property damage and time-consuming and expensive lawsuits brought by inmates against corrections staff (in some parts of the U.S. these things still happen).

It was in this rather volatile atmosphere that the first Ombudsman for Corrections was established in 1972 by an Executive Order issued by the governor. In 1973 the Minnesota legislature adopted the idea and created the Minnesota Ombudsman for Corrections.

Perhaps due in some part to the work of the Ombudsman for Corrections, the threats of violence and of property damage and the large numbers of lawsuits have declined in significance in Minnesota prisons. However, the current Ombudsman still faces difficult problems. Prison overcrowding, the prevalence of new types of offenders such as sex offenders who often need protective custody, and the emergence of gangs have replaced the issues of the early 1970's as our office's most serious concerns.

The structure of the corrections system has generally not changed in 200 years. Prison cells, walls, security fences, and militaristic hierarchy of staffing have remained characteristics of correctional institutions. Within this broad, static structure the dynamics of changing prison populations and public attitudes whirl, spitting out problems that evolved in this rather stagnant environment. The Ombudsman for Corrections, who closely monitors trends in corrections, has addressed and will continue to address these problems.

The Ombudsman for Corrections is an integral component of Minnesota's corrections system. Both the Ombudsman and Minnesota corrections officials work to maintain the independence of the Office of the Ombudsman. This cooperation among the Ombudsman and correctional administrators, at first glance, may indicate that the Ombudsman is abandoning the inmates and is retiring to the detached confines of a self-serving bureaucracy. However, the Ombudsman agency only makes recommendations and uses reasoned persuasion to achieve policy alterations.

The lines of communication to the Department of Corrections should remain open and conciliatory to facilitate a recommendation to be accepted. Hence, the Ombudsman straddles the fence that divides inmate and corrections official. As one former Ombudsman said, "an Ombudsman has no permanent friends and no permanent enemies."

The Ombudsman himself has the statutorial authority to make a recommendation; his or her staff does not have that power. If, after duly considering a complaint and whatever material deemed pertinent, the Ombudsman is of the opinion that the complaint is valid, a recommendation may be made that the administrative agency should:

1. consider the matter further;

2. modify or cancel its actions;

3. alter a regulation or ruling;

4. explain more fully the action in question; or

5. take any other step which the ombudsman states as his or her recommendation to the administrative agency involved.

Many times these recommendations will suggest a change in policy or procedure; so the outcome will affect more inmates or staff than the one making the complaint and will prevent future complaints of a similar nature from occurring.

When making decisions and recommendations the Ombudsman strives to hold corrections administrators accountable to a higher level of legal and ethical authority. Law, standards, policy and legal precedent are among the measures of accountability applied. Our office especially considers accreditation, which means that an institution's policies and procedures are in line with the standards supported and published by the American Correctional Association, a meaningful and necessary step toward fair treatment of inmates. Accreditation is an objective that the Ombudsman encourages corrections administrators to achieve.

The Ombudsman also holds the rights of inmates as a high priority on his agenda. Inmates lose most legal and constitutional rights upon conviction of a felony. These forsaken rights include the loss of liberty, the loss of the

right to vote, and the loss of the right to hold public office. Contrary to popular belief inmates do not lose all their rights. They retain inalienable rights afforded to all human beings. Moreover, they retain certain constitutional and human rights. Our office monitors the corrections system so that violations of these rights are prevented.

The Ombudsman's staff is comprised of the Ombudsman, a Deputy Ombudsman, a secretary, an Executive I and four Field Investigators. Complaints are received by letter, by telephone or in person. After receiving a complaint, a Field Investigator may interview persons who can furnish relevant information; review files; seek documentation; research statutes, regulations, policies, and procedures; consult the American Correctional Association standards; meet with corrections officials to discuss areas of concern, and; take any other steps necessary to gather information relevant to making a determination on the validity of the grievance. The first phase of an investigation is to determine if there is basis in fact for a complaint before pursuing it further. In order to obtain the facts, the Ombudsman must enjoy access to information and the statute enables the Ombudsman to study the necessary records or files of an administration.

The Corrections Ombudsman concept in Minnesota has a history all its own. As mentioned earlier, the concept was implemented in the wake of violence and unrest in the state's prison system. Other interest groups decided to pursue the idea of developing an Ombudsman, after sensing the apparent successes of the Corrections Ombudsman. This helps to explain why Minnesota has separate Ombudsman agencies. Some other states such as Iowa, Nebraska, Hawaii, and Alaska have an Ombudsman with statewide responsibilities. Those responsibilities include the corrections area.

Every Ombudsman agency in Minnesota serves a distinct clientele. Their function is to not only protect the rights of patients, inmates, clients or victims of crime, but to intercede where bureaucracies appear to be not acting in the best interests of the clientele. The Minnesota Ombudsman for Mental Health investigates complaints from mentally ill people who are receiving services or treatment at a facility licensed by the commissioner of human services. The Crime Victims Ombudsman receives its funding from the Federal government, but its physical operation is within the state's Public Safety Department whose commissioner appoints the Ombudsman. The Ombudsman for Older Minnesotans also

receives Federal funding and watches out for injustices or incompetency of institutions who deal with the elderly. Not all Ombudsmen have state jurisdiction. For instance, the City of Minneapolis has an Ombudsman for senior citizens.

A Minnesota state Ombudsman consolidating all Ombudsman is an idea worthy of further exploration. One legislator, Rep. Randy Kelly did this about a year ago when he called a meeting of all Ombudsmen in state government. Since then, however, there has been no other public discussion on the subject. Perhaps there are problems preventing such a consolidation. Such as the varied and different sources of funding that created the agencies (federal as opposed to state money), and the separate and distinctly different appointing authorities for the respective Ombudsman. It is entirely possible that absolutely nothing can be done with Ombudsmen agencies created in the past; nonetheless, it might be a good idea to keep in mind, for the future, a planned design for such agencies as they develop.

# ISSUES AND RECOMMENDATIONS

The Ombudsman for Corrections followed some broad issues this past year with great attention. For example, the office studied statistics on prison crowding and the racial compositions of the institution's populations. Monitoring potential problems places the Ombudsman in a position where he can argue for a change should the facts demand action. However, more particular issues that arise everyday were met with an informal suggestion or a formal recommendation. The following are some instances from the past year that demonstrate our reactions to pressing problems.

## Property Policy at Shakopee

The Ombudsman received several complaints from inmates at MCF-Shakopee who claimed that personal items were missing after a transfer out of the institution's segregation wing. The Ombudsman brought to the attention of the institution that a claim could not be proven or disproven unless there was proof the inmate had the property upon entering segregation. Under the policies at the time, there were no explicit stipulations regarding the keeping of records for such property. The Ombudsman proposed that the policy be changed to incorporate a provision for the keeping of records. The policy was changed.

## The Little Things

Sometimes our office just helps an inmate who is in dire straits. A mentally retarded resident of a juvenile institution was injured when he was physically attacked by another resident without provocation. Our office was there for him. We assisted and supported the retarded inmate in advising him what his legal resources were. We also saw that he got adequate medical attention and offered our moral support.

## Free Phone Calls to the Ombudsman

Although an inmate at Anoka County Jail was allowed to phone his lawyer or parole officer without charge, a phone call to the Ombudsman was not free. When this fact was noted, the staff at the Anoka County Jail began the practice of allowing inmates to call the Ombudsman's office free of charge.

## Riot Shields

Riot shields are rarely employed to quell disturbances by inmates in Minnesota prisons. Fortunately our state's system has enjoyed a substantial period of relative calm; riots have virtually been nonexistent. However, staff at the Hennepin County Juvenile Center used riot shields to subdue an inmate who became violent and possessed a weapon. The inmate filed a complaint to our office claiming that the staff were unnecessarily rough with him during this incident. During the course of the investigation, we did not find any evidence indicating that the staff acted in an overzealous manner, but we learned that the staff had not been trained in the proper application of the shields, which are potentially dangerous equipment. We recommended to the Hennepin County Juvenile Center that training with riot shields be added to the staff's training curriculum.

Upon receiving responses to the recommendation from the institution's administration, we determined that in actuality the staff showed patience and competence when restraining the inmate and that the staff were indeed trained on the use of riot shields. After taking this new information into account, we withdrew our prior recommendation. Recommendations are never carved in stone and are subject to change in light of new evidence.

## Group Punishment

Our office received a complaint in the last fiscal year concerning the policy of group punishment at MCF-Shakopee. In this case, a staff member found contraband (ingredients for home-made alcohol) in the common area of a cottage wing. The staff responded by revoking privileges of every inmate housed in this particular wing. These lost privileges included: no children's visits on days and weekends; no off-grounds privileges; and a 10 p.m. curfew for bed. The duration of the punishment was 30 days. The administration's argument for its decision was based on a fear that the security of this wing was jeopardized and that, in matters of security, the superintendent had the authority to "lock down" a cottage or a wing in order to control the flow of contraband.

We reviewed the evidence in the forms of logs and records and decided that security was not threatened in this wing. Other documents such as the American Corrections Association Standards were also studied. We recommended that the policy

of group punishment of the entire cottage wing when contraband is found in a common area and the perpetrator cannot be identified should be abolished. Each member of the wing should have benefited from due process and received a hearing to determine her guilt or innocence. Group punishment, or the revoking of a cottage wing's privileges, without due process was deemed to be unfair, unreasonable, and inconsistent with the prison's policy of allowing a hearing for an individual inmate who is discovered to be in possession of contraband.

The institution administration stood by their decision that their action was a security measure, not group punishment. The Ombudsman contends it is group punishment and maintains its original position.

## Indian Folklore Group

At MCF-Stillwater, American Indian inmates can practice their spiritual beliefs and establish senses of community and identity in the Indian Folklore Group. The Ombudsman for Corrections became involved in a number of complaints stemming from the Indian Folklore Group whose members claimed that they were receiving unfair treatment from the institution's staff. One incident provoked a couple of these complaints. As members of the Folklore Group prepared to attend their Sunday pipe ceremony, they were searched by the staff in full view of some white members of the Gideon Society who were not "shaken down". The American Indians who were searched felt embarrassed and angry at the special attention accorded to them by the staff. However, records reflected that there was a breach of security before the pipe ceremony when one of the members left the sight of the escorting officer in an outside area. Furthermore, the members of the Gideon Society who were standing near the area where the shakedown occurred were asked to move from the area. Hence, our office concluded that the staff acted correctly and that the complaints did not merit a recommendation. The other complaints also lacked the evidence that would warrant action by our office.

These cases illustrate the kind of objectivity that is exercised by the Ombudsman for Corrections. Our office not only protects the inmates from injustices, but the prison staff and the Department of Corrections are afforded opportunities to refute inmates' claims against them. Sometimes, after investigating the facts, the truth falls against the inmate, thereby protecting the staff or

administration from wrongful accusations. In addition, our office also handles complaints from prison staff against the Department of Corrections.

## USAO Conference

The 1988 United States Association of Ombudsman (USAO) Conference was sponsored by this agency. Well over 50 participants came from all over the country to learn new skills and to share knowledge with their Ombudsman counterparts. The event proved to be one of the more successful conferences the organization has had in recent years. The staff of the Minnesota Corrections Ombudsman agency worked extremely hard in planning for and in making this a successful occasion.

## Data Privacy

With the advent of the Minnesota Government Data Privacy Act (Chapter 13) the Ombudsman for Corrections lost some effectiveness in doing his job. In order to be an effective Ombudsman, one has to have unrestricted access to data. While the statute which created the Ombudsman stated that he shall have access to all "records and documents of an administrative agency" and "shall be given access to information in the possession of an administrative agency", it did not clearly spell out the manner in which the data and information would be accessed. The data privacy act classified data in three general categories; 1) public, 2) private and, 3) confidential. The problem was really created by the fact that the data privacy act was a law established at a later date than the Ombudsman statute. In effect, there was a conflict in the law. The situation was remedied in the last legislative session when the Ombudsman sought and won passage of an amendment clarifying the materials to which our office has access. The amendment made legal the Ombudsman's access to both private and confidential data contained in the files involving Health Records and Corrections and Detention data.

## Discrimination

Some racial minority inmates at Oak Park Heights prison facility complained to this office about what they perceived as racial discrimination. They requested an investigation in several sections of the prison: industry, education, and segregation. Our first action in responding to this type complaint was to determine if there was basis in fact for the allegations.

We then requested information and statistical data from the prison administration. We believed such information would provide an opportunity for us to make an accurate analysis of the various affected areas.

We were provided an abundance of data on MCF-OPH with regard to placement and population. So much, in fact, it was physically impossible for us to glean assembled information that would be useful to our purposes. Therefore, using a random method in measuring places, dates, and inmate population counts we were able to discern that in two of the three areas of concern no racial discrimination existed. In the other area, segregation, early data reflected that minorities were overrepresented in the segregation unit (where inmates are placed who are found guilty of disciplinary charges). That is, proportionally, there was a higher percentage of racial minorities in the segregation unit than was in the other living units at the institution and in the overall general population.

In light of the volume of material from which we extrapolated information; which was not easily available on the computer, we then made a written Ombudsman recommendation which called for the MCF-OPH computer equipment be programmed to gather these data on an on-going basis so that, in the future, review of such data would be more convenient and available. Such a move would also be helpful to corrections officials in acquiring knowledge regarding profiles of inmate populations. In response to the recommendation, OPH administration agreed to send inmate assignment and payroll data to the Ombudsman for any day of the month he would specify. To program computers to gather data on a racial basis was something OPH was reluctant to do. The Ombudsman agreed to the OPH response.

# SUMMARY

## Contacts Received

This year's percentage of all received contacts that were opened did not change significantly from the previous year's number. It rose one percentage point. Whether a case is opened is often determined by many different, separate factors. The determination is usually based on, but not limited to, whether we have jurisdiction; if it involves correctional institution policy or department-wide policy; or if it happens to be unfair or inadequately explained. Those contacts not opened were often "referred" to other available resources.

## Methods of Communication

Calling the Ombudsman by telephone remained the most preferred method of contacting us. This year, 48% of all contacts to our office were via telephone. The previous year's percentage was 47%. The next most often used method was the written method. The inmates used either the U.S. mail or the Ombudsman mailbox located at some institutions. Twenty-three percent (597) of all contacts were written, representing no change from the previous year. The third major method was what is labeled "personal direct". This is when someone talks to us in person and registers his or her complaint. Usually this occurs when a field investigator visits an institution. Again this year's percentage using the "personal direct" method did not change from the previous year. It was still 17%.

The three methods of making initial contact with our office - by telephone, through writing, or in person - constituted nearly all of the complaints filed with the agency.

## Institution Comparison

The state prison at Stillwater continued to be the source for the bulk of our complaints. This should not be surprising when one considers that Stillwater has the largest population of any institution in the Minnesota corrections system. 47% of our caseload came from Stillwater, compared to 43% for the previous year.

The percentages from the other institutions did not change very much, except for the institutions at St. Cloud and Shakopee. The numbers of complaints emanating from St. Cloud declined from 23.7% to 19.7%, while those from Shakopee increased from 9.9% to 13.2%. The explanations for these shifts are not clear.

## Case Distribution

Complaints assigned to the "Rules" category outnumbered other complaint areas. They accounted for 19.1% of the totals, compared to 17% the previous year. Other areas, whose percentages ranged from 8.4% to 10.7% of the total complaints, reflected a substantial amount of activity. They were "Parole", "Medical", "Legal", and "Placement". Of these areas, the movement of "Parole" from the this year to the previous year was the most interesting. Complaints regarding "Parole" jumped from 6% to 9.3%.

## Same Day Interviews

Initial interviews occur as soon as reasonably possible after the complainant contacts the Ombudsman, whether the contact is in person, by mail, or by telephone. In fact, this year, 1835 complaints, or 84% of those cases that had interviews, had same day interviews. These numbers contrast with last year's numbers of 1173 and 65%. This comparison indicates that our office has made a dramatic improvement in responding quickly to inmates' complaints. Our office's operations became much more efficient in this respect.

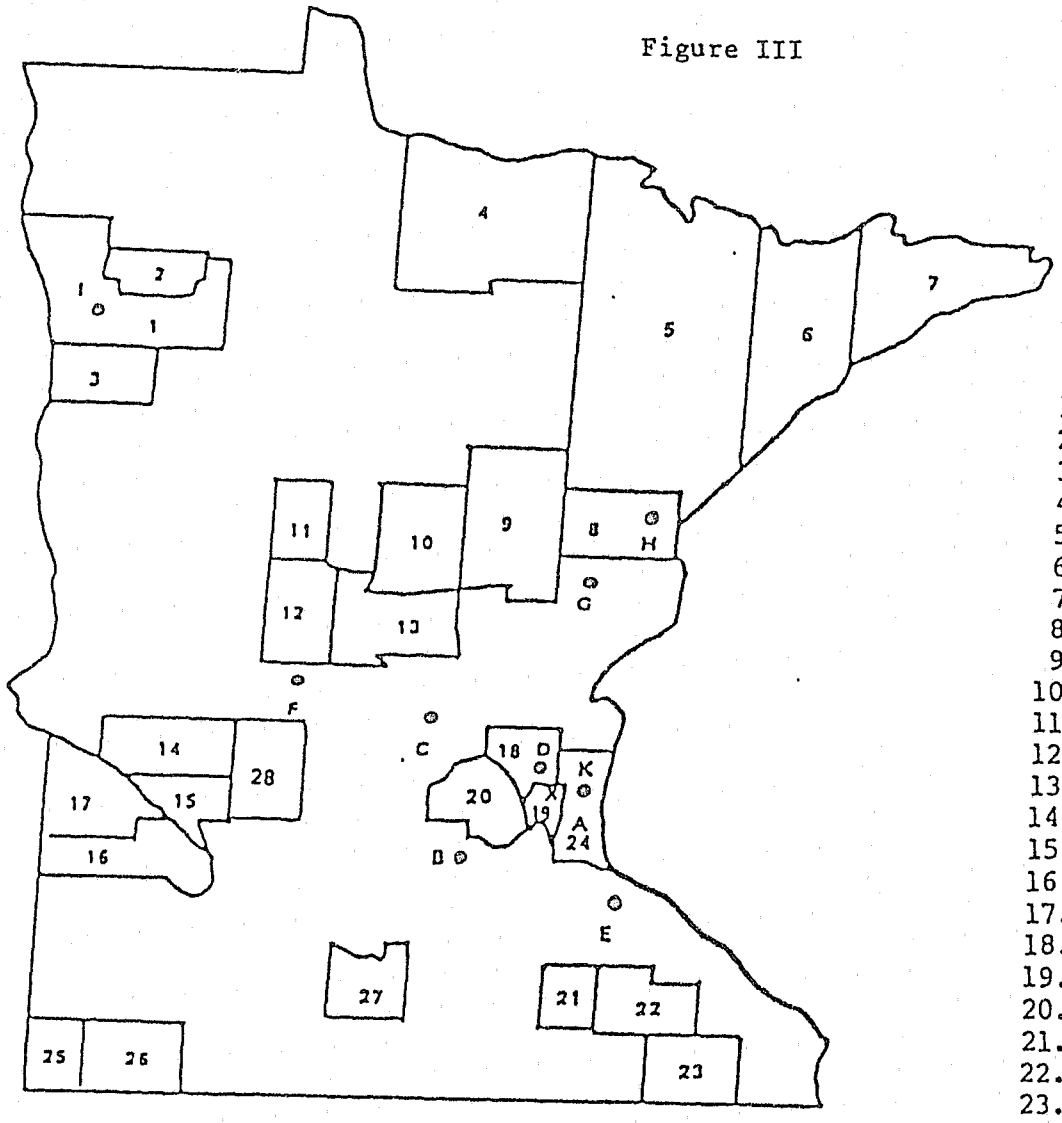
Sometimes it takes more than one day to have an interview with a field investigator. It is a rare occurrence when a complaint takes more than 21 days for an interview; only 37 cases this year waited 21 days for an interview. Reasons for this vary from the complainant being from the out-state area to a lag in information requested from another source - information necessary to determine the facts of the complaint or its legitimacy.

## Time Taken to Resolve Cases

The statistics illustrating the time taken to resolve cases echo those concerning the initial interview. Our office has resolved more cases within 15 days; this year's percentage of 74.9% signified a noteworthy increase from the previous year's percentage of 69.3%. Another 8.7% took from 16 to 30 days to resolve. This high level of rapid response reflects what makes the Ombudsman an effective element in helping to resolve corrections problems.

# OMBUDSMAN'S JURISDICTION

Figure III




X - Ombudsman, St. Paul (19)

COMMUNITY CORRECTIONS ACT COUNTIES

1. Polk
2. Red Lake
3. Norman
4. Koochiching
5. St. Louis
6. Lake
7. Cook
8. Carlton
9. Aitkin
10. Crow Wing
11. Wadena
12. Todd
13. Morrison
14. Swift
15. Chippewa
16. Yellow Medicine
17. Lac Qui Parle
18. Anoka
19. Ramsey
20. Hennepin
21. Dodge
22. Olmsted
23. Fillmore
24. Washington
25. Rock
26. Nobles
27. Blue Earth
28. Kandiyohi

DEPARTMENT OF CORRECTIONS FACILITIES

A. MCF-STW — Minnesota State Prison, Stillwater
B. MCF-SHK — Minnesota Corrections Institution for Women, Shakopee
C. MCF-SCL — State Reformatory for Men, St. Cloud
D. MCF-LL — Minnesota Correctional Facility — Lino Lakes
E. MCF-RW — State Training School, Red Wing
F. MCF-SCR — Minnesota Home School, Sauk Centre
G. MCF-WRC — Willow River Camp
H. RGL — Northeast Regional Corrections Center, Saginaw
I. RGL — Northwest Regional Corrections Center, Crookston
K. MCF-OPH — Minnesota State Prison, Oak Park Heights

# TYPES OF CONTACTS

The Ombudsman systematically categorizes each contact received to help further define the source(s) of changes in both the number and nature of cases. To facilitate year-to-year comparisons of the cases handles by the Ombudsman, each case is assigned to one of the following categories:

Parole - Concerning any matter under the jurisdiction of the releasing authority, e.g., work release, supervised release, special review, etc.

Medical - Concerning availability of treatment or accessibility of a staff physician or other medical professional.

Legal - Involving legal assistance or problems with getting a response from the Public Defender or other legal counsel.

Placement - Concerning the facility, area or physical unit to which an inmate is assigned.

Property - Dealing with loss, destruction or theft of personal property.

Program - Relating to training, treatment program or work assignment.

Discrimination - Concerning unequal treatment based upon race, color, creed, religion, national origin or sex.

Records - Concerning data on inmate or staff files.

Rules - Regarding administrative policies establishing regulations which an inmate, staff member or other person affected by the operation of a facility or program is expected to follow, e.g., visits, disciplinary hearings, dress, etc.

Threats/Abuse - Concerning threats of bodily harm, actual physical abuse or harassment to an inmate or staff.

Mail - Anything that may impact upon the normal, legal flow of mail in or out of an institution or how it is handled by institution staff.

Hygiene - Having to do with access to supplies and necessities for personal hygiene or the hygiene of physical surroundings.

Services (Institution) - Regarding heat, water, window screens, blankets, etc.

Other - Contacts not covered in the previous categories, e.g., food, etc.

TABLE I

CONTACTS RECEIVED

| MONTH | TOTAL OPENED | TOTAL UNOPENED | TOTAL CONTACTS |
|---|---|---|---|
| July | 189 | 11 | 200 |
| August | 176 | 05 | 181 |
| September | 183 | 04 | 187 |
| October | 228 | 10 | 238 |
| November | 189 | 03 | 192 |
| December | 203 | 04 | 207 |
| January | 190 | 03 | 193 |
| February | 234 | 02 | 236 |
| March | 200 | 08 | 208 |
| April | 237 | 06 | 243 |
| May | 217 | 05 | 222 |
| June | 218 | 04 | 222 |
| TOTAL | 2,464 | 65 | 2,529 |

TABLE II

METHODS OF COMMUNICATION

| TYPE | CLOSED | UNOPENED | TOTAL |
|---|---|---|---|
| Written Direct | 569 | 11 | 580 |
| Written Indirect | 17 | 0 | 17 |
| Personal Direct | 436 | 1 | 437 |
| Personal Indirect | 21 | 1 | 22 |
| Telephone Direct | 1,195 | 44 | 1,239 |
| Telephone Indirect | 243 | 8 | 251 |
| Ombudsman Initiated | 18 | 0 | 18 |
| TOTAL | 2,499 | 65 | 2,564 |

TABLE III

CASELOAD SUMMARY

| | | |
|---|---|---|
| Carried Over from Fiscal Year 1987 | | 88 |
| Fiscal Year 1988 Contacts Received | | 2,529 |
| Fiscal Year 1988 Caseload | | 2,617 |
| Fiscal Year 1988 Caseload Disposition: | Cases Closed 2,499 | |
| | Unopened Cases 65 | |
| | TOTAL | 2,564 |
| Cases Carried Over to Fiscal Year 1989 | | 53 |

TABLE IV

REFERRALS*

| | |
|---|---|
| Institution Staff | 1 |
| Legal Assistance to Minnesota Prisoners | 3 |
| Department of Corrections | 7 |
| State Public Defender | 2 |
| Private Attorney | 2 |
| Other** | 6 |
| TOTAL | 21 |

*Unopened cases are not included.
**Other category contains organizations to which fewer than four referrals were made during F.Y.1988.

TABLE V

INSTITUTION ADULT POPULATION
CLOSED CASES COMPARISON

| INSTITUTIONS | AVERAGE MONTHLY POPULATION | PERCENTAGE OF ADULT AVERAGE MONTHLY POPULATION | NUMBER OF CASES CLOSED | PERCENTAGE OF CASES CLOSED |
|---|---|---|---|---|
| Stillwater | 1,197 | 45.4% | 832 | 46.5% |
| St. Cloud | 682 | 25.8% | 354 | 19.7% |
| Oak Park Heights | 373 | 14.1% | 272 | 15.2% |
| Lino Lakes | 199 | 7.6% | 95 | 5.3% |
| Shakopee | 117 | 4.4% | 236 | 13.2% |
| Willow River | 72 | 2.7% | 2 | 0.1% |
| TOTALS | 2,640 | 100.0% | 1,791 | 100.0% |

TABLE VI

CLOSED CASE DISTRIBUTION COMPARISON

| | F.Y. 1987 | | F.Y. 1988 | |
|---|---|---|---|---|
| CATEGORY | NUMBER | PERCENT | NUMBER | PERCENT |
| Parole | 145 | 6.0% | 232 | 9.3% |
| Medical | 244 | 11.0 | 267 | 10.7 |
| Legal | 221 | 9.0 | 210 | 8.4 |
| Placement | 263 | 11.0 | 239 | 9.6 |
| Property | 127 | 5.0 | 139 | 5.6 |
| Program | 200 | 9.0 | 187 | 7.5 |
| Discrimination | 61 | 3.0 | 67 | 2.7 |
| Records | 120 | 5.0 | 102 | 4.1 |
| Rules | 397 | 17.0 | 477 | 19.1 |
| Threats/Abuse | 192 | 8.0 | 178 | 7.1 |
| Mail | 52 | 2.0 | 45 | 1.8 |
| Hygiene | 24 | 1.0 | 46 | 1.8 |
| Services | 64 | 3.0 | 51 | 2.0 |
| Other | 234 | 10.0 | 259 | 10.3 |
| TOTAL | 2,344 | 100.0% | 2,499 | 100.0% |

TABLE VII

TOTAL CASES CLOSED

| CATEGORY | STW | OPH | SCL | CTY | RW | LL | SHK | SCR | WRC | ML | RGL | FS | OTHER | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Parole | 122 | 7 | 11 | 34 | 2 | 18 | 13 | 4 | 0 | 1 | 1 | 5 | 14 | 232 |
| Medical | 79 | 30 | 27 | 66 | 1 | 5 | 54 | 0 | 0 | 0 | 2 | 0 | 3 | 267 |
| Legal | 61 | 14 | 29 | 66 | 3 | 9 | 8 | 2 | 1 | 0 | 1 | 4 | 12 | 210 |
| Placement | 99 | 40 | 34 | 24 | 3 | 4 | 20 | 6 | 0 | 0 | 1 | 1 | 7 | 239 |
| Property | 53 | 14 | 30 | 13 | 3 | 5 | 10 | 0 | 0 | 3 | 0 | 1 | 7 | 139 |
| Program | 95 | 28 | 25 | 12 | 0 | 13 | 8 | 0 | 0 | 0 | 2 | 1 | 3 | 187 |
| Discrimination | 14 | 22 | 6 | 17 | 1 | 0 | 3 | 0 | 1 | 0 | 0 | 1 | 2 | 67 |
| Records | 51 | 5 | 21 | 9 | 2 | 9 | 3 | 0 | 0 | 0 | 0 | 0 | 2 | 102 |
| Rules | 148 | 52 | 53 | 103 | 5 | 18 | 82 | 5 | 0 | 1 | 3 | 2 | 5 | 477 |
| Threats/Abuse | 20 | 15 | 54 | 55 | 2 | 7 | 14 | 1 | 0 | 2 | 1 | 0 | 7 | 178 |
| Mail | 8 | 10 | 9 | 15 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 45 |
| Hygiene | 15 | 2 | 0 | 24 | 1 | 0 | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 46 |
| Services | 21 | 3 | 7 | 11 | 0 | 0 | 7 | 0 | 0 | 2 | 0 | 0 | 0 | 51 |
| Other | 46 | 30 | 48 | 57 | 6 | 6 | 10 | 5 | 0 | 1 | 1 | 4 | 45 | 259 |
| TOTAL | 832 | 272 | 354 | 506 | 29 | 95 | 236 | 24 | 2 | 10 | 12 | 19 | 108 | 2,499 |

Minnesota Correctional Facility (MCF): MCF-STW - Stillwater; MCF-OPH - Oak Park Heights; MCF-SCL - St. Cloud; CTY - County facilities (including Hennepin and Ramsey Counties adult and juvenile corrections facilities); MCF-RW - Red Wing (Juvenile); MCF-LL - Lino Lakes; MCF-SHK - Shakopee (Women); MCF-SCR - Sauk Centre (Junvenile); MCF-WRC - Willow River; RGL - Regional facilities; FS - Field Service (including parole and probation).

TABLE VIII

COMPLAINT CASES CLOSED

| CATEGORY | STW | OPH | SCL | CTY | RW | LL | SHK | SCR | WRC | ML | RGL | FS | OTHER | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Parole | 155 | 5 | 9 | 30 | 2 | 17 | 10 | 4 | 0 | 1 | 1 | 5 | 12 | 211 |
| Medical | 78 | 29 | 24 | 66 | 1 | 5 | 51 | 0 | 0 | 0 | 2 | 0 | 3 | 259 |
| Legal | 44 | 7 | 14 | 48 | 2 | 5 | 3 | 2 | 0 | 0 | 1 | 3 | 7 | 136 |
| Placement | 96 | 29 | 33 | 23 | 3 | 3 | 19 | 5 | 0 | 0 | 1 | 1 | 6 | 219 |
| Property | 52 | 14 | 30 | 13 | 3 | 4 | 10 | 0 | 0 | 3 | 0 | 1 | 4 | 134 |
| Program | 89 | 27 | 22 | 12 | 0 | 12 | 8 | 0 | 0 | 0 | 2 | 1 | 2 | 175 |
| Discrimination | 14 | 21 | 6 | 16 | 1 | 0 | 3 | 0 | 1 | 0 | 0 | 0 | 1 | 63 |
| Records | 50 | 5 | 19 | 9 | 2 | 9 | 3 | 0 | 0 | 0 | 0 | 0 | 1 | 98 |
| Rules | 139 | 47 | 49 | 103 | 5 | 16 | 80 | 5 | 0 | 1 | 3 | 2 | 5 | 455 |
| Threats/Abuse | 20 | 15 | 53 | 53 | 2 | 7 | 14 | 1 | 0 | 2 | 1 | 0 | 6 | 174 |
| Mail | 6 | 10 | 8 | 15 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 1 | 42 |
| Hygiene | 15 | 2 | 0 | 24 | 1 | 0 | 3 | 1 | 0 | 0 | 0 | 0 | 0 | 46 |
| Services | 20 | 3 | 6 | 11 | 0 | 0 | 7 | 0 | 0 | 2 | 0 | 0 | 0 | 49 |
| Other | 34 | 3 | 29 | 39 | 1 | 3 | 3 | 0 | 0 | 1 | 1 | 3 | 4 | 121 |
| TOTAL | 772 | 217 | 302 | 462 | 23 | 82 | 215 | 18 | 1 | 10 | 12 | 16 | 52 | 2,182 |

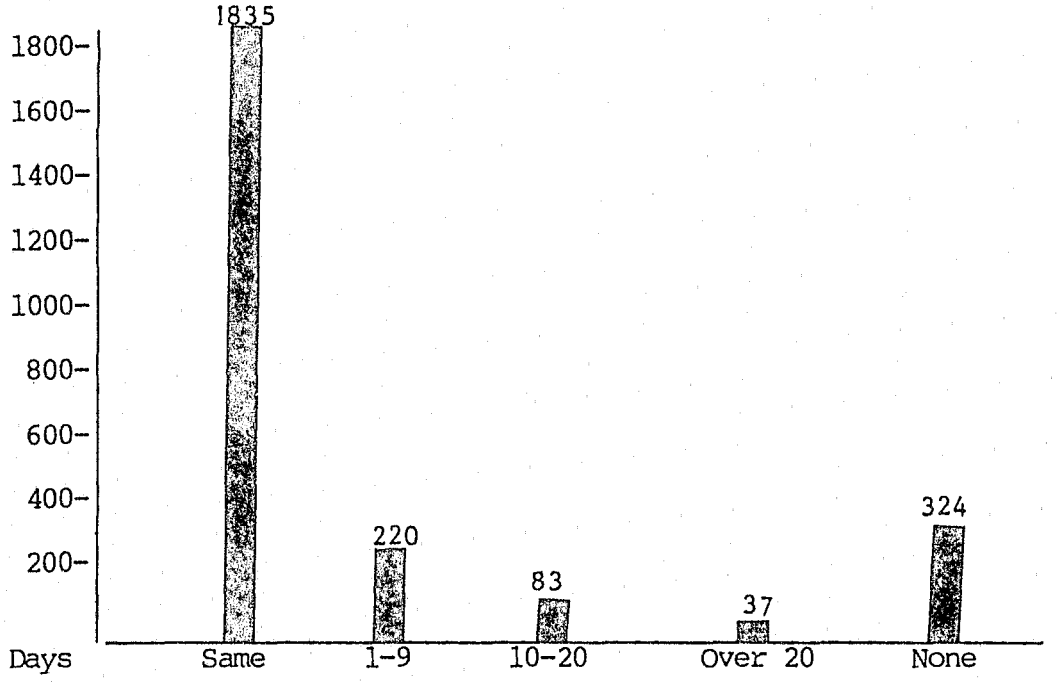
TABLE IX

REQUEST CASES CLOSED

| CATEGORY | STW | OPH | SCL | CTY | RW | LL | SHK | SCR | WRC | ML | RGL | FS | OTHER | TOTAL |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Parole | 7 | 2 | 2 | 4 | 0 | 1 | 3 | 0 | 0 | 0 | 0 | 0 | 2 | 21 |
| Medical | 1 | 1 | 3 | 0 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 8 |
| Legal | 17 | 7 | 15 | 18 | 1 | 4 | 5 | 0 | 1 | 0 | 0 | 1 | 5 | 74 |
| Placement | 3 | 11 | 1 | 1 | 0 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 1 | 20 |
| Property | 1 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 5 |
| Program | 6 | 1 | 3 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 12 |
| Discrimination | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 4 |
| Records | 1 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 4 |
| Rules | 9 | 5 | 4 | 0 | 0 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 22 |
| Threats/Abuse | 0 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 4 |
| Mail | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 |
| Hygiene | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Services | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |
| Other | 12 | 27 | 19 | 18 | 5 | 3 | 7 | 5 | 0 | 0 | 0 | 1 | 41 | 138 |
| TOTAL | 60 | 55 | 52 | 44 | 6 | 13 | 21 | 6 | 1 | 0 | 0 | 3 | 56 | 317 |

FIGURE IV

INITIAL INTERVIEW*




*Time lag between the date a complaint was received and date the complainant was interviewed in depth by a member of the Ombudsman staff.

FIGURE V

TIME TAKEN TO RESOLVE CASES

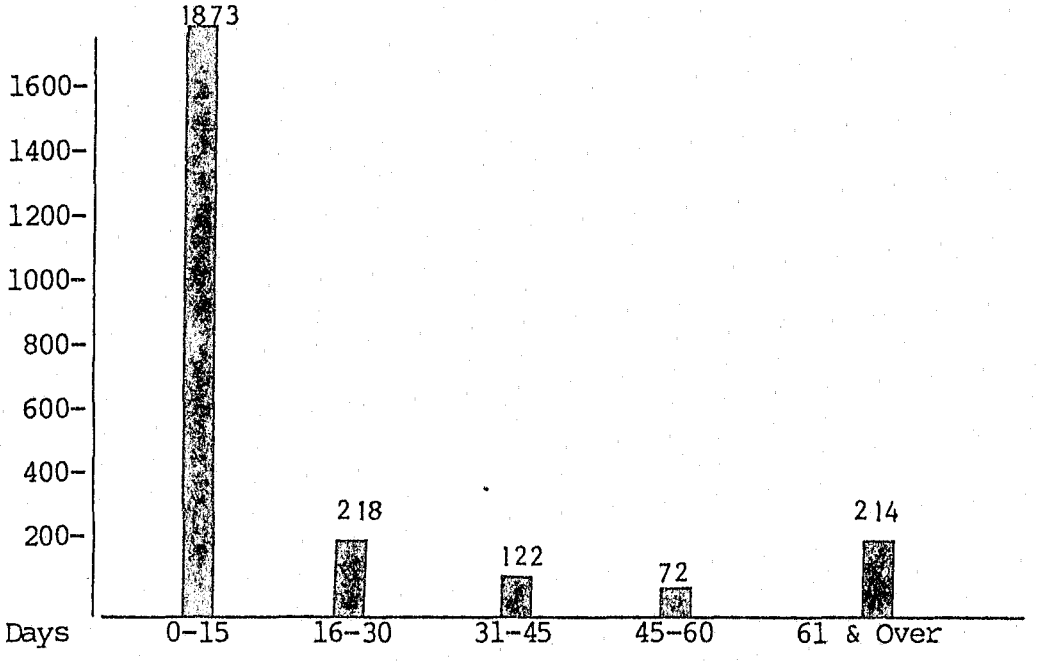


TABLE X

CASE RESOLUTION BY CATEGORY
(Cases Closed Only)

| CATEGORY | Full | Partial | None | TOTAL | With-drawn | Referred | TOTAL |
|---|---|---|---|---|---|---|---|
| Parole | 229 | 3 | 0 | 232 | 1 | 0 | 1 |
| Medical | 259 | 8 | 0 | 267 | 4 | 1 | 5 |
| Legal | 205 | 3 | 2 | 210 | 2 | 5 | 7 |
| Placement | 226 | 13 | 0 | 239 | 1 | 2 | 3 |
| Property | 136 | 3 | 0 | 139 | 0 | 2 | 2 |
| Program | 184 | 3 | 0 | 187 | 0 | 0 | 0 |
| Discrimination | 49 | 18 | 0 | 67 | 1 | 1 | 2 |
| Records | 101 | 1 | 0 | 102 | 0 | 0 | 0 |
| Rules | 456 | 20 | 1 | 477 | 6 | 4 | 10 |
| Threats/Abuse | 164 | 12 | 2 | 178 | 6 | 0 | 6 |
| Mail | 45 | 0 | 0 | 45 | 2 | 0 | 2 |
| Hygiene | 45 | 0 | 1 | 46 | 1 | 1 | 2 |
| Services | 51 | 0 | 0 | 51 | 1 | 0 | 1 |
| Other | 242 | 16 | 1 | 259 | 10 | 2 | 12 |
| TOTAL | 2392 | 100 | 7 | 2499 | 35 | 18 | 53 |
| PERCENTAGE | 95.7% | 4.0% | .3% | 100.0% | 66.1% | 33.9% | 100.0% |

TABLE XI

UNOPENED CASE DISPOSITION BY CATEGORY

| CATEGORY | REFERRED | REFUSED | REJECTED | DISMISSED | TOTAL |
|---|---|---|---|---|---|
| Parole | 3 | 0 | 1 | 1 | 5 |
| Medical | 0 | 0 | 3 | 2 | 5 |
| Legal | 13 | 3 | 0 | 1 | 17 |
| Placement | 0 | 0 | 2 | 1 | 3 |
| Property | 0 | 0 | 0 | 0 | 0 |
| Program | 1 | 1 | 1 | 0 | 3 |
| Discrimination | 0 | 0 | 1 | 0 | 1 |
| Records | 0 | 0 | 0 | 1 | 1 |
| Rules | 3 | 3 | 6 | 1 | 13 |
| Threats/Abuse | 0 | 3 | 1 | 2 | 6 |
| Mail | 0 | 0 | 0 | 0 | 0 |
| Hygiene | 0 | 0 | 0 | 0 | 0 |
| Services | 0 | 0 | 0 | 0 | 0 |
| Other | 3 | 5 | 1 | 2 | 11 |
| TOTAL | 23 | 15 | 16 | 11 | 65 |
| PERCENTAGE | 35.4% | 23.1% | 24.6% | 16.9% | 100% |

# MINNESOTA OMBUDSMAN FOR CORRECTIONS STATUTE

241.41 OFFICE OF OMBUDSMAN; CREATION; QUALIFICATIONS; FUNCTION. The office of ombudsman for the Minnesota state department of corrections is hereby created. The ombudsman shall serve at the pleasure of the governor in the unclassified service, shall be selected without regard to political affiliation, and shall be a person highly competent and qualified to analyze questions of law, administration, and public policy. No person may serve as ombudsman while holding any other public office. The ombudsman for the department of corrections shall be accountable to the governor and shall have the authority to investigate decisions, acts, and other matter of the department of corrections so as to promote the highest attainable standards of competence, efficiency, and justice in the administration of corrections.

241.42 DEFINITIONS. Subdivision 1. For the purpose of sections 242.42 to 242.45, the following terms shall have the meanings here given them.

Subd. 2. "Administrative agency" or "agency" means any division, official, or employee of the Minnesota department of corrections, the Minnesota corrections authority, the board of pardons and regional correction or detention facilities or agencies for correction or detention programs including those programs or facilities operating under chapter 401, but does not include:

(a) any court or judge;

(b) any member of the senate or house of representatives of the state of Minnesota;

(c) the governor or his personal staff;

(d) any instrumentality of the federal government of the United States;

(e) any political subdivision of the state of Minnesota;

(f) any interstate compact.

Subd. 3. "Commission" means the ombudsman commission.

241.43 ORGANIZATION OF OFFICE OF OMBUDSMAN. Subdivision 1. The ombudsman may select, appoint, and compensate out of available funds such assistants, and employees as he may deem necessary to discharge his responsibilities. All employees, except the secretarial and clerical staff, shall serve at the pleasure of the ombudsman in the unclassified service. The ombudsman and his full-time staff shall be members of the Minnesota state retirement association.

Subd. 2. The ombudsman shall designate one of his assistants to be the deputy ombudsman.

Subd. 3. The ombudsman may delegate to members of his staff any of his authority or duties except the duty of formally making recommendations to an administrative agency or reports to the office of the governor, or to the legislature.

241.44 POWERS OF OMBUDSMAN; INVESTIGATIONS; ACTION ON COMPLAINTS; RECOMMENDATIONS. Subdivision 1. Powers. The ombudsman shall have the following powers:

(a) He may prescribe the methods by which complaints are to be made, reviewed, and acted upon; provided, however, that he may not levy a complaint fee;

(b) He may determine the scope and manner of investigations to be made;

(c) Except as otherwise provided, he may determine the form, frequency, and distribution of his conclusions, recommendations, and proposals; provided, however, that the governor or his representative may, at any time the governor deems it necessary, request and receive information from the ombudsman. Neither the ombudsman nor any member of his staff shall be compelled to testify in any court with respect to any matter involving the exercise of his official duties except as may be necessary to enforce the provisions of sections 241.41 to 241.45;

(d) He may investigate, upon a complaint or upon his own initiative, any action of an administrative agency;

(e) He may request and shall be given access to information in the possession of an administrative agency which he deems necessary for the discharge of his responsibilities;

(f) He may examine the records and documents of an administrative agency;

(g) He may enter and inspect, at any time, premises within the control of an administrative agency;

(h) He may subpoena any person to appear, give testimony, or produce documentary or other evidence which the ombudsman deems relevant to a matter under his inquiry, and may petition the appropriate state court to seek enforcement with the subpoena; provided, however, that any witness at a hearing or before an investigation as herein provided, shall possess the same privileges reserved to such a witness in the courts or under the law of this state;

(i) The ombudsman may bring an action in an appropriate state court to provide the operation of the powers provided in this subdivision. The ombudsman may use the services of legal assistance to Minnesota prisoners for legal counsel. The provisions of section 241.41 to 241.45 are in addition to other provisions of law under which any remedy or right of appeal or objection is provided for any person, or any procedure provided for inquiry or investigation concerning any matter. Nothing in section 241.41 to 241.45 shall be construed to limit or affect any other remedy or right of appeal or objection nor shall it be deemed part of an exclusionary process; and

(j) He may be present at Minnesota correction authority parole and parole revocation hearings and deliberations.

Subd. 1a. No proceeding or civil action except removal from office or a proceeding brought pursuant to sections 15.162 to 15.168 shall be commenced against the ombudsman for action taken pursuant to the provisions of

sections 241.41 to 241.45, unless the act or omission is actuated by malice or is grossly negligent.

Subd. 2. Matters appropriate for investigation. (a) In selecting matters for his attention, the ombudsman should address himself particularly to actions of an administrative agency which might be:

(1) contrary to law or regulation;

(2) unreasonable, unfair, oppressive, or inconsistent with any policy or judgment of an administrative agency;

(3) mistaken in law or arbitrary in the ascertainment of facts;

(4) unclear or inadequately explained when reasons should have been revealed;

(5) inefficiently performed;

(b) The ombudsman may also concern himself with strengthening procedures and practices which lessen the risk that objectionable actions of the administrative agency will occur.

Subd. 3. Complaints. The ombudsman may receive a complaint from any source concerning an action of an administrative agency. He may, on his own motion or at the request of another, investigate any action of an administrative agency.

The ombudsman may exercise his powers without regard to the finality of any action of an administrative agency; however, he may require a complainant to pursue other remedies or channels of complaint open to the complainant before accepting or investigating the complaint.

After completing his investigation of a complaint, the ombudsman shall inform the complainant, the administrative agency, and the official or employee, of the action taken.

A letter to the ombudsman from a person in an institution under the control of an administrative agency shall be forwarded immediately and unopened to the ombudsman's office. A reply from the ombudsman to the person shall be delivered unopened to the person, promptly after its receipt by the institution.

No complainant shall be punished nor shall the general condition or treatment be unfavorably altered as a result of his having made a complaint to the ombudsman.

Subd. 4. Recommendations. (a) If, after duly considering a complainant and whatever material he deems pertinent, the ombudsman is of the opinion that the complaint is valid, he may recommend that an administrative agency should:

(1) consider the matter further;

(2) modify or cancel its actions;

(3) alter a regulation or ruling;

(4) explain more fully the action in question; or

(5) take any other step which the ombudsman states as his recommendation to the administrative agency involved.

If the ombudsman so requests, the agency shall within the time he specifies, inform the ombudsman about the action taken on his recommendation or the reasons for not complying with it.

(b) If the ombudsman has reason to believe that any public official or employee has acted in a manner warranting criminal or disciplinary proceedings, he may refer the matter to the appropriate authorities.

(c) If the ombudsman believes that an action upon which a valid complaint is founded has been dictated by a statute, and that the statute produces results or effects which are unfair or otherwise objectionable, the ombudsman shall bring to the attention of the governor and the legislature his view concerning desirable statutory change.

241.441 ACCESS BY OMBUDSMAN TO DATA.

Notwithstanding section 13.42 or 13.85, the ombudsman has access to corrections and detention data and medical data maintained by an agency and classified as private data on individuals or confidential data on individuals when access to the data is necessary for the ombudsman to perform the powers under section 241.44.

241.45 PUBLICATION OF RECOMMENDATION; REPORTS. Subdivision 1. The ombudsman may publish his conclusions and suggestions by transmitting them to the office of the governor. Before announcing a conclusion or recommendation that expressly or impliedly criticizes an administrative agency, or any person, the ombudsman shall consult with that agency or person. When publishing an opinion adverse to an administrative agency, or any person, the ombudsman shall include in such publication any statement of reasonable length made to him by that agency or person in defense or mitigation of the action.

Subd.2. In addition to whatever reports the ombudsman may make on an ad hoc basis, the ombudsman shall at the end of each year report to the governor concerning the exercise of his functions during the preceding year.