

# OMBUDSMAN FOR CORRECTIONS

## 1974-75 ANNUAL REPORT



STATE OF  
MINNESOTA

AN ANNUAL REPORT  
OF OPERATION OF THE OMBUDSMAN FOR CORRECTIONS  
FOR THE  
STATE OF MINNESOTA



The office of Ombudsman for Corrections was established in 1972 by Executive Order of the Honorable Wendell R. Anderson, Governor for the State of Minnesota. This report describes the ombudsman's function and reviews the program's accomplishments of the last twelve months.

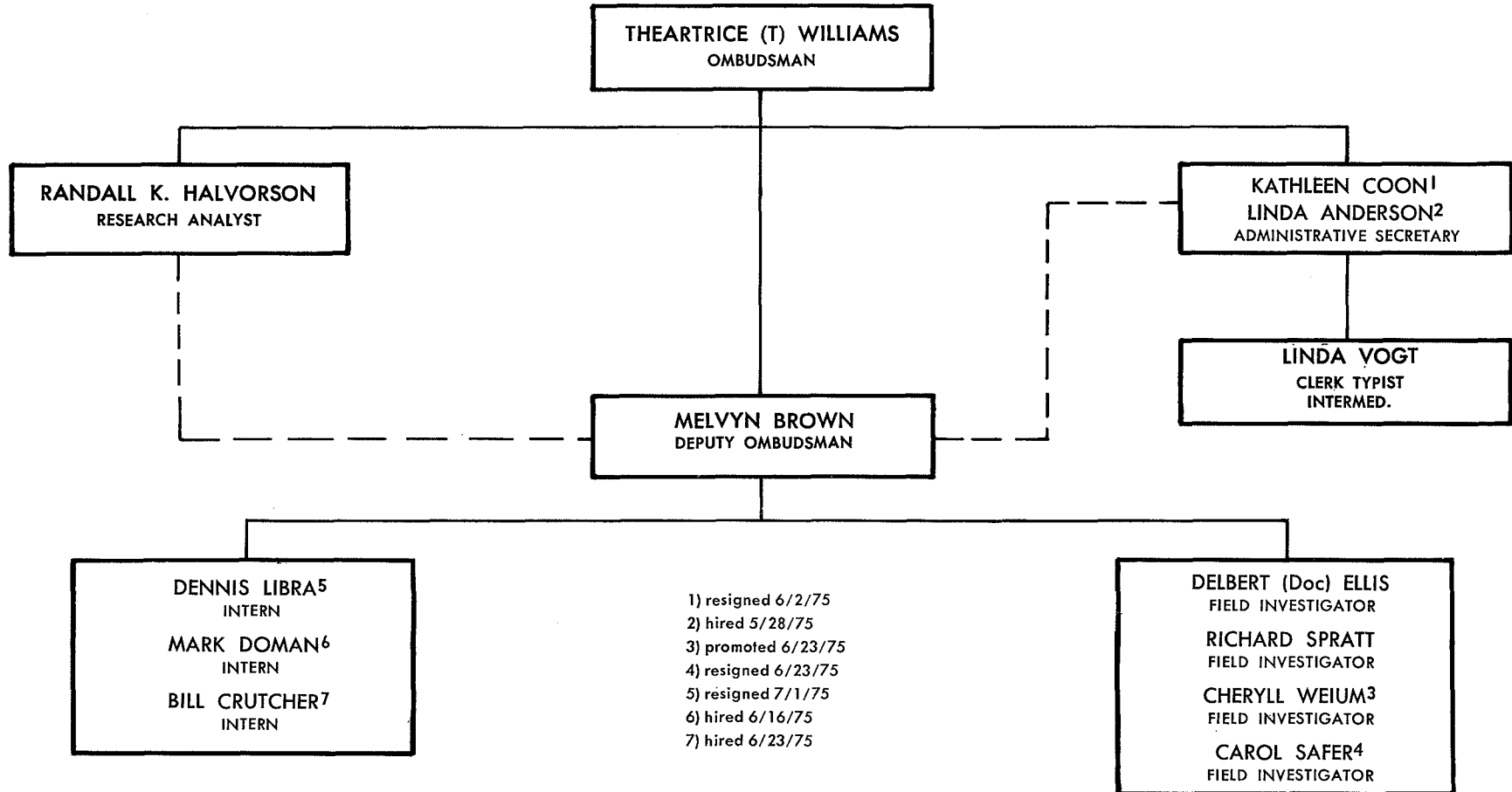
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Saint Paul, Minnesota  
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**ORGANIZATION CHART  
MINNESOTA OMBUDSMAN FOR CORRECTIONS**



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## INTRODUCTION

The Minnesota Ombudsman for Corrections has completed its third year of operations. What began in July 1972 as a bold experiment has matured into an established program which now functions as an important adjunct to the state corrections system. A major independent evaluation of the Ombudsman program, completed in November 1974 was quite positive in its findings, conclusions, and recommendations. The evaluation report entitled, *Minnesota Ombudsman for Corrections—An Evaluation Report*, was prepared by the Project Evaluation Unit of the Minnesota Governor's Commission on Crime Prevention and Control.

The Ombudsman program operated during its first year as a federally-funded project. In May 1973 an Act was passed by the Minnesota Legislature creating the office of the Ombudsman for Corrections as an independent state agency. The office is part of the executive branch of government with the Ombudsman appointed by and responsible to the Governor. See Appendix A and B.

Funding for the operation of the office during fiscal year 1975 was provided by the State Legislature and a Bush Foundation grant. Appendix C indicates the amount that each source contributed to the total annual budget of \$161,100.00. It also itemizes this allocation by outlining specific expenditure areas.

The basic goal of the Ombudsman office as set forth in law is to "promote the highest attainable standards of competence, efficiency, and justice in the adminis-

tration of corrections". This broad objective is accomplished by providing an external grievance mechanism to be used when corrections' internal procedures fail to formulate and/or implement reasonable standards, rules, regulations and goals. The effectiveness of such an external agent depends in large measure upon its style of operation. The ombudsman must maintain high credibility among both staff and inmates. Credibility is the by-product of case-by-case analysis, which over a period of time, establishes an operating standard dedicated to thorough fact-finding, detailed research, and sound evaluation.

The Ombudsman maintains high visibility within the state correctional system. However, he functions with a low profile insofar as every effort is made to resolve situations of conflict within the framework of the Department of Corrections. This mode of operation has proven successful. The Ombudsman has not yet elected to utilize public pressure or the Governor's office to assist in the adoption or implementation of any recommendations made to the Commissioner of Corrections. The ombudsman has written guest editorials dealing with crucial corrections' issues which have been printed by local newspapers.

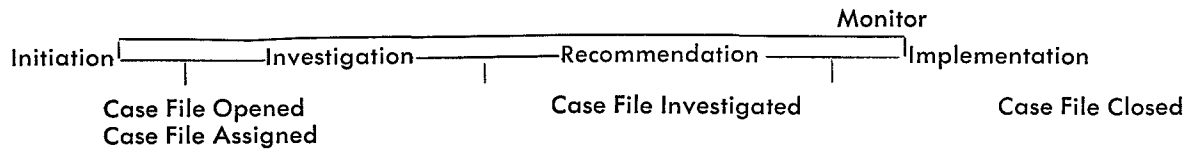
This report provides an overview of the Ombudsman's activity in fiscal year 1975. It will discuss the organization and function of the Ombudsman office focusing specifically on the type of complaints received and the method by which each was investigated.

# ORGANIZATION AND FUNCTION OF THE OMBUDSMAN OFFICE

The Office of Ombudsman for Corrections is organized to assure the prompt processing and investigation of complaints. A table of organization found on the

inside cover gives a graphic illustration of the different staff roles. These roles are further delineated by the following scheme:

## COMPLAINT PROCESSING PROCEDURE



### Initiation

*Complaint Received.* The Ombudsman may, on his own motion or at a request from any source, investigate any action of the Department of Corrections.

Complaints can be initiated by three basic methods:

- ... Ombudsman may initiate an investigation,
- ... complainant may file complaint personally, by telephone or by mail,
- ... a person on behalf of another may file a complaint personally, by telephone or by mail.

*Case File Opened.* Every complaint received or initiated by the Ombudsman is directed to the administrative secretary or her designee. She records the complaint in the pertinent file and the appropriate index cards. The file is then given to the deputy ombudsman.

*Case File Assigned.* After receiving the case file, the deputy ombudsman may investigate the complaint himself or assign it to a member of the staff. The following factors determine to which staff member a case is assigned:

- ... source of complaint,
- ... type of complaint,
- ... location of complainant, and
- ... caseload of staff members.

### Investigation

After reviewing the case file, the investigator will proceed in the following manner:

- ... Personally contact the complainant to get a detailed account of his/her grievance. Determine exactly what steps the complainant has previously taken to resolve his/her problem.
- ... Explain to the complainant the function of the Ombudsman office and how it relates to his/her specific case.
- ... Prepare a list of staff, inmates and appropriate others to interview.

- ... Prepare a list of documents, reports and other written material to review.
- ... Notify selected officials of the Department of Corrections that an investigation is being undertaken when appropriate.
- ... Conduct interviews and review documents, thus gathering all necessary and pertinent information.
- ... Formulate a conclusion on the basis of accumulated evidence.
- ... Notify complainant concerning conclusions reached.

### Recommendation

If the investigator, in conjunction with his/her client, concludes that a recommendation is warranted, such recommendation will be submitted, in writing, to the appropriate official of the Department of Corrections. The Ombudsman will be made personally aware of all cases involving recommendations and shall determine which ones require his signature.

The Ombudsman may publish his conclusions and recommendations in accordance with Minnesota Statute 241.41. See Appendix A.

When an investigation is concluded, the investigator completes the complaint form in the case file and records the closing on his/her two monthly report forms. The Administrative Secretary or her designee then enters the closing date on the case index card.

### Implementation

The Ombudsman may request, within the time he specifies, to be informed of any action taken on a recommendation or the reasons for not complying with it.

The Ombudsman shall inform the complainant of any action taken on his/her recommendation.

The Ombudsman shall monitor the implementation of recommendations accepted by the Department of Corrections.

## **FUNCTIONAL ANALYSIS PROGRAM ACTIVITIES**

The Ombudsman for Corrections has been organized along functional lines to facilitate management, budgeting, and reporting the activities of the office. The function has been divided into three program or activity areas.

### **I. INVESTIGATION OF COMPLAINTS**

#### **1) Inmate Complaints**

Most of the Ombudsman's activity relates directly to the investigation of complaints from individuals who are incarcerated in the eight institutions under the supervision of the Department of Corrections. In addition there are contacts with corrections' clientele who reside at the Minnesota Security Hospital, with participants in various community corrections programs, and with persons who have been placed on parole by the Minnesota Corrections Authority.

The institutions, as in the past year, continue to provide the greatest workload for the Ombudsman. During fiscal year 1975 they accounted for 91.6 percent of this activity area as compared to 92.7 percent for fiscal year 1974. This high percentage is expected since the Ombudsman's office was established primarily to investigate complaints that are a direct consequence of a person's institutionalization.

In each of his investigations the Ombudsman seeks to provide individual relief to a person who has registered a justified complaint. In addition the Ombudsman reviews each complaint to determine the need for change in the policies of the Department of Corrections or an individual institution. Thus the resolution of an individual complaint may result in a major policy recommendation to the Department of Corrections. Such a change resulted from a complaint registered by an inmate at the Minnesota Correctional Institute for Women. The inmate objected to being restrained by male staff members during a pelvic examination by a female nurse in search of drugs. As a consequence of the Ombudsman's discussions with the institution superintendent, the deputy commissioner, and the commissioner of corrections, a new policy was formulated which set guidelines for three kinds of personal searches. This policy states that "all searches are to be conducted by female staff in a closed room". It further stipulates that if it is necessary to restrain a resident who is out of control, prior to the search, "male staff will only be used until female personnel are assembled".

The Ombudsman may obtain individual relief for his client but such singular action is insufficient if the conditions that resulted in the complaint remain unchanged. Therefore, in certain instances, the Ombudsman seeks changes in policy and/or procedure in an attempt to gain relief for all inmates similarly situated.

#### **2) Staff Complaints**

The Ombudsman does investigate complaints from staff members of the Department of Corrections. As expected, however, the staff does not make extensive use of the Ombudsman to assist in the resolution of its grievances. During fiscal year 1975 twenty-four complaints were registered by staff members. This figure represents an increase of seven from the previous year's total of seventeen.

The fact that only 1.8 percent of all complaints investigated last year came from staff members can be attributed to at least three reasons. First, staff has ready access to union and civil service assistance. Second, staff generally view the Ombudsman as an agency established primarily to assist inmates. Third, the Ombudsman has made only limited attempts to acquaint staff with the availability of his services. In so doing, it is always clearly understood that the Ombudsman becomes involved in a grievance after all other channels have been utilized.

#### **3) Special Investigations**

The Ombudsman has the authority to initiate investigations on his own motion. Under this provision five special investigations were conducted during the past year. Three of these involved inmate deaths at the Prison. In each case a report was issued which reviewed the victim's personal history, reconstructed the circumstances of his death, suggested the cause of the death, and offered recommendations to the Department of Corrections.

The fourth and fifth special investigations focused upon juveniles. One of these examined the parole process and programs of the three major juvenile institutions. The other dealt with revocation hearings.

Complaints received from groups of individuals are also placed in this activity area. During fiscal year 1975 twenty-four such complaints were investigated. This figure represents an increase of five cases over the number processed in fiscal year 1974. These frequently came from the permanently established groups at the institutions such as the Indian Folklore and Afro-American organizations. The complaints often related to an institution's policies which affect the group as a collective unit or which affect a segment of a group's membership.

### **II. PUBLIC INFORMATION AND EDUCATION**

The Minnesota Ombudsman for Corrections concept is unique in the United States. To date the penal systems of thirteen other states have "conflict mediators" called Ombudsman. However, the Minnesota program is the only one which has the status of an independent state agency with substantial statutory authority. Therefore, Minnesota is often looked to for direction and information from many other states and communities. Over 625 packets of material were mailed to organizations,

government agencies, educational institutions, and individuals. Several major colleges and universities requested copies of the 1973-1974 Annual Report for their libraries. Copies of the Annual Report were sent to the Legislative libraries of all 50 states. Also articles about the Minnesota program were published in two nationally circulated magazines—*Corrections Magazine*, January-February, 1975, pp. 45-52 and *Resolution*, Spring, 1975, pp. 22-26.

The Ombudsman and his staff have participated in a variety of local and national conferences and workshops during the past year. For instance, three staff members attended a week-long seminar dealing in labor relations and conflict resolution in corrections sponsored jointly by the National Center for Dispute Settlement and the American Arbitration Association. The Ombudsman was the featured speaker at a workshop of the Lutheran Church Women's Conference held in Kansas City, Missouri. The Ombudsman addressed the 1975 Annual Conference of the Southern States Correctional Association held in Biloxi, Mississippi. The Ombudsman was a member of the program committee for the annual conference of the National Institute on Crime and Delinquency. He and the Deputy Ombudsman were participants in three of the conference workshops. The Ombudsman is currently a member of the Twentieth Century Fund's Task Force on Criminal Sentencing.

Keeping all segments of the Department of Corrections abreast of the Ombudsman program is an ongoing effort. The Ombudsman or members of his staff are regular participants in the Department of Corrections Training Academy which provides training for correctional counselors. Such contact is viewed by the Ombudsman as an important part of his function. The Ombudsman program will continue to be effective only if it maintains a high level of credibility. Maintaining open channels of communications with the Department of Corrections and the public-at-large fosters the development of mutual confidence.

### III. GENERAL SUPPORT

An important part of the Ombudsman for Corrections program depends upon the services provided by the administrative secretary and the clerk typist. Each of these positions provide a range of functions which facilitate a smooth daily operation. The administrative secretary, in addition to other duties, assumes the responsibility for office bookkeeping and the maintenance of the payroll and personnel records. The clerk typist plays an instrumental role in the maintenance of client files and the preparation of monthly reports.

### ANALYSIS OF COMPLAINTS

The Ombudsman may investigate upon complaint or his own motion the action of any division, official or employee of the Minnesota Department of Corrections,

the Minnesota Corrections Authority and the Board of Pardons. The Ombudsman's services are directly available to any person under the jurisdiction of the Minnesota Department of Corrections and includes all persons in state correctional institutions and all persons on parole or probation under the supervision of the Commissioner of Corrections or the Minnesota Corrections Authority.

During fiscal year 1975 the Ombudsman dealt with a total of 1343 complaints, (see Table II). Upon investigation, each complaint was placed in one of the following categories:

**Parole**—Complaints concerning any matter under the jurisdiction of the Parole Board. For example, work release, temporary parole, and special review, etc.

**Medical**—Complaints about the ability to get treatment from staff physician or other medical source.

**Legal**—Complaints that require legal assistance or problems with getting proper response from the public defender or other legal counsel.

**Placement**—Complaints about the facility, area or physical unit to which an inmate is assigned to live for a part of or all of his sentence.

**Property**—Complaints dealing with the loss, destruction or theft of personal property.

**Program**—Complaints relating to the inability to get involved in a meaningful training or rehabilitative program requiring classification team's approval, i.e. drug, alcohol, vocational, etc.

**Racial**—Complaints concerning the use of race as a means of invidious classification or treatment.

**Staff**—Complaints, other than racial, about an inmate's relationship to a staff member.

**Rules**—Complaints about administrative policy establishing regulations that an inmate is expected to follow, i.e. visits, disciplinary hearings, dress, etc.

**Threats**—Complaints concerning threats of bodily harm to an inmate from other inmates.

**Other**—Complaints not covered in the previous categories.

Table I indicates that the Ombudsman acts primarily on individual complaints from the eight institutions of the Department of Corrections. See chart II for location. These eight institutions, Minnesota State Prison (adult male), State Reformatory for Men (young men), Minnesota Correctional Institution for Women (adult women), Willow River Camp (adult and young male), Minnesota Metropolitan Training Center (male and female juveniles), Minnesota Home School (male and female juveniles), State Training School (male and female juveniles) and Thistledeew Camp (male juven-



iles) are responsible for over 90 percent of the complaints to the Ombudsman. In addition to receiving complaints from these eight institutions, the Ombudsman maintains contact with inmates from the correctional institutions who transfer to the Minnesota Security Hospital which is under the jurisdiction of the Department of Welfare. Of these nine institutions, the Prison continues to produce the greatest number of complaints. As Tables III and IV indicate, 49.4 percent of all complaints came from the Prison which has a population representing approximately 40 percent of the total institutionalized population.

Methods of initiating a complaint with the Ombudsman are shown in Table V. The Ombudsman's policy of visiting the major institutions on a regular and frequent basis is reflected by the fact that nearly 45 percent of the cases were initiated through direct personal contact. While the number of written contacts decreased by 16 percent compared to last year, the number of telephone contacts increased by 12 percent. This is attributable mainly to a Department of Corrections' policy change allowing inmates greater accessibility to telephones.

Once a complaint has been received, the Ombudsman seeks to interview each complainant within the shortest period of time possible. Table VI indicates that approximately 70 percent of the complainants are interviewed the same day their complaint is received by the Ombudsman. This figure represents the Ombudsman's effort to maintain high visibility by having his staff personally respond quickly to complaints. It also is the result of his effort to increase his efficiency by assigning a staff member to be responsible on specified days for receiving telephone complaints made to the office. The "intake officer" for each day interviews every person who calls with a grievance. This new procedure accounts for approximately 20 percent of the "same day contacts".

After initial contact with the complainant, the Ombudsman's investigation is conducted as thoroughly and as quickly as possible. Table VII reveals that 70 percent of the complaints were closed within 30 days. Many complaints, however, are neither quickly nor easily resolved. Most of those held open longer than 30 days are "treatment" oriented and generally are categorized as parole, program, or placement.

In an effort to measure their success, the Ombudsman and his staff determine the extent to which each complaint is resolved. The basic standard is simply whether or not the Ombudsman did all he could as well as he could within the limits of his jurisdiction. In so doing, the Ombudsman is concerned with procedure as well as with the results or consequences of procedure. For example, the Ombudsman may monitor a disciplinary hearing and conclude that an inmate had been ac-

corded the full measure of due process to which he is entitled. Upon a finding of guilt and the assessment of a fair penalty the Ombudsman may well close the case in the full resolution category. However, the inmate who must pay the penalty may be highly dissatisfied with the result irrespective of the actual process by which the result was determined.

Tables IX and X represent the judgement of the Ombudsman and his staff. The extent to which each complaint is resolved is difficult to quantify or measure in any exact terms. However, the fact that 58.5 percent of this year's cases closed were recorded as fully resolved falls very close to last year's figure of 56.4 percent. A total success figure in the 50 percent range seems to be the emerging standard. This may seem low at first glance but probably meets reasonable expectation. In fact, an independent evaluation of the Ombudsman program concluded that a figure in the area of 50 percent "is probably about what one would hope to find given the nature of the Ombudsman's role. The Ombudsman is not an administrative head issuing orders to subordinates which one would always expect to find carried out. He is, rather, an external agent agitating for positive change. Given this role, one would hope to find that a significant number of his recommendations had been implemented in order to show that some of his suggestions had been worthy of implementation. If, on the other hand, one found that all or nearly all of his recommendations had been implemented, one would have cause to wonder as to whether the Ombudsman was as active and aggressive as his role implies he should be".<sup>1</sup>

Few complaints registered with the Ombudsman's Office are dismissed. Table IX indicates that less than one percent of the 1304 complaints closed last year were found to be completely without merit. The legitimacy of each case is measured primarily by its inclusion into at least one of five criterion. A complaint is legitimate if it concerns issues or actions which are proven to be 1) contrary to law or regulations; 2) unreasonable, unfair, oppressive or inconsistent with any policy or judgement of the Department of Corrections; 3) arbitrary in the ascertainment of facts; 4) unclear or inadequately explained; 5) inefficiently performed.

Approximately 12 percent of the complaints received by the Ombudsman were referred to other agencies for final resolution. Table IX shows that 157 cases were referred last year. Of this number, 81 went to the Legal Assistance to Minnesota Prisoners (LAMP) office. Table XI gives a complete breakdown of these referrals and Table X indicates the type of complaints that were referred.

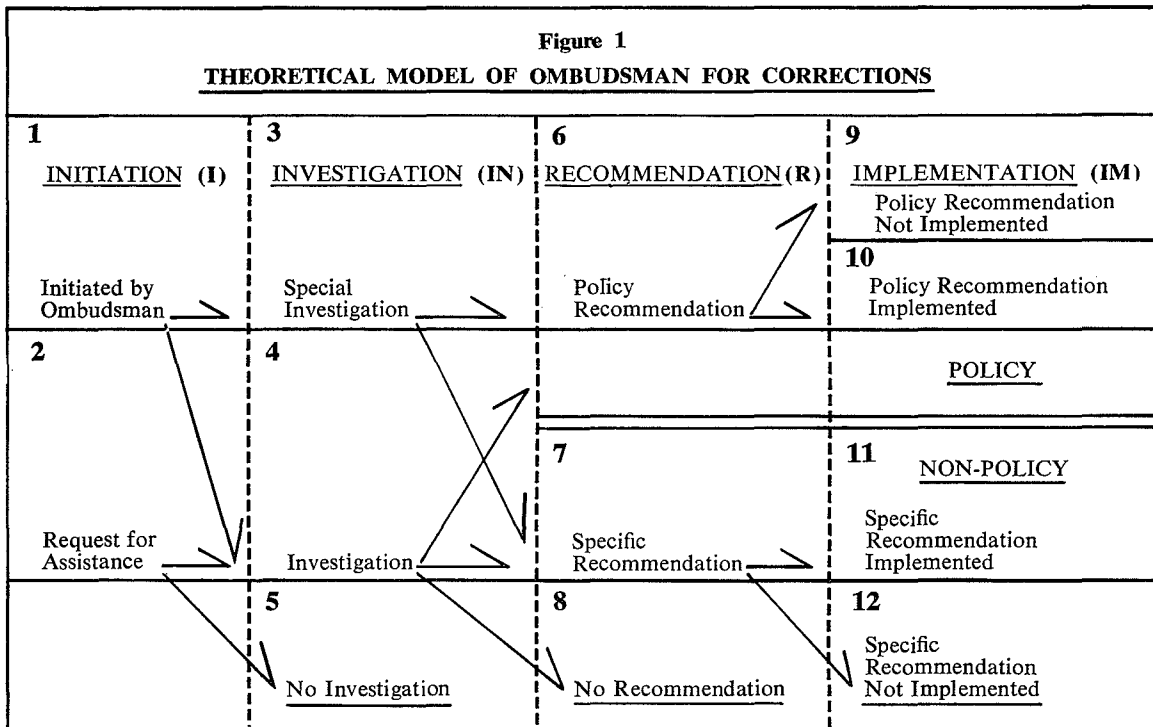
<sup>1</sup>Governor's Commission on Crime Prevention and Control, *Minnesota Ombudsman for Corrections, An Evaluation Report*, November 1974, pp. 35-36.

The Ombudsman has placed all complaints, regardless of source, into eleven categories as listed earlier in this report. Table XII indicates that 24 of this total were actually registered by staff members. Groups of inmates also register complaints as reflected by the figures in Table XIII. Table XIV indicates the number of times complainants registered a grievance with the Ombudsman. The majority, 64 percent, registered one complaint; 21 percent registered two complaints; and the remaining 15 percent registered from three to nine complaints.

**EXAMPLES OF COMPLAINTS**

Figure one represents an extension of the complaint

processing procedure outlined earlier. It reflects a slight variation of a model constructed by Mr. Jerry Strathman. In addition to outlining the four stages of the complaint process, it makes a distinction between policy and non-policy issues. As pointed out by Mr. Strathman, this distinction is "intended to refer to the differences between those instances when the Ombudsman seeks to have an impact on the methods or procedures whereby the Department of Corrections and/or its subdivisions seek to fulfill their responsibilities (Policy) and those instances when the Ombudsman seeks to resolve individual problems not involving changes in Department of Corrections' methods or procedures (Non-Policy)."<sup>22</sup>



By inserting the numbers 1 through 12 into the Strathman model, it is possible to devise a simple mechanism for tracing a complaint through each of its phases. For example, a common process is for the Ombudsman to receive a request for assistance ( $I_2$ ), that he investigate the complaint ( $IN_4$ ), that he make a specific recommendation ( $R_7$ ), and that the recommendation be implemented ( $IM_{11}$ ).

The following cases illustrate complaints from each of the 11 categories. The process sequence for each refers to figure 1.

**Parole**

Sequence:  $I_1$ — $IN_3$ — $R_7$ — $IM_{11}$

The Ombudsman initiated an investigation into the

death of a prison inmate on September 15, 1974. The report resulting from this investigation was released on November 6, 1974. It raised several questions concerning the events that preceded the inmate's death. One of these events related directly to the parole process. The areas of concern focused upon issues involving the inmate's right to a personal appearance at his parole hearing; the overall weight given by the parole board to the inmate's prison classification team's recommendation; and a clarification of an incident in which the inmate had returned late to the institution from a special duty.

In a cover letter released with the investigation report, the Ombudsman noted the need for a general training session that would include members of the

<sup>22</sup>*Ibid.*, p. 10

Minnesota Corrections Authority (MCA). His statement was basically a reiteration of a recommendation made to the commissioner of corrections on October 3, 1974. At that time the Ombudsman outlined briefly the purpose of a training session involving not only the members of the parole board but all caseworkers from the three adult institutions, the prison cell hall directors, administrative personnel, and appropriate others. In a memorandum to the commissioner, the Ombudsman stated:

"The MCA is the releasing authority for the Minnesota Department of Corrections. Using its best judgement, it must make a decision regarding an individual's readiness to be released from confinement and return to the community. In making such decisions, a number of factors are considered. Part of the process involves the staff at the places of confinement. They have worked with the individual, and they make recommendations to the MCA regarding the individual's readiness for release from confinement. Sometimes those recommendations indicate what the conditions of release should be. Those recommendations are based upon certain factors. What is not always clear in each instance is what are the factors or criteria used at arriving at a decision to release or continue confinement?"

One of the purposes of the training would be to explore those factors or criteria each group uses and the method in which they are used.

A second purpose would be to explore and understand the separate functions of the staff and the MCA.

A third purpose would be to examine the resources of the institutions and the community and the availability of each to help resolve certain problems.

A fourth purpose would be to get to know and understand one another better and to realize the limitations placed upon each by the system within which they function."

Since this recommendation was made there has been at least two planning sessions within the Department of Corrections focusing on the major issues raised by the Ombudsman. To date, however, the training program has been implemented on a limited basis.

#### **Medical**

Sequence: I<sub>2</sub>—IN<sub>4</sub>—R<sub>6</sub>—IM<sub>9</sub>

On Sunday, April 13, 1975 the Ombudsman received a telephone call at his home from a woman whose juvenile daughter had been transferred from the Minnesota Metropolitan Training Center to the Department of Corrections' Security Unit at St. Paul Ramsey Hospital. The daughter was taken to the hospital because of complications involved with her recent miscarriage. The mother claimed that she had not been informed that her daughter would be placed in the hospital secur-

ity unit. She was denied a request to visit her daughter in the hospital unit. She further stated that she objected to the fact that her daughter was placed in a unit that also held adult male and female felons.

On April 14, 1975 the Ombudsman telephoned the deputy commissioner of corrections for the metro-region. He discussed with the deputy his concerns about hospitalizing adults and juveniles in the same ward. Later that same day he visited the hospital and talked with staff members who informed him that the juvenile in question had been discharged the previous day. The staff indicated that adults and juveniles were housed in the same unit but that they were placed in separate rooms.

On April 17, 1975 the Ombudsman sent a letter to the Deputy Commissioner in which he reiterated his concern not only about the propriety of housing juvenile females in the same ward as adult male felons but also about the mixture of adult and juveniles in the same unit of the hospital. He recommended that the Department of Corrections reconsider its policy to send juveniles to the Ramsey County Hospital Security Ward for medical care.

On April 25, 1975 the deputy commissioner replied by letter that he shared the Ombudsman's concerns regarding the "necessity and propriety" of housing juveniles in the St. Paul Ramsey Security Ward. He did not accept the Ombudsman's recommendation as stated but did state that "in the future, any institution considering admission of a juvenile to the Security Unit will first go through the appropriate deputy commissioner for his approval". He expressed hope "that this procedure will help to minimize the problems and concerns which have been expressed in this area".

#### **Legal**

Sequence: I<sub>2</sub>—IN<sub>4</sub>—R<sub>6</sub>—IM<sub>10</sub> (referred)

On November 14, 1974 the Ombudsman received a letter from a juvenile who was living at the Minnesota Home School. This youth receives a monthly social security payment that is controlled by a county social services department. He had recently received notice that \$270 of his social security fund had been withdrawn to pay for his stay at a juvenile facility in another state. In his inquiry to the Ombudsman the youth simply stated, "I was wondering if it was legal for my county to do so as this saving account is made up of social security funds left to me by the death of my mother".

On November 18, 1974 a field investigator from the Ombudsman staff visited the juvenile at the Minnesota Home School. His statement was verified by reviewing the letters he had received from the social services department in question.

Over a period of three months the Ombudsman field

investigator, in an attempt to have the youth's account reimbursed, contacted several officials by telephone and by letter. On February 17, 1975 she received a letter from the county attorney acknowledging the error in procedure and stating that the county should not have extracted \$270 of the juvenile's personal account for paying certain of the fees in his case. In short, it appeared resolved that the county of legal settlement has responsibility for detention costs for a delinquent ward. The case was officially closed on February 28, 1975.

On April 18, 1975 the Ombudsman field investigator talked with the juvenile at the Minnesota Home School. He indicated to her that he had not yet been reimbursed for the funds that had been withdrawn from his account.

After discussing the entire matter with a representative from Legal Assistance to Minnesota Prisoners (LAMP) the case was referred to that agency for final disposition.

### Placement

Sequence: I<sub>2</sub>—IN<sub>4</sub>—R<sub>7</sub>—IM<sub>11</sub>

On December 30, 1974 an inmate personally contacted the deputy ombudsman while he was visiting the prison. The inmate explained that he had been accepted for transfer to the prison's minimum security unit (MSU). However, he was concerned about the inordinate amount of time taken to effectuate his transfer. The deputy ombudsman responded by advising the inmate to have his caseworker contact the MSU director for an explanation of the apparent delay.

At the inmate's request, his caseworker wrote to the MSU director on January 8, 1975 inquiring about the status of the transfer. On January 14, 1975 the inmate saw the deputy ombudsman at the prison and explained that there was yet no response to the caseworker's inquiry.

On January 16, 1975 the deputy ombudsman called the MSU director to urge that the inmate be transferred soon. No commitment was made by the director at that time.

On January 17, the deputy ombudsman called the MSU director and again asked that the inmate be transferred. At this time the director refused the transfer request and offered rationale to support his decision. The deputy ombudsman then explained that the decision would be formally challenged. A meeting with the prison warden was then arranged to resolve the disagreement.

On January 23, 1975 the Ombudsman, the deputy ombudsman, and the MSU director met with the warden. After listening to both sides, the warden supported the Ombudsman's position that the inmate be transferred in accordance with the original agreement.

On January 27, 1975 the inmate was transferred to the minimum security unit.

### Property

Sequence: I<sub>1</sub>—IN<sub>4</sub>—R<sub>8</sub>—(referred)

On March 27, 1975, an inmate at the prison asked an Ombudsman field investigator to determine the status of a property claim he had submitted to the Department of Corrections. The inmate had been placed in the prison segregation unit in December 1974. While in segregation the contents of his regular cell was placed in storage by the prison staff in accordance with a specified procedure. Upon his release from segregation three months later, the inmate discovered that a portion of his property valued at approximately \$50 was missing.

In an effort to determine the status of the property claim submitted by the inmate, the Ombudsman interviewed a custody officer, a commissary clerk, and the institution claims officer. It was learned that the claim was currently being investigated by appropriate prison staff. On June 5, the administration forwarded the claim to the Joint Senate House Claims Subcommittee of the Minnesota Legislature.

On August 18, 1975 the claim for lost property was reviewed by the legislative claims sub-committee during a hearing held at the prison. Two members of the Ombudsman staff attended this hearing in which claims filed by 23 other inmates were also considered. The committee acted favorably upon this particular claim and recommended a monetary award which coincided with the dollar value assessed by the inmate to his lost property.

### Program

Sequence: I<sub>2</sub>—IN<sub>4</sub>—R<sub>8</sub>

On October 16, 1974 an inmate at the prison asked an Ombudsman staff member for a clarification of a court order regarding a treatment program. He believed that his sentencing judge had ordered that he be sent as soon as possible to the Minnesota Security Hospital for placement in a sex offender treatment program. The ombudsman explained that because the court sentenced the inmate to the jurisdiction of the Commissioner of Corrections, it is the Department of Corrections that determines the exact nature of his treatment program. The court can make recommendations regarding treatment but the commissioner is usually the controlling agent. Therefore, any comment by the judge, whether labeled an order or a recommendation, is essentially only advice to the commissioner.

A review of the inmate's file and a discussion with his parole officer revealed that the court had indeed recommended that he be considered as a candidate for the treatment program for sex offenders located at Minnesota Security Hospital. It was further noted, however, that it was a virtual certainty that no new candidates

would be considered before July 1975. Moreover, the program itself was in serious difficulty because of financial, staff, and facility problems. The inmate was advised that a bill was to be introduced in the state legislature in January to establish and fund a program for sex offenders. Passage of the bill would greatly increase the possibility of the inmate's participation in the type of program suggested by the court. The inmate was advised to contact the Ombudsman in April 1975 because by that time the legislature would have taken action on the sex offender bill.

The Ombudsman office testified before legislative committees on behalf of the sex offender program. The bill, however, was not enacted into law. The sex offender program at the Minnesota Security Hospital was greatly curtailed in July 1975. The complainant remains at Stillwater Prison where there is no general structured treatment program designed specifically to help sex offenders.

### Racial

Sequence: I<sub>2</sub>—IN<sub>4</sub>—R<sub>7</sub>—IM<sub>11</sub>

Between July 17 and November 1, 1974 a series of meetings were held between administrators, staff and inmate representatives at the State Reformatory for Men to consider ways to reduce tensions at the Reformatory. Each meeting was chaired by Mr. Richard Salem, Mediator and Midwest Regional Director of the U.S. Community Relations Service. Members of the Ombudsman staff attended most of the mediation sessions.

On October 16, the deputy ombudsman received a complaint from the Black inmate representatives participating in the mediation process. They believed that Black inmates received a disproportionate number of disciplinary reports. The staff agreed with the inmate's speculation and supported their request for an Ombudsman investigation.

A member of the Ombudsman staff compiled a statistical report which analyzed 1,427 rule infractions between November 1973, and June 1974. Disciplinary reports were categorized by rule violation and by inmate's race. This process revealed that the Black inmate population, which constituted approximately 15 percent of the total inmate population, was responsible for approximately 40 percent of the rule infractions.

On November 1, 1974 a member of the Ombudsman staff attended the final mediation session at the Reformatory. He presented the data indicating minorities did receive a disproportionate number of discipline reports. During the ensuing discussion, the inmates felt that the reports were the result of racism; they expressed doubt whether or not the hearing officer could detect subtle and covert forms of racism. Agreement was reached that the hearing officers, prosecutor, and investigating officer meet on a regular basis with the

culture groups or representatives of the minority groups.

The inmates felt that too many reports were written for "small stuff" and too many multiple charges were written per report. The basic concern centered upon the "vagueness" of the rules. It was agreed that the new staff/inmate council examine the rules in the "Inmate Discipline Plan".

The inmates felt that they were guilty until proven innocent under the current discipline procedure. They felt they were not given enough opportunity to "tell their side of the story". The staff indicated that a prosecutor had been recently appointed and that his presence would allow the staff investigator time for more thorough investigations.

### Staff

Sequence: I<sub>2</sub>—IN<sub>4</sub>—R<sub>8</sub>

On August 12, 1974 the Ombudsman received a telephone call from the Neighborhood Justice Center indicating that an inmate housed in the prison's segregation unit had been beaten. The Center had also been informed that the inmate had requested the services of an attorney. It was further alleged that this inmate was in critical condition at the University Hospital.

A field investigator visited the inmate at the hospital on August 12. He discovered that there existed no evidence to substantiate the charge that the inmate had been beaten. A preliminary diagnosis by the medical staff suggested that he was in fact suffering from a drug overdose.

The next day the field investigator interviewed three prison custody officers concerning the charge that the inmate had been beaten. All of them stated that the inmate had not been physically abused by either staff or inmates. They indicated that he had been removed to the hospital because of a serious deterioration in his mental condition which they attributed to suspected drug abuse.

The Ombudsman contacted the Neighborhood Justice Center to inform its staff that the inmate did not desire the services of an attorney and that he had been removed from the prison to the University Hospital because of a self-induced drug overdose.

### Rules

Sequence: I<sub>2</sub>—IN<sub>4</sub>—R<sub>6</sub>—IM<sub>10</sub>

On February 21, 1975 members of the prison Afro-American culture group and one staff member expressed concern to the deputy ombudsman that an inmate who was "out of control" had been handcuffed to the bars of his cell. Upon investigating this incident, the deputy reconstructed the following series of events. An inmate, housed in a cell within the prison's segregation unit, had recently returned from the hospital where he had been taken because of "despondent" and "irra-

tional" behavior. Upon placement in a cell, the inmate threatened to harm himself. He was therefore handcuffed to the cell bars to prevent self-injury. The segregation unit sergeant then called the prison infirmary to apprise the medical staff of the situation. The infirmary provided sedation pills for the inmate but refused to transfer him. Approximately two hours later, a stronger medication was provided by order from an M.D. The inmate was uncuffed within two hours after this medication was administered to him. Arrangements were made for a group of inmates to stay with the sedated inmate in his cell. The next day he was transferred to the Minnesota Security Hospital.

This incident prompted the Ombudsman to recommend to the warden the need for the development of a standard policy establishing guidelines for controlling inmates who exhibit self-destructive actions. After several meetings with prison staff members a written policy outlining a procedure for dealing with "out of control inmates" was issued on April 10, 1975. The policy assigned responsibility to specific staff members and authorized the use of leather restraints to control inmates exhibiting certain types of behavior.

#### Threats

Sequence: I<sub>2</sub>—IN<sub>4</sub>—R<sub>7</sub>—IM<sub>11</sub>

On February 27, 1975 the Governor's office forwarded to the Ombudsman a letter from an inmate at the State Reformatory. The inmate was in voluntary protective custody because of a confrontation he had with a group of inmates who apparently threatened his life. On February 28, a member of the Ombudsman staff wrote to the inmate acknowledging receipt of his letter and informing him that he would be at the Reformatory on March 3.

On March 3 the Ombudsman staff member sought to verify the incidents that had been described in the inmate's letter. He discussed the situation with the inmate, with members of the staff, and with the inmates who had allegedly made overt threats.

An accord was reached in which the complainant remained in protective custody until arrangements were made for his transfer to another institution.

#### Other

Sequence: I<sub>1</sub>—IN<sub>8</sub>—R<sub>6</sub>—IM<sub>10</sub>

Upon entering the prison the morning of September 25, 1974 the deputy ombudsman learned from several sources that an inmate had been found dead in his cell at 5:30 a.m. However, the cause of the inmate's death was not readily apparent. Therefore, after making preliminary inquiries the deputy telephoned his findings to the Ombudsman. The Ombudsman decided to conduct a special investigation and assigned the case to a member of his staff.

The report resulting from the investigation into the

inmate's death was issued to the Commissioner of Corrections on January 3, 1975. Because the deceased inmate's prison medical file was never found, the Ombudsman focused much of his attention on the need for the prison to maintain an accurate and current medical record for each inmate. The report stressed that a medical file must be readily accessible when needed by persons authorized to review it. It further stated that any person who removes a medical file from the infirmary record office must sign for the file and accept total responsibility for its contents. In addition, the report reconstructed the circumstances of the inmate's death, commented upon sections of the autopsy report and offered an explanation for the cause of death.

The Ombudsman received a final written reply to the report from the Commissioner of Corrections on February 3, 1975. The commissioner indicated that his Department Health Care Administrator had undertaken a major assessment of the medical records at the Prison and at each of the other seven institutions under his jurisdiction. He felt that the implementation of a new system to synchronize all medical information would eliminate "content and logistic" problems of the sort outlined by the Ombudsman.

#### CONCLUSION

During the 1975 session of the Minnesota Legislature, a bill was introduced at the Ombudsman's request which incorporates several changes into Minnesota Statutes 241.41-241.45. The bill, which will be considered again during the 1976 legislative session, is designed to strengthen and expand the Ombudsman's authority. That authority currently includes the right to receive complaints from any source concerning an action of the "administrative agency", the right to investigate those complaints, the right to make recommendations based upon the findings of his investigations, and the right to publish those recommendations. The Ombudsman *does not* and *should not* have the right to order compliance with his recommendations.

Included among the provisions of the bill are sections which—

- 1) assure a greater degree of confidentiality between the Ombudsman and each complainant;
- 2) afford the Ombudsman a high degree of independence;
- 3) permit people incarcerated in county, municipal, or regional correction facilities to use the Ombudsman's service;
- 4) provide a penalty for obstructing or willfully misleading the Ombudsman;
- 5) grant the Ombudsman subpoena power;
- 6) prohibit any punishment of persons registering a complaint with the Ombudsman;
- 7) remove the program's July 1977 expiration date.

CHART I

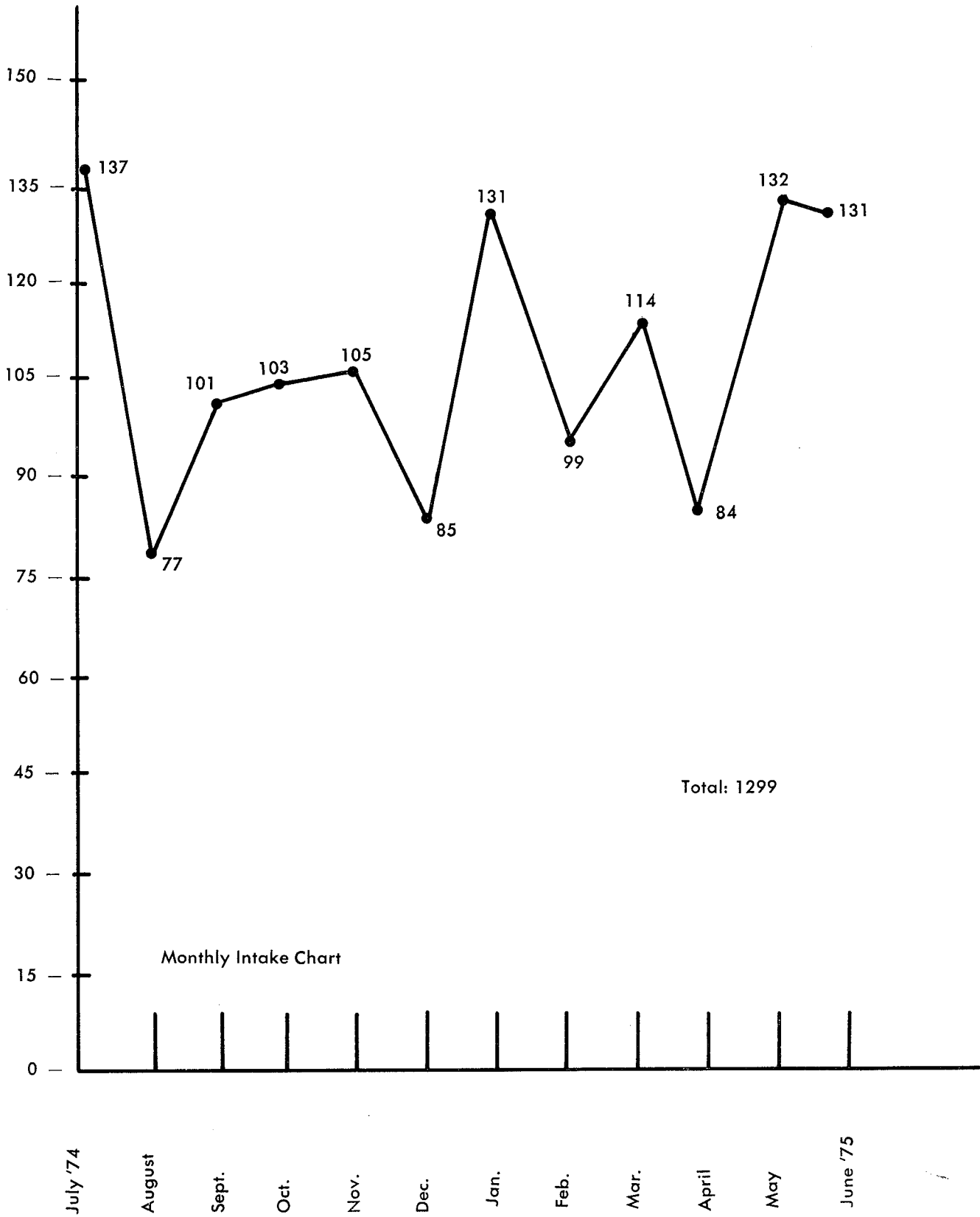
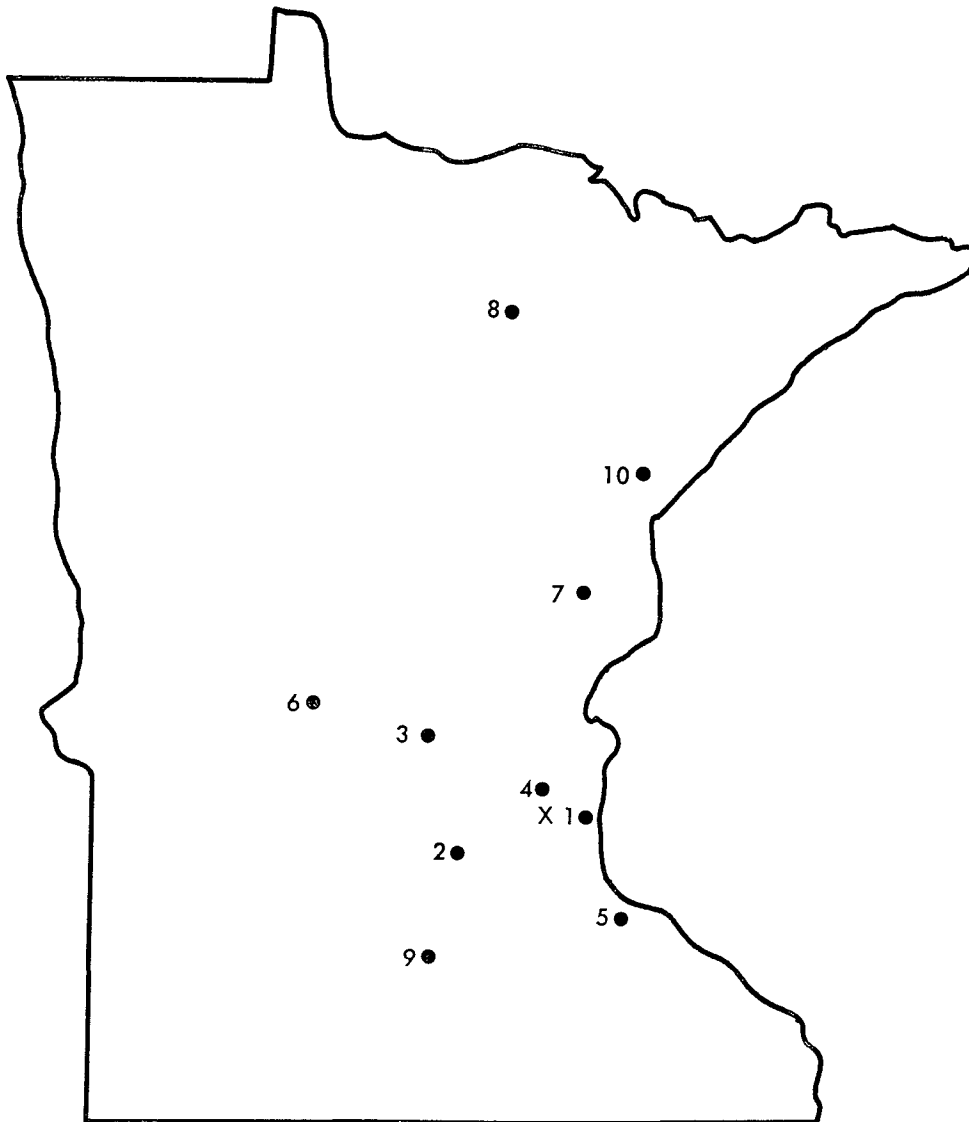


CHART II



X — OMBUDSMAN, St. Paul

- 1 MSP — Minnesota State Prison, Stillwater
- 2 MCIW — Minnesota Corrections Institution for Women, Shakopee
- 3 SRM — State Reformatory for Men, St. Cloud
- 4 MMTC — Minnesota Metropolitan Training Center, Lino Lakes
- 5 STS — State Training School, Red Wing
- 6 MHS — Minnesota Home School, Sauk Centre
- 7 WRC — Willow River Camp, Willow River
- 8 TC — Thistledew Camp, Togo
- 9 MSH — Minnesota Security Hospital, St. Peter
- 10 NRCC — Northeast Regional Corrections' Center, Saginaw



**Table I**

**Ombudsman Complaints (Closed): July 1974-June 1975**

	MSP	MCIW	SRM	MMTC	STS	MHS	WRC	TC	MSH	FS	Other	Totals
Parole	130	19	42	19	17	10	7	0	12	11	2	269
Medical	55	12	16	3	3	1	2	0	1	0	2	95
Legal	86	5	60	17	4	2	0	0	0	13	7	174
Placement	62	4	13	30	16	3	2	0	0	4	6	140
Property	56	0	20	12	2	2	0	0	1	5	0	98
Program	73	15	32	13	13	9	2	0	4	13	0	174
Racial	1	0	2	0	0	0	0	0	0	0	0	3
Staff	22	1	8	8	11	0	0	0	0	4	3	57
Rules	105	11	28	5	10	3	2	0	2	2	3	171
Threats	10	1	7	1	0	0	0	0	0	1	0	20
Other	45	7	18	5	7	5	3	0	1	11	1	103
<b>Totals</b>	<b>645</b>	<b>75</b>	<b>226</b>	<b>113</b>	<b>83</b>	<b>35</b>	<b>18</b>	<b>0</b>	<b>21</b>	<b>64</b>	<b>24</b>	<b>1,304</b>
F.Y. 75 (Est.)												
Average Daily Population	748	54	469	126	177	114	45	46	20	2,300	—	4,099

MSP—Minnesota State Prison; MCIW—Minnesota Correctional Institution for Women; SRM—State Reformatory for Men; MMTC—Minnesota Metropolitan Training Center; STS—State Training School; MHS—Minnesota Home School; WRC—Willow River Camp; TC—Thistledeew Camp; MSH—Minnesota Security Hospital; FS—Field Services (including parole).

**Table II**  
**TOTAL CASELOAD**

Number of cases opened July 1974 through June 1975 .....	1,299
Number of cases carried from June 1974 .....	44
<b>TOTAL</b> .....	<b>1,343</b>
Number of cases closed July 1974 through June 1975 .....	1,304
Number of cases carried from July 1975 .....	39

**Table III**

**Complaint Distribution by Institution**

<u>Institution</u>	<u>Complaints</u>	<u>Percent</u>
MSP	645	49.4%
MCIW	75	5.8%
SRM	226	17.3%
MMTC	113	8.7%
STS	83	6.4%
MHS	35	2.7%
WRC	18	1.4%
TC	0	0.0%
MSH	21	1.6%
FS	64	4.9%
Other	24	1.8%
<b>TOTAL:</b>	<b>1,304</b>	<b>100%</b>

MSP—Minnesota State Prison; MCIW—Minnesota Correctional Institution for Women; SRM—State Reformatory for Men; MMTC—Minnesota Metropolitan Training Center; STS—State Training School; MHS—Minnesota Home School; WRC—Willow River Camp; TC—Thistledeew Camp; MSH—Minnesota Security Hospital; FS—Field Services (including parole).

**Table IV**

**Population by Institution\***

<u>Institution</u>	<u>Population</u>	<u>Percent</u>
MSP	748	41.6%
MCIW	54	3.0%
SRM	469	26.1%
MMTC	126	7.0%
STS	177	9.8%
MHS	114	6.3%
WRC	45	2.5%
TC	46	2.6%
MSH	20**	1.1%
<b>TOTAL:</b>	<b>1,799</b>	<b>100.0%</b>

\*Estimated average daily population for F.Y. 75.

\*\*MSH has a capacity of 115 patients; an average of 20 of these are from the Department of Corrections. The figure for MSP includes ICC, 916 and Pre-Release; MCIW includes POP; MMTC includes ICC, Our House, CCR, CRP, STTS—RX.

**Table V**

**Methods of Communication**

<u>Method</u>	<u>Complaints</u>	<u>Percent</u>
W.D.	228	17.5%
W.I.	24	1.9%
P.D.	580	44.4%
P.I.	67	5.1%
T.D.	252	19.3%
T.I.	143	11.0%
O.I.	10	0.8%
<b>TOTAL:</b>	<b>1,304</b>	<b>100.0%</b>

W.D.—Written Direct; W.I.—Written Indirect; P.D.—Personal Direct; P.I.—Personal Indirect; T.D.—Telephone Direct; T.I.—Telephone Indirect; O.I.—Ombudsman Initiated.

**Table VI**

**Initial Contact**

<u>Time Lapse</u>	<u>Complaints</u>	<u>Percent</u>
Same day	922	70.7%
1-6 days	246	18.8%
7-10 days	53	4.1%
11-15 days	23	1.8%
16 and over days	33	2.5%
No record	1	0.1%
No contact	26	2.0%
<b>TOTAL:</b>	<b>1,304</b>	<b>100.0%</b>

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

**Table VII**

**Time Taken to Resolve Complaint**

<u>Time</u>	<u>Complaints</u>	<u>Percent</u>
0-30 days	921	70.6%
31-45 days	201	15.4%
46-60 days	88	6.8%
61-over	94	7.2%
<b>TOTAL:</b>	<b>1,304</b>	<b>100.0%</b>

**Table VIII**  
**Complaint Distribution by Category**  
**'74-'75 Comparison**

<u>Category</u>	<u># 74</u>	<u># 75</u>	<u>% 74</u>	<u>% 75</u>	<u># Change</u>
Parole	253	269	23.7%	20.6%	+16
Medical	86	95	8.0%	7.3%	+9
Legal	128	174	12.0%	13.4%	+46
Placement	80	140	7.5%	10.7%	+60
Property	88	98	8.2%	7.5%	+10
Program	159	174	14.6%	13.4%	+15
Racial	6	3	0.6%	0.2%	-3
Staff	28	57	2.6%	4.4%	+29
Rules	192	171	18.0%	13.1%	-21
Threats	6	20	0.7%	1.5%	+14
Other	44	103	4.1%	7.9%	+59
<b>TOTAL:</b>	<b>1,070</b>	<b>1,304</b>	<b>100.0%</b>	<b>100.0%</b>	<b>+234</b>

**Table IX**  
**Complaint Resolution**

<u>Resolution</u>	<u>Number</u>	<u>Percent</u>
Full	763	58.5%
Partial	276	21.2%
None	71	5.5%
Withdrawn	29	2.2%
Not Valid	8	0.6%
Referred	157	12.0%
	<u>1,304</u>	<u>100.0%</u>

**Table X**  
**Complaint Resolution by Category**

	<u>Full</u>	<u>Partial</u>	<u>None</u>	<u>Withdrawn</u>	<u>Not Valid</u>	<u>Referred*</u>	<u>Total</u>
Parole	188	53	21	3	—	4	269
Medical	66	14	5	—	3	7	95
Legal	50	16	6	1	—	101	174
Placement	75	44	17	2	1	1	140
Property	47	20	2	2	1	26	98
Program	121	42	5	2	—	4	174
Racial	2	1	—	—	—	—	3
Staff	26	16	5	8	—	2	57
Rules	109	45	5	3	2	7	171
Threats	11	7	—	2	—	—	20
Other	68	18	5	6	1	5	103
<b>TOTAL:</b>	<b>763</b>	<b>276</b>	<b>71</b>	<b>29</b>	<b>8</b>	<b>157</b>	<b>1,304</b>

\*Includes complaints over which the ombudsman had no legal jurisdiction.

**Table XI**  
**Referrals to Agencies**

<u>Organization</u>	<u>Number</u>
LAMP* . . . . .	81
Legislative Claims Committee . . . . .	23
Public Defender . . . . .	18
Neighborhood Justice Center . . . . .	12
Legal Rights Center . . . . .	7
Private Attorney . . . . .	7
County Jail Officials . . . . .	5
Department of Public Welfare . . . . .	2
Municipal Jail Officials . . . . .	1
Civil Liberties Union . . . . .	1
<b>TOTAL</b> . . . . .	<b>157</b>

\*Legal Assistance to Minnesota Prisoners.

**Table XIII**  
**Complaints by Groups**

<u>Source</u>	<u>Number</u>	<u>Category</u>	
MSP	5	Placement	2
		Program	2
		Medical	1
SRM	9	Program	4
		Rules	3
		Staff	1
		Racial	1
MMTC	3	Other	2
		Staff	1
STS	2	Rules	1
		Staff	1
WR	2	Rules	1
		Other	1
F.S.	2	Program	1
		Staff	1
Other	1	Rules	1
<b>TOTAL:</b>	<b>24</b>		

**Table XII**  
**Complaints by Staff**

<u>Source</u>	<u>Number</u>	<u>Category</u>	
MSP	12	Parole	1
		Legal	1
		Placement	1
		Staff	1
		Rules	4
		Other	4
MCIW	1	Other	1
SRM	5	Rules	2
		Other	3
MMTC	2	Staff	1
		Other	1
STS	1	Legal	1
MHS	0		
WRC	0		
TC	0		
MSH	0		
F.S.	3	Legal	1
		Staff	1
		Other	1
<b>TOTAL:</b>	<b>24</b>		

**Table XIV**  
**Number of Complaints per Complainant**

<u>Complainants</u>		<u>Number of Separate Complaints</u>		<u>Total Complaints</u>	
<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
510	64.0%	1=	510	39.3%	
169	21.2%	2=	338	26.0%	
62	14.8%	3=	186	14.3%	
34		4=	136	10.5%	
12		5=	60	9.9%	
5		6=	30		
2		7=	14		
2	8=	16			
1	9=	9			
<b>TOTALS:</b>	<b>797</b>	<b>100%</b>	<b>1,299</b>	<b>100%</b>	

# Appendix A

## OMBUDSMAN

**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 matters of the department of corrections so as to promote the highest attainable standards of competence, efficiency, and justice in the administration of corrections.

[1973 c 553 s 1]

**241.42 DEFINITIONS.** Subdivision 1. For the purposes of sections 241.41 to 241.45, 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 and the board of pardons, 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.

Subd. 4. "Correctional client" means any person under the jurisdiction of the Minnesota department of corrections, and includes all persons in state corrections institutions and all persons on parole or probation under the supervision of the commissioner of corrections and the Minnesota corrections authority.

[1973 c 553 s 2; 1973 c 654 s 15]

**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.

[1973 c 553 s 3]

**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;

(d) He may investigate, upon a complaint in writing 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 order any person to appear, give testimony, or produce documentary or other evidence which the ombudsman deems relevant to a matter under his inquiry; 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 laws 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 council. The provisions of sections 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 sections 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.

**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.

**Subd. 4. Recommendations.** (a) If, after duly considering a complaint 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.

[1973 c 553 s 4]

**241.45 PUBLICATION OF RECOMMENDATIONS; 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.

[1973 c 553 s 5]

(NOTE: Sections 241.41 to 241.45 shall expire July 1, 1977.)

## Appendix B

### EXECUTIVE ORDER NO. 14

I, Wendell R. Anderson, Governor of the State of Minnesota, do hereby issue this Executive Order in regard to the establishment of an Ombudsman Commission for the purpose of establishing an office of Ombudsman for the Department of Corrections accountable to the Governor with authority to investigate decisions, acts, and other matters of the Department of Corrections, so as to promote higher standards of competence, efficiency and justice in the administration of corrections.

The Ombudsman Commission shall be composed of ten (10) members:

1. The Commissioner of Corrections, or his representative.
2. The Attorney General, or his representative.
3. The State Public Defender, or his representative.
4. The Commissioner of Human Rights, or his representatives.
5. The remainder of the Commission shall be appointed by the Governor, provided that there be at least one woman and two representatives of racial minorities.

The term of office for the members of the Ombudsman Commission shall be for one and one-half (1½) years.

The Governor shall make appointments to vacancies occurring during the term of the members.

The powers and duties of the Ombudsman Commission shall be as follows:

1. The Commission shall convene within 10 days after the effective date of this order, and act as a board of selection and review for the purpose of submitting names of nominees to the Governor to fill the office of Department of Corrections Ombudsman.
2. The Commission shall, by majority vote of all of the members thereof, submit to the Governor the names of the nominees, who in the judgement of the Commission are persons well equipped to analyze questions of law, administration, and public policy, and the Governor shall appoint from this list the Department of Corrections Ombudsman.
3. If after 30 days the Commission is unable to determine the names of the nominees, the Governor may proceed to appoint his own nominee.
4. The Ombudsman Commission may submit an annual report to the Governor and the Legislature, commenting on and analyzing the function and operation of the office of Ombudsman for the Department of Corrections.
5. The Commission may act in an advisory capacity to the Ombudsman, and shall provide any other assistance requested by the Ombudsman.
6. The Commission shall meet on the call of the Ombudsman, or the call of the Chairman of the Ombudsman Commission.
7. The Ombudsman Commission shall be subject to any further executive orders issued for this project.

Dated this 3rd day of February, 1972.

ARLEN I. ERDAHL  
ARLEN I. ERDAHL  
Secretary of State

WENDELL R. ANDERSON  
WENDELL R. ANDERSON  
Governor

#23620  
STATE OF MINNESOTA  
DEPARTMENT OF STATE  
FILED  
FEB. 4 - 1972  
ARLEN I. ERDAHL  
Secretary of State

## Appendix C

### FISCAL YEAR 1975 FINANCIAL INFORMATION

	Budget Allocation	Actual Expenditures
Personal Services .....	\$135,525	\$132,066
Rents and Leases .....	8,100	4,941
Printing and Binding .....	2,400	3,156
Communications .....	2,700	2,594
Travel .....	9,300	6,713
Subscriptions and Memberships .....	375	294
Office Supplies and Equipment .....	<u>2,700</u>	<u>2,935</u>
	\$161,100	\$152,699

Budget Source: Minnesota State Legislature:	\$93,400
Bush Foundation	67,700
TOTAL:	<u>\$161,100</u>