



# OMBUDSMAN FOR CORRECTIONS



STATE OF MINNESOTA

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## FISCAL YEAR 1979-80 ANNUAL REPORT

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*Pursuant to 241.45, sd 2 "Ombudsman shall report to the Governor activities of the preceding year".*



STATE OF MINNESOTA

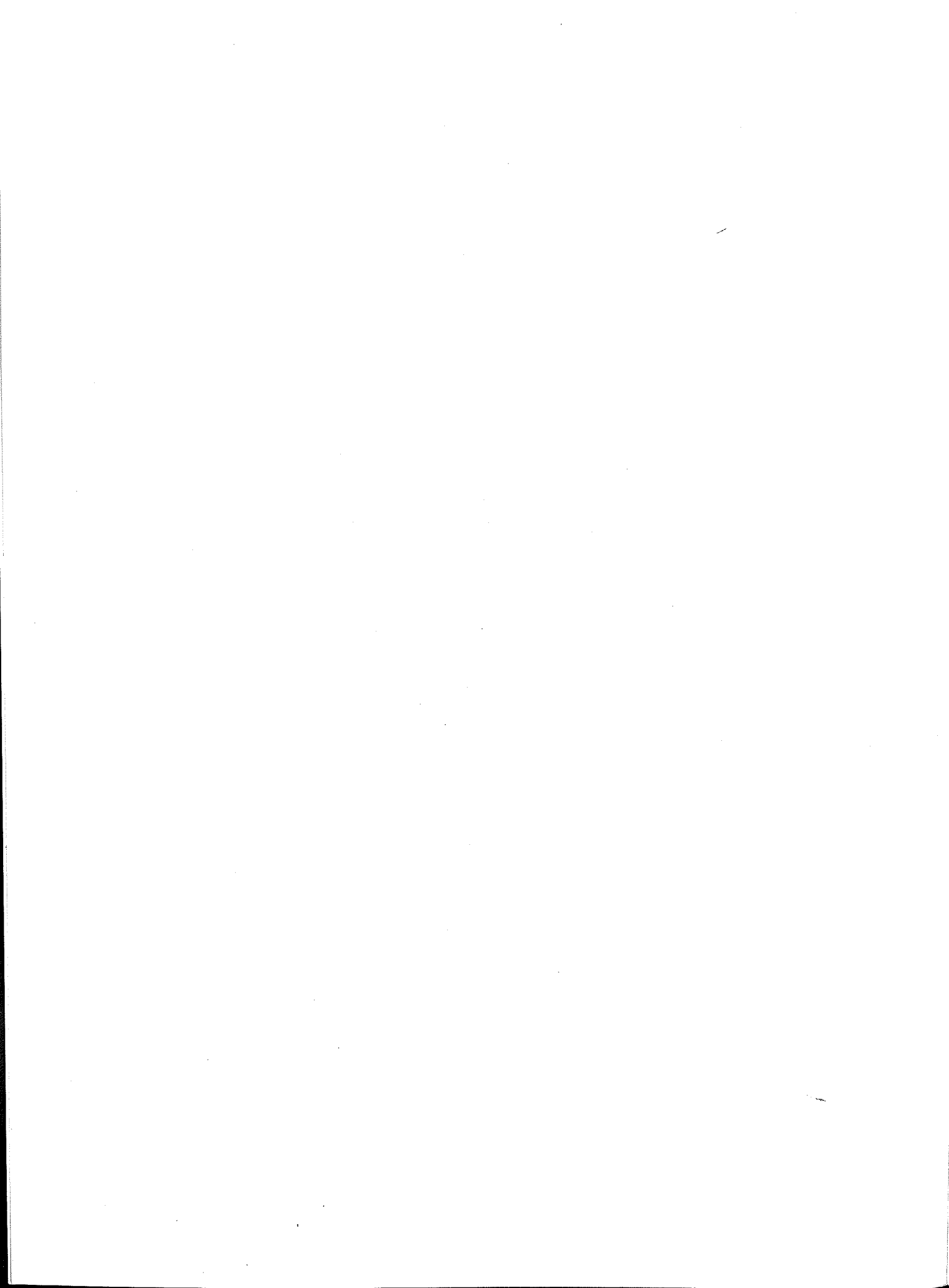
REPORT OF  
THE OMBUDSMAN FOR CORRECTIONS  
FOR THE PERIOD  
JULY 1, 1979 – JUNE 30, 1980

Submitted to  
The Honorable Albert H. Quie  
Governor, State of Minnesota  
pursuant to Section 241.45  
Subd 2 of the Minnesota Statutes

From  
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NOVEMBER 1980

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## INTRODUCTION

After eight years the Minnesota Ombudsman for Corrections continues to maintain high credibility. The incumbent Ombudsman has been with the agency since its inception. The fact that he has worked for three different governors is a testimony to the independence of the office which is critical to its success. It is an independent state agency with statutory authority to: 1) receive complaints from any source concerning matters relating to the administration of corrections programs and facilities at the state and regional levels and in counties participating in the Community Corrections Act; 2) investigate those complaints; 3) make recommendations based upon the findings of the investigations; and 4) publish those recommendations. The Ombudsman is appointed by the Governor, hires his own staff (see Figure 1) and is responsible for the administration of an annual budget of approximately \$225,000 (see Appendix C).

The broad purpose of the Ombudsman office is to foster efficient and equitable corrections administration. The Ombudsman strives to accomplish this purpose by appropriate and prompt action on the complaints and requests received by his office. In addition the Ombudsman periodically establishes general goals and objectives designed to help improve the administration of corrections. Two such objectives which have been around since the inception of the program are:

1. Improvement of the relationship between staff and inmate by providing them with information on the substance, design and performance of administrative actions.
2. Improvement and clarification of administrative procedures and regulations.

The policy recommendations #3 and #'s 18-24 found in Appendix B of this report are particularly relevant to these objectives. During fiscal year 1980 the Ombudsman made a total of 25 policy recommendations, which is up from the 21 policy recommendations made in fiscal year 1979.

The following list shows the distribution of policy recommendations by location:

Minnesota Correctional Facility – Stillwater	9
Department of Corrections	4
Minnesota Correctional Facility – Lino Lakes	1
Minnesota Correctional Facility – St. Cloud	4
County	2
Minnesota Corrections Board	3
Minnesota Correctional Facility – Red Wing	1
Minnesota Correctional Facility – Sauk Centre	1

**TOTAL 25**

The internal changes the Ombudsman made in record keeping and reporting during fiscal year 1979 have been further refined and more accurately reflect the work load of the office for fiscal year 1980.

Making himself and his staff accessible to both staff and inmates is an ongoing task and a significant factor in the Ombudsman's effectiveness. Frequent visits to the major correctional facilities within the Ombudsman's jurisdiction allow the Ombudsman and his staff to maintain

close contact with all levels of the state's corrections systems. The Ombudsman also participates in the program conducted by the Department of Corrections Training Academy which provides training for correctional counselors.

The Ombudsman continues to maintain high visibility within the corrections system while functioning with a low profile, i.e., every attempt is made to resolve cases as close to the origin of the conflict as possible. He has found this operational style to be most effective. From time to time the Ombudsman offers testimony before state legislative committees and subcommittees which consider matters dealing with corrections in Minnesota. The Ombudsman and his staff also seek to inform the public about crucial corrections issues by participating in local and national seminars, publishing in local newspapers and periodicals, serving on local and national committees and boards and by speaking throughout the state. For instance, the Ombudsman serves on the Board of Directors of the United States Association of Ombudsmen and hosted that organization's 3rd Annual Conference held in Minneapolis August 5-8, 1979.

This report describes the Ombudsman's activity in fiscal year 1980. It will discuss the organization and function of the Ombudsman Office focusing specifically on the type of complaints received, the methods by which each was investigated and the ultimate resolution achieved. It represents an effort to succinctly answer the questions most frequently asked by a variety of groups – inmates, politicians, academicians, students, the general public and fellow ombudsmen. These questions include:

- 1) What is the Ombudsman's jurisdiction?
- 2) What is the extent of the Ombudsman's authority?
- 3) How many complaints are filed each year with the Ombudsman?
- 4) What is the general nature of the complaints filed with the Ombudsman?
- 5) How long does the Ombudsman take to investigate a complaint?
- 6) Is the Ombudsman successful in resolving complaints?
- 7) What is the size of the Ombudsman's budget and staff?

Anyone interested in information regarding the Ombudsman Program not covered in this report should contact the office directly by telephone at (612) 296-4500 or by mail at Suite 102, 333 Sibley, St. Paul, MN 55101.

## ORGANIZATION AND FUNCTION OF THE OMBUDSMAN OFFICE

The basic goal of the Ombudsman Office, as set forth in Minnesota Statutes Section 241.41, is to "promote the highest attainable standards of competence, efficiency, and justice in the administration of corrections". This broad objective is accomplished by providing an external administrative grievance mechanism to be used when corrections internal procedures result in an action which is contrary to law or regulations; unreasonable, unfair, oppressive, or inconsistent; mistaken in law or arbitrary in the ascertainment of facts; unclear or inadequately

explained when reasons should have been revealed; or inefficiently performed. The Ombudsman's effectiveness, in reviewing such matters, depends in large measure upon his method of operation. His operational style must establish, through case-by-case analysis, a standard dedicated to thorough fact-finding, detailed research and sound evaluation.

The Ombudsman Office consists of a full-time staff of eight people and one part-time staff person: the ombudsman, the deputy ombudsman, a research analyst, three field investigators, one administrative secretary, one clerk-typist III and one part-time field investigator. In addition, the Ombudsman may employ interns through the Governor's Internship Program (see Figure I). Every professional staff member, including interns, has an assigned caseload. The number of cases varies with the responsibilities of each position. The entire staff is involved in the case processing procedure shown in Figure II. This process consists of four phases:

### INITIATION

Anyone may elicit the Ombudsman's assistance in matters involving the action of any division, official or employee of the Minnesota Department of Corrections, the Minnesota Corrections Board, the Board of Pardons, regional correctional institutions and county facilities participating under the Community Corrections Act. A person may file a complaint (#2) objecting to a specific administrative action or policy. The Ombudsman may monitor agency proceedings upon request (#3) as well as supply information regarding the Minnesota corrections system. Also, the Ombudsman may initiate an investigation on his own motion (#1). Complaints and requests may be registered with the Ombudsman by telephone, in person or by mail.

### DISPOSITION

Once contact is made with a member of the Ombudsman's staff, the deputy ombudsman reviews the complaint or request to determine whether a case should be opened for investigation (#4) or other action by the Ombudsman, such as supplying an informational or explanatory response (#6) or monitoring a specific corrections system proceeding (#7). A case may be filed as unopened (#5) if it is: referred to another agency because the subject matter is not within the ombudsman's jurisdiction; refused or rejected because it is premature; or dismissed because it is unreasonable or unfounded. Opened cases are assigned to staff members by the deputy ombudsman. When a complaint case is opened, the investigator:

- ... Interviews the complainant to get a detailed account of his/her grievance and determines exactly what steps the complainant has previously taken to resolve his/her problem.
- ... Explains to the complainant the function of the Ombudsman Office and how it relates to his/her specific case;
- ... Determines which staff, inmates and appropriate others to interview;
- ... Determines what documents, reports and other written material to review;

- ... Notifies selected officials of the Agency,<sup>1</sup> when appropriate, that an investigation is being undertaken;
- ... Conducts additional interviews and reviews documents, thus gathering all necessary and pertinent information;
- ... Formulates a conclusion on the basis of accumulated evidence.

### CONCLUSION

The investigation of a complaint may be concluded in one of five ways. At any time during or following the investigation the investigator may refer the case to another agency (#11) or the complainant may withdraw his/her complaint (#12). The investigation may prompt a written recommendation regarding the application of a policy to a specific individual or instance may be issued (#9). More frequently the complaint is resolved without the need for the Ombudsman to direct a formal written recommendation to an official (#10).

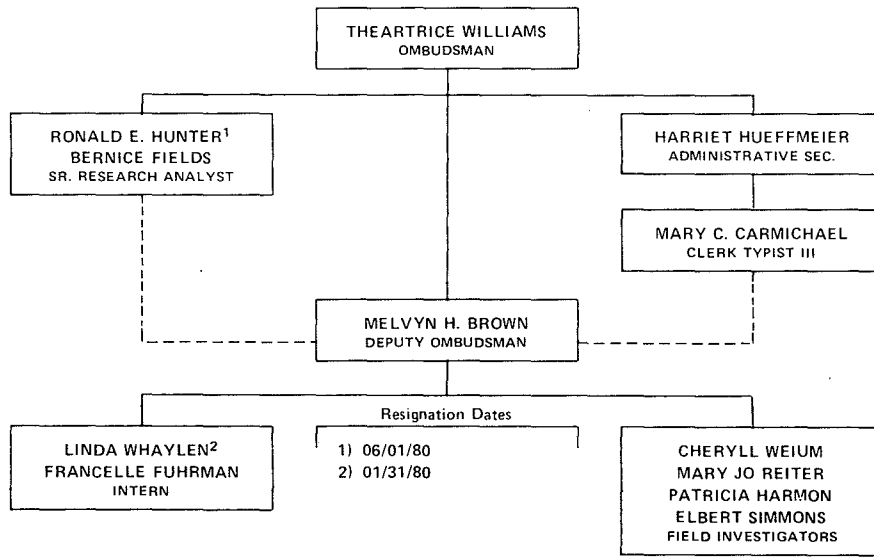
### RESOLUTION

Recommendations are submitted in writing to corrections officials at the state, regional or county level. These agents may be asked to consider a matter further, modify or cancel an action, alter a regulation or ruling, explain more fully the action in question or take any other step which the Ombudsman states as his recommendation. If a recommendation is accepted (#14), the Ombudsman notifies the complainant and monitors (#16) its implementation (#15). If a recommendation is rejected (#13), the Ombudsman must determine whether or not the rejection is based upon sound reasoning. If he accepts the rationale, he notifies the complainant and closes the case. If the rationale is not accepted, the Ombudsman may re-issue the recommendation or pursue the case with the governor, the legislature or the general public.

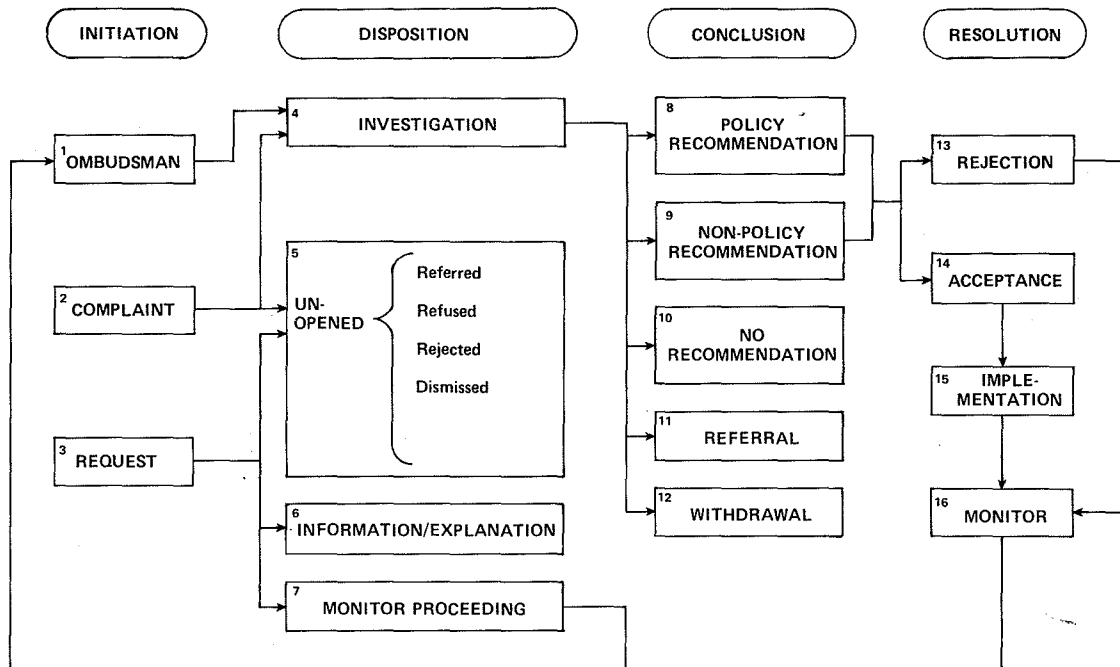
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<sup>1</sup>See Appendix A, MINN. STAT. 241.42(1978).

**Figure I  
ORGANIZATION CHART**



**Figure II  
CASE PROCESSING PROCEDURE**





## ANALYSIS OF CONTACTS

The Ombudsman's jurisdiction during fiscal year 1980 remained unchanged. The total number of counties participating under the Community Corrections Act (Minn. Stat. 401) remains at twenty-seven. The location of participating counties and state facilities covered by the Ombudsman are shown on Map I. The state facilities operated by the Minnesota Department of Corrections include: Minnesota Correctional Facility, Stillwater (adult males); Minnesota Correctional Facility, Shakopee (adult females); Minnesota Correctional Facility, St. Cloud (young adult males); Minnesota Correctional Facility, Lino Lakes (adult males); Minnesota Correctional Facility, Red Wing (juvenile males); Minnesota Correctional Facility, Sauk Centre (juvenile males and females); Willow River Camp (adult males); the Ombudsman also handle cases generated from the Northwest and Northeast Regional Corrections Centers (see Map I).

A total of 2939 contacts were registered with the Ombudsman during fiscal year 1980. Graph I reflects the monthly intake of the Ombudsman Office over the course of the fiscal year and Graph II shows the institutional distribution for the year. Of the 2939 contacts received, 2126 resulted in opened cases. The remaining 813 contacts were not opened for investigation.

A contact may be treated as an unopened case for a variety of reasons. First, the Ombudsman determines whether the contact pertains to the actions of an agency within the Ombudsman's jurisdiction. If the contact involves a matter beyond the Ombudsman's jurisdiction, the complainant is referred to the appropriate person or organization and the contact is filed as an unopened case. However, the Ombudsman occasionally will informally assist aggrieved persons in extrajurisdictional matters in exceptional circumstances.

The Ombudsman also considers whether a complaint or request is premature. For instance, the Ombudsman frequently receives complaints that an agency official has refused to respond to a complainant's inquiry. Upon further questioning the Ombudsman may learn that the inquiry was not formally communicated to the official or it was not considered to be urgent enough to warrant an immediate response. The complainant is advised to formally communicate his concern to the official and allow a reasonable time for response.

Following the examination of a contact for jurisdictional acceptability and timeliness, the Ombudsman decides whether the complainant's case is meritorious. If the complainant fails to describe an issue reasonably justifying some sort of relief or the Ombudsman lacks jurisdiction, no investigation is instituted and the contact is filed as an unopened case.

For example, an inmate called the Ombudsman to complain about not receiving a fair trial and being poorly represented by his defense counsel. The inmate was advised that the Ombudsman had no authority to act on such a complaint. Matters pertaining to his trial should be discussed with an attorney. He was entitled to appeal his conviction to the State Supreme Court and if he were

unable to afford legal counsel, the State Public Defender would provide necessary legal counsel. The complaint was dismissed and filed as an unopened case.

Compared to fiscal year 1979, the total number of contacts recorded by the Ombudsman increased less dramatically in fiscal year 1980. However, the number of unopened cases (813) recorded in fiscal year 1980 was 71.5 percent greater than the number filed in fiscal year 1979. The 2126 cases opened in fiscal year 1980 reflect a 22.7 percent increase over the 1733 cases opened in fiscal year 1979.

The special effort undertaken by the Ombudsman in fiscal year 1979 to more accurately record the work of his office, is partially responsible for the continued increase in the number of cases registered with the Ombudsman. The fiscal year 1980 data represents the first full year of the changes made in the agency's record keeping procedures in which staff was instructed to ensure all significant contacts received were recorded.

Irrespective of those changes there appears to have been a greater use of the Ombudsman's services during fiscal year 1980. The significant increase in the number of unopened cases (813) during fiscal year 1980 compared to those opened during fiscal year 1979 (413) may be due in part to a different application of the criteria for initiating an investigation. Increased experience on the part of the Ombudsman and his staff has allowed him to apply the criteria for initiating an investigation in such a way that a service is often rendered without the necessity of a formal investigation. This has made for an efficient and more effective use of staff time.

An examination of the institutional distribution of the cases closed during fiscal year 1980 (see Table I) indicates that the Women's facility at Shakopee showed the most dramatic increase from 67 (in fiscal year 1979) to 160 in fiscal year 1980 (139 percent). In fiscal year 1979, Shakopee represented 3.9 percent of the Ombudsman cases closed compared to 7.7 percent for fiscal year 1980, whereas the county's share of the cases closed dropped from 22.9 percent in 1979 to 19.9 percent in 1980. There was only a slight increase in the prison's share of the cases closed to 34.1 percent in fiscal year 1980 compared to 33.3 percent in fiscal year 1979. St. Cloud's share of cases closed increased from 18.2 percent in fiscal year 1979 to 21.5 percent in fiscal year 1980; at Lino Lakes there was a decline from 9.1 percent in fiscal year 1979 to 6.8 percent in fiscal year 1980. Cases closed from other State institutions remained fairly stable during fiscal year 1980.

The Ombudsman is unable to explain the dramatic increase in the number of cases from Shakopee. One-half of the cases closed from Shakopee were complaints about medical care and institutional rules. These are two sensitive areas and are subject to a great many variables. Any institutional crises may result in increases in medical and rules complaints.

The Ombudsman's systematic categorization of each case helps to further narrow the source(s) of the changes in the number and nature of cases. To facilitate year to year comparisons of the cases handled by the Ombudsman,

each case is assigned to one of the following categories:

**Parole** — cases concerning any matter under the jurisdiction of the releasing authority, e.g., work release, temporary parole, special review, etc.

**Medical** — cases concerning the availability of treatment or the accessibility of a staff physician or other medical professional.

**Legal** — cases that involve legal assistance or problems with getting a proper response from the public defender or other legal counsel.

**Placement** — cases concerning the facility, area or physical unit to which an inmate is assigned.

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

**Program** — cases relating to a training or treatment program or to a work assignment.

**Discrimination** — cases concerning unequal treatment based upon race, color, creed, religion, national origin or sex.

**Records** — cases concerning data in inmate or staff files.

**Rules** — cases regarding administrative policies establishing regulations that 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** — cases concerning threats of bodily harm or actual physical abuse to an inmate or staff; including charges of harassment.

**Other** — cases not covered in the previous categories, e.g., food, mail, etc.

Table XIII shows that the overall categorical distribution of cases has changed only slightly except for Threats/Abuse. Although it represents only a 2.6 percent increase in its proportionate share of the cases the total number of cases in that category increased by 88.5 percent. In all other categories the change in their proportionate share was less than 2 percent. Table XIII not only reflects the change in each category's proportionate share of all cases closed by the Ombudsman, but it also shows a moderate to significant increase in the number of cases in every category except one, Records. The decrease in the Records Category is a continuation of a pattern from fiscal year 1979. The overall increase in the Ombudsman's caseload made it possible to have a decrease in a category's proportionate share of all cases, e.g., Parole, Medical, Legal, Placement, Program and Discrimination. Parole has continued to decline in its percentage of the Ombudsman's case load although the total number of cases have continued to rise. In 1978 Parole represented 20.1 percent (242 cases); in 1979 it was 18.0 percent (308 cases); in 1980 it was 17.2 percent (358 cases). Miscellaneous cases falling in the Other category continued to increase though less dramatically in year 1980 (33.7 percent) compared to 1979 (126 percent).

Table I provides a more detailed view of the number and source of the cases in each category. The following

list provides a summary of some of the more notable changes in case distribution:

Institution	Category	F.Y. 1979 F.Y. 1980		Change
		Cases	Cases	
STW:	Parole	139	186	+ 33.8%
	Threats/Abuse	5	30	+500 %
SHK:	Rules	16	55	+344 %
	Medical	10	25	+150 %
SCL:	Medical	24	52	+116 %
	Rules	37	76	+105 %
	Threats	39	62	+ 59.0%
LL:	Medical	14	5	- 64.3%
	Rules	35	24	- 31.4%
RW:	Program	17	33	+ 94.1%

Rules category continues to be a major single category of cases having overtaken parole in fiscal year 1979. During fiscal year 1980 the rules category accounted for 411 cases. The County rules complaints which were up sharply in fiscal year 1979 actually declined by 2 in 1980 from 116 to 114. A more significant decline in rules complaints occurred at Lino Lakes while Shakopee and St. Cloud were showing marked increases as indicated in the above list.

A further breakdown of cases closed in fiscal year 1980 is provided in Tables I, II and III. Approximately four out of five cases closed (80.5 percent) were determined to be complaints. The remaining cases were treated as requests and processed in accordance with the case processing procedure discussed earlier. The ratio of complaints to requests during fiscal year 1980 is basically the same as it was in fiscal year 1979 where 81.8 percent of the cases were complaints.

A number of factors contribute to the effective operation of the Ombudsman Office. Crucial to the successful resolution of the increasing number of contacts received by the Ombudsman (see Table IV) is the Ombudsman's accessibility. Minnesota law. (MINN. STAT. Sections 241.41 to 241.45 are reproduced in Appendix A) ensures every person's right to contact the Ombudsman and prohibits punishment or unfavorable changes in confinement or treatment of a complainant who makes a complaint to the Ombudsman.

Table VI indicates that the Ombudsman receives more contacts by telephone (48.3 percent) than he does in writing (30.8 percent) or through personal encounter (20.6 percent).

The use of the telephone to register contacts in fiscal year 1980 has increased somewhat over the previous year while written contacts declined. In fiscal year 1979, 45.5 percent of contacts of cases closed were made by telephone; 37.2 percent of the contacts were received in written form. Personal contacts increased almost 22 percent in fiscal year 1980 over the previous year. In fiscal year 1979, 16.9 percent of the contacts of cases closed had resulted from a personal encounter. The establishment of a regular pattern of visiting certain institutions may account for the increase in the personal contacts.

Following the receipt of a complaint or request, the Ombudsman attempts to respond to the complainant's concern as quickly as possible. The Ombudsman's initial response is to arrange an in-depth interview with the complainant. The promptness of this interview undoubtedly affects the complainant's confidence in the Ombudsman's willingness and ability to tackle the complainant's concern. Frequently the interview can be completed when the complaint is registered. Other times the interview is delayed to accommodate a variety of circumstances. As indicated by Table VII, most complainants (86.7 percent) were interviewed in a relatively short period of time. However, cases involving extended travel and energy use are consolidated to reduce the frequency of trips to distant institutions. This may account for a number of delayed interviews.

The rapid conclusion of a case is considered just as important as a prompt interview. The Ombudsman managed to resolve 82.2 percent of the cases closed in fiscal year 1980 within 30 days (see Table VIII). Occasionally, a quick resolution isn't feasible. In such instances the Ombudsman has kept the case open as long as necessary to obtain a final resolution.

Over the years the Ombudsman has expanded and distilled his recording methods in an effort to quantify the extent to which each complaint is resolved. In December 1978 the Ombudsman decided to institute a number of changes in the agency's recording procedures.

Fiscal year 1980 is the first full year that those changes have been in operation. Tables IX and X show the resolution of cases closed by the Ombudsman during fiscal year 1980. In making determinations about case resolution the Ombudsman's judgment is guided by the following criteria: whether an agency's actions are: 1) contrary to law or regulations; 2) unreasonable, unfair or inconsistent; 3) arbitrary in the ascertainment of facts; 4) unclear or inadequately explained; or 5) inefficiently performed.

In fiscal year 1979 the Ombudsman redefined dismissed contacts to include complaints received by the Ombudsman which based on the facts as told by the complainant, failed to state a meritorious claim. These contacts were filed as unopened cases along with other contacts involving matters outside of the Ombudsman's jurisdiction (Referred) and premature complaints (Rejected) and requests (Refused). Table XI provides a summary of the disposition of the unopened cases recorded during fiscal year 1980.

Approximately 4.2 percent of the cases closed by the Ombudsman in fiscal year 1980 eventually devolved to other organizations or agencies because total resolution of the issue(s) presented by the case entailed additional work beyond the expertise or jurisdiction of the Ombudsman. These were referred as indicated in Table XII. As in previous years a plurality of the referrals were of a legal nature.

The Ombudsman's response to a contact may range from a quick dismissal of a meritless complaint to a lengthy formal written recommendation to an agency or state department head. The Ombudsman may also bring his concerns to the attention of the governor or the legislature.

Although unopened cases would appear to involve very little effort on the part of the Ombudsman, all of the contacts received by the Ombudsman warrant a response and many contacts are given considerable attention before being filed as unopened cases. For example, the Ombudsman received a letter from a couple living in California who had experienced difficulty in receiving a response from the Securities Division of the Minnesota Department of Commerce. It was obvious to the Ombudsman that this was a non-jurisdictional matter. However, it was equally obvious that this couple should receive more attention than a letter advising them that the Ombudsman did not have the authority to address their complaint. The couple was interested in getting information about stock they owned in a bankrupt Minnesota company. The Ombudsman called the Securities Division of the Department of Commerce and followed it up with a letter of referral and a copy of the couple's letter to him. In his letter of referral dated April 10, 1980, the Ombudsman asked to be notified of any action taken in response to his referral. On April 18, 1980, the Ombudsman received a copy of a letter the Securities Division sent to the California couple with the information they were seeking. They had written to the Securities Division on December 16, 1979.

The vast majority of cases handled by the Ombudsman Office are resolved informally through interchanges of facts and proposed solutions among Ombudsman staff members, agency personnel, outside sources (as required) and the complainant. Frequently a member of the Ombudsman's staff informally recommends a possible solution to a problem. For instance it was brought to the attention of an Ombudsman staff member that inmates at the St. Cloud Facility were experiencing unusual delays in having their request honored to send money out of the institution. The staff member discussed this matter with the business manager who recognized that there may be a problem but it was difficult to verify how long it was taking to honor the request. To correct the problem he agreed to institute a system whereby the inmates would initiate their request in their respective living units and would date the request. Each staff member would be required to initial and date the request. With this system instituted one could pinpoint the responsibility for the delay. The Ombudsman has not received any complaints involving sending money out of the facility since the change was adopted.

The Ombudsman is restricted from officially acting in matters beyond his jurisdiction as defined by statute (see Appendix A). Although the Ombudsman may not formally act in the sense of conducting an investigation, issuing findings and making specific recommendations to an official, he may act informally in an important matter and achieve similar results. The following case illustrates this point.

A young man had been held in contempt of County Juvenile Court. He had previously spent over six months locked up at the Juvenile Center awaiting placement. Finally, he was placed in a residential treatment center for boys where at age 13 he was four to five years younger than any of the other boys. He ran away and was subsequently placed in two other programs. Each time he ran away. When he called the Ombudsman he was in Juvenile Detention and was being told that he would be sent to the

State Juvenile Corrections Facility. Neither he nor his mother believed that he belonged in the State Facility. However his probation officer did, and was prepared to make such a recommendation to the Juvenile Court Judge.

The Ombudsman's staff talked with the youth, his mother and probation officer. The Ombudsman agreed with the young man and his mother that he should have some alternative to the State Institution. At the Juvenile Court hearing the Ombudsman's staff presented the Ombudsman's position. The judge did not commit the young man to the State Facility but agreed that he could return home to live with his family if certain conditions were met. The Ombudsman agreed to assist the young man, his mother and the probation officer in meeting the conditions of the court. To implement his commitment the Ombudsman contacted two community agencies that could help meet the conditions set by the court. He referred the young man and his mother to those organizations.

In the above case, the Ombudsman had jurisdiction to act on any complaint from the young man that did not involve the judge or the court. His decision to become involved was based upon the position being taken by the probation officer. The appearance of a member of his staff in court was sanctioned by the Juvenile Court Judge. In this instance, the Ombudsman not only recommended a course of action but facilitated its happening.

The Ombudsman is frequently asked the question, "What do you do when you make a recommendation and it is not accepted?" His frequent response is, "It depends upon the issues involved and the impact the recommendation may have on subsequent matters." The following case illustrates the course of action available to the Ombudsman when such conditions exist.

The Deputy Ombudsman was present at a parole revocation hearing where an individual's modified parole was revoked because he had continued to mail "distasteful" postcards to public officials after being warned by his parole officer and a member of the Minnesota Corrections Board. The Deputy Ombudsman recommended that the Ombudsman investigate the Board's decision because he did not believe the person received a fair hearing. In addition to the Deputy Ombudsman, the individual's attorney requested an investigation. The attorney had hoped that the matter could be resolved administratively to avoid the slower legal appeals process. The Ombudsman's investigation sustained the Deputy Ombudsman and the attorney's position that the hearing was unfair. Following the investigation, the Ombudsman sent a letter to the Chairman of the Minnesota Corrections Board (MCB) stating that:

*"Mr. — — — had been on modified parole for several years prior to the hearing. The modified parole agreement spells out the circumstances under which a violation may be found and reasonably serves as a substitute for the original parole agreement which contained more restrictive conditions. The evidence produced at the hearing clearly shows that there was no violation of the terms of Mr. — — —'s modified parole. If the MCB feels no obligation to abide by the terms of an agreement authored by the Board, then the misleading provisions of modified parole should be eliminated. Portions of the original parole agreement remaining in force*

*during modified parole should be included in the modified parole agreement. The Board's decision to extend terms of an original parole agreement into modified parole should not be retroactively applied to Mr. — — — for his behavior. The arbitrary appearance created by conveniently taking the substance out of the "reward" of modified parole can only damage the Board's image and credibility with all persons concerned.*

*The Board's decision is further tainted by the conduct of the hearing itself. Although a parole revocation hearing is not (and should not be) a court proceeding, some fundamental fact finding safeguards are still desirable and/or required. It is patently unfair to permit the parole agent to introduce potentially damaging statements, such as selected passages from the postcards, and then prohibit Mr. — — —'s attorney from questioning the agent on the same subject. Also, a neutral and detached hearing panel should be used when feasible. Mr. — — —'s (MCB member) direct involvement as a participant in an event leading to the issuance of the warrant for Mr. — — — more than likely affected Mr. — — —'s (MCB member) impressions. When a member of the MCB gets directly involved in the routine supervision of a parolee, and thus takes on the guise of a parole agent, he/she should defer to a less involved member of the Board when possible.*

*Impromptu statements which suggested a predetermined result added more confusion to the questionable decision in Mr. — — —'s case. Ms. — — —'s statement prior to the introduction of any evidence is an example: "The reason we are here today is that there are some alleged violations . . . and very obviously because these activities took place we are going to proceed with the hearing."*

*I would like you to review Mr. — — —'s case. In light of the conflicting terms of the original and modified parole agreements, the relative magnitude of Mr. — — —'s charges and the other issues I have raised in this letter, I believe you will find that Mr. — — —'s immediate release would be consistent with the terms of his modified parole, basic fairness and the public interest. Since we have previously discussed the reasons for this recommendation, I would like to have your response within the next three days. If your decision is not to release Mr. — — — immediately the contents of this letter will be published along with any written response you care to make. I should have your response by January 28."*

The Chairman of the MCB speaking for the Board rejected the Ombudsman's recommendation and took specific issue with the Ombudsman's position. The Ombudsman issued a press release on January 28, 1980; he wrote an article which appeared on the editorial page of the St. Paul Dispatch February 13, 1980, highlighting the unnecessary burden imprisonment for technical violations places upon an increasingly crowded prison system. On April 15, 1980, the District Court of Minnesota Tenth Judicial District reversed the MCB's decision (see Appendix B) and restored Mr. — — — to his modified parole.

This case illustrates the Ombudsman's independence and his commitment to use the leverage available to him when it seems appropriate.

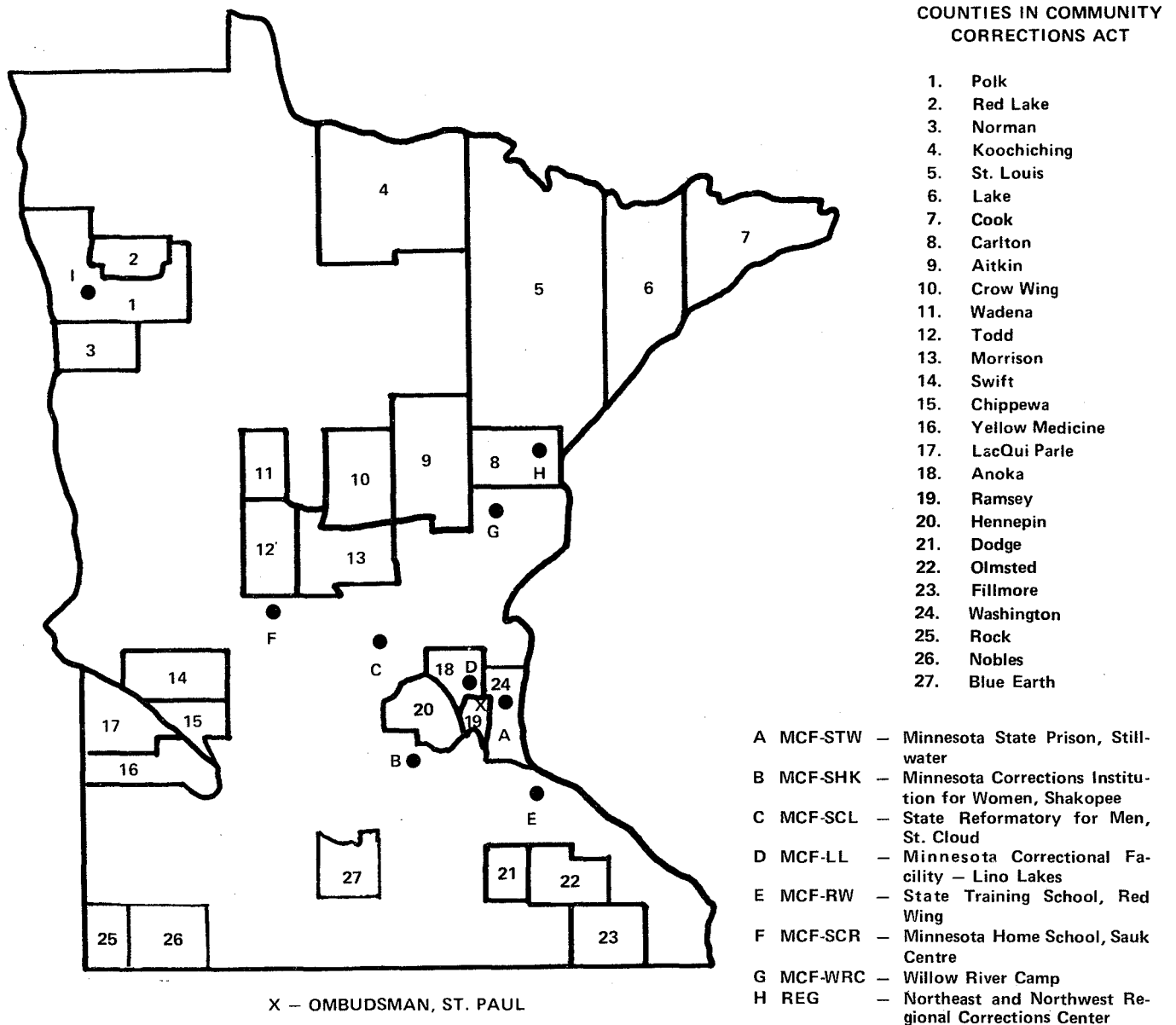
The Ombudsman found it necessary to issue formal written recommendations in less than two percent of the cases closed in fiscal year 1980. Of the 28 formal recommendations issued in fiscal year 1980, 25 of them were policy recommendations which addressed issues of policy and/or procedure in the operation of a facility, agency or department.

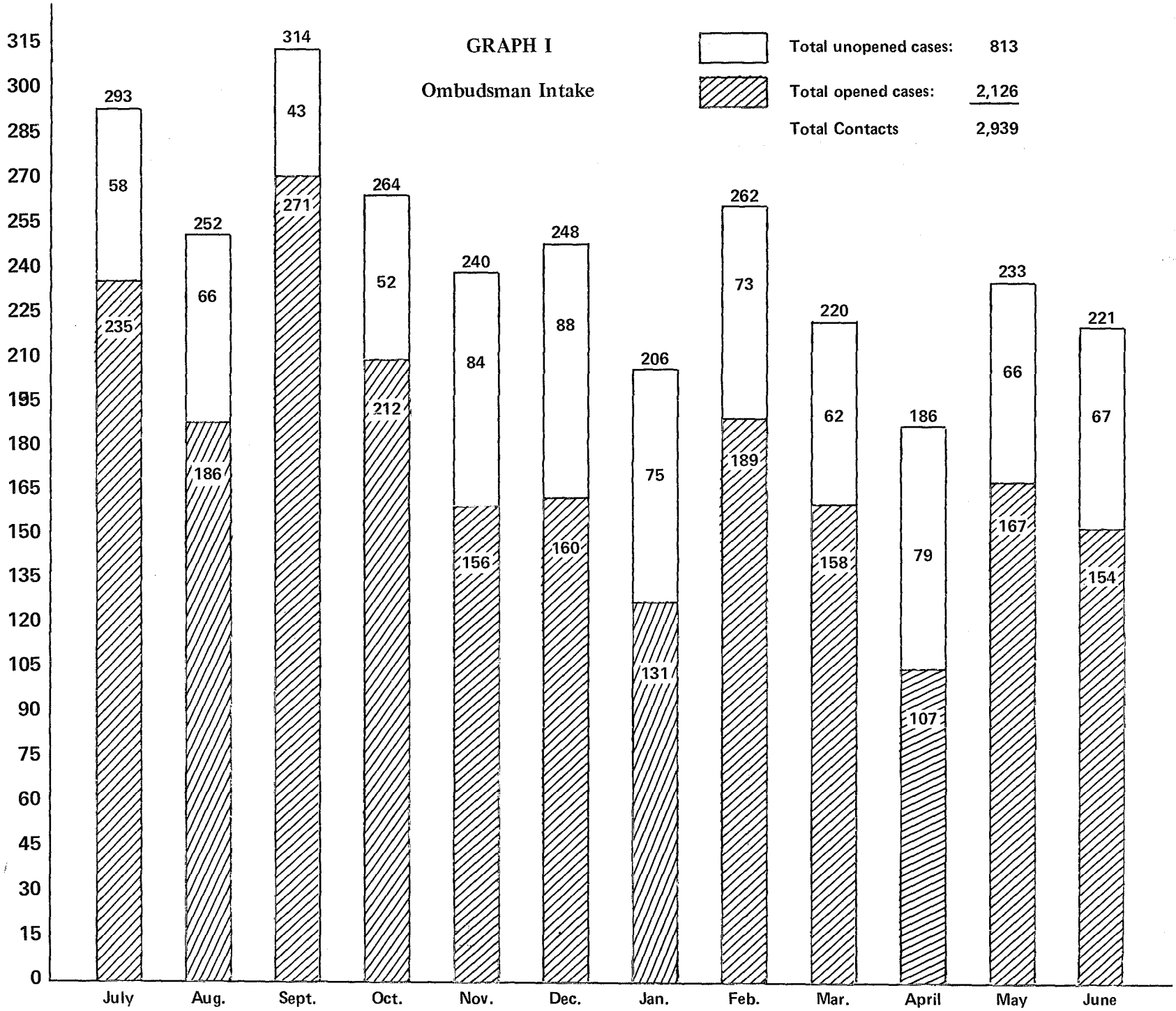
The recommendations varied from a rather direct request to cease a practice to a more indirect request to revise a procedure. The more direct recommendation was that the institution cease charging residents for labor costs for repairing property the residents had been responsible for damaging. Further, that no resident be held responsible for damage done to the property by others. The more indirect recommendation was that the Stillwater facility revise its inmate property claims procedure to provide for the investigation and review of claims prior to submission to the Joint Senate-House Claims Subcommittee.

Nineteen (76 percent) of the Ombudsman's recommendations were either fully or partially accepted. A summary of policy recommendations made by the Ombudsman during fiscal year 1980 is contained in Appendix B.

This report represents an attempt to demonstrate the extent and nature of the services provided by the Ombudsman office. The Ombudsman intends to continue reviewing and adjusting the recording methods used by the agency. However, the Ombudsman also intends to keep his quest for record keeping perfection subordinate to the Ombudsman for Corrections' primary purpose, which is to "promote the highest attainable standards of competence, efficiency and justice in the administration of corrections".

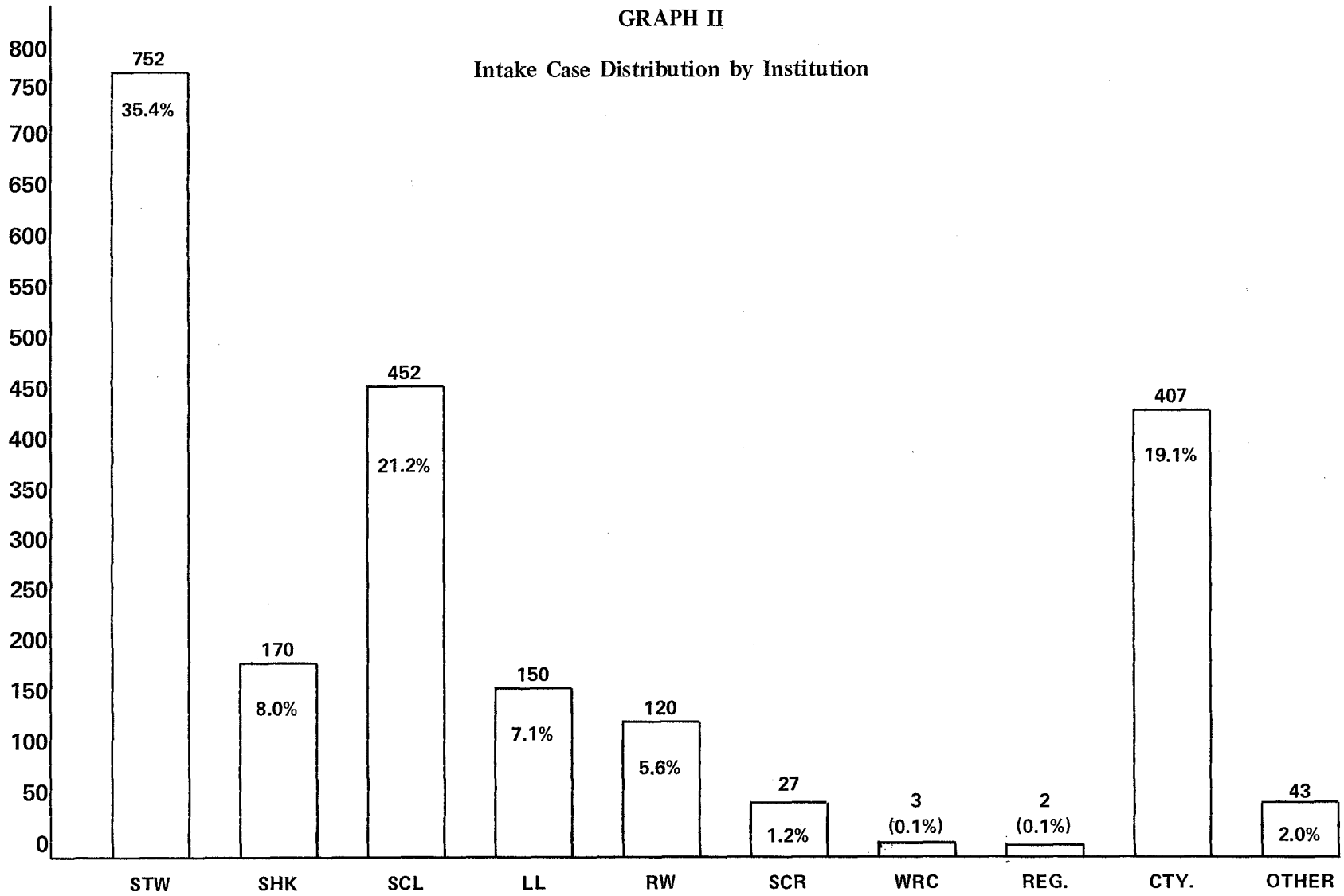
MAP I





GRAPH II

Intake Case Distribution by Institution



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STW – MN Correctional Facility Stillwater; SHK – Minnesota Correctional Institution for Women; SCL – State Reformatory for Men; LL – Minnesota Correctional Facility – Lino Lakes; RW – State Training School; SCR – Sauk Centre (Juvenile); WRC – Willow River Camp; REG. – Regional; CTY. – County; OTHER – Field Services and miscellaneous sources.

Table I

## Total Ombudsman Cases Closed July 1979 – June 1980

(Unopened Cases\*)

	STW	SHK	SCL	LL	RW	SCR	WRC	REG.	CTY.	FS	Other	TOTAL
Parole	186 (101)	11 (7)	89 (11)	25 (18)	20 (3)	9 (2)	1 (0)	1 (0)	7 (3)	3 (4)	6 (6)	358 (155)
Medical	74 (48)	25 (12)	52 (3)	5 (8)	9 (2)	5 (1)	0 (0)	0 (0)	25 (5)	0 (1)	2 (1)	197 (81)
Legal	27 (49)	2 (4)	17 (18)	1 (4)	6 (4)	0 (3)	0 (1)	0 (1)	80 (25)	2 (0)	2 (7)	137 (116)
Placement	71 (47)	10 (4)	30 (2)	13 (4)	12 (3)	5 (0)	0 (0)	0 (0)	51 (9)	0 (0)	7 (2)	199 (71)
Property	72 (28)	11 (4)	30 (7)	8 (7)	7 (0)	1 (0)	0 (0)	0 (0)	22 (2)	1 (1)	1 (2)	153 (51)
Program	60 (18)	12 (2)	27 (1)	28 (9)	33 (1)	2 (0)	1 (0)	0 (0)	21 (3)	4 (0)	1 (2)	189 (36)
Discrimination	14 (4)	2 (0)	5 (1)	1 (1)	0 (0)	0 (0)	0 (0)	0 (0)	3 (2)	0 (0)	1 (2)	26 (10)
Records	9 (8)	2 (0)	12 (0)	10 (0)	5 (1)	0 (0)	0 (0)	0 (0)	3 (0)	0 (0)	1 (0)	42 (9)
Rules	122 (61)	55 (23)	76 (7)	24 (8)	6 (0)	4 (1)	1 (1)	1 (0)	114 (26)	0 (0)	8 (2)	411 (129)
Threats	30 (12)	10 (4)	62 (0)	8 (1)	8 (2)	0 (0)	0 (0)	0 (0)	28 (2)	0 (0)	1 (1)	147 (22)
Other	44 (28)	20 (4)	48 (36)	18 (6)	20 (1)	2 (0)	0 (0)	0 (0)	61 (50)	1 (2)	4 (6)	218 (133)
<b>TOTAL</b>	<b>709 (404)</b>	<b>160 (64)</b>	<b>448 (86)</b>	<b>141 (66)</b>	<b>126 (17)</b>	<b>28 (7)</b>	<b>3 (2)</b>	<b>2 (1)</b>	<b>415 (127)</b>	<b>11 (8)</b>	<b>34 (31)</b>	<b>2077 (813)</b>

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

\*Contacts received which were not opened for investigation are shown in parenthesis.



Table II

## Ombudsman Request Cases Closed July 1979 – June 1980

(Unopened Request Cases\*)

	STW	SHK	SCL	LL	RW	SCR	WRC	REG.	CTY.	FS	Other	TOTAL
Parole	54 (11)	3 (2)	32 (2)	6 (2)	9 (0)	3 (1)	0 (0)	1 (0)	3 (1)	0 (0)	5 (3)	116 (22)
Medical	7 (1)	0 (0)	10 (0)	0 (0)	1 (1)	0 (0)	0 (0)	0 (0)	4 (0)	0 (0)	0 (0)	22 (2)
Legal	11 (12)	1 (1)	9 (2)	0 (3)	2 (2)	0 (2)	0 (0)	0 (0)	33 (10)	1 (0)	2 (3)	59 (35)
Placement	12 (4)	2 (0)	7 (1)	0 (1)	0 (0)	1 (0)	0 (0)	0 (0)	12 (0)	0 (0)	2 (0)	36 (6)
Property	12 (4)	1 (0)	6 (2)	0 (1)	0 (0)	0 (0)	0 (0)	0 (0)	1 (0)	0 (0)	0 (0)	20 (7)
Program	10 (3)	1 (0)	10 (0)	2 (1)	3 (0)	0 (0)	0 (0)	0 (0)	3 (2)	2 (0)	0 (0)	31 (6)
Discrimination	0 (0)	0 (0)	2 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	2 (0)
Records	4 (1)	0 (0)	5 (0)	1 (0)	1 (1)	0 (0)	0 (0)	0 (0)	1 (0)	0 (0)	0 (0)	12 (2)
Rules	16 (3)	7 (1)	14 (0)	3 (1)	0 (0)	0 (0)	0 (0)	0 (0)	13 (0)	0 (0)	3 (0)	56 (5)
Threats	0 (0)	0 (0)	4 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	4 (0)
Other	7 (3)	4 (1)	14 (3)	3 (0)	1 (0)	0 (0)	0 (0)	0 (0)	15 (12)	1 (0)	2 (3)	47 (22)
<b>TOTAL</b>	<b>133 (42)</b>	<b>19 (5)</b>	<b>113 (10)</b>	<b>15 (9)</b>	<b>17 (4)</b>	<b>4 (3)</b>	<b>0 (0)</b>	<b>1 (0)</b>	<b>85 (25)</b>	<b>4 (0)</b>	<b>14 (9)</b>	<b>405 (107)</b>

\*Request contacts received which were not opened are shown in parenthesis.

Table III

Ombudsman Complaint Cases Closed July 1979 – June 1980

(Unopened Complaint Cases\*)

	STW	SHK	SCL	LL	RW	SCR	WRC	REG.	CTY.	FS	Other	TOTAL
Parole	132 (90)	8 (5)	57 (9)	19 (16)	11 (3)	6 (1)	1 (0)	0 (0)	4 (2)	3 (4)	1 (3)	242 (133)
Medical	67 (47)	25 (12)	42 (3)	5 (8)	8 (1)	5 (1)	0 (0)	0 (0)	21 (5)	0 (1)	2 (1)	175 (79)
Legal	16 (37)	1 (3)	8 (16)	1 (1)	4 (2)	0 (1)	0 (1)	0 (1)	47 (15)	1 (0)	0 (4)	78 (81)
Placement	59 (43)	8 (4)	23 (1)	13 (3)	12 (3)	4 (0)	0 (0)	0 (0)	39 (9)	0 (0)	5 (2)	163 (65)
Property	60 (24)	10 (4)	24 (5)	8 (6)	7 (0)	1 (0)	0 (0)	0 (0)	21 (2)	1 (1)	1 (2)	133 (44)
Program	50 (15)	11 (2)	17 (1)	26 (8)	30 (1)	2 (0)	1 (0)	0 (0)	18 (1)	2 (0)	1 (2)	158 (30)
Discrimination	14 (4)	2 (0)	3 (1)	1 (1)	0 (0)	0 (0)	0 (0)	0 (0)	3 (2)	0 (0)	1 (2)	24 (10)
Records	5 (7)	2 (0)	7 (0)	9 (0)	4 (0)	0 (0)	0 (0)	0 (0)	2 (0)	0 (0)	1 (0)	30 (7)
Rules	106 (58)	48 (22)	62 (7)	21 (7)	6 (0)	4 (1)	1 (1)	1 (0)	101 (26)	0 (0)	5 (2)	355 (124)
Threats	30 (12)	10 (4)	58 (0)	8 (1)	8 (2)	0 (0)	0 (0)	0 (0)	28 (2)	0 (0)	1 (1)	143 (22)
Other	37 (25)	16 (3)	34 (33)	15 (6)	19 (1)	2 (0)	0 (0)	0 (0)	46 (38)	0 (2)	2 (3)	171 (111)
<b>TOTAL</b>	<b>576 (362)</b>	<b>141 (59)</b>	<b>335 (76)</b>	<b>126 (57)</b>	<b>109 (13)</b>	<b>24 (4)</b>	<b>3 (2)</b>	<b>1 (1)</b>	<b>330 (102)</b>	<b>7 (8)</b>	<b>20 (22)</b>	<b>1672 (706)</b>

\*Complaint contacts received which were not opened for investigation are shown in parenthesis.

**Table IV**

**Total Caseload**

Number of cases carried from June 1979 .....	74
Number of contacts received July 1979 – June 1980 .....	<u>2,939</u>
<b>TOTAL</b> .....	<b>3,013</b>
Number of cases closed July 1979 – June 1980 .....	<u>2,077</u>
Number of unopened cases July 1979 – June 1980 .....	<u>813</u>
<b>TOTAL</b> .....	<b>2,890</b>
Number of cases carried into July 1980 .....	123

**Table VI**

**Methods of Communication**

<b>Method</b>	<b>Contacts</b>	<b>Percent</b>
W.D.	845	29.2
W.I.	47	1.6
P.D.	517	17.9
P.I.	78	2.7
T.D.	1,098	38.0
T.I.	296	10.3
O.I.	<u>9</u>	<u>0.3</u>
<b>TOTAL:</b>	<b>2,890</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 V**

**Population by Institution\***

<b>Institution</b>	<b>Population</b>	<b>Percent</b>
MCF/STW	1,058	28.4
MCF/SHK	61	1.6
MCF/SCL	613	16.5
MCF/LL	160	4.3
MCF/RW	145	3.9
MCF/SCR	117	3.2
WRC	50	1.3
REG.	114	3.1
CTY.	<u>1,405</u>	<u>37.7</u>
<b>TOTAL:</b>	<b>3,723</b>	<b>100.0</b>

\*Estimated average daily population under supervision for F.Y. 1980.

**Table VII**

**Initial Interview\***

<b>Time Lapse</b>	<b>Cases</b>	<b>Percent</b>
Same day	1,005	48.4
1-9 days	796	38.3
10-20 days	134	6.5
21 days and over	13	0.6
No interview	<u>129</u>	<u>6.2</u>
<b>TOTAL:</b>	<b>2,077</b>	<b>100.0%</b>

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

**Table VIII**

**Time Taken to Resolve Cases**

<b>Time</b>	<b>Cases</b>	<b>Percent</b>
0-15 days	1,138	54.8
16-30 days	568	27.4
31-45 days	146	7.0
46-60 days	86	4.1
61+ days	<u>139</u>	<u>6.7</u>
<b>TOTAL:</b>	<b>2,077</b>	<b>100.0%</b>

Table IX

## Case Resolution by Category

(Cases Closed July 1979 – June 1980)

	Full	Partial	None	Withdrawn	Referred	Total
Parole	303	13	8	20	12	356
Medical	168	8	0	17	5	198
Legal	85	3	4	15	30	137
Placement	165	6	6	16	3	196
Property	116	11	9	12	8	156
Program	155	13	1	20	2	191
Discrimination	18	2	0	5	1	26
Records	33	1	3	5	0	42
Rules	341	17	7	42	5	412
Threats	81	27	2	27	8	145
Other	162	16	4	23	13	218
<b>TOTAL:</b>	<b>1,627</b>	<b>117</b>	<b>44</b>	<b>202</b>	<b>87</b>	<b>2,077</b>
<b>PERCENTAGE:</b>	<b>78.4</b>	<b>5.6</b>	<b>2.1</b>	<b>9.7</b>	<b>4.2</b>	<b>100%</b>

Table X

## Complaint Validity

(Complaint Cases Closed July 1979 – June 1980)

	Substantiated (%)	Unsubstantiated (%)	Total
Parole	105 (47.7)	115 (52.3)	220
Medical	70 (45.2)	85 (54.8)	155
Legal	36 (72.0)	14 (28.0)	50
Placement	81 (58.3)	58 (41.7)	139
Property	76 (65.0)	41 (35.0)	117
Program	83 (58.5)	59 (41.5)	142
Discrimination	8 (40.0)	12 (60.0)	20
Records	10 (41.7)	14 (58.3)	24
Rules	156 (50.6)	152 (49.4)	308
Threats	52 (49.5)	53 (50.5)	105
Others	102 (67.5)	49 (32.5)	151
<b>TOTAL:</b>	<b>779 (54.4)</b>	<b>652 (45.6)</b>	<b>1,431*</b>

\*Excludes complaints which were referred or withdrawn.

Table XI

Unopened Case Disposition by Category

(July 1979 – June 1980)

	Referred	Refused	Rejected	Dismissed	Total
Parole	53	15	61	26	155
Medical	28	5	36	13	82
Legal	95	4	17	3	119
Placement	19	8	29	11	67
Property	14	7	19	12	52
Program	10	2	16	7	35
Discrimination	4	1	2	3	10
Records	4	1	3	1	9
Rules	36	14	56	24	130
Threats	5	1	5	11	22
Other	<u>27</u>	<u>12</u>	<u>80</u>	<u>13</u>	<u>132</u>
<b>TOTAL:</b>	<b>295</b>	<b>70</b>	<b>324</b>	<b>124</b>	<b>813</b>

Table XII

Referrals

Legal Assistance to Minnesota Prisoners . . . . .	12
Legal Advocacy Program . . . . .	7
State Public Defender . . . . .	4
Legal Rights Center . . . . .	4
Department of Corrections . . . . .	5
MCF/SCL Staff . . . . .	5
MCF/STW Staff . . . . .	7
Private Attorney . . . . .	11
County Health and Welfare Agencies . . . . .	4
Other* . . . . .	<u>28</u>
<b>TOTAL:</b>	<b>87</b>

\*Includes organizations to which fewer than four referrals were made during F.Y. 1980.

Table XIII  
Case Distribution Comparison  
F.Y. 1979 – F.Y. 1980

Category	F.Y. 1979		F.Y. 1980		Change F.Y. '79-F.Y. '80	
	Number	Percent	Number	Percent	Number	Percent
Parole	308	18.0	358	17.2	+50	-0.8
Medical	178	10.4	197	9.5	+19	-0.9
Legal	125	7.3	137	6.6	+12	-0.7
Placement	184	10.7	199	9.6	+15	-1.1
Property	123	7.2	153	7.4	+30	+0.2
Program	164	9.5	189	9.1	+25	-0.4
Discrimination	22	1.3	26	1.2	+4	-0.1
Records	56	3.3	42	2.0	-14	-1.3
Rules	314	18.3	411	19.8	+97	+1.5
Threats	78	4.5	147	7.1	+69	+2.6
Other	163	9.5	218	10.5	+55	+1.0
<b>TOTAL:</b>	<b>1,715</b>	<b>100.0%</b>	<b>2,077</b>	<b>100.0%</b>	<b>+362</b>	<b>0.0%</b>



## APPENDIX A

### 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 matters 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 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, 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 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; 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 actions 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 of his confinement 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 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.

**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.

## APPENDIX B

### SUMMARY OF FISCAL YEAR 1980 OMBUDSMAN POLICY RECOMMENDATIONS

Recommendations Accepted .....	16
partially accepted .....	3
Recommendations Rejected .....	6
Recommendations Pending .....	0
TOTAL .....	25

The Ombudsman recommended:

1. That the Hennepin County Home School eliminate its policy which requires residents to make restitution, in the form of additional work hours, for receiving extra staff counseling.  
 Issued: *May 9, 1979*  
 Response: *May 16, 1979*  
 Reissued: *May 23, 1979*  
 Response: *July 5, 1979 – rejected; in some circumstances, requiring a child to pay for willfully acting out of control and prompting extra counseling is good and responsible correctional treatment. Rationale not acceptable to Ombudsman.*  
 Reissued: *July 5, 1979 (propriety of the policy also discussed with the Hennepin County Judge of Juvenile Court).*  
 Response: *December 5, 1979 – rejected; institution superintendent decided to retain present policy.*
2. That the Department of Corrections (DOC) review its policy regarding literacy requirements for inmates so that inmates would not automatically be excluded from promotional opportunities in the industries program.  
 Issued: *August 16, 1979*  
 Response: *September 4, 1979 – accepted; literacy will continue to be a factor in determining upward mobility.*
3. That Minnesota Correctional Facility – Stillwater (MCF-STW) alter its inmate property claims procedure to provide for the investigation and review of claims prior to their submission to the Joint-Senate House Claims Subcommittee.  
 Issued: *September 18, 1979*  
 Response: *November 26, 1979 – accepted; draft policy issued for further implementation.*
4. That Minnesota Correctional Facility – Stillwater (MCF-STW) adjust its policy regarding inmate personal property to permit the purchase or delivery of bathrobes in the same manner as other inmate clothing.  
 Issued: *October 16, 1979*  
 Response: *July 24, 1980 – rejected; allowing inmates to receive bathrobes by any method other than direct purchase would create unmanageable administrative problems.*
5. That MCF-STW assign staff to the property room to receive and take responsibility for incoming packages.  
 Issued: *October 16, 1979*  
 Response: *July 24, 1980 – rejected; insufficient staff available to have a reception table for packages.*
6. That MCF-STW amend its radio-tv policy to permit the inter-institutional transfer of inmates' radios and tvs.  
 Issued: *October 26, 1979*  
 Response: *November 16, 1979 – accepted.*
7. That the Minnesota Corrections Board (MCB): (1) not consider the writing of distasteful postcards by a parolee to be a viable basis for parole revocation; and (2) abide by the written terms of its modified parole agreement.  
 Issued: *January 22, 1980*  
 Response: *January 25, 1980 – rejected; postcards were deemed to be "harassing" by the MCB and parolee failed to follow the parole agent's instructions.*  
*In response to the MCB's refusal to alter its decision, the Ombudsman issued a press release January 28, 1980. Subsequently, the Ombudsman wrote an editorial, which appeared in the St. Paul Dispatch February 13, 1980, highlighting the unnecessary burden imprisonment for technical parole violations placed on an already overcrowded prison system. On April 15, 1980, the District Court of Minnesota Tenth Judicial District issued a court order declaring the MCB's parole revocation unlawful. The parolee's modified parole was restored.*
8. That the Department of Corrections' policy on the transfer of inmates serving long sentences be expanded to permit transfers to Lino Lakes minimum security up to 45 months before an inmate's target release date.  
 Issued: *February 27, 1980*  
 Response: *June 5, 1980 – policy under review.*  
*August 25, 1980 – accepted; policy being developed.*
9. That residents at Minnesota Correctional Facility – Red Wing not be charged for labor costs for repairing property when they are responsible for its damage

- and that no resident be held responsible for the damage done to property by others.  
 Issued: *March 6, 1980*  
 Reissued: *April 28, 1980*  
 Response: *May 8, 1980 – accepted; charges for labor and damage done by other individuals will be discontinued.*
10. That the administration of the MCF-SCL allow publication of an article adverse to its position on female staff in the cell house to be published in the institution newspaper.  
 Issued: *March 13, 1980*  
 Response: *March 28, 1980 – accepted; publication allowed.*
11. That MCF-STW establish a procedure for investigation of complaints from citizens outside the prison that they are or have been threatened by inmates on the telephone.  
 Issued: *April 1, 1980*  
 Response: *May 27, 1980 – accepted; written policy on investigation procedure issued.*
12. That the Minnesota Corrections Board establish a procedure to investigate complaints of threatening telephone calls from outside citizens before a pending parole is rescinded.  
 Issued: *April 1, 1980*  
 Response: *September 29, 1980 – accepted; policy developed by MCF-STW was done in consultation with MCB.*
13. That the Minnesota Correctional Facility – Sauk Centre (MCF-SCR) establish a written policy allowing unrestricted access to the Ombudsman.  
 Issued: *April 4, 1980*  
 Response: *April 10, 1980 – accepted; residents will be permitted access and provided assistance in contacting the Ombudsman, attorneys and the Public Defender.*
14. That staff at Minnesota Correctional Facility – Lino Lakes (MCF-LL) be reminded that communication with the Ombudsman is privileged and cannot be monitored.  
 Issued: *April 22, 1980*  
 Response: *April 30, 1980 – accepted; staff notified that there is to be no monitoring of Ombudsman telephone calls.*
15. That the Minnesota Corrections Board be aware of potential conflicts of interest when psychological evaluations are done by interested parties.  
 Issued: *May 2, 1980*  
 Response: *September 29, 1980 – no action; “potential conflict” has not been resolved.*
16. That mail received at the Ramsey County Adult Detention Center to or from the Ombudsman be distributed unopened.  
 Issued: *May 5, 1980*  
 Response: *May 23, 1980 – accepted; all mail to and from the Ombudsman will be processed unopened.*
17. That the Department of Corrections apply the regulation for the loss of good time only to serious rule infractions to prevent arbitrary abuses of discretion.  
 Issued: *May 8, 1980*  
 Response: *May 13, 1980 – partially accepted; clarifying statement will be issued with regulations.*
18. That MCF-SCL take appropriate steps to reduce the number of disciplinary reports written by correctional officers on inmates and that alternative means to correct inmate behavior be instituted.  
 Issued: *June 3, 1980*  
 Response: *June 17, 1980 – accepted; an informal disciplinary structure being established in each unit should limit the number of formal disciplinary reports written.*
19. That inmates at MCF-SCL be apprised that no significant reduction in penalty occurs when the inmate signs a waiver of the right to a fair hearing.  
 Issued: *June 3, 1980*  
 Response: *June 17, 1980 – partially accepted; MCF-SCL will review its waiver policy with the institution prosecutor.*
20. That the MCF-SCL provide training on race and human relations for correctional counselors.  
 Issued: *June 3, 1980*  
 Response: *June 17, 1980 – accepted; the Ombudsman will recommend resource people capable of conducting such training.*
21. That MCF-SCL reorganize the disciplinary unit to include three permanent hearing officers instead of the present system where conflicts of interest represented on the unit may affect inmate disciplinary disposition.  
 Issued: *June 3, 1980*  
 Response: *June 17, 1980 – rejected; no reorganization of disciplinary unit planned since no findings that present method is unjust to inmate interest.*
22. That the officer in charge of a security squad at MCF-STW supervise rather than participate in the physical removal of an inmate from his cell to avoid the misapplication of force.  
 Issued: *May 5, 1980*  
 Response: *June 5, 1980 – accepted; it is the present policy that the officer in charge not participate in an inmates removal from his cell. The policy will be reemphasized.*
23. That members of a security squad at MCF-STW receive stress management training and that membership on security squads be rotated.  
 Issued: *May 5, 1980*  
 Response: *June 5, 1980 – partially accepted; a training program which includes stress management is being planned; however, the union contract prevents rotation of officers in the manner recommended.*

24. That the disciplinary unit at MCF-STW not proceed to adjudicate an inmate's case until the inmate has had an opportunity to secure counsel.

Issued: *May 5, 1980*

Response: *June 5, 1980 – accepted; the Disciplinary Unit will be so advised.*

25. That accident reports should be filed promptly in all cases where there is an injury involving the use of force in removing an inmate from his cell.

Issued: *May 5, 1980*

Response: *June 5, 1980 – accepted; the staff will be so advised.*

**APPENDIX C**

**FISCAL YEAR 1980 FINANCIAL INFORMATION**

	<b>Budget Allocations</b>	<b>Actual Expenditures</b>
Personal Services .....	\$201,100	\$194,000
Rents and Leases .....	11,300	13,000
Printing and Binding .....	3,700	1,500
Communications .....	5,100	3,500
Travel .....	14,600	10,500
Contract Services .....	300	600
Office Supplies, Equipment, Repairs .....	2,500	2,400
Data Processing .....	200	0
	<u>\$238,800</u>	<u>\$225,500</u>
<b>Closing Budget Adjustment</b>	<u>13,300</u>	
<b>(UNAUDITED)</b>	<b>\$225,500</b>	
<b>Budget Source: Minnesota State Legislature</b>		<b>\$225,500</b>