



# OMBUDSMAN FOR CORRECTIONS



STATE OF MINNESOTA

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1982/83

**FISCAL YEAR  
1982-83  
ANNUAL REPORT**



**STATE OF MINNESOTA**

**REPORT OF  
THE OMBUDSMAN FOR CORRECTIONS**

**FOR THE PERIOD  
JULY 1, 1982 — JUNE 30, 1983**

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

From  
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## INTRODUCTION

The Minnesota Ombudsman for Corrections was established in 1972 by an Executive Order issued by Governor Wendell R. Anderson. Theartrice "T" Williams, was appointed as the first independent Corrections Ombudsman in the United States.

The Ombudsman concept grew out of the Governor's desire to provide a constructive means for examining and resolving inmate grievances. The hope was that with an Ombudsman system it would be less necessary for inmates to feel that the only options available for resolving their grievances involved violence.

The Governor and the Commissioner of Corrections provided leadership and support to this untried concept. No one knew at that time what precise outcome to expect from the program because the use of an Ombudsman in Corrections was untried.

Eight broad objectives were set forth in the program mission. The objectives were outlined in the First Annual Report 1972-73:

- . Improving the relationship between staff and inmate by providing the inmates with information on the actions, motives and design of administrative action.
- . Alleviation of tension within the prison by means of more open communication, i.e., a "release valve".
- . The improvement and clarification of administrative procedures and regulations.
- . Reorganization and revitalization of internal prison review procedures.
- . Increased access to judicial review by cooperation and coordination with the various legal aid services.
- . Encouragement of more active involvement of private and governmental agencies and interest groups in alleviating the grievances.
- . Coordination of overlapping governmental agencies by means of increased flow of information from the agencies to inmates and staff regarding functions, programs and procedures.
- . Strengthening and correcting legislation by providing the Legislature with information and recommendations regarding correctional institutions.

Progress toward meeting those broad objectives was initiated the first year. Eleven years later, the Ombudsman continues to evaluate the program's effectiveness based upon those founding objectives.

Since 1972 changes have occurred in both the Minnesota Corrections system and in the Ombudsman program. In the corrections system, the parole board moved from part time to full time and was subsequently abolished; a Sentencing Guidelines Commission was created; due process was introduced into the inmate disciplinary system and a new high security prison at Oak Park Heights was constructed and opened.

Each of the above changes has had a measure of effect upon the Ombudsman program and a pronounced effect upon inmate life in the institution. Whenever life in the inmate community is affected, the Ombudsman is often called in to investigate complaints, help clarify and interpret policy or listen to the concerns of those affected by the changes.

The Ombudsman Statute was enacted in 1973; the jurisdiction of the Ombudsman increased through a 1976 amendment to the Statutes to include County and Regional programs and facilities covered under the Community Corrections Act.

The five years, 1977-1982, represented an interesting period for the Ombudsman: the size of staff and jurisdiction stabilized, and the increase in intake and caseload was significant. The program maturity, staff experience and credibility in the system account for the program's capacity to absorb increased jurisdiction and caseload.

During the two years, 1980-1982, the Ombudsman program underwent some retrenchment because of the impact of the economic recession on State revenue. One professional and two intern positions were eliminated. The level and quality of caseload service were not adversely affected by the loss of the staff and intern positions because the focus on service delivery rather than legislative research has been maintained. However, the administrative and research tasks of the eliminated position have accrued to the Ombudsman which impacts his ability to address policy issues on the administration of justice in the corrections system at legislative and administrative hearings.

Another change in the Ombudsman office relates to his role involving mental illness commitment hearings. In October, 1980, the Ombudsman or his designee was appointed guardian ad litem for all inmates involved in mental illness commitment hearings in Washington County. (The Stillwater and Oak Park Heights facilities are located in Washington County.) The appointment as guardian ad litem was made in response to an Ombudsman request to the court. The request was based on information from prior monitoring of commitment hearings which involved inmates from the Stillwater facility which the Ombudsman felt supported the need to separate the guardian ad litem role from that of the defense counsel in the hearings. Since October, 1980, several changes have been made in this arrangement with the Ombudsman continuing to serve in an unofficial capacity.

The Ombudsman assists the court in determining the "best interest" of the inmate. Through this role, if requested by the court, he may offer his own recommendations or support the recommendations of the mental health professionals.

The Ombudsman is an integral component of the Minnesota Corrections system. Both the Ombudsman and the Minnesota Corrections officials work to maintain the independence of the Office of the Ombudsman within the corrections system.

The role of the Ombudsman in the administration of justice in the Minnesota correctional system has not been diminished by the increased economic pressures and constraints placed upon State government.

This report summarizes the fiscal year 1983 activities of the Office of Ombudsman for Corrections. The report presents information and data on the current status of the Office through an analysis of the intake, investigations and recommendations. Moreover, the report attempts to answer questions commonly raised by inmates, politicians, academicians, students and the general public:

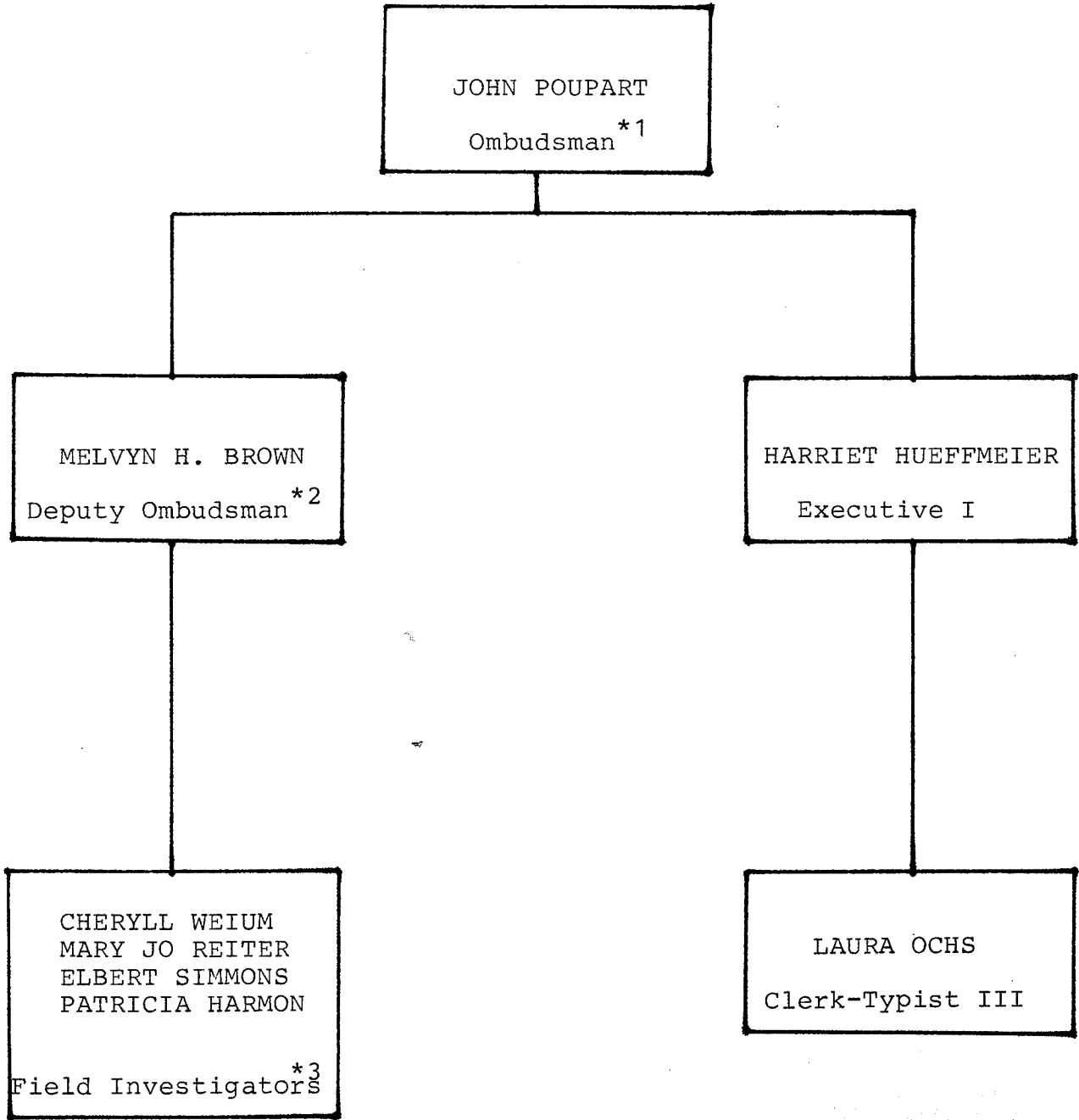
- . What is the Ombudsman's jurisdiction?
- . What is the extent of the Ombudsman's authority?
- . How many complaints are filed each year with the Ombudsman?
- . What is the general nature of the complaints filed with the Ombudsman?
- . How long does the Ombudsman take to investigate a complaint?
-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

## BUDGET — FISCAL YEAR 1983

	<u>Original</u>	<u>Actual Expenditures</u>
Personnel Services .....	225,328	219,182
Rents & Leases .....	19,000	18,437
Printing & Binding .....	2,000	1,022
Communication .....	4,100	2,866
Travel .....	11,600	7,290
Contract for Services .....	300	121
Office Supplies, Equipment and Repairs .....	3,000	1,689
	265,328	250,607
 Closing Budget Adjustment-	 14,721	
	250,607	

# FIGURE I

## Organization Chart



**\*Resignations:**

\*1 T. Williams 1/11/83; R. Battle 3/11/83.

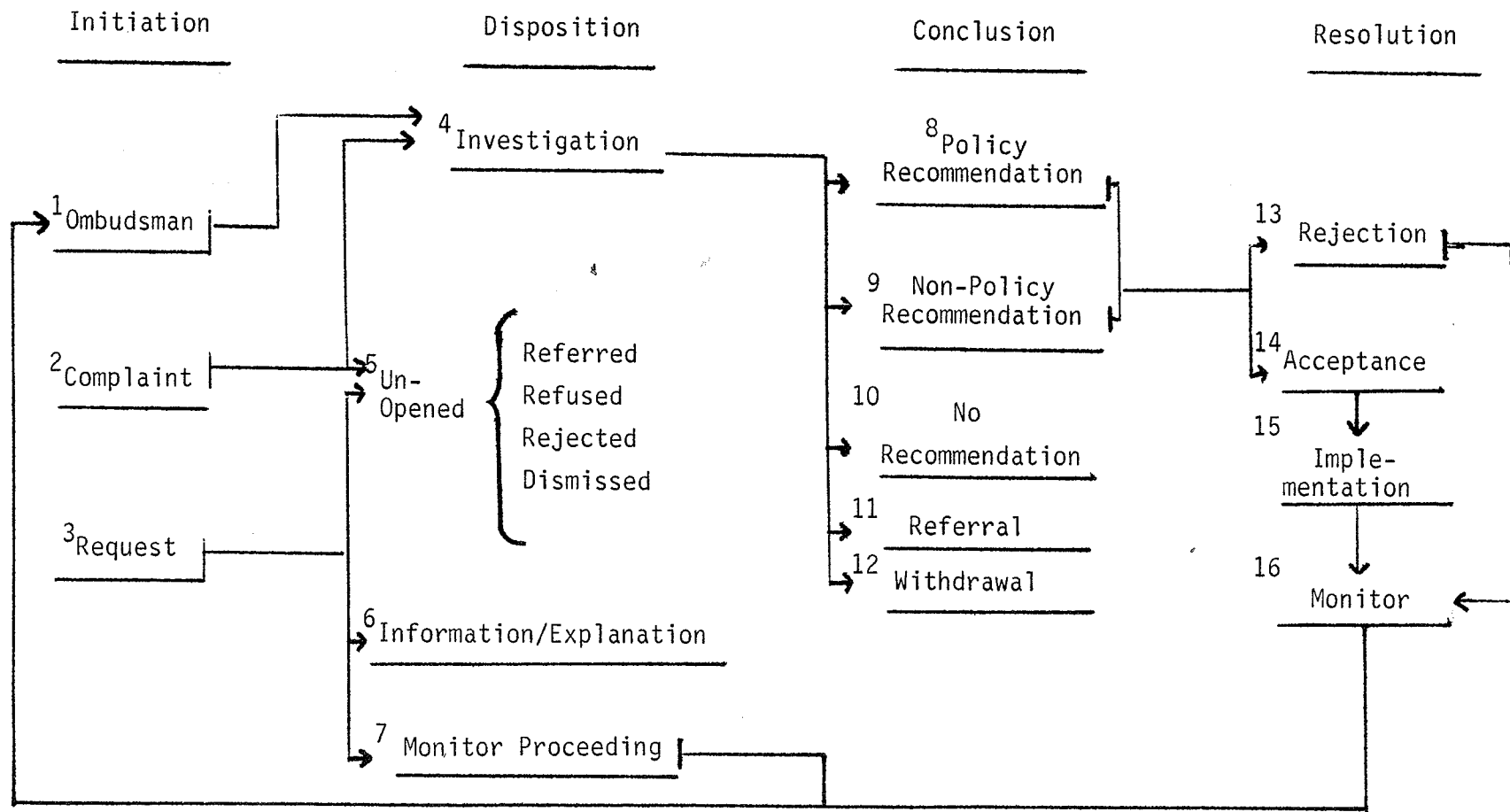
\*2 M. H. Brown 2/22/83 (Reinstated 3/14/83); W. Young 3/11/83

\*3 P. Harmon 6/24/83



### FIGURE II

#### CASE PROCESSING PROCEDURE



## CATEGORIES OF CONTACTS

The Ombudsman systematically categorized each contact received to help make annual comparisons and to define the source(s) of any quantitative or qualitative changes. Each case is assigned to one of the following categories:

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

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

Legal - involving legal assistance or problems with getting a response from the public defender or other legal counsel.

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

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

Program - relating to a training, treatment program or work assignment.

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

Records - concerning data in inmate or staff files.

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

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

Other - concerning issues not covered in previous categories, e.g., food, mail, etc.

## CASE RESOLUTION

The term "case resolution" helps describe to what extent complaints and requests received were investigated and the results of that investigation. As stated in Table VII 2,901 cases were closed as of June 30, 1983. Of those cases 1,982 were fully substantiated. Another 227 were partially substantiated. These two figures account for 76% of all closed cases. The balance of these cases (24%) needed no resolution or were withdrawn or referred. Of those cases not fully or partially substantiated, 242 were referred to other agencies or resources, see Table X.

Table VII shows the resolution of cases closed during fiscal year 1983. Determinations about case resolution are made by the Ombudsman. This judgment is guided by whether an agency's or institution'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*.

8.3% of closed cases this fiscal year were referred to other agencies (see Table X), an increase of 1.3% over last year. Usually referrals happened because other agencies were better equipped than the Ombudsman to handle the issue. For example, most referrals were of a legal nature; thus, the Ombudsman did not possess the legal expertise to offer a substantial resolution.

## CASE DISTRIBUTION COMPARISON

In the eleven categories for complaints and requests (Table XI) most activity did not deviate drastically from the previous year. The greatest change occurred in the Parole category where a 4.1% reduction was shown over last year. For the second year in a row this category realized a reduction. Last year's reduction (4.3%) was similar to this year's. Two years ago, in 1981, there were 408 parole cases, this year 196. Abolishment of the Minnesota Corrections Board (the Parole Board) and the recently created determinate sentencing procedure in Minnesota account for this reduction.

Total contacts this year (Graph I) totaled 3,722, an increase of 511 or 16% over the previous year. These 3,722 contacts represent a record high in number of contacts for any year since the Ombudsman's Office was created.

## INSTITUTION DISTRIBUTION

State penal institutions remain as the most frequent users of the Ombudsman's services (Chart I). Similar to previous years the highest number of contacts were the State prison at Stillwater, the reformatory at St. Cloud a close second, and the County category ranking in third place. Interestingly though, the newly constructed prison at Oak Park Heights, opened just slightly over a year ago is emerging as a more frequent consumer of Ombudsman services. Ten percent of total contacts emanate from that institution.

Total contacts collectively at Stillwater, St. Cloud, Lino Lakes, Oak Park Heights and County facilities remain the same as last year (86%). There is just simply a redistribution of the total volume. For example, the previous year Stillwater and St. Cloud reflected 55% of the total contacts, this year they show 46%. But when an 8% increase for Oak Park Heights is factored in with the 46%, this helps to explain the redistribution, as those inmates now at Oak Park Heights had once been at St. Cloud and Stillwater.

In 1983, St. Cloud Reformatory increased its population by 37 inmates, or 6% over last year (Table I), yet the number of intakes at that institution rose by 42% (Chart I).

The State prison at Stillwater had virtually no increase in its population over the past year, yet that institution reflects a 43% reduction in intakes (Chart I).

Oak Park Heights increased its population from 93 inmates at the beginning of the year to 282 (excluding Wisconsin inmates) as of June 30, 1983, making it difficult to offer a reasonable comparison to last year's activity level.

County facilities account for 21% of the closed cases compared to last year's 20%. No significant changes were experienced in this area (Chart I).

## DISPOSITION OF CASES

The Ombudsman's accessibility is crucial to the effective operation of the Ombudsman Office and successful resolution of the contacts received. Minnesota law (MN Statute Sections 241.41 to 241.45 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.

A noticeable departure from a trend established in the previous six years was made this year when written contacts replaced telephone contacts as the number one means of contacting the Ombudsman. It used to be that the telephone direct contact was the most frequent means. However, this year written direct (35.8%) emerged as the top, most frequent method of contacting the Ombudsman (see Graph II) with the telephone direct method slipping to second place (32.3%).

After a complaint or request is received, the Ombudsman responds to the complainant's concern as quickly as possible. The initial response arranges an in-depth interview where presenting facts indicates a need. The promptness of the interview is critical for establishing the complainant's confidence in the Ombudsman's function, procedure and results. Frequently interviews are completed at the time the complaint is registered; other times it is delayed to accommodate a variety of impinging circumstances.

Most contacts received by the Ombudsman were acted upon promptly. 1,512 of 2,901 (52.1%) cases were interviewed the same day (see Graph III). Another 887 (30.6%) were interviewed within nine days of initial contact with the Ombudsman Office. 2,399 (82.7%) of all closed cases were interviewed within ten days of contacting the Ombudsman Office.

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## SUMMARY

During fiscal 1983 the Ombudsman's Office experienced its first leadership changes since its inception over a decade ago. Theartrice "T" Williams resigned his post as Ombudsman in early January and was replaced by Robert Battle. Mr. Battle remained in the post until March 14, 1983, when John Poupart was appointed Ombudsman. In spite of these changes the office continued to receive, investigate and close cases at a record pace (the Ombudsman's Office received its highest number of complaints ever in fiscal 1983).

Other complications occurred during the year that severely tested the strength of the Ombudsman concept. Several State-wide budget crises happened during the year that could have spelled an end to the office. Although the office did survive the extreme budget considerations, it nevertheless had to do a considerable amount of belt-tightening, along with all other State agencies. A "deep-freeze" was placed on all expenditures, except those which were "essential" to the operation of a State agency.

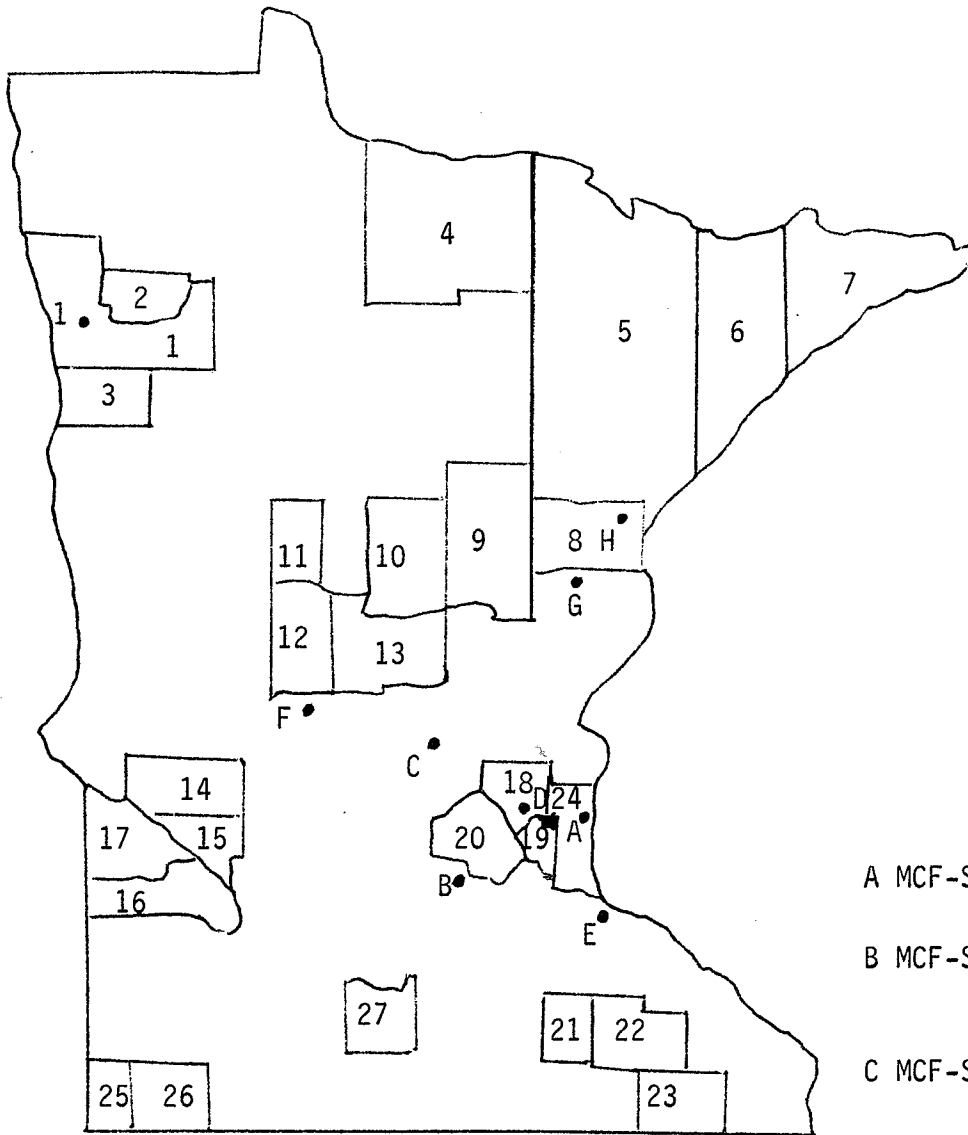
Along with the change in leadership there was also a fluctuation in the Deputy level. Melvyn H. Brown, who had served as the agency's only Deputy since the beginning of the office was released from his position for a short time as a result of the changes in Ombudsman. Mr. Brown was asked, and he accepted, to return as Deputy when the present Ombudsman, John Poupart, took office in March, 1983.

Regardless of shifting leadership, toward the end of the fiscal year several new demands and challenges emerged. Sentencing Guidelines changes, potential prison over-crowding and juvenile justice issues are areas that will pose an additional workload for the Ombudsman office. The present, experienced staff within the office are eager and look forward to these challenges.

# MAPI

## COUNTIES IN COMMUNITY CORRECTIONS ACT

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

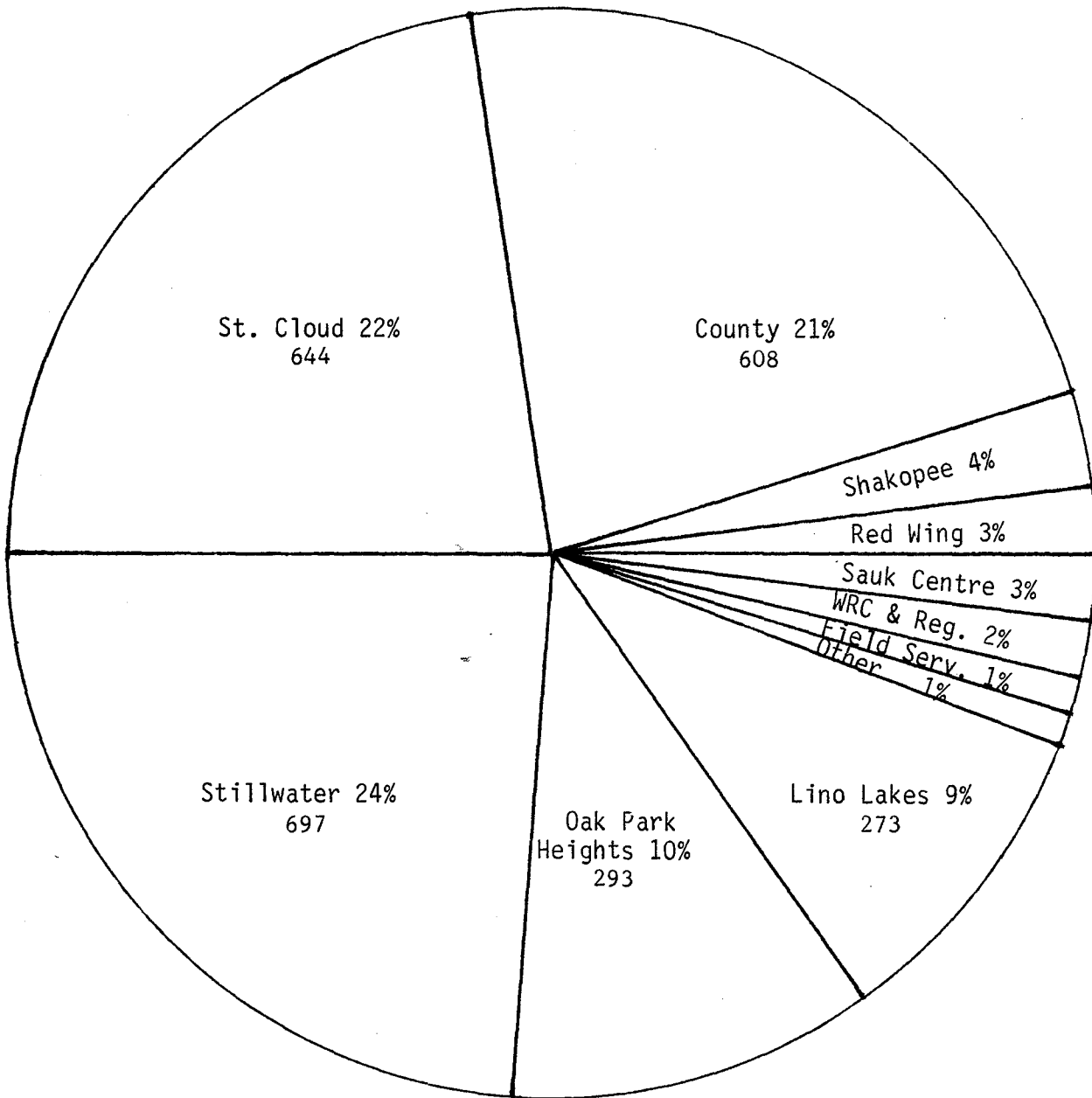


X - Ombudsman, St. Paul (19)

- A MCF-STW - Minnesota State Prison, Stillwater
- B MCF-SHK - Minnesota Corrections Inst. for Women, Shakopee
- C MCF-SCL - State Reformatory for Men, St. Cloud
- D MCF-LL - Minnesota Correctional Facility - Lino Lakes
- E MCF-RW - State Training School, Red Wing
- F MCF-SCR - Minnesota Home School, Sauk Centre
- G MCF-WRC - Willow River Camp
- H REG - NE Regional Corrections Center-Saginaw
- I REG - NW Regional Corrections Center-Crookston

# CHART I

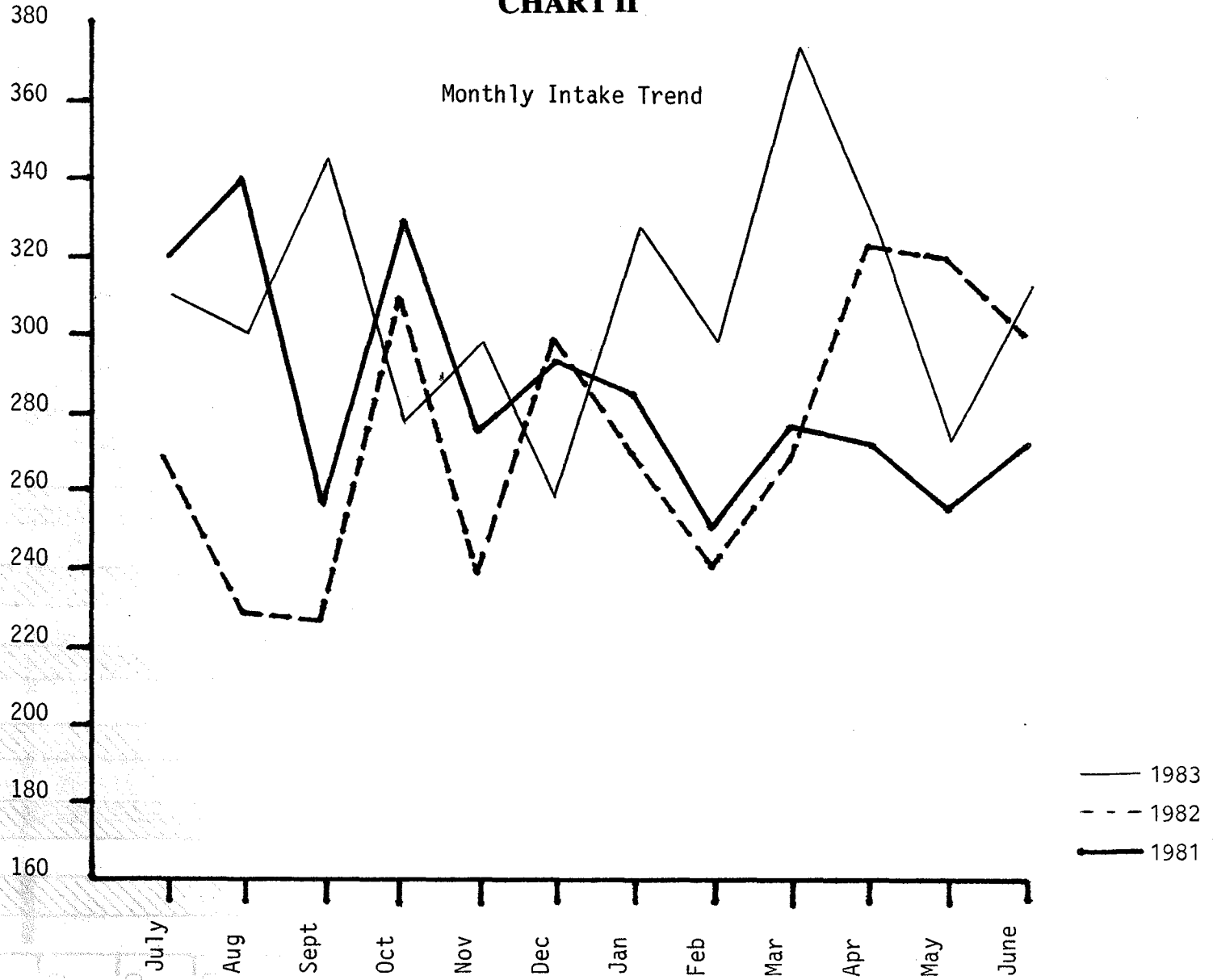
## INTAKE



FY 1982-83 Intake Case Distribution by Institution (Opened Cases)

# CHART II

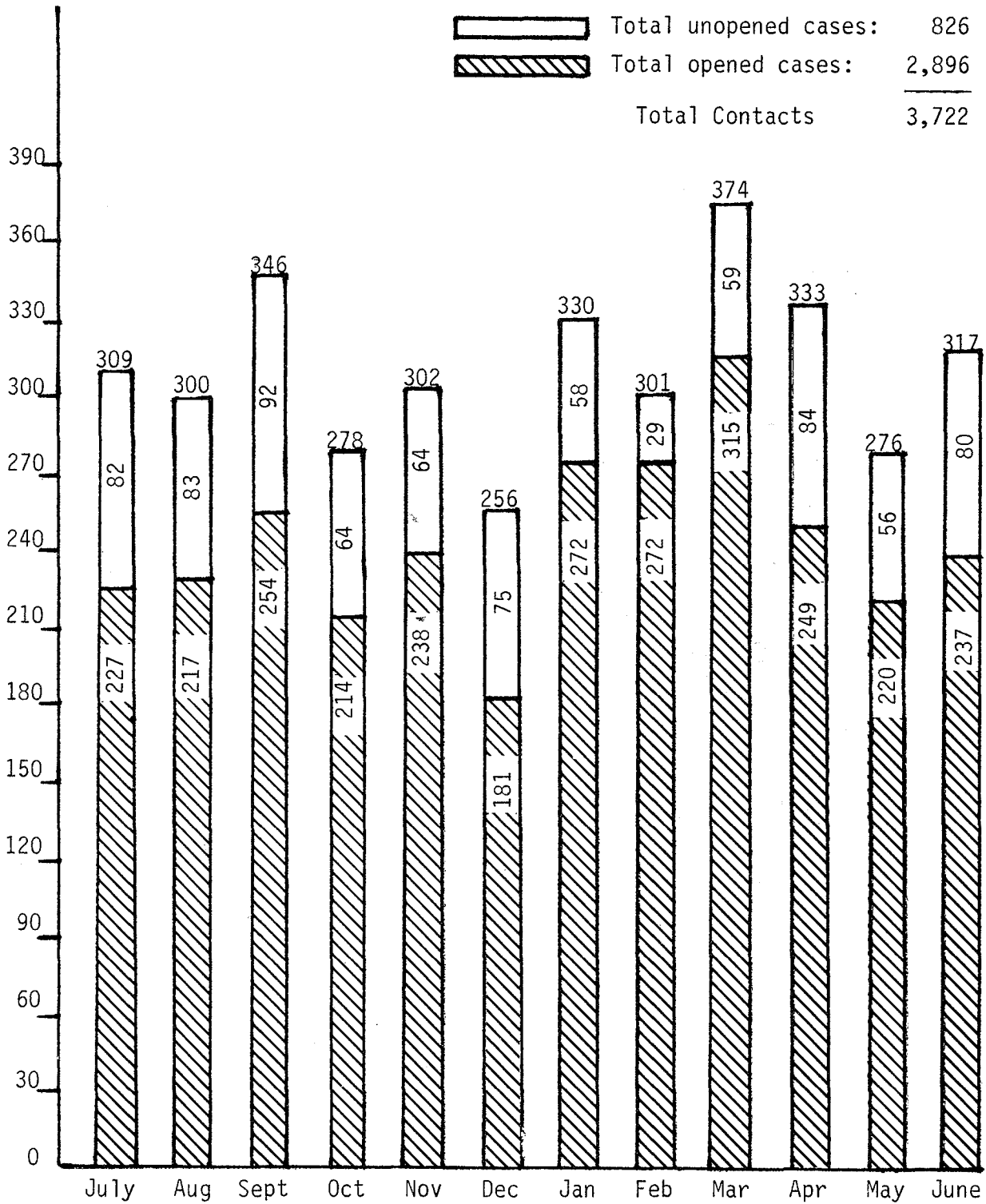
## Monthly Intake Trend





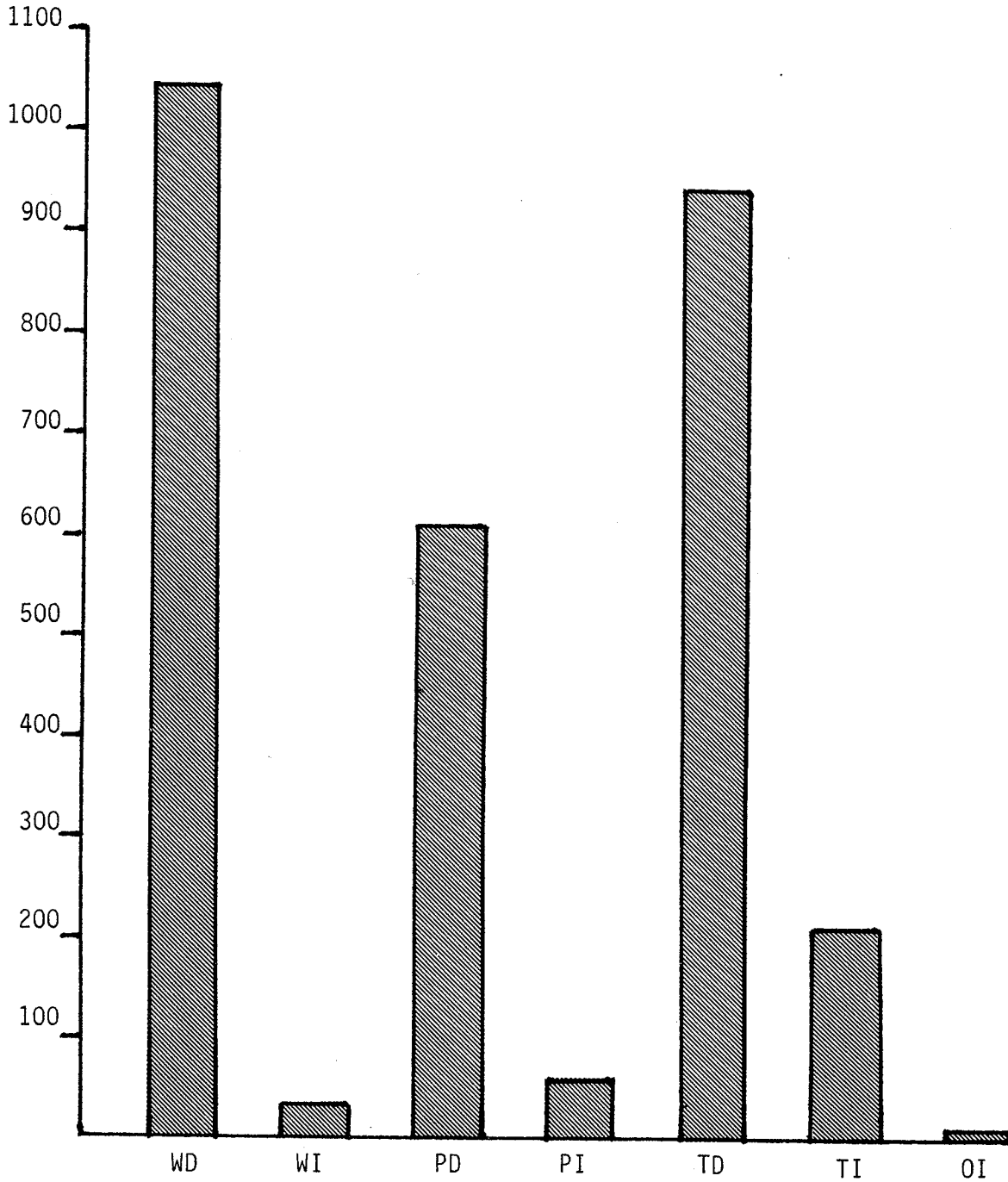
### GRAPH I

Ombudsman Intake  
FY 1982-1983



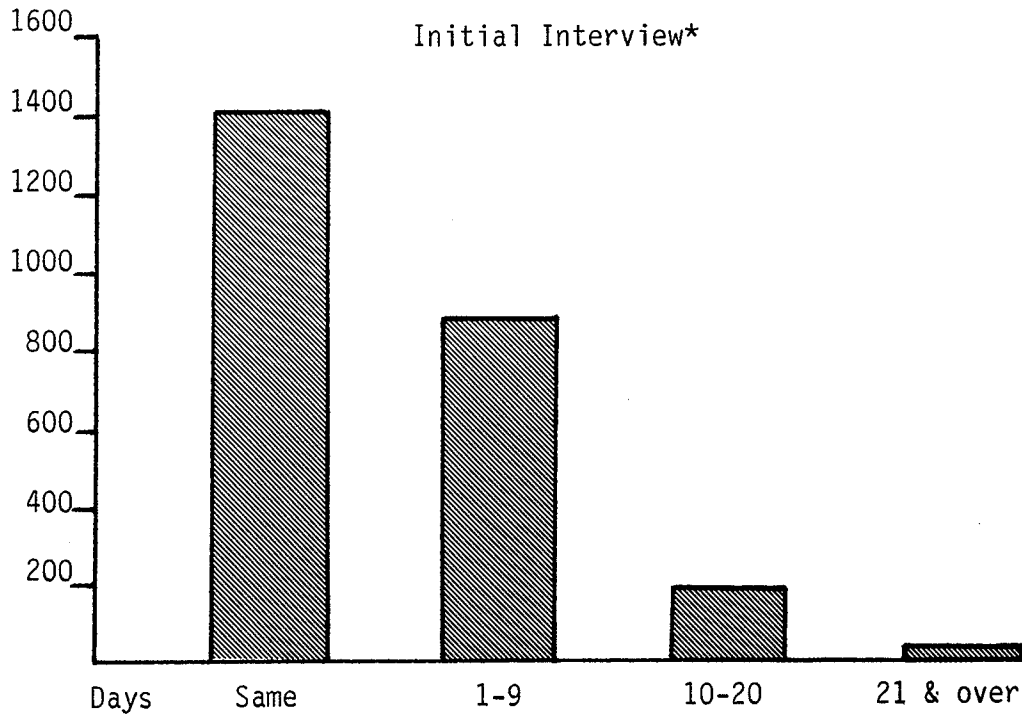
### GRAPH II

Methods of Communication\*



\* WD - Written Direct; WI - Written Indirect; PD - Personal Direct; PI - Personal Indirect; TD - Telephone Direct; TI - Telephone Indirect; OI - Ombudsman Initiated.

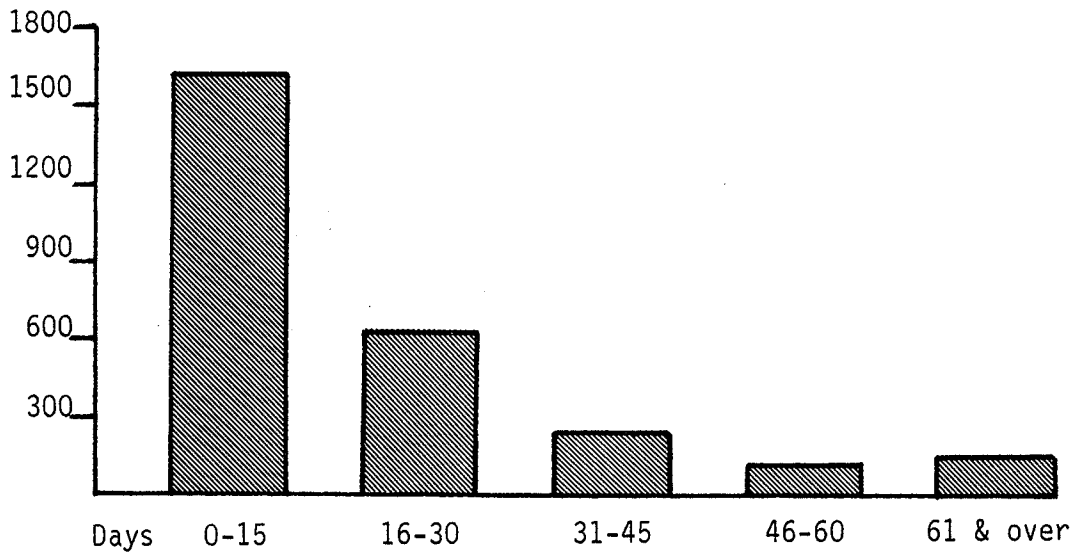
### GRAPH III



\*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.

### GRAPH IV

Time Taken to Resolve Cases



**TABLE I**D.O.C. Adult Institution  
Population

	<u>7/1/82</u> <u>1982</u>	<u>7/1/83</u> <u>1983</u>	<u>Population</u> <u>Changes*</u>
STW	1,099	1,099	0.0%
OPH	93	282	203.0%
SCL	607	644	6.0%
LL	189	198	4.7%
SHK	65	74	13.8%
WRC	53	55	3.7%
	<u>2,106</u>	<u>2,352</u>	

\*Overall D.O.C. adult population increase - 246 or 11.6%

**TABLE II**

Department of Correction Adult facilities accounted for 2,694 or 72.3% of the Ombudsman's total contacts; of those contacts 2,036 or 70.3% were "opened" cases.

	<u>% of "Contacts" -</u> <u>D.O.C. Adult</u> <u>Corr. Fac.</u>	<u>% of D.O.C.</u> <u>Adult Corr. Fac.</u> <u>"Opened" Cases</u>	<u>% of D.O.C. Adult</u> <u>Population</u>
STW	41.1%	34.2%	46.7%
OPH	16.4%	14.3%	11.9%
SCL	24.9%	31.6%	27.3%
LL	11.1%	13.4%	8.6%
SHK	6.1%	6.2%	3.3%
WRC	0.1%	0.04%	2.5%
	<u>99.7%</u>	<u>99.7%</u>	<u>100.3%*</u>

\*Does not equal 100% due to rounding of numbers

**TABLE III**

## TOTAL OMBUDSMAN CASES CLOSED JULY 1982 - JUNE 1983

	STW	OPH	SCL	CTY	RW	LL	SHK	SCR	WRC	RGL	FS	OTHER	TOTAL
Parole	78	9	13	2	17	39	5	22	0	0	9	2	196
Medical	72	29	41	48	5	13	38	2	0	2	1	1	252
Legal	28	18	68	96	4	11	2	2	0	1	1	5	236
Placement	109	34	50	36	17	13	12	11	0	0	4	1	287
Property	87	31	67	27	6	22	7	1	1	2	7	3	261
Program	86	21	88	83	22	83	17	17	0	2	2	0	421
Discrimination	3	1	5	1	0	0	0	0	0	0	0	0	10
Records	58	20	29	10	4	20	2	0	1	0	0	0	144
Rules	110	89	36	119	7	42	24	10	0	0	3	9	449
Threats	22	20	98	52	4	9	2	6	0	1	1	2	217
Other	63	25	140	128	11	22	20	7	0	2	5	5	428
TOTAL	716	297	635	602	97	274	129	78	2	10	33	28	2,901

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

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**TABLE IV**

OMBUDSMAN REQUEST CASES CLOSED JULY 1982 - JUNE 1983

	STW	OPH	SCL	CTY	RW	LL	SHK	SCR	WRC	RGL	FS	OTHER	TOTAL
Parole	30	2	6	1	1	15	1	2	0	0	3	1	62
Medical	8	2	10	6	0	3	2	1	0	0	0	0	32
Legal	21	13	27	71	1	7	1	2	0	1	1	4	149
Placement	29	10	9	9	0	2	0	0	0	0	2	0	61
Property	20	5	25	4	1	0	1	0	1	0	2	3	62
Program	8	6	32	38	0	7	1	1	0	1	0	0	94
Discrimination	0	0	0	0	0	0	0	0	0	0	0	0	0
Records	16	6	5	3	1	3	0	0	0	0	0	0	34
Rules	25	18	8	25	1	8	3	0	0	0	0	1	89
Threats	0	1	7	2	0	0	0	0	0	0	0	1	11
Other	23	4	47	38	5	5	4	1	0	0	2	1	130
TOTAL	180	67	176	197	10	50	13	7	1	2	10	11	724

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TABLE V

OMBUDSMAN COMPLAINT CASES CLOSED JULY 1982 - JUNE 1983

	STW	OPH	SCL	CTY	RW	LL	SHK	SCR	WRC	RGL	FS	OTHER	TOTAL
Parole	48	7	7	1	16	24	4	20	0	0	6	1	134
Medical	64	27	31	42	5	10	36	1	0	2	1	1	220
Legal	7	5	41	25	3	4	1	0	0	0	0	1	87
Placement	80	24	41	27	17	11	12	11	0	0	2	1	226
Property	67	26	42	23	5	22	6	1	0	2	5	0	199
Program	78	15	56	45	22	76	16	16	0	1	2	0	327
Discrimination	3	1	5	1	0	0	0	0	0	0	0	0	10
Records	42	14	24	7	3	17	2	0	1	0	0	0	110
Rules	85	71	28	94	6	34	21	10	0	0	3	8	360
Threats	22	19	91	50	4	9	2	6	0	1	1	1	206
Other	40	21	93	90	6	17	16	6	0	2	3	4	298
TOTAL	536	230	459	405	87	224	116	71	1	8	23	17	2,177

**TABLE VI**

## TOTAL CASELOAD

FY 1982-83

Number of open cases carried from previous FY .....	79
Number of contacts received July 1982-June 1983 .....	<u>3,722</u>
TOTAL CASELOAD .....	3,801

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FY 1982-83 Caseload Disposition:

Number of cases closed .....	2,901
Number of unopened cases .....	<u>826</u>
TOTAL .....	3,727
Number of cases carried into FY 1983-84 .....	79



**TABLE VII**

## CASE RESOLUTION BY CATEGORY

(Cases Closed July 1982 - June 1983)

CATEGORY	FULL	PARTIAL	NONE	WITHDRAWN	REFERRED	TOTAL
Parole	150	22	10	8	6	196
Medical	193	22	0	18	19	252
Legal	123	3	0	34	76	236
Placement	203	21	19	30	14	287
Property	168	15	15	29	34	261
Program	290	61	16	45	9	421
Discrimination	6	1	0	2	1	10
Records	113	10	4	11	6	144
Rules	334	30	13	56	16	449
Threats	128	17	3	45	24	217
Other	274	25	12	80	37	428
<b>TOTAL</b>	<b>1,982</b>	<b>227</b>	<b>92</b>	<b>358</b>	<b>242</b>	<b>2,901</b>
<b>PERCENTAGE</b>	<b>68.0</b>	<b>8.0</b>	<b>3.0</b>	<b>12.0</b>	<b>9.0</b>	<b>100%</b>

**TABLE VIII**

## COMPLAINT VALIDITY

(Complaint Cases Closed July 1982 - June 1983)

CATEGORY	SUBSTANTIATED (%)	UNSUBSTANTIATED (%)	TOTAL
Parole	72 (60.0)	48 (40.0)	120
Medical	89 (46.6)	102 (53.4)	191
Legal	24 (70.6)	10 (29.4)	34
Placement	109 (58.3)	78 (41.7)	187
Property	86 (57.7)	63 (42.3)	149
Program	145 (50.5)	142 (49.5)	287
Discrimination	1 (14.3)	6 (85.7)	7
Records	50 (52.6)	45 (47.4)	95
Rules	158 (53.4)	138 (46.6)	296
Threats	62 (43.7)	80 (56.3)	142
Other	141 (65.9)	73 (34.1)	214
<b>TOTAL</b>	<b>937 (54.4)</b>	<b>785 (45.6)</b>	<b>1,722*</b>

\*Excludes complaints which were referred or withdrawn.

**TABLE IX**

UNOPENED CASE DISPOSITION BY CATEGORY  
(July 1982 - June 1983)

CATEGORY	REFERRED	REFUSED	REJECTED	DISMISSED	TOTAL
Parole	15	4	24	5	48
Medical	19	15	47	10	91
Legal	82	10	22	3	117
Placement	26	12	27	9	74
Property	10	12	36	6	64
Program	9	3	32	2	46
Discrimination	0	1	1	0	2
Records	19	2	14	1	36
Rules	28	38	104	15	185
Threats	5	4	15	5	29
Other	24	20	80	10	134
	237	121	402	66	826
TOTAL	237	121	402	66	826

**TABLE X**

## REFERRALS\*

(July 1982 - June 1983)

Legal Assistance to Minnesota Prisoners .....	34
Legal Advocacy Program .....	22
State Public Defender .....	17
Private Attorney .....	9
House/Senate Claims Commission .....	11
Department of Corrections .....	11
County Public Defender .....	10
Police Departments .....	5
Institution Staff .....	89
Welfare Department .....	4
Legal Rights Center .....	4
Attorney General .....	4
Other ** .....	22
TOTAL	242

\* Unopened cases not included.

\*\* Other category contains organizations to which fewer than four referrals were made during F.Y. 1983.

**TABLE XI**

## CASE DISTRIBUTION COMPARISON

F. Y. 1982 - F. Y. 1983

CATEGORY	F.Y. 1982		F.Y. 1983		CHANGE F.Y. 1982 - F.Y. 1983	
	NUMBER	PERCENT	NUMBER	PERCENT	NUMBER	PERCENT
Parole	282	10.8	196	6.7	-86	-4.1
Medical	178	6.8	252	8.7	+74	+1.9
Legal	201	7.7	236	8.1	+35	+0.4
Placement	214	8.1	287	9.9	+73	+1.8
Property	313	12.0	261	9.0	-52	-3.0
Program	383	14.7	421	14.5	+38	-0.2
Discrimination	19	0.7	10	0.3	-9	-0.4
Records	181	6.9	144	5.0	-37	-1.9
Rules	376	14.4	449	15.5	+73	+1.1
Threats	171	6.5	217	7.5	+46	+1.0
Other	297	11.4	428	14.8	+131	+3.4
TOTAL	2,615	100.0%	2,901	100.0%	+654	0.0%

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

241.42 DEFINITIONS. Subdivision 1. For the purpose of sections 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 counsel. 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**

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