

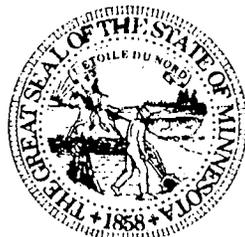


Annual Report

1989

OMBUDSMAN FOR CORRECTIONS

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STATE OF MINNESOTA

OMBUDSMAN FOR CORRECTIONS

REPORT FOR THE PERIOD
JULY 1, 1988 - JUNE 30, 1989

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

JOHN POUPART
OMBUDSMAN FOR CORRECTIONS

1885 University Avenue
Suite 395
St. Paul, Minnesota
55104
(612) 296-4500

November, 1989

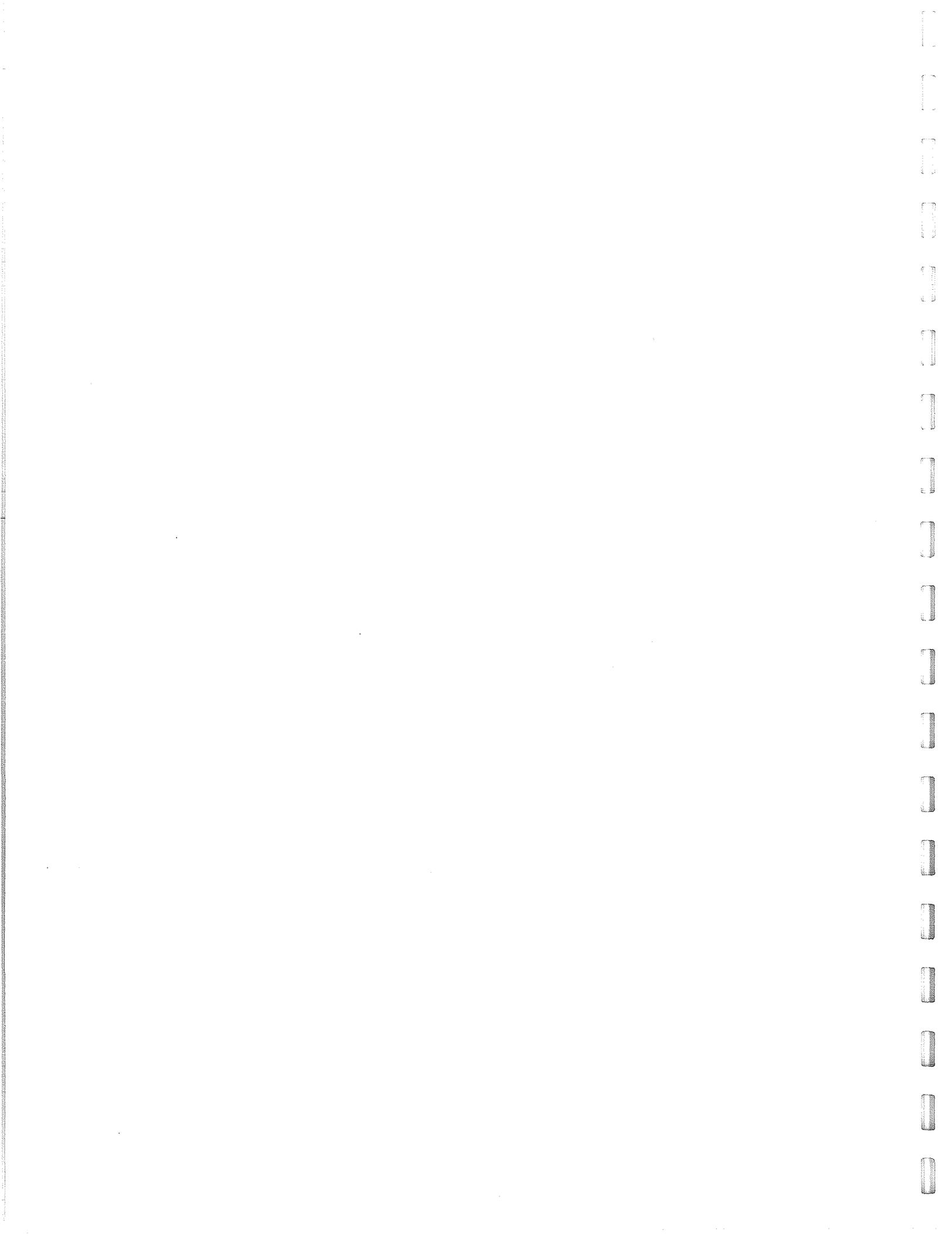


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INTRODUCTION

Opening Comments

The Ombudsman for Corrections is entering its seventeenth year of existence. Although the world of corrections in Minnesota and the characteristics of the inmate population have changed since the creation of our office, the mission of the Ombudsman has not wavered in the face of fads and developments in the system. Our office continues to be committed to insuring, to the best of our abilities and given our limited powers, that the correctional institutions across the state are places where fairness, justice, and efficiency thrive.

This last fiscal year did not usher in any dramatic changes in our operations. The staff of the Ombudsman for Corrections still consists of the Ombudsman, the Deputy Ombudsman, four Field Investigators, an Executive I, and a Secretary. In the past year, however, the location of the office was moved from downtown St. Paul to 1885 University Ave. in the Midway area of St. Paul. The office's financial activities were also audited by the Legislative Auditors Office, which found that our accounting and administrative operations were in order and in accordance with Minnesota law and policy.

Although the staffing and operations of the Ombudsman did not change, realities within the prisons are different than in past years and have forced the Ombudsman to keep abreast of them in order to be in a position to monitor the system and make effective recommendations. The number of complaints in fiscal year 1989 increased significantly, perhaps in reaction to an ever-growing prison population. Along with the specter of overcrowding, which will be discussed later in the report, the following conditions have evolved recently into troubling and difficult issues for those involved in corrections: an increase of sex offenders who are being sentenced under tougher guidelines and sometimes require special treatment, the infestation of the inmate population by more structured and violent gangs, the effects of drugs and AIDS on the corrections system, and the fundamental re-examination of the purpose of incarceration as the quest for rehabilitation becomes overshadowed by the simple justice of punishment. It is the responsibility of the Ombudsman to perform his duties in the light of these potentially explosive developments. The necessity of the Ombudsman for Corrections looms larger in these challenging times.

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BUDGET - FISCAL YEAR 1989

	<u>ORIGINAL</u>	<u>ACTUAL EXPENDITURES</u>
Personnel Services	\$306,161	\$305,127
Rents & Leases	17,053	16,979
Repairs & Maintenance	4,354	4,335
Printing & Binding	1,021	1,050
Data Processing	3,888	3,888
Purchased Services	1,226	1,226
Communication	3,043	2,748
Travel	9,604	9,628
Fees/Other Fixed Charges	135	135
Equipment, Material, and Supplies	<u>6,463</u>	<u>6,363</u>
TOTAL	\$352,948	\$351,479
Closing Budget Adjustment (Cancellations)	1,469	

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WHAT IS AN OMBUDSMAN?

The concept for an Ombudsman grew out of a clamoring by the Swedish public for accountability and sensitivity from its government nearly 200 years ago. As a result the Swedish king appointed the first official ever to be called an Ombudsman which, directly translated, means "protector or defender of citizen rights".

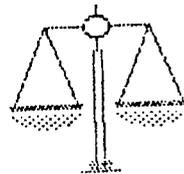
Today many governments at different levels and in all parts of the world have an Ombudsman. In Minnesota alone, there are several Ombudsmen who serve a variety of clients such as crime victims, the mentally ill, and those who need long-term health care. Perhaps the best modern definition of an Ombudsman was provided by the American Bar Association: "The Ombudsman is an independent governmental official who receives complaints against government agencies and officials from aggrieved persons, investigates, and, if the complaints are justified, makes recommendations to remedy the complaints."

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

1. A government official created by constitution, charter legislation or ordinance;
2. An official whose independence is guaranteed through:
 - a) a defined term of office and/or,
 - b) appointment by other than the executive and/or,
 - c) custom;
3. An official of high stature;
4. An official with the responsibility to receive and investigate complaints against governmental agencies;
5. Freedom of the official to investigate on his or her own motion;
6. An official who may exercise full powers of investigation to include access to all necessary information both testimonial and documentary;
7. The ability of the official to criticize governmental agencies and officials and to recommend corrective action;
8. An official with the power to issue public reports concerning his or her findings and recommendations;

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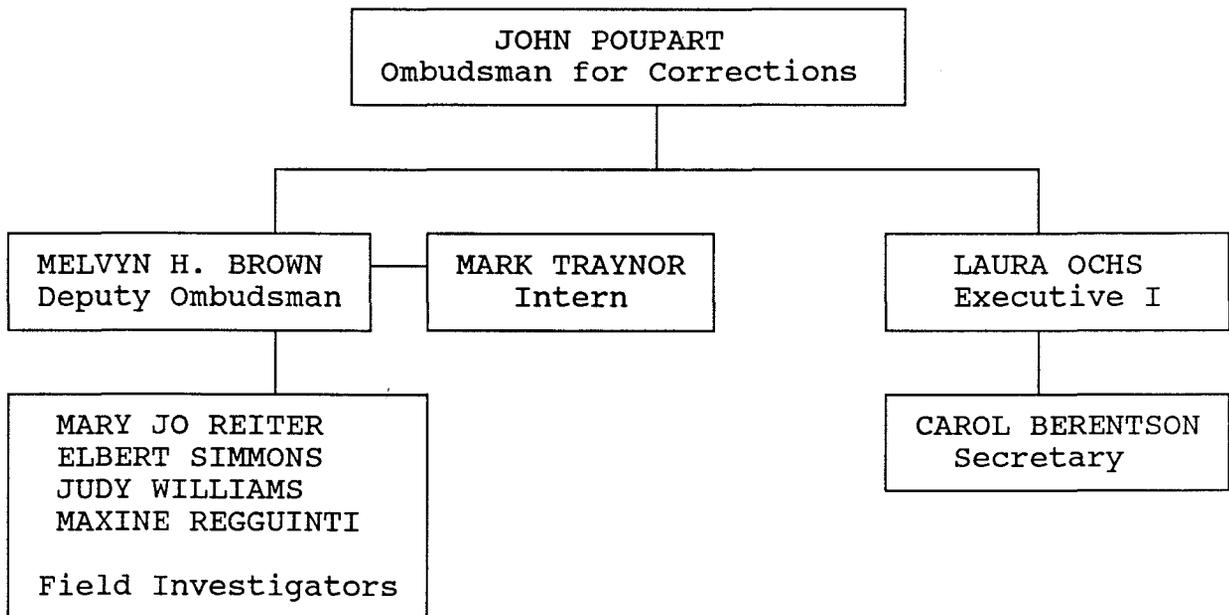
9. An official who is restricted from activities constituting a personal, professional, occupational, or political conflict of interest; and,
10. An official with freedom to employ and remove assistants and to delegate administrative and investigative responsibilities to them.



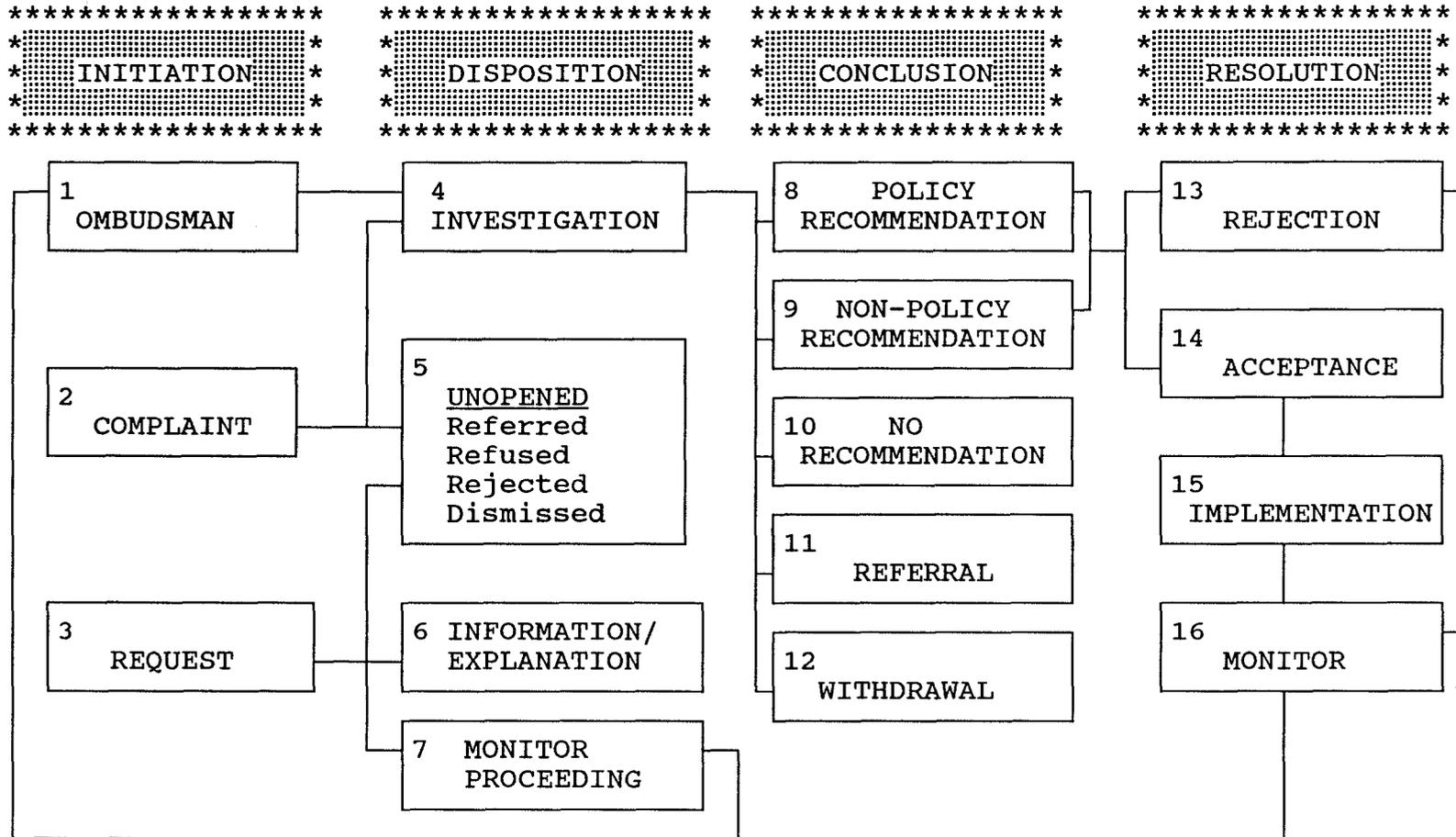
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ORGANIZATION CHART

Figure I



CASE PROCESSING PROCEDURE
Figure II



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THE MINNESOTA OMBUDSMAN FOR CORRECTIONS

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

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

As previously outlined, today's corrections employee is faced with challenging times and events. Conditions in corrections which were not present ten years ago are now testing the mettle of correctional planners and practitioners. Gangs, increased drug traffic and use, AIDS and a recent dramatic increase in law suits filed by inmates are some of the difficulties receiving attention.

A national reality shows more and more inmates taking their grievances to the courts for resolution. According to a report called Alternative Dispute Resolution: Mechanisms for Prisoner Grievances, the number of cases of prisoners filing suits in federal courts about prison conditions jumped from 218 in 1966 to 17,687 in 1983. Minnesota appears to be an exception to this phenomenon. For example in the Southern District Court of Iowa in a recent twelve-month period there were nearly 400 cases filed, compared to but 50 cases filed in all of Minnesota. Another example is that at the end of 1988 at least three dozen state prison systems operated under consent decrees created as a result of inmates suing for better health care; Minnesota was not one of these states. These examples suggest that inmates in Minnesota are less likely to file suit in court in an attempt to resolve their grievances. The Ombudsman for Corrections would like to think that this condition exists solely because of his presence. But this is not true.

However, the small number of lawsuits do exist, in part, because of the Ombudsman. Minnesota possesses a premier ranking in the nation when it comes to the corrections

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system. In a broader perspective, Minnesota's enviable status is the result of many segments of society, government, and the legal community working together. Of course most of these areas of responsibility fall outside the Ombudsman's authority and we have little influence there. But where we do have responsibility we take our charge very seriously. The most influential aspect of our operation is the policy arena.

While others legislate and govern, the Ombudsman's greatest power is limited to making recommendations. He has no enforcement powers. In arriving at his recommendations it is to everyone's advantage that the Ombudsman determine the facts of the matter to the best of his ability. Therefore, the Ombudsman focuses a great deal of attention on policy. Several basic questions relating to policy are asked when the Ombudsman accepts an issue for recommendation. Is there an existing policy? Is the policy appropriate? How can the policy be improved? Should the policy be replaced? Only after intelligently answering these questions can the Ombudsman be in a position to influence correctional procedures.

Another fundamental concept in complaint resolution is whether a complaint is based on apparent violation of federal or state law. If there are

actions taken by corrections administrators which appear to be outside the law, this is quickly called to their attention with a recommendation that another course of action be taken, that the action be reconsidered, or that their previous action be vacated.

Still another facet of the Ombudsman's technique is to scrutinize procedures which have been developed sequentially under department or institution policy. Again, as in the instance of examining policy, several of the same questions are asked.

As a result of this type of an objective testing against established law and policy, the Ombudsman avoids polarization on correctional issues. Moreover, his recommendations are often strengthened because of this kind of careful analysis of matters which come before him. Furthermore, fewer complaints make their way to the courts because of this internalized complaint resolution system. Perhaps this helps to explain why so few inmate complaints are lodged with the courts in Minnesota.

The fewer cases in the courts, the better for all Minnesotans. Already the courts are overburdened with other matters. It costs more in terms of time, money, and resources for attorneys and judges to be addressing matters

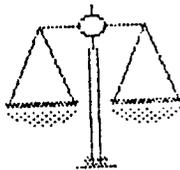
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which could be resolved within corrections administrations.

In addition to an emphasis on policy as an approach to dispute resolution, the Ombudsman for Corrections also believes that serving as an advocate in his position would cause undue problems. If an Ombudsman served only as an advocate, he or she would tend to create polarity between issues and between people, which is the very thing the Ombudsman is to avoid. It must be emphasized that the Ombudsman has a responsibility to reduce, if not eliminate,

conflict. By seeking the facts, his credibility and effectiveness are enhanced.

The Ombudsman for Corrections, with the cooperation of corrections staff, has had a positive influence on the corrections system in Minnesota. We hope that our existence has made the jails and prisons in this state more fair and more efficient, but in the least the presence of our office has reduced the potential for conflict, presented an alternative for dispute resolution, and created a "safety valve" for inmate tension.



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CROWDED PRISONS

As mentioned previously, the corrections system is facing a host of challenges such as AIDS, the growing number of inmates who require protective custody, the incarceration of more sexual offenders, and the dangerous influence of gangs. However, perhaps the most pressing problem involves the ramifications of overcrowded facilities.

In the 1988 edition of Vital Statistics in Corrections, it was reported that the national rate of incarceration was 235.47 inmates per 100,000 Americans and that this figure was projected to increase to 300.78 in 1993. In 1980, the rate was only 141.54. All the numbers point to a burgeoning prison population that will continue to grow in the foreseeable future.

The public is asking for more accountability from policy makers and legislators by seeking increased penalties for certain crimes. Longer sentences and more criminal offenses result in an increase in prison populations. This increase in population adds stress within the framework of corrections and requires vigilance if unfortunate events are to be avoided.

The following are some of the

possible consequences of overcrowding in the corrections system:

"Increases in population in prisons where facilities are not increased proportionately are associated with increased rates of death, suicide, disciplinary infraction, and psychiatric commitment. Decreases in population are accompanied by decreases in death rate, psychiatric commitments, inmate on inmate assaults, and attempted suicides and self mutilations.

Institutions with large populations yielded elevated rates of death, suicide, and psychiatric commitment compared to smaller institutions.

Double cells or double cubicles yielded negative effects on housing ratings, disciplinary infraction rates, and illness-complaint rates relative to singles." (Verne C. Cox, Paul B. Paulus and Garvin McCain; American Psychological Society, Vol. 39, No. 10, 1984).

"There are two basic conclusions warranted by the prison crowding research : dormitories are associated with more illness-complaint rates; and prisons that have higher density ratios are also more likely to have higher assault

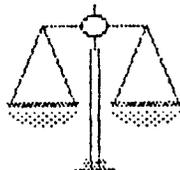
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or misconduct rates." (Gerald G. Gates, University of Chicago, 1985).

It should be noted that prison crowding research is a rather new endeavor, so conclusions should not be accepted as truth carved into stone. Still, common sense tells us that putting two or more convicted criminals in one cell or packing multi-bed dormitories with inmates creates an atmosphere that is more conducive to negative behavior than providing a single cell for each inmate.

Minnesota's corrections system is not as crowded as those of most other states, but the

pressures on staff and facilities are growing with the introduction of more and more inmates into the system. The new correctional facility at Faribault is a sign of what may lie ahead: the expansion and creation of medium and minimum security facilities and perhaps community-based facilities to accommodate the swelling numbers of inmates. The Ombudsman hopes to continue to serve as a resource to inmates who have a complaint and as an alternative for mediating and resolving disputes in the prison long before they reach the courts, thereby alleviating some of the problems that are fostered by overcrowding.



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ISSUES AND RECOMMENDATIONS

Gang Issues

A prison reflects the world outside its walls and wire, and the growth of gangs in today's neighborhoods has led to a larger - and more ominous - gang presence in Minnesota's prison system. The myriad of hand signs and colors used by gangs, the animosity of one gang towards another, the dynamics of relationships in gangs, and the propensity for violence in gang culture must be addressed and understood by those who work with gang members in corrections institutions. Our staff has tried to gain knowledge about gangs through meetings with experts on this alarming reality.

Recommendations to Hennepin
Home School:
Due Process and
Discipline

Early in the fiscal year, the Ombudsman made a recommendation to the Home School concerning the use of "make-work", or uncompensated, unnecessary work assignments, in its cottages. Our office received complaints from residents about carrying wood up and down hills for no reason and washing walls that were already clean. The Home School answered that make-work was not assigned in the cottages and accepted, in concurrence with our

recommendation and the ACA Standards, that make-work should be prohibited at its institution.

In response to confusion from residents about the Home School's due process and discipline policies and to an emphasis on staff discretion rather than written policies in cottage discipline, the Ombudsman recommended that the policies be revised to enhance clarity and fairness and that they be enforced uniformly in each cottage. It was hoped that a more just disciplinary system would be the result. The Home School partially accepted the recommendation by improving the quality and clarity of the policies, but stood firm in providing the staff with great discretion in meting out punishment, especially with regard to minor rule violations.

After reviewing the revised policies and consulting ACA Standards, the Ombudsman also recommended that work projects as a punitive consequence without real relevance to necessary housekeeping chores be discontinued, that consequences for rule violations be spelled out more completely, and that suspension from school should not be used as a consequence. At the time of this writing, the Ombudsman is awaiting a response from the Home School on these matters.

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**Recommendation in Response
to Incident**

A resident in the halfway house, a community-based residential corrections facility, believed that he was assaulted by a staff person who restrained him. Aided by a diligent investigation by the Department of Corrections, the Ombudsman determined that the facts did not support the resident's contention. However, in order to prevent such a situation from occurring in the future, the Ombudsman recommended that Corrections Counselors at the facility receive more training in the application of force in physical restraint and in the de-escalation of crisis situations.

**Recommendation to Hennepin
County Adult Corrections
Facility: The Administration
of Medication**

An inmate was admitted to the Hennepin County Adult Corrections Facility on a Friday evening and did not receive her prescribed medication until the following morning. As a result she became ill and was taken to the emergency room of a nearby hospital. Although the institution did have a policy that recognized the creation of a medication schedule for a newly admitted inmate, on busy

Friday evenings the medical staff sometimes did not administer medication according to the schedule. Therefore the Ombudsman recommended that the policy be changed to ensure that nursing staff administer medication at the proper times. The institution agreed that this was a problem, and, rather than change a generally workable policy, decided to alter the procedure of admitting new people, so that the nursing staff had an opportunity on busy nights to administer medication.

Police Abuse Issue

The agency participated with the Minneapolis chapter of the NAACP in planning for the initiation of a community "hot line". The purpose for the hot line was to assist in coordinating prison inmate complaints and, more importantly, complaints involving what the Minneapolis black community saw as police brutality or harassment. According to testimony by members of the black community, mistreatment by law enforcement and corrections staff is being reported with greater frequency in Hennepin County. The Ombudsman is monitoring this trend in expectation of a possible increase in the number of complaints relating to physical abuse.

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Recommendations to Red Wing:
Recruitment of Minorities for
Staff and Making Program More
Sensitive to Minority Residents

The Correctional Facility at Red Wing, which services mostly juvenile and some adult offenders, had experienced an increase in the numbers of minority inmates. Unfortunately the racial composition of the staff had not responded to the growing minority population, and recruitment efforts had not been very successful. The Ombudsman believed that the lack of minority staff had also affected the institution's efforts to rehabilitate minority residents. Accordingly the Ombudsman made three recommendations to Red Wing: that Red Wing step up its recruitment of minorities, that staff be trained to better relate to minorities who have unique cultural norms and values, and that the institution's "Involvement Therapy" program be reviewed for possible insensitivity towards minorities. Red Wing accepted these recommendations and showed that it has taken action in the direction of becoming a more racially and culturally sensitive -and therefore more successful - institution.

Recommendation to Stillwater:
A Concrete Policy on Jewish
Holidays

A Jewish inmate at the Correctional Facility at Stillwater complained that he was not receiving the proper kosher foods on Jewish holidays. Although Stillwater did have a policy on religious diets, the Ombudsman felt that it did not sufficiently address the needs of Jewish inmates. He recommended that a policy be written, explicitly outlining the dietary requirements on Jewish holidays. Stillwater did not accept this recommendation, arguing that the current policy adequately addresses this issue and that separate policies for different religions infers preferential treatment.

**Mental Health Issue
at Stillwater**

The Ombudsman examined a situation relating to mental health at Stillwater. He became concerned that certain inmates with mental problems who were housed in the segregation unit as a punitive measure for a rule violation did not receive the proper psychological care. There was a question whether doing time in segregation made these inmates' mental health worse, thereby perhaps increasing the chances of future disciplinary problems. The Ombudsman talked with medical staff at Stillwater and the Department of Corrections, who assured him that these inmates were being

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treated for their mental instabilities while in segregation.

Recommendations to
Oak Park Heights:
Revising Policy
and Procedure Manual

The Ombudsman was concerned that the policy pertaining to his authority at Oak Park Heights did not agree to either the letter or the spirit of Minnesota Statute 241.44, which defines the powers of his office. The policy put barriers in front of the office's legally authorized access to enter the institution and examine records at any time. The administration responded with specific scenarios, such as during a riot, when the warden needs full control and may restrict entrance. The Ombudsman did not disagree with these extreme examples, but believed the policy should be clear about the powers that the legislature provided his office. A sort of compromise was reached, where Oak Park Heights revised the policy but included phrasing that limited the access in particular circumstances: when

"emergency and control needs" restrict access or when the representative from the Ombudsman is in physical danger.

Later in the year the Ombudsman discovered that Oak Park Heights' policy manual was not updated in light of a two-year-old data privacy law that gave the Ombudsman access to medical and confidential data. The administration at Oak Park Heights realized their mistake and revised the policy in accordance to the Ombudsman's recommendation.

The Amendment of
Good Time Issue

An inmate at Stillwater brought to our attention a mistake in his sentence. The Court originally included 62 days credit in his sentence, but the inmate's records erroneously indicated 29 days credit. Our office intervened, and the Court amended its sentence to entitle the inmate to 62 days credit. The inmate was understandably happy about the correction, which reduced substantially the amount of time that he had to serve.

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SUMMARY

Contacts Received

The total number of complaints received by the Ombudsman increased by 14% over the previous year. 2528 contacts were received in fiscal year 1988 and 2870 contacts were received during fiscal year 1989. This added to the workload of the Ombudsman's Field Investigator staff.

It appears that there is a slight seasonal trend in terms of contacts received. For instance the months of November, December, and January are the months with the least number of contacts received, while the months of April, May, and June appear to be the most active.

Methods of Communication

The vast majority of complaints came to the attention of the Ombudsman through telephone calls by the complainants; 57% of complaints were received by direct telephone calls, which represented an increase from the previous year's number of 48%. The next most popular methods were direct written correspondence and direct personal communication, each of which accounted for 15% of complaints. During the previous year, the percentages for these methods were larger; 23% of complaints were expressed in letters and 17% of

complaints were expressed in a meeting between the complainant and a member of the Ombudsman's staff. Although changes in the numbers of complaints received through these three methods did occur this year, "telephone direct", "written direct", and "personal direct" remained the three methods that were used most often.

Institution Comparison

The state prison at Stillwater continued to be the source for the bulk of our complaints. This should not be surprising when one considers that Stillwater has the largest population of any institution in the Minnesota corrections system. Of the major state corrections institutions, 49% of our caseload came from Stillwater, compared to 47% for the previous year.

The correctional facilities at Oak Park Heights, Shakopee, St. Cloud, and Lino Lakes produced most of the remaining complaints. The only substantial change from these institutions involved St. Cloud, where the percentage of complaints decreased from 20% in fiscal year 1988 to 13% in fiscal year 1989.

Case Distribution

Cases are distributed into different categories contingent upon the nature of the complaint. For example, a complaint about unfair

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treatment of an inmate by staff because of race would be placed in the "discrimination" category. The distribution of closed cases from this year mirrored that of the previous year. Complaints about institutional rules continued to be the most prevalent, totaling 19% of received complaints. Other popular complaint areas included "placement" in the institution or system (10.3%), "legal" (9.9%), "medical" (9.4%), and "parole" and work release (8.3%).

Same-Day Interviews

Initial interviews occur as soon as reasonably possible after the complainant contacts the Ombudsman. The office has been very successful in interviewing the inmate or staff on the same day that the complaint was submitted. As in previous years, a very large percentage (82%) of those cases that needed interviews had same-day interviews, which, the Ombudsman believes, is a sign of efficiency.

Sometimes it takes more than one day to have an interview with a staff member from the Ombudsman's office. Only 7.6% of cases had interviews between one and nine days after the received contact, 2.4% between 10 and 20, and 1.6% over 21 days. Eight percent of cases required no interview.

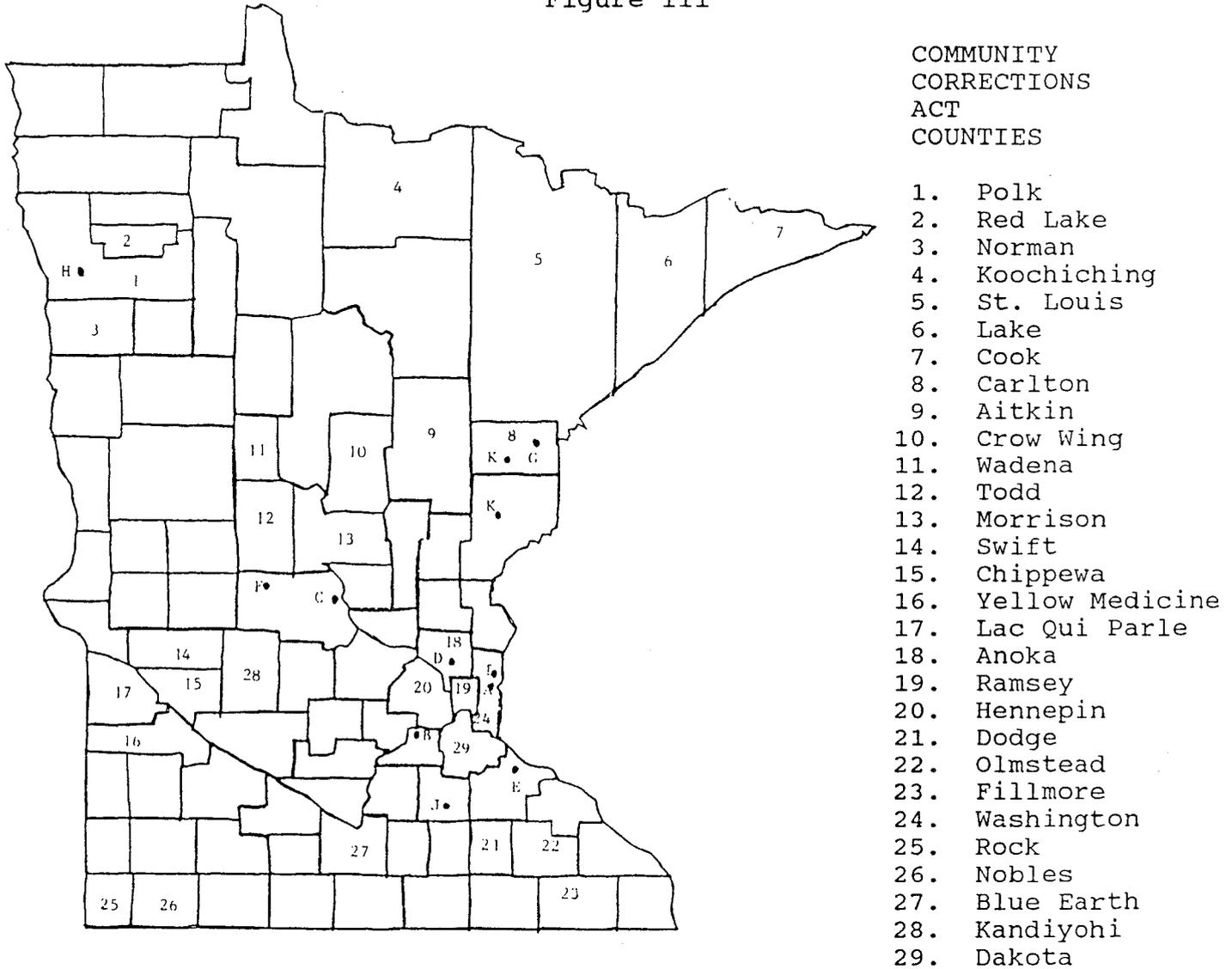
Time Taken to Resolve Cases

Since one of the chief tasks of the Ombudsman is to monitor the efficiency of the corrections bureaucracy, the office would lose credibility if its operations were inefficient. Indeed the office has resolved more cases within one to fifteen days than in previous years. The percentages of cases resolved within this time span has increased from 69.3% in fiscal year 1987 and 74.9% in fiscal year 1988 to 87.5% this year. An additional 6.7% of cases were resolved within sixteen to thirty days. This rapid rate of resolution is important to the Ombudsman, who will continue to hold the efficient resolution of complaints as a high priority.

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OMBUDSMAN'S JURISDICTION

Figure III



DEPARTMENT OF CORRECTIONS FACILITIES

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

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TYPES OF CONTACTS

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

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

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

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

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

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

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

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

Records - Concerning data on inmate or staff files.

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

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

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

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

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

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

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CONTACTS RECEIVED

TABLE I

<u>MONTH</u>	<u>TOTAL OPENED</u>	<u>TOTAL UNOPENED</u>	<u>TOTAL CONTACTS</u>
July	212	11	223
August	225	02	227
September	228	03	231
October	212	04	216
November	187	03	190
December	174	03	177
January	244	04	248
February	266	00	266
March	304	00	304
April	274	00	274
May	228	02	230
June	<u>280</u>	<u>03</u>	<u>283</u>
TOTAL	2,834	35	2,869

METHODS OF COMMUNICATION

TABLE II

<u>TYPE</u>	<u>CLOSED</u>	<u>UNOPENED</u>	<u>TOTAL</u>
Written Direct	428	09	437
Written Indirect	32	01	33
Personal Direct	433	00	433
Personal Indirect	22	00	22
Telephone Direct	1,629	21	1,650
Telephone Indirect	261	04	265
Ombudsman Initiated	<u>40</u>	<u>00</u>	<u>40</u>
TOTAL	2,845	35	2,880

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CASELOAD SUMMARY

TABLE III

Carried Over from Fiscal Year 1988		53
Fiscal Year 1989 Contacts Received		<u>2,869</u>
Fiscal Year 1989 Caseload		2,922
Fiscal Year 1989 Caseload Disposition:	Cases Closed	2,845
	Unopened Cases	<u>35</u>
	TOTAL	2,880
 Cases Carries Over to Fiscal Year 1990		 42

REFERRALS*

TABLE IV

Legal Aid to Prisoners.....		2
Legal Assistance to Minnesota Prisoners.....		4
Department of Corrections.....		3
State Public Defender.....		7
Private Attorney.....		4
Institution Staff.....		0
Other.....		<u>15</u>
 TOTAL		 35

*Unopened cases are not included, and "other" category contains organizations to which fewer than four referrals were made during F.Y. 1989

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**INSTITUTION ADULT POPULATION
CLOSED CASE COMPARISON**

TABLE V

<u>INSTITUTIONS</u>	<u>AVERAGE MONTHLY POPULATION*</u>	<u>PERCENTAGE OF ADULT AVERAGE MONTHLY POPULATION</u>	<u>NUMBER OF CASES CLOSED</u>	<u>PERCENTAGE OF CASES CLOSED</u>
Stillwater	1,229	44.5%	950	49.4%
St. Cloud	690	25.0%	242	12.6%
Oak Park Heights	371	13.4%	311	16.2%
Lino Lakes	278	10.1%	139	7.2%
Shakopee	118	4.3%	272	14.1%
Willow River	<u>73</u>	<u>2.7%</u>	<u>10</u>	<u>.5%</u>
TOTALS	2,759	100.0%	1,924	100.0%

*Does not include federal inmates.

CLOSED CASE DISTRIBUTION COMPARISON

TABLE VI

<u>CATEGORY</u>	<u>F.Y. 1988</u>		<u>F.Y. 1989</u>	
	<u>NUMBER</u>	<u>PERCENT</u>	<u>NUMBER</u>	<u>PERCENT</u>
Parole	232	9.3%	237	8.3%
Medical	267	10.7%	268	9.4%
Legal	210	8.4%	283	9.9%
Placement	239	9.6%	292	10.3%
Property	139	5.6%	187	6.6%
Discrimination	67	2.7%	69	2.4%
Records	102	4.1%	133	4.7%
Rules	477	19.1%	552	19.4%
Threats/Abuse	178	7.1%	181	6.4%
Mail	45	1.8%	48	1.7%
Hygiene	46	1.8%	23	.8%
Services	51	2.0%	39	1.4%
Other	<u>259</u>	<u>10.3%</u>	<u>321</u>	<u>11.3%</u>
TOTAL	2,499	100.0%	2,845	100.0%

TOTAL CASES CLOSED

TABLE VII

<u>CATEGORY</u>	<u>STW</u>	<u>OPH</u>	<u>SCL</u>	<u>CTY</u>	<u>RW</u>	<u>LL</u>	<u>SHK</u>	<u>SCR</u>	<u>WRC</u>	<u>ML</u>	<u>RGL</u>	<u>FS</u>	<u>OTH</u>	<u>FRB</u>	<u>TOTAL</u>
Parole	127	3	8	34	4	23	5	5	0	2	0	14	12	0	237
Medical	86	17	14	81	1	8	47	5	1	0	4	0	4	0	268
Legal	69	27	27	99	5	9	17	7	0	0	2	4	17	0	283
Placement	158	29	18	29	5	9	15	12	1	1	1	3	11	0	292
Property	73	37	29	14	3	7	15	3	1	0	0	1	4	0	187
Program	87	41	19	28	0	16	11	3	0	1	1	3	2	0	212
Discrimination	16	10	2	18	1	6	12	0	0	0	0	1	3	0	69
Records	66	13	7	20	0	12	9	0	2	3	0	0	1	0	133
Rules	150	59	37	135	15	32	96	13	2	4	3	2	3	1	552
Threats/Abuse	32	16	27	57	1	10	23	6	2	1	0	3	3	0	181
Mail	13	11	6	13	2	1	1	0	0	0	0	0	1	0	48
Hygiene	8	2	4	7	0	0	1	0	0	0	0	1	0	0	23
Services	14	2	4	12	0	0	4	0	1	1	0	1	0	0	39
Other	<u>51</u>	<u>44</u>	<u>40</u>	<u>66</u>	<u>1</u>	<u>6</u>	<u>16</u>	<u>2</u>	<u>0</u>	<u>2</u>	<u>2</u>	<u>7</u>	<u>84</u>	<u>0</u>	<u>321</u>
TOTAL	950	311	242	613	38	139	272	56	10	15	13	40	145	1	2845

 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).

COMPLAINT CASES CLOSED

TABLE VIII

<u>CATEGORY</u>	<u>STW</u>	<u>OPH</u>	<u>SCL</u>	<u>CTY</u>	<u>RW</u>	<u>LL</u>	<u>SHK</u>	<u>SCR</u>	<u>WRC</u>	<u>ML</u>	<u>RGL</u>	<u>FS</u>	<u>OTH</u>	<u>FRB</u>	<u>TOTAL</u>
Parole	126	3	8	33	3	22	3	5	0	2	0	13	11	0	229
Medical	77	16	14	81	1	6	46	5	1	0	4	0	4	0	255
Legal	56	10	14	64	0	5	12	3	0	0	1	1	9	0	175
Placement	155	24	18	27	5	8	15	12	0	1	1	3	11	0	280
Property	73	36	29	14	3	7	15	3	1	0	0	1	4	0	186
Program	83	37	15	27	0	16	11	3	0	1	1	3	1	0	198
Discrimination	16	10	2	18	1	6	12	0	0	0	0	0	3	0	68
Records	62	10	7	19	0	12	9	0	2	3	0	1	1	0	126
Rules	145	53	35	135	15	28	95	12	1	4	3	1	3	0	530
Threats/Abuse	32	16	27	55	1	9	23	6	2	1	0	3	3	0	178
Mail	12	9	6	13	2	0	1	0	0	0	0	0	1	0	44
Hygiene	8	2	4	7	0	0	1	0	0	0	0	1	0	0	23
Services	13	2	4	12	0	0	4	0	1	0	0	1	0	0	37
Other	<u>28</u>	<u>16</u>	<u>16</u>	<u>33</u>	<u>0</u>	<u>3</u>	<u>8</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>0</u>	<u>4</u>	<u>6</u>	<u>0</u>	<u>116</u>
TOTAL	886	244	199	538	31	122	255	50	8	13	10	32	57	0	2445

REQUEST CASES CLOSED

TABLE IX

<u>CATEGORY</u>	<u>STW</u>	<u>OPH</u>	<u>SCL</u>	<u>CTY</u>	<u>RW</u>	<u>LL</u>	<u>SHK</u>	<u>SCR</u>	<u>WRC</u>	<u>ML</u>	<u>RGL</u>	<u>FS</u>	<u>OTH</u>	<u>FRB</u>	<u>TOTAL</u>
Parole	1	0	0	1	1	1	2	0	0	0	0	1	1	0	8
Medical	9	1	0	0	0	2	1	0	0	0	0	0	0	0	13
Legal	13	17	13	35	5	4	5	4	0	0	1	3	8	0	108
Placement	3	5	0	2	0	1	0	0	1	0	0	0	0	0	12
Property	0	1	0	0	0	0	0	0	0	0	0	0	0	0	1
Program	4	4	4	1	0	0	0	0	0	0	0	0	1	0	14
Discrimination	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Records	4	3	0	1	0	0	0	0	0	0	0	0	0	0	8
Rules	5	6	2	0	0	4	1	1	1	0	0	1	0	1	22
Threats/Abuse	0	0	0	2	0	1	0	0	0	0	0	0	0	0	3
Mail	1	2	0	0	0	1	0	0	0	0	0	0	0	0	4
Hygiene	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Services	1	0	0	0	0	0	0	0	0	1	0	0	0	0	2
Other	<u>23</u>	<u>28</u>	<u>24</u>	<u>33</u>	<u>1</u>	<u>3</u>	<u>8</u>	<u>1</u>	<u>0</u>	<u>1</u>	<u>2</u>	<u>3</u>	<u>78</u>	<u>0</u>	<u>205</u>
TOTAL	64	67	43	75	7	17	17	6	2	2	3	8	88	1	400

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**CASE RESOLUTION BY CATEGORY
(Cases Closed Only)**

TABLE X

<u>CATEGORY</u>	<u>FULL</u>	<u>PARTIAL</u>	<u>NONE</u>	<u>TOTAL</u>	<u>WITH- DRAWN</u>	<u>REFERRED</u>	<u>TOTAL</u>
Parole	232	4	0	236	1	2	3
Medical	264	8	0	272	2	2	4
Legal	277	6	1	284	1	14	15
Placement	287	6	0	293	0	0	0
Property	182	6	0	188	1	1	2
Program	199	14	0	213	2	1	3
Discrimination	64	3	0	67	1	2	3
Records	130	4	0	134	2	0	2
Rules	530	24	1	555	2	2	4
Threats/Abuse	168	13	0	181	3	2	5
Mail	48	1	0	49	0	0	0
Hygiene	21	2	0	23	0	0	0
Services	37	0	0	37	0	0	0
Other	<u>303</u>	<u>8</u>	<u>2</u>	<u>313</u>	<u>3</u>	<u>4</u>	<u>7</u>
TOTAL	2742	99	4	2845	18	30	48
PERCENTAGE	96.4%	3.4%	.2%	100%	37.5%	62.5%	100%

UNOPENED CASE DISPOSITION BY CATEGORY

TABLE XI

<u>CATEGORY</u>	<u>REFERRED</u>	<u>REFUSED</u>	<u>REJECTED</u>	<u>DISMISSED</u>	<u>TOTAL</u>
Parole	1	1	2	1	5
Medical	1	0	0	0	1
Legal	9	1	3	0	13
Placement	0	0	0	1	1
Property	1	0	1	0	2
Program	0	0	0	0	0
Discrimination	0	0	0	0	0
Records	0	0	0	0	0
Rules	2	0	2	0	4
Threats/Abuse	3	0	1	0	4
Mail	0	1	0	0	1
Hygiene	0	0	0	0	0
Services	0	0	0	0	0
Other	<u>2</u>	<u>1</u>	<u>1</u>	<u>0</u>	<u>4</u>
TOTAL	19	4	10	2	35
PERCENTAGE	54.3%	11.4%	28.6%	5.7%	100%

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MINNESOTA OMBUDSMAN FOR CORRECTIONS STATUTE

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

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

Subd. 2. "Administrative agency" or "agency" means any division, official, or employee of the Minnesota department of corrections, the Minnesota corrections authority, the board of pardons and regional correction or detention

facilities or agencies for correction or detention programs including those programs or facilities operating under chapter 401, but does not include:

- (a) any court or judge;
- (b) any member of the senate or house of representatives of the state of Minnesota;
- (c) the governor or his personal staff;
- (d) any instrumentality of the federal government of the United States;
- (e) any political subdivision of the state of Minnesota;
- (f) any interstate compact.

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

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

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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;
INVESTIGATION; ACTION ON
COMPLAINTS; RECOMMENDATIONS.
Subdivision 1. Powers. The
ombudsman shall have the
following powers:

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

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

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

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

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

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

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

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

(i) The ombudsman may bring an action in an appropriate state court to provide the operation of the powers provided in this subdivision. The ombudsman may use the services of legal assistance to Minnesota prisoners for legal counsel. The provisions of section 241.41 to 241.45 are in addition to other provisions of

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law under which any remedy or right of appeal or objection is provided for any person, or any procedure provided for inquiry or investigation concerning any matter. Nothing in section 241.41 to 241.45 shall be construed to limit or affect any other remedy or right of appeal or objection nor shall it be deemed part of an exclusionary process; and

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

Subd. 1a. No proceeding or civil action except removal from office or a proceeding brought pursuant to sections 15.162 to 15.168 shall be commenced against the ombudsman for action taken pursuant to the provisions of sections 241.41 to 241.45, unless the act or omission is actuated by malice or is grossly negligent.

Subd. 2. Matters appropriate for investigation.

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

(1) contrary to law or regulation;

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

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

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

(5) inefficiently performed;

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

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

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

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

A letter to the ombudsman from a person in an institution under the control of an administrative agency shall be forwarded immediately and unopened to the ombudsman's office. A reply from the ombudsman to the person shall

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be delivered unopened to the person, promptly after its receipt by the institution.

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

Subd. 4. Recommendations.

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

- (1) consider the matter further;
- (2) modify or cancel its actions;
- (3) alter a regulation or ruling;
- (4) explain more fully the action in question; or
- (5) take any other step which the ombudsman states as his recommendation to the administrative agency involved.

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

(b) If the ombudsman has reason to believe that any public official or employee has acted in a manner warranting criminal

or disciplinary proceedings, he may refer the matter to the appropriate authorities.

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

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

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

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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.

