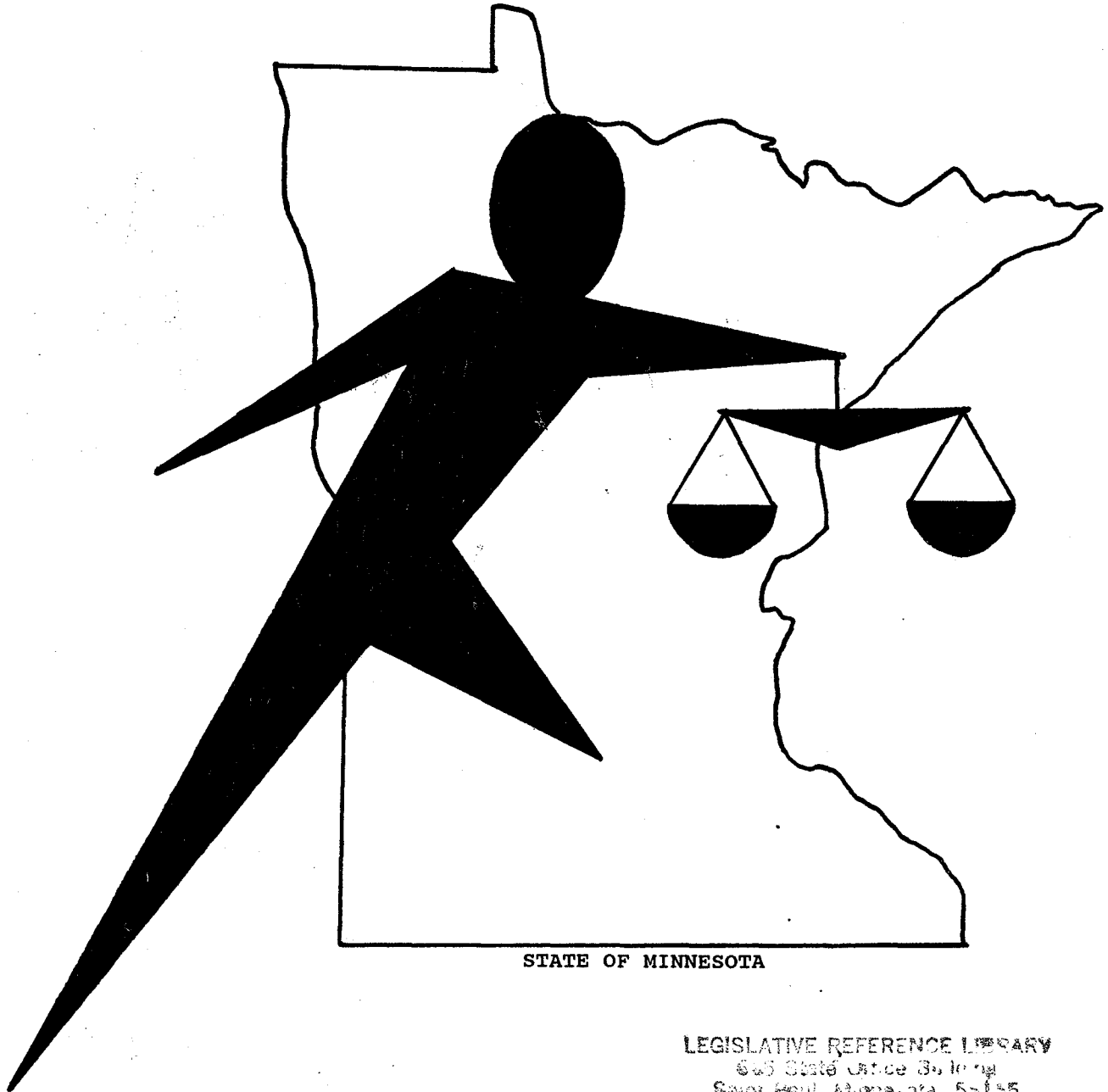


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OMBUDSMAN FOR CORRECTIONS



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FISCAL YEAR
1990-91
ANNUAL REPORT

Pursuant to MS 241.45, sd 2

STATE OF MINNESOTA



**REPORT FOR THE PERIOD
JULY 1, 1990 - JUNE 30, 1991**

**Submitted to
The Honorable Arne H. Carlson
Governor, State of Minnesota
pursuant to Section 241.45
Subd. 2 of the Minnesota Statutes**

**MELVYN H. BROWN
ACTING OMBUDSMAN FOR CORRECTIONS**

**1885 University Avenue
Suite 395
St. Paul, Minnesota
55104
(612) 643-3656**

October, 1991

OCT 29 1991

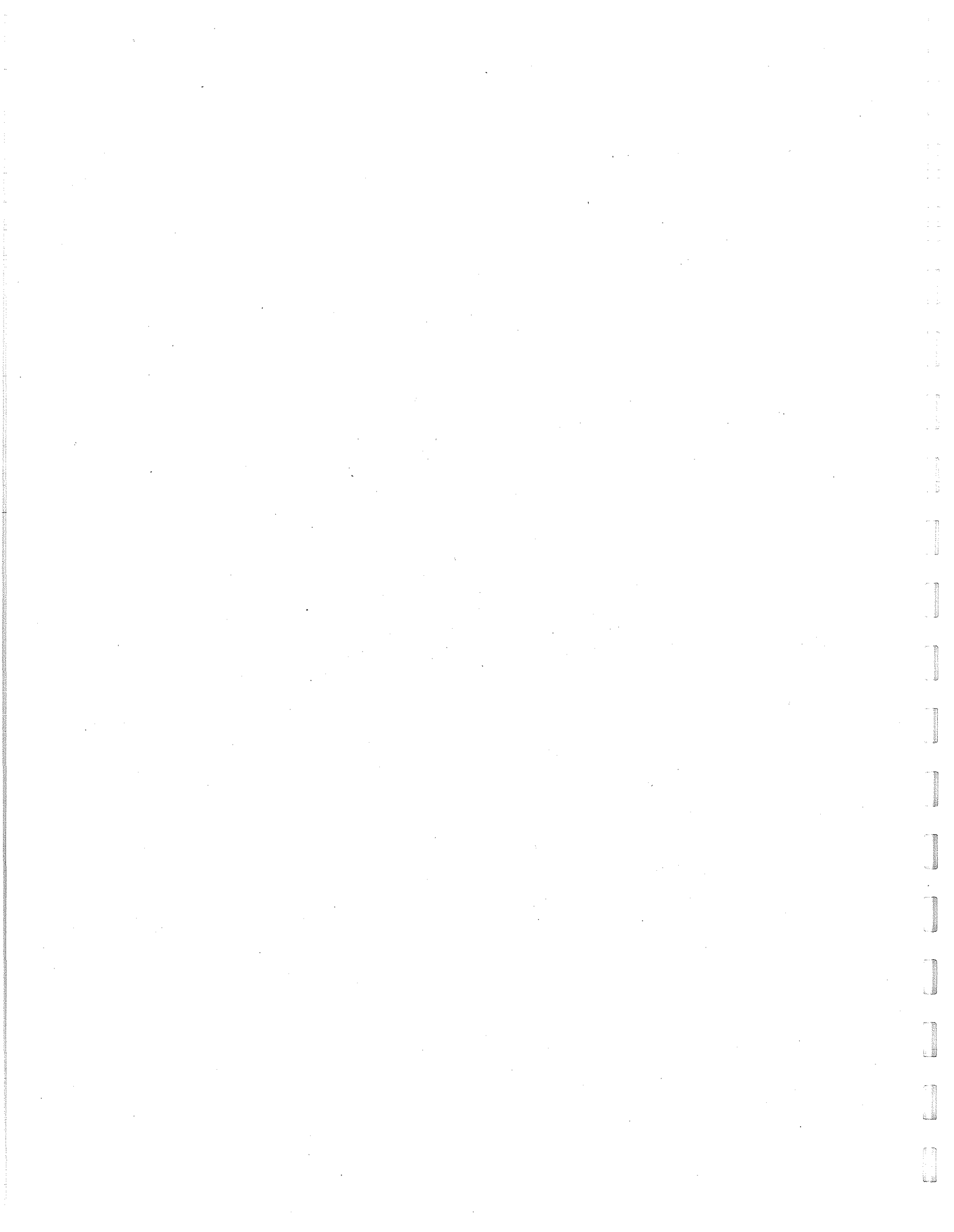
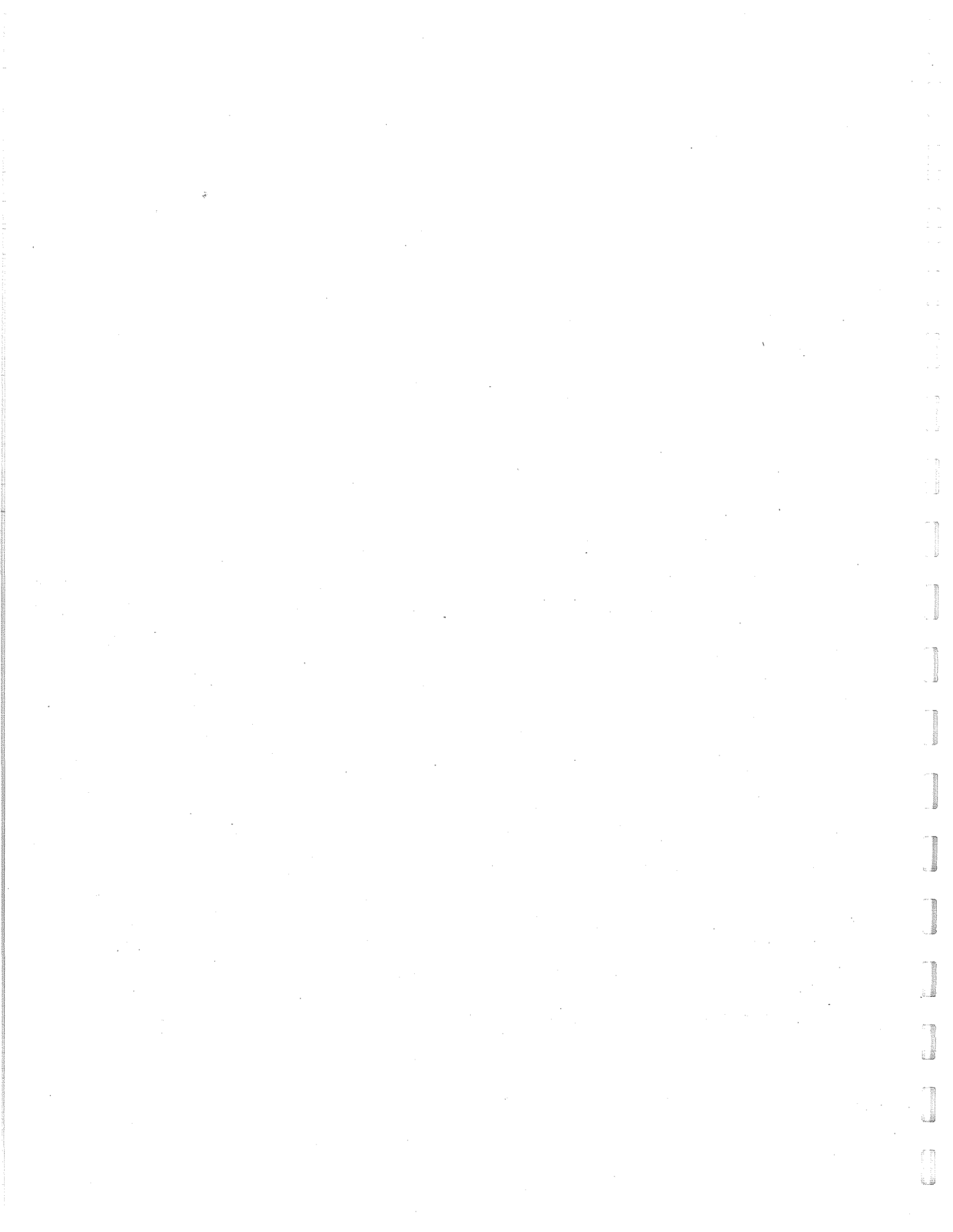


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OMBUDSMAN FOR CORRECTIONS

INTRODUCTION

BACKGROUND

The Minnesota Ombudsman for Corrections began as an experimental program, applying the technique of the Scandinavian Ombudsman to receive and analyze inmate grievances and forward corrective suggestions to the proper administrative agency, the governor, and legislature.

Mr. Theartrice (T) Williams was appointed by the Honorable Wendell R. Anderson, Governor, State of Minnesota on April 21, 1972, as the first Ombudsman, assuming office on July 10, 1972. This project was funded through June 30, 1973, with two Law Enforcement Assistance Administration grants through the Governor's Crime Commission. The grants totaled \$63,650 in federal funds plus \$21,117 in state matching funds. In May, 1973, the state legislature passed a bill creating the office of Ombudsman for Corrections as an independent agency of government. The proposal, under which the Ombudsman operated for one year, was incorporated into the bill.

The Ombudsman proposal was jointly developed by former Minnesota Commissioner of Corrections, David Fogel, and the Office of Delinquency Control at the University of Minnesota, and included an Ombudsman Commission that served as a selection advisory committee to the governor and an advisory committee to the ombudsman.

The Minnesota Ombudsman's basic goal was to assure that justice and fair play would prevail where people under the jurisdiction of the Department of Corrections were involved, with special emphasis on the population of the various institutions.

Special attention had to be paid to assembling a staff because the credibility of the program would depend upon the ability of the staff to communicate with and be trusted by both institutional staff and inmates, and the staff would reflect the interracial and sexual makeup of the clientele of the system.

During fiscal year 1983, the Ombudsman's office experienced its first leadership changes since its inception. 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.

Mr. Poupart's appointment ended January 7, 1991. Melvyn Brown was appointed Acting Ombudsman January 7, 1991.

OBJECTIVES OF PROGRAM

The ombudsman idea is one of the outstanding developments of public administration in this country. The first ombudsman was established in Sweden in 1809. Its success was recognized by other countries, and was adopted in national form by Finland in 1919, New Zealand in 1961, Norway in 1963, Tanzania in 1965, Guiana in 1966, and the United Kingdom in 1967.

The ombudsman concept has gained widespread attention as a device for controlling the rapidly expanding bureaucracy of the United States.

It is often believed that the Ombudsman is some type of "super-administrator" who has the power to overrule the decisions of the various administrators

OMBUDSMAN FOR CORRECTIONS

and, therefore, dictate administrative policy. This is clearly not the case. The Ombudsman's only powers are to investigate and make recommendations to the department officials, civil servants, and the legislature.

The Ombudsman has the great virtue of being visible. He has the authority to investigate complaints and communicate with inmates, staff, and governmental agencies, but he does not have the power to reverse, amend, or otherwise alter any administrative decision.

The Minnesota Ombudsman program began with some significant goals and objectives, such as:

1. Improving the relationship between staff and inmate by providing the inmates with information on the actions, motives, and design of administrative action.
2. Alleviation of tension within the prison by means of more open communications, i.e., a "release valve".
3. The improvement and clarification of administrative procedures and regulations.

The goals and objectives remain essentially the same today.

OMBUDSMAN FOR CORRECTIONS

The Ombudsman for Corrections is entering its twentieth 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. The office continues to be committed to insuring that the correctional institutions across the state are places where fairness, justice, and efficiency thrive.

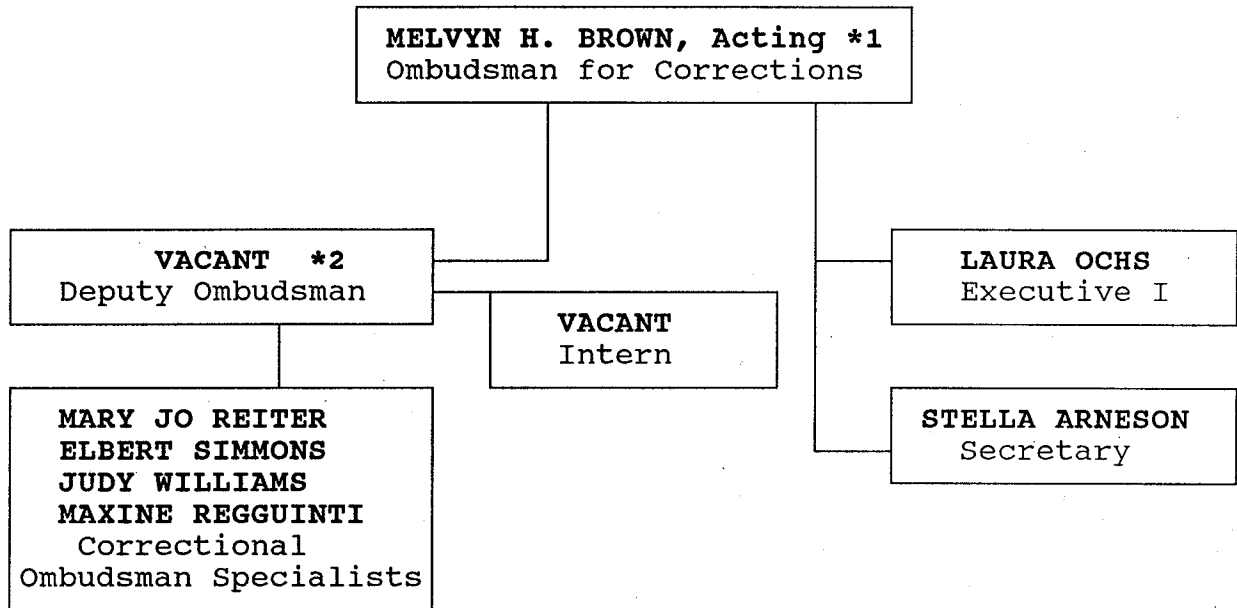
MISSION STATEMENT

The Ombudsman for Corrections exists to promote the highest attainable standards of competence, efficiency, and justice in the administration of corrections. It is a separate, independent state agency, created by M.S. 241.41. The Ombudsman for Corrections goal is to provide for safe, secure, and humane living conditions for inmates and staff in Minnesota's correctional settings. The agency's sole purpose is to conduct investigations of complaints lodged by inmates, staff, and other interested sources. Most complaints stem from inmates who are under the control of the Department of Corrections, although the Ombudsman also has the responsibility to investigate complaints and requests arising from friends, relatives, and

inmates incarcerated in jails and workhouses in the thirty counties operating within the Minnesota Community Corrections Act (Chapter 401). Other activities related to the investigation of complaints include making recommendations to the Minnesota Department of Corrections based on findings of investigations, submitting an annual report to the Governor, and providing information to the legislature as requested. The results of the agency's activities are safer prison environments, fewer costly law suits by inmates, and a rapid response system for complaint resolution which serves to relieve penal institutions of tension and lessen the likelihood for disturbances by inmates.

OMBUDSMAN FOR CORRECTIONS

ORGANIZATION CHART



- *1 JOHN POUPART - Appointment ended 1/7/91
- *2 MELVYN H. BROWN - Served as Deputy until 1/7/91

OMBUDSMAN FOR CORRECTIONS

BUDGET - FISCAL YEAR 1991

	<u>ORIGINAL</u>	<u>ACTUAL EXPENDITURES</u>
Personnel Services	\$345,272	\$322,894
Rents & Leases	16,515	16,514
Repairs & Maintenance	1,710	1,660
Printing & Binding	614	614
Professional/Technical	0	0
Data Processing	2,170	2,036
Communications	4,800	3,513
Travel	12,955	12,859
Fees	532	505
Equipment, Material, and Supplies	7,768	7,139
TOTAL	\$392,336	\$367,734
Closing Budget Adjustment (Cancellations)	(24,602)	
GRAND TOTAL	\$367,734	\$367,734

OMBUDSMAN FOR CORRECTIONS

OMBUDSMAN'S JURISDICTION

DEPARTMENT OF CORRECTIONS FACILITIES

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

COMMUNITY CORRECTIONS ACT COUNTIES

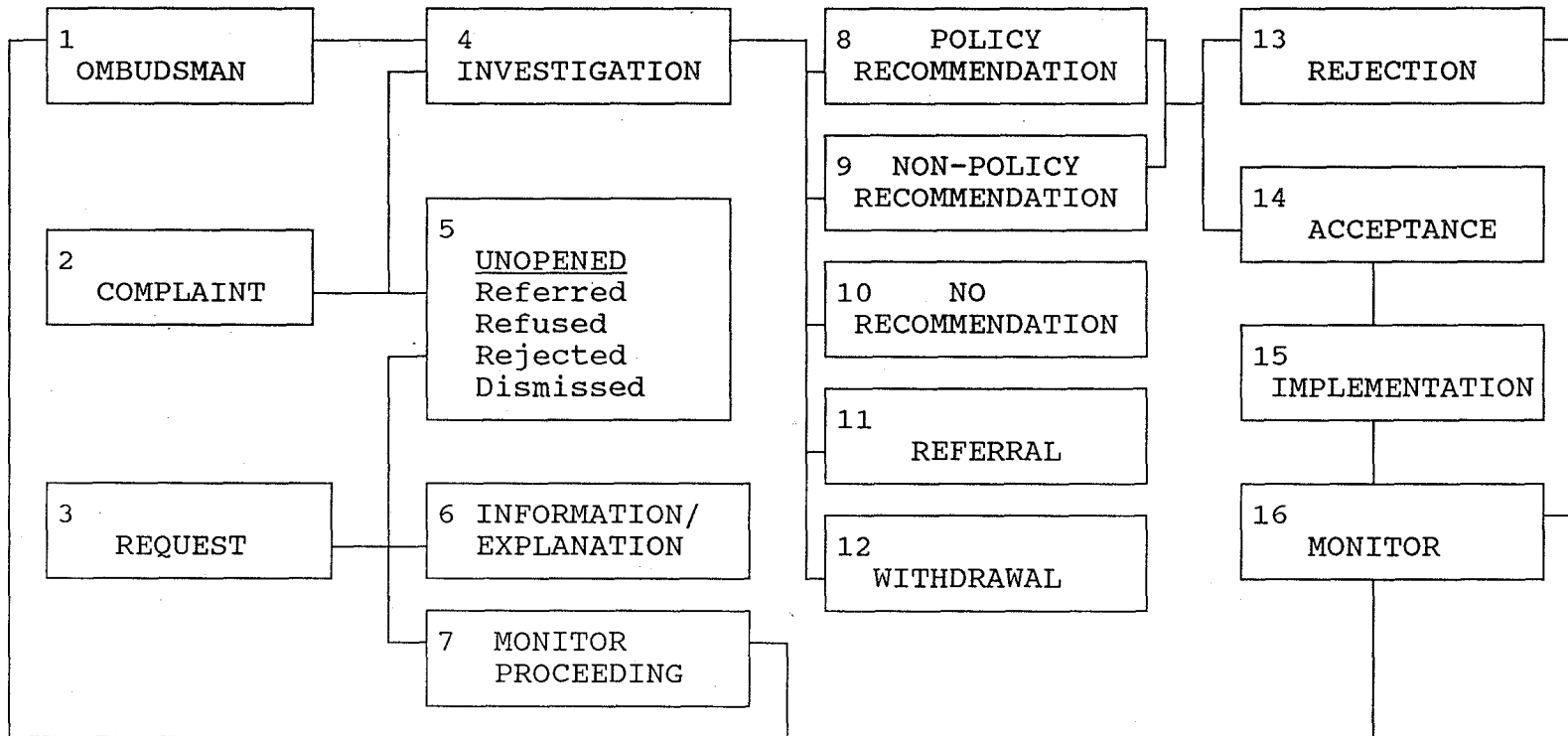
- | | |
|-------------------|---------------------|
| 1. Aitken | 16. Morrison |
| 2. Anoka | 17. Nobles |
| 3. Blue Earth | 18. Norman |
| 4. Carlton | 19. Olmstead |
| 5. Chippewa | 20. Polk |
| 6. Cook | 21. Ramsey |
| 7. Crow Wing | 22. Red Lake |
| 8. Dakota | 23. Rice |
| 9. Dodge | 24. Rock |
| 10. Fillmore | 25. St. Louis |
| 11. Hennepin | 26. Swift |
| 12. Kandiyohi | 27. Todd |
| 13. Koochiching | 28. Wadena |
| 14. Lac Qui Parle | 29. Washington |
| 15. Lake | 30. Yellow Medicine |

CASE PROCESSING PROCEDURE

```

*****
*          *
*  INITIATION  *
*          *
*****
*****
*          *
*  DISPOSITION  *
*          *
*****
*****
*          *
*  CONCLUSION  *
*          *
*****
*****
*          *
*  RESOLUTION  *
*          *
*****

```



OMBUDSMAN FOR CORRECTIONS

EXECUTIVE SUMMARY

A UNIQUE AGENCY

The Minnesota Ombudsman for Corrections is unique in that it is the only office of its kind in the nation. Functionally, it is a state agency reporting directly to the Governor. The Governor appoints the Ombudsman. In other words, while other states have ombudsmen whose discipline area is corrections, they usually come under a larger multi-purpose ombudsman structure. For example, Iowa, Nebraska, Hawaii, and Alaska have state ombudsmen. However, the person assigned, in those states, to investigate correctional complaints, is also assigned other areas of investigation. Moreover, other states, in the past, have utilized the Ombudsman for Corrections concept, however they were structured so that the ombudsman reported to the warden or to the commissioner of corrections.

CONTACTS RECEIVED

The total number of contacts received by the Ombudsman's office increased by 3.9% over the previous year, the year before that there was a 13% increase.

METHODS OF COMMUNICATION

Once again the most often used method of complaining to the Ombudsman is the telephone. There are seven methods by which an individual can contact the Ombudsman; written direct, written indirect, personal direct, personal indirect, telephone direct, telephone indirect, and Ombudsman initiated.

Fifty three percent of all complaints received were by telephone direct, which closely resembles last year's 56%. The next most popular was written direct.

In summary, the two most often used methods of complaining to the Ombudsman were telephone direct and written direct.

CASE DISTRIBUTION

There are 14 categories under which complaints received might fall. Cases involving "rules" was the most often mentioned (730 or 21% of total), up from 18% the previous year. The next most frequent mentioned category was "placement" (441 or 13%), up from 11% the previous year. The two least often issues complained about were "hygiene" and "mail" (tied at 25 or less than 1%).

INSTITUTION COMPARISONS

There are twelve state correctional institutions where the Ombudsman is active. These institutions account for 72% of total complaints (2,506). The following percentages are drawn from that base. The state prison at Stillwater had the most complaints with 43% (the same as last year and down from 49% the previous year), followed by the reformatory at St. Cloud which had 21% of the total complaints (up from 15% last year).

It should be noted that these two institutions rank highest in inmate population.

OMBUDSMAN FOR CORRECTIONS

INITIAL RESPONSE TIME

Initial response time refers to the time it takes to begin investigation on a complaint or respond to a request. Eighty-seven percent of the contacts received were initially responded to on the same day received. The Ombudsman regards this speedy response as a sign of efficiency for the agency.

TIME TAKEN TO RESOLVE CASES

The agency continues to resolve cases within 15 days at an ever increasing, impressive rate. The percentages of cases resolved within this time span has increased from 69.3% in 1987, 74.9% in 1988, 87.5% in 1989, 91.1% in 1990 to 93.5% this year. Rapid case resolution is a priority to the Ombudsman and is seen as a mark of efficiency.

OMBUDSMAN FOR CORRECTIONS

TYPE AND DESCRIPTION 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 and to facilitate year-to-year comparisons.

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.

OMBUDSMAN FOR CORRECTIONS

CONTACTS RECEIVED

EXHIBIT I

<u>MONTH</u>	<u>TOTAL OPENED</u>	<u>TOTAL UNOPENED</u>	<u>TOTAL CONTACTS</u>
July	314	0	314
August	335	0	335
September	292	0	292
October	322	0	322
November	253	1	254
December	226	1	227
January	321	0	321
February	230	0	230
March	266	0	266
April	260	0	260
May	369	0	369
June	<u>259</u>	<u>0</u>	<u>259</u>
TOTAL	3,447	2	3,449

METHODS OF COMMUNICATION

EXHIBIT II

<u>TYPE</u>	<u>CLOSED</u>	<u>UNOPENED</u>	<u>TOTAL</u>
Written Direct	562	0	562
Written Indirect	44	0	44
Personal Direct	374	0	374
Personal Indirect	49	0	49
Telephone Direct	1,837	2	1,839
Telephone Indirect	410	0	410
Ombudsman Initiated	<u>181</u>	<u>0</u>	<u>181</u>
TOTAL	3,457	2	3,459

OMBUDSMAN FOR CORRECTIONS

CASELOAD SUMMARY

EXHIBIT III

Carried Over from Fiscal Year 1990	29
Fiscal Year 1991 Contacts Received	<u>3,449</u>
Fiscal Year 1991 Caseload	3,478

Fiscal Year 1991 Caseload Disposition:	Cases Closed	3,457
	Unopened Cases	<u>2</u>
	TOTAL	3,459

Cases Carries Over to Fiscal Year 1992 19

REFERRALS*

EXHIBIT IV

Legal Aid to Prisoners.....	20
Legal Assistance to Minnesota Prisoners.....	7
Department of Corrections.....	57
State Public Defender.....	8
Private Attorney.....	10
Institution Staff.....	7
Human Rights.....	8
Lawyers Responsibility Board.....	8
Law Library.....	7
Other.....	<u>29</u>
TOTAL	161

*Unopened cases are not included, and "other" category contains organizations to which fewer than four referrals were made during F.Y. 1991

OMBUDSMAN FOR CORRECTIONS

CLOSED CASE DISTRIBUTION COMPARISON

EXHIBIT V

<u>CATEGORY</u>	<u>F.Y. 1990</u>		<u>F.Y. 1991</u>	
	<u>NUMBER</u>	<u>PERCENT</u>	<u>NUMBER</u>	<u>PERCENT</u>
Parole	265	8.0%	301	8.7%
Medical	356	10.7%	370	10.7%
Legal	404	12.2%	346	10.0%
Placement	379	11.4%	441	12.8%
Property	163	4.9%	148	4.3%
Program	256	7.7%	270	7.8%
Discrimination	78	2.4%	89	2.6%
Records	158	4.8%	143	4.1%
Rules	609	18.3%	730	21.1%
Threats/Abuse	246	7.4%	221	6.4%
Mail	48	1.4%	25	.7%
Hygiene	25	.8%	25	.7%
Services	53	1.6%	59	1.7%
Other	<u>279</u>	<u>8.4%</u>	<u>289</u>	<u>8.4%</u>
TOTAL	3,319	100.0%	3,457	100.0%

WITHDRAWN AND REFERRED CASES BY CATEGORY
(Cases Closed Only)

EXHIBIT VI

<u>CATEGORY</u>	<u>WITHDRAWN</u>	<u>REFERRED</u>	<u>TOTAL</u>
Parole	0	3	3
Medical	1	8	9
Legal	1	61	62
Placement	2	5	7
Property	0	1	1
Program	0	0	0
Discrimination	0	4	4
Records	1	3	4
Rules	3	26	29
Threats/Abuse	1	16	17
Mail	0	1	1
Hygiene	0	0	0
Services	0	7	7
Other	<u>4</u>	<u>26</u>	<u>30</u>
TOTAL	13	161	174
PERCENTAGE	7.5%	92.5%	100%

TOTAL CASES CLOSED

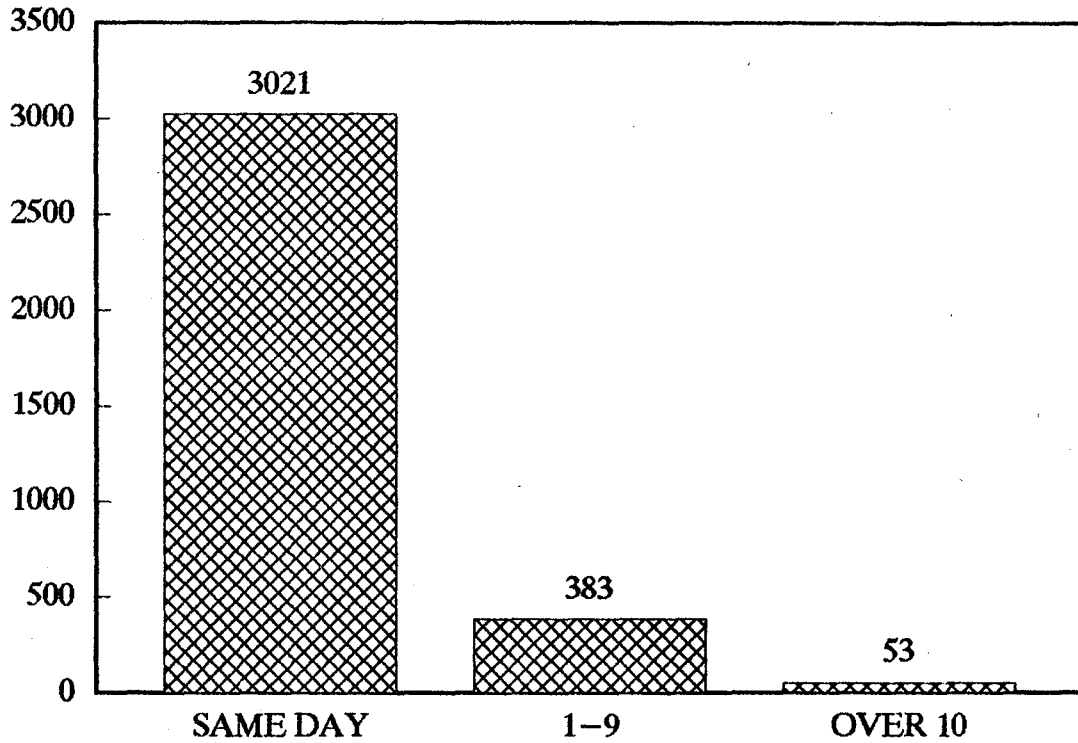
EXHIBIT VII

<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	110	11	54	53	12	22	3	4	1	5	2	15	6	3	301
Medical	127	27	18	110	10	18	32	1	2	3	7	1	10	4	370
Legal	76	28	36	133	1	12	8	12	0	2	7	8	22	1	346
Placement	206	50	80	51	5	10	18	6	0	4	0	2	4	5	441
Property	80	10	24	13	3	5	6	0	0	0	0	2	2	3	148
Program	103	17	70	28	3	21	18	3	0	1	0	3	2	1	270
Discrimination	14	15	12	28	3	5	5	1	0	0	1	0	3	2	89
Records	39	27	31	20	1	13	7	0	0	0	3	2	0	0	143
Rules	250	72	74	161	7	38	74	14	2	6	5	3	15	9	730
Threats/Abuse	25	32	44	74	1	10	18	3	0	0	2	2	9	1	221
Mail	9	1	5	3	0	0	5	0	0	0	2	0	0	0	25
Hygiene	4	2	2	10	0	0	6	0	0	0	0	1	0	0	25
Services	19	3	5	24	0	0	3	0	0	1	2	0	1	1	59
Other	<u>24</u>	<u>51</u>	<u>59</u>	<u>59</u>	<u>2</u>	<u>10</u>	<u>6</u>	<u>2</u>	<u>0</u>	<u>0</u>	<u>4</u>	<u>5</u>	<u>66</u>	<u>1</u>	<u>289</u>
TOTAL	1086	346	514	767	48	164	209	46	5	22	35	44	140	31	3457

 STW - Stillwater; OPH - Oak Park Heights; SCL - St. Cloud; CTY - County facilities (including Hennepin and Ramsey Counties adult and juvenile corrections facilities); RW - Red Wing (juvenile); LL - Lino Lakes; SHK - Shakopee (women); SCR - Sauk Centre (juvenile); WRC - Willow River; ML - Moose Lake; RGL - Regional facilities; FS - Field Service (including parole and probation); ML - Moose Lake; OTH - Other; FRB -Faribault.

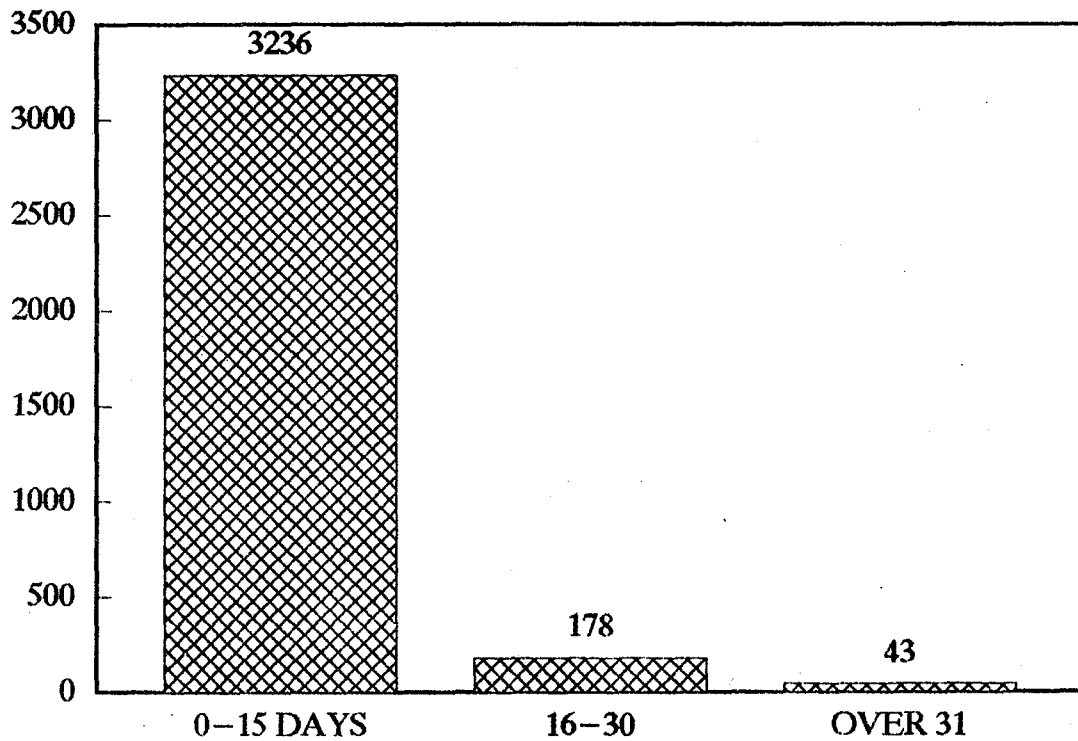
INITIAL RESPONSE TIME

EXHIBIT VIII

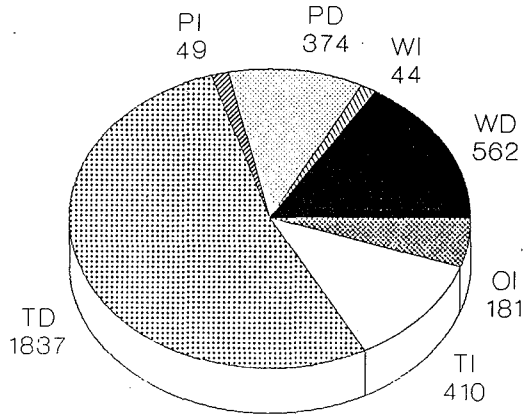


TIME TAKEN TO RESOLVE CASES

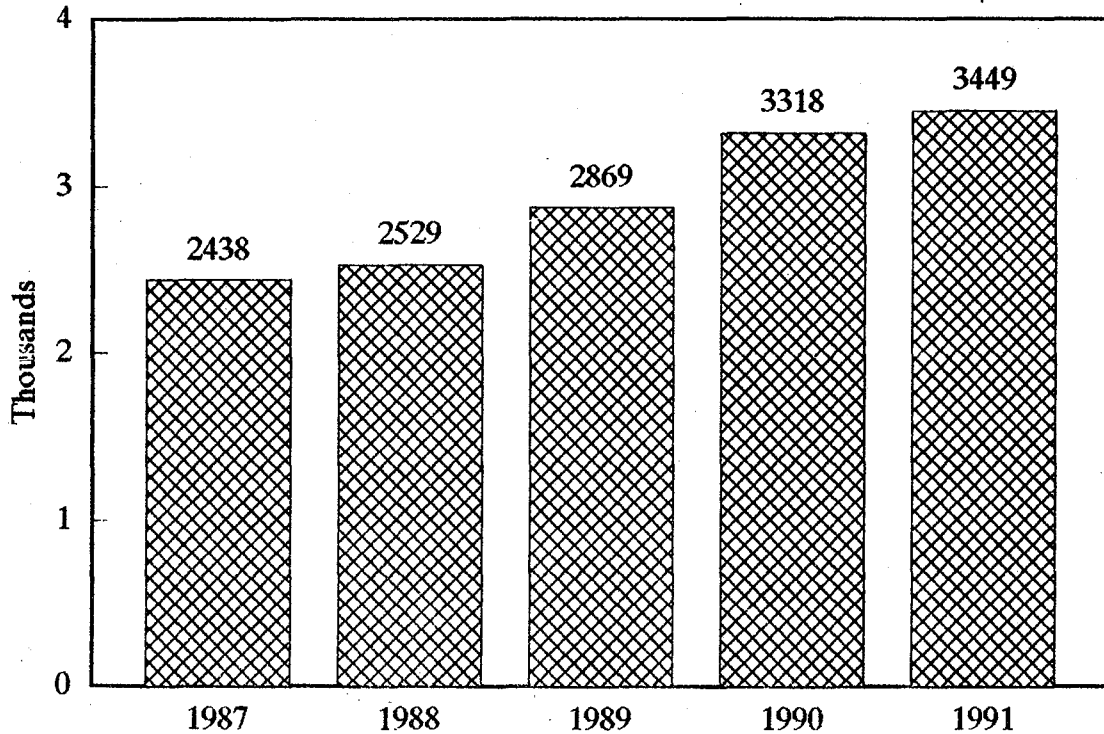
EXHIBIT IX



METHODS OF COMMUNICATION EXHIBIT X



TOTAL CONTACTS RECEIVED EXHIBIT XI



OMBUDSMAN FOR CORRECTIONS

**SUMMARY OF FISCAL YEAR 1991
OMBUDSMAN POLICY RECOMMENDATIONS**

The following recommendations were made by the Ombudsman's office:

1. that back pay for wages and reimbursement for inmates at MCF-OPH be included in an appeal and a review process.

Issued: December, 1990

Response: Accepted. Policy was changed.

2. that the cell idle pay policy at MCF-SCL be revised to give inmates found not guilty in discipline matters, or with dismissed charges, their regular, full rate of pay.

Issued: January, 1991

Response: Accepted. Policy was changed.

3. that Re-Entry Services provide personal hygiene products to indigent residents at no charge.

Issued: July, 1990

Response: Accepted. Products are now provided at no-charge.

4. that sensitivity training be provided to a Ramsey County Boys Totem Town staff person and that he be reassigned.

Issued: April, 1991

Response: Accepted. Sensitivity training provided after job reassignment.

5. that MCF-SHK adopt a policy of notifying inmates ten days in advance of the effective date of a policy change.

Issued: October, 1990

Response: Accepted.

6. that a discrepancy existed between the D.O.C. policy and the D.O.C. discipline manual in regard to good time lost for refusal to take a D.N.A. test, and the D.O.C. policy should be revised.

Issued: March, 1991

Response: Accepted. The D.O.C. policy was revised to be consistent with inmate disciplinary regulations.

OMBUDSMAN FOR CORRECTIONS

7. that MCF-SCL implement improved lighting for videotaping forced moves of inmates and video taping be started prior to inmate forced moves; and staff training be conducted on the topic of de-escalation of out-of-control inmates; and that health services be offered to all inmates involved in a forced move; and that those forced moves be documented in writing.

Issued: August, 1990

Response: Accepted in its entirety.

8. that the method of appealing a disciplinary procedure at MCF-SCR be changed, and that appeals are forwarded to the superintendent as soon as feasible and in a separate envelope.

Issued: January, 1991

Response: Accepted.

OMBUDSMAN FOR CORRECTIONS

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

- (a) He may prescribe the methods by which complaints are to be made, reviewed, and

OMBUDSMAN FOR CORRECTIONS

acted upon; provided, however, that he may not levy a complaint fee;

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

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

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

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

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

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

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

the courts or under the law of this state;

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

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

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

Subd. 2. Matters appropriate for investigation.

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

(1) contrary to law or regulation;

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

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

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

(5)inefficiently performed;

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

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

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

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

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

No complainant shall be punished nor shall the general condition or treatment

be unfavorably altered as a result of his having made a complaint to the ombudsman.

Subd. 4. Recommendations.

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

(1)consider the matter further;

(2)modify or cancel its actions;

(3)alter a regulation or ruling;

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

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

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

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

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

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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. Subd. 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.