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STATE OF MINNESOTA

OMBUDSMAN FOR CORRECTIONS



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1992/93

FISCAL YEAR 1992-1993
ANNUAL REPORT

TABLE OF CONTENTS

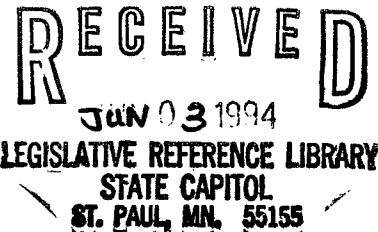
Introduction	i
Mission	1
History	2
Organizational Chart.....	3
Maps	4
Fiscal Year Activities	5
Initial Contact Methods	5
Descriptions of Contacts	6
Closed Cases by Institution	8
Response and Case Resolution	9
Status of Closed Cases	10
Contacts by Year	11
Statute	12



STATE OF MINNESOTA
OMBUDSMAN for CORRECTIONS

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November 1, 1993

Honorable Arne Carlson, Governor
State of Minnesota

Legislature of the State of Minnesota

Pursuant to Minnesota Statute 241.5, Subdivision 2, I am pleased to submit the Ombudsman for Corrections Annual Report for Fiscal Year 1993.

This was a very busy year for the Ombudsman. We show a 68% increase in contacts with our agency from the previous year. The reasons for this rise include increased numbers of incarcerated persons and our implementation of a new data system in July, 1992. This system allows us to record the nature of our agency contacts to better reflect our actual workload. We are also using this system to report more about the content of our work and report on how we close cases. This information will assist us in the development of outcome measurements, consistent with the state's goals for all agencies. We are continuing to fine-tune this system to provide better information for you, for the Department of Corrections and for our agency.

The nature of contacts with the Ombudsman has remained remarkably constant over the last several reporting years. Questions and complaints about institution rules continues to be our largest complaint category. This is followed by placement, medical and legal issues, which, with complaints about institution rules, comprise over 50% of our contacts. This statistic is not surprising given the relative stability of our institutions. This is a good indication that the Ombudsman is achieving its goal of ensuring safe, secure, and humane living conditions for the inmates and staff in Minnesota's correctional settings.

During this past session, the Legislature funded my request for an additional investigator position to provide staffing for the Faribault and Moose Lake institutions. The Ombudsman has not had any new positions since 1985 and was not meeting its mandate to investigate complaints in those institutions.

The Legislature also changed our reporting requirement from an annual report to a biannual report. This is our last annual report. I have decided to make this a very brief report because of the inherent problems in transition and comparisons when a new data system is implemented.

As the Ombudsman, I look forward to the continued opportunity to provide you with information regarding my agency's activities.

Respectfully submitted,

Patricia Seleen
Ombudsman for Corrections

MISSION

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 Minnesota Statute (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 and relatives of inmates and inmates incarcerated

ated in jails and workhouses in the thirty counties operating under 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 the 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 lawsuits 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.

The Ombudsman becomes the safety net in the system. This role becomes more important as corrections expands to meet the needs of increasing populations.

The unique role of the Ombudsman has allowed us to recognize issues and take the appropriate steps to avert bigger problems.

HISTORY

The Ombudsman for Corrections was established in 1972 to respond to the need for prison reform.

We have been involved in investigations following major disturbances in the prisons. One of the Ombudsman's first duties was to help negotiate the release of a hostage taken by three inmates.

As a result of the Ombudsman's efforts, recommendations have been made over the years that make our prisons safer for those who work and live in them.

On a daily basis, the duties of the Ombudsman tend to be less intense. Over the past 21 years, we have dealt with a multitude of issues ranging from frivolous to substantial. Because of the working relations we have established with the Department of Corrections (DOC), most of the complaints we deal with are resolved on an individual basis, without the need for formal actions.

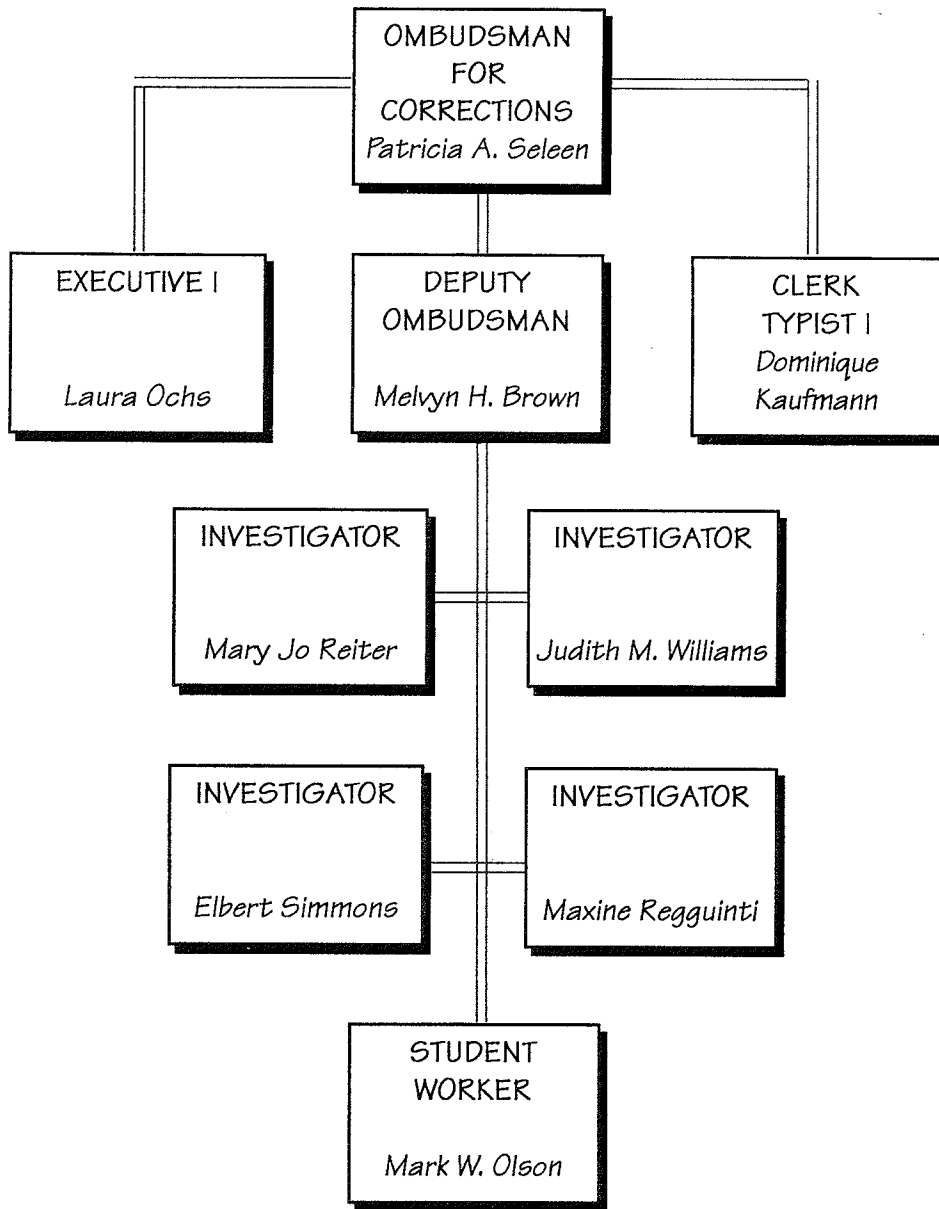
Our role is unique, however, because we are an impartial

investigative agency, independent of the Department of Corrections. This, along with our frequent presence in the institutions, has allowed us to recognize issues and take the appropriate steps to make recommendations to avert bigger problems.

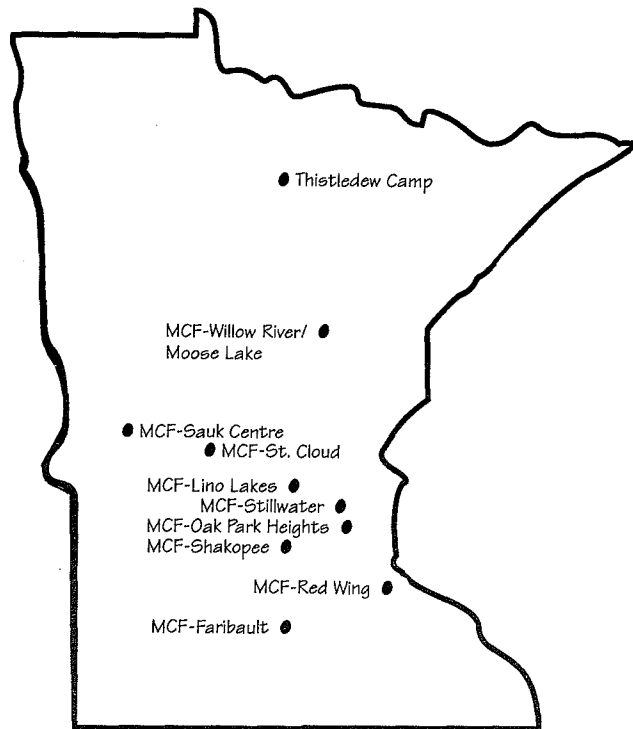
This year several recommendations were made and accepted that improved the operations of an industry program at Minnesota Correctional Facility -- Oak Park Heights. The Warden also agreed to implement an ongoing program to address cultural diversity in that institution.

At the request of the Ombudsman, the DOC was able to have a statute rewritten during this past legislative session that makes it more efficient for the department to provide sex offender treatment to offenders before they are released. Another recommendation was made and accepted to develop policy for the use of polygraph testing in institution disciplinary cases.

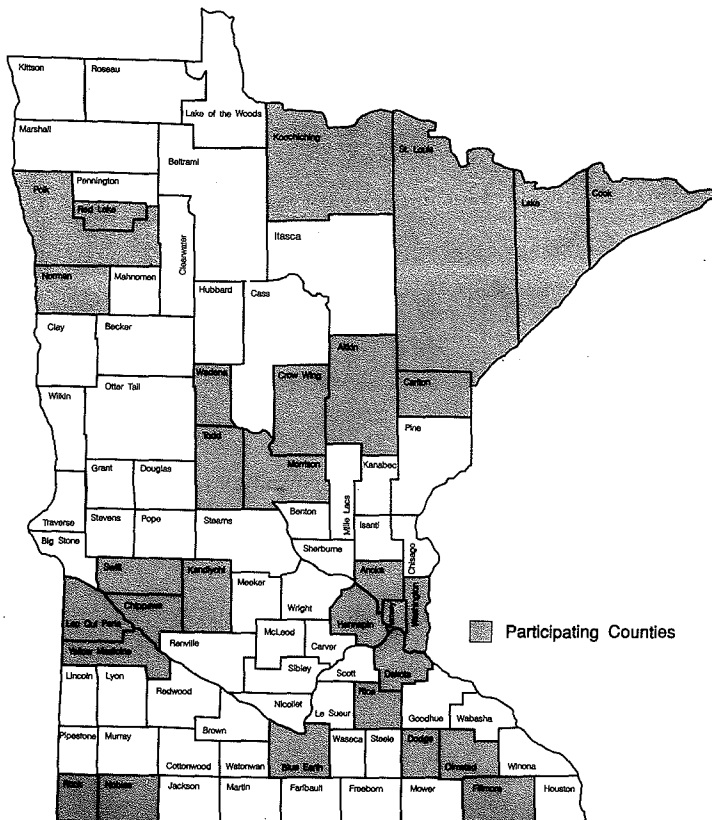
OMBUDSMAN FOR CORRECTIONS -- ORGANIZATIONAL CHART



MINNESOTA CORRECTIONAL FACILITIES



MINNESOTA COMMUNITY CORRECTIONS ACT -- PARTICIPATING COUNTIES



FISCAL YEAR 1992 - 1993 ACTIVITIES & STATISTICS

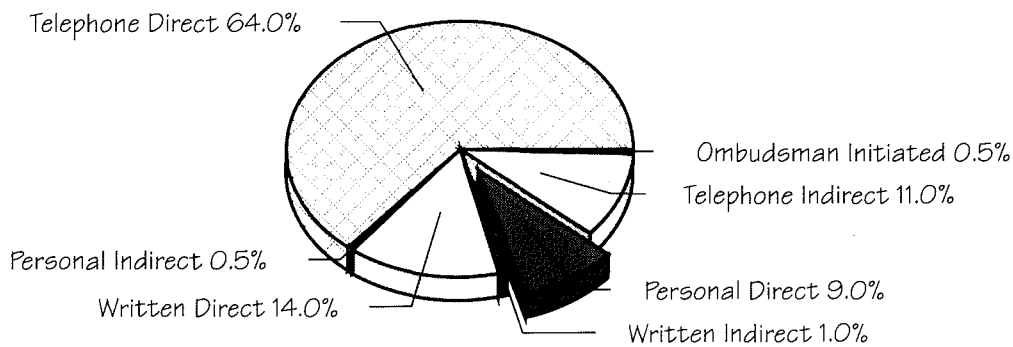
CASELOAD SUMMARY FISCAL YEAR 1993 (JULY, 1992 - JUNE, 1993)

Carried Over Cases From 1992	17
Contacts Received In 1993	3002
Information Only Requests	2398
Total Fiscal Year 1993 Caseload	5417
Cases Carried Over to Fiscal Year 1994	51

In 1993 we implemented a new record keeping system. It has enabled us to become more efficient in documenting all agency contacts.

INITIAL CONTACT WITH THE AGENCY

COMMUNICATION METHODS



TYPES 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.

CATEGORIES

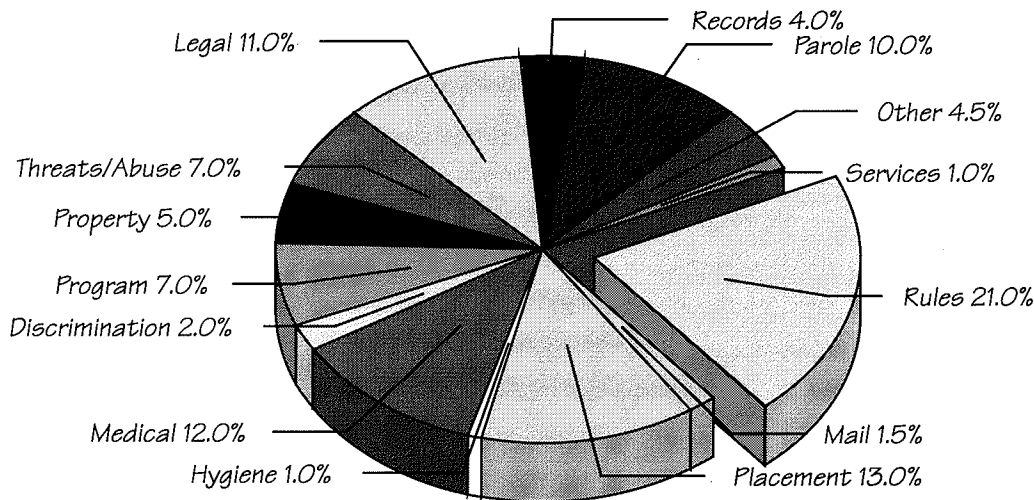
- ✓ **PAROLE:** Concerning any matter under the jurisdiction of the releasing authority, e.g., work release, supervised release, special review, etc.
- ✓ **MEDICAL:** Concerning availability of treatment or accessibility of a staff physician or other medical professional.
- ✓ **LEGAL:** Involving legal 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:** Regarding anything that may impact 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:** Concerning those contacts not covered in the previous categories, e.g. food, etc.

TOTAL CLOSED CASES BY CATEGORY

Parole	10%	Records	4%
Medical	12%	Rules	21%
Legal	11%	Threats/Abuse	7%
Placement	13%	Mail	1.5%
Property	5%	Hygiene	1%
Program	7%	Services	1%
Discrimination	2%	Other	4.5%
		Total	100%

The pattern of contact categories has been constant over the past 3 reporting years: close to 70% of contacts are in the Rules, Placement, Medical, Legal and Parol categories.*

(*Does not include information only contacts.)

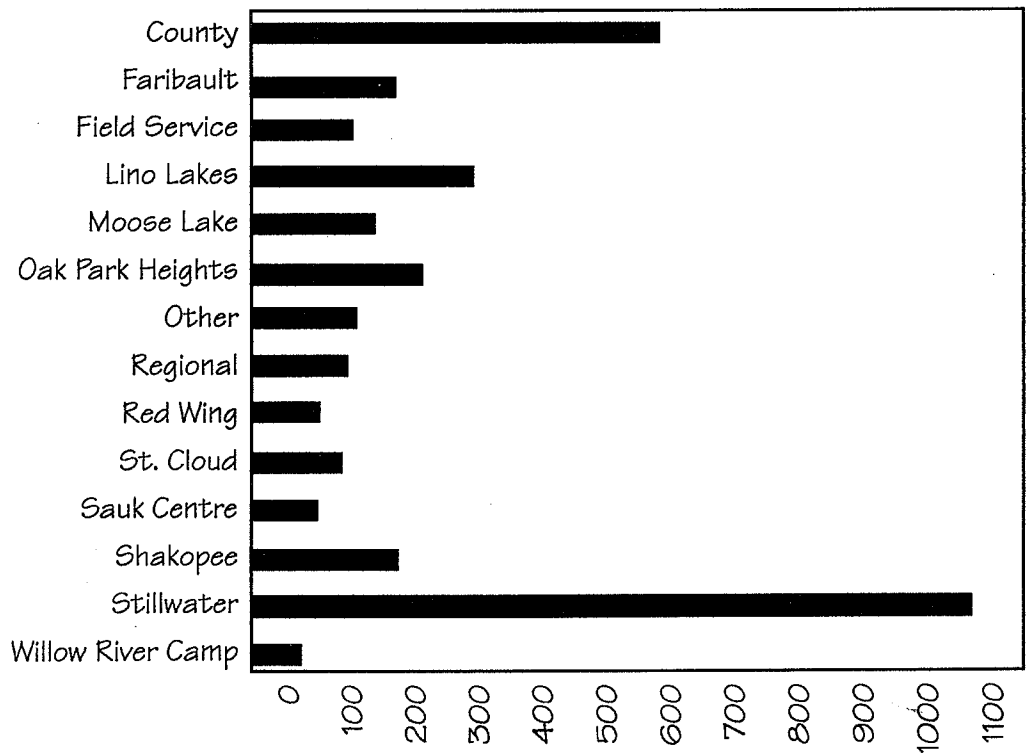


The agency standard is to have frequent on-site visits at all the state institutions. This year the Legislature appropriated money for an additional Field Investigator to help us meet this standard.

CLOSED CASES BY INSTITUTION*

INSTITUTION	CODE	# CASES
County	CTY	576
Faribault	FRB	150
Field Service	FS	48
Lino Lakes	LL	280
Moose Lake	ML	110
Oak Park Heights	OPH	197
Other	OTH	97
Regional	RGL	73
Red Wing	RW	35
St. Cloud	SCL	169
Sauk Centre	SCR	24
Shakopee	SHK	159
Stillwater	STW	1045
Willow River Camp	WRC	5
TOTAL:		2968

(*Statistics do not include information-only contacts)



RESPONSE AND CASE RESOLUTION TIME

INITIAL RESPONSE TIME

refers to the time taken to respond to a request. The Ombudsman's goal is to respond to cases within five days of receiving the request.

Fiscal Year 1992

Same day response 4,944
 1-9 day response 308
 10 plus day response 114

Total Closed Cases: 5,366

TIME TAKEN TO RESOLVE CASES

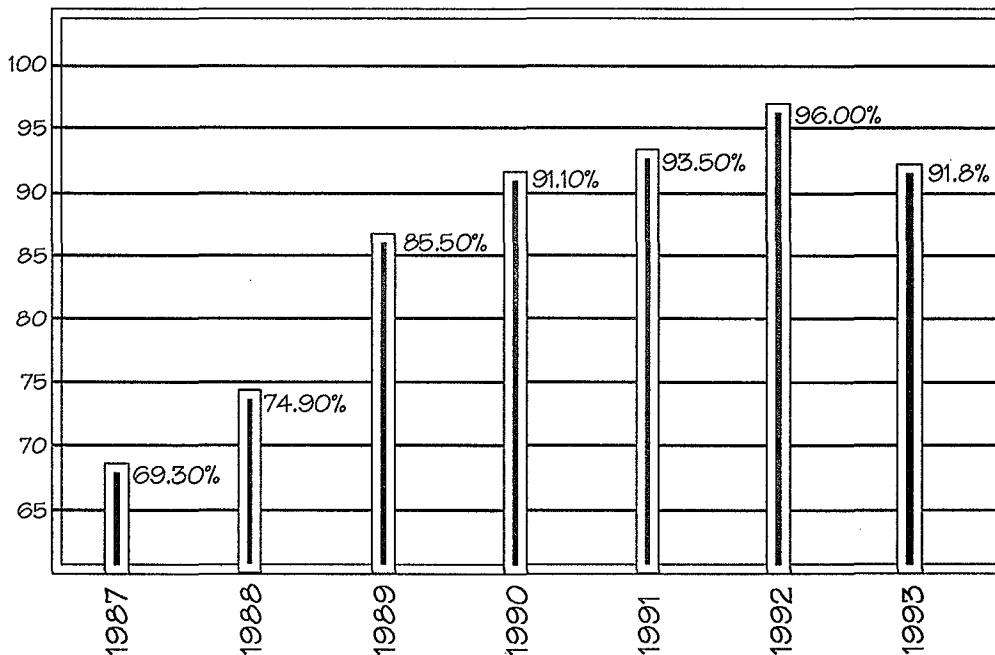
Timely resolution is a priority to the Ombudsman and is seen as a sign of efficiency.

Fiscal Year 1992

0 -15 days 4,928
 16 - 30 days 237
 31 plus days 201

Total Closed Cases: 5,366

PERCENTAGE OF CASES RESOLVED IN 0 - 15 DAYS



Our response rate decreased due to a significant increase in workload.

Cases are investigated to determine if the actions of the Department of Corrections are:

- 1) contrary to law or rule;
- 2) unreasonable, unfair, oppressive, or inconsistent with any policy or judgement 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.

CLOSED CASE STATUS

The new data system we began using in July, 1993, allows us to track how we close cases. This information will assist us in developing our performance objectives and outcome measurements.

We document each contact as closed in one of 6 ways:

- ✓ **INFORMATION:** A request for information that is known by the agency.
- ✓ **ASSIST:** Relatively uncomplicated complaints resolved with few contacts and which provide an explanation of an administrative act or decision to the complainant.
- ✓ **DISCONTINUED:** Complaints which are not pursued because of lack of jurisdiction or other prescribed reasons.
- ✓ **INVESTIGATED:** Completed investigations where findings and/or informal recommendations are made.
- ✓ **INVESTIGATED WITH FORMAL RECOMMENDATIONS:** Completed investigations which result in formal recommendations being made by the Ombudsman.

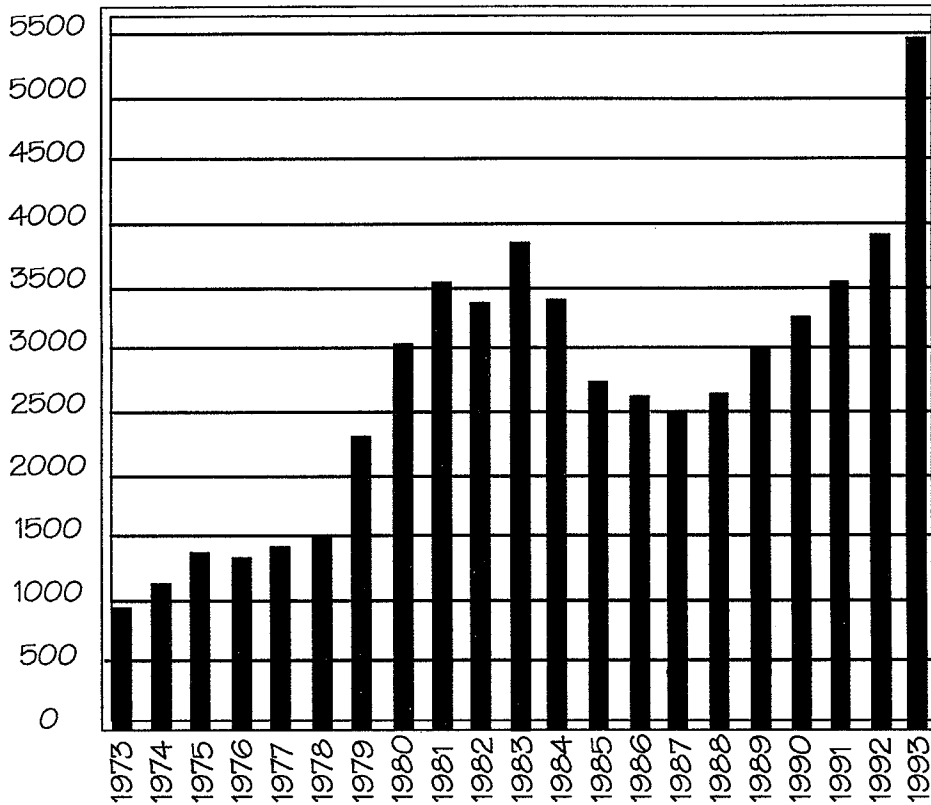
PERCENTAGE BY CATEGORIES

Information	44%
Assist.....	21%
Decline	2%
Discontinued	1%
Investigated	32%
Total	100%

OMBUDSMAN ACTIVITY 1973 - 1993

Contacts

Received



With the new reporting system, we documented a 68% increase in agency contacts.

CONTACTS BY YEAR

1973	927	1983	3722
1974	1026	1984	3212
1975	1299	1985	2694
1976	1132	1986	2593
1977	1308	1987	2438
1978	1402	1988	2529
1979	2207	1989	2869
1980	2939	1990	3318
1981	3429	1991	3449
1982	3211	1992	3729
		1993	5417

STATUTE

241.41 OFFICE OF OMBUDSMAN; CREATION; QUALIFICATIONS; FUNCTIONS

The Office of the Ombudsman for the Minnesota State Department of Corrections is hereby created. The Ombudsman shall serve at the pleasure of the Governor in the unclassified service, shall be selected without regard to political affiliation, and shall be a person highly competent and qualified to analyze questions of law, administration, and public policy. No person may serve as Ombudsman while holding any other public office. The Ombudsman for the Department of Corrections shall be accountable to the Governor and shall have the authority to investigate decisions, acts and other matters of the Department of Corrections so as to promote the highest attainable standards of competence, efficiency, and justice in the administration of corrections.

241.42 DEFINITIONS

Subdivision 1. For the purposes of sections 241.41 to 241.45, the following terms shall have the meanings here given them.

Subd. 2. "Administrative Agency" or "agency" means any division, official, or employee of the Minnesota Department of Corrections, the Commissioner of Corrections, the Board of Pardons and regional correction or detention facilities of 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 the Governor's personal staff;
- (d) any instrumentality of the federal government of the United States;
- (e) any political subdivision of the State of Minnesota;
- (f) any interstate compact.

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

Subd. 4. (Repealed, 1976 c 318 s 18)

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 deemed necessary to discharge responsibilities. The Ombudsman and full-time staff shall be members of the Minnesota State Retirement Association.

Subd. 2. The Ombudsman may appoint an Assistant Ombudsman in the unclassified service.

Subd. 3. The Ombudsman may delegate to staff members any of the Ombudsman's 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 legislative.

241.44 POWERS OF OMBUDSMAN; INVESTIGATIONS; ACTIONS ON COMPLAINTS; RECOMMENDATIONS.

Subdivision 1. Powers. The Ombudsman may:

- (a) prescribe the methods by which complaints are to be made, reviewed, and acted upon; provided, however, that the Ombudsman may not levy a complaint fee;
- (b) determine the scope and manner of investigations to be made;
- (c) Except as otherwise provided, determine the form, frequency, and distribution of conclusions, recommendations, and proposals; provided, however, that the Governor or a representative may, at any time the Governor deems it necessary, request and receive information from the Ombudsman. Neither the Ombudsman nor any staff members shall be compelled to testify in any court with respect to any matter involving the exercise of the Ombudsman's official duties except as may be necessary to enforce the provisions of sections 241.41 to 241.45;

STATUTE CONTINUED

(d) investigate, upon complaint or upon personal initiative, any action of an administrative agency;

(e) request and shall be given access to information in the possession of an administrative agency deemed necessary for the discharge of responsibilities;

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

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

(h) subpoena any person to appear, give testimony, or produce documentary or other evidence which the Ombudsman deems relevant to a matter under 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 laws of this state;

(i) 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) be present at the commissioner of corrections parole and parole revocation hearings and deliberations.

Subd. 1a. **Actions against Ombudsman.** No proceeding or civil actions except removal from office or a proceeding brought pursuant to chapter 13 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 attention, the Ombudsman should address particularly actions of an administrative agency which might be:

(1) contrary to law or rule;

(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 be concerned 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. The Ombudsman may, on personal motion or at the request of another, investigate any action of an administrative agency. The Ombudsman may exercise powers without regard to the finality of any action of an administrative agency; however, the Ombudsman may require a complainant to pursue other remedies or channels of complaint open to the complainant before accepting or investigating the complaint.

After completing 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

STATUTE CONTINUED

shall the general condition of the complainant's confinement or treatment be unfavorably altered as a result of the complainant having made a complaint to the Ombudsman.

Subd. 4. Recommendations.

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

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

If the Ombudsman so requests, the agency shall within the time the Ombudsman specified, inform the Ombudsman about the action taken on the Ombudsman's 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, the Ombudsman 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 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 the Ombudsman's 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 RECOMMENDATIONS, REPORTS

Subdivision 1. The Ombudsman may publish 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 the Ombudsman 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 biennially report to the Governor concerning the exercise of the Ombudsman's function during the preceding biennium. The biennial report is due on or before the beginning of the legislative session following the end of the biennium.

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