

ELEVENTH

ANNUAL

REPORT

OMBUDSMAN

FOR

CORRECTIONS



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ELEVENTH ANNUAL REPORT  
  
OF THE  
  
OMBUDSMAN FOR CORRECTIONS  
  
TO THE  
  
CORRECTIONS OMBUDSMAN BOARD

FOR THE PERIOD  
  
JULY 1, 1987 THROUGH JUNE 30, 1988

NCJRS

FEB 4 1989

ACQUISITIONS

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## THE PROGRAM

Since its beginning in 1975, the Office of the Ombudsman for Corrections has been responsible for handling complaints from inmates and staff of the Kansas correctional institutions. The Office was established by statute and is separate from the Kansas Department of Corrections. As an independent agency, the role of the Ombudsman Office is that of an impartial finder of facts and an advocate of administrative justice and fairness.

Complaints are received from inmates and their families, corrections staff members, and correctional volunteers by mail, telephone, and personal contact during Ombudsman staff visits to the institutions. Some complaints are easily resolved by supplying information to the complainant. Other complaints require investigation. If the investigation of the Ombudsman Office shows that the procedure or practice complained about was appropriate, correct and within the published rules, regulations, policies and procedures of the Department of Corrections, the Ombudsman staff explains that to the complainant and the matter is closed. If, however, the investigation finds that the procedure or practice was contrary to the published rules, or that there are shortcomings in a procedure or practice, the Ombudsman recommends corrective action.

To say the Ombudsman "handles complaints," only tells a part of the story. Another function is that of impartial observer and monitor. During the course of institution visits, the Ombudsman staff may become aware of situations or practices that are problematic and may conduct investigations on their own initiative without having been contacted by a complainant. Additionally, an individual complaint (or a series of similar complaints) may lead to a study or investigation of a systemic issue that impacts many people. As an outsider, the Ombudsman is able to provide a different perspective in discussions with correctional administrators. This can lead to fresh ideas and innovative solutions to problems.

The Ombudsman is appointed by and accountable to the Corrections Ombudsman Board (COB). The ten-member Board is composed of two appointees selected by each of the following five state officials: The Governor, the Attorney General, the Chief Justice of the Supreme Court, the President of the Senate, and the Speaker of the House. Board members are appointed for four-year terms.

## OVERVIEW OF FISCAL YEAR 1988

The year began with a flourish as the Office prepared to open the newly approved Hutchinson Branch. In early September 1987, the Hutchinson Branch Office was opened to provide regular on-site complaint handling services at KSIR and on a limited basis at the other correctional institutions in the south-central and western parts of the state. With the opening of the branch office, it enabled the office to increase services at these institutions dramatically and provide more rapid responses to complaints. The number of days staff spent at KSP increased by 27%, KCIL by 194%, KSIR by 268% and other institutions by 250% over FY 1987 figures. Further, the percentage of complainants responded to within 0-7 days increased by 9.6% and the percentage of investigations commenced within that same time increased by 30.7% over the previous year.

Staffing within the Office remained constant throughout the majority of the year. Mr. Micah A. Ross, Ombudsman Associate, resigned at the end of June, 1988 to become Director of the Kansas Parole Board after over four years with the Office. At the start of the year, the two clerical positions became classified, thus allowing the positions to be upgraded as part of the clerical implementation study conducted by the Department of Administration. This change required an amendment to the Office's governing statute which was accomplished during the 1987 Session of the Legislature and was motivated by the constant turnover of unclassified personnel in these positions.

During the 1988 Session of the Legislature the Ombudsman's statutory authority was expanded to include any inmate housed by any entity under contract with the Secretary of Corrections and provide the Ombudsman with the right of reasonable access to such facilities. Also during the 1988 Session the Corrections Ombudsman Board introduced Legislation involving a number of measures to assist the Department of Corrections in dealing with overcrowding and the tremendous backlog of inmates needing programs as stipulated by the Kansas Parole Board. As introduced, House Bill 3079 contained only four sections, but as it moved through the legislative process another bill was merged with it and additional sections were added. Finally, House and Senate differences were successfully negotiated in conference committee by expanding Board membership from three to five members, providing that the Chairperson and Vice-Chairperson were selected by the Governor, giving the Chairperson administrative authority over the Board, and requiring A and B felons to receive a supermajority vote for parole to be granted. Aside from the above mentioned measures involving the Kansas Parole Board the bill in its final version contained five new statutes and amendments of existing statutes. House Bill 3079 thus had evolved into probably the most sweeping corrections legislation within this decade.

## EXAMPLES OF COMPLAINTS

These case summaries show how the Ombudsman Office handles certain types of complaints. These particular examples were chosen because they reflect five of the seven most frequent categories during Fiscal Year 1988. An attempt has been made to avoid identifying the individuals and institutions involved by omitting names and referring to all complainants and correctional staff in the masculine gender. Additionally, all Ombudsman staff are referred to as the Ombudsman. All other information in these examples is factual. Definitions for the terms used for complaint and disposition categories can be found in Appendix I of this report.

### Case #0729 -- Medical

The Ombudsman received a letter from an inmate who had been transferred from a pre-release center to a maximum security facility for hernia surgery. After waiting there for two months, the inmate, who was now on lay in status in maximum security, had still not received his surgery.

In reviewing the inmate's medical records with the infirmary administrator, the Ombudsman found that medical personnel had recommended the surgery; however, it had not been scheduled due to the fact that it was determined to be "non-emergency." Meanwhile, the inmate was required to be in maximum security, though classified as minimum, until the surgery could be performed.

After two weeks of pursuing the issue as far as the Director, the Ombudsman was able to get the required surgery scheduled at a local hospital.

After the surgery was performed, the problem arose in having the inmate transferred back to the pre-release center to complete his programs before his release date. Again the Ombudsman intervened and after a number of contacts with the Directors of both institutions, the Ombudsman was successful in having the inmate transferred back to the pre-release center to complete his programs.

DISPOSITION: Fully Rectified

### Case #0142 -- Custody Status

The Ombudsman received six letters from four inmates in administrative segregation on permanent status. Each inmate stated he would commence a hunger strike in 60 days if two demands were not met by the institution: a level system that would enable permanent segregation inmates to work their way out with good behavior and either their release from the segregation unit or transfers to an institution out of state.

The Ombudsman contacted the unit team manager and informed him of the impending strike. Two days later the four complainants, plus four

other segregation inmates, initiated a hunger strike which lasted for four days. Upon discontinuation of the strike, the Ombudsman met with the Director to discuss possible ways to avoid such strikes in the future. The Director was receptive to the proposal of a level system and agreed to appoint a committee of his staff to develop it. Approximately four and a half months later, the Director issued a policy statement establishing a criteria for segregation inmates to be released to the general population.

DISPOSITION: Fully Rectified

Case #0432 -- Disciplinary Procedure

The Ombudsman received a letter from an inmate at a maximum security facility who had received a disciplinary report for refusing to work in the facility's kitchen. The reason for the inmate's refusal to work was a back injury he had sustained in an auto accident shortly after he was arrested on a parole violation.

In reviewing the inmate's medical records with the infirmary administrator, the Ombudsman discovered that the inmate had in fact mentioned the incident to medical staff, but that they had been unable to verify the injury. The inmate was cleared for kitchen duty. It was further discovered that institutional staff had attempted to gain a record of the inmate's hospitalization from St. Johns Hospital in Salina. The Ombudsman determined that the inmate had been arrested in Wichita. A call to the Wichita Parole Office confirmed that the inmate had violated parole in that city and was injured in an auto accident while enroute to the Sedgwick County Jail in a sheriff's unit. A contact with the Wichita Police Department secured a copy of the accident report which established that the inmate had been taken to St. Joseph Hospital in Wichita. The Ombudsman was able to gain the inmate's medical records and they were made a part of his medical file at the maximum security facility. A doctor appointment for the inmate was further scheduled for an update on his condition.

After establishing the validity of the inmate's claim, the Ombudsman met with the Disciplinary Administrator who was advised of the circumstances surrounding the case. After reviewing the information supplied by the Ombudsman, the disciplinary report on the inmate was dropped.

DISPOSITION: Fully Rectified

Case #0577 -- Inter-Institutional Transfer

The Ombudsman received a letter from an inmate who requested a transfer from one facility to another closer to home. The reason for this request was that the inmate's four year old son had cerebral palsy and was in and out of the hospital causing a hardship to the inmate's family. At the time of the letter the inmate's son was going back into the hospital for surgery as he was losing his eyesight.



At the time of this request transfers to this maximum security facility were being denied due to severe overcrowding at that facility. The only exceptions to this policy were severe emergencies and disciplinary problems.

After a lengthy meeting with the Director at the minimum security facility, the Ombudsman was able to establish that this request could be honored as an emergency and that the best interests of both the inmate and the minimum facility would be served by doing so.

The Ombudsman then met with the inmate and his unit team counselor at which time the necessary paperwork was filled out and a meeting with the Director for final approval was arranged.

The inmate was transferred the next week.

DISPOSITION: Fully Rectified

Case #0486 -- Versus Staff

The Ombudsman received a letter from an inmate regarding a particular corrections officer. The allegations concerned the officer's attitude and professional behavior.

This had not been the first complaint the Ombudsman had received regarding this particular officer. The Ombudsman had been monitoring the officer's performance for several weeks and had become aware of concerns and complaints from staff members concerning the officer.

After a great deal of fact gathering the Ombudsman arranged a meeting with the Director. After a lengthy discussion of the matter, the Director was encouraged to consider the matter and investigate the officer fully.

At the conclusion of that investigation at the institutional level, the officer was disciplined and reassigned.

DISPOSITION: Fully Rectified

## CLAIM INVESTIGATIONS

Claims for property loss or damage filed by inmates within the State system are referred to the Office of the Ombudsman by the Joint Committee on Special Claims Against the State. As a rule these claims have already been processed through the Department of Corrections claim procedure with negative results.

There were 82 claims referred to the Office for investigation and recommendation in Fiscal Year 1988. Of those 82, 70 were accepted for investigation and 12 were not accepted.

Of the 70 claims accepted, at some point either during or after the investigation or at the Committees hearing of the claim, the claimant withdrew it. Two of the accepted claims were closed during the investigation because the claimant filed in court on the losses.

Generally, the basis for not accepting claims was that the information provided in the claim and attached Department of Corrections property claim was sufficient for the Committee to reach a determination without further investigation by the Office. In a very few cases, it was determined that because of the excessive length of time since the incident occurred and the claim was referred to the Office, further investigation would be futile.

The following is an example of a report submitted during Fiscal Year 1988 to Representative Ben Foster, Chairman of the Joint Committee on Special Claims Against the State. Inmate and staff member names, as well as institution names and cellhouse designations, have been omitted.

### Case #0697 - Property Loss Claim

July 15, 1987

Dear Representative Foster:

This report is in response to the letter of March 30, 1987 requesting our investigation of the \$168.95 property loss claim submitted by Mr. X, an inmate at a state correctional institution.

#### Claim

Mr. X claims that on October 27, 1986 he returned to his cell and found that someone had broken into his locker box. He further claims that when a cell partner was being moved to another cell on this date, the cell partner was left unattended and took this opportunity to remove Mr. X's cassette tapes, headphones, extension cord, and numerous canteen items. Because of the institution's policy that all property packing and movement be supervised, Mr. X requests reimbursement for his loss.

## Department of Corrections' Findings

A Department of Corrections' claim was submitted by Mr. X on October 29, 1986 and was denied by the Department on March 2, 1987 (copy enclosed). Basis for the denial was established in the Institution Investigation Report that states the policy, "...that at no time are inmates allowed to enter a cell other than their own nor is the movement of inmate property allowed without prior authorization." Also, the report indicates that the corrections officers on duty did not report any unusual activity on this date.

## Ombudsman Office's Findings

In an interview with Ombudsman Office staff, Mr. X stated that one of his cell partners had been moved during the middle of the afternoon while Mr. X was still at work. When he returned from work later in the afternoon, Mr. X found his locker box broken into and the claimed property plus other property he is not bothering to claim missing. Mr. X further explained that Officer Y had opened the cell door to allow the exiting inmate to bring out his belongings. While the exiting inmate was moving out, Mr. X claims that Officer Y left the cell and inmate unattended. Mr. X also stated that he was moved into protective custody, where he now resides, because of this theft. He also asserts that another inmate who witnessed this theft was moved to another institution because of danger to him as well. His other witness, Sergeant Z was the officer in charge of his unit and is still an employee at the institution.

In an interview with Corrections Officer Y, he stated that he had no recollection of the incident. He also stated that he would have checked for the missing property, if Mr. X had reported it to him.

In an interview with Sergeant Z, he confirmed Mr. X's story about the theft. Sergeant Z stated that the cell partner handed the stolen property out of the cell to an inmate porter who carried the property away. The porter's cell was later searched but the stolen property was not recovered. The inmates involved in the theft were given disciplinary reports and were required to serve disciplinary sentences.

A check of Mr. X's property file verified that he did own fifteen cassette tapes and the headphones he claims. These items were in his possession October 10, 1986 when he returned to the institution from Larned State Hospital, seventeen days before the theft. However, their value was not documented and there was no indication or notation that the tapes were pre-recorded. Inquiries made of local retailers indicated that pre-recorded tapes range in value from \$7.00 to \$11.00 and that Realistic Midland headphones cost approximately \$15.00, as claimed.

Mr. X's store purchases show that thirteen days before the theft he purchased an extension cord at \$1.64. Six days before the theft he purchased eight packs of cigarettes at \$8.48, two banana flips at .70¢, twelve cans of soda pop at \$3.36 and two cans of chili at \$1.84. The can of ham, however, has not been verified.

### Recommendation

It has been clearly shown that Mr. X had all items claimed within a few days before the loss, with exception of the canned ham at \$3.50. And it has been established that a number of items were stolen from Mr. X's locker box, while under the care of correctional staff in Mr. X's absence. Therefore, we recommend in favor of Mr. X's claim. We do, however, decline making recommendation as to the amount of reimbursement.

I hope this information is of help to the Committee in making a determination on this claim. If you have any questions concerning this claim, please call me.

Sincerely,

Committee Action: voted to approve claim in the amount of \$98.95.

## STATISTICAL PRESENTATION

The following statistical sections provide an overview of the Office's complaint handling during fiscal year 1988. This data not only provides an accountability of office activity to the Corrections Ombudsman Board and others, but also provides a means by which the office staff can measure the effectiveness of complaint handling and identify various problem areas. Definitions for the categories and dispositions are provided in Appendix I.

It should be noted that a fiscal year is from July 1 to June 30 of the following year. There will be a difference in the number of cases opened in a fiscal year and the number of cases closed. A majority of cases opened during a fiscal year are closed during that same year as well as cases carried over from previous fiscal years. One will also note a difference in the figures regarding the number of cases closed and the number of "complaints." This is because although a majority of cases are "complaints" requiring an investigation of some sort, there is always a certain percentage of cases which request that the Office provide "information" only.

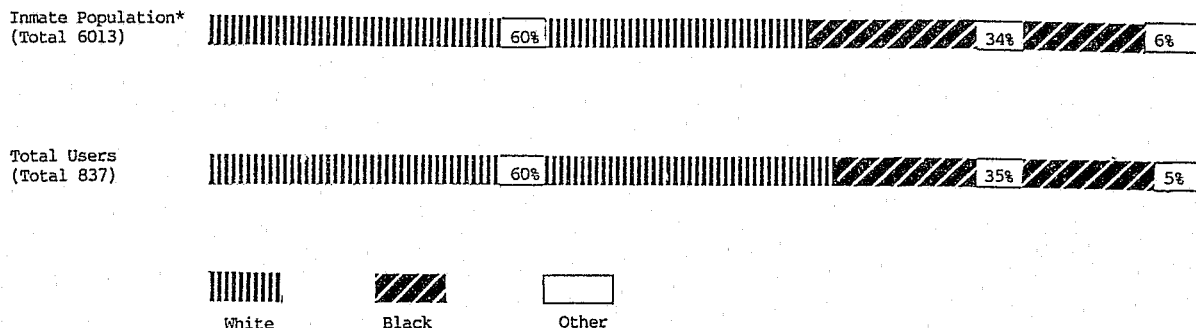
### FY 1988

The number of cases received in FY 1988 was down about 13.8% from the previous year to 837. During the year, 946 cases were closed, 102 of which were information. As seen in other years, information was most frequently sought in the categories of "records," "inter-institutional transfers," "KPB", "other", and "outside jurisdiction." For the first time "property issues" joined the top requests for information.

In FY 1988 a number of changes occurred in the data collected by the Ombudsman Office. However, the racial breakdown of inmate population versus users of the Office remained relatively the same (Figure 1). The only real change being that 427 more individuals were incarcerated in FY 1988 than in FY 1987.

FIGURE 1

#### RACIAL DISTRIBUTION OF OFFICE USERS COMPARED TO INMATE POPULATION ON JUNE 30, 1988



\*Data provided by Department of Corrections

A major change in FY 1988 Complaints by Category (Figure 2) was that "medical" returned to the second most frequent complaint category. "Records" went from fourth place to third while "custody status" jumped from sixth place to fourth from last fiscal year. "Disciplinary procedure" dropped from second place to fifth place, and "property issues" held the top complaint category for the third year in a row. The actual number and percentage of cases received from KSP increased slightly, with a slight decrease in cases at KSIR and KCIL and close to a 37.5% increase from "other institutions."

FIGURE 2

Complaints by Category FY 1988

Categories	Overall Rank	KSP	KSIR	KCIL	OTHER
Property Issue	98 (11.61)	72 (14.60)	25 (11.96)	0 ( 0)	1 ( <1)
Medical	83 ( 9.83)	55 (11.16)	17 ( 8.13)	4 (12.50)	7 ( 6.36)
Records	74 ( 8.77)	54 (10.95)	12 ( 5.74)	1 ( 3.13)	7 ( 6.36)
Custody Status	72 ( 8.53)	45 ( 9.13)	24 (11.48)	1 ( 3.13)	2 ( 1.82)
Disciplinary Procedure	69 ( 8.18)	31 ( 6.29)	19 ( 9.09)	6 (18.75)	13 (11.82)
Inter-Institutional Transfer	61 ( 7.23)	30 ( 6.09)	10 ( 4.78)	3 ( 9.38)	18 (16.36)
Versus Staff	57 ( 6.75)	16 ( 3.25)	28 (13.40)	5 (15.63)	8 ( 7.27)
Other	43 ( 5.09)	24 ( 4.87)	6 ( 2.87)	5 (15.63)	8 ( 7.27)
KPB	37 ( 4.38)	20 ( 4.06)	10 ( 4.78)	0 ( 0)	7 ( 6.36)
Outside Jurisdiction	29 ( 3.44)	18 ( 3.65)	4 ( 1.91)	0 ( 0)	7 ( 6.36)
Programs	26 ( 3.08)	19 ( 3.85)	4 ( 1.91)	0 ( 0)	3 ( 2.73)
* Counseling/Mental Health	26 ( 3.08)	17 ( 3.45)	5 ( 2.39)	0 ( 0)	4 ( 3.64)
Parole/DOC	25 ( 2.96)	15 ( 3.04)	2 ( <1)	2 ( 6.25)	6 ( 5.45)
Daily Routine	23 ( 2.73)	10 ( 2.03)	10 ( 4.78)	1 ( 3.13)	2 ( 1.82)
Unknown	19 ( 2.25)	12 ( 2.43)	3 ( 1.44)	1 ( 3.13)	2 ( 1.82)
Visiting	16 ( 1.90)	10 ( 2.03)	4 ( 1.91)	0 ( 0)	2 ( 1.82)
Temporary Release	15 ( 1.78)	7 ( 1.42)	2 ( <1)	2 ( 6.25)	4 ( 3.64)
Basic Needs	14 ( 1.66)	8 ( 1.62)	2 ( <1)	1 ( 3.13)	3 ( 2.73)
Physical Threat/Abuse	13 ( 1.54)	9 ( 1.83)	3 ( 1.44)	0 ( 0)	1 ( <1)
Mail	13 ( 1.54)	7 ( 1.42)	6 ( 2.87)	0 ( 0)	0 ( 0)
Property Claims	9 ( 1.07)	6 ( 1.22)	3 ( 1.44)	0 ( 0)	0 ( 0)
Parole Eligibility	7 ( <1)	3 ( <1)	2 ( <1)	0 ( 0)	2 ( 1.82)
Legal	6 ( <1)	2 ( <1)	4 ( 1.91)	0 ( 0)	0 ( 0)
Grievance Procedure	5 ( <1)	2 ( <1)	2 ( <1)	0 ( 0)	1 ( <1)
Complaint of Staff	4 ( <1)	1 ( <1)	1 ( <1)	0 ( 0)	2 ( 1.82)
TOTALS	844 (100%)	493 (100%)	209 (100%)	32 (100%)	110 (100%)

As indicated in Figure 3, there was a 6.29% increase in the percentage of cases determined to be unfounded in FY 1988, with a significant decrease of 10% points in complaints which required "information." Of further note, the number of cases "discontinued" was up by 1.4% points in this fiscal year.

During the year there was a significant increase (10%) in the percentage of cases responded to within the first seven days (Figure 4). However, as shown in Figure 5, providing a "First Action" within seven days rose almost 31% points with a 35% decrease in the percentage of cases which had a first action occurring more than 31 days after receipt. Also in FY 1988 nearly a 1% increase occurred in cases completed within seven days while cases completed within 31-60 days decreased by 3.4% points (Figure 6).

FIGURE 3

## Disposition of Complaint FY 1988

DISPOSITIONS	ALL DISPOSITIONS	KSP	KSIR	KCTL	OTHER
<u>Direct Intervention</u>					
Fully Rectified	84 ( 9.95)	53 (10.75)	21 (10.05)	3 ( 9.38)	7 ( 6.36)
Partially Rectified	11 ( 1.30)	11 ( 2.23)	0 ( 0)	0 ( 0)	0 ( 0)
Not Rectified	10 ( 1.18)	6 ( 1.22)	0 ( 0)	1 ( 3.13)	3 ( 2.73)
Unfounded	262 (31.04)	140 (28.40)	91 (43.54)	4 (12.50)	27 (24.54)
Sub-Total	367 (43.47)	210 (42.60)	112 (53.59)	8 (25.01)	37 (33.63)
<u>Indirect Intervention</u>					
Observed/Monitored	54 ( 6.40)	41 ( 8.32)	8 ( 3.83)	0 ( 0)	5 ( 4.54)
Information	66 ( 7.82)	33 ( 6.69)	14 ( 6.70)	6 (18.75)	13 (11.82)
Referral	21 ( 2.49)	11 ( 2.23)	3 ( 1.44)	0 ( 0)	7 ( 6.36)
Sub-Total	141 (16.71)	85 (17.24)	25 (11.97)	6 (18.75)	25 (22.72)
<u>Incompleted Intervention</u>					
Declined	106 (12.56)	70 (14.20)	19 ( 9.09)	2 ( 6.25)	15 (13.64)
Withdrawn	105 (12.44)	60 (12.17)	26 (12.44)	4 (12.50)	15 (13.64)
Discontinued	40 ( 4.74)	24 ( 4.87)	9 ( 4.31)	3 ( 9.38)	4 ( 3.64)
Solved Prior	85 (10.07)	44 ( 8.92)	18 ( 8.61)	9 (28.13)	14 (12.73)
Sub-Total	336 (39.81)	198 (40.16)	72 (34.45)	18 (56.26)	48 (43.65)
TOTALS	844 (100%)	493 (100%)	209 (100%)	32 (100%)	110 (100%)

FIGURE 4

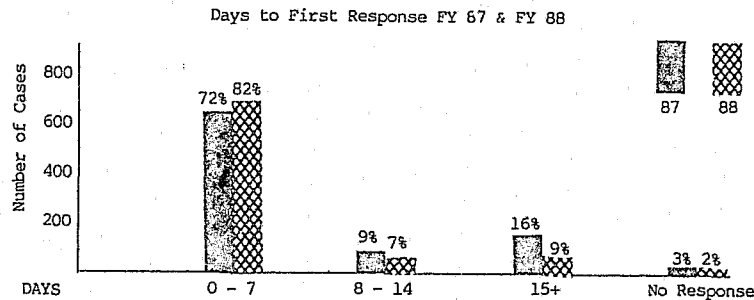


FIGURE 5

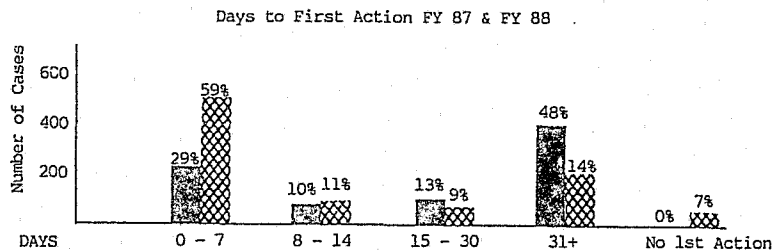
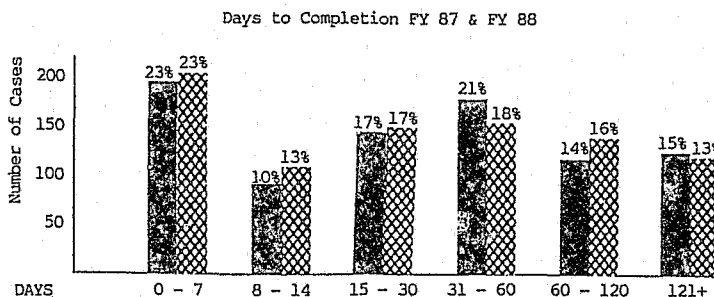


FIGURE 6



In FY 1988 the average number of contacts made per complaint was up from 6.05 in FY 1987 to 7.60 for a total of 7,189 contacts. The percentage of first-time Office users (39.4%) versus repeat users (60.6%) both remained within 2% of the previous year, and were within 2.3% of FY 1985 when this data was first collected.



## APPENDIX I

### DEFINITION OF COMPLAINT-HANDLING TERMS

#### I. TYPE OF CASE:

- A. Complaint - Cases involving investigation and intervention by the Ombudsman Office.
- B. Information - Cases which involve providing information to the person requesting such. This information may be either readily available in the Ombudsman Office or gathered through contacts with other agencies. Information cases are categorized according to the type of information requested.

#### II. CATEGORIES OF COMPLAINTS:

##### A. Care and Maintenance:

- 1. Basic Needs - Provisions for essential body functions, such as the availability and quality of food, clothing, shelter, showers, exercise, and toilet facilities.
- 2. Medical - Availability and delivery of medical treatment and its documentation. (Includes only somatic and not psychiatric ailments.)
- 3. Records - Handling of all records, other than medical and mental health records.
- 4. Visiting - Management of inmate visiting lists, visits, and visitors.
- 5. Mail - Sending and receiving correspondence and packages.

##### B. Safety and Security:

- 6. Physical Threats/Abuse by Inmate - Threats or incidents of bodily harm.
- 7. Property Issues/Legislative Claim - Loss, destruction, theft, or temporary deprivation of personal property, allowable inmate personal property, and permanent disability injuries. Also, Legislative Claims resulting from any of the above.
- 8. Temporary Release/Sentence Modification - Process of reporting decisions, and providing reasons for decisions regarding home furloughs, funeral visits, and sentence modifications initiated by the Department of Corrections.
- 9. Inter-Institutional Transfers - Process of reporting decisions and providing reasons for decisions regarding institutional transfers.

##### C. Maintenance of Institutional Order:

- 10. Disciplinary Procedure - Management of the disciplinary process.
- 11. Daily Routine/Telephone - Informal and formal routinized practices and procedures which govern institutional life, to include availability of telephone usage by inmates and cell assignments.

12. Complaint Against Staff - Prejudicial and arbitrary behavior.
13. Internal Grievance Procedure - Processing of inmate grievances within the Department of Corrections.
14. Internal Property Claim Procedures - Processing of inmate property loss claims within the Department of Corrections.

D. Rehabilitation:

15. Parole (DOC) - Complaints dealing with matters within the jurisdiction of the Institutional Parole Coordinator, DOC processing of parole plans and interstate parole compact requests, and certain parolee complaints.
16. Counseling/Mental Health - Availability of professional counseling and services. Utilization of psychopharmacological medications and psychiatric evaluations.
17. Programs - Assignment and termination of work or education/vocational training programs. Development and carrying out of rehabilitation programs. Availability of recreation, library and religious programs, and of self-help programs.
18. Parole Eligibility - Complaints dealing with the awarding of allocated good time credits by the Unit Team, recording of such by Records Department, and forfeiture of good time credits as a result of Disciplinary Board action.
19. Custody Status - Accountability and documentation of decision making concerning custody level (classification), and cellhouse assignments based on special custody requirements (i.e. Protective Custody and Administrative Disciplinary Segregation).

E. Miscellaneous:

20. Complaint From Staff - Complaints from Department of Corrections' staff members.
21. Outside Jurisdiction - Beyond statutory power to investigate.
22. Legal - Access to relevant legal documents, to legal professionals and inmate advocates, and to the courts.
23. KPB - Complaints relating to the Kansas Parole Board.
24. Other - Complaints which do not fit within any of the above categories.
25. Unknown - Withdrawn or solved prior to the collection of sufficient information to categorize.

III. DISPOSITION OF COMPLAINTS:

- A. Fully Rectified - In response to the Ombudsman's intervention, a problematic situation, practice, or policy is resolved in the opinion of the Ombudsman.
- B. Partially Rectified - In response to the Ombudsman's intervention, a problematic situation, practice, or policy is, in part, resolved in the opinion of the Ombudsman.

- C. Not Rectified - In response to the Ombudsman's intervention, a problematic situation, practice, or policy is not corrected in the opinion of the Ombudsman.
- D. Unfounded - Subsequent to the Ombudsman's investigation, no factual basis is found for the complaint.
- E. Observed and Monitored - Ombudsman present in a situation for the purpose of preventing deviations from policy or preventing susceptibility of false allegations of such.
- F. Information - Complainant provided with information on how to go about solving a problem. In an information type of case, the person making the inquiry is provided with the requested information, such as: the operation of the Ombudsman Office, Department of Corrections, and other agencies; or the status of any action requiring formal approval.
- G. Referral - Complainant directed to other resources within and outside Department of Corrections, and resources are contacted by the Ombudsman.
- H. Declined - Investigation is either not started or is stopped because issue is outside jurisdiction and assistance cannot be provided, issue is beyond current capacity to handle, issue has not been appropriately pursued by complainant, or issue is frivolous.
- I. Withdrawn - Complainant requests Ombudsman take no further action, or fails to follow through with requests or recommendations made by Ombudsman.
- J. Discontinued - Ombudsman decided to stop investigation prior to completion and report of findings.
- K. Solved Prior - Rectified before completion of Ombudsman's investigation and report of findings.

IV. HIGHEST DOC MANAGEMENT LEVEL INVOLVED IN RESOLUTION:

- A. Not Applicable - None of the following levels are involved.
- B. Line Staff - Clerical staff, correctional officers, detail officers and maintenance staff.
- C. Line Supervisors - Correctional supervisors (Lieutenants and Captains), all unit team members, and supervisors of work release facilities.
- D. Administrative Staff - Staff members operating in an administrative capacity, or in a supervisory capacity outside the normal chain-of-command. These include the Parole Planning and Disciplinary Coordinators, Central Property and Clothing Issue Officers, and Food Services, Laundry or other work supervisors.
- E. Professional Staff - Staff members operating in a professional or para-professional capacity in the medical, legal, mental health, religious, educational, and training fields.
- F. Middle Management - Supervises two or more line supervisors, and/or has major programmatic responsibilities.
- G. Directors - Institutional Directors and Deputy Directors.
- H. Secretary - The Secretary of Corrections and Deputy Secretaries.

## APPENDIX II

### SELECTED REPORTS ISSUED BY THE OMBUDSMAN

1. "Report on the Adjustment and Treatment Building at the Kansas State Penitentiary," March, 1977, 20 pp.
2. "Report on the Kansas Department of Corrections' Inmate Grievance Procedure," December 15, 1977, 25 pp.
3. "Inquiry into Inmate Self-Mutilation in the Adjustment and Treatment Building," April, 1978, 14 pp.
4. "Prison Gates: Personal Reflections of the Ombudsman Field Staff," July, 1978, 6 pp.
5. "Property Loss Study," August 29, 1978, 28 pp.
6. "The August 18, 1978 Mass Search and Shakedown of the Kansas State Penitentiary," October 23, 1978, 3 pp.
7. "A Study: The Documentation of Decision Making Processes for Inmate Management at the Kansas Correctional Institution for Women," December 7, 1979, 39 pp.
8. "Report on the KSP Inmate Work Stoppage/Lockdown from March 16, through March 20, 1981," May 12, 1981, 5 pp.
9. "Self-Mutilations in the Segregation Units at the Kansas State Penitentiary: March - April 1981," June 30, 1981, 10 pp.
10. "Follow-up Study to Recommendations for Changes in the Adjustment and Treatment Building at the Kansas State Penitentiary," June 30, 1981, 31 pp.
11. "The Inmate Grievance Procedure: A Study of Its Effectiveness, Implementation and Credibility," July 23, 1982, 54 pp.

# **Article 74.—CORRECTIONS OMBUDSMAN BOARD**

**74-7401.** Corrections ombudsman board; composition; appointment; terms; vacancies; officers; compensation and expenses; powers and duties; access to corrections records and facilities. (a) There is hereby established and created as an independent agency within the executive branch of state government, the corrections ombudsman board. Prior to September 1, 1980, such board shall consist of 15 members, three of whom shall be appointed by the governor; three of whom shall be appointed by the attorney general; three of whom shall be appointed by the chief justice of the supreme court; three of whom shall be appointed by the speaker of the house of representatives; and, three of whom shall be appointed by the president of the senate. On and after September 1, 1980, such board shall consist of 10 members, two of whom shall be appointed by the governor; two of whom shall be appointed by the attorney general; two of whom shall be appointed by the chief justice of the supreme court; two of whom shall be appointed by the speaker of the house of representatives; and, two of whom shall be appointed by the president of the senate.

The members of said board shall hold their respective offices for a term of four years and until their successors are appointed and qualified. On September 1, 1978, and on September 1 of each fourth year thereafter, the governor, attorney general, chief justice of the supreme court, speaker of the house of representatives and the president of the senate shall each appoint one member to such board. On September 1, 1980, and on September 1 of each fourth year thereafter, the governor, attorney general, chief justice of the supreme court, speaker of the house of representatives and the president of the senate shall each appoint one member to such board. Members serving on such board on the effective date of this act shall serve as members of the corrections ombudsman board for the remainders of the respective terms for which appointed. In case of a vacancy on such board, the person appointing the member creating the vacancy shall appoint a successor who shall serve for the remainder of the term of the member creating such vacancy. The members of such board shall be selected as far as practicable so that they will be residents of different parts of the state.

(b) The board shall select a chairperson from among its members. The board shall meet upon the call of the chairperson, or upon the call of the majority of the members of such board. A majority of the members of such board shall constitute a quorum to do business.

(c) Members of the board attending meetings of such board, or attending a subcommittee meeting thereof, or visiting any correctional institution for the purpose of acquiring information concerning policies, procedures and administrative actions of the department of corrections, when authorized by such board, shall be paid compensation as provided in subsection (a) of K.S.A. 75-3223, and amendments thereto, and in addition thereto the amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto. Payments made to board members for visiting correctional institutions prior to the effective date of this act are hereby authorized and validated.

(d) The board shall have the following powers and duties:

(1) Appoint and supervise the activities of the ombudsman of corrections and establish the amount of compensation to be paid to such ombudsman as provided by K.S.A. 74-7403 or any amendments thereto.

(2) Adopt and file with the division of budget its budget estimates for the operation of the board and the office of ombudsman of corrections.

(3) Make recommendations to the secretary of corrections concerning policies, procedures and administrative actions of the department of corrections, which recommendations shall not be binding upon the secretary.

(e) The secretary of corrections shall provide members of the board with access to records not otherwise privileged by law and with reasonable access to facilities and persons under the jurisdiction of the secretary subject to conditions and time limitations the secretary may establish in order to insure the orderly operation of the correctional institutions.

**History:** L. 1973, ch. 339, § 51; L. 1974, ch. 348, § 97; L. 1974, ch. 403, § 11; L. 1974, ch. 404, § 1; L. 1975, ch. 416, § 23; L. 1978, ch. 370, § 1; L. 1981, ch. 316, § 1; May 14.

**74-7402.** Same; approval of expenditures; personnel and accounting services provided by secretary of corrections. All vouchers for expenditures from appropriations to the corrections ombudsman board shall be approved by the chairperson or by the ombudsman when the same is authorized by the board. The secretary of corrections shall provide the board and the office of the ombudsman with necessary personnel and accounting services.

History: L. 1978, ch. 370, § 2; July 1.

#### **Article 74.—CORRECTIONS OMBUDSMAN BOARD**

**74-7403.** Ombudsman of corrections; appointment; duties; compensation; office space; employees; complaints forwarded to secretary of corrections. The board shall appoint an ombudsman of corrections who shall serve at the pleasure of the board. The ombudsman shall act as secretary of the board and shall perform such other duties and functions as may be required by the board. The compensation paid to the ombudsman shall be fixed by the board subject to approval by the governor. The secretary of administration shall provide the ombudsman with office space at Topeka. The ombudsman may appoint such employees as may be necessary to carry out the duties of the office of ombudsman of corrections and as are within available appropriations. Clerical positions shall be in the classified service under the Kansas civil service act and all other employees shall be in the unclassified service under the Kansas civil service act. Any misfeasance or discrepancy in administration or any unreasonable treatment of inmates in the custody of the secretary of corrections or inmates housed by any entity under contract with the secretary of corrections which the ombudsman discovers or the inmates bring to the attention of the ombudsman shall be brought to the attention of the secretary of corrections and shall be made known in periodic reports and in an annual report issued by the ombudsman to the board. The ombudsman shall forward complaints and grievances directly to the secretary of corrections for consideration by the secretary.

History: L. 1973, ch. 339, § 52; L. 1974, ch. 402, § 2; L. 1976, ch. 399, § 1; L. 1978, ch. 370, § 3; L. 1978, ch. 330, § 41; L. 1987, ch. 314, § 1; L. 1988, ch. 310, § 1; July 1.

**74-7404.** Same; access to correctional institutions and other inmate housing. (a) The ombudsman of corrections may enter and inspect at any reasonable time any premises under the control of the secretary of corrections or under the control of any entity housing inmates under contract with the secretary of corrections and may delegate that authority in writing to any employee of the office acting as an ombudsman.

(b) If the ombudsman of corrections or any employee of the office acting as an ombudsman who has been delegated in writing the authority granted under subsection (a) is denied access to any premises under the control of the secretary of corrections, the secretary or the secretary's designee, within 24 hours after the denial, shall give the ombudsman a written statement of the reason for the denial of access.

History: L. 1983, ch. 247, § 1; L. 1988, ch. 310, § 2; July 1.

**74-7405.** Same; confidentiality of records. Records of the office of the ombudsman of corrections or of the corrections ombudsman board which relate to complaints by correctional inmates or employees shall not be disclosed directly or indirectly to any person except as authorized by the ombudsman of corrections or by a majority vote of the corrections ombudsman board.

History: L. 1983, ch. 171, § 14; Jan. 1, 1984.

**74-7406.** Same; availability of records to department of corrections, when. No documents relating to complaints, investigations or studies in the possession of the ombudsman of corrections or any employee of the ombudsman shall be read, copied or taken by any officer or employee of the department of corrections except as authorized by the ombudsman or the employee of the ombudsman.

History: L. 1983, ch. 247, § 2; July 1.

**74-7407.** Same; power to administer oaths. The ombudsman of corrections is hereby authorized to administer oaths as specified by rules and regulations of the corrections ombudsman board and may delegate such authority in writing to any ombudsman associate.

History: L. 1983, ch. 247, § 3; July 1.

OFFICE OF THE OMBUDSMAN FOR CORRECTIONS

(As of June 30, 1988)

