

*to the*  
CITIZEN'S ADVISORY BOARD ON CORRECTIONS

NCJRS

MAR 22 1978

as required by  
K.S.A. 1975 Supp. 75-5231  
(As amended by 1976 Session Laws, Chapter 399)

*For the Period*  
JULY 1, 1976 THROUGH JUNE 30, 1977

Office of the Ombudsman for Corrections  
503 Kansas Avenue, Suite 539  
Topeka, Kansas 66603  
Phone: (913) 296-5295

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STAFF OF THE OFFICE OF THE OMBUDSMAN FOR CORRECTIONS

Mr. Preston N. Barton, II  
Ombudsman

Mr. Philip A. Ringstrom  
Ombudsman Representative

Miss Jan M. Laidler  
Administrative Assistant

Ms. Bernadine J. Ferrell  
Staff Assistant

Mr. David R. Jensen  
Graduate Student

Ms. Wanda L. Bean  
Typist

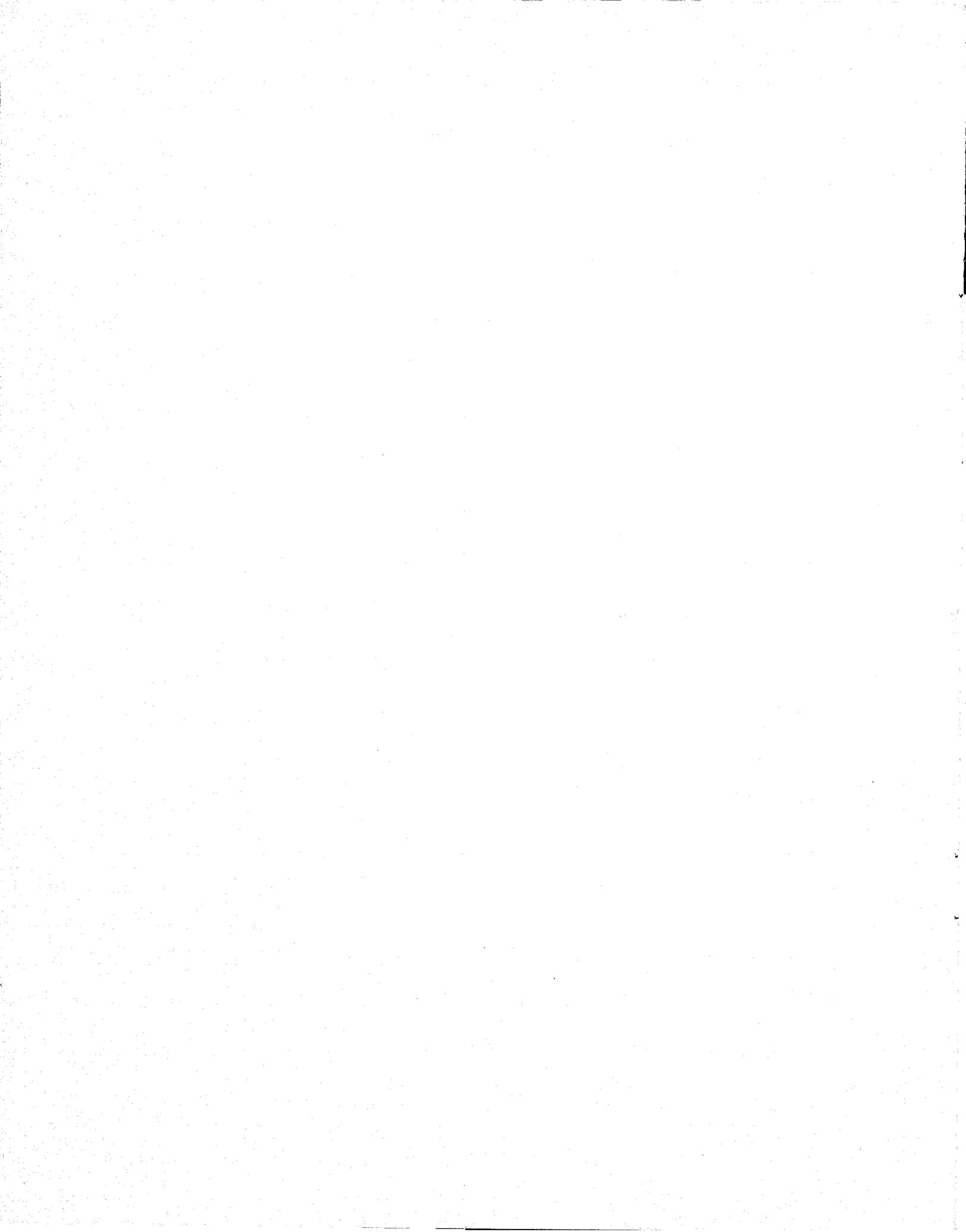
State of Kansas  
Ombudsman for Corrections

SECOND ANNUAL REPORT  
to the  
Citizens' Advisory Board on Corrections

as required by  
K.S.A. 1976 Supp. 75-5231

For the Period  
July 1, 1976 through June 30, 1977

Office of the Ombudsman for Corrections  
503 Kansas Avenue, Suite 539  
Topeka, Kansas 66603  
Phone: (913) 296-5295



## FORWARD

On behalf of the Citizens' Advisory Board to the Secretary of Corrections, I am pleased to accept the Second Annual Report of the Kansas Ombudsman for Corrections. Although the primary purpose of this report is to comply with Kansas Statutes Annotated 1976 Supplement 75-5231, it clearly performs other functions as well. Briefly, these functions are the following:

First, the report enhances public awareness of this new and important component of the Kansas correctional system. Although Ombudsmanry originated in Europe more than 150 years ago, it is still an unfamiliar concept to most Kansans. Thus, it is important that Ombudsmen operate in unique ways to handle individual complaints before they evolve into more serious problems such as riots or prison disturbances. For example, it should be more apparent after reading the report that an Ombudsman relies on his ability to clarify issues and facilitate communications rather than any ability to impose an arbitrary solution on parties to a conflict. In addition, the report may serve to familiarize both staff and inmates of the correctional system with the Ombudsman program and its potential for dealing with their problems and complaints.

Second, the report informs both the public and their elected representatives of the scope and variety of correctional problems that come before the Ombudsman. This information function is critical if we are to have the knowledgeable officials in our government who can develop the necessary policies and programs for assuring an effective correctional system. Furthermore, as this report shows, the Ombudsman has initiated broadbased studies of critical areas within the correctional system in order to anticipate potential problems. Recommendations emerging from these studies will contribute significantly to improved correctional policies in the years ahead.

Third, the report demonstrates that the Ombudsman has fulfilled a critical need within the Kansas correctional system. As this report shows, the number and variety of complaints which come before the Ombudsman and his staff each year are increasing in magnitude. The value of an Ombudsman to resolve the majority of these problems before they become more serious is difficult to estimate, but it seems apparent that it is worthwhile if it forstalls a single riot or saves a single life.

Finally, the report provides a source of data for government officials and other observers of the Ombudsman institution. As a new and relatively untested mechanism, the Kansas Ombudsman for Corrections shall be watched closely by these individuals in an effort to evaluate its efficacy in resolving problems arising out of administrative policies, procedures and actions that may infringe upon individual rights. The success or failure of the Ombudsman for Corrections may ultimately determine whether similar institutions are established in other areas of Kansas government.

The Citizens' Advisory Board deeply appreciates the very thorough and competent efforts of the Corrections Ombudsman, Preston Barton, and his staff in the compilation of this report.

James W. McKenney, PhD., Chairman  
Citizens' Advisory Board on Corrections  
November 29, 1977

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## ABOUT THE STAFF

Preston N. Barton, II - Ombudsman

Preston Barton is a member of the Academy of Certified Social Workers (ACSW) and is a Licensed Specialist Clinical Social Worker (LSCSW). He holds a Bachelor's Degree (1965) with a concentration in Social Welfare from the School of Education at Temple University in Philadelphia, Pennsylvania. He completed the two years Master's Degree program in Social Work at the University of Pennsylvania's School of Social Work in Philadelphia in 1967. During his senior year in college and two years in graduate training, he did field training at the Pennsylvania Prison Society, also in Philadelphia. At this 190 year old private agency dedicated to prison reform and the provision of direct services to prisoner and releasees, he provided short and long term counseling with adult inmates and parolees, and with some youthful offenders and their parents.

After graduation, he remained at the Prison Society as a staff member for almost a year before he entered the U.S. Army with a direct commission as Captain. Following two months of Medical Service Corps training, he was assigned to the U.S. Army Correctional Training Facility at Fort Riley, Kansas, in May, 1968. Two month's later, this innovative facility began operations, with a capacity of accomodating 2,000 prisoners at one time and involving over 10,000 men in its training program in a 12-month period. In addition to providing consultative and direct social work services, he was one of the designers and developers of a self-help counseling program. He became the military liaison officer and supervisor of the eight member staff of this program which was operated under a contract with the 7th Step Foundation of Topeka, Inc.

Upon completion of his military obligation in March, 1971, Preston and his wife, Jean, moved to Topeka where he became the Administrator and Social Work Consultant to the ex-offender staff of the Topeka 7th Step Program. Additionally, he was a part-time instructor in the Sociology Department at Washburn University. In September, 1972, he received an appointment as Assistant Professor at the University of Kansas School of Social Welfare. He was responsible for a field training unit in Topeka, as well as having classroom teaching, administrative and committee assignments. As a result of this experience, he co-authored an article entitled, "Structuring Social Work Services in a Legal Setting," which was published in the April, 1975, issue of Social Casework. After teaching for two years, he left to accept a Social Work Fellowship in the 12-month Post Master's Social Work Training Program in the Menninger School of Psychiatry. While participating in this program during 1974 and 1975, he did his practicum in clinical social work at the C. F. Menninger Memorial Adult Hospital.

In addition to his formal work and training experience, Preston has been active in continuing education and community service programs. He has done study and training in group dynamics, including such experiential

seminars as "Human Relations," "Factors and Planned Change," "Theory and Practice of Training," and "Executive Seminars", sponsored by Temple University, The National Training Laboratory Institute, and the Menninger Foundation. Other continuing educational involvement has included such areas as "Instructional Techniques," "Social Research", "Psychopharmacology," and a variety of programs relating to corrections including volunteers in corrections, hostage negotiations and inmate grievance procedures.

He was previously active as a volunteer, consultant and board member of numerous community organizations. These included the Shawnee County Community Resources Council, the Kansas Council on Crime and Delinquency, the 7th Step Foundation of Topeka, Inc., the Citizens' Jail Survey Project for Kansas, and the Topeka Chapter of the Kansas Council on Crime and Delinquency for which he acted as Chairman. Currently, he is a member of the National Association of Social Workers, the American Academy of Political and Social Science, the Otto Rank Association, and the National Council on Crime and Delinquency.

It was with this background of having functioned in correctional, educational and psychiatric settings from the perspectives of institutional staff members, offenders, ex-offenders, and community volunteers that Preston became Kansas' first Corrections Ombudsman on September 15, 1975. In this capacity he also functions as Executive Secretary of the Citizens' Advisory Board on Corrections.

#### Philip A. Ringstrom - Ombudsman Representative

Mr. Ringstrom's academic background includes a Bachelor's Degree (1974) and a Master's Degree (1975) in Social Welfare from the University of Kansas. Included in his training has been work with children of indigent families at the Sunflower Village Community Placement as part of the University Community Service Center. At the Public Defender's Association in Topeka, his training included work with the agency's clients, assisting them with problems they were having both inside and outside the County Jail. He was employed by the Kansas Neurological Institute to coordinate a youth employment program for 70 indigent youths and to serve as the Institution's liaison to the Manpower Agency funding the program. At the Topeka State Hospital Adult Out-Patient Clinic, he trained in the areas of individual, marital, group and family counseling. Considerable time was also spent in assisting the psychiatric team in the diagnosis of patients.

Mr. Ringstrom was appointed as Ombudsman Representative in May, 1976. His principle tasks included responsibility for handling complaints from the Kansas State Industrial Reformatory, performing the Office's statistical research and providing supervision for the Office's graduate social work students as a Field Instructor for the University of Kansas, School of Social Welfare.

Mr. Ringstrom lives on a farm outside of Lawrence, Kansas. He spends as much spare time as possible exploring the surrounding countryside from horseback or on foot. His movements, however, are always under close scrutiny by his five canine companions. When the dogs allow it, friends will visit, and food, wine, and conversation are shared by all.

Jan M. Laidler - Administrative Assistant

Jan has served the Office of the Ombudsman as Administrative Assistant since October, 1976. In this capacity she is office manager and the Ombudsman's secretary. Jan finds her position very challenging due to the wide variety of tasks she performs. She appreciates the opportunity to accept the challenge of new responsibilities. These new and varied responsibilities have provided Jan with many opportunities to learn about the new and growing institution of Ombudsmanry and how state government operates; to further her abilities to interact with others; personally grow; and expand her knowledge of herself.

There have been opportunities for her to further her education by attending seminars and graduate school classes while working in the Ombudsman Office. She has attended two University of Kansas Program for Management Development Seminars, "Human Relations in Management" and "Making the Move to Management." She also attended a week long training session in negotiations and mediation conducted by the American Arbitration Association. Jan is currently attending a graduate course offered through the University of Kansas Master's of Public Administration (MPA) program entitled, "Seminar in Public Policy Formation."

She holds a Bachelor's Degree in English (December, 1975) from Washburn University in Topeka, Kansas. While attending Washburn University, she was a paid reporter for the school newspaper, the "Washburn Review", and a national member of Campus Life. Jan paid for her own schooling by working half-time for the State of Kansas.

In her "spare time" she partakes in less strenuous activities, like helping to build a log cabin house for friends, studying for graduate classes, or participating in some volunteer activity through the Shawnee County Court Services such as co-leading a six week "rap group" at the Topeka Halfway House. Jan also enjoys sewing, spectator sports, learning, swimming, traveling, music appreciation, and jogging early in the morning--at 6 a.m. through rain, sleet, snow, bark and bite of dog, and dark of morning. She especially enjoys the moments spent with family and close friends.

Bernadine J. Ferrell - Staff Assistant

Ms. Ferrell joined the staff in June, 1977. Ms. Ferrell's primary responsibility is handling complaints at the Kansas State Penitentiary. She is also responsible for the library which is being set up to provide staff, Board members and other interested parties access to materials relating to Ombudsmanry and Corrections.

Ms. Ferrell after raising a family, returned to Washburn University to complete a Bachelor's Degree in Corrections in May, 1977. Her internship with the State Parole Office of Topeka provided the full range of responsibilities assigned to a parole officer. This work exposed her to the correctional institutions, community treatment centers and the community resources available to parolees.

Prior to the time she returned to Washburn University, while residing in Valley Falls, Kansas, Ms. Ferrell was involved in various volunteer activities. She spent 11 years as a leader of various campfire groups

organizing and supervising camp-outs, field trips, social activities and candy sales. She also obtained sponsors, speakers, and financial support for the group activities. She served four years as Valley Campfire Association President. She was responsible for the coordination and organization of the individual groups and their leaders. Ms. Ferrell was awarded the National Campfire Association "Farnsworth Award" in 1972.

Ms. Ferrell was elected President of the Parent Teacher Association and during her term of office she was appointed to a Special Education committee which helped provide initial interest in the program now existing in Valley Falls. The current book-rental system was also implemented during her term.

As a lifelong member of St. Paul's Lutheran Church, she served as Sunday School Superintendent, President of Lutheran Church Women and Chairman of other various church council committees. She now attends First Lutheran Church in Topeka, Kansas.

Ms. Ferrell, a charter member of the Vallerian Federated Women's Club, helped organize it and was elected its first Vice-President. As President, the following year, she was instrumental in the formation of a Cub Scout Troop for the area. A member of the club for 15 years, she served as chairman on various committees. Projects included the construction of city park shelterhouse, promotion of musical and art students, and organization of various community fund-raising projects. Ms. Ferrell served as President of the Jefferson County Federated Women's Club and was later elected District Junior Director. Ms. Ferrell was selected by the Women's Club for the 1965 publication of "Outstanding Young Women in America."

As Chairman of the Recreation Committee for 11 years, Ms. Ferrell helped organize and subsequently supervised the Jefferson County Red Cross Swimming Program, involving approximately 1,000 students each season. Coordination for the county program involved obtaining chairman and sponsors from the eight participating communities. In conjunction with this work, Ms. Ferrell was employed by the city as manager of the Municipal Swimming Pool itself, and in this capacity, her responsibility included the hiring and supervision of an additional 12 to 15 employees. All book-keeping concerning salaries, concessions, supplies and services and the actual maintenance of the facility was under her supervision. Other job experience included employment for the Kansas State Income Tax Division, United States Postal Service, and United School District 338.

Presently Ms. Ferrell spends much of her time outside of the office in activities with her four children, Vicki, Linda, Joy and Scot and her two n ces, Julie and Jena, who had made their home with her during their dolescent years. The five girls provide a distinct difference of activities than those of her son, Scot, who still remains at home. She enjoys sewing, music, especially singing, and recently has taken up painting although she feels her talent has yet to be recognized.

David R. Jensen - Graduate Student

Mr. Jensen majored in Corrections and Psychology at Washburn University of Topeka and completed the academic requirements for a Bachelor of Arts Degree in August of 1974.

After completing a one semester Psychology practicum at the Shawnee County Adult Probation Office, Mr. Jensen began a one year corrections internship at the same office in January, 1973. He was hired as a part-time officer in March and began working full-time in May, 1973. As an adult probation officer, Mr. Jensen's primary duties were to prepare pre-sentence investigations, and to counsel and supervise adults convicted in the Magistrate and District Courts.

From May, 1976 until the end of August, 1976, Mr. Jensen also worked weekends as a Juvenile Intake Officer with Court Services. His primary responsibilities were to evaluate and make decisions as to detention and/or processing the juvenile through or outside the court system.

Mr. Jensen has also served as a volunteer probation sponsor, went on a week long canoe trip to Minnesota with a group of court referred juveniles and worked with a "drug" group as a volunteer leader.

In addition to having attended a number of probation and parole in-service seminars, Mr. Jensen has participated in the following workshops: drug education (one week); Reality Therapy (two days); Gestalt Therapy (two days); and alcoholism (one day).

In August, 1976, Mr. Jensen resigned as Probation Officer to attend the two-year Social Work graduate program at the University of Kansas School of Social Welfare. As part of his requirements for the first year, he spent two to three days a week in field work training in the Ombudsman Program. In addition, Mr. Jensen has been employed as a part-time Research Assistant in the Criminal Justice Department at Washburn University, since August, 1976.

Wanda L. Bean - Typist

Ms. Bean spent her childhood and most of her adult life in Topeka. However, between 1958 and 1966 she traveled extensively with her husband who was in the Air Force. They lived in Detroit, Michigan; Vallejo, California; and Albuquerque, New Mexico. Albuquerque became "home away from home" for her as she became involved with neighbors in the community. She took an active part in the NCO Wive's Club, card groups, and morning coffee groups. She also became interested in such hobbies as ceramics and bowling while in Albuquerque. Ms. Bean still enjoys these two hobbies when her busy schedule allows some free time. But she has a greater interest in spending many hours caring for her numerous plants. She especially enjoys experimenting with her plants, treating them in various ways to produce different results. However, most of Ms. Bean's time away from the Office is shared with her children, Marilyn, Madge, Willard, and David, who are all still at home. Her oldest child, Wanetta lives in California.

Ms. Bean attended a secretarial course at the Topeka Technical and Business College (T.T.B.C.) in 1972 and afterwards participated in on-the-job-training at the Coordinating Committee of the Black Community, Inc., (C.C.B.C.). She has also worked for the Shawnee County Community Assistance and Action, Inc., (S.C.C.A.A.). Ms. Bean joined the Ombudsman staff in May, 1977, on a CETA grant. Her primary responsibilities include typing and receptionist duties. She is also responsible for maintaining the recordkeeping system, from which statistical data is derived.

## Section I

### INTRODUCTION

#### A. Description of Program

In 1973 the Kansas Legislature passed what has become known as the Kansas Penal Reform Act. Included in this legislation were statutes establishing the Office of the Ombudsman for Corrections and its governing body, the Citizens' Advisory Board on Corrections (CAB), to which the Ombudsman serves as Executive Secretary. The CAB was appointed and organized in the summer of 1974 and appointed an Ombudsman a year later, who assumed his duties on September 15, 1975. Thus, Kansas became the third of five states in the country which now have correctional Ombudsman programs.

The fifteen member CAB is composed of three 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. CAB members are appointed for four year terms, with the exception of some of the first appointees who had shorter terms for the purpose of establishing a pattern of staggering terms. Although members were initially compensated for conducting official CAB business, they now serve on a volunteer basis, receiving reimbursement only for actual expenses incurred. CAB members, are usually called upon to attend Board meetings on a monthly basis, as well as various subcommittee meetings. In addition to having the statutory Ombudsman authority, the CAB has the duty of making recommendations to the Secretary of Corrections concerning the planning, operation and facilities of the corrections system, and the duty of making non-binding recommendations to the Governor for the selection of a Secretary of Corrections, when a vacancy in that position occurs. (See K.S.A. 1976 Supp. 75-5230, at the end of this Report.)

The Office of the Ombudsman for Corrections was established by statute in accordance with the traditional Ombudsman concept. (See K.S.A., 1976 Supp. 75-5231, at the end of this Report.) The following definition of an Ombudsman was adopted recently by the International Ombudsman Steering Committee for the purpose of providing guidelines for deciding who will be invited to the Second International Ombudsman Conference to be held in 1980 in Israel:

An Office created by law whose incumbent is an independent, high-level, public official with responsibility to receive complaints from aggrieved persons against agencies, officials, and employees of federal, national, state, provincial, municipal, or local government or who acts on his own motion and who has the power to investigate and recommend corrective action and issue reports. (Page 30 of the minutes of the International Ombudsman Steering Committee, Paris, France, May 9-12, 1977.)

Some of the characteristics of "the classical Ombudsman" can be described as follows: legally established, functionally autonomous, external to the administration, operationally independent of both the Legislature and the Executive, specialist, expert, non-partisan, client-centered but not anti-administration, and both popularly accessible and visible. (Larry B. Hill, The Model Ombudsman: Institutionalizing New Zealand's Democratic Experiment, Princeton, New Jersey: Princeton University Press, 1976, p. 12.)

A major goal of the Kansas Corrections Ombudsman Program is to demonstrate to employees and inmates the State's commitment to be responsive to individual concerns, while at the same time providing programs to meet the needs of large numbers of persons. Dr. Harry Smith has pointed out that "...the legislators are thinking of human rights when they provide for an office known as the Ombudsman." (Harry D. Smith, "Ombudsmen and Human Rights," delivered in June, 1977, at UNESCO Conference in Portoroz, Yugoslavia.) To accomplish this, six major functions of the Ombudsman's Office have been delineated. The Office's functions include being an external discoverer of problems and complaints; an external mediator of conflicts and crisis situations; an external observer of facilities, routine activities, incidents, and disturbances; a preventer of unfair and harmful practices; a recommender of corrective actions and policy formation; and a reporter of discrepancies in practices and policies through periodic and annual reports to the CAB.

The Office accepts complaints and grievances from inmates, staff, and volunteers within the Kansas Department of Corrections. Complaints may be initiated by letter, by telephone, or in person by the complainant or a third party. In the case of a third party, the Office usually gives the complainant the option as to whether or not the complaint will be investigated. Complaints are also initiated on the Ombudsman's own motion. The Office maintains a policy of investigating and attempting to resolve complaints at the lowest possible organizational level in the Department of Corrections. Complaints are not brought to the next higher level of management until the lower level has been informed and has had an opportunity to respond. This approach, however, cannot be employed in all cases because the Ombudsman has the statutory responsibility to report "any misfeasance or discrepancy in administration or any unreasonable treatment of inmates..." to the Secretary of Corrections. (K.S.A., 1976 Supp. 75-5231.)

Further discussion of the Ombudsman concept, and the history of the CAB and the Kansas Corrections Ombudsman can be found in the First Annual Report. The purpose of the Second Annual Report is to describe the work of the Ombudsman Office and provide a summary of its findings during the 1977 fiscal year. This description will be attempted through several means: a chronological narrative, a news article, a summary of formal recommendations, anecdotes of complaints, a description of record-keeping procedures, and a presentation of statistical data.

#### B. Development During the Second Year

The first year of the Ombudsman program was one of orientation of the Kansas adult corrections system and one of discovery of the program's role in relation to that system. The second year of operation might be best described as a time of involvement. Through an intense involvement during the year with the corrections system, the Ombudsman Program became a part of Kansas corrections, although not a part of the Department or a part of the inmate culture. It evolved to the point of beginning to develop its own distinct identity. During the year, four events occurred in rapid succession which were significant in the Office's developing identity and involvement in the corrections system.

The first event which assisted the Office in establishing its own identity was the Ombudsman's attendance at the First International Ombudsman Conference, held in Edmonton, Alberta, Canada from September 6-10, 1976. The invitation, itself, was significant because it involved a selection process identifying only those Ombudsman programs considered authentic. The Ombudsman represented Kansas at his own expense, as one of forty voting delegates representing 18 countries.

The second significant event in the Office's involvement in the Kansas Corrections System related to a disturbance at the Kansas State Penitentiary (KSP) on the evening of September 30, 1976. One hundred eighty-two inmates refused to leave the yard and return to their cells that evening. The incident itself was resolved in a matter of hours, but developed into a general work stoppage during the next few days. For about a week the institution was not running normally, including a few days during which there was a general lockdown. During this period the Ombudsman had general access to the institution and was present during much of it. He was provided numerous and detailed briefings by officials. He, also, was approached by line staff and inmates who provided him with significant information to enable him to better monitor the situation. There was a different quality about the manner in which the Ombudsman was approached for this purpose. In the past, the Ombudsman was usually approached with personal problems to be resolved. During this period of time, however, persons approaching the Ombudsman were primarily concerned with providing him information for monitoring the situation rather than dealing with any specific personal problems. In this way, the Ombudsman was for the first time involved in the system in a qualitatively different way than in the past.

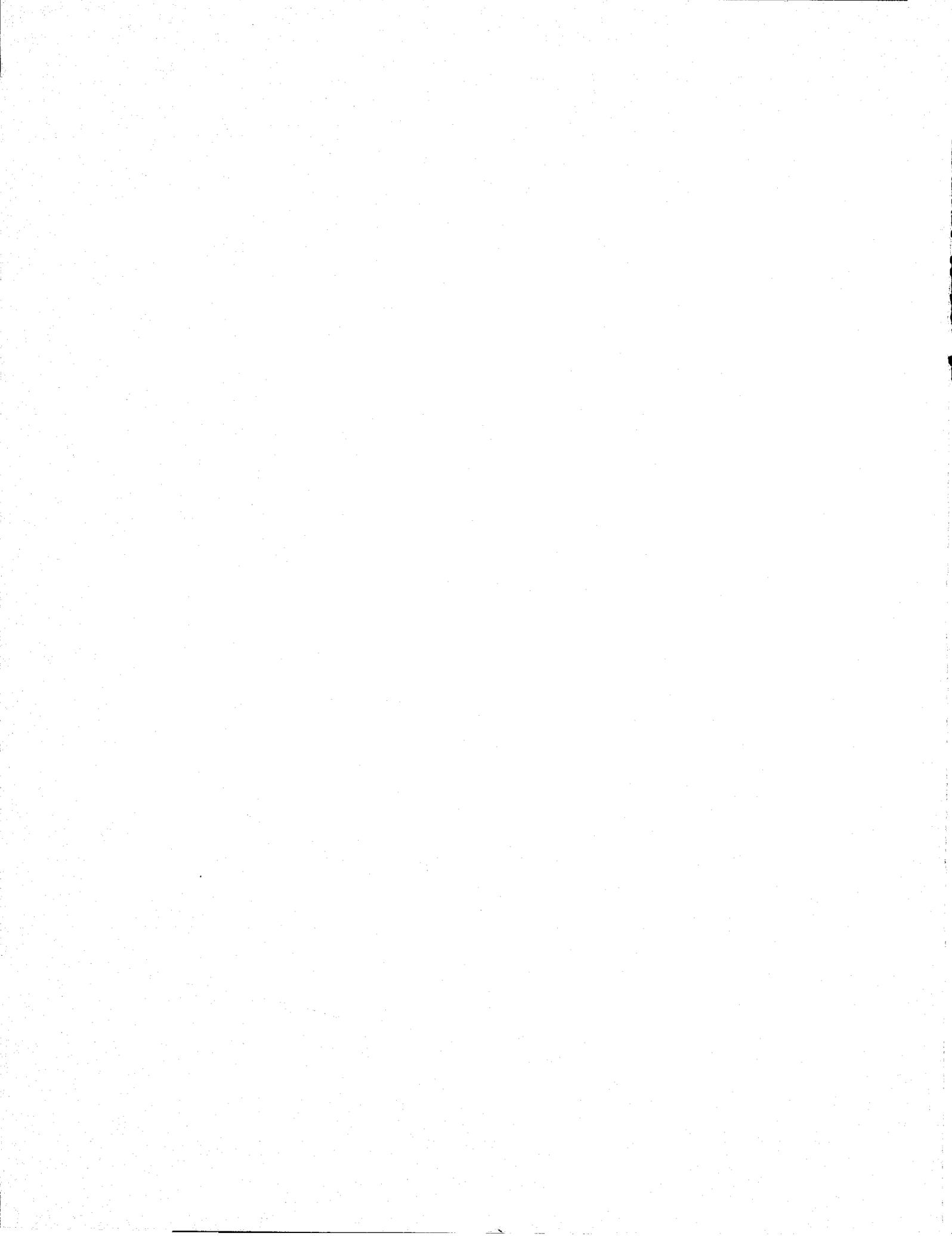
The third event occurred on October 1, 1976. An official at the Kansas State Industrial Reformatory (KSIR) alerted the Ombudsman that three staff members were being held hostage by an inmate. The Ombudsman was asked to stand by to help mediate by telephone, if necessary. As it turned out, the situation was quickly resolved by the institutional authorities. This was the first time the Ombudsman had learned of a currently existing crisis directly from an institution and, indeed, was requested to provide assistance.

The fourth landmark in the development of the Ombudsman Office, was the manner in which the CAB's budget proposal for Fiscal Year 1978 was received. Not only were expanded programs deleted, but funding for the entire program was eliminated. As a result of the November budget appeal hearings and legislative action, however, the CAB succeeded not only in having itself and the Ombudsman program refunded, but also in having a new position (Ombudsman Associate) established.

During Fiscal Year 1977, however, the Ombudsman Office operated with two full-time State employees (the Ombudsman and Administrative Secretary) and one full-time federally funded CETA position (the Ombudsman Representative). As a result of recognition by the University of Kansas School of Social Welfare as a training site, the Ombudsman program was augmented by the part-time services of a graduate student. During the last month and a half of the fiscal year two additional CETA funded positions were established. One was the position of Staff Assistant, a field position assisting in complaint handling and in some ways replacing the work which had been done by the graduate student. The second position was a clerical position.

This staffing arrangement made it possible for the Office to maintain on-going services during the year at the Kansas State Penitentiary and the Kansas State Industrial Reformatory. The Ombudsman with the assistance of the graduate student maintained coverage of the Penitentiary, and the Ombudsman Representative maintained primary responsibility for coverage of the Reformatory. In addition to individual complaint handling, conducted primarily at the Penitentiary and the Reformatory, the Ombudsman Office began formulating recommendations for policy changes at the institutions and in the Department of Corrections. In some instances, these recommendations were a result of individual complaint work, and in other instances, they were the result of special studies. As put by one writer, "...by simply solving problems the Ombudsman cuts red tape instead of unraveling it; he is not helping the prison administration to improve its rules and procedures." (Stanley V. Anderson, "The Prison Ombudsman," The Center Magazine, Volume VII, No. 6, November/December, 1975, p. 7.) This major work effort has brought the Ombudsman Office and the CAB into a different relationship with the Department of Corrections. By the end of the year the Office's first major study (on the A & T facility at KSP) had been completed and a second was well underway.

Until the latter part of the reporting period, descriptions of the work of the Ombudsman Program had depended entirely upon reports written by the Office staff or by news reports resulting from interviews with the Ombudsman and CAB members. This changed with the publication of a feature article in the Midway Magazine Section of the Topeka Capital-Journal on May 15, 1977. Editor of the Midway, Mr. David Arnold spent several days over a period of three months accompanying the Ombudsman in his work at the Kansas State Penitentiary and in other related activities. With permission of the Topeka Capital-Journal, Mr. Arnold's first hand account of the work of the Ombudsman is reprinted in its entirety in the following section. The original lay-out of the article as it appeared in the Topeka Capital-Journal newspaper has been altered to accommodate the smaller sized pages in this Report.



Section II

ARTICLE FROM THE TOPEKA CAPITAL-JOURNAL

"Penal Colony"

by

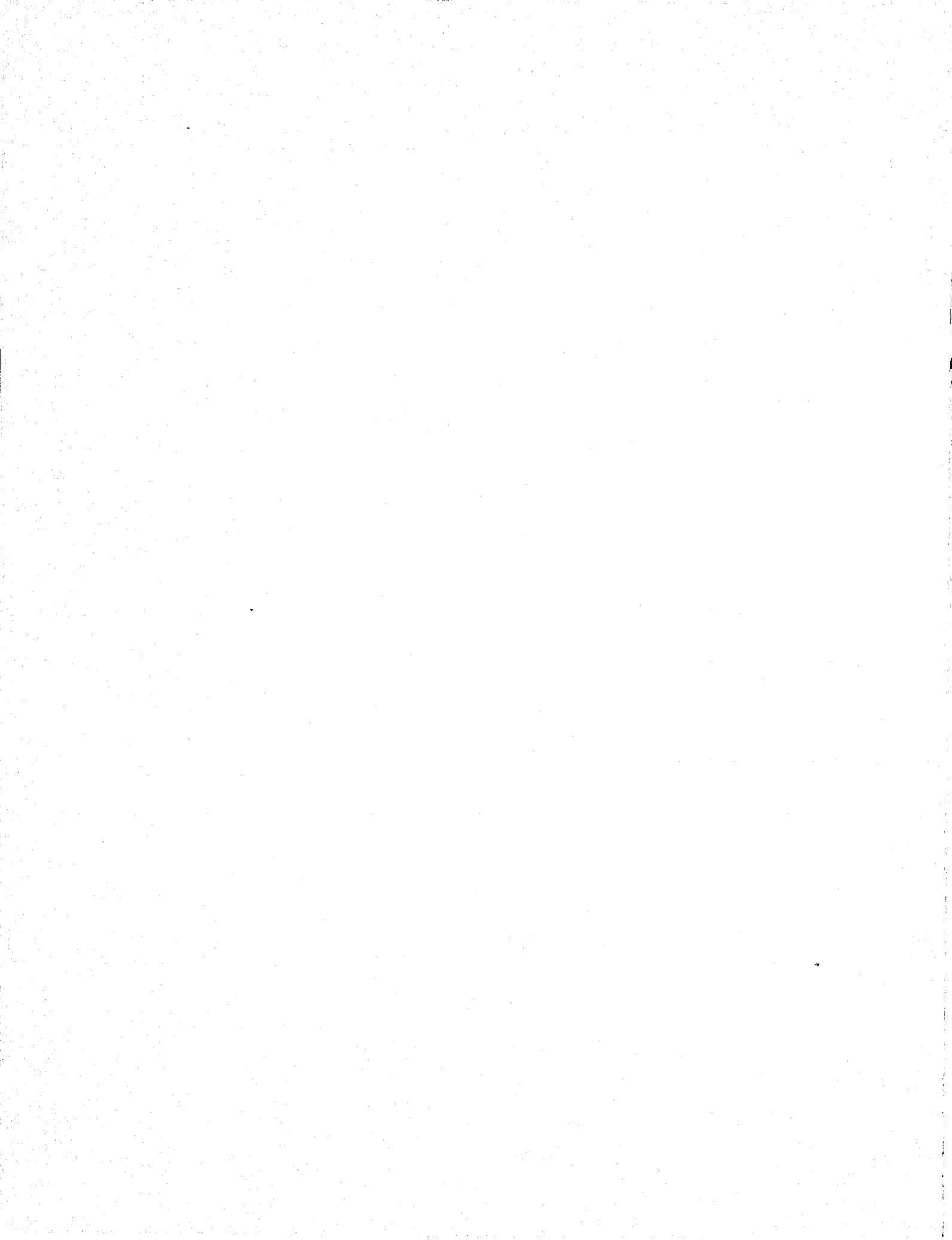
Mr. David Arnold

in

The Midway:

The Sunday Magazine Section

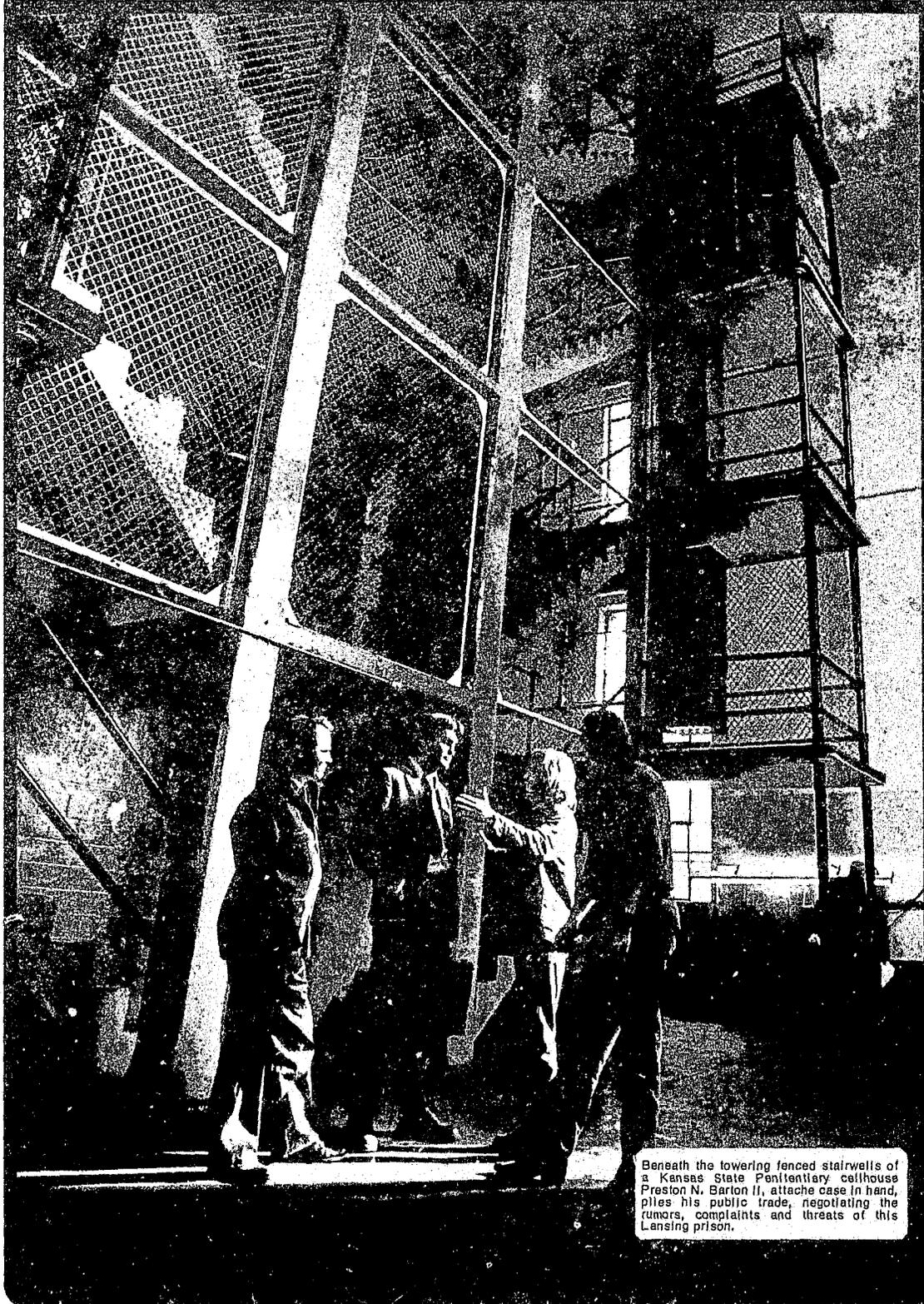
May 15, 1977



# midway

MAY 15, 1977

The Sunday Magazine Section of the Topeka Capital-Journal



Beneath the towering fenced stairwells of a Kansas State Penitentiary cellhouse Preston N. Barton II, attache case in hand, piles his public trade, negotiating the rumors, complaints and threats of this Lansing prison.

Travelin' inside with  
the Diarist, the Tattooed  
Indian, the bearded Hillbilly  
and Preston N. Barton II,  
ombudsman for the  
Sunflower State's troubled

# PENAL COLONY

Prison is a life all its own. A man can spend most of it in this prison, living in a room so small the warden couldn't get his desk inside. But even though it's small, the prisoner calls it home. "My house" is what he says. It has only three dirt-light walls. The other is a moving set of bars that lock open or closed automatically, according to the clock and the orders of a uniformed officer in charge. A guard can override this locking system when a prisoner breaks a rule. It is a punishment called "long lock."

Under long lock, the prisoner does not dine out with the other 900 inmates. A friend brings him sandwiches, which he may find better-tasting than dining hall fare. But while on long lock, he can't see lawyers or other visitors, he can't go to "the yard," to talk to other prisoners or walk under a hot sun or cold, gray sky.

A prisoner's house is his own. He has a bed, a desk, a toilet and things approved by guards to hang on the walls, put on the desk, or read. Each inmate has two changes of blue-to-gray work clothes. The T-shirts they wear are astonishingly white. Many who get permission have television sets or stereo equipment systems (with headphones, speakers aren't allowed).

One man isn't allowed to visit another man in his cell. A prisoner who puts a blanket over his door of sliding bars will see it taken down by a guard. Privacy is not permitted because



Preston N. Barton,  
ombudsman for  
corrections.

problems start when one man comes to another man's cell to talk, buy something, sleep with him, knife him, or burn him out of his house.

This is only one part of the prison system, but it's the largest part: the prisoner's system of living.

And in the center of this penal town is the state's coercive power of isolation: a blank, windowless, two-story block of concrete with an elaborate security system and a mechanical ability to take dozens of inmates and lock each of them in a solitary cell at the end of a closed circuit television camera. This is the modern day "hole;" an expensive part of the system those who live here call "the jail."

There are other systems, too. The administration has one, the counselors and the guards each have one. And there are systems that tie the guards to the counselors, and to the warden, and to the prisoners.

Less than two years ago two guards at the Lansing prison were fired for letting a group of inmates into another man's cell to beat him up. Since then another guard has been fired for bringing liquor in to some inmates who had successfully befriended him and later, he said, intimidated him. None of the systems work well.

Now there is a small system added to the others, put there to make the others more efficient.

"Sometimes I think I'm just put here to make a bad system better," the new system's manager thought aloud one day as he made one of his early morning interstate trips to the Kansas State Penitentiary at Lansing.

His name is Preston N. Barton II. He is a big man who looks bigger because he likes his clothes cut a little smaller than most men. He talks in Army terms about "coming aboard" this system two years ago, and he is concerned about following that extended, sometimes self-defeating "chain of command" that stretches from the nightshift of cellhouse "A" to the office of the Secretary of Corrections in Topeka, Robert Raines.

Barton does not work for Raines. He looks for troubles in the entire correctional system of the state, from the cells of Lansing to the offices in Topeka. And he answers only to a board of men and women appointed by the governor, chief justice, attorney general, speaker of the House and president of the Senate.

Kansas was third in the nation's race for a prison ombudsman. The Legislature tied with Michigan for passing the act that made the office, but the prison officials of Michigan wouldn't let their ombudsman in for quite a while.

Ombudsmanship is becoming popular in North America after 160 years of success first in Sweden, then in Australia and a few other countries. But even with success, (Barton calls it "ombudsmania" with a laugh) it is not understood. The word is Swedish and there's no direct translation to English, so Barton looks at the job as a concept: to clear the air of

# PENAL COLONY

unfounded complaints, rectify others, improve administrative procedure and assist legislators, chief executive officers, and top officials to monitor the form and substance of administration.

It sounds ineffectual in the day-to-life of forced imprisonment which is highlighted by self-mutilation, suicide by hanging, intimidation by rape, control by force and sedation, and the threatening friendships based on stroking that exist among guards and prisoners.

"I go in to resolve conflicts," Barton says. "I don't get to the core of life in the prison, where there are many systems."

This ombudsman is no Tom Wicker, dangling his life before machineguns and shop-made knives in the riot of Attica. What he does will not make front page headlines unless he walks into the middle of one of Kansas' infrequent prison riots, or more frequent political wars.

Political caution is necessary in this trial of a strange new system that threatens to give voice to the even stranger truths that lie behind Lansing's walls. But even with its first careful steps, Barton's office has made some waves. Under his supervision a graduate student interning with his office has drafted a proposal for changing operation of the Lansing prison's jail, euphemistically called "Adjustment and Treatment." That report, which challenges the Lansing system, now sits on Raines' desk. It will be followed by another, on the department itself, and which Barton says will affect the entire state system's Topeka administration.

Most of his time he spends taking the complaints of inmates whose interviews usually include a plea of innocence and almost always suggest a fear that someone in the system, or the very debilitating nature of the system, is going to turn them into "punks," drug them and drive them crazy, or kill them.

Barton's job is called conflict resolution. With infinite patience he sits in a man's cell and listens to his rambles, tirades and pleas. Somewhere in the monologue, the prisoner will talk about things Barton can help with. The failure of the prison's mail service, or the correctional officer sending him to A&T, or long lock. These are issues Barton can deal with.

The Diarist is a small, round white man who looks like he loses sleep. Barton met him on the second floor of the old infirmary, where The Diarist showed him the pages of a diary he'd been scratching on the walls of his No. 5 lock-up. They were erotic and paranoid thoughts influenced by daily dosages of 400 mg. of thorazine, some stelazine and fear that his jailers had ignored his release date and were drugging him so he couldn't go home.

"I'm losing sense of time. Everything I hear, because my ears are so sensitive, it puts me on autosuggestion. When that happens it doesn't take the other guys long to tell I'm down and then they start this heavy rap.

"I believe thorazine makes things worse because I can hear so much of the lingo. They



Meticulous records detail the complaints inmates pour out in the privacy of their cells. George Kennelly felt his medications had been prematurely cut off, and Barton checked.

can't keep playin' with your mind like that. I think I'm going crazy on it."

He is four years and two months into a 15-to-life sentence. He'd been given an "out date" by the parole board but the date had passed, he said. He hired a couple of lawyer's to get the necessary paperwork on "Topeka's desk," and was working in an honor camp outside the prison's walls when one night a guard found him out of bed after curfew. Two guards handcuffed him and took him to A&T.

"I was just trying to show them there are a lot of people that don't go to bed at 10. Half the dorm was awake.

"They thought I was gonna run off because my parole had been denied. But nobody had even told me that yet.

"So they took me inside and I knew I was losing part of my mind. I'm on thorazine. That's what makes me think there's some kind of conspiracy."

He wrung his hands as he talked to Barton, who sat quietly and listened to The Diarist's description of television in three dimensions and humor that reverses itself. The ombudsman sympathized with The Diarist over the fact that he was serving "dead time." He then handed him a small card with his title, phone number and address and brief paragraphs describing his right to confidentiality and Barton's powers of investigation, his independence of the corrections department, and his powers limited to recommendation.

"I don't consider myself a troublemaker," Barton says. "But my very presence there makes me one."

The function of prisons begs for trouble. Barton tries to find the troubles, define them in terms of the free world and solve them in terms of the penal one.

Terry McClain, a former KU undergraduate convicted of murder in a 1975 convenience store burglary, cornered Barton to lobby for his Lifers' club that is trying to get legal recognition and lobbying status with the Legislature. McClain, just released from A&T confinement for "conspiracy to protest" a new anti-beard regulation, was also busy organizing the Lifers' first by-invitation ice cream social. He is considered a leader of many prison causes.

"Inmates in groups are a touchy issue," Barton said later.

Francis Wishteyah, a stocky and physically distinguished Potawatomi whose rippling bronze forearms are detailed with many tattoos, was sitting cross-legged with several other leaders of ethnic-pride groups one chilly October day last year in a sit-down protest that preceded a work stoppage that Lansing prison administrators felt would lead to a riot. He and four others were taken to A&T. Wishteyah was in for 78 days, and the last of the five to be released to the yard. He complained that prison officials were prejudiced against Indians. Barton called in the corrections unit team leader to answer Wishteyah's complaint that they had failed to give him a custody hearing on time. Before the team leader, a black, came in, Wishteyah said with laughter, "If I put shoe polish on my face I'd get better treatment." Barton found that prison rules had been followed, and Wishteyah's hearing date is no longer an automatic process, because he broke other prison rules.

"I've taken all the courses they got here," he told Barton. "I got the GED, the Guides for Better Living, and all that stuff. And I'm 20 days overdue for my custody hearing."

Wishteyah, a leader on the Indian Cultural Committee, has a small beetle tattooed on his neck and wears a small, silver cross in his pierced right ear. He speaks proudly of the paintings he does and the job he has been promised counseling young Oklahoma Indians, when he gets out of prison.

"Have you gotten into the Transactional Analysis course here?" Barton asked.

"I don't need that stuff," Wishteyah replied with decision. "I don't need that piece of paper. I'll be speaking from experience. If I wanted a piece of paper I'd want it to draw a picture."

Two inmates in cellhouse "C" kept appointments with Barton. The first, a black from Topeka, charged that the Toronto honor camp was not an honor camp because the guards spied on them with field glasses when they had visitors, that they made 30 cents less a day there than inmates do behind the walls, and that guards — who tell them "this is a work camp, not an honor camp" — discriminate against the blacks by giving white inmates preferences for shopping trips.

"You can't make a solid ball out of this place," he said. "If you bounce it it'll splatter. I just can't figure it out."

He was sent to A&T for writing a letter from the Toronto honor camp to another inmate in the prison without putting a return address on it, a rule violation frequently committed but seldom enforced.

"What concerns me," Barton said, "is that you let yourself get sucked into these things and lose your parole date because of it. If a staff member broke a rule, he'd be okay because he'd still be on his job. You got A&T."

The second inmate spoke through his nose, and with obvious discomfort. Walter Walker's nose was broken four times, the last time by a man swinging a lead pipe.

He met with Barton once before, seeking a surgeon's recommendation for plastic surgery. Handcuffed and escorted by two guards, Walker was taken to a free world hospital but there the doctor, apparently apprehensive about his bound and guarded patient's possible tendency toward violence, spent only a few moments looking at Walker's emaciated nose before saying surgery wasn't necessary.

Walker was trying once again. He always tries hard. When once he couldn't get permission to have an exam in the prison infirmary for a complaint of bronchitis, he slashed his wrists — three times on one arm, five on the other. Guards took him to the infirmary for a considerable number of stitches and a bottle of cough medicine.

The list of complaints in the ombudsman's day grows long and sometimes tedious. But in a tense community like this one, a man who hasn't been getting the newspaper his mother's been sending to him daily, or two men who are put on long lock for refusing to abide by a new no-beard regulation, present potential threats to the thin margin of safety that exists here.

Hair in prison was a big issue two months ago. Most men shaved only under threat of A&T. At least two inmates refused and were put on long lock.

William Priddy is a young, frizzy-haired inmate who joined a class action suit against the warden "with a guy down the run who has a whole book of cases" and a three-out-of-ten case win record. Priddy claimed shaving irritated a skin problem of his.

"Hell, I'm just a hillbilly from Pennsylvania," said another bearded protester from his own cell.

Barton was concerned that the warden had forced himself into a non-negotiable position, and that the inmates might have been put on long lock without due process. He told Priddy court precedent about growing beards in prisons seemed to be against him, but Priddy remained unconvinced.

"They shouldn't stop a body from growin'," Priddy argued.

Two weeks later the hillbilly had succumbed to the barber's strap. Priddy was thrown into A&T for two weeks, then he shaved, too.

It was one of those win-or-lose crises that occur often in this prison. The last big one occurred in the October work stoppage which Warden Kenneth Oliver says he managed to "tough out." For his pains, several of the guards anonymously awarded him a pair of coconuts linked together by a long length of light-weight chain from which the coconuts hang on a wall in Oliver's office.

"It was kind of embarrassing to put them up there, but I figure it's important for my people.

"I just didn't know what to say when a Catho-

lic sister on a prison investigation committee saw them hanging there."

Oliver is retired from regular Army. Many of his guards are former non-commissioned officers. But Oliver, who has been trying to deal with Barton's A&T report, is candid about "the jail."

"It's counterproductive of what we're trying to do with this institution," he said recently. "The fact is we're over-controlling, over-regimenting and over-regulating." The warden and the ombudsman are on cautious good terms. They agree on much of Barton's A&T report, but Oliver says it told him "nothing new."

Barton stops by the warden's office every day he comes, to make what he calls a "courtesy call." Occasionally they talk in general terms about Barton's cases in progress, but more often they tell each other old war and riot stories. One day they talked about the Hutch burn-out and hostage incident they both weathered by getting a Wichita mother to talk on the phone to her son. In longshoreman's terse words she told her son with the knife in his hand to drop it and get his backside out of there right away. Oliver laughs loudly at that one.

There is a predominance of toughness in this institution. It runs on fear. Guards in "A" cellhouse have signs reminding them to keep control of the ball, stay tough.

There are traces of the Menningers here, too. Barton did postgraduate work in clinical social work at the foundation two years ago, and it is not hard to find an office desk with a mug reading: Center for Applied Behavioral Sciences, Menninger Foundation.

Oliver, who has had little success convincing legislators the state needs a new medium security prison for at least 300 inmates here, remembers a recent conversation with Dr. Karl Menninger, who thinks another prison is not the answer.

"He asked me why I thought we needed a medium security prison and I said, 'Dr. Karl, I remember reading — I think it was in your book, "The Vital Balance," — about how in psychiatry we can't go around labeling everything, because we are all on a continuum.

"Well, in this prison we've got a bunch of guys at one end of the rope, and we've got a bunch of guys at the other..."

With the approach of his punchline Oliver rolled a smoking Dutch Sweet from one side of his mouth to the other and watched the expression on Barton's face.

"...but in this place there ain't no middle to the rope."

Barton, whose board thinks there is a major need for another prison, laughed and said he wished Oliver had said that in the Legislature. Their conversation, though heavily loaded with common experiences, ran a careful line along this rope upon which every member of the Lansing system tries to maintain a balance. It's a system that cannot be beaten, only survived.

In the burgeoning realm of ombudsmania, advocacy runs a tight thread. "You talk about power in this office," Barton said once, "but I talk about credibility."

Credibility requires good relationships with two opposed factions, the keepers and the kept. And above that looms state politics and the public debate between punishment and rehabilitation. Barton, if he were to choose sides would probably pick the prisoners, not because he thinks they are right but because they can't leave until they please their keepers. Because this captive audience has its own strange play



Making his second effort to get plastic surgery for his nose (broken four times) Walter Walker showed Barton forearm scars, cuts he made because guards didn't believe he needed cough syrup for his bronchitis. He got stitches and a bottle of cough syrup.



William Priddy was the last to buckle under the warden's new no-beard regulation. Barton told him the constitutional realities of his protest, but Priddy held onto his chin hair through many weeks of long lock, and two weeks of isolation. Then he shaved.

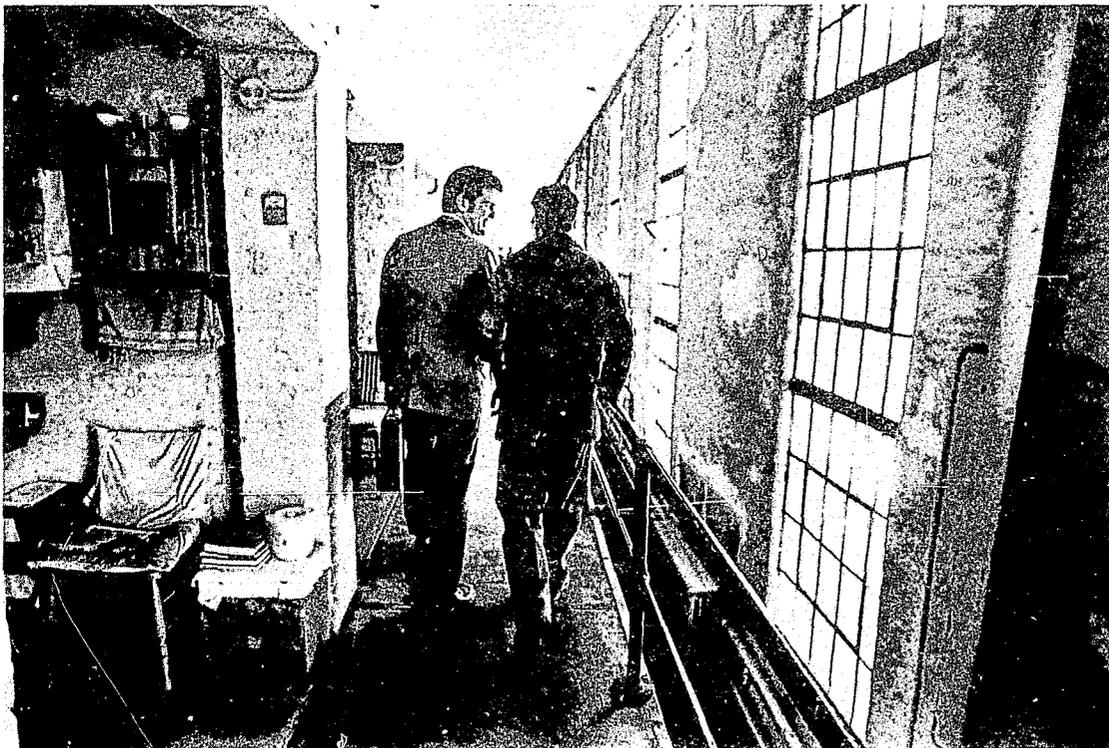
to act behind these barred and stone curtains. And because there are so many of them, and their numbers, like their problems, are no diminishing.

Born a Unitarian, inspired by a social work professor in a small Quaker college in Ohio and indoctrinated in one of the country's oldest correctional organizations — the Quaker-inspired group formed more than a century ago as the Philadelphia Society for the Alleviation of the Miseries of Public Prisons — Barton became a social worker in America's penal colonies. His military service was served with the privileges of a captain's rank, in the counseling program of Fort Riley's retraining brigade, a program designed to rehabilitate soldiers with criminal records. But of all these credentials and more acquired in academic circles, Barton has one he is most proud of, and he uses it to gain the confidence of cons inside these walls.



by DAVID ARNOLD

Francis Wishteyah (above) is one of several hundred inmates who are Barton's customers. Wishteyah, a Potawatomi and leader of the Indian Cultural Comm., was placed in solitary confinement during a sitdown protest that led to a tension-filled work stoppage last October at Lansing.



Prison inmates and employes make appointments with the ombudsman or buttonhole him in the high corridors of a cellblock. His Swedish title has no direct English translation, but some feel he will make trouble for the serpentine prison system. "I don't consider myself a troublemaker. But my very presence here makes me one."

## Barton makes it a rule to never sit between an inmate and the door. 'I always give him that out.'

"I am the only non-ex-con on the staff of 7th Step Foundation," he tells Lansing's prisoners. Many of them nod that they have heard of him.

The warden says he thought very little of ombudsmanship coming to his prison, but he now thinks Barton has been very fair and careful in his investigations of the prison's troubles. "He's no bleeding heart," says Oliver, the portly, cigar-smoking warden brought up from the Hutchinson reformatory on his own mission of house-cleaning more than a year ago.

Barton comes here to serve both inmates and guards, but the inmates take most of his time. He doesn't hesitate to order other curious inmates away from the windows in order to give a timid inmate a little security. He makes it a rule never to sit between an inmate and the door.

"I always give him that out," he says.

After the investigation he may be accusing a guard of violating the prison's published due processes. The next week that same guard might have a complaint of his own to make.

The value of the job could be best proven by what happens if Barton fails. At a monthly

meeting of his board of directors two months ago Barton gave such a proof.

"It was a horrendous case," he told board members. "We all fouled up on this one."

Two inmates at the Hutch reformatory, one black and the other white, were openly conducting a love affair. They wrote to Phil Ringstrom, Barton's assistant, that inmates and officials at the reformatory were discriminating against them, that they were being harassed and intimidated. Ringstrom said he wrote that he would talk to them when he made his next visit.

"By the time I got down there," Ringstrom told board members, "they were both in segregation and the white inmate was already being transferred to Lansing." Ringstrom first talked to the black, then the white, who was trembling with fear of life in Lansing, where he said there were several whites, formerly at Hutch, who had threatened him.

"There are real problems with this kind of relationship, first because it's bi-racial, second because they're homosexual, and too overt about it," Barton said. "But this is the worst part of it. Hutch is a very different place from Lansing.

"By the time I got involved, the inmate was already on the bus bound for Lansing," Barton said. "People at Lansing picked up on his problem and offered him protective custody in A&T, but he refused.

"When they put him in a cellhouse, he let himself get suckered into a dark area. He survived two hours in that institution.

"The next thing I knew, his dad called from the KU Med Center. The boy was severely beaten by a bunch of whites. They're not sure with what. Some arrests were made. He was in the KU Med Center for a while. They said he'd need some face reconstruction and, if everything went well, he'd be in A&T maybe six months and then paroled."

But problems didn't end there. Barton broke his own rule by going over the head of the man at Hutch responsible for the white homosexual's transfer. Relations between Barton's office and the reformatory suffered.

And the white inmate, transferred from A&T to an honor camp, was charged and convicted of trying to escape, just a few months from finishing his three-year prison term.



## Section III

### EXAMPLES OF COMPLAINTS

Case notes of complaints are presented here for both the purposes of describing how the Office of the Ombudsman works and for presenting some of the different kinds of problems encountered in the Kansas corrections system. These examples should demonstrate the basic principles which guide this Office in its complaint handling.

One principle which requires a good deal of time and effort on the part of the Ombudsman staff is that of assuring it understands the complaint. This requirement is seldom fully satisfied through correspondence and, thus, normally a minimum of one interview with the complainant is necessary in each case. Before a determination is made to intervene in a complaint, an effort is made to be sure that the complainant has done all that is possible, within the normal channels, to resolve the grievance. This effort may very well include providing advice to the complainant as to how to go about doing this.

A central principle in complaint handling is that of attempting to resolve problems at the lowest possible level within the organizational structure of the Department of Corrections. This usually means that the Ombudsman staff begins by going to the person with whom the complaint is having direct contact concerning the issues involved in the complaint. This accomplishes a number of objectives and is consistent with other complaint handling principles. It puts the complainant on notice that the complaint is being taken seriously and that another side of the problem will be heard by the Ombudsman staff. Getting the perceptions of the problem as seen by the two parties furthers the Ombudsman staff's understanding of the problem. Frequently the complaint is resolved when this understanding is shared with both parties. Thus, steps for beginning an investigation and for beginning efforts to resolve the problem are begun simultaneously.

This approach is low keyed and informal, relying on verbal communications rather than formal written statements. It is understood that once a complaint is resolved in this manner, it is not presented by the Ombudsman staff to the next higher management level of the system. Once the complaint is resolved it is considered a confidential matter. An exception to this principle is mandated by statute in matters involving "any misfeasance or discrepancy in administration or any unreasonable treatment of inmates." In such cases the Ombudsman is directed to bring such incidents directly to the attention of the Secretary of Corrections. (K.S.A., 1976 Supp. 75-5231.)

In attempting to resolve complaints, the Ombudsman staff is also guided by the principle of attempting to facilitate relationship development between the parties directly involved in a complaint. When accomplished at the lowest management level, this approach goes a long ways toward assuring that the resolution will be implemented because the persons formulating the resolution know they must also live with its consequences. This approach removes the Ombudsman staff from being the sole party responsible for devising the solution to the problem. In this way, it is hoped that future problem solving efforts will be re-channeled back into the system. The parties directly involved in the complaint have hopefully been given an increased sense of competence and optimism that they can handle problems in

the future without external, third party intervention by the Ombudsman Office.

It is important to acknowledge that in complaints which have been resolved, it was the willingness and responsiveness of the parties directly involved which made it possible. This voluntary responsiveness to the Ombudsman Office's efforts is critical because the Office itself has no authority to issue or reverse directives. The Office must depend upon appeal to reason, the facts, and a common value system for attempting to achieve fairness and equity for the individual in a system which is, at the same time, responsible for meeting the needs of a large number of persons.

These principles should go a long way in unraveling what Dr. Hill refers to as one of the "most interesting puzzles" of the traditional Ombudsman program: "Its apparent effectiveness despite minimal coercive capabilities." (Larry B. Hill, The Model Ombudsman: Institutionalizing New Zealand's Democratic Experiment, Princeton, New Jersey: Princeton University Press, 1976, p. 12.) In each of the following complaint examples an attempt has been made to avoid identifying the individuals and institutions involved. In addition to omitting names, all complainants and correctional staff members will be referred to in the masculine gender. Additionally, all representatives of the Ombudsman Office will be referred to as the Ombudsman. With these exceptions, the information provided in each example is factual. Definitions for the terms used for complaint and disposition categories can be found in Section V, "Recordkeeping Procedures for Complaints".

#### Example 1 - Internal Grievance Procedure Complaint

An inmate contacted the Office complaining that his grievance submitted a month and a half earlier to the Director of the institution had not been answered. Department of Corrections' policy directs that grievances are to be answered within ten days. In discussing the situation with the Director, the Ombudsman was informed that the matter was being investigated by a staff member. The Director, having been made aware of the situation, indicated a reply would be issued the next day. A follow-up contact confirmed that this was indeed carried out.

*Disposition: Recommendation Fully Accepted*

#### Example 2 - Inmate Activity Group Complaint

A volunteer working with an inmate activity group at one of the institutions called the Ombudsman to complain that an entertainment program planned by the group had been cancelled that day--two days before it was to be performed. The outside volunteer had received verbal approval from a staff member two weeks earlier. On the basis of this "commitment" the volunteer made plans for an outside entertainment group to perform for the institutional population. During those two weeks several complications arose, necessitating changes in last minute details. This included the need to run security checks on a number of people at the last minute to clear them for entrance into the facility.

The Ombudsman had several telephone conversations with both the volunteer organization representative and an institutional administrator. Complicating the discussions with the volunteer was a fact that similar last minute cancellations had occurred in the past. The administration by now was seen by the organization as being deliberately antagonistic toward it. The Ombudsman's telephone conversations with the administrator clearly reflected that the institution felt the full brunt of this organization's hostility toward it and in turn regarded the group's "demands" as being most unreasonable. However, to the Ombudsman's surprise he discovered that neither the outside volunteers nor the senior administrators at the institution had ever had direct face to face contact. Communications had been via correspondence, the telephone or, most often, through subordinate staff members and inmates.

A meeting had already been scheduled for that day between representatives of the organization and of the administration. The meeting, however, was plagued by problems in addition to the already established antagonistic stances of both parties. Communications in arranging the meeting itself had gone afoul, so the two parties had different understandings of the time it was to be held. By the time the Ombudsman was involved, one party already believed it had been "stood up".

By telephone, the Ombudsman made this misunderstanding known to both parties and worked toward clarifying the time of the meeting. He also focused a good deal of attention on the obvious communication problems which had developed over a period of more than a year, primarily due to the lack of direct interaction between the proper organization representatives and institutional administrators. Included in this was the clear message to the organization representative that, due to security procedures followed at the time, it would be impossible to avoid cancelling the event. Emphasis was placed on the need to work toward the possibility of establishing a new date for the program, rather than dwelling on events of the past.

The following day the Ombudsman received telephone calls from both parties reporting that while the meeting had been difficult and lengthy, it had been productive. The entertainment program had been re-scheduled. Perhaps the most important benefit of the meeting was that both parties reported having a better understanding of each other. The volunteer reported having a better understanding of the security needs and time required to process security checks. The administrator reported a better understanding of the amount of effort and coordination which had gone into the arrangement of this entertainment program.

*Disposition: Facilitated Communications*

### Example 3 - Property Loss Complaint

The Joint Legislative Committee on Special Claims Against the State requested that the Ombudsman look into the \$16.80 claim of an inmate for the loss of four cartons of cigarettes. The inmate contended that his cell door malfunctioned so that it locked open rather than closed in his absence, thus allowing other inmates to enter his cell and steal from him.

In investigating this case, the Ombudsman discovered that many staff members had been informed by the inmate over a long period of time of the malfunctioning of the cell door. Engineers had been unable to discover the problem, let alone correct it. By the time the Ombudsman became involved, however, this problem had been brought to the attention of the Director who had identified the problem as a priority for the engineers; and as a result, it had been repaired.

The Director had assured the inmate that the institution would provide whatever documentation was necessary to assist him in applying for reimbursement for this loss. With this information and documentation, the Ombudsman testified before the Legislative Claims Committee, which decided to allow the claim. The Legislature as a whole, however, did not act on any claims during the 1977 Session. The bill which includes this claim has been held over for the 1978 Legislative Session.

This case was used as an example of the need for each institutional Director to have some funds available to reimburse inmates and staff members for losses of this nature. While the Legislative Claims Committee can accomplish this, it can take as long as a year and a half from the time the claim is filed until the claimant is reimbursed. With this in mind, the Ombudsman presented a draft bill which would have allowed the Department of Corrections to reimburse inmates and staff members for property damage or loss up to \$50.00 without having to go through the lengthy legislative process. This recommendation for legislation, however, was not accepted by the Committee.

- Dispositions:*
1. *Recommendation Fully Accepted*  
(Claim approved by Committee, although reimbursement is pending Legislative action.)
  2. *Recommendation Not Accepted*  
(for new legislation)

#### Example 4 - Physical Facilities Complaint

Several months after the preceding case, the Ombudsman was informed by an inmate that his cell also was locking open in his absence which, thus far, had resulted in only petty thievery: his television and radio had not as yet been stolen. He claimed he had requested repairs for the last three months to no avail. When this malfunction had happened again the day he saw the Ombudsman, he was sent to five different people and ended up at the very place where he started.

Concerned about the lengthy delay and the evident run-around of that day, the Ombudsman brought this matter directly to the attention of the Unit Team Supervisor. He assured the Ombudsman that he would take care of it. The Ombudsman sent a follow-up letter to the inmate and the Unit Team Supervisor summarizing the contacts they had had and the commitment made by the Unit Team Supervisor to resolve the matter. The case was closed.

A follow-up contact 18 days later indicated that, as far as the inmate was aware, there had been no attempt made to repair his cell door. In his

second contact with the Unit Team Supervisor, the Ombudsman was assured the inmate would be moved to another cell and that his present cell would be taken out of use until it was repaired. Through a follow-up check a few weeks later, it was, again, learned that the inmate remained in the same malfunctioning cell. The Ombudsman was informed by both staff and the inmate that the inmate had chosen not to change cells, because he wanted to remain near friends who lived near his old cell.

- Dispositions:*
1. *Recommendation Fully Accepted*  
(but not implemented)
  2. *Recommendation Fully Accepted*  
(but not implemented by complainant)

#### Example 5 - Medical Complaint

While walking through a cell house, the Ombudsman was approached by an inmate with whom he had been working on another case. The inmate showed him a prescription slip which had been altered. The initial prescription had indicated that the doctor prescribed the medication for four months and now the changed date would indicate that he would be allowed medication for only three months. It was the inmate's contention that a paramedic had altered the dates without the physician's authority.

(Rather than holding the inmate to utilizing the internal grievance system, the Ombudsman decided to intervene in this matter directly. This decision was made because the inmate had previously followed the Ombudsman's advice to file a grievance relating to medical treatment for a different ailment. Now over 30 days later, the inmate had yet to receive a reply although the Department of Corrections' policy requires a response within ten days.)

The Ombudsman proceeded to review the inmate's medical chart with the institutional physician and discovered that the prescription, indeed, had been intended for only three months. It could only be surmised that a clerical error of some kind was responsible for the initial prescription slip indicating that medication was to be prescribed for four months.

*Disposition: Complaint Unfounded*

#### Example 6 - Mail Complaint

An attorney with Legal Services for Prisoners, Inc., referred an inmate to this Office for assistance in filing a property loss claim of \$66.50 to the Joint Legislative Committee on Special Claims Against the State. The inmate's electric wristwatch was lost when it was mailed to his parents by one of the institutions at the time he had arrived there. When an inmate enters an institution in Kansas, property which he is not allowed to keep is either mailed to a friend or relative or is held for a visitor to claim. Usually the inmate is allowed to also include other property which he wishes to send home. Because this is a requirement of the institution, it pays for the U. S. Postal insurance for items of value.

At his request, the Ombudsman received a copy of the institution's investigation report into this property loss claim. In reviewing the report the Ombudsman discovered that, in this instance, the inmate's property had been insured with the U. S. Postal Service for \$50.00. It was determined that, before submitting this claim to the State Legislature, attempts should be made to seek the reimbursement from the insurance even though it had been covered for \$15.00 less than its actual claimed value. This complaint spanned an eight month period and concluded with a final reimbursement through the U. S. Postal Service of \$50.00 for the loss of the watch. Reimbursement from the insurance policy resulted only after the Ombudsman had had several contacts with the U. S. Postal authority through both local and regional offices. Although he did not have official jurisdiction, the Ombudsman received cooperation from the U. S. Postal Service.

This complaint, however, brought a policy issue to the Ombudsman's attention. The inmate claimed that he had not been given the opportunity to have any say about the amount for which his property should be insured. The Ombudsman, however, was assured by the institutional authorities that it was the institution's policy to ask inmates the value of the property being mailed. In view of this, the Ombudsman suggested that this policy be put in writing to assure that it would be followed. Although it was decided by the administration that this suggestion would not be followed, the Ombudsman later learned that property being mailed by this institution was being insured for amounts greater than \$50.00, which had not been the case prior to the Ombudsman's intervention.

- Disposition:*
1. *Recommendation Fully Accepted*  
(regarding reimbursement)
  2. *Recommendation Partially Accepted*  
(regarding the policy issue)

#### Example 7 - Medical Complaint

While visiting an inmate in the infirmary of one of the institutions, the Ombudsman was informed that an extremely ill patient had been removed that morning to an outside hospital. The inmate was concerned that he and everyone else in the infirmary had been exposed to this disease. Before long the Ombudsman discovered he was surrounded by all ten inmates who were in the infirmary at the time--all expressing their belief that they would most likely die as the result of this exposure. The inmate initiating the complaint was taking full advantage of the situation to get his fellow inmates upset and to take a variety of pot shots at the administration whether or not they were related to medical services. It was evident that a very serious situation had been allowed to develop by not adequately informing the inmates in the infirmary about the disease to which they had been exposed. Some of the inmates had had some medical experience and thus had just enough knowledge to sound like "experts".

Avoiding responding to the leader's other protests, the Ombudsman focused entirely on the medical concerns of the group. He requested that the medical staff come onto the ward and provide a detailed explanation of the disease and procedures which had or had not been utilized to safeguard

them. After a half hour of intense dialogue between the medical staff and the inmates, the Ombudsman was assured that the inmates' fears of death had been removed. Although the Ombudsman left, the dialogue between the medical staff and inmates continued on other topics, re-emphasizing the Ombudsman's assumption that there was significant need for more open communication between the medical staff and inmates in the infirmary.

*Disposition: Facilitated Communications*

#### Example 8 - Property Loss Complaint

An attorney representing an inmate informed the Ombudsman that his client had lost personal property valued at \$360.00. It was alleged and later verified that the loss had occurred when the institution mailed the inmate's personal property to the wrong address. It was the institution's intention to mail his property home to relatives. Instead, an employee confused this inmate with another inmate of a similar name and mislabeled the packages. The institution had conducted an extensive investigation in an attempt to recover the lost property which included rings, a watch and some clothing. The attorney requested that the Ombudsman assist his client in processing a claim with the Joint Legislative Committee on Special Claims Against the State.

The initial request was received in February, 1976. The Ombudsman appeared before a hearing of the Claims Committee in August, 1976. He verified the inmate's claim and recommended it be accepted by the Committee. This was done.

However, it was necessary for the Ombudsman to write the inmate on May 18, 1977, explaining that the Kansas Legislature had adjourned on May 11, 1977, without taking final action on the Claims Bill which included his claim for \$360.00 worth of personal property which had been lost on January 21, 1976. The inmate was informed that no further action on this bill could be expected prior to the reconvening of the Legislature on January 9, 1978.

*Disposition: Recommendation Fully Accepted*  
(Claim approved by Committee, although reimbursement is pending legislative action.)

#### Example 9 - Complaint Against Staff

The Ombudsman received a letter from an inmate which listed numerous complaints against a correctional officer. The complaints did not involve any serious violation of procedure, but suggested evidence of harrassment. The inmate's accusations included that the officer would stand in front of his cell and stare for long periods, would ignore the inmate's requests while responding to those of other inmates, and would make sarcastic remarks. After a personal interview with the inmate, the Ombudsman felt that much of his story was legitimate. It was also clear, however, that the inmate's behavior provoked some of the officer's actions. The inmate demonstrated defiance by deliberately taking more time than necessary in following, or by openly resisting, the cell house's daily routine.

It was evident both the inmate and officer were on a collision course in which the behavior of one or both of them would result in punitive action. The Ombudsman suggested bringing the two parties together to determine how the conflict would be resolved. After securing the inmate's permission and commitment to such a meeting, the Ombudsman asked the officer if he would become involved. The officer immediately agreed, and identified he had a stake in such a meeting as he was aware he was tending to over react to the inmate's behavior.

When the Ombudsman brought the two men together an immediate argument ensued. While this process involved some healthy ventilation, the Ombudsman was aware that arguing over the past would not resolve the current relationship problem. Thus, each time the two launched into an attack over past behavior, the Ombudsman helped them focus on how the particular issue or rules involved would be handled in the present. In this manner each of them began to acknowledge the expectations of the other.

While misgivings remained at the end of the meeting, it was clear that each party had a better understanding of the other's behavior. In interactions with the Ombudsman since then, neither party has raised a complaint against the other.

*Disposition: Facilitated Communications*

#### Example 10 - Education, Work, Training

A staff member approached the Ombudsman and asked if he would come to the cell house office at his earliest convenience. The Ombudsman was unaware he had been invited into a meeting in which an inmate was airing a complaint. When the Ombudsman arrived, the inmate was telling staff members he would go on a "hunger strike" unless he were transferred to another institution. They had been trying to reason with him, while not giving into his demands. It was apparent the inmate was not listening.

At that point the Ombudsman explained that, as an agent outside the Department of Corrections, he had no stake in either supporting the institution's position nor the inmate's hunger strike. He told the inmate that from his experience, it was unlikely the institution would respond to an inmate's demands of this sort. At this point, the inmate appeared a little less resistant; so the Ombudsman asked why he so desperately wanted the transfer. The inmate stated he was under pressure from other inmates in his cell house. As a result, he had sought "protective custody", and was now seeking a transfer to another institution.

As the discussion progressed, it became clear the inmate had made few attempts to work with the Unit Team in resolving his problems with the general population. The Ombudsman informed the inmate he would not become involved in the complaint until the inmate demonstrated sincere efforts to work with his Unit Team. If the Unit Team did not come up with an institutional program which would provide the inmate with greater safety, the Ombudsman would then look into it. The inmate agreed with these conditions, and did not begin his hunger strike.

The following day the inmate met with his Unit Team. The result of the meeting was the decision to transfer the inmate to another cell house within the institution, and to assist him in obtaining a work assignment in a more secure section of the institution.

*Disposition: Facilitated Communications*

#### Example 11 - Disciplinary Procedures

The Ombudsman received a letter from an inmate stating he had been falsely accused of throwing items from his cell out onto the cell house floor, a tier below. He also claimed he was stripped of his clothes, was moved to a cell segregated from other inmate cells, and shortly thereafter was moved to a cell in the disciplinary section of the institution pending a hearing. He claimed that at a disciplinary hearing a week later all charges were dismissed.

An investigation, however, revealed an entirely different story. The records lacked any evidence of a disciplinary report, a disciplinary hearing, or a sentence to a segregation cell. In interviews with staff members, it was discovered that the incident in which items were thrown on the floor did occur. The fact the items had the inmate's name on them led staff to believe he was responsible. When the inmate was told to clean up his mess, he began screaming and protesting the order. At that point, he was escorted to a segregation cell for a few minutes. When he calmed down, and agreed to clean up the mess, he was returned to his cell without further action taken.

*Disposition: Complaint Unfounded*

#### Example 12 - Custody Status Complaint

During an interview the Ombudsman learned from an inmate that he was going to object to the institution's proposal to transfer him to a minimum security facility. This announcement came as a surprise because most inmates would be eager for this opportunity. Indeed, the inmate had been working with the Unit Team for over a year trying to effect the transfer. However, he now feared it because he had heard inmates with whom he had once had a fight were at the facility.

The inmate was also reluctant to inform his Unit Team of his decision, since they had invested a great deal of time and energy helping him. At this point, the Ombudsman suggested the Unit Team and inmate meet with him to discuss the problem.

The Unit Team's first concern was to establish whether or not the other inmates were at the minimum security facility. When they asked the inmate who the other persons were, however, he refused to say fearing he would be tagged a "snitch". It appeared the only alternative was to show him a roster from the minimum security facility, so he could see if the inmates were there. The Unit Team, however, was reluctant to do so as it might entail a breach of security.

At this point, the Ombudsman recommended the inmate tell him the names of the other inmates in private. He would then check the roster and see if they were there. In this manner, the inmate could confide in detail about the inmates without fearing the information would get back into the system. This recommendation was agreed upon by the inmate, and the Unit Team. After receiving the roster, the Ombudsman was able to make a determination based on information from the inmate, that he would not be endangered by the transfer. As a result, the inmate decided to go to the minimum security facility.

*Disposition: Facilitated Communications*

### Example 13 - Recordkeeping Complaint

The Ombudsman became aware of a rumor implicating a staff member of holding a joint account with an inmate participating in a work release program. The Ombudsman began by checking out this rumor with the inmate involved. He was met by passive interest on the part of the inmate; however, because of the serious implications of the situation, the Ombudsman proceeded with the case on his own initiative.

The facts proved complicated. As a condition of employment imposed by the employer, the inmate was required to establish a checking account through which he would be paid by the employer. This procedure, however, was seen by the staff member as conflicting with the Departmental procedure of having inmates directly handing in all pay checks. This procedure was seen as a way of enforcing the statutory directive for dispersing an inmate's work release income. The directives include those of payment for room and board, as well as dealing with any outstanding debts and obligations.

To rectify this apparent conflict, the staff member required the inmate to open this checking account jointly with himself. Departmental policy not only suggested that this was authorized behavior but also required it. Administrative Procedure #507 reads, in part: "All (work release) participants who have outside savings accounts derived from work release or work study earnings, must have their accounts so arranged as to necessitate written approval from the institution head to make a withdrawal possible."

As it turned out, however, the instructions to the bank were miscommunicated and the joint account established turned out to be one which required only one rather than two signatures. Thus, the staff member's attempts to control the inmate's expenditures were completely in vain. Additionally, the staff member had been put in the position of being able to withdraw funds from the inmate's account without authorization from the inmate himself; thus, the staff member was exposed to accusations of misappropriating the inmate's money.

The Ombudsman's investigation disclosed that there was a withdrawal from this account by the staff member. This withdrawal, however, was

discovered to have been the result of a computer error which had been corrected by the staff member within a matter of days. Bank officials cooperated not only in the investigation but also in establishing safeguards to prevent such an error from occurring a second time. The bank, however, was unwilling to close out the joint account without mutual consent on the part of both the staff member and the inmate. While the staff member was willing to close out the account, the inmate refused to cooperate. Working with the staff member, the Ombudsman involved Departmental administrators who were able to effect a method by which to remove the staff member from this checking account.

The Ombudsman concluded that there was no fraud involved, although the situation had been allowed to continue far too long.

(As a result of this case, the Ombudsman additionally made the formal recommendation that the administrative policy upon which the staff member had based his authority for action, be rescinded. Additionally, the Ombudsman recommended that the Department adopt a clear policy prohibiting staff members and inmates from establishing and holding joint checking and savings accounts. Alternative measures for enforcing the statutory requirements for dispersal of inmate earnings were recommended. See Section IV, "Policy Recommendations to the Secretary of Corrections", Recommendations 7 and 8.)

- Dispositions:*
1. *Complaint Unfounded*  
(no fraud involved)
  2. *Recommendation Fully Accepted*  
(Joint bank account was dissolved.)

#### Example 14 - Property Loss Complaint

On April 26, 1976, six staff members at the Kansas State Penitentiary were held hostage by two inmates for a couple hours. One staff member reported that \$97.00 had been stolen from him during this incident. Investigators at the institution, however, were unable to recover the money from the inmates involved or locate it anywhere in the area in which the staff members had been held hostage.

The Ombudsman recommended approval of this claim to the Joint Legislative Committee on Special Claims Against the State. The Committee allowed the claim which was subsequently included in the Claims Bill, House Bill 2649 for 1977. The 1977 Legislative Session, however, adjourned with this Bill still pending in the Senate.

- Disposition:* *Recommendation Fully Accepted*  
(Claim approved by Committee, although reimbursement is pending legislative action.)

### Example 15 - Recordkeeping Complaint

An inmate approached the Ombudsman at one of the institutions saying that seven days earlier he was supposed to have been released on his Conditional Release Date, which in Kansas is the date an inmate must be released from an institution without parole supervision. In the afternoon of the day he was to leave, he was informed that there had been an error in the computation of his time and that he in fact had two more months to serve. In preparation of his release date, the inmate had mailed out or given away his personal belongings the previous day.

Contacts with numerous staff members were necessary in order for the Ombudsman to put the pieces together and verify what had happened. The Ombudsman learned that several staff members were extremely concerned about the error and had attempted to find legal ways in which to have the inmate released without having to serve the two months. This, however, was to no avail. What the Ombudsman eventually did learn, however, was that the error had been discovered by a staff member a month before it was ever reported to the inmate. The Ombudsman, however, was unable to find out the cause of the delay of notification. The Ombudsman did request verification of the computation of the time so as to be able to assure the inmate that he could rely on the new information establishing his release date.

Having already contacted staff members representing all levels of institutional management, the Ombudsman contacted the Director about the incident. He learned that the Director was aware of the situation but had not been informed that the error had been known a month before the inmate was informed. Leaving the matter entirely up to the Director, the Ombudsman sought only to be assured that another similar error of computation in this inmate's sentence was not being made. In a follow-up two months later, the Ombudsman learned that this inmate was released on time in accordance with the corrected computation of the sentence.

*Disposition: Observed and Monitored*

.....

Although all of the anecdotes presented in this section involved cases which have been closed, some of them may very well leave the reader with an unsettled sense of a lack of closure. It is this very kind of case which acts as the motivation for the Ombudsman Office to conduct major program and policy studies. The following section will present a summary of this Office's first attempts at conducting such studies and formulating recommendations for changes in policies and practices.

## Section IV

### POLICY RECOMMENDATIONS TO THE SECRETARY OF CORRECTIONS

Thirty-two policy recommendations were formally presented to the Office of the Secretary of Corrections. In each case, these recommendations were part of a larger report. A simple listing of each recommendation runs the risk of having it understood out of proper context. To minimize this, a discussion or the conclusion of each report will precede the listing of recommendations from that report. Space limitations prevent the reproduction of each report in its entirety. These reports, however, are available upon request through the Ombudsman Office.

#### Requests of the KSP Lifer's Club

Submitted to Secretary of Corrections: July 26, 1976

##### Discussion

The Lifer's Club at the Kansas State Penitentiary has made two requests which can be addressed at the same time. One request has to do with its desire to change the membership eligibility from that which would restrict membership to inmates who are serving natural life sentences to also include inmates who are serving maximum sentences of life and minimum sentences of 29 and 1/2 years or more. The second issue raised by the Lifer's Club has to do with its desire to incorporate under the laws of the State of Kansas.

##### Recommendations

1. KSP Inmates with a minimum aggregate sentence of 29 and 1/2 or more years should be eligible to be members of the KSP Lifer's Club.  
*Response from Secretary of Corrections: July 29, 1976 -- rejected*
2. The KSP Lifer's Club should be allowed to exercise the prerogative of Kansas citizens to incorporate.  
*Response from Secretary of Corrections: July 29, 1976 -- rejected*
3. The Articles of Incorporation, to be filed by the KSP Lifer's Club with the Secretary of State, should include detailed operational procedures, approved by both the Institution and the Club. They should also include a statement to the effect that this corporation cannot act without the approval of the Secretary of Corrections or his designee.  
*Response from Secretary of Corrections: July 29, 1976 -- rejected*

#### Incentive Good Time

Submitted to Secretary of Corrections: July 26, 1976

## Conclusion

It would appear that, as a holdover from an earlier era, the present system of continuing to compute Incentive Good Time presents several contradictions and dilemmas, in addition to being a major work effort. As it is presently administered at Kansas State Penitentiary, this system is unfair and unjust to those inmates on medical idle or on unassigned status due to delays in processing, or to the unavailability of enough jobs for inmates. In an attempt to clear up the existing discrepancies, the following three recommendations are being made:

## Recommendations

4. It is recommended that the utilization of a system of rewarding Incentive Good Time be discontinued. Such a move would contribute toward the alleviation of unnecessary work efforts on the part of an already overworked staff.  
*Response from Secretary of Corrections: July 29, 1976 -- will review*  
(New policy issued on August 10, 1976; did not incorporate this.)
5. In the place of a system of Incentive Good Time, it is recommended that the Unit Teams (within the realm of their considerable discretion in certifying inmates to see the Kansas Adult Authority) be given the responsibility and authority to make recommendations with regard to an inmate's Conditional Release Date. They would also need to have the ability to apply some system of "work and good behavior credits" (see K.S.A. 1975, Supp. 22-3717) to the sentences of those persons with an aggregate minimum term of more than 15 years. This new approach would need to be carefully coordinated with the Kansas Adult Authority, within its discretionary powers.  
*Response from Secretary of Corrections: July 29, 1976 -- will review*  
(New policy issued on August 10, 1976; did not incorporate this.)
6. Even with the discontinuation of the present system of Incentive Good Time, there is still the problem of rectifying the computation of time for those individuals who might presently be caught under the currently unevenly administered system at Kansas State Penitentiary. It is recommended that the Unit Teams make necessary adjustments in Conditional Release Dates on an individual basis, as indicated above.  
*Response from Secretary of Corrections: July 29, 1976 -- will review*  
(New policy issued on August 10, 1976, while not directing this, did include a provision which would permit this to be accomplished.)

## Checking Account Held Jointly by Staff Member and Inmate

Submitted to Secretary of Corrections: January 13, 1977

## Conclusion

In accordance with Departmental Administrative Procedure #507, one inmate needing to open a checking account was required to do so jointly

with a staff member. Although some events had occurred which required explanation, an investigation found that there was no fraud involved.

### Recommendations

7. It is recommended that Section 2 of Administrative Procedure #507 be rescinded. The effect of this procedure is to direct that "savings accounts derived from work release" be controlled jointly by the "institution head" and inmate.

*Response from Secretary of Corrections: None*

(However, this recommendation was accepted with the publication of the Policy and Procedure Manual, effective on February 1, 1977.)

8. It is recommended that Administrative Procedure #503 be revised so as to clearly indicate that joint checking or savings accounts between work release inmates and Department of Corrections staff members are not authorized. Alternative procedures will need to be established to insure the proper control for funds of work release inmates, so as to be in compliance with K.S.A. 1976, Supp. 75-5231.

*Response from Secretary of Corrections: None*

(However, this recommendation appears to have been partially accepted in the Policy and Procedure Manual, effective on February 1, 1977.)

### The Adjustment and Treatment Building at the Kansas State Penitentiary

Submitted to Secretary of Corrections: April 4, 1977

### Conclusion

The Adjustment and Treatment Building has been of continuous concern for staff as well as inmates. Few of the findings and recommendations of this study are expected to be of surprise to staff members; indeed, many of them have been brought to our attention by staff members themselves. The report is an attempt to consolidate information concerning A & T and to focus concern on it. Staff know only too well the emotional and physical injuries inflicted upon inmates and staff who spend any considerable time in this bleak windowless building with continuous echoing noises. By staff and inmate reports and our own observations, the Adjustment and Treatment Building in the Kansas corrections system has made some persons confined in it "worse" than they were when they entered it. Regression and deterioration has been observed in the forms of adjustment difficulties when released to the general population, violence, bitterness, self-mutilation, suicide and general mental health deterioration, including psychosis.

The problem areas reported in this study are real. The recommended changes, however, are far from being final solutions. Indeed, some of them may well create new problems, although hopefully less aggravated. While most of the recommendations have been developed in close collaboration with staff and inmates, it is expected that full implementation may not be feasible.

The utilization of A & T for short term punitive measures is not seen as inappropriate. However, continuous and extended confinement in A & T for protective custody and mental health reasons is inappropriate. We know of one inmate who has spent approximately seven years in A & T for protective custody. (And we know of staff who have been assigned there for even longer periods of time.) At the present time neither the institution nor the Department as a whole has any alternatives available to provide care and custody to these inmates.

The Department of Corrections is on record as having recommended the construction of a psychiatric treatment facility in Topeka. Were this recommendation followed, many of the inmates currently held in A & T could be moved out, thus minimizing continued regression on their part and a considerable number of the problems created by them in A & T. We applaud this recommendation and regret that it is not being followed at this time.

It is hoped that the Department of Corrections will develop a recommendation for alternative facilities for the 100 to 125 inmates held in protective custody at KSP and KSIR. The approximately 60 protective custody inmates in A & T are held in a facility clearly designed for providing punishment as well as a higher degree of security. The majority of these men could function in a less restricted setting. Such a facility, along with one for psychiatric treatment, would make it possible to remove those inmates from A & T who are not otherwise serving disciplinary time or pending a disciplinary hearing.

The KSP administration is commended for its efforts to reduce the number of inmates in A & T and for its continual review of the usage of this facility. The recent implementation of a weekly Administrative Segregation Review Board has contributed significantly to this. KSP, also, has made efforts to find alternatives to A & T for protective custody inmates but can do so only on a limited and individual basis due to the lack of facilities and programs.

A state which has long been known for its achievements in the field of mental health, Kansas has the expertise available to rectify the existing conditions in the Adjustment and Treatment Building at the Kansas State Penitentiary. Correction of these conditions needs to become a legislative mandate, as well as a priority for the utilization of existing resources within the Penitentiary and the Department of Corrections.

#### Recommendations

##### Store

9. Concerning the 24-hour appeal procedure established to rectify errors made in filling store orders, there needs to be written provisions stating that the period be extended during official holidays and that an inmate may utilize it when he has not received a substitute item after noting he would accept a substitute brand.

*Response from Secretary of Corrections: None*

*Response from KSP Director: \* "Recommendation is current policy."*

\* Mr. Kenneth G. Oliver, Director of the Kansas State Penitentiary, submitted a three page response, dated May 25, 1977, to the Ombudsman's report on the A & T Building. In conformance with the present summary format, his response is presented only in part; his complete response is available upon request to this Office.

10. It is recommended that any purchased item damaged or lost during transfer from the store to an inmate in A & T be replaced at no expense to the inmate.  
*Response from Secretary of Corrections: None*  
*Response from KSP Director: "Recommendation is current policy."*
11. If recommendations 9 and 10 above do not eliminate existing problems, it is recommended that store personnel deliver purchases directly to each inmate in A & T. Implementation of this procedure could require a manpower increase for the store and a possible up-grading of existing positions.  
*Response from Secretary of Corrections: None*  
*Response from KSP Director: Rejected*
12. It is recommended that the store stock coffee and Tang in paper or plastic bag containers for use in A & T.  
*Response from Secretary of Corrections: None*  
*Response from KSP Director: "Recommendation is currently in practice."*

#### Security and Operations

13. Direct and close supervision of inside and outside exercise yards is seen as mandatory for protection and quality of human life.  
*Response from Secretary of Corrections: None*  
*Response from KSP Director: "Recommendation is current practice."*
14. A barrier should be erected around the outside of the south exercise yard to keep general population inmates from having direct contact with the wall.  
*Response from Secretary of Corrections: None*  
*Response from KSP Director: Rejected*
15. Support is given to a continued program of inspection and repair of the screen covering the south exercise yard to insure that it is not vulnerable to the entry of contraband items.  
*Response from Secretary of Corrections: None*  
*Response from KSP Director: Response indicated this was current practice and described it.*
16. A group of specially trained correctional officers needs to be developed for regular assignment to A & T.  
*Response from Secretary of Corrections: None*  
*Response from KSP Director: Response does not address issue of special training, although it does describe a system of assigning "specially selected officers" to A & T. The mental health needs of A & T staff are also discussed.*
17. A permanent duty post needs to be established in each of the three wings of A & T to be manned by correctional officers during the two daytime shifts.  
*Response from Secretary of Corrections: None*  
*Response from KSP Director: "Concur with the recommendation which will require budget action."*

18. In addition to a full-time Correctional Supervisor I, and a Correctional Counselor I or II, six correctional officers need to be assigned to A & T during each of the two daytime shifts.  
 Response from Secretary of Corrections: None  
 Response from KSP Director: "Concur with the recommendation which will require budget action."
19. The officer in charge of the A & T Building should be paid at salary range 20 (10,596 - 13,392) which is equivalent to a Correctional Supervisor II, or be paid at salary range 21 (11,100 - 14,042) which is equivalent to a Unit Team Supervisor of any other unit in the institution.  
 Response from Secretary of Corrections: None  
 Response from KSP Director: "Concur with the recommendation which will require position upgrading...."
20. A Correctional Officer II (Sergeant) position needs to be allocated to the 6:00 a.m. to 2:00 p.m. shift in A & T.  
 Response from Secretary of Corrections: None  
 Response from KSP Director: "Concur with the recommendation which will require budget action."
21. It is recommended that each shift hold a formal roll call in A & T, on state time.  
 Response from Secretary of Corrections: None  
 Response from KSP Director: Response concurred with recommendation, while pointing out need for budgetary action and clarification of definitions of terms.
22. A "hand-out" describing the rules, expected routine and resources of A & T should be provided to each inmate upon arrival at A & T.  
 Response from Secretary of Corrections: None  
 Response from KSP Director: "Recommendation is current practice."
23. The rules governing inmate behavior on each wing in A & T need to be posted in a conspicuous manner on that wing.  
 Response from Secretary of Corrections: None  
 Response from KSP Director: "This recommendation must be met by means of a hand-out rather than posting in the wing...."
24. Inmate porters should not be used for performing the "official" business of A & T, including: transferring store items, serving meals, and acting as A & T clerk.  
 Response from Secretary of Corrections: None  
 Response from KSP Director: Response indicated practice would have to be continued on a limited basis, until A & T is fully staffed.
25. It is recommended that criteria be established for the selection of inmate porters in A & T.  
 Response from Secretary of Corrections: None  
 Response from KSP Director: Rejected

26. It is necessary to increase recreation and yard time, for inmates not serving disciplinary time, in order to decrease the mental health hazards of isolation.

*Response from Secretary of Corrections: None*

*Response from KSP Director: Rejected, in favor of creating more work opportunities, which would require budgetary action.*

#### Programs

27. It is suggested that the recent effort to provide increased mental health services in A & T be continued.

*Response from Secretary of Corrections: None*

*Response from KSP Director: "...Mental health services will be continued as available in light of other priorities."*

28. A mental health prevention program with a mental health professional designated as project director needs to be established in A & T.

*Response from Secretary of Corrections: None*

*Response from KSP Director: "Concur with the recommendation which will require budget action."*

29. It is recommended that a limited educational program be made available to protective custody inmates and other long-term inmates in Administrative Segregation.

*Response from Secretary of Corrections: None*

*Response from KSP Director: Rejected*

30. It is suggested that library services for A & T inmates be better developed.

*Response from Secretary of Corrections: None*

*Response from KSP Director: Rejected*

31. It is recommended that a means be found to keep the institutional library open in the event of the librarian's absence.

*Response from Secretary of Corrections: None*

*Response from KSP Director: Rejected*

32. It is suggested that religious services be made available to protective custody inmates held on the east wing.

*Response from Secretary of Corrections: None*

*Response from KSP Director: Rejected*

## Section V

### RECORDKEEPING PROCEDURES FOR COMPLAINTS

Since the inception of the Ombudsman Program, there has been considerable effort devoted to developing useful recordkeeping procedures for the handling of complaints. These records are maintained for several reasons: 1) to assist in the management of the complaint; 2) to preserve vital information for future reference concerning each complaint after it has been closed; 3) to have the capability of comparing individual complaints to reveal patterns of problems; 4) to create a data base from which the program's resource needs can be projected; 5) to have a base of information amenable to statistical analysis which will describe the work of this Office and its findings.

During Fiscal Year 1976, the Office reviewed its recordkeeping procedures with the assistance of Dr. James Taylor, Research Consultant. The outcome of this consultation was the creation of a new system of recordkeeping which was employed during Fiscal Year 1977. This new system allows for the recording of multiple items of information about the complainant, the immediate corrections environment involved, the complaint and action taken by the Ombudsman Office.

Minimal identifying information is recorded about each complainant. What kind of information is asked will vary depending upon which of the groups of complainants is involved: inmates, correctional staff, or correctional volunteers. This identifying information is used primarily to be able to locate the individual and to have some basic information regarding sentence, work experience, or volunteer experience. The race of the complainant is recorded in order to monitor the Office's distribution of services to complainants of all races. This information item, however, was added to the system too late to be able to present any meaningful data in this Report.

It is also important to note what information is not recorded. Data about the complainant and his status within the corrections system does not routinely include such information as that relating to his crime, educational level, age, marital status, and many other items of personal information. Such information may become important in a particular case and can be included in the narrative notes. Otherwise, gathering such detailed information can be time consuming, a turn off to the complainant, and potentially unnecessarily biasing to the Ombudsman staff. Recording only the most essential information regarding the complaint, gives the complainant a clear message that the Ombudsman Office is taking the complaint seriously and that it is the complaint, itself, which is of primary concern.

While a good deal of information relating to the complaint and Ombudsman Office actions is recorded in narrative fashion, much of this data is recorded in a structured and coded manner to insure that it is gotten and to provide uniformity in statistical data. The information includes the initial transactions between the Office and the complainant, indicating the manner of communication and the length of time required for the Office to respond. The content and form of a complaint are categorized. Also recorded are the number and means of contact with both the complainant and other relevant parties and the manner in which the complaint was eventually resolved.

The following definitions are used in this recordkeeping procedure:

A. Categories of Complaints

Through experience and consultation with other corrections Ombudsman programs, 18 complaint categories have been established. These categories, however, apply only to inmate complainants. Complaints from the other two groupings of complainants, staff members and volunteers, have been too small in number to warrant categorization.

Fifteen of the 18 complaint categories for inmate complainants have been grouped under four major headings: "Care and Maintenance," "Safety and Security," "Maintenance of Institutional Order", and "Rehabilitation". These groupings correspond to four traditional functions performed by correctional institutions. The remaining three complaint categories have been grouped under the heading, "Miscellaneous". These groupings were developed in an effort to create the possibility of making comparisons among complaints more significant.

Care and Maintenance

1. Food - These complaints relate to the preparation and serving of food in the institutions.

2. Medical (Physical) - Complaints in this category pertain to the availability of medical staff, facilities, and treatment. They are restricted to somatic and not psychiatric ailments, which come under the category of "Counseling and Mental Health."

3. Recordkeeping - Complaints of this nature relate to errors in financial records, computation of sentences, location of records, and any other difficulties relating to recordkeeping.

4. Visiting - This category of complaints deals with administrative decisions regarding those individuals allowed on an inmate's visiting list and the manner in which visitors are treated.

5. Physical Facilities - Problems with the physical facilities at an institution (other than those relating to the medical or food services facilities) are included in this category.

6. Mail - These complaints regard the handling of inmate correspondence in ways which are not consistent with the administrative procedure of the Department of Corrections.

Safety and Security

7. Physical Threat - This category includes allegations of threats or incidents of bodily harm to either an inmate or a staff member from other inmates or staff members.

8. Property Loss - These complaints deal with the loss, destruction or theft of personal property which are investigated when there are implications that the loss was the result of inadequate security procedures or mishandling by the institution. Personal property of staff is also included when the

damage or loss occurred in the line of duty. Physical disability claims of inmates are also considered in this category. Most of these claims are eventually reviewed by the Joint Legislative Committee on Special Claims Against the State.

#### Maintenance of Institutional Order

9. Disciplinary Procedures - Problems relating to the enforcement of inmate rules by the staff and to the conduct of Disciplinary Boards, are included in this category.

10. Daily Routine - Complaints of this nature deal with the routine schedules which govern the amount of time an inmate spends on any activity and in which locations of the institution he or she is allowed to move. This category also deals with complaints about the kinds of activities an inmate must perform, including those in his cell house and cell.

#### Rehabilitation

11. Inmate Activity Group - This category is concerned with complaints from inmate self-help groups and their outside sponsoring organizations.

12. Parole - These complaints relate to the Kansas Adult Authority (formerly, the Kansas Board of Probation and Parole) with which the Ombudsman has jurisdiction only by invitation of the Authority. These, also, may involve complaints pertaining to the Inter-State Parole Compact Program, which is administered by the Department of Corrections.

13. Counseling and Mental Health - Problems concerning the availability of staff and resources for professional counseling services are dealt with in this category. These complaints also involve the availability of psychopharmacological medications, and psychiatric evaluations when the latter are needed to assist in making decisions concerning inmate rehabilitation programs, parole eligibility, or transfers between facilities.

14. Education, Work, Training - The occurrence of a complaint in this category has to do with the assignment of and termination of work or educational/vocational training programs. The key factor here is the appropriate development and carrying out of the individual's "rehabilitation program" according to Kansas Department of Corrections Administrative procedures.

15. Custody Status and Parole Eligibility - Problems relating to the manner in which an inmate's custody level and parole eligibility date are established and the manner in which he or she is informed of this decision are dealt with in this category. This category also embodies decisions concerning home furloughs, funeral visits, transfers to the Honor Camp and outside dormitories, work release, and trips outside the institution. Attention is given primarily to the process and not the substance of decision making in this area.

#### Miscellaneous

16. Internal Grievance Procedure - These complaints regard the handling of inmate grievances in ways which are not consistent with the administrative procedures of the Department of Corrections.

17. Complaints Against Staff - This category pertains to allegations of prejudicial treatment by certain members of the institutional staff. These allegations include treatment which is oppressive and unfair, deviates from Departmental procedures, or embodies criminal acts.

18. Other - Complaints in this category do not fit within any of the above categories or their contents remain unknown because the complaint is withdrawn prior to completion of processing. Complaints from staff and volunteers are all logged here as their small numbers do not lend themselves to categorization.

## B. Assessments of Complaints

The above complaint categories are descriptive of the content presented in the complaint. Once this has been established, it is necessary to then assess the form in which the complaint exists. There are six assessment categories for complaints.

1. Action - A complaint is assessed as an "action" complaint when it refers to behavior, decisions, and actions directed toward the complainant which are allegedly discrepant from the policy and procedures of the Department of Corrections or the State law.

2. Policy - Complaints assessed as being "policy" complaints are those which deal with problematic rules, regulations, guidelines, procedures, policies or laws which, when followed, produce problematic consequences.

3. Outside Jurisdiction - These are complaints which are beyond the Ombudsman Office's statutory power to investigate.

4. Not Conducive to Investigation - These are complaints assessed to be beyond the Ombudsman Office's current capacity to handle; beyond its current level of expertise; or complaints which are so global in nature that it is impossible to ascertain a point of intervention. These also include complaints which may be specific in nature, however, sufficient verifiable data is not available. Some complaints assessed in this manner are considered as being frivolous. It also may be the complainant does not have a sufficient stake in the issue to justify intervention.

5. Crisis - This assessment indicates there is a current or impending danger to individuals or groups and the normal operating procedures of the Office may have to be set aside to expedite intervention.

6. Unknown - Complaints are assessed as unknown when the complaint has been withdrawn, or institutional personnel have solved it prior to the Office having collected sufficient information to assess its form.

## C. Dispositions of Complaints

The manner in which a complaint is resolved is described in one of seven designated dispositions. These dispositions have been clustered in three groupings which reflect the kind of action taken by the Ombudsman Office: "Direct Intervention Between the Complainant and the Department of Corrections," "Indirect Intervention Between the Complainant and the Department of Corrections," and "Closed Prior to Intervention".

## Direct Intervention Between Complainant and the DOC

1. Recommendation for Corrective Action - This disposition means the Ombudsman's Office has presented the Department of Corrections with either a verbal and/or written recommendation for the correction of some administrative action which is discrepant from the Department's policies and procedures. Under this disposition there are three possible responses; a) Fully Accepted; b) Partially Accepted; and c) Not Accepted. Recommendations may also come as a result of mediation between conflicting parties.

2. Facilitate Communications - This disposition indicates a resolution of the complaint was sought by facilitating communications between the parties involved.

3. Observed and Monitored - The action taken in this disposition category was to observe or monitor interactions between the complainant and the administration. Examples of this kind of intervention include the observation or monitoring of a disciplinary hearing, a 90-day rehabilitation program review, Program Management Committee, personnel promotion review board, and incidents or disturbances, and the everyday operations of the Department of Corrections.

4. Unfounded Complaints - If after a thorough investigation by the Ombudsman's Office, it is found that the complaint has no basis in fact and is totally without merit, the complaint is disposed of as unfounded.

## Indirect Intervention Between the Complainant and the DOC

5. Information and/or Referral - When a complaint is disposed of in this manner, the complainant has been informed of how to best approach the system in seeking his own resolution, or has been referred to another resource either inside or outside the Department of Corrections. The information provided can relate to the Ombudsman Office, the Department of Corrections or some other agency. When a formal referral is made to another agency, the agency is provided with the complainant's name and a brief verbal or written description of the problem.

## Case Closed Prior to Intervention

6. Withdrawn - In this disposition, the complainant requested the Office take no further action regarding his initial complaint. This disposition also reflects those instances in which complainants fail to follow through with requests or recommendations made by the Ombudsman in order for him to properly work on a complaint. This latter occurrence happens frequently when the Office must rely on correspondence in the handling of a particular complaint.

7. Case Closed Prior to Completed Intervention - This disposition indicates that after an initial contact was made with the Ombudsman's Office the complaint was resolved prior to the Office's completion of its study and report of its findings.

D. Highest Management Level within the Department of Corrections at which Complaint is Resolved

As a means of describing the degree of responsibility and authority held by the person in the Department of Corrections with whom the Office effected a resolution for a complaint, the statistical system portrays the Department as consisting of six hierarchical levels, plus one external level. Conceptualizing these levels assists considerably in describing the nature of the interaction between the Ombudsman Office and the Department of Corrections. Additionally, this data is important in determining whether or not the Office of the Ombudsman is adhering to its policy of resolving complaints at the lowest possible management level within the Corrections Department.

1. Line Staff - This level includes the main work force staffing the institution; clerical staff, Correctional Officers I and II, detail officers, and maintenance staff.

2. Line Supervisors - Correctional Supervisors I and II (Lieutenants and Captains), and all Unit Team members are included at this level.

3. Professional Staff Level - Those staff members operating in a professional or para-professional capacity in the medical, legal and mental health fields form this level. It also includes those functioning in research capacities.

4. Middle Management Level - Those supervisors who have two or more line supervisors reporting to them and/or have major programmatic responsibilities are considered as part of this level. These include Correctional Supervisor III's (Majors) and the administrative officers responsible for major areas of activities in the institutions, and at the Departmental level.

5. Directors - This level includes the Directors of the various institutions and their Deputy Directors.

6. Secretary - This level includes the Secretary of Corrections and his Deputy Secretaries.

7. External Resources - This level includes the Office of the Governor, the Legislature, the press, and various other governmental and non-governmental agencies.

8. None - This category is designated when none of the above levels were involved in resolution of the complaint.

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The recordkeeping procedure presented in this section provides an outline of the Ombudsman Office's conceptual framework for understanding complaints and their resolutions. The statistical data presented in the following section is based entirely upon the definitions presented here. The data collected in this manner makes it possible for the Office to attempt to provide answers to the questions often asked about the Ombudsman Program.

## Section VI

### STATISTICAL PRESENTATION

The recordkeeping procedures just described make it possible to retrieve statistical data relating to the Office's complaint handling. This data is descriptive of only that part of the Office's work load relating to complaints. Complaints are accepted from inmates, volunteers, and correctional staff members. Referrals are received from a variety of interested persons including family members, agency representatives, and state officials. During FY 1977 the Ombudsman Office was able to maintain on-going services at both the Kansas State Penitentiary (KSP) and the Kansas State Industrial Reformatory (KSIR) which represented 79.5% of the average daily institutional population in Kansas state adult institutions during FY 1977. (Computed from data presented in: Kansas Department of Corrections, Statistical Report, July, 1977, p. B-2.) Other sources of complaints included divisions within the Department of Corrections such as the Kansas Correctional Institution for Women, the Kansas Reception and Diagnostic Center, the Kansas Correctional-Vocational Training Center, the honor camp, work release centers, and parole. Additional sources of complaints outside of the Department of Corrections were various, including state psychiatric hospitals and prisons in other states which were holding Kansas prisoners. Data relating to the handling of complaints from these sources is presented in this section in an effort to answer the following ten questions.

#### 1) How Many Complaints were Handled?

At the close of Fiscal Year 1976, there were 52 complaints which were carried over into FY 1977. These complaints are presented separately in Table I because they were handled under the old data collection system. During FY 1977, 372 new complaints were received, which makes a total of 424 complaints which were handled by the Office in FY 1977. All of the complaints which were carried over from FY 1976 were closed during this reporting period; however, 54 cases received during FY 77 remained active at the end of the fiscal year. This leaves 318 cases that were both received and closed within FY 77.

As seen in Table 2, 203 or 54.5% of the complaints came from KSP, 120 or 32.3% came from KSIR, and 49 or 13.2% came from other sources, within and outside of the Kansas Department of Corrections. As was the case during the last reporting period, there again was a direct relationship between the number of cases received from some of the institutions and the percentage of field time spent at them by the Ombudsman staff. Sixty-one and three-tenths percent of the field time was spent by the staff at KSP and 54.5% of the complaints were received from KSP. Thirty-five and five-tenths percent of the field time was devoted to KSIR, from which the Office received 32.3% of its complaints. At the remaining institutions, however this direct relationship between field time and the number of complaints received was not present. While only 3.2% of the field time was spent at other institutions, the Office received 13.2% of its complaint load from them. One possible explanation for this is that news media coverage of the Ombudsman Office in Topeka area increased the Office's "presence" in some of the other institutions which are in the surrounding area.

The remainder of this section will deal with a statistical presentation of the 318 complaints which were both received and closed during the current reporting period (FY 1977). An analysis of the 54 cases which remained active at the end of FY 1977 is omitted, because all the necessary data cannot be recorded until a complaint has been closed.

## 2) What Kinds of Complaints Were Received?

The 318 complaints received and closed during the reporting period are depicted in Table 3 according to complaint category. The grouping of complaint categories labeled "Rehabilitation" is the largest, representing 28.6% of all complaints. This grouping of complaints, more than any other, represents those areas of institutional procedure which are open to the greatest degree of discretionary authority. The categories in this grouping include decisions relating to parole, custody status, and assignment to counseling, education, work and training programs.

The categories of complaints grouped under "Care and Maintenance" accounted for 23% of the complaints. These complaint categories include those relating to food preparation, medical services, institutional recordkeeping procedures, visiting with outsiders, physical facilities and mail.

The third highest grouping of complaints involved "Maintenance of Institutional Order" which accounted for 20.4% of complaints received. These complaints included those relating to the enforcement of institutional rules and to the prescribed daily routine at an institution. Ten and seven-tenths percent of the complaints involved issues surrounding "Safety and Security". These included the safety and security of both persons and personal property.

The remaining complaint categories included 5% for those related to behavior of specific staff members and 1.9% for those concerning the internal inmate grievance procedure. Another 10.4% of the complaints either fell outside of the established categorization scheme or were not known because the case was closed prior to a determination of the specific nature of the complaint.

There are significant differences between the kinds of complaints received from KSP and those received from KSIR. There, however, are too many variables involved to draw any conclusions from these differences. Such variables include differences in the administration of the institutions, differences in inmate populations of the institutions, and differences in the distances of the institutions from the Ombudsman Office.

## 3) What Was the Form of Complaints?

While the selection of a complaint category reflects the content of a complaint, it can be presented in a variety of different forms. The assessment of the form of the complaints received and closed in this reporting period are depicted in Table 4. The majority of complaints (66.4%) addressed actions and decisions which were allegedly deviations from institutional and departmental policy, or law. Nine and one-tenths percent of the complaints addressed alleged problems in established policies and/or statutes. Another 9.1% of the complaints were assessed as being outside of the Ombudsman Office's statutory jurisdiction. In a number of

instances the Office did informally pursue these complaints even though they were outside its jurisdiction. Eleven percent of the complaints received were determined not to be conducive to investigation because of the lack of specific details, the lack of an adequate stake in the case on the part of the complainant, the fact that the complaint related to an incident which dated back too far, and a variety of other similar reasons suggesting a complaint was not amenable to effective action. Four and one-tenths percent of the cases were closed before proceeding to the point where an assessment could be determined.

4) How Many Complaints Were Determined to be Unfounded?

As shown in Table 5, 21 or 6.6% of the 318 complaints received and closed in FY 77 were determined to be "Unfounded". The remaining 93.4% of the complaints were either valid or were closed before a determination of validity could be made (such as in those cases which were withdrawn or those which were solved prior to intervention).

5) What Are the Results of Complaint Handling?

The dispositions of the 318 cases received and closed during FY 77 are presented in Table 5. There was direct intervention by the Ombudsman Office in 130 or 40.8% of the complaints. This direct intervention included the following:

1. In 50 or 15.7% of the complaints, the method of presenting recommendations was used for resolving complaints. Thirty-eight or 11.9% of these recommendations were fully accepted, 4 or 1.3% were partially accepted and 8 or 2.5% were not accepted by the corrections system.
2. The method of facilitating communications between the grievant and one or more parties representing the corrections system was successful in 37 or 11.6% of the complaints. In these cases, the Ombudsman staff opted for allowing the parties involved to develop their own resolution rather than imposing recommendations from the Office.
3. During its first year of operation, the Ombudsman Office discovered that a useful method of intervention in resolving and, especially, preventing problems was that of observing and monitoring various activities. This new approach was utilized in 22 or 6.9% of the complaints.
4. The final method of intervention was making the determination that a complaint was unfounded. As previously mentioned, this occurred in only 21 or 6.6% of the complaints.

The Ombudsman Office additionally brought about resolutions to complaints through the use of indirect intervention by providing information and referral. This was done in 98 or 30.8% of the complaints.

Ninety or 28.3% of the cases were closed before intervention was completed either because the complainant withdrew the complaint or because the complaint was resolved prior to intervention by the Ombudsman Office.

In comparing dispositions of complaints from KSP and those from KSIR, there appear to be some significant differences, especially in those cases for which there was direct intervention and in those for which there was no intervention. There, however, are too many unknown variables involved to draw any valid conclusions about these differences.

6) At What Management Level in the Department of Corrections Were Complaints Resolved?

As described in Section V, "Recording Procedures", the organizational hierarchy of the Department of Corrections has been categorized into seven levels at which complaints can be resolved. One hundred seventy-eight or 56% of the complaints were resolved at one of these levels, while 140 or 44% of the complaints were resolved without intervention at any of these seven levels. This is shown in Table 6.

To determine to what extent the Office adheres to its philosophy of resolving complaints at the lowest possible level, a close look was taken at the 178 complaints which were resolved at one of the seven hierarchical levels. Of those complaints, 131 or 73.6% of them were resolved below the middle management level. Thus, the Office was successful in adhering to this approach by resolving the vast majority of complaints at either the line, line supervisor, or professional staff levels in the organizational hierarchy.

7) How Much Activity Was Invested in Resolving Each Complaint?

The number of interviews, telephone calls, letters received and letters sent regarding each of the 318 complaints is presented in Table 7. There was an average of 6.4 contacts made by the Office in resolving each complaint during FY 1977. As to be expected the least used mode of contact was the telephone (1.1 contacts per complaint), while the amount of correspondence and number of interviews were about equal (2.6 and 2.7 contacts per complaint, respectively).

The majority of these contacts were directly with complainants, with the Office making an average of 3.2 contacts with the complainant in each case. An average of 2.4 contacts in each case were made with correctional staff members and an average of .8 contacts were made with persons outside of the Department of Corrections.

8) How Did Complainants Get in Touch With the Ombudsman's Office?

The vast majority of complainants initiated complaints with the Ombudsman's Office directly without going through a third party. Seventy-nine and six-tenths percent of the complaints were initiated directly by the complainant, while 18.9% were initiated by a third party on behalf of the complainant. The third party person was often a family member, but may also have been an elected state official, a representative of another agency, a corrections staff member, or an inmate.

As can be seen in Table 8, more complaints were initiated through correspondence than any other means. Complaints were initiated in this manner 57.2% of the time: 47.8% of the complaints reached the Office by letters written by the complainant and 9.4% were started by letter from a third party. The high reliance complainants have had on correspondence for getting in touch with the Ombudsman's Office is a condition which can hopefully be lessened in the future. It frequently is the case that what is described in a letter is quite different than the actual complaint as it becomes understood through a personal interview with the complainant. It, also, is believed that many legitimate complaints never reach the Ombudsman's Office because of the high reliance on writing skills necessary to do so. Additional Ombudsman staff members present at the institutions would lessen the need for reliance on correspondence.

9) In What Ways Did the Ombudsman First Respond to Complainants?

Although the majority of complaints were initiated by correspondence, the Ombudsman Office made its first response in person a little more frequently than it did through correspondence. It made first contacts with complainants through personal interviews in 156 or 49% of the cases, while responding initially by letter in 137 or 43.1% of the cases. The remaining 25 (7.9%) of the cases were responded to by telephone. (See Table 9.)

10) How Long Did it Take for the Ombudsman Office to Make an Initial Response to a Complaint?

As shown in Table 10, 255 (80.2%) of the 318 complaints received an initial response from the Ombudsman Office within one week. In 35 (11%) of the cases, the Office was able to respond within the second week after receipt. The remaining 28 (8.8%) of the cases required 15 or more days for the Office to provide an initial response.

The somewhat slower response time, as shown in Table 10, required by the Office to respond to complaints from KSIR, as opposed to those from KSP, can be explained in part by geography. KSIR is considerably further away from the Ombudsman Office than is KSP.

Some of the delays in initial response, can be explained by special research that may be required or by difficulties reaching a third party for necessary information. As opposed to the length of time it takes to resolve a complaint, however, the Office has considerably more control over the initial response time because there are fewer variables involved. For this reason, records are maintained regarding the time it takes to make a first response as opposed to the length of time required to resolve complaints.

Section VII  
STATISTICAL TABLES

Table 1

Distribution of Complaints Pending at the End of F.Y. 1976 and Closed During F.Y. 1977 into Complainant Groups; Complaint Categories; & Dispositions (July 1 - December 31, 1976)

Complainants:	(a)		Categories:	(b)		Dispositions:	(c)	
	Number	Percent		Number	Percent		Number	Percent
KSP	13	25.0%	Procedural	15	28.9%	Information	7	13.5%
KSIR	27	51.9%	Policy	3	5.8%	Referral	-	-
KCIW	2	3.9%	Program	1	1.9%	No Action	2	3.8%
OTHER DOC	1	1.9%	Inmate Act. Grp.	-	-	Solved Prior	2	3.8%
STAFF	4	7.7%	Medical	7	13.5%	Withdrawn	13	25.0%
VOLUNTEERS	5	9.6%	Mail	3	5.8%	Unfounded	4	7.7%
	52	100.0%	Food	-	-	No Resolution	-	-
			Facility	-	-	Partial "	6	11.6%
			Physical Abuse	1	1.9%	Full "	18	34.6%
			Property	5	9.6%		52	100.0%
			Parole	1	1.9%			
			Global	2	3.8%			
			Outside Juris.	3	5.8%			
			Other (Staff & Volunteers)*	9	17.3%			
			Unknown	2	3.8%			
				52	100.0%			

\* All staff and volunteer complaints were categorized under "Other" because there were no designated categories to code complaints received from the two complainant groups.

Table 2

Distribution of Complaints at the End of Fiscal Year 1977  
Compared with Ombudsman Staff Time in Institutions  
 (July 1, 1976 - June 30, 1977)

<u>Source of Complaints</u>	(a) Complaints * Opened		(b) Complaints** Closed		(c) Complaints Pending at End of F.Y. 1977		(d) Days in the Institution	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
KSP	203	54.5%	184	57.9%	19	35.2%	76	61.3%
KSIR	120	32.3%	98	30.8%	22	40.7%	44	35.5%
OTHER	49	13.2%	36	11.3%	13	24.1%	4	3.2%
TOTAL	*** 372	100.0%	318	100.0%	54	100.0%	124	100.0%

\* Of the 372 complaints opened there were 12 staff complaints representing approximately 3.2 percent of the complainants, and 2 volunteer complaints representing approximately 5 percent.

\*\* Of the 318 closed cases there were 12 staff complaints representing approximately 4 percent of the complainants, and 2 volunteer complaints representing approximately 1 percent.

\*\*\* The addition of the 52 complaints pending from FY 1976 (see Table 1) to the 372 complaints opened and the 318 complaints closed in FY 1977, means the Office handled a total of 424 complaints of which 370 were closed during this reporting period.

Distribution of KSP, KSIR, & All Complaints by Category  
(July 1, 1976 - June 30, 1977)

Major Complaint Subdivisions	(a) Complaints*		(b) KSP Complaints		(c) KSIR Complaints	
	Number	Percent	Number	Percent	Number	Percent
<u>Care and Maintenance</u>						
Food	5	1.6%	4	2.2%	1	1.0%
Medical	22	6.9%	17	9.2%	5	5.1%
Recordkeeping	19	6.0%	16	8.7%	2	2.0%
Visiting	8	2.5%	6	3.3%	-	-
Physical Facilities	8	2.5%	5	2.7%	2	2.0%
Mail	11	3.5%	6	3.3%	3	3.1%
Subtotal:	73	23.0%	54	29.4%	13	13.3%
<u>Safety and Security</u>						
Physical Threat	20	6.3%	9	4.9%	11	11.2%
Property Loss	14	4.4%	9	4.9%	4	4.1%
Subtotal:	34	10.7%	18	9.8%	15	15.3%
<u>Maintenance of Institutional Order</u>						
Disciplinary Procedure	29	9.1%	17	9.2%	9	9.2%
Daily Routine	36	11.3%	16	8.7%	13	13.3%
Subtotal:	65	20.4%	33	17.9%	22	22.4%
<u>Rehabilitation</u>						
Inmate Activity Group	2	.6%	1	.5%	-	-
Parole	18	5.7%	11	6.0%	3	3.1%
Counseling/Mental Health	9	2.8%	4	2.2%	5	5.1%
Education, Work, Training	8	2.5%	4	2.2%	3	3.1%
Custody Status: Parole Eligibility	54	17.0%	29	15.7%	22	22.4%
Subtotal:	91	28.6%	49	26.6%	33	33.7%
<u>Miscellaneous</u>						
Internal Grievance	6	1.9%	5	2.7%	-	-
Complaints Against Staff	16	5.0%	10	5.4%	4	4.1%
Other	33	10.4%	15	8.2%	11	11.2%
Subtotal:	55	17.3%	30	16.3%	15	15.3%
TOTAL:	318	100.0%	184	100.0%	98	100.0%

\* This column incorporates complaints from all sources, as well as KSP and KSIR.

Table 4

Distribution of Assessments of KSP, KSIR, and All Complaints  
(July 1, 1976 - June 30, 1977)

<u>Assessments:</u>	(a) All Assessments*		(b) KSP Assessments		(c) KSIR Assessments	
	Number	Percent	Number	Percent	Number	Percent
Action	211	66.4%	123	66.8%	74	75.5%
Policy	29	9.1%	22	12.0%	5	5.1%
Outside Jurisdiction	29	9.1%	19	10.3%	5	5.1%
Not Conducive to Investigation	35	11.0%	14	7.6%	8	8.2%
Crisis	1	.3%	1	.5%	-	-
Unknown	13	4.1%	5	2.8%	6	6.1%
<b>TOTAL</b>	<b>318</b>	<b>100.0%</b>	<b>184</b>	<b>100.0%</b>	<b>98</b>	<b>100.0%</b>

\* This column incorporates complaints from all sources, as well as KSP and KSIR.

Table 5

Distribution of Dispositions of KSP, KSIR, and Total Complaints  
(July 1, 1976 - June 30, 1977)

<u>Dispositions:</u>	(a) All Dispositions*		(b) KSP Dispositions		(c) KSIR Dispositions	
	Number	Percent	Number	Percent	Number	Percent
<u>Direct Intervention</u> <u>Between</u> <u>Complainant and DOC:</u>						
Recommendation for Corrective Action:						
Fully Accepted	38	11.9%	26	14.1%	10	10.2%
Partially Accepted	4	1.3%	3	1.6%	-	-
Not Accepted	8	2.5%	6	3.3%	2	2.0%
Facilitated Communication	37	11.6%	17	9.2%	20	20.4%
Observed & Monitored	22	6.9%	9	4.9%	13	13.3%
Unfounded	21	6.6%	16	8.7%	5	5.1%
<u>Indirect Intervention</u> <u>Between</u> <u>Complainant and DOC:</u>						
Information & Referral	98	30.8%	51	27.7%	24	24.5%
<u>Case Closed Prior to</u> <u>Completed Intervention:</u>						
Withdrawn	65	20.4%	42	22.8%	15	15.3%
Solved Prior	25	7.9%	14	7.6%	9	9.2%
TOTAL	318	100.0%	184	100.0%	98	100.0%

\* This column incorporates complaints from all sources as well as KSP and KSIR.

Table 6

Management Levels of the Department of Corrections at Which Complaints were Resolved  
(June 1, 1976 - June 30, 1977)

<u>Levels of Bureaucratic Hierarchy</u>	(a) All*		(b) KSP		(c) KSIR	
	Number	Percent	Number	Percent	Number	Percent
Line	20	6.3%	14	7.6%	6	6.1%
Line Supervisors	79	24.8%	38	20.6%	39	39.8%
Professional Staff	32	10.1%	20	10.9%	12	12.2%
Middle Management	6	1.9%	3	1.6%	3	3.1%
Directors	26	8.2%	22	12.0%	4	4.1%
Secretary	3	0.9%	2	1.1%	-	-
External Resources	12	3.8%	11	6.0%	1	1.0%
Subtotal	178	56.0%	110	59.8%	65	66.3%
None	140	44.0%	74	40.2%	33	33.7%
TOTAL	318	100.0%	184	100.0%	98	100.0%

\* This column incorporates complaints from all sources as well as KSP and KSIR.

Table 7

Activity Invested in Resolving Complaints  
(July 1, 1976 - June 30, 1977)

(a)  
Comparison of Number of  
Complaints with Contacts

<u>Institutions</u>	<u>Total</u> <u>Contacts</u> <u>per</u> <u>Institution</u>		<u>Number of</u> <u>Complaints</u> <u>per</u> <u>Institution</u>		<u>Average</u> <u>Number of</u> <u>Contacts per</u> <u>Complaint</u>
KSP	1324	÷	184	=	7.2
KSIR	568	÷	98	=	5.8
OTHER	139	÷	36	=	3.9
TOTAL	2031	÷	318	=	6.4

(b)  
FORM OF CONTACT

	<u>Letter</u>		<u>Personal</u>		<u>Phone</u>		<u>Total</u>
KSP	467	+	649	+	208	=	1324
KSIR	255	+	214	+	99	=	568
OTHER	90	+	8	+	41	=	139
TOTAL	812	+	871	+	348	=	2031

(c)  
INDIVIDUAL CONTACTED

	<u>Complain-</u> <u>ant</u>		<u>DOC Staff</u>		<u>Outside</u> <u>DOC</u>		<u>Total</u>
KSP	646	+	502	+	176	=	1324
KSIR	314	+	196	+	58	=	568
OTHER	60	+	50	+	29	=	139
TOTAL	1020	+	748	+	263	=	2031

Table 8  
Mode of Initial Contact by KSP, KSIR  
and All Complainants  
 (July 1, 1976 - June 30, 1977)

	(a) All Closed Complaints*		(b) KSP Closed Complaints		(c) KSIR Closed Complaints	
	Number	Percent	Number	Percent	Number	Percent
Letter Direct	152	47.8%	76	41.3%	58	59.2%
Personal Direct	92	28.9%	65	35.3%	25	25.6%
Phone Direct	9	2.8%	4	2.2%	1	1.0%
Letter (Third Party)	30	9.4%	15	8.2%	7	7.1%
Personal (Third Party)	13	4.1%	10	5.4%	2	2.0%
Phone (Third Party)	17	5.4%	9	4.9%	5	5.1%
Ombudsman Initiative	5	1.6%	5	2.7%	-	-
<b>TOTAL</b>	<b>318</b>	<b>100.0%</b>	<b>184</b>	<b>100.0%</b>	<b>98</b>	<b>100.0%</b>

\* This column incorporates complainants from all sources, as well as KSP and KSIR.

Table 9

Mode of the Ombudsman's First Response  
to KSP, KSIR, & All Complainants  
 (July 1, 1976 - June 30, 1977)

Mode of First Response:	(a) All Complainants*		(b) KSP Complainants		(c) KSIR Complainants	
	Number	Percent	Number	Percent	Number	Percent
Letter	137	43.1%	67	36.4%	47	48.0%
Personal	156	49.0%	107	58.2%	44	44.9%
Phone	25	7.9%	10	5.4%	7	7.1%
TOTAL	318	100.0%	184	100.0%	98	100.0%

Table 10

Days to First Response to: KSP, KSIR, & All Complainants  
 (July 1, 1976 - June 30, 1977)

Days to Response:	(a) All Complainants*		(b) KSP Complainants		(c) KSIR Complainants	
	Number	Percent	Number	Percent	Number	Percent
0 - 7 days	255	80.2%	152	82.6%	72	73.5%
8 - 14 days	35	11.0%	14	7.6%	19	19.4%
15+ days	28	8.8%	18	9.8%	7	7.1%
TOTAL	318	100.0%	184	100.0%	98	100.0%

\* These columns incorporate complaints from all sources, as well as KSP and KSIR.

Section VIII

STATUTORY CITATIONS

From 1976 Supplement to Kansas Statutes Annotated

**75-5230.** Citizens' advisory board; composition, terms, compensation and allowances, powers and duties. There is hereby established and created the citizen's advisory board to the secretary of corrections. The citizens' advisory board shall consist of fifteen (15) members, three (3) of whom shall be appointed by the governor; three (3) of whom shall be appointed by the attorney general; three (3) of whom shall be appointed by the chief justice of the supreme court; three (3) of whom shall be appointed by the speaker of the house of representatives; and, three (3) of whom shall be appointed by the president of the senate.

The members of said advisory board shall hold their respective offices for a term of four (4) years and until their successors are appointed and qualified except that the members of the first advisory board shall hold their offices for terms as follows: Two (2) appointed by the governor for a term of two (2) years and one for a term of four (4) years; two (2) appointed by the attorney general for a term of two (2) years and one for a term of four (4) years; two (2) appointed by the chief justice of the supreme court for a term of two (2) years and one for a term of four (4) years; two (2) appointed by the speaker of the house of representatives for a term of two (2) years and one for a term of four (4) years; and, two (2) appointed by the president of the senate for a term of two (2) years and one for a term of four (4) years. The person appointing shall designate the term for which each of his or her appointees is to serve. The successor of each appointee shall be appointed for a term of four (4) years commencing on September 1 of the year such successor is appointed. The members of such board shall be selected as far as practicable so that they will be residents of different parts of the state.

The advisory board established by this section shall at the first meeting to be held not more than ninety (90) days after the effective date of this act select a chairman from among its members. Thereafter, the advisory board shall meet upon the call of the chairman, or upon the call of the majority of the members of such advisory board. Eight (8) members shall constitute a quorum to do business.

In case of a vacancy on the advisory board, the person initially appointing the advisory board member shall appoint a successor in like manner as the original appointment was made to fill out the remainder of such term.

Members of the advisory board to the secretary of corrections attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid amounts provided in subsection (e) of K. S. A. 1975 Supp. 75-3223 and amendments thereto.

The advisory board shall have the following powers and duties:

(1) Make recommendations to the secretary concerning the planning, operation and facilities of the correctional system;

(2) make recommendations to the governor for the selection of a secretary of corrections, when a vacancy occurs in the secretary's office, which recommendations shall not be binding; and

(3) appoint the ombudsman of correctional institutions and establish the amount of compensation to be paid to such ombudsman as provided by K. S. A. 1975 Supp. 75-5231 or any amendments thereto.

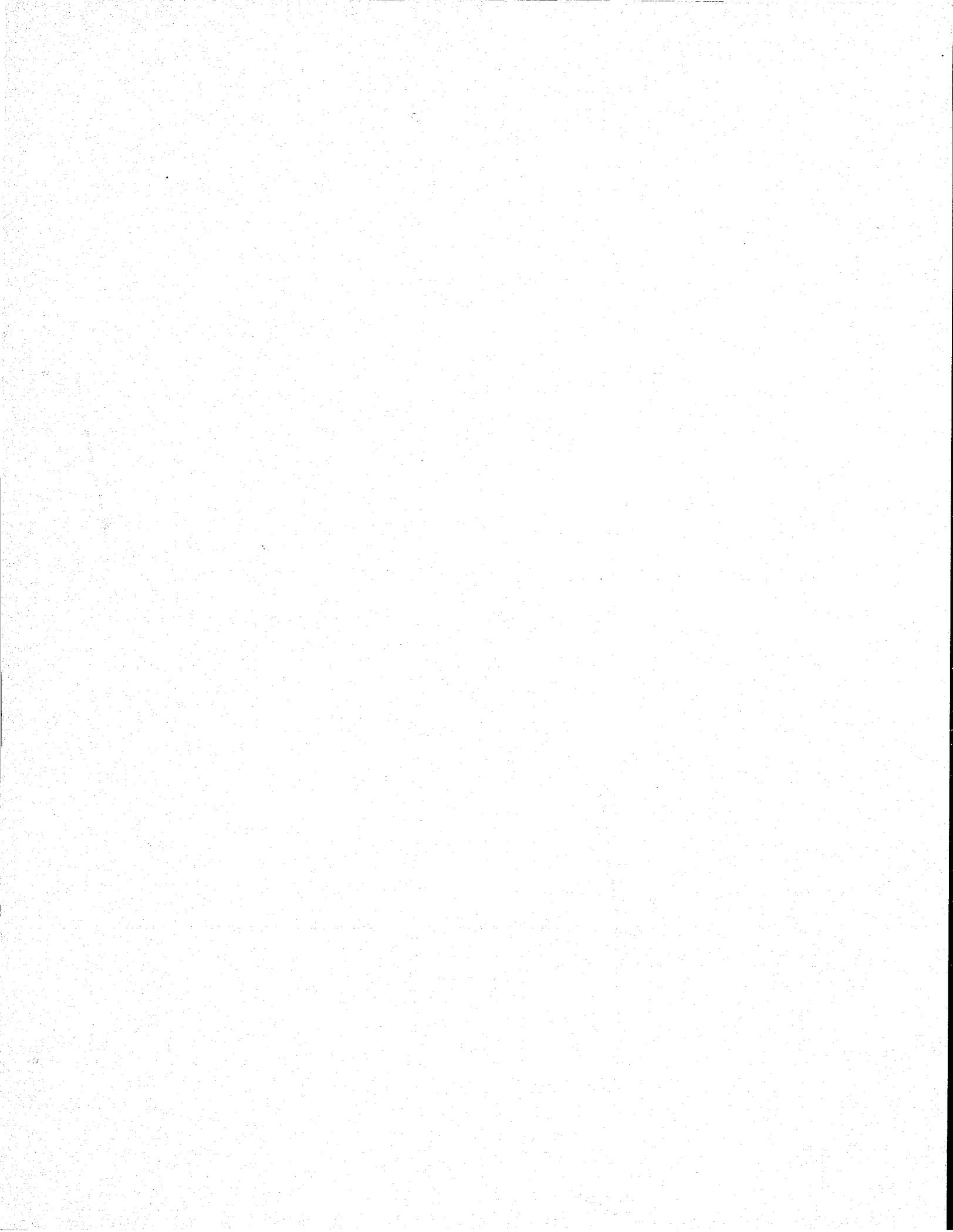
The secretary shall provide members of the advisory board with access to records not otherwise privileged by law and with reasonable access to facilities subject to conditions and time limitations the secretary may establish in order to insure the orderly operation of the correctional institutions. [L. 1973, ch. 339, § 51; L. 1974, ch. 348, § 97; L. 1974, ch. 403, § 11; L. 1974, ch. 404, § 1; L. 1975, ch. 416, § 23; July 1.]

**75-5231.** Ombudsman of correctional institutions; appointment; compensation; duties; employees; complaints forwarded to secretary of corrections. There is hereby created and established the office of ombudsman of correctional institutions. Such ombudsman shall be appointed by the citizens' advisory board established by K. S. A. 1976 Supp. 75-5230, shall serve at the pleasure of such citizens' advisory board and shall act as secretary of such board. The compensation paid to such ombudsman shall be fixed by the citizens' advisory board subject to approval by the finance council. The director of architectural services shall provide the office of 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 correctional institutions and as are within available appropriations, and such 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 at any correctional institution which such ombudsman discovers or the inmates bring to his or her attention 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 citizens' advisory board. The ombudsman shall forward direct complaints and grievances to the secretary of corrections for consideration by the secretary. [L. 1973, ch. 339, § 52; L. 1974, ch. 402, § 2; L. 1976, ch. 399, § 1; May 8.]



*Printed by:*  
Kansas State Industrial Reformatory  
Printing Department

*Cover Design*  
Clarence E. Crawford



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