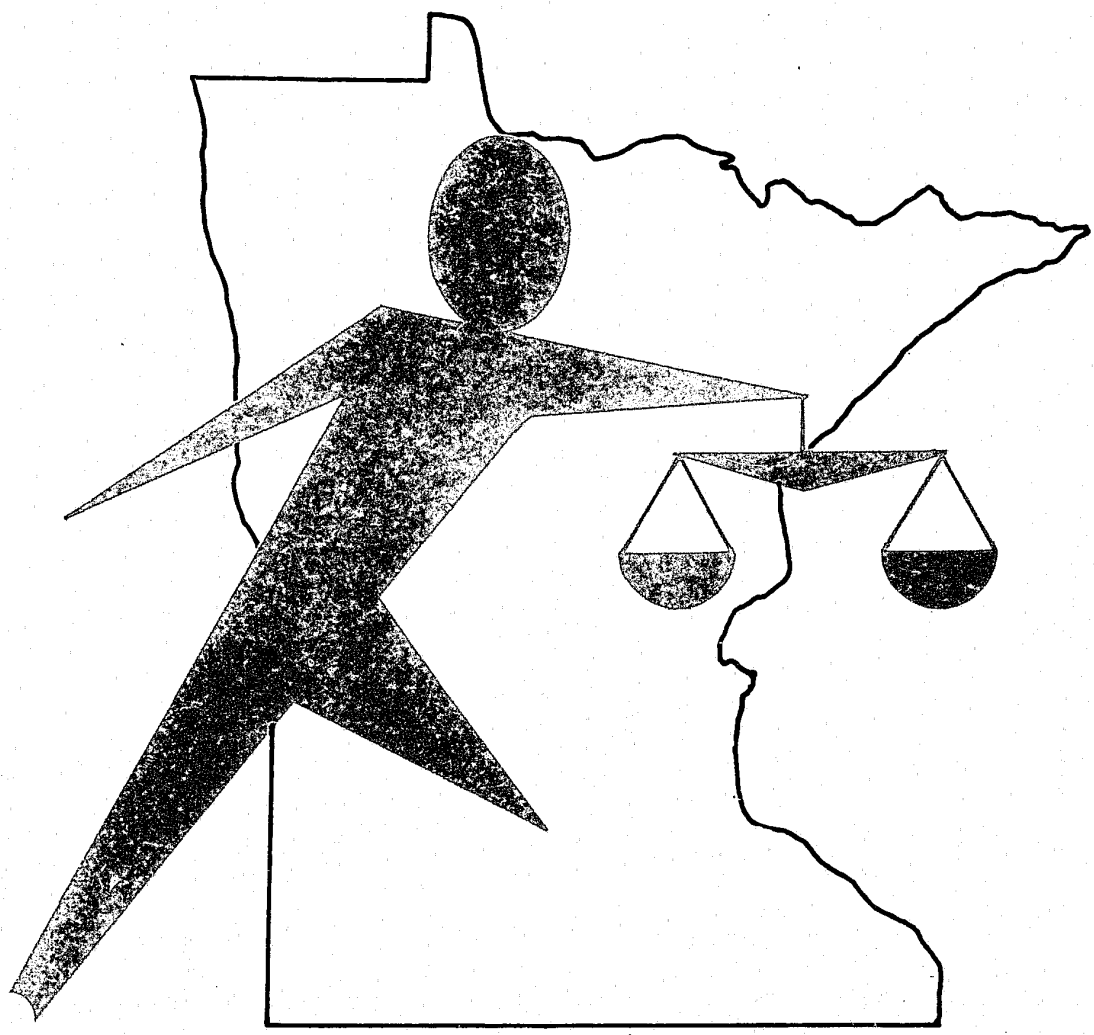
OMBUDSMAN FOR CORRECTIONS



STATE OF MINNESOTA

FISCAL YEAR 1978-79 ANNUAL REPORT

STATE OF MINNESOTA

REPORT OF

THE OMBUDSMAN FOR CORRECTIONS

FOR THE PERIOD
JULY 1, 1978 – JUNE 30, 1979

Submitted to

The Honorable Albert H. Quie

Governor, State of Minnesota

pursuant to Section 241.45

Subd 2 of the Minnesota Statutes

From

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INTRODUCTION

The Ombudsman for Corrections office has been operating for more than seven years and has been under the direction of the same person since its inception. It is an independent state agency with statutory authority to: 1) receive complaints from any source concerning matters relating to the administration of corrections programs and facilities at the state and regional levels and in counties participating in the Community Corrections Act; 2) investigate those complaints; 3) make recommendations based upon the findings of the investigations; and 4) publish those recommendations. The ombudsman is appointed by the governor, hires his own staff (see Figure I) and is responsible for the administration of an annual budget of approximately $207,000 (see Appendix C).

The broad purpose of the ombudsman office is to foster efficient and equitable corrections administration. The ombudsman strives to accomplish this purpose by appropriate and prompt action on the complaints and requests received by his office. In addition the ombudsman periodically establishes general goals and objectives designed to help improve the administration of corrections. Three such objectives which have been around since the inception of the program are:

1. Improvement of the relationship between staff and inmate by providing them with information on the substance, design and performance of administrative actions.
2. Alleviation of tension within the prison by means of more open communications, i.e., a "release valve".
3. Improvement and clarification of administrative procedures and regulations.

The policy recommendations found in Appendix B of this report are particularly relevant to these objectives. During fiscal year 1979 the ombudsman made a total of 21 policy recommendations, which is notably fewer than the 35 policy recommendations made in fiscal year 1978.

The ombudsman believes that the reduction in policy recommendations is reflective of how his office functions and the responsiveness of the corrections system over the years. The ombudsman or members of his staff are often able to accomplish informally what would have required a detailed written recommendation a few years ago. Also there have been some significant improvements over the years in the administration of the various corrections programs and facilities.

The following list shows the distribution of policy recommendations by location:

Minnesota State Prison	4
Department of Corrections	4
Minnesota Correctional Facility (Lino Lakes)	3
State Reformatory for Men	2
County	3
Minnesota Corrections Board	2
State Training School	1
Willow River Camp	1
MN Correctional Inst. for Women	1
TOTAL	**21**

In fiscal year 1979 the ombudsman made some internal changes in record keeping and reporting that were designed to more fully reflect the work load of the office. The changes may account in part for the increase in contacts from 1402 in fiscal year 1978 to 2207 for fiscal year 1979.

Making himself and his staff accessible to both staff and inmates is an ongoing task and a significant factor in the ombudsman's effectiveness. Frequent visits to the major correctional facilities within the ombudsman's jurisdiction allow the ombudsman and his staff to maintain close contact with all levels of the state's corrections system. The ombudsman also participates in the program conducted by the Department of Corrections Training Academy which provides training for correctional counselors.

The ombudsman continues to maintain high visibility within the corrections system while functioning with a low profile, i.e., every attempt is made to resolve cases as close to the origin of the conflict as possible. He has found this operational style to be most effective. From time to time the ombudsman offers testimony before state legislative committees and subcommittees which consider matters dealing with corrections in Minnesota. The ombudsman and his staff also seek to inform the public about crucial corrections issues by participating in local and national seminars, publishing in local newspapers and periodicals, serving on local and national committees and boards and by speaking throughout the state. For instance, the ombudsman serves on the Board of Directors of the United States Association of Ombudsmen and will host that organization's 3rd Annual Conference to be held in Minneapolis in August 1979.

This report describes the ombudsman's activity in fiscal year 1979. It will discuss the organization and function of the Ombudsman Office focusing specifically on the type of complaints received, the methods by which each was investigated and the ultimate resolution achieved. It represents an effort to succinctly answer the questions most frequently asked by a variety of groups – inmates, politicians, academicians, students, the general public and fellow ombudsmen. These questions include:

1) What is the ombudsman's jurisdiction?
2) What is the extent of the ombudsman's authority?
3) How many complaints are filed each year with the ombudsman?
4) What is the general nature of the complaints filed with the ombudsman?
5) How long does the ombudsman take to investigate a complaint?
6) Is the ombudsman successful in resolving complaints?
7) What is the size of the ombudsman's budget and staff?

Anyone interested in information regarding the Ombudsman Program not covered in this report should contact the office directly by telephone at (612) 296-4500 or by mail at Suite 102, 333 Sibley, St. Paul, MN 55101.

ORGANIZATION AND FUNCTION OF THE OMBUDSMAN OFFICE

The basic goal of the Ombudsman Office, as set forth in Minnesota Statutes Section 241.41, is to "promote the highest attainable standards of competence, efficiency, and justice in the administration of corrections". This broad objective is accomplished by providing an external administrative grievance mechanism to be used when corrections internal procedures result in an action which is contrary to law or regulations; unreasonable, unfair, oppressive, or inconsistent; mistaken in law or arbitrary in the ascertainment of facts; unclear or inadequately explained when reasons should have been revealed; or inefficiently performed. The ombudsman's effectiveness, in reviewing such matters, depends in large measure upon his method of operation. His operational style must establish, through case-by-case analysis, a standard dedicated to thorough fact-finding, detailed research and sound evaluation.

The Ombudsman Office consists of a full-time staff of eight people and one part-time staff person: the ombudsman, the deputy ombudsman, a research analyst, three field investigators, one administrative secretary, one senior clerk typist and one part-time field investigator. In addition, the ombudsman may employ interns through the Governor's Internship Program (see Figure I). Every professional staff member, including interns, has an assigned caseload. The number of cases varies with the responsibilities of each position. The entire staff is involved in the case processing procedure shown in Figure II. This process consists of four phases:

INITIATION

Anyone may elicit the ombudsman's assistance in matters involving the action of any division, official or employee of the Minnesota Department of Corrections, the Minnesota Corrections Board, the Board of Pardons, regional correctional institutions and county facilities participating under the Community Corrections Act. A person may file a complaint (#2) objecting to a specific administrative action or policy. The ombudsman may monitor agency proceedings upon request (#3) as well as supply information regarding the Minnesota corrections system. Also, the ombudsman may initiate an investigation on his own motion (#1). Complaints and requests may be registered with the ombudsman by telephone, in person or by mail.

DISPOSITION

Once contact is made with a member of the ombudsman's staff, the deputy ombudsman reviews the complaint or request to determine whether a case should be opened for investigation (#4) or other action by the ombudsman, such as supplying an informational or explanatory response (#6) or monitoring a specific corrections system proceeding (#7). A case may be filed as unopened (#5) if it is: referred to another agency because the subject matter is not within the ombudsman's jurisdiction; refused or rejected because it is premature; or dismissed because it is unreasonable or unfounded. Opened cases are assigned to staff members by the deputy ombudsman. When a complaint case is opened, the investigator:

- ... Interviews the complainant to get a detailed account of his/her grievance and determines exactly what steps the complainant has previously taken to resolve his/her problem;
- ... Explains to the complainant the function of the Ombudsman Office and how it relates to his/her specific case;
- ... Determines which staff, inmates and appropriate others to interview;
- ... Determines what documents, reports and other written material to review;
- ... Notifies selected officials of the Agency,[1] when appropriate, that an investigation is being undertaken;
- ... Conducts additional interviews and reviews documents, thus gathering all necessary and pertinent information;
- ... Formulates a conclusion on the basis of accumulated evidence.

CONCLUSION

The investigation of a complaint may be concluded in one of five ways. At any time during or following the investigation the investigator may refer the case to another agency (#11) or the complainant may withdraw his/her complaint (#12). The investigation may prompt a written recommendation suggesting the creation, alteration or elimination of a policy (#8). In some instances a written recommendation regarding the application of a policy to a specific individual or instance may be issued (#9). More frequently the complaint is resolved without the need for the ombudsman to direct a formal written recommendation to an official (#10).

RESOLUTION

Recommendations are submitted in writing to corrections officials at the state, regional or county level. These agents may be asked to consider a matter further, modify or cancel an action, alter a regulation or ruling, explain more fully the action in question or take any other step which the ombudsman states as his recommendation. If a recommendation is accepted (#14), the ombudsman notifies the complainant and monitors (#16) its implementation (#15). If a recommendation is rejected (#13), the ombudsman must determine whether or not the rejection is based upon sound reasoning. If he accepts the rationale, he notifies the complainant and closes the case. If the rationale is not accepted, the ombudsman may reissue the recommendation or pursue the case with the governor, the legislature or the general public.

[1] See Appendix A, MINN. STAT. 241.42 (1978)

Figure I
ORGANIZATION CHART

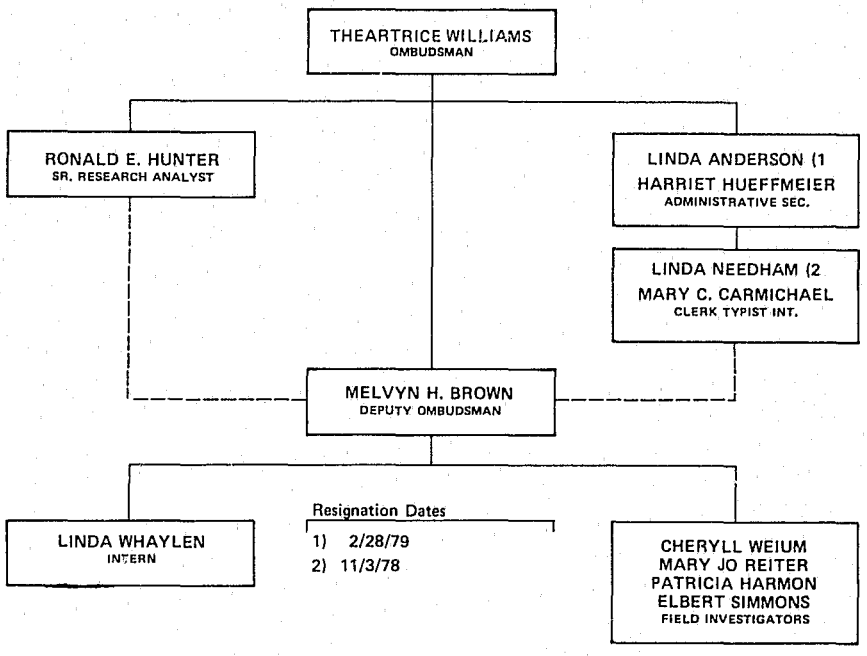
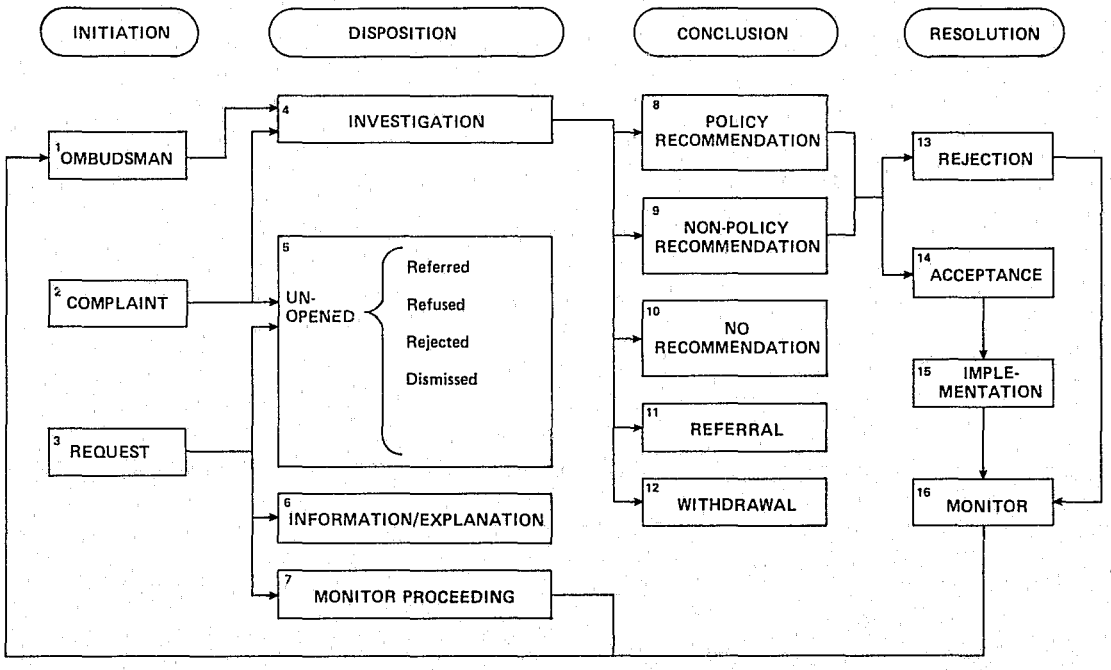


Figure II
CASE PROCESSING PROCEDURE



ANALYSIS OF CONTACTS

The ombudsman's jurisdiction continued its expansion during fiscal year 1979 with the addition of several counties to the Community Corrections Act (MINN. STAT. 401). Washington, Rock, Nobles and Blue Earth counties joined the other counties participating under the Community Corrections Act, increasing the total number of counties participating to twenty-seven. The location of participating counties and state facilities covered by the ombudsman are shown on Map I. The state facilities operated by the Minnesota Department of Corrections include: Minnesota State Prison (adult males); Minnesota Correctional Institution for Women (adult females); State Reformatory for Men (young men); Minnesota Correctional Facility – Lino Lakes (adult males); State Training School (juvenile and adult males); Minnesota Home School (juvenile and adult females and juvenile males); Willow River Camp (adult males); the ombudsman also handles cases generated from the Northwest and Northeast Regional Corrections Centers (see Map I).

A total of 2207 contacts were registered with the ombudsman during fiscal year 1979. Graph I reflects the monthly intake of the Ombudsman Office over the course of the fiscal year. Of the 2207 contacts received, 1733 resulted in opened cases. The remaining 474 contacts were not opened for investigation.

A contact may be treated as an unopened case for a variety of reasons. First, the ombudsman determines whether the contact pertains to the actions of an agency within the ombudsman's jurisdiction. If the contact involves a matter beyond the ombudsman's jurisdiction, the complainant is referred to the appropriate person or organization and the contact is filed as an unopened case. However, the ombudsman occasionally will informally assist aggrieved persons in extrajurisdictional matters in exceptional circumstances.

The ombudsman also considers whether a complaint or request is premature. For instance, the ombudsman frequently receives complaints that an agency official has refused to respond to a complainant's inquiry. Upon further questioning the ombudsman often learns that the inquiry was not of an urgent nature and that the official received the inquiry only a few days earlier. The complainant is advised to allow the official a reasonable amount of time to respond; and the contact is filed as an unopened case.

Following the examination of a contact for jurisdictional acceptability and timeliness, the ombudsman decides whether the complainant's case is meritorious. If the complainant fails to describe an issue reasonably justifying some sort of relief, no investigation is instituted and the contact is filed as an unopened case. For example, an inmate called the ombudsman to complain about the Minnesota Corrections Board's (MCB) refusal to consider granting a temporary parole to enable the inmate to visit his ailing mother in another state. Because Minnesota law explicitly empowers the MCB to grant temporary paroles only within the state of Minnesota, the MCB's decision was legally required. The complaint was dismissed and filed as an unopened case.

Compared to previous years, the number of contacts recorded by the ombudsman significantly increased in fiscal year 1979. The number of unopened cases recorded in fiscal year 1979 (474) was more than twice the number filed in fiscal year 1978 (214). While the increase in the number of opened cases was not as dramatic, it was substantial. The 1733 cases opened in fiscal year 1979 reflects a 45.9 percent increase over the 1188 cases opened in fiscal year 1978.

One factor which may have contributed to the increased number of contacts registered with the ombudsman was the ombudsman's expanded effort to record the work of his staff. Along with the institution of minor changes in agency record keeping procedures, staff members were instructed to ensure all significant contacts received during the last half of fiscal year 1979 were recorded. Graph I reflects a marked increase in total contacts for the six month period from January through June.

However, there appears to have been greater use of the ombudsman's services during fiscal year 1979 irrespective of any changes in recording procedures. A comparison of the number of cases opened in the first half of fiscal year 1979 (prior to the changes in recording procedures) with the number opened during the same period in fiscal year 1978 shows a 40.4 percent increase (532 in 1978; 747 in 1979). Thus, the bulk of the increase in the ombudsman's caseload in fiscal year 1979 appears to be primarily due to a general increase in requests for the ombudsman's assistance.

An examination of the institutional distribution of the cases closed during fiscal year 1979 indicates that county facilities accounted for most of the increase in the ombudsman's caseload (see Graph II). Of the 1202 cases closed in fiscal year 1978, 86 of them were attributed to county institutions. In fiscal year 1979, counties within the ombudsman's jurisdiction generated 393 of the 1715 cases closed. This represents an increase in the counties' proportionate share of the ombudsman's caseload to 22.9 percent in fiscal year 1979 from 7.2 percent in fiscal year 1978. While the actual number of cases generated by the state prison only decreased by four, the prison's proportionate share of the total cases closed fell to 33.3 percent. Most of the other state institutions displayed a similar decrease in their proportionate shares of the ombudsman's caseload because of the enormous increase in county cases. However, there were some significant increases in the number of cases generated by several state institutions. There were 313 cases from the State Reformatory in fiscal year 1979, compared to 251 in fiscal year 1978 – an increase of 24.7 percent. The Minnesota Correctional Facility – Lino Lakes accounted for an additional 26 cases (131 in 1978; 157 in 1979) and the State Training School jumped from 26 cases in fiscal year 1978 to 123 cases in fiscal year 1979 – a 373 percent increase.

The ombudsman's systematic categorization of each case helps to further narrow the source(s) of the changes in the number and nature of cases. To facilitate year to year comparisons of the cases handled by the ombudsman, each case is assigned to one of the following categories:

Parole – cases concerning any matter under the jurisdiction of the releasing authority, e.g., work release, temporary parole, special review, etc.

Medical – cases concerning the availability of treatment or the accessibility of a staff physician or other medical professional.

Legal – cases that involve legal assistance or problems with getting a proper response from the public defender or other legal counsel.

Placement – cases concerning the facility, area or physical unit to which an inmate is assigned.

Property – cases dealing with the loss, destruction or theft of personal property.

Program – cases relating to a training or treatment program or to a work assignment.

Discrimination – cases concerning unequal treatment based upon race, color, creed, religion, national origin, or sex.

Records – cases concerning data in inmate or staff files.

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

Threats/Abuse – cases concerning threats of bodily harm or actual physical abuse to an inmate or staff; including charges of harassment.

Other – cases not covered in the previous categories, e.g., food, mail, etc.

Table XIV shows that the overall categorical distribution of cases has changed only slightly over the past year. Of the eleven categories, just four involve changes of more than 2 percent in their proportionate shares of the total cases recorded by the ombudsman: Parole, Medical, Threats/Abuse and Other. Compared to last year, the Parole category shows a decrease of 2.1 percent; the Medical category increased 2.9 percent; Threats/Abuse cases increased 2.3 percent; and a 3.4 percent increase occurred in the Other category. Table XIV not only reflects the change in each category's proportionate share of all the cases opened by the ombudsman, but it also shows a significant increase in the number of cases in every category except one, Records. Because of the overall increase in the ombudsman's caseload, a category's proportionate share of all cases may have decreased while the number of cases in that category increased significantly, e.g., Parole. Although Parole cases increased 27.3 percent (242 in 1978, 308 in 1979), they accounted for a smaller proportion of the ombudsman's caseload. This was due to even greater increases in other categories. Medical cases rose 97.8 percent (90 in 1978; 178 in 1979), Threats/Abuse cases rose 200 percent (26 in 1978; 78 in 1979) and miscellaneous cases falling in the Other category increased 126 percent (72 in 1978; 163 in 1979). Because of the large number of cases included in the Other category, the ombudsman is examining the need to expand existing categories or create additional categories to ensure the number of miscellaneous cases recorded remains relatively small.

Table I provides a more detailed view of the number and source of the cases in each category. The following list provides a summary of some of the more notable changes in case distribution:

Institution	Category	F.Y. 1978 Cases	F.Y. 1979 Cases	Change
MSP:	Medical	42	83	98% increase
	Rules	120	96	20% decrease
SRM:	Parole	42	68	62% increase
	Discrimination	1	7	500+% increase
	Threats	12	39	225% increase
CF-LL:	Other	7	19	171% increase
STS:	Parole	4	25	500+% increase
	Property	0	9	-- increase
	Other	1	29	500+% increase
MHS:	Program	1	10	500+% increase
CTY:	Medical	6	37	500+% increase
	Legal	20	76	280% increase
	Placement	14	52	271% increase
	Program	9	27	200% increase
	Rules	16	116	500+% increase
	Threats	4	26	500+% increase
	Other	8	34	325% increase

For the first time since fiscal year 1976 the parole category was not the major single category of cases. During fiscal year 1979 the rules category accounted for more cases (314) than any other category. Although a noteworthy decrease in rules cases occurred at the prison, the number of cases generated by county facilities, as indicated in the above list, more than made up the difference. This may be due to the fact that a number of counties are in the process of organizing, refining and distributing institutional policies delineating the parameters of expected inmate behavior and internal operations.

A further breakdown of the cases closed in fiscal year 1979 is provided by Tables II and III. Roughly four of every five cases closed (81.8 percent) were determined to be complaints. The remaining cases were treated as requests and processed in accordance with the case processing procedure discussed earlier. The ratio of complaints to requests during fiscal year 1979 approximated the division of cases in fiscal year 1978 where 84.2 percent of the cases were complaints.

A number of factors contribute to the effective operation of the Ombudsman Office. Crucial to the successful resolution of the increasing number of contacts received by the ombudsman (see Table IV) is the ombudsman's accessibility. Minnesota law (MINN. STAT. Sections 241.41 to 241.45 are reproduced in Appendix A) ensures every person's right to contact the ombudsman and prohibits punishment or unfavorable changes in confinement or treatment of a complainant who makes a complaint to the ombudsman. As indicated in Table VI, the ombudsman staff receives more contacts by telephone (45.5 percent) than it does in writing (37.2 percent) or through personal encounters (16.9 percent). The use of the telephone to register contacts in fiscal year 1979 has given way somewhat to written contacts as compared to the previous year. In fiscal year 1978 nearly 48 percent of the contacts resulting in open cases were made by telephone, while a little more than 33 percent were received in written form. Again the increase in the number of cases generated by

county facilities may account for the change. While telephones are readily available to most of the inmates in state institutions, many county facilities do not provide easily accessible telephones to inmates.

Following the receipt of a complaint or request, the ombudsman attempts to respond to the complainant's concern as quickly as possible. The ombudsman's initial response is to arrange an in-depth interview with the complainant. The promptness of this interview undoubtedly affects the complainant's confidence in the ombudsman's willingness and ability to tackle the complainant's concern. Frequently the interview can be completed when the complaint is registered. Other times the interview is delayed to accommodate a variety of circumstances. As indicated by Table VII, most complainants (88.1 percent) were interviewed in a relatively short period of time. However, cases involving extended travel and energy use are consolidated to reduce the frequency of trips to distant institutions. This accounts for a number of delayed interviews.

The rapid conclusion of a case is considered just as important as a prompt interview. The ombudsman managed to resolve 79.1 percent of the cases closed in fiscal year 1979 within 30 days (see Table VIII). Occasionally, a quick resolution isn't feasible. In such instances the ombudsman has kept the case open as long as necessary to obtain a final resolution.

Over the years the ombudsman has expanded and distilled his recording methods in an effort to quantify the extent to which each complaint is resolved. In December 1978 the ombudsman decided to institute a number of changes in the agency's recording procedures. Tables IX through XII reflect those changes which affect the resolution of each case.

Prior to January 1979 the recorded resolution of a case entailed only the final judgment of the ombudsman and his staff. Case resolutions were recorded as full, partial, none, withdrawn, dismissed or referred. Table IX indicates that over 66 percent of the cases closed in the first half of fiscal year 1979 were either fully or partially resolved (the rate in fiscal year 1978 was 76 percent). While this figure reasonably approximated the ombudsman's assessment of the resolution of many cases, there appeared to be a problem with the use of "dismissed" as a resolution category once a case had been opened for investigation. Most of the complaints dismissed because they were unsubstantiated could also have been viewed as cases fully resolved against the complainant. When, through his/her investigation, the ombudsman or a member of his staff determined that a complaint was ill founded, the complaint, in fact, had been resolved to the extent permitted by the ombudsman's authority. To eliminate the overlap in resolution categories the ombudsman removed the "dismissed" category. Table X covers the resolution of cases closed in the final six months of fiscal year 1979. The full or partial resolution rate of over 84 percent shown in Table X reflects the ombudsman's judgment of case resolution independent of the satisfaction or point of view of a given agency or complainant. This coincides with the ombudsman's role as an external agent who impartially examines complaints regarding the actions of an administrative agency. The ombudsman's judgment is guided by the following criteria: whether an agency's actions are: 1) contrary to law or regulations; 2) unreasonable, unfair or inconsistent; 3) arbitrary in the ascertainment of facts; 4) unclear or inadequately explained; or 5) inefficiently performed.

Dismissed contacts were redefined to include those complaints received by the ombudsman which, based on the facts as told by the complainant, failed to state a meritorious claim. These contacts were filed as unopened cases along with other contacts involving matters outside of the ombudsman's jurisdiction (Referred) and premature complaints (Rejected) and requests (Refused). Table XII provides a summary of the disposition of the unopened cases recorded during the last half of fiscal year 1979.

The ombudsman also initiated a recording system designed to gauge the validity of the complaints received which were opened for investigation. Table XI, which includes nearly 80 percent of all the complaint cases closed from January through June 1979, indicates that 58 percent of the complaint cases investigated by the ombudsman were substantiated. Discrimination complaints were the most infrequently substantiated category of cases. However, it should be noted that the small number of discrimination complaints included in the table diminishes the reliability of the percentage figures as an accurate reflection of the existence or nonexistence of varying degrees of discriminatory practices. Particularly in light of the difficulty associated with substantiating illegal discrimination. The Records and Property categories had the highest rates of substantiation, 70 and 67 percent respectively. The higher rates in these two categories are, at least in part, due to the availability of more documentation and the complainant's awareness of the existence of such documentation. Thus false claims are discouraged and legitimate claims are more easily supported.

Approximately 5.8 percent of the cases closed by the ombudsman in fiscal year 1979 eventually devolved to other organizations or agencies because total resolution of the issue(s) presented by the case entailed additional work beyond the expertise or jurisdiction of the ombudsman. These were referred as indicated in Table XIII. As in previous years, most of the referrals were of a legal nature.

The ombudsman's response to a contact may range from a quick dismissal of a meritless complaint to a lengthy formal written recommendation to an agency or state department head. The ombudsman may also seek the services of L.A.M.P. (Legal Assistance to Minnesota Prisoners) or bring his concerns to the attention of the governor or the legislature.

Although unopened cases would appear to involve very little effort on the part of the ombudsman, all of the contacts received by the ombudsman warrant a response and many contacts are given considerable attention before being filed as unopened cases. For example, the ombudsman received a call from a recently paroled inmate who claimed he had been refused employment by a county agency because of his criminal record. The inmate was not given a complete explanation for his failure to get the job and no one at the county agency would talk to him. Although the county agency was not specifically within the ombudsman's

jurisdiction, the ombudsman assisted the inmate in getting a reasonable response to his employment application. Several phone calls and letters were exchanged over the course of 21 days. The inmate received a reasoned and legally sound response to his application and the case was filed as an unopened case referred to the county agency.

The vast majority of cases handled by the Ombudsman Office are resolved informally through interchanges of facts and proposed solutions among ombudsman staff members, agency personnel, outside sources (as required) and the complainant. Frequently a member of the ombudsman's staff informally recommends a possible solution to a problem. For instance, it was brought to the attention of an ombudsman staff member that the women placed in separation at the Hennepin County Adult Corrections Facility (Women) were not permitted to wear undergarments. At least one woman developed a rash on her breast while wearing only the one piece jumpsuit distributed to the women in separation. The investigator verified the existence of the rash through the institution nurse and discussed the policy with the supervisor of the women's facility. The supervisor stated that the policy was a security measure because undergarments could be misused. The investigator discussed the use of undergarments as devices for hanging one's self, the availability of other potential hanging devices in separation cells and the comfort and hygiene of residents with the facility's superintendent. They agreed that undergarments should be permitted "unless the resident is suicidal, intractable or has abused a particular item . . . ." The superintendent implemented the new policy and the case was closed without necessitating any formal action by the ombudsman.

There are times when a third party may initiate contact with the ombudsman on behalf of an individual resident or staff. Also, public officials, based upon third party information, have complained to the ombudsman. The following case is an example of such a complaint.

An elected public official wrote to the ombudsman and enclosed a letter from a constituent. The constituent made several allegations in her letter concerning the behavior of staff toward the residents at the women's correctional institution. The public official requested that the ombudsman investigate those allegations and intimated that he believed that there was some validity to the complaints. The ombudsman responded to the public official acknowledging receipt of his letter. The ombudsman indicated that he would investigate the matter but would limit the investigation to several specific allegations made by the author of the letter. The ombudsman declined to address a number of inuendos contained in the letter that tended to express the writer's opinion without citing any specific supporting facts.

The allegations the ombudsman agreed to investigate were: one, that the discipline cottage was used in a discriminatory fashion against white residents; two, a male guard had been reprimanded over seventy-five times for having sexual relations with the residents and is still employed at the institution; three, that a year ago, a female staff resident was caught in a sexually compromising position with a resident in the resident's room and that the superintendent had failed to take any action against the staff person in question.

The ombudsman contacted the superintendent of the institution and advised her that he had received a complaint concerning some misconduct on the part of herself and members of her staff and that an investigation would be conducted. The investigation included interviews with the superintendent and the director of the discipline cottage, reviews of the personnel files of all the male employees of the institution and an examination of the records of all residents convicted of institutional rules infractions during the time in question.

The ombudsman found no evidence to substantiate the allegations. There may have been some basis for the allegations involving the sexual misconduct of the female staff member. She could not be interviewed concerning the matter because she was no longer employed at the institution.

Because there were no witnesses to the alleged misconduct other than the staff member and the resident in question, the superintendent felt that she could not go beyond issuing a verbal reprimand. It was more an act of indiscretion rather than a specific misconduct because there is no institutional rule against a member of the staff and a resident being in a resident's room with the door closed. The ombudsman shared his findings in writing with the public official and the superintendent of the institution. He indicated to the public official that he could not find significant supporting evidence for the constituent's complaint. The ombudsman advised the public official that he should encourage his constituent to contact the ombudsman directly if she had more specific information pertaining to the allegations in the letter or any future allegations.

Had the ombudsman discovered any evidence during the course of his investigation that raised questions about the behavior of male staff, he would have interviewed the staff in question. Likewise, he would have interviewed the female staff member had she still been employed at the institution.

This case illustrates that the ombudsman is committed to establishing complaint validity through his own investigations. He will not act on unsubstantiated allegations regardless of the source.

The ombudsman is restricted from officially acting in matters beyond his jurisdiction as defined by statute (see Appendix A). Although the ombudsman may not formally act in the sense of conducting an investigation, issuing findings and making specific recommendations to an official, he may act informally in an important matter and achieve similar results. The following case illustrates this point.

An inmate from the State Prison had been committed to the State's Security Hospital as mentally ill and dangerous. A member of the ombudsman's staff had monitored the county court commitment hearing. The inmate was unhappy about his commitment and complained

to the committing judge. The committing judge sent a letter to the ombudsman requesting that the inmate's commitment to the Security Hospital be reviewed by the ombudsman and recommendations made to the judge.

The ombudsman's jurisdiction does not include judges or courts. However, the ombudsman agreed, in response to the request of the committing judge, to conduct such a review and report his findings and recommendations to the judge.

In reviewing the commitment, it appeared to the ombusdman that the inmate's court appointed attorney did not participate in the commitment proceeding in a manner calculated to fully protect the interests of his client or his client's civil rights. The inmate was not made aware of his right to appeal by his attorney and; because the attorney believed that the commitment was proper, he did not feel that he had any responsibility to help the inmate with an appeal.

Our view of the commitment hearing raised serious questions about the commitment process and the roles of legal counsel and guardian ad litem when the same person is appointed by the court to serve in both capacities. We believe that the role of guardian ad litem conflicts with that of defense counsel.

After completing the investigation, which included visiting the Security Hospital and interviewing the committed inmate, the ombudsman wrote the judge the following recommendation:

". . . it would seem to me that he should be afforded an additional hearing on the question of his dangerousness and, at the hearing, he should have an opportunity to be represented by counsel who is not functioning in the capacity of guardian ad litem as well. At such a hearing Mr. - - - - 's attorney would have ample opportunity to advise him of his rights in relation to an appeal of any decision that might commit him as mentally ill and dangerous. The outcome of such a hearing very well may not change Mr. - - - - 's status, but I do believe it would afford maximum protection to his civil rights."

Five days after receiving the ombudsman's recommendation, the committing judge issued a court order appointing an attorney separate from the guardian ad litem and ordered a hearing to determine whether Mr. - - - - was mentally ill and dangerous. The ombudsman wrote a letter commending the judge for his quick action in this case.

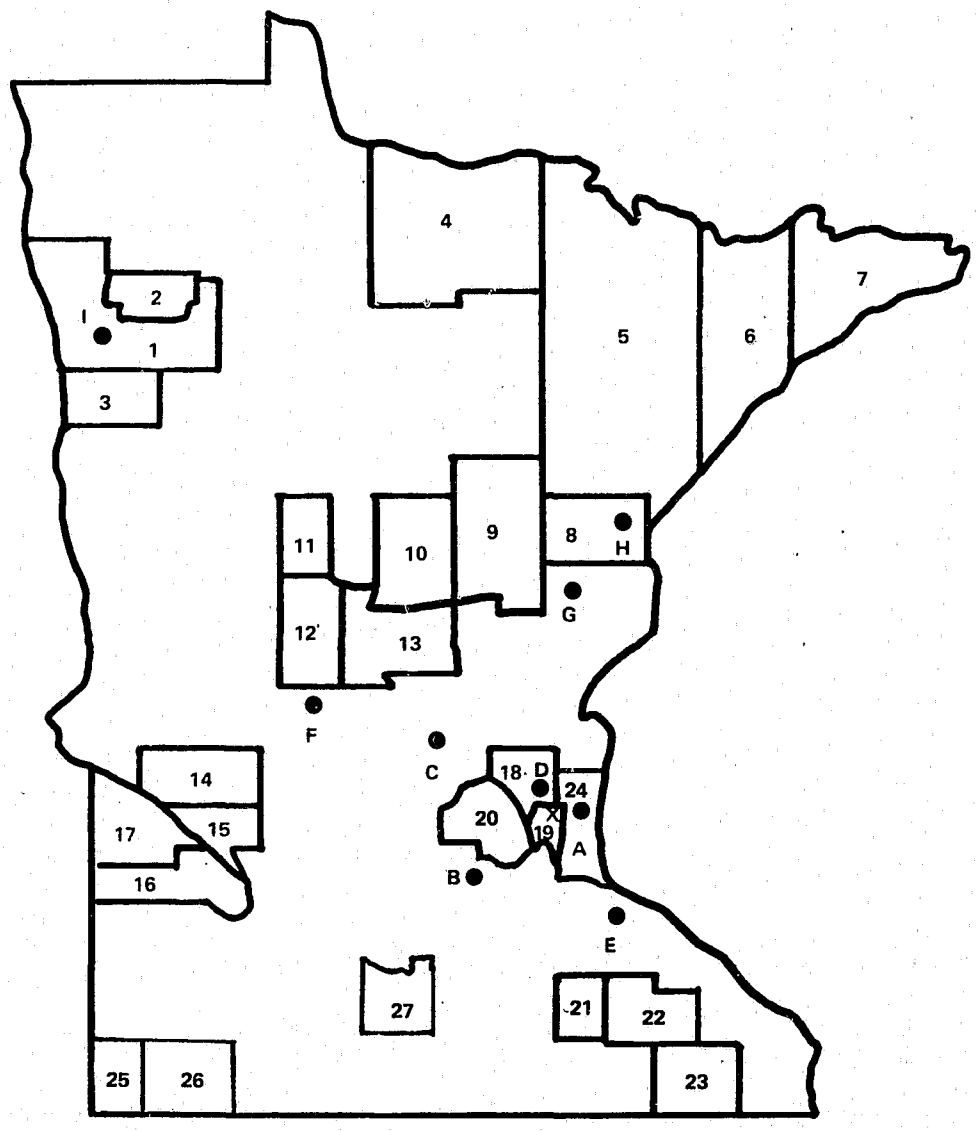
This case is illustrative of the credibility that the ombudsman has developed over the life of the program. It also shows that the ombudsman's effectiveness is not limited to those narrowly defined jurisdictional areas. When there is an overall commitment to justice and fair play, a way can be found to accomplish it.

The ombudsman found it necessary to issue formal written recommendations in less than three percent of the cases closed in fiscal year 1979. Of the 44 formal recommendations issued in fiscal year 1979, 21 of them were policy recommendations which addressed issues of policy and/or procedure in the operation of a facility, agency or department. The recommendations ranged from a review of the State Prison's policy of prohibiting pipe smoking in segregation cells while permitting cigarette smoking to a request that the Hennepin County Home School cease its policy of requiring certain youths to do additional work in payment for receiving extra staff counseling. Seventeen (nearly 81 percent) of the ombudsman's policy recommendations were either totally or partially accepted. Two recommendations were pending at the time of this report and two recommendations were rejected. A summary of policy recommendations made by the ombudsman during fiscal year 1979 is contained in Appendix B.

The remaining formal recommendations (23) made by the ombudsman involved unusual problems concerning specific individuals or unique occurrences relating to an agency's operations which did not raise a question regarding agency policy. For instance, the ombudsman recommended that Mr. - - -, an inmate at the State Reformatory, be given a job assignment and relieved of the frustration of being locked in his cell most of the day. The ombudsman believed that the debility caused by Mr. - - -'s declining health was not sufficient reason to continue Mr. - - - on cell idle indefinitely. The reformatory staff responded by exploring the available jobs consistent with Mr. - - -'s capabilities. Soon thereafter Mr. - - - was placed on a job in the dining room as an orderly.

This report represents an attempt to demonstrate the extent and nature of the services provided by the Ombudsman Office. The ombudsman intends to continue reviewing and adjusting the recording methods used by the agency. However, the ombudsman also intends to keep his quest for record keeping perfection subordinate to the Ombudsman for Corrections' primary purpose, which is to "promote the highest attainable standards of competence, efficiency, and justice in the administration of corrections".

MAP I



X — OMBUDSMAN, ST. PAUL

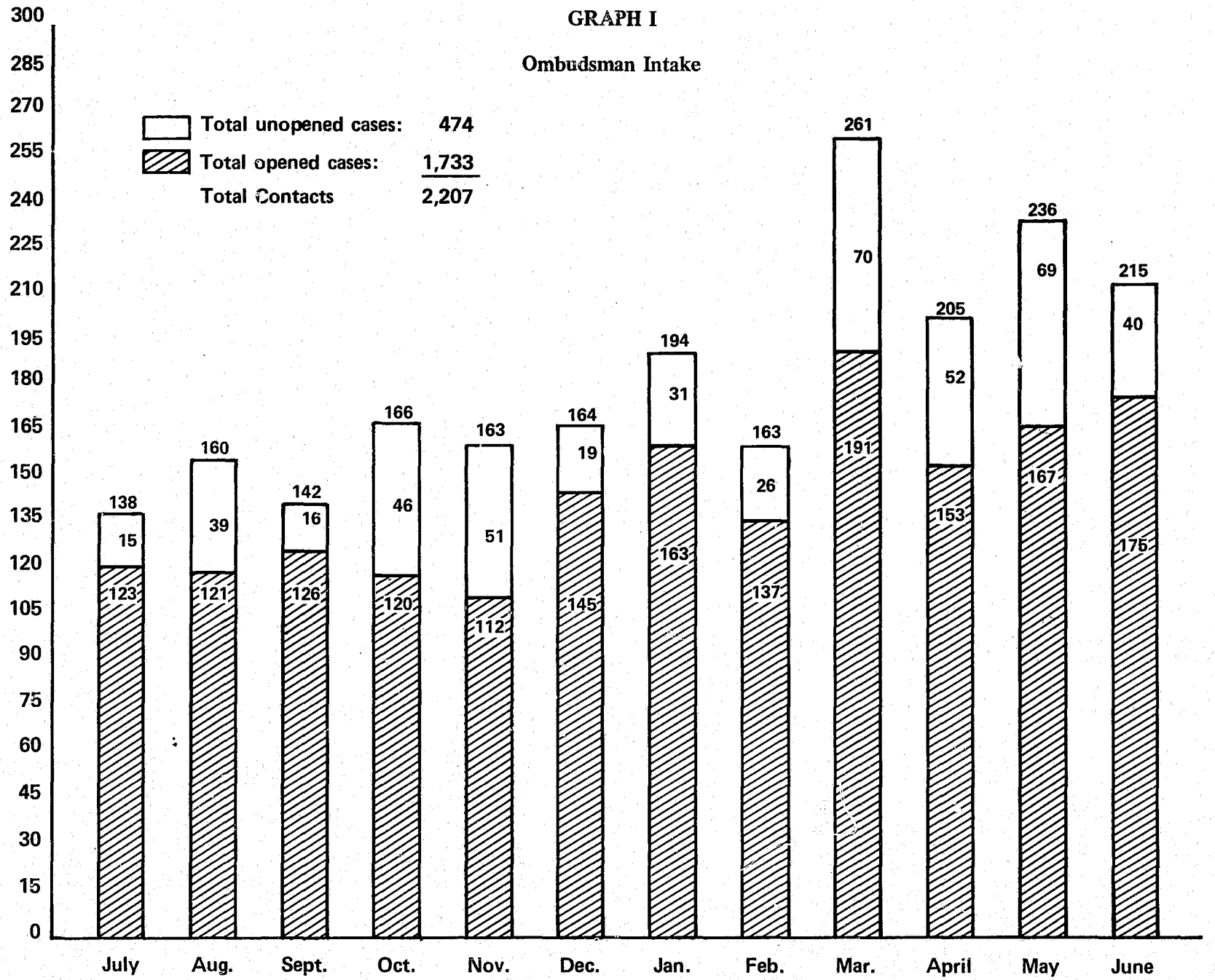
A MSP — Minnesota State Prison, Stillwater
B MCIW — Minnesota Corrections Institution for Women, Shakopee
C SRM — State Reformatory for Men, St. Cloud.
D CF-LL — Minnesota Correctional Facility — Lino Lakes
E STS — State Training School, Red Wing
F MHS — Minnesota Home School, Sauk Centre
G WRC — Willow River Camp
H NERCC — Northeast Regional Adult Corrections Center — Saginaw
I NWRCC — Northwest Regional Corrections Center — Crookston

COUNTIES IN COMMUNITY CORRECTIONS ACT

1. Polk
2. Red Lake
3. Norman
4. Koochiching
5. St. Louis
6. Lake
7. Cook
8. Carlton
9. Aitkin
10. Crow Wing
11. Wadena
12. Todd
13. Morrison
14. Swift
15. Chippewa
16. Yellow Medicine
17. LacQui Parle
18. Anoka
19. Ramsey
20. Hennepin
21. Dodge
22. Olmsted
23. Fillmore
24. Washington
25. Rock
26. Nobles
27. Blue Earth

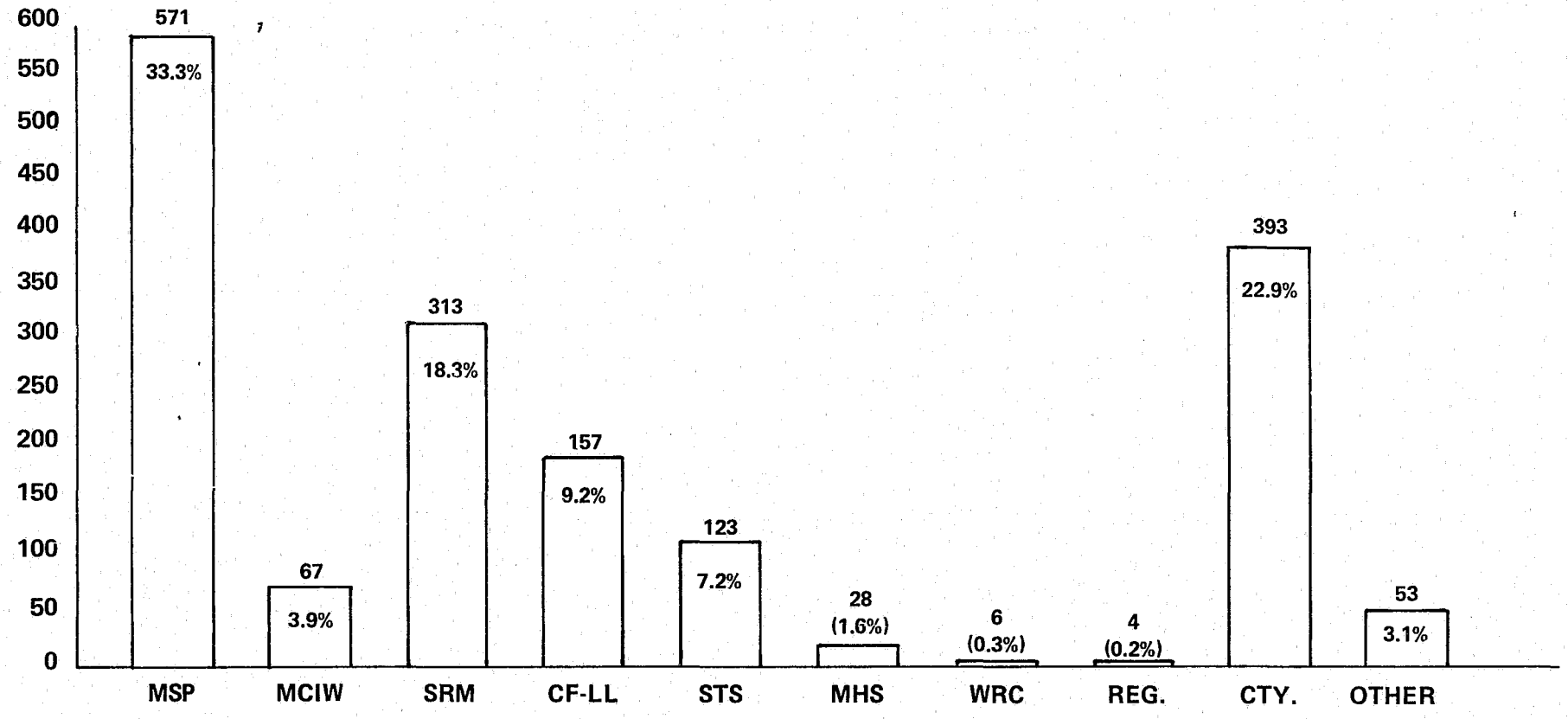
GRAPH I

Ombudsman Intake



GRAPH II

Case Distribution By Institution



MSP – Minnesota State Prison; MCIW – Minnesota Correctional Institution for Women; SRM – State Reformatory for Men; CF-LL – Minnesota Correctional Facility-Lino Lakes; STS – State Training School; MHS – Minnesota Home School; WRC – Willow River Camp; REG. – Regional; CTY. – County; OTHER – Field Services and miscellaneous sources.

Table I

Total Ombudsman Cases Closed July 1978 – June 1979

(Unopened Cases*)

	MSP	MCIW	SRM	CF-LL	STS	MHS	WRC	REG.	CTY.	FS	Other	TOTAL
Parole	139 (51)	12 (1)	68 (2)	36 (11)	25 (3)	5 (1)	3 (1)	0 (1)	4 (2)	13 (3)	3 (0)	308 (76)
Medical	83 (16)	10 (2)	24 (4)	14 (3)	4 (1)	2 (1)	0 (1)	0 (0)	37 (3)	1 (1)	3 (1)	178 (33)
Legal	20 (40)	0 (3)	14 (14)	2 (4)	8 (3)	1 (2)	0 (0)	0 (4)	76 (29)	1 (6)	3 (2)	125 (107)
Placement	67 (11)	5 (0)	17 (2)	16 (3)	17 (0)	5 (0)	0 (0)	0 (0)	52 (2)	3 (2)	2 (2)	184 (22)
Property	46 (11)	6 (2)	43 (3)	6 (3)	9 (1)	0 (0)	0 (0)	0 (0)	13 (1)	0 (1)	0 (0)	123 (22)
Program	55 (12)	5 (0)	19 (1)	25 (10)	17 (1)	10 (0)	0 (0)	1 (0)	27 (6)	4 (3)	1 (1)	164 (34)
Discrimination	7 (0)	1 (0)	7 (1)	1 (0)	1 (0)	0 (0)	0 (0)	1 (0)	3 (2)	1 (0)	0 (0)	22 (3)
Records	16 (2)	2 (0)	18 (2)	3 (2)	7 (0)	1 (0)	1 (0)	0 (0)	5 (0)	3 (0)	0 (0)	56 (6)
Rules	96 (38)	16 (9)	37 (5)	35 (5)	3 (2)	0 (0)	2 (0)	1 (0)	116 (26)	6 (2)	2 (2)	314 (89)
Threats	5 (3)	2 (0)	39 (4)	0 (0)	3 (0)	1 (0)	0 (0)	1 (0)	26 (1)	1 (0)	0 (0)	78 (8)
Other	37 (12)	8 (1)	27 (9)	19 (8)	29 (0)	3 (0)	0 (1)	0 (1)	34 (33)	5 (6)	1 (3)	163 (74)
TOTAL	571 (196)	67 (18)	313 (47)	157 (49)	123 (11)	28 (4)	6 (3)	4 (6)	393 (105)	38 (24)	15 (11)	1715 (474)

MSP-Minnesota State Prison; MCIW-Minnesota Correctional Institution for Women; SRM-State Reformatory for Men; CF-LL-Minnesota Correctional Facility-Lino Lakes; STS-State Training School; MHS-Minnesota Home School; WRC-Willow River Camp; REG.-Regional facilities; CTY.-County facilities (including Hennepin and Ramsey Counties adult and juvenile corrections facilities); FS-Field Services (including parole and probation).

*Contacts received which were not opened for investigation are shown in parenthesis.

Table II

Ombudsman Request Cases Closed July 1978 – June 1979

(Unopened Request Cases*)

	MSP	MCIW	SRM	CF-LL	STS	MHS	WRC	REG.	CTY.	FS	OTHER	TOTAL
Parole	34 (10)	2 (0)	12 (0)	4 (4)	3 (0)	1 (0)	0 (0)	0 (1)	1 (0)	4 (1)	3 (0)	64 (16)
Medical	7 (0)	0 (0)	5 (1)	1 (0)	1 (0)	0 (0)	0 (0)	0 (0)	2 (0)	0 (0)	2 (1)	18 (2)
Legal	7 (14)	0 (3)	6 (6)	1 (3)	2 (1)	1 (0)	0 (0)	0 (2)	33 (8)	0 (2)	1 (1)	51 (40)
Placement	5 (1)	0 (0)	7 (0)	2 (1)	3 (0)	0 (0)	0 (0)	0 (0)	13 (0)	1 (1)	1 (1)	32 (4)
Property	10 (0)	1 (0)	9 (0)	1 (0)	1 (0)	0 (0)	0 (0)	0 (0)	1 (0)	0 (1)	0 (0)	23 (1)
Program	10 (0)	1 (0)	6 (0)	0 (2)	0 (0)	1 (0)	0 (0)	0 (0)	1 (0)	0 (1)	1 (0)	20 (3)
Discrimination	0 (0)	0 (0)	2 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	2 (0)
Records	4 (2)	0 (0)	11 (2)	1 (0)	3 (0)	0 (0)	0 (0)	0 (0)	1 (0)	3 (0)	0 (0)	23 (4)
Rules	19 (1)	1 (1)	9 (0)	6 (0)	1 (0)	0 (0)	0 (0)	0 (0)	9 (0)	0 (0)	0 (1)	45 (3)
Threats	0 (1)	0 (0)	1 (0)	0 (0)	0 (0)	1 (0)	0 (0)	0 (0)	0 (0)	0 (0)	0 (0)	2 (1)
Other	5 (1)	0 (0)	13 (2)	6 (1)	3 (0)	0 (0)	0 (0)	0 (0)	4 (3)	0 (2)	1 (0)	32 (9)
TOTAL	**101 (30)**	**5 (4)**	**81 (11)**	**22 (11)**	**17 (1)**	**4 (0)**	**0 (0)**	**0 (3)**	**65 (11)**	**8 (8)**	**9 (4)**	**312 (83)**

*Request contacts received which were not opened are shown in parenthesis.

Table III

Ombudsman Complaint Cases Closed July 1978 – June 1979

(Unopened Complaint Cases*)

	MSP	MCIW	SRM	CF-LL	STS	MHS	WRC	REG.	CTY.	FS	OTHER	TOTAL
Parole	105 (41)	10 (1)	56 (2)	32 (7)	22 (3)	4 (1)	3 (1)	0 (0)	3 (2)	9 (2)	0 (0)	244 (60)
Medical	76 (16)	10 (2)	19 (3)	13 (3)	3 (1)	2 (1)	0 (1)	0 (0)	35 (3)	1 (1)	1 (0)	160 (31)
Legal	13 (26)	0 (0)	8 (8)	1 (1)	6 (2)	0 (2)	0 (0)	0 (2)	43 (21)	1 (4)	2 (1)	74 (67)
Placement	62 (10)	5 (0)	10 (2)	14 (2)	14 (0)	5 (0)	0 (0)	0 (0)	39 (2)	2 (1)	1 (1)	152 (18)
Property	36 (11)	5 (2)	34 (3)	5 (3)	8 (1)	0 (0)	0 (0)	0 (0)	12 (1)	0 (0)	0 (0)	100 (21)
Program	45 (12)	4 (0)	13 (1)	25 (8)	17 (1)	9 (0)	0 (0)	1 (0)	26 (6)	4 (2)	0 (1)	144 (31)
Discrimination	7 (0)	1 (0)	5 (1)	1 (0)	1 (0)	0 (0)	0 (0)	1 (0)	3 (2)	1 (0)	0 (0)	20 (3)
Records	12 (0)	2 (0)	7 (0)	2 (2)	4 (0)	1 (0)	1 (0)	0 (0)	4 (0)	0 (0)	0 (0)	33 (2)
Rules	77 (37)	15 (8)	28 (5)	29 (5)	2 (2)	0 (0)	2 (0)	1 (0)	107 (26)	6 (2)	2 (1)	269 (86)
Threats	5 (2)	2 (0)	38 (4)	0 (0)	3 (0)	0 (0)	0 (0)	1 (0)	26 (1)	1 (0)	0 (0)	76 (7)
Other	32 (11)	8 (1)	14 (7)	13 (7)	26 (0)	3 (0)	0 (1)	0 (1)	30 (30)	5 (4)	0 (3)	131 (65)
TOTAL	**470 (166)**	**62 (14)**	**232 (36)**	**135 (38)**	**106 (10)**	**24 (4)**	**6 (3)**	**4 (3)**	**328 (94)**	**30 (16)**	**6 (7)**	**1403 (391)**

*Complaint contacts received which were not opened for investigation are shown in parenthesis.

Table IV

TOTAL CASELOAD

Number of cases carried from June 1978	56
Number of contacts received July 1978 – June 1979	2,207
TOTAL	2,263
Number of cases closed July 1978 – June 1979	1,715
Number of unopened cases July 1978 – June 1979	474
TOTAL	2,189
Number of cases carried into July 1979	74

Table V

Population by Institution*

Institution	Population	Percent
MSP	975	27.7
MCIW	51	1.5
SRM	605	17.2
CF-LL	156	4.4
STS	127	3.6
MHS	115	3.3
WRC	53	1.5
REG.	104	3.0
CTY.	1,328	37.8
TOTAL:	**3,514**	**100.0%**

*Estimated average daily population under supervision for F.Y. 1979.

Table VI

Methods of Communication

Method	Contacts	Percent
W.D.	771	35.2
W.I.	43	2.0
P.D.	339	15.5
P.I.	30	1.4
T.D.	752	34.3
T.I.	246	11.2
O.I.	8	0.4
TOTAL:	**2,189**	**100.0%**

W.D. – Written Direct; W.I. – Written Indirect; P.D. – Personal Direct; P.I. – Personal Indirect; T.D. – Telephone Direct; T.I. – Telephone Indirect; O.I. – Ombudsman Initiated.

Table VII

Initial Interview*

Time Lapse	Cases	Percent
Same day	805	46.9
1-9 days	707	41.2
10-20 days	90	5.3
21 days and over	7	0.4
No interview	106	6.2
TOTAL:	**1,715**	**100.0%**

*Time lag between the date a complaint was received and the date the complainant was interviewed in depth by a member of the ombudsman staff.

Table VIII

Time Taken to Resolve Cases

Time	Cases	Percent
0-30 days	1,357	79.1
31-45 days	211	12.3
46-60 days	79	4.6
61+ days	68	4.0
TOTAL:	**1,715**	**100.0%**

Table IX

Case Resolution by Category – A

(Cases Closed July 1978 – December 1978)

	Full	Partial	None	Withdrawn	Dismissed	Referred	Total
Parole	78	2	8	6	25	8	127
Medical	46	6	1	3	18	2	76
Legal	28	0	2	1	8	16	55
Placement	51	8	3	9	13	8	92
Property	32	3	2	7	14	6	64
Program	56	3	1	2	13	2	77
Discrimination	5	1	0	0	2	0	8
Records	22	0	0	0	2	1	25
Rules	100	6	4	13	16	3	142
Threats	19	0	0	1	8	0	28
Other	27	5	0	5	14	3	54
TOTAL:	**464**	**34**	**21**	**47**	**133**	**49**	**748**
PERCENTAGE:	**62.0**	**4.5**	**2.8**	**6.3**	**17.8**	**6.6**	**100%**

Table X

Case Resolution by Category – B

(Cases Closed January 1979 – June 1979)

	Full	Partial	None	Withdrawn	Referred	Total
Parole	156	6	4	6	9	181
Medical	93	0	1	6	2	102
Legal	46	0	2	7	15	70
Placement	80	5	1	5	1	92
Property	41	2	0	9	7	59
Program	75	3	5	2	2	87
Discrimination	10	0	1	2	1	14
Records	28	2	1	0	0	31
Rules	136	5	9	16	6	172
Threats	31	6	0	11	2	50
Other	86	5	3	10	5	109
TOTAL:	**782**	**34**	**27**	**74**	**50**	**967**
PERCENTAGE:	**80.9**	**3.5**	**2.8**	**7.6**	**5.2**	**100%**

Table XI

Complaint Validity

(Complaint Cases Closed January 1979 – June 1979)

	Substantiated (%)	Unsubstantiated (%)	Total
Parole	65 (56.5)	50 (43.5)	115
Medical	34 (49.3)	35 (50.7)	69
Legal	17 (65.4)	9 (34.6)	26
Placement	35 (59.3)	24 (40.7)	59
Property	16 (66.7)	8 (33.3)	24
Program	39 (59.1)	27 (40.9)	66
Discrimination	2 (28.6)	5 (71.4)	7
Records	14 (70.0)	6 (30.0)	20
Rules	72 (58.1)	52 (41.9)	124
Threats	15 (55.6)	12 (44.4)	27
Other	41 (64.1)	23 (35.9)	64
TOTAL:	**350 (58.2)**	**251 (41.8)**	**601**

Table XII

Unopened Case Disposition by Category

(January 1979 – June 1979)

	Referred	Refused	Rejected	Dismissed	Total
Parole	9	8	22	14	53
Medical	4	1	10	8	23
Legal	58	8	5	3	74
Placement	3	2	6	3	14
Property	4	0	6	3	13
Program	0	3	8	8	19
Discrimination	0	0	1	0	1
Records	5	1	0	0	6
Rules	6	0	20	16	42
Threats	5	0	4	0	9
Other	8	1	12	13	34
TOTAL:	**102**	**24**	**94**	**68**	**288**

Table XIII

Referrals

Legal Assistance to Minnesota Prisoners	16
Legal Advocacy Program	9
State Public Defender	9
Hennepin County Public Defender	5
Minnesota Corrections Board	4
Reformatory Staff	15
Prison Staff	5
Private Attorney	8
Joint Senate/House Claims Subcommittee	6
Other*	22
TOTAL:	**99**

*Includes organizations to which fewer than four referrals were made during F.Y. 1979.

Table XIV

Case Distribution Comparison
F.Y. 1978 – F.Y. 1979

Category	F.Y. 1978		F.Y. 1979		Change F.Y. '78-F.Y. '79	
	Number	Percent	Number	Percent	Number	Percent
Parole	242	20.1	308	18.0	+66	–2.1
Medical	90	7.5	178	10.4	+88	+2.9
Legal	91	7.6	125	7.3	+34	–0.3
Placement	150	12.5	184	10.7	+34	–1.8
Property	100	8.3	123	7.2	+23	–1.1
Program	127	10.6	164	9.5	+37	–1.1
Discrimination	15	1.1	22	1.3	+7	+0.2
Records	57	4.7	56	3.3	–1	–1.4
Rules	232	19.3	314	18.3	+82	–1.0
Threats	26	2.2	78	4.5	+52	+2.3
Other	72	6.1	163	9.5	+91	+3.4
TOTAL:	**1,202**	**100.0%**	**1,715**	**100.0%**	**+513**	**0.0%**

APPENDIX A

MINNESOTA OMBUDSMAN FOR CORRECTIONS STATUTE

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

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

Subd. 2. "Administrative agency" or "agency" means any division, official, or employee of the Minnesota department of corrections, the Minnesota corrections authority, the board of pardons and regional correction or detention facilities or agencies for correction or detention programs including those programs or facilities operating under chapter 401, but does not include:

(a) any court or judge;

(b) any member of the senate or house of representatives of the state of Minnesota;

(c) the governor or his personal staff;

(d) any instrumentality of the federal government of the United States;

(e) any political subdivision of the state of Minnesota;

(f) any interstate compact.

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

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

Subd. 2. The ombudsman shall designate one of his assistants to be the deputy ombudsman.

Subd. 3. The ombudsman may delegate to members of his staff any of his authority or duties except the duty of formally making recommendations to an administrative agency or reports to the office of the governor, or to the legislature.

241.44 POWERS OF OMBUDSMAN; INVESTIGATIONS; ACTION ON COMPLAINTS; RECOMMENDATIONS. Subdivision 1. Powers. The ombudsman shall have the following powers:

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

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

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

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

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

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

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

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

(i) The ombudsman may bring an action in an appropriate state court to provide the operation of the powers provided in this subdivision. The ombudsman may use the services of legal assistance to Minnesota prisoners for legal council. The provisions of sections 241.41 to 241.45 are in addition to other provisions of law under which any remedy or right of appeal or objection is provided for any person, or any procedure provided for inquiry or investigation concerning any matter. Nothing in sections 241.41 to 241.45 shall be construed to limit or affect any other

remedy or right of appeal or objection nor shall it be deemed part of an exclusionary process; and

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

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

Subd. 2. Matters appropriate for investigation. (a) In selecting matters for his attention, the ombudsman should address himself particularly to actions of an administrative agency which might be:

(1) contrary to law or regulation;

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

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

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

(5) inefficiently performed;

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

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

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

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

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

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

Subd. 4. Recommendations. (a) If, after duly considering a complaint and whatever material he deems pertinent, the ombudsman is of the opinion that the complaint is valid, he may recommend that an administrative agency should:

(1) consider the matter further;

(2) modify or cancel its actions;

(3) alter a regulation or ruling;

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

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

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

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

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

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

Subd. 2. In addition to whatever reports the ombudsman may make on an ad hoc basis, the ombudsman shall at the end of each year report to the governor concerning the exercise of his functions during the preceding year.

APPENDIX B

SUMMARY OF FISCAL YEAR 1979 OMBUDSMAN POLICY RECOMMENDATIONS

Recommendations accepted totally	15
Recommendations accepted partially	2
Recommendations rejected	2
Recommendations pending	2
TOTAL	21

The ombudsman recommended:

1. That the CF-LL policy requiring inmates to obtain written permission a day in advance to telephone the ombudsman be altered to permit immediate access to the ombudsman at any time.
   Issued: *June 29, 1978*
   Response: *August 10, 1978 – accepted.*

2. That the MSP interim policy regarding non-contact visiting, particularly because of its punitive implications, be based solely on disciplinary code violations or be restructured to a) provide a clear definition of what constitutes "improper behavior" in the visiting room; b) permit review of non-contact visiting assignments; and c) take into consideration the limited number of cubicles available for non-contact visits.
   Issued: *July 3, 1978*
   Reissued: *July 25, 1978*
   Response: *September, 1978 – partially accepted; policy amended to provide inmates an opportunity to appeal decisions. Inadvertently, no formal follow-up of this recommendation occurred. Some improvement in the administration of the policy was achieved by the informal deliberations between the institution and ombudsman staffs on a case by case basis.*

3. That MSP place a reasonable upper limit on the number of days an inmate may be confined in segregation for a single behavioral incident.
   Issued: *July 6, 1978*
   Response: *November 7, 1978 – rejected (a special DOC meeting failed to produce a change in existing policy).*

4. That STS conduct classification hearings prior to or shortly after an inmate's transfer from STS; and that the inmate's waiver of a hearing be evidenced by a written waiver signed by the inmate.
   Issued: *July 7, 1978*
   Response: *July 17, 1978 – accepted; use of written waivers added to previously existing policy of granting classification hearings.*

5. That MSP permit inmates who are exclusively pipe smokers to continue smoking their pipes while in segregation in the same manner that cigarette smokers are permitted to continue smoking.
   Issued: *July 14, 1978*
   Response: *September 8, 1978 – accepted; policy established allowing pipes under specific conditions.*

6. That WRC devise a policy to document and ensure that an inmate in Pine County Jail awaiting a transfer hearing is afforded ample opportunity to prepare for the hearing.
   Issued: *October 11, 1978*
   Response: *November 1, 1978 – accepted; procedure established to record the contacts made by staff regarding an inmate's preparation for a hearing.*

7. That SRM discontinue its policy of automatically restricting access to inmate living quarters for female employees solely on the basis of sex.
   Issued: *October 19, 1978*
   Response: *October 24, 1978 – rejected; only essential entry permitted in order to protect inmates' right to privacy.*
   Reissued: *October 26, 1978*
   Response: *November 3, 1978 – rejected.*
   Reissued: *November 7, 1978 (special meeting with Department of Corrections requested)*
   Response: *July 6, 1979 – pending; Department of Corrections Deputy Commissioner and Special Assistant Attorney General assigned to develop a department policy governing single sex employment.*

8. That Ramsey County Juvenile Detention Center institute procedures to account for and protect the personal property, including cigarettes, of juveniles in a transient status.
   Issued: *Ocrober 19, 1978*
   Response: *December 13, 1978 – accepted.*

9. That the Department of Corrections request the facilities operating under the Community Corrections Act to formulate procedures to permit reasonable movement of personal property belonging to program participants.
   Issued: *October 19, 1978*
   Response: *November 29, 1978 – accepted; recommendation to develop property handling systems sent to program directors.*

10. That MSP take steps to ensure that visitors are adequately informed of all pertinent visiting regulations.
    Issued: *October 26, 1978*
    Response: *November 2, 1978 – accepted; visitors to sign slips acknowledging the offer of a copy of the regulations.*

11. That the MCB policy which requires the development and signing of a MAP agreement within 60 days be extended or eliminated.
    Issued: *November 16, 1978*
    Response: *December 4, 1978 – accepted; time limit extended to 120 days.*

12. That the Department of Corrections ensure the gate money policy is uniformly applied at all institutions.
    Issued: *November 21, 1978*
    Response: *December 4, 1978 – accepted.*

13. That MCIW revise its written telephone use policy to reflect the practice of permitting inmates in segregation to call the ombudsman without advance notice.
    Issued: *December 19, 1978*
    Response: *January 5, 1979 – accepted.*

14. That Court and Field Services of Arrowhead Regional Corrections ensure its personnel are informed that the responsibilities of parole officers do not include functioning as bill collectors for private businesses.
    Issued: *December 21, 1978*
    Response: *January 4, 1979 – accepted.*

15. That the Department of Corrections "charge-back and Savings Policy for Employed Inmates" include equitable policies applicable to all adult institutions.
    Issued: *January 10, 1979*
    Response: *March 15, 1979 – accepted.*

16. That CF-LL clarify and/or revise its disciplinary procedures regarding the "decision to charge" and the use of "warning tickets".
    Issued: *February 22, 1979*
    Response: *March 8, 1979 – partially accepted; "decision to charge" altered; "warning ticket" policy unchanged.*

17. That the Department of Corrections establish a consistent policy, applicable to all institutions, regarding the issuance of clothing to released inmates.
    Issued: *May 30, 1979*
    Response: *July 30, 1979 – accepted.*

18. That CF-LL promulgate a policy clarifying the practice of providing inmates with free eye examinations at reasonable intervals.
    Issued: *May 30, 1979*
    Response: *July 19, 1979 – accepted.*

19. That SRM alter its policy of automatically charging inmates accounts, without notifying the inmates, for insufficient or return postage.
    Issued: *May 16, 1979*
    Response: *June 5, 1979 – rejected; recommended change not feasible in a prison setting.*

20. That the Hennepin County Home School eliminate its policy which allows youths to be required to make restitution, in the form of additional work hours, for receiving extra staff counseling.
    Issued: *May 9, 1979*
    Response: *May 16, 1979*

    Reissued: *May 23, 1979*
    Response: *July 5, 1979 – rejected; in some circumstances, requiring a child to pay for willfully acting out of control and prompting extra counseling is good and responsible correctional treatment. Rationale not acceptable to ombudsman.*

    Reissued: *July 5, 1979*
    Response: *Pending.*

21. That the MCB not predicate departures from the matrix on whether the committing offense involves premeditation.
    Issued: *April 11, 1979*
    Response: *June 4, 1979 – accepted.*

APPENDIX C

FISCAL YEAR 1979 FINANCIAL INFORMATION

	Budget Allocations	Actual Expenditures
Personal Services	$189,077	$177,788
Rents and Leases	11,344	11,219
Printing and Binding	3,700	2,799
Communications	5,056	3,448
Travel	14,563	8,054
Contract Services	287	773
Office Supplies, Equipment, Repairs	3,985	3,068
Data Processing	200	0
	$228,212	$207,149
Closing Budget Adjustment	**19,596**	
(UNAUDITED)	**$208,616**	
Budget Source: Minnesota State Legislature		**$207,149**

END