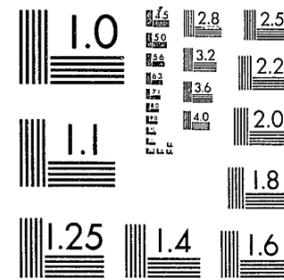


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# Fifth Annual Report

## of the ombudsman for corrections



80092

### state of kansas

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July 1, 1979 through June 30, 1980

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Ombudsman Associate  
David R. Jensen, MSW  
Administrative Secretary  
Pamela S. (Goodman) Sosa  
Typist  
Marais Phillips  
Staff Assistant  
Alphonzo Dorsey  
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Sandra Blankenship\*  
(Jan. 3, 1980 - May 16, 1980)  
Priscilla Bell  
(May 19, 1980 - present)

\*Was a graduate student in an unpaid position from Sept. 10, 1979 through Jan. 2, 1980.

State of Kansas  
Ombudsman for Corrections

FIFTH ANNUAL REPORT  
to the  
Corrections Ombudsman Board

as required  
K.S.A. 74-7403

For the Period  
July 1, 1979 through June 30, 1980

Office of the Ombudsman for Corrections  
503 Kansas Avenue, Suite 539  
Topeka, Kansas 66603  
Phone: (913) 296-5295  
KANS-A-N 561-5295

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ACQUISITION

FOREWORD

Kansas is one of the few states in the nation fortunate enough to have an Ombudsman for Corrections.

Particularly unique to the correctional Ombudsman program in Kansas is the presence of a Board to which the correctional Ombudsman is directly responsible. This non-partisan Corrections Ombudsman Board has been set up by statute to maintain independence from both political parties and from all three branches of government. Its members are appointed from five sources -- the Governor, the Attorney General, the Chief Justice, the Speaker of the House, and the President of the Senate. This system of appointment has proved to be quite wise. The only recent adjustment in the Board is to reduce the number of members to ten, effective September 1, 1980.

The primary responsibility of the Corrections Ombudsman Board is to supervise the activities of the Ombudsman for Corrections and his staff. The Board meets regularly, usually bimonthly, to review periodic reports, adopt budget estimates that will permit the extension of this program into all of the correctional facilities of the state, and forward recommendations to the Secretary of Corrections about concerns and issues found to have a common thread among the numerous individual complaints of inmates and correctional employees. The accompanying annual report from the Ombudsman to the Board is an example of such periodic reports.

Over half of the members of the Board took the opportunity during this year to accompany the Ombudsman within a correctional facility during a typical work day. This new feature of the Board's activity provided a much deeper insight into the role of the Ombudsman, an even greater appreciation of the utility of this essential program, and a still greater determination that this program must be extended to the Reformatory, the honor camp, and other correctional settings in Kansas.

Dr. Alan Steinbach, Chairperson  
Corrections Ombudsman Board  
September 1, 1980

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PREVIOUS REPORTS ISSUED BY THE OMBUDSMAN

1. The First Annual Report, (September 15, 1975 through June 30, 1976), pp. 31.
2. "Report on Requests of the KSP Lifers' Club," July 26, 1976, pp. 6.
3. "Report on Incentive Good Time," July 26, 1976, pp. 8.
4. Description of the Ombudsman Program in the 1976 Kansas Biennial Report, published by the Office of the Secretary of State, pp. 3.
5. "Report on the Adjustment and Treatment Building at the Kansas State Penitentiary," March, 1977, pp. 25.
6. "Presentation to the Legislative Interim Study Committee on Corrections," October 14, 1977, pp. 7.
7. The Second Annual Report, (July 1, 1976 through June 30, 1977), pp. 56.
8. "Report on the Kansas Department of Corrections' Inmate Grievance Procedure," December 15, 1977, pp. 25.
9. "Presentation to the Board of Directors of Creative Enterprises, Inc.," April 15, 1978, pp. 4.
10. "Inquiry into Inmate Self-mutilation in the Adjustment and Treatment Building," June 26, 1978, pp. 20.
11. Description of the Ombudsman Program in the 1978 Kansas Biennial Report, published by the Office of Secretary of State, pp. 4.
12. "Prison Gates: Personal Reflections of the Ombudsman Field Staff," July, 1978, pp. 8.
13. "Property Loss Study," August 29, 1978, pp. 28.
14. The Third Annual Report, (July 1, 1977 through June 30, 1978), pp. 83.
15. "The August 18, 1979 Mass Search and Shakedown of the Kansas State Penitentiary," October 23, 1978, pp. 3.
16. "Access to Toilet Facilities in the Kansas State Industrial Reformatory," March 28, 1979, pp. 3.
17. "Access to Grievance Forms at the Kansas State Industrial Reformatory," April 6, 1979, pp. 4.
18. The Fourth Annual Report, (July 1, 1978 through June 30, 1979), pp. 104.
19. "A Study: The Documentation of Decision Making Processes for Inmate Management at the Kansas Correctional Institution for Women," December 7, 1979, pp. 42.

INTRODUCTION

A. Program Description

The Kansas Corrections Ombudsman program demonstrates to employees and inmates the state's dual commitment to be responsive to individual concerns and to meet the needs of large numbers of persons. The Ombudsman Office is a statutorily established state agency, separate from the Department of Corrections. The Ombudsman is appointed by and accountable to the Corrections Ombudsman Board (COB). (See KSA 74-7401 through 74-7403, pages 58 & 59.) The Board was appointed and organized as the Citizens' Advisory Board on Corrections (CAB) in the summer of 1974 and appointed an Ombudsman a year later, who assumed his duties on September 15, 1975.

The Ombudsman Office accepts complaints concerning inmates and their families, correctional staff members and correctional volunteers. Complaints are received through the mail, by telephone and during frequent visits to the various state adult correctional institutions. Additionally, cases are occasionally opened on the Ombudsman's own initiative. The Ombudsman Office also looks into policies, programs and issues within the Department of Corrections which appear to be the cause of a number of complaints of a similar nature.

Through its access to records and adult correctional facilities, the Ombudsman Office examines all sides of an issue and seeks consensual resolution to a conflict or makes formal recommendations to rectify a valid complaint. Unlike a court of law, which also provides third party intervention in a dispute, the Ombudsman Office carries out an active outreach program. It functions in a relatively speedy and informal manner, and makes recommendations which are not binding.

The fifteen member Corrections Ombudsman Board 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. Board members are appointed for four-year terms. In addition to being reimbursed for their expenses, COB members receive compensation at the rate of \$35 a day when engaged in matters relating to the Board and the Office of the Ombudsman. On September 1, 1980 the size of the Board will be reduced from fifteen to ten members. The five appointing authorities will appoint two rather than three members to the COB.

The COB has the Ombudsman authority and the statutory duty of making recommendations to the Secretary of Corrections concerning policies, procedures and administrative actions. In examining Departmental administration, the COB and the Ombudsman Office check for discrepancies with state laws and regulations. They are particularly concerned with administrative actions which are: 1) unclear, 2) inadequately explained, 3) inefficient, 4) inconsistent with any policy or judgment, 5) contrary to law or regulation, or 6) arbitrary, unreasonable, unfair or oppressive.

In an effort to deal with discrepancies of this nature, the program serves in the following six capacities: an external discoverer of problems and complaints; a third party mediator of conflicts and crisis situations; an impartial observer of facilities, routine activities and disturbances; a preventer of unfair and harmful practices; a recommender of corrective actions and new policies; and a reporter of discrepancies and practices and policies through special and annual reports. With the significant exception of the last function, the COB's usual practice has been to delegate these functions to the Ombudsman. It has reserved for itself the responsibility and authority for reporting to the public problematic issues within the Kansas Department of Corrections' system. Since it does not have the authority to issue or rescind directives, it must rely on the use of persuasion and public education to bring about changes within the corrections system. Thus, the reporting function plays an important part in this change effort.

#### B. The Year's Highlights

During the 1980 Fiscal Year (July 1, 1979 - June 30, 1980), there were four major events for the Ombudsman Office. These involved a major study, two legislative issues, and the budget. Most of these are concerns with which the Office has been involved for a period of years.

##### KCIW Study

This year the Ombudsman Office made a concerted effort to work with the Kansas Correctional Institution for Women (KCIW). The Office conducted a study into the documentation of management decisions affecting KCIW inmates. The Report, its 27 recommendations and the Secretary of Corrections' response are reproduced in their entirety on pages KCIW i - KCIW 40.

Concurrent with the Ombudsman's recommendation, the Kansas Department of Corrections conducted an audit of inmate records at KCIW and plans to do the same at other facilities. As recommended, the utilization of KCIW staff resources was reviewed. Job responsibilities have been changed, additional support services have been provided by the nearby Kansas State Penitentiary and new positions have been added to the KCIW staff. In response to another recommendation, the Department is establishing a committee to study the special needs of women prisoners, in what is otherwise a male-oriented system. The Department of Corrections also has begun studying and developing a new inmate classification program for the entire system. If implemented, this new classification system could go a long way toward resolving some problems identified in the KCIW study.

##### Rules and Regulations

Almost from its inception in 1975, the Ombudsman Office worked for promulgation of rules and regulations within the Department of Corrections. In 1978, the Legislature passed a law requiring this. Since then rules and regulations were developed in various draft forms and established on a temporary basis. The Ombudsman Office was given an opportunity to have informal input into the development of these rules and regulations. This process culminated on May 1, 1980 when the rules and regulations were required by statute to be implemented on a permanent basis.

##### Property Loss Claim Procedure

Another issue in which the Ombudsman Office has been involved since its inception has been that of finding a way to expedite reimbursement to correctional staff members for the loss or destruction of personal property due to action taken in the line of duty, and to inmates because of a failure to follow proper procedures in the handling of personal property. The reimbursement procedure had been lengthy, complex and expensive. A claim would first be reviewed by the Joint Legislative Committee on Special Claims Against the State. This joint committee's decision would then be separately scrutinized by the Ways and Means Committees of both the House and Senate. Both houses would then create a separate appropriation for each claim. The process would not be completed until the Governor either vetoed or signed into law the claims appropriations bill.

About a month after the initiation of the Ombudsman program, the Joint Legislative Committee on Special Claims Against the State turned to the Ombudsman Office for assistance in investigating and making recommendations regarding claims from the corrections system. In 1976 and 1977 the Ombudsman made presentations before legislative bodies in an attempt to establish a more effective review and reimbursement procedure.

On August 29, 1978 the Ombudsman issued a 23 page "Property Loss Study". (See Appendix VIII in the Fourth Annual Report.) The Report looked into the kinds of property lost and the way in which these losses were handled, and made recommendations for improving the review and reimbursement procedures. Subsequently, the 1980 Legislative Session passed into law a provision for the Secretary of Corrections to reimburse inmates up to \$250 for property loss and for all department heads to reimburse staff and private individuals up to \$500.

The law which goes into effect on July 1, 1980, makes it possible to review and reimburse claims for losses within a period of weeks, rather than in what used to take as long as a year and a half. It also makes the review procedure much less costly, because it now is an administrative as opposed to a legislative procedure for those claims under the \$250 and \$500 limits. Persons dissatisfied with the results of the administrative procedure may still turn to the Legislative Claims Committee for appeal.

Consistent with an Ombudsman recommendation, the Department of Corrections also promulgated regulations regarding the reporting of property losses and the processing of claims for reimbursement. This significantly speeds up the process. It signifies official recognition that there are valid inmate property loss claims. Most importantly, the regulation serves to notify both staff and inmates that a claims procedure exists, which previously had not been generally known.

##### The Program's Budget

During the 1980 Legislative Session, both houses of the Legislature amended the Ombudsman Office's budget to include the addition of two Ombudsman Associate positions. The budgetary item of \$54,424 for these two positions was to be funded with 10% state funds and 90% federal funds. When this budget item was vetoed by the Governor, the Legislature re-introduced the two new

positions. In doing so it strengthened this appropriations provision by directing that the two positions be funded entirely by state funds. This budgetary item also received a gubernatorial veto which stated, in part:

During the budget process, the Corrections Ombudsman Board presented proposals for the expansion of the Ombudsman Associates by two positions. I found at that time that such an expansion was not justified, based on the caseload and work-loads of existing positions. My feelings have not changed. To increase the Ombudsman Associates from one to three positions at this time would be an unwise and fiscally-questionable action.

The COB's goal of providing services to all adult correctional facilities has been delayed because of limited staff resources. The program, however, operates in a manner to optimize available resources.

C. Fiscal Needs

The cost of the Ombudsman program includes services of the staff and of the fifteen Corrections Ombudsman Board members. Members began receiving compensation for their time on July 1, 1978 (FY 1979) and continued receiving reimbursement for COB related expenses. The expenditures during the Office's first five fiscal years are as follows:

	FY 1976*	FY 1977	FY 1978	FY 1979	FY 1980
Salaries	\$25,273	\$35,713	\$52,164	\$58,329	\$75,479
Office Facilities and Operations	4,995	6,817	9,280	12,857	13,729
Consultation	500	500	386	00	00
Travel and Subsistence	3,834	5,920	7,954	6,041	8,621
Capital Outlay	1,785	1,975	64	1,357	1,233
TOTAL	36,387	50,925	69,848	78,584	99,062
State Funds	36,387	50,925	56,289	66,134	79,385
Federal Funds	--	--	13,559	12,450	19,677

\* Although the Board was in operation for the full Fiscal Year, the Office did not begin its operation until September 15, 1975 when the Ombudsman was appointed.

In Fiscal Year 1980, the Ombudsman program was funded 80% by the State of Kansas and 20% by federal grants. The proportionately high ratio of state to federal funding made it possible for the Office to develop into a viable government agency, rather than linger on as an experiment.

The Corrections Ombudsman Board interprets KSA 74-7403 as mandating services to all eight adult correctional facilities in Kansas. In FY 1980 the Office's two permanent full time professionals were able only to keep up with the high volume of complaints from KSP and KCIW. To fulfill the statutory mandates, the COB's FY 1982 budget request will include the addition of two Ombudsman Associate positions and one support position. The existing and proposed positions are presented below:

<u>Existing Positions</u>	<u>Proposed Positions</u>
Field Staff	Field Staff
1. Ombudsman	6. Ombudsman Associate
2. Ombudsman Associate	7. Ombudsman Associate
3. Staff Assistant (part-time)	
Support Staff	Support Staff
4. Administrative Secretary	8. Program Assistant
5. Typist	

The remainder of this Report is devoted to a description of the work of the program during Fiscal Year 1980 (July 1, 1979 through June 30, 1980). This is accomplished through narrative and statistical presentations.

## EXAMPLES OF INVESTIGATION REPORTS

### Introduction

While the Ombudsman Office has conducted investigations from its beginning, this is the first time we have presented selected investigation reports in the Annual Report. Some examples presented here have been edited to make the identity of persons and institutions less discernable.

The first example presented is that of an investigation which was conducted at the request of an institutional director. The second investigation was initiated by a concerned citizen. The remaining investigation examples were written for the Chairman of the Joint Legislative Committee on Special Claims Against the State. They are examples of investigations into claims regarding damaged or lost personal property or regarding injury resulting in permanent disability. Each of these examples resulted in a recommendation to the Legislature. The disposition indicated at the end of each example describes the response of the Legislature to these recommendations.

The reader may be interested in reviewing our 24 page "Property Loss Study" which provides an extensive description of reimbursement procedures and recommendations for improvements. This report was included in Appendix VIII in the Fourth Annual Report.

### Investigation 1 - Petition Investigation Report

This is a report of our investigation into allegations made in an inmate petition that staff at the Kansas State Penitentiary (KSP) had violated the state law. The petition first came to our attention on June 20, 1979 when an inmate at the Penitentiary told us it was being circulated. We began our investigation after being given a copy of the attached petition on July 31, 1979 by Mr. Kenneth G. Oliver, who was then Director of K.S.P. and is now Deputy Secretary of Institutions. (See petition on page 16.)

In conducting our investigation we talked with eight inmates, thirty-six Penitentiary staff members, and four people outside the Department of Corrections. We made sixteen phone calls and seventy-seven personal contacts for a total of ninety-three contacts with forty-eight people.

We responded to the specific verbal allegations brought to us by the inmates responsible for the writing of the petition, and not the petition itself because it was too vague. We identified these inmates, who will hereafter be referred to as the petitioners, by contacting inmates who had signed our copy of the petition. The number of valid signatures is undetermined because the petitioners did not provide us the opportunity to review the final version.

The following are the allegations brought to us by the petitioners and the findings of our investigation:

Allegation: Misuse of Institutional Food

On June 1, 1979, seven decorated layer cakes made with institutional supplies went under Tower 14 and were later taken out of the Penitentiary for the staff picnic which was June 2, 1979. Chickens were also taken from the institutional supplies to be served at the staff picnic. On June 20, 1979, five more layer cakes were taken out of the Penitentiary under Tower 14 by a staff member for a neighborhood party.

Findings:

No one actually saw institutional food leave the Penitentiary. The officer on the front gate during the times the cakes reportedly were taken out definitely knew no cakes went by her because she would have been required to sign a written clearance, which she did not. The staff members who reportedly stated that chickens and cakes were being taken to the staff picnic denied having made such statements. Both pointed out, as we later confirmed, that chicken and cake were not even served at the picnic.

Allegation: Theft of Planter

On July 10, 1979, at 9:15 a.m. a stone planter was taken out of the Penitentiary in a private pickup.

Findings:

We verified that a planter made in the Area Vocational Technical School was taken out of the Penitentiary at 9:18 a.m. on July 10, 1979. We documented that an institutional staff member, following proper procedure, has already paid \$45 for the planter.

Allegation: Misuse of Cement

A truck loaded with cement to be used in the remodeling of "C" cell house entered the Penitentiary on a Friday during the last of April or first of May, 1979. The following Monday the cement was gone, and had been taken by staff working for the Area Vocational Technical School operating within the Penitentiary.

Findings:

By reviewing the purchase order we documented that the missing cement was actually a load of plaster purchased for the Inside Engineers, and was transported into the Penitentiary on April 12, 1979. A staff member in the engineering office explained to us that the load of plaster was intentionally delivered to A.V.T.S. as repayment for plaster the Penitentiary has previously borrowed.

Allegation: Theft of Institutional Supplies

On an unspecified date in March, 1979 and again in April, 1979, a white International state pickup truck was observed leaving the Penitentiary through the Dock 2 sallyport at approximately 2:30 a.m. On both occasions the bed of the

truck was covered with a tarp. However, as the pickup truck was leaving in April the tarp blew loose and gallon cans of what was thought to be food and packages of what was believed to be meat were observed. One of the two people who got out of the truck to tie down the tarp was identified as a member of the staff.

Findings:

We reviewed the log kept by the officer in Tower 2 of all vehicles entering and leaving the Penitentiary through the Dock 2 sallyport during the early morning hours for the entire months of March and April, 1979. There was no record of any vehicle leaving at the claimed times.

After learning that the officer in Tower 1 controls all of the keys to the institutional vehicles and logs the exchange of these keys, we also reviewed the log for Tower 1 for all of March and April, 1979. None of the keys to the three International pickup trucks assigned to the Penitentiary were checked out during the claimed times.

Thus, there are two independent sources of documentation that contradict the allegation.

Allegation: Theft of Release Money

Inmates being released to detainers were not paid their release money as required by law, and instead the money was stolen.

Findings:

The petitioners had no documentation of money being stolen. After rechecking the Kansas statutes, the petitioners admitted that they were wrong and that the law does not require release money to be paid to all inmates paroled from the Penitentiary.

Allegation: Misuse of Inmate Benefit Fund

Profits from the Chouteau Store (inmate canteen) were misappropriated, as they did not go into the Inmate Benefit Fund.

Findings:

The petitioners had no documentation to support their claim.

For our information, we reviewed with a staff member in the business office the procedure for processing the Chouteau Store funds. This person pointed out that the profits made by the Chouteau Store, which go into the Inmate Benefit Fund, are actually the inmates' money. We recommended a periodic financial report be posted in each cell house informing the inmates of how this money was spent. The staff member agreed that every six months a financial report would be posted with the first report to be issued in December, 1979, the end of the first six months of this fiscal year.

Allegation: Funds for Inmate Earnings were Misappropriated

The Legislature appropriated money so that all inmates at the Penitentiary, regardless of their work assignment, would be paid at least 30¢ a day. Because all inmates were not paid, the petitioners questioned where this excess money went.

Findings:

The petitioners had no evidence or specific example of wrong doing. The allegation is based on incorrect information, as the Kansas statutes only authorize the Secretary of Corrections to pay inmate who are employed.

Allegation: Theft of Inmate Televisions

Televisions confiscated from inmates were taken home by staff instead of being destroyed.

Findings:

The petitioners had no evidence, and were not aware of a specific case where a television was taken from the Penitentiary.

In conclusion, we found no evidence of staff having violated the law. All but one of the allegations were assumptions based on limited or incorrect information. The one allegation based on first hand observations was contradicted by two independent sources of documentation. We found the Penitentiary has procedures in effect that require logging and regular reporting which provide documentation and built-in safeguards.

David R. Jensen  
Ombudsman Associate

September 5, 1979

Attachment: Copy of Inmate Petition (Below)

PETITION

"WE, THE RESIDENTS AT THE KANSAS STATE PENITENTIARY CALL ON THE GOVERNOR, THE ATTORNEY GENERAL AND THE PEOPLE OF KANSAS TO ENJOIN A GRAND JURY TO INVESTIGATE THE MANAGEMENT AND OVERALL CONDITIONS AT THE PRISON. WE BELIEVE THAT STATE AND POSSIBLY FEDERAL FUNDS ARE BEING MISAPPROPRIATED AND SIPHONED OFF FOR PERSONAL GAIN BY PERSONS WITHIN THE PRISON ADMINISTRATION. WE ALSO ALLEGE LARGE SCALE THEFT OF MERCHANDISE FROM BOTH THE STATE AND THE RESIDENTS BY MEMBERS OF THE INSTITUTION STAFF. WE FURTHER STATE THAT THE KANSAS STATE PENITENTIARY IS ONE OF THE MOST MISMANAGED AND POORLY ADMISISTERED (sic) PRISONS IN THE COUNTRY. THAT THE LIVING CONDITIONS ARE THE ULTIMATE IN DEGRADATION AND OPPRESSION. THAT THE CURRANT (sic) INSTITUTION ADMINISTRATION USES INTIMIDATION AND THREATS OF SEVERE PUNISHMENT TO KEEP THE RESIDENTS AND HONEST STAFF MEMBERS SILENT ABOUT WHAT IS HIDDEN BEHIND THE WALLS OF THIS PRISON."

Note: Petitioners' signatures have been removed by the Ombudsman Office.

Investigation 2 - Report on KCIW Medical Complaints

This is a report of the Ombudsman's investigation into the medical treatment provided an inmate at the Kansas Correctional Institution for Women. This investigation was initiated on January 16, 1980 when a concerned citizen contacted the Ombudsman Office about a letter from an inmate that was printed in The Call, a Kansas City, Kansas newspaper, which listed several complaints against KCIW. The citizen did not know the inmate but wanted to ensure that the allegations were reviewed.

Mr. David Jensen, Ombudsman Associate, interviewed the inmate at KCIW on January 22, 1980, at which time it was agreed the Ombudsman Office would pursue the two medical complaints made in the newspaper article. The two complaints as stated in the article are, "... I have even lost an 'unborn child' while here but the institution denies it... Here, recently, I was given the drug, valium, against my will, in two shots. I did not endanger anyone's life nor my own. I feel these people had no reason to give me valium..."

In conducting this investigation, the Ombudsman Office made thirty-nine personal contacts, twenty telephone contacts, and four letter contacts for a total of sixty-three contacts. A total of sixteen people were contacted during the investigation. The findings of the Ombudsman Office's investigation into the two complaints are presented in the following two sections.

A. Unborn Child

Complaint

The inmate maintained that she was pregnant when she entered KCIW on March 21, 1979, and her pregnancy did not end until she passed the dead embryo on August 13, 1979 at KCIW. She claimed that she was never told the results of the pathology report on the embryo.

Findings

On March 16, 1979 before arriving at KCIW, the inmate was admitted to a hospital as she was pregnant and threatening miscarriage. A urine pregnancy test done on March 16, 1979 was positive.

On March 22, 1979, the day after she arrived at KCIW, another urine sample was taken to determine pregnancy. The results from a hospital outside the institution, dated March 23, 1979, were negative. She was informed of these results on March 23, 1979 by a medical staff person at KCIW.

On May 3, 1979, the inmate submitted an inmate grievance, following the advice of the Ombudsman Office, requesting additional testing to further evaluate her condition. In response, a second urine sample was taken at KCIW, and the results from an outside hospital, dated May 8, 1979, were negative for pregnancy. The Director of KCIW informed the inmate of the negative results in the answer to the inmate grievance, dated May 17, 1979. The Director also said in the answer that she had consulted the physician the inmate had prior to entering KCIW. The Director reported the physician as stating "...that in light of two negative pregnancy tests here (KCIW) that he felt you (the inmate) are not pregnant now..."

On May 9, 1979 before receiving the Director's answer, the inmate submitted a second grievance questioning why she was still missing menstrual periods if she were not pregnant, and asked to be sent somewhere else to be examined. She was then sent to a hospital on May 18, 1979 for a sonographic examination of the pelvis. The Director informed the inmate in her answer to the grievance, dated May 24, 1979, that this test was negative for pregnancy and showed no abnormalities. The Director's response did not explain why the inmate continued to miss her menstrual period, which was central to the inmate's concern.

On August 14, 1979, the day after the inmate gave medical staff what she considered to be the embryo, it was sent to a medical laboratory to be examined. The medical staff at KCIW was informed by telephone on August 17, 1979 that the results of the examination were, "Degenerative products of conception." It is not known when the written report that is in her medical file was received by KCIW.

According to the medical record, the inmate was told on August 15, 1979 that the specimen had been sent to the laboratory, and that the results would be explained to her when she saw a consulting physician at a medical center on August 17, 1979. The consulting physician's record of his August 17, 1979 examination of the inmate shows that he examined her and determined a dilation and curettage (D and C) was not necessary at that time. His record did not state if he explained the results of the pathology report, or if he explained his reason for deciding against the need for a D and C. When the Ombudsman Office contacted the consultant, he indicated that he did not remember what he told the inmate and that it was not his practice to write in his record what he explained to his patient. He did report it is his practice to explain his findings to his patient, and he thus assumes he explained his findings to her.

The physician at KCIW, stated that she had personally explained the results of the pathology report and the meaning of the results to the inmate. The physician reported that if the fetus would have been alive the pregnancy tests done at KCIW would have come back positive. She explained that the inmate would not have had a menstrual period while the products of conception remained in her uterus. The physician stated that she had explained this to the inmate.

#### Conclusion

- 1) The medical staff at KCIW documented in the inmate's medical record the negative results of three pregnancy tests done after she arrived at KCIW.
- 2) There is documentation showing she was informed of the results of these tests.
- 3) The medical staff at KCIW documented the process of receiving the specimen, sending the specimen to the laboratory, and receiving the pathology report.
- 4) While it is believed the inmate was informed of the results of the pathology report, there is no documentation to show this occurred. However, such information is not routinely entered in a medical record.

#### B. Valium

##### Complaint

The inmate did not believe the medical staff at KCIW was justified in giving her two shots of valium on the night of September 29, 1979:

##### Findings

The inmate admitted she was "tripping out" that night. The day before she reportedly had smashed a window with a chair, and had barricaded herself in a room.

We verified that the two shots of valium given to the inmate on September 29, 1979 were prescribed by a psychiatrist. He made this decision based on the inmate's behavior as described to him by the nurse on duty.

##### Conclusion

The decision to give the inmate valium was made by an authorized and qualified psychiatrist, and was administered by a professional registered nurse.

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Preston N. Barton  
Ombudsman  
March 25, 1980

#### Investigation 3 - Property Damage Caused by Fire

Dear Rep. Foster:

This letter is in response to your request that we investigate claim #574, submitted by an inmate in a Department of Corrections' institution. He claims that on August 31, 1979 his cell was set on fire, resulting in the loss of his T.V. set worth \$113.80 and the loss of other personal items worth \$5 -- coming to a total of \$118.80.

A summary of an extensive investigation into this incident has been made available by the institution in a letter dated February 26, 1979. The information provided in the letter is consistent with that provided by the claimant. He did own and have possession of a black and white Panasonic T.V. set which was destroyed in a fire in his cell. Both the institution and the claimant believe that an inmate assigned to the cell house as a painter was responsible for the fire, however, sufficient evidence was not available to charge him with the offense.

In an attempt to better understand how an inmate might come into possession of combustible liquids and how an inmate might have access to another inmate's cell, inquiries were made by this Office regarding the use of inmate painters and the control of combustible materials used in painting. From the information

gathered and that provided by the institution and the claimant, there were no known discrepancies during that day regarding cell house management, supervision of inmate painters (and in particular the suspected inmate painter), the control of potentially combustible materials and the response to the fire. There clearly appears not to have been any negligence on the part of any state employee relating to this incident -- nor is any such behavior alleged by the claimant.

There are sales receipts available for both the T.V. set which was destroyed and a T.V. set which the claimant purchased to replace the destroyed set. Both T.V. sets cost \$113.80. The original set was purchased on August 12, 1978 and the replacement set was purchased on September 18, 1978. The other items which were described merely as "personal items", worth \$5.00, very likely existed. However, no itemized list has been provided; thus, it is not possible to document whether or not these items were in the claimant's possession at the time of the fire. Nor is it possible to assess the value of these items.

Therefore, if the Claims Committee were to decide to allow this claim, it is recommended that the claim be reimbursed in the amount of \$113.80, i.e., the cost of the T.V. set. The claimant's property loss claim, however, presents the Claims Committee with a difficult policy issue regarding the degree to which the State is responsible for the safety and security of the lives and property of prison inmates who are totally within the custody of and dependant upon the care of the State. On the basis of correctional standards existing today, it is our conclusion that the institution and, thus, the State is not responsible for the loss of this property. Although the claimant did suffer the loss of his T.V. set, I recommend that the Claims Committee deny this claim.

I trust the above information adequately responds to your inquiry. If I can be of any further assistance, please do not hesitate to let me know.

Sincerely,

Preston N. Barton  
Ombudsman  
March 12, 1979

*Disposition: Recommendation not accepted. (Claimant was reimbursed \$100 for his T.V. set, only.)*

Investigation 4 - Institutional Accident Blamed for Hearing Loss

Dear Rep. Foster:

This is a report of our investigation of the personal injury claim of \$40,000.00 submitted by an inmate. We were referred to the inmate by the institution. The inmate claimed that he suffered a hearing loss as a result of his accidentally falling into a chemical chamber at the institution on August 24, 1978. The inmate explained in detail in his claim form how the accident occurred as he was performing his duties. On his claim form the

inmate indicated that he desired a hearing before the Committee and that he is represented by legal counsel.

Our investigation first involved an examination of the accident itself, and then a determination of the injuries that resulted from the accident. In conducting our investigation we made six telephone contacts, six personal contacts, and twenty-six letter contacts for a total of thirty-eight contacts.

The inmate's version of the accident was confirmed by the institution. The administration confirmed that the accident occurred while the inmate was performing his assigned inmate job. It also reported that the accident did not occur as a result of horse play on the inmate's part, or negligence on the part of any staff member.

The findings of our investigation into the injuries that resulted from the accident contradict the inmate's claim. Although the accident occurred on August 24, 1978, he did not report the hearing loss until October 2, 1978, during a physical examination by a physician outside the institution. The same physician had treated the inmate immediately following the accident and provided follow-up treatment. In his enclosed letter of September 18, 1979, the physician explained that when the inmate reported the hearing loss it sounded like head congestion so he was given a trial of decongestants.

In response to my request for information concerning the claim, the physician arranged for the inmate to be examined by an Otolaryngologist. In his enclosed letter of September 17, 1979, the specialist reported that the inmate has "a bilateral sensori neural hearing loss consistent with either acoustic trauma, or the possibility of ototoxicity". According to the specialist, ototoxicity could have occurred "if he (the inmate) had ototoxic drugs during his treatment for his kidney ailment." The specialist reported, "I cannot in any way correlate the fall and head injury, causing a bilateral sensori neural hearing loss in this man."

Because of the possibility of some of the medications having caused the hearing loss, the original treating physician reviewed the inmate's hospitalization. He indicated that the inmate was seen by a urologist because of urinary tract infection while he was in the hospital, and was treated with three drugs -- none of which are known to cause any loss of hearing.

We contacted a second Otolaryngologist who had conducted tests on the inmate and obtained the enclosed letters of September 18, 1979, and October 26, 1979. He stated, "The audiogram of \_\_\_\_\_ (the inmate) recorded on May 9, 1979 demonstrated a bilateral hearing loss in the higher frequencies that is consistent with acoustic trauma." The specialist calculated that, "He (the inmate) has 16 and 7/10 percent binaural hearing loss, which is rated at 6 percent whole man disability by AMA standards." However, he reported, "the loss is most likely a result of exposure to loud noise in the past resulting in a neurosensory hearing loss. It is extremely unlikely that falling into the chemicals described contributed to his hearing loss."

In summary, we verified that the inmate accidentally fell into the chemical mixing chamber on August 24, 1978 while performing his assigned inmate job. We also determined that the inmate has a permanent hearing loss. However, two independent Otolaryngologists reported the hearing loss is not a result of the accident. Based upon this information, we recommend the claim be denied.

We trust the above information will help the Claims Committee reach a determination in this matter. If further information is needed, please do not hesitate to let us know.

Sincerely,

Preston N. Barton  
Ombudsman  
November 19, 1979

*Disposition: Pending Review by Claims Committee*

Investigation 5 - Staff Allegedly Damaged Typewriter During Fight

Dear Rep. Foster:

This report is in response to your letter of August 27, 1979, asking that we investigate the property loss claim for \$200.00 submitted by an inmate. He claims that on July 13, 1978, his Smith-Corona Portable Typewriter was extensively damaged when knocked off his desk during a fight with a staff member.

This Office investigated the inmate's claim in October, 1978, and found that the typewriter was in working order. We observed it being used. After the present claim was submitted, we interviewed the inmate and learned that he no longer had possession of the typewriter, because he had loaned it to another inmate and it had disappeared.

We recommend the claim be denied, because the typewriter was not destroyed and the inmate cannot produce the typewriter to show how extensively it was damaged. If we may be of further assistance, please do not hesitate to contact us.

Sincerely,

Preston N. Barton  
Ombudsman  
September 14, 1979

*Disposition: Recommendation Fully Accepted (Claim Denied by Claims Committee.)*

Investigation 6 - Property Lost While in Storage

Dear Rep. Foster:

This report is in response to your letter of March 22, 1979 asking that we investigate the three property loss claims submitted by an inmate at a state prison. This is a report of our investigation into one of those claims that was for \$75.00 for the loss of a manual Smith-Corona Typewriter. The inmate discovered the typewriter was lost on October 20, 1977 when staff members were unable to find the typewriter in the property room where it had been stored.

The institution verified that the inmate had properly registered a Smith-Corona typewriter on July 13, 1977, and that the typewriter was lost after being stored in an institutional property room.

The inmate was unable to provide a sales receipt to document the amount of his claim. Instead, he submitted a Smith Corona advertisement of a typewriter he claims was like his, that retails for \$74.99.

In summary, we found that the inmate owned and had properly registered a Smith-Corona typewriter, and that the typewriter was lost after being stored in a property room at the institution. Although the value of the typewriter was not documented, we believe \$75.00 is a reasonable assessment for the replacement value of this lost item. Based upon this information, we recommend that the claim be approved.

We trust the above information will help the Claims Committee reach a determination in this matter. If further information is needed, please do not hesitate to let us know.

Sincerely,

Preston N. Barton  
Ombudsman  
September 19, 1979

*Disposition: Recommendation Fully Accepted (Claimant was reimbursed \$75 for the lost typewriter.)*

Investigation 7 - Alleged Theft From Cell

Dear Rep. Foster:

This is our third report in response to your letter of March 22, 1979, asking that we investigate the three property loss claims submitted by an inmate at a state prison. This is a report of our investigation into the inmate's claim for \$303.66 for the loss of the following items:

- 1 - birthstone initial ring - \$70
- 2 - eight track tape carrying case - \$35
- 1 - eight track stereo tape player with 2 speakers - \$30
- 1 - silver colored with black onyx initial ring - \$19.95
- 1 - silver colored birthstone ring - \$24.95
- 1 - pair of boots - \$17.88
- 1 - gold Mercury LED watch - \$17
- 1 - Lloyds AM/FM eight track clock radio - \$88.88

The inmate is claiming all of these items were stolen from his cell by inmates on an unspecified date in October of 1977. He believes the state is responsible for this loss because the institution did not recover his property after he provided it with a list of the inmates who had his property.

The institution provided a list of property signed for by the inmate. It doubted that this is a valid claim because the total of this list did not amount to the \$303.66 claimed.

In reviewing the list provided by the institution and the sales receipts provided by the inmate, we discovered information that contradicts this claim. Of the items claimed, only the Mercury watch, the two eight track carrying cases, and the eight track stereo were signed for by the inmate. He signed for the Mercury watch on November 13, 1977, which is after it was reportedly stolen. The sales receipt for the two eight track carrying cases is dated November 4, 1977, also after they were reportedly stolen. In addition, the list shows that the eight track stereo player was given to another inmate.

We recommend this claim be denied because of this contradictory information and because there is no documentation to show that staff members were responsible for the alleged loss. If further information is needed by the Claims Committee to reach a determination in this matter, please do not hesitate to let us know.

Sincerely,

Preston N. Barton  
Ombudsman  
November 16, 1979

*Disposition: Recommendation Fully Accepted (Claim denied by Claims Committee.)*

Investigation 8 - Property Missing, After Admission to Infirmary

Dear Rep. Foster:

This report is in response to your letter of April 25, 1979, requesting this Office to investigate the property loss claim of an inmate at a state correctional institution. His claim is for \$50.00 for the loss of an AM/FM Soundsign radio

and a set of headphones. The inmate claims these items were in his cell when he was placed in the infirmary after he was injured on his job on June 23, 1978. He maintains that his radio and headphones were lost after his property was packed and stored by staff, while he needed to be in the infirmary for continued treatment.

The institution provided the enclosed investigation report. It was discovered that the inmate's property apparently was not inventoried. It did find that the set of headphones the inmate believed lost was actually with his property which was being stored in the property room. It confirmed that the inmate had properly registered a soundsign AM/FM radio and that the radio was not then with his property. Because an inventory was not done, the institution was unable to say for sure if the radio was with his property when it was packed and placed in the property room.

The cost of the missing Soundsign AM/FM radio was documented by a receipt the inmate provided which shows he purchased the radio for \$17.87 on May 6, 1977.

In evaluating the validity of the claim for the radio, the institution reported that no inventory was made of the inmate's property when it was packed following his injury in June, 1978. Because staff failed to prepare an inventory sheet as required by institutional policy, there is no record of what property was removed from his cell. While there is no documentation that the inmate did not have possession of the claimed radio, there is documentation to show he purchased the radio and had it properly registered. We, therefore, recommend that the inmate's claim for the radio be approved, and that he be reimbursed \$17.87. His claim for the headphones should be dismissed, since they were found and returned to him.

We trust the above information will help the Claims Committee reach a determination in this matter. If further information is needed, please do not hesitate to let us know.

Sincerely,

Preston N. Barton  
Ombudsman  
July 27, 1979

*Disposition: Recommendation Fully Accepted (Claimant was reimbursed \$17.87 for the lost radio.)*

Investigation 9 - Inventory Procedures Not Followed; Property Missing

Dear Rep. Foster:

This is a report of our investigation of the \$62.85 property loss claim of an inmate at a state correctional institution.

He is claiming a large amount of his property was lost when staff members packed and stored his property after he went to the infirmary

on November 16, 1978. When he retrieved his property on November 20, 1978, he allegedly discovered the following items were missing:

- 1 - clipboard - \$1.10
- 1 - three-ring notebook - \$3.75
- several - wildlife research magazines - \$15.00
- 13 - packs of cigarettes - \$6.11
- 2 - boxes of pastries - \$1.85
- 2 - boxes of potato chips - \$1.85
- 7 - stamps - \$1.05
- 1 - plastic mug - \$1.55
- 3 - pouches of pipe tobacco - \$1.80
- 1 - bag of coffee - \$1.84
- 4 - paper back books - \$5.00
- 1 - razor and blades - \$4.00
- 1 - Alcoholics Anonymous book - \$7.25
- 4 - magazines - \$10.00
- 1 - yearbook of Smithsonian Magazine - unknown
- several - personal drawings - unknown

In response to this claim, the institution provided an investigation report. It pointed out that the inmate had signed the inventory sheet on November 20, 1978, acknowledging receipt of all of his personal property. Based on this investigation, it was believed there was no basis for the claim.

A staff attorney with Legal Services for Prisoners, Inc., reported the inmate had acquired much of the lost property while at other institutions. He related that the inmate had no proof of the purchases because receipts were not given for the claimed items.

The procedures for the inventory and control of inmate personal property at this institution are established in General Orders, effective March 1, 1978. The General Orders provide specific and detailed procedures by which the institution can document and account for the transfer of personal property when inmates are absent from their cells for more than twenty-four hours.

Our investigation revealed that the only time these procedures were followed was when the inmate was asked to sign the inventory sheet upon receipt of his property. The General Order requires that an inmate's property be packed and inventoried the same day the inmate enters the infirmary, that the person inventorying the property sign the sheet, and that the inmate be given a copy. The inmate's inventory sheet was not signed, and it was not dated. Also, he reported he was not given a copy.

It is not clear to us why the inmate signed acknowledging receipt of his property, in view of the fact that up to that point the institutional policy had not been followed. Thus, the only record of what property was removed from the inmate's cell is incomplete.

Because the transferring of the inmate's property was not documented according to the policy, we recommend that this claim be found valid. There is no way to verify that the inmate had the claimed property, most of which were canteen items. We, therefore, are unable to recommend an appropriate amount of reimbursement.

We trust the above information will help the Claims Committee reach a determination in this matter. If further information is needed, please do not hesitate to let us know.

Sincerely,

Preston N. Barton  
Ombudsman

January 10, 1980

*Disposition: Recommendation Fully Accepted (Claimant was reimbursed \$31.43 for the lost property.)*

#### Investigation 10 - On-the-job Accident Causes Permanent Disability

Dear Rep. Foster:

This is a report of our investigation of the personal injury claim submitted by an inmate at a state correctional institution. His claim is for an unspecified amount for the injuries he sustained on August 23, 1978 while working on an elevator at the institution. Our investigation first involved an examination of the accident itself, and then a determination of the injuries that resulted from the accident. In conducting our investigation we made twelve telephone contacts, thirty-six letter contacts, and forty-seven personal contacts for a total of ninety-five contacts.

The institution was asked to assist in our investigation of the circumstances surrounding the accident. It reported that the inmate and another inmate were working on an elevator which was stuck between floors. The inmate moved an actuator rod which started the elevator and caught him between the elevator and the shaft. It was believed that the accident was due to negligence, because the electrical power to the elevator was not shut off prior to repairs.

To better understand the circumstances surrounding the accident, we interviewed an employee in the electrical shop and the inmate. The employee explained that on the day of the accident he was notified the elevator was not working. He informed the inmate how to correct the malfunction, and sent the inmate and another inmate to repair the elevator. The employee also told us that he definitely did not believe the accident resulted from "horsing around" on the part of the inmate or anyone else.

In his letter of July 4, 1979, the inmate explained that before working on the elevator he turned off the power switch inside the elevator. He had previously done this while working on the elevator and had had no problems.

Based on this information, we do not believe the accident was the result of horseplay or gross negligence by the inmate. The accident occurred while he was performing his inmate job doing what he thought was appropriate.

## EXAMPLES OF COMPLAINTS

To determine the extent of the injuries the inmate received and any resulting disability, we contacted the physician who treated him at an outside hospital. In his letter of November 28, 1978, the physician reported that as a result of the elevator accident, "He (the inmate) sustained multiple injuries including a very unstable fracture of the medial malleolus of the right ankle and the distal fourth of the shaft of the right fibula." He treated the fracture of the inmate's right ankle which required the use of a screw for internal fixation of his fracture. He believed the inmate will have about 10% permanent disability of the right lower extremity as a result of his ankle injury.

While the inmate was in the hospital, another physician treated the lacerations the inmate received to his head and back. After the inmate returned to the institution, the following evaluations were completed to determine if the injury to his head resulted in permanent disability: C.T. Scan of the head, a neurological evaluation, and an electroencephalographic examination. These evaluations did not reveal any abnormal findings.

We asked Mr. William Morrissey, Assistant Director of the Division of Workers' Compensation, for assistance in computing the amount of compensation that would be paid to the inmate if the claim were a Workers' Compensation Claim. In his letter of September 10, 1979, Mr. Morrissey reported that under the Workers' Compensation Law the inmate would receive \$1,179.61 for total temporary disability, and \$2,334.70 for permanent disability. The total temporary disability was for the 9.14 weeks the inmate was unable to work at his inmate job.

Since this took place in prison where temporary disability did not result in loss of substantial income, the inmate should be paid only for the 10% permanent disability. Mr. Morrissey confirmed that if lost work time were not included the inmate would receive \$2,452.14 for the 10% permanent disability.

In summary, our investigation determined that the accident and resulting permanent disability occurred while the inmate was working on his institutional work detail. It is our recommendation that he be reimbursed for the resulting permanent disability in the amount of \$2,452.14.

We trust the above information will help the Claims Committee reach a determination in this matter. If further information is needed, please do not hesitate to let us know.

Sincerely,

Preston N. Barton  
Ombudsman  
October 22, 1979

*Disposition: Recommendation Fully Accepted (Claimant was reimbursed \$2,452.14 for his permanent disability.)*

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 "Definitions of Complaint Handling Terms", pages 55 - 57.

### Example 1 - Physical Facility Complaint

The Ombudsman receives most complaints from inmates. He also receives complaints from Department of Corrections' staff members. Very seldom, however, do inmates and staff members jointly complain. When a situation developed that endangered both staff and inmates' safety, it was brought to the Ombudsman by an inmate and a staff member.

As the Ombudsman was leaving a cell house, he was stopped by an inmate and the inmate's detail officer. They were extremely concerned about their safety, as well as the safety of anyone else who had to work in the tunnel area in that particular cellhouse. The tunnel is the area between the back sides of two rows of cells. It contains electrical wiring, waterlines, and sewage lines. In order for them to do their work in the tunnel, the men had to walk on very unstable wooden planks. If they lost their balance, they risked falling against electrical wiring that had deteriorated, exposing "hot" wires. The chances of their being shocked were increased by the presence of leaking water.

The inmate and detail officer did not know what it would take to make the area safe. They just knew something needed to be done. It seemed to them that the problem was recognized, but no one was doing anything about it.

What the Ombudsman found when he went to the detail officer's supervisor was that the problem was recognized, but not the solution. The supervisor had gotten approval to take corrective action, but did not know how to correct the problem. Thus, nothing had been done.

The Ombudsman suggested to the supervisor that he tap his collective resources by bringing his detail officers and inmates together to come up with a solution. The supervisor readily accepted this new option. It was agreed that the Ombudsman would check back in one week to learn of the results.

Before the Ombudsman got back to the supervisor, the inmate complainant happily informed the Ombudsman that a solution had been identified and was being implemented. The supervisor later told the Ombudsman that the solution was arrived at through the joint efforts of the "resources" the Ombudsman had suggested.

*Disposition: Recommendation Fully Accepted*

#### Example 2 - Complaint Against Staff

The Ombudsman received a call from the wife of an inmate who needed to talk with her husband about the condition of their six week old child who had been hospitalized the previous day with serious symptoms. She had called a staff member at the institution to try and arrange a telephone call, but the staff member flatly denied her request. Not knowing how to appeal the decision within institutional hierarchy, she turned to the Ombudsman.

When the Ombudsman contacted the staff member later the same day, he learned that the staff member denied the request because the staff member did not believe the wife was telling the truth. The staff member cited several examples of how the wife had asked for special calls based upon emergencies which proved to be unfounded. He had not checked this time to see if her request was legitimate because of his previous experiences.

The Ombudsman had no proof that the child was ill. However, he did know that the wife was at the hospital as he had called her there. This information was enough proof for the staff member. He agreed to the call, and arrangements were coordinated with the wife through the Ombudsman. The call was made the same day.

*Disposition: Facilitated Communication*

#### Example 3 - Internal Grievance Procedure Complaint

A fact is a fact, or is it? When what seems like specific facts are communicated in writing, the sender's intended message is not always perceived by the receiver. Miscommunication can occur if there is no opportunity for a face to face discussion of the message between the sender and receiver. In the following example, the Ombudsman intervened before the inmate complainant completed the inmate grievance procedure because the Ombudsman decided verbal communication was needed to clarify the issue rather than the limited written communication of the grievance procedure.

While walking through a cell house, the Ombudsman was stopped by an inmate who angrily denounced the Director of the institution as a liar. The inmate had submitted a grievance to the Director protesting the medical treatment he had received. In his answer the Director determined the grievance to be unfounded because the inmate had been examined six times by a physician. The inmate was irate since he had never heard of this physician and knew he had never been examined by him.

Rather than have the inmate appeal the Director's answer to the Secretary of Corrections, which would have been the next step in the grievance procedure, the Ombudsman chose to intervene as the facts presented in the Director's answer were so contrary to the inmate's version. Something was missing.

When the Ombudsman visited the infirmary at the institution, he found what was missing. The physician mentioned in the grievance was the same physician who had previously examined the inmate - but he had changed his name. The Ombudsman returned to the inmate and cleared up the miscommunication.

This example demonstrates the kind of problem which can occur because the Department of Corrections has not built into the grievance procedure a face to face discussion with the inmate of the Director's answer. The Ombudsman, as a third party intervenor bridged the gap between the Director's written answer and the inmate's understanding of that answer.

*Disposition: Unfounded*

#### Example 4 - Record Keeping Complaints

The Ombudsman could not resolve complaints without the cooperation of Department of Corrections staff members. This example demonstrates staff members' responsiveness when the Ombudsman recommended that a serious record keeping error be corrected.

During an investigation of an inmate's complaint, the Ombudsman reviewed one of the inmate's files to check out the facts. He discovered, unrelated to the complaint, that two disciplinary reports had not been removed from the file after they were dismissed over a year earlier, as required by Department of Corrections regulations. When the Ombudsman recommended to a staff member that the reports be removed, the staff member did so immediately. The staff member also agreed to see to it that the reports were not in the inmate's other Department of Corrections' files.

A few weeks later, the Ombudsman examined another of the inmate's files and verified that it did not contain these two disciplinary reports. However, he found three more disciplinary reports that had not resulted in convictions. In looking at files of two other inmates, the Ombudsman discovered seven more improper disciplinary reports.

When the Ombudsman recommended these reports be removed from the three files, a staff member did so immediately. In response to the Ombudsman's questions about the presence of the reports in the files, the staff member explained that for a period of time this type of disciplinary report had been mistakenly included in the files. This practice had been stopped when it was discovered, but it had gone on for over a year and a half.

The Ombudsman recommended action be taken to remove all of the improper disciplinary reports that had gone into files over this period of time. His recommendation was accepted. The next day an audit was started of all the files in order to remove these reports. This audit will require much time and energy but, as the Ombudsman was told by staff, it was necessary to correct the problem.

*Disposition: Recommendation Fully Accepted*

#### Example 5 - Medical Complaint

An inmate in a special security unit complained to the Ombudsman that he was experiencing severe headaches, but he could not get to see the institutional physician. The correctional officer in charge of the unit had called the infirmary several times to schedule an appointment, but each time was told the physician was too busy. Both were frustrated and the headaches continued.

The Ombudsman recommended to the officer that the quickest solution would be to send the inmate with the new inmates in the unit who were being examined by the physician that morning. The officer welcomed this new option and agreed to follow through. The inmate was examined and obtained medication for his headaches.

*Disposition: Recommendation Fully Accepted*

#### Example 6 - Complaint Against Staff

People unfamiliar with the Ombudsman Office sometimes assume that the Ombudsman tries to "catch" Department of Corrections staff members intentionally doing "wrongs" to inmates. In fact, very seldom does the Ombudsman find that intentional wrong doing is the problem. This is illustrated in the following example.

An inmate wrote the Ombudsman complaining that a staff member had refused to notarize a form the inmate wanted to submit to a state agency complaining about a physician in an institution outside the Department of Corrections. The state agency could not accept the form because it was not notarized, and had referred the inmate to the Ombudsman. The inmate correctly maintained that Department of Corrections regulations clearly state notary service is to be provided by the institution. He claimed the staff member was violating the regulations.

On inquiring, the Ombudsman learned of the reasoning behind the staff member's decision. The staff member believed that because of the wording of the form he would be attesting to the accuracy of the inmate's complaint. He had consulted with the institutional attorney who agreed he should not notarize the form.

The Ombudsman contacted the head of the state agency and clarified that the staff member would only be attesting to the fact that the inmate signed the form. With this understanding, the staff member and attorney agreed to notarize the form. It was notarized and accepted by the state agency.

The Ombudsman went back to the agency head and suggested correcting the wording. Because the agency had not had any other problems with the wording, the form was not changed.

*Disposition: Recommendation Fully Accepted.*

#### Example 7 - Internal Grievance Procedure Complaint

In carrying out his function of observing routine procedures, the Ombudsman discovers problems and responds on his own initiative. His ability to perform this function is often dependent on his having access to the Department of Corrections' records. The following case illustrates the importance of this function.

While visiting one of the institutions, the Ombudsman was confronted by an inmate who the Ombudsman had referred to the internal grievance procedure to resolve his problem. The inmate complained that he had followed the required "steps" in submitting his grievance to the Director, but the

Director had not provided him an answer even though twelve working days had passed, the time limit established by Department of Corrections regulations.

The Ombudsman verified that the answer was four days overdue by looking at the institutional Grievance Report log. While the Ombudsman was looking at the log, he checked to see if the institution was meeting the time limit with other grievances. He discovered four other answers were overdue by four days, seventeen days, twenty days, and twenty-six days. This was not consistent with the institution's usual practice and with the intent of the regulation which states, "All grievances shall be answered in as short a time as possible to ensure that delay will not impose additional hardship upon the inmate or unnecessarily prolong a misunderstanding."

The Ombudsman presented his findings to the staff member who maintained the log. This person gave understandable reasons as to why the Director had not provided answers. However, the staff member concurred with the Ombudsman that interim responses should be given to the inmates as required by the regulation, so the inmates would know their grievances reached the Director's office, the reasons for the delay, and when a final answer would be issued.

Consistent with the Ombudsman's recommendations, the staff member saw to it that either interim responses or final answers were issued by the Director on the five overdue grievances the same day. Final answers were issued on all of the grievances within five days. Because the Ombudsman had access to the record, he was able to discover and to correct an inconsistency in the grievances quickly and informally.

*Disposition: Recommendation Fully Accepted*

#### Example 8 - Daily Routine Complaint

The Ombudsman has been asked frequently about the degree of impact he has when he visits an institution. The following case example suggests that his presence alone has an impact.

During a visit to an institution on an unseasonable cold day, the Ombudsman was stopped by Officer Chilly, who complained that inmates were not being issued jackets. Officer Chilly had voiced his concern through the chain of command earlier that day, but was only told by Officer Stoic that jackets were not being issued because the supply had run out. Officer Stoic approached as Officer Chilly was still explaining the problem to the Ombudsman. When Officer Chilly restated his concern with the Ombudsman present, Officer Stoic responded that the jackets had been ordered and should be in soon.

After Officer Stoic left, the Ombudsman told Officer Chilly he would pursue the issue; however, this was not necessary. The Ombudsman received a call a few minutes later from Officer Chilly reporting that his complaining to Officer Stoic with the Ombudsman present had resulted in jackets mysteriously being found to be in stock. They would be issued immediately.

*Disposition: Observed and Monitored*

## STATISTICAL PRESENTATION

### Example 9 - Internal Grievance Procedure Complaint

An inmate wrote the Ombudsman complaining that staff had taken control of his tape player and then had lost it. The inmate wanted the Ombudsman to immediately investigate even though the inmate had just set in motion an institutional investigation as he had submitted a grievance to the Director. In justifying his request, the inmate claimed nothing was ever accomplished through the internal grievance procedure. The Ombudsman convinced the inmate to give the procedure a chance to work. The Ombudsman agreed to monitor the processing of the grievance. If there were a break down in the procedure, then the Ombudsman would intervene.

This was not necessary because the Director's answer was completed within the established time limit of twelve working days. The tape player had been found in the institution's property room, and was returned to the inmate. The grievance procedure functioned properly. It provided a systematic approach to quickly resolve the inmate's problem. This case illustrates the Ombudsman's commitment to not be used to circumvent the internal grievance procedure.

*Disposition: Observed and Monitored*

### Example 10 - Physical Threat Complaint

An inmate complained to the Ombudsman that a correctional officer had threatened to get him killed, and that the officer had made racial slurs toward the inmate. Because the Ombudsman was providing direct services to the institution where the inmate was confined, he was able to respond immediately and in person.

On the same day the complaint was made, the Ombudsman interviewed the complainant and the three inmates he claimed had witnessed the incident. The officer was not interviewed that day because he was not on duty. However, as it turned out, his statement was not needed. The three inmates identified by the complainant verified that they had witnessed the incident, but denied the complainant's allegations. Each of the witnesses, who are black as is the complainant, maintained that the officer, who is white, did not make a threatening statement and did not make racial slurs toward the inmate. The witnesses stated it was the complainant who was out of line as he was cursing and harassing the officer.

When the Ombudsman talked with the officer a few days later, the officer had heard about the investigation, and was worried about what inmates had told the Ombudsman. The officer was surprised that inmate's confirmed his version of what happened. He was grateful that the Ombudsman had conducted an independent investigation of the allegations.

*Disposition: Unfounded Complaint*

### A. The First Five Years of Complaint Handling

Since its inception on September 15, 1975 until the end of this fiscal year, June 30, 1980, the Ombudsman Office has experienced a tremendous increase in its complaint handling. Figures 1, 2, and 3 on Page 38 graphically depict this increase. The 618 complaints received during this fiscal year are an increase of 66.1% compared to the 372 complaints received during FY 1977, the first full year of operation. The 624 complaints closed during this fiscal year are an increase of 68.6% compared to the 370 complaints closed during FY 1977. The most dramatic increase has been in the number of contacts invested in resolving the complaints. The 4,518 contacts invested in resolving the 624 complaints closed during FY 1980 are an increase of 122.5% compared to the 2,031 contacts invested in resolving the 370 complaints closed during FY 1977. The average number of contacts per complaint has increased from 6.4 in FY 1977 and FY 1978, to 6.7 in FY 1979, and to 7.2 in FY 1980.

### B. Complaint Handling, Fiscal Year 1980

During this fiscal year (July 1, 1979 - June 30, 1980), the Office handled 686 complaints. From these complaints the Office recorded the complaint handling information which is presented in Figures 4 - 16 pages 39 - 48. Highlights of this information and comparisons between this year's complaint handling and that of last year are presented in the narrative which follows. The complaint handling terms used in the figures and in the narrative are defined in "Definitions of Complaint Handling Terms" on pages 55 - 57.

The 686 complaints the Office handled included 68 complaints pending from FY 1979 and 618 complaints received during FY 1980. Of the 618 complaints received, 92.7% came from the Kansas State Penitentiary (KSP), the Kansas State Industrial Reformatory (KSIR), or the Kansas Correctional Institution for Women (KCIW). (See Figure 4 on page 39.)

In comparing the number of complaints received from these institutions this fiscal year with the number received last fiscal year, the largest change was with KCIW complaints. The number of KCIW complaints increased 211.3%, from 44 in FY 1979 to 137 in FY 1980. This change was due to the increase in direct services the Office provided KCIW this fiscal year compared with those provided last fiscal year. The number of complaints received from KSP decreased 18.7%, from 395 in FY 1979 to 321 in FY 1980. This decrease in complaints received was in part due to the Office's 38.9% decrease in the amount of direct services provided KSP in FY 1980 compared with FY 1979. Surprisingly, the number of complaints received from KSIR increased 21.0%, from 95 in FY 1979 to 115 in FY 1980. This increase occurred even though ongoing direct services could not be provided by the Office for the second straight year. (See Figure 4 on page 39.)

The 618 complaints received were made by 395 complainants. Of these complainants, 2 were volunteers, 20 were Department of Corrections staff members, and 373 were inmates in Department of Corrections facilities, prisons in other states, or jails. (See Figure 5 on page 39.)

The racial backgrounds of the Department of Corrections' inmate complainants are compared with the racial background of the Department of Corrections' inmate population to evaluate the Office's distribution of services among racial groups. There is striking consistency in the findings. Of the 284 inmate complainants whose race could be determined, 173 or 60.9% were white, 100 or 35.2% were black, and 11 or 3.9% were of some other racial background. This compares with the inmate population on June 30, 1979 which included 1,413 or 60.7% white inmates, 793 or 34.1% black inmates, and 120 or 5.2% inmates of some other racial background. These statistics show that services were provided proportionately to the racial backgrounds of the inmates. (See Figures 6 and 7 on page 40.)

Of the 686 complaints handled, 624 were closed during FY 1980. The remainder of the narrative presentation will examine the complaint handling information from these complaints. Only the closed complaints are examined because the necessary information cannot be recorded until the complaint work is completed and the complaint is closed. Excluded are the 62 complaints which were pending at the close of FY 1980.

The majority (76.6%) of the closed complaints came to the Office's attention through direct contact with the complainant. Of the 353 complaints initiated directly by KSP and KCIW complainants, 190 or 53.8% were initiated by personal contact. Of the 94 complaints initiated by KSIR complainants, only 4 or 4.3% were initiated by personal contact. What this information reflects is that complainants at KSP and KCIW had direct access to the Office while KSIR complainants had to rely on correspondence. (See Figure 8 on page 41.)

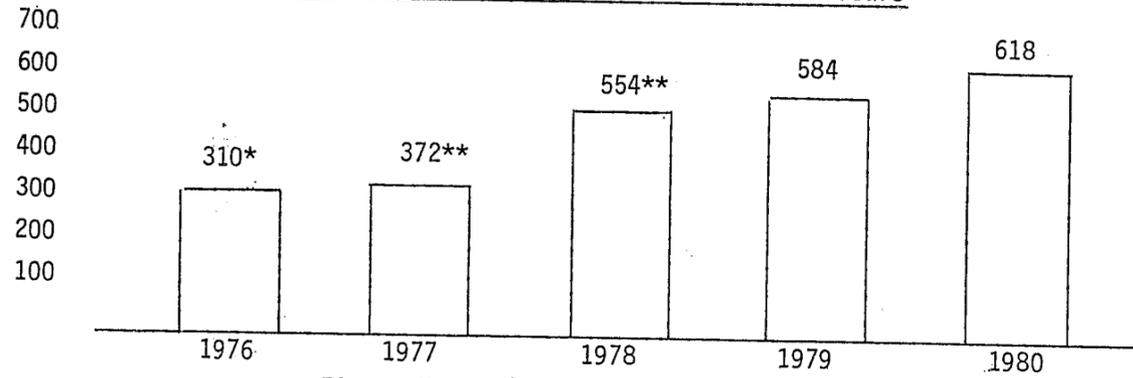
The Office responded to 580 or 92.9% of the closed complaints within seven calendar days of receipt of the complaint. This first response is crucial because it assures the complainant that the complaint has been received, and provides immediate clarification of what the Office might be able to do and how long it will take to get it done. Calendar days are used to measure the Office's responsiveness because prisons do not stop for weekends. (See Figure 11 on page 43.)

In comparing the types of complaints resolved in FY 1980, substantially more complaints fell into five of the twenty-one complaint categories. The complaint category "Record Keeping" was the largest with 70 or 11.2% of the complaints. The second largest complaint category was "Custody Status, Parole Eligibility, and Transfers" with 67 or 10.7% of the complaints. The third largest complaint category was "Medical," which has been the largest category in FY 1979. It contained 65 or 10.4% of the complaints. The fourth largest complaint category was "Property Loss/Physical Disability" with 62 or 9.9% of the complaints. And the fifth largest complaint category was "Daily Routine" with 58 or 9.3% of the complaints. (See Figure 15 on page 47.)

In resolving the 624 closed complaints the Office made 131 recommendations for corrective action. Of these recommendations, 83.2% were fully accepted, 9.2% were partially accepted and 7.6% were not accepted. (See Figure 16 on page 48.)

Only 26 or 4.2% of the 624 closed complaints were unfounded. This percentage is the smallest in any of the four previous reporting periods. (See Figure 16 on page 48.)

The 2,438 Complaints Received: The First Five Years



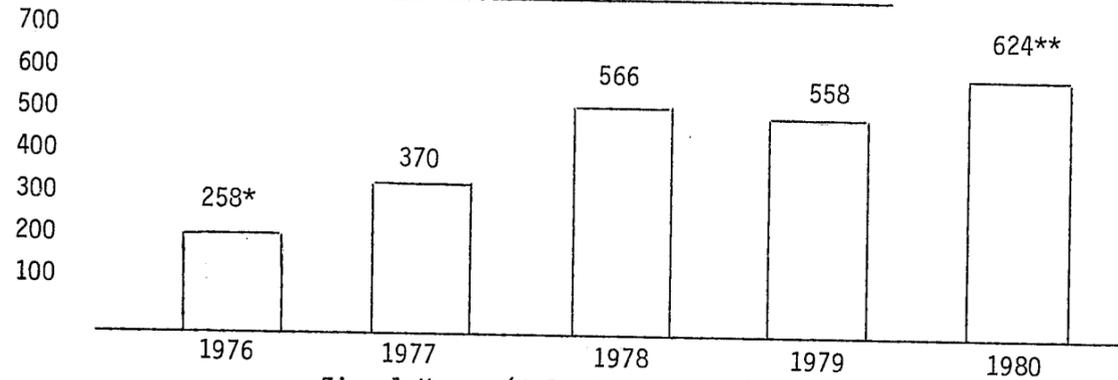
Fiscal Years (July 1 - June 30)

\* Complaints received during first 9½ months of operation.

\*\* These figures were incorrectly reported in Fourth Annual Report.

Figure 2

The 2,376 Complaints Closed: The First Five Years



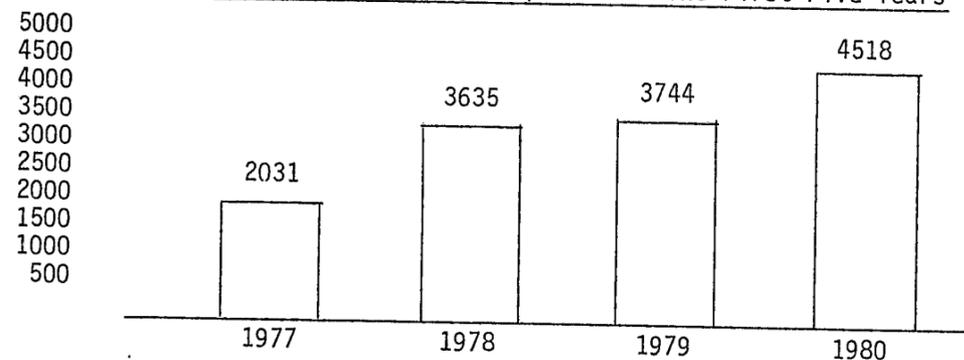
Fiscal Years (July 1 - June 30)

\* Complaints closed during first 9½ months of operation.

\*\* Excluded are the 62 complaints pending at end of FY 1980.

Figure 3

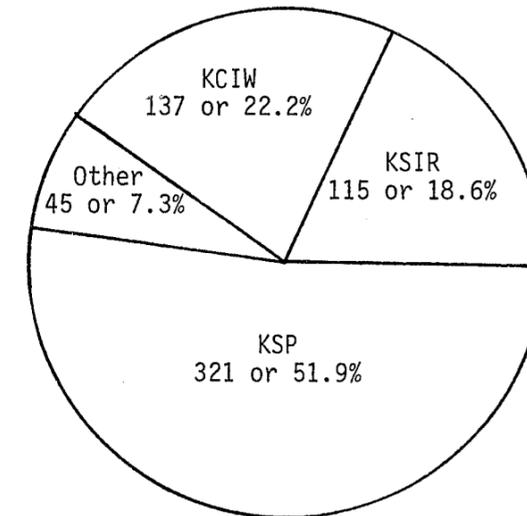
The 13,928 Contacts Made in Resolving Complaints: The First Five Years\*



Fiscal Years (July 1 - June 30)

\*This data was not recorded on the 258 complaints closed in FY 1976.

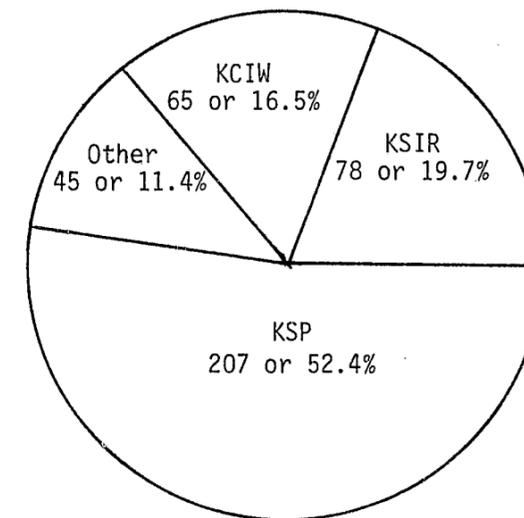
Figure 4  
The 618 Complaints Received by Institution\*  
(July 1, 1979 - June 30, 1980)



\* The addition of 68 complaints pending from FY 1979 to the 618 complaints received means the Office handled a total of 686 complaints.

\*\* Included are 20 class action complaints initiated by the Ombudsman Office.

Figure 5  
The 395 Complainants by Institution\*  
(July 1, 1979 - June 30, 1980)



\* Included are 20 DOC Staff members and 2 volunteers.

Race of Inmate Complainants  
Compared to Inmate Population on June 30, 1979

Figure 6  
Inmate Complainants\*

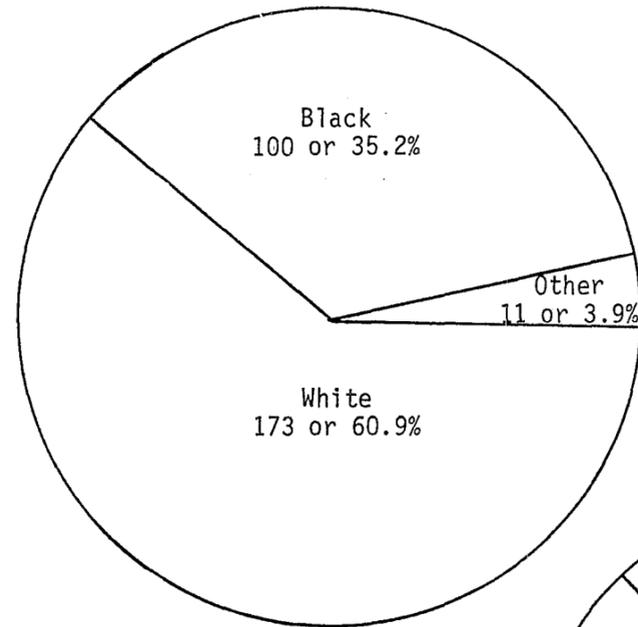
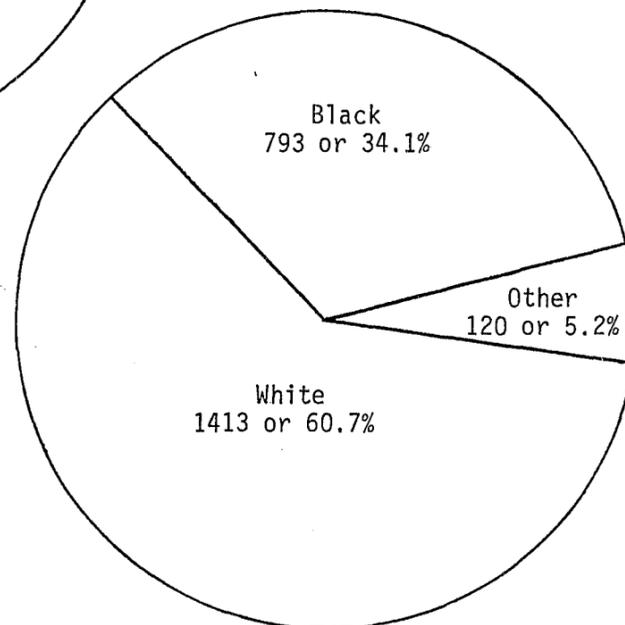


Figure 7  
Inmate Population\*\*



\* These statistics are based on information from the 618 complaints received during FY 1980. Excluded are correctional staff members, volunteers, inmates outside the Department of Corrections, and inmates whose race could not be determined.

\*\* These statistics were computed from data provided by the Kansas Department of Corrections.

Figure 8  
How Complaints Were Initiated\*

	All Complaints**		KSP Complaints		KSIR Complaints		KCIW Complaints	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<u>Direct Contact</u>								
Letter	255	40.8%	116	36.8%	89	76.6%	34	22.7%
Personal	197	31.6%	114	36.2%	4	3.5%	76	50.7%
Phone	26	4.2%	9	2.9%	1	.9%	4	2.6%
Sub-Total:	478	76.6%	239	75.9%	94	81.0%	114	76.0%
<u>Third Party Contact</u>								
Letter	26	4.2%	12	3.8%	9	7.7%	2	1.3%
Personal	21	3.3%	16	5.1%	1	.9%	5	3.3%
Phone	48	7.7%	21	6.6%	8	6.9%	10	6.7%
Sub-Total:	95	15.2%	49	15.5%	18	15.5%	17	11.3%
<u>Ombudsman Initiative</u>								
Letter	3	.5%	2	.7%	1	.9%	0	---
Personal	47	7.5%	25	7.9%	3	2.6%	18	12.0%
Phone	1	.2%	0	---	0	---	1	.7%
Sub-Total:	51	8.2%	27	8.6%	4	3.5%	19	12.7%
Total:	624	100%	315	100%	116	100%	150	100%

\* These statistics are based on information from the 624 complaints closed during FY 1980.

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

Figure 9  
Who Made the 95 Referrals\*

<u>Initiator</u>	<u>Complaints Received</u>
Referring agencies and law firms . . . . .	8
Inmates other than complainant . . . . .	12
State government other than Department of Corrections . . . . .	18
Department of Corrections' staff members other than complainant . . . . .	20
Families and friends of complainants . . . . .	37

\* These statistics are based on information from the 624 complaints closed during FY 1980.

Figure 10  
How the Ombudsman First Responded to Complaints\*

	All Complaints**		KSP Complaints		KSIR Complaints		KCIW Complaints	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Letter	169	27.1%	53	16.8%	87	75.0%	11	7.3%
Personal	385	61.7%	232	73.7%	21	18.1%	128	85.4%
Phone	70	11.2%	30	9.5%	8	6.9%	11	7.3%
<b>Total</b>	<b>624</b>	<b>100%</b>	<b>315</b>	<b>100%</b>	<b>116</b>	<b>100%</b>	<b>150</b>	<b>100%</b>

Figure 11  
Ombudsman's Response Time\*

<u>Calendar Days to First Response:</u>	All Complaints**		KSP Complaints		KSIR Complaints		KCIW Complaints	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
0 - 7 days	580	92.9%	296	94.0%	98	84.5%	147	98.0%
8 - 14 days	31	5.0%	18	5.7%	7	6.0%	3	2.0%
15+ days	13	2.1%	1	.3%	11	9.5%	0	---
<b>Total</b>	<b>624</b>	<b>100%</b>	<b>315</b>	<b>100%</b>	<b>116</b>	<b>100%</b>	<b>150</b>	<b>100%</b>

\* These statistics are based on information from the 624 complaints closed during FY 1980.

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

Figure 12  
Assessments of Complaints\*

Assessments:	(a) All Assessments**		(b) KSP Assessments		(c) KSIR Assessments		(d) KCIW Assessments	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Discrepant Action	435	69.7%	248	78.7%	61	52.6%	111	74.0%
Policy Issue	25	4.0%	11	3.5%	3	2.6%	10	6.7%
Explanation	26	4.2%	11	3.5%	9	7.7%	4	2.7%
Outside Jurisdiction	43	6.9%	14	4.5%	11	9.5%	7	4.6%
Not Conducive to Investigation	83	13.3%	24	7.6%	27	23.3%	18	12.0%
Crisis	2	.3%	2	.6%	0	---	0	---
Unknown	10	1.6%	5	1.6%	5	4.3%	0	---
<b>Total:</b>	<b>624</b>	<b>100%</b>	<b>315</b>	<b>100%</b>	<b>116</b>	<b>100%</b>	<b>150</b>	<b>100%</b>

\* These statistics are based on information from the 624 complaints closed during FY 1980.

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

Figure 13  
Contacts Made in Resolving Complaints \*

(a)  
Comparison of Number of Complaints with Contacts

Institutions	Total Contacts per Institution	Number of Complaints per Institution	Average Number of Contacts per Complaint	Percentage of Contacts per Institution
KSP	2575	315	8.2	57.0%
KSIR	695	116	6.0	15.4%
KCIW	1062	150	7.1	23.5%
Other	186	43	4.3	4.1%
<b>Total:</b>	<b>4518</b>	<b>624</b>	<b>7.2</b>	<b>100%</b>

(b)  
Individual Contacted

	Complainant	DOC Staff	Outside DOC	Total
KSP	1235	982	358	2575
KSIR	388	207	100	695
KCIW	565	431	66	1062
Other	101	55	30	186
<b>Total:</b>	<b>2289</b>	<b>1675</b>	<b>554</b>	<b>4518</b>
<b>Percent:</b>	<b>(50.7%)</b>	<b>+(37.1%)</b>	<b>+(12.2%)</b>	<b>= 100%</b>

(c)  
Form of Contact

	Letter	Personal	Phone	Total
KSP	725	1543	307	2575
KSIR	443	136	116	695
KCIW	109	838	115	1062
Other	48	40	98	186
<b>Total:</b>	<b>1325</b>	<b>2557</b>	<b>636</b>	<b>4518</b>
<b>Percent:</b>	<b>(29.3%)</b>	<b>+(56.6%)</b>	<b>+(14.1%)</b>	<b>= 100%</b>

\* These statistics are based on information from the 624 complaints closed during FY 1980.

Figure 14  
Management Levels at Which Complaints Were Resolved\*

Levels within the Department of Corrections	All Complaints**		KSP Complaints		KSIR Complaints		KCIW Complaints	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Line	61	9.8%	41	13.0%	10	8.6%	7	4.7%
Line Supervisors	103	16.5%	78	24.8%	7	6.0%	17	11.4%
Professional Staff	24	3.9%	16	5.1%	1	.9%	7	4.7%
Middle Management	37	5.9%	16	5.1%	6	5.2%	8	5.3%
Directors	45	7.2%	16	5.1%	1	.9%	24	16.0%
Secretary	13	2.1%	3	.9%	3	2.5%	5	3.3%
Sub-total	283	45.4%	170	54.0%	28	24.1%	68	45.4%
Levels External to the Department of Corrections	28	4.5%	17	5.4%	7	6.0%	1	.6%
Referral Resources	37	5.9%	12	3.8%	15	13.0%	7	4.7%
Sub-total	65	10.4%	29	9.2%	22	19.0%	8	5.3%
None	276	44.2%	116	36.8%	66	56.9%	74	49.3%
Total	624	100%	315	100%	116	100%	150	100%

\* These statistics are based on information from the 624 complaints closed during FY 1980.

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

Figure 15  
Nature of the Complaints \*

Categories:	(a) All Complaints**		(b) KSP Complaints		(c) KSIR Complaints		(d) KCIW Complaints	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<u>Care and Maintenance</u>								
Food	4	.7%	0	---	3	2.6%	1	.7%
Medical	65	10.4%	38	12.1%	2	1.7%	24	16.0%
Record Keeping	70	11.2%	44	14.0%	6	5.1%	14	9.3%
Visiting	30	4.8%	14	4.4%	1	.9%	12	8.0%
Physical Facilities	8	1.3%	6	1.9%	1	.9%	1	.7%
Mail	25	4.0%	12	3.8%	2	1.7%	11	7.3%
Sub-Total:	202	32.4%	114	36.2%	15	12.9%	63	42.0%
<u>Security and Safety</u>								
Physical Threat	20	3.2%	11	3.5%	4	3.5%	2	1.3%
Property Loss	62	9.9%	42	13.3%	17	14.6%	0	--
Sub-Total:	82	13.1%	53	16.8%	21	18.1%	2	1.3%
<u>Maintenance of Institutional Order</u>								
Internal Grievance	33	5.3%	21	6.7%	4	3.5%	8	5.4%
Complaints Against Staff	22	3.5%	10	3.2%	6	5.1%	5	3.3%
Disciplinary Procedure	37	5.9%	14	4.4%	12	10.3%	9	6.0%
Daily Routine	58	9.3%	42	13.3%	4	3.5%	11	7.3%
Sub-Total:	150	24.0%	87	27.6%	26	22.4%	33	22.0%
<u>Rehabilitation</u>								
Inmate Activity Group	5	.8%	4	1.3%	0	---	0	---
Parole	17	2.7%	6	1.9%	6	5.1%	1	.7%
Counseling, Mental Health	1	.2%	1	.3%	0	---	0	---
Education, Work, Training	21	3.4%	8	2.5%	8	7.0%	5	3.3%
Custody Status, Parole Eligibility, Transfers	67	10.7%	21	6.7%	25	21.6%	18	12.0%
Sub-Total:	111	17.8%	40	12.7%	39	33.7%	24	16.0%
<u>Miscellaneous</u>								
Staff Complaints	17	2.7%	4	1.3%	1	.9%	11	7.3%
Legal	19	3.1%	8	2.5%	5	4.3%	4	2.7%
Others	35	5.6%	3	1.0%	6	5.1%	13	8.7%
Unknown	8	1.3%	6	1.9%	3	2.6%	0	---
Sub-Total:	79	12.7%	21	6.7%	15	12.9%	28	18.7%
TOTAL:	624	100%	315	100%	116	100%	150	100%

\* These statistics are based on information from the 624 complaints closed during FY 1980.

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

Figure 16  
Dispositions of Complaints\*

Dispositions:	(a) All Dispositions**		(b) KSP Dispositions		(c) KSIR Dispositions		(d) KCIW Dispositions	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<u>Direct Intervention Between Complainant and the Department of Corrections:</u>								
Recommendation for Corrective Action:								
Fully Accepted	109	17.5%	74	23.5%	12	10.4%	20	13.3%
Partially Accepted	12	1.9%	2	.6%	0	---	10	6.7%
Not Accepted	10	1.6%	4	1.3%	2	1.7%	4	2.6%
Facilitated Communication	22	3.5%	17	5.4%	1	.9%	3	2.0%
Observed and Monitored	92	14.7%	49	15.6%	7	6.0%	33	22.0%
Unfounded	26	4.2%	19	6.0%	0	---	7	4.7%
Sub-total:	271	43.4%	165	52.4%	22	19.0%	77	51.3%
<u>Indirect Intervention Between Complainant and the Department of Corrections:</u>								
Information and Referral	185	29.7%	61	19.4%	52	44.8%	42	28.0%
<u>Incompleted Intervention:</u>								
Withdrawn	125	20.0%	63	20.0%	35	30.2%	22	14.7%
Solved Prior	43	6.9%	26	8.2%	7	6.0%	9	6.0%
Sub-total:	168	26.9%	89	28.2%	42	36.2%	31	20.7%
Total:	624	100%	315	100%	116	100%	150	100%

\* These statistics are based on information from the 624 complaints closed during FY 1980.

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

STAFF BIOGRAPHIES



Preston N. Barton II -- Ombudsman

Preston Barton is a member of the Board of Directors of the United States Association of Ombudsmen, the Ombudsman Advisory Committee of the International Bar Association and the Academy of Certified Social Workers (ACSW). He is a Licensed Specialist Clinical Social Worker (LSCSW). He attended Wilmington College in Wilmington, Ohio and 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 year Master's Degree program in Social Work at the University of Pennsylvania School of Social Work, in Philadelphia. During his senior year in college and two years in graduate training, he did his field training at the Pennsylvania Prison Society, also in Philadelphia. At this now 193 year old private agency dedicated to prison reform and the provision of direct services to prisoners 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 nearly a year before entering the U. S. Army with a direct commission as a 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 months later, this innovative facility began operation, with a capacity of accomodating 2,000 prisoners at one time and involving over 10,000 men in its 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 the 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. He has studied and trained in group dynamics, including such experimental 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, inmate grievance procedures, and negotiations and collective bargaining. Preston was a delegate to the First International Ombudsman Conference in Edmonton, Alberta, Canada (1976). He attended the first three conferences of the U. S. Association of Ombudsmen, held respectively in Seattle, Washington (1977), Dayton, Ohio (1978), and Minneapolis, Minnesota (1979). He participated in the U. S. Conferences as a panel reactor and workshop facilitator.

He was previously active as a volunteer, consultant and board member of various 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, the Shawnee County Youth Center and the Topeka Chapter of the Kansas Council on Crime and Delinquency for which he served as Chairman. Currently, he is a member of the National Association of Social Workers, the National Council on Crime and Delinquency and the American Correctional Association.

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 he was appointed Corrections Ombudsman on September 15, 1975, by the Corrections Ombudsman Board. In this capacity he also functions as Executive Secretary to the Board.



David Jensen -- Ombudsman Associate

David was appointed Ombudsman Associate in August, 1978. His duties include handling complaints primarily at the Kansas State Penitentiary and compiling and presenting the Office's statistical research.

David traces his career in corrections back to a series of chance events. After graduating from high school, David had no idea where he wanted to attend college, or what field he wanted to pursue. However, when the football coach from Washburn University in Topeka offered him a scholarship to play football, it was an easy decision. Once at Washburn, he happened to overhear another student talking about a psychology practicum with the

Shawnee County Adult Probation Office. His curiosity aroused, David enrolled in the course. After finding the work to be challenging and rewarding, he checked around and found that Washburn actually offered a major in Corrections. David signed up for a Corrections internship with the same office, but his internship was shorter than expected because he was hired as an adult probation officer in March, 1973. Working full time, he hung on to complete his requirements for a Bachelor of Arts degree with a double major in Psychology and Corrections in August, 1974.

David worked for three and a half years as an adult probation officer for Shawnee County Adult Probation, which became a part of the consolidated Shawnee County Court Services. As an adult probation officer, his 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, David also worked weekends as a juvenile intake officer with Court Services. His responsibilities were to evaluate and make decisions as to detention and/or processing of youths through or outside the court system. While with Court Services, David also served as a volunteer probation sponsor, went on a week-long canoe trip to Minnesota with a group of court-referred youths, and worked with a drug "rap group" as a volunteer leader.

In August, 1976, David resigned from Court Services to attend the two year Social Work graduate program at the University of Kansas School of Social Welfare. As a part of his requirements for the first year, he spent two to three days a week in field training in the Ombudsman Office. His work included handling complaints at the Kansas State Penitentiary, and assisting in the preparation of the "Report on the Adjustment and Treatment Building at the Kansas State Penitentiary." During his second year of graduate training, David gained clinical experience by spending three days a week in field work training with Shawnee County Mental Health Services in Topeka. He provided individual, marital, and family counseling; and co-led a couples group. In order to survive while attending graduate school, David worked the following part-time jobs: graduate research assistant, Criminal Justice Department, Washburn University; summer field supervisor, Topeka Department of Labor Services; administrative assistant, University of Kansas, School of Social Welfare; and GED instructor for Court Services.

After graduating in May, 1978 with a Masters Degree in Social Work, David returned to Washburn University's Criminal Justice Department, and spent an enjoyable summer serving as correctional intern coordinator and teaching an introductory course to Corrections. He left Washburn University at the end of the summer to accept the Ombudsman Associate position.

David has developed his skills by participating in numerous continuing education seminars and workshops. Those directly related to his Ombudsman work include: "Ombudsman Investigator Training," "Investigations in Ombudsman Offices," "Conflict Management," "Dealing with Conflict," "Managerial Problem Solving and Decision Making," "Personnel Policies and Procedures," "Written Communication Skills for Managers," and "Effective Report Writing". On invitation of the Department of Corrections, he attended the "Correctional Management Training Seminar," and the "Classification Study Workshop". David also has continuing education training in group work, assertiveness, drug education, reality therapy, microcomputers, gestalt therapy, and probation and parole techniques.



Pamela S. (Goodman) Sosa -- Admin. Secretary

Pam has served the Office of the Ombudsman for Corrections as Administrative Secretary since September, 1978. Besides her more fulfilling office tasks -- sharpening pencils and cleaning the coffee area -- Pam's responsibilities include things such as secretarial support, maintaining the library, assisting in the compilation of the Office's statistical data, financial recordkeeping and supervising the Typist. One major responsibility Pam handles jointly with the Ombudsman is assisting the Corrections Ombudsman Board. The two also tackle such things as writing grants, budgets, and annual reports.

After graduating from high school, where her major interests included debate, forensics and music (vocal, instrumental and theory), Pam attended a year of college at Faith Baptist Bible College in Ankeny, Iowa. Since that time she has furthered her studies in many diverse areas -- from auto mechanics to wood carving. Pam has attended workshops and seminars on many different things including assertiveness training, time management, effective report writing, investigations in Ombudsman Offices, microcomputers, images in print, effective supervision, and conflict management.

Pam's previous job experiences include sales work, and secretarial work with the city and county. Her county governmental experience was with the Shawnee County Treasurer's Office. Her city experience was with the Topeka Public School System where she was the secretary for the Instructional Specialist of Music and the Instructional Specialist of Foreign Languages. Some things unique to this position were maintaining the system's Central Music Library, learning to type on a Russian typewriter (and not being able to read -- never mind proofreading what was just typed, trying to relate to an overseas operator who spoke only Spanish (knowing all the while her only foreign language experience was in French), and being a little green elf for some elementary school children during the Christmas season!!

Her interests lie in many fields. She enjoys participating in sports like basketball, football, tennis, swimming, and fishing; sewing; making crafts; cooking; and spending time with her new husband, John, her family, and her friends.

Pam has found her work with the Ombudsman Office both fulfilling and rewarding. She has learned much more about Ombudsmanry, the corrections system, people in general, and herself while serving with the Office.



Marais Phillips -- Typist

Marais Phillips has served the Office of the Ombudsman for Corrections as Typist since June, 1979. Marais' responsibilities include typing correspondence, filing, registering cases, conducting receptionist duties and assisting the Ombudsman Associate and the Administrative Secretary with the compilation of statistics.

Before Marais took on the big task of joining up with the Ombudsman Office, she was a licensed day care worker from her home. Marais was given the responsibility by six families to be more than a babysitter. She was given the responsibility for teaching the children how to pick up after themselves and how to become helpers around the home.

She also taught them how to understand and deal with their needs as children. Other jobs Marais has held include being a swimming instructor for underprivileged Indian children and being a waitress.

Since joining the Office, Marais has attended the following seminars: "Third Annual Office Personnel Seminar," "Evaluation of Employees: The Form and the Interview," and "The Budget Process".

Because Marais enjoys working with people and trying to understand their needs she has found the challenge of working with the Ombudsman Office an enjoyable experience.



Sandra J. Blankenship -- Staff Assistant

As a graduate student of Kansas University School of Social Welfare, Sandra served the Office of the Ombudsman for Corrections as a Staff Assistant. From September of 1979 through June of 1980, she assisted staff by handling complaints at the Lansing institutions -- Kansas State Penitentiary and the Kansas Correctional Institution for Women.

Prior to joining the staff of the Office of the Ombudsman, Sandra served as a caseworker with Salem Children's Home in Flanagan, Illinois. As a caseworker, her responsibilities included counseling with youth; family counseling; serving as a liaison between the facility and the community; and coordinating several programs such as the foster care program and the vocational training program. While at Salem Children's Home, she worked with adolescent youth, families, foster parents, and teenaged educable mentally handicapped boys. Sandra's other professional experiences included positions with the Illinois Status Offender's Program and the Illinois Department of Children and Family Services.

In May of 1974, Sandra completed her undergraduate work in social welfare at the Illinois State University. In order to supplement that training and education, she has participated in the following seminars and in-service training sessions: "Death & Dying," "Effective Parenting,"

"Assertiveness Training," "Women's Seminar," "Family Therapy," "Child Development Seminar," "Use of Discipline," "Treatment for Learning Problems," "Child Abuse Seminars," "Basic Youth Conflict Seminar," and "Exploration of Emotions".

Although school and work presently occupy most of her time, Sandra has other interests. Some of her favorite ones include needlepoint and other crafts, refinishing furniture, reading, cooking, hiking, bicycling, and spending time with her family and friends.



Priscilla A. Bell -- Staff Assistant

A native Oklahoman, Priscilla Bell comes to the position of Staff Assistant during her summer break from graduate studies at the University of Kansas. After graduating from a Tulsa high school, she attended Oklahoma Baptist University. She later transferred to Northwestern Oklahoma State University where she earned a B.A. degree in Social Welfare.

After college, Priscilla went to work for the Oklahoma Department of Corrections where she worked as a Probation and Parole Officer for three years in Tulsa, Oklahoma. During this time she did graduate work in corrections at Oklahoma State University.

After leaving the Department of Corrections, she was employed at the Lloyd E. Rader Diagnostic and Evaluation Center for Juveniles in Sand Springs, Oklahoma. For 10 months she worked as a Youth Guidance Specialist with teenage girls 15 through 18 year of age. The diagnostic center was a residential center for juveniles who have been placed in the custody of the Oklahoma Department of Institutional and Rehabilitative Services.

Priscilla is now pursuing her Master's Degree in Social Work at the University of Kansas. Her second year concentration will be in Community Mental Health.

DEFINITIONS OF COMPLAINT HANDLING TERMS

I. Categories of Complaints

A. Care and Maintenance:

1. Food - Preparation and serving of food.
2. Medical (Physical) - Availability of medical staff, medical facilities, and treatment. (Includes only somatic and not psychiatric ailments.)
3. Record Keeping - Compiling of financial records, computation of sentences; location of records, and any other record keeping procedures.
4. Visiting - Management of inmate visiting lists, visits, and visitors.
5. Physical Facilities - Condition of physical facilities at an institution.
6. Mail - Sending and receiving correspondence and packages.

B. Safety and Security:

7. Physical Threat and Abuse - Threats or incidents of bodily harm.
8. Property Loss/Physical Disability - Loss, destruction or theft of personal property; and permanent disability injuries.

C. Maintenance of Institutional Order:

9. Disciplinary Procedures - Inmate rules and the disciplinary process.
10. Daily Routine - Practices, expectations, scheduled activities, and the like which govern institutional life and conditions.
11. Internal Grievance Procedure - Management of inmate complaints through informal and formal steps of the Department of Corrections' Inmate Grievance Procedure.
12. Complaints Against Staff - Prejudicial and arbitrary behavior.

D. Rehabilitation:

13. Inmate Activity Group - Institutional and Departmental relations with inmate self-help groups and their outside sponsoring organizations.
14. Parole - Complaints relating to the Kansas Adult Authority.
15. Counseling and Mental Health - Availability of professional counseling and services, and utilization of psychopharmacological medications and psychiatric evaluations.

16. Education, Work, Training - Assignment and termination of work or educational/vocational training programs; the development and carrying out of rehabilitation programs.
17. Custody Status, Parole Eligibility, and Transfers - Process of forming and reporting decisions about custody level, certification to see the Kansas Adult Authority, home furloughs, funeral visits, and institutional and cell house transfers.

E. Miscellaneous:

18. Complaints From Staff - Complaints from Department of Corrections staff members.
19. Legal - Court procedures and the processing of legal documents.
20. Other - Complaints which do not fit within any of the above categories.
21. Unknown - Withdrawn or solved prior to the collection of sufficient information to categorize.

II. Assessments of Complaints

- A. Discrepant Action - Behavior, decisions, and actions allegedly discrepant from the regulations, policies, procedures, or the state law.
- B. Policy Issue - Rules, regulations, guidelines, procedures, policies or laws which are allegedly problematic.
- C. Explanation - Administrative decision unclear or inadequately explained.
- D. Outside Jurisdiction - Beyond statutory power to investigate.
- E. Not Conducive to Investigation - Beyond current capacity to handle, beyond current level of expertise, global in nature, data not conducive to verification, frivolous, date of occurrence too old, or complainant does not have a sufficient stake in the issue.
- F. Crisis - A current or impending danger, requiring usual Ombudsman procedures to be set aside.
- G. Unknown - Withdrawn or solved prior to the collection of sufficient information to assess.

III. Dispositions of Complaints

- A. Direct Intervention Between Complainant and the Department of Corrections:
  1. Recommendation for Corrective Action - A verbal and/or written recommendation for administrative action. Three possible responses: a) Fully Accepted; b) Partially Accepted; and c) Not Accepted.

2. Facilitated Communication - Direct or indirect bridging of communication between parties.
3. Observed and Monitored - Ombudsman presence in a situation for the purpose of preventing deviations from policy or preventing susceptibility of false allegations of such.
4. Unfounded - No basis in fact.

B. Indirect Intervention Between the Complainant and the Department of Corrections:

1. Information and/or Referral - Complainant provided with information on how to go about solving the problem, and/or referred to other resources. Also, information provided about operation of the Ombudsman Office, Department of Corrections and other agencies.

C. Closed Prior to Completed Intervention:

1. Withdrawn - Complainant requested Ombudsman take no further action, or failed to follow through with requests or recommendations made by the Ombudsman.
2. Solved Prior - Resolved before completion of Ombudsman's investigation and report of his findings.

IV. Management Levels Within the Department of Corrections Involved in the Resolution of Complaints

- A. Line Staff - Main institutional work force; clerical staff; Correctional Officers I and II; detail officers and maintenance staff.
- B. Line Supervisors - Correctional Supervisors I and II (Lieutenants and Captains), and all Unit Team members.
- C. Professional Staff - Staff members operating in a professional or para-professional capacity in the medical, legal, mental health, religious, educational and vocational training fields.
- D. Middle Management - Supervises two or more line supervisors, and/or has major programmatic responsibilities.
- E. Directors - Institutional Directors and Deputy Directors.
- F. Secretary - The Secretary of Corrections and Deputy Secretaries.
- G. Referral Resources - Legal Services for Prisoners, Inc., the Kansas Adult Authority, and other resources.
- H. External to Department of Corrections - Office of the Governor, the Legislature, and the Press.
- I. None - None of the above levels were involved.

STATUTORY CITATIONS

Article 74.—CORRECTIONS  
OMBUDSMAN BOARD

Cross Reference to Related Sections:

Department of corrections, correctional institutions, see ch. 75, art. 52.

**74-7401. Corrections ombudsman board; composition; appointment; terms; vacancies; officers; compensation and expenses; powers and duties; access to corrections records and facilities.** (a) There is hereby established and created as an independent agency within the executive branch of state government, the corrections ombudsman board. Prior to September 1, 1980, such board shall consist of 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. On and after September 1, 1980, such board shall consist of ten (10) members, two (2) of whom shall be appointed by the governor, two (2) of whom shall be appointed by the attorney general; two (2) of whom shall be appointed by the chief justice of the supreme court; two (2) of whom shall be appointed by the speaker of the house of representatives; and, two (2) of whom shall be appointed by the president of the senate.

The members of said board shall hold their respective offices for a term of four (4) years and until their successors are appointed and qualified. On September 1 of each fourth year thereafter, the governor, attorney general, chief justice of the supreme court, speaker of the house of representatives and the president of the senate shall each appoint one member to such board. On September 1, 1980, and on September 1 of each fourth year thereafter, the governor, attorney general, chief justice of the supreme court, speaker of the house of representatives and the president of the senate shall each appoint one member to such board. Members serving on such board on the effective date of this act shall serve as members of the corrections ombudsman board for the remainders of the respective terms for which appointed. In case of a vacancy on such board,

the person appointing the member creating the vacancy shall appoint a successor who shall serve for the remainder of the term of the member creating such vacancy. The members of such board shall be selected as far as practicable so that they will be residents of different parts of the state.

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

(c) Members of the board attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation as provided in subsection (a) of K.S.A. 75-3223, and amendments thereto, and in addition thereto the amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto.

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

(1) Appoint and supervise the activities of the ombudsman of corrections and establish the amount of compensation to be paid to such ombudsman as provided by K.S.A. 1978 Supp. 74-7403 or any amendments thereto.

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

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

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

**History:** K.S.A. 75-5230; L. 1978, ch. 370, § 1, July 1.

Revisor's Note:

Section transferred from 75-5230.

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

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

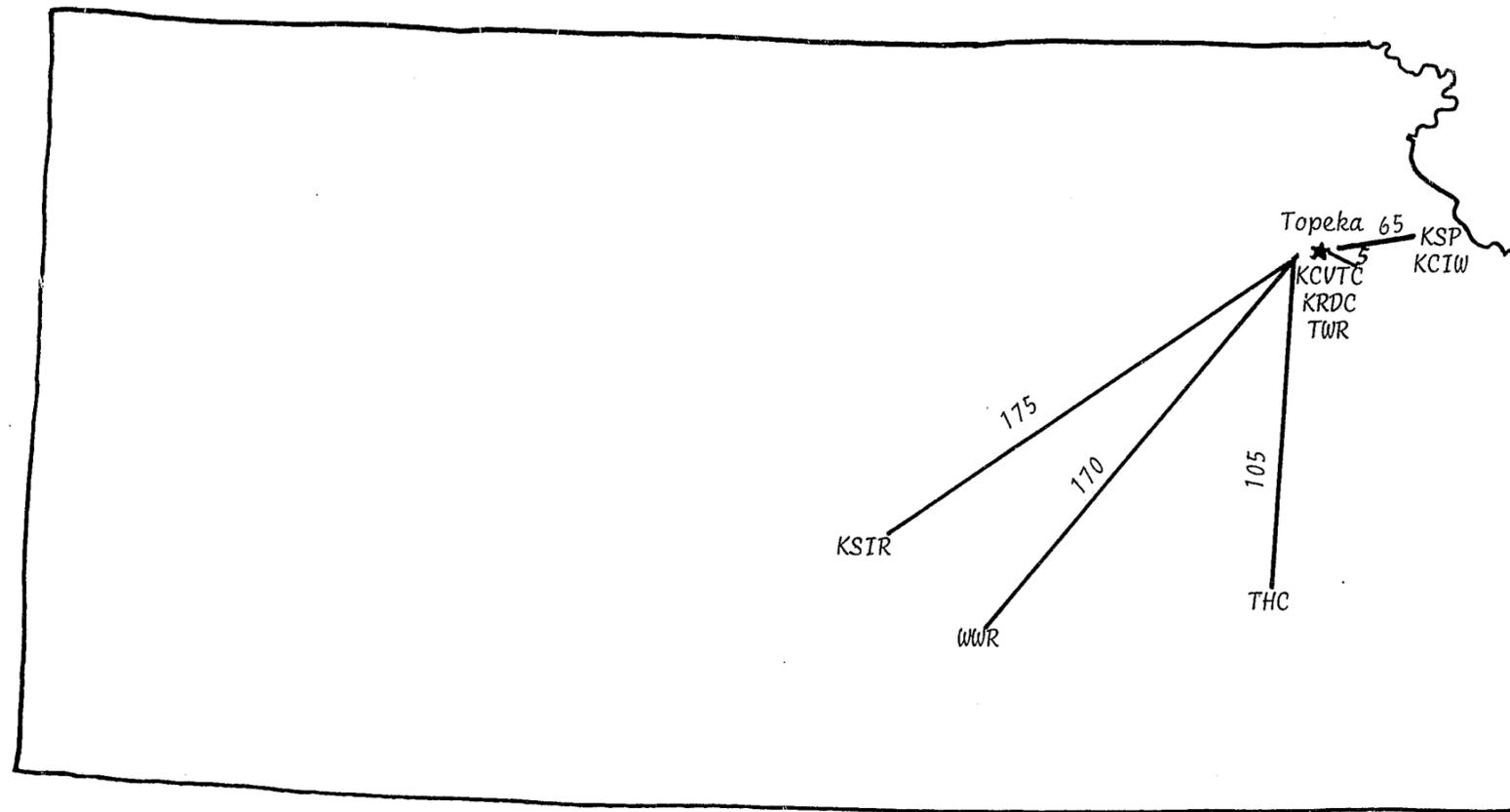
**74-7403. Ombudsman of corrections; appointment; duties; compensation; office space; employees; complaints forwarded to secretary of corrections.** The board shall appoint an ombudsman of corrections who shall serve at the pleasure of such board. Such ombudsman shall act as secretary of such board and shall perform such other duties and functions as may be required by the board. The compensation paid to such ombudsman shall be fixed by the board subject to approval by the governor. The secretary of administration shall provide the ombudsman with office space at Topeka. The ombudsman may appoint such employees as may be necessary to carry out the duties of the office of ombudsman of corrections and as are within available appropriations, 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 in the custody of the secretary of corrections 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 board. The ombudsman shall forward complaints and grievances directly to the secretary of corrections for consideration by the secretary.

**History:** K.S.A. 75-5231; L. 1978, ch. 370, § 3; L. 1978, ch. 330, § 41; July 1.

Revisor's Note:

Section transferred from 75-5231.

*Distances in Miles to Department of Corrections' Adult Correctional Facilities  
from the Ombudsman Office in Topeka*



- 09 -

KCIW - Kansas Correctional Institution for Women, Lansing  
 KCVTC - Kansas Correctional-Vocational Training Center, Topeka  
 KRDC - Kansas Reception and Diagnostic Center, Topeka  
 KSIR - Kansas State Industrial Reformatory, Hutchinson

KSP - Kansas State Penitentiary, Lansing  
 THC - Toronto Honor Camp, Toronto  
 TWR - Topeka Work Release, Topeka  
 WWR - Wichita Work Release, Wichita

**A Study:**

**The Documentation of  
Decision Making Processes for  
Inmate Management at the  
Kansas Correctional  
Institution for Women**

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

December 7, 1979

SUMMARY

During the summer of 1979 the Ombudsman Office conducted a study of the documentation process of decisions and their rationale regarding inmates at the Kansas Correctional Institution for Women. The study reviewed a stratified random sample of 20 (22%) of the institutional files of inmates confined at the institution during the week of July 23, 1979. The sample was selected in such a manner as to control for sampling biases regarding race, length of time served at the institution and the length of sentence.

Each file was reviewed for problems in both the presence and absence of documents, and in the content of documents. The standard used for evaluating discrepancies in each file were those promulgated by the Kansas Department of Corrections, the Kansas Correctional Institution for Women and the generally accepted practices of both governmental entities.

The finding was that 100% of the sample files contained 2 to 20 discernable discrepancies, with a total of 128 discrepancies. Six discrepancies were attributed to filing errors. The remaining discrepancies appeared to be the result of decisions rather than errors caused by the mechanical process of filing.

The highest number of discrepancies was related to the departmental requirement that institutions provide evaluations of inmates every 90 days. Of the 80 evaluations which should have been present in these 20 files, only 43 (54%) of them were present. Other problem areas identified included initial inmate program reports, parole eligibility computation, custody status, progress reports, reports of disciplinary procedures, filing, mail, and visiting. Many of these problem areas have a direct impact on decisions regarding the treatment of inmates and the timing of their eventual freedom. The raw data for each of the 20 sample files is presented in the report so the reader can arrive at an independent conclusion.

In addition to the survey of institutional inmate files, the report includes anecdotes of complaints handled by the Ombudsman Office at the Women's Institution. The purpose for presenting these anecdotes is to help bring the implications of the identified discrepancies more alive to the reader. Additional concerns identified in these anecdotes include the difficulty inmates have experienced in filing for clemency to the Governor of Kansas, and filing grievances to the institutional Director and the Secretary of Corrections. A significant concern identified was the practice of locking women up in rooms which do not have toilet facilities.

A total of 12 problem areas were identified as a result of these findings, 27 recommendations for corrective action were made to the Secretary of Corrections. The Secretary's letter of April 14, 1980 in response to these recommendations is attached to the report.

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## INTRODUCTION

The Kansas Correctional Institution for Women (KCIW) in Lansing, Kansas is the sole long-term correctional facility for female offenders in the State of Kansas. Compared with the state-wide male population of over two thousand inmates in four institutions, KCIW is a small system with a population that averages around ninety inmates.

In the past, the Office of the Ombudsman for Corrections has been able to provide only occasional complaint handling for KCIW because of staffing limitations and the priorities posed by the two large male institutions. During the spring and summer months of 1979, however, the Ombudsman Office, shifting priorities somewhat, was able to provide extensive coverage for KCIW. As the Ombudsman Office became increasingly involved, it became apparent that attempting to solve each complaint individually was ineffectual. Inmate and staff complaints began to form a pattern of concerns. The volume of complaints received by the Ombudsman was disproportionately high for the small population. In the short time of complaint handling, the Ombudsman was involved in 72 cases, 7 of which pertained to staff members and 65 to inmates.

Because of these factors, it was determined that a more efficient approach was necessary. As it was impossible to pursue all the problem areas which had been identified, it was decided to conduct a study of the documentation of the decision making processes for inmate management. During the week of July 23, 1979, twenty inmate files were surveyed. The twenty files (which represented 22% of the institutional population of July 19, 1979) were chosen for the review according to a stratified random sample designed to guard against sampling bias. This report presents the data collected in that survey, along with a series of case anecdotes that illustrate the implications for individuals at KCIW. The design of the report is intended to provide both an objective analysis of the files surveyed and a description drawn from case anecdotes that will provide insight into the far-reaching ramifications of this problem area at KCIW.

This report contains:

1. An explanation of the issues reviewed in the sample files.
2. A description of the methods used to collect the data.
3. An outline of the discrepancies observed in the sample files.
4. Case anecdotes that illustrate the implications of these discrepancies.
5. A discussion and conclusion of the concerns and findings of the study.

## THE ISSUES

In each sample file, certain documents -- their presence or omission and their regularity -- were surveyed. The documents are the products of institutional procedures that are mandated and structured for all state correctional facilities by the Kansas Department of Correction. The following is a summary of the Departmental regulations and/or practices relating to these procedures:

### Ninety Day Review and Report

Under Department of Corrections' Regulation 44-5-107 the Unit Team "shall be responsible for developing, implementing, monitoring, and modifying an inmate's rehabilitative plan." The Unit Team shall "review the inmate's record and interview the inmate every 90 days and shall make a progress report thereon ..." The Unit Team, led and supervised by a Unit Team Supervisor, can make the following recommendations in the 90-day review report: the allocation of good time credits; advances or delays the inmate's parole eligibility date; changes in the inmate's custody classification; and recommendations for changes in counseling, vocational, educational, and work programs. All of the recommendations made by the Unit Team in the 90-day review report must be approved and can be modified by the Program Management Committee (PMC), a committee comprised of staff members from various areas of the institution. The 90-day review reports, after meeting the approval of the PMC, are reviewed and signed by the Director at KCIW. After the report has received approval at all levels, a copy is placed in the inmate's file, a copy is given to the inmate and her counselor, and a copy is sent to the Department of Corrections' central office.

The 90-day review procedure is the standard procedure mandated by the Department of Corrections to ensure that inmate progress is regularly monitored and subsequent recommendations are documented. For the inmates, the review procedure is important as a feed-back device of their behavior and of their fulfillment of the institution's expectations.

Subsequent special progress reports for parole, clemency, work release and home furlough are based upon the entire series of 90-day review reports which trace the inmate's performance.

### Initial Programs

As outlined by Department of Corrections' Regulation 44-5-106 the Unit Team is responsible for developing a rehabilitation plan and timetable for each inmate. The rehabilitation plan can include recommendations for work assignment, educational and vocational programs, attitude improvement, counseling, and parole planning.

The goals set by the Unit Team in the initial program are used as guidelines to assess an inmate's progress for her 90-day review reports. It is common practice to require an inmate to achieve the goals outlined on her initial program before the Unit Team will recommend her for parole.

The initial program serves as a structuring device for both the institution and the inmate. Usually developed by the Unit Team in an interview with the inmate, the initial program is signed by the inmate, acknowledging that the institutions expectations have been explained. At KCIW, initial programs must meet the approval of the PMC and are reviewed and signed by the Director of the institution.

### Parole Eligibility Computations

The Kansas statutes regulating parole eligibility have recently been revised for persons convicted of crimes committed on or after January 1, 1979. For the design of this study, however, all records reviewed were of inmates entering the correctional system prior to January 1, 1979. Therefore, all references to parole eligibility computation in this report refer to the previous guidelines which remain in effect for those inmates.

Although there exists no written policy, the Ombudsman's research has confirmed that there is a generally accepted practice directing the computation of parole eligibility dates which is applied throughout the Department. The Departmental practice is to set the initial parole eligibility according to the formula -- one-half of the minimum sentence plus six months -- for inmates whose sentences do not include a mandatory minimum. For example, for an inmate with a four to twenty year sentence, the parole eligibility date would be set for 2 1/2 years from the date the sentence began. A minimum sentence of one year is categorically given an initial parole eligibility date of 10 months after the sentence began.

After the initial parole eligibility date is set for inmates without mandatory minimum sentences, the Unit Team and the PMC have the discretionary authority to alter the parole eligibility date, based upon the inmate's performance. Such recommendations are an integral part of the 90-day review process.

### Custody Status

Inmates enter the correctional system under "close" custody and must progress to "minimum" custody before they are considered for work release, furlough, or parole. Certain privileges are contingent upon custody status: number of monthly phone calls, restriction of movement, amount of time allocated for visitation, option to go outside of the institution for recreational or educational activities, etc.

Changes in custody are initiated by the Unit Team's recommendation in the 90-day review process, or if necessary, in a special review report. All custody changes, according to Department of Corrections' Regulation 44-5-107, must be approved by the PMC.

As outlined in KSA 75-7210 (b), custody is intended to be a systematic progression based upon "promotional rewards." As such, an inmate's custody should be advanced only when justified by her progress, specifically "progress made by the inmate toward attaining the educational, vocational, and behavioral goals set by the Secretary for the individual inmate."

Disciplinary Procedures

Disciplinary reports in inmate's file: Department of Corrections' regulation 44-11-508 states: "Case disposition and disciplinary reports shall be placed in inmate's file if there is a finding of guilty, otherwise no reference to the case shall be made in the inmate's file."

Right to appeal: For all disciplinary convictions the inmate has the right to appeal the verdict. In convictions of Class I violations (the most serious offenses), the inmate has the right to appeal to the Secretary of Corrections. (Prior to January 1, 1979, all classes of violations heard by a disciplinary board were appealable to the Secretary of Corrections.) For lesser violations, the appeal is to be sent to the Director of the institution. According to Department of Corrections' Regulation 44-11-701, each inmate shall be advised of her right to appeal Class I convictions to the Secretary of Corrections. Even with a plea of guilty, the inmate has the right to appeal if she can show that the plea was made fraudulently or under duress.

On the Department of Corrections' disciplinary board reporting form that is used throughout the system, there is a place for the inmate to sign verifying that she was notified of the final disposition of the case and of the right to appeal. The inmate's signature is obtained by the Unit Team after the disciplinary board action has been approved by the Director of the institution. The procedure of obtaining the inmate's signature serves to protect both the institution and the inmate. It confirms that the institution has fulfilled its obligation and that the inmate has been informed of the final disposition as approved by the Director and the right to appeal this disposition.

THE METHOD

During the week of July 23, 1979, twenty KCIW inmate files (representing 22% of the institution population as of July 19, 1979) were reviewed at the institution. For the purposes of the review, only the files of those inmates admitted to KCIW prior to January 1, 1979, were considered for the data collection -- a total of 51 inmates comprising the target population for this study. Thirty-nine inmates, those admitted to KCIW after January 1, 1979, were eliminated from the study as their records would not lend sufficient information for this study.

On July 19, 1979, the inmate control cards located in the KCIW control center were surveyed and were categorized for three inmate characteristics: race, time served at KCIW, and length of minimum sentence. The purpose of the preliminary survey and categorization was to determine the stratification of the inmate population so that the survey sample could be structured as similarly as possible to the target population.

The following is an outline of the characteristics of the target inmate population (51 inmates who have been at KCIW prior to January 1, 1979) and the corresponding characteristics of the inmates in the sample group.

<u>Race</u>	<u>Characteristic Stratifications of Target Population *</u>	<u>Sample Stratifications</u>
Black	22 (43%)	9 (45%)
White	27 (53%)	10 (50%)
Indian	1 (2%)	1 (5%)
Hispanic	1 (2%)	0 (0%)
<u>Admission to KCIW</u>		
7/1/78 - 12/31/78	21 (41%)	8 (40%)
1/1/78 - 6/30/78	14 (27%)	5 (25%)
7/1/77 - 12/31/77	6 (12%)	3 (15%)
1/1/77 - 6/30/77	4 (8%)	2 (10%)
before 1/1/77	6 (12%)	2 (10%)
<u>Minimum Sentence</u>		
1 year	18 (35%)	7 (35%)
2 - 4 years	10 (20%)	4 (20%)
5 - 9 years	16 (31%)	6 (30%)
10 - 20 years	2 (4%)	1 (5%)
Life	5 (10%)	2 (10%)

Target Population Total: 51

Sample Total: 20

The specified files chosen for review were randomly selected from an alphabetical list of inmates names, categorized for race, time served at KCIW, and length of minimum sentence. In the process of choosing the sample, inmates names were covered and cases were randomly chosen for the first fifteen. The last five cases had to be specifically chosen for particular characteristics so that the final sample would approximate the stratifications of the 51 inmates in the target population.

\* Target population defined as those 51 inmates at KCIW on July 19, 1979, who were admitted to KCIW prior to January 1, 1979.

### SAMPLE FILES

The review of the twenty sample files yielded a number of discrepancies. Multiple discrepancies were found in all 20 files and are presented in outline form:

#### Sample File #1

Controlling sentence: 5 years to life  
Sentence beginning date: 10/28/77  
Sentencing date: 12/2/77  
Admission date to KCIW: 12/28/77  
Initial parole eligibility date: 10/82  
(As this inmate was convicted under the "Firearms Act," she must serve her minimum sentence -- 5 years -- before she can be considered for parole.)  
Time served at KCIW: 19 months, or 6 1/3 quarters  
Number of 90-day review reports: 4

#### \*A. 90-day review report discrepancy -- Number:

Number of reports missing: 1

#### B. 90-day review report discrepancies -- Content

1. Although one review report is signed by the inmate, the Unit Team Counselor, one member of the PMC, and the Director, it is not dated. There is no indication as to when it was written or what period of time it covered.

2. Another review report was signed by only one member of the PMC.

#### Sample File #2

Controlling sentence: 5 years to life  
Sentence beginning date: 10/6/78  
Sentencing date: 10/6/78  
Admission date to KCIW: 10/26/78  
Initial parole eligibility date: 10/83  
Time served at KCIW: 9 months, or 3 quarters  
Number of 90-day review reports: 0

#### A. 90-day review report discrepancy -- Number:

Number of reviews missing: 1

#### B. Parole eligibility computation discrepancy

The initial parole eligibility date was set for 5 years on a 5 to life sentence. According to Departmental practice, the initial parole eligibility date on a 5 years to life sentence should be set for 3 years.

\* Number of 90-day review reports missing is determined by taking the sentencing date and adding 4 months to account for the time the inmate is under the court's custody for evaluation. Every third month, thereafter, a 90-day review is due.

#### C. Disciplinary procedure discrepancies

1. A 1979 disciplinary case of two Class I violations was dismissed; the disciplinary report is included in inmate's file.

2. A 1979 disciplinary board report was not signed by the inmate. It is impossible to determine if the inmate were advised of her right to appeal the guilty verdict, or if she were ever formally notified of the disposition of her disciplinary case.

#### D. Visitation discrepancy

In the inmate's file is a letter sent by the institution to a person who had requested permission to visit the inmate. The letter says that the institution had written this person's employer and that the employer had "indicated his disapproval." There are no letters to or from the employer in the file to back up the institution's statement.

#### E. Clemency discrepancy

In the inmate's file is a letter of January 9, 1979, from the Governor's Pardon and Extradition Attorney responding to the inmate's request for clemency and referring her to her Unit Team. (In June, 1979 -- six months later -- this inmate contacted the Ombudsman Office, because she was still trying to get her Unit Team to initiate clemency procedures.)

#### Sample File #3

Controlling sentence: 12 to 40 years  
Sentence beginning date: 2/11/76  
Sentencing date: 6/18/76  
Admission date to KCIW: 7/20/76  
Initial parole eligibility date: 8/82  
Time served at KCIW: 30 months, or 12 quarters  
Number of 90-day review reports: 7

#### A. 90-day review discrepancies -- Number

Number of reviews missing: 4

#### B. 90-day review discrepancies -- Content

1. Although the review report is signed by the inmate, the Unit Team Counselor, the PMC, and the Director, it is not dated. There is no indication as to when it was written or what period of time it covered.

2. A 1978 review report is signed by only one of three members of the PMC.

#### C. Initial Program discrepancy

No initial program is present in the inmate's file.

#### D. Custody discrepancy

The date the inmate received medium custody is listed as both March, 1978, and May, 1978, in the 90-day review reports. There is no review report or official document by the PMC that authorized the change to medium custody on either of those dates. Nor is there any record of the justification on which this custody advance was based.

E. Disciplinary Procedure discrepancies

1. A 1976 disciplinary case with the disposition of "not guilty" is present in the inmate's file.
2. A 1978 disciplinary board report was not signed by the inmate. It is impossible to determine if the inmate were advised of her right to appeal the guilty verdict or if she were ever formally notified of the disposition of her disciplinary case.
3. A second 1978 disciplinary board report was, also, not signed by the inmate.

Sample File #4

Controlling sentence: 2 to 20 years

Sentence beginning date: 10/19/77

Sentencing date: 2/22/78

Admission date to KCIW: 3/18/78

Initial parole eligibility date: 10/79

(As this inmate was convicted under the "Firearms Act," she must serve her minimum sentence -- 2 years -- before she can be considered for parole.)

Time served at KCIW: 16 months, or 5 1/3 quarters

Number of 90-day review reports: 2

A. 90-day review discrepancies -- Number

Number of reviews missing: 2

B. 90-day review discrepancy -- Content

Although one 90-day review report is signed by the inmate, the Unit Team Counselor, the P.M.C., and the Director, it is not dated. There is no indication as to when it was written or what period of time it covered.

C. Initial Program discrepancy

Although the initial program is signed by the inmate, the Unit Team Counselor, and the Director, it contains no date to indicate when it was written.

D. Disciplinary Procedure discrepancies

1. The disposition on a 1979 disciplinary case is marked both "not guilty" and "dismissed". The report remains in the inmate's file.
2. A 1979 disciplinary case, including one Class I violation and three Class II violations, was dismissed. The disciplinary report remains in the inmate's file.

Sample File #5

Controlling sentence: 1 to 10 years

Sentence beginning date: 12/1/78

Sentencing date: 12/1/78

Admission date to KCIW: 12/28/78

Initial parole eligibility date: 10/79

Time served at KCIW: 8 months, or 2 1/3 quarters

Number of 90-day review reports: 0

A. 90-day review discrepancy -- Number

Number of reviews missing: 1

B. Initial Program discrepancy

Although signed by the inmate, the Unit Team Counselor, and the Director, the initial program has no date to indicate when it was written.

Sample File #6

Controlling sentence: 1 to 10 years

Sentence beginning date: 8/25/78

Sentencing date: 8/25/78

Admission date to KCIW: 9/6/78

Initial parole eligibility date: 8/79

Time served at KCIW: 11 months, or 3 2/3 quarters

Number of 90-day reviews: 2

A. 90-day discrepancies -- Content

1. Although signed by the inmate, the Unit Team Counselor, the PMC, and the Director, the report is not dated to indicate when it was written or what period of time the review covers.

2. Although signed by the inmate, the Unit Team Counselor, the PMC, and the Director, the second 90-day review report is also not dated.

B. Initial Program discrepancy

Although signed by the inmate, the Unit Team Counselor, and the Director, the initial program contains no date to indicate when it was written.

C. Parole eligibility computation discrepancy

The inmate's initial parole eligibility date was set for one year on a 1 to 10 years sentence, rather than 10 months which is the general practice in the Department.

D. Filing discrepancies

1. Handwritten notes on another inmate's disciplinary board hearing are present in this inmate's file.

2. Another inmate's visiting list is present in this inmate's file from a man requesting visiting forms. On the letter is a notation that a visiting questionnaire was sent and returned. However, the visiting form is not in the file.

Sample File #7

Controlling sentence: 6 to life

Sentence beginning date: 9/16/77

Sentencing date: 5/9/78

Admission date to KCIW: 5/17/78

Initial parole eligibility date: 7/83

Time served at KCIW: 14 months, or 4 2/3 quarters

Number of 90-day review reports: 2

A. 90-day review discrepancy -- Number

Number of reviews missing: 1

B. 90-day review discrepancies -- Content

1. One 90-day review report includes no date to indicate when it was written or what period of time the evaluation covers. Although the review is signed by the inmate and the Unit Team Counselor, the review is not signed by PMC or the Director.

2. The other 90-day review report contains no date to indicate when it was written or the period of time the evaluation covers. The typed narrative is crossed out and marked over in pencil. Although signed by the inmate and the Unit Team, the review is not signed by any member of PMC or by the Director. There is no indication as to who made the changes, or whether the inmate's signature was obtained before or after the changes were made.

C. Initial Program discrepancy

Although signed by the inmate, the Unit Team Counselor, and the Director, the initial program includes no date to indicate when it was written.

D. Parole eligibility computation discrepancy

The initial parole eligibility date for this inmate was set for five years and ten months on a sentence of 6 years to life. Were Departmental practices followed, the parole eligibility date would have been set at three and one-half years from the date on which the sentence began.

E. Legal papers discrepancy

A xeroxed copy of a letter from the inmate's lawyer addressed to the inmate is in the inmate's file. There is no notation of a copy being sent to the administration nor is there any notation explaining the letter's presence in the inmate's file.

Sample File #8

Controlling sentence: 5 to life

Sentence beginning date: 2/7/77

Sentencing date: 3/4/77

Admission date to KCIW: 3/15/77

Initial parole eligibility date: 2/82

(As this inmate was convicted under the "Firearms Act" she must serve her minimum -- 5 years -- before she is eligible for parole consideration.)

Time served at KCIW: 28 months, or 9 1/3 quarters

Number of 90-day reviews: 6

A. 90-day review discrepancies -- Number

Number of reviews missing: 2

B. 90-day review discrepancies -- Content

1. Report number 1 -- Although it is signed by the inmate, the Unit Team Counselor, the PMC, and the Director, there is no date on the review to indicate when it was written or what period of time it covered.

2. Report number 2 -- signed by only one member of the PMC.

3. Report number 3 -- signed by only one member of the PMC; not signed by the Director of the institution.

4. Report number 4 -- Three copies of review report are present in the file; there is no way of knowing whether or not the inmate and her counselor received a copy of the report.

5. Report number 5 -- Two copies of the review report are in the inmate's file. There is no way of knowing whether or not the inmate and her counselor received a copy of the report.

C. Custody discrepancy

The date the inmate received minimum custody is listed as both 6/78 and 10/78 on a ninety-day review report. No other report or document issued by PMC granting minimum custody to this inmate is present in the file. There is no documentation in the inmate's file of the justification used to advance the inmate's custody.

Sample File # 9

Controlling sentence: 2 to 20 years

Sentence beginning date: 5/24/78

Sentencing date: 11/14/78

Admission date to KCIW: 11/28/78

Initial parole eligibility date: 3/80

Time served at KCIW: 8 months, or 2 2/3 quarters

Number of 90-day reviews: 0

A. 90-day review discrepancy -- Number

Number of reviews missing: 1

B. Initial Program discrepancy

Although signed by the inmate, the Unit Team counselor, and the Director, there is no date on the initial program to indicate when it was written.

C. Parole eligibility computation discrepancy

The initial parole eligibility date was set for 22 months on a 2 to 22 year sentence. According to Departmental practice, the parole eligibility date for a 2 to 20 year sentence is set at one and one-half years from the date the sentence began.

Sample File #10

Controlling sentence: 1 to 10 years

Sentence beginning date: 4/18/78

Sentencing date: 4/18/78

Admission date to KCIW: 5/19/78

Initial parole eligibility date: 12/79

Time served at KCIW: 15 months, or 4 2/3 quarters

Number of 90-day reviews: 3

A. 90-day review discrepancy -- Content

Although signed by the inmate, the Unit Team Counselor, the PMC, and the Director, one 90-day review report contains no date to indicate when it was written or what period of time it covers.

B. Parole eligibility computation discrepancy

The initial program eligibility date was set for twenty months on a 1 to 10 year sentence. Were Departmental practice followed, this date would be set at 10 months from the date the sentence began.

C. Disciplinary procedure discrepancies

1. A 1978 disciplinary case narrative says that the inmate plead guilty at the hearing and was given a sentence. However, in a later section of the disciplinary report form, the disposition is marked "other", rather than "guilty". It is impossible to accurately determine the disposition of the disciplinary case as the report provides contradictory information.

2. On a 1979 disciplinary case of multiple charges, the inmate plead guilty to one charge and the other three charges were dismissed. On the "admission of guilt" release form which the inmate signed, all four charges are listed, giving the indication that the inmate plead guilty to all four charges. With such contradictory records, it is impossible to know what occurred in the disciplinary process.

3. A 1978 disciplinary board report was not signed by the inmate. It is impossible to determine if the inmate were advised of her right to appeal the guilty verdict, or if she were ever formally notified of the disposition of her disciplinary case.

4. A second 1978 disciplinary board report, also, was not signed by the inmate.

5. A third 1978 disciplinary board report, also, was not signed by the inmate.

6. A 1979 disciplinary board report, also, was not signed by the inmate.

D. Visitation discrepancy

A letter of May, 1979, from a Kansas City man asking for permission to visit this inmate is present in the file. There is no indication that a questionnaire was ever sent or that approval was ever given or denied.

Sample File #11

Controlling sentence: 4 to 20 years

Sentence beginning date: 2/12/77

Sentencing date: 12/6/77

Admission date to KCIW: 12/27/77

Initial parole eligibility date: 2/81

(As this inmate was convicted under the "Firearms Act," she must serve her minimum -- 4 years -- before she is eligible for parole.)

Time served at KCIW: 20 months, or 6 2/3 quarters

Total 90-day reviews: 2

A. 90-day review discrepancies -- Number

Number of reviews missing: 3

B. 90-day review discrepancy -- Content

One 90-day review report is not signed by the Director of the institution.

C. Initial Program discrepancy

There is no initial program present in the inmate's file.

D. Disciplinary Procedure discrepancy

A 1978 disciplinary board report is not signed by the inmate. It is impossible to determine whether the inmate were advised of her right to appeal the guilty verdict or that she were ever formally notified of the disposition of her disciplinary case.

Sample File #12

Controlling sentence: 1 to 10 years

Sentence beginning date: 7/20/78

Sentencing date: 7/28/78

Admission date to KCIW: 8/17/78

Initial parole eligibility date: 5/80

Time served at KCIW: 12 months, or 4 quarters

Number of 90-day reviews: 1

A. 90-day review discrepancy -- Number

Number of reviews missing: 1

B. 90-day review discrepancy -- Content

Although signed by the inmate, the Unit Team Counselor, the PMC, and the Director, the 90-day review contains no date to indicate when it was written or what period of time it covers.

C. Initial Program discrepancy

Although signed by the inmate, the Unit Team Counselor, and the Director, the initial program contains no date to indicate when it was written.

D. Parole eligibility computation discrepancy

The initial parole eligibility was set for 22 months on a 1 to 10 year sentence. Were Departmental practice followed, the initial parole eligibility date for a 1 to 10 year sentence would be set for 10 months after the sentence beginning date.

E. Disciplinary procedure discrepancy

A 1979 disciplinary case which was dismissed because of "insufficient evidence" is present in the inmate's file.

Sample File #13

Controlling sentence: 5 to life  
Sentence beginning date: 8/20/77  
Sentencing date: 11/23/77  
Admission to KCIW: 11/30/77  
Initial parole eligibility date: 9/82  
Time served at KCIW: 20 months, or 6 2/3 quarters  
Number of 90-day reviews: 4

- A. 90-day review discrepancy -- Number  
Number of reviews missing: 1
- B. 90-day review discrepancies -- Content
1. 90-day review report of 6/78 is signed by only one member of the PMC and is not signed by the Director.
  2. 90-day review report of 10/78 is signed by only one member of the PMC and not signed by the Director.
- C. Parole eligibility computation discrepancy
- The initial parole eligibility was set for 5 years on a 5 years to life sentence. Were Departmental practice followed, the initial parole eligibility date on a 5 year minimum sentence would be set for 3 years after the sentence beginning date.
- D. Custody discrepancy
- This inmate is currently on minimum custody. Her 90-day reviews indicate that she received minimum custody June, 1978, and medium custody March, 1978. Although there is a review of June, 1978, that authorizes the granting of minimum custody by the PMC, there is no such PMC authorization for medium custody, supposedly granted three months earlier. There is no documentation of the justification used to lessen this inmate's custody status.

Sample File #14

Controlling sentence: 3 to 20 years  
Sentence beginning date: 7/24/78  
Sentencing date: 7/24/78  
Admission to KCIW: 7/26/78  
Initial parole eligibility date: none listed  
(As this inmate was convicted under the "Firearms Act," she must serve her minimum sentence, 3 years, before she is eligible for parole consideration.)  
Time served at KCIW: 12 months, or 4 quarters  
Number of 90-day reviews: 0

- A. 90-day review discrepancies -- Number  
Number of reviews missing: 2

B. Initial Program discrepancy

No initial program is present in this inmate's file. Therefore, as this inmate has received neither a 90-day review nor an initial program in her twelve-month stay, a parole eligibility date has not been determined. There is no indication that a treatment program has been structured for the inmate nor that the inmate has been advised of the institution's expectations for satisfactory progress, leading to her return to the free community.

Sample File #15

Controlling sentence: life  
Sentence beginning date: 7/27/77  
Sentencing date: 1/19/78  
Admission date to KCIW: 2/1/78  
Initial parole eligibility date: 10/92  
(With a life sentence, the inmate must serve a minimum of 15 years before she is eligible for parole consideration.)  
Time served at KCIW: 18 months, or 6 quarters  
Number of 90-day review reports: 0

- A. 90-day review discrepancies -- Number  
Number of reviews missing: 4

B. Initial Program discrepancy

Although signed by the inmate, the Unit Team Counselor, and the Director, the initial program contains no date to indicate when it was written.

Sample File #16

Controlling sentence: 1 to 5 years  
Sentence beginning date: 11/12/78  
Sentencing date: 12/15/78  
Admission date to KCIW: 12/27/78  
Initial parole eligibility: 12/79  
Time served at KCIW: 7 months, or 2 1/3 quarters  
Number of 90-day review reports: 0

- A. 90-day review discrepancy -- Number  
Number of reviews missing: 1

B. Initial Program discrepancy

Although signed by the inmate, the Unit Team Counselor, and the Director, the initial program contains no date to indicate when it was written.

C. Parole eligibility computation discrepancy

The initial parole eligibility date was set for 13 months on a 1 to 5 year sentence, rather than 10 months had general Departmental practice been applied here.

D. Disciplinary procedure discrepancy

A 1979 disciplinary board is not signed by the inmate. It is impossible to determine if the inmate were advised of her right to appeal the guilty verdict or if she were ever formally notified of the disposition of her disciplinary case.

Sample File #17

Controlling sentence: 1 to 5 years  
Sentence beginning date: 8/24/78  
Sentencing date: 9/29/78  
Admission date to KCIW: 10/13/78  
Initial parole eligibility date: none  
Time served at KCIW: 10 months, or 3 1/3 quarters  
Number of 90-day reviews: 2  
Paroled by KAA: 8/10/79

A. 90-day review discrepancy -- Content

Although signed by the inmate, the Unit Team Counselor, the PMC, and the Director, one 90-day review report contains no date indicating when it was written.

B. Initial Program discrepancy

Although this inmate has served 12 months and has been subsequently paroled, there is no initial program in her file.

C. Parole eligibility computation discrepancy

Since there is no initial program for this inmate, an initial parole eligibility date was never determined, in spite of the fact that she was paroled by the KAA in August, 1979.

D. Filing discrepancy

This inmate was reviewed by the Kansas Adult Authority in July, 1979, for a parole hearing. According to KCIW staff, she was placed on "continued status" directing that she remain at KCIW until her parole arrangements were finalized. Although she met the KAA early in July, as of July 31, 1979 no record of any KAA action was present in the inmate's file.

Sample File #18

Controlling sentence: 1 to 20 years  
Sentence beginning date: 7/28/78  
Sentencing date: 9/21/78  
Admission date to KCIW: 10/2/78  
Initial parole eligibility date: 7/79  
(As inmate was convicted under the "Firearms Act," she must serve the minimum sentence before she is eligible for parole.)  
Time served at KCIW: 10 months, or 3 1/3 quarters  
Number of 90-day reviews: 1

A. 90-day review discrepancy -- Number

Number of reviews missing: 1

B. Initial Program discrepancy

Although signed by the inmate, the Unit Team Counselor, and the Director, the initial program includes no date to indicate when it was written.

C. Custody discrepancy

The 90-day review refers to the inmate's receipt of medium custody in March, 1979. There is no document in the inmate's file, however, authorizing the granting of medium custody by the PMC. There is no documentation of the justification used to lessen the inmate's custody status.

Sample File #19

Controlling sentence: 1 to 5 years  
Sentence beginning date: 2/22/77  
Sentencing date: 5/20/77  
Admission date to KCIW: 5/31/77  
Initial parole eligibility date: 12/2/77  
Time served at KCIW: 26 months, or 8 2/3 quarters  
Number of 90-day reviews: 1  
Paroled by KAA: 8/3/79

A. 90-day review discrepancies -- Number

Number of 90-day reviews missing: 6

B. 90-day review report discrepancy -- Content

Although signed by the inmate, the Unit Team Counselor, the PMC, and the Director, the 90-day review report contains no date to indicate when it was written or the time period covered by the review.

C. Initial Program discrepancy

The initial program was completed more than 7 months after the inmate was admitted to KCIW. (During this time period, the inmate was not absent from the institution.)

Parole Progress Report discrepancy

Parole Progress Report of January, 1978, prepared by the counselor for the inmate's parole hearing before the Kansas Adult Authority, refers to a disciplinary charge which had been dismissed by the disciplinary board.

E. Disciplinary procedure discrepancies

1. A 1978 disciplinary report marked "declined to prosecute -- under evaluation" is present in the inmate's file.
2. A second 1978 disciplinary report marked "declined to prosecute -- under evaluation" is present in the inmate's file.
3. A third 1978 disciplinary report marked "declined to prosecute -- under evaluation" is present in the inmate's file.
4. A fourth 1978 disciplinary report marked "declined to prosecute -- under evaluation" is present in the inmate's file.
5. A fifth 1978 disciplinary report marked "declined to prosecute -- under evaluation" is present in the inmate's file.
6. A 1978 disciplinary board report was not signed by the inmate. It is impossible to determine if the inmate were advised of her right to appeal the guilty verdict, or if she were ever formally notified of the disposition of her disciplinary case.
7. Another 1978 disciplinary board report was not signed by the inmate.

F. Filing discrepancies

1. Inmate was heard by the KAA for parole in March of 1978 and was "passed" to October, 1978. There is no indication in the file that the inmate was heard by the KAA in October, 1978, nor is there any record of KAA action taken then.
2. Inmate was heard by the KAA for parole on July 9, 1979. As of the end of July, when the record was reviewed, the disposition of the KAA hearing was not present in the inmate's file. The last KAA documentation in this inmate's file is dated April, 1978.
3. In this inmate's file is a segregation report for another inmate.

G. Personal letter discrepancy

In this inmate's file is an original personal letter mailed to her from a person outside of the institution. There is no explanation for its presence in the file and there is no indication that the inmate ever received the letter. The content of the letter refers to the inmate's upcoming release and the letter-writer's plan to transport the inmate and her possessions upon release. The content does not appear to be either a security risk nor in any other way inappropriate. There is no indication that the letter was used by the institution to plan the inmate's release.

Sample File #20

Controlling sentence: life

Sentence beginning date: 7/12/72

Sentencing date: 10/10/72

Admission date to KCIW: 10/12/72

Initial parole eligibility date: 7/12/87

(On a life sentence, the inmate must serve a minimum of 15 years before she is considered for parole.)

Time served at KCIW: 70 months, or 23 quarters

Number of 90-day review reports: 6\*

A. 90-day review report discrepancies -- Number

Number of reviews missing: 5

B. 90-day review discrepancies -- Content

1. One review report is not signed by any staff.
2. Two copies of another review report are present in file. It is impossible to determine if the inmate or her counselor received a copy of the review.

C. Progress report discrepancies

1. A 1975 progress report prepared for clemency application notes a disciplinary case that had been judged not guilty.
2. A 1974 progress report prepared for clemency application notes a disciplinary case that had been judged not guilty.

D. Disciplinary procedure discrepancies

1. A 1975 disciplinary case which was found "not guilty" is present in the inmate's file.
2. A 1973 disciplinary case which was found "not guilty" is present in the inmate's file.

E. Correspondence discrepancies

1. An undated original copy of a letter from a person outside of the institution to the inmate which discusses plans to visit each other after inmate's release (inmate had a pending clemency application) is present in inmate's file. No explanation as to why letter is in file or any indication that inmate ever received letter.
2. An undated original letter from a man to the Director asking for permission to write inmate is present in the inmate's file. He indicates that his letters to the inmate had been returned "not authorized." There is no indication that further action was taken, nor that the inmate was informed that the letters were returned. The institution has a policy that restricts inmate correspondence with inmates in other correctional facilities and with law enforcement personnel. There is no indication, however, that this letter was written by a prisoner or by a law enforcement employee.

\* Because this inmate was admitted to KCIW prior to the institution of the 90-day review procedure, the dates have been altered to coincide with implementation of the review procedure at KCIW which is estimated to be September, 1976.

Tables

The following three tables summarize the data collected in the twenty sample files. Table #1 organizes the data according to the category of the discrepancy and the number of discrepancies within each category. As illustrated by the table, each sample file contained at least two discrepancies, with a total of 128 discrepancies found.

Table #2 reports the discrepancies pertaining to the 90-day review report procedure. The table illustrates not only the number of present and missing 90-day review reports, but also the average time interval at which reviews were done for each inmate. As reported in the table, nearly 50% of the scheduled 90-day review reports are not present in the inmate files.

Table #3 organizes the data concerning disciplinary board procedure discrepancies. Out of the 25 discrepancies, the table illustrates that 14 are discrepancies due to the presence of disciplinary board reports that should not be present in the inmate file and 11 are discrepancies due to the presence of disciplinary board disposition notices which are not signed by the inmate.

The data for the tables is derived from the twenty sample files, outlined above.

Table 1  
A Summary of All Incidences of Discrepancies

Sample files	Number of ninety day reviews missing	Content of ninety day reviews	initial program	parole eligibility computation	custody	progress reports	disciplinary procedures	filing	correspondence/visitation	miscellaneous	Total
#1	1	2									3
#2	1			1			2		1	1	6
#3	4	2	1		1		3				11
#4	2	1	1				2				6
#5	1		1								2
#6		2	1	1				2			6
#7	1	2	1	1						1	6
#8	2	5			1						8
#9	1		1	1							3
#10		1		1			6		1		9
#11	3	1	1				1				6
#12	1	1	1	1			1				5
#13	1	2		1	1						5
#14	2		1								3
#15	4		1								5
#16	1		1	1			1				4
#17		1	1	1				1			4
#18	1		1		1						3
#19	6	1	1			1	7	3	1		20
#20	5	2				2	2		2		13
Total-20	37	23	14	9	4	3	25	6	5	2	128

\*In addition to the 13 files in which there were discrepancies in the content of the 90-day reviews, there were another 6 files in which there were no 90-day reviews.

Table 2  
Ninety-day Review Report Discrepancies

Sample Case	Months at KCIW covered by reviews*	Number of reviews done	Average interval between reviews	Number of reviews missing
#1	15 mos.	÷ 4	= 3.8 mos.	1
#2	5 mos.	÷ 0	= NA	1
#3	33 mos.	÷ 7	= 4.7 mos.	4
#4	13 mos.	÷ 2	= 6.5 mos.	2
#5	3 mos.	÷ 0	= NA	1
#6	6 mos.	÷ 2	= consistent with 3 month interval	0
#7	10 mos.	÷ 2	= 5 mos.	1
#8	24 mos.	÷ 6	= 4 mos.	2
#9	4 mos.	÷ 0	= NA	1
#10	11 mos.	÷ 3	= consistent with 3 month interval	0
#11	15 mos.	÷ 2	= 7.5 mos.	3
#12	7 mos.	÷ 1	= 7 mos.	1
#13	16 mos.	÷ 4	= 4 mos.	1
#14	7 mos.	÷ 0	= NA	2
#15	14 mos.	÷ 0	= NA	4
#16	3 mos.	÷ 0	= NA	1
#17	5 mos.	÷ 2	= consistent with 3 month interval	0
#18	6 mos.	÷ 1	= 6 mos.	1
#19	22 mos.	÷ 1	= 22 mos.	6
** #20	34 mos.	÷ 6	= 5.7 mos.	5
Total Required		Reviews Done: 43(54%)	Reviews Missing: 37(46%)	
Reviews: 80(100%)				

\* "Months at KCIW covered by reviews" is determined by taking the sentencing date and adding 4 months to account for the time each inmate is under the court's custody for evaluation. Every third month thereafter, a 90-day review report is due.

\*\* Because this inmate was admitted to KCIW prior to the institution of the 90-day review procedure, the dates have been altered to coincide with implementation of the review procedure at KCIW which is estimated to be September, 1976.

Table 3  
Disciplinary Procedure Discrepancies

Sample Case	Disciplinary Write-ups that should not be in inmate's file	Disciplinary Board reports not signed by inmate	Totals
#1	-	-	0
#2	1	1	2
#3	1	2	3
#4	2	-	2
#5	-	-	0
#6	-	-	0
#7	-	-	0
#8	-	-	0
#9	-	-	0
#10	2	4	6
#11	-	1	1
#12	1	-	1
#13	-	-	0
#14	-	-	0
#15	-	-	0
#16	-	1	1
#17	-	-	0
#18	-	-	0
#19	5	2	7
#20	2	-	2
Total - 20	14	11	25

## Case Anecdotes

The following case anecdotes were selected from the complaint handling done by the Ombudsman during the spring and summer on 1979. None of the discrepancies described in these cases were reported in the sample file survey. The purpose of their inclusion in the report is two-fold: first, to add a "human dimension" to the quantitative data reported; and second, to illustrate that the discrepancies have far-reaching implications for the entire inmate population of KCIW.

### Case Anecdote #1

At KCIW, as at the other long-term correctional facilities in the state, an inmate is to receive an initial program within 120 days after she is sentenced by the court. The initial program, developed by the Unit Team in discussion with the inmate, outlines the goals the inmate must fulfill before she is eligible for parole consideration. It is common for the initial programs at KCIW to include goals for educational and vocational program completion, self-help and counseling participation, attitude change, and parole arrangements. In essence, the initial program is to plan for the inmate's progression through the institution's program to the free society.

A KCIW inmate wrote the Ombudsman Office with several complaints, including the allegation that in her 17 months at KCIW, she had yet to receive her initial program. Furthermore, she had recently been denied a 2 month advancement to her parole eligibility date by the PMC because of her failure to complete the college courses in which she had enrolled. For the other problems, the Ombudsman\* referred her to the internal grievance procedure. But the issue of the delinquent initial program merited his attention.

A quick check of the inmate's records confirmed her allegation. First, there was no initial program in her file. Second, an undated 90-day review report, in which she was denied the 2 month advancement, referred to her "poor progress in education," and the objective that she "will have to develop more positive attitudes in regards to detail and participation in self-help and college courses.

Without an initial program, the institution has no documentation that the inmate had ever been informed of these institutional expectations. Therefore, the criticism of the inmate in the 90-day review report is not adequately documented. Moreover, the denial of the 2 month advancement could be interpreted as an arbitrary administrative decision, as the inmate cannot be expected to be responsible for her failure to fulfill undocumented expectations.

### Case Anecdote #2

As the Ombudsman was conducting interviews in the maximum custody section of KCIW, an inmate who was on "room lock" asked for an interview. In talking with the inmate, the Ombudsman learned that she had been locked in her room for the past ten days, having to knock on her door to use the toilet facilities. She had been

\* In this report "Ombudsman" refers to the Ombudsman and to any staff member representing the Ombudsman.

restricted from any movement except to go to the dining hall for meals and to the infirmary for medication. She had been placed on "room lock" pending investigation of one Class II violation and one Class I violation. (In the institutional disciplinary process, rule violations of Class I are of the greatest severity, with Class II and Class III violations of lesser severity.) During her segregation review eight days earlier, she had become belligerent and argumentative; therefore, she had been required to remain in "room lock."

On the next day the Ombudsman was observing disciplinary hearings at KCIW and became aware that this inmate's case was not on the day's docket. As he was concerned that the woman's disciplinary procedure should begin as soon as possible because she would remain confined on "room lock" status, he brought the omission to the attention of the hearing officer.

The hearing officer determined that the disciplinary case had been mislaid by an inmate clerk. The case was heard immediately by the hearing officer. The inmate plead guilty and was given a suspended sentence of room restriction. Of particular significance -- the inmate was immediately released from "room lock."

A month later, KCIW was still utilizing the same haphazard procedure for keeping record of disciplinary cases. As of August 12, 26 cases, initiated prior to June 1, 1979, had yet to be finalized according to the disciplinary log. The log was discrepant particularly in cases prior to May 31, 1979, and continued to be discrepant after having been brought to the administration's attention. Furthermore, an inmate clerk continued to be a pivotal point in the disciplinary procedure, as she had the responsibility of recording the disciplinary log, typing the disciplinary board reports, and keeping track of disciplinary reports that were ready to go before the disciplinary board.

### Case Anecdote #3

An inmate complained to the Ombudsman that she was receiving conflicting information from an institutional staff member regarding her upcoming parole date. In the process of resolving that complaint, the Ombudsman noticed another serious discrepancy. As the inmate was discussing her chances of obtaining parole, she showed the Ombudsman a list of disciplinary charges that she had received while at KCIW. The rather lengthy list had been prepared by an institutional official at the inmate's request. The inmate quickly added that several of the charges listed had been dismissed or found not guilty.

As the Ombudsman realized that the official who prepared this list would be currently in the process of preparing a report for the parole board concerning the inmate's institutional conduct, he was concerned that all of the disciplinary charges would be included in the report, even those dismissed or found not guilty. After he had reviewed the inmate's record and had verified some of the disciplinary cases were improperly listed, the Ombudsman conferred with the institutional official. The official was, indeed, preparing the report for parole, and was intending to include all of the disciplinary charges listed. When the Ombudsman interjected that some of the charges had been dismissed or found not guilty, the official first

questioned the truth of the Ombudsman's information. When the official indicated that the list had been prepared by an inmate clerk at the official's request, the Ombudsman felt it rather significant that the official would initially take an inmate's word over the findings of the Ombudsman's investigation. The official clearly indicated that having an inmate prepare such lists taken from the disciplinary log was a common practice of his.\* As he trusted the inmate, he did not feel it necessary to double check and had not done so in past cases.

The Ombudsman later checked the disciplinary log and found that it was discrepant, not only in this inmate's case, but in many disciplinary cases in which there was a finding of other than guilty. When the Ombudsman reported the source of the discrepancies to the official, he agreed to correct the inmate's progress report but made no commitment to change his routine on future cases, or to look into the source of the problem.

A week earlier the Ombudsman had made a recommendation that the disciplinary log be reviewed and corrected. Although a verbal commitment had been made by the Director, the log was still discrepant, when this case occurred a week later.

#### Case Anecdote #4

An additional case in the week of August 3, with the disciplinary log described in Case Anecdote #3 indicated that the problems continued to persist even three weeks after it had been brought to the Director's attention. A progress report prepared by the Unit Team for an inmate's upcoming parole hearing contained a disciplinary report that listed the disposition as unknown. When the Ombudsman brought this to the Unit Team member's attention, the Unit Team member again related that he had relied upon the information given by the inmate clerk. In this case, the information the inmate clerk gathered from the log was correct. The April, 1979, disciplinary charge did not have a disposition as the inmate had never been tried before the disciplinary board. According to the inmate, the disciplinary report had been ignored since it was served to the inmate after the required forty-eight hours. But, as the hearing officer had never officially dismissed the case, it still was pending according to the disciplinary log.

Without investigating, the Unit Team member had included it in the parole progress report. When approached by the Ombudsman, the Unit Team member was not willing to rewrite the progress report as it would be too much work. Instead, the Unit Team member suggested that he would write a memo to the KAA to disregard that portion of the progress report. The initial damage, however, had been done.

The Unit Team member did not concur with the Ombudsman's recommendation that he discontinue his practice of relying on the inmate clerk or on the disciplinary log as it was clearly inaccurate, but to review the disciplinary reports before including disciplinary information on progress reports. The staff member indicated that the work load necessitated that the established practice continue.

\*In this report, all institutional staff members are referred to in the masculine gender, to ensure confidentiality.

#### Case Anecdote #5

Ninety-day review reports at KCIW are written by the Unit Team Counselor. Before reports are written, evaluations are received from the inmate's work supervisor and living unit correctional officers. The counselor compiles the information given in the various evaluations with his knowledge of the inmate and her progress in the institution to formulate the 90-day review report.

A KCIW inmate wrote the Ombudsman Office complaining that she had been denied a one-month advancement to her parole eligibility date on a recent 90-day review report. According to the letter, the inmate had been told by her Unit Team counselor that the denial was due to her involvement with inmates, her writing letters to the Secretary of Corrections, and her advisement of other inmates to write their complaints to the Secretary of Corrections.

After talking with the inmate, the Ombudsman checked the inmate's record. The review report and evaluations to which it referred seemed to be contradictory. Below, the evaluations are quoted:

1. Inmate's work supervisor: "\_\_\_\_\_ does a very good job in the \_\_\_\_\_. She learns readily and is always cooperative and pleasant. At times she has a tendency to become overly involved in others' problems."
2. Inmate's living unit officer #1: "\_\_\_\_\_ is a very good person her attitude is very consistent. She gives good advice to the other inmates to help themselves."
3. Inmate's living unit officer #2: "\_\_\_\_\_ seems to get along well with others and is always respectful and pleasant. Her attitude seems to be very good. She gets up right away when called in the morning for her school and is never late."
4. Inmate's living unit officer #3: "\_\_\_\_\_ is a very outgoing and pleasant young woman. She is neat and clean. Occasionally in being happy her voice gets a bit loud but, very cooperative when asked to simmer down."
5. Unit Team summary: "\_\_\_\_\_ received satisfactory reports from the floor officers during this review period, although officers feel that she has a tendency to become too involved in the affairs of other inmates. She is making satisfactory progress in the AVTS (Area Vocational Technical School) \_\_\_\_\_ course and intends to finish this course while on parole. Inmate \_\_\_\_\_ has received no disciplinary reports during this review."

The Unit Team Counselor's summary is inaccurate in view of the documentation in the inmate's file. The inmate's involvement with other inmates was not a criticism of multiple officers, as reported in the Unit Team Counselor's summary. Rather, it was a criticism of the inmate's work supervisor which was directly contradicted by a living unit officer's praise of the inmate's "good advice" given to others. Indeed, the comments of praise are not alluded to in the Counselor's evaluation.

It is impossible to uphold the accuracy or the credibility of the 90-day review report. Moreover, the rationale used for the denial of the parole eligibility advancement could not be discerned. Although the inmate's allegation of being punished for having written to the Secretary of Corrections cannot be documented, it is the Ombudsman's concern that the 90-day review report cannot stand the test of credibility so that it can unequivocally invalidate the allegation.

#### Case Anecdote #6

The internal grievance procedure, mandated and structured for all institutions by the Department of Corrections, is an integral component to the functioning of the Ombudsman program. In many cases, the Ombudsman Office will refer an inmate to that procedure instead of or prior to the Ombudsman's intervention. As depicted in this case, the importance of the internal grievance procedure is most apparent when it fails.

An inmate who had been at KCIW three months wrote a detailed letter to the Ombudsman Office enumerating many problems she was experiencing. Of particular concern was that the inmate's letter indicated she had a clear conception of the appropriate institutional procedures and staff members through which her complaints should be aired. The inmate reported that she had gone through these channels (e.g. conversations with several members of her Unit Team and submission of "interview request forms") but none of her concerns had been resolved. Furthermore, she reported that she had intentions of filing an internal grievance, but had been unable to do so for the past 2 or 3 weeks as forms had not been available in the living unit or through her Counselor.

When the Ombudsman interviewed the inmate five days after her letter had been received, she related her problems in detail, with information identical to her letter. The inmate was clearly angry and frustrated that, in spite of her efforts, she had gotten nothing resolved. Her primary concern was her institutional working assignment, in which she was having a severe conflict with a staff member. The inmate, who had been convicted of a violent crime, related that she felt the conflict had gotten to the point that she needed to be reassigned immediately, before she would react irrationally.

The Ombudsman suggested that the inmate first meet with the staff member's supervisor and enlist his help in mediating the situation, as the Ombudsman felt that this supervisor is very adept at handling interpersonal relationships. If that did not resolve the issue, the Ombudsman suggested that the inmate file a grievance indicating her extreme discomfort and her fear of continuing her current job assignment. By this time the inmate had calmed somewhat, and agreed to the recommendations. The Ombudsman indicated that he would check back with the inmate in one week to see if the issue needed his direct intervention.

Five days later, the inmate assaulted the staff member, and was subsequently transferred to a psychiatric facility.

In follow-up conversations with the staff members of KCIW, the Ombudsman was able to verify that the inmate had, as she reported, made repeated requests to various staff members to be removed from her work assignment because of the conflict. The Ombudsman found an interview request dated over 2 weeks prior to the assault that read, "I would like to get my detail changed. I can't get along with my supervisor. I'd like to speak to you." Furthermore, the Ombudsman learned that the inmate had done as instructed and had conferred with the staff member's supervisor.

None of the effort seemed to help. And, when the inmate decided to resort to the internal grievance procedure, she reported that she was unable to do so because of unavailability of forms. Throughout the spring and summer the Ombudsman has conferred with the Director concerning the lack of grievance forms readily available in the living units. Although a commitment was made by the Director to have forms available, subsequent monitoring indicated that the forms were, at best, sporadically available. As of August 17, 1979 -- subsequent to this incident -- all living units had grievance forms available. In one living unit, however, the forms available were outdated, including having an address for the Department of Corrections which was changed two years ago.

**CONTINUED**

**1 OF 2**

## Discussion

The problems pointed out by the survey of sample inmate files and case anecdotes were not unknown prior to the Ombudsman's intervention during the summer of 1979. It quickly became apparent that inmates had been making persistent requests of the staff for procedures that should be automatically performed -- requests for overdue 90-day reviews, missing initial programs, work release applications, and clemency applications. Although these procedures are clearly mandated by the Department of Corrections for all state correctional facilities, KCIW staff have been generally unresponsive to inmate requests regarding these issues.

Consider the following:

A KCIW staff member had just started the clemency procedure for an inmate who had been requesting an application since January, 1979. The staff member shared with the Ombudsman\* that this was the first clemency procedure he\*\* had done in his two years as a counselor at KCIW. Moreover, in attempting to do this procedure, he had to borrow the appropriate forms from a neighboring institution, as KCIW did not have any. It is clear that KCIW inmates have not had any reasonable access to this lawful remedy. We have documented that only 3 clemency applications from KCIW inmates were received by the Kansas Adult Authority during the period between January 1, 1978 and August 20, 1979.

Over the past three years the state work release program, which can handle 20 or more women, averaged less than 3 women per month.

When the Ombudsman asked a staff member about how custody changes are determined, the staff member indicated that KCIW has no written guidelines for custody changes. It appears that, with some exceptions, custody changes are made arbitrarily, based upon available space in the living unit for medium and minimum custody inmates, rather than upon inmate progress. This practice is in violation of the spirit of KSA 75-5210 (b).

The Ombudsman had been monitoring the filing of internal grievances by 3 inmates. The inmates have kept the Ombudsman informed of their filing, the receipt of the Director's response, and their mailing of the appeal to the Secretary of Corrections. Of the three grievances, 2 appeals were never received by the Department of Corrections. The one appeal received was postmarked six days after the inmate reported that she had mailed it at the institution. Although it cannot be documented that the 2 missing appeals were actually mailed, it is a concern that the mail procedure at KCIW has been a continuing point of inmate contention. As many of the mail complaints have fit a consistent pattern, the credibility of the institution's mailing procedure continues to be questioned.

The Ombudsman was shown an internal grievance by an inmate who was taking issue with the Director's response. Rather than taking issue with the content of the reply, the Ombudsman was concerned that the date the grievance was received by the Director and the date of the Director's response were omitted from the grievance form.

\* In this report "Ombudsman" refers to the Ombudsman and to any staff member representing the Ombudsman.

\*\* In this report, all institutional staff members are referred to in the masculine gender to ensure confidentiality.

In a conversation with a staff member concerning the work release program, the staff member reported that the work release centers require that an inmate accumulate \$300 before she can be released. In a later conversation with a work release official, the Ombudsman learned that no such requirement exists.

The Ombudsman was informed by a staff member that initial parole eligibility dates for all inmates at KCIW, without mandatory minimum sentences, are set in accordance with inmates' minimum sentences. The staff member stated that the inmate must receive advancements in her parole eligibility date through the 90-day review report process to advance to the date which is the starting point for the other 2,200 inmates in the corrections system. (That date is set at half the minimum sentence, plus six months.) Moreover, as KCIW has completed about half of the required 90-day review reports required by Departmental policy, it is clear this system is unreliable.

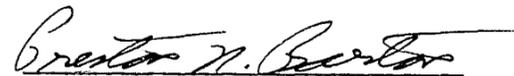
## Conclusion

One hundred percent of the twenty sample files had two or more discrepancies. The discrepancies found in the survey of sample inmate files are not a matter of simple clerical error. With an occasional exception, what was found was a series of consistently committed deviations from practice, policies, and regulations of the Kansas Department of Corrections. There are no apparent indications in the sample inmate files that staff members of either the institution or the Department's central office made efforts to correct any of these discrepancies.

The records of KCIW upon which decisions about inmates are based, are so pervasively discrepant, incomplete and inaccurate that the logic of the decision-making process is indeterminable. Decisions made within the institution's discretionary authority which significantly affect an inmate's life (e.g. custody changes and parole eligibility) are being made arbitrarily by the staff of KCIW. There is no written consistent evaluative system for monitoring inmate progress -- in spite of the 90-day review system mandated by the Department of Corrections.

Our research does not indicate how or when this patterning of problems began. Although our research, also, does not provide data to verify the existence of discrepancies in a variety of other areas of institutional administration and life at KCIW, many such problems have been alleged by both staff members and inmates. While those allegations have been difficult to prove or disprove through documentation, many of the issues raised by the staff and the inmates appeared to have elements consistent with the discrepancies verified by the data in this study. The discrepancies documented in this study can be generalized to the extent of falling into the following patterns: 1) the deviation from adopted standards and practices; 2) the tendency to not adequately document actions by omitting dates, explanations and signatures; and 3) the failure of Departmental practices, policies and monitoring activities to correct these deficiencies at the institutional level.

The last issue, relating to the inability of the Department of Corrections' central office to ensure implementation of its standards, practices and policies at the institutional level, significantly broadens the scope of the concerns identified in this study. It, therefore, is appropriate that recommendations for changes speak not only to practices and policies of the Kansas Correctional Institution for Women, but also to the policies and regulations of the Department as a whole.



Preston N. Barton  
Ombudsman

December 7, 1979

#### POLICY RECOMMENDATIONS REGARDING THE WOMEN'S PRISON

On December 7, 1979, the Ombudsman Office issued a 32 page report entitled, "A Study: The Documentation of Decision Making Processes for Inmate Management at the Kansas Correctional Institution for Women." The report documents 128 discrepancies found in a sample of 20 institutional records (a 22% sample of records of the prison population of July 19, 1979). Additional problem areas are identified in case anecdotes and general discussion of events at the Kansas Correctional Institution for Women (KCIW).

In developing recommendations to the Secretary of Corrections, an attempt has been made to enumerate the problem areas identified in the report and to design recommendations which will provide general direction for correcting the documented problems. In this manner the Secretary of Corrections is allowed considerable latitude for creativity and development of specific resolutions and their implementation.

Recommendations to the Secretary of Corrections regarding KCIW are as follows:

##### 1. PROBLEM: ERRORS IN DOCUMENTATION: INSTITUTION'S ROLE

Over an extended period of time, a significant number of errors in the documentation of decisions regarding inmate management have occurred. These errors include discrepancies in the processing of clemency applications, the number of 90 day inmate evaluation reviews conducted, the content in the evaluations, the development of initial program reports, the computation of parole eligibility, the determination of custody status, the accuracy of progress reports, the retention of disciplinary documents, and the handling of inmate correspondence. (See "Sample Files," pages 6-19; and "Tables," pages 20-23.)

##### Recommendation A.

Correct existing errors immediately. This needs to be done in a specified and documented manner.

##### Recommendation B.

Correct existing procedures and establish new procedures at KCIW to prevent such errors from occurring in the future.

##### 2. PROBLEM: ERRORS IN DOCUMENTATION: DEPARTMENT'S ROLE

This situation at KCIW has occurred over an extended period of time, despite the supervision and monitoring of the Kansas Department of Corrections' Central Office. (See "Sample Files," pages 6-19; and "Tables," pages 20-23.)

##### Recommendation A.

Examine existing communications and monitoring systems between KCIW and the Central Office. The Study points to the need to intensify and correct existing systems, and establish new communication and monitoring systems.

Recommendation B.

Conduct Central Office audits of KCIW inmate records every six months.

Recommendation C.

Conduct a study of the staff resources, and their utilization, available to KCIW which currently exist and which could lead to the continuation or resolution of the identified problems in the Report.

Recommendation D.

Assess the effectiveness, efficiency and necessity of Department of Corrections' mandated procedures and programs for KCIW.

Recommendation E.

Establish a time limited committee of persons within and outside the Department of Corrections to study the special issues related to female prisoners and the kinds of programs which would best meet their needs. The committee should specifically review the feasibility of establishing a senior position in the Department of Corrections' Central Office which would be responsible for monitoring the special needs and programs for this minority group, in what is otherwise very much a male oriented setting.

Recommendation F.

A number of the recommendations regarding the relationship between the Kansas Department of Corrections and KCIW need to be applied to all state adult correctional institutions and facilities. Included in these recommendations should be those concerning six month audits of institutional inmate records, the redesigning of procedures for clemency application and any other relevant issues.

3. PROBLEM: ERRORS IN DOCUMENTATION -- INMATES' ROLE

This situation at KCIW occurred over an extended period of time, with the knowledge and ineffectual action of KCIW inmates. (See "Sample Files," pages 6-19; "Tables," pages 20-23; "Case Anecdotes," pages 24-29; and "Discussion," pages 30 and 31.)

Recommendation A.

Provide the existing KCIW inmate population and all new arrivals intensive and comprehensive orientation of the rights, entitlements, privileges, and programs for inmates at KCIW. This orientation should include a detailed explanation of the procedures and programs relating to clemency, initial programs, 90-day reviews, internal inmate grievance procedure, custody status determination, sentence reductions under KSA 21-4603, work release, study release, and home furlough.

Recommendation B.

Examine the Department of Corrections' Internal Inmate Grievance Procedure as it is implemented at KCIW. Through monitoring audits, surveys and other such means, the Central Office should ensure that this Department of Corrections' mandated Grievance Procedure is functioning effectively at all levels from the Unit Team level to the Secretary of Corrections.

Recommendation C.

Provide Internal Inmate Grievance Report Forms and grievance appeal forms to the Secretary of Corrections in adequate supplies for ready accessibility for all KCIW inmates.

Recommendation D.

Establish a procedure to ensure inmate confidence that outgoing written communications will reach the Secretary of Corrections and other officials and legal agents external to KCIW.

Recommendation E.

Establish procedures regarding inmate records which will engender a perception on the part of the inmates that the procedures are credible.

Recommendation F.

Provide assurances that inmates will not be penalized for submitting a grievance or complaint that is presented in good faith.

4. PROBLEM: CLEMENCY

Inmates at KCIW have had difficulty in filing requests for clemency consideration. (See "Sample Files," pages 6 and 7; and "Discussion," pages 30 and 31.)

Recommendation

The Department needs to ensure that each inmate at KCIW has ready and easy access to the clemency application process. (See Recommendation 3A.)

5. PROBLEM: CUSTODY STATUS CHANGE -- DOCUMENTATION

The Study produced data indicating that, in some instances, the custody status of inmates was reduced from a higher to a lower level without following Department of Corrections' regulation 44-5-107 (effective January, 1979) that actions be approved by the Program Management Committee. In some instances, changes in custody status have had no written documentation nor has there been any evidence set forth reflecting a corresponding reduction of an individual's security risk. (See "Sample Files," 3, 8, 13, and 18.)

Recommendation A.

Reduction in custody status should be made only after following procedures required by Department of Corrections' rules and regulations.

Recommendation B.

Reduction in custody status should be made only after it has been documented in writing that the security risk presented by the inmate to society, staff members and other inmates has diminished correspondingly.

6. PROBLEM: CUSTODY STATUS CHANGE -- POLICY

KCIW lacks a written policy setting forth guidelines for assigning custody status to inmates.

Recommendation

A written policy needs to be established at KCIW setting forth the guidelines for assigning custody status.

7. PROBLEM: CUSTODY STATUS CHANGE -- PRACTICE

Data resulting from this Study indicates that a practice has evolved at KCIW for assigning custody status according to space available in the institution's living units. This practice appears to be in violation of the spirit of KSA 75-5210 (b) and is discrepant from what has been practiced at other institutions within the Kansas Department of Corrections.

Recommendation

Custody status should be assigned at KCIW as it is earned by the inmate as set forth in KSA 75-5210 (b). Policy should direct how a living unit can accommodate the various privileges of a group of inmates with two or more different custody designations.

8. PROBLEM: DISCIPLINARY REPORTS

In the 20 sample files reviewed for this Study, there were 25 discrepancies relating to the documentation of disciplinary actions. In fourteen instances disciplinary documents should not have been there according to Department of Corrections' Regulation 44-11-508 (effective January, 1979). The remaining eleven discrepancies were the result of disciplinary documents in inmate files which were not properly signed. (See "Table 3," page 23.)

Recommendation A.

KCIW should follow Department of Corrections' Regulation 44-11-508 (effective January, 1979). No disciplinary report or references to it should be placed in an inmate's file until the Disciplinary Board and the KCIW Director have made a final determination of the disposition of the case, and then only if the finding is that of "guilty".

Recommendation B.

Necessary and proper signatures should be affixed to all disciplinary documents prior to being placed in an inmate's file.

9. PROBLEM: CORRESPONDENCE

In three instances, letters addressed to inmates were found in the files. There were no indications as to whether or not the inmates had ever actually received these letters. In three other instances, there was indication that correspondence had been exchanged regarding permission to visit or correspond, but this correspondence was incomplete. (See "Sample Files," 2, 7, 10, 19, and 20.)

Recommendation A.

Correspondence or other documents placed in an inmate's file at KCIW should be clearly identified as to its purpose for being in the file and as to how it was received.

Recommendation B.

Establish a procedure to ensure inmate confidence that incoming written communications which are approved by Departmental regulations will be received by the inmate.

10. PROBLEM: DISCIPLINARY LOG

The Disciplinary Report Log, maintained by an inmate, was not kept up-to-date. As a result inadmissible, incorrect and damaging information was taken from this log and included into reports and inmate files. This, also, caused delays for inmates to have hearings and to be released from segregation. (See "Case Anecdotes," 2, 3, and 4.)

Recommendation

A staff member, not an inmate, needs to be held responsible for maintaining inmate disciplinary records at KCIW, as established in Department of Corrections Regulation 44-11-101 (L), effective January, 1979.

11. PROBLEM: SEGREGATION FACILITIES

While awaiting disciplinary action, inmates at KCIW have been locked in rooms which do not provide toilet facilities. (See "Case Anecdotes 2," page 24.)

Recommendation

No inmate at KCIW should be locked up for any reason or for any length of time in a room or cell which does not have toilet facilities.

12. PROBLEM: INITIAL PAROLE ELIGIBILITY DATES

For those inmates who have indeterminate sentences, the practice at KCIW has been to establish their initial parole eligibility dates to coincide with the minimum sentence date -- a practice which is considerably more severe than that at other institutions within the Kansas Department of Corrections. There is no departmental or institutional written policy providing guidelines for governing the application of this discretionary authority invested in the institution and the Kansas Department of Corrections.<sup>1</sup> (See "Discussion," pages 30 and 31.)

<sup>1</sup> While the sentencing laws have changed as of January 1, 1979, there are a considerable number of persons remaining at the institution who have indeterminate sentences -- there were a total of 51 inmates at KCIW on July 19, 1979 confined under the old sentencing act. Even under the new sentencing procedures effective January 1, 1979, those persons committed for D and E felonies will continue to have indeterminate sentences which will need to be administered by the Kansas Department of Corrections.

Recommendation A.

The initial program needs to be developed in a timely manner, upon the inmate's arrival at KCIW. The Department of Corrections needs to provide specific time limits within which this document needs to be developed.

Preston N. Barton  
Ombudsman

February 22, 1980

Department of Corrections

State of Kansas

PATRICK D. McMANUS, Secretary



535 Kansas Avenue—Suite 200  
Topeka, Kansas 66603  
913 296-3317

April 14, 1980

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Mr. Preston Barton  
Ombudsman for Corrections  
503 Kansas Avenue - Room 539  
Topeka, Kansas 66603

Dear Mr. Barton:

This letter is in response to yours of February 27, transmitting your revised recommendations relating to your report on the Kansas Correctional Institution for Women. This letter will supplement correspondence and discussions we have had in recent months. With that in mind, I will take this opportunity to update you on the progress underway in some of the areas identified in your report.

My staff has completed guidelines and policies for conducting audits of inmates records throughout the Department. The first institutional audit is in process.

As you know, several key personnel changes have occurred at KCIW since the period in which you conducted your study. Those changes, coupled with the new positions of social worker and secretary, will result in a significantly increased staff capability to deal with the problems of case management as well as the many filing and other clerical errors identified in your report. The Director has been able to redefine responsibility for various functional areas and the span of operational responsibilities for the unit team supervisor position has been significantly reduced.

The Directors of KSP and KCIW have drafted a memorandum of understanding whereby the comprehensive KSP staff will provide support in personnel administration and facilities planning and maintenance. This arrangement should reduce much of the detailed, time-consuming work hitherto required of KCIW management.

The Task Force on Inmate Classification has developed a broad concept which I approved in early February. The Department has entered into a joint venture with Washburn University to obtain an NIC Grant of \$50,000 to carry out a detailed classification study, develop a classification manual, and prepare audio-visual

Mr. Barton  
Page 2  
April 14, 1980

and printed materials to be used in orientation and training of both staff and inmates in the overall classification and case management process. NIC has approved the concept proposal and has invited Washburn to submit the formal grant.

In reference to the problem of inmates being secured in their rooms without toilet facilities, unfortunately we have not progressed as far as I had hoped in the renovation of the Perry Building to provide toilet facilities in the individual rooms. That project is currently in the office of the architect for development of building materials and for review of the plumbing network underlying the first floor of the Perry Building.

I currently am considering a number of suggestions for makeup of a time limited committee to study the special problems and concerns of incarcerated women. Hopefully, that committee can be convened in the near future.

It is evident that the Director and staff at KCIW have made significant progress and they recognize that there is much to be done. It appears that the institution may have suffered over the years in being a relatively small separate institution, out of the mainstream of state-wide correctional concerns. They have certainly not suffered from lack of attention over the past year and I am confident that their progress will continue with our support.

Sincerely,



PATRICK D. McMANUS  
Secretary of Corrections

PDM:dja

cc Mr. Kenneth G. Oliver, Deputy Secretary, Institutions

Mr. Carl Tramel, Deputy Secretary, Management

Mrs. Sally Halford, Director, KCIW

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"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 . . . 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".

From the "Report on the Adjustment and Treatment Building at the Kansas State Penitentiary," March, 1977, p 16.

"The Department's formal Inmate Grievance Procedure was found to be generally a highly sophisticated and potentially effective one. However, changes are being recommended for refining the procedure to make it a more efficient and credible one . . . The final result hoped for is that inmates will seek this constructive and nonviolent avenue for resolving problems."

From the "Report on the Kansas Department of Corrections' Inmate Grievance Procedure," December 15, 1977, pp 15 & 16.

"The acts of self-mutilation were committed within a short period of time by men housed in close proximity to one another who must cope with the same environment. With this understanding, our questions deliberately probed into the current events, as well as the general atmosphere of A & T, and particularly, of the east wing. Our finding was that these self-mutilations were not acts of insanity but of desperation".

From the "Inquiry Into Self-Mutilation in the Adjustment and Treatment Building," June 26, 1978, p 2.

"The Department of Corrections does not have a policy or procedure for the reimbursement, recovery, or repair of lost or damaged inmate property. It, therefore, is not able to rectify inmates' losses, in cases in which the institution is responsible."

From the "Property Loss Study," August 29, 1978, p 1.

**END**