OMBUDSMAN FOR CORRECTIONS WORKING GROUP

REPORT TO THE LEGISLATURE

January 28, 2008

Minnesota Department of
HUMAN RIGHTS

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Minnesota Department of
HUMAN RIGHTS

January 28, 2008

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During the 2007 Legislative Session, the Minnesota Legislature passed a law, Chapter 54, Section 13, directing the commissioner of the Minnesota Department of Human Rights to convene a working group to study how the state addresses inmate complaints, assaults, and deaths in county jails, workhouses and prisons, and report back to the legislature. The specifics of the working group's charge and membership are outlined in the attached report.

Between August 2007 and January 2008, the working group met seven times; on January 17, 2008, the group held a hearing for public comment. This report is the product of the more than 2,200 hours of study and deliberation. The costs of the working group's activities are estimated at $9,207.23 in direct charges to the Minnesota Department of Human Rights and $11,000 in indirect items, including hours spent by the working group members preparing for and attending meetings.

The working group based its findings and recommendations on careful review of information provided by a wide range of resources, including Minnesota state and county corrections systems and community organizations that work directly with inmates of our prisons and jails. Still, the Legislature should note that the issues addressed by the group are complex, and that the group unearthed several areas of concern that were beyond the scope of its inquiry. The group has included the last two recommendations, addressing juvenile offenders and recently released offenders, because the issues are pressing and deserve legislative attention. The recommendations grew from group discussions and the urgings of constituents whose work supports juvenile offenders and families of offenders.

The group would also like to state that the discussions over the past six months and the public comments from the January 17, 2008 hearing underscore the need for additional mental health resources and services in Minnesota's corrections system. Again, because of the complexity of the issue and the working group's time and scope limitations, this concern did not evolve into a full recommendation. It was clear, however, that needs of offenders with mental health issues place a considerable burden on the limited resources of the corrections system.

Finally, the working group was asked to determine the need for reinstatement of the Office of the Ombudsman for Corrections. While the group was unable to reach consensus on this specific recommendation, members strongly supported the need for a "bridge" between the corrections systems and the public. The need for a single entity to provide the service was not clear; the functions of a bridge could be provided by existing resources in any number of configurations. Rather than the specific organization of such a function, the group focused on a set of characteristics and values that must be present (see page 16 of the report).

While the recommendations made by the group stand on their own as the products of detailed discussion and thoughtful consideration, the group recognizes that this is only the beginning of a rich discussion of the issues raised. The working group urges the Legislature to act on these recommendations during the 2008 session and to use this report as the basis of discussion in future sessions.

Yours truly,

Velma Korbel, Commissioner
MN Department of Human Rights

Enclosure

c: Shane Myre, Senior Policy Advisor, Governor's Office
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Bibliography

Public Comments

NOTE: *The views and opinions expressed in the "public comments" section of this report are strictly those of the authors and do not necessarily state or reflect those of the Minnesota Department of Human Rights, its Commissioner, employees or the Ombudsman for Corrections Working Group, and are neither an endorsement nor an assumption of any legal responsibility for the accuracy of the information supplied.*

Introduction

Minnesota Session Laws, Chapter 54, Section 13, directed the commissioner of the Minnesota Department of Human Rights to convene a working group to study how the state addresses inmate complaints, assaults, and deaths in county jails, workhouses and prisons, and report back to the legislature. (Appendix 1) The legislation specified that-

The commissioner shall serve as the chair of the working group and invite representatives from the Department of Corrections, legislature, Minnesota Sheriffs' Association, Minnesota Association of the Community Corrections Act counties, state bar association, crime victims justice unit, Council on Black Minnesotans, Indian Affairs Council, Council on Asian-Pacific Minnesotans Chicano/Latino Affairs Council, University of Minnesota Law School, Immigrant Law Center of Minnesota, the ombudsman for mental health and developmental disabilities, and other interested parties to participate in the working group.

The group was tasked to:

(1) assess how state and local units of government currently process and respond to inmate complaints, assaults, and deaths;

(2) assess the effectiveness of the state's former corrections ombudsman program;

(3) study other states' corrections ombudsmen;

(4) study whether the state should conduct a fatality review process for inmates who die while in custody;

(5) make recommendations on how state and local units of government should systematically address inmate complaints, assaults, and deaths, including the need to reappoint a corrections ombudsman."

The commissioner of corrections shall provide to the working group, summary date on assaults and deaths that have occurred in state and local correctional facilities.

The commissioner of human rights shall file a report detailing the group's findings and recommendations with the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over criminal justice policy and funding by January 15, 2008.

I. Assess State and Local Government Processes

To assess would imply that an evaluation tool was developed, administered and scored. This working group did not develop a written evaluation and/or survey. The working group conducted its assessment of inmate complaints, assaults and deaths using available data and information. A full list of resources used in this study is included in the Appendix to this document. Documents and reports listed below were relied upon to a greater degree. They are:

- Agency Profile: Ombudsman for Corrections (February, 2003) State of Minnesota Biennial Budget
- By the Numbers (July, 2004) Mn Department of Corrections
- Minnesota Statute Chapter 241 (2006)
- Minnesota Statute Chapter: Department of Corrections – Ombudsman (2002)
- Ombudsman for Corrections: Report to the Legislature (January 2002) Office of the Legislative Auditor
- Organizational Profile (August, 2005) Minnesota Department of Corrections
- Supervising Offenders in Minnesota: Facts and Statistics (March, 2002) Mn Depart of Corrections
- Website – http://www.doc.state.mn.us

II. Assess Effectiveness of Former Office of Ombudsman for Corrections

In addition to personal interviews of the most recent ombudsmen for corrections, the work group relied on information in financial documents regarding the Office, as well as the 2002 Legislative Auditor's Report to the Legislature. It should be noted here that records of the Office of the Corrections Ombudsman from 1997 forward were destroyed soon after the functions of the Office were discontinued in 2001.[1] The Office was unfunded in 2003.

III. Corrections Ombudsmen in Other States

In addition to visiting the web site of the United States Ombudsman Association and the American Bar Association, the working group reviewed past and current Ombudsman programs in other states. The primary common characteristic of these programs is independence from the corrections department. Two programs stand out as anomalies: The Office of the Ombudsman in the California Department of Corrections and Rehabilitation and the Connecticut Correctional Ombudsman. In Connecticut, the state department of administration

[1] Subsequent to the public hearing on January 17, 2008, the Working Group obtained financial and personnel records for the Ombudsman's office that covered, in part, the period from 2001 to 2003. On review, the records provided no material relevant to the Group's final recommendations.

contracts with an independent company to provide ombudsman services. The department of administration oversees the contract, so the office maintains its independence from the corrections system. The California Ombudsman's office reports to the director of the state's department of corrections and the program has been harshly criticized for its lack of independence.[2]

In the Upper Midwest, only Iowa and Nebraska have ombudsman programs. Of states with total prison populations similar to Minnesota's, only three have an ombudsman.

Nat'l Rank	State	Prison Population[a]			Ombudsman Program[b]
		2000	2005	2006	
29	Oregon	10,580	13,411	13,707	Under DOC
30	Nevada	10,063	11,782	12,901	No
31	Massachusetts	10,722	10,701	11,032	No
32	**Minnesota**	**6,238**	**9,281**	**9,108**	Closed in 2003
33	Iowa	7,955	8,737	8,875	General State Ombudsman
34	Kansas	8,344	9,068	8,816	Closed in 2004
35	Delaware	6,921	6,966	7,206	No
36	Idaho	5,535	6,818	7,124	No
37	New Mexico	5,342	6,571	6,639	Closed in 2005
38	Utah	5,637	6,382	6,430	No
39	Hawaii	5,053	6,146	5,967	General State Ombudsman

[a]Source: Bureau of Labor Statistics

[b]Source: Various, including state websites, Amnesty International

IV. Make Recommendations on How to Address Inmate Complaints, Assaults and Deaths

The discussion of findings and list of recommendations is included in the "Recommendations" section of this report.

V. Make a Recommendation on the Need to Re-establish the Office of the Ombudsman for Corrections

The recommendation is discussed in the section of this report titled "Community Impact Report".

[2] Arthur L. Alarcón, *A Prescription for California's Ailing Inmate Treatment System: An Independent Corrections Ombudsman*, 58 Hastings L.J. 591 (Feb. 2007).

Program Descriptions

I. Minnesota Department of Corrections (DOC)

The commissioner of corrections, as the chief administrative officer of the department, is responsible for operation of adult and juvenile state correctional facilities; provision of probation, supervised release, and parole services; administration of the state Community Corrections Act; and provision of assistance and guidance on a statewide basis in the management of criminal justice programs and facilities.

The department currently operates ten correctional facilities including eight for adults and two for juveniles. For adult offenders, a five-level classification system reflects the necessary level of control for offenders classified in each designation. Adult prison populations total nearly 8,900 inmates; juvenile residents number around 200. Department agents supervise about 17,000 adult and juvenile offenders on probation, supervised release, and parole. Through the state Community Corrections Act, the department also administers subsidy funds to units of local government for corrections programs.

Complaints and Grievances:

Various policies and procedures govern the complaint and grievance process at DOC. Generally, there are two levels of complaints within a correctional facility classified as *complaints* and *grievances*. *Complaints* are low-level, routine issues that are communicated either orally or through the written communication known as *kites* that link inmates to staff. *Grievances* are higher-level issues that are always communicated in writing. According to DOC, *complaints* are not and should not be tracked for reporting purposes because they are routine in nature, can be disposed of quickly, and do not require review by anyone up the chain-of-command.

Grievances are tracked within DOC using a system developed by DOC staff. Grievance matters may start as routine requests or complaints, but they escalate to a higher level and require the attention of staff higher up the chain-of-command. At each level of the chain-of-command, a *grievance* is reviewed and a response is sent to the inmate. If the inmate is not satisfied with the result, s/he may appeal to the next level. When the chain-of-command has been exhausted, an inmate may appeal to DOC's central office grievance coordinator, and the matter then flows through DOC's chain command. (See example, appendix 2).

In response to an October 2007 data request, DOC provided the information below to summarize the number and disposition of grievances in all facilities since July 1, 2004.

Grievances

FISCAL YEAR*	AFFIRM	AFFIRM WITH MODIFICATION**	DISMISS	DISMISS WITH MODIFICATION***	NO DATA	TOTAL
2005	67	16	450	10	10	553
2006	48	12	482	13	5	560
2007	37	8	327	16	2	390

* DOC fiscal year runs from July 1 – June 30, therefore FY 2005 began on July 1, 2004.
**affirm with modification – all or part of the grievance issue is affirmed, but the offender's suggested remedy is not.
*** dismiss with modification - the grievance is dismissed because the issue was resolved prior to filing the grievance, because the issue is valid but misplaced (e.g. grieving a staff's conduct when it is a procedure requiring attention), or because part of the grievance requires attention but the overall topic of the grievance does not.

Percentage of Grievances by Category by Fiscal Year

Category	2005	2006	2007	Total	Percent
Classification	2	3	2	7	0.5%
Communications	16	9	3	28	1.9%
Dental	9	7	5	21	1.4%
Dietary	15	18	9	42	2.8%
Disciplinary	18	16	9	43	2.9%
Education	12	5	6	23	1.5%
Finance	28	36	10	74	4.9%
Housing	27	29	17	73	4.9%
Legal	29	26	17	72	4.8%
Mailings	40	35	18	93	6.2%
Medical	118	114	111	343	22.8%
Mental Health	9	12	9	30	2.0%
Personal Property	64	78	44	186	12.4%
Programming	27	25	12	64	4.3%
Records	5	6	1	12	0.8%
Release	5	1	5	11	0.7%
Religion	14	17	14	45	3.0%
Search	2	2	4	8	0.5%
Sentencing	Not Tracked	2	1	3	0.2%
Staff	85	93	79	257	17.1%
Transfer	5	2	5	12	0.8%
Visiting	8	8	1	17	1.1%
Work	15	16	8	39	2.6%
	553	560	390	1503	

Source: Compiled from data received via Oct. 2007 data request to DOC by Working Group

Assaults:

On page 18 of DOC's Performance Report for FY 2006 "Number of Discipline Convictions and Incidents" assaults in the adult facilities are listed as shown in the chart below.

Type of Assault (Adult Facilities)	FY 03	FY 04	FY 05	FY 06	Total
Assault of inmate	284	317	379	484	**1464**
Assault of inmate causing harm	86	70	53	61	**270**
Assault of inmate with weapon	15	11	28	19	**73**
Assault of inmate with weapon causing harm	15	10	12	12	**49**
Assault of staff	79	55	68	62	**264**
Assault of staff causing harm	16	10	14	11	**51**
Assault of staff with weapon	13	5	17	9	**44**
Assault of staff with weapon causing harm	2	1	4	2	**9**
Total	**510**	**479**	**575**	**660**	**2224**

Deaths:

The death of an inmate in a DOC State facility is handled according to Division Directive 300.300 (Incident Reports) and DOC Policy 203.230 (Death of an Offender). All deaths, including homicides, suicides, and deaths from natural causes, are investigated by specially trained personnel from DOC's Office of Special Investigations (OSI). If there is an indication of foul play, local law enforcement agencies are included in the investigative team. OSI submits a full report of findings (including autopsy results when an autopsy is appropriate) to DOC's Policy & Legal Services Division. It should be noted that criminal investigations of DOC employees are conducted by the local law enforcement agency with OSI involvement.

On page 18 of DOC's Performance Report for FY 2006 "Number of Discipline Convictions and Incidents" deaths in the adult facilities are listed as shown in the chart below.

Type of Death (Adult Facilities)	FY 03	FY 04	FY 05	FY 06	Total
Homicide	0	0	0	0	**0**
Accidental Death	0	0	0	0	**0**
Suicide	3	2	0		**5**
Total	**3**	**2**	**0**	**0**	**5**

II. County and Contracted Correctional Services

The oversight for the county jail is provided by an elected sheriff. DOC contracts with a private company to house state inmates in a prison facility in Appleton, Minnesota.

Licensing and inspection of county jails and private prisons is done by the Facilities Inspection and Enforcement Unit of DOC. This unit is also responsible for the licensing and inspection of city jails, lock-ups, holding facilities, group homes, halfway houses, juvenile detention centers, and other juvenile correctional residential facilities. This unit also provides for the certification of juvenile facilities for out-of-home/out-of-state placements and the certification of all residential adult and juvenile sex offender programs. This unit also coordinates and conducts safety audits of all DOC facilities, develops enforcement standards and training, as well as act as the clearinghouse for architectural and operational planning for new or remodeled state and local correctional facilities.

Since July 1, 2006, 32 of Minnesota's 87 counties have been organized into 17 Community Corrections Act jurisdictions in order that their correctional field services are handled within a specific service area. These contracts are administered by the Grants, Contracts and Community Corrections Act Unit of DOC.

Complaints and Grievances:

Within Minnesota's county correctional facilities, an internal grievance/complaint procedure exists in which inmates are recommended to first voice their complaint to their direct supervising officer. If lack of resolution results, inmates are then recommended to send their written grievance up the chain of command, which can amount to at least five people in some cases. If an inmate believes that their grievance was not resolved at the county jail using the jail's policies and procedures relating to the grievance process DOC's Facilities Inspection and Enforcement Unit will review written the inmates grievance.

According to MN Rule 2911, grievance procedures must include at least one level of appeal. In some cases, the county sheriff acts as that appeal.

Assaults:

The assault, attempted assault or attempted homicide of a resident of a DOC licensed or inspected facility is termed a *special incident* and is handled according to DOC Policy 600.210 (Investigations of Complaints, Special).

Inmate Assaults in County Jails, Workhouses, and Contracted Prison Facilities Reported to MNDOC Inspection & Enforcement Unit 2002-2007

Calendar Year	Resident on Resident	Resident on Staff	Staff on Resident	Total Assaults
2002	26	11	0	37
2003	9	11	0	20
2004	11	5	0	16
2005	5	1	0	6
2006	13	10	0	23
2007[a]	6	5	1	12

[a] Updated through 08/09/2007

Source: MN DOC Facility Inspection, Licensing and Enforcement Systems (FILES)

Deaths:

The death of an inmate in a DOC licensed or inspected facility is handled according to DOC Policy 600.210 (Investigation of Complaints, Special). Facilities, e.g. jails, lock-ups, detention centers, transport buses, medical transports, etc. must submit a written report of the incident to DOC's Facilities Inspection and Enforcement Unit. While Policy 600.210 pertains to the mandatory reporting requirement of DOC licensed and inspected facilities, DOC maintains that all such facilities are required to have a range of internal policies and procedures, including but not limited to, next-of-kin notification, preservation of the crime scene, locking down housing units as necessary, assessing and attending to the injured, notification and request to other agencies such as the Bureau of Criminal Apprehension and the appropriate county attorney, etc. to maintain a license to operate.

Deaths in County Jails, Workhouses, and Contracted Prison Facilities
Reported to MNDOC Inspection & Enforcement Unit
2002-2007

Calendar Year	Suicide	Other Death	Homicide	Total Deaths	Attempted Suicide
2002	6	1	0	7	132
2003	6	4	0	10	99
2004	4	5	0	9	64
2005	2	7	0	9	78
2006	6	4	1	11	52
2007[a]	1	1	0	2	27

[a] Updated through 08/09/2007

Source: MN DOC Facility Inspection, Licensing & Enforcement Systems (FILES)

Community Impact Report

I. What is an Ombudsman?

In its purest sense an ombudsman is an official appointed by the government who is charged with representing the interests of the public by investigating and addressing complaints reported by individual citizens. The ombudsman is a designated neutral. The ombudsman is independent of the administrative structure of the government agency. The ombudsman cannot impose solutions, but works to identify options and strategies for a resolution. The ombudsman can advise an individual of his/her rights and responsibilities within a system, but cannot provide legal advice. The ombudsman does not advocate for any side in a conflict. According the United States Ombudsman Association (USOA), in order for an ombudsman to function at the highest level possible, the following characteristics must be manifested. Per the USOA it must be:

- governmental office created by constitution, charter, legislation or ordinance
- an office with the responsibility to receive and investigate complaints against governmental agencies
- an office with freedom to investigate on its own motion
- an office which may exercise full powers of investigation, to include access to all necessary information both testimonial and documentary
- an office with the authority to criticize governmental agencies and officials within its jurisdiction and to recommend corrective action
- an office with the power to issue public reports concerning its findings and recommendations
- an office directed by an official of high stature who-
    - is guaranteed independence through a defined term of office and/or through appointment by other than the executive and/or through custom
    - is restricted from activities constituting a personal, professional, occupational or political conflict of interest
    - is free to employ and remove assistants and to delegate administrative and investigative responsibility to those assistants.

Before it was abolished in 2003, the Minnesota Office of the Ombudsman for Corrections (Office) was an independent state agency responsible for investigating complaints and, when appropriate, making corrective action recommendations regarding the Minnesota Department of Corrections and its facilities operating under Chapter 401. (Appendix 3) The Office existed to

promote standards of competence, efficiency, and justice in the administration of corrections. The Office had broad authority to:

- receive a complaint from *any source* regarding a matter of which it could appropriately address.
- determine the scope and method of its investigation of a complaint.
- gain access to records, and enter and inspect *any facility at any time.*
- subpoena persons as witnesses and documents as evidence relevant to a complaint
- bring an action in state court on matters under its jurisdiction.
- be present at DOC parole and parole revocation hearings and deliberations.

With regard to the Office's authority over adult local jails and detention facilities, *the Office had no less authority than DOC's jail inspection unit*.

II. Does the State of Minnesota need an ombudsman for corrections?

During this working group process, it became very clear that there were strong opinions about the need – or not – for an ombudsman for corrections. Individuals from the corrections profession, e.g., DOC, Sheriff's Association and the Community Corrections Act Counties expressed a general consensus that an ombudsman for corrections is not necessary in Minnesota. They list a number of reasons including that the function would be duplicative of existing programs, the function would add a layer of bureaucracy and it would be costly for taxpayers.

On the other side of this issue are the organizations and individuals that are advocates at their core, e.g., minority councils, National Association for the Advancement of Colored People (NAACP) and LAMP, Legal Aid for Minnesota Prisoners. These entities generally agree on the need for an ombudsman for corrections for the following reasons: Minnesota prisoners need an impartial and independent outlet for investigating their complaints; the office can serve as a pressure valve for inmates and prison staff; and, with the growth in the prison population and the lengthening of the average prison sentence[3], the corrections system would benefit by having a "go-between" to the public.

No matter which side of the issue one is on, these arguments are not new. And most of the arguments have some merit. But the question still remains: why does the State of Minnesota need an ombudsman for corrections?

[3] Phil Caruthers, *Sentencing Trends: Analysis and Recommendations* (Council on Crime and Justice, 2006)

III. Exploring the need to re-create the Ombudsman for Corrections?

The ombudsman serves as a representative that protects citizens against governmental abuses. Anyone reading this sentence will likely leap to the conclusion that there are wide-spread abuses in Minnesota's corrections system. There is no evidence to suggest anything of the sort. What this sentence is intended to do is ask you to consider the following.

There are 8,900 people in prison in the State of Minnesota. Many are members of a racial or ethnic minority group.

	Prison Population[1]				State Population[2]	
	White	Non-white	% White	% Non-white	% White	% Non-white
7/1/2006	5,211	3,799	57.8%	42.2%	87.8%	12.2%
7/1/2005	5,089	3,619	58.4%	41.6%	88.0%	12.0%
7/1/2004	4,820	3,513	57.8%	42.2%	88.1%	11.9%
7/1/2003	4,331	3,237	57.2%	42.8%	88.6%	11.4%

[1] Minnesota Department of Corrections, Adult Inmate Profiles

[2] American Community Survey, US Census Bureau

There are 4,100 prison staff in DOC[4]. Only 3% are members of a racial or ethnic minority group. It would be naïve to not think that there are not inherent trust issues by this very disparity. Working Group participants from communities of color expressed the sentiment of their representative communities to be one of intense dissatisfaction and distrust of the criminal justice system, in general. Participants from advocacy and service organizations indicated that although a formal office of the ombudsman for corrections no longer exists, their organizations continue to receive complaints from inmates. For example, the American Civil Liberties Union (ACLU) received approximately 300 complaints in 2007. The nature of these complaints varied, but the more serious centered on the adequacy of medical care and complaints from inmates who allege that they are victims of physical and sexual assaults by other inmates or by guards.

The St. Paul Branch of the National Association for the Advancement of Colored People (NAACP) received 716 complaints in 2007. The 526 complaints that were ultimately determined to be ones on which it could work represent a combination of complaints from county jail and DOC inmates. The nature of these complaints varied as well, but the majority centered on medical and dental care, racial discrimination, transfers, religion and housing.

Since the Office of the Ombudsman for Corrections was abolished in 2003, DOC has created or enhanced its policies and programs to fill the gap. For instance, in recent testimony before the legislature, DOC presented the following:

[4] Department of Corrections, Crystal Reports, January 3, 2008

- One policy manual is utilized by the entire agency, with timely review of all policies and procedures.
- Offenders have daily interaction with unit supervisors and case managers, many of who[m] are officed in the facility living units.
- Administrative staff are expected to make facility rounds at least weekly and to document those rounds. Verbal communication with offenders during rounds is a priority.
- Each facility has an Offender Representative Group that meets monthly. Offender representatives discuss pertinent issues and their resolution with administrative staff.
- Any changes in facility operations/procedures affecting offenders are communicated in advance via the Offender Representative Groups and memorandum.
- Bulletin boards in each living unit display information pertinent to offenders.
- A formal grievance procedure has been created by policy. Offenders may appeal facility decisions to the Assistant Commissioner of the Facility Services Division.
- The DOC responds to all offender/family correspondence and phone calls in a timely manner.
- The DOC adheres to American Correctional Association (ACA) accreditation standards regarding the operation and management of correctional facilities.
- Regular security audits are conducted at each facility and provide excellent feedback on prison conditions. [Staff from a DOC facility, other than the one being inspected, conducts the security audit.]
- Offenders have ready access to the courts and litigation as other avenues to complaint resolution. [There is a law library at each facility.]
- DOC facilities now experience low levels of violence. While incidents do occur, DOC facilities remain relatively safe for offenders, staff and visitors.
- [The] system is much more open today than when the Ombudsman's office was created [in 1971]. Courts, attorneys, and media can be easily accessed by offenders.
- Offenders receive due process consistent with policy, which was not present in the early 1970s.
- Offenders have access to a wide range of communication including regular visits, attorney visits, phones, U.S. mail, and mentors/volunteers.

While these initiatives should be applauded, could the addition of an ombudsman for corrections provide an additional resource to the corrections system, advocates and service organizations, and other stakeholders?

Corrections system staff:

Many of the complaints that would come to the ombudsman would come as a result of a breakdown in communications between corrections staff and the inmates or their families. Uncomplicated complaints likely would be easily and swiftly resolved at a very early stage by corrections staff. Simple complaints might not be resolved easily if the internal complaint system proved to be ineffectual, overcomplicated or simply not understood by the complaining inmate. Inmates are required to exhaust the chain of command in a grievance situation. This would continue to be the case even with an ombudsman for corrections. Rather than corrections staff viewing the involvement by an ombudsman to be undermining, redundant and interfering, an ombudsman's involvement could be viewed as another opportunity to have *staff's original decision supported, sustained or corroborated.* The ombudsman might also serve as another pair of eyes and ears with another perspective and perhaps a different suggestion that *may appropriately resolve the inmate's issue without creating a precedent for a similar issue in the future.* Corrections system staff could also benefit by considering the ombudsman as a tool to be accessed by which they could derive a number of benefits. The ombudsman could serve as a way to: **a)** gain feedback from the public on the quality of its work; **b)** avoid the extra time and cost involved in further appeals; **c)** promote good relations and communications with the public; **d)** encourage a positive attitude towards the administration; **e)** indicate where problems exist; **f)** highlight shortcomings in the administration and areas which might need improvement; and, **g)** help corrections staff avoid unfavorable publicity.

Prisoners and their families:

Inmates generally want to know that their complaint or grievance was handled fairly and want a clear, understandable explanation of the outcome even if it is not favorable to them. An ombudsman could serve as the means to do this.

An inmate's family member remains outside of the corrections system even though they are affected by the incarceration of their inmate. The family member generally wants to know that their inmate received an appropriate remedy where it is found that they were not treated fairly or properly, and the ombudsman – acting as the conduit to the correction system but not working directly for the corrections system – could provide this assurance.

Prison advocacy and service organizations:

Organizations that provide services to prisoners and their families such as the Minnesota Council on Black Minnesotans, the Minnesota Chicano-Latino Affairs Council, the Minnesota Council on Indian Affairs, National Association for the Advancement of Colored People (NAACP), African American Leadership Council (AALC) and LAMP, Legal Aid for Minnesota Prisoners offer many accounts of how they have responded to complaints that they believe could have been handled by an ombudsman for corrections. Most of these organizations do not have a data base record of the number of complaints they have handled during the time that the ombudsman for corrections has not existed, but they estimate that they have handled hundreds of complaints. Representatives from these organizations – and in particular the NAACP and AALC – stated that they did not understand that if so much has been done in the corrections system to make an ombudsman for corrections unnecessary, why is it that when their organizations become involved in a situation, the issue seems to reach a more expeditious resolution than if the prisoner tried to work through the process for him/herself?

One key benefit that an ombudsman for corrections could provide for the advocacy and service organizations is the existence of a single, neutral point-of-entry to the corrections system. While it is true that DOC has provided tools for inmate and family use, many people who are incarcerated and their families have difficulty maneuvering through the system. Additionally, a benefit would be that by the ombudsman's involvement in identifying and assisting with developing solutions to address systemic issues, the advocacy organization will be assured that others similarly situated will be spared the adverse effect which the original complainants/grievants may have experienced.

Legislators/Policy Makers:

One of catalysts for convening the Ombudsman for Corrections Working Group was the desire by a legislator who became, in her words, "the de facto Ombudsman for Corrections since the function was abolished in 2003." The Working Group understood that while it is the responsibility of this legislator to deal with issues that affected the offenders and their family members in her district, she received many requests for help from offenders and family members who lived outside her district when word of her work on behalf of other offenders traveled throughout the various facilities. The working group noted that it would have been helpful for legislators to know about this particular legislator's dilemma, but also it might be helpful for legislators to obtain a general understanding of the

policies and procedures of DOC and the county jails, and for them to understand the resources available to them within DOC.

Other stakeholders:

The benefit of an ombudsman to other stakeholders rests in a broader question. Will the office add value or will it be a costly, cumbersome layer of bureaucracy? During the working group process it was put forward that crime victims are stakeholders in this discussion. Some participants felt that focusing too much attention and resources on offenders could minimize the victims of crimes. However, most participants felt that with the right personnel, the right balance, the right commitment from the corrections system and legislature; and with the proper amount of resources devoted to the office *it could carry out the best practices of an ombudsman, and could be the tool of good government it is designed to be.*

Late into the working group process as it became more apparent that it would be difficult to come to consensus regarding the re-creation of the Office of the Corrections Ombudsman – particularly in its most recent form – the group felt it was necessary to articulate the criteria that must exist in a basically equivalent service, process or program. These characteristics and values are:

- Independence
- Oversight and accountability
- Authority and resources
- "Bridge" (intermediary, neutral) between public/inmates and corrections system
- Trust
- Credible process
- Pressure valve
- Transparency/education
- Confidentiality
- Consistency in data (for measurable outcomes analysis)
- Impartiality (separate from satisfaction with outcome)
- Broad view of system(s)
- Accessibility of information (for public, for legislature)
- Collaboration – with Mental Health Ombudsman and professionals

Recommendations

The working group respectfully submits the following recommendations for consideration by the legislature.

Collect data throughout the corrections system – including state and county facilities – utilizing a standard reporting period and standard criteria. DOC's Facilities and Inspection Unit certifies county jails and conducts security audits of state prison facilities. With modifications, the criteria used to collect grievance information from the jails could be revised to be consistent with the criteria used to collect grievance information from the state prison facilities. Without a mandate from the legislature it may be difficult to expect the jails would provide this information voluntarily because they do not keep comprehensive annual grievance statistics. Currently the county jails report grievance data by calendar year while state facilities report grievance data using the state fiscal year. It is a complicated process to get an overall picture of grievance activity throughout the state. In order to get an accurate system-wide picture of grievance activity, DOC should require the jails to track and provide grievance data to their Facilities and Inspection Unit – or its equivalent – using a standard collection period, and standard categories and criteria. Include this information in DOC's biennial report to the legislature. A summary of this information should be made available to the public.

Collect and report race and disability data. At the writing of this report DOC did not collect data on the racial identity of inmates who file grievances. Disability data was collected only when an offender's disability status was relevant to his/her grievance. Jails have not been required to capture and report grievance data by topic, the inmate's race or the inmate's disability. A list of protected classifications can be found in the Minnesota Human Rights Act. The legislature should require that county jails and DOC collect and report race and disability data, in addition to the protected classifications that are currently tracked and reported. Include this information in DOC's biennial report to the legislature. A summary of this information should be made available to the public.

Provide funding for an adequate amount of resources for DOC to collect and report the required information. Technology and human resources for data collection and reporting are expensive. Currently DOC does not have the technical capability to collect and report this information. The counties also have technical limitations that affect their ability to collect and report this information. To collect, store and have the ability to sort, report and provide for data security in a system that would cover the entire corrections system in Minnesota would require a substantial commitment of time and money.

Conduct education and outreach to community resources on DOC and county policies and procedures. During the working group process it became apparent that although many of the community participants are well versed in

DOC and county jail procedures, many had questions about the intricacies of maneuvering through the system. More education is needed to allow these community resources to enhance the information and service they are currently providing to offenders and their families.

Provide an orientation to legislators on DOC and county corrections policies and procedures. Some legislators have more contact with inmates than others for a variety of reasons. The most likely reason would be that when a legislator becomes involved in a complaint or grievance by one inmate, word travels to other inmates and their families that someone on the outside will listen to them. It would be helpful for these legislators to understand the policies and procedures used by DOC and the jails, and to have confidence that these matters will be handled fairly and in a timely manner.

Conduct an independent study of DOC and county jail grievance data in the categories with the highest number of grievances to determine if there are systemic problems that need to be addressed. DOC's and the advocacy/service organizations' grievance data indicate that the categories with the largest number of grievances are medical, discrimination, housing, religion, and staff. An attempt was made to collect this level of grievance information from jails, but was met with significant resistance because in the past the jails have not been required to provide the information with this level of detail. There may be simple reasons for the high of number of grievances, but without the full story behind the numbers it is difficult to tell. Currently DOC performs regular self-audits of its policies, procedures and programs using the American Corrections Association standards.

The Working Group was not able to achieve consensus on the following issues, however there was strong support to submit these items for consideration by the legislature.

Provide a service similar to the now defunct Ombudsman for Corrections to recently released offenders. While DOC acknowledges that, in general, Minnesota prisons are less violent than in the distant past, they will admit that the prison population is increasing and becoming more diverse. Many former prisoners reoffend within a short time of their release from prison. DOC provides transition programs for the soon-to-be-released, but organizations who provide services to the recently released suggest that an ombudsman-like service for recently released offenders may contribute to the success of a former prisoner's reintroduction to the community and may decrease the number of persons that reoffend and return to prison.

Recreate the Office of Ombudsman for Corrections and give it high priority to provide services to juveniles because of the critical issues children face during their developmental years. If the legislature does not recreate the Office of Ombudsman for Corrections, it should grant authority to the remaining two Ombudsman offices – the Office of Ombudsman for Mental

Health and Developmental Disabilities and the Office of Ombudspersons for Families – to have jurisdiction over juvenile facilities licensed by DOC along with the resources needed to ensure adequate, meaningful services.
In Minnesota the underlying public policy for juvenile offenders is "best interest of the child" under MN Stat. 260; 260A; 260B and 260C. While the child may enter the system as a result of a criminal act which could include status offenses or delinquency offenses, the systems involved - corrections and social services - are charged with providing services which support and discipline the child in a way that provides for the best opportunity for the child and family to redirect the offending behaviors. Often services are provided by both social services and community corrections services. In some cases the child may be managed by only the community corrections entity. Because children are still in their developmental stage, these behaviors can have a number of different factors in their genesis. Some may be disability, mental health, developmental, chemical, situational or traumatic events driven. Cultural issues and differences can also be a factor. Often there can be a significant difference of opinion between children, families and the system on what is in the child's "best interest". Decisions about the child and actions taken can have a profound effect on the development of the child. If the decision is the right decision, the services provided can make a significant positive effect on the development of the child. When the decisions are wrong, it can further damage the child and create worsened behaviors. For this reason alone there is a role that could be played by an Ombudsman in assisting in proper decision making or facilitating disagreements between the child, family and the professionals.

In recognition of the "best interest" public policy, Minnesota has consolidated, under one rule, a provision that governs facilities where children might be placed when the situation dictates the need for placement outside of the child's home. This rule is Minnesota Rule 2960, commonly referred to as the *umbrella rule*, and is administered jointly by the Minnesota Departments of Human Services (DHS) and Corrections (DOC). Each facility can choose the type of services it will provide to a child; licensure is handled by either DHS or DOC, depending on which services are provided (see Minn. R. 2960.0030). At the time the rule was promulgated, there were three Ombudsman serving children in Minnesota: the Ombudsman for Mental Health and Developmental Disabilities, the Ombudsman for Families of Color, and the Ombudsman for Corrections. The first two have authority in the human service system and the third was the only one with authority for children involved with corrections. When the Ombudsman for Corrections was eliminated, a child placed in facility licensed by DOC was left without access to any ombudsman services. This is true even if the child placed in such a facility has never been adjudicated a delinquent because there is no prohibition against placing a non delinquent child in a DOC licensed facility. Counties do this because these facilities often cost less than those licensed by DHS.

Appendices

Minnesota
Office of the Revisor of Statutes

Minnesota Session Laws 2007 - Chapter 54

Key: (1)Language to be deleted (2)New language

CHAPTER 54-- H.F.No. 829

An act relating to public safety; appropriating money for the courts, public defenders, public safety, corrections, human rights, and other criminal justice and judiciary-related agencies; establishing, funding, modifying, and regulating public safety, criminal justice, judiciary, law enforcement, corrections, and crime victims services, policies, programs, duties, activities, or practices; requiring studies and reports; creating and modifying working groups, councils, and task forces; imposing criminal and civil penalties; setting or increasing fines or fees; regulating DWI and driving provisions; regulating scrap metal dealers; establishing ignition strength standards for cigarettes; providing conditional repeals of certain laws; amending Minnesota Statutes 2006, sections 2.722, subdivision 1; 3.732, subdivision 1; 3.736, subdivision 1; 13.82, subdivision 27; 15A.083, subdivision 4; 16A.72; 16B.181, subdivision 2; 16C.23, subdivision 2; 169A.275, by adding a subdivision; 169A.51, subdivision 7; 171.12, by adding a subdivision; 171.305, by adding a subdivision; 171.55; 241.016, subdivision 1; 241.018; 241.27, subdivisions 1, 2, 3, 4; 241.278; 241.69, subdivisions 3, 4; 243.167, subdivision 1; 260C.193, subdivision 6; 268.19, subdivision 1; 297I.06, subdivision 3; 299A.641, subdivision 2; 299A.681, subdivision 2, by adding a subdivision; 299C.46, by adding a subdivision; 299C.65, subdivisions 2, 5; 299N.02, subdivision 3; 302A.781, by adding a subdivision; 325E.21; 352D.02, subdivision 1; 363A.06, subdivision 1; 383A.08, subdivisions 6, 7; 401.15, subdivision 1; 403.07, subdivisions 4, 5; 403.11, subdivision 1, by adding subdivisions; 403.31, subdivision 1; 484.54, subdivision 2; 484.83; 504B.361, subdivision 1; 518.165, subdivisions 1, 2; 518A.35, subdivision 3; 518B.01, subdivision 22; 563.01, by adding a subdivision; 595.02, subdivision 1; 609.02, subdivision 16; 609.135, subdivision 8; 609.21, subdivisions 1, 4a, 5, by adding subdivisions; 609.341, subdivision 11; 609.344, subdivision 1; 609.345, subdivision 1; 609.3455, by adding a subdivision; 609.352; 609.52, subdivision 3, by adding a subdivision; 609.526; 609.581, by adding subdivisions; 609.582, subdivision 2; 609.595, subdivisions 1, 2; 611A.036, subdivisions 2, 7; 611A.675, subdivisions 1, 2, 3, 4, by adding a subdivision; 634.15, subdivisions 1, 2; 641.15, by adding a subdivision; 641.265, subdivision 2; Laws 2001, First Special Session chapter 8, article 4, section 4; Laws 2003, First Special Session chapter 2, article 1, section 2; proposing coding for new law in Minnesota Statutes, chapters 171; 241; 299C; 299F; 357; 484; 504B; 609; 611A; repealing Minnesota Statutes 2006, sections 241.021, subdivision 5; 241.85, subdivision 2;

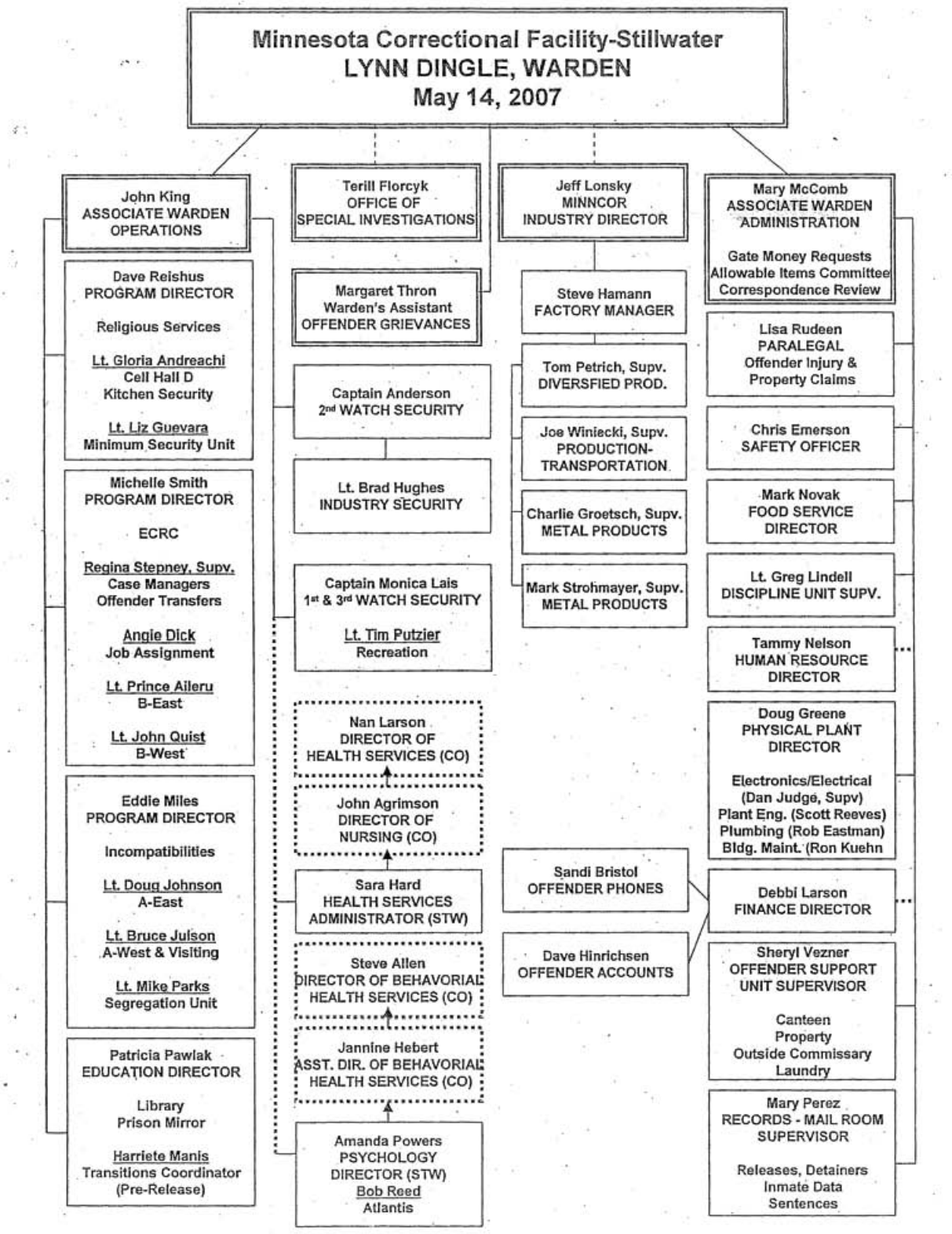
242.193, subdivision 2; 260B.173; 403.31, subdivision 6; 480.175, subdivision 3; 609.21, subdivisions 2, 2a, 2b, 3, 4; 609.805; 611.20, subdivision 5.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

(Text Intentionally Omitted)

Inmate Complaints, Assaults, and Fatalities; Corrections Ombudsman; Working Group; Report. By August 1, 2007, the commissioner of human rights shall convene a working group to study how the state addresses inmate complaints, assaults, and deaths in county jails, workhouses, and prisons. The commissioner shall serve as chair of the working group and invite representatives from the Department of Corrections, legislature, Minnesota Sheriffs' Association, Minnesota Association of Community Corrections Act counties, state bar association, criminal victims justice unit, Council on Black Minnesotans, Indian Affairs Council, Council on Asian-Pacific Minnesotans, Chicano/Latino Affairs Council, University of Minnesota Law School, Immigrant Law Center of Minnesota, the ombudsman for mental health and developmental disabilities, and other interested parties to participate in the working group. The group must: (1) assess how state and local units of government currently process and respond to inmate complaints, assaults, and deaths; (2) assess the effectiveness of the state's former corrections ombudsman program; (3) study other states' corrections ombudsmen; (4) study whether the state should conduct a fatality review process for inmates who die while in custody; and (5) make recommendations on how state and local units of government should systematically address inmate complaints, assaults, and deaths, including the need to reappoint a corrections ombudsman. The commissioner of corrections shall provide to the working group summary data on assaults and deaths that have occurred in state and local correctional facilities. The commissioner of human rights shall file a report detailing the group's findings and recommendations with the chairs and ranking minority members of the house of Representatives and senate committees having jurisdiction over criminal justice policy and funding by January 15, 2008.

Flow Diagram: Chain of Command



Minnesota Ombudsman for Corrections Statutes – 2002

MINNESOTA STATUTES ANNOTATED
CORRECTIONS
CHAPTER 241. DEPARTMENT OF CORRECTIONS OMBUDSMAN

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241.41. Office of ombudsman; creation; qualifications; function

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

241.42. Definitions

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

Subd. 2. "Administrative agency" or "agency" means any division, official, or employee of the Minnesota department of corrections, the commissioner of corrections, the board of pardons, and any regional or local correctional facility licensed or inspected by the commissioner of corrections, whether public or private, established and operated for the detention and confinement of adults or juveniles, including, but not limited to, programs or facilities operating under chapter 401, adult halfway homes, group foster homes, secure juvenile detention facilities, juvenile residential facilities, municipal holding facilities, juvenile temporary holdover facilities, regional or local jails, lockups, work houses, work farms, and detention and treatment facilities, but does not include:

(a) any court or judge;

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

(c) the governor or the governor's personal staff;

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

(e) any interstate compact.

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

Subd. 4. Repealed by Laws 1976, c. 318, § 18.

241.43 Organization of office of ombudsman.

Subdivision 1. **Employee selection.** The ombudsman may select, appoint, and compensate out of available funds such assistants and employees as deemed necessary to discharge responsibilities. The ombudsman and full-time staff shall be members of the Minnesota state retirement association.

Subd. 2. **Assistant ombudsman.** The ombudsman may appoint an assistant ombudsman in the unclassified service.

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

241.44. Powers of ombudsman; investigations; action on complaints; recommendations

Subdivision 1. Powers. The ombudsman may:

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

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

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

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

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

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

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

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

(i) bring an action in an appropriate state court to provide the operation of the powers provided in this subdivision. The ombudsman may use the services of legal assistance to Minnesota prisoners for legal counsel. The provisions of sections 241.41 to 241.45 are in addition to other provisions of law under which any remedy or right of appeal or objection is provided for any person, or any procedure provided for inquiry or investigation concerning any matter. Nothing in sections 241.41 to 241.45 shall be construed to limit or affect any other remedy or right of appeal or objection nor shall it be deemed part of an exclusionary process; and

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

Subd. 1a. Actions against ombudsman. No proceeding or civil action except removal from office or a proceeding brought pursuant to chapter 13 shall be commenced against the ombudsman for actions taken pursuant to the provisions of sections 241.41 to 241.45, unless the act or omission is actuated by malice or is grossly negligent.

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

(1) contrary to law or rule;
(2) unreasonable, unfair, oppressive, or inconsistent with any policy or judgment of an administrative agency;
(3) mistaken in law or arbitrary in the ascertainment of facts;
(4) unclear or inadequately explained when reasons should have been revealed;
(5) inefficiently performed;

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

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

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

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

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

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

Subd. 3a. Investigation of adult local jails and detention facilities. Either the ombudsman or the department of corrections' jail inspection unit may investigate complaints involving local adult jails and detention facilities. The ombudsman and department of corrections must enter into an arrangement with one another that ensures that they are not duplicating each other's services.

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

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

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

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

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

241.441. Access by ombudsman to data

Notwithstanding section 13.42 or 13.85, the ombudsman has access to corrections and detention data and medical data maintained by an agency and classified as private data on individuals or confidential data on individuals when access to the data is necessary for the ombudsman to perform the powers under section 241.44.

241.45. Publication of recommendations; reports

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

Subd. 2. In addition to whatever reports the ombudsman may make on an ad hoc basis, the ombudsman shall biennially report to the governor concerning the exercise of the ombudsman's functions during the preceding biennium. The biennial report is due on or before the beginning of the legislative session following the end of the biennium.

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Minnesota Ombudsman Roundtable

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Summary of Oral Testimony at Public Hearing
January 17, 2008

NOTE: The views and opinions expressed in this section are strictly those of the authors and do not necessarily state or reflect those of the Minnesota Department of Human Rights, its Commissioner, employees or the Ombudsman for Corrections Working Group, and are neither an endorsement nor an assumption of any legal responsibility for the accuracy of the information supplied.

Presentations made by individuals are summarized below, unless they submitted written testimony as well.

K. Alan Nelson
Minneapolis, Hennepin County

Mr. Nelson played an audio recording of an incident at the Hennepin County Jail involving a friend of his. His friend had been arrested and was put into a restraining chair. The recording included the man's calls for help and his complaints that he was in pain. The staff's reactions, also audible, included dismissing his complaints and mocking him.

Mary Vasaly
Minneapolis, Hennepin County

Ms. Vasaly, an attorney in private practice with Maslon Edelman Borman & Brand, represents inmates at the Oak Park Heights Correctional Facility in a class action suit regarding health care services in the prison. She submitted her testimony in writing.

Evalinda Saldona
Tracy, Lyon County

Ms. Saldona's brother is an inmate in Bayport. She said she has heard from inmates that medical services are a problem and that there is a significant time lag between when the care is needed and when it is received. She has also heard concerns that the inmates are not getting enough food.

Further, she relayed an inmate's concerns regarding the cleanliness of the facility. She has heard that bathrooms, showers, and other common areas are not cleaned

well or on a regular basis, and there are concerns that when blood etc. is left unattended to, inmates pick up more diseases.

Ofiong Sanders
St. Paul, Ramsey County

Mr. Sanders was released last September after being incarcerated in several facilities over the past 10 years. He asks that a neutral mediator be available in the prison system and remarked that society "does not allow criminal behavior from people like [him], so they should not allow criminal behavior by state officials watching over people like [him]."

Mr. Sanders told of a time when he was in segregation without his asthma inhaler. He said the staff knew that he needed the inhaler, and he had asked for it repeatedly. After two weeks in segregation, he had an asthma attack that escalated, and the paramedics were called. He recalls that the paramedics asked staff why he did not have his inhaler.

Mr. Sanders stated that he believes mistreatment in prisons does not help prisoners be better men when they are released.

He added that "We need the Ombudsman who is not on Corrections' leash, who will not punish inmates for complaining," and who will be able to effect change within DOC when change is appropriate.

Emily Teplin
Minneapolis, Hennepin County

Ms. Teplin is an attorney with the Minnesota Disability Law Center. She submitted her testimony in writing.

Asked about response from DOC regarding accommodations for the disabled: Ms. Teplin has had a mixed response from DOC. She believes the system is slow to respond and slow to change, but that there are individuals who are aware of the issues.

Michael Undlin
Plymouth, MN

Mr. Undlin explained that he was the inmate in the recording played earlier. He believes that only an ombudsman and perhaps a special prosecutor can realistically address wrongs done to inmates by having sufficient power and resources in attempting to find accountability and redress wrongs suffered by inmates.

Mr. Undlin played a series of audio clips from his conversations with authorities—including the Hennepin County office of internal affairs, the county attorney's office, and the FBI—as he attempted to gain support for holding individuals accountable for his treatment.

Asked to summarize his thoughts on how his experience can inform the Working Group's report: Mr. Undlin stated that "every entity refuses to go across the thick blue line," and that no one would investigate his treatment. He said people he talked to believed they could not gather information from other agencies. He believes an ombudsman with power to subpoena and to investigate could help him immeasurably.

His information is available at www.stoptorture.us.

Peter S. Brown
Minneapolis, Hennepin

Mr. Brown is a member of the Minnesota Chapter of the National Lawyers Guild. A community issue of the Guild is looking into standards that should have been in effect and that would have prevented the death of Maria Inamagua. Mr. Brown stated that the United States has signed human rights treaties that apply to federal, state, county, and municipal correctional facilities. He believes that an ombudsman fits in to upholding the obligations of these treaties.

Mr. Brown stated that there is a serious need for an independent investigation to get to the bottom of issues like the ones heard tonight. He reported that the United States has a treaty obligation to treat all people deprived of their liberty with humanity and with respect for the inherent dignity of the human person. He indicated that there are specific provisions relating to obligations to provide opportunities for people with complaints regarding their treatment to have their complaints independently and promptly investigated.

Mr. Brown said that under the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, any individual alleging he's been subject to such treatment has a right to complain and have his case promptly and impartially examined. He stated that all levels of government everywhere in the US are bound by this and that this treaty obligates all levels of government to investigate promptly and independently wherever reasonable grounds exist to believe that an act has occurred.

Mr. Brown wanted to bring this issue into context of human rights treaties to which US is a party. He believes the office of the ombudsman is a key to meeting these obligations.

Summary of Comments Received in Writing from Inmates

NOTE: The views and opinions expressed in this section are strictly those of the authors and do not necessarily state or reflect those of the Minnesota Department of Human Rights, its Commissioner, employees or the Ombudsman for Corrections Working Group, and are neither an endorsement nor an assumption of any legal responsibility for the accuracy of the information supplied.

Richard Robert Johnson
MCF – Stillwater

Native American from Leech Lake, serving a life sentence.

General concern: Writes that the current kite/grievance process does not work. He states that staff will lie or make up new policies in response to kites, sometimes ignoring complaints completely or throwing away the kites.

Specific concerns: Mr. Johnson injured his knee 20 years ago at another state correctional facility. He has received care in the past and complains now that, with medical services provided by a contracted firm, he is refused care by an outside provider (an orthopedist, for example). He is told such an outside visit would be too expensive.

Mr. Johnson also believes the Indian Liaison at DOC is ineffective. He believes the Liaison has jurisdiction to conduct investigations and states the Liaison has refused to investigate his complaint. Instead, the Liaison forwards his issue to the prison warden, who, according to Mr. Johnson, then gives Mr. Johnson a warning for not following chain-of-command procedures.

As a result of his complaints not being addressed, Mr. Johnson has filed two law suits. He believes that the Ombudsman's office would have helped him get the care he needs and helped to avoid the law suits.

Chris Zaccaria
MCF – Lino Lakes

One of 6 deaf inmates at Lino Lakes.

General concern: Services available to and general treatment of deaf inmates.

Specific concerns: Incumbent interpreter for the deaf is former corrections officer whose qualifications do not seem to include certification, though the interpreter was described by DOC as CODA because the interpreter has a deaf parent. Because of

the interpreter's ties to DOC, Mr. Zaccaria is concerned that the confidentiality of deaf inmates' conversations with doctors, etc. is being compromised.

Also, Mr. Zaccaria says he has been told that deaf inmates must remain at Lino Lakes and cannot transfer to a different facility. He also believes deaf inmates are treated poorly compared to hearing inmates.

Scott Bailey
MCF – Lino Lakes

One of 6 deaf inmates at Lino Lakes.

General concern: Services available to and general treatment of deaf inmates.

Specific concerns: Incumbent interpreter for the deaf is former corrections officer whose qualifications do not include certification in ASL and who is not a Certified Interpreter.

There are problems with the phone system, as well. Minnesota Relay Service has a pattern of not being able to connect and other technical problems. Service from TTY to TTY is fine, but calling family who do not have TTY has not worked for two years.

Mr. Bailey has also been told that deaf inmates must be at Lino Lakes and cannot transfer to any other facility. He finds it hard to believe it is because of the interpreter, because interpreters must be provided to the deaf all over the state.

Mr. Bailey has a pending lawsuit against DOC.

PUBLIC COMMENTS RECEIVED IN WRITING BY JANUARY 25, 2008 APPEAR ON THE FOLLOWING PAGES.

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TESTIMONY PRESENTED ON JANUARY 17, 2008

By Mary R. Vasaly
3300 Wells Fargo Center
Minneapolis, MN 55402

It is of great importance that inmates in Minnesota correctional institutions have access to a neutral person who has the power to resolve issues relating to their treatment, including medical, dental and psychiatric care. While it is the object of those who work in the prison system to accord inmates human dignity and provide them with the care to which every person is entitled simply as a human being and by the Constitution, problems arise. These problems arise for many reasons. Some problems arise due to working conditions unique to prisons, e.g., the stress of working with a prison population. Or they may arise due to understaffing and inadequate resources - the Minnesota ranks 46th lowest among the states in spending on corrections. Problems also arise because staff may abuse their power over a captive population (e.g., Abu Ghraib and Guantanemo). Finally, in the case of the Minnesota system, independent supervision of prison health care conditions is lacking, responsibility for health care having been delegated to a private contractor (CMS) that has a profit motive to reduce the cost of services to the prisons. According to "A Position Statement" issued by the Minnesota Psychiatric Society hiring CMS has negatively impacted health care standards because "CMS functions according to business incentives."

When problems occur, it is vitally important that inmates have available an independent third party who may intervene for them. The DOC has a history of taking steps to remedy deficiencies only when forced to do so. For example, a court found that required improvements in prison conditions came only after litigation brought the conditions under scrutiny. A neutral person is necessary to deal with these issues because this highly vulnerable population lacks the power to enforce even those mimimal rights that they are entitled to. At least a quarter of the inmates are mentally ill. Inmates don't vote so they have no political power. Although access to lawyers is a way to assure that the prisoner's rights are not abused, they generally can't afford a lawyer and access to free advice has been drastically curtailed. Cutbacks on legal aid have all but dried up the free legal resources that once were available. Acting pro se, prisoners run up against the provisions of the Prison Litigation Reform Act that limit their rights. And even if litigation were a real option, from the State's point of view, litigation is not a cost-effective tool for resolving issues.

Thus, a court in Wisconsin recognized that this situation could be remedied only by creating an Office of the Independent Monitor to supervise the prison. The court explained why it took this step:

> In the private market place, consumers are protected by competitive pressures and choice. That is, if your doctor does not serve you adequately, you get a second opinion. There is little opportunity for second opinions in prison medical service. You get one opinion, that of the prison or CMS physician. If you do not like it, you kite or grieve it, but you are too often told to pound sand. While it is true that federal courts are sometimes an effective check on this abuse, the sad fact is that the circumstances which create effective checks on prison conditions usually happen only after the prisoner has been either killed or severely injured. This is because the private market place of attorneys is not interested in taking other cases because they do not generate sufficient income. So what about the prisoner whose treatment [he feels] is likely to jeopardize his health and he wants injunctive relief? That prisoner, after going through the grievance process, files a federal action where typically nothing happens in a hurry. He may move for immediate injunctive relief, but he is lacking the one thing he needs to obtain it – a supporting medical opinion that he will be seriously harmed if additional or different care is not provided.

Prisoners simply lack the means to protect their own health and to prevent indifference from killing and injuring them: The court said: "This situation does not whimper for a remedy. It cries aloud in a voice acknowledged by all but the deaf and defiant." Similarly, the Minnesota Psychiatry Statement urges the creation of an "ombudsman for corrections" who would serve as an impartial arbitrator and advocate for the needs of inmates, thereby creating checks and balances in the DOC health care system. In an era of shrinking funding and rising costs, an independent review serves as a valuable safeguard of non-monetary values and standards of care.

I have had the occasion to hear inmates' horror stories about their medical and psychiatric care in connection with a case that I am handling, and I have had a medical expert review their files. Based on this, I am convinced that a solution must be found to prevent unwarranted injury to inmates. With the creation of an ombudsman's office, it is far less likely that a prison sentence will become a death sentence.

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Communities United Against Police Brutality™
3100 16th Avenue South
Minneapolis, Minnesota 55407
612-874-STOP
www.CUAPB.org

January 24, 2008

Sent via email to Ms. Denise Romero-Zasada
denise.romero-zasada@state.mn.us

Ms. Denise Romero-Zasada
Corrections Ombudsman Working Group
Minnesota Department of Human Rights
190 E. 5th Street, Suite 700
St. Paul, MN 55101

Dear Ms. Romero-Zasada:

Please forward these comments to the Corrections Ombudsman Working Group.

Communities United Against Police Brutality is a human rights organization that advocates for individuals dealing with the effects of abuse by law enforcement officers and agencies. As such, we periodically present letters to or meet with command staff at jails around the area to advocate for the proper treatment of detainees.

We have had multiple occasions to present letters expressing concern for treatment of inmates in both Ramsey County and Hennepin County jails. As a health care worker, I have personally delivered demand letters and met with jail medical staff to secure proper medical attention for a number of individuals in both facilities. In other situations we have advocated for family members who were attempting to preserve video evidence in relationship to inmates who died in custody. Within the last two weeks, a delegation from our organization met with command staff at the Washington County jail after staff there arbitrarily severed communications with the family of a vulnerable adult inmate in the throes of a severe mental health crisis.

Detainees in correctional facilities are at risk for abuse due the extreme power differential between them and corrections staff. While many of these staff members appear to take their responsibilities seriously and act professionally toward their charges, there are those who abuse their power or who impose extrajudicial punishment on inmates.

It is clear to us that the corrections ombudsman position should be reestablished. Doing so would not only preserve inmate rights but would protect correctional facilities from liability from unanswered inmate complaints. We urge the working group to take action toward reestablishing the corrections ombudsman role.

Sincerely

Michelle F. Gross (ES)

Michelle F. Gross
Vice President

Minnesota Department of **Human Services**
Deaf and Hard of Hearing Services Division

January 23, 2008

Corrections Ombudsman Working Group
Minnesota Department of Human Rights
190 E. 5th Street, Suite 700
St. Paul, MN 55101

To Whom It May Concern:

Thank you for the opportunity to comment on Ombudsman For Corrections Working Group Preliminary Report to the Legislature.

The Deaf and Hard of Hearing Services Division of the Minnesota Department of Human Services operates regional offices around the state to assist consumers who are deaf, hard of hearing and deafblind with access to needed services. Given our experience working with inmates who contacted us because they were not provided the accommodations they needed to access communication, we offer the following suggestions for your consideration:

- Ensure that all recommendations made by the working group for systems change address the need for communication accommodations such as sign language interpreters, assistive listening devices, TTYs, and real-time captioning for inmates with hearing loss.
- Ensure that inmates with hearing loss are provided communication accommodations at each level of the grievance/complaint process of their facility.
- Whether the ombudsman office is reinstated or alternative strategies continue to be used such as those listed in your report on pages 12-13, ensure that programs and policies address the communication accommodations needed by inmates with hearing loss. From the report, it is unclear what type of communication accommodations are provided for activities like the daily and weekly interactions between inmates and various staff and the monthly meetings of the Offender Representative Group.
- Regarding the recommendation to collect race and disability data, we suggest using a breakdown of hearing loss data that identifies degree of hearing loss (e.g., deaf, hard of hearing, deafblind) and the type of communication accommodations needed. We have found that having data in these categories is helpful for predicting needs, planning budgets and services, and identifying staff training needs.

Please do not hesitate to contact me if we can be of assistance.

Sincerely,

Bruce Hodek, Director
bruce.hodek@state.mn.us
651-431-2356

MINNESOTA SHERIFFS' ASSOCIATION

1951 Woodlane Dr., Suite 200, Woodbury, MN 55125
Telephone: 651/451-7216 Fax: 651/451-8087
e-mail: info@mnsheriffs.org

January 8, 2008

To The Minnesota Legislature:

RE: Department of Human Rights – Establishment of a Corrections Ombudsman Program Report

The Minnesota Sheriffs Association appreciates the opportunity to participate in this working group to study the merits of implementing an Ombudsman Program for the Department of Corrections. We believe it is important to note that all of the "complaint letters" that were brought to the work group's attention focused on a single correctional facility under the direction of the DOC. We view this fact as perhaps a "facility issue" that should be addressed with the DOC and not an "industry issue" as has been purported. We have been advised that our comments to this report must be limited to one page hence many of our comments and/or objections can not be listed in specific detail.

I believe the working group members and facilitators have tried to address the expectations as outlined by the legislature, but our conclusion is that process has failed to adequately research, study and discuss many of the goals as desired by the legislature. There simply was not sufficient time to review this complex subject and come to any consensus or make any meaningful recommendations to the legislature. As an example, the collection of data was discussed and a very length report was presented by the DOC. Time did not permit anyone to look at the various local reporting systems that may exist and/or could be modified to better collect data. The group also did not research the issues of data collection as it relates to our Minnesota Data Practices laws. Some of the suggestions of collection of data may in fact violate current state laws and or departmental/agency rules or policies.

The recommendations to expand the Ombudsman Program to recently released offenders, expanding the Ombudsman Program to include Juvenile Offenders, expanding the mission of the current Mental Health Ombudsman and the Office of Ombudspersons for Families to also take over the Ombudsman for Corrections programs were nothing more than a mere passing comment or desire by select individuals and did not result in any research, study or constructive debate among the working group members.

Currently the Minnesota Sheriffs who operate our local detention facilities are held accountable to the public through an election process that occurs every four years. Additionally, Sheriffs are required to have their facilities licensed by the DOC and follow all of the rules Chapter (2911) that outline how a detention facility must be operated and managed. The Sheriffs are also subject to over sight from their respective County Attorney's and designated Medical Examiners on any cases or deaths that may occur in their facilities. With all of the current rules, regulations and over sight of multiple agencies we do not believe that re-creation of a Correctional Ombudsman Program is a wise investment of public funds. A great deal of additional research and study would be needed to justify an expenditure of this nature.

James Franklin, Executive Director
Minnesota Sheriffs Association

Swift County Sheriff's Office

Scott Mattison, Sheriff
301 – 14th Street North, PO Box 266
Benson, MN 56215

(320) 843-3133 / 289-2356 / 264-597 Fax: 843-2299

January 8, 2008

Honorable Minnesota Legislators:

RE: Minnesota Department of Human Rights Ombudsman for Corrections Working Group

My comments are restricted to a single page, so I will not sort through all of the points of the report with which I agree or disagree. For the record, I am not opposed to the concept of the Ombudsman for Corrections. However, five months of nibbling around the edges of highly complex issues of interrelated societal, institutional and individual dynamics cannot hope to have produced a solid set of credible recommendations to the Legislature. At this point, any finalized public policy recommendations regarding the Ombudsman for Corrections are premature.

The working group did not have the time to adequately address the goals identified by the Legislature. We were not able to thoroughly identify and frame the issues, to gather available data, to thoroughly study the data and to form solid recommendations. The mere existence of complaints and claims of racial disparity should not be used to depict systems and processes as "broken" and in need of reform.

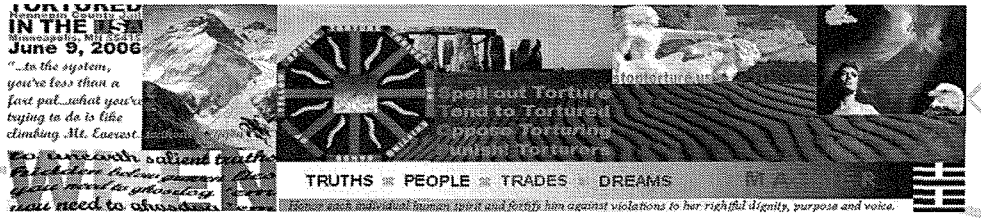
Several references are made to DOC policies as regulating other practitioners. Such State agency policies apply only to DOC facilities; rather, Chapter 2911 Rules and rules administered through other State agencies form the basis for policies, procedures and practices in other DOC-*licensed* facilities, including county jails. The sporadic investments of time and effort may have formed *impressions*, but they have not resulted in reliable research upon which to base actionable recommendations.

Time-pressured requests for data were made to a range of jurisdictions. When the data responses fell short of expectations, some concluded that governmental data custodians were apparently refusing to cooperate with the data requests. Such an assumption is far from accurate and belies the complexities of the issues, the myriad methods of data gathering and the lack of cogent governmental initiatives to facilitate defining, gathering and analyzing the data, not the unwillingness of practitioners to have practices, processes and data studied.

The current recommendations reflect some well-intentioned views, but some of the recommendations also reflect biases, unchallenged notions, and echoes from comfort zones – some of which are proposed without regard for what the data or lack of data might otherwise indicate. The final recommendation regarding juveniles is not supported in the body of the report. Such recommendation might just as well have been written in August as January, without benefit of data or research.

The recommendations contained in this report which I support are those which call for additional data and additional study. I thank the Commissioner for making so many references to the need for additional data. I do not support recommendations which are unsupported by the data or the research. I urge the Legislature to seek the development of credible public policy by committing additional leadership, time, effort and resources to the goals of this study.

Scott Mattison
Scott Mattison
Swift County Sheriff



Michael Undlin
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612.309.6548

2008.01.24

Written Testimony for the Ombudsman for Corrections Working Group Legislative Proposal

In considering this testimony it is important to do so with first-hand knowledge of what was done to in the Hennepin County downtown Minneapolis Jail on June 9, 2006. First-hand facts are readily available to you via sheriff provided jail audio footage at stoptorture.us and/or audio/video footage that I can send to you via email from m_u@comcast.net.

Although this particular data is primarily about a particular set of criminal behaviors under color-of-law associated with a specific day, it is absolutely critical to understand that what was done in this 'instance' is but a microcosm of what jail personnel frequently do to many other men and women, ***human beings***, theoretically, constitutionally, and legally protected.

To not look at this instance in some detail, or at multiple others in significant detail, constitutes nothing less than betrayal of the mission of this Working Group, its members, inmates (some who you must remember are wrongly incarcerated by way of wrongful convictions such as those constantly coming to light through advances in DNA evidence, other technologies, findings of investigative and prosecutorial intentional hiding of evidence, and other malfeasance) and the public at large. There is absolutely no doubt that meaningful, objective, above the board reviews of randomly selected jail footage time periods, particularly those surrounding times when measures are taken to restrain inmates and other 'Special Management' situations would be revealing – painfully, horrifyingly, revealing. No one need trust me on this. Look and you will see…and hear. Too often, it will be the sounds of hell…sometimes sights and sounds.

Jail staff can and often do move quickly into entirely unjustifiably modes of thinking and behavior that are clearly illegal and punishable, much worse than just unsafe…unsavory…against policy…etc. As horrible as this truth is, for the inmates harmed, this daily fact of jail life is merely where the trouble *begins.* The trouble *continues* in the form of pure, unadulterated, self-preservative, non-accountability by jail administration and leadership, investigative teams, prosecutors, et al.

Amazingly, the trouble is not primarily due to lack of law, of legal protections designed and enacted to protect inmates – just like we have the laws that provide for truly guilty inmates to be held accountable for their misbehaviors. Unfortunately, the ***very Thick Blue Line*** often prevents enforcement of the same and far worse crimes committed by jail staff, against virtually wholly vulnerable inmates, in ways that would never be tolerated…that would be shocking and denounced by *everyone*…vs. lesser crimes committed elsewhere. This is precisely where the Ombudsman is sorely needed. Here's why:

- **PROTECTING INMATES:** An inmate sentenced to imprisonment is under the protection of the law, and an *unauthorized injury to the inmate's person is punishable just as if the inmate were not convicted…*
- "**Assault**" is: (1) an act done with intent to cause fear in another of immediate bodily harm or death; or (2) the *intentional infliction of or attempt to inflict bodily harm* upon another…
  - "**Bodily harm**" means *physical pain or injury, illness,* or *any impairment of physical condition*…
- "Substantial bodily harm" means bodily injury which involves a temporary but substantial disfigurement, or which causes a *temporary but substantial loss or impairment of the function of any bodily member or organ*...
- **CRIMINAL ABUSE:**…a caregiver who, with intent to produce physical or mental pain or injury to a vulnerable adult, subjects a vulnerable adult to any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, is guilty of criminal abuse… [Note: I met the definition of vulnerable adult and they are caregivers.]
- **MISTREATMENT OF PERSONS CONFINED:** Whoever… employed in any institution…*intentionally abuses or ill-treats any person confined therein who is mentally or physically disabled or who is involuntarily confined* therein by order of court or other duly constituted authority may be sentenced to imprisonment…
- **DEPUTIES**:…sheriff shall appoint…deputies and others…*for whose acts the sheriff shall be responsible*...

The bodily harms (brain & peripheral nerves are organs) to me were not justifiable by any stretch – there was absolutely, unequivocally, no reason for me to be in pain, agony, or torture for 3+ hours. ***One Check – One Adjustment – ONE – all the agony would be gone!*** The pain was not at all "incidental to lawful use of force" like a taser or taking an inmate down for control or safety. If I had fought being chaired and they hurt me while forcing me in… that pain would be appropriate… but 3+ hours of unwarranted hell with crying, screaming, begging for relief is not incidental…It is sadistic & criminal…

From what I understand per Hennepin County, Minneapolis, FBI, and US Attorney investigators and prosecutors there was *not a single question asked of any perpetrator, witness, or other person aware of the entire 3+ hour ordeal*, with respect to the criminal laws clearly applicable including those above and others. Minneapolis denies intent: "I have *no evidence*…" "I have *no way of knowing* what was in their mind." No one right up to head of office Jay Heffern expects any prosecutor or investigator to have asked "Why did you just leave him there?" "Why didn't you check…even once?" An ombudsman would ask…and then act!

An ombudsman would carry far more weight than any inmate vs the '*insider*' "it's not a crime" stance & a state level, independent, Special Prosecutor would dramatically increase justice being served in the arena of inmate criminal abuse.

MINNESOTA DISABILITY LAW CENTER

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To: Corrections Ombudsman Working Group, Minnesota Department of Human Rights
From: Emily Teplin, Attorney/Equal Justice Works Fellow, Minnesota Disability Law Center
Date: January 16, 2008
Re: Failure to Respond to the Needs of Prisoners with Disabilities

The Minnesota Disability Law Center (MDLC), a statewide project of the Legal Aid Society of Minneapolis which is designated as the federally mandated Protection and Advocacy system for Minnesotans with disabilities, provides free civil legal assistance to individuals with disabilities. From our experiences with incarcerated clients, we know **that prisons and jails across Minnesota often fail to meet the needs of prisoners with disabilities**. Our clients experience treatment that may constitute violations of civil rights laws and pose a threat to their health and safety. A few examples of our clients' stories from **the past 12 months alone**:

- A hard-of-hearing prisoner in a state prison does not have two functioning hearing aids over 15 months after requesting them despite over 11 written requests to DOC staff.
- A partially paralyzed wheelchair user was incarcerated at a county jail. The staff's failure to provide adequate medical care led to episodes of incontinence, for which the client was punished by being placed in seclusion—sometimes for a week at a time.
- A deaf individual was booked in a county jail more than 12 hours after his arrival, only after jail staff convinced a family member to interpret for them.
- At least three deaf individuals in a single year spent time in a county jail without anyone explaining the charges against them and jail procedures in a language they could understand. All three were unable to contact family or an attorney because the jail did not offer an alternative to the telephone, despite the individuals' repeated requests for one.

Often, people with disabilities—particularly those who are deaf and communicate in American Sign Language and people with mental disabilities—are unable to communicate with correctional staff through traditional channels. An ombudsman may facilitate communication between prisoners with disabilities and correctional staff, and provide independent oversight function for the correctional system. **We urge the Minnesota Legislature to reinstate the Corrections Ombudsman position**. The presence of an ombudsman may measurably improve the lives of incarcerated people with disabilities in Minnesota.

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