

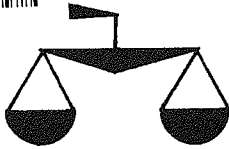
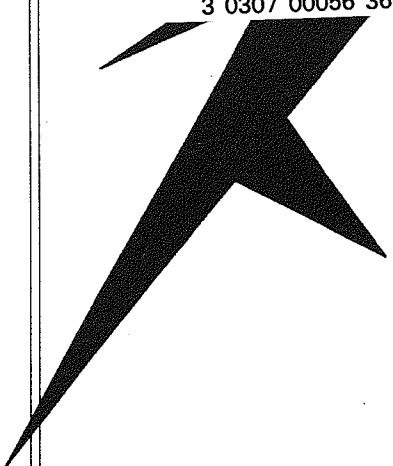
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# State of Minnesota Ombudsman for Corrections

Fiscal Years  
1997 - 1998

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1997/98

## Biennial Report

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STATE OF MINNESOTA  
**OMBUDSMAN for CORRECTIONS**

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December 21, 1998

Honorable Governor  
and  
The Legislature of the State of Minnesota

I am pleased to submit the 1997 - 1998 Report of the Ombudsman for Corrections.

In this report you will find summary materials of our activities this past reporting period, including:

- The "Report from the Ombudsman, 1997 - 1998."
- Vignettes of complaints which were resolved by our office.
- Statistical information and charts.
- Minnesota Statute 241.41.

Please contact me for any additional information or assistance you may require regarding the activities of the agency. I look forward to working with all of you this coming biennium.

Sincerely,

*Patricia Seleen*

Patricia Seleen  
Ombudsman for Corrections

# REPORT FROM THE OMBUDSMAN, 1997 - 98

## POWERS AND AUTHORITY OF THE OMBUDSMAN

Ombudsman: (om' budz' man). *One that investigates complaints and assists in achieving fair settlements.*

According to the American Bar Association, an Ombudsman should be empowered with:

- Independence.
- Authority to investigate.
- Access to records.
- Confidentiality.
- Ability to criticize and publish reports.

By statute, we should particularly address actions of an administrative agency which might be:

- Contrary to law or rule.
- Unreasonable, unfair, oppressive or inconsistent with any policy or judgment of an administrative agency.
- Mistaken in law or arbitrary in the ascertainment of facts.
- Unclear or inadequately explained when reasons should have been revealed.
- Inefficiently performed.

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

The Ombudsman is accountable to the Governor and has the authority to investigate decisions, acts and other matters of the Department of Corrections (DOC) and local, regional and private correctional facilities licensed in Minnesota. The mission of the Ombudsman for Corrections is to promote standards of competence, efficiency and justice in the administration of corrections.

The purpose of the office remains much the same today as it was in 1972, when it was established by the legislature. The Ombudsman for Corrections is an independent office that is designed to receive, investigate and pursue informal resolution of complaints relating to the corrections system. In carrying out this function, we are expected to resolve the specific substantive complaints that come to the office and to promote improvement in the administration of corrections by advocating for changes in the ongoing management and operation of the agencies under our jurisdiction.

Typically, the investigatory powers of the Ombudsman's office are very real. Without this power to investigate thoroughly, we would be crippled in our efforts to understand and resolve grievances. When advocating for resolution of complaints and fundamental changes in the policies and procedures of administrative agencies, the "truth" as revealed by a thorough investigation is the most

valuable tool an Ombudsman can wield.

In addition to our investigatory authority, we are empowered to publish findings and conclusions relative to grievances and to make recommendations to the agencies under our jurisdiction. However, we do not have the authority to compel the agencies under our jurisdiction to accept our conclusions and implement our recommendations. In our formal relationship with the corrections agencies, we perform solely an advisory role. Nevertheless, it is widely recognized that an Ombudsman, by providing a direct and informal avenue for the mediation of grievances, assists in improving the administration of government itself.

In order to fulfill our mission, the Office of the Ombudsman has evolved two approaches. First, we seek to understand and help resolve individual questions and grievances. Second, we are a proactive, system-wide voice for a safe and humane correctional system. As a result of this proactive approach to preventing problems, we help lessen the likelihood of disturbances in institutions, provide an alternative to resolving problems, avoid costly lawsuits and contribute to a fair correctional system.

## THE STAFF

The greatest asset of the office isn't our statutory powers or our legislative mandate. It's not even

the high level of support we receive from the Governor and the Legislature to do our work, although those factors certainly contribute to our success. Our greatest asset is staff, the people who carry out the day-to-day work and routine duties of the office.

The staff of the Office of the Ombudsman for Corrections brings a wide range of diverse talents to their jobs. We are fortunate to have a mix of nine dedicated employees, all professionals with college degrees. Their backgrounds in corrections, human services, languages, education and business enable a very small staff to be efficient and effective in a demanding work environment. In addition to their professional backgrounds, our staff bring experience from working in the prisons, county probation, treatment programs and other state agencies. Their experience contributes to our overall understanding of government at large and gives us specific knowledge of corrections systems. The staff have refined their skills to work with incarcerated people and have the negotiation skills necessary to work with the system to resolve difficult problems.

### THE COMPLAINTS

Our primary work involves understanding and helping resolve grievances from inmates, their families, correctional staff and outside interested parties. Our complaints originate from tele-

phone and written contacts with inmates. The types of cases we receive are listed by category on page 12 and most often are related to concerns about rules, medical attention, placement, threats and abuse, property, programs and records. Some issues take just a few minutes to resolve, such as clarifying well-established policies. Other complaints are more complex and may be systematic in scope.

Our jurisdiction includes:

- 10 state adult and juvenile correctional institutions.
- Offenders released from prison and on supervised release status.
- Facilities and programs in the thirty one Community Corrections Act (CCA) counties.
- Offenders on probation in the CCA counties.
- Local, regional and private detention facilities licensed by the DOC.

The majority of our complaints come from inmates in our state correctional facilities. For several years now, the DOC has been under scrutiny to reduce their per diem costs. At the same time, the public has become more supportive of a punitive system of corrections. As a result, the Department of Corrections has become more restrictive in the day-to-day operations which affect inmates. For example, facilities have become smoke-free, property allowances have been reduced and a new, lower pay plan has been introduced for inmate work.

### LETTER TO THE OMBUDSMAN

*"Thank you for taking the time to talk with me. This is such a relentlessly sad place."*

—Inmate, Oak Park Heights

LETTER TO THE  
OMBUDSMAN

*"I would like to thank you for your presence at my 14 year review on October 9, 1998. Your support was truly appreciated."*

—Inmate, Shakopee

My staff and I visit the institutions on a regular basis. We meet personally with the inmates and staff in any of the housing, program, work or segregation areas to discuss their concerns. In addition, we routinely attend discipline and revocation hearings, and initial and program review hearings. We are also asked by inmates to review their files and attend their "Lifer" and "End of Confinement Hearings."

Although the Ombudsman cannot determine the department's policy, we have asked to review and make suggestions about new policies prior to their implementation. In addition to reviewing final draft policy proposals, we have sat as *ex officio* members on many of the DOC committees that were charged with drafting new policies. We are often asked to interpret the implications of new policies and the reasons for policy changes to staff, inmates and their families. This process has allowed for good communication channels and helps to avoid confusion and unnecessary rumors being spread in the institutions.

**OUR PERSPECTIVE**

Since we are dealing with many individual inmate concerns, attending hearings, meeting with line staff and administration, we have the unique ability to see patterns which may have developed. In addition to resolving individual complaints, we often make recommendations to improve the correctional processes

and practices. Recent recommendations we made have resulted in:

- A training curriculum for supervisory staff who are required to do initial investigations of inmate complaints.
- An improved process which allows inmates who are classified as minimum custody status and eligible for work release be approved for job interviews in a timely manner.
- A policy regarding therapeutic closure, was developed for juveniles and their families when the juvenile was being discharged from a treatment program.
- A posting for a promotion position was delayed until the exam was reviewed and rescored to ensure that it did not exclude individuals who had previously qualified for the promotion.
- Staff being reassigned to other units based on patterns of complaints about their behavior.
- Professional medical staff allowed to use the institution address for professional board records which are public.
- A process which ensured that records and pertinent information were transferred when residents were moved to another facility.

Since 1994, the Ombudsman has been actively involved with the Department of Corrections to make improvements in services for inmates with mental illness. While this is still "a work in progress", the department continues to make strides in their commitment to the care of these individuals, who are some of the most vulnerable of inmates. As

agreed upon, the Ombudsman continues to monitor the implementation of the recommendations in the 1995 Stampley settlement.

As part of this monitoring process the Ombudsman serves as an *ex-officio* member of both the Mental Health Advisory Committee and the Mental Health Unit Review Board, which advise the commissioner on issues. In August of this year, a Director of Mental Health was hired to oversee the delivery of mental health services for the department. This is a new position, one which we recommended be added in our 1994 Critical Report. This is a key person who has the authority to effectuate many of the systemic changes which were agreed to in the Stampley settlement.

### LEGISLATIVE CHANGES

In the 1997 legislative session, our jurisdiction was clarified to include regional and local correctional facilities licensed or inspected by the Department of Corrections, whether public or private, adult or juvenile. The Ombudsman and the DOC were required to enter into a contract which would ensure that they would not duplicate services. The agreement maintains the status quo and the Ombudsman continues to investigate complaints in the 31 CCA county facilities. The DOC has the responsibility to inspect and license the correctional facilities throughout the state. The Ombudsman has no inspection or licensing responsi-

bility. In addition, we agreed to exchange information, advice and distribute findings relative to complaints, serious incidents and unusual occurrences. Finally, for consistency and what appeared to be manageable, the Ombudsman agreed to assume the primary responsibility to investigate complaints in the metro area juvenile detention facilities in July 1999.

While this legislative change has not resulted in an immediate surge of complaints from the jails, we are seeing a steady increase in the numbers of contacts since 1996, when it appeared necessary to take the issue of jurisdiction to the legislature. Since then, we have met with the Sheriffs Association and the metro area jail administrators to discuss the agreement with the DOC and the implications of the legislative changes. We anticipate a steady increase in the number of complaints from the jails in the future.

### THE FUTURE

Like all other aspects of government, corrections continues to be in constant state of change, primarily in the numbers of incarcerated persons and the expectation to provide the same if not more services with less resources. We believe these expectations have or will result in changes which could be problematic, and which we are paying close attention to.

DOC issues we will be monitoring

### LETTER TO THE OMBUDSMAN

*"I am writing to thank you for the work you did for me. I got the 164 days back that I put in at NERCC"*

-Inmate, Moose Lake

LETTER TO THE  
OMBUDSMAN

*"Your information provided me with information on the Public Sector Ombudsman's role, which I had never imagined. I'm happy to be enlightened on this matter also and hope to encourage our legislature to act to establish several offices of Ombudsman."*

—Constituent

include:

- Availability of medical and psychiatric services.
- Programming and work availability.
- Opening the level four close custody facility at Rush City.
- Implementation of a new policy which eliminates pay for inmates not involved in work or programs.
- Court decision concerning the request to terminate the 1972 discipline consent decree and implementation of a new DOC Discipline Policy which would replace the consent decree.

General issues include:

- Impact of increased population and caseload projections.
- Policy discussions regarding privatization of correctional services.

Even though our workload continues to increase, our staffing has not. We have worked to develop tools to increase efficiency, such as utilizing a computerized case-intake management system. We anticipate more efficiencies through electronic access to DOC information. We expect to have access to inmate records, accounts and policies as they become available on-line. This should enable us to maintain our goal of responding to complainants quickly, as our caseload numbers increase.

**A GREATER VISION**

The work we do is not solely confined to the corrections arena. Because we are the oldest Ombudsman program in Minnesota

state government, we have a history and vested interest in the use of Ombudsman programs. I have been an active participant in the Minnesota Roundtable, and have served as its co-chair since the Roundtable was formed 1993. The Roundtable is a forum which provides an opportunity for each state Ombudsman to discuss concerns with peers in a professional and confidential manner, avoid duplication of services, and discuss ways to create more effective and efficient services for our varied constituents. The State of Minnesota has long been recognized for innovative approaches to dealing with complex issues facing citizens and government alike. The creation of Ombudsman programs has proven to be an effective response to ensure that government is accessible and that citizens are treated fairly.

In addition to participating in the Minnesota Ombudsman Roundtable, my staff and I are active in the United States Ombudsman Association (USOA). I have personally had the honor of serving on the Board of Directors since 1995 and as the President of USOA since 1997. In this capacity, I have represented the model of Ombudsman established in our state, and helped Minnesota to become a model of fairness for the world. It has been sobering to work with others from around the world who struggle with the most basic human rights that we have long taken for granted in our country!



Promoting the highest attainable standards of competency, efficiency and justice in the administration of government takes us from our ongoing work inside the correctional institutions to cooperation with state, national and even international agencies.

However, the essence of the Ombudsman is the same, regardless of the country or population served; the ability to investigate actions of government and to make recommendations which are sound and humane contribute to a system which has the desired effect of fair treatment from government, regardless of individual circumstances. We applaud our state for recognizing this need, especially for those individuals who are subject to the greatest controls allowed by law – those individuals incarcerated and involved in our corrections systems.

#### WE DO:

- Accept complaints from inmates, families and the public.
- Answer questions.
- Conduct investigations.
- Review policies & procedures.
- Recommend changes.
- Offer resource referrals.
- Advocate for fairness.

#### WE DON'T:

- Accept every complaint.
- Satisfy every complainant.
- Do litigation.
- Charge for our services.
- Represent inmates in disciplinary actions.
- Recommend disciplinary actions.
- Make binding orders.

## CASE RESOLVED

### ABUSE ALLEGATIONS

Our office received a complaint from the grandparents of a segregation inmate who said their grandson contacted them stating he had been beaten with a 2 x 4 by officers.

Two of our staff interviewed the inmate and learned that he had been placed on the "restraint board" by officers.

The investigators reviewed the videotape of the restraint procedure which also showed the inmate's behavior prior to the use of restraints. We reviewed the medical notes of the nurse who had seen the inmate immediately after the incident. We concluded that the restraint procedure was handled appropriately.

Because of data privacy, we are restricted with what information can be released to family members.

We discussed the incident with the inmate and encouraged him to communicate with his family and not worry them needlessly.

## TYPICAL CASES FACING THE OMBUDSMAN

### CASE RESOLVED

#### UNPROVED ALLEGATIONS

A Faribault inmate was denied entrance into the Challenge Incarceration Program (CIP) because his file contained information stating that he had brought drugs into the prison. After investigation, we learned that he had been implicated by another inmate. These allegations were never proven.

Our office contacted the CIP Supervisor and informed him that since these were only allegations, it didn't seem fair to deny his application to the program. We advised the Supervisor that the inmate had never been found guilty of introducing drugs into the facility.

The inmate was allowed to reapply and was admitted into the CIP program. We learned later that he successfully completed all phases and graduated from the program.

### CASE RESOLVED

#### ADA POLICIES

The Ombudsman was contacted by an inmate who was involved in the Challenge Incarceration Program (CIP) at Willow River. When interviewed for that program, she informed the recruiter that she had three knee surgeries and was unable to run. The recruiter assured her that they could accommodate her physical limitations.

Three months into the program, the Warden and CIP Program Administrator decided that a 4.2 mile run was critical to Phase I completion. When the inmate tried to complete the run, she reinjured her knee. Unable to continue the program, she was returned to her parent institution without credit for time served.

The Warden stated that policy requires all inmates to complete the run before moving to Phase II of the program. Reviewing the files, the Ombudsman determined that at least ten inmates had completed Phase I without the run.

The Ombudsman, with the assistance of the Disabilities Advocate of the Minnesota Council on Disabilities, was instrumental in getting the DOC to adjust its policy and accommodate inmates with disabilities in CIP.

### CASE RESOLVED

#### SEX DISCRIMINATION

We received a complaint from an inmate at Shakopee. She said she had been unfairly denied release on Intensive Community Supervision (ICS) program by the Institution Program Review Team. ICS is a program for property offenders who meet a strict set of criteria and are released to complete their sentences under intensive agent supervision.

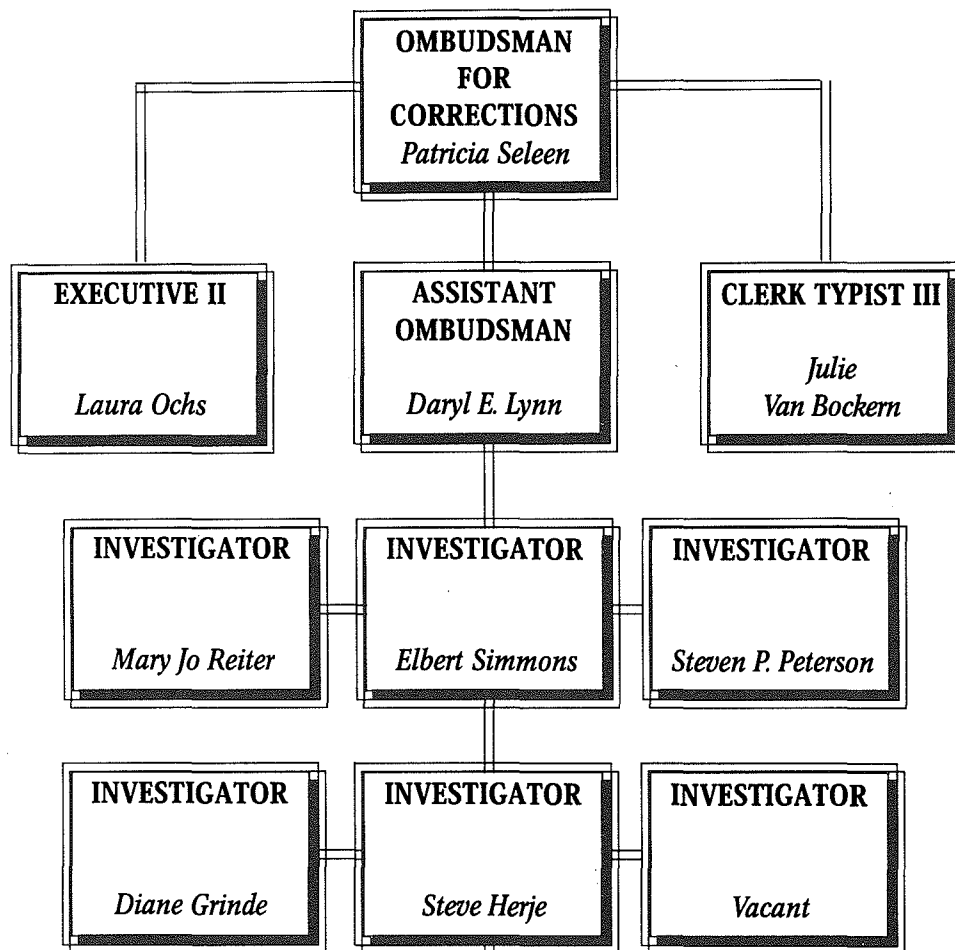
By examining the program team's notes, we learned that the inmate had been denied ICS because of an incident of "assaultive behavior."

After reading this report and interviewing the staff involved, it was determined that the "assaultive behavior" involved holding her arm up to keep an aggressor away.

Our investigator believed that this incident should not be considered assaultive under ICS criteria. Male inmates are only denied ICS participation when they are convicted of assault in internal disciplinary procedures. The investigator showed the report to Program Teams at several male institutions. They agreed that if the inmate had been at their facility, she would not have denied eligibility.

The investigator presented all the information to the Shakopee Program Review Team and asked them to reverse their decision. The inmate was subsequently released on ICS.

# OMBUDSMAN FOR CORRECTIONS -- ORGANIZATIONAL CHART



## CASE RESOLVED

### JAIL PROPERTY

An inmate in a county jail called our office complaining that he was not given access to all his legal papers. He stated that he had only been given papers which had a legal letterhead on them. As a *pro se* defendant, the inmate claimed he needed more papers to represent himself in court.

Our investigator called the jail administrator and learned that the prisoner had recently been transferred to the jail. We also learned that his property consisted of a dozen boxes – which was well over the allowable limit.

We recommended that the inmate be allowed to select the legal papers he needed and that he make choices to stay within the allowable limits.

A staff member and the inmate went through his paperwork and resolved the problem that same day.

## CASE RESOLVED

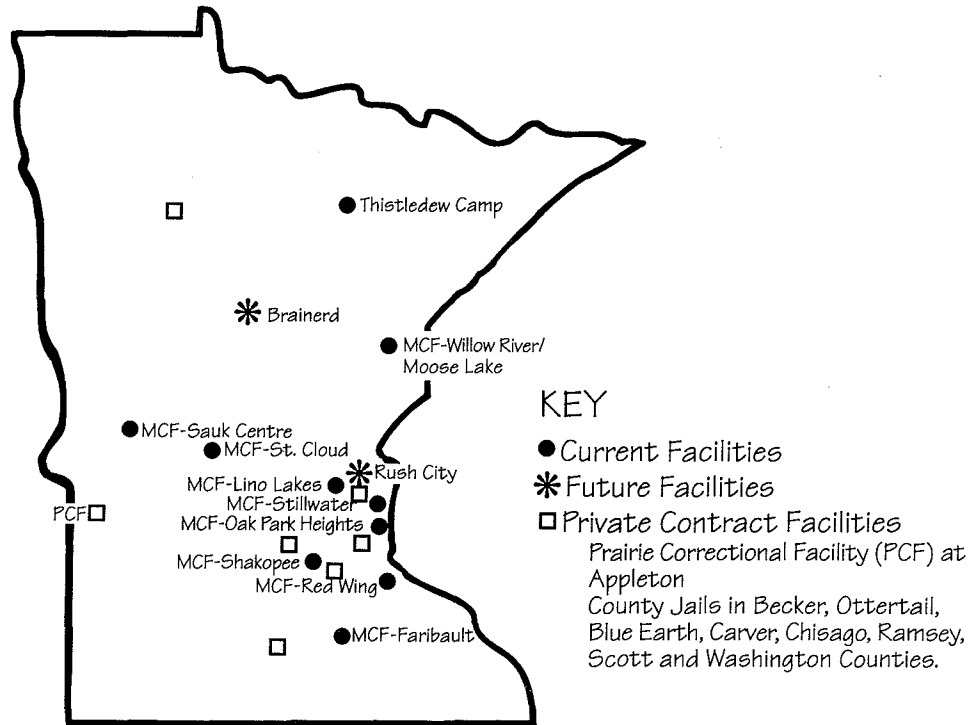
### JUVENILE SUICIDE PREVENTION EFFORTS

The Ombudsman was notified that a resident of a county juvenile facility had attempted suicide by hanging himself with a noose he braided from materials in a mattress. He suspended the noose from the water faucet and put his neck into it. Staff discovered him in time and took him to a medical center.

The Ombudsman conducted a joint investigation with the MN DOC Jail Inspection Unit. The Ombudsman made several recommendations which were implemented, including:

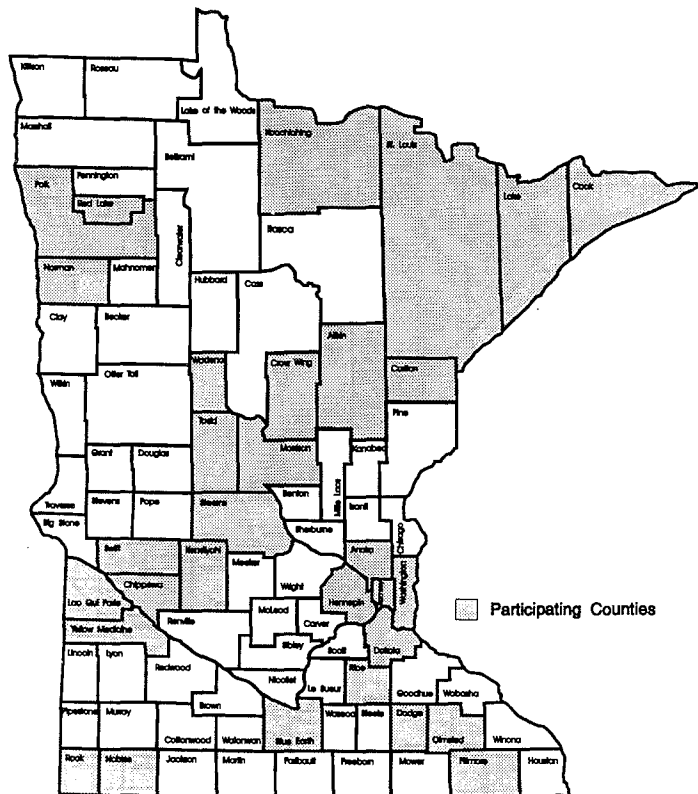
- All security and control policies were reviewed.
- Emergency equipment is now inspected on a regular basis.
- Suicide training is now part of CPR training.
- A committee created a suicide plan, which was reviewed by the medical director.
- All mattresses and faucets of that type were eliminated in the building. Other equipment design changes were made.

## MINNESOTA CORRECTIONAL FACILITIES



\*Rush City opens in January, 2000

## MINNESOTA COMMUNITY CORRECTIONS ACT PARTICIPATING COUNTIES

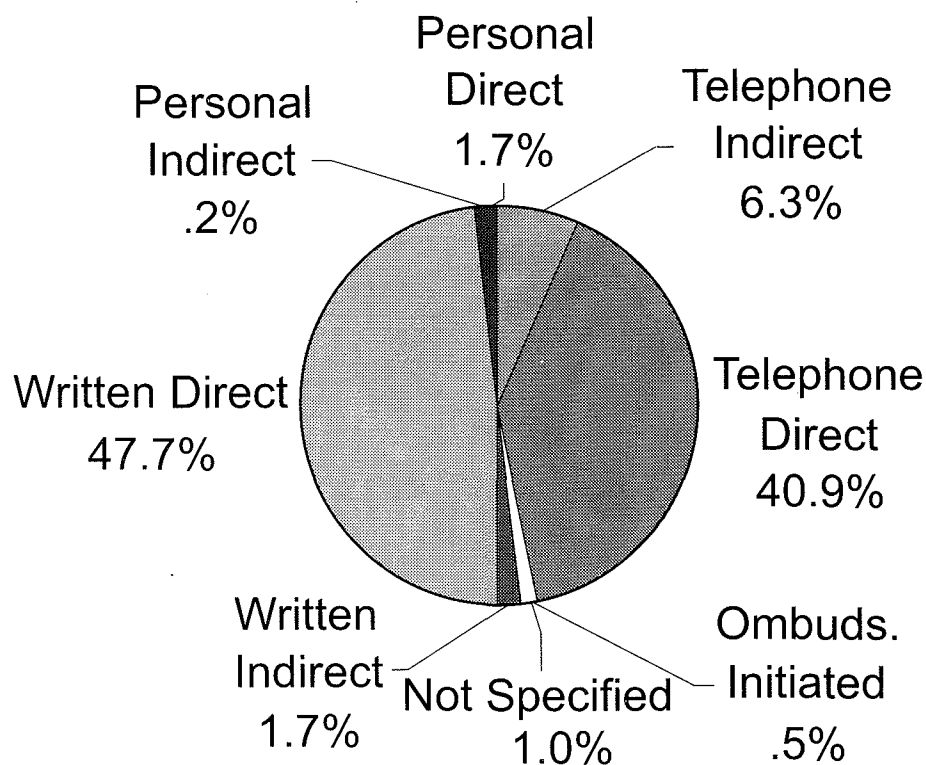


# FISCAL YEARS 1997 - 1998 SUMMARY

CASELOAD SUMMARY FY	<u>1997</u>	<u>1998</u>
Cases Carried Over From Previous Year*	106	122
Contacts Received	1573	1578
Information Only Contacts	3997	4088
Total Fiscal Year Caseload	5676	5788
Cases Closed	5554	5679
Cases Carried Over to Next Fiscal Year	122	109

\* Due to changes made in our reporting system, a slightly different number represents the Fiscal Year 1996 carryovers in this biennial report.

## INITIAL CONTACT WITH THE AGENCY COMMUNICATION METHODS



## CASE RESOLVED

### CHEMICAL DEPENDENCY TREATMENT

An inmate called because he had been mandated for chemical dependency treatment. He denied problems with drugs or alcohol.

The mandate for treatment, we learned, was based on a two-year old evaluation, which did not include an interview with the inmate.

We recommended that a new evaluation be done, and that the inmate be interviewed. Once done, it was determined that the inmate was not chemically dependent and thus did not require treatment. The treatment mandate was removed.

## CASE RESOLVED

### RELIGIOUS DISCRIMINATION

A Native American housed at Oak Park Heights contacted us about a number of religious issues, most of which were being litigated. We advised him that we would not investigate those matters being litigated at this time.

One issue not in the pending litigation was access to a winter sweat lodge. The institution chaplain told our investigator that due to security reasons, she had been unable to win approval for this activity.

We worked with the institution administration and were able to discuss and resolve the various safety and security issues. Ten months later, a winter sweat lodge ceremony was allowed in the institution for the first time.

## TYPES AND DESCRIPTIONS OF CONTACTS

The Ombudsman systematically categorizes each contact received to help further define the source(s) of change in both the number and nature of cases and to facilitate year-to-year comparisons.

### CATEGORIES

- **RELEASE:** Concerning any matter under the jurisdiction of the releasing authority, e.g., work release, supervised release, special review, etc.

- **MEDICAL:** Concerning availability of treatment or accessibility of a staff physician or other medical professional.

- **LEGAL:** Involving legal assistance or problems with getting a response from the Public Defender or other legal counsel.

- **PLACEMENT:** Concerning the facility, area, or physical unit to which an inmate is assigned.

- **PROPERTY:** Dealing with loss, destruction, or theft of personal property.

- **PROGRAM:** Relating to training, treatment program, or work assignment.

- **DISCRIMINATION:** Concerning unequal treatment based upon race, color, creed, religion, national origin, or sex.

- **RECORDS:** Concerning data on inmate or staff files.

- **RULES:** Regarding administrative policies establishing regulations which an inmate, staff member, or other person affected by the operation of a facility or program is expected to follow, e.g., visits, disciplinary hearings, dress, etc.

- **THREATS /ABUSE:** Concerning threats of bodily harm, actual physical abuse, or harassment to an inmate or staff.

- **MAIL:** Regarding anything that may impact the normal, legal flow of mail in or out of an institution or how it is handled by institution staff.

- **HYGIENE:** Having to do with access to supplies and necessities for personal hygiene or the hygiene of physical surroundings.

- **SERVICES (Institution):** Regarding heat, water, window screens, blankets, etc.

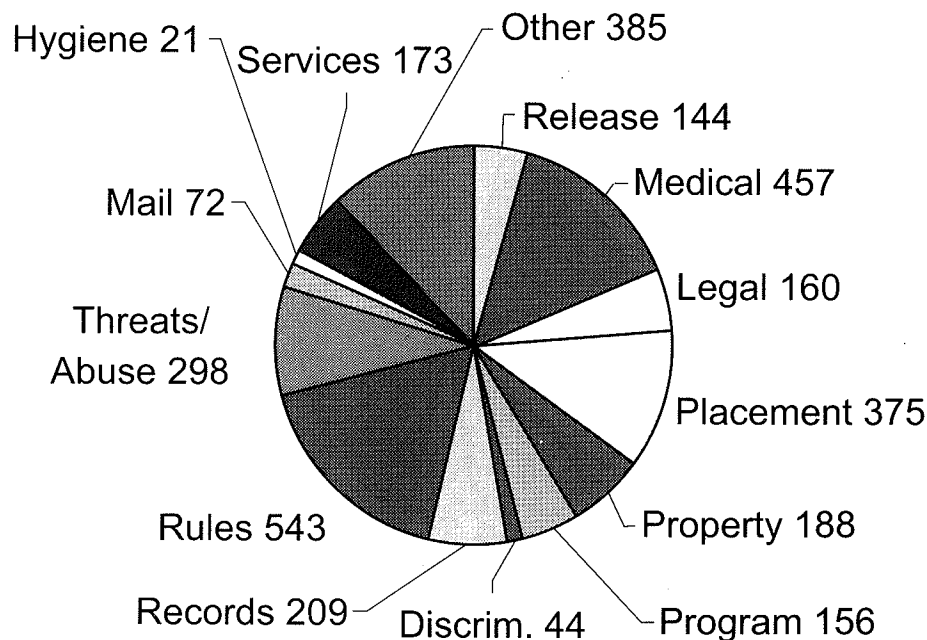
- **OTHER:** Concerning those contacts not covered in the previous categories, e.g. complaints regarding an Ombudsman investigation, etc.

## TOTAL CLOSED CASES BY CATEGORY\*

	<u>1997</u>	<u>1998</u>		<u>1997</u>	<u>1998</u>
Release	63	81	Records	94	115
Medical	231	226	Rules	279	264
Legal	87	73	Threats/Abuse	149	149
Placement	197	178	Mail	35	37
Property	81	107	Hygiene	8	13
Program	73	83	Services	84	89
Discrimination	25	19	Other	199	186

*\*Statistics do not include information only contacts.*

Closed Cases by Category 1997-98



## CASE RESOLVED

### OUT OF STATE / OUT OF LUCK

Our office received a letter from Minnesota inmate who was being housed in another state because of protective custody concerns. He complained that his request for transfer back to Minnesota had been ignored by the DOC. The inmate also claimed he had worked his way from maximum custody to medium custody and believed he merited consideration for parole.

The inmate is one of the few offenders still incarcerated on a pre-sentencing guidelines conviction. Our office audited his base file and noted that the department was reviewing his case annually, as required by policy.

We also learned that the inmate was told he needed to be discipline report-free for an entire year before he would be considered for parole. The records from the other state showed that the inmate had discipline reports within the past year.

Based on these findings, we wrote the inmate and advised him that he would be considered for parole when he had no discipline reports for a year. We also advised him that his file had been reviewed annually by the DOC, therefore his request for transfer had not been ignored.

## CASE RESOLVED

### DIABETIC DIET

A diabetic inmate complained that he was not receiving an appropriate diabetic diet. He claimed he had been told by an outside doctor that he should eat four to six small meals per day.

A meeting was scheduled with the inmate, a health services staff, the case manager, unit director and the Ombudsman staff, one of which is diabetic. It was agreed that the inmate have a diabetic diet plan which consists of three meals a day and an evening snack. This is the standard for diabetic inmates.

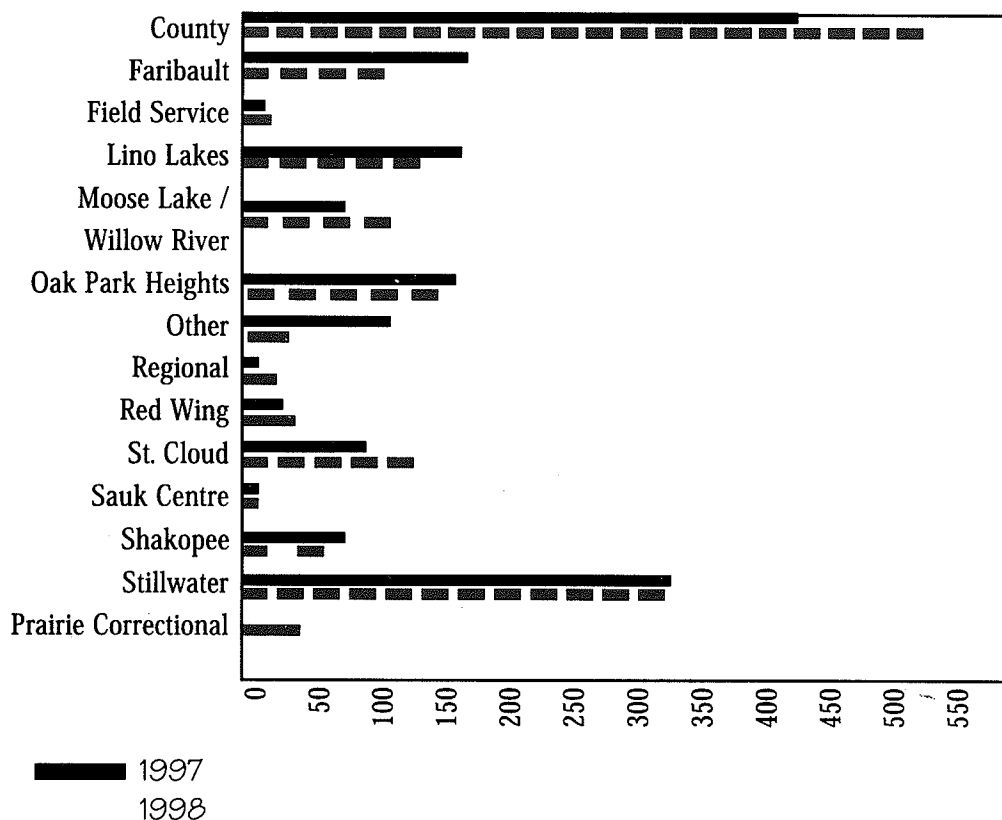
The inmate continued to complain to us that he had nighttime hunger. After further conversation it became apparent that the inmate stayed up late each night and what he wanted was another complete meal. Our investigator, who is also diabetic, advised him that the institution's meal schedule was appropriate and that he needed to adjust to the schedule. He was also reminded that he could purchase additional food from the canteen and have it in his cell at any time.

## CLOSED CASES BY INSTITUTION\*

INSTITUTION	CODE	1997	1998
County	CTY	425	520
Field Service	FRB	5	9
Faribault	FRB	158	102
Lino Lakes	LL	151	136
Moose Lake /Willow River	ML/WR	67	101
Oak Park Heights	OPH	153	145
Red Wing	RW	15	19
St. Cloud	SCL	88	131
Sauk Centre	SCR	9	7
Shakopee	SHK	78	58
Stillwater	STW	330	329
Other		118	18
Prairie Correctional Facility	PCF	0	33
Regional	RGL	8	12
TOTAL:		1605	1620

\*Statistics do not include information only contacts

## CLOSED CASES BY INSTITUTION





## RESOLUTION TIME

### RESOLUTION TIME

refers to the time taken to resolve a request.

Fiscal Year	1997	1998
Information only contacts	3949	4059
1 - 15 day resolution	900	926
16 - 30 day resolution	352	358
31 plus day resolution	353	336
Total Closed Cases:	5554	5679

## CONTACTS BY YEAR

1973	927
1974	1026
1975	1299
1976	1132
1977	1308
1978	1402
1979	2207
1980	2939
1981	3429
1982	3211
1983	3722
1984	3211
1985	2694
1986	2593
1987	2438
1988	2529
1989	2869
1990	3318
1991	3449
1992	3729
1993	5417
1994	6161
1995	5543
1996	4472
1997	5676
1998	5788

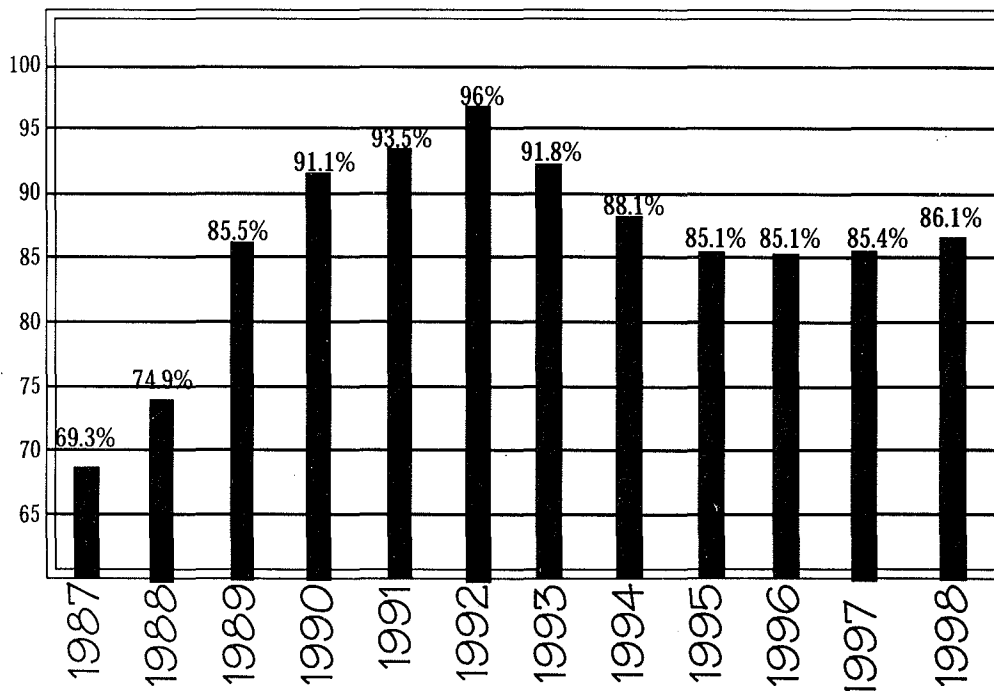
## CASE RESOLVED

### STAFF CONCERN

An anonymous staff person called from a county jail and indicated that staff had heard construction workers saying that the windows in the new control room were "cheap" and staff had better watch out.

After investigation, it was determined that the glass was bulletproof and that the construction workers were joking. The superintendent agreed to make an announcement at all staff meetings that the new glass was bulletproof.

## PERCENTAGE OF CASES RESOLVED IN ONE - 15 DAYS



## CASE RESOLVED

### DENTAL CARE

An inmate called to say she had been waiting for a dental appliance for almost eight months. She was to be released soon and was afraid the work would not be completed.

Our investigator spoke with the dentist and examined her records. The inmate did not meet the criteria for emergency dental work and had been placed on the routine request list, which was more than eight months long. She had received six other dental procedures since her sentence began.

The inmate was informed that proper policy was followed and her new dental appliance would probably not be ready prior to her release.

## CLOSED CASE STATUS

Tracking closed cases assists us in developing our performance objectives and outcome measurements. We document each contact as closed in one of six ways:

- **INFORMATION:** A request for information that is known by the agency.
- **ASSIST:** Relatively uncomplicated complaints resolved with few contacts and which provide an explanation of an administrative act or decision to the complainant.

- **DISCONTINUED:** Complaints which are not pursued because of lack of jurisdiction or other prescribed reasons.

- **DECLINE:** Complaints which are not pursued because of lack of jurisdiction or other prescribed reasons.

- **INVESTIGATED:** Completed investigations where findings and/or informal recommendations are made.

- **INVESTIGATED WITH FORMAL RECOMMENDATIONS:** Completed investigations which result in formal recommendations being made by the Ombudsman.

## PERCENTAGE BY CATEGORIES

	<u>1997</u>	<u>%*</u>	<u>1998</u>	<u>%*</u>
Information	3997	72%	4088	72%
Assist	1174	21%	1212	21%
Decline	72	1%	68	1%
Discontinued	109	2%	95	2%
Investigated	201	4%	214	4%
Recommendation w/ Formal Investigation	1	-	2	-
Total	5554		5679	

\*rounded to nearest whole number

## STATUTE

### **241.41 Office of Ombudsman; creation; qualifications; function.**

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

HIST: 1973 c 553 s 1

### **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, 1976 c 318 s 18

HIST: 1973 c 553 s 2; 1973 c 654 s 15; 1975 c 271 s 6; 1976 c 318 s 1; 1983 c 274 s 18; 1986 c 444; 1997 c 239 art 9 s 11

### **241.43 Organization of office of Ombudsman.**

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

Subd. 2. The Ombudsman may appoint an assistant Ombudsman in the unclassified service.

Subd. 3. 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. HIST: 1973 c 553 s 3; 1986 c 444; 1991 c 238 art 1 s 12,13; 1993 c 146 art 2 s 13

### **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,

## CASE RESOLVED

### DIRTY CATHETERS

An inmate who is a C-5 quadriplegic and doing self-catheterization, complained that Health Services gives him only four catheters per week. He washes them out five times a day in the urinal in his living unit. He reported that the urologist advised him not to reuse these catheters.

Our investigator was told by the nursing supervisor that the inmate did not need a sterile catheter and it was medically correct for him to reuse the same catheter. However, arrangements have been made for the inmate to receive a new catheter each day and a basin and cleaning supplies have been supplied to his room.

## CASE RESOLVED

### VISITATION DENIED

A girlfriend of a resident at Sauk Center called the Ombudsman and complained that although she and their eight month old son had visited before, they were advised they could not visit for an indeterminate amount of time.

Our investigation showed that the resident was convicted of sexual offenses against girls under age six. He had not admitted his offenses. His therapist felt that until he participated in the sex offender program, the baby should not be put at risk. This decision will be reviewed on a regular basis. The resident was advised of the decision.

The complainant was the resident's girlfriend. Because of data privacy, we are limited with what information can be released. The resident was encouraged to talk to his girlfriend about the reason for restricting visitation.

## STATUTE, CONTINUED

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

## STATUTE, CONTINUED

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.

HIST: 1973 c 553 s 4; 1975 c 271 s 6; 1976 c 318 s 2-4; 1980 c 509 s 48; 1981 c 311 s 39; 1982 c 545 s 24; 1983 c 274 s 18; 1985 c 248 s 70; 1986 c 444; 1997 c 239 art 9 s 12,13

### **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.

HIST: 1987 c 351 s 19

### **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.

HIST: 1973 c 553 s 5; 1986 c 444; 1993 c 30 s 1

## CASE RESOLVED

### ANONYMOUS COMPLAINTS

An anonymous staff person from a county facility reported that there seemed to be a lot of "horseplay" when residents completed a program in a certain cottage. The staff person was concerned about the appropriateness of this, stating residents were squirted with water and "pummeled" by other residents. The staff person reported additional concerns about resident's rooms being "trashed" during room searches. The staff person was not willing to give more specific information regarding these concerns.

Our investigator met with the facility administrator to discuss the general nature of these complaints. She agreed to talk to the staff about the "no horseplay" rule and the protocol for doing room searches.

Investigating anonymous complaints is difficult because facts cannot always be verified or more information obtained.

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