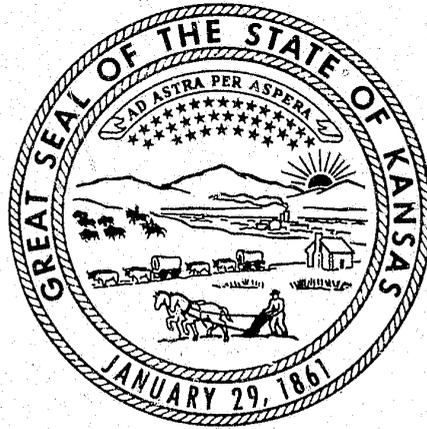


THIRD ANNUAL REPORT



OF THE  
OMBUDSMAN FOR CORRECTIONS

STATE OF KANSAS

55754

BOARD MEMBERS

Senator Paul Bud Burke  
Mrs. Marian Button  
Mrs. Barbara Byrd, R.N.  
Mrs. Lillian Harrison  
Mr. Dean Hoffman  
Mr. Bill Larson  
Mr. Burton Lohmuller  
Dr. James W. McKenney  
Mrs. Barbara A. Owensby, R.N.  
Mr. Herbert A. Rogg  
Reverend Dean E. Rose  
Professor David L. Ryan  
Mrs. Jane Sieverling  
Dr. Alan Steinbach  
Mr. Robert E. Tilton  
Mr. Clarence E. Wesley

OFFICERS

*Fiscal Year 1978*

Dr. James W. McKenney, Chairman  
Dr. Alan Steinbach, Vice-Chairman  
Mrs. Barbara A. Owensby, R.N.,  
Secretary

*Fiscal Year 1979*

Dr. Alan Steinbach, Chairman  
Mr. Herbert A. Rogg, Vice-Chairman  
Mrs. Barbara A. Owensby, R.N.,  
Secretary

PAST BOARD MEMBERS

Mr. James Buchele  
Mr. Lynn Cole  
Mr. Charles Durfee  
Mr. Pete Farabi, II  
Mr. James B. Kent  
Senator Billy McCray  
Senator Jan Meyers  
Mr. Joseph Charles Plumb, Jr.  
Mr. Thomas Regan  
Professor Paul E. Wilson  
Senator Wint Winter

STAFF OF THE OFFICE OF THE OMBUDSMAN FOR CORRECTIONS

*Fiscal Year 1978*

Mr. Preston N. Barton, MSW  
Ombudsman  
Mr. Philip A. Ringstrom, MSW  
Ombudsman Associate  
Miss Jan M. Laidler  
Administrative Secretary  
Ms. Bernadine J. Ferrell  
Staff Assistant  
(A CETA Position)  
Mr. Gary W. Templeton  
Graduate Student  
Ms. Wanda L. Bean  
Typist  
(A CETA Position)

*Fiscal Year 1979*

Mr. Preston N. Barton, MSW  
Ombudsman  
Mr. David R. Jensen, MSW  
Ombudsman Associate  
Miss Pamela S. Goodman  
Administrative Secretary  
Ms. Mary A. David  
Graduate Student

State of Kansas  
Ombudsman for Corrections

THIRD ANNUAL REPORT  
to the  
Citizens' Advisory Board on Corrections

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

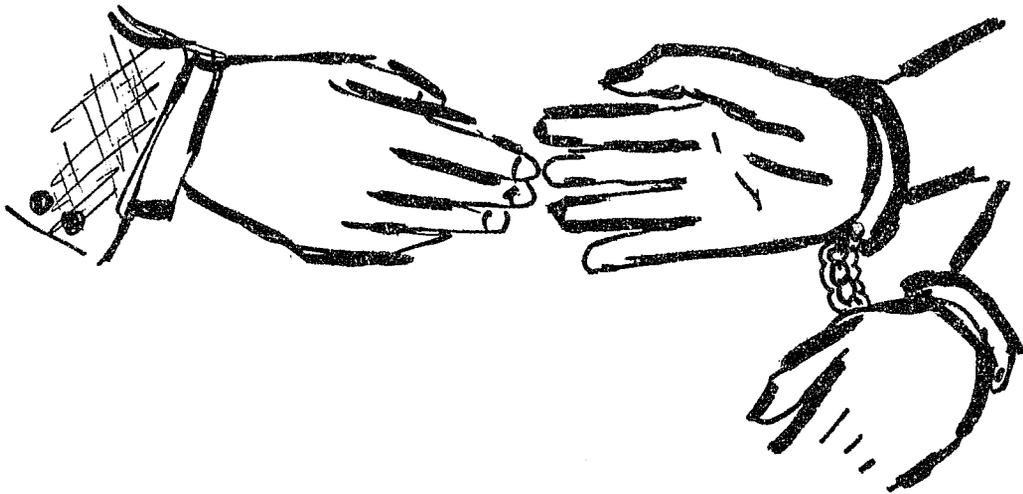
**NCJRS**

MAR 28 1979

**ACQUISITIONS**

For the Period  
July 1, 1977 through June 30, 1978

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



## FOREWORD

As Chairman of the reorganized Corrections Ombudsman Board, I am pleased to accept the Third Annual Report of the Kansas Ombudsman for Corrections. The year covered by this report was an important transitional period for this program, not only as is very evident in the renaming and restructuring of the Board, but also in the broadening effectiveness of the Ombudsman from the major reports and studies by that Office.

The Board recognized that it could provide a far more effective role by narrowing its functions to policy issues in regard to the ombudsman program, so it pressed successfully for Legislation, after considerable consultation from ombudsmandry authorities and from executive branch personnel, to eliminate or substantially reduce its advisory role to the Secretary of Corrections and the Governor. These changes became effective at the end of the fiscal year in this report, but the consultation and subsequent decision-making involved most of the fiscal year.

Major reports on such topics as the inmate grievance procedure and on self-mutilation by inmates at the Adjustment and Treatment Building of the Kansas State Penitentiary provided a vehicle for increased effectiveness of the Ombudsman to both the inmates and the Department of Corrections. The resolving of each individual complaint provides a limited and beneficial service to a few specific individuals. A much greater service is provided to the state by the Ombudsman when that effort is supplemented with reports and recommendations on related cases. Relations with the Department of Corrections have been enhanced as each of these major reports has been discussed and digested with the Secretary before release to the public, after submission to the Board.

In many respects, the program reached its highest level of achievement thus far on the individual complaint level. This was achieved because of the stability of staff during this fiscal year. The program reached a high level of maturity as the personnel capitalized on the experience and training they had received in prior years. The Ombudsman did not need to spend the bulk of his time in training personnel, but could develop the major reports and join the remainder of the staff on site at the correctional institutions.

This year, therefore, provides a sound basis for continued support of the ombudsman program in Kansas. The role and function of ombudsmandry in the correctional system has become defined much more clearly, but needs to be expanded to the other correctional institutions by means of a higher level of funding.

Dr. Alan Steinbach, Chairman  
Corrections Ombudsman Board  
December 30, 1978



TABLE OF CONTENTS

SYNOPSIS . . . . . 7

MEET THE STAFF . . . . . 7 - 13

SECTIONS

    I. Introduction

        A. The Ombudsman Program . . . . . 15 - 17

        B. The Board . . . . . 17 & 18

        C. Budget Proposals for Fiscal Year 1979 and 1980 . . . 18 & 19

    II. Examples of Complaints . . . . . 20 - 31

    III. Policy Recommendations to the Secretary of Corrections

        Report on the Kansas Department of Corrections'  
            Inmate Grievance Procedure . . . . . 33 - 37

        Inquiry into Inmate Self-Mutilation in the East  
            Wing of the Adjustment and Treatment Building  
            from February 16 through February 28, 1978 . . . . . 37 - 42

        Miscellaneous Recommendations . . . . . 42

    IV. Statistical Presentation

        Sources of Complaints . . . . . 43 & 44

        Mode of Initiation . . . . . 44

        Mode and Timing of the Ombudsman's First Response . . . 44 & 45

        Categories of Complaints . . . . . 45

        Assessments of Complaints . . . . . 45 & 46

        Unfounded Complaints . . . . . 46

        Disposition of Complaints . . . . . 46 & 47

        Management Levels at Which Complaints Were Resolved . . . . 47

        Activities Invested in Resolving Complaints . . . . . 47

    V. Statistical Tables . . . . . 48 - 56

APPENDIXES

I. Statutory Citations . . . . .	57 & 58
II. Presentation to the Board of Directors of Creative Enterprises, Inc. . . . .	59 - 61
III. Presentation to the Legislative Interim Study Committee on Corrections . . . . .	63 - 66
IV. Senate Bill No. 651 . . . . .	67 - 69
V. Testimony on Senate Bill No. 651 . . . . .	71 - 76
VI. Letter re: Establishment of Marriage Workshops at the Kansas State Penitentiary . . . . .	77 & 78
VII. Definition of Terms	
A. Categories of Complaints . . . . .	79 & 80
B. Assessments of Complaints . . . . .	80
C. Disposition of Complaints . . . . .	80 & 81
D. Highest Management Level within the Department of Corrections Involved in the Resolution of the Complaint . . . . .	81
VIII. Accumulated List of Reports Issued by the Ombudsman . . . . .	83

## SYNOPSIS

The Third Annual Report describes the work of the Office of the Ombudsman for Corrections during Fiscal Year 1978. There is a description of the program, a narrative of the highlights of the year, a listing of recommendations made to the Secretary of Corrections and his responses, and a presentation of statistical data. Additionally, a section of the report is devoted to case examples to bring the Ombudsman concept alive for the reader.

The Office of the Ombudsman for Corrections is responsible for receiving and resolving complaints from inmates and correctional staff members. It is a statutorily established state agency, separate from the Kansas Department of Corrections. It receives its autonomy from the 15 member Citizen's Advisory Board on Corrections (CAB) to which it is accountable. As a result of action taken during the 1978 Legislative Session, modifications of the Board's function were made, including changing its name to the Corrections Ombudsman Board (COB), effective July 1, 1978.

Out of the total eight adult correctional facilities, the Kansas State Penitentiary and the Kansas State Industrial Reformatory were the facilities which received routine outreach services from the Ombudsman Office. During the last quarter of Fiscal Year 1978, the Kansas Correctional Institution for Women was added to the list. A staff composed of three permanent positions and a few temporarily added personnel carried out this work during the reporting period.

The Board will be proposing a budget for Fiscal Year 1980 which would enable the Ombudsman Office to provide on-going services to all eight adult correctional facilities. This budget proposal calls for the addition of two field positions and one clerical position.

During the reporting period the Office of the Ombudsman for Corrections handled a total of 608 complaints. Of these complaints, 566 were closed within the fiscal year. Of these 566 closed complaints, 9.5% were determined to be "unfounded". The most frequently received complaints were those relating to rehabilitation issues, which comprised 31.1% of all complaints. The majority of complaints relate to actions or decisions which allegedly deviate from institutional and departmental policy, or from law. Only 5.3% of the complaints addressed policy issues. Consistent with the Office's policy of resolving complaints at the lowest possible organizational level, 77.9% of complaints resolved through direct intervention by the Ombudsman Office were done so below the middle management level within the Department of Corrections. The Office invested a total of 3635 interviews, phone calls and letters in resolving these 566 closed complaints.

In addition to individual complaint handling, the Ombudsman presented 26 formal policy recommendations to the Secretary of Corrections. The vast majority of these recommendations were the result of two major studies conducted by the Office. The first study pertained to the Department's internal Inmate Grievance Procedure, and the second was an inquiry into an episode of inmate mutilation in the Adjustment and Treatment Building at the Penitentiary during February 1978. The responses from the Secretary of Corrections to the Ombudsman's recommendations are presented along with each recommendation. The Secretary of Correction's responsiveness to the Ombudsman's recommendations is reflective of the overall improved working relationship between the Ombudsman Office and the Department of Corrections which occurred during the year.

## MEET THE STAFF

Preston N. Barton, II - Ombudsman

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

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

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

In addition to his formal work and training experience, Preston has been active in continuing education and community service programs. He has done study and training in group dynamics, including such experiential seminars as "Human Relations," "Factors and Planned Change," "Theory and Practice of Training," and "Executive Seminars," sponsored by Temple University, The National Training Laboratory Institute, and the Menninger Foundation. Other continuing educational involvement has included such areas as "Instructional Techniques," "Social Research," "Psychopharmacology," and

and a variety of programs relating to corrections including volunteers in corrections, hostage negotiations, inmate grievance procedures, and negotiations and collective bargaining. Preston was a delegate to the First International Ombudsman Conference in Edmonton, Alberta, Canada, and the First and Second U.S. Association of Ombudsmen Conferences held respectively in Seattle, Washington and Dayton, Ohio.

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

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

#### Philip A. Ringstrom - Ombudsman Associate

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

Phil was promoted to the position of Ombudsman Associate in July, 1977, after having held the position of Ombudsman Representative for 14 months. His principle tasks included responsibility for handling complaints from the Kansas State Industrial Reformatory, performing the Office's statistical research and providing supervision for the Office's graduate social work students as a Field Instructor for the University of Kansas, School of Social Welfare.

On July 31, 1978, Phil left the Office of the Ombudsman, so he could pursue Doctoral study in the field of Social Work at the University of Southern California in Los Angeles. He received a grant from the National Institute of Mental Health to cover his tuition and living expenses. Never known as a strict adherer of deadlines, Phil envisions that California's pending earthquake will be a motivating force toward his completing his Doctorate.

Jan M. Laidler - Administrative Secretary

Jan has served the Office of the Ombudsman as Administrative Secretary since October, 1976. In this capacity she is office manager and the Ombudsman's secretary. Toward the end of the reporting period, she assumed responsibility for handling complaints at the Kansas Correctional Institution for Women. Jan finds her position very challenging due to the wide variety of tasks she performs. These new and varied responsibilities have provided Jan with many opportunities to learn about the new and growing institution of Ombudsmanry and how state government operates; to further her abilities to interact with others; personally grow; and expand her knowledge of herself.

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

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

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

Bernadine J. Ferrell - Staff Assistant (a CETA position)

Ms. Ferrell joined the staff in June, 1977 on a federally funded CETA grant. Her primary responsibility is handling complaints at the Kansas State Penitentiary.

Ms. Ferrell after raising a family, returned to Washburn University to complete a Bachelor's Degree in Corrections in May, 1977. Her internship with the State Parole Office of Topeka provided the full range of responsibilities assigned to a parole officer. This work exposed her to the correctional institutions, community treatment centers and the community resources available to parolees. She has attended correctional seminars on a variety of subjects including parole and probation, negotiations and collective bargaining and prison programs and policies.

Prior to the time she returned to Washburn University, Ms. Ferrell resided in Valley Falls, Kansas, and was involved in various volunteer activities. She spent 11 years as a leader of various campfire groups organizing and supervising camp-outs, field trips, social activities and

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

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

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

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

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

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

Gary W. Templeton - Graduate Student

Mr. Templeton majored in social work at the University of Kansas and Washburn University of Topeka, Kansas. He received a Bachelor of Arts Degree from Washburn in May of 1975. The final year of this program involved working 12 hours a week at the Community Youth Homes in Topeka. His role

in this field placement was counseling troubled teens and consultation with house parents.

Before graduating, Mr. Templeton worked for five years at the Kansas Neurological Institute in Topeka and two years at Starkey Developmental Center for the Mentally Retarded in Wichita. This work involved planning, implementing and supervising recreational and vocational training programs for mentally retarded young people. During this period, he also worked for the Kansas Association for Retarded Citizens as a regional coordinator of the state Special Olympics Program and served for two years on the board of the Kansas Recreation Workshop.

Mr. Templeton worked for the Topeka/Shawnee County Health Department from December, 1975, to August, 1977. His work included social work services to pregnant teenage girls and young mothers, services to residents of poverty areas of Topeka, services to the elderly, and coordinator of a diversion program for juvenile drug and alcohol offenders. During this period Mr. Templeton attended several workshops and training seminars dealing with child abuse, child development, drug and alcohol abuse, social class inequities, human sexuality, the legislative process, the judicial system, and black culture. He also did research and wrote a staff manual for the Health Department's Maternal and Infant Care Program.

Mr. Templeton resigned his position with the Health Department to attend the two year Social Work graduate program at the University of Kansas. As part of his requirements for the first year of this program he worked two to three days a week in the Ombudsman Program. His work with the Ombudsman involved complaint handling at KSP and research of special problem areas.

Mr. Templeton is married and has two daughters, ages seven and three years. In his spare time he enjoys working on his house, camping, sailing, fishing, and hunting. After he completes his present education endeavor, Mr. Templeton hopes to combine his social work skills with his interests in recreation and outdoor activities to work with or develop a therapeutic camping program.

#### Wanda L. Bean - Typist (A CETA Position)

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

Ms. Bean attended a secretarial course at the Topeka Technical and Business College (T.T.B.C.) in 1972 and afterwards participated in on-the-

job-training at the Coordinating Committee of the Black Community, Inc., (C.C.B.C.). She has also worked for the Shawnee County Community Assistance and Action, Inc., (S.C.C.A.A.).

Ms. Bean joined the Ombudsman staff in May, 1977, on a federally funded CETA grant. Her primary responsibilities include typing and receptionist duties. She is also responsible for maintaining the recordkeeping system, from which the Program's statistical data is derived.



## SECTION I

### INTRODUCTION

#### A. The Ombudsman Program

The Kansas Office of the Ombudsman for Corrections is a state agency, separate from the Kansas Department of Corrections, responsible for resolving complaints within the Corrections Department. The Office accepts complaints from inmates and their families, correctional staff members and correctional volunteers. These are received through the mail, by telephone and during frequent visits to the various state adult correctional institutions. Additionally, the Office occasionally opens a case on the Ombudsman's own initiative. Through its access to records and adult correctional facilities, the Ombudsman Office attempts to look into all sides of an issue and bring about consensual resolution to a conflict or make formal recommendations to rectify a complaint found valid. Unlike a court of law which also provides third party intervention in a dispute, the Ombudsman Office carries out an active outreach program, is relatively speedy and informal, and makes recommendations which are not binding.

The Office of the Ombudsman for Corrections and its fifteen member governing Board were established under the Kansas Penal Reform Act of 1973. (See Appendix I.) The Board was originally organized in the summer of 1974 and appointed an Ombudsman a year later, who assumed his duties on September 15, 1975. Thus, Kansas became the third of five states in the country which now have correctional Ombudsman programs established by statute.

A major goal of the Kansas Corrections Ombudsman Program is demonstrating to employees and inmates the State's commitment to be responsive to individual concerns, while at the same time providing programs to meet the needs of large numbers of persons. To accomplish this goal, the Office performs the following six roles: an external discoverer of problems and complaints; a third party mediator of conflicts and crisis situations; an impartial observer of facilities, routine activities, incidences and disturbances; a preventer of unfair and harmful practices; a recommender of corrective actions and new policies; a reporter of discrepancies in practices and policies through special and annual reports.

The beginning of Fiscal Year 1978 (July 1, 1977 through June 30, 1978) brought with it the establishment of the new position of Ombudsman Associate. This position is funded by a federal grant with state matching funds. The creation of this position brings the number of positions involving state funding to three: Ombudsman, Ombudsman Associate, and Administrative Secretary. These positions were augmented by the addition of two other positions funded by CETA (Comprehensive Employment Training Act) and a graduate student from the University of Kansas School of Social Welfare. The graduate student worked two to three days a week during the eight month academic year. The two positions funded by CETA, one a secretarial position and the other a field position, were full-time positions. They were established just before the beginning of the 1978 Fiscal Year and are expected to continue for three months beyond it. As these positions are considered training positions, the persons currently holding these positions will have to leave at that time. Whether or not the positions will be funded beyond that point has not been decided.

This staffing arrangement made it possible for the Office to continue providing support services to the Board, and on-going complaint handling

and study activities at Kansas State Penitentiary and the Kansas State Industrial Reformatory. During the last quarter of the reporting period, we were able to add the Kansas Correctional Institution for Women to our list of institutions to receive on-going services. Additionally, the Office was able to handle occasional complaints which were received from the other five state adult correctional facilities and from persons on state parole.

A significant occurrence of the year was the improvement in the quality of the relationship between the Ombudsman Office and the Department of Corrections. The Office experienced a considerable increase in responsiveness on the part of the Department to its work, especially formal recommendations. Additionally, the Ombudsman has been invited to review a variety of new policies being established by the Department and provide input into that process. This is the first time in the three year existence of the Office that the Ombudsman has been given the opportunity to react to policy before it has been implemented. In addition to being able to provide input, this has given the Ombudsman an opportunity to become much more knowledgeable about the rationale behind various Departmental policies, thus making him and his staff more capable of dealing with questions and complaints.

During the year, the Ombudsman made two formal presentations. One was to the Board of Directors of Creative Enterprises, Inc. This talk addressed the implications of that organization's intention of establishing a factory in which prisoners will be employed. (See Appendix II.) The other formal presentation was made to the Legislative Interim Study Committee on Corrections. (See Appendix III.) This address included a description of the Program, its accomplishments and frustrations. One concern addressed was the failure of the Ombudsman Office and the Board during two Legislative sessions to have legislation enacted which would require the Department of Corrections to establish, hold hearings, and publish formal rules and regulations. The Interim Study Committee introduced such legislation and saw it enacted during the 1978 Legislative session. It is believed that the implementation of this legislation will go a long way toward improving the quality of administration within the Department of Corrections and enabling it to become a more open and accountable system.

In August, 1977 the Ombudsman had the opportunity of attending the first official conference of the U. S. Association of Ombudsmen in Seattle, Washington. In addition to a number of scholarly presentations and workshop sessions, the Association held a short business meeting to agree to terms of its charter and to elect its first officers. Fifteen Ombudsmen were in attendance representing general jurisdiction state Ombudsman offices, city-county Ombudsman offices and correctional Ombudsman offices.

A second trip was made by the Ombudsman and two staff members which was sponsored by the National Institute on Corrections. This trip was to San Antonio, Texas for an intensive seven day training session on negotiations and collective bargaining conducted by the American Arbitration Association.

A third significant educational experience which occurred during Fiscal Year 1978 was the three day consultation visit by Stanley B. Anderson, LL.D., Ph.D., Professor of Political Science at the University of California at Santa Barbara. This visit was co-sponsored by the Board and the Criminal Justice Department of Washburn University in Topeka, Kansas. Included among his activities were two public presentations, one in the State House and the other at Washburn University. Dr. Anderson also visited classes at Washburn University, spent a day with the Board and testified before the House Committee on Federal and State Affairs. In addition to being a long time student and author on the Ombudsman concept, he is

currently the only scholar who has made a comprehensive study of corrections Ombudsman programs.

## B. The Board

In addition to conducting the routine business of the Ombudsman program, the Board was involved in two major projects during Fiscal Year 1978. One project was to have modifications made to the statute establishing the Board. These modifications were incorporated in Senate Bill 651, which was introduced by Board member, Senator Paul Bud Burke and was passed during the 1978 Kansas Legislative session. (See Appendix IV.) This Bill went into effect at the end of this reporting period (on July 1, 1978), bringing about the following changes:

- 1) The name of the Board is changed from the "Citizen's Advisory Board to the Secretary of Corrections" (CAB) to the "Corrections Ombudsman Board" (COB).
- 2) Board members now receive compensation for the time they spend on related Board business, in addition to reimbursement for expenses they had already been receiving.
- 3) The Board's power and duty to make recommendations to the Governor for the selection of a Secretary of Corrections is rescinded.
- 4) On September 1, 1980 the size of the Board will be reduced from fifteen to ten members. Members continue to be appointed for four year terms. The appointing authorities also remain the same, although each will appoint only two rather than three members to the Board. The appointers are: the Governor, the Attorney General, the Chief Justice of the Supreme Court, the President of the Senate and the Speaker of the House.

The statute as amended establishes the following powers and duties for the Corrections Ombudsman Board:

- 1) "Appoint and supervise the activities of the Ombudsman for Corrections and establish the amount of compensation to be paid such Ombudsman..."
- 2) "Adopt and file with the Division of Budget its budget estimates for the operation of the Board and the Office of the Ombudsman for Corrections."
- 3) "Make recommendations to the Secretary of Corrections concerning policies, procedures and administrative actions of the Department of Corrections, which recommendations shall not be binding upon the Secretary."

Several persons and organizations appeared in legislative hearings to provide testimony in support of this bill. Those appearing were the Secretary of Corrections, the Kansas League of Women Voters, the Kansas Council on Crime and Delinquency, the Johnson County Mental Health Association and the Criminal Justice Ministry. (The written testimony of some of these organizations may be found in Appendix V).

The structure of the Board presents a unique solution to the dilemma of borrowing the Ombudsman concept from countries which have a parliamentary form of government. In those countries Ombudsmen have been appointed by the legislative branch of government which, in the parliamentary form of government, also represents what approximates our executive branch. In borrowing the Ombudsman concept from these countries,

jurisdictions within the United States have followed the notion of having the Ombudsman appointed by the legislature and, thus, have omitted having any input from the executive branch of government into the conduct of this governmental institution which handles complaints within the executive branch of government. Thus, the Board for the Corrections Ombudsman in Kansas provides for input from all three branches of government, creating the foundation for a credible, impartial and well-balanced complaint handling program. (We are indebted to Stanley V. Anderson, LLD., Ph.D., for making this observation.)

A second major project for the Board during the year was its involvement in the selection of a Secretary of Corrections. During the second month of the fiscal year, the Secretary of Corrections resigned. Mr. Jim J. Marquez from the Governor's Office was appointed as Acting Secretary of Corrections and continued in that position beyond the end of the fiscal year. An extensive recruitment and selection process for a new Secretary of Corrections was conducted. At the invitation of Governor Robert F. Bennett, Dr. James W. McKenney, Chairman of the Board, appointed two Board members as *ad hoc* members to the three member Selection Committee. The Board members were Mrs. Barbara A. Owensby and Dr. Alan Steinbach. A great deal of time and effort on the part of the Board was invested in this effort, which resulted in the final recommendation from the Board as a whole to the Governor for the selection of a Secretary of Corrections. The person recommended by the Board was accepted by the Governor; however, the nominee changed his mind and declined to accept. It was decided to begin the selection process over again.

#### C. Budget Proposals for Fiscal Years 1979 and 1980

A substantial effort on the part of the Board was the establishment and submission of the Budget proposal for Fiscal Year 1979. In view of the fact that the Ombudsman Office had been unable to adequately provide comprehensive services to all eight existing adult correctional facilities in the state, the objective of this budget proposal was to accomplish just that. The proposal called for the addition of two new field positions, a secretarial position, and a training position. The estimated cost of this budget proposal was \$124,898. The additional positions requested in this proposal, however, were not approved.

The Board has prepared a budget proposal for Fiscal Year 1980. This budget proposal is very similar to that of Fiscal Year 1979 and is also based on the programmatic goal of providing resources to the Ombudsman Program to make it possible to provide comprehensive services to all existing adult correctional facilities. This proposal is estimated to cost \$147,779. Combining existing and proposed staff positions, the staffing arrangement and program goals would be as follows:

#### Staffing Arrangements

- 1) Ombudsman: 45% - Complaint Work
  - a) 30% - Direct Complaint Work (limited intake)
  - b) 15% - Supervision of case management
- 10% - Supervision of Field Studies
- 20% - Program Management
- 15% - Duties as Secretary to the COB
- 10% - General Contacts with Department of Corrections Staff (including staff meetings, conferences with administrators and presentations to Correctional Officers).

2), 3), and 4) Ombudsman Associates:

<u>No. 1</u>	<u>No. 2</u>	<u>No. 3</u>	
60%	80%	80%	Handling Individual Complaints and Monitoring Institutional Activity
20%	15%	15%	Study of Problematic Policies and Procedures
10%	-	-	Analysis of Complaint Statistics
5%	5%	5%	General Contact with DOC Staff (e.g., Presentations to Correctional Officers)
5%	-	-	Supervision of Staff Assistant

5) Administrative Secretary:

35%	Office Administration and Support Services to the COB
25%	Providing Assistance in Handling Complaints and Maintaining Office Statistics
40%	Typing

6) Typist:

90%	Typing
10%	Assistance to Administrative Secretary

7) Staff Assistant (Graduate Intern):

100%	Handling Individual Complaints and Monitoring Institutional Activity
------	--

### Program Goals

- Emphasis on responsiveness to individual complaints.
- Coverage for individual complaints would be inclusive of all facilities in the system.
- Performance of two or more field studies.
- Response time to individual complaints:
  - a) First contact in-person within 1 week at KSP, KCIW, KCVTC, KRDC, at Topeka Work Release Centers.
  - b) First contact by mail within 1 week; follow-up in-person within 3 weeks at KSIR.
  - c) For Honor Camp and outlying Work Release Centers: first contact by mail or phone. In-person contacts would be made when number and severity of problems warrant.
- Provide weekly orientation concerning the Ombudsman program to new inmates as they are processed through KRDC. In time, this would insure that all inmates in the system are aware of the existence of the Ombudsman program.
- Reliable data collection and retrieval capability for monitoring the work of the Ombudsman program.
- Research ability to establish patterns in complaints and problems within the various institutions.
- Legislative input would come primarily from the COB.
- Policy input would come from the COB and the Ombudsman Office.

## Section II

### EXAMPLES OF COMPLAINTS

In each of the following complaint examples an attempt has been made to avoid identifying the individuals and institutions involved. In addition to omitting names, all complainants and correctional staff members will be referred to in the masculine gender. Additionally, all representatives of the Ombudsman Office will be referred to as the Ombudsman. With these exceptions, the information provided in each example is factual. Definitions for the terms used for complaint and disposition categories can be found in Appendix VII, "Definition of Terms".

#### Example 1 - Property Loss Complaint

During a visit to one of the institutions, the Ombudsman was approached by an inmate complaining that his T.V. had been broken by a staff member. This had occurred three days earlier when the staff member removed all of the inmate's belongings from his cell. This is common practice, and indeed, required when an inmate is removed from his cell. His property is inventoried, packed and removed to a secure location usually referred to as a "hot room". What was unusual about the situation, however, was that the inmate had not been removed or transferred from his cell.

The inmate had gone to the infirmary to see the doctor and then had proceeded to the "yard" for recreation. The staff member had been informed that the inmate had been admitted to the infirmary; and thus, he proceeded to secure the inmate's personal belongings. The inmate returned to his cell later that day to find it empty. His personal property was promptly returned, but he discovered that his T.V. set was no longer working.

The inmate and the staff member proceeded to get locked into opposing positions as to whom was responsible for the damaged T.V. set and what was to be done about it. The inmate was insistent that the staff member had erred and was responsible for paying for the damages out of his own pocket. The staff member was equally insistent that he had merely been following institutional procedures and his action had been the result of an honest error in communication. Additionally, the staff member denied having dropped the T.V. set or having done anything else which would have harmed it. He was of the opinion that it was an old set and had merely worn out from use. The inmate refused to accept this because he claimed it had worked before the staff member had removed it and it did not work when it was returned.

This disagreement between them was further complicated by institutional policy which requires an inmate to have a certain amount of money in his account before any item of this sort can be sent out for repairs. The inmate was considerably short of the required amount; and thus, even if the inmate had been willing to take responsibility for getting his T.V. set repaired, he would not have been able to do so.

Both parties agreed to meet jointly with the Ombudsman for the purpose of finding a way out of their deadlock. After listening to a good deal of angry and unproductive exchange between the two of them, the Ombudsman proposed a plan

of action. He suggested the staff member request that an exception to institutional policy be made in order to allow the inmate to send his T.V. set out of the institution for repairs, even though he did not have enough money in his account. This exception to policy would be based on the fact that his property had been inadvertently removed from his cell without proper cause. It was further suggested that the institution request the repair shop to provide a description of the damage, so that it could be determined whether or not the damage was caused by normal wear and tear or by its handling when moved. It, also, was suggested that the repair shop be requested to provide an estimate of the repairs so the inmate could then decide whether or not he could afford the repairs. It was the Ombudsman's position that even should the repair shop discover that the physical handling of the T.V. set was the probable cause for its malfunction, the staff member should not be held responsible to pay for it, because he had been carrying out his assigned duties. On the other hand, it would not be fair for the inmate to bear the cost either if such were the case. The Ombudsman, however, offered to assist the inmate with gaining reimbursement for the repair expenses through state channels established for that purpose. Both agreed with the plan.

The institutional management went along with the staff member's request to send the T.V. set out for repairs, without making the inmate wait until he could save up enough money in his account. Regrettably, however, the T.V. set was sent out to a repair shop which was unwilling to provide free estimates and was also unwilling to provide a description of the possible cause of the malfunction. The Ombudsman was not informed of this development until some time later by the inmate; and he was never notified of it by the staff member. While the Ombudsman was willing to pursue the matter with the repair shop, the inmate indicated that he was not interested in going further with it. He was content now that his T.V. set had been repaired and returned, even though this had been done at his expense, without determination of the cause of the malfunction. The case was closed.

*Disposition: Partially accepted*

#### Example 2 - Recordkeeping Complaint

A recently transferred inmate wrote the Ombudsman complaining about an inter-departmental memorandum. The memorandum stated that the inmate was transferred because he was under investigation for participation in an escape plot. The inmate did not object to the transfer, but he did object to the records not showing that he had been cleared of the escape charges. His greatest concern about the memorandum was the information might be used against him when he went before the Kansas Adult Authority for parole consideration.

The Ombudsman visited the institution from which the inmate had been transferred and spoke with the officer in charge of investigating the alleged escape plot. He learned that the completed investigation showed the inmate had not been involved in the plot.

Based on this information, the Ombudsman recommended actions be taken to keep the memorandum from "haunting" the inmate. It was agreed that a second memorandum would be written stating that the investigation had been completed and the inmate had been cleared from any involvement in the escape plot. A

copy of the new memorandum would be attached to the old one in all the institutional and departmental files concerning the complaint.

A follow-up investigation of all the inmate's files indicated the corrective action had been carried out as agreed.

*Disposition: Recommendation Fully Accepted*

### Example 3 - Visiting Complaint

The wife of an inmate telephoned the Ombudsman at the suggestion of her probation officer. She had been denied visiting privileges with her husband at one of the state correctional institutions. She was extremely upset and distraught at her and her children's inability to see her husband and the children's father on regular visiting days. Visiting, however, had been allowed on two special occasions.

Extensive review of the case by the Ombudsman Office brought together the following information. Through normal decision making processes the institution had denied visiting for the following reasons: 1) The couple was not actually married. 2) The inmate had too many years to serve for his wife to realistically wait for him. 3) Their relationship was a destructive one, having resulted in their committing a serious offense together. 4) Departmental regulations require special review and permission of a wife, who is on probation, to visit an inmate. 5) The wife had admitted to a history with drugs which meant that, according to departmental regulations, an exception would have to be made in order to allow her to visit her husband.

In contacts with the wife, inmate and institutional officials, the Ombudsman acknowledged from the beginning the institution's authority and responsibility to make this kind of decision. He, however, did ask officials to reconsider the reasons for this decision, because of some questions relating to the stated reasons. The Ombudsman could not accept the institution's position that this couple was not married, as they had lived together and presented themselves as husband and wife, which in Kansas is recognized as a common law marriage. The Ombudsman, also, questioned the wisdom of administrators making the decision for the wife that the amount of time her husband had to serve was realistically too long for her to wait for him. Also questioned was the institution's belief that it should terminate the relationship between the husband and wife because it was not possible to conclusively determine how healthy a relationship it was; but he did consider that the institution's attempts to keep the couple apart would most likely delay their ability to determine for themselves if it were a relationship they wished to continue or not.

Additionally the fact that the wife was on probation under the supervision of another jurisdiction, did present some inter-agency communication problems. The Ombudsman learned from the institution that it had received verbal communications from the probation agency that it was not in favor of visits. The Ombudsman, however, was informed by the probation officer that he had sent a letter giving permission for the visits. This letter, which purportedly gave written permission required by departmental regulations, could not be located. Additionally a copy of the letter could not be found in the probation office. At the request of the Ombudsman, the probation department clarified its position in writing, which amounted to giving the institution the okay for allowing its probationer to visit her husband at the institution.

Once the above concerns were clarified there still remained the one real obstacle to granting this couple permission to visit. This related to the wife's admitted drug history; however, she did not have a criminal record concerning this. Nevertheless, with all the other reasons stripped away, this did remain the one factual issue which the institution needed to consider in determining whether or not the visiting privileges would be allowed.

In an effort to sort this issue out, the proper institutional authorities and the Ombudsman agreed to carry out the following plan of action. In view of the fact that the wife had not been interviewed by the staff, the institutional authorities agreed to do this in order to evaluate, on a first hand basis, potential security risks which might be involved in allowing her visits. The Ombudsman, in turn, agreed to hold a joint meeting with the wife and her probation officer to make quite clear what the security risks were and, more importantly, what the potential personal risks for the wife might be in making such visits. After hearing this information, both the probation officer and the wife agreed they still were in favor of visits.

In the end, the institution decided to deny visiting privileges until the wife had completed her first year on probation, which was only a few months away. When she had accomplished this, she put in a request for reconsideration and was granted visiting privileges with her husband based on a positive probation report. However, before she had her first visit with her husband, she violated probation and was institutionalized.

The Ombudsman made two recommendations in this case which were both fully accepted by the institution. The first recommendation was that the institution reconsider its reasons for denying the visits. The second recommendation was that a staff member interview the wife and make a first hand evaluation of potential security risks which might be involved with her visiting the institution. The fact that the institution eventually did decide to permit visits is not reflected in the disposition of this case because the Ombudsman never did make that as a recommendation because that was viewed as a decision falling within the institution's discretionary authority.

*Disposition: Recommendation fully accepted*

#### Example 4 - Recordkeeping Complaint

The Ombudsman received a phone call from an inmate in a psychiatric institution stating he was being inappropriately treated as an involuntary patient. It was learned his official release date from the Department of Corrections had been four days earlier, at which time the psychiatric institution began treating him as a voluntary patient. However, because the institution had not received his official release paper, it had put him back on restriction as an involuntary patient. During the phone conversation the inmate grew increasingly anxious as he expressed his fear that someone was trying to get him returned to prison. Fearing the inmate might impulsively leave the institution, the Ombudsman contacted the Department of Corrections. He learned the official release paper work had been delayed because the

inmate's records had been temporarily misplaced. The paper work was being prepared that afternoon to be mailed the next morning. This meant, however, the papers would not be received until the following week. The inmate was going to have to spend at least four more days in restriction simply because of a paper work delay.

To avoid having the inmate serve any more time on involuntary patient status, and, as a result, possibly absconding, the Ombudsman stated he would personally deliver the paper work to the inmate and the psychiatric institution officials. Accordingly, he recommended the Department of Corrections and the Kansas Adult Authority work together with all due speed to prepare the necessary paper work for delivery. He also recommended the Department of Corrections official involved in the case call the inmate and explain the problem. After the official finished his phone call with the inmate, he stated he regretted he was going out of town the following day, or he would deliver the paper work himself.

*Disposition: Recommendation Fully Accepted*

#### Example 5 - Disciplinary Procedures Complaint

An inmate wrote the Ombudsman stating that three months earlier he had received a disciplinary report for possession of marijuana. He pled not guilty at the preliminary hearing of the institution's disciplinary board, but was never called back for a final disposition of his case. In the meantime, he was removed from his work detail, his custody status was changed from minimum to maximum, and the date the institution was supposed to have considered his eligibility to have a parole hearing had passed two months earlier with no action having been taken. His questions about his status to his unit team counselor had gone unanswered.

When the Ombudsman took the complaint to the inmate's unit team supervisor, he was told this was the first time the case had been brought to the supervisor's attention. The Ombudsman learned that the unit team had recently undergone a major turnover in personnel. The inmate's case had apparently gone unnoticed in the transfer of cases to the new staff. In the Ombudsman's presence, the unit team supervisor contacted the disciplinary board's record clerk and discovered the board had continued the disciplinary case indefinitely, awaiting the crime laboratory's report on the material confiscated from the inmate. Because the board had not heard from the crime lab, it too had overlooked the case.

Since the inmate had not been found guilty, the Ombudsman recommended that his work detail and minimum custody be restored. He also recommended that a date be established upon which the inmate would be considered for eligibility to have a parole hearing. Finally, he recommended that action be taken as quickly as possible to resolve the disciplinary case. The unit team supervisor accepted all of the Ombudsman's recommendations.

Three weeks later the Ombudsman received a letter from the inmate stating

his work detail and minimum custody had been restored. He also had a new date to be considered for eligibility to see the parole board, and his disciplinary case had been dismissed.

*Disposition: Recommendation Fully Accepted.*

#### Example 6 - Staff Complaint

The Ombudsman received a phone call from a former Department of Corrections employee complaining that he was not getting straight answers to his questions about being rehired by the institution which had employed him for twenty years. Each time he applied for a position, he was told he would not be hired at that time. He was also told to come back later.

The complainant told the Ombudsman that he had been compelled to leave the institution because of criminal charges against him. As a result of his seeking psychiatric counseling, the charges had been dropped. Nevertheless, the charges were well known to staff and to some inmates. He stated that several of the institution's officials had admitted their concern about how inmates and other staff might feel about working with him. They, also, were concerned about his continued counseling sessions. These were the reasons he was given for their continually not rehiring him.

According to State Civil Service policy, if he were rehired within four months, he would retain the salary level and all benefits accrued at the time he left. The Ombudsman agreed to try to get the complainant a concrete answer so, if necessary, he could begin alternative life planning.

The following week the Ombudsman visited the institution's personnel officer. It was learned the complainant was being given vague answers so as not to hurt his feelings. The Ombudsman shared the conversations he had had with the complainant concerning his need for knowing if he would be rehired in the near future. The personnel manager agreed to give the complainant a concrete date on which he could reapply. The Ombudsman then contacted the complainant. The complainant agreed to contact the personnel officer.

In a follow-up phone call with the complainant, it was learned that he was told to wait twelve months before reapplying. He stated that he had begun seeking employment elsewhere.

*Disposition: Facilitated Communication*

#### Example 7 - Internal Grievance Procedure Complaint

It was brought to the Ombudsman's attention that eight inmates had submitted a grievance eighteen days earlier and had, as yet, received no reply. The grievances had been sent to an institutional Director regarding a new institutional policy. According to departmental policy, the Director has 10 days from the time of receipt in which to respond to a grievance. The allegations being made would indicate that the Director was approximately eight days late in responding.

The Ombudsman's first step was to check the register of grievances. It was discovered that none of these alleged grievances had been registered. Unable to verify the existence of the grievances through the formal registration process, the Ombudsman returned to the domicile area to interview inmates and line staff members. In this manner the Ombudsman was able to ascertain that the grievances most likely did exist and had been sent forward to an administrator's office. As a possible discrepancy in conduct was involved, it was understandable that some staff members were hesitant in giving information to the Ombudsman.

Two months after the grievances had been submitted, the Ombudsman was informed that they had been discovered under a stack of papers on an administrator's desk.

By this time, the Ombudsman had already taken the matter up with the Secretary of Corrections pointing out that the grievance procedure did not provide a mechanism by which to establish whether or not a grievance had been submitted. It was recommended that a tear-off receipt form be added to the Inmate Grievance Form. When an inmate delivers a Grievance Form to a staff member, he or she would be given the receipt in return, which would be signed and dated. The Secretary of Corrections accepted this recommendation. It would be implemented some time in the fall of 1978 when all the Department's procedures were to be reviewed.

*Disposition: Recommendation Fully Accepted*

#### Example 8 - Custody Status Complaint

For a number of years the Kansas Department of Corrections has had a program, established by law, which makes inmates, who have served two or more years in prison, eligible for consideration for home furloughs. The purposes for this home furlough program have been several: a reward for good conduct; an opportunity to maintain the ever-important family and community ties; and the opportunity to participate in job interviews and other activities necessary to establish a meaningful parole plan.

An inmate wrote the Ombudsman complaining about this policy because he and a number of other minimum custody inmates, who would be serving less than two years in confinement, were not eligible for consideration for home furloughs. A search of the laws by the Ombudsman revealed that there are two separate statutes establishing furlough programs. One had long been implemented by the Department of Corrections and the other had not been utilized. The statute utilized by the Department sets guidelines relating to the amount of time an inmate must serve to be eligible but does not set restrictions as to the purpose of the furlough. The statute, which had not been implemented by the Department, provides the Department the authority to establish home furloughs without restrictions regarding the amount of time served but with stipulated purposes for how the furlough time is to be used. The purposes include visiting families or interviewing for jobs, at such time as the inmate would be preparing for release.

The Ombudsman recommended to the Secretary of Corrections that the Department

implement the program authorized by the Kansas State Legislature which would provide minimum custody inmates with less than two years in prison the opportunity to be considered for a home furlough. This recommendation was taken under advisement with the understanding that it would be considered during the fall of 1978, when all other Departmental policies were to be reviewed and reconsidered.

*Disposition: Pending*

#### Example 9 - Complaint Against Staff

The Ombudsman's visit to a cell house was interrupted one evening when an inmate yelled to him from a second tier cell. When the Ombudsman went up to the cell, the inmate told him that a white officer in the cell house had been harassing him because he was black and a self-proclaimed homosexual. The Ombudsman remembered that once before the inmate had complained about the officer. The complaint, however, was dropped when the inmate moved to another cell house.

The inmate stated he had been returned to the cell house that very day, and that the officer had already begun to harass him. As an example of harassment, he claimed that earlier in the day the officer reprimanded him for being in an unauthorized area, "simply because he was standing in front of another man's cell". He was warned that if caught again, he would receive a disciplinary report.

The inmate felt the officer was waiting to "get him". He was particularly afraid of a disciplinary report since he was scheduled to see the parole board soon. Sensing the inmate's tension, the Ombudsman agreed to speak with the officer and see if a meeting could be arranged.

The Ombudsman went to the officer and shared the inmate's fears and version of the reprimand. The officer explained the reprimand was part of a general "crack down" on inmates being in unauthorized areas of the cell house. The action was in response to a barrage of inmate complaints about property being stolen from their cells.

He agreed, however, that the message he was "cracking down" on all inmates in the cell house may not have been communicated to this inmate since it was his first day back. He also acknowledged that the inmate would very likely be more edgy as his release date approached. He, therefore, agreed to meet with the Ombudsman and the inmate.

As the meeting commenced, the officer discussed the "crack down" on inmates. He pointed out he also reprimanded another inmate at the same time he reprimanded the complainant. The inmate agreed this was true, but then asked the officer if he felt somewhat prejudiced toward him. The officer denied feeling any prejudice and cited another black homosexual inmate in the cell house with whom he got along quite well. The inmate acknowledged that fact had always somewhat puzzled him. The officer stated the only problem he had ever had with the inmate was with his not following the rules governing where he should be in the cell house. The inmate said he would be more mindful of them because he wanted to go home. The officer commented he too wanted to see the inmate released.

After the meeting, the Ombudsman met with the inmate and the officer separately. The inmate stated he still felt the officer was a little prejudiced, but he was much less worried about harassment now that the officer's concerns were clarified. The Ombudsman suggested that perhaps the inmate was a little prejudiced toward the officer. He smiled and agreed.

The officer was particularly pleased with the joint meeting, stating it made his job easier because it helped the inmate understand his enforcement of the rules was not a personal matter.

*Disposition: Facilitated Communication*

#### Example 10 - Complaint Against Staff

A letter from an inmate to a committee of the Kansas Legislature was referred to the Ombudsman. The letter was too vague for any accurate understanding of the inmate's concerns; thus an interview with the inmate was essential before any action could be taken. This vagueness continued even in the personal interview with the inmate. It was difficult to tell specifically what the inmate's complaint was and, when a specific complaint did begin to emerge, it was difficult to know if that were the real problem or if it were merely a test of the Ombudsman before presenting a more important matter.

To oversimplify the inmate's complaint, he expressed considerable anger at correctional officers in his cell house, whom he said spent most of their time in the office drinking coffee and telling jokes. Specifically, he complained that he was required to wait up to ten minutes before correctional officers would come up to his tier to let him into his cell after each meal.

The inmate was equally vague about what he had or had not done on his own to remedy this apparent problem. After approximately a half hour interview with the inmate, the Ombudsman determined that it was possible this inmate had some functional limitations which might not make it possible for him to deal with this situation on his own.

With the inmate's permission, the Ombudsman proceeded to contact the cell house sergeant to discuss this matter, and got an agreement to involve the inmate in a three-way conversation with himself, the cell house sergeant and the Ombudsman. It was a lengthy and heated conversation. It became so heated, in fact, that the Ombudsman considered at one point terminating the conversation and conducting any further conversations with the two men separately. The amount of energy and anger expressed by both men seemed quite out of proportion to the content being discussed, which further reinforced the Ombudsman's hunch that there were other more important issues involved for both men.

The inmate spent a considerable amount of time expressing his anger and concern about the way he was being treated. The sergeant spent a considerable amount of time expressing his problems with having too few correctional officers to staff the cell house. From first hand knowledge, the Ombudsman was able to acknowledge the sergeant's complaint as being a legitimate one. The sergeant was then willing to indicate to the Ombudsman that he would keep

a closer eye out on this problem and attempt to reduce the waiting time inmates were required before being able to enter their cells. In the presence of the sergeant, the Ombudsman requested that the inmate write him in two weeks indicating whether or not the situation had improved.

As requested, the inmate wrote the Ombudsman two weeks later informing him the situation had indeed improved. Neither this note nor subsequent direct contacts with the inmate gave any clues to other more serious issues than that of his having to wait for an extended period of time to gain entry into his cell. Thus, the case was closed leaving the Ombudsman with a sense of incompleteness and with the hope that their success in dealing with this problem made it possible to go on to resolve on their own any other issues which may have been present.

*Disposition: Recommendation Fully Accepted*

#### Example 11 - Daily Routine Complaint

The Ombudsman looked up an inmate with whom he had had previous contact. During the conversation, the Ombudsman was informed of some general undercurrents and inmate unrest which thus far had lead only to tentative plans for a group to meet to discuss possible protest action. The issue was that the yard at the institution had been closed during the weekday afternoons for several months. (The yard was remaining open during mornings, weekends and holidays.) It was now becoming an urgent concern because there had been a couple of extremely pleasant early spring days.

The yard had been originally closed because of assaults by inmates on other inmates. A contributing factor to the problem was the physical plant which made it extremely difficult to provide adequate security.

The Ombudsman began by closely checking out the area. This task was aided by a number of inmates who were in the area at the time. They pointed out a variety of aspects of the physical plant and its use which concerned them, and shared their ideas as to how to remedy these problems.

In discussing the matter with the staff member directly responsible for the area, the Ombudsman found that this person was very aware of the problem, but perhaps not its severity. A number of alternative remedies to the security problem was suggested in conjunction with the Ombudsman's recommendation that the yard be opened immediately during week-day afternoons. This person did not agree that the security problem could be corrected at the time, thus, the yard would remain closed.

That person's supervisor was then presented with the recommendation by the Ombudsman. The supervisor appreciated the urgency of the problem and, in fact, inspected the area himself that very day. At that point, all that remained for the Ombudsman to do was to merely reinforce the supervisor's own concerns for the problem and to add his own suggested remedies to an already mounting list. By the end of that day a remedy was decided upon by the supervisor and the yard was reopened for the weekday afternoons within the next two weeks.

*Disposition: Recommendation Fully Accepted.*

## Example 12 - Parole Eligibility Complaint

This example actually combines two separate cases. The complaints were very similar, emanated from the same institution and were studied by the Ombudsman Office at the same time.

Inmate A wrote the Ombudsman's Office complaining the institution had disapproved his seeing the Kansas Adult Authority (the paroling authority) because he had not completed a vocational training program. He could not understand the disapproval, because that vocational training requirement had been deleted from his rehabilitation program four months earlier.

The Ombudsman requested the institution explain why it felt the inmate needed vocational training, then deleted it, then reintroduced it. The institution stated his need was based on his initial evaluation report. Vocational training was later deleted from his program, however, because of a misinterpretation about training he received prior to his incarceration. When the time came to consider his eligibility to see the KAA, the institution more closely examined the records and made the reassessment he had not received adequate vocational training.

The Ombudsman assessed two problems in the institution's behavior. First, it was compelling Inmate A to serve six more months because it made an inaccurate assessment of his vocational training needs, but did not catch the error until his parole eligibility review. Had the inmate known this would be required, he could have completed it in time for the review. Second, the institution had been inconsistent with Inmate A in regards to its expectations of what he had to do to see the KAA.

Inmate B approached the Ombudsman in a cell house and complained the institution had disapproved his seeing the KAA because he had not obtained a General Educational Development certificate (high school equivalency certification). The disapproval confused him because he had participated in the GED program, which was what his initial rehabilitation plan required. He, however, had failed to pass the certification tests, but that had not been established as an expectation.

The Ombudsman determined that Inmate B had indeed fulfilled the requirement to participate in the GED program. The records showed he had attended classes for two months, and had taken and failed the GED tests on two occasions. Furthermore, the Ombudsman determined the institution's revised expectation that the inmate "obtain" a GED before he would be considered for parole, was in violation of its earlier expectation that he need only to "participate" in the program.

In both the cases of Inmate A and Inmate B, the Ombudsman recognized the institution's behavior was in part a result of a moral dilemma. Kansas statutes charge the Department of Corrections with the responsibility of rehabilitating inmates. Two aspects of rehabilitation, according to departmental policy are that, when needed, inmates should receive vocational and educational training. The Ombudsman never challenged the institution's assessment that Inmate A needed vocational training, nor did he challenge the importance the GED certificate could have in helping B once he was released.

In both cases, however, the Ombudsman wanted to stress the rehabilitative importance of the institution being consistent about its expectations of inmates.

Since the institution clearly had been inconsistent in its expectations of how both inmates could become eligible to see the Kansas Adult Authority, the Ombudsman recommended both be scheduled for special hearings before the paroling authority. This included giving both favorable recommendations for parole.

These recommendations, however, were rejected by the institution. Both inmates were required to complete their training programs.

*Dispositions: Recommendations not accepted*



## Section III

### POLICY RECOMMENDATIONS TO THE SECRETARY OF CORRECTIONS

Twenty-six policy recommendations were formally presented to the Office of the Secretary of Corrections. All but two of these recommendations were included in the reports of two major studies completed during the reporting period.

The first study concerned the internal Inmate Grievance Procedure of the Kansas Department of Corrections. The study resulted in a 17 page report plus attachments, which presented 11 recommendations.

The second study was an inquiry into an incident involving the self-mutilation of ten inmates in the Adjustment and Treatment Building at the Kansas State Penitentiary. Thirteen recommendations were presented in the 15-page report resulting from the inquiry. A total of 37 formal recommendations regarding the A & T Building have been presented by the Ombudsman Office as a result of this study and an earlier study conducted last year. (See Section IV of the Second Annual Report.) Only parts of the reports are reprinted here. The special reports, in their entirety, are available upon request.

In addition to the 26 formal recommendations for changes within the Corrections System, the Ombudsman complimented the Department for the establishment of Marriage Workshops at the Kansas State Penitentiary. The letter commending this program is presented in Appendix VI.

### REPORT ON THE KANSAS DEPARTMENT OF CORRECTIONS' INMATE GRIEVANCE PROCEDURE

#### Conclusion

The Office of the Ombudsman for Corrections has studied the manner in which the Office of the Secretary of Corrections handles inmate grievances appealed to its level. The way in which the Secretary's Office deals with inmate complaints communicates an attitude to the rest of the system regarding not only grievances but also persons confined.

The Ombudsman's Office studied all grievances received by the Secretary's Office from the inception of the current grievance procedure on July 15, 1975, through January 31, 1977. At the time the data was collected, 56 grievances were known to have been received during this 15½ month period. The Department's formal Inmate Grievance Procedure was found to be a generally highly sophisticated and potentially effective one. However, changes are being recommended for refining the procedure to make it a more efficient and credible one.

Implementation of the current Inmate Grievance Procedure deviates considerably from Departmental policy. For example, the forms utilized in the inmate grievance mechanism do not require that an adequate number of dates be recorded so as to be able to monitor the degree to which the Department is adhering to its own 10 day time limit for responding to inmate grievances. Furthermore, in the instances of the 16 grievances for which adequate data

was available only five of the grievances were answered by the Secretary's Office within the 10 day time limit. For half of these 16 grievances, the Secretary's Office took from one to over two months to respond. Because of the unstructured and unsystematic means of registering and processing grievances received by the Secretary's Office, there is some question as to whether or not grievances may be misplaced or even lost.

Departmental policy defines an answer to a grievance as one which includes "findings of fact, conclusions made and what action was taken." While such a requirement is appropriate to make an answer meaningful, it was found that in none of the grievances studied did the Office of the Secretary's answers include all three of these elements.

The Secretary's Office, however, did take an active role in intervening in complaints by modifying the institutional Director's decision or by providing the inmate with information in 32 (or 51%) of the 56 grievances. In 10 (or 17.9%) of these grievances, the Secretary's Office directed some modification or actual reversal of the institutional Director's decision. It, therefore, is concluded that an inmate who appeals a grievance to the Secretary's Office may expect to receive something for the effort he takes in doing this.

The Department of Corrections established an internal Inmate Grievance Procedure on its own initiative over two years ago. This study and the accompanying 12 recommended changes are intended to assist the Department in refining its present procedures so as to enhance effectiveness and credibility. The final result hoped for is that inmates will seek this constructive and nonviolent avenue for resolving problems.

*Eleven recommendations were presented to the Secretary of Corrections on December 15, 1977.*

*The Secretary of Corrections provided a written response, dated December 22, 1977, to each of these recommendations.*

#### Maintenance of Grievance Report Files

1. A. Ombudsman's Recommendation:

Rather than providing permission for the institutions to establish a permanent record of grievances, it is recommended that Departmental policy mandate this.

B. Secretary's Response:

"I am in agreement with this recommendation and Departmental policy is being revised at the present time to accommodate this recommendation."

2. A. Ombudsman's Recommendation:

It is recommended that the recently adopted practice in the Secretary's

Office of keeping grievances separate from individual inmate files be incorporated into written Departmental policy.

B. Secretary's Response:

"Since the Department has adopted the practice of separating grievances from an inmate's file, this recommendation is presently being incorporated into Departmental policy."

3. A. Ombudsman's Recommendation:

All Grievance Report Forms and related documents presently contained in individual inmate files in the Office of the Secretary need to be removed and included in the newly established central file for grievances.

B. Secretary's Response:

"The Department concurs with this recommendation and is presently in the process of carrying out the objective of this recommendation."

4. A. Ombudsman's Recommendation:

It is recommended that current policy be changed to allow the inmate to direct his grievance automatically to the next higher level in the organizational structure upon the expiration of the 10 day response time limit.

B. Secretary's Response:

"The Department, after due consideration, will change Departmental policy to allow an inmate the opportunity to automatically appeal to the next higher level in the organizational structure if no response has been received within the period established under the procedure."

5. A. Ombudsman's Recommendation:

In the meantime, it is recommended that the Department adhere to its own set time limits for responding to an inmate grievance.

B. Secretary's Response:

"The Department agrees with this recommendation and a concerted effort will be made to respond to inmate grievances within the time limits set by the Department."

6. A. Ombudsman's Recommendation:

It is recommended that the grievance register in the Secretary's Office be redesigned to record a sufficient number of dates to insure the Department's time limits are being followed.

B. Secretary's Response:

"The grievance register in the Secretary's Office has been redesigned to insure that a sufficient number of date blanks are on the register to enhance the Department's ability to comply with the time limitations."

7. A. Ombudsman's Recommendation:

It is recommended that the Inmate Grievance Report Form also be redesigned to record a sufficient number of dates to insure the Department's established time limits are being followed.

B. Secretary's Response:

"The response to this recommendation is similar to that of recommendation number 6."

8. A. Ombudsman's Recommendation:

It is recommended that substantial and detailed information concerning the services and addresses of the Ombudsman Office and Legal Services for Prisoners, Inc., be published in the "Inmate Rule Book" and in any other publication or description of the internal Inmate Grievance Procedure.

B. Secretary's Response:

"The Department agrees with this recommendation and it will be implemented upon publication of the revised Inmate Rule Book."

9. A. Ombudsman's Recommendation:

It is recommended that the Secretary's Office utilize the existing policy provision making it possible for it to initiate review of a grievance by a party external to the Department of Corrections.

B. Secretary's Response:

"The Secretary will, when the circumstances warrant, utilize the existing policy provision for the initiation of external review of a grievance. Since the ending date of this study the Secretary has referred at least three grievances to Legal Services for Prisoners, Inc. for external review."

10. A. Ombudsman's Recommendation:

It is recommended that the Secretary's Office adhere to the Departmental policy directing that an answer to a grievance include "findings of fact, conclusions made, and what action was taken," unless there is specific reason for not doing so.

B. Secretary's Response:

"The Department concurs with this recommendation and will include findings of fact, conclusions made, and what action was taken, unless there is a specific reason for not doing so. There are occasions when this type of response may not be required. However, the Department will advise every inmate who has filed a grievance why certain actions were or were not taken. This response may come at different levels in the procedure."

11. A. Ombudsman's Recommendation:

It is recommended that procedures for registering grievances in the Secretary's Office be established in such a way as to insure there is an adequate accounting of all grievances, and an elimination of unnecessary delays in processing or even failures to process.

B. Secretary's Response:

"The Department concurs with this recommendation and this recommendation has been implemented."

12. A. Ombudsman's Recommendation:

It is recommended that the Secretary's Office report at least annually on the number and kind of complaints it received and on the manner in which it handled them.

B. Secretary's Response:

"The Department agrees with this recommendation since this report may be most helpful to the Department. The Department has established a procedure whereby the type(s) of grievance(s) and place of occurrence can be tabulated. This should enable the Department, in its planning process, to direct its resources towards the elimination of those factors which precipitated the grievance(s)."

INQUIRY INTO INMATE SELF-MUTILATION IN THE EAST WING OF THE ADJUSTMENT AND TREATMENT BUILDING FROM FEBRUARY 16 THROUGH FEBRUARY 29, 1978.

Introduction

While walking through the Kansas State Penitentiary (KSP) on Friday, February 17, 1978, another staff member from the Ombudsman Office and I came across a path of fresh blood leading from the Adjustment and Treatment Building (A & T) to the Infirmary several yards away. Regrettably, it was not known at that time that what we were seeing was the beginning of what was to be the self-mutilation by cutting of ten inmates during a five day period in the east wing of the A & T Building at the Penitentiary. During this same period, there, also, was an eleventh inmate from the north wing of the A & T Building who deliberately cut himself.

An inquiry was conducted by the Ombudsman Office in an attempt to understand why these inmates inflicted injury upon themselves. The extreme environment presented in A & T was found to be very much a part of the cause. A good deal of psychological pathology was also observed. Although immediate mental health care had been needed, it was not provided. This too was seen as a part of the cause. However, none of the inmates interviewed were psychotic. (Of the two Ombudsman staff members who jointly interviewed each of the inmates, one staff member has a Master's Degree in Social Work and has had training in a psychiatric facility; the other interviewer was a graduate student in Social Work with previous psychiatric experience through prior public health service work and institutional work.) As will be seen, all but two inmates reported their act of self-mutilation as being very much an act of individual decision making and was not consciously seen by them as a part of a group phenomena. The facts, nevertheless, indicate these acts of self-mutilation were a product of destructive group interaction within the east wing of A & T. The acts of self-mutilation were committed within a short period of time by men housed in close proximity to one another who must cope with the same environment. With this understanding, our questions deliberately probed into the current events, as well as the general atmosphere of A & T, and particularly, of the east wing. Our finding was that these self-mutilations were not acts of insanity but of desperation.

Prior to the self-mutilations these men had been confined in A & T from one to sixteen months. The median time was approximately four months. Six of the men had served time in A & T before. The total accumulated time in A & T for the nine men ranged from three to twenty-eight months with a median of ten months. (This data is based on the records of nine of the ten inmates involved.)

Of the ten inmates in the east wing who cut themselves, six made more than one cut. The ten inmates inflicted the following injuries on themselves: twelve cuts on arms, one of these severing veins and arteries; six cuts on hands, two of these possibly damaging tendons; one cut on the stomach; and one cut on the heel damaging the achilles tendon.

On February 23, 1978, seven of these inmates were jointly interviewed by two staff members from the Ombudsman Office. Of the three inmates from the east wing who were not interviewed, one had been hospitalized outside the institution, one had been transferred to another institution, and one was reported to be too psychotic to be responsive. Also, the eleventh inmate from the north wing was not interviewed because his act was not seen as a part of the same group phenomena.

*Thirteen recommendations were presented to the Secretary of Corrections on June 26, 1978.*

*The Secretary of Corrections provided a written response, dated August 9, 1978, to each of these recommendations.*

13. A. Ombudsman's Recommendation:

It is recommended that comprehensive temperature readings be taken within the A & T Building during the winter and summer months, and appropriate consultation sought with regard to the findings.

B. Secretary's Response:

"I am in agreement with this recommendation and the Department will seek, through its budget request for Fiscal Year 1980, the necessary funds to make a study of and upgrade the climate control system. We are in agreement there is need to upgrade the climate control system for the reasons which you have stated and related climate control factors."

14. A. Ombudsman's Recommendation:

It is recommended that the Department of Corrections seek consultation for the purpose of studying possible noise hazards in the A & T Building.

B. Secretary's Response

"I am in agreement with this recommendation. You will be pleased to know the Department is going beyond your recommendation and is seeking money in the Fiscal Year 1980 Budget for the purposes of acoustical renovation to diminish, as much as possible, the noise which now exists."

15. A. Ombudsman's Recommendation:

A major upgrading of mental health services and facilities is

needed, not only for A & T and KSP, but also for the entire state prison system.

B. Secretary's Response:

"I am in agreement that an upgrading of mental health services and facilities is needed not only for the Adjustment and Treatment Building but for the entire correctional system. Specifically, the Department will recommend in the Fiscal Year 1980 Budget that a full-time psychologist position be allocated for the A & T Building. This request by the Department will enhance the delivery of mental health services not only in general counseling but in determining on a continuing basis the needs for more comprehensive mental health treatment for those individuals exhibiting such a need."

16. A. Ombudsman's Recommendation:

It is recommended that a medical examining table and other medical equipment and supplies be installed in a secure location in the A & T Building so that initial and some secondary treatment of self-mutilations may be provided within the A & T Building.

B. Secretary's Response:

"This recommendation is being studied by the Department to determine its feasibility. Several problems are presented by this recommendation. The first problem is a question of space within the building. The amount of non-cell space is limited and is currently being utilized for counseling purposes and as office space. An additional problem is one of staffing requirements. At this time I can report the feasibility of this recommendation is being studied."

17. A. Ombudsman's Recommendation:

It is recommended that a mental health professional (master's or doctoral level) be designated as responsible for evaluating all self-mutilating inmates to differentially diagnose self-mutilation from attempted suicide and provide line staff with consultation for management of the case.

B. Secretary's Response:

(See 15 B: Response)

18. A. Ombudsman's Recommendation:

The Shift Captain should make rounds of each respective wing of A & T during each shift. (At the end of the first six months of the implementation of this recommended policy, an assessment should be made to determine whether or not such rounds should be continued to be made by the Shift Captain or could be delegated to a lieutenant on each shift.)

B. Secretary's Response:

"This recommendation is being taken under advisement and is being studied. The responsibilities of the Shift Captain are numerous and the present duties require his full attention during the shift. The Lieutenant in charge should make rounds during each shift for the purposes of listening to inmate complaints and directing any corrective action that may be required. It is possible this

recommendation could be implemented on a basis whereby the Shift Captain would periodically make rounds to assess the situation and make any recommendations for action that may be required. The recommendation has merit, however, staffing limitations and present duty requirements must be considered in assessing its feasibility."

19. A. Ombudsman's Recommendation:

It is recommended that a Correctional Counselor II be assigned to A & T on a full-time basis.

B. Secretary's Response:

"This recommendation is being taken under advisement. The counselor currently assigned to the A & T Building is allocated on a full-time basis, however, it is accurate that on many occasions he has not been on duty full-time because of pressing needs elsewhere in the institution. It is anticipated this situation will be remedied within the very near future.

The recommendation for upgrading the position to a Correctional Counselor II is being studied. Duties and responsibilities as established in the job description by the State Personnel System may well prohibit the upgrading since no supervision of other personnel by the Correctional Counselor II would be required. The job description responsibilities and impact of reallocation will have to be studied before a decision on this recommendation can be made."

20. A. Ombudsman's Recommendation:

It is recommended that a movie camera be used to record events whenever it is anticipated that force may be used.

B. Secretary's Response:

"This recommendation is currently under study. The legal ramifications and problems attendant thereto are being studied. The capital outlay requirements are being studied as well as the potential need for staffing in the event utilization of the equipment is necessary."

21. A. Ombudsman's Recommendation:

It is recommended that weekly half hour to one hour staff meetings, jointly involving the first and second shift officers in A & T, be conducted. The day of the meeting is to be varied so that as many officers can attend as many meetings as possible and, at the same time, not give up time from days off.

B. Secretary's Response:

"I am in agreement with this recommendation and it is anticipated that such staff meetings will be implemented as soon as is reasonably possible. There is no question that the A & T staff works under pressures different from those that may be experienced in other parts of the institution. The additional staff requested, plus proper scheduling, should enable us to implement this recommendation in the hopes of improving staff and inmate interaction."

22. A. Ombudman's Recommendation:

It is recommended that the A & T Building be used solely for harsh short-term confinement for disciplinary purposes (for a duration of approximately 15 days.)

B. Secretary's Response:

"I am in agreement with this recommendation to the extent that it is feasible. The fact the inmate population at the Kansas State Penitentiary is approaching 1,000, coupled with the needs of protecting inmates from one another and the needs to segregate certain individuals in the best interests of the institution makes this a complex problem. Your recommendation is well taken and steps which could alleviate this problem will certainly be taken, if at all possible."

23. A. Ombudsman's Recommendation:

If A & T is not converted for the sole use of short-term punitive confinement (See Recommendation 22) then it would be necessary that ample reading material, radios and televisions be permitted for Administrative Segregation inmates (including those in Protective Custody, those segregated for mental health reasons, and those considered dangerous in the general population but not held in a disciplinary status, as well as those held for more than 15 days in Disciplinary Segregation).

B. Secretary's Response:

"The recommendation to allow Administrative Segregation inmates (including those in protective custody and those segregated for mental health reasons) ample reading material, radios and television is currently being studied in the rules and regulations promulgation process. It is anticipated that certain of these privileges will be permitted to those individuals referred to above. The final definitive statement will be made prior to the end of this calendar year when our rules and regulations must be submitted to the legislature."

24. A. Ombudsman's Recommendation:

It is recommended that the current hour and a half recreation time in A & T be doubled so that recreation time is available during both first and second shifts for all Administrative Segregation inmates.

B. Secretary's Response:

"This recommendation is being studied at the present time, taking into consideration the staffing implications. Budget recommendations on staffing are not completed as yet because of various considerations involving the entire institution. Upon completion of staffing implications study, this recommendation will be addressed more specifically."

25. A. Ombudsman's Recommendation:

It is recommended that the Director of Kansas State Penitentiary prepare a formal report on A & T annually (corresponding with the dates of the State's fiscal year) which would report on the following:

all incidents; all complaints from A & T inmates filed through the Inmate Grievance Procedure; summaries of all law suits filed; population statistics broken down by reason for confinement in segregation and length of stay; amount of correctional officer and administrator time provided A & T; number of counseling hours provided by mental health; number of persons awaiting transfer to psychiatric facilities and length of wait; number of inmates assigned to work, the number waiting for work assignment and the length of wait; and a narrative describing new programs and assessing improvements, problem areas, and program and budget needs.

B. Secretary's Response:

"I can agree with this recommendation with certain modifications. While you do not address to whom the formal report should be submitted it is my position that such report should be submitted to the Secretary of Corrections for his information and review and allow the Secretary to make recommendations concerning the A & T Building. In the interest of assessing problems justifying needs, and improving conditions the Secretary would be free to share the report with the Governor, the Legislature, the Ombudsman and others."

MISCELLANEOUS RECOMMENDATIONS

26. A. Ombudsman's Recommendation (Made verbally in March, 1978):

It is recommended that a tear-off receipt be made available on the internal Inmate Grievance Report Form to be given the inmate at the time the Form is delivered to a staff member. (See Complaint Example 7 - in Section II.)

B. Secretary's Response (Made verbally in March, 1978):

The recommendation was accepted - and is to be implemented when the Grievance system is revised sometime in the fall of 1978.

27. A. Ombudsman's Recommendation (Made May 16, 1978):

It is recommended that the Department of Corrections implement the authority provided in KSA 75-5210, Subsection E, to provide inmates in minimum custody status, who have served less than 2 years, the additional positive incentive of a furlough. (See Complaint Example 8 - in Section II.)

B. Secretary's Response (Made verbally in March, 1978):

The recommendation was taken under advisement. No decision was announced during this reporting period.

## Section IV

### STATISTICAL PRESENTATION

The major thrust of the Ombudsman Office's work involves the handling of individuals' complaints. Complaints are received from inmates, correctional staff members, agency representatives, and state officials. A statistical breakdown of complaint data collected during this reporting period is presented in this section. The data discussed in this section also can be found in Section VI.

#### Sources of Complaints

The Ombudsman Office receives complaints from a variety of sources within the Department of Corrections and in some cases from sources outside the Department. During FY 1978 the Ombudsman Office maintained on-going services at both the Kansas State Penitentiary (KSP) and the Kansas State Industrial Reformatory (KSIR). As of March, 1978, the Office also has been providing services to the Kansas Correctional Institution for Women (KCIW). These three institutions represent 84% of the average daily institutional population in Kansas state adult correctional institutions during FY 1978. (This figure is computed from FY 1978 average daily institutional population statistics prepared by the Department of Corrections Research and Planning Section.) Other sources of complaints included areas within the Department of Corrections such as the Kansas Reception and Diagnostic Center, the Kansas Correctional Vocational Training Center, the Honor Camp, Work Release Centers, and parole. Additional sources of complaints were from outside the Department of Corrections such as state psychiatric hospitals and prisons in other states which were holding Kansas prisoners.

The Ombudsman Office experienced a significant increase in the number of complaints it received during FY 1978. The 554 cases opened during FY 1978 represent a 48.9% increase (+182) over the number of complaints (372) received during FY 1977. (Compare totals of Table 1, Column "a" with Table 2, Column "a".) As seen in Table 2, 364 or 65.7% of the complaints came from KSP, 135 or 24.4% came from KSIR, and 55 or 9.9% came from other sources, within and outside of the Kansas Department of Corrections. All 54 complaints carried over from FY 1977 (See Table 1, Column "c") were closed during FY 1978. The addition of these 54 complaints to the 554 new complaints meant the Ombudsman Office handled a total of 608 complaints during FY 1978. Of these, 566 were closed and 42 remained pending at the end of FY 1978 (See Table 2, Columns "b" and "c").

To monitor its distribution of services among racial groups, the Ombudsman Office also recorded data on the racial background of the complainants of the 566 closed cases. For the purpose of comparing the racial backgrounds of inmate complaints with the racial groups in the Department of Corrections inmate population, the Office separated out the 25 complaints from correctional staff members and from individuals in institutions outside the Department of Corrections, leaving 541 inmate complainants. The racial background of these complainants is as follows. Three hundred and four or 56.2% of the complainants were white and 167 or 30.9% were black. Fourteen or 2.6% of the complainants identified themselves as being of some racial background other than white or black. Fifty-six or 10.3% of the complainants' racial background remained unknown at the close of the case, due to the Office having no direct contact with the complainant. A breakdown of the racial background of the Department of Corrections inmates, prepared in July, 1977, indicated that of its total population, white inmates represented 61.8%, black inmates represented 33.3%, and inmates of all other racial back-

grounds represented 4.9%. (Reference: Kansas Department of Corrections, Statistical Report, October 1977, p C-7)

As was the case in the two previous reporting periods, the Ombudsman Office continued to find a close relationship between the amount of time it was present in the institutions and the number of complaints it received from them (See Table 2, Columns "a" and "d"). The Ombudsman staff devoted 66.9% of its field time to KSP, from which 65.7% of the complaints were received. Twenty-two and six-tenths percent of the staff's time was spent in KSIR, while 24.4% of the cases the Office received were from KSIR. The relationship between field time and complaint intake was not found to be as close in the other DOC sources of complaints. The 10.5% staff field time devoted to the other DOC institutions was spent entirely at KCIW, from which 5.2% of the complaints were received. An explanation for the disparity in these figures is that a significant amount of the 10.5% staff field time spent at KCIW was consumed in an orientation period during which complaints were not accepted. The remaining 4.7% of the complaints came from a variety of other sources inside and outside the Department of Corrections. It, therefore, is safe to conclude that the number of complaints received from an institution is more reflective of the behavior of the Ombudsman Office than of the institution.

The remainder of this section will deal with a statistical presentation of the 566 complaints which were closed during the FY 1978 reporting period. A presentation of the 42 cases which remained active at the end of FY 1978 is omitted, because all the necessary data cannot be recorded until the complaint has been closed.

#### Mode of Initiation

Complaints were initiated through letters, personal contacts, and phone calls. As seen in Table 3, the majority of complaints (438 or 77.4%) came directly from the complainants. One hundred and twenty-four or 21.9% came from third parties on behalf of the complainants. As has been the case in the two previous reporting periods, correspondence continues to be the principle mode for the initiation of complaints. Complaints were initiated in this manner 58% of the time: 47.7% came directly from complainants, and 10.3% came from third parties.

#### Mode and Timing of the Ombudsman's First Response

Ombudsman staff members make their first response to complaints either by letter, personal contact or phone call. Personal contact is the preferred means of initial response, because it allows for immediate clarification of the complaint and Office's roles and functions. Table 4 indicates that 337 or 59.5% of the staff's first responses are made in person. This represented a 10% increase over FY 1977 in the percentage of personal responses made by the Ombudsman staff. (See Second Annual Report, Table 9, page 54.) Letters accounted for 186 or 32.9% and phone calls accounted for 43 or 7.6% of the first responses made to complainants.

The number of days it takes from the receipt of the complaint until a first response is initiated is presented in Table 5. Four hundred and two or 71% of the complaints were responded to within 7 days, 100 complaints or 17.7% were responded to between 8 and 14 days, and 64 complaints or 11.3%

required 15 days or more for the Office to respond.

### Categories of Complaints

Each complaint the Ombudsman Office receives is assigned to one of eighteen complaint categories. As seen in Table 6, these categories are grouped into five major complaint subdivisions. The largest subdivision, "Rehabilitation", represented 176 or 31.1% of the complaints. Complaints in this subdivision involve more abstract issues such as the decision making involved in determining an inmate's custody status, parole eligibility, or counseling, educational, and vocational training needs. Institutional procedure in these areas tends to be open to a higher degree of discretionary authority than in other complaint categories.

The categories of complaints grouped under "Care and Maintenance" accounted for 11 or 19.7% of the complaints. These complaints regarded more concrete issues such as preparation and serving of food, availability of medical services, accuracy of records, processing of mail, handling visits, and problems in the physical facilities.

The complaint subdivision "Safety and Security" accounted for 83 or 14.6% of the complaints. These complaints concerned the safety and security of both persons and personal property.

The complaint subdivision "Maintenance of Institutional Order" accounted for 73 or 12.9% of the complaints. These complaints concerned each institution's enforcement of its disciplinary procedure and implementation of its daily routines for inmate behavior.

The remaining complaint categories included complaints against specific staff members (33 or 5.8%) and complaints about the Department's Inmate Grievance Procedure (11 or 1.9%). Seventy-nine or 14% of the complaints either fell outside of the established categorical scheme, or were closed prior to the Office having obtained a clear understanding of the complaint, or involved complaints from staff members and/or volunteers.

Table 6 depicts significant differences between the kinds of complaints received from KSP and those received from KSIR. However, there are too many variables involved to draw any decisive conclusions from these differences. Such variables include differences in the administration of the institutions, differences in the inmate population of the institutions, and differences in the distance of the institutions from the Office.

### Assessments of Complaints

While the selection of a complaint category reflects the content of a complaint, it can be presented in a variety of different forms. In Table 7, the 566 cases closed during FY 1978 are broken down into seven assessments of form. The majority of complaints, 285 or 50.3%, were assessed as involving actions and decisions which were allegedly deviations from institutional and Departmental policy or law. Thirty or 5.3% of the complaints addressed alleged problems in established policies and/or statutes. Fifty-three or 9.4% of the complaints involved accusations that administrative decisions were unclear or inadequately explained. Ninety-seven or 17.1% of the complaints

were assessed as being outside the Ombudsman Office's statutory jurisdiction. Seventy or 12.4% were assessed as being "not conducive to investigation". This assessment involved complaints which, for a variety of reasons, were beyond the Ombudsman Office's current capability. The reasons included: a lack of manpower, a lack of expertise, a lack of verifiable data to investigate, or a lack on the part of the complainant in having an adequate stake in the issue to justify the Office's intervention. This assessment also involved frivolous complaints. In some cases, the Office provided informal assistance to those persons with complaints outside the Office's statutory jurisdiction or "not conducive to investigation". Twenty-nine or 5.1% of the complaints were closed before proceeding to the point where an assessment could be determined.

### Unfounded Complaints

As seen in Table 8, 54 or 9.5% of the complaints were determined "Unfounded". These complaints were seen as having no basis in fact and totally without merit. The remaining 512 or 90.5% of the complaints were either valid (371 or 65.6%) or were closed prior to the Office making a final determination of validity (141 or 24.9%).

### Disposition of Complaints

The Ombudsman Office closes each complaint in one of seven methods. Four of these methods of disposition involve direct intervention between the complainant and the Department of Corrections, one method involves indirect interventions by Ombudsman staff, and the final two methods result from incompleting interventions. The dispositions of the 566 complaints the Ombudsman Office closed during FY 1978 are presented in Table 8. Dispositions involving direct intervention by Ombudsman staff members took place in 235 or 41.5% of the complaints. These direct interventions involved the following:

- 1) In 95 or 16.8% of the complaints, recommendations for corrective action were made. Of these, 87 or 15.4% were fully accepted, 3 or .5% were partially accepted, and 5 or .9% were not accepted by the corrections system.
- 2) In 56 or 9.9% of the complaints, Ombudsman staff facilitated communications between the complainant and representatives of the Department of Corrections. In this manner, the parties determined their own resolution with an Ombudsman staff member participating as a mediator.
- 3) The Office's direct intervention in 30 or 5.3% of the complaints involved observing and monitoring various institutional activities such as disciplinary boards, inmate 90-day rehabilitation program reviews, and aspects of institutional daily routine about which complaints had been received.
- 4) The final method of direct intervention involved determining that a complaint was unfounded. As mentioned previously, this occurred in 54 or 9.5% of the complaints.

One hundred and ninety or 33.6% of the complaints were disposed of through an indirect means of intervention, such as providing the complainant with information or referring him or her to another agency.

One hundred and forty-one or 24.9% of the complaints were closed prior to the Ombudsman staff completing its intervention. Of these, 83 or 14.7% were withdrawn, and 58 or 10.2% were solved prior to the Ombudsman Office having become directly involved in the complaint's resolution.

In comparing dispositions of complaints from KSP and those from KSIR, there appear to be some significant differences. There are, however, too many unknown variables involved to draw any valid conclusions about these differences.

#### Management Levels at Which Complaints Were Resolved

The Ombudsman Office has conceptualized six management levels within the Department of Corrections and two levels of external resources with which the Office engages in the process of attempting to resolve complaints. A statistical breakdown of these levels is found in Table 9. The Department of Corrections' six levels were involved in 249 or 44% of the complaints' resolutions. External governmental levels and agencies outside the Department of Corrections became involved in the resolution of 36 or 6.3% of the complaints.

The Office attempts to resolve complaints at the lowest possible institutional management levels. Of the 249 complaints resolved at the six Department of Corrections' levels, 194 or 77.9% were resolved below the middle management level. This meant that the majority of the complaints that were resolved through Departmental management levels were resolved at either the line, line supervisor, or professional staff levels.

#### Activities Invested in Resolving Complaints

As seen in Table 10, the handling of the 566 complaints closed during FY 1978 involved 2635 contacts with complainants, corrections staff, and individuals outside the Department of Corrections. These contacts involved letters, personal contacts, and phone calls. The Ombudsman Office, however, was fascinated to find that the average number of contacts per complainant in FY 1978 (6.4) was exactly the same as in FY 1977.

Of the total 3635 contacts, 1882 or 51.8% were made directly with complainants; while 1171 or 32.2% were made with Department of Corrections personnel; and 582 or 16% were made with individuals outside the Department of Corrections. A breakdown of the 3635 contacts into their form (See Table 10, Section C) reveals 1473 contacts or 40.5% were made by letter; 1643 or 45% were made in person; and 519 or 14.3% were made through telephone conversations.

Section V

STATISTICAL TABLES

Table 1 \*

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

Source of Complaints	Complaints ** Opened		Complaints *** Closed		Complaints Pending at End of F.Y. 1977		Days in the Institution	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
KSP	203	54.5%	184	57.9%	19	35.2%	76	61.3%
KSIR	120	32.2%	98	30.8%	22	40.7%	44	35.5%
OTHER	49	13.2%	36	11.3%	13	24.1%	4	3.2%
TOTAL	****372	100.0%	318	100.0%	54	100.0%	124	100.0%

\* This table was taken from the Second Annual Report (p. 47) in which it was presented as Table 2.

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

\*\*\* Of the 318 closed cases there were 12 staff complaints representing approximately 4 percent of the complainants, and 2 volunteer complaints representing approximately .6 percent.

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

Table 2

Distribution of Complaints at the End of Fiscal Year 1978  
Compared with Ombudsman Staff Time in Institutions  
 (July 1, 1977 - June 30, 1978)

<u>Source of Complaints</u>	(a) Complaints * Opened		(b) Complaints** Closed		(c) Complaints Pending at End of F.Y. 1978		(d) Days in the Institution	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
KSP	364	65.7%	353	62.4%	30	71.4%	127	66.9%
KSIR	135	24.4%	150	26.5%	7	16.7%	43	22.6%
KCIW	29	5.2%	26	4.6%	4	9.5%	20	10.5%
Other DOC	26	4.7%	37	6.5%	1	2.4%	-	-
TOTAL	*** 554	100.0%	566	100.0%	42	100.0%	190	100.0%

\* Of the 554 complaints opened there were 9 staff complaints representing approximately 1.6 percent of the complainants.

\*\* Of the 566 closed cases there were 8 staff complaints representing approximately 1.4 percent of the complainants.

\*\*\* The addition of the 54 complaints pending from FY 1977 (see Table 1) to the 554 complaints opened, means the Office handled a total of 608 complaints of which 566 were closed and 42 remained pending at the end of F.Y. 1978.

Table 3

Mode of Initiation by KSP, KSIR  
and All Complainants  
 (July 1, 1977 - June 30, 1978)

	(a)		(b)		(c)	
	All Closed Number	Complaints* Percent	KSP Closed Number	Complaints Percent	KSIR Closed Number	Complaint Percent
Letter Direct	270	47.7%	157	44.5%	89	59.3%
Personal Direct	152	26.9%	120	34.0%	25	16.7%
Phone Direct	16	2.8%	6	1.7%	4	2.7%
Direct Contact Subtotal	438	77.4%	283	80.2%	118	78.7%
Letter (Third Party)	58	10.3%	25	7.1%	20	13.3%
Personal (Third Party)	33	5.8%	24	6.8%	4	2.7%
Phone (Third Party)	33	5.8%	18	5.1%	8	5.3%
Third Party Subtotal	124	21.9%	67	19.0%	32	21.3%
Ombudsman Initiative	4	.7%	3	.8%	-	-
TOTAL	566	100.0%	353	100.0%	150	100.0%

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

Table 4

Mode of the Ombudsman's First Response  
to KSP, KSIR, & All Complainants  
 (July 1, 1977 - June 30, 1978)

<u>Mode of First Response:</u>	(a) All Complainants*		(b) KSP Complainants		(c) KSIR Complainants	
	Number	Percent	Number	Percent	Number	Percent
Letter	186	32.9%	72	20.4%	88	58.7%
Personal	337	59.5%	268	75.9%	47	31.3%
Phone	43	7.6%	13	3.7%	15	10.0%
<b>TOTAL</b>	<b>566</b>	<b>100%</b>	<b>353</b>	<b>100%</b>	<b>150</b>	<b>100%</b>

Table 5

Days to First Response to: KSP, KSIR, & All Complainants  
 (July 1, 1977 - June 30, 1978)

<u>Days to Response:</u>	(a) All Complainants*		(b) KSP Complainants		(c) KSIR Complainants	
	Number	Percent	Number	Percent	Number	Percent
0 - 7 days	402	71.0%	227	64.3%	121	80.7%
8 - 14 days	100	17.7%	77	21.8%	17	11.3%
15+ days	64	11.3%	49	13.9%	12	8.0%
<b>TOTAL</b>	<b>566</b>	<b>100%</b>	<b>353</b>	<b>100%</b>	<b>150</b>	<b>100%</b>

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

Table 6  
Distribution of KSP, KSIR, & All Complaints by Category  
 (July 1, 1977 - June 30, 1978)

<u>Major Complaint Subdivisions</u>	<u>(a) Complaints*</u>		<u>(b) KSP Complaints</u>		<u>(c) KSIR Complaints</u>	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
<u>Categories</u>						
<u>Care and Maintenance</u>						
Food	6	1.1%	4	1.1%	2	1.3%
Medical	48	8.5%	37	10.5%	5	3.3%
Recordkeeping	22	3.9%	14	4.0%	4	2.7%
Visiting	17	3.0%	15	4.3%	-	-
Physical Facilities	6	1.1%	3	.9%	2	1.3%
Mail	12	2.1%	8	2.3%	2	1.3%
Subtotal:	111	19.7%	81	23.1%	15	9.9%
<u>Safety and Security</u>						
Physical Threat	25	4.4%	19	5.4%	3	2.0%
Property Loss	58	10.2%	29	8.2%	24	16.0%
Subtotal:	83	14.6%	48	13.6%	27	18.0%
<u>Maintenance of Institutional Order</u>						
Disciplinary Procedure	39	6.9%	23	6.5%	15	10.0%
Daily Routine	34	6.0%	23	6.5%	9	6.0%
Subtotal:	73	12.9%	46	13.0%	24	16.0%
<u>Rehabilitation</u>						
Inmate Activity Group	6	1.1%	4	1.1%	2	1.3%
Parole	45	7.9%	25	7.1%	16	10.7%
Counseling/Mental Health	9	1.6%	8	2.3%	1	.7%
Education, Work, Training	21	3.7%	9	2.5%	9	6.0%
Custody Status: Parole Eligibility	95	16.8%	59	16.7%	31	20.7%
Subtotal:	176	31.1%	105	29.7%	59	39.4%
<u>Miscellaneous</u>						
Internal Grievance	11	1.9%	9	2.5%	2	1.3%
Complaints Against Staff	33	5.8%	28	7.9%	5	3.3%
Other	79	14.0%	36	10.2%	18	12.0%
Subtotal:	123	21.7%	73	20.6%	25	16.7%
<b>TOTAL:</b>	<b>566</b>	<b>100.0%</b>	<b>353</b>	<b>100.0%</b>	<b>150</b>	<b>100.0%</b>

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

Table 7

Distribution of Assessments of KSP, KSIR, and All Complaints  
(July 1, 1977 - June 30, 1978)

<u>Assessments:</u>	(a) All Assessments*		(b) KSP Assessments		(c) KSIR Assessments	
	Number	Percent	Number	Percent	Number	Percent
Discrepant Action	285	50.3%	197	55.8%	69	46.0%
Policy Issue	30	5.3%	19	5.4%	9	6.0%
Explanation	53	9.4%	34	9.6%	19	12.7%
Outside Jurisdiction	97	17.1%	60	17.0%	18	12.0%
Not Conducive to Investigation	70	12.4%	32	9.1%	20	13.3%
Crisis	2	.4%	2	.6%	-	-
Unknown	29	5.1%	9	2.5%	15	10.0%
<b>TOTAL</b>	<b>566</b>	<b>100%</b>	<b>353</b>	<b>100%</b>	<b>150</b>	<b>100%</b>

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

Table 8

Distribution of Dispositions of KSP, KSIR, and Total Complaints  
(July 1, 1977 - June 30, 1978)

<u>Dispositions:</u>	(a) All Dispositions*		(b) KSP Dispositions		(c) KSIR Dispositions	
	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>	<u>Number</u>	<u>Percent</u>
<u>Direct Intervention</u> <u>Between</u> <u>Complainant and DOC:</u>						
Recommendation for Corrective Action:						
Fully Accepted	87	15.4%	54	15.3%	26	17.3%
Partially Accepted	3	.5%	3	.9%	0	0
Not Accepted	5	.9%	2	.6%	2	1.3%
Facilitated Communication	56	9.9%	34	9.6%	21	14.0%
Observed and Monitored	30	5.3%	21	5.9%	6	4.0%
Unfounded	54	9.5%	49	13.9%	3	2.0%
<u>Indirect Intervention</u> <u>Between</u> <u>Complainant and DOC:</u>						
Information and Referral	190	33.6%	100	28.3%	51	34.0%
<u>Incompleted Intervention:</u>						
Withdrawn	83	14.7%	46	13.0%	30	20.0%
Solved Prior	58	10.2%	44	12.5%	11	7.4%
TOTAL	566	100.0%	353	100.0%	150	100.0%

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

Table 9

Management Levels of the Department of Corrections at Which Complaints were Resolved  
(June 1, 1977 - June 30, 1978)

<u>Levels</u>	(a) All*		(b) KSP		(c) KSIR	
	Number	Percent	Number	Percent	Number	Percent
Line	24	4.3%	14	4.0%	9	6.0%
Line Supervisors	128	22.6%	96	27.2%	26	17.4%
Professional Staff	42	7.4%	31	8.8%	8	5.3%
Middle Management	13	2.3%	3	.8%	4	2.7%
Directors	35	6.2%	23	6.5%	11	7.3%
Secretary	7	1.2%	4	1.1%	2	1.3%
Levels External to DOC	20	3.5%	6	1.7%	12	8.0%
Referral Resources	16	2.8%	6	1.7%	7	4.7%
None	281	49.7%	170	48.2%	71	47.3%
TOTAL	566	100.0%	353	100.0%	150	100.0%

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

Table 10

Activity Invested in Resolving Complaints  
(July 1, 1977 - June 30, 1978)

(a)  
Comparison of Number of  
Complaints with Contacts

<u>Institutions</u>	<u>Total</u> <u>Contacts</u> <u>per</u> <u>Institution</u>		<u>Number of</u> <u>Complaints</u> <u>per</u> <u>Institution</u>	=	<u>Average</u> <u>Number of</u> <u>Contacts per</u> <u>Complaint</u>	<u>Percentage</u> <u>of Contacts</u> <u>per</u> <u>Institution</u>
KSP	2169	÷	353	=	6.1	59.7%
KSIR	1132	÷	150	=	7.6	31.1%
OTHER	334	÷	63	=	5.3	9.2%
TOTAL	3635	÷	566	=	6.4	100.0%

(b)  
Individual Contacted

	<u>Complainant</u>		<u>DOC Staff</u>		<u>Outside</u> <u>DOC</u>		<u>Total</u>
KSP	1212	+	681	+	276	=	2169
KSIR	519	+	417	+	196	=	1132
OTHER	151	+	73	+	110	=	334
TOTAL	1882	+	1171	+	582	=	3635
PERCENT	(51.8%)	+	(32.2%)	+	(16%)	=	(100%)

(c)  
Form of Contact

	<u>Letter</u>		<u>Personal</u>		<u>Phone</u>		<u>Total</u>
KSP	753	+	1169	+	247	=	2169
KSIR	583	+	376	+	173	=	1132
OTHER	137	+	98	+	99	=	334
TOTAL	1473	+	1643	+	519	=	3635
PERCENT	(40.5%)	+	(45.2%)	+	(14.3%)	=	(100%)

Appendix I

STATUTORY CITATIONS

From the Kansas Statutes Annotated

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

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

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

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

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

The advisory Board shall have the following powers and duties:

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

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

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

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

**75-5231.** Ombudsman of correctional institutions; appointment; compensation; duties; employees; complaints forwarded to secretary of corrections. There is hereby created and established the office of ombudsman of correctional institutions. Such ombudsman shall be appointed by the citizens' advisory board established by K. S. A. 1976 Supp. 75-5230, shall serve at the pleasure of such citizens' advisory board and shall act as secretary of such board. The compensation paid to such ombudsman shall be fixed by the citizens' advisory board subject to approval by the finance council. The director of architectural services shall provide the office of ombudsman with office space at Topeka. The ombudsman may appoint such employees as may be necessary to carry out the duties of the office of ombudsman of correctional institutions and as are within available appropriations, and such employees shall be in the unclassified service under the Kansas civil service act. Any misfeasance or discrepancy in administration or any unreasonable treatment of inmates at any correctional institution which such ombudsman discovers or the inmates bring to his or her attention shall be brought to the attention of the secretary of corrections and shall be made known in periodic reports and in an annual report issued by the ombudsman to the citizens' advisory board. The ombudsman shall forward direct complaints and grievances to the secretary of corrections for consideration by the secretary. [L. 1973, ch. 339, § 52; L. 1974, ch. 402, § 2; L. 1976, ch. 399, § 1; May 8.]

## Appendix II

### PRESENTATION TO THE BOARD OF DIRECTORS OF CREATIVE ENTERPRISES, INC.\*

#### "The Effects of Private Industry on the Prison Community"

by: Preston N. Barton, II, Ombudsman

Wednesday, April 5, 1978

As I thought through the topic that Fred\*\* asked me to address today, it occurred to me that the notion behind Creative Enterprises is not quite as revolutionary as I had originally thought. Indeed, what you are proposing is the conception of another institution. You would transfer an inmate for a part of each work day from one institution--the prison--to another institution--the factory. Your ability to meet the special needs of your inmate employees will to a large degree depend upon your ability to make the environment of your institution different from that of a correctional institution.

I would expect your factory will have most of the same characteristics of other institutions such as a formal structure, an authoritarian hierarchy, some degree of de-personalization, a mission orientation, and a closed communication system. In addition to dealing with these usual institutional characteristics, you will be faced with the unique problem of minimizing the transfer of prison elements into the factory. There will be some necessary transfers of security measures. Examples of these might be correctional officers, weapons, fences, and security procedures for all persons and objects entering and leaving the factory. In transferring them from the correctional institution to the factory, you create a place which may not be much of a change of scenery for the inmate employee.

What concerns me even more is the decision you will need to make as to whether or not to adopt a rehabilitation goal. What is to have priority in your factory: rehabilitation or production? If the rehabilitation ethic is transferred from the prison to the factory, it would add to the institutional intrusiveness of the factory into the individual's present and future life. This intrusiveness is brought about through such methods as counseling, advice giving and paternalistic decision making. Will the factory be asked and be willing to provide the prison with evaluations and other kinds of information about its inmate employees? Will the factory be willing to accept the prison officials' suggestions as to the standard of conduct and its enforcement for inmates while they are at the factory?

Your firm will need to deal not only with prison administrators but also with the inmates, themselves, who are equally imbued in the prison institutional culture. To what extent will it be possible to help inmates leave the prison culture behind and begin to develop peer relationships in the factory in ways which could not otherwise develop solely in the prison environment?

One of the most exciting contributions the factory will make to the prison community is the introduction of an entirely new system of positive

\* This organization is self-described as "a private profit-oriented company owned and operated by prisoners and supporters." At the time of the presentation, the board of directors was in the process of locating and purchasing a manufacturing operation.

\*\* Mr. Fred Braun. Founder and President of Creative Enterprises, Inc.

incentives in this otherwise generally bleak and negativistic environment. Negative sanctions of behavior are plentiful to find in the prison institution, which itself is a negative sanction. Positive inducements are carefully guarded and usually controlled by the upper echelon in the corrections system.

It will be important for you to identify each of these inducements and to exploit them to the fullest. The first motivation for an inmate to work in your factory that comes to my mind is that of the substantially higher wages you will be paying. Not only is the inmate interested in the purchase power of that money, but also the "social" power which can be accrued him or her back in the prison. Clearly another motivation for working in your factory will be the opportunity for the inmate to occupy his or her time--and to do so in a meaningful way. You will need to nurture this incentive by carefully designing job descriptions and fostering a positive work atmosphere. A third motivation for the inmate will be the opportunity for a change of scenery for part of each work day.

Other reasons people will choose to work in your factory will include that of having an opportunity to acquire work experience and develop skills for future application. Your factory will offer the opportunity for people to develop a sense of confidence in what for many inmates is the unfamiliar and unknown environment of a factory and the politics of factory life. The hope that your firm will be able to come up with job leads when the person is ready for parole will certainly be an important consideration in the inmate's mind, in choosing to work in your factory. Equally, and maybe even more important, would be the possibility that the firm might provide a positive reference to the Department of Corrections, the Kansas Adult Authority, the courts and the Governor for such decisions as those relating to custody status, home furloughs, parole, time cuts, clemency and pardons. Some of these very incentives, however, are problematic as they would be difficult to implement, except within a rehabilitation and authoritarian framework. For to give a credible and positive evaluation, management must be prepared to provide a negative one, as well.

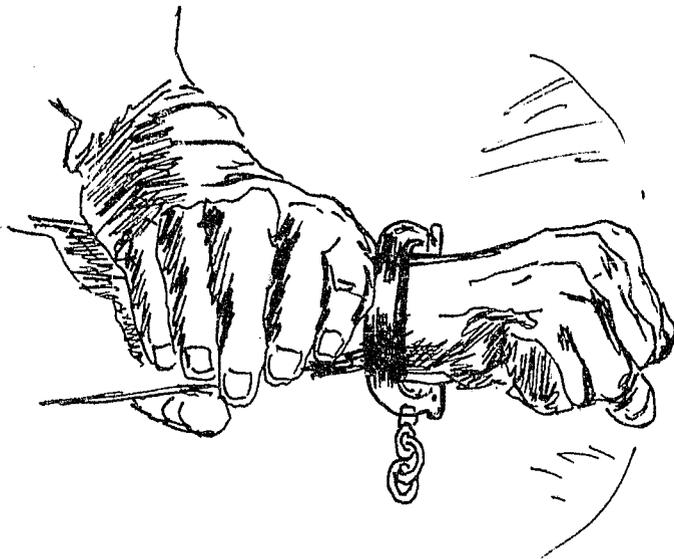
There, indeed, are a large number of potential rewards an inmate would receive in being permitted to work in the factory. Out of the over 1,000 persons held in the men's and women's institutions in Lansing, you will be able to employ only a small number. The decision as to whom will be referred to you for employment will be an addition to the already significant discretionary authority held by prison officials. This added discretionary authority will be the source of a whole new group of complaints. The extent to which the Ombudsman Office can intervene in this area includes insuring that proper guidelines be established in the first place, that these guidelines be followed, and that inmates be given adequate reasons for the decisions made.

There is one last impact your firm will have on the prison community which I wish to address. That is the effect the factory will have on the otherwise closed communication system of a correctional institution. Indeed, the reverse will also be the case, with the prison having an impact on what would otherwise be the closed communication system of the factory. Prison administrators, correctional staff members and inmates will have significantly increased daily interaction with persons outside of the prison community, the

factory management. In time, it will be necessary for the factory to define itself, to some degree, as a part of the prison community. To that extent, its communications with the prison community will become valid and credible. The extent to which the factory refuses to become a part of the prison community and maintains its own sense of identity, will be a source of some tension and stress in its relationship with the prison. Properly managed, this can be constructive stress pushing the system toward the adoption of new ideas, and toward being more open and accountable. In turn, it will demand the same of the factory. Prison administrators will lose some control they have had in the past over the flow of information entering and leaving the prison, and control over inmate behavior. However, by having control over the work force, prison administrators will also exercise considerable influence over factory management.

As one who is defined as partially in and partially out of the prison community, I firmly believe that the Kansas corrections system is not only ready to handle the struggles which will be created by the establishment of your factory, but also that the system needs this. It needs the opportunity your firm can provide it, in being in the forefront of a new idea--in being able to see itself in a positive light.

This, indeed, is a unique firm you are forming. It will have two very different kinds of products. One product will be that of the traditional kind for marketing. The other will be that of reform--reform of the individual and reform of the corrections system as a whole. The success of your enterprise will depend upon the degree of competency and expertise you achieve regarding both products.



### Appendix III

#### PRESENTATION TO THE LEGISLATIVE INTERIM STUDY COMMITTEE ON CORRECTIONS

By Preston N. Barton, II, Ombudsman

Friday, October 14, 1977

By the close of the working day today, the Corrections Ombudsman program will have been in existence for two years and one month. On September 15, 1975 Kansas became the third of five states to have a corrections Ombudsman. It was preceded by Minnesota and Connecticut and followed by Michigan and most recently Oregon. There are four other states which have general jurisdictional Ombudsmen. They are Hawaii, Alaska, and our neighbors Nebraska and Iowa.

By enacting the legislation for the Ombudsman Office in 1973, the Kansas Legislature made a commitment to preserving human rights and establishing a standard for fairness and justice in the administration of the Kansas Department of Corrections. Inherent in the enactment of this legislation is also a commitment to the value of the dignity of the individual. The program has attempted to carry out this mandate by demonstrating to employees and inmates Kansas' commitment to be responsive to legitimate individual concerns, while at the same time providing programs to meet the needs of large numbers of persons.

Whatever my original aspirations and expectations were, I have come to realize that leadership in corrections in Kansas must come from within the Kansas Department of Corrections. Your Committee, the CAB, and the Ombudsman Office can be catalyses for hopefully constructive change, but the actual leadership for implementing this change must come from the Department itself. This may sound odd coming from one who earns his living by making recommendations to the Department of Corrections for changes. I, however, have come to believe that the only way I can measure the success of our efforts is, not by the number of recommendations which are accepted, but rather by the seriousness with which our studies and recommendations are considered, and most importantly by the responsiveness--creative responsiveness--on the part of the Department of Corrections. I know of at least one state in which the Legislature appropriated more money than was requested by the corrections department. I understand the results were less than satisfactory. It is indeed the Department and its administrators, staff members, and inmates who ultimately must make the program work, live with it and endure it. Neither your Committee nor I have to live with the system day in and day out.

It may be legitimate to ask why, then, this Office formulates recommendations. To not do so, would be a "cop out." We would simply be taking "pot shots" at the Department without doing the work necessary to demonstrate that there is, in fact, a resolution to the problem--a solution which does not create more problems than it solves. On numerous occasions I have found that correctional staff come up with much more effective remedies than what we had recommended. This is expected given the number and variety of specialists within the Department to deal with the diversity of issues which arise. Our recommendations provided the stimulus for developing their responses. As an outsider, I have highlighted a problem and its various implications.

Again, let me repeat the success of this Office--and to some degree the success of the work of your own Committee--is going to rely heavily on the

creative responsiveness to our work on the part of the Department. It is this very element which has made it possible for the Kansas Correction Ombudsman program to be effective in spite of its simplicity--or, maybe, because of it. Many persons looked upon the statute creating the Ombudsman Office as relegating this program to failure from the start. I have come to believe that no matter how sophisticated the statute, it will fail if the rest of state government and the inmates are not willing to work with the Ombudsman.

Nevertheless, enacting refinements to the current statute would enhance the program and would be a clear statement of an even stronger commitment on the part of the Kansas Legislature for a Corrections Ombudsman program. Some of the more sophisticated elements found in most Ombudsman statutes include subpoena power and privileged communications. In the case of correctional Ombudsman programs, they normally include jurisdiction over the paroling authority as well as the corrections department. The Kansas Ombudsman, however, does not have jurisdiction regarding the Kansas Adult Authority. This would seem necessary to change because of the significant impact the Kansas Adult Authority has on prison life. Most statutes will also go further in defining the relationship between the Ombudsman Office and the agencies for which it has jurisdiction.

While I have found many administrators and elected officials in the executive branch of government in this State and throughout the country to have positive things to say about various Ombudsman programs, I have never found an official in the executive branch of government who did not have mixed feelings about such a program. This, of course, is understandable in view of the "watch dog" aspect of the program. These persons sincerely believe they are doing a good job running the system--and they usually are.

Given human nature, however, it is to be expected that people will react to unreasonable conditions and acts in unreasonable ways. There has been much testimony before this Committee that conditions in our prisons in Kansas are unreasonable. There has been much testimony to suggest that it is unreasonable to expect administrators and line staff to work effectively under existing conditions. There, also, have been suggestions that the standard of living for inmates is unreasonably low. It, therefore, can be expected that people will react to these conditions in unreasonable ways, out of callousness, lack of foresight, lack of sensitivity, negligence, thoughtlessness, or even deliberateness. I have often thought that the conditions under which we expect staff and inmates to work, live and interact are indeed a set-up--a set-up for failure and a set-up for destructive relationships. Nevertheless, we cannot excuse this kind of behavior either.

.....

As of the end of Fiscal Year 1977, having operated for less than two years, we had received and completed over 650 complaints, set up an office, provided administrative support to the CAB, become oriented with the corrections system, and set up a variety of procedures for performing this new function in Kansas state government. We accept complaints in just about any manner in which they come to us--in person, through correspondence or by telephone. We will accept a complaint from just about anyone including an inmate, a staff member, a corrections volunteer, or a third party on behalf of the complainant. Third party representatives have included family members, lawyers, various agency representatives and, frequently, legislators. We will visit with the complainant in these cases, but will not agree to intervene further unless the complainant wants us to.

We maintain a low profile in the manner in which we go about attempting to resolve individual complaints. First of all, we thoroughly screen complaints to insure that there is merit to pursue the matter at all. (Every Ombudsman program with which I am familiar has the discretionary authority to determine whether or not to pursue a particular complaint.) We further maintain a low profile by beginning our intervention into a situation at the lowest possible level within the Departmental hierarchy, with the hope that we can resolve the matter at as low a level as possible. In the case of a complaint from an inmate, this usually means we begin by going to the correctional officer or correctional counselor with whom the inmate is having direct contact concerning the complaint. As it often happens, we bring both parties together at this level and the matter is resolved through facilitating communications between the two of them.

Most Ombudsman programs have the discretionary power to initiate a study or investigation on the Ombudsman's own motion. Each of you were sent copies of our first major effort--that relating to the study of the Adjustment and Treatment Building (A & T) at the Penitentiary. We take on such efforts when we feel there is a situation that will be ongoing and cannot be corrected through the handling of individual complaints. Although I received a very complete response to this study from Mr. Kenneth Oliver, the Director at the Penitentiary, I did not receive a formal response from the then Secretary of Corrections, Robert R. Raines. You will recall that I earlier discussed my criteria for success in this Office as relating to creative responsiveness from the persons involved. In the A & T study we made a clear case for the need of additional staff, security and programs in that facility. I would like to point out to this Committee that I have yet to have any assurances that these will be a part of the Fiscal Year 1979 budget proposal from the Department of Corrections.

If you were to go across town to the U. S. Disciplinary Barracks at Fort Leavenworth you would discover a facility similar to A & T. There, however, is light from the outside into the wings; there is less distortion of sound; and there is some added security apparatus. When I was there a few weeks ago, this unit in the Disciplinary Barracks had less than 70 inmates, at the same time A & T was holding over 100 persons. Although it was holding fewer people, I was told that the Disciplinary Barracks Unit never has less than 10 guards on the first two shifts and eight on the third shift. In A & T, however, the maximum staffing is four correctional officers during the first two shifts, and two officers on the third shift. It certainly is not unheard of to have even fewer than the usual four officers during daytime shifts. I very much hope that those of you who are legislators will look for this item and others reflected in the Department's Fiscal Year 1979 budget. The mental health and physical safety of persons in that facility depend on your decision.

We have taken on a second major study which is now being reviewed by the Department of Corrections. This study relates to the internal grievance procedures in the Department. We do not believe that a small agency such as the Ombudsman Office and one without command or administrative authority can adequately handle the day to day problem solving tasks generated by the system. With this in mind we are encouraging the Department to make its own internal grievance procedure a more effective one. Here again is an example of how this Office works. We believe that if the Department will come up with its own solutions to establishing a better functioning grievance procedure, it will be much more effective than if we were to go to the Legislature and request that this be enacted into law, as has been done in some states.

We, however, have over the last two years turned to the Legislature in vain for assistance in two areas. One relates to our believed need for the Department to have formalized rules and regulations, as are required of most other state agencies. This belief comes out of the frustration experienced by staff members, inmates and ourselves in knowing what is supposed to happen in any particular situation. There are many, many pages of rules, regulations, general orders, and post orders that are promulgated from the Department and its various subparts. Often these become contradictory and it is quite possible that they can change overnight, leaving the staff member and inmate some place behind in the dust. We would see the establishment of formalized rules and regulations as accomplishing several objectives including: 1) stabilizing and making more consistent the Department's procedures, 2) formally putting people on notice as to what is expected of them, and 3) insuring what would hopefully be a more thoughtful process of developing rules through the inclusion of input from staff and outsiders. I hope that each of you will make a note to yourself to review Senate Bill 451 which is currently in the Senate Federal and State Affairs Committee. If this Bill were passed by the Legislature, it would be another step toward the Legislature's commitment to hold state government and, particularly, the Department of Corrections more accountable.

The second problem for which we have unsuccessfully turned to the Legislature is that of reimbursing staff members and inmates in a timely manner for the loss or destruction of personal property due to action taken in the line of duty or due to failure to follow proper procedures in the handling of personal property. If a correctional officer were to break his eye glasses in a physical encounter with an inmate, it could take up to a year and a half for him to be reimbursed for this cost incurred in the line of duty. (And because of difficulties with the Special Claims Bill in the last Legislative Session, persons who submitted claims to the 1977 Session will have to wait a year longer.)

I approached some legislators a year ago with a very roughly drafted bill which would have provided the Department the ability for reimbursing inmates and staff members up to \$50.00 for such incidences. Being more responsive to these persons' needs would be beneficial. We, however, have been unable to present a draft of a bill which is acceptable enough to have introduced. I very much hope that this Committee may be more successful in coming up with the solution to this problem.

I am aware that my presentation today has been at times a bit abstract. For those of you who have not received our reports, I do have extra copies of our First Annual Report, the A & T Report and copies of Senate Bill 451. You will find that the Annual Report has a number of complaint examples which may give you a better picture of the actual work we do in the institutions. A second Annual Report is currently being developed and you can expect to receive a copy of it once it has been approved by the CAB and has been reproduced.

Thank you for giving me this opportunity to speak before you.

Appendix IV

SENATE BILL NO. 651

CHAPTER 370

(Amended by Chapter 330)

Senate Bill No. 651

AN ACT relating to corrections; concerning the corrections ombudsman board and the ombudsman of corrections; amending K.S.A. 75-5230 and 75-5231 and repealing the existing sections.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 75-5230 is hereby amended to read as follows: 75-5230. (a) ~~There is hereby established and created the citizens' advisory board to the secretary of corrections. The citizens' advisory as an independent agency within the executive branch of state government, the corrections ombudsman board. Prior to September 1, 1980, such board shall consist of fifteen (15) members, three (3) of whom shall be appointed by the governor; three (3) of whom shall be appointed by the attorney general; three (3) of whom shall be appointed by the chief justice of the supreme court; three (3) of whom shall be appointed by the speaker of the house of representatives; and, three (3) of whom shall be appointed by the president of the senate. On and after September 1, 1980, such board shall consist of ten (10) members, two (2) of whom shall be appointed by the governor; two (2) of whom shall be appointed by the attorney general; two (2) of whom shall be appointed by the chief justice of the supreme court; two (2) of whom shall be appointed by the speaker of the house of representatives; and, two (2) of whom shall be appointed by the president of the senate.~~

The members of said advisory board shall hold their respective offices for a term of four (4) years and until their successors are appointed and qualified except that the members of the first advisory board shall hold their offices for terms as follows: Two (2) appointed by the governor for a term of two (2) years and one for a term of four (4) years; two (2) appointed by the attorney general for a term of two (2) years and one for a term of four (4) years; two (2) appointed by the chief justice of the supreme court for a term of two (2) years and one for a term of four (4) years; two (2) appointed by the speaker of the house of representatives for a term of two (2) years and one for a term of four (4) years; and, two (2) appointed by the president of the senate for a term of two (2) years and one for a term of four (4) years. The person appointing shall designate the term for which each of his or her appointees is to serve. The successor of each appointee shall be appointed for a term of four (4) years commencing on September 1 of the year such successor is appointed. On September 1, 1978, and on September 1 of each fourth year thereafter, the governor, attorney general, chief justice of the supreme court, speaker of the house of representatives and the president of the senate shall each appoint one member to such board. On September 1, 1980, and on September 1 of each fourth year thereafter, the governor, attorney general, chief justice of the supreme court, speaker of the house of representatives and the president of the senate shall each appoint one member to such board. Members serving on such board on the effective date of this act shall serve as members of the corrections ombudsman board for the remainders of the respective terms for which appointed. In case of a vacancy on such board, the person appointing the member creating the vacancy shall appoint a successor who shall serve for the remainder of the term of the member creating such vacancy. The members of such board shall be selected as far as practicable so that they will be residents of different parts of the state.

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

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

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

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

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

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

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

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

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

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

New Sec. 2. All vouchers for expenditures from appropriations to the corrections ombudsman board shall be approved by the chairperson or by the ombudsman when the same is authorized by the board. The secretary of corrections shall provide the board and the office of the ombudsman with necessary personnel and accounting services.

Sec. 3. K.S.A. 75-5231 is hereby amended to read as follows:  
75-5231. There is hereby created and established the office of *The board shall appoint an* ombudsman of ~~correctional institutions.~~ Such ombudsman shall be appointed by the citizens' advisory board established by K.S.A. 75-5230, *corrections who shall serve* at the pleasure of such citizens' advisory board and. Such ombudsman shall act as secretary of such board *and shall perform such other duties and functions as may be required by the board.* The compensation paid to such ombudsman shall be fixed by the citizens' advisory board subject to approval by the ~~finance council~~ *governor.* The director of architectural services shall provide the office of ombudsman with office space at Topeka. The ombudsman may appoint such employees as may be necessary to carry out the duties of the office of ombudsman of ~~correctional institutions~~ *corrections* and as are within available appropriations, and such employees shall be in the unclassified service under the Kansas civil service act. Any misfeasance or discrepancy in administration or any unreasonable treatment of inmates at any ~~correctional institution in the custody of the secretary of corrections~~ which such ombudsman discovers or the inmates bring to his or her attention shall be brought to the attention of the secretary of corrections and shall be made known in periodic reports and in an annual report issued by the ombudsman to the citizens' advisory board. The ombudsman shall forward ~~direct~~ complaints and grievances *directly* to the secretary of corrections for consideration by the secretary.

Sec. 4. K.S.A. 75-5230 and 75-5231 are hereby repealed.

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 14, 1978.



Appendix 5

TESTIMONY ON SENATE BILL NO. 651

Jim J. Marquez, Acting Secretary  
Kansas Department of Corrections

Sister Delores Brinkel  
Criminal Justice Ministry

Ellen B. Laner, President  
Mental Health Association of  
Johnson County

Ann Heberger  
League of Women Voters of Kansas

# Department of Corrections

---

State of Kansas



~~XXXXXXXXXXXXXXXXXXXX~~

JIM J. MARQUEZ, Acting Secretary

535 Kansas Avenue - Suite 200

Topeka, Kansas 66603

(913) 296-3317

March 7, 1978

Representative Ardena Matlack, Chairman  
House Federal & State Affairs  
Room 404-N - State Capitol  
Topeka, Kansas 66612

RE: SENATE BILL 651

Dear Representative Matlack:

The Department of Corrections supports Senate Bill 651.

At the present time the law requires the Ombudsman to serve as the Executive Secretary to the Citizens' Advisory Board (CAB) to the Secretary of Corrections. This organizational structure poses several problems which nullifies the effectiveness of the CAB to the Secretary of Corrections. First, the Ombudsman has the obligation to bring to the Secretary of Corrections' attention any misfeasance, discrepancy in administration, or unreasonable treatment of inmates. This function by its very nature can place the Ombudsman in an adversary position to the Secretary of Corrections. It also leads to confusion among Board members as to whether they are advisory to the Secretary of Corrections or the Ombudsman. In the recent past, the Board has been more responsive to the Ombudsman than to the Secretary of Corrections.

The CAB is not in a position to take on the large tasks as of advising the Secretary concerning planning, operations, and facilities in the correctional system. First they are not paid and they cannot be asked to undertake large tasks or spend the time to give detailed recommendations to the Secretary.

The Secretary is not prohibited from establishing his own advisory board composed of leaders in business, industry,

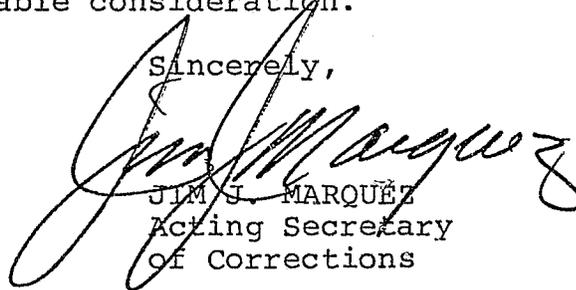
Representative Matlack  
Page 2  
March 7, 1978

and others to advise him on correctional matters. House Bill 3133, which has passed the House, does enable the Secretary to set up an advisory board on industries, which will be beneficial.

The Board being advisory to the Ombudsman will be more productive by directing the Ombudsman's activities and advising the Secretary on matters of policy, procedures, and administrative actions of the Department. The Ombudsman can bring problems he has discovered in these areas to the attention of the Board who can then relay them to the Secretary of Corrections.

Of importance is the fact the Board would be strictly a Board for the Ombudsman and eliminate the present dilemma of whom they are advisory to---the Ombudsman or the Secretary of Corrections? This bill has been agreed upon by the Secretary of Corrections, the Ombudsman and the Citizens' Advisory Board and I recommend favorable consideration.

Sincerely,

A large, stylized handwritten signature in dark ink, appearing to read "Jim J. Marquez". The signature is written over the typed name and title.

JIM J. MARQUEZ  
Acting Secretary  
of Corrections

JJM:dja

CATHOLIC SOCIAL SERVICE

OF THE

ARCHDIOCESE OF KANSAS CITY IN KANSAS

415 NORTH 15TH STREET  
KANSAS CITY, KANSAS 66102  
AREA CODE 913, 371-3055

LOUIS FINOCCHARIO, A.C.S.W.  
DIRECTOR

Address change-  
229 S. 8th  
Kansas City, Kansas 66101  
(913) 621-1504

Statement to House Federal and State Affairs Committee

RE: SB 651 Corrections Ombudsman Board

March 6, 1978

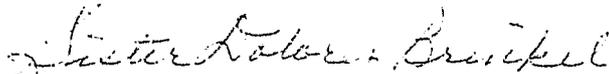
I appreciate the opportunity to present this testimony to the Federal and State Affairs Committee.

Since the Citizens Advisory Board and the Ombudsman office were established by the Penal Reform Act of 1973, this office has actively observed the deliberations of the Citizens Advisory Board and the operations of the Ombudsman's office.

The creation of an independent agency to supervise the Ombudsman's office would at this time be warranted, and is supported by this office. The selection and hiring of an Ombudsman by a board appointed by the executive, legislative and judicial powers of the state government will insulate the office from politics. At the same time, the Ombudsman will have a board to listen to his unique problems and receive feedback from it. An Ombudsman held accountable to an independent agency will be a more effective reconciler in corrections.

In keeping with its goal "to enhance the human dignity of all within the criminal justice system," the Criminal Justice Ministry Office supports Senate Bill 651 as consistent with its goal "to enhance the human dignity of all within the criminal justice system."

Sincerely yours,



Sister Dolores Brinkel  
Criminal Justice Ministry

SDB:dg



FUNDED BY THE UNITED WAY OF  
WYANDOTTE COUNTY  
JOHNSON COUNTY  
LEAVENWORTH COUNTY  
AND THE ARCHDIOCESE



# THE MENTAL HEALTH ASSOCIATION OF JOHNSON COUNTY

Formerly Affiliated with The Kansas and National Mental Health Associations  
7208 West 80th Street • Room 208 • Overland Park, Kansas 66204

913 • 381-2707

EXECUTIVE DIRECTOR  
Linda V. Urda

March 7, 1978

PRESIDENT  
Ellen Laner

VICE PRESIDENT  
Keith Morantz  
Patricia Rivette  
Dave Westbrook

SECRETARY  
Shirley Morantz

TREASURER  
Walter Hlerstelner

#### BOARD OF DIRECTORS

Susie Barker  
Will Cleaver  
Don Cox  
Gene Criley  
Jean Erwin  
Harvey Fried  
Marc Fried  
SuEllen Fried  
Mary Goetze  
Sharon Helm  
Penni Holt  
Trish Kelley  
Carol Luhn  
Mary McNeive  
L. Dutch Meyers  
Mark Ost  
Carolyn Patterson  
Jean Peterson  
Joe Pierron  
Beverly Rose  
Maurice Swanson  
Nel Walstrom  
David Wolff  
Bill Wright  
Stevie Wright

#### PROFESSIONAL CONSULTANTS

Bernadine Ault, B.E., M.S.  
Elizabeth Barker-Smith, M.D.  
Paul Bowman, Ph.D.  
Harold Boyts, A.C.S.W.  
Janice Dobles, Ph.D.  
Louis H. Forman, M.D.  
Roberta Gilbert, M.D.  
H. Ivor Jones, M.D.  
Carolee S. Leek, J.D.  
J. R. Majors, A.C.S.W.  
R. Gordon McAfee, M.D.  
Janelle Ramsburg, R.S., M.S.W.  
Carol A. Reece, M.D.  
Ronald Reivich, M.D.  
Stanton Rosenberg, M.D.  
Phillip Rosenshield, Ph.D.  
Marshall Saper, Ph.D.  
Forrest L. Swall, M.S.W.  
Hon. Herbert W. Walton, J.D.  
David Wiebe, A.C.S.W.

TO: Representative Ardena Matlack, Chairperson,  
and Members of the House Federal and State  
Affairs Committee

FROM: Ellen B. Laner, President  
Mental Health Association of Johnson County

RE: S.B. 651, relating to corrections; concerning the  
corrections ombudsman board and the ombudsman.

Dear Representative Matlack and Members of the Committee:

The Mental Health Association of Johnson County is a volunteer, not-for-profit, educational organization of 1,200 members. We have a long-standing interest and concern in the development of a more humane, less-costly, and responsive penal system. The Mental Health Association supports a system of corrections that will enhance and safeguard the community welfare by assuring the rights of the community, the rights of the sentenced offender, and the rights of correctional personnel.

In these interests, we urge your support of S.B. 651. This legislation provides for the creation of a process in the penal system whereby complaints may continue to be given attention, trouble spots identified, and, most importantly, allow citizen input into the system. Likewise, this legislation provides an opportunity, through the C.A.B., for interpretation and communication of the system to the community at large.

For these reasons, we hope that you will give your favorable vote to S.B. 651.

EBL/mp



# LWVK LEAGUE OF WOMEN VOTERS OF KANSAS

## STATEMENT TO THE HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE CONCERNING SB 651- THE CITIZEN'S ADVISORY BOARD

March 7, 1978

I am Ann Heberger, speaking for the League of Women Voters of Kansas.

The League of Women Voters of Kansas has, over the years, supported both the office of the ombudsman and the Citizen's Advisory Board, which, in our view, provides two important links in the corrections system. We support S.B. 651 which appears to be a reasonable redefinition of the responsibility of the CAB and, at the same time, provides an independent body to appoint and supervise, by policy-making, the activities of the ombudsman.

The office of the ombudsman has provided to inmates and staff the opportunities to discuss administrative remedies as opposed to legal remedies to problems within the correctional institutions. Even with limited staff, the ombudsman, with the support of the CAB has developed procedures which have worked toward relieving some of the tensions in the institutions. The Department of Corrections has been able to look at some of the problems with a different perspective and some policy changes have been made.

The League sees great value in citizen involvement in corrections, especially members of a board whose authority is derived from their appointment by the three branches of government plus the Office of the Attorney General. It assures us that a system, once closed, is open to public view. Precisely how the office of Ombudsman and the Citizen's Advisory Board are structured seems less important to us than that the two continue to exist and to work together for the betterment of the corrections system. We must not lose the link between the corrections system and the inmate which the ombudsman provides. Nor can we afford to lose the link between the corrections system and the public, provided by the CAB, at a time when community corrections are being looked on with great interest by both the legislative and administrative branches.

As volunteers ourselves, we can appreciate the necessity for providing funds for members of the Board. Many qualified people are unable to serve as such because they lack the financial resources to do so.

We urge your favorable consideration of S.B. 651. Thank you for the opportunity to appear before you today.

League of Women Voters  
909 Topeka Blvd.  
Topeka, Kansas 66612  
354-7478

LETTER RE: ESTABLISHMENT OF MARRIAGE WORKSHOPS  
AT THE KANSAS STATE PENITENTIARY

CITIZENS' ADVISORY BOARD  
ON CORRECTIONS

503 Kansas Ave., Suite 539  
Topeka, Kansas 66603  
(913) 296-5295  
KANS-A-N 8-561-5295



STATE OF KANSAS

OFFICE OF THE OMBUDSMAN  
FOR CORRECTIONS

503 Kansas Ave., Suite 539  
Topeka, Kansas 66603  
(913) 296-5295  
KANS-A-N 561-5295

Preston N. Barton, II, Ombudsman  
Executive Secretary  
Of The Citizens' Advisory Board

June 19, 1978

**BOARD OFFICERS:**

Dr. James W. McKenney, Chairman  
Bill Larson, Vice Chairman  
Jane F. Sieverling, Secretary

**BOARD MEMBERS:**

Senator Paul Bud Burke  
Lynn Cole  
Lillian R. Harrison  
Dean E. Hoffman  
Burton L. Lohmuller  
Barbara A. Owensby  
Herbert A. Rogg  
Rev. Dean E. Rose  
Prof. David L. Ryan  
Dr. Alan Steinbach  
Robert E. Tilton

Mr. David Showalter  
Ms. Charlotte Williams  
Social Workers  
P. O. Box 2 -- KSP  
Lansing, KS 66043

Dear Mr. Showalter and Ms. Williams:

I have finally gotten around to reviewing the 51-page document prepared by you entitled "Marriage Workshop". It is indeed an impressive piece of work, well documented and carefully organized.

Although I would hope that your program could eventually evolve into one which would involve the entire family including parents, siblings and children, as well as spouses, your marriage workshops are clearly a breakthrough in Kansas state corrections. To my knowledge the state adult correctional institutions are the only long-term institutions in Kansas (with the exception of nursing homes which do not have a re-entry mission) which do not recognize and work consistently with significant family members of the resident. Through your work and the support of the administration, the Penitentiary has clearly made an extremely important step in attempting to meet the mental health and social needs of prisoners.

You provide a well balanced workshop in an effort to assist persons to develop a well balanced marital and family life which puts appropriate emphasis on individual needs as well as family unit needs. Of particular note are the modules on assertiveness training and relaxation.

The establishment and running of marriage workshops expresses, in a very new and different way, the institution's interest in the individual. The planning of the workshop for the weekend shows a personal caring on the part of those who conduct the workshop. The assistance you provide the wives in making arrangements to stay overnight in the Leavenworth area is an additional extension of this caring and concern, which undoubtedly adds significantly to their receptiveness to what is going to take place during the workshop itself.

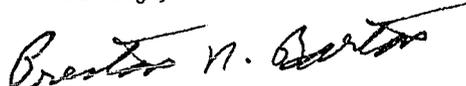
Mr. David Showalter  
Ms. Charlotte Williams  
June 19, 1978  
Page 2

I am extremely interested in the timing of your introducing this new program into the Kansas corrections system. You have begun the marriage workshop at the very time there is a large contingency of persons in the state who would emphasize deinstitutionalization and the use of "community based corrections". Whether deliberately or not, it seems that you have responded in a constructive way to the new emphasis on "community" and have found a responsible way to bring the "community" (in the form of the family) to the institution. In order to accomplish this in a significant way, however, it is clear that a considerable increase in the number of staff members available with expertise in this work would be necessary to have available at each institution.

You have clearly established a foundation for expansion by building into your program an impressive research design. The data from this research will be useful in providing immediate feedback for the conduct of the next few marriage workshops, as well as providing significant data for establishing the case and the usefulness for an expanded family program within the institutions in Kansas--and a family program which begins at the beginning of incarceration and continues to the end of parole.

I wish to thank you for sharing this document with me. Not only did I find it very meaningful, it also got me in touch with the fact that I have tended to emphasize failings of programs in our Kansas corrections system and have put little emphasis on those programs which deserve merit--and this is one which clearly does. So I thank you for the opportunity to be able to speak to a program which is worthy of merit.

Sincerely,



Preston N. Barton  
Ombudsman

PNB:jml

cc: Dr. James W. McKenney, Chairman  
Mr. Jim J. Marquez, Acting Secretary of Corrections  
Mr. Leo Jenkins, Deputy Secretary of Corrections  
Mr. Kenneth G. Oliver, Director, KSP  
Mr. Robert Atkins, Deputy Director, KSP

## Appendix VII

### DEFINITION OF TERMS

#### A. Categories of Complaints

##### Care and Maintenance

1. Food - Preparation and serving of food.
2. Medical (Physical) - Availability of medical staff, facilities, and treatment. (Includes only somatic and not psychiatric ailments.)
3. Recordkeeping - Problems in financial records, computation of sentences, location of records, and any other recordkeeping difficulties.
4. Visiting - Management of inmate visiting lists and visits.
5. Physical Facilities - Physical facilities at an institution.
6. Mail - Incoming and Outgoing inmate correspondence.

##### Safety and Security

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

##### Maintenance of Institutional Order

9. Disciplinary Procedures - Inmate rules and the disciplinary process.
10. Daily Routine - Scheduled activities; rules, expectations, and the like which govern institutional life and conditions.

##### Rehabilitation

11. Inmate Activity Group - Institutional and Departmental relations with inmate self-help groups and their outside sponsoring organizations.
12. Parole - Development of parole plans.
13. Counseling and Mental Health - Availability of professional counseling and services, and utilization of psychopharmacological medications and psychiatric evaluations.
14. Education, Work, Training - Assignment and termination of work or educational/vocational training programs; the development and carrying out of rehabilitation programs.
15. Custody Status and Parole Eligibility - Process of forming and reporting decisions about custody level, certification to see the Kansas Adult Authority (formerly the Kansas Board of Probation and Parole), home furloughs, funeral visits, and institutional and cellhouse transfers.

## Miscellaneous

16. Internal Grievance Procedure - Management of inmate complaints through the informal and formal steps of the Department of Corrections' Inmate Grievance Procedure.

17. Complaints Against Staff - Allegations against staff concerning prejudicial and arbitrary treatment.

18. Other - Complaints which do not fit within any of the above categories, which remain unknown, or are from staff (except for property loss).

## B. Assessments of Complaints

1. Discrepant Action - Behavior, decisions, and actions allegedly discrepant from the policy and procedures or the state law.

2. Policy Issues - Problematic rules, regulations, guidelines, procedures, policies or laws.

3. Explanation - Administrative decision unclear or inadequately explained.

4. Outside Jurisdiction - Beyond statutory power to investigate.

5. Not Conducive to Investigation - Beyond current capacity to handle, beyond current level of expertise, global in nature, data not conducive to verification, frivolous, date of occurrence too old, or complainant does not have a sufficient stake in the issue.

6. Crisis - A current or impending danger, requiring normal procedures to be set aside.

7. Unknown - Withdrawn or solved prior to the collection of sufficient information to assess.

## C. Disposition of Complaints

### Direct Intervention Between Complainant and the DOC

1. Recommendation for Corrective Action - A verbal and/or written recommendation for some administrative action. Three possible responses: a) Fully Accepted; b) Partially Accepted; and c) Not Accepted.

2. Facilitated Communication - Direct or indirect bridging of communication between parties.

3. Observed and Monitored - Observation and/or monitoring of interactions between the complainant and the administration.

4. Unfounded Complaints - No basis in fact; totally without merit.

Indirect Intervention Between the Complainant and the DOC

5. Information and/or Referral - Information on how to solve problem and/or referral to other resources. Also information about operation of Ombudsman Office, Department of Corrections, and other agencies.

6. Withdrawn - Complainant requests Ombudsman take no further action, or fails to follow through with requests or recommendations made by Ombudsman.

7. Solved Prior - Resolved prior to the Ombudsman's completion of his study and report of his findings.

D. Highest Management Level within the Department of Corrections involved in the Resolution of the Complaint.

1. Line Staff - Main institutional work force; clerical staff; Correctional Officers I and II; detail officers and maintenance staff.

2. Line Supervisors - Correctional Supervisors I and II (Lieutenants and Captains), and all Unit Team members.

3. Professional Staff Level - Staff members operating in a professional or para-professional capacity in the medical, legal, mental health, religious, educational and training fields.

4. Middle Management Level - Supervisors of two or more line supervisors, and/or have major programmatic responsibilities.

5. Directors - Institutional Directors and Deputy Directors.

6. Secretary - The Secretary of Corrections and Deputy Secretaries.

7. Referral Resources - Legal Services for Prisoner's Inc., the Kansas Adult Authority, and other resources.

8. Levels External to DOC - Office of the Governor, Legislature, press, and various other governmental and nongovernmental agencies.

9. None - None of the above levels were involved in the resolution.



## Appendix VIII

### ACCUMULATED LIST OF REPORTS ISSUED BY THE OMBUDSMAN

1. The First Annual Report (September 15, 1975 through June 30, 1976).
2. "Report on Requests of the KSP Lifers' Club," July 26, 1976.
3. "Report on Incentive Good Time," July 26, 1976.
4. "Report on the Adjustment and Treatment Building at the Kansas State Penitentiary," March, 1977.
5. "Presentation to the Legislative Interim Study Committee on Corrections," October 14, 1977.
6. The Second Annual Report (July 1, 1976 through June 30, 1977).
7. "Report on the Kansas Department of Corrections' Inmate Grievance Procedure," December 15, 1977.
8. "Presentation to the Board of Directors of Creative Enterprises, Inc." April 15, 1978.
9. "Inquiry into Inmate Self-mutilation in the Adjustment and Treatment Building," June 26, 1978.

Printed by:

Kansas State Industrial Reformatory  
Printing Department

Art Work by:

John Lear

**END**