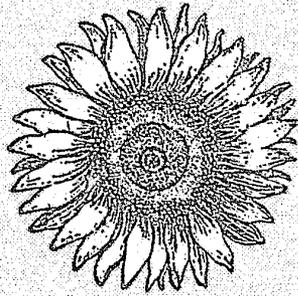


Fourth Annual
Report
of the
Ombudsman
for
Corrections

69324



State of Kansas

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(See inside back cover for a list of former Board and Staff members.)

*State of Kansas
Ombudsman for Corrections*

FOURTH ANNUAL REPORT
*to the
Corrections Ombudsman Board*

*as required by
K.S.A. 1978 Supp. 74-7403*

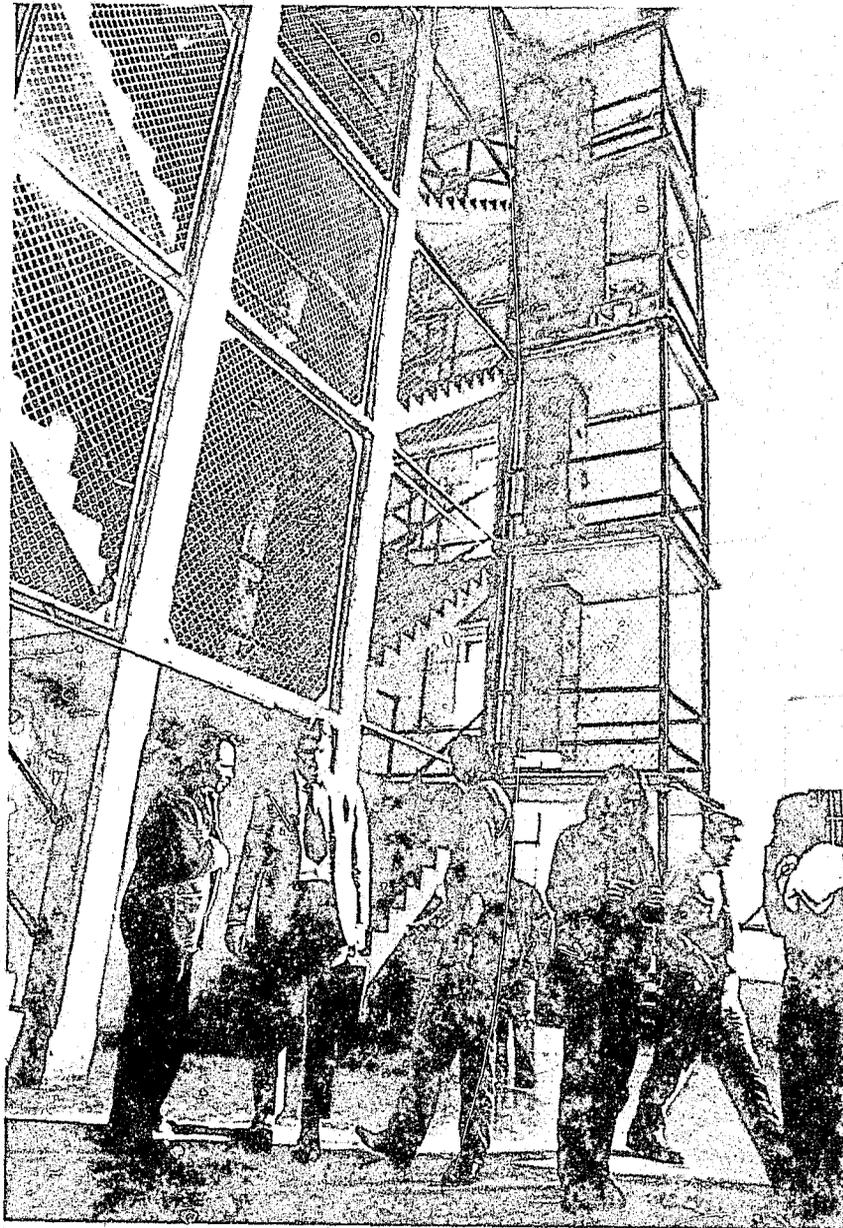
*For the Period
July 1, 1978 through June 30, 1979*

NCJRS

JUL 25 1980

ACQUISITIONS

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



FOREWORD

Who has not had a complaint against a governmental agency? We demand that government provides services to meet the needs of large segments of society in an effective and cost efficient manner. At the same time, we expect it to be sensitive to our individual needs. This is a difficult and, at times, impossible demand to fulfill. Normal grievances which arise against governmental bodies, however, tend to be intensified and potentially more explosive in a setting in which individual freedom has been revoked and personal resources to rectify claimed injustices have been severely limited.

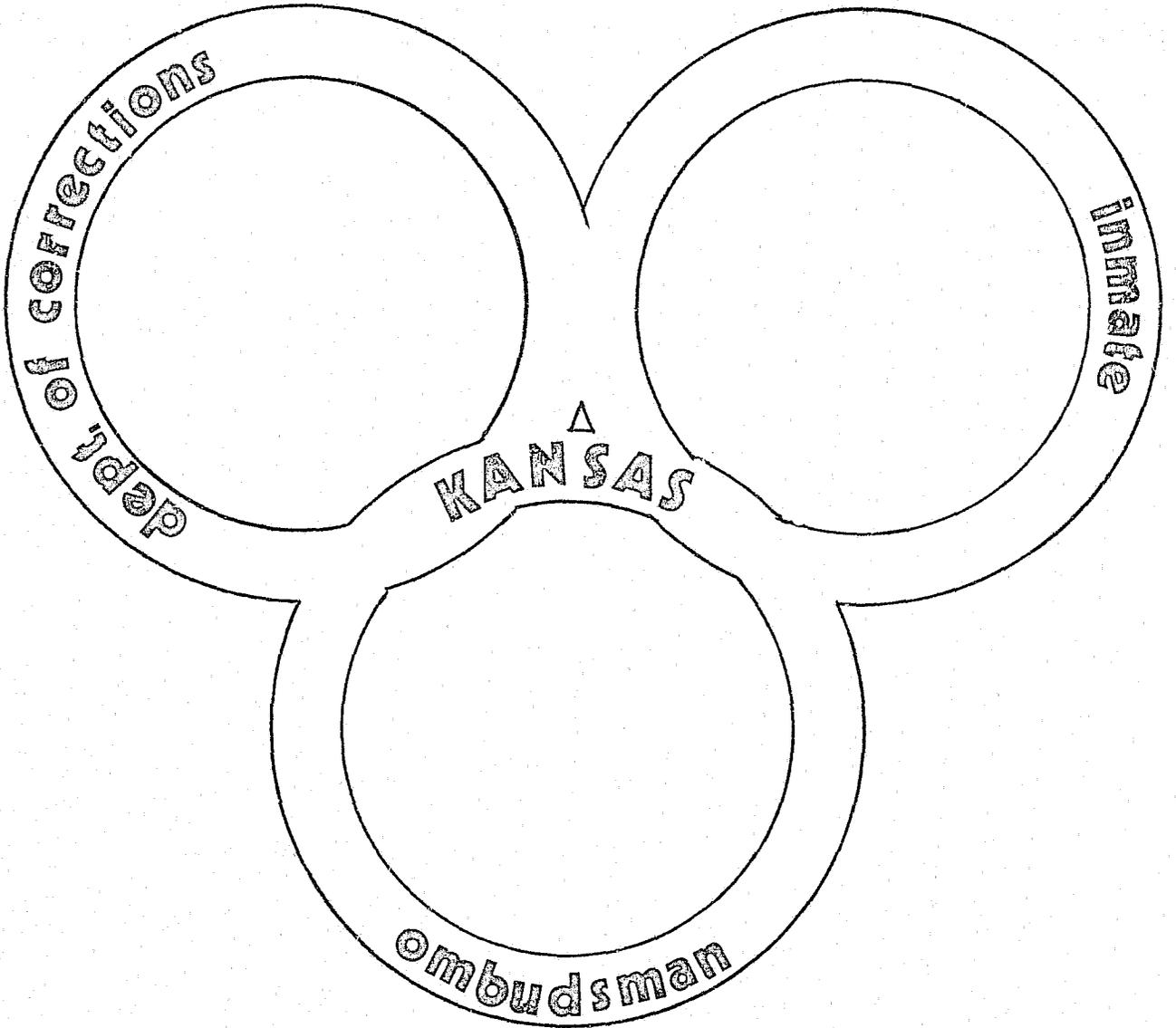
The Kansas Office of the Ombudsman for Corrections represents the state government's commitment to balance the task of confining groups of people and responding to the personal concerns of both inmates and staff members. Rather than leaving those confined and those responsible for confining to rely on their own resources to resolve conflict, the state has provided an objective, external resource for rectifying grievances.

A complaint frequently brings about a defensive response. In a prison setting, where inmates and staff have much to risk, the complainant can turn to the Ombudsman to find a resolution to a problem in a less threatening and emotional manner than having to personally confront authorities with a grievance. The Ombudsman takes the complainant's valid grievance and presents it to correctional officials as the Ombudsman's concern rather than the sole concern of an interested party. In response to valid complaints, the Ombudsman issues recommendations for resolution which serve broad based interests, rather than the interests of one party over those of another. In this way personal conflict can be reduced and problems can be resolved.

In order to provide this impartial third-party intervention, the Corrections Ombudsman Board is committed to providing the Ombudsman Office with the necessary independence from any one branch of state government. The Board also is making a concerted effort to have an adequate number of staff members so that all inmates and staff in the corrections system have access to this resource.

Our efforts have been backed up by the competent work of the Ombudsman and his staff. On behalf of the Corrections Ombudsman Board, I commend the Ombudsman and his staff for this Fourth Annual Report.

Dr. Alan Steinbach, Chairperson
Corrections Ombudsman Board
October 19, 1979



SYNOPSIS

The purpose of the Fourth Annual Report is to describe the work of the Office of the Ombudsman for Corrections during Fiscal Year 1979 (July 1, 1978 through June 30, 1979.) The program is responsible for receiving and resolving complaints concerning inmates and their families, correctional staff members and correctional volunteers. It is a statutorily established state agency, separate from the Kansas Department of Corrections. It receives its autonomy from the 15 member Corrections Ombudsman Board (COB) to which it is accountable. Three Board members are appointed by each of the following five state officials: Governor, Attorney General, President of the Senate, Speaker of the House, and Chief Justice of the Supreme Court.

The program has been a relatively inexpensive one. Expenditures for the first four years were as follows: FY 1976 -- \$36,387; FY 1977 -- \$50,925, FY 1978 -- \$69,848; and FY 1979 -- \$78,584. While funding has increased, it has not been sufficient to support Ombudsman services to all eight adult correctional facilities. In order to accomplish this goal, the Corrections Ombudsman Board has proposed a budget for Fiscal Year 1981 which would include the addition of two professional field positions and one support position. Currently there are four full time positions and one part-time position, only two of which are permanent, full time professional field positions.

During the year the Ombudsman presented three reports and accompanying recommendations to the Secretary of Corrections. One report was the result of a major study relating to property loss complaints from inmates. It points out the need for the Legislature to establish a means to respond in a more timely manner to valid claims regarding property loss and damage. The other two shorter reports relate to inmate accessibility to grievance forms at the Reformatory and inmate accessibility to toilet facilities in the recreational area at the Reformatory.

In addition to these reports, the Ombudsman issued a report concerning the mass search and shakedown of the Kansas State Penitentiary which occurred on August 18, 1978. It is reported that the last time there had been such a shakedown was in 1969; and that was followed by a major disturbance. The Ombudsman's report commends the conduct of both inmates and staff members during this procedure which was conducted without incident.

During this reporting period the Office of the Ombudsman for Corrections handled a total of 626 complaints. Of these complaints 558 were closed within the fiscal year. Only 10.9% of these complaints were determined to be "unfounded". The most frequently received complaints were those relating to the care and maintenance of inmates, which comprised 31.7% of all complaints. These included issues relating to food, medical care, recordkeeping, visiting, physical facilities, and the handling of mail. The Office invested a total of 3,744 contacts (interviews, phone calls, and letters) in resolving these 558 closed complaints. There was an average of 6.7 contacts per complaint.

In many respects Fiscal Year 1979 was a transition period. There was considerable reduction and change in the personnel of the Ombudsman Office. The Corrections Ombudsman Board was implementing and exploring the implications of its newly legislated function. During this time, the Kansas Department of Corrections was headed by three different persons in the position of Secretary of Corrections, under two different gubernatorial administrations.



AN INMATE'S PERSPECTIVE:

"...This person that told me about you told me you were fair, but woe be anyone that came to you with a snow job Since I have no desire to be the target of woe, I'd like you to believe me that I need some help in this. Please see me as soon as possible."

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PREVIOUS REPORTS ISSUED BY THE OMBUDSMAN

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

AN ADMINISTRATOR'S PERSPECTIVE:

"In view of the relentless passage of time, the pressure of other matters, and the old saw that, "Silence is Golden", I would propose that your office close this case on a hesitant note of optimism -- could it be that the great cause became much less compelling when the personalities involved in the resolution changed?"



CREDITS

We are indebted to David Arnold for his photographs and to John Lear for his drawings. Their work is being presented in the report in an effort to provide a visual awareness of prison life. The work of both men has appeared in previous annual reports.

The Midway, the Sunday Magazine Section of the Topeka Capital-Journal carried a feature article on May 15, 1977 concerning the Corrections Ombudsman program. The article was written and photographed by David Arnold. It subsequently was reproduced in the Second Annual Report. The photographs appearing in this report were not used in the original article or in any previous annual reports. We express our thanks to David Arnold and the Topeka Capital-Journal for these photographs. David has since left Topeka and is on the staff of the Eugene Register Guardian, in Eugene, Oregon.

John Lear is a former inmate at the Kansas State Penitentiary. His work appeared in last year's annual report. We are grateful for his interpretations of the moods and experiences of prison life.



AN OMBUDSMAN'S PERSPECTIVE:

One Ombudsman has identified "the Ombudsman Game" as having two versions:

- One: "Wherein the Office of the Ombudsman and the State agency cooperate to solve problems."
- Two: "Wherein the Office of the Ombudsman and the State agency grapple more with each other than with citizen problems."

From the Fourth Annual Report of the Ombudsman, State of Alaska. Frank Flavin, Ombudsman

Section I

THE KANSAS CORRECTIONS OMBUDSMAN PROGRAM

A major goal of the Kansas Corrections Ombudsman program is demonstrating to employees and inmates the state's dual commitment to be responsive to individual concerns and to provide programs to meet the needs of large numbers of persons. The Ombudsman Office is a statutorily established state agency, separate from the Department of Corrections. The Ombudsman is appointed by and accountable to the Corrections Ombudsman Board (COB), formerly named the Citizens' Advisory Board on Corrections (CAB). (See KSA 1978 Supp. 74-7401 through 74-7403 in Appendix III.) The Board was appointed and organized in the summer of 1974 and appointed an Ombudsman a year later, who assumed his duties on September 15, 1975.

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

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 to be 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 fifteen member Corrections Ombudsman Board is composed of three appointees selected by each of the following five state officials: the Governor, the Attorney General, the Chief Justice of the Supreme Court, the President of the Senate, and the Speaker of the House. Board members are appointed for four year terms. In addition to being reimbursed for their expenses, COB members receive compensation at the rate of \$35 a day when engaged in matters relating to the Board and the Office of the Ombudsman. On September 1, 1980 the size of the Board will be reduced from fifteen to ten members. Although the appointing authorities will remain the same, each will appoint two, rather than three members to the COB.

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

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

To our knowledge the Ombudsman in Jackson County, Missouri, is the only other Ombudsman to be responsible to a board or commission. The structure of the COB 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 any direct 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 a credible, impartial and well-balanced complaint handling program. (We are indebted to Stanley Anderson, LL.D., Ph.D., for making this observation.)

Although this governmental institution is 170 years old, having begun in Sweden in 1809, its development throughout the world has been relatively recent. There had been only three Ombudsman programs until 1962, when two countries adopted such a program. Most significantly, that year the first Ombudsman program was adopted in an English speaking country, New Zealand. Ombudsmanry did not come to North America until 1967, when the Canadian Province of Alberta adopted it. The first United States Ombudsman program was implemented in 1969 in the State of Hawaii. The Kansas Corrections Ombudsman program was enacted into legislation originally in 1972, and was operationalized in September, 1975. It is estimated there are now 60 Ombudsman programs throughout the world.

By invitation, the Kansas program was one of forty delegates to the First International Ombudsman Conference held in Edmonton, Alberta, Canada in September, 1976. It, also, was represented at the First Annual Conference of the U.S. Association of Ombudsmen held in Seattle, Washington in August, 1977 and at the Second Annual Conference of the U.S. Association of Ombudsmen held in Dayton, Ohio in October, 1978. Thus the 170 year old institution of Ombudsmanry only recently has begun a rapid growth, both in numbers and in professional identity.

The remainder of this report is devoted to a description of the work of the program during Fiscal Year 1979 (July 1, 1978 through June 30, 1979). This is accomplished through narrative and statistical presentations. Since a cornerstone in the value system of Ombudsmanry is accountability in government, this report is the program's effort to apply this standard to itself.

Section II

EVENTS DURING THE YEAR

The first quarter of the reporting period was marked by nearly complete staff turnover in the Ombudsman Office due to marriage, continuation of education, and the loss of two federally funded positions. The Office was reduced from five to three positions. By the end of the first quarter of Fiscal Year 1979, what remained were the positions of Ombudsman, Ombudsman Associate, and Administrative Secretary. Additionally, a graduate student was available part-time during the academic year for training purposes and assisting the Office in complaint handling. This radical turnover and reduction in staff could have been more disruptive had not the person hired as Ombudsman Associate spent the 1976 academic year as a graduate student trainee in the Ombudsman Office. (Biographical sketches of staff members are presented in Appendix I.) As the current reporting period came to a close, the Ombudsman Office received two new positions: a full time Typist and a part-time Staff Assistant.

With the reductions in staff and heightened tensions at the Penitentiary, the Ombudsman Office succeeded in providing comprehensive coverage only at the Kansas State Penitentiary during this reporting period. There frequently was a representative at the Penitentiary as often as three days a week. Regrettably, for the first time the Office was unable to make a significant number of visits to the Reformatory. Additionally, the work begun during the end of the previous year at the Kansas Correctional Institution for Women had to be temporarily discontinued. The last quarter of this reporting period, however, saw the beginning of a consistent effort to work at the Women's Institution in anticipation of the new positions which were added to the Ombudsman Office at the close of the fiscal year.

The Penitentiary, Reformatory, and Women's Institution are the state's three long-term adult correctional institutions and, as such, are considered a priority concern for Ombudsman coverage. There are five other adult correctional facilities in the state to which the Office has been unable to give attention. The geographic locations of correctional facilities and their distances from the Ombudsman Office in Topeka are shown on the state map in Appendix IV.

The actual complaint handling of the Office was maintained at a level slightly greater than that of the previous reporting period in spite of the staff turnover and reduction. This was the result of the Office's decision to concentrate on individual complaint handling and conduct only a minimal number of special studies and investigations. This, also, was the result of the decision to concentrate the Office's resources on problems at the Penitentiary, thus reducing travel time and time for staying abreast of information and changes within the other institutions.

A statistical description of the complaints handled during the reporting period are presented in Section V. In addition to complaint handling, the Office was involved in a number of other activities including conducting studies, making recommendations, having input into corrections policy, and monitoring events within the institutions, such as the two shake-downs at the Penitentiary.

Self-proclaimed historians say that a shake-down (thorough search of persons and facilities for contraband) at the Kansas State Penitentiary was conducted one day in 1969. A riot erupted the next day, leaving the institution out of control for an extended period of time. There had not been another shake-down at the Penitentiary until the two which were conducted during this reporting period: the first on August 18, 1978 and the second on April 12, 1979. Both shake-downs were conducted in the aftermath of violence at the Penitentiary. They lasted several hours and involved the entire general population within the walls, including a search of each inmate and each inmate's cell. Both shake-down procedures were observed by the Ombudsman staff. The Office's involvement in the first shake-down is described in detail in the first case example in Section IV, "Examples of Complaints."

Three sets of recommendations were presented to the Department of Corrections during this reporting period. One involved a major study relating to the loss of inmate property at the various institutions. In addition to being responded to by the Secretary of Corrections, it has been reviewed in detail by the Joint Legislative Committee on Special Claims Against the State. It is hoped that during the 1980 Legislative Session, legislation will be introduced and passed which would eliminate the problems documented in the "Property Loss Study." This report and the Secretary's response to it are reproduced in full in Appendix VIII.

The other two sets of recommendations concern the Kansas State Industrial Reformatory. One addressed the apparent lack of access inmates had to internal inmate grievance forms and the other concerned the lack of access to toilet facilities for inmates using the institution's recreational area. These two reports and the Secretary's response to them are reproduced in their entirety in Appendixes VI and VII.

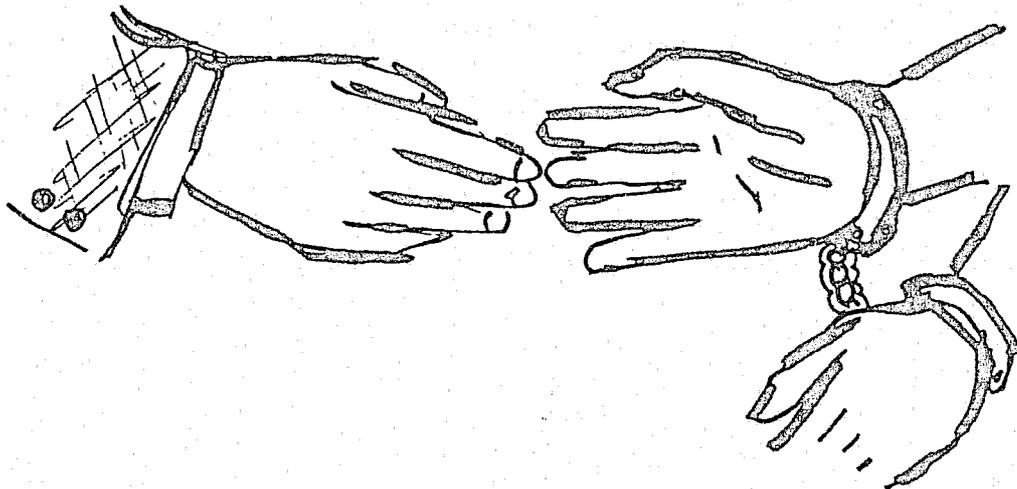
Another major staff effort of the Ombudsman Office was an extensive informal review with the Kansas Department of Corrections of its new rules and regulations. During the year the Department adopted temporary rules and regulations in compliance with a bill passed during the 1978 Legislative Session. The passage of this measure brought to an end an extensive effort on the part of the Ombudsman Office for such a law. Continued work is expected to be put into this project before the temporary rules and regulations will be refined to the extent that they will be adopted permanently.

A significant legislative event occurred during the 1979 Legislative Session. This was the introduction of the general jurisdiction Ombudsman Bill (HB 2281) by Representative Gibson and co-authored by Representatives Cooper, Eddy, Foster, D. Heinemann, Hensley, Hess and Sughrue. This bill is being carried over to the 1980 Session. If adopted, this bill would provide Ombudsman services not just for the corrections system, but for nearly all aspects of state government in Kansas. According to the bill, the proposed office could handle corrections related complaints upon referral from the Corrections Ombudsman. House Bill 2281 is presented in Appendix V.

In the Second Annual Report, it was reported that the Office of the Ombudsman for Corrections in Kansas had begun to develop its own distinct identity. "Through an intense involvement during the year with the Corrections system, the Ombudsman program became a part of Kansas corrections, although not a part of the Department of Corrections or a part of the inmate culture." (The Second Annual Report, Ombudsman for Corrections, page 7.) This description still appears to be apt. Additionally, during the fourth reporting period the Office began in a very small way to demonstrate that it had an identity outside the State of Kansas.

During October the person appointed to the newly created position of Assistant Ombudsman for Corrections in the Alaskan Ombudsman Office visited the Kansas program in order to get ideas for setting up Correctional Ombudsman services in Alaska. Another event outside the State was an invitation for the Ombudsman to speak about the Kansas Ombudsman program before a group involved in juvenile corrections. The talk, which was given on December 7, 1978 in Dallas, Texas was part of a training conference on juvenile justice. This program was sponsored by the Southwestern Law Enforcement Institute of the Southwestern Legal Foundation, which is located on the campus of the University of Texas at Dallas. The Ombudsman, also, participated as a workshop facilitator at the Second Conference of the United States Association of Ombudsmen held in Dayton, Ohio in October of 1978.

Fiscal Year 1979 was in many respects a transition period. There was considerable reduction and change in the personnel of the Ombudsman Office. The Corrections Ombudsman Board was implementing and exploring the implications of its newly legislated function. During this time, the Kansas Department of Corrections was headed by three different persons in the position of Secretary of Corrections, under two different gubernatorial administrations. The work of the Ombudsman Office was certainly influenced by these occurrences. It, also, was very much affected by the financial and staff resources made available to it. The following section presents the cost of the Office since its founding and explores the implications of proposed staffing arrangements.



Section III

THE FINANCIAL COMMITMENT TO A CORRECTIONS OMBUDSMAN PROGRAM IN KANSAS

When the Corrections Ombudsman program was first established, the Board, the Office and staff members were funded by the State General Fund. This was a strong statement of the state's commitment to the Corrections Ombudsman program, in view of the fact that many Ombudsman programs in other states were originally funded through federal funds. Although additions to the Ombudsman staff have been financed through federal matching funds from the Law Enforcement Assistance Act (LEAA), the original complete state financing of the Ombudsman program signalled it was to be more than merely an experiment.

The expenditures for the first four years are presented below in order to demonstrate that the Ombudsman Office is an inexpensive governmental agency. The cost of the program includes not only the services of the staff, but also of the fifteen member Corrections Ombudsman Board. While always receiving reimbursement for COB related expenses, members began receiving compensation for their time on July 1, 1978 (FY 1979). While there were personnel working in the Ombudsman Office who were not paid from the program's budget, expenses incurred in their work were covered by the program. The expenditures during the Office's first four fiscal years are as follows:

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

The proportionately high level of state funding has made it possible for this new program to develop into a vital program in state government, rather than linger on as an experimental program. As described in Section II, however, the Ombudsman Office with its two permanent professional staff members has had to limit the number of institutions to which it can provide consistent services and coverage. While important services have been provided as described in each of the four annual reports, there have been occasions when the presence of the Ombudsman Office has

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

fostered false expectations on the parts of inmates and staff members because the Office did not have the resources necessary to provide the needed third party mediation and problem solving assistance.

Now that the Corrections Ombudsman Office has had nearly four years experience, it is possible to provide a reasonably accurate estimate of what is needed to provide ongoing services to the eight existing adult correctional facilities. It is believed that the addition of two more professional field positions, plus adequate support services, would make it possible to provide Ombudsman coverage for the entire state corrections system.

Entering Fiscal Year 1980, the Ombudsman Office is comprised of the following five positions: Ombudsman, Ombudsman Associate, part-time Staff Assistant, Administrative Secretary and Typist. The Corrections Ombudsman Board's budget request for Fiscal Year 1981 includes the addition of the more Ombudsman Associates and one additional support position. The Ombudsman program has matured to the point at which it could absorb and train these additional personnel.

It is essential that an Ombudsman office remains small. Were the Corrections Ombudsman Office in Kansas to become much larger, there might be a tendency for it to take on functions other than those within the traditional Ombudsman concept. There, also, would be the danger of creating a bureaucracy within the Ombudsman Office, which is the very program designed to resolve problems which develop within governmental bureaucracy.

The short history of the Ombudsman Office has demonstrated that there is a certain amount of given management "overhead" in operating the program. This fixed "overhead" comes in the form of routinely required budget proposals, annual reports, support services to the Corrections Ombudsman Board and numerous other administrative tasks required within state government. While the addition of two Ombudsman Associates and one support staff member would require some additional supervision, they would not add to these already required tasks. It is expected that they would be able to devote the vast majority of their time to handling complaints and conducting special studies and investigations. The additional administrative burden to support these positions is expected to be minimal.

With the current two full time permanent professional staff positions, the Office works furiously in attempting to keep up with the high volume of incoming complaints. While it is important to respond to these complaints, it also is believed that there are other persons and issues which deserve attention. As Professor Walter Gellhorn has said: "Complainers deserve sympathetic attention, no doubt. But if attention to them is not fully matched by solicitude for the silent sufferers, it will set too high a value on querulousness and will divert thought from prophylactic supervision." (Walter Gellhorn, When Americans Complain, Cambridge, Massachusetts, Harvard University Press, 1969, Page 106.)

Section IV

EXAMPLES OF COMPLAINTS

With the exception of Example 1, an attempt has been made in the following complaint examples 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 II - "Definition of Terms."

Example 1 - The August 18, 1978 Mass Search and Shake-down of the Kansas State Penitentiary

On Sunday and Monday, August 13 and 14, 1978, there was a series of unrelated but, nevertheless, violent incidences at the Kansas State Penitentiary (KSP) which resulted in the deaths of two inmates and one staff member, and injuries to an inmate and a staff member. Responding to these incidences and the possibility of further violence, two staff members from the Ombudsman Office were present at the institution each day for the rest of the week.

A one day lock-down was instituted at the Penitentiary on Tuesday, the 15th. Normal activities were conducted during Wednesday and Thursday, but a second lock-down was invoked mid-afternoon on Friday, August 18. After the inmate population had been locked-up, a memorandum from the Director of KSP was circulated announcing that a general search and shake-down of inmates and cells was to be conducted that afternoon and evening. This was being done because of the belief that weapons, particularly firearms, were in the possession of inmates. Ombudsman staff members already at the prison notified the Ombudsman of the development. Although he left immediately to go to the prison, the shake-down had already been in progress for an hour and a half by the time the Ombudsman arrived.

The shake-down had begun at approximately 4:30 p.m. and continued until 11:30 p.m. The procedure involved removing inmates from one cell house at a time and transferring them to the dining hall for dinner. Before leaving the cell house, each inmate was "strip-searched". The inmates remained in the dining hall until each cell and other critical areas in the cell house had been searched. The inmates, having completed dinner, were then returned to the cell house. Prior to entering the cell house each inmate was "pat-searched". Once this procedure was completed it was begun again with the next cell house.

During these activities the Ombudsman staff members functioned as third-party observers and mediators during a major event in the institution involving considerable interaction and potential confrontation between inmates and correctional staff members. The Staff Assistant, a female, was not able to enter the cell houses because of the "strip-search" procedure. She, instead, was located in a central location of the institution allowing her to observe population movements and be available for brief discussions with both inmates and staff members. The Ombudsman

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staff and because of its particular activities. We do know our presence was highly visible among staff and inmates. We did deal with a number of persons, primarily inmates, who were quite upset and angry. Our presence gave them an opportunity to ventilate this anger and to receive additional information from an external agent. To what degree these activities prevented these feelings from being translated from verbal behavior to violent behavior is certainly not known. We do believe that by being present during this search, we were much less vulnerable to receiving false allegations made by inmates regarding the conduct of officers and administrators. Having observed the search on a first-hand basis, it would not be necessary for the Ombudsman staff to have to do extensive interviewing and investigation to determine the sequence of events should a major complaint have been lodged as a result of the search.

While the Ombudsman was not personally notified by the administration of the plans for the search, he and his staff were clearly welcomed and, in fact, involved by the administration during the search. Initially there was some question as to whether or not the two staff members were to remain inside the walls while all other non-uniformed personnel were instructed to leave the institution. This was very quickly clarified by the Director of the institution who made it clear that they were to remain and have access to any part of the institution. With the exception of an agent from the Kansas Bureau of Investigation, the Ombudsman staff members were the only persons present on the premises who were not employees of the institution or the Kansas Department of Corrections.

Disposition: Observed and monitored

Example 2 - Recordkeeping Complaint

After walking into one of the institutions, the Ombudsman was immediately approached by an inmate who was obviously upset. Four months had passed since the Kansas Adult Authority (KAA) agreed to parole the inmate to another state, if that state approved his pre-parole plan and accepted him for supervision. After waiting two months, the inmate was informed that his pre-parole plan materials had been lost within the Department of Corrections, and a new set had just been sent to the receiving state. Not only had the inmate served two more months in prison, but he had also lost the job he had arranged in the other state. Although a new job was obtained the inmate was extremely concerned that another problem had developed, because six weeks had passed since the second set of pre-parole materials had been sent.

The Ombudsman went directly to the official in the Department of Corrections, who coordinates the out-of-state pre-parole investigations, to immediately determine the status of the pre-parole investigation. This official informed the Ombudsman that the inmate's pre-parole plan had been approved, and all that was needed was for the receiving state to send written approval. In response to the Ombudsman's recommendations, the official called the other state to confirm that the approval was in the mail. The official was surprised to learn the receiving state had misunderstood and had not mailed the approval. As a result of the call, the approval was mailed the same day.

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The Ombudsman went back to check with the officers in the cell house and the clothing section. He learned that the problem had been resolved, as the clothing section was now taking full responsibility for issuing coats to arriving inmates.

In this case, the issue was resolved before the Ombudsman made specific recommendations. While still investigating the situation, the issue was resolved internally by responsible staff and supervisors. The Ombudsman's investigation into the problem, however, served as the impetus for the staff to solve this internal administrative misunderstanding.

Disposition: Observed and Monitored

Example 4 - Mail Complaint

While opening letters received from inmates at one of the institutions, the Administrative Secretary noticed that those envelopes which were marked showing they had been provided by the institution were defective. The envelopes had not been glued properly, allowing the possibility that the inmates' confidential materials could be read, or could come out of the envelope. After this pattern continued, the Ombudsman opened a case on his own initiative.

The Ombudsman went to the staff member responsible for purchasing the institution's envelopes. While this person had noticed a couple of envelopes were not sealed properly, he was not convinced that there was a problem until the Ombudsman produced the stack of defective envelopes that had been collected in the Ombudsman Office and pointed out the postage dates showing the length of time that the problem had been occurring. When the staff member and the Ombudsman examined the supply of envelopes, they discovered that all of the envelopes received in one shipment were defective, while envelopes in a newer shipment were properly glued. The staff member agreed to follow the Ombudsman's recommendations which were to start using the new supply of envelopes immediately and to exchange the defective envelopes with the supplier.

In a follow-up phone call with the staff person, the Ombudsman was surprised to learn that the defective envelopes were actually a different and more expensive style of envelope that had been misordered. However, the staff person had still been able to arrange to exchange them for "good" envelopes.

No sooner than this was resolved, the Administrative Secretary observed that inmates from a second institution had begun using the same envelopes. By now, knowledgeable about envelopes, the Ombudsman was able to quickly explain the situation to the appropriate person at the second institution. This institution, also, was responsive in quickly correcting the situation.

Disposition: Recommendation fully accepted in both cases

Example 5 - Complaint Against Staff

In attempting to resolve a complaint, the Ombudsman usually intervenes at the lowest level of authority, the source at which the problem originated, and theoretically, the best place for resolution. Although this procedure is usually followed, this case illustrates a situation that warranted a change in the approach used by the Ombudsman.

During a visit to an institution the Ombudsman was approached by an inmate with a complaint against a certain officer. The inmate related that he and the officer had previously argued, and that the officer had subsequently moved him into another area of the cell house. Although the cell house officer has the authority to make such a move, the Ombudsman shared the inmate's concern that he had been moved into an area populated by a rather cohesive racial clique of inmates. It was conceivable that the move compromised the inmate's safety. Additionally, the inmate reported that the officer had verbally threatened him with further disciplinary action in front of the inmate's correctional counselor.

As the Ombudsman and the inmate discussed the implication of outside intervention, the inmate clearly stated that, although he wanted to alert the Ombudsman about the incident, he did not want any intervention. The inmate was fearful of further reprisals from the officer. Having had previous contact with the officer, the Ombudsman concurred with the inmate's assessment of the situation.

In light of the circumstances, the Ombudsman proceeded to discuss the situation with the inmate's correctional counselor. The correctional counselor confirmed the inmate's plight and also expressed concern about the inmate's continued safety, both in terms of his relocation and his future interactions with the officer. The Ombudsman and the correctional counselor agreed that their continued monitoring of the situation might be the most appropriate approach.

The Ombudsman determined that his "indirect" intervention might help resolve the conflict in two different ways. First, it was realistic to assume that the institutional "grapevine" would alert the officer to the Ombudsman's interaction with the inmate. Conceivably the officer's knowledge of the Ombudsman's interaction could provide incentive for him to resolve the conflict. Secondly, the inmate's awareness that he had the support of the Ombudsman and the correctional counselor could have sufficiently bolstered his self-confidence so that he would deal with the conflict himself. In essence, both parties were motivated toward change and resolution.

Within a few days of the Ombudsman's initial contact, the inmate had initiated an interview with the officer. The officer was not only willing to discuss the issues, but ultimately agreed to move the inmate back to his previous cell. Thereafter, the Ombudsman continued to stay in contact with the inmate and the correctional counselor to monitor for any delayed reprisals.

Although the situation appeared to be resolved, it was the Ombudsman's continuing concern that the officer was imposing his authority in an inappropriate and destructive manner. Any intervention in resolving the complaint by the Ombudsman was thwarted by the inmate's and the staff's resistance to confront the intimidating officer. The Ombudsman reluctantly closed the case with the gnawing apprehension that the antagonism would probably surface again.

Disposition: Observed and monitored

Example 6 - Recordkeeping Complaint

Rules and routines are the basic fiber of a large correctional institution. With such a large system, it is essential that all procedures be standardized and that all contingencies be regimented. Over time, the granting of "incentive good time" had developed into such a standardized institutional procedure. Originally designed as a reward for inmate service above and beyond the call of duty, incentive good time had become an established procedure of awarding the maximum incentive good time of three days per month to all inmates who were working and adjusting adequately.

When the Ombudsman responded to a letter from two inmates concerning an abrupt termination of the granting of incentive good time, he found the inmates confused and irate. Having come to depend on the automatic receipt of incentive good time, they felt a sense of betrayal as the institution had, without warning, halted a policy that directly affected their release date. The two inmates had talked with several institutional officials about the new policy. They had received conflicting, and somewhat contradictory, responses.

This was the first time the Ombudsman had received information about a policy change for incentive good time. As its award affects a very small proportion of inmates in the state -- only those inmates who are serving a particular type of sentence -- it was conceivable that such a change could have occurred without much immediate repercussion. Both of these inmates were expecting their release within the upcoming year based upon the continued award of incentive good time at the rate of three days per month.

The Ombudsman agreed to look into the situation. His objectives were: to get an adequate explanation for the inmates, to get an adequate explanation for himself, and to bring to the appropriate authority's attention the implications of such an abrupt policy change.

In talking with several institutional officials, the Ombudsman learned that the outside paroling authority had initiated the policy change. The Ombudsman subsequently contacted the paroling agency to alert it to the implications of such a change, recommending continuation of an incentive good time program for those persons who had entered the prison under that system. The authority agreed to review the issues, but later responded that the policy change was the best arrangement which could be developed at this time, in spite of the resulting problem, of which the agency was concerned.

The Ombudsman returned to the inmates to explain the findings of his investigation. Although they were disappointed that they would no longer be granted incentive good time, they were much more resigned to the new policy after a thorough explanation. In this case, the Ombudsman was able to facilitate the transition to a new policy. As the inmates had been inadequately prepared for the upcoming change, the Ombudsman was able to facilitate and clarify communication.

Disposition: Recommendation not accepted

Example 7 - Daily Routine Complaint

When the Ombudsman hears a complaint, he listens from the viewpoint of an outsider -- an outsider who has knowledge and understanding about the overall corrections system. In some cases, the Ombudsman's ability to hear many sides of the issue will direct him to redefine the problem, and to approach it differently than it was originally presented.

In this case, the Ombudsman, while visiting an institution, was approached by an inmate who was angry. He reported to the Ombudsman that a new cell house policy had just been issued limiting to two the number of footlockers an inmate could have in his cell. He felt that the order was particularly problematic for the leatherworkers who had a great deal invested in equipment and supplies. The order required compliance by the upcoming Sunday, only three days away.

Although the inmate presented the problem as being an arbitrary, unnecessary limitation, the Ombudsman's investigation uncovered some additional information. The Ombudsman discussed the issue with the area staff members and found that the order was not arbitrary, but that it was based upon a need to redistribute lockers in a more equitable way. In this area of the institution which does not have locked cells, padlocked footlockers are the only means of securing personal property. As the supply of footlockers had been inadequate to meet the demand, the footlockers had become a commodity that was being bought and sold illegally by the inmates.

Integrating the findings of his investigation, the Ombudsman did not subscribe to the inmate's contention that the order was arbitrary or unreasonable. In redefining the problem, however, the Ombudsman did take issue with two aspects of the order: the short compliance time and the compliance date being on a Sunday when the inmates' correctional counselors and other senior administrative staff are not on duty for troubleshooting. When the Ombudsman discussed these issues with the responsible institution official, he agreed to look into the matter.

Less than a week later, the Ombudsman returned to visit the inmate to determine the current status of the policy. He was informed that the policy had been subsequently rewritten to exempt leatherworkers, and that the compliance date had been shifted to a weekday. The inmate was now satisfied with the revised policy.

In the end, the policy revision actually went beyond the concerns addressed by the Ombudsman. Not only was the compliance date changed to a week day, but the policy went further to exempt the leatherworkers, who were the persons having the greatest difficulty meeting the short compliance date. With the exemption, the length of the compliance time was no longer an issue. Although the problem was resolved at the prompting of the Ombudsman, the institutional official was able to solve the problem within his own conceptualization of the issues and their implications.

Disposition: Recommendation fully accepted

Example 8 - Physical Threat Complaint

Early one morning the Ombudsman's Office received a telephone call from the Governor's Office concerning a letter it had received from an inmate. The inmate wrote in the letter that he was in great danger and that the institution had been unresponsive to his fears. He reported that he had been threatened by both inmates and officers, and that his cell was to be burned up. Because of the urgent nature of the complaint, the Governor's Office was requesting the assistance of the Ombudsman Office to check into the situation immediately. Since the Ombudsman was present at the institution, he investigated the complaint the same day.

When the Ombudsman attempted to locate the inmate, he discovered that the inmate's cell had been burned out the previous evening. The inmate had formerly been in a protective custody area of the prison, but was moved to an even more secure area as a result of the fire. In interviewing the inmate, it was evident that he was aware of an institutional investigation which had already been conducted regarding the fire. The investigation indicated that the inmate had set his own cell on fire in an attempt to manipulate a long desired institutional transfer. The inmate pointed out that this was just another example of how the institution was attempting to discredit him and his fears. He maintained that not only did he not set his cell on fire, but that he had three friends who were aware of the threats against him and who knew the identity of the person responsible for the cell burning.

None of his three friends nor the other persons interviewed by the Ombudsman had any substantial knowledge of threats against the inmate or could name the person responsible for the fire. Additionally, the Ombudsman could not substantiate that the inmate was in immediate danger.

Although the Ombudsman could not validate the inmate's allegations, it remained his concern that the inmate was not coping well with his incarceration. The inmate had been seen by the parole authority twice and had been placed on "continued status", delaying the granting of parole until a parole plan could be formulated to meet the requirement of placement in a sheltered workshop or supervised living facility. With this in mind, the Ombudsman first consulted with the inmate's correctional counselor about the possibility of arranging an acceptable parole plan so that the inmate could be released. The correctional counselor agreed that the inmate's mental condition was deteriorating with the continued incarceration. He agreed to confer with the inmate in an attempt to formulate an acceptable parole proposal. Secondly, the Ombudsman contacted a member of the Mental Health Unit to alert him to the inmate's inappropriate behavior and deteriorating situation. The inmate was subsequently evaluated by a mental health professional.

In response to the Governor's Office, the Ombudsman compiled a summary of the investigation which was sent to the Governor's Office, the Secretary of Corrections, and the inmate. In concluding the investigation, the Ombudsman pointed out his continuing concern about the limited program alternatives and mental health resources available to the Department of Corrections. Within such limitations, however, the Ombudsman felt that no alternative recommendations for the inmate's confinement were readily apparent.

Disposition: Unfounded

Example 9 - Medical Complaint

While visiting one of the institutions, the Ombudsman was stopped by a Black inmate complaining that he was faced with a serious dilemma. The inmate had pseudofolliculitis barbae or "razor bumps", which are beard hairs that grow inward, creating bumps on his face. "Razor bumps", a common problem for Blacks, are a serious issue within the institutions because the easiest solution -- letting the beard grow -- is contrary to the Department of Corrections' rules. The inmate had just been ordered to shave, and thus his dilemma -- to shave and hurt himself, or disobey the order and risk disciplinary action that could include serving time in disciplinary segregation. The inmate had gone to the institution's infirmary seeking treatment five times over a period of nearly two years. But by looking at the inmate's face, it was obvious to the Ombudsman that the bumps had continued, and that the inmate could not shave without severely cutting his face.

Since the "razor bumps" were a medical problem for which the inmate had previously received treatment, the Ombudsman believed the inmate should be examined by a medical staff member to decide if the inmate could shave, or if additional treatment was needed. When the Ombudsman made this recommendation to a medical staff member, this person argued that the proper treatment had already been provided. Only after describing in detail the condition of the inmate's face was the Ombudsman able to convince the staff member that the inmate was in a desperate situation and needed to be examined immediately.

When the inmate was examined later the same day, the staff member found that there was a serious problem. The inmate was given a written excuse from shaving, and placed on the waiting list to see a dermatologist.

Disposition: Recommendation fully accepted

Example 10 - Complaint Against Staff

When the Ombudsman visited an inmate who had written asking for an interview, the Ombudsman found the problem had already been solved by staff. However, the inmate made a new and serious complaint that he was being harassed by staff because he had filed a law suit against the institution. As an example of this harassment, the inmate reported that earlier the same day his pass to attend his scheduled therapy session had been voided by a cell house officer supposedly because the therapist was not in the institution. The inmate knew the officer had lied, because the inmate later saw the therapist, who indicated he had been in the institution the entire day.

In order to sort out the facts, the Ombudsman went to the officer, who confirmed that he had voided the inmate's pass, but only after being told by the mental health unit that the therapist would not be available. When the Ombudsman contacted the mental health unit, he learned the therapist was ill, and had been off work the entire day. The Ombudsman later talked with the therapist and confirmed that he had not been in the institution that day.

Having found that it was the inmate who was harassing staff, the Ombudsman confronted the inmate, and informed him that he had lost credibility with the Ombudsman Office.

Disposition: Unfounded

Example 11 - Physical Facilities Complaint

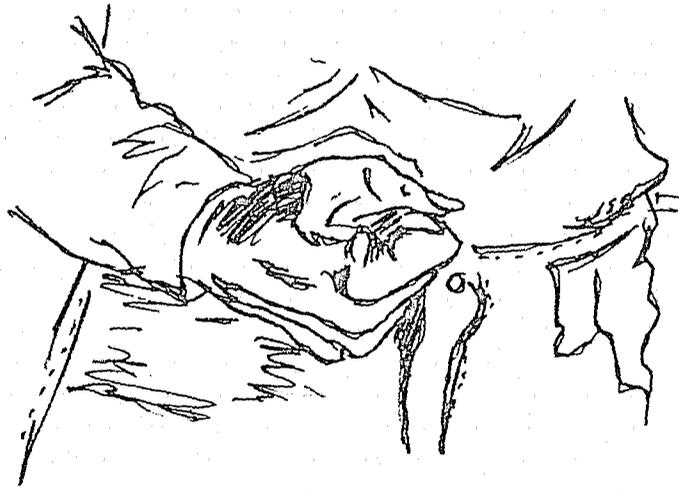
An inmate at one of the institutions wrote the Ombudsman complaining that the facility was not safe for him because he was handicapped and had restricted use of his legs. The inmate was most concerned about the shower because it became extremely slippery when wet. During the two years he had been at the institution, the inmate had fallen a number of times while trying to shower. The institution had responded to the inmate's complaints by moving him to a cell house that had a more accessible shower. However, nothing had been done to make the actual shower safe.

When the Ombudsman visited the institution and observed the inmate walk, the problem was obvious. Because the inmate's legs were deformed as a result of cerebral palsy, he walked by forcefully slinging his legs forward putting himself off balance. With this awkward gait, the inmate had to cross several feet of wet concrete floor in the shower area to actually reach the shower. This situation would be corrected according to the inmate, if a handrail or rubber mat was installed in one of the shower areas.

When the Ombudsman brought this issue to the attention of a staff member in the inmate's cell house, this person agreed there was a problem but questioned if there were anything he could do about it. Rather than accept the staff member's reluctance, the Ombudsman focused on how the staff member could successfully pursue the problem through regular channels. As a result of this conversation, the staff member decided to submit a work order requesting a handrail be installed.

When the Ombudsman visited the institution less than two weeks later, he found the handrail had been installed. The inmate reported the handrail met his needs, and he finally was able to shower safely. Thus, a possible injury was prevented, and the state avoided unnecessary medical expense.

Disposition: Recommendation fully accepted



Section V

STATISTICAL PRESENTATION

The primary vehicle for the work of the Ombudsman Office is through complaint handling. While the complaint examples presented in Section IV describe what was involved in the handling of some of these complaints, the statistical presentation conveys the total picture of the Ombudsman Office's complaint work during Fiscal Year 1979 (July 1, 1978 - June 30, 1979). This picture is expressed in narrative form in Part A, and visually through graphs and tables in Part B. It should be pointed out that this picture is painted through the eyes of the Ombudsman staff based upon its conceptual frame work as described in Appendix II, "Definitions of Terms".

A. NARRATIVE

Complaints Received

Since opening its door on September 15, 1975, the Ombudsman Office has received 1,820 complaints concerning inmates, correctional staff members, and volunteers with the Kansas Department of Corrections. Complaints have come primarily from the two largest Department of Corrections' institutions, the Kansas State Penitentiary and the Kansas State Industrial Reformatory. Other sources of complaints within the Department of Corrections include the Kansas Correctional Institution for Women, the Kansas Reception and Diagnostic Center, the Kansas Correctional Vocational Training Center, the Toronto Honor Camp, work release centers, and parole. Sources of complaints outside the Department of Corrections included state psychiatric hospitals, jails, and prisons in other states.

The 584 complaints received during FY 1979 is the largest intake in the Office's four years of operation. As shown in Figure 1, each year there has been an increase in the number of complaints received. At the same time, the number of days the Ombudsman staff was present in the institutions has increased proportionately from 48 days in FY 1976 to 218 days in this fiscal year. The close relationship between the amount of time spent in institutions and the number of complaints received is graphically demonstrated by comparing Figures 1 and 2.

During FY 1979, the Ombudsman Office increased its visits to KSP and decreased its visits to KSIR and KCIW. This shift in direct services did not have the expected effect on the level of intake. In each of the three previous reporting periods, there had been a close relationship between the amount of time staff had been present at an institution compared to the number of complaints received from that institution. As shown in Figures 3 and 4, this relationship was not as close in FY 1979. While 84.8% of the field time was devoted to KSP, it accounted for 67.6% of the complaints. Although 8.3% of field time was spent at KSIR, it still provided 16.3% of the complaints. KCIW received 6.9% of the staff's field time, but accounted for 7.5% of the complaints. The remaining 8.6% of the complaints were received from sources inside and outside the Department of Corrections. This change in relationship is possibly a result of the program having been in existence for four years. Complaints are received from institutions where the Ombudsman Office is not present because its existence is now generally known by inmates, correctional staff members, members of the community, and referring agencies.

The remainder of the narrative presentation will examine the complaint handling data from the 558 complaints closed in FY 1979. Only the closed complaints are examined because the necessary data cannot be recorded until the complaint work is completed and the complaint is closed. Included are the 42 complaints pending at the end of FY 1978 which were closed during this fiscal year. Excluded are the 68 complaints pending at the end of this reporting period. (See Figure 5 for a breakdown of the source of these closed complaints.)

Race of Inmate Complainants

To evaluate the Office's distribution of services among racial groups, the racial backgrounds of inmate complainants were compared with the racial background of the Department of Corrections' inmate population. (See Figure 6.) The 449 complaints from inmates in the Department of Corrections were separated out of the complaints from correctional staff members, volunteers, inmates outside the Department of Corrections, and inmates whose race could not be determined. The racial backgrounds of the inmate complainants are as follows: 267 or 59.5% were white; 162 or 36.1% were black; and 20 or 4.4% were of some other racial background. Using data provided by the Kansas Department of Corrections, the inmate population on June 30, 1979 was found to include 1,413 white inmates (60.7%), 793 black inmates (34.1%), and 120 inmates (5.2%) were of some other racial background. These statistics show that services were provided proportionately to the racial backgrounds of the inmates.

How Complaints Were Initiated

Complaints were initiated directly by the complainants, indirectly by third parties on behalf of complainants, and by the Ombudsman. The form of initiation included letters, personal contacts, and telephone calls. As shown in Figure 7, the majority of complaints (78.0%) came directly from the complainant. Letters served as the primary form of initiation (55.0%).

Third parties brought 103 or 18.5% of the complaints to the Ombudsman's attention. As shown in Figure 8, the referrals were made by families and friends of the complainants, legislators and legislative committees, the Governor's Office, governmental and private agencies, law firms, correctional staff members other than the complainants, and inmates other than the complainants.

The Ombudsman initiated 20 or 3.5% of the complaints after personally observing problems, or after being informed of problems indirectly by inmates and correctional staff members. A benefit of the increased presence at KSP is reflected in the fact that 18 of the 20 complaints were initiated by the Ombudsman at KSP.

How the Ombudsman First Responded to Complaints

A goal of the Ombudsman Office is to respond in person to complaints, so that there can be direct and immediate clarification of the complaint, and the Office's function in relation to the complaint. During FY 1979, this goal was attained in 61.3% of the complaints an increase of 1.8% from FY 1978. Because of the increased presence at KSP, the Ombudsman Office was able to respond in person in 77.6% of the KSP complaints. At KSIR where direct services were decreased, the first response had to be made by letter in 67.8% of the complaints.

Ombudsman's Response Time

Consistent with its goal to respond in person, the Ombudsman Office attempts

to respond within seven calendar days from the receipt of the complaint. This first response assures the complainant that the complaint has been received, and provides immediate clarification of what the Office might be able to do and how long it will take to get done. Calendar days are used to measure the Ombudsman's responsiveness because inmates serve time seven days a week, twenty-four hours a day.

During FY 1979, the first response was made within seven calendar days in 87.5% of the complaints. (See Figure 10.) In 9.1% of the complaints, the first response was made within 14 days. The remaining 3.4% of the complaints received responses in 15 or more days.

Nature of Complaints

Upon the receipt of a complaint, the Ombudsman clarifies the specific concerns of the complainant. The complaint is then classified into one of five major sub-divisions: "Care and Maintenance", "Safety and Security", "Maintenance of Institutional Order", "Rehabilitation", and "Miscellaneous". (See Figure 11.) With the exception of "Miscellaneous", these headings were selected because they correspond with the four traditional functions performed by correctional institutions. Within these five major sub-divisions complaints are assigned to one of eighteen complaint categories.

For the first time in the three years this method of classification has been used, "Care and Maintenance", with 177 or 31.7% of the complaints, was the largest. In the past, "Rehabilitation" had been the sub-division with the largest number of complaints. All six of the complaint categories under "Care and Maintenance" increased from FY 1978. These categories included "Food", "Medical", "Record-keeping", "Visiting", "Physical Facilities", and "Mail". The "Medical" complaint category, which accounted for 71 or 12.7% of the complaints, was by far the largest of the eighteen categories.

The sub-division "Rehabilitation" accounted for 112 or 20.1% of the complaints. These complaints involved the discretionary authority of the institutions in determining an inmate's custody status, parole eligibility, institutional and cell transfer, educational and vocational program, work assignment, and counseling program.

The sub-division "Maintenance of Institutional Order" contained 51 or 9.1% of the complaints. These complaints concerned institutional enforcement of inmate rules and disciplinary procedures, and the carrying out of institutional daily routines. The small number of complaints is to be expected because another agency, Legal Services for Prisoners, Inc., handles issues relating to the disciplinary procedure.

The remaining miscellaneous complaint categories included complaints against staff (28 or 5.0%), legal complaints (24 or 4.3%), and complaints about the Department of Corrections' Internal Grievance Procedure (16 or 2.9%). Seventy-two or 12.9% of the complaints were outside the established complaint categories, were closed before the complaint was understood, or were from correctional staff members or volunteers.

As shown in Figure 11, there were obvious differences between the types of complaints from KSP, KSIR, and KCIW. Too many variables were involved, however, to draw conclusions based upon these differences. The variables included differences in the administration of the institutions, differences in the inmate populations, and differences in services provided by the Ombudsman Office at the institutions.

Assessments of Complaints

After deciding upon the nature of the complaint, the Ombudsman determines whether the problem is with the policies or practices of the Department of Corrections, a crisis situation, or something the Office chooses not to pursue because it is outside the Office's jurisdiction or because it is not conducive to investigation.

As shown in Figure 12, 346 or 62.0% of the complaints were assessed as involving actions and decisions which deviated from institutional procedures, Departmental policy, or state law. There were 31 or 5.5% of the complaints assessed as involving problems in establishing policies and/or statutes. Forty or 7.2% of the complaints were assessed as being administrative decisions which were either unclear or inadequately explained. Complaints involving a current or impending danger accounted for 6 or 1.1% of the total.

The three remaining categories of assessment included complaints which did not involve the Department of Corrections and/or could not be investigated. Fifty-six or 10.0% of the complaints were assessed as being outside of the Ombudsman's jurisdiction. In many of these complaints, information was provided and/or the complainant was referred to an appropriate agency or individual. Complaints assessed as not being conducive to investigation accounted for 58 or 10.4% of the total. This assessment was made when the Ombudsman Office lacked the necessary expertise in the issue raised by the complaint, or when staff members were not available to investigate the complaint. This assessment in which the complainant did not have a sufficient stake in the issue, or complaints which were frivolous. The remaining 21 or 3.8% of the complaints were assessed as unknown, because the complaint was either withdrawn or solved prior to the Ombudsman's intervention.

Unfounded Complaints

Of the 558 complaints closed during FY 1979, 61 or 10.9% were determined unfounded. These complaints had no basis in fact and were totally without merit. While this figure is slightly higher than in the past, the vast majority of the complaints were either valid (355 or 63.6%), or closed prior to a final determination of validity (142 or 25.5%).

Dispositions of Complaints

After gaining an understanding of the complaint and its relationship to the Department of Corrections, the Ombudsman attempts to resolve the complaint through either direct or indirect intervention between the complainant and the Department of Corrections. (See Figure 13.)

In 273 or 48.9% of the complaints, the Ombudsman chose to intervene directly between the complainant and the Department of Corrections. This method of intervention resulted in the following dispositions:

- 1) In 99 or 17.8% of the complaints recommendations for corrective action were made. The recommendations were fully accepted in 91 complaints, partially accepted in 5 complaints, and not accepted in 3 complaints.
- 2) Communication was facilitated between the complainants and correctional staff members in 37 or 6.6% of the complaints.

3) Interaction between the complainant and correctional staff members was observed and monitored in 76 or 13.6% of the complaints. This was done for the purpose of preventing deviations from policy or preventing susceptibility of false allegations of such.

4) The final method of direct intervention involved determining the complaint unfounded. As previously reported, this was determined in 61 or 10.9% of the complaints.

In 143 or 25.6% of the complaints the Ombudsman indirectly intervened by providing information, and/or referring the complainant to the appropriate agency or individual.

One hundred and forty-two or 25.5% of the complaints were closed before the investigation was completed. Of these, 94 or 16.9% were withdrawn by the complainant, and 48 or 8.6% were solved before the Office became involved in the resolution of the complaint.

Management Levels at Which Complaints Were Resolved

The Ombudsman attempts to resolve complaints at the lowest possible institutional level. As shown in Figure 14, 314 or 56.4% of the complaints were resolved within the Department of Corrections. Of these, 241 or 76.8% were resolved below the middle management level at either line, line supervisor, or professional levels. Thus, the Office was successful in resolving a vast majority of the complaints at the lower management levels.

Forty-nine or 8.7% of the complaints were resolved through agencies external to the Department of Corrections. The remaining 195 or 34.9% of the complaints did not require contact with any of these levels.

Contacts Made in Resolving Complaints

The 3,744 contacts made in resolving the 558 closed complaints are a new annual high for the Ombudsman Office. Of these contacts analyzed in Figure 15, 1,910 or 51.0% were with the complainants, 1,393 or 37.2% were with the Department of Corrections' staff members, and 441 or 11.8% were with persons outside the Department of Corrections. Included in these contacts were 2,091 personal contacts (55.8%), 1,137 letter contacts (30.4%), and 516 telephone contacts (13.8%).

The average number of contacts per complaint increased from the 6.4 average for Fiscal Years 1977 and 1978 to 6.7 contacts per complaint. While the number of complaints received from KSP during FY 1979 did not increase significantly, the average number of contacts per complaint at KSP jumped from 6.1 in FY 1978 to 7.1 for this reporting period.

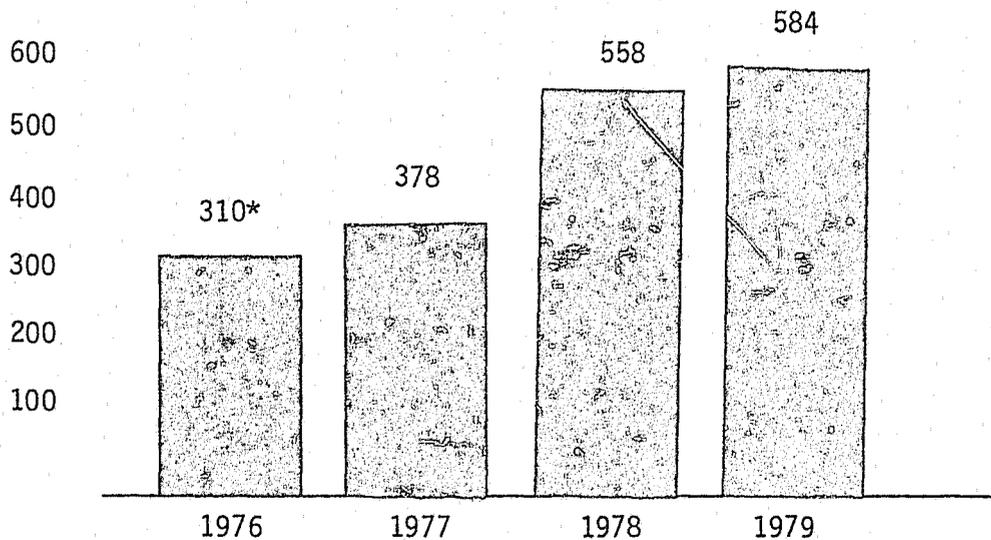
Summary

The statistics reveal important new developments in the Ombudsman Office's complaint work. New highs were recorded in the number of complaints received, days spent in the institutions, average number of contacts per complaint, and total number of contacts made in resolving the closed complaints. By focusing its presence almost entirely at KSP, the Ombudsman Office was able to provide more direct and immediate services to inmates and staff at KSP. Unfortunately, the Ombudsman Office did not have the capability to provide direct services to the seven other Department of Corrections facilities on an ongoing basis.

B. VISUAL

Figure 1

Complaints Received: The First Four Years

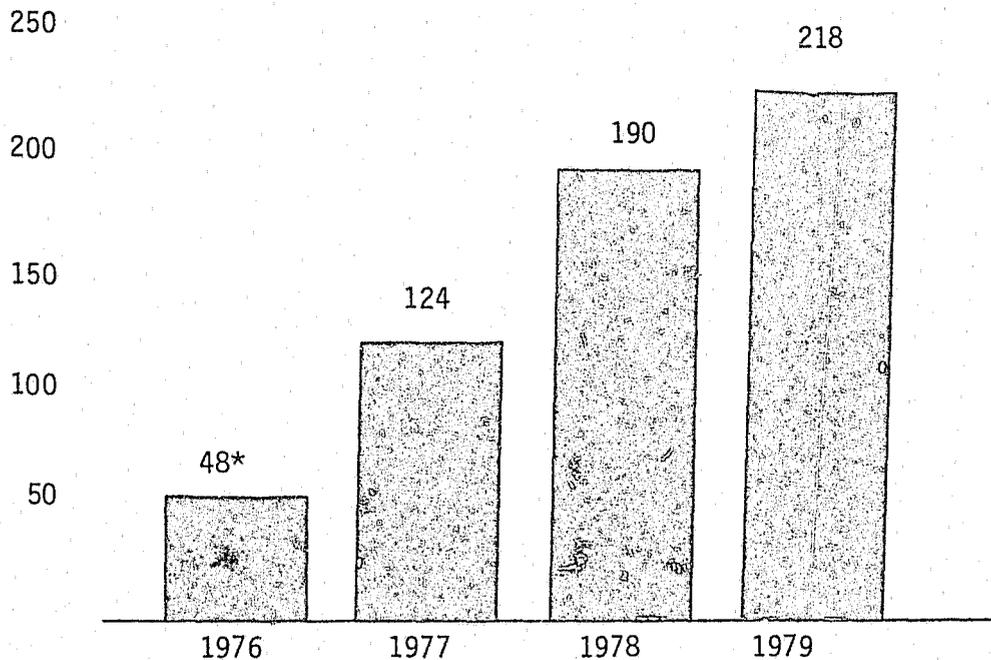


Fiscal Years (July 1 - June 30)

*Complaints received during the first 9½ months of operation

Figure 2

Days the Staff Spent in the Institutions: The First Four Years

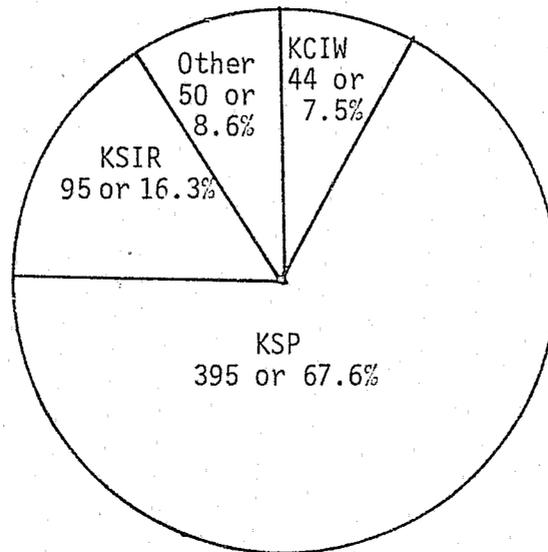


Fiscal Years (July 1 - June 30)

*Days spent in the institutions during first 9½ months of operation

Figure 3

The 584 Complaints Received *
(July 1, 1978 - June 30, 1979)



* The addition of 42 complaints pending from FY 1978 to the 584 complaints received, means the Office handled a total of 626 complaints.

Figure 4

The 218 Days the Staff Spent in the Institutions
(July 1, 1978 - June 30, 1979)

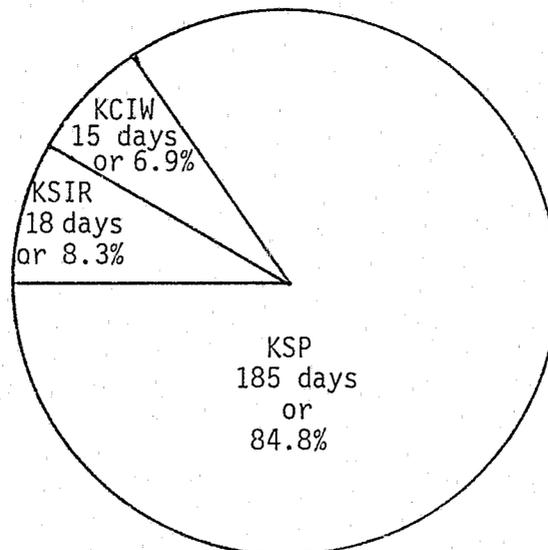
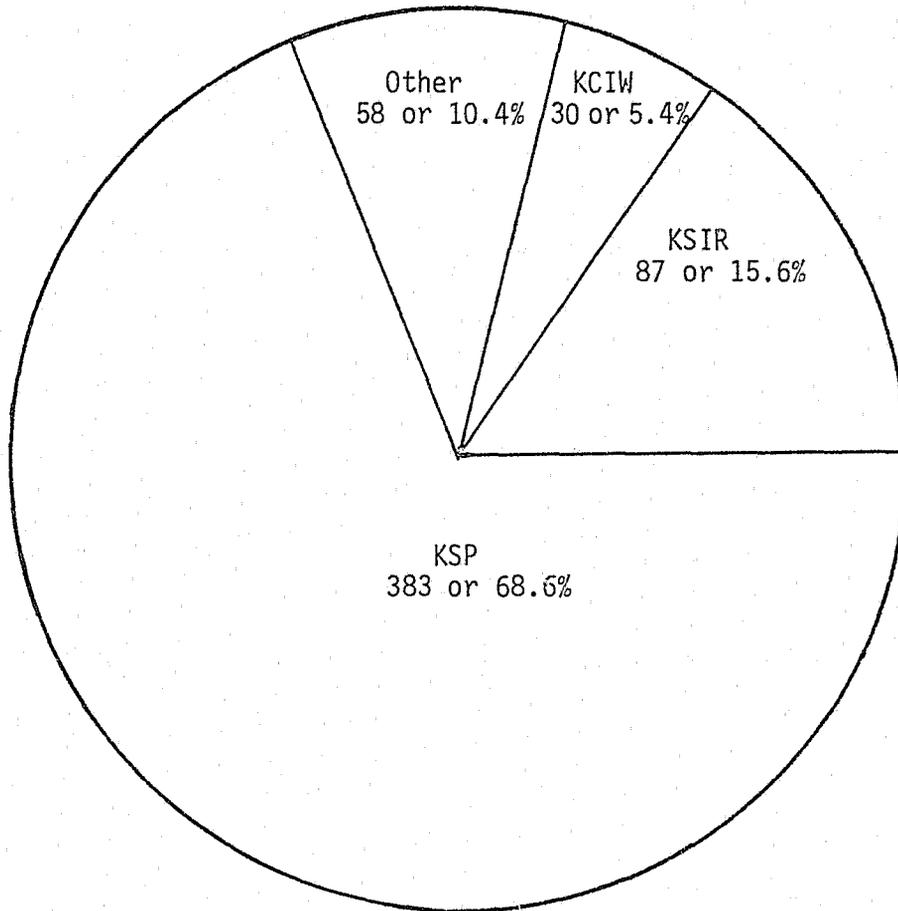


Figure 5

The 558 Complaints Closed*
(July 1, 1978 - June 30, 1979)

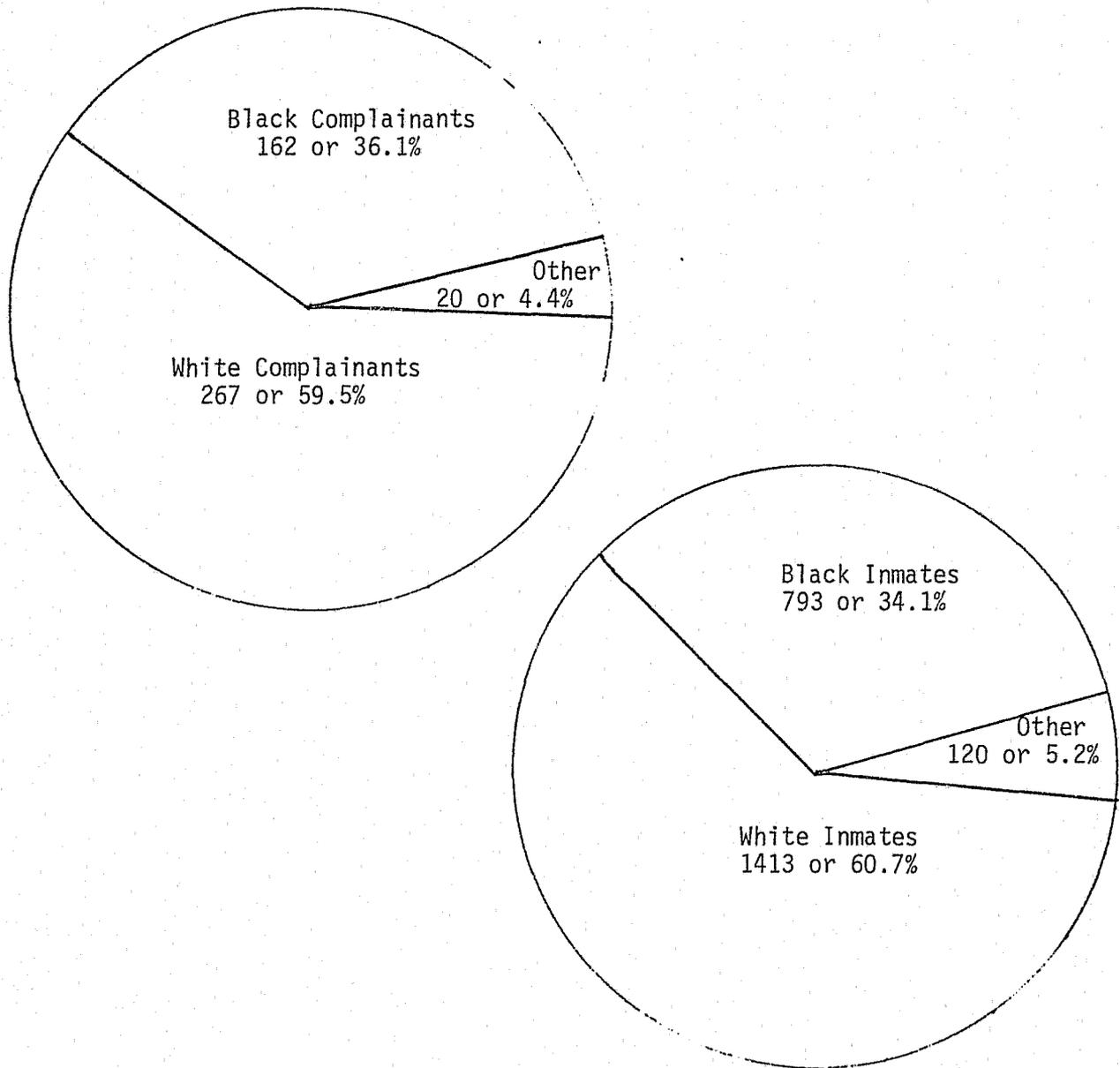


* Included are 9 or 1.6% staff complaints. Excluded are the 68 complaints pending at the end of FY 1979.

ALL OF THE FOLLOWING GRAPHS AND TABLES ARE BASED ON INFORMATION FROM THESE 558 CLOSED COMPLAINTS.

Figure 6

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



* Excluded are complaints from correctional staff members, volunteers, inmates outside the Department of Corrections, and inmates whose race could not be determined.

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

Figure 7

How Complaints Were Initiated
(July 1, 1978 - June 30, 1979)

	All Complaints*		KSP Complaints		KSIR Complaints		KCIW Complaints	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<u>Direct Contact</u>								
Letter	259	46.4%	156	40.7%	58	66.7%	16	53.3%
Personal	165	29.6%	151	39.4%	3	3.4%	8	26.7%
Phone	11	2.0%	1	.3%	0	--	0	--
Sub-total:	435	78.0%	308	80.4%	61	70.1%	24	80.0%
<u>Third Party Contact</u>								
Letter	48	8.6%	26	6.8%	12	13.8%	5	16.7%
Personal	19	3.4%	15	3.9%	4	4.6%	0	--
Phone	36	6.5%	16	4.2%	9	10.3%	0	--
Sub-total:	103	18.5%	57	14.9%	25	28.7%	5	16.7%
Ombudsman Initiative	20	3.5%	18	4.7%	1	1.2%	1	3.3%
Total:	558	100%	383	100%	87	100%	30	100%

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

Figure 8
Who Made the 103 Referrals?
 (July 1, 1978 - June 30, 1979)

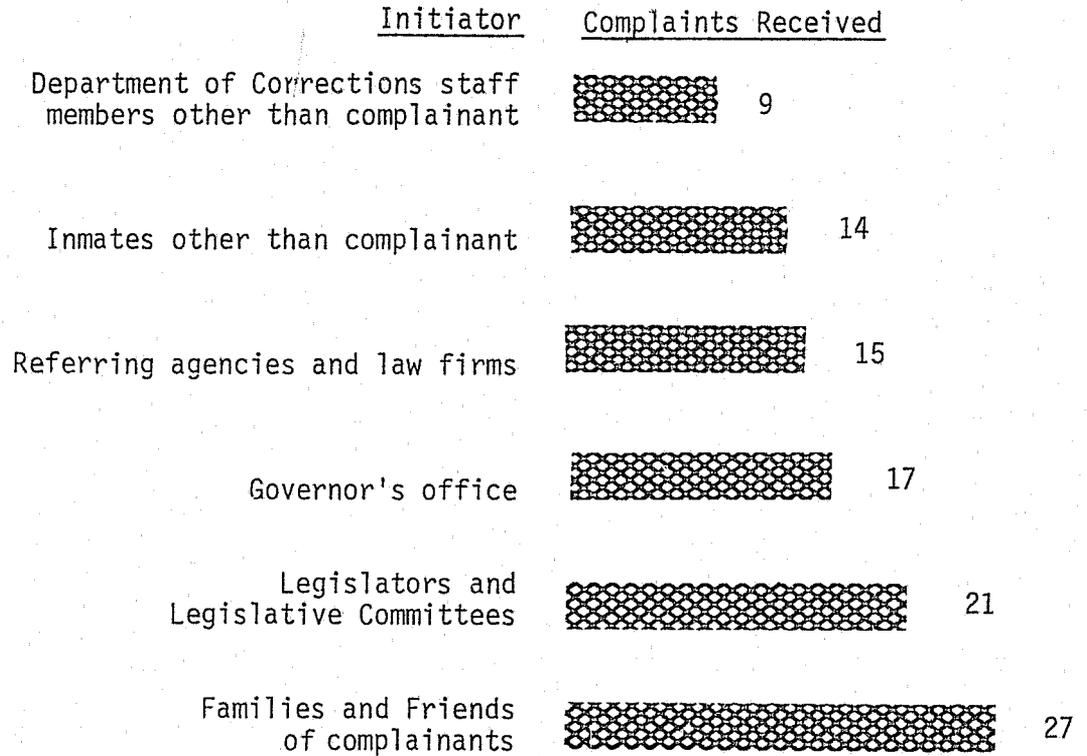


Figure 9

How the Ombudsman First Responded to Complaints
(July 1, 1978 - June 30, 1979)

	All Complaints*		KSP Complaints		KSIR Complaints		KCIW Complaints	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Letter	184	33.0%	71	18.5%	59	67.8%	11	36.7%
Personal	342	61.3%	297	77.6%	19	21.8%	18	60.0%
Phone	32	5.7%	15	3.9%	9	10.4%	1	3.3%
Total:	558	100%	383	100%	87	100%	30	100%

Figure 10

Ombudsman's Response Time
(July 1, 1978 - June 30, 1979)

Calendar Day: to First Response:	All Complaints*		KSP Complaints		KSIR Complaints		KCIW Complaints	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
0 - 7 days	488	87.5%	333	87.0%	78	89.7%	24	80.0%
8 - 14 days	51	9.1%	40	10.4%	8	9.2%	1	3.3%
15+ days	19	3.4%	10	2.6%	1	1.1%	5	16.7%
Total:	558	100%	383	100%	87	100%	30	100%

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

Figure 11

Nature of the Complaints
(July 1, 1978 - June 30, 1979)

Categories:	(a)		(b)		(c)		(d)	
	All Complaints Number	Percent	KSP Complaints Number	Percent	KSIR Complaints Number	Percent	KCIW Complaints Number	Percent
<u>Care and Maintenance</u>								
Food	10	1.8%	6	1.5%	2	2.3%	1	3.3%
Medical	71	12.7%	57	14.9%	2	2.3%	3	10.0%
Recordkeeping	44	7.9%	36	9.4%	6	6.9%	0	--
Visiting	21	3.8%	18	4.7%	3	3.5%	0	--
Physical Facilities	12	2.1%	11	2.9%	0	--	0	--
Mail	19	3.4%	13	3.4%	2	2.3%	3	10.0%
Sub-total	177	31.7%	141	36.8%	15	17.3%	7	23.3%
<u>Security and Safety</u>								
Physical Threat	26	4.7%	19	5.0%	6	6.9%	0	--
Property Loss	52	9.3%	40	10.4%	10	11.5%	0	--
Sub-total:	78	14.0%	59	15.4%	16	18.4%	0	--
<u>Maintenance of Institutional Order</u>								
Disciplinary Procedure	33	5.9%	20	5.2%	7	8.1%	1	3.3%
Daily Routine	18	3.2%	10	2.6%	1	1.1%	3	10.0%
Sub-total:	51	9.1%	30	7.8%	8	9.2%	4	13.3%
<u>Rehabilitation</u>								
Inmate Activity								
Group	2	.4%	2	.5%	0	--	0	--
Parole	22	3.9%	17	4.5%	1	1.1%	2	6.7%
Counseling, Mental Health	3	.6%	2	.5%	1	1.1%	0	--
Education, Work, Training	13	2.3%	10	2.6%	3	3.5%	0	--
Custody Status, Parole Eligibility, Transfers	72	12.9%	47	12.3%	10	11.5%	8	26.7%
Sub-total:	112	20.1%	78	20.4%	15	17.2%	10	33.4%
<u>Miscellaneous</u>								
Internal Grievance Complaints Against Staff	16	2.9%	12	3.1%	2	2.3%	1	3.3%
Legal	28	5.0%	21	5.5%	5	5.7%	1	3.3%
Others	24	4.3%	11	2.9%	10	11.5%	0	--
Unknown	56	10.0%	22	5.7%	14	16.1%	6	20.1%
Sub-total:	16	2.9%	9	2.4%	2	2.3%	1	3.3%
Sub-total:	140	25.1%	75	19.6%	33	37.9%	9	30.0%
TOTAL:	558	100%	383	100%	87	100%	30	100%

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

Figure 12

Assessments of Complaints
(July 1, 1978 - June 30, 1979)

Assessments:	(a) All Assessments*		(b) KSP Assessments		(c) KSIR Assessments		(d) KCIW Assessments	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Discrepant Action	346	62.0%	272	71.0%	45	51.7%	12	40.0%
Policy Issue	31	5.5%	20	5.2%	4	4.6%	3	10.0%
Explanation	40	7.2%	29	7.6%	5	5.8%	2	6.7%
Outside Jurisdiction	56	10.0%	21	5.5%	13	14.9%	3	10.0%
Not Conducive to Investigation	58	10.4%	27	7.0%	14	16.1%	8	26.7%
Crisis	6	1.1%	5	1.3%	0	--	0	--
Unknown	21	3.8%	9	2.4%	6	6.9%	2	6.6%
Total:	558	100%	383	100%	87	100%	30	100%

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

Figure 13

Dispositions of Complaints
(July 1, 1978 - June 30, 1979)

<u>Dispositions:</u>	(a) All Dispositions*		(b) KSP Dispositions		(c) KSIR Dispositions		(d) KCIW Dispositions	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
<u>Direct Intervention Between Complainant and the Department of Corrections:</u>								
Recommendation for Corrective Action:								
Fully Accepted	91	16.3%	76	19.8%	6	6.9%	4	13.4%
Partially Accepted	5	.9%	4	1.0%	0	--	0	--
Not Accepted	3	.6%	2	.5%	1	1.2%	0	--
Facilitated Communication	37	6.6%	14	3.7%	17	19.5%	0	--
Observed and Monitored	76	13.6%	56	14.6%	8	9.2%	8	26.7%
Unfounded	61	10.9%	50	13.1%	6	6.9%	1	3.3%
Sub-total:	273	48.9%	202	52.7%	38	43.7%	13	43.4%
<u>Indirect Intervention Between Complainant and the Department of Corrections:</u>								
Information and Referral	143	25.6%	79	20.6%	25	28.8%	9	30.0%
<u>Incompleted Intervention:</u>								
Withdrawn	94	16.9%	68	17.8%	13	14.9%	7	23.3%
Solved Prior	48	8.6%	34	8.9%	11	12.6%	1	3.3%
Sub-total:	142	25.5%	102	26.7%	24	27.5%	8	26.6%
Total:	558	100%	383	100%	87	100%	30	100%

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

Figure 14

Management Levels at Which Complaints Were Resolved
(June 1, 1978 - June 30, 1979)

Levels within the Department of Corrections	All Complaints*		KSP Complaints		KSIR Complaints		KCIW Complaints	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Line	79	14.2%	59	15.4%	7	8.1%	3	10.0%
Line Supervisors	117	21.0%	96	25.1%	12	13.8%	2	6.7%
Professional Staff	45	8.1%	35	9.1%	7	8.0%	2	6.7%
Middle Management	31	5.6%	18	4.7%	2	2.3%	3	10.0%
Directors	36	6.4%	27	7.1%	2	2.3%	4	13.3%
Secretary	6	1.1%	2	.5%	2	2.3%	0	--
Sub-total	314	56.4%	237	61.9%	32	36.8%	14	46.7%
Levels External to the Department of Corrections	26	4.6%	15	3.9%	7	8.0%	1	3.3%
Referral Resources	23	4.1%	12	3.1%	4	4.6%	1	3.3%
Sub-total	49	8.7%	27	7.0%	11	12.6%	2	6.6%
None	195	34.9%	119	31.1%	44	50.6%	14	46.7%
Total	558	100%	383	100%	87	100%	30	100%

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

Figure 15

Contacts Made in Resolving Complaints

(July 1, 1978 - June 30, 1979)

(a)
Comparison of Number of
Complaints with Contacts

<u>Institutions</u>	<u>Total Contacts per Institution</u>		<u>Number of Complaints per Institution</u>		<u>Average Number of Contacts per Complaint</u>	<u>Percentage of Contacts per Institution</u>
KSP	2,720	÷	383	=	7.1	72.6%
KSIR	496	÷	87	=	5.7	13.3%
KCIW	145	÷	30	=	4.8	3.9%
Other	383	÷	58	=	6.6	10.2%
Total:	3,744	÷	558	=	6.7	100%

(b)
Individual Contacts

	<u>Complainant</u>		<u>DOC Staff</u>		<u>Outside DOC</u>		<u>Total</u>
KSP	1,382	+	1,103	+	235	=	2,720
KSIR	250	+	153	+	93	=	496
KCIW	88	+	36	+	21	=	145
Other	190	+	101	+	92	=	383
Total:	1,910	+	1,343		441	=	3,744
Percent:	(51%)	+	(37.2%)		(11.8%)	=	(100%)

(c)
Form of Contact

	<u>Letter</u>		<u>Personal</u>		<u>Phone</u>		<u>Total</u>
KSP	658	+	1,804	+	258	=	2,720
KSIR	280	+	125	+	91	=	496
KCIW	61	+	67	+	17	=	145
Other	138	+	95	+	150	=	383
Total:	1,137	+	2,091	+	516	=	3,744
Percent:	(30.4%)	+	(55.8%)	+	(13.8%)	=	(100%)

Appendix I

STAFF BIOGRAPHIES

Preston N. Barton, II -- Ombudsman

Preston Barton is a member of the Board of Directors of the United States Association of Ombudsmen, the Ombudsman Advisory Committee of the International Bar Association and the Academy of Certified Social Workers (ACSW). He is a Licensed Specialist Clinical Social Worker (LSCSW). He attended Willington College in Willington, Ohio and holds a Bachelor's Degree (1965) with a concentration in Social Welfare from the School of Education at Temple University in Philadelphia, Pennsylvania. He completed the two years Master's Degree program in Social Work at the University of Pennsylvania School of Social Work, in Philadelphia. During his senior year in college and two years in graduate training, he did field training at the Pennsylvania Prison Society, also in Philadelphia. At this now 192 year old private agency dedicated to prison reform and the provision of direct services to prisoners and releasees, he provided short and long term counseling with adult inmates and parolees, and with some youthful offenders and their parents.

After graduation, he remained at the Prison Society as a staff member for nearly a year before entering the U.S. Army with a direct commission as a captain. Following two months of Medical Service Corps training, he was assigned to the U.S. Army Correctional Training Facility at Fort Riley, Kansas, in May, 1968. Two months later, this innovative facility began 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 the Legal Setting," which was published in the April, 1975, issue of Social Casework. After teaching for two years, he left to accept a Social Work Fellowship in the 12-month Post Master's Social Work Training Program in the Menninger School of Psychiatry. While participating in this program during 1974 and 1975, he did his practicum in clinical social work at the C.F. Menninger Memorial Adult Hospital.

In addition to his formal work and training experience, Preston has been active in continuing education 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 "Institutional Techniques," "Social Research," "Pschopharmacology," and a variety of programs relating to corrections including

volunteers in corrections, hostage negotiations, inmate grievance procedures, and negotiations and collective bargaining. Preston was a delegate to the First International Ombudsman Conference in Edmonton, Alberta, Canada (1976), and the First and Second U. S. Association of Ombudsmen Conferences held respectively in Seattle, Washington (1977) and Dayton, Ohio (1978). He participated in the U. S. Conferences as a panel reactor and workshop facilitator.

He was previously active as a volunteer, consultant and board member of various community organizations. These included the Shawnee County Community Resources Council, the Kansas Council on Crime and Delinquency, the 7th Step Foundation of Topeka, Inc., the Citizens' Jail Survey Project for Kansas, the Shawnee County Youth Center and the Topeka Chapter of the Kansas Council on Crime and Delinquency for which he served as Chairman. Currently, he is a member of the National Association of Social Workers, the 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 Corrections Ombudsman Board. In this capacity he also functions as Executive Secretary to the Board.

David R. Jensen -- Ombudsman Associate

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

David traces his career in corrections back to a series of chance events. After graduating from high school, David had no idea where he wanted to attend college, or what field he wanted to pursue. However, when the football coach from Washburn University in Topeka offered David a scholarship to play football, it was an easy decision. Once at Washburn, David happened to overhear another student talking about a psychology practicum with the Shawnee County Adult Probation Office. His curiosity aroused, David enrolled in the course. After finding the work to be challenging and rewarding, he checked around and found that Washburn actually offered a major in Corrections. David signed up for a Corrections internship with the same office, but his internship was shorter than expected because he was hired as an adult probation officer in March, 1973. Working full-time, David hung on to complete his requirements for a Bachelor of Arts degree with a double major in Psychology and Corrections in August, 1974.

David worked for three and a half years as an adult probation officer for Shawnee County Adult Probation, which became a part of the consolidated Shawnee County Court Services. As an adult probation officer, David's primary duties were to prepare pre-sentence investigations, and to counsel and supervise adults convicted in the magistrate and district courts. From May, 1976 until the end of August, 1976, David also worked weekends as a juvenile intake officer with Court Services. His responsibilities were to evaluate and make decisions as to detention and/or processing youths through or outside the court system. While with Court Services, David also served as a volunteer probation sponsor, went on a week-long canoe trip to Minnesota with a group of court-referred youths, and worked with a drug "rap group" as a volunteer leader.

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

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

In addition to his formal educational experiences, David developed his skills prior to joining the Ombudsman Office by participating in the following workshops and seminars: drug education, reality therapy, gestalt therapy, alcoholism, group work, assertiveness training, and probation and parole techniques. While with the Ombudsman Office, David has attended the following workshops and seminars: "Introduction to Personnel Policies and Procedures," "Investigations in Ombudsman Offices", "Managerial Problem-solving and Decision-making," "Correctional Management Training", "The Microcomputer Revolution and the Small or Medium-sized Agency", and "Effective Report Writing".

Pamela S. Goodman -- Administrative Secretary

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

After graduating from high school, where her major interests included debate, forensics and music (vocal, instrumental and theory), Pam attended a year of college at Faith Baptist Bible College in Ankeny, Iowa. Since that time she has furthered her studies in many diverse areas -- from auto mechanics to wood carving. Before beginning with the Ombudsman Office, she attended seminars on assertiveness training and time management. She has since attended seminars on "Investigations in Ombudsman Offices", "Effective Report Writing", and "The Microcomputer Revolution and the Small or Medium-sized Agency."

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

Her interests lie in many fields. She enjoys participating in sports like basketball, football, tennis and swimming; creating and listening to music; making crafts; cooking; and spending time with her family and friends.

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

Mary A. David -- Graduate Student

Mary David joined the staff of the Office of the Ombudsman as a graduate student of Kansas University's School of Social Welfare. During the academic year of 1978 - 1979, she provided assistance for complaint handling at the Kansas State Penitentiary for men.

Before coming to work at the Ombudsman Office, Mary had been employed by the Hutchinson, Kansas, Community College. In the position of College Counselor, she was located at the Kansas State Industrial Reformatory for the purpose of advising inmates participating in the Reformatory's Associate of Arts degree program. As the program was contracted by the Community College, Mary was responsible for providing special student services to the inmates, such as personal counseling, liaison between the student and instructor, coordination of the curriculum, and the schedule and organization of the awards and graduation ceremony.

While living in Hutchinson, Mary also became involved as a volunteer "parent-aide" for the local Social and Rehabilitative Services Office. As a parent-aide, she was assigned to several Protective Services cases to provide intensive support services to the family. Other experiences of Mary's include: being a houseparent in a residential treatment facility, substitute teaching and working as a hospital pharmacy technician.

Aside from school and work, Mary has a wide range of interests -- making pottery, quilting, reading, music, and sharing good times with close friends. One of her greatest loves is traveling. In the past few years, she has traveled to several European countries and the Asian countries of India and Nepal. Mary finds that experiencing another culture helps her to gain a better perspective of her own culture.



Appendix II

DEFINITION OF TERMS

Categories of Complaints

A. Care and Maintenance:

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

B. Safety and Security:

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

C. Maintenance of Institutional Order:

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

D. Rehabilitation:

11. Inmate Activity Group - Institutional and Departmental relations with inmate self-help groups and their outside sponsoring organizations.
12. Parole - Complaints relating to the Kansas Adult Authority.
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, Parole Eligibility, and Transfers - Process of forming and reporting decisions about custody level, certification to see the Kansas Adult Authority, home furloughs, funeral visits, and institutional and cell house transfers.

E. Miscellaneous:

16. Internal Grievance Procedure - Management of inmate complaints through informal and formal steps of the Department of Corrections' Inmate Grievance Procedure
17. Complaints Against Staff - Prejudicial and arbitrary behavior.
18. Legal - Court procedures and the processing of legal documents.
19. Other - Complaints which do not fit within any of the above categories, or are from staff (except for property loss).
20. Unknown - Withdrawn or solved prior to the collection of sufficient information to categorize.

Assessments of Complaints:

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

Dispositions of Complaints

- A. Direct Intervention Between Complainant and the Department of Corrections:
 1. Recommendation for Corrective Action - A verbal and/or written recommendation for 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 - Ombudsman presence in a situation for the purpose of preventing deviations from policy or preventing susceptibility of false allegations of such.
 4. Unfounded Complaints - No basis in fact; totally without merit.

- B. Indirect Intervention Between the Complainant and the Department of Corrections.
 - 5. Information and/or Referral - Complainant provided with information on how to solve problem, and/or referred to other resources. Also, information provided about operation of Ombudsman Office, Department of Corrections, and other agencies.
 - 6. Withdrawn - Complainant requested Ombudsman take no further action, or failed to follow through with requests or recommendations made by Ombudsman.
 - 7. Solved Prior - Resolved before completion of Ombudsman's investigation and report of his findings.

Management Levels within the Department of Corrections involved in the Resolution of Complaints

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



Appendix III

STATUTORY CITATIONS

**Article 74.—CORRECTIONS
OMBUDSMAN BOARD**

Cross Reference to Related Sections:

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

74-7401. Corrections ombudsman board; composition; appointment; terms; vacancies; officers; compensation and expenses; powers and duties; access to corrections records and facilities. (a) There is hereby established and created as an independent agency within the executive branch of state government, the corrections ombudsman board. Prior to September 1, 1980, such board shall consist of fifteen (15) members, three (3) of whom shall be appointed by the governor; three (3) of whom shall be appointed by the attorney general; three (3) of whom shall be appointed by the chief justice of the supreme court; three (3) of whom shall be appointed by the speaker of the house of representatives; and, three (3) of whom shall be appointed by the president of the senate. On and after September 1, 1980, such board shall consist of ten (10) members, two (2) of whom shall be appointed by the governor, two (2) of whom shall be appointed by the attorney general; two (2) of whom shall be appointed by the chief justice of the supreme court; two (2) of whom shall be appointed by the speaker of the house of representatives; and, two (2) of whom shall be appointed by the president of the senate.

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

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

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

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

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

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

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

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

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

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

Revisor's Note:

Section transferred from 75-5230.

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

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

74-7403. Ombudsman of corrections; appointment; duties; compensation; office space; employees; complaints forwarded to secretary of corrections. The board shall appoint an ombudsman of corrections who shall serve at the pleasure of such board. Such ombudsman shall act as secretary of such board and shall perform such other duties and functions as may be required by the board. The compensation paid to such ombudsman shall be fixed by the board subject to approval by the governor. The secretary of administration shall provide the ombudsman with office space at Topeka. The ombudsman may appoint such employees as may be necessary to carry out the duties of the office of ombudsman of corrections and as are within available appropriations, and such employees shall be in the unclassified service under the Kansas civil service act. Any misfeasance or discrepancy in administration or any unreasonable treatment of inmates in the custody of the secretary of corrections which such ombudsman discovers or the inmates bring to his or her attention shall be brought to the attention of the secretary of corrections and shall be made known in periodic reports and in an annual report issued by the ombudsman to the board. The ombudsman shall forward complaints and grievances directly to the secretary of corrections for consideration by the secretary.

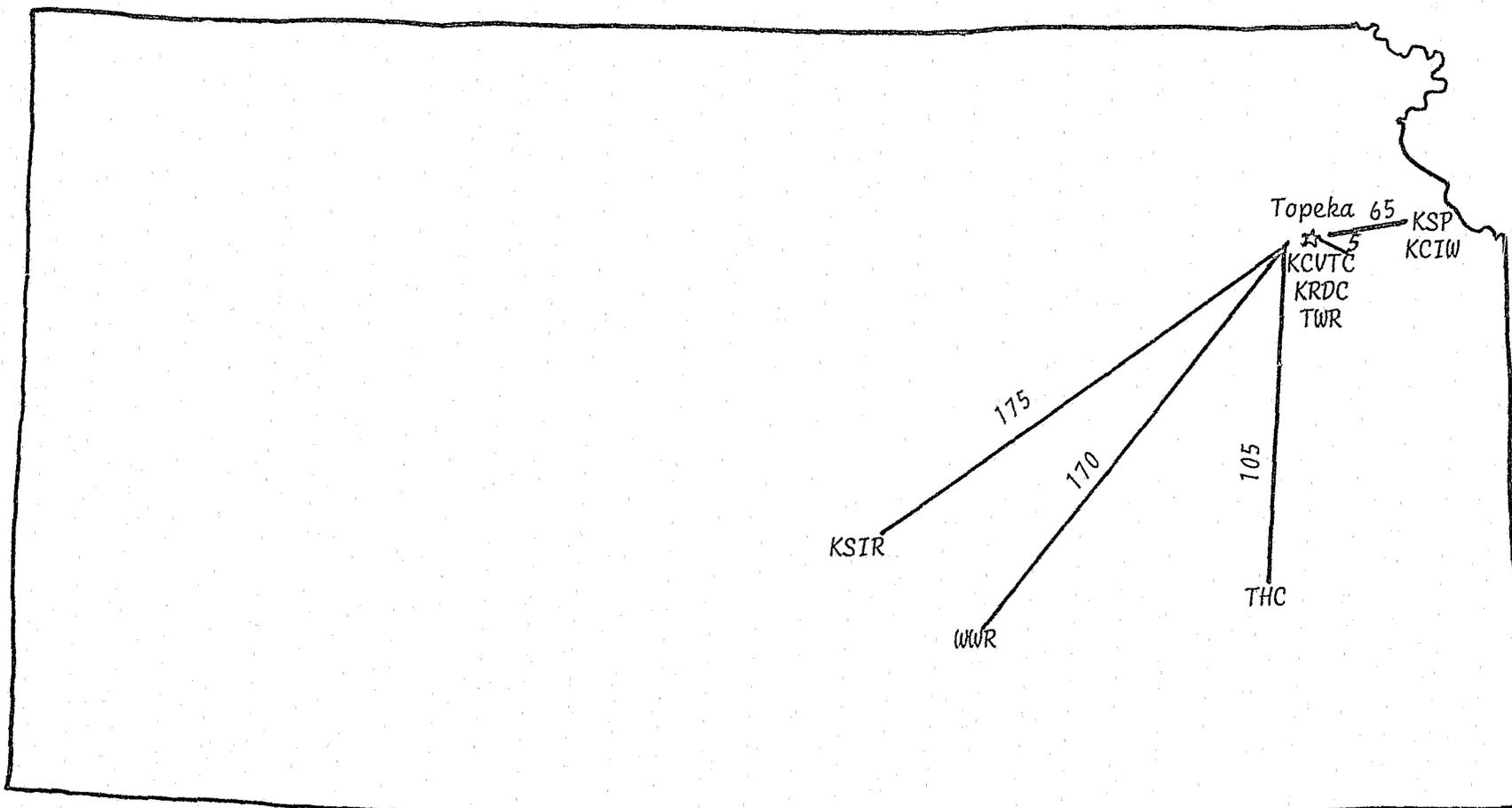
History: K.S.A. 75-5231; L. 1978, ch. 370, § 3; L. 1978, ch. 330, § 41; July 1.

Revisor's Note:

Section transferred from 75-5231.

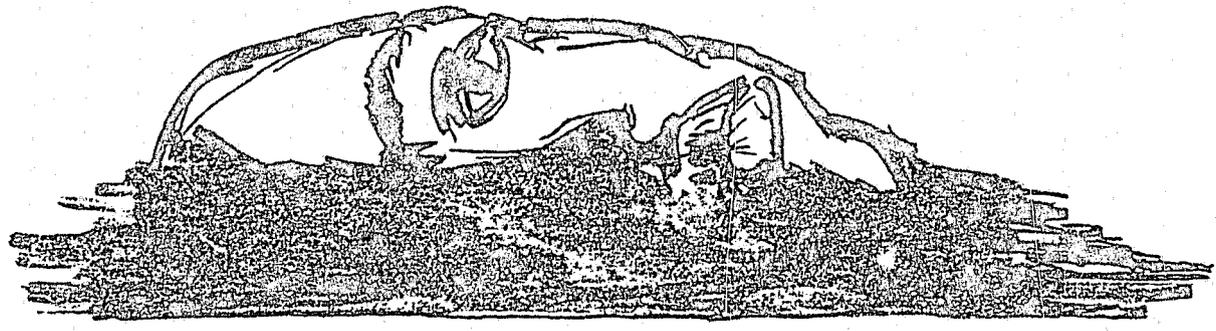
Appendix IV

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



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

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



LEGISLATIVE PROPOSAL FOR GENERAL
JURISDICTION STATE OMBUDSMAN

Session of 1979

HOUSE BILL No. 2281

By Representatives Gibson, Cooper, Eddy, Foster, Heinemann,
D., Hensley, Hess and Sughrue

1-31

0017
0018 AN ACT creating the office of ombudsman; authorizing the
0019 investigation of certain administrative acts of certain state
0020 agencies and establishing standards and procedures therefor;
0021 providing for reports of opinions and recommendations with
0022 respect to such administrative acts; prohibiting certain acts
0023 and prescribing penalties therefor.

0024 *Be it enacted by the Legislature of the State of Kansas:*

0025 Section 1. As used in this act:

0026 (a) "Administrative act" means any action, omission, deci-
0027 sion, recommendation, practice or procedure of a state agency,
0028 but does not include the preparation or presentation of legislation
0029 by a state agency.

0030 (b) "Stage agency" means any state officer, office, depart-
0031 ment, institution, commission, board, authority or other govern-
0032 mental entity, or any officer, employee or member thereof acting
0033 or purporting to act in the exercise of his or her official duties, but
0034 does not include:

0035 (1) The legislature or any committee, council, officer, member
0036 or employee thereof;

0037 (2) any justice, judge, commissioner, council, commission,
0038 officer or employee of the judicial branch; or

0039 (3) any political subdivision of the state or any agency, officer
0040 or employee thereof.

0041 Sec. 2. (a) There is created in the legislative branch of the
0042 state government the office of ombudsman.

0043 (b) The ombudsman shall be appointed by the ombudsman
0044 selection committee as provided in section 2, subject to confir-

0046 legislature. The first person appointed to the office of ombuds-
0047 man under this act shall be appointed on or before January 1,
0048 1980, and shall take office on that date, subject to confirmation by
0049 the legislature.

0050 (c) The ombudsman shall serve for a term of four (4) years
0051 from the date he or she takes office. No person shall serve as
0052 ombudsman for more than three (3) terms. If the term of an
0053 ombudsman expires prior to the appointment of a successor, the
0054 incumbent ombudsman may continue in office until a successor
0055 is appointed. If a vacancy occurs in the office of ombudsman for
0056 any reason other than expiration of a term, the deputy ombuds-
0057 man shall become acting ombudsman until a successor is ap-
0058 pointed, and such successor shall be appointed for a full term.

0059 (d) The ombudsman shall be in the unclassified civil service
0060 of the Kansas civil service act and shall receive an annual salary
0061 equal to that paid by the state to district judges.

0062 Sec. 3. (a) There shall be appointed, at the times provided in
0063 subsection (b), an ombudsman selection committee which shall
0064 be composed of three (3) state senators, to be appointed by the
0065 president of the senate and three (3) state representatives, to be
0066 appointed by the speaker of the house of representatives. At least
0067 one member from each house shall be of the minority party.

0068 (b) The ombudsman selection committee shall be appointed:

0069 (1) Not less than ninety (90) days prior to January 1, 1980;

0070 (2) not less than ninety (90) days prior to the expiration of the
0071 term of any ombudsman; and

0072 (3) not more than fifteen (15) days after a vacancy occurs in
0073 the office of ombudsman for any reason other than expiration of
0074 the term of an ombudsman.

0075 (c) Upon appointment, the ombudsman selection committee
0076 shall organize by electing from among its membership a chair-
0077 person and vice-chairperson.

0078 (d) The ombudsman selection committee shall meet on call of
0079 the chairperson during the legislative session when authorized by
0080 the president of the senate and the speaker of the house of
0081 representatives and in the interim when authorized by the legis-
0082 lative coordinating council.

0083 (e) Any four (4) members of the ombudsman selection com-
0084 mittee shall constitute a quorum for action by the committee, and
0085 such action may be taken by a majority of those members present.

0086 (f) Members of the ombudsman selection committee shall
0087 serve until an ombudsman appointed by the committee is con-
0088 firmed by a majority of the members of each house of the
0089 legislature.

0090 (g) The joint ombudsman selection committee shall examine
0091 the qualifications and ability of persons who are candidates for
0092 appointment to the office of ombudsman. The committee shall
0093 appoint a person to such office and shall submit the appointment
0094 to the legislature for confirmation at the next legislative session
0095 following such appointment. A person appointed as ombudsman
0096 may take office pending confirmation by the legislature.

0097 Sec. 4. (a) No person shall serve as ombudsman:

0098 (1) While such person is a candidate for or holds any other
0099 national or state office; or

0100 (2) while such person is engaged in any other occupation for
0101 which such person receives compensation.

0102 (b) No person who serves as ombudsman shall become a
0103 candidate for any national or state office within two (2) years
0104 from the date such person vacates the office of ombudsman.

0105 (c) It is essential that the nonpartisan nature, integrity and
0106 impartiality of the ombudsman's functions and services be
0107 maintained. The ombudsman and members of the ombudsman's
0108 staff may not join, support or otherwise participate in a partisan
0109 political organization, faction or activity, including, but not lim-
0110 ited to, the making of political contributions. However, this
0111 subsection shall not restrict the ombudsman or members of the
0112 ombudsman's staff from expressing private opinions, declaring a
0113 party affiliation or voting.

0114 Sec. 5. The legislature, by a concurrent resolution adopted by
0115 a roll call vote of two-thirds of the members in each house entered
0116 in the journals, may remove or suspend the ombudsman from
0117 office, but only for neglect of duty, misconduct or disability.

0118 Sec. 6. (a) The ombudsman may employ a deputy ombuds-
0119 man and shall employ such assistants and clerical personnel as

0120 necessary to carry out the provisions of this act. At least one of the
0121 ombudsman's assistants shall be an attorney licensed to practice
0122 law in this state.

0123 (b) The ombudsman may delegate to his or her deputy or
0124 assistants any of his or her duties except those specified in section
0125 17 and subsections (a) and (b) of section 18; however, during the
0126 ombudsman's absence from his or her office, the ombudsman
0127 may delegate the duties specified in section 17 and subsections
0128 (a) and (b) of section 18 to his or her deputy for the period of the
0129 absence. Duties specified in section 17 and subsections (a) and
0130 (b) of section 18 shall be performed by the deputy when such
0131 deputy is serving as acting ombudsman under section 2.

0132 (c) The office of ombudsman shall be under the direct super-
0133 vision of the ombudsman. All employees in the ombudsman's
0134 office shall be in the unclassified civil service of the Kansas civil
0135 service act and shall be employed by and responsible to the
0136 ombudsman, who shall fix the compensation of each employee,
0137 within appropriations available therefor.

0138 (d) The ombudsman and employees in the ombudsman's of-
0139 fice shall be covered by the state group health plan and Kansas
0140 public employees retirement system to the same extent as other
0141 state employees and shall receive travel expenses and subsistence
0142 allowances as provided for other state employees.

0143 (e) The budget estimate of the ombudsman shall be submitted
0144 by the office to the director of the budget as other budget
0145 estimates are submitted.

0146 (f) The office of the ombudsman shall be located in the city of
0147 Topeka. The legislative coordinating council shall provide suit-
0148 able office space and equipment for the ombudsman and the
0149 ombudsman's staff.

0150 Sec. 7. The ombudsman shall establish procedures for re-
0151 ceiving and processing complaints, conducting investigations,
0152 and reporting findings. The ombudsman shall not charge any fee
0153 for the submission or investigation of complaints.

0154 Sec. 8. (a) The ombudsman shall have jurisdiction to inves-
0155 tigate the administrative acts of state agencies.

0156 (b) The ombudsman may exercise his or her powers without

0157 regard to the finality of an administrative act.

0158 Sec. 9. The ombudsman shall investigate any complaint
0159 which is an appropriate subject for investigation under section
0160 12, unless the ombudsman reasonably believes that:

0161 (a) There is presently available an adequate remedy for the
0162 grievance stated in the complaint;

0163 (b) the complaint relates to a matter that is outside the juris-
0164 diction of the ombudsman;

0165 (c) the complaint relates to an administrative act of which the
0166 complainant has had knowledge for an unreasonable length of
0167 time before the complaint was submitted;

0168 (d) the complainant does not have a sufficient personal inter-
0169 est in the subject matter of the complaint;

0170 (e) the complaint is trivial or made in bad faith; or

0171 (f) the resources of the ombudsman's office are insufficient
0172 for adequate investigation.

0173 Sec. 10. The ombudsman may investigate the administrative
0174 act of any state agency on his or her own motion if the ombuds-
0175 man reasonably believes that it is an appropriate subject for
0176 investigation under section 12.

0177 Sec. 11. (a) If the ombudsman decides not to investigate a
0178 complaint, the ombudsman shall inform the complainant of that
0179 decision and shall state the reasons therefor.

0180 (b) If the ombudsman decides to investigate a complaint, the
0181 ombudsman shall notify the complainant of his or her decision.

0182 (c) If the ombudsman decides to investigate a complaint, the
0183 ombudsman shall notify the agency of his or her intention to
0184 investigate unless the ombudsman believes that advance notice
0185 will unduly hinder the investigation or make it ineffectual.

0186 Sec. 12. (a) An appropriate subject for investigation by the
0187 ombudsman is an administrative act of any state agency which
0188 the ombudsman has reason to believe might be:

0189 (1) Contrary to law;

0190 (2) unreasonable, unfair, oppressive, arbitrary, capricious,
0191 and abuse of discretion or unnecessarily discriminatory, even
0192 though in accordance with law;

0193 (3) based on a mistake of fact;

- 0194 (4) based on improper or irrelevant grounds;
0195 (5) unsupported by an adequate statement of reasons;
0196 (6) performed in an inefficient or discourteous manner; or
0197 (7) otherwise erroneous.

0198 (b) The ombudsman may investigate to find an appropriate
0199 remedy.

0200 Sec. 13. The ombudsman shall not have the jurisdiction to
0201 investigate or take action upon any matter which is within the
0202 jurisdiction of the ombudsman of corrections under K.S.A. 1978
0203 Supp. 74-7403 and amendments thereto unless such matter is
0204 referred to the ombudsman by the ombudsman of corrections.

0205 Sec. 14. (a) In an investigation, the ombudsman may:

0206 (1) Make inquiries and obtain information as the ombudsman
0207 considers necessary;

0208 (2) enter without notice to inspect the premises of any state
0209 agency, but only when agency personnel are present; and

0210 (3) hold private hearings.

0211 (b) The ombudsman shall maintain confidentiality with re-
0212 spect to all matters and the identities of the complainants or
0213 witnesses coming before the ombudsman except insofar as dis-
0214 closures may be necessary to enable the ombudsman to carry out
0215 his or her duties and to support his or her recommendations.

0216 Sec. 15. (a) Subject to the privileges which witnesses have in
0217 the courts of this state, the ombudsman may:

0218 (1) Compel by subpoena, at a specified time and place, the
0219 appearance and sworn testimony of a person who the ombuds-
0220 man reasonably believes may be able to give information relating
0221 to a matter under investigation; and

0222 (2) compel a person, by subpoena, to produce documents,
0223 papers, or objects which the ombudsman reasonably believes
0224 may relate to the matter under investigation.

0225 (b) If a person refuses to comply with a subpoena issued
0226 under (a) of this section, the district court of any county may, on
0227 application of the ombudsman, compel obedience by proceed-
0228 ings for contempt in the same manner as in the case of disobe-
0229 dience to the requirements of a subpoena issued by the court or
0230 refusal to testify in the court.

0231 Sec. 16. Before giving an opinion or recommendation which
0232 is critical of any person or state agency, the ombudsman shall
0233 consult with that agency or person.

0234 Sec. 17. (a) The ombudsman shall report his or her opinion
0235 and recommendations to a state agency if the ombudsman finds,
0236 after investigation, that:

- 0237 (1) A matter should be further considered by the agency;
- 0238 (2) an administrative act should be modified or canceled;
- 0239 (3) a statute or regulation on which an administrative act is
0240 based should be altered;
- 0241 (4) reasons should be given for an administrative act;
- 0242 (5) any other action should be taken by the agency;
- 0243 (6) there are no grounds for action by the agency; or
- 0244 (7) the agency's act was arbitrary or capricious, constituted an
0245 abuse of discretion, or was otherwise erroneous or not in accord-
0246 ance with the law.

0247 (b) The ombudsman may request the agency to notify the
0248 ombudsman within a specified time, of any action taken on the
0249 ombudsman's recommendations.

0250 Sec. 18. (a) Within a reasonable time after the ombudsman
0251 reports his or her opinion and recommendations to a state agency,
0252 the ombudsman may present his or her opinion and recommen-
0253 dations, which shall be accompanied by any reply of the state
0254 agency, to the governor, the legislature, a grand jury or the public,
0255 as the ombudsman deems appropriate.

0256 (b) If the ombudsman believes there is a breach of duty or
0257 misconduct by an officer or employee of a state agency in the
0258 conduct of official duties, the ombudsman shall refer the matter
0259 to the chief executive officer of the agency or, when appropriate,
0260 to a grand jury or to another appropriate official or agency.

0261 (c) Within a reasonable time after the ombudsman reports his
0262 or her opinion and recommendations to a state agency, the om-
0263 budsman shall notify the complainant of the actions taken by the
0264 ombudsman and by the state agency.

0265 Sec. 19. On or before December 1 of each year, the ombuds-
0266 man shall submit to the legislature and the public an annual
0267 report of the ombudsman's activities under this act. The om-

0268 budsman may issue such other periodic or special reports as he or
0269 she deems appropriate.

0270 Sec. 20. No proceeding or decision of the ombudsman may
0271 be reviewed in any court, unless it contravenes the provisions of
0272 this act, and the ombudsman shall have the same immunities
0273 from civil and criminal liability as a judge of this state. The
0274 ombudsman and his or her staff shall not be required to testify in
0275 any court with respect to matters coming to their attention in the
0276 exercise or purported exercise of their official duties.

0277 Sec. 21. Any letter to the ombudsman from a person in the
0278 custody or care of a state agency shall be forwarded immediately,
0279 unopened, to the ombudsman. Any letter from the ombudsman to
0280 a person in the custody or care of a state agency shall be delivered
0281 immediately, unopened, to the person.

0282 Sec. 22. This act in no way extends the time limit in which
0283 judicial review of agency action must be sought.

0284 Sec. 23. A person who willfully hinders the lawful actions of
0285 the ombudsman or the ombudsman's staff, or who willfully
0286 refuses to comply with their lawful demands, or who willfully
0287 violates section 21, is guilty of a misdemeanor punishable by a
0288 fine of not more than one thousand dollars (\$1,000).

0289 Sec. 24. This act shall take effect and be in force from and
0290 after its publication in the statute book.

CORRECTIONS OMBUDSMAN BOARD

(Formerly the Citizens' Advisory Board on Corrections)



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

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Preston N. Barton II, Ombudsman

Executive Secretary
Of The Corrections Ombudsman Board

Appendix VI

RECOMMENDATIONS CONCERNING GRIEVANCE FORMS

April 6, 1979

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Mr. Patrick D. McManus
Secretary of Corrections
Department of Corrections
535 Kansas Avenue, Suite 200
Agency Mail

Re: Lack of inmate access to grievance forms at the Kansas State Industrial Reformatory

Dear Mr. McManus:

This letter is a statement of concern regarding the formally established practice at the Kansas State Industrial Reformatory to provide Unit Team members with the discretionary authority to determine whether or not to provide an inmate with an Inmate Grievance Report Form. This policy is articulated in an interdepartmental memorandum from Mr. Gary Rayl, Director, to an inmate on December 29, 1978. The memorandum carries Mr. Rayl's signature block although it was apparently signed by Mr. Joseph A. Ruskowitz, Deputy Director of Programs. The following sentences are contained in that memorandum:

May I remind you that grievance forms are not arbitrarily passed to inmates without significant reason... Should a legitimate reason arise in which a grievance is warranted, I am sure the Unit Team will work with you in dealing with the matter.

This delegation of authority to the Unit Team to determine whether or not to allow an inmate to file a grievance defeats the very essence of the grievance procedure, which is designed to provide senior administrative review of the actions of line and middle management staff. It also appears to be unnecessary because an inmate is required to document in the grievance his efforts to resolve the problem with line and middle management staff members or to explain why such an effort would be impractical or endangering to him.

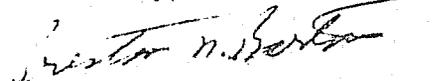
The Ombudsman Office has worked closely with the Department of Corrections in an effort to refine the Department's internal grievance procedure in a practical and realistic manner. During these conversations, I was assured that inmates were to receive Inmate Grievance Report Forms upon request. I reported that I had received repeated but undocumented allegations from inmates at all institutions, in which I had been involved, that they had from time to time been refused Inmate Grievance Report Forms. The Office of the Secretary of Corrections stated that such practice was not Departmental policy and

March 28, 1979

toilets. In talking with staff on March 12, 13, 14, and 19; Mr. Jensen learned that once the inmates arrive for their recreation period they cannot return to their cells unless permission is obtained from the Captain's Office. It was understood that needing to use a toilet is not reason for an inmate to return to his cell. It was also learned that if permission is given and an inmate returns to his cell, that he has to remain in his cell and lose the privilege of having a full recreation period.

Our investigation shows that there is a definite problem. This problem has been identified by both staff and inmates and effects, with few exceptions, the 877 inmates at KSIR (total inmate population on February 28, 1979 according to Department of Corrections' statistics). While it is a questionable practice to schedule recreation immediately after the evening meal, it is certainly an unrealistic practice to expect the inmates to be able to exercise for either two or three hours after having eaten and not need to use a toilet. Inmates should not have to miss recreation period, or be returned to their cells early simply because they are unable to control their digestive system and need to use a toilet. Thus, it is recommended that access to toilets be provided to inmates in both the gym and outside yard. Your consideration of this concern and recommendation will be appreciated.

Sincerely,

Preston N. Barton
Ombudsman

psg

C: Mr. Carl Tramel,
Deputy Secretary of Management Services
Mr. Gary D. Rayl,
Director of Kansas State Industrial Reformatory

Department of Corrections

State of Kansas

PATRICK D. McMANUS, SECRETARY



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

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July 24, 1979

Mr. Preston N. Barton II, Ombudsman
Office of the Ombudsman for Corrections
503 Kansas Avenue - Suite 539
Topeka, Kansas 66603

Dear Mr. Barton:

This letter will serve to formally confirm the resolution of the problem you raised relating to lack of inmate access to grievance forms at the Kansas State Industrial Reformatory. I am in complete agreement with you that any effort to impede the smooth and easy access of inmates to the grievance procedure is a serious matter indeed. The staff at KSIR agreed completely and the memo which you cited in your letter was withdrawn and superceded by an institution order indicating that no staff, at any time, are to refuse inmates access to the grievance procedure.

In addition, as you know, the temporary regulations issued by the Department of Corrections contains a very clear statement in Section 44-13-101 on how grievance report forms shall be made available. In relevant part the rule states in Section B, "Inmate grievance report forms shall be made available to all inmates or shall be provided by the Unit Team member upon the request of any inmate. No staff member or employee shall refuse to give an inmate an inmate grievance report form when such inmate desires to file a grievance". Section C goes on to state, "No staff or employee shall refuse to sign and return a Form 9 or the inmate grievance report form showing that the inmate came to such person for assistance".

I trust that this will satisfactorily resolve the situation. I thank you for bringing to our attention an apparent deviation from this Departmental policy.

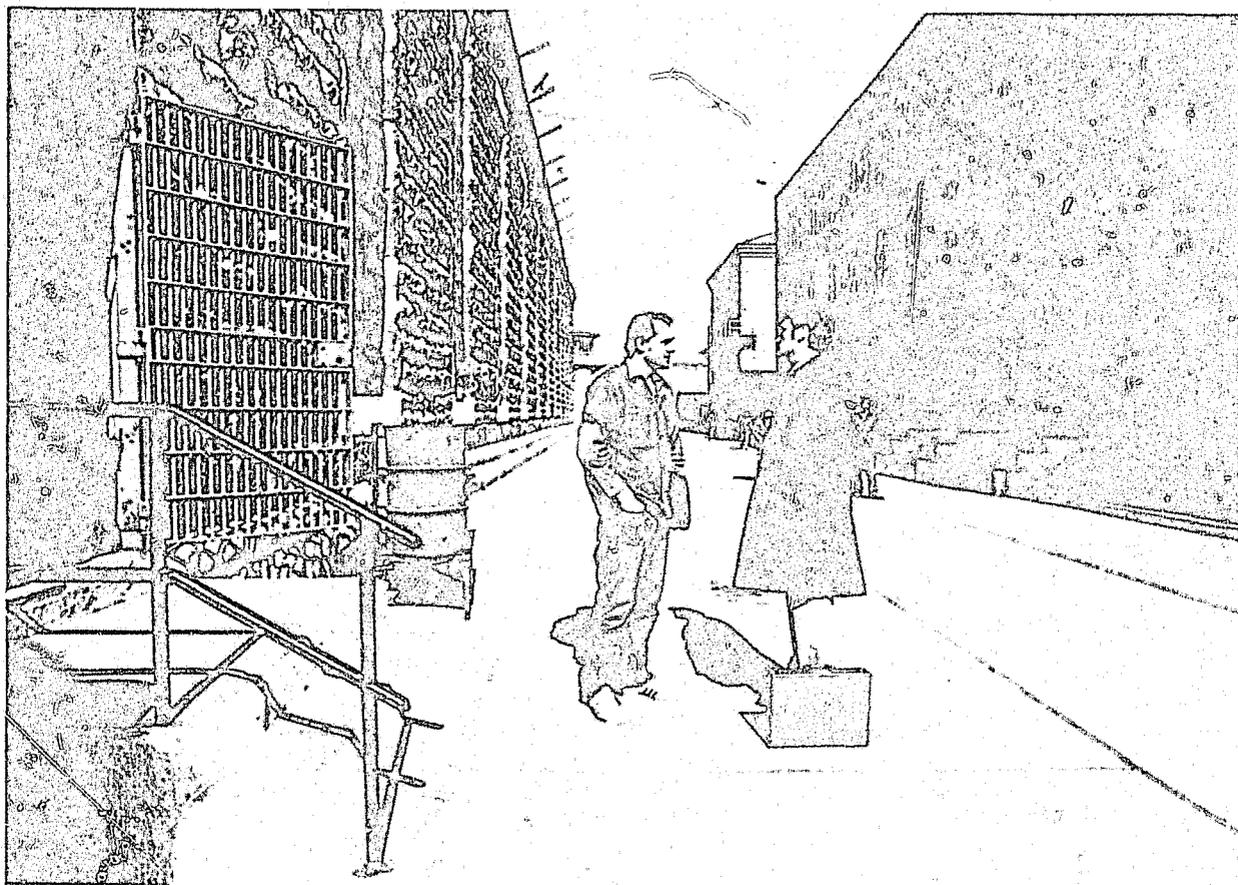
Sincerely,

A handwritten signature in cursive script that reads "Patrick D. McManus".

PATRICK D. McMANUS
Secretary of Corrections

PDM:dja

cc Mr. Carl Tramel, Deputy Secretary
Mr. Bernard J. Dunn, Legal Counsel
Mr. Gary D. Rayl, Director, KSIR



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Preston N. Barton II, Ombudsman
Executive Secretary
Of The Corrections Ombudsman Board

Appendix VII

RECOMMENDATION CONCERNING TOILET FACILITIES

March 28, 1979

Mr. Patrick D. McManus
Secretary of Corrections
Department of Corrections
535 Kansas Avenue, Suite 200
Agency Mail

Dear Mr. McManus:

This is a report of our investigation into the complaint that inmates at the Kansas State Industrial Reformatory (KSIR) do not have access to toilets during their recreation period.

This situation was recently brought to our attention when we received letters from a total of seven inmates from KSIR. The inmates complained that not having access to toilets during their recreation period is unreasonable, and has caused some inmates to choose not to go to their recreation period.

While visiting KSIR during the week of March 12, 1979, Mr. David Jensen, Ombudsman Associate, investigated and learned that inmates are presently allowed to go to the institution's gym twice a week for their recreation period. General population inmates go to the gym in two shifts either from 4:30 p.m. to 6:30 p.m. or from 6:30 p.m. to 8:30 p.m. Those inmates on the first shift go directly to the gym after eating their evening meal. When the outside yard opens on April 28, 1979, the inmates still will have recreation twice a week, but it will be from 4:30 p.m. until 7:30 p.m. All of the general population inmates would then go directly to the outside yard after eating their evening meal. Segregation and orientation inmates have their own recreation schedules, but use the same facilities as other inmates.

In touring the gym and outside yard areas, Mr. Jensen confirmed that inmates do not have access to toilets. There is a restroom and shower area behind a door at one end of the gym, but staff and inmates indicated that the door was kept locked because the area was too isolated and there had been problems with homosexual behavior. While denied access to toilets, inmates are allowed to use urinals which are available in the outside yard and in the gym behind a half wall. The inmates previously had access to a toilet which was located next to the urinal behind the half wall; but the toilet has since been removed.

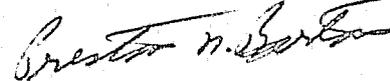
Since no toilets are available for inmates in either the gym or outside yard areas, Mr. Jensen investigated the possibility of inmates being allowed to return to their cells to use their

March 28, 1979

toilets. In talking with staff on March 12, 13, 14, and 19; Mr. Jensen learned that once the inmates arrive for their recreation period they cannot return to their cells unless permission is obtained from the Captain's Office. It was understood that needing to use a toilet is not reason for an inmate to return to his cell. It was also learned that if permission is given and an inmate returns to his cell, that he has to remain in his cell and lose the privilege of having a full recreation period.

Our investigation shows that there is a definite problem. This problem has been identified by both staff and inmates and effects, with few exceptions, the 877 inmates at KSIR (total inmate population on February 28, 1979 according to Department of Corrections' statistics). While it is a questionable practice to schedule recreation immediately after the evening meal, it is certainly an unrealistic practice to expect the inmates to be able to exercise for either two or three hours after having eaten and not need to use a toilet. Inmates should not have to miss recreation period, or be returned to their cells early simply because they are unable to control their digestive system and need to use a toilet. Thus, it is recommended that access to toilets be provided to inmates in both the gym and outside yard. Your consideration of this concern and recommendation will be appreciated.

Sincerely,



Preston N. Barton
Ombudsman

psg

C: Mr. Carl Tramel,
Deputy Secretary of Management Services
Mr. Gary D. Rayl,
Director of Kansas State Industrial Reformatory

Department of Corrections

State of Kansas

PATRICK D. McMANUS, SECRETARY



535 Kansas Avenue—Suite 200

Topeka, Kansas 66603

913 296-3317

July 24, 1979

Mr. Preston N. Barton II, Ombudsman
Office of the Ombudsman for Corrections
503 Kansas Avenue - Suite 539
Topeka, Kansas 66603

Dear Mr. Barton:

This is my response to your report on the complaint that inmates at the Kansas State Industrial Reformatory do not have access to toilets during their recreation period.

After considering your report and the institution's response I have determined that we are not in a position to respond to that particular situation at this time. While the situation may cause inconvenience to a few inmates on occasion, it does not seem to be significant enough to justify the financial cost or staff commitment necessary to remedy it.

Thank you for your continuing interest in improving corrections in Kansas.

Sincerely,

A handwritten signature in cursive script that reads "Patrick D. McManus".

PATRICK D. McMANUS
Secretary of Corrections

PDM:dja

cc Mr. Gary Rayl, Director
Kansas State Industrial Reformatory

Mr. Carl Tramel, Deputy Secretary
Kansas Department of Corrections



PROPERTY
LOSS
STUDY

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SUMMARY

This report is a study of 65 inmate property loss claims received by the Ombudsman for Corrections from November 1975 through December 1977. Data is presented describing how these complaints originated, what kinds of personal property were claimed to be damaged or lost, how damages or losses allegedly occurred, and what was done in response to these claims by the Kansas Department of Corrections, the Office of the Ombudsman for Corrections and the Joint Legislative Committee on Special Claims Against the State. Also an effort is made to assess delays in reporting losses, delays in reimbursing valid claims and the cost of this reimbursement procedure.

It was found that the cost in terms of the amount of people and number of agencies involved in the reimbursement procedure is disproportionate to the value of valid claims. The average amount of money reimbursed to inmate claimants was \$75.60. The range of reimbursements was from \$10.00 to \$360.00.

Another concern identified is the length of time it takes to reimburse inmate claimants for legitimate claims. The average amount of time for those claims studied varied from 11.2 months to 25.4 months. This is not seen as being adequately responsive to the damages and losses suffered by the claimants.

Considerable data is presented which suggests that many staff members and inmate are not aware that redress is available for the damage to or loss of personal property when in the possession of the state. Indeed, no general announcement or policy statement has been made regarding the existence of the claims procedure.

Recommendations for remedying these and other problems in the claims procedure are recommended to the Secretary of Corrections. Secretary Jim J. Marquez's response to the study and recommendations is attached to the report.

INTRODUCTION

Between November 1975 and December 1977, inmates of the Kansas adult penal system registered 65 complaints with the Ombudsman Office regarding losses and damages to their personal property. This study examines the process by which these personal property complaints were investigated, and considered for reimbursement by the State.

The State's response to inmates' personal property complaints is an important issue because of the special significance personal property takes on when one is confined. Property such as televisions, radios, and reading material may be an inmate's sole connection to the free world. Craft tools provide one of the few means of self expression. The items of personal property allowed to an inmate may become his symbols of personal identity. If the State is unresponsive to inmates' losses, it reinforces an attitude among inmates that they are victims of the correctional system.

Three governmental bodies have a primary role in dealing with inmates' property loss complaints. These are the Kansas Department of Corrections (DOC), the Office of the Ombudsman for Corrections, and the Joint Legislative Committee on Special Claims Against the State (Claims Committee). How property loss complaints were processed by these three bodies will be the focus of this study. In addition, recommendations will be made for the re-allocation of responsibilities in the handling of inmate property loss complaints. The recommendations at the end of this study are seen as means for making the claims process less expensive to the state and more responsive to claimants.

PARTICIPANTS IN THE PROPERTY LOSS CLAIMS PROCESS

I. Department of Correction's Role

The Department of Corrections does not have a policy or procedure for the reimbursement, recovery, or repair of lost or damaged inmate property. It, therefore, is not able to rectify inmates' losses, in cases in which the institution is responsible. In fact, the Department of Corrections denies any responsibility for lost or damaged inmate property. According to the Department of Correction's Administrative Procedure 309, Item #4: "All personally owned inmate property will be at the owner's risk, a stipulation of which he/she shall be informed." (sic)

Although the Department of Corrections does have an Inmate Grievance Procedure through which inmates can file property loss complaints, there is no provision in the procedure for processing property loss claims through the Claims Committee.

II. Claims Committee's Role

The only recourse an inmate has for recovery of property which is lost or damaged by the institution is to forward a notarized claim form (see Appendix 1) to the Claims Committee. The Claims Committee is a joint legislative committee composed of 12 state legislators, five from the Senate, and seven from the House of Representatives. The function of the Claims Committee is to consider reimbursement of claims against the State. It then makes recommendations to the Ways and Means Committee, the committee that drafts appropriation bills. Claims are then submitted for approval by the House and the Senate in the form of a bill, when the Legislature convenes the following year. The Governor must then sign the bill into law. Claims which have been approved at all the preceding levels are reimbursed by the Division of Accounts and Reports. This process of reimbursing inmate claims entails a considerable expenditure of time, manpower, and money by the State.

III. Office of the Ombudsman's Role

The Office of the Ombudsman became involved in the property loss claims process in October, 1975 (one month after the Office's establishment) at the request of the Claims Committee. The Ombudsman's contributions to the process include having provided independent, impartial investigations of property loss claims, and having created a procedure whereby inmates could more readily process their claims. This latter contribution was particularly important in light of the absence of a Department of Correction's procedure.

To clarify procedures for handling property loss claims, the Ombudsman sent a memorandum on March 23, 1977 (see Appendix 2) to the Secretary and the Deputy Secretaries of Corrections, institutional Directors and Deputy Directors, and the Claims Committee Chairman. The essence of the Ombudsman's procedure for handling property loss claims is outlined in the following functions*:

- 1) Make inmates aware of the procedure by which they can apply for reimbursement for lost or damaged personal property.
- 2) Request the institution provide an investigation report regarding the loss.
- 3) When the institutional investigation report is deficient, or there is a discrepancy in the inmate's and institution's versions of the claim, conduct an independent investigation, seeking:
 - a) verification of ownership of claimed property,
 - b) verification of the property's value, and,
 - c) verification of the circumstances surrounding the loss.
- 4) Make an assessment of the State's responsibility for the loss.
- 5) Make the facts under #3 and #4 known to the Claims Committee, the complainant, and the institutional Director.
- 6) When deemed appropriate, make a recommendation regarding reimbursement.

* See Appendix 3 for an example of the Ombudsman Office's Claims Case Work Sheet.

EXAMINATION OF DATA ON ALL 65 PROPERTY LOSS COMPLAINTS

I. Complaint Sources

The data examined in this study was derived from 65 property loss complaints received from the Kansas State Penitentiary (KSP) and the Kansas State Industrial Reformatory (KSIR) during the 26 month period of November, 1975 through December, 1977. The following table is a breakdown of these complaints by institution and by the year they were registered.

<u>Institution</u>	<u>Number of Cases</u>	<u>Year</u>	<u>Number of Cases</u>
KSP	40	1975	4
KSIR	25	1976	24
Total	65	1977	37
		Total	65

II. Complainants' Awareness of the Property Loss Procedure

Property loss complainants either initially contacted the Ombudsman's Office directly, or indirectly through referrals. Table 1, (at the end of the report), shows that 47 or 72.3% of the complaints were initiated directly with the Ombudsman Office. Referrals were made in 18 or 27.7% of the cases. Of the referrals, 11 or 16.9% were from the Claims Committee, 4 or 6.1% were from attorneys of State and private agencies, and 3 or 4.6% were referred by the Department of Corrections. The low number of referrals from the Department of Corrections would appear to be a product of its policy of not taking responsibility for the loss of inmates' property.

The importance of the Ombudsman Office's role in the property complaint process is measured by the high number of direct contact complaints and third party referrals received. This pattern of complaint intake is not surprising in that the Ombudsman Office simultaneously created and became the procedure through which inmates could process their complaints with the Claims Committee. There is a problem, however, with the procedure having become wedded to the Ombudsman Office: the Office is too small to assure access to all inmates in the corrections system.

This fact becomes even more a matter of concern when one examines the relatively close correlation between Ombudsman staff's presence in the institutions, and the number of property loss complaints received from them. As seen in the following table, during the 26 month reporting period, Ombudsman staff spent 66.8% of its field time at KSP and received 62% of the property loss complaints from that institution. Ombudsman staff devoted 33.2% of its field time to KSIR from which the Office received 38% of the property complaints.

<u>Institution</u>	<u>Number of Property Loss Cases</u>	<u>Percent</u>	<u>Number of Days Ombudsman Staff Spent in KSP & KSIR</u>	<u>Percent</u>
KSP	40	62%	167	66.8%
KSIR	25	38%	83	33.2%
Total	65	100%	250	100.0%

One implication of this data is that property loss complaints may be missed during periods when Ombudsman staff are not active in a particular institution or from institutions in which the Ombudsman Office is not maintaining services.

III. The Losses

As seen in Table 2 (at the end of the report), inmates' personal property loss claims encompassed a broad range of items. Many of the cases involved loss of multiple items of property, such as the case in which the institution mailed an inmate's personal property to a wrong address; two wedding rings, a watch, a pair of pants, and a shirt were lost.

Table 3 (at the end of the report) shows the circumstances under which inmates claimed the losses or damages occurred. According to the inmates' claims, 21 or 32.3% of the losses resulted from intra-institutional transfers (such as moves between cell houses). Fourteen or 21.5% of the claims involved losses through the mail (5 of which involved the United States Postal Service, and 9 involved the institutions' mail rooms). Nine or 13.8% of the complainants alleged property had been lost after it was confiscated. The institutions' receiving rooms were named as the location of the property when it was lost in 7 or 10.8% of the complaints. Claims of losses during inter-institutional transfers, occurred in 6 or 9.2% of the complaints. Four or 6.2% of the complaints involved claims that property was stolen from inmates' cells during their absence. The remaining 4 or 6.2% of the complaints did not fall in any of the above patterns of losses.

IV. Disposition of Property Loss Complaints

As is seen in Table 4 (at the end of the report), 33 or 50.7% of the property loss complaints were closed without the involvement of the Claims Committee. The breakdown of the dispositions of these complaints is as follows:

- 1) In 7 or 10.8% of the cases, the property was found after the inmate had registered a complaint with the Ombudsman Office.
- 2) In 3 or 4.6% of the cases, the complainant was reimbursed by U.S. Postal Insurance.
- 3) In 1 or 1.5% of the cases, the complainant was reimbursed by the merchant.
- 4) In 22 or 33.8% of the cases, the complainant withdrew, feeling the claims process took too long, or that apparently there was not adequate information to support his claim.

Table 4 also presents a breakdown of 32 or 49.3% of the property loss claims which were considered by the Claims Committee. The dispositions of these claims are as follows:

- 1) In 11 or 16.9% of the cases, the Committee recommended full reimbursement.
- 2) In 12 or 18.5% of the cases, the Committee recommended partial reimbursement.
- 3) In 9 or 13.9% of the cases, the Committee disapproved any reimbursement.

THE OMBUDSMAN OFFICE'S ROLE IN THE 32 PROPERTY LOSS CLAIMS CONSIDERED BY THE CLAIMS COMMITTEE

A critical question posed during this study was how important is the Ombudsman Office's role in the property loss handling process? Is an independent investigation necessary in all cases? Could the Department of Corrections perform many of the same functions outlined in the Ombudsman Office's procedure for handling property loss complaints (see page 3)? To answer these questions, particular attention is focused on the 32 claims cases actually considered by the Claims Committee.

I. Recommendations for Reimbursement

Table 5 represents a breakdown of the 32 claims cases, comparing the Ombudsman staff's recommendations and the Claims Committee's actions. In 16 of the 32 claims the Ombudsman Office recommended the claimant be fully or partially reimbursed. The Claims Committee acted accordingly. In 6 of the 32 claims, the Ombudsman Office recommended the claims be disapproved. The Committee agreed with the Office in all cases, with one exception that it would recommend partial reimbursement for the sixth based on information the claimant submitted after the Ombudsman's investigation and recommendation had been submitted. In 10 cases the Ombudsman Office made no recommendation. The Office did, however, supply the Claims Committee with as much information as was available, to assist it in making its determination regarding reimbursement. The Claims Committee determined that, of the 10 cases, it would recommend either full or partial reimbursement in 6 and disapprove 4.

II. The Basis of the Recommendations

The information used in preparing the Ombudsman Office's reports and recommendations was the same information available to the institutions' investigation units when they prepared their reports on the lost or damaged property. The institutions' reports, however, seldom provided all of the information found in the Ombudsman staff's reports. The major weaknesses in the institutions' investigation reports was in their inadequacy in answering the critical questions of ownership, value, circumstances of the loss or damage, and the degree of the institutions' responsibility. Sometimes these questions went unanswered, because there was not sufficient documentable information upon which to base an answer.

Our data indicates, however, that most of the above information was available to the institutional investigators, in a majority of cases. For example:

- 1) In 22 of the 32 cases considered by the Committee, the Ombudsman Office found sufficient information to make recommendations either for or against reimbursement. With one exception, the Claims Committee followed the Office's recommendations.
- 2) In 3 of the 10 cases in which the Ombudsman staff made no recommendation, the Department of Corrections did answer all of the above questions, and recommended reimbursement for all the claimants. The Committee acted accordingly.

The 22 recommendations of the Ombudsman Office, together with the three recommendations of the Department of Corrections, meant that in 25 or 78% of the claims heard by the Committee there was sufficient information available to the institution to clearly document whether or not the claims were valid, and to make recommendations accordingly.

In these cases, it appears that the Ombudsman Office's role as an independent investigator was not as important as its role as a facilitator for processing the claims. This latter role would not have been necessary, if the Department of Corrections had had a procedure for handling property loss claims.

In the remaining 7 or 22% of the 32 claims cases, neither the Ombudsman staff's investigations nor the institution's investigations could produce sufficient information to either support or refute the claim. In these cases, the Ombudsman Office did offer an important resource to the Claims Committee by providing it with an impartial understanding of institutional operations and inmate life. This information assisted the Claims Committee in determining it would recommend 3 of the 7 cases for full or partial reimbursement and disapprove the remaining 4.

III. Use of the Ombudsman Office's Time

The purpose and function of the Ombudsman's role is to intervene in situations which call for an impartial, third party investigator of facts, reporter of problems, recommender of changes, and mediator of conflicts. Questions must be raised therefore, when the Ombudsman Office's role becomes one of filling in for the absence of a Department of Correction's procedure. The above data suggests this is what occurred in the Ombudsman Office's involvement in a majority of the property loss claims.

This became a matter of concern to the Office, when it reviewed how much of its limited resources were being expended on the claims process. One measure of the amount of activity the Ombudsman Office expends to handle complaints is the number of contacts its staff makes with the complainants, the corrections system, and persons outside it. During both Fiscal Year 1977 and Fiscal Year 1978, the Office averaged 6.4 contacts per complaint case. The 32 property loss claims cases the Ombudsman processed through the Claims Committee, however, involved an average of 22.3 contacts per case; almost four times the average number of contacts for normal complaint cases.

TIME DELAYS IN THE CLAIMS PROCESS

I. Delays in Reporting Losses

One of the delays experienced in the lengthy property claims process is a result of inmates not being aware of the claims process and/or the Ombudsman Office's role in it. Many months often pass between the time the complainant discovers the loss and when he complains to the Office about it.

Our data indicates that the average delay between inmates' discovery of their losses and their registration of complaints with the Ombudsman Office was 4.1 months. Five claims were reported over one year after the loss was discovered and nine others were reported more than six months after the discovery.

One problem which results from these delays is the circumstances surrounding the losses become more difficult to substantiate as inmates and correctional staff tend to forget times, dates, locations and persons associated with the property losses. The creation of a Department of Correction's procedure for handling property loss complaints could provide more timely responses to complaints, increasing the possibility of actually recovering lost property. In addition, such a procedure would mean events in the cases would be recorded and documented while they are still current.

II. Delays in Reimbursing the Claimants

A central problem in the claims process is the length of time it takes to reimburse legitimate inmate claims. Of the 32 claims considered by the Claims Committee, 22 were recommended for reimbursement. Thirteen of the 22 claims were reimbursed with money appropriated from bills submitted during the 1976 and 1978 legislative sessions. These 13 claims averaged 11.2 months from the time of the report of the loss until the time of reimbursement. The nine claims recommended for reimbursement during the 1977 legislative session averaged 25.4 months from the time they were reported until the time of reimbursement. This latter delay was due to a controversy unrelated to inmate claims which delayed passage of the 1977 Claims Bill until the 1978 Legislative Session. (See Table 6)

The problem with these delays is that inmates' requests for reimbursement usually are based on immediate need situations. Many inmates sole source of income is the 35¢ to 90¢ daily wages they can earn working on institutional details. The loss of only a few cartons of cigarettes can be experienced as a tremendous hardship by those who must rely on these wages for replacement.

COST OF THE CLAIMS PROCESS

The cost involved in processing inmates' property loss claims is seen as being disproportionate to the reimbursement value of most of their claims. The average reimbursement for the 22 recommended claims was \$75.60. Reimbursements of \$10.00 were made in two cases. The highest reimbursement was \$360.00. The next highest reimbursement was \$135.19. (See Table 6)

The time and effort involved in processing many losses is clearly out of proportion to the amount claimed. An example of this is seen in the following case summary. An institution mail room lost six pairs of an inmates' underwear valued at \$10.00. The Ombudsman's role in processing the claims required one phone call, sixteen letters, and eight personal contacts. The twelve member Claims Committee considered the claim and recommended payment. The time delay between the report of the claim and its actual reimbursement was eighteen months. The claim was valid and the inmate deserved reimbursement, but the cost to the State was enormous compared to the value of the claim.

CONCLUSION

This study examined the manner in which 65 inmate personal property loss complaints were processed by the Department of Corrections, the

Ombudsman Office, and the Claims Committee. This issue is significant, because an unresponsive procedure reinforces an attitude among inmates that they are victims of the correctional system. Special attention has been drawn to the roles each of the three governmental bodies has taken in the property loss handling process. The data presented on the property loss complaints indicates a need for shifting the responsibilities the three bodies currently assume in the process. Such shifting of responsibilities would make the process less expensive to the State and more responsive to complainants.

The first level of shifting responsibilities should be for the Department of Corrections to assume the principle functions the Ombudsman Office is currently performing in its handling of inmate property loss claims (See Page 3). The Ombudsman Office has assumed these functions because there is not a Department of Correction's procedure for processing property loss claims through the Claims Committee. The absence of such a Department of Correction's procedure is consistent with the Department's Administrative Policy #309, which denies responsibility for lost or damaged inmate property.

Several problems are seen, however, in the Ombudsman Office's "filling in" for the absences of a Department of Correction's policy and procedure. This is not in accordance with the purposes and functions of an Ombudsman Office. An Ombudsman program's critical contribution to government is its ability to intervene in situations which call for an impartial third party investigation of facts, reporter of problems, recommender of changes, and mediator of conflicts. These vital functions become bogged down when the Ombudsman program takes over procedures which should be handled internally and routinely.

The complications incurred with the Office displacing an internal procedure are more than simply theoretical. On a functional level, the Ombudsman Office is too small to assure access to all inmates in the corrections system. Furthermore, by the time inmates become aware of the Ombudsman's role in the process, their losses are often many months old and the circumstances such as dates, locations, and persons associated with the losses have been forgotten.

While the Ombudsman's role as an independent investigator can be important in some property loss cases, it is clearly not needed in all of them. In fact, this study's data indicates that in a majority (78%) of the inmate claims cases presented to the Claims Committee, there was sufficient information available to the Department of Corrections to clearly document whether or not the claims were valid and make a recommendation accordingly. Processing claims which could otherwise be handled by the Department of Corrections is a growing concern for the Ombudsman Office as it finds it expends almost four times as much activity on claims cases as it does on all the other forms of complaint cases it receives. The Ombudsman Office's continued involvement in the property loss claims process in lieu of a Department of Corrections procedure is seen as an inefficient use of the State's time and money.

A second level of shifting responsibilities regarding the processing of inmate personal property loss claims would be to give the authority to reimburse legitimate property loss claims to the Secretary of Corrections. Such a shift would curtail the problem of slowness in reimbursing claims and would curtail some of the disproportionate costs involved in the current process.

CONTINUED

1 OF 2

RECOMMENDATIONS TO SECRETARY OF CORRECTIONS

- 1) It is recommended that the Department of Corrections adopt a policy consistent with that of the Kansas Legislature which acknowledges responsibility (within defined parameters) for inmate property loss and damage.
- 2) It is recommended that the Department of Corrections establish a procedure for responding to inmate personal property loss and damage claims.
- 3) It is recommended that a similar policy and procedure be established for staff, volunteers, contractors and vendors to respond to property losses and damages which may be related to inmate contact or staff responsibility.
- 4) It is recommended that the Department of Corrections propose and work for the adoption of legislation which will establish a mechanism for more timely responses to property loss and damage claims.

RECOMMENDATIONS TO THE CORRECTIONS OMBUDSMAN BOARD

- 1) It is recommended that the Ombudsman Office continue to coordinate the processing of property loss claims only until such time as the Department of Corrections assumes this role.
- 2) It is recommended that the Ombudsman Office continue to be available to the Claims Committee to function as a third party intervenor in those claims cases in which there are discrepancies between the report of the claimant and the Department.
- 3) It is recommended that legislation be supported which will establish a mechanism for more timely responses to property loss and damage claims involving the Department of Corrections.



Preston N. Barton, II, Ombudsman

August 29, 1978

Table 1

Mode of Initial Contact by Property Loss Complainants
 (November 1975 - December 1977)

	<u>Number</u>	<u>Percent</u>
Inmate Contacted Ombudsman Office Directly	47	72.3%
<u>Referral Sources</u>		
Claims Committee	11	16.9%
Legal Services for Prisoners, Inc.	2	3.1%
Private Attorney	1	1.5%
Attorney General's Office	1	1.5%
Department of Corrections Staff	3	4.6%
	<hr/> 65	<hr/> 100.0%

Table 2

Distribution of Items Claimed by Property Loss Complainants
(November 1975 - December 1977)

<u>Items</u>	<u>Number of Cases* Involving the Preceding Items</u>
Wrist Watches	19
Articles of Clothing	13
Radios	10
Television Sets	9
Personal Papers, Magazines and Books	8
Leather Tools and Goods	8
Tape Players	6
Electrical Fans	5
Jewelry	5
Billfolds	4
Cassette and 8-Track Tapes	4
Money	2
Other**	14

* Many cases involved the loss of multiple items of property.

** Includes miscellaneous items such as electrical cords, razors, tape measures, cups, coffee pots, drafting pencil sets, cigarettes, head phones, paintings.

Table 3

Alleged Circumstances of Losses Reported by Property Loss Complainants
 (November 1975 - December 1977)

<u>Reported Circumstances of Losses</u>	<u>Cases</u>	
	<u>Number</u>	<u>Percent</u>
During Intra-Institutional Transfer	21	32.3%
While in Mail Room or After Mailed	14	21.5%
After Confiscation	9	13.8%
While in Institutional Receiving Room	7	10.8%
During Inter-Institutional Transfer	6	9.2%
Stolen from Inmate's Cell	4	6.2%
Other	4	6.2%
Total	65	100.0%

Table 4

Distribution of Dispositions of Property Loss Complaints
(November 1975 - December 1977)

<u>Dispositions</u>	<u>Number</u>	<u>Percent</u>
Property Found	7	10.8%
U. S. Postal Service Reimbursed Claimant	3	4.6%
Reimbursed by Merchant	1	1.5%
Withdrawn	22	33.8%
<hr/>		
Subtotal of Cases Not Heard by Claims Committee	33	50.7%
<hr/>		
Claims Committee Recommended Full Reimbursement of Claim	11	16.9%
Claims Committee Recommended Partial Reimbursement of Claim	*12	18.5%
Claims Committee Denied Reimbursement	9	13.9%
<hr/>		
Subtotal of Cases Heard by Claims Committee	32	49.3%
<hr/>		
Total Cases	65	100.0%

* In one case the inmate's property was found after the Claims Committee had determined it would recommend partial reimbursement. The claim was withdrawn prior to being submitted to the Ways and Means Committee.

Table 5

Distribution of Ombudsman's and Claims Committee's Reimbursement
Recommendations for 32 Property Loss Claims
(November 1975 - December 1977)

Claims Case	Ombudsman Staff Recommendation				Claims Committee Recommendation		
	Reimburse for Full Amount of Claim	Reimburse for Partial Amount of Claim	Disapprove Claim	No Recommendation	Reimburse for Full Amount of Claim	Reimburse for Partial Amount of Claim	Disapprove Claim
1				X		X	
2				X *	X		
3				X *		X	
4				X *		X	
5				X		X	
6	X				X		
7				X			X
8	X				X		
9				X			X
10	X				X		
11		X				X	
12	X				X		
13		X			X		
14	X				X		
15			X				X
16	X				X		
17				X			X
18		X				X	
19		X				X	
20		X				X **	
21			X				X
22	X					X	
23	X				X		
24				X			X
25			X			X	
26		X				X	
27	X				X		
28				X		X	
29			X				X
30			X				X
31	X				X		
32			X				X
TOTAL	10	6	6	10	11	12	9

* DOC recommended reimbursement. Ombudsman monitored cases at Claims Committee request.

** Inmate withdrew claim after television set was found.

Table 6

Reimbursement Delays and Amounts for 22 Property Loss Claims

<u>Claims</u>	<u>The Year the Claims Bill was Introduced</u>	<u>Number of Months Between Report of Property Loss to the Ombudsman and Reimbursement</u>	<u>Amount of Reimbursement</u>
1	1976	7	\$70.00
2	1976	7	\$70.00
3	1976	7	\$38.33
4	1977	22	\$49.81
5	1977	28	\$360.00
6	1977	26	\$34.00
7	1977	28	\$100.00
8	1977	20	\$16.80
9	1977	25	\$49.00
10	1977	28	\$130.48
11	1977	21	\$38.25
12	1977	31	\$35.00
13	1978	5	\$100.00
14	1978	12	\$125.00
15	1978	15	\$25.00
16	1978	18	\$10.00
17	1978	10	\$50.00
18	1978	10	\$70.00
19	1978	13	\$32.50
20	1978	13	\$113.95
21	1978	13	\$135.19
22	1978	16	\$10.00
Total	22 claims		\$1,663.31 *

* Average Reimbursement - \$75.60.

C L A I M F O R M

PERSONAL INJURY OR
PROPERTY DAMAGE

JOINT COMMITTEE ON SPECIAL CLAIMS AGAINST THE STATE

LEGISLATURE OF THE STATE OF KANSAS

NO. _____

IN THE MATTER OF THE CLAIM OF _____

NOW, On this _____ day of _____, 19____, comes the under-
signed and makes claim against _____,

(Name of Agency)

of the State of Kansas, in the amount of \$ _____, for injuries
and/or damage sustained on the _____ day of _____, 19____, at

(Location)

1. The injury and/or damage resulted from the following occurrence:
(Describe occurrence generally -- detailed statement may be
attached.)

2. The injury and/or damage which claimant sustained is as follows:
(Describe injury and/or damage generally -- detailed statement may
be attached.)

CITIZENS' ADVISORY BOARD
ON CORRECTIONS

503 Kansas Ave., Suite 543
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 543
Topeka, Kansas 66603
(913) 296-5295
KANS-A-N 8-561-5295

March 23, 1977

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MEMO TO: Mr. Robert R. Raines, Deputy Secretaries for Corrections,
and Institutional Directors and Deputy Directors

FROM: Preston N. Barton, Ombudsman *P. N. Barton*

RE: Procedures for Property Loss Claims

There have been some misunderstandings and even annoyances expressed concerning this Office's involvement in processing property loss claims. I would like to explain the history of our involvement in this and to describe the procedures involved in reimbursing staff members and inmates for the loss or destruction of personal property.

I had been Ombudsman for less than a month when the Joint Legislative Committee for Special Claims Against the State approached us for assistance in investigating and processing claims from correctional institutions. Since that time, the majority of cases coming from correctional institutions have been automatically referred to this Office for investigation prior to that Committee's deliberation on the claim. In view of this practice, we have attempted to simplify and expedite processing by accepting claim forms directly from the claimant and forwarding them along with our report and recommendation to the Claims Committee.

In accordance with the policy of the Ombudsman office to present a complete picture from all parties involved in any complaint, we always request an investigation report from the concerned institution. Whenever possible we also interview the claimant. Should there be significant deviation between the claimant's version of what occurred and that described in the institution's investigation report, we may interview other persons, who might have significant information relating to the claim. When this process has been completed, a letter is sent from me to the chairman of the Claims Committee with a copy to both the Director of the institution and to the claimant, as well copies to all other persons involved.

Our recommendations to the Claims Committee have varied from recommending full allowment of the claim, partial allowment of the claim to no reimbursement for the claim. In some instances when

Mr. Raines, Deputy Secretaries, Institutional Directors
March 23, 1977
Page 2

it has become clear to the claimant that we will be making a recommendation against allowing the claim, he will withdraw his claim, thus ending our investigation.

There is one significant deviation in the way in which we handle claims as opposed to other complaints. In the normal handling of complaints, we will determine whether or not a complaint is frivolous, too old or in other ways not conducive to investigation. In those instances we will not accept the complaint. However, the Joint Legislative Committee on Sepecial Claims Against the State has adhered to a very strong principle of being available to anyone in the state who wishes to file a claim and to allow that person to be physically present during a hearing. It, thus, is quite possible that we will investigate a claims case under conditions that we would not normally agree to involve staff time and resources. One such recent case has involved a claim dating back to July, 1974, which dates back even before the existence of this office. Normally, by definition we do not handle complaints this old, but since this was a property loss claim which was to be filed with the Claims Committee we thought it appropriate to make an exception.

As you may be aware, the Claims Committee is just a beginning of a rather lengthy and arduous process for a claim. If the Claims Committee decides to recommend a claim favorably, the recommendation goes to Ways and Means Committee for a final determination as to whether or not it should be put in the form of an appropriations bill. Should that occur, then both houses must vote to allow the claim and the Governor must sign the bill into law before the claimant can be reimbursed. There is then as much as a two month delay before the paper work is completed and the claimant actually receives reimbursement.

Before the 1977 Legislative Session, this Office and the Office of the Secretary of Corrections presented to the Claims Committee a proposed bill which would have permitted the Secretary or his designee to authorize reimbursement to a staff member or an inmate of up to \$50 for the loss or damage of personal property in the line of duty or due to the responsibility of the institution. The bill would have authorized the Secretary to set forth a policy for investigating and determining the legitimacy of a claim. I had originally proposed this bill so as to increase the responsiveness of the system to the legitimate claims by staff and inmates; as it is now, it can take as long as a year and a half before an individual is reimbursed for a legitimate claim.

(Incidentally, personal injury claims are handled in a similar manner for inmates. Disability claims on the part of staff members, however, go through the normal channels for Workmen's Compensation.)

If you should have any ideas as to how we might be more effective and efficient in handling claims cases, I would most appreciate hearing from you.

cc: Rep. Fred W. Rosenau, Chairman, Legislative Claims Committee

Appendix #3

State of Kansas
Office of the Ombudsman for Corrections

CLAIMS CASE WORK SHEET

Name:

Institutional #:

Address:

Reg. #: Face Sheet #:

Phone No.:

Claims Committee Case #:

Claimant's Version

Amount of Claim:

For:

Occurred:

Discovered:

Institution's Findings

Investigation

Verification of Ownership:

Verification of Value:

Verification of Loss and State's Responsibility:

Recommendation:

Department of Corrections

State of Kansas



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

JIM J. MARQUEZ, Secretary

November 17, 1978

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

RE: PROPERTY LOSS REPORT

Dear Mr. Barton:

Your report states the Department does not have a policy or procedure for reimbursement recovery or repair of lost or damaged property. This is an accurate statement, but it also implies we do not have a procedure, especially for reimbursement, out of choice. I think the report should reflect that we do not have the statutory authority to reimburse inmates for losses, hence the present method of investigation and reimbursement by the legislative claims committee. There is need in the Department to effectuate a procedure on dealing with lost or damaged inmate property and that matter is presently being addressed. It may be a few months before that is finalized.

The question of direct reimbursement by the Department of Corrections to inmates for either damaged or lost property is a very sensitive question. As you recall, the legislature did not agree with your proposed legislation several years ago. I can understand their concern about oversight and I am reluctant to initiate proposed legislation to authorize the Department to make direct reimbursement to inmates. If legislation is proposed, we will most certainly study it, consider its ramifications in terms of staff, etc., and support it if it is reasonably possible we can carry out the duties required by that proposed legislation.

I will be gone for a few days, but upon my return I will be happy to discuss this matter with you further if you desire.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jim J. Marquez".
JIM J. MARQUEZ
Secretary of Corrections

JJM:dja

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