

PERFORMANCE AUDIT REPORT

Corrections Ombudsman's Office

**A Report to the Legislative Post Audit Committee
By the Legislative Division of Post Audit
State of Kansas
June 1987**

Legislative Post Audit Committee

Legislative Division of Post Audit

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PERFORMANCE AUDIT REPORT

CORRECTIONS OMBUDSMAN'S OFFICE

OBTAINING AUDIT INFORMATION

This audit was conducted by Ron Green, Senior Auditor, and Rick Riggs, Auditor, of the Division's staff. If you need any additional information about the audit's findings, please contact Mr. Green at the Division's offices.

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CORRECTIONS OMBUDSMAN'S OFFICE

Summary of Legislative Post Audit's Findings

Is there overlapping authority or activity between the Corrections Ombudsman's Office and other groups in Kansas acting on inmates' behalf? The Corrections Ombudsman's Office receives and resolves complaints concerning inmates and correctional staff members. Under K.S.A. 74-7403, the Corrections Ombudsman's duties also require reporting to both the Secretary of Corrections and the Corrections Ombudsman's Board "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." No other State agency or other entity has similar functions, duties, or authority. Other states have a variety of arrangements for providing ombudsman services to inmates.

Was the recent inquiry at El Dorado Honor Camp appropriately conducted within the scope of the Corrections Ombudsman's authority? The Ombudsman's staff originally went to El Dorado Honor Camp to determine whether allegations made by a former Honor Camp employee could be corroborated. In doing so, the Ombudsman's Office apparently did not exceed its statutory authority, but some of the techniques used during the inquiry, such as asking leading questions and comparing the case to previous cases during interviews with staff, may have been inappropriate.

CORRECTIONS OMBUDSMAN'S OFFICE

Under K.S.A. 74-7403, the Corrections Ombudsman's main duties require reporting to both the Secretary of Corrections and the Corrections Ombudsman Board "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." The Ombudsman must forward complaints and grievances directly to the Secretary of Corrections for consideration.

On September 23, 1986, the Corrections Ombudsman's Office conducted an inquiry at the El Dorado Honor Camp. The inquiry concerned two issues: charges that the institution's grievance procedure was not effective, and allegations that the institution's Director had engaged in misappropriation of State property and other illegal acts. A later investigation by the Kansas Bureau of Investigation found no basis for criminal charges against the Honor Camp Director. Legislative concerns have been raised that the investigation at the Honor Camp may have been conducted inappropriately, and that the authority and functions of the Ombudsman's Office could duplicate those of other agencies.

To address these concerns, the Chairperson of the Legislative Post Audit Committee directed the Legislative Division of Post Audit to conduct a special 100-hour performance audit designed to answer the following questions:

1. **Is there overlapping authority or activity between the Corrections Ombudsman's Office and other groups in Kansas acting on inmates' behalf?**
2. **Was the recent inquiry at El Dorado Honor Camp appropriately conducted within the scope of the corrections ombudsman's authority?**

To answer these questions, the auditors interviewed officials of the Corrections Ombudsman's Office, the Corrections Ombudsman Board, and ombudsman officials in nearby states. They interviewed officials of the Department of Corrections, the El Dorado Honor Camp, and other State agencies that conduct various types of investigations. The auditors also reviewed State laws and regulations and other documentation relating to the work of the Corrections Ombudsman.

In general, the auditors found that the Ombudsman's Office does not duplicate or overlap the authority or activities of other groups or agencies working on behalf of inmates. The Office apparently did not exceed its statutory authority in conducting the inquiry, but officials used some investigative techniques that may have been inappropriate for the situation. These techniques may have served to spread allegations against the Honor Camp Director. These findings are discussed in the following sections.

Is There Overlapping Authority or Activity Between the Corrections Ombudsman's Office and Other Groups in Kansas Acting on Inmates' Behalf?

To answer this question, the auditors interviewed officials of the Corrections Ombudsman's Office, the Board of Indigents' Defense Services, Legal Services for Prisoners, and ombudsman officials in nearby states. The auditors also reviewed State laws and regulations and other documentation relating to the work of the Corrections Ombudsman. In general, they found that the Office receives and resolves complaints concerning inmates and correctional staff members, and that no other agency has similar authority or functions. They also found that other states have a variety of arrangements for providing ombudsman services to inmates.

The Ombudsman's Office Receives and Resolves Complaints Concerning Inmates and Correctional Staff Members

The Office of the Corrections Ombudsman is a separate agency, independent from the Department of Corrections. The Office receives grievances from inmates and their families, correctional staff members, and correctional volunteers. Complaints that cannot be easily resolved are investigated by the Office's staff.

The Ombudsman is appointed by and is responsible to a 10-member Corrections Ombudsman Board. By law, the Governor, the Attorney General, the Chief Justice, the Speaker of the House, and the President of the Senate each appoint two members to staggered four-year terms.

The Office staff consists of the Ombudsman, three unclassified staff members who visit the institutions to receive and investigate complaints and claims, and two clerical positions that were placed in the classified service during the 1987 legislative session.

The precise duties of the Office have not been clearly specified in either State law or administrative regulation. K.S.A. 74-7403 states that the Ombudsman "shall act as as secretary of such board and shall perform such other duties and functions as may be required by the board." State law gives the staff access to enter and inspect any correctional institution at any reasonable time. State law also requires the Ombudsman to report "any misfeasance or discrepancy in administration or any unreasonable treatment of inmates" to both the Secretary of Corrections and the Corrections Ombudsman Board. Ombudsman staff also investigate inmate claims for the Joint Committee on Special Claims Against the State.

No Other Organization or Agency in the State Has Authority or Functions Similar To the Ombudsman's Office

A review of State law shows that no other State agency has similar authority, functions, or rights of access to State correctional institutions. Two agencies, the Board of Indigents' Defense Services and Legal Services for Prisoners, provide

legal services for indigent defendants and inmates, but neither attempts to resolve grievances against the Department of Corrections and neither has the rights of access accorded the Ombudsman's Office. Similarly, no private organization has functions or duties similar to those of the Office.

The Corrections Ombudsman's Office does not provide legal services or representation for inmates. If the inmate is indigent, legal services may be provided by Legal Services for Prisoners. This organization represents prisoners in both criminal and civil actions. The director of the organization confirmed the fact that the services provided do not overlap with the activities of the Corrections Ombudsman's Office.

Other States Have a Variety Of Arrangements For Providing Ombudsman Services to Inmates

According to the National Institute of Corrections, 21 states have some kind of correctional ombudsman program. Of these, seven are within the state departments of corrections. The remaining 14 are located mainly in governors' offices, state legislatures, or independent agencies (as in Kansas). According to officials of the American Correctional Association, there are no national standards for corrections ombudsmen.

States have provided ombudsman services for inmates in a variety of ways. The auditors contacted officials in five neighboring states: Colorado, Iowa, Missouri, Nebraska, and Oklahoma. Oklahoma is the only one with no independent ombudsman who works in the prison system, and the structure in each of the other four states is different. The accompanying box details the ombudsman provisions in each of the states contacted.

Other States Provide Ombudsman Services For Inmates Through Various Organizational Structures

Colorado's Citizen Advocate Office within the governor's office acts as a citizen ombudsman for all state agencies. One person is responsible for taking grievances from inmates and employees of the corrections system. This person also acts as an advisor to the governor on corrections issues. The office has no statutory authorization, and acts only under the authority of the governor.

Iowa has a "Citizen's Aid" ombudsman program similar to the office in Colorado. Instead of being part of the governor's office, however, the Iowa program is a legislative agency. The office has a prison ombudsman whose only job is taking grievances from inmates and staff of correctional institutions. The prison ombudsman also takes complaints on community corrections programs, county jails, and other non-state corrections facilities.

Missouri prisons are overseen by a citizen advisory committee, roughly analogous to Kansas' Corrections Ombudsman Board. The committee, created by an executive order in 1986, employs an investigator who is responsible for checking on inmate grievances that are appealed to the committee. In addition, the committee receives complaints and grievances referred to it by the Lieutenant Governor's office. That office has traditionally acted as a citizen ombudsman for Missouri, but with no statutory authority or funding.

Nebraska's ombudsman agency, the Office of the Public Counsel, is a separate legislative agency answering to the executive committee of the legislature. Officials in the office describe it as following the "classic ombudsman" model; officials said they try to remain impartial during the investigation phase, but then become advocates for resolution of the problem. The deputy public counsel for corrections is responsible for investigating and resolving inmate grievances.

Oklahoma has a grievance procedure within the prison system, as does each of the other states contacted, but has no independent agency that provides oversight or complaint resolution for correctional inmates or staff.

Was the Recent Inquiry at El Dorado Honor Camp Appropriately Conducted Within the Scope of the Corrections Ombudsman's Authority?

To answer this question, the auditors reviewed State laws, regulations, and other documents related to the authority of the Corrections Ombudsman. They interviewed the Ombudsman, Department of Corrections officials, and employees of the El Dorado Honor Camp. For comparative purposes, they also interviewed officials of other State agencies that conduct investigations.

The auditors found that the Ombudsman's staff originally went to El Dorado Honor Camp to determine whether allegations made by a former Honor Camp employee could be corroborated. In doing so, the Ombudsman's Office apparently did not exceed its statutory authority, but some of the techniques used during the inquiry may have been inappropriate. These findings are discussed in the following sections.

The Ombudsman's Staff Went to El Dorado Honor Camp To Corroborate Allegations Made by a Former Honor Camp Staff Member

According to records of the Corrections Ombudsman, the visit to El Dorado Honor Camp was prompted by a telephone call from a former Honor Camp staff member on September 22, 1986. The former staff member made a number of allegations of improper or illegal actions by the Director of the Honor Camp.

On Tuesday, September 23, the Ombudsman and two of his staff members went to El Dorado Honor Camp. According to the Ombudsman, the "public agenda" for the trip was to inquire about inmates' fear of being transferred from the Honor Camp if they used the grievance procedure; the "private agenda" for the trip was to determine whether correctional officers would corroborate the allegations made by the former staff member. The Ombudsman told the auditors that he sought corroboration because he did not know the former staff member or the credibility of the individual.

During the day of September 23, the Ombudsman's staff interviewed four correctional officers concerning the allegations against the Honor Camp Director. The Ombudsman did not attempt to gather evidence that would prove or disprove the allegations. On the grievance procedure question, the Ombudsman's staff interviewed three additional officers and 50-60 inmates.

On October 3, the Ombudsman sent a letter to the Secretary of Corrections concerning the allegations against the Director. On October 6, the Department of Corrections forwarded the allegations to the Kansas Bureau of Investigation. The Bureau's subsequent investigation found no criminal wrongdoing by the Honor Camp Director. A more complete summary of the major events in this matter can be found in Appendix A.

The Ombudsman's Office Apparently Did Not Exceed Its Statutory Authority in Conducting the El Dorado Honor Camp Inquiry

Under State law, any misfeasance, discrepancy in administration, or unreasonable treatment of inmates which the Ombudsman discovers must be brought to the attention of the Secretary of Corrections and the Corrections Ombudsman Board. K.S.A. 74-7401 et seq. does not specify the duties and functions of the Ombudsman. Rather, the law says that the Ombudsman shall act as secretary of the Corrections Ombudsman Board and shall perform such other duties as may be required by the Board. The law does give the Ombudsman's Office access to enter and inspect at any reasonable time any premises under the control of the Secretary of Corrections. The activities conducted by the Ombudsman at the El Dorado Honor Camp appear to fall within this broad statutory scope.

During their review, the auditors also found that virtually no limits have been placed on the Office of the Corrections Ombudsman by the Corrections Ombudsman Board or the Department of Corrections.

The Corrections Ombudsman Board has not developed written guidelines specifying the Ombudsman's duties, functions, or limitations. Through its most recent annual report and budget documents, the Board has provided a broad outline of the role of the Ombudsman's Office. This role includes receiving complaints from inmates and Department of Corrections staff, investigating the validity of those complaints, seeking resolution of complaints at the lowest possible level of the Department, and making recommendations for corrective action. According to its most recent annual report, the ombudsman staff also act as impartial observers. That report says, in part, "During the course of institution visits, the ombudsman staff may become aware of situations or practices that are problematic and may conduct investigations on their own initiative without having been contacted by a complainant."

Within these broad outlines, the Board has not developed any written regulations, policies, or procedures to specify the Ombudsman's duties and functions. Nor has the Board established any limitations on activities of ombudsman personnel. For example, there are no guidelines for the Ombudsman to follow upon receiving allegations of current criminal activity by an inmate or an employee of the Department. The Ombudsman told the auditors that he has "pretty much been given a free rein" by the Board.

The Department of Corrections has not set conditions or time limitations on the Ombudsman's access to correctional facilities and persons under the Department's jurisdiction. To ensure the orderly operation of correctional institutions, the Secretary of Corrections has legal authority to set conditions and time limitations on Board members' access to records, facilities, and persons under the Secretary's jurisdiction. The Department has not used this authority to establish any limitations on the activities of the Board or the Ombudsman's Office.

According to the Department's chief legal counsel, the Department recognizes that ombudsman staff need access outside of regular office hours because

correctional officers may work any of three shifts each day. In addition, inmates at some facilities may be working outside the facility during the day. Therefore, the Department generally does not object to Office personnel being at an institution outside of regular hours.

The Ombudsman's Office Employed Some Investigation Techniques That May Have Been Inappropriate

In the absence of specific guidelines or limitations on the activities of the Ombudsman, the auditors contacted eight other Kansas agencies that conduct inquiries or investigations similar to those done by the Corrections Ombudsman's Office. These eight agencies are listed below:

- Department on Aging (Long-Term Care Ombudsman)
- Civil Rights Commission
- Fire Marshal
- Board of Healing Arts
- Insurance Department
- Kansas Bureau of Investigation
- Office of the Securities Commissioner
- Social and Rehabilitation Services (Fraud and Recovery Unit)

Without naming the Ombudsman's Office, the auditors asked agency officials about the appropriateness of investigative methods similar to those used at the El Dorado Honor Camp. Some of the techniques discussed were:

- Arriving at the institution unannounced
- Interviewing employees during their off-duty hours, at home or elsewhere
- Discussing more than one subject during an interview, or asking questions about matters other than the announced purpose of the interview
- Asking leading questions
- Discussing other similar cases, or comparing the present case to previous ones

Some techniques employed by the Ombudsman staff appeared to have been appropriate. Honor camp employees asserted that some of the techniques the Ombudsman's staff used during the September 1986 were inappropriate, but the investigative agencies contacted generally agreed that the following methods were appropriate under some circumstances:

- Officials at seven of the eight agencies interviewed said that arriving at the institution unannounced was appropriate. Three of the seven added that unannounced visits are often necessary to preserve evidence.
- Officials at all eight agencies contacted said that interviewing an employee at the employee's home was appropriate.
- Officials at all eight agencies interviewed said that conducting interviews outside of normal working hours was appropriate, especially in cases where employees work all shifts.
- Officials at seven of the eight agencies interviewed said that discussing more than one subject, or moving to subjects other than the announced one, was appropriate under some circumstances.

Other methods used by the Ombudsman's Office were generally considered to be inappropriate. These techniques include asking leading questions and comparing the current case to previous cases. These techniques are discussed in the following sections.

Asking leading questions is generally not an appropriate technique. While at El Dorado Honor Camp on September 23, 1986, the Ombudsman questioned four correctional officers about allegations against the Honor Camp Director. According to statements signed by these officers, the questions asked by Ombudsman staff were generally in the form of "Have you heard the rumor that..." or "Do you know anything about..." certain allegations. Officials of the Kansas Bureau of Investigation noted that it is inappropriate to "feed" information to an interviewee. Rather, the correct technique is to ask impartial questions that draw upon the interviewee's personal knowledge.

According to officials of the Honor Camp, the interview techniques used by ombudsman staff further spread the rumors to inmates and staff members who had not already heard them. Honor Camp officials stated that these techniques cast doubt on the integrity of the Honor Camp Director, undermining employee morale and making management of the inmates more difficult.

Comparing the current case to any other similar case is not considered appropriate. Written statements of two correctional officers indicated that, during the interview, ombudsman personnel referred to a previous case that resulted in dismissal of a deputy director of Kansas State Penitentiary. The Ombudsman confirmed that he had discussed this case with the two officers, but denied saying he was "out to get" the Honor Camp Director in the same manner that was used in the case of the former deputy director.

All eight of the agencies contacted by the auditors said that it is inappropriate to discuss a previous or similar case. Most of the agencies said that they would not refer to any prior case by name. They cited the need for confidentiality in some of their investigations, as well as the need to remain impartial when conducting an investigation.

Attempting to corroborate allegations of possible criminal activity ran the risk of jeopardizing any future criminal investigations. Ombudsman officials told the auditors that a major purpose of visiting El Dorado Honor Camp was to seek corroboration of the allegations made by a former Honor Camp staff member. If true, these allegations could have resulted in criminal charges against the Honor Camp Director. (The Kansas Bureau of Investigation later found no basis for any criminal charges.)

Of the eight agencies contacted by the auditors, five regularly conduct criminal investigations. The other three agencies said that if allegations or evidence of criminal activity came to their attention, the case would be referred to a law enforcement agency. Representatives of the Kansas Bureau of Investigation said that under ideal circumstances, a law enforcement agency would be involved in the initial investigation of allegations of criminal activity because law enforcement officers are trained to gather and preserve admissible evidence of a crime. On the other hand, untrained investigators could unknowingly impede the conduct of a subsequent criminal investigation.

The 1987 Legislature recommended that the Ombudsman's Office not become involved in future inquiries involving allegations or disputes between employees and the Department. A Senate Ways and Means Subcommittee, in its report on the Ombudsman's Office's fiscal year 1988 budget request, recommended that "the Corrections Ombudsman concentrate on handling complaints and concerns of inmates and not become involved in handling correctional employee/employer problems. The Subcommittee is concerned that the Corrections Ombudsman could disrupt the chain of command that is so critical in a correctional institution." Both houses of the Legislature concurred with the Senate Subcommittee recommendations.

Conclusion

Personnel of the Ombudsman's Office apparently did not overstep their statutory authority in pursuing the allegations against the Director of the El Dorado Honor Camp, but the Office's duties and the limits to its authority have not been specified by law or by the Corrections Ombudsman Board. The Office, in the inquiry at the El Dorado Honor Camp, employed some techniques that other State agencies consider to be inappropriate in conducting investigations. In part, these problems may have arisen because of a lack of consensus among the Legislature, the Corrections Ombudsman Board, and the Department of Corrections as to the proper role of the Ombudsman's Office.

Recommendation

The Corrections Ombudsman Board should adopt policies and procedures that specify the duties, authority, and permissible practices for the Corrections Ombudsman's Office. Specifically, the Board should provide guidance for the staff to follow in cases where the Office receives allegations of criminal wrongdoing by a Department employee.

APPENDIX A

Major Events in the September 1986 El Dorado Honor Camp Inquiry Conducted by the Corrections Ombudsman

**September 22,
1986 --**

The Ombudsman for Corrections received phone call from a former employee of the El Dorado Honor Camp concerning allegations against the Camp's Director.

September 23 --

The Ombudsman and his staff arrived unannounced at El Dorado Honor Camp at about 11:20 a.m. After speaking briefly with the Director, the Ombudsman and his staff began interviewing officers and inmates about two subjects: the grievance procedure at the Camp and the allegations against the Director.

At about 2:30 p.m., the Ombudsman telephoned an off-duty correctional officer at his home and requested an interview. The officer consented, and the Ombudsman and his staff went to the officer's home and questioned him about both the grievance procedure and the allegations. According to a report on the incident written by the officer the following day, "It appeared the ombudsman representatives were wanting information on [the Director], and not the grievance process. Had I known this is what they were wanting, I would not have allowed them to come to my home or talk to them at all."

The Ombudsman and his staff returned to the honor camp at about 6 p.m., and continued to interview staff and inmates. According to signed reports prepared by other officers after the staff's visit, some of the interview questions were:

--Have you heard the rumor that inmates are afraid to file grievances for fear of being sent back to their parent institution?

--Have you heard the rumor that [the Director] had his house painted with State paint by [inmates]?

--Do you know anything about [the Director] having State property such as lawn mowers, weed eaters, etc., at his residence?

The Ombudsman and his staff interviewed seven officers and 50-60 inmates between their arrival and their departure at about midnight. The late departure was caused by the fact that two of the officers did not come on duty until about 10 p.m.

September 24 --

The Ombudsman informed the assistant to the Secretary of Corrections that the Ombudsman's Office would be setting up a meeting with the deputy secretary for institutions to discuss the allegations. The Ombudsman provided the assistant with a copy of the allegations with all names omitted.

- September 25 --** The Ombudsman set up a meeting with the Secretary of Corrections for October 1.
- September 30 --** The Honor Camp Director sent an interdepartmental memorandum to the Secretary, asserting that the Ombudsman and his staff had conducted themselves "in such a manner as to disrupt and undermine facility staff and operations," and requesting a thorough investigation of the matter.
- October 1 --** The Ombudsman and his staff met with the Secretary of Corrections and his staff.
- October 2 --** The Ombudsman sent a letter to the Secretary concerning the grievance procedure at the Honor Camp. The letter reported that inmates generally believed that the grievance procedure did not work, and that inmates who filed a grievance would be returned to their parent institution.
- October 3 --** The Ombudsman sent a letter to the Secretary concerning allegations against the Honor Camp Director. The letter included information obtained during the September 23 inquiry by ombudsman staff at the Honor Camp.
- October 6 --** The Secretary assigned the Department's security administrator to look into concerns raised about the grievance procedure at the Honor Camp.
- October 6 --** The Department forwarded the allegations concerning the Honor Camp Director to the Kansas Bureau of Investigation.
- October 21 --** The Department's security administrator sent a memorandum to the Secretary on the Honor Camp's grievance procedure. The memorandum confirmed that the prevailing attitude among inmates was that the filing a formal grievance would result in a transfer back to the parent institution. However, no inmates had been transferred as the result of filing a formal grievance. The Secretary forwarded a copy of the security administrator's memorandum to the Ombudsman on November 17.
- April 2, 1987 --** The Attorney General wrote a letter to the Secretary in support of the Director. The KBI investigation resulted in no finding of criminal wrongdoing by the Director.

APPENDIX B

Agency Response

On June 11, 1987, a copy of the draft audit report was sent to the Corrections Ombudsman Board and the Department of Corrections for review and comment. Their written responses are included in this appendix.

**CORRECTIONS OMBUDSMAN BOARD
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June 22, 1987

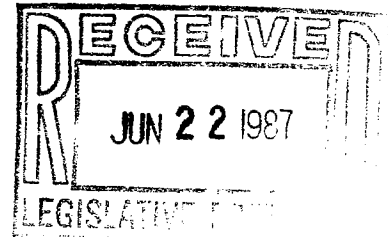
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Dear Mr. Williams:

The Office of the Ombudsman for Corrections is in receipt of the draft of the performance audit report, Corrections Ombudsman's Office. The report is accurate in its assessment that there is no overlapping authority or activity between the Corrections Ombudsman's Office and other groups in Kansas acting on inmates' behalf. However, I would make the following comments regarding whether the inquiry at El Dorado Honor Camp was appropriately conducted within the scope of the Corrections Ombudsman's authority:

<u>Page #</u>	<u>Comment #</u>
5	1. "The Corrections Ombudsman Board has not developed written guidelines specifying the Ombudsman's duties, functions, or limitations." The Ombudsman for Corrections has been in existence since 1975 and has functioned beyond reproach without written guidelines specifying duties, functions, or limitations. While it is acknowledged that such guidelines may be helpful, caution should be observed in their establishment to avoid hindering the Ombudsman within the scope of statutory authority (K.S.A. 74-7403) given extraordinary circumstances.
5	2. "...there are no guidelines for the Ombudsman to follow upon receiving allegations of current criminal activity by an inmate or an employee of the Department." It is acknowledged that other than the statutory requirement specifying that any misfeasance, discrepancy in administration, or unreasonable treatment of inmates which the Ombudsman discovers must be brought to the attention of the Secretary of Corrections and the Corrections Ombudsman Board; there are no written guidelines which the Ombudsman must follow. However, it is also the duty of any responsible citizen

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and especially any state employee to report knowledge of criminal activity. But, it is also irresponsible for either to report totally unsubstantiated allegations or statements to the appropriate authorities. The Ombudsman has in the past routinely reported allegations of criminal activity to the Secretary of Corrections and the Corrections Ombudsman Board once the veracity of those allegations has been confirmed. For the Ombudsman to repeatedly report unsubstantiated allegations to the Secretary of Corrections without some sort of confirmation would risk the credibility the Ombudsman has established with Department of Corrections' senior administrative staff.

- 7 3. "Asking leading questions is generally not an appropriate technique." The key word in that sentence is generally. Had the Ombudsman for Corrections been gathering evidence for possible criminal prosecution, it would indeed have been inappropriate to "feed" information to an interviewee. However, the sole intent of the Ombudsman was only to gather substantiation of the original allegations from other sources. As noted in the Ombudsman for Corrections' October 3, 1986 letter to the Secretary of Corrections, only some of the original allegations were substantiated, some were not, and new allegations or rumors of improprieties were gathered from the officers interviewed. At no time was the Ombudsman seeking anything other than affirmation from other sources that the allegations might have substance.
- 7 4. "...the interview techniques used by Ombudsman staff further spread the rumors to inmates and staff members who had not already heard them." The Ombudsman for Corrections himself was the only person to interview anyone regarding the allegations. The four interviews of Honor Camp staff members were held in private offices, a Corrections Officer's home, and an unoccupied common area of the camp building. No inmates were interviewed regarding the allegations. Therefore, if rumors were spread "...to inmates and staff members who had not already heard them", it was done so by the four officers interviewed. The Ombudsman for Corrections has no control over who these officers spoke with following the interviews or what the content of conversations might have been, and cannot be held responsible for any ensuing rumors.
- 7 5. "According to officials of the Honor Camp, these techniques cast doubt on the integrity of the Honor Camp Director, undermining employee morale and making management of inmates more difficult." In the Ombudsman's experience of thousands of interviews with corrections staff members,

Page # Comment #

that experience has never included evidence of officer morale as low as that at El Dorado Honor Camp. The auditors from Legislative Division of Post Audit had access to both written statements provided to the Honor Camp Director by the four corrections officers interviewed following the Ombudsman's visit and the Ombudsman's notes made during the interviews of those officers. A closer examination of those notes would have shown that some of the officers interviewed already doubted the Honor Camp Director's integrity, as they provided the Ombudsman with additional allegations of impropriety not brought up by the Ombudsman. It would have also shown a discrepancy between the amount of time it took for the Ombudsman to ask questions and get the officers' responses and in the amount of time the officers stated that the interviews took.

- 7 6. "Comparing the current case to any other case is not considered appropriate." In retrospect, the Ombudsman for Corrections acknowledges the inappropriateness of mentioning a similar case to two of the officers interviewed. It was mentioned after these officers had voiced doubts that the allegations would be fully investigated by the Department of Corrections. Part of the communication the Ombudsman made to these particular officers was that all allegations and rumors of impropriety must be fully investigated, because false allegations and rumors can be just as damaging to the Department of Corrections as valid ones. Further, it was the Ombudsman's communication to these officers that he would try to ensure the allegations were fully investigated, and at that time made reference to a previous case.
- 7 7. "The other three agencies said that if allegations or evidence of criminal activity came to their attention, the case would be referred to a law enforcement agency." This statement fails to address whether such a referral would occur immediately upon becoming aware of allegations of criminal activity or whether some sort of substantiation of the allegations would be sought before a referral would be made to a law enforcement agency.

It should be noted that the initiation of this performance audit was based upon the statements of the four officers interviewed by the Ombudsman and reports by Honor Camp officials as to the disruptiveness of the Ombudsman's inquiry. Also of note, is the distinct possibility that Honor Camp officials solicited those statement from the officers, and, the fact that the officer's statements did not fully disclose information of further allegations and rumors they voluntarily reported to the Ombudsman.

Mr. Williams
June 22, 1987
Page Four

The primary recommendation of the performance audit report is one typically necessary in most government agencies. However, this recommendation suggests that the auditors have accepted the statements of Honor Camp officials and staff as factual and unquestionable. The entire concept of an Ombudsman is to remedy faulty bureaucratic practices that can be caused by restrictive government policies. To impose encumbering and limiting policies upon this agency could greatly impede its performance and effectiveness. Furthermore, it could change the agency's unique and vital role as an external fact-finder and mediator.

I appreciate the opportunity to respond to this audit report. I hope that these comments will be useful in more fully understanding the Ombudsman's intent in conducting the inquiry at El Dorado Honor Camp. Should additional information be needed, please contact me.

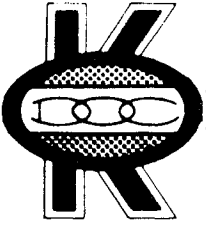
Sincerely,



Steven A. Robinson
Ombudsman

SAR:sls

cc: Corrections Ombudsman Board



KANSAS DEPARTMENT OF CORRECTIONS

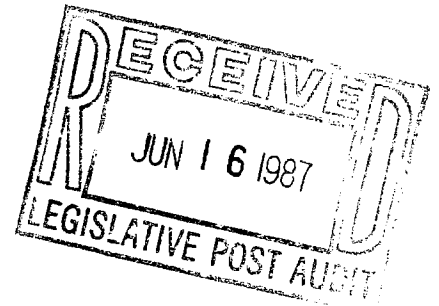
MIKE HAYDEN, GOVERNOR

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June 15, 1987

Meredith Williams
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Topeka, Kansas 66612-1285



RE: PERFORMANCE AUDIT REPORT -- CORRECTIONS
OMBUDSMAN'S OFFICE

Dear Mr. Williams:

Thank you for the opportunity to review the draft copy of the referenced audit report. I have no comments, corrections, or clarifications to submit with respect to the draft.

Sincerely,

RICHARD A. MILLS
Secretary of Corrections

RAM/pa

