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Office of the Ombuds for Corrections  
**Annual Report 2020**

January 2021

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# Message from the Ombuds for Corrections

I am proud to present the 2020 annual report of the Office of the Ombuds for Corrections (OBFC). It has been a productive, as well as difficult, first year of growth and development for our new division of state government.

The administrative tasks and hurdles of bringing a brand-new state office online have been challenging, but from January through December, the office has advanced from a concept on paper to one fully staffed and operational. This work was completed during a public health crisis unlike anything we have seen for a century, one that deeply impacted our corrections system and those who live and work within it.

I joined the State of Minnesota as Ombuds for Corrections in January 13, 2020, just a week before doctors confirmed COVID-19 in the United States for the first time. While simultaneously starting a new state office, I worked to respond appropriately to COVID-related issues. With the support of the Department of Corrections, I developed a way for incarcerated individuals at Minnesota's 11 correctional facilities to confidentially report COVID-19 complaints to us. Our office has received more than 2,000 complaints through this system, prioritizing them before we had the office infrastructure in place to receive and investigate general complaints. Based upon those COVID-19 complaints, and research and investigation we conducted, we compiled and shared important recommendations for the Legislature, Governor, Commissioner of Corrections, and Department of Health.

We now have the staff, procedures, systems, and software needed to efficiently and effectively handle general complaints. Since September, we have been accepting them from incarcerated individuals, corrections staff, and concerned family and community members, and conducting investigations. We have also begun some larger systemic investigation projects and established a stakeholder advisory group. This annual report provides details on our efforts and highlights a number of our early success stories.

At the close of 2020, the OBFC is well positioned to fulfill its important statutory role of providing oversight for Minnesota's corrections system and examining corrections policy and practices "so as to promote the highest attainable standards of competence, efficiency, and justice in the administration of corrections."

This work could not have been accomplished without cooperation and extensive support from staff at the Department of Corrections, Minnesota IT Services, Minnesota Management and Budget, and many others. I want to thank them, as well as all those who advocated for and supported the renewed existence of this office.

I submit this document in compliance with Minnesota Statute 241.95, Subdivision 2, which requires the Ombuds to report annually on functions during the preceding year. This year's report is lengthier than average, as we want to provide a full accounting and historical record of establishing the office.

We look forward to more accomplishments and progress in 2021.



Mark Haase  
Ombudsperson for Corrections

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# Executive summary

This 2020 annual report recaps work by the Office of the Ombuds for Corrections (OBFC) over its first year of operations. The Minnesota Legislature created the OBFC anew to accept and investigate complaints regarding corrections agency actions, provide oversight, and recommend systemic improvements that promote high standards in the administration of corrections and help keep the state's correctional facilities safe and secure.

## Starting a new state office

In its first months of operations, the Ombuds focused on setting up this new division of state government and establishing processes for complaints and investigations. Below is a listing of activities completed, with more details in the full report. Ombuds Mark Haase was hired on January 13, 2020.

- Staff: Created office structure and positions, hired four full-time and one part-time staff, created a comprehensive staff manual, and developed and delivered an extensive training program for all staff.
- Infrastructure: Secured permanent office space with furniture and IT systems and created a website. Secured and customized comprehensive case-management software application.
- Policy: Developed policies and procedures for complaint processing from multiple types of sources and established related data practices procedures. Created and negotiated a comprehensive interagency agreement with the Department of Corrections (DOC).

## Responding to COVID-19

The Ombuds focused on COVID-19 as a top priority while also working to set up and staff the new office.

- Coordinated with the DOC to create a system for incarcerated individuals to confidentially contact the office via electronic message with COVID-19 complaints and concerns. Reviewed over 2,000 messages, identified important health and safety issues, contacted DOC to note concerns of some incarcerated individuals, and alerted the agency to emerging issues.
- Made recommendations to the DOC, the Legislature, the Governor, the Department of Health, and others to protect the health and safety of people held in correctional facilities, staff who work there, and the broader community.
- Conducted an in-depth investigation into the DOC's use of population management and reduction as a response to COVID-19.

## General complaints and investigations

The Ombuds made a strategic decision to wait on general complaints until the office had procedures, staff, and case management systems for handling them to avoid potential confusion, inefficiencies, and backlogs. The OBFC began accepting general complaints on September 21, 2020.

The OBFC received more than 100 general complaints from late September to late November. Some of these resulted in investigations. Some investigations were preliminary and resulted in quick responses or resolutions, and some provided information being considered for future policy investigations. Below are examples of quick and successful resolutions.

#### OBFC Resolved Complaint Examples

**Medical attention for an inmate in pain:** An incarcerated individual in constant pain for weeks from internal complications had not been evaluated for treatment. The OBFC investigated and contacted staff at the facility. The next day, a doctor evaluated the inmate and ordered an urgent procedure to address the medical condition.

**Confirming the reasonableness of disciplinary action:** An incarcerated individual was disciplined for behavior violations but denied engaging in any wrongdoing and complained that prison staff had not followed due process. The OBFC investigated, reviewed DOC findings, and viewed videos of the event. The office was able to confirm that facility staff took action that was appropriate to the circumstances.

**Video visitation in the time of COVID-19:** The pandemic shut down in-person visits at a DOC facility, so officials there expanded access to video visits. Because standard policy is more restrictive for video visits, some inmates were unable to use video to connect with individuals who would otherwise have come to see them in person. The OBFC investigated and raised this issue. The warden then decided that incarcerated individuals could conduct these expanded video visits with anyone on their approved visitors lists.

**Work release exception:** Just before the start of her work release program, an incarcerated individual may have been exposed to COVID-19. The subsequent, required quarantine period made her ineligible for this work experience, because work release must start prior to an inmate's final 60 days in prison. She contacted OBFC, which investigated and recommended that DOC make an exception under these circumstances. Corrections officials agreed, and she was able to report for work after quarantining.

## Future plans

The OBFC has begun some longer-term projects and planning, including:

- Conducting an in-depth investigation into ways to support family members and close relations of incarcerated individuals
- Planning follow-up on key recommendations from the February 2020 Legislative Auditor's report about safety concerns for inmates and staff at DOC correctional facilities
- Considering numerous systemic areas for possible investigation based upon complaints received to date
- Holding regular meetings for its stakeholder Advisory Group that will provide input for the office; holding virtual town hall meetings to share information about the OBFC and gather input; and connecting to interested individuals via its e-news updates.

# MN's Office of the Ombuds for Corrections

This 2020 annual report recaps work by the Office of the Ombuds for Corrections (OBFC) over the last year and offers additional information about the role and value of this office. The Minnesota Legislature re-established the OBFC during its 2019 session “to investigate decisions, acts, and other matters of the Department of Corrections (DOC) so as to promote the highest attainable standards of competence, efficiency, and justice in the administration of corrections.”<sup>1</sup> Minnesota’s first independent ombudsperson office for corrections, created in 1973, ceased operations in the early 2000s.<sup>2</sup> The Legislature re-created the office anew almost 20 years later to handle complaints regarding correctional agencies, provide oversight, and recommend systemic improvements that promote high standards of justice and advance safety and security at the state’s correctional facilities.

## The OBFC jurisdiction and role

Minnesota statute grants the OBFC authority to take and investigate complaints about any state or local corrections agency. The OBFC can accept complaints from incarcerated individuals in Minnesota, concerned family members, corrections staff, and community members. The OBFC can investigate individual complaints and systemic issues that the Ombuds determines need review, work to resolve them, conduct investigations, make recommendations to agency leadership and the legislature, and publish reports.

The office is a separate and independent entity from the Department of Corrections (DOC). Details on the authority and responsibilities of the OBFC can be found in Minnesota Statute, Chapter 241, sections 90-95.

## Value and importance of the Ombuds

The following are key reasons the OBFC was re-established by the legislature in 2019:

**Oversight:** Minnesota’s state prisons and local correctional facilities confine thousands of incarcerated adults and juveniles and place staff in often difficult work environments. By and large, the corrections system itself sets and manages the conditions of confinement at facilities where public access is highly restricted. This leaves the prison population vulnerable and the system in need of oversight. Access to an Ombuds provides a way for incarcerated individuals and others to voice concerns and complaints for impartial and transparent consideration.

**Efficiency and justice:** Beyond receiving, investigating, and resolving complaints, the Ombuds may independently draw conclusions, make recommendations, and produce reports aimed at improving the corrections system and the delivery of correctional programs and services. Drawing upon its work with

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<sup>1</sup> Minnesota Statute, 241.90 2020, <https://www.revisor.mn.gov/statutes/cite/241.90>.

<sup>2</sup> The office functions were discontinued in 2001 and the office was unfunded in 2003, according to “Ombudsman for Corrections Working Group: Report to the Legislature,” Minnesota Department of Human Rights, January 28, 2008, p. 2.

incarcerated individuals and others, the OBFC can examine existing policies and procedures and identify opportunities for raising overall standards. The office may suggest to the Governor and the Legislature changes to statute in order to promote efficiency, justice, and fairness.

**Health and safety:** In re-creating the OBFC, the Legislature viewed the office as a way to make prisons and jails safer for both incarcerated individuals and staff. Legislators held hearings on prison safety in 2019 and heard recommendations from the public and those working in corrections that Minnesota re-open an ombuds office. The OBFC increases safety and health for incarcerated individuals because they can turn to the office with complaints and concerns about unsafe or unhealthy situations and conditions. Minnesota’s Office of the Legislative Auditor in 2014 cited establishment of a new Ombuds for Corrections as a way the Legislature could improve oversight of DOC health services to incarcerated individuals.<sup>3</sup>

Safety for corrections staff increases because the OBFC provides a productive option for incarcerated individuals frustrated by circumstances that might lead to conflict if they could not turn to the office for impartial investigations. The OBFC also accepts and investigates complaints and concerns from corrections staff. The OBFC’s work on systemic improvements may also lead to safer environments at prisons and jails. Effective correctional programs, policies, and practices in general create a safer and healthier work environment for staff, who are expected to perform difficult and, at times, high-risk work with little positive recognition from the public.

Finally, it is the duty of Minnesota’s citizens and state government to provide incarcerated individuals with fair and safe conditions of confinement. Additionally, the vast majority of incarcerated individuals in the state are released back into Minnesota’s communities, so it is in the interests of all Minnesotans that their rights are protected, and that correctional programs and services promote rehabilitation, reduce recidivism, improve lives, and keep those communities safe.

## OBFC complaint process

The OBFC in 2020 established processes and procedures for complaints.

Prior to filing a complaint, the OBFC requires incarcerated individuals to have reasonably pursued resolution of their issues through the internal administrative and grievance procedures at their facilities. This protects the integrity of that important agency grievance process and protects the legal rights of inmates. However, this requirement may be waived under certain circumstances. The OBFC will not investigate complaints pertaining to an incarcerated individual’s underlying criminal conviction or pertaining to an agency employee’s employment

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<sup>3</sup> Office of the Legislative Auditor, “Evaluation Report: Health Services in State Correctional Facilities,” State of Minnesota, February 2014, p. 66, <https://www.auditor.leg.state.mn.us/ped/2014/prisonhealth.htm>. The report says on p. ix of the summary, “The Legislature should improve oversight by adopting at least one of the following: (1) require DOC to license its correctional facilities, (2) require DOC to seek facility accreditation, or (3) establish a state ombudsman for corrections.” A recent report from the US Senate calls the value of accreditation from the American Correctional Association into question (<https://www.warren.senate.gov/imo/media/doc/The%20Accreditation%20Con%20-%20December%202020.pdf>).

status. Correspondence to and from the OBFC is protected, and corrections agencies are not permitted to review it.

Incarcerated individuals in DOC facilities can now use the OBFC's [official form](#) to file complaints via the mail.

The office also accepts complaints from inmates and residents of local correctional facilities, which include all adult and juvenile facilities licensed by the DOC Inspections and Enforcement Unit (I&E). While the Ombuds has jurisdiction to receive and investigate complaints at local adult and juvenile correctional facilities, state statute requires that the office not duplicate services from DOC I&E. The Ombuds developed an understanding with DOC on this point as part of an interagency agreement. (See more on the OBFC-DOC agreement in the section below about Working with the Department of Corrections on page 11.) The OBFC also created [a page on its website](#) that instructs individuals with complaints about local correctional facilities to follow facility grievance processes, contact appropriate local authorities, and call upon I&E regarding possible violations of state law or promulgated rules before raising concerns with the Ombuds.

Staff of corrections agencies may also file complaints with the OBFC. The OBFC will recommend that employees seek resolution through established agency processes but may investigate when these processes are not in place or are ineffective. The Ombuds will refer staff to internal processes and procedures when complaints pertain to an agency employee's employment status or law enforcement for any possible criminal matters. The OBFC also developed information for corrections staff on the office's complaint process and investigations.

Family members, advocates, and others may file a complaint using the form available on the OBFC website or following other options for contacting the office as provided on the website. OBFC will not conduct investigations on behalf of another person without gaining their consent, unless for some reason the individual is unable to consent, or other unusual circumstances exist.

***Example of an OBFC complaint resolution: Steps to improve safety at a worksite for inmates***

*The OBFC received complaints from incarcerated individuals about the lack of space between people at their worksite. They were concerned about possible spread of COVID-19. The OBFC brought this to the attention of DOC, and the agency asked the Minnesota Department of Health to visit the facility and consult on the issue. As a result, the workspace was changed to allow more distance between workers.*

## Laying the base for OBFC success

During its first year of operations, the OBFC laid a solid foundation for future success, in addition to registering some important early accomplishments. In its first months of operations, the Ombuds focused on putting the basic pieces in place and structuring its processes for complaints and investigations, while also addressing COVID-related concerns in correctional facilities.

## Setting up the office

Considerable time and effort in this last year went into starting up the office, as the OBFC staff navigated the different systems and procedures to create this new division of state government and position it for important work. They secured temporary workspace, worked with the Department of Administration to secure permanent space, contracted for needed construction there, obtained office furniture, and worked with Minnesota IT Services (MNIT) for phones, computers, and remote systems access during the pandemic. COVID-19 restrictions complicated and slowed office setup.

## OBFC staffing, policies, and procedures

The full-time staff at the OBFC consists of five individuals, all of whom bring valuable experience and useful skills to their new jobs. The full-time staff members are:

- Ombuds Mark Haase, who directs the office and leads its work. Additionally, Ombuds Haase leads investigations at certain facilities and reviews all office investigations as necessary.
- Assistant Ombuds for Operations Margaret Zadra, who manages operations and works with the Ombuds on stakeholder engagement, communication, policies, procedures, and program and resource development to advance the OBFC's mission and values, and leads investigations for juvenile complaints.
- Assistant Ombuds Rea Smith, Shahna Fredrick, and Christian Dobratz, who receive and investigate complaints filed with the OBFC, resolve those complaints, investigate correctional policies and practices, make recommendations for changes to policy and practices, and represent the OBFC with various stakeholder groups.

In addition, the OBFC currently has Ron Solheid, a temporary, part-time senior project consultant, until July 2021 to provide expertise on strategic planning efforts and projects, develop and implement professional service contracts and interagency agreements, and assist with development of OBFC policies and procedures.

### ***Example of an OBFC complaint resolution: Compensation for discarded property***

*An incarcerated individual who had been placed in disciplinary segregation complained about missing property that was to have been sent outside the facility for use again after the disciplinary segregation ended. The individual reported keeping what was allowed, signing for the rest to be sent out, and paying for it to be shipped. Policy requires that signature and payment, otherwise items are tossed out. After segregation, the inmate tried to follow the chain of command and reclaim the property but was not informed of what happened to it. Instead, the individual was told several times to try the chain of command again. The OBFC contacted the property supervisor at the facility and confirmed that the incarcerated individual had signed papers to have items sent outside the prison and indeed paid to have them shipped. This paperwork was found only after contact from the Ombuds office. The OBFC helped the inmate secure reimbursement for items that staff had thrown away instead of shipping out.*

The Ombuds developed an organizational chart for the office as part of the staffing plan. For each of the jobs, office leaders worked through State of Minnesota human resources procedures to define the position, secure approval, create official descriptions, post the openings, interview candidates, and hire the finalists. Restrictions and delays stemming from COVID-19 concerns added to the time required for this process. The Assistant Ombuds for Operations was hired in May and the other Assistant Ombuds were hired in September.

Importantly, the OBFC also developed an extensive, 31-page staff manual that explains staff roles and expectations, complaint intake and evaluation processes, and approaches to investigation, as well as general policies and procedures and office function, duties, and jurisdiction. This manual covers Minnesota law regarding the confidential information the OBFC staff accesses in the course of their work. In addition, the document covers staff visits to correctional facilities, staff safety, and reporting procedures for abuse, threats, and harassment.

## Staff training

OBFC staff members have engaged in extensive training for ombuds work overall and for the potentially sensitive investigations they carry out. Notable instruction in 2020 included the following:

- Participation in a four-day, virtual online training course from the United States Ombudsman Association (USOA) on a range of issues, including intake for complaints, investigation planning, successful interviewing, standards of practice and best practices, Ombuds ethics, and Ombuds policies
- Participation in a weeklong DOC training academy about working within the corrections system, plus custom trainings on specific DOC areas relevant to the OBFC, including DOC's Correctional Operations Management System, case management, the grievance process, health services, facility visitations, special investigations, and discipline processes, rules, and violations
- Training in interviewing and investigative techniques from an instructor with extensive expertise gathering and analyzing information on sensitive complaints and issues
- Training on data practices and on OBFC's case management software
- Online courses available through the State of Minnesota on topics relevant to Ombuds work and of importance for state employees, including sessions on safety, ethics, and harassment
- Virtual training from USOA and the International Ombudsman Institute on poverty, race, and consciousness
- American Bar Association webinars on the value of the ombuds, mediation skills, handling unreasonable complaints, and addressing matters of impact

## Working with the Department of Corrections

The OBFC is an independent office separate from Minnesota's DOC. However, the OBFC intersects with DOC as it reaches out to the prison population, investigates and resolves complaints, and recommends systemic improvements. For this reason, the OBFC took action this year to establish and formalize working relations with the agency.

The OBFC and DOC worked extensively on an interagency agreement that both entities signed in September. The document provides a comprehensive and clear framework as the OBFC and DOC carry out their respective duties and interact in the context of their missions and roles. A significant part of the agreement addresses procedures relating to complaints the OBFC receives and investigates, including provisions for DOC about access that incarcerated individuals have to information regarding the OBFC, prompt and confidential transmission of complaints to the OBFC without interference or adverse consequences, and access for OBFC staff to incarcerated individuals and DOC staff for investigations.

Other sections of the agreement make DOC information, data, and facilities available to the OBFC. The agreement also spells out how the OBFC and DOC's Inspections and Enforcement Unit for jails will interact on complaints regarding local correctional facilities. And it obligates DOC to provide orientation training to the OBFC staff and the OBFC to provide training to DOC staff on the office's role, responsibilities, and procedures.

Beyond the interagency agreement, the Ombuds and the Commissioner of Corrections meet every other week to discuss issues and ideas and to keep the lines of communication open. This last year, COVID-19 has been their primary topic.

***Example of an OBFC complaint resolution: Shower privacy***

*A transgender inmate complained to the OBFC about not being allowed to shower separately once the COVID-19 pandemic hit. The OBFC contacted an assistant warden at the facility, who acknowledged that ensuring shower privacy for the transgender inmate had likely dropped down the list of priorities as staff struggled with the challenges of COVID-19. The assistant warden recognized the importance of the concern and sent a reminder to program directors at the facility to adjust their schedules so that transgender inmates could shower separately from other incarcerated individuals.*

## The OBFC website

The OBFC staff worked with MNIT on its [public website](#). The [site includes information](#) about the office, its authority and powers, complaints and investigations, and recommendations and reports. [A webpage on complaints](#) describes the OBFC process and includes a link to the official complaint form. [Another webpage](#) informs users about what to do if they have complaints about local adult or juvenile corrections facilities. In addition, the website [offers links to resources](#), including the DOC guide for families and friends of incarcerated individuals, with additional resources to be added soon. It also offers an extensive compilation of [frequently asked questions](#) and the answers. Before the OBFC website was posted, the office set up a Facebook page to provide online information about the office, primarily focused on COVID-19 topics.

## The OBFC response to COVID-19

Doctors first confirmed a case of COVID-19 in the United States just a week after the Ombuds for Corrections was hired in January 2020. The deadly virus quickly became a serious threat to incarcerated individuals and staff in Minnesota and nationwide. Prisons and jails are crowded places, with residents living together in close quarters and sharing space as they sleep, shower, eat, work, and recreate. There is significant changeover in the

incarcerated population. Older facilities often have poor ventilation systems. And social distancing is difficult at best for both inmates and facility staff.

The Ombuds focused on COVID-19 as a top priority even while working to set up and staff the new office. From spring 2020 through the rest of the year, the OBFC responded to critical issues the virus creates for incarcerated individuals and correctional facilities. The Ombuds worked with the Commissioner of Corrections to set up community conference calls about DOC's COVID-19 challenges, responses, and plans for six weeks during the start of the pandemic; and the Ombuds and the Commissioner worked to set up a new email system at each state prison that incarcerated individuals can use to register complaints and concerns with the OBFC about the virus. The Ombuds also analyzed and summarized inmate concerns about COVID-19, made recommendations to the DOC Commissioner based on those concerns, offered policy recommendations to the Legislature, and asked officials at the Minnesota Department of Health (MDH) to consider inmates and prison staff as a high-priority population when determining which groups will receive the COVID-19 vaccination soon after it becomes available.

***Example of an OBFC complaint resolution: Ensuring distribution of an investigative report on rape prevention***

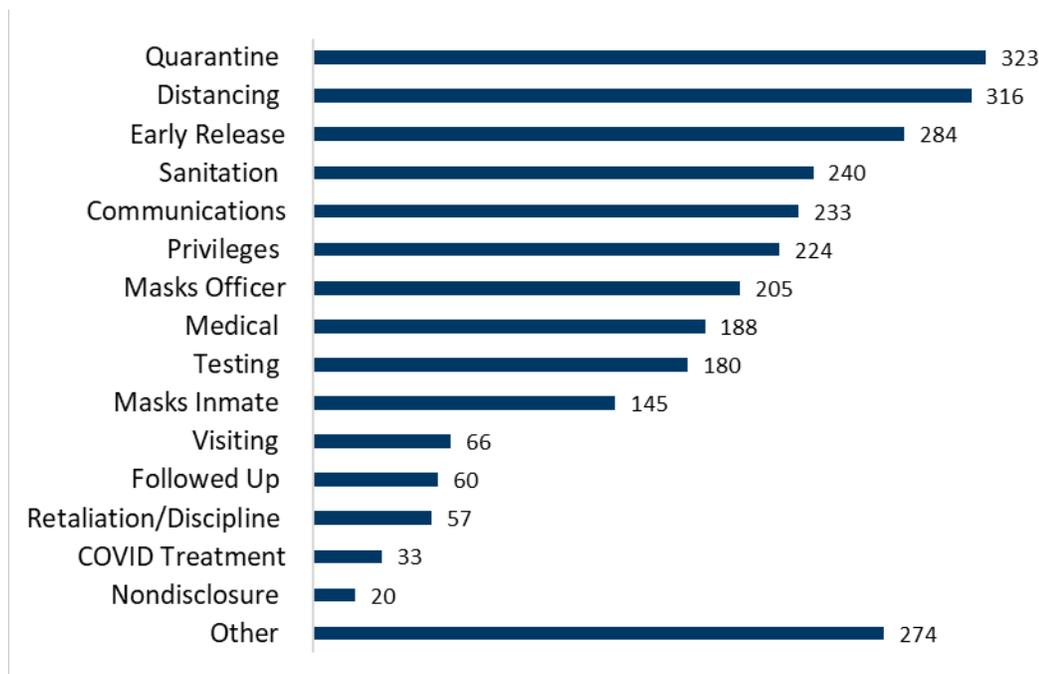
*The Ombuds heard from an incarcerated individual who had filed a complaint under the federal Prison Rape Elimination Act. This person told the OBFC that DOC had not addressed the complaint. OBFC staff investigated the concern and found that while DOC had properly considered the complaint, staff had not given this inmate a required report about DOC findings. The DOC then provided the report to this inmate and also took corrective action to prevent this oversight in the future.*

## **A system for COVID-19 concerns, complaints to the OBFC**

Attentive to the threat of COVID-19, the OBFC proactively engaged with DOC to set up a system for incarcerated individuals at state correctional facilities to contact the office about the virus. Incarcerated individuals can use communications kiosks at the prisons for a fee to send electronic messages. DOC and the OBFC expanded those offerings in the spring so that inmates could use the kiosks at no charge to confidentially report concerns and complaints to the Ombuds about COVID-19. The OBFC received a total of 2,151 COVID-related emails from the state facilities from the time this kiosk system was operational in mid-May through the end of November.

Incarcerated individuals used the kiosk email system to send COVID-19 complaints and concerns relating to a wide range of topics, from social distancing to sanitation to quarantines to COVID-19 testing and treatment. The OBFC tracked the complaints by these different topics. Figure 1, below, shows the number of times each major category was included in the COVID-related emails. Many of the emails covered more than one concern related to the virus.

**Figure 1. Number of times topics were covered in COVID-related emails to the OBFC from prison kiosks<sup>4</sup>**



While this email system did not allow the OBFC to respond directly to individuals who sent the emails, OBFC staff monitored them to identify overarching areas important to health and safety at the prisons. In addition, the OBFC followed up with DOC on some complaints to note needed care for some incarcerated individuals or to alert the agency to emerging issues.

In some of these cases, DOC staff was already aware of the COVID-related issues and monitoring them or addressing them. In others, the Ombuds is not aware if contact with DOC prompted specific action, but the issues were then resolved. In all cases, however, the issues that inmates raised provided a basis for the OBFC's work on COVID-19 issues and systemic recommendations.

The OBFC follow-ups in support of inmate access to health care included:

- Medical and mental health well-being checks
- Elevating medication requests, including requests for inhalers
- Elevating requests for medical equipment, including sleep apnea machines
- Requesting attention for increasingly acute medical issues not prioritized because of COVID-19

By monitoring these emails from incarcerated individuals, the Ombuds stayed informed about COVID-19 circumstances in the prisons and was able to keep the Commissioner updated on the inmate perspective as he worked to respond to the situation. The kiosk system provided inmates with a way to communicate directly and

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<sup>4</sup> The total for topics covered in the COVID-19 emails from the prison kiosks, at 2,574, exceeds the count of emails, at 2,151, because some emails covered more than one topic.

confidentially with the OFBC, so staff there knew they were receiving unfiltered information. That information largely aligned with what the OBFC heard from DOC and confirmed that while the situation was challenging and evolving, the agency, leaders at the facilities, and prison staff were trying to address needs and issues.

## The OBFC recommendations to the Legislature and legislative action

In keeping with its role to recommend systemic improvements for corrections, the OBFC shared recommendations in March with the Governor and legislative leaders for reducing the number of people held in jails and prisons statewide in light of COVID-19's spread. The recommendations aimed to protect the health and safety of people held in correctional facilities, staff who work there, and the broader community. In a letter to the Governor, Minnesota's Chief Justice, and legislative leaders, the Ombuds wrote, "Fewer individuals entering facilities will reduce the likelihood of the virus being introduced to facilities and potentially later brought back into the outside community; and a lower population overall will allow for individuals and groups to be isolated and quarantined as needed."<sup>5</sup>

The OBFC recommended that state leaders:

- Provide direction to law enforcement agencies statewide that they send to detention facilities only individuals arrested for violent offenses or those whose other circumstances might adversely affect health and safety if they are not detained.
- Provide direction for the release of individuals held in local facilities both before and after conviction if they do not pose a public safety threat.
- Provide direction for suspension of revocations of probation and release when such release is found to pose no danger to the community.
- Broaden the authority of the Commissioner of Corrections to release individuals within 180 days of their scheduled release dates.
- Increase public access to data on the correctional population and trends to allow for tracking over time.<sup>6</sup>

In a follow-up letter a week later, the Ombuds noted successful actions to reduce the population of incarcerated individuals held in local facilities and cited concerns about less dramatic declines for those held in state prisons. The Ombuds recommended changes in state statute to grant the Commissioner of Corrections broader discretion to place inmates on supervised release within 180 days of when they are scheduled for regular release and to require that local correctional facilities hold sentenced individuals for up to 180 days before admitting them to state correctional facilities. The OBFC provided proposed statutory language, in accordance with the official duties of the Ombuds.

These communications drew attention from legislators in the Minnesota House. The House Judiciary and Criminal Justice Reform Committee held hearings on the topic and took testimony from the Ombuds. Committee

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<sup>5</sup> Mark Haase, letter to Governor Tim Walz, Chief Justice Lorie Gildea, Senate Majority Leader Paul Gazelka, and House Speaker Melissa Hortman, May 24, 2020, p. 2.

<sup>6</sup> Haase letter to Walz and others, cited above, p. 3.

chair Representative Carlos Mariani included language in public safety legislation about temporary emergency powers for the Commissioner of Corrections related to the OBFC recommendations.<sup>7</sup> The House passed the legislation, and the Senate took no action.

***Example of an OBFC complaint resolution: Confirming the reasonableness of disciplinary action***

*An incarcerated individual complained to the OBFC about being denied due process and punished for no reason after facility staff cited this person for behavior violations. The complainant denied engaging in any such behavior. The OBFC investigated, reviewed findings from DOC's Office of Special Investigations, and viewed videos of the event. The video clearly showed the incarcerated individual had engaged in all the behaviors noted in the citation and leading to the disciplinary action. The OBFC was able to confirm that facility staff took action that was appropriate to the circumstance.*

## **COVID-19 recommendations to the DOC Commissioner**

In late May, the OBFC summarized for the Commissioner of Corrections inmate complaints and concerns from the 441 confidential emails it had received by then about COVID-19 and recommended agency action in four specific areas. Drawing from the themes of the COVID-related emails, the Ombuds called for the following:

- Increased communication about COVID-19 topics and concerns, especially COVID protocols, medical releases, and early releases.
- More attention to social distancing, personal protective equipment, and sanitization, including reminders and clarifications about mask wearing and better spacing protocols at medical service windows.
- Access for all inmates to video visits.
- Consideration for issues of importance to transgender and Native American inmates at this time of COVID-19 restrictions.

The Commissioner responded to the recommendations, noting planned actions on several issues and providing additional context and information for the Ombuds to consider.

## **The OBFC asks MDH to consider inmates when identifying high-priority populations for the COVID-19 vaccination**

The Ombuds communicated with the Minnesota Department of Health in early December to urge full and appropriate consideration of incarcerated individuals and corrections staff as the state developed priorities and guidelines for early phase distribution of COVID-19 vaccines. In a letter to MDH's director of infectious diseases, the OBFC noted that conditions in correctional facilities contribute to the spread of the virus and presented data on the disproportionately high occurrences of COVID-19 among inmates and prison staff. The letter also cited

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<sup>7</sup> For more on the legislation, see Minnesota House Research summary of H.F. 3156 at <https://www.house.leg.state.mn.us/hrd/bs/91/HF3156.pdf>.

high rates of heart disease, diabetes, asthma, and other health conditions among incarcerated individuals, ones that make them susceptible to COVID-19. In addition, it called attention to the larger number of inmates from groups in Minnesota disproportionately affected by the virus.

## General complaints, investigations, and resolutions

A central focus for the OBFC during start-up has been the systems and procedures for receiving, investigating, and resolving complaints from incarcerated individuals and their families. The office has accepted comments and concerns about COVID-19 challenges since May, but the Ombuds made a strategic decision to wait on general complaints until putting in place procedures, staff, and information systems for soliciting and accepting them. This was based in large part on sound advice from the ombuds for corrections in other states. They advised that the OBFC begin operations by establishing the internal infrastructure necessary to handle complaints so as not to start off the office's work understaffed, backlogged, and potentially plagued by inadequate tools and processes. In addition, the OBFC was fielding a heavy volume of emails from incarcerated individuals about COVID-19. The OBFC began accepting general complaints on September 21, 2020.

### ***Example of an OBFC complaint resolution: Medical attention for an inmate in pain***

*An incarcerated individual in constant pain from complications with an internal organ complained to the OBFC about not getting evaluated by a doctor. The inmate reported having been in pain for a month. This individual made written requests through the chain of command but received no response from health services. The written requests went missing, according to the individual, and there was no option to file a grievance because the lost requests meant the chain of command process was not followed. The OBFC contacted staff at the facility. The next day, a doctor evaluated the inmate and ordered an urgent procedure to address the medical condition.*

## Laying the groundwork

The OBFC took the following steps in 2020 to help ensure efficient handling of complaints from incarcerated individuals, agency staff, and concerned family and community members:

- Hired three Assistant Ombuds, whose primary responsibilities are to receive, investigate, and resolve complaints.
- Created a video introducing the office and complaint process that was played at DOC facilities.
- Set up the [OBFC website](#) with information about the office and the complaint process.
- Produced an official [OBFC complaint form](#) for posting on the website and use by incarcerated individuals.

- Identified information collection, tracking, and management needs for complaints and investigations, contracted with software vendor Workpro for a system to meet the needs of the OBFC, and worked extensively with MNIT and Workpro to finalize the system and implement it in November.
- Worked with DOC to create the interagency agreement cited previously, including key sections on the OBFC and DOC interactions regarding complaints and investigations.
- Worked with DOC to specify and describe processes for those with [complaints about local correctional facilities](#) and compiled a document for the OBFC website, as noted previously, that lays out information about complaints to the Ombuds but also the internal grievance process at local facilities, appeals to local authorities, and the role of the I&E.
- Created information specific to corrections staff to help them understand their ability to file complaints and their role and rights in OBFC investigations.

## Initial, general complaints to the OBFC

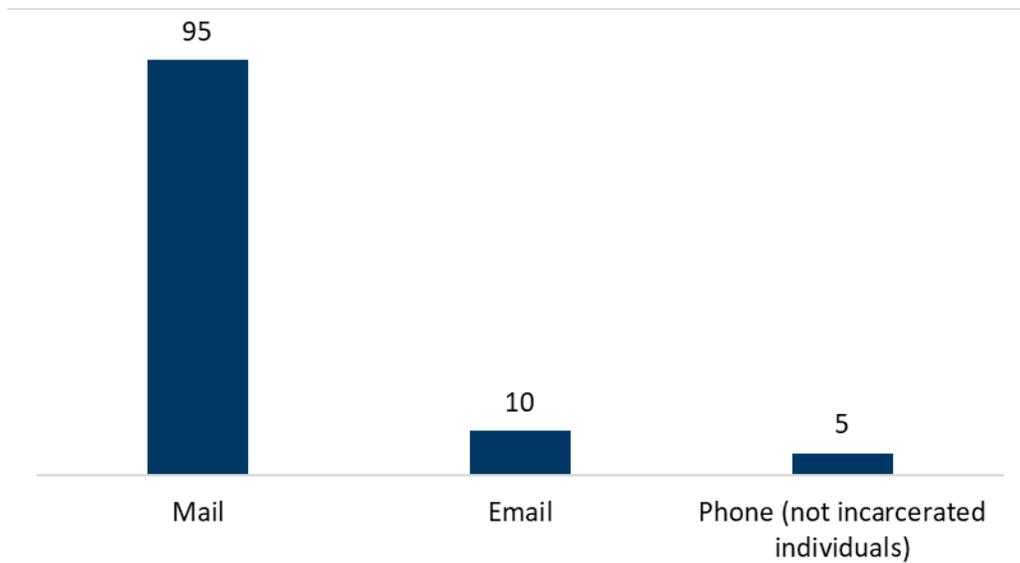
In the two months after the OBFC officially began accepting general complaints, the office handled more than 100 complaints filed using the OBFC complaint form.<sup>8</sup> These are separate from and in addition to thousands of COVID-related complaints received through the email kiosks in DOC facilities. More than 85 percent of the general complaints came to the OBFC through the mail, and about 10 percent were emailed to the office. While the OBFC does not accept complaints from incarcerated individuals over the phone, the Assistant Ombuds fielded five complaints from family and community members that way.<sup>9</sup> Figure 2 shows the number of complaints by type.

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<sup>8</sup> The count for complaints received from September 21 through November 24 includes some complaint forms mailed to the OBFC prior to when it officially began to accept general complaints.

<sup>9</sup> Based on advice from Ombuds for Corrections in other states, the OBFC determined that the phone is an inefficient way to collect complaints from incarcerated individuals and that complaints phoned in from inmates would distract Assistant Ombuds from their work investigating and resolving complaints.

**Figure 2. Number of general complaints by type from late September to late November**



In response, the office has initiated investigations, compiled case-specific information, and worked to resolve issues as appropriate. In about one-third of the cases from late September to late November, the OBFC concluded preliminary investigations by recommending action or taking it to resolve the issue.

Topics covered in these early complaints included confusion about and lost communications within the DOC chain of command and grievance process, health services issues, alleged staff misconduct, property issues, sexual assault, physical abuse by both staff and incarcerated individuals, excessive discipline, issues for transgender individuals, access to religious ceremonies, and facilities maintenance. Going forward, the OBFC anticipates a greater number of general complaints per month as more inmates become aware of the office. The OBFC will be able to report on complaints in more detail in the future using the capabilities of its new Workpro case management system.

A number of short resolution stories from the OBFC's work on complaints are highlighted in boxes throughout this report.

## Case management software

The OBFC spent considerable time selecting the Workpro complaint management software for its operations and cooperating with that vendor and MNIT to customize a version matched with the needs of the office. Workpro is used worldwide to handle complaints for Ombuds offices. With the shift from Microsoft Excel to Workpro for data on complaints and investigations, the OBFC will be able to identify cases by subject, facility, and outcome, and link related cases across all its Assistant Ombuds.

Workpro can produce reports in Microsoft applications on a wide range of topics, including types of complaints, themes, and who filed which complaints. It will track status, dates for action, and outcomes. In addition, the OBFC staff will be able to upload relevant case documents into the system and graph complaints received versus

complaints resolved. Once fully functional, Workpro will be able to automatically pull case data from a fillable version of the complaint form on OBFC's website, eliminating the need to have staff manually move data from the form to the tracking system.

***Example of an OBFC complaint resolution: Video visitation in the time of COVID-19***

*The OBFC received numerous complaints about restricted video visits at one of the DOC facilities. During the pandemic, staff at the facility were planning to follow established video visit policy for expanded access to such visits. The policy for video visits is more restrictive than the policy for in-person visits. However, COVID-19 had shut down in-person visits, and inmates were unable to use video to connect with some of the individuals who would otherwise have come to see them in person. The OBFC investigated and raised this issue with facility leadership. After further consideration and discussion with the OBFC, the warden decided to allow the incarcerated individuals to conduct newly available video visits with anyone on their approved visitors lists, just as they can hold in-person visits with anyone on those lists.*

## The OBFC Advisory Group and other outreach

The OBFC is working to build relations with key partners and those interested in its work. As a major part of that effort, the office has established the OBFC Advisory Group, which recently held its first meeting. The OBFC invited participation in this group from members with important perspectives on corrections issues. They will provide input for the OBFC as it develops and refines policies and practices and carries out its work.

The 10-member group currently includes individuals who were formerly incarcerated, loved ones of current inmates, correctional officers, and other prison staff. The group, which plans to meet quarterly, is informal in nature because state statute does not require that the Ombuds have an advisory group.

In addition to the OBFC Advisory Group, the Ombuds and OBFC staff have met and connected with others in their work over the last year. Outreach efforts have included meetings with officials from a range of organizations, including the Minnesota Sheriff's Association, the National Alliance on Mental Illness, the Legal Assistance to Minnesota Prisoners clinic at the Mitchell Hamline School of Law, and the American Federation of State, County, and Municipal Employees.

The OBFC also has participated in the monthly meetings of the State Advisory Task Force on Justice Involved Women and Girls.

Additional engagement includes the OBFC e-news service. Anyone interested can sign up on the website to receive updates via email.

# Other current OBFC initiatives

In 2020, the OBFC began initiatives regarding two important topics for incarcerated individuals in Minnesota: managing the size of the inmate population during the COVID-19 pandemic and strengthening supports for family members and friends of those who are incarcerated. The office expects to use this information along with what it learns through inmate complaints in order to help Minnesota identify viable options for these topics.

## Prison population management

The OBFC is investigating efforts to manage the state prison population in part as a DOC COVID-19 mitigation strategy, the challenges involved in implementing reductions, and effective approaches for this. In addition, the office is investigating what lessons can be learned from this research to support more competent, efficient, and just administration of corrections outside the context of COVID-19.

The investigation has included review and analysis of administrative data regarding prisons and prison populations, interviews with 16 staff with DOC and the Community Corrections Act counties,<sup>10</sup> and interviews with 11 national experts, community advocates, county attorneys, and correctional officials from other states.

## Supports for family and close relations of incarcerated individuals

The OBFC is also investigating ways to support family members and close relations of those who are incarcerated in Minnesota. Research shows that incarcerated individuals who maintain supportive relationships with loved ones experience better outcomes upon returning to their communities.<sup>11</sup>

For this work, the OBFC is focused on barriers and opportunities for maintaining connections, existing resources and supports, promising practices in other states, and opportunities for programs in Minnesota. As of mid-December, this OBFC initiative has involved two focus group sessions with 10 loved ones of incarcerated individuals and interviews with 18 advocates, experts, representatives from nonprofit groups, DOC staff, and officials in other states. In addition, project staff has consulted with four national organizations for examples and information about model approaches and programs. They also have worked with the national Correctional Leaders Association to survey state officials nationwide for information about supports for families and close relations. Another focus group and additional interviews are scheduled to be completed in early 2021.

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<sup>10</sup> These are counties that operate their corrections programs under provisions of the Minnesota Community Corrections Act of 1973.

<sup>11</sup> Margaret diZerega and Sandra Villalobos Agudelo, "Piloting a Tool for Reentry: A Promising Approach to Engaging Family Members," Vera Institute of Justice, March 2011, p. 4, available at [https://www.vera.org/downloads/Publications/piloting-a-tool-for-reentry-a-promising-approach-to-engaging-family-members/legacy\\_downloads/Piloting-a-Tool-for-Reentry-Updated.pdf](https://www.vera.org/downloads/Publications/piloting-a-tool-for-reentry-a-promising-approach-to-engaging-family-members/legacy_downloads/Piloting-a-Tool-for-Reentry-Updated.pdf).

**Example of an OBFC complaint resolution: Work release exception**

*An incarcerated individual contacted the OBFC after possible exposure to COVID-19 within her facility undermined her plans for work release. She had been approved for work release and was looking forward to it. The work release program then required her to quarantine and test negative for the virus before going to her work site. But the quarantine period would leave her with less than 60 days left in her confinement, and DOC policy requires that work release must start prior to the final 60 days. After being denied work release, the incarcerated individual complained to the OBFC, which investigated the situation and recommended that DOC make an exception to the 60-day rule under these unusual circumstances. DOC agreed, and she was able to participate in the work release program.*

## Coming up for the OBFC

The Ombuds office will shape its efforts in the coming year based on the complaints it receives, developments with the COVID-19 pandemic, input from the OBFC Advisory Group members and others, and its initiatives regarding prison population management and supports for the families and close relations of incarcerated individuals. Based on its work in 2020, the OBFC expects in 2021 to:

- Hold virtual town hall meetings—in January for community members and in coming months for staff at DOC and local correctional facilities—to share information about the OBFC and its complaint process and to gather input.
- Follow up on the February 2020 report from the Office of the Legislative Auditor about safety concerns for inmates and staff at DOC correctional facilities, focusing in particular on key recommendations as part of the OBFC’s ongoing and sustained oversight role.<sup>12</sup>
- Consider a number of systemic areas for possible investigation based upon complaints received to date. Areas of investigation could include the grievance process for incarcerated individuals, due process for inmate discipline, and access to treatment programs for mental health challenges, substance abuse, and sexual abuse. Many others are being considered.

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<sup>12</sup> Office of the Legislative Auditor, State of Minnesota, “Safety in State Correctional Facilities,” State of Minnesota, February 2020, available at <https://www.auditor.leg.state.mn.us/ped/pedrep/prisonsafety.pdf>.