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The attached comparison of the House and Senate Ombudsman bills was prepared for the FCC by the local chapter of the American Society for Public Administration.

# AMERICAN SOCIETY FOR PUBLIC ADMINISTRATION

SOUTHEAST ALASKA CHAPTER  
Box 292 Juneau, Alaska 99802

March 14, 1975

Hon. Mike Miller  
House of Representatives  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99801

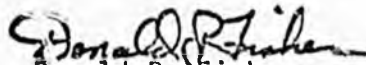
Dear Representative Miller:


This committee of our association has taken the respective Senate and House versions of S.B. 1, establishing the Office of Ombudsman, under study and advisement. Attached you will find our conclusions, recommendations and the reasoning behind them, with regard to the differences between the two versions.

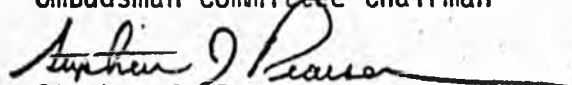
May we ask you to note that with regard to all issues where we have concluded that one house's version is as valid as the other's we have not made a recommendation? Also where both houses have clearly manifested their disposition on particular issues we have made no further recommendations. Finally we want you to know that this report comprehends only those issues upon which this committee could agree unanimously.

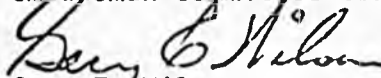
Thank you for your courtesy and attention.

Sincerely,

  
Donald P. Fisher  
Chapter President

  
Robert E. Newton  
Ombudsman Committee Chairman

  
Stephen J. Pearson  
Ombudsman Committee Counsel

  
Gary E. Wilson  
Ombudsman Committee Member

Attachment

AS 24.55.020

AS 24.55.020 provides for the manner of selection of the Ombudsman. The Senate version provides for nomination by the Senate Rules Committee, and selection by a majority vote of the members in each house, the House version provides for nomination by the Legislative Council, examination by "appropriate committees," and selection by a three-fourths majority vote by the members in each house.

As an initial matter, it might be advantageous to have the house participate in the nomination as well as in the selection of an Ombudsman. Such participation will tend to expedite the selection process by causing persons to be nominated who are more likely to be acceptable to both houses. For this reason we tend to favor nomination by the Legislative Council (comprised of members of both houses) as specified in Section 020 (a) of the House version.

On the other hand, given that the Legislative Council is composed of members from each house, and given that the Legislative Council will presumably examine potential candidates for the office in some depth, it is uncertain whether further examination by "appropriate committees" of each house, as specified in Section 020(b) (1) of the House version is necessary. The principal impact of this provision in the future may simply be to delay selection of a candidate acceptable to a sizeable majority of the members of each house, and perhaps even to permit a single member or a small minority of members in the Legislature to block selection of a well-qualified and desirable person. For this reason, it may be desirable to have the Legislative Council present the nomination before both houses without prior referral to standing committees. If further examination is required the Legislature presumably may refer the matter back to the Council or perhaps an ad hoc committee established for such purpose.

It is noted that approval by a three-fourths majority is required by the House version whereas a simple majority vote is sufficient in the Senate version. Although there is much wisdom in insuring that an Ombudsman be acceptable to a broad range of persons and interests as reflected by the memberships in both houses, it is feared that requiring three-fourths majority approval may entail undesirable consequences in the future. Selection of a candidate may be blocked by a distinct minority of the members of the legislature.

Section 5 of the ABA Model Act and Section 92-6 of the Hawaiian Ombudsman Act each provide for approval by a two-thirds majority. It is believed that such a voting requirement may provide an appropriate,

compromise between the two versions: it will guarantee selection of an Ombudsman acceptable to a diverse group of interests; yet it would not empower a small minority to veto the choice of any candidate.

Subsections 020(c) and (d) of the Senate version, permitting the Governor to veto an appointment for reasons stated, would seem to be a wise inclusion. As a practical matter, the Ombudsman's effectiveness will be enhanced to the extent that he receives the cooperation of the Governor's office. For this reason, the Governor should be given an opportunity to express any serious objections in respect to a particular person selected by the Legislature, subject of course, to the Legislature's power to override his veto. It is therefore recommended that the foregoing subsections be included.

#### AS 24.55.030

As 24.55.030 in each version prescribes the qualifications for an Ombudsman, and proscribes specified political activities. The proscriptions against political activities are identical in each version and should be retained to promote the non-partisan nature of the office. Differences in the prescribed qualifications in the respective version, however, may warrant further consideration.

As a preliminary matter, it may be noted that Article II, Section 2, Article III, Section 2, and Article IV, Section 4, of Alaska's Constitution specify the limitations on eligibility of persons to serve in the Legislature, as Governor, and on the Supreme and Superior Courts, respectively. To the extent that Subsection 030(a) (2) of the House version imposes additional limitations on the eligibility for holding such offices, the provision may become subject to constitutional challenge. Similarly it is questionable whether a State may directly impose limitations on eligibility for national office, as Subsection 020(a) (2) of the House version purposes to do, except, of course, to the extent federal legislation so permits.

In view of the foregoing reservations, it is believed that the Senate version of Subsection 020(a) (2) should be preferred insofar as it is not subject to the problems noted above. For similar reasons, the House version of Subsection 020(a) (1), prescribing a one-year period of ineligibility of former legislators to hold the office is to be preferred to the two-year period specified in the Senate version, insofar as the House version conforms more closely to the disqualification provisions of Article II, Section 5 of Alaska's Constitution. The language of the House version might better be modified so as to mirror the language contained in the Constitution and thereby preclude any potential constitutional challenge in the future.

AS 24.55.060

AS 24.55.060 prescribes the compensation to be paid the Ombudsman: a salary equal to that of the Chief Justice of the Supreme Court under the Senate version; a salary equal to that of a Superior Court judge under the House version.

It may be noted that both Section 207 of the Harvard Model Act and Section 9 of the ABA Model Act provide for a rate of pay commensurate with that of a chief judge of the highest court in the state. The Hawaiian experience, however, indicates that a rate of pay equal to that of a judge of an intermediate court is adequate to attract highly qualified candidates and to lend sufficient prestige to the office. See e.g., Section 96-2 of the Hawaiian Act. Accordingly, it is recommended that a rate of pay equal to that of a Superior Court judge be specified initially. If found to be too low, future amendments increasing the rate of remuneration may then be considered.

AS 24.55.160

AS 24.55.160 in each version of the bill relates to investigatory procedures which may be used by the Ombudsman. The only difference between the versions is the addition of a Subsection (b) in the House version which provides that the Ombudsman shall maintain confidentiality in his investigations except insofar as disclosure is necessary to enable him to carry out his duties and support his recommendations.

Subsection 24.55.160(b) in the House version should be given particular attention. There is no such provision in either the Harvard or the ABA Model Acts, in the bill which the ASPA Ombudsman Committee drafted, in H.B. 45 which the Governor sent down to the Legislature, in the original version of S.B. 1, in S.B. 1 as it passed the Senate, or in House Judiciary Committee Substitute for S.B. 1. It first appears in House Finance Committee Substitute for S.B. 1, the measure which the House adopted.

The confidentiality provisions of AS 24.55.160(b) in the House version are found in the Hawaii Statute, Section 96-9(b) in almost exactly the same form. Our committee was aware of this when we submitted our original draft. Our thinking at the time was to the effect that it was unnecessarily restrictive of the Ombudsman's authority to publicize a complaint whenever he thought that the best way to bring a complaint to a speedy resolution. We noted that the Harvard Model contained no such restriction. (We had not, as yet, received the ABA Model).

Upon consultation with Hawaii Ombudsman Herman S. Doi, we are now persuaded that AS 24.55.160(b) in the House version is very much needed, that we had previously misunderstood its relationship to the functional dynamics of the Ombudsman's office, and that without it the speedy processing of citizens' complaints could be seriously impaired by premature media inquiries. This provision establishes strict and defined legal parameters on the Ombudsman's authority to publicize. Until a complaint has been determined by his office to be meritorious, the complaint has been investigated, he submits a proposal to the agency for resolution, and the agency refuses to comply with his recommendation, the Hawaii Statute imposes on the Ombudsman and his staff strict standards of confidentiality. It should also be noted that in cases where agencies do comply with the Ombudsman's recommendations, confidentiality extends in time beyond the resolution of the case regardless of the nature of the complaint and the abuse, malpractice, etc., that has been resolved. It should also be noted that, as a matter of historical fact, the Hawaii Ombudsman has not publicized a case during the five and a half years the office has functioned. Similar to his subpoena powers, the authority to publicize would seem to draw its potency from its existence rather than its use.

#### AS 24.55.170

The House version contains a Subsection(c) which affords the Ombudsman access to confidential documents which is not contained in the Senate version.

As a preliminary matter it should be noted that the subject matter of the Ombudsman's complaint load which requires investigation coincides frequently with those sensitive areas such as health, education, social services and criminal justice administration wherein, in recent years, extensive efforts have been made to protect individual rights of privacy. More often than not, the Ombudsman could gain speedy access to confidential record through a waiver of his rights of privacy by a complainant who has sought the assistance of the Ombudsman to redress a grievance. Too often, however, this would not be the case, e.g., an adoption contest in which the disappointed party would approach the Ombudsman's office with an allegation of administrative malpractice or abuse.

The Ombudsman's function is also to ascertain patterns of administrative malpractice and to extend his investigation beyond the parameters of a particular case when he determines that not only an individual complainant, but also an entire class of complainants are being subject to some administrative abuse or malpractice. For these reasons, it is recommended that Subsection(c) in the House version would better serve the purposes of the bill. The confidentiality provisions of AS 24.55.160(b) should protect sufficiently individual rights of privacy.

In addition, AS 24.55.170(c) makes the disclosure of statutorily defined confidential information punishable under AS 11.30.240. This provision not only protects individual rights of privacy, it also protects the Ombudsman and his staff from undue public inquiry, and thus tends to strengthen the purposes of the bill.

Conversely, prior judicial approval before the Ombudsman could have access to confidential items of information might substantially impair the purposes of the bill. An ombudsman's effectiveness is measured by the number of cases he speedily resolves with a small staff. This provision imposes on the office cumbersome and time consuming judicial processes which would seriously delay the processing of cases. There may well be, however, a scrutinizing role for the courts to play under Sec. 24.55.200.

#### AS 24.55.200

The Senate and House versions are very similar, the House version including a grand jury among those parties to who the Ombudsman may report his opinions and recommendations in a case.

A cross reference to the provisions of AS 24.55.170(c) in the House version might better clarify the bill as to the restrictions on the Ombudsman's use of items of information defined by statute as confidential. If these restrictions are not to be absolute, prior judicial approval should be a condition to any exceptions. Whether there should be exceptions with regard to the Ombudsman's reporting his opinion to the Governor, the Legislature or grand jury, this committee has not reached any conclusion. Exceptions with regard to the divulging of confidential information to the public, we think, might seriously jeopardize the integrity of our confidentiality statutes and, in addition, would in no manner serve the purposes of this bill.

#### AS 24.55.320

There are two significant differences between the Senate and House versions. The Senate version extends the Ombudsman's jurisdiction to municipal government while the House version does not; the House version extends the jurisdiction to judges themselves as well as to the administrative personnel of the Alaska court system, while the Senate version does not include the judges themselves.

This committee views the municipal jurisdiction issue as a dilemma which, at this time, might just as reasonably be resolved one way as the other. The interfacing of state and local government is such that we feel strongly that the municipal jurisdiction is essential to achieve the purposes of the bill. Conversely, the jurisdiction which the bill confers is already more broad than that conferred on any Ombudsman in the United States. Conferring the municipal jurisdiction at this time might overburden the Ombudsman in the initial years as the office is being established. Additionally, within our knowledge municipal officials and their formal associations have not been appropriately consulted during the drafting stages of this bill.

With regard to the Ombudsman's jurisdiction over the judicial branch, this committee views the Senate version as charting a more prudent course to attain the purposes of the bill. Article IV, Section 1 of Alaska's Constitution confers a broadly stated independence upon the Alaska judiciary. Ultimately the jurisdiction of the Ombudsman over judicial personnel will extend only as far as a majority of the Alaska Supreme Court is willing to allow it to extend. We think there is a lively prospect that the Alaska Supreme Court will accept the jurisdiction which the Senate version confers. If this should ensue, then the administrative acts of the courts will be open to as much scrutiny as those of the executive branch, and insofar as it lies with the Ombudsman's capacity to remedy abuses, this field will be open to him.

Professor Robert E. Newton: We have a few minutes here before we go into our panel session, and in view of the fact that this wonderful gentleman who has come over here to give us the benefit of his experiences is only going to be with us for a relatively brief moment--we have had this hour; it is five years now that he has filled this capacity in the State of Hawaii--I would certainly like to provide anyone in the audience right now the opportunity, with your permission Mr. Doi, to ask a few questions. We have a member of the state legislature over here. Would you please identify yourself, sir?

Representative Charles Parr: Yes, I am Charles Parr from Fairbanks. Mr. Doi, one thing that you said disturbed me a little bit. You repeated a number of times and you kept saying the law is a standard, in accordance with the law and regulations, etc., but wouldn't there be a rather large number of complaints which might be justified and yet, which would not be expressly legal. For example, consistent discourtesy on the part of some member of the administration or a state employee, let's say, which is unjustified and yet which may not be specifically prohibited by law and regulations.

Ombudsman Herman S. Doi: I understand the impact of your question. In fact that is a good question. That is why I added equity and justice also. There are many cases in which the law does not specifically apply. However, in cases where you are measuring actual performance against what the law requires, then certainly the ombudsman cannot be a party to forcing or persuading the administration to do something that is illegal. In the case of discourtesy and this kind of thing it is just good common sense how a public employee should react to a situation. You also have to bring in good common sense equity and justice or some other broad standards in areas where the law does not apply.

Professor Newton: We have Lieutenant Governor Lowell Thomas with a question in the back of the room.

Lieutenant Governor Lowell Thomas, Jr.: I would like to ask Mr. Doi, if he hasn't covered this already earlier in his remarks--I came a little late--if he would tell us why it was that Hawaii did not include the executive branch within its jurisdiction of the bureaucracy.

Ombudsman Doi: In the original draft of the bill the Governor and his personal staff were excluded from the jurisdiction of the ombudsman. I think that the rationale then was that we do not want to get the ombudsman involved in political decisions or policy making at the highest level. The incongruity in our statute was that the mayor and councilmen on the county level and also the Lieutenant Governor were included. So last session we went to our Hawaii Legislature and recommended that the Lieutenant Governor who was also an elected official and the mayors and the councilmen from the various counties be excluded for the same reason that the Governor is being excluded, the Governor and legislators are excluded from our jurisdiction. If you read the writings on the ombudsman, I think, many of the political scientists who have studied the institution say the fastest way to kill off an ombudsman is to get involved in political matters or policy making which is the proper sphere of the legislature and the Governor. I hope that answers your question.

Professor Newton: Representative Mike Miller is on the left here and asks a question.

Representative Mike Miller: I understand why it is that your state office does have jurisdiction over the cities and counties just as it has jurisdiction over the state government. Would you comment on how much your office is used by local people with complaints against local government?

Ombudsman Doi: The office of the ombudsman in Hawaii is not the only complaint receipt office really. There are many. For example, in the city and county of Honolulu which holds the bulk of the entire Island of Oahu which has about 630,000 of our 750,000 people. Their office of information and complaints receives about 13,000 inquiries per year. And these are usually service requests or calls for information and this kind of thing. Without that office I'd be dead. I couldn't handle that kind of numbers and in each of our counties we also have a person designated as a complaint and information officer on the county level and therefore our office is like an appeals office. If they cannot settle it on the county level, or they feel they have not been treated right at the county level after having exhausted the complaint office there, then they certainly can come to us, or if they refuse to use that office then they come directly to us also. But thank heavens for all of the supplementary complaint offices that are presently in existence. Otherwise we would not be able to handle all of the complaints that would otherwise come to us.

Representative Miller: Would you feel then that without a municipal jurisdiction having some sort of complaint handling mechanism, it would not be desirable to have the state ombudsman's office to have jurisdiction? Do I read your remarks that way?

Ombudsman Doi: The fact is that you may have, well the argument may be made the other way too, the fact that if you do not have a municipal officer designated as a complaint or information officer or someone who can do it, perhaps the fact that the ombudsman has a look at that problem in the municipality may encourage that municipality to have someone like that. So I'm not sure how to answer your question.

Professor Newton: Senator Huber in front please.

Senator John Huber: I understand that you are using a system that is quite a bit different than anybody else by allowing telephone information contacts. Have you gone so far as to use the inexpensive toll free number? Have you considered that?

Ombudsman Doi: Yes. The neighbor islanders use it. What we have done is we try to make our office as accessible as possible to the neighbor islanders as well as to the Oahu residents. So what we have done is we send our people periodically to the neighbor islands to take complaints in person. We also allow neighbor islanders to call us collect and all we do in that case is take their name, phone number, and address and then call them back through the state WATS system or Wide Area Telephone System to really reduce the cost to the state. So each call costs us about ninety cents to come in, just to get their name, telephone number and address. The rest of the conversation in regard to the particulars of the complaint, which is the bulk of the time that would be taken by the telephone call, is done through the leased state line.

Senator Huber: So they can actually get into you free of charge to them?

Ombudsman Doi: That is correct.

Professor Newton: Mr. Acker back here had his hand up next.

Mr. Guilford D. Acker: Both of the proposed pieces of legislation for Alaska have sections entitled "Investigations on the Ombudsman's Motion." Do you have a similar procedure and if so could you give us an example of how much you use it?

Ombudsman Doi: We have exactly the same kind of language. The ombudsman can move on his own motion. However, my personal philosophy has been that my primary obligation is to take care of specific complaints by members of the public. Really I have not had the opportunity as yet to exercise that option very much. We have tried in one or two cases to look at some of the problems that were raised by the newspaper and we have not found that route very fruitful. Many of the problems that are raised on that level are usually funding problems or problems of filling a position, or problems where necessary staff has not been authorized. I really get to a dead end at that point, because we cannot authorize the filling of staff positions or the creation of new positions. We really very rarely exercise our own motion in an investigation of a complaint. We have been too busy handling specific complaints up to this point.

Mr. Acker: If investigating one matter you uncover another matter, you would follow up on that?

Ombudsman Doi: Oh, very definitely. I think the benefit of broadening out an investigation from a specific complaint is that you have already done the ground work. You have already determined the parameters of the problem, you have done the basic homework in regard to what the law requires, what the facts in the situation are. You're familiar with the rules and regulations of the agency and the practices and procedures, and from there you can broaden out much more successfully than you could going from top to bottom.

Professor Newton: Yes, Ma'am.

Ms. Shirley Kohls: When you are dealing with what the law requires, are you usually in the area of procedural law, or are you in the area of actual substantive law?

Ombudsman Doi: I think you get involved in both. In certain cases when I mention decisional law I think I am also talking about substantive law, so there may be a time lag between let's say a Supreme Court decision. To take a recent case where the Supreme Court ruled on student discipline, where if a child is being suspended for ten or more days, he has a right to a hearing. Fortunately our state provides hearings to suspended children who have been suspended more than five days. We have no problem there. But if our rules and regulations or our procedures in our schools do not provide for the same standards called for by the Supreme Court, I would certainly call the Department of Education to task. So it does involve substantive law as well as procedural law.

Professor Newton: The lady here is next, please.

**Unidentified Lady:** When you get verbal complaints or telephone complaints, how do you keep track of those? Do you tape record your conversation?

**Ombudsman Doi:** No, we do not. What we do is each staff member, and because we accept complaints orally by phone, we rotate our staff members on assignment complaint days. Each staff member, when he receives a call, records the call and he reduces that call to a complaint sheet form. Now the safety check in the system really is that when we inquire of an agency if it is a complicated case, we put our complaint in writing to the agency. In that case a copy of the letter of inquiry to the agency is also sent to the complainant so he can see how we've stated his complaint. In a simple case you really do not need to put it in writing, so the staff member will usually pick up the phone, call the agency and find out what the facts are. And he reduces that telephone call also to notes. Now the complainant is kept apprised of the development of the case, as it develops until it is finally concluded. All along the process he has the right to call and say, "Hey, you guys have misquoted me, or haven't put the allegations correctly." In cases where we, and this is one of the disadvantages, where the complainant keeps shifting his grounds for complaint, and if that occurs more than once we ask the complainant, "Would you please put your complaint in writing"? We cannot keep investigating a case as he shifts his grounds for complaint. We have had very few cases where that occurs. A final check is that I go through each case to be sure that we have done as much for each complainant as we could. So the complainant does have the check to see that we have correctly stated his complaint.

**Professor Newton:** The gentleman here, please.

**Representative Glenn Hackney:** Does Hawaii have a financial disclosure law for public officials, and if so, are you subject to it?

**Ombudsman Doi:** Yes, I am. To answer both of your questions simultaneously.

**Professor Newton:** The gentleman here, please.

**Mr. Alfred S. Wakefield:** What is your relationship with the press and the other means of communication as far as a specific complaint while you are investigating it to keep it from becoming a major issue which may not be justified at a future time.

**Ombudsman Doi:** Very good. Our statute requires that we keep the complaint confidential. Therefore we cannot discuss a complaint with the press while it is being carried on, or even after it has been concluded for that matter. Unless the ombudsman, himself, decides at the conclusion that the case has to be publicized. So, really, I get calls every once in a while where the press will call me up and say, "Say, I heard you got this kind of case, what's happening"? I will tell them that the statute precludes me even discussing the case with you. The complaints are confidential. That protects both parties. There is nothing to preclude the complainant from taking our letters to the press and showing the press our letters and publicizing the case if he wants to, nor is the administrative agency precluded from doing the same thing. But the ombudsman is precluded from revealing what is happening to a complaint.

Mr. Wakefield: As a whole, how is the office looked upon by the press in general?

Ombudsman Doi: I think we have a pretty good working relationship with the press. They understand what our constraints are in terms of what the statute requires, and I think they have respected that constraint. They have picked up our annual reports and publicized what they thought were items that readers would like to see or read about. So basically the publicity about our office comes from our annual reports at the time they are published.

Professor Newton: Could I interject? How many banner headlines have you made?

Ombudsman Doi: I haven't counted--not that many.

Professor Newton: Dr. Price.

Dr. Betty Price: I got the impression from your last response that perhaps there were times when you felt that publicity was indicated. Has that occurred and in what type of case?

Ombudsman Doi: I think I was tempted to publicize one case at one time during the five and a half year history when I really felt that we had the facts and the law on our side. Before we went to publication, the case was resolved. So, really we have not had occasion to reach that stage where we've even threatened to publicize. We put our recommendation in writing and said, "We want a response from the agency as to whether or not the recommendation will be implemented within the stipulated period of time." We cited the sections in our law that authorizes us to do so and we stated in effect, that "We want your response. Why you would not implement our recommendation," in which case we were prepared to go to publicity and the recommendations were accepted.

Professor Newton: The lady over here is next, I believe.

Unidentified Lady: Have you ever used your power of subpoena?

Ombudsman Doi: Not yet. There has been one occasion when one public official questioned whether or not we had the right to get certain kinds of records and I referred him to the power that we had to subpoena records and the records came the next day.

Professor Newton: Jim Anderegg.

Mr. James Anderegg: Mr. Doi, how much of your workload involves environmental improprieties of department heads or adverse decisions that the citizen wants redress on? Any?

Ombudsman Doi: A few, yes. We've had some cases like that. But where the law is not really clear, where the law is not very specific, and it applies to a particular situation, it would be very difficult for the ombudsman to publicize any case like that really. You must understand that the ombudsman is under the same kind of constraint as the administrator is under, in that, if the facts and the law in the case are not really in favor of the ombudsman, the ombudsman cannot really publicize that case. Why? Because if the facts

and the law are clearly on the side of the ombudsman and the administrator doesn't follow the ombudsman's recommendation, then certainly the administrator will look like a fool in such a situation. Right? However, if the facts and law are not on the side of the ombudsman, the ombudsman can likewise look like a fool if he publicizes the case. So it has to be a pretty clear cut case before he can go to publicity. And often times the use of a weapon that you may have, the ultimate weapon that you may have, is no longer a weapon if you continually use it. The fact that it is there should be sufficient without your having to use it. That's been my philosophy, at least.

**Professor Newton:** Stuart Hall, please.

**Mr. Stuart C. Hall:** Mr. Doi, you emphasized that you are an independent, non-partisan, legislative officer. I'm more interested in the maintenance of this independence, not only from the executive and judicial branches, but the legislature as well, even though you are appointed by them. Are your offices physically separate from those of the legislative chambers in the capital building or are they part of them? What is your recommendation on that particular score?

**Ombudsman Doi:** I'm in a separate building. In an old building for that matter, on the Iolani Palace grounds which is really separate from the State Capital. Although I was offered an office space in the State Capital itself, I refused, primarily because I did not feel that people would come to my office barefooted or in their dirty clothes--the state building is really too imposing for people to come in and really feel at home. So I preferred to stay in the old building. That's where I am presently. I think really the location of the office itself--some ombudsmen think it to be important that they should be in a private office building or a building other than the state office building. I've not found that to be a disadvantage in being in a state building and being separate from the legislature. I don't think anybody has accused the office of being the ploys of the legislators or the legislature. Now remember, I said as free as possible from political pressures. Right? You know they can cut us off every year when we submit our annual budget request to the legislature for inclusion in the legislative expense bill. But that's one thing you can't get away from. Not in our system, anyway. Unless you're going to have a continuing appropriation for the office of ombudsman, and that would certainly be something I would not recommend. I think the actions or inaction on the part of the ombudsman should be subject to the review of the legislature also.

**Professor Newton:** Yes sir.

**Unidentified Gentlemen:** Do you advertize your office and the services that are available and your location somewhere?

**Ombudsman Doi:** That's where the neighbor islanders have the advantage, I think, because prior to our sending a representative out to the neighbor islands, a paid advertisement is placed in the newspaper of the pending visit. Insofar as Oahu residents are concerned, I've made the Rotary, the speech circuit, luncheon circuit, and also spoken to so many groups as a way of publicizing the office that I'm just tired of going to lunches.

**Same Gentleman:** But these Rotary groups and groups like that are not the ones that your office was provided primarily to take care of?

Ombudsman Doi: You'd be surprised the way it carries from word of mouth, and that's really where you get your best referrals from. We've also taken the time of hitting the low income groups. I think the way we've gone about hitting the low income groups is to talk to the people who are advising the low income groups. So we've gone to the "II" Camp, we've gone to Legal Aid, we've gone to Public Defenders, all these people who have contact with the low income groups are the areas where we've hit. The other fruitful resource, suprisingly, is the government employee himself. Referrals are made to our office by government employees, in many cases when they themselves feel that they have gone as far as they could. And perhaps contact with the ombudsman with some high official in the department may be able to resolve that particular person's problem.

Professor Newton: We have the lady back there, Rosalie.

Ms. Rosalie Walker: Yes. You're aware that Alaska does have serious communications problems. In both our bills, in the section with regard to the investigation of complaints--I raised that question this morning and it still bothers me. The ombudsman is given the priviledge of setting the time as to whether or not he thinks the complaintant has waited too long before making his complaint for investigation. Could you shed some light on that?

Ombudsman Doi: We have no such requirement or time limitation as to how old a complaint it that you cannot investigate it, however, I think even if it is worded that way, I see no difficulty. Because if you cannot get the facts of a situation, of a complaint, or there are no background information that is attainable, then certainly that complaint would be very difficult to really investigate. So, really, leaving it up to the ombudsman, I think, should not pose too great a problem. If I were placed in that position and certainly I would want to investigate any possible complaint that I could. It would be only in cases where I would not be able to get the factual background of a case, or would not be able to really investigate, then I would say that this complaint is too old to investigate. We investigated a case that stemmed from 1942, something like that, during my first year in office.

Professor Newton: The lady back here.

Unidentified Lady: I'm wondering, your first fiscal year, do you recall what your budget was, total operating budget?

Ombudsman Doi: I have it right here.

Same Lady: That will be for 1969?

Ombudsman Doi: 1969-1970, I think I was approrpiated around \$100,000. I'll get the figure. Okay. The appropriation for the first fiscal year that I received was for \$103,000, of which the ombudsman spent \$90,000, \$90,349.92, and then the second year the appropriation was \$176,000, of which we spent \$157,395. The third year the appropriation was for \$233,000 of which we expended \$159,760. The fourth year the appropriation was for \$192,000 and we expended \$157,595. The fifth year the appropriation was for \$185,000

of which we expended \$163,000. So we've always been below the actual amount that has been appropriated, and the amount that have been appropriated reflects the amounts of the request that we sent to the legislature and we've always gone in with the idea that look, we really cannot predict where this complaint load is going. Now we know we are asking for perhaps a little bit more money than we are actually going to spend. But we promise you that whatever we do not spend will be lapsed back into the general fund. And on this basis we have received the appropriation as required. So, I've had during that period of time, at least one standby position that I could fill, if the complaint load rose during that fiscal year to a level where we could not handle it with the staff we had.

Same Lady: The first year your staff numbered . . . ?

Ombudsman Doi: The first year I operated by myself, one secretary, and toward the end of the fiscal year we hired and trained three additional secretaries-- three additional staff members if my recollection is correct.

Same Lady: And presently your staff includes . . . ?

Ombudsman Doi: Presently my staff includes six professionals, including myself, and four secretaries for a total of ten.

Professor Newton: Yes sir.

Unidentified Gentleman: Mr. Doi, how often do you make referrals, for example if someone complains about a matter that could be handled by the state human rights commission, or it could be handled by some existing agency, do you normally refer or do you sometimes take it yourself anyway, or what?

Ombudsman Doi: In practically every case that we receive, I think it depends a lot on how the complainant comes to us. If he's real irritated and he's really furious at that point, then the researcher makes up his mind, well maybe it's not a good idea to refer this guy some place else, especially if his complaint is that, "I've been referred all over this damn place, you know, nobody's going to take care of me." So in those cases, I think, we accept the complaint at that point, but in the usual case, we usually ask the guy, "Have you tried to resolve this problem with the affected agency"? And if he says no, we tell him, "Will you please call this person in the agency and tell him the ombudsman referred you to him to try to work the problem out." In many cases the complainant is more than willing to do so and he will then call the administration and try to work the problem out. But we always tell the complainant, "However, if you cannot resolve it or you feel you have not be treated right, then you certainly can come back to us and we will pick it up from there." But we try to urge complainants to try to deal with their problems with the administrators before filing a complaint formally with our office. I think that is one way for them to learn government also.

Professor Newton: Jim Dennis.

Mr. Jan. . M. Dennis: Are these referrals back to agencies that you're talking about, are those reflected in your figures for cases within your jurisdiction?

Ombudsman Doi: No.

Mr. Dennis: What is the magnitude of referrals?

Ombudsman Doi: I would not be able to say, Jim, simply because we have not kept statistics, but the instruction to all my staff members are: "Please tell the guy to go back to the agency and see if he or not he can resolve the problem. But we don't keep statistics on that, unfortunately."

Unidentified Gentleman: Do you ever refer matters to an agency's legal staff, asking that agency to conduct its own investigation and report that back to you?

Ombudsman Doi: There have been some cases like that. I can think of a few where there has been some alleged wrong doing on the part of a government employee which we have contacted the agency and say, "Hey, you guys want to investigate it yourself and tell us what happens?" In which case, in many cases, the agency has picked up from there and gone. But they've kept us apprised of what was happening. In one case I can think of, we called the Attorney General's Office and said, "We've got this problem of alleged wrong doing by an employee; how do you want to handle it?" I think the investigation in that case was conducted jointly by the AG's office and our office. So we've had a pretty good working relationship with the agencies themselves. If we were to investigate each one like that, we would be tied up in the field forever.

Professor Newton: Senator Kerttula.

Senator Jalmar M. Kerttula: One thing that seems to bother the members of the Senate, is the fact that they suspect that the legislative-investigative function of the legislative committees perhaps the Error-Oversight of the budget, the EOB Committee would decline, their contact would decline if we get an ombudsman. You haven't answered that. What's happened in your state.

Ombudsman Doi: You mean the legislative-constituency contact? Is that what you are talking about?

Senator Kerttula: This responsibility for investigating problems, errors and oversights, whether they're legislative or administrative or even judicial, if they feel that their responsibility somehow is infringed upon or it declines, they just don't have that responsibility hence don't perform the function. For instance, our audit acts a little like error and oversight, what's your experience?

Ombudsman Doi: I think I get the thrust of your question. Let me state. . . . In Hawaii, in the executive agency itself they have a post-audit, an agency within the executive branch that does both audits. On the legislative side, we have a legislative post-auditor who is a constitutional officer and is appointed by the legislature and he does both post-audits as well as management audits. We have not found the time when there was a lack of business for him or I in the handling of complaints. In fact we work very closely together. In some cases where the problems . . . , take for example, in one case, we were running across, we still are for that matter, delay in payment to vendors. We asked the legislators to ask the legislative auditor to study the problem and come up with recommendations as to how this problem can be resolved through a speeded-up payment process. And we both work in the same area. Except that we know what each other can do and we work cooperatively in the resolution of problems. But there has not been any situation where he has had a lack of business or lack of studies of post-audits to be done. His review of matters is as much on the financial side, on the management side on a much broader scope. The ombudsman's is

individual complaints that persons have against this agency. So you really are not running in the same. . . , running on the same track, so to speak, you're running on the same field, but not on the same track.

Professor Newton: Ron Wendte, please.

Student Regent Ronald W. Wendte: Mr. Doi, have you ever had a case that you were not able to conclude because to pursue it would have led to the governor's office?

Ombudsman Doi: We've had cases where the decision was made by the Governor, in which case we have had to tell the complainant, "Look, we've gone as far as we could; this decision is the Governor's decision not ours," where an executive order may have governed the situation because the executive is excluded from our jurisdiction. "Therefore, if you want to correct the problem, you go talk to the Governor." But not if an administrator is involved, where he makes the decision; he may have been ordered by the Governor to make the decision. That administrator is still within our jurisdiction and is still subject to criticism by us. And the fact that the administrator tells us, "Look I can't do anything because the Governor told me that," then I will tell him "That's your tough luck. You tell the Governor to reverse that decision. You're still the guy that has the authority to make that decision."

Professor Newton: And the lady here again, please.

Unidentified Lady: Do you become involved in disputes between the state and its own employees as far as hiring and firing is concerned?

Ombudsman Doi: Very good question. Hawaii has collective bargaining laws as some of you may have heard. Our collective bargaining law says, in effect, that some of our contract provisions may override some of the provisions in our laws, which are the terms of the collective bargaining agreement. So after the law became operative, I sought an opinion from the Attorney General as to whether or not we were still able to handle employee grievances, basically feeling that I did not have jurisdiction, and the response that we got from the AG was that if a collective bargaining agreement is in operation, the collective bargaining agreement provides an exclusive method by which grievances are to be resolved, then the ombudsman does not have jurisdiction in that area. However, we still investigate cases where exempt employees are involved--where there are no collective bargaining agreements. Does that answer your question?

Professor Newton: Mr. Doi, we thank you very much for this extra questioning period.

INTERNATIONAL BAR ASSOCIATION  
OMBUDSMAN COMMITTEE

AMERICAN BAR ASSOCIATION  
SECTION OF ADMINISTRATIVE LAW  
OMBUDSMAN COMMITTEE

DEVELOPMENT REPORT  
JULY 1, 1973 -- JUNE 30, 1974

This report represents an effort to compile information concerning non-judicial complaint-handling mechanisms with major emphasis on Ombudsman and Ombudsman-like systems. This report makes no effort to evaluate the performance of the institutions described.

On the international level, the information contained in this report was obtained from correspondence with scholars, government officials, lawyers, Ombudsmen, and Ombudsman proponents in 134 countries and 80 subdivisions. In the United States, correspondence was maintained with Ombudsmen, lawyers, officials, legislators, legislative reference bureaus, political scientists, and Ombudsman proponents in 50 states, Puerto Rico, Virgin Islands, Micronesia Trust Territory, District of Columbia, Guam, and American Samoa, and 269 cities.

It is quite obvious that the word "Ombudsman" has been used throughout the world to mean any complaint-handling mechanism. Whether Ombudsman should and can be reserved for the independent and non-partisan officer of the legislature who deals in specific complaints from the public against administrative injustice and maladministration is a problem not resolved in this report. It should be noted if an official terms himself an Ombudsman, that name is used in this report.

The international section of this report is issued in the name of the Ombudsman Committee, International Bar Association, and the United States section in the name of the Ombudsman Committee, Section of Administrative Law, American Bar Association.

Bernard Frank, Chairman  
832 Hamilton Mall  
Allentown, Pennsylvania 18105

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A. INTERNATIONAL

The summary which follows deals with the varied non-judicial institutions throughout the world (not including the United States) which are concerned with the receipt and handling of complaints against government for abuses of authority. Its major stress is on the Ombudsman concept but other systems which have ombudsman-like characteristics (although not classified as Ombudsmen) are included where known to Committee.

1. AUSTRALIA--FEDERAL. Legislation is being drafted to establish an Ombudsman to investigate complaints of unjust treatment by Federal government departments and agencies. (See A-122)
2. AUSTRALIA--STATE OF QUEENSLAND. The Parliamentary Commission Act 1974 was introduced by the Government on March 22. Jurisdiction will apply to all government departments and authorities including local authorities. The Act was passed in April. (See A-127)
3. AUSTRALIA--STATE OF NEW SOUTH WALES. The Cabinet has approved the preparation of legislation to provide for an Ombudsman. Legislation now being drafted by Parliamentary Counsel should be introduced at the next session of Parliament which begins in August.
4. AUSTRALIA--NORTHERN TERRITORY. An Ombudsman bill passed by the Legislative Council two years ago is still awaiting assent. The Federal Government has indicated sympathy with the proposal but sees difficulty in conferring power over federal public servants to a territory Ombudsman. The National Times, April 8-13, reports that the legislation being drafted by the Federal Government (See A-1) includes a deputy Ombudsman for the Territory as well as one for the Capital Territory.
5. AUSTRALIA--STATE OF SOUTH AUSTRALIA. The Ombudsman Act was assented to on December 14, 1972 and on the same day Gordon D. Combe, M.C., was appointed as the first Ombudsman. 308 complaints were received in the six and one-half month-period to June 30, 1973. Seventy were fully investigated of which 16 were considered to be justified in full or in part. 731 complaints were received for the ten-month period to April 30, 1974. By Governor's proclamation and effective from April 1, 1974, all local government bodies in the State were added to the jurisdiction of the Ombudsman which also includes state government departments and state statutory authorities.
6. AUSTRALIA--STATE OF TASMANIA. A Select Committee of the Legislative Council appointed to inquire into and report on complaints of administrative action by various agencies is in operation and receiving complaints: 1972, 19; and to 7/31/73, 9.
7. AUSTRALIA--VICTORIA. The Ombudsman Act 1973 was proclaimed on October 30, 1973 and on the same date John V. Dillon assumed office. He had been retired as UnderSecretary of the Department of Chief Secretary. His first report will be presented to Parliament in September and official statistics will not be available until that time. The National Times article (See A-4)

stated that he had received 762 complaints and out of 135 fully investigated 25 were found to be justified.

8. AUSTRALIA--WESTERN AUSTRALIA. O. F. Dixon, Parliamentary Commissioner for Administrative Investigations, issued his report for the year ended June 30, 1973, which showed that he had received 806 complaints. 480 had been fully investigated and of these 93 considered justified. The report for the year ended June 30, 1974 will be available at a later date.
9. AUSTRIA. The National Assembly still has under consideration the 1971 Government proposal for a "People's Advocate," a collegial body, consisting of one member from each political party represented in the Main Committee of the lower legislative chamber. The opposition Austrian People's Party has proposed a Standing Committee on Complaints composed of members of the lower chamber.
10. BANGLADESH. Article 77 of the Constitution adopted in 1972 provides that Parliament may by law provide for the establishment of the office of Ombudsman. No legislation has been passed.
11. BELGIUM. It has been reported that the Parliament is currently considering legislation similar to the French Mediateur Law but this has not been confirmed.
12. BERMUDA. The subject of the Ombudsman has been discussed at high governmental levels but no decision has been reached.
13. BOTSWANA. Attorney General M. D. Mokama is making a study of the Ombudsman institution.
14. BULGARIA. The Procurator General exercises control in matters relating to the observance of the law by government organizations, officials, and the people.
15. CANADA--FEDERAL. Bills C 106 and C 151 for the establishment of a Canadian Ombudsman were introduced on March 12, 1974 in the House of Commons. The Government in December, 1973, proposed the establishment of a five-man Commission on Human Rights and Interests to handle human rights violations and citizen grievances against government, large businesses and unions and characterized the Commission as a combination of ombudsman and anti-discrimination tribunal. The House of Commons was dissolved in May before a bill could be introduced.
16. CANADA--FEDERAL--COMMISSIONER OF OFFICIAL LANGUAGES. The third annual report of the Commissioner, Keith Spicer, for the year ending March 31, 1973 shows that he received 943 complaints. The 1974 statistics will be available after presentation to Parliament. On June 6, 1973, Parliament passed a resolution reaffirming the principles of the Official Languages Act of 1969.
17. CANADA--FEDERAL--PRISONS. Miss Inger Hansen was appointed by the Solicitor General on the authority of the Privy Council

on June 1, 1973 to serve as a Commissioner under the Inquiries Act with the title of Correctional Investigator. She will handle inmate complaints, on her own initiative, and problems that come within the responsibility of the Solicitor General. During the period from June 1, 1973 to May 9, 1974, she received 676 complaints. Approximately 10% were rectified. It should be noted that the inmate population is 9,000.

18. CANADA--ALBERTA. George B. McClellan retired as Ombudsman on April 30, 1974. A former Commissioner of the Royal Canadian Mounted Police, he had served as Ombudsman since September 1, 1967. His annual report for the period November 1, 1972 to October 31, 1973 shows that 776 complaints were received. 255 were investigated with 56 of these justified. Dr. Randall Ivany, Dean of Edmonton and Rector of All Saints Cathedral, assumed office as Ombudsman on May 1, 1974. 1973 Bill 212 introduced by Albert Ludwig, Q.C., would have extended the jurisdiction of the Ombudsman to municipalities. Professor Karl A. Friedmann of the University of Calgary delivered a paper on "Complaining--Comparative Aspects of Complaint Behavior and Attitudes towards Complaining in Canada (Alberta) and Britain" at the Canadian Political Science Association Annual Meeting in August, 1973.
19. CANADA--BRITISH COLUMBIA. The new Labour Code of British Columbia Act provides in Part VIII for a Labour Ombudsman with power to investigate actions of the Department of Labour, trade unions, and employees' organizations. It has not as yet been proclaimed. (May 14, 1974)
20. CANADA--MANITOBA. G. W. Maltby, Ombudsman, issued his report for the year 1973, showing that he received 441 complaints, of which 64 are recorded as rectified.
21. CANADA--NEW BRUNSWICK. Charles Edouard Leger died on September 29, 1973. He had served as Ombudsman since June 1, 1971. He was succeeded by G. A. McAllister, who issued the seventh report for the year, 1973. 192 complaints were received and of these 14 were rectified.
22. CANADA--NEWFOUNDLAND. The Parliamentary Commissioner (Ombudsman) Act, 1970 has not been proclaimed as yet. The Government intends to proclaim the Act as soon as it has found a suitable candidate for the position of Ombudsman.
23. CANADA--NORTHWEST TERRITORIES. At the request of the legislature a paper discussing the advisability of an Ombudsman was presented to the legislature in June by the Department of Public Services.
24. CANADA--NOVA SCOTIA. The Ombudsman, Dr. Harry D. Smith, received 335 complaints in 1973, according to his third report just received.
25. CANADA--PRINCE EDWARD ISLAND. The Ombudsman office has been discussed from time to time at Cabinet level but no other steps have been taken.

26. CANADA--QUEBEC. Louis Marceau, Public Protector, has issued his fifth annual report. It shows he received 5,320 complaints and investigated 2,872. 850 were justified of those fully investigated.
27. CANADA--SASKATCHEWAN. E. C. Boychuk, who took office on May 1, 1973 as the first Ombudsman, issued his first annual report for the period from May 1, 1973 to November 30, 1973. He received 316 complaints during that period, of which 112 were investigated and 44 rectified.
28. CANADA--YUKON TERRITORY. The Legislative Council passed a motion recommending that the Government of the Territory introduce legislation establishing an Ombudsman.
29. CANADA--CONFERENCE. A conference of Canadian Province Ombudsmen sponsored by the Ministry of the Solicitor General was held on May 2-4, 1974 at Ottawa. The six provincial Ombudsmen attended with their assistants. A representative of the Commissioner of Official Languages, Miss Inger Hansen, the Canadian Correctional Investigator, and Professor Donald C. Rowat were also present.
30. CANADA--PROFESSOR DONALD C. ROWAT. We again call your attention to his new book, "The Ombudsman Plan Essays on the Worldwide Spread of an Idea." The Canadian publishers are: McClelland and Stewart, 25 Hollinger Road, Toronto, Ontario, Canada.
31. CANADA--T.V. OMBUDSMAN. The Canadian Broadcasting Corporation appointed Robert Cooper as T.V. Ombudsman. He runs a show bi-weekly and receives complaints against government administration.
32. CHILE. The Comptroller General, in addition to fiscal duties, investigates complaints relating to the functioning of public services and to the correct application of laws and regulations. He can raise objections to decrees and regulations that he considers illegal.
33. CHINA--REPUBLIC OF CHINA (TAIWAN). Control Yuan (Inspectorate--Censorate) exercises the powers of consent, impeachment, censure, and auditing. It may propose corrective measures on the basis of investigation and divide the country into control zones and establish regional control offices to exercise circuit supervision power and receive the people's complaints. When a public functionary violates the law or neglects duty, the Control Yuan may impeach or censure him. The Chinese control system has a long history dating back to 221 B.C.
34. CHINA--PEOPLE'S REPUBLIC. The Supreme People's Procuratorate exercises procuratorial authority over all departments of the State Council, local organs of state, persons working in organs of state and citizens, to ensure observance of the law. Local organs of the people's procuratorate and special people's procuratorates exercise procuratorial authority within the limits prescribed by law.

35. COUNCIL OF EUROPE. Resolution 549 adopted by the Standing Committee, acting on behalf of the Consultative Assembly of the Council of Europe, on July 4, 1973 proposed that the Legal Affairs Committee convene a meeting of Ombudsmen and Parliamentary Commissioners of the member states to exchange information and experiences on their various systems and to advise on the desirability of extending the system to the European level. Pursuant to the resolution, the Legal Affairs Committee organized a meeting which was held in Paris on April 18 and 19, 1974. Present were Ombudsmen and Parliamentary Commissioners from member states, representatives from the European Court of Human Rights, the European Council of Human Rights, the Committee on Experts on Human Rights and several experts and observers, as well as members of the Legal Affairs Committee. A report will be presented by the Legal Affairs Committee to the Consultative Assembly in September.
36. COUNCIL OF EUROPE--EUROPEAN COMMISSION ON HUMAN RIGHTS. Applications by individuals, groups of individuals, or non-governmental bodies claiming denial of rights under the Convention for the Protection of Human Rights and Fundamental Freedoms are brought to the Commission. The Commission investigates complaints and endeavors to bring about a settlement. If no settlement is reached, the Commission files a report with the Committee of Ministers of the Council of Europe and gives its opinion whether there has been any breach of the convention. At that stage, cases may be referred by the Commission or the government concerned to the European Court of Human Rights for binding judicial decision; otherwise the Committee of Ministers must decide whether there has been a violation.
37. CYPRUS. By law 107/72, a Commissioner for Administration has been established whose functions are to enquire into the activities of any administrative service especially on representations and complaints made to him and to report to the President of the Republic by whom he is appointed. No appointment has been made as yet.
38. DENMARK. Ombudsman, Lars Nordskov Nielsen, reports that he registered 1,461 cases in 1973, of which 68 were taken on his own initiative. A bill was introduced in Parliament on April 3 concerning marketing which contained provisions for an Ombudsman for Consumers. It is expected to pass. The Danish Medical Association in September 1973 discussed an Ombudsman office to receive complaints against improper medical treatment. Ombudsman Nielsen has pointed out that his office in its present form could not function as a medical Ombudsman. There is available a book in English entitled, "The Danish Ombudsman 1955-1969" covering 75 cases taken from then Ombudsman Hurwitz's annual reports edited by Mogens Lerhard and published by Schultz, Copenhagen, 1972.
39. ETHIOPIA. A Commission is working on a revision of the Constitution. The Ethiopian Bar Association is campaigning for the establishment of the Ombudsman.

40. FIJI. Justice Moti Tikaram submitted his first annual Ombudsman report for the period from March 1, 1972 to February 28, 1973. He had received 239 complaints (although 226 cases were registered) and out of 181 disposed of, 23 were justified or rectified.
41. FINLAND. Dr. Jorma S. Aalto was elected as Ombudsman to serve for the four year term, 1974-1977. Aapo Lehtovirta is Assistant Ombudsman serving 1972-1975. Both are elected by Parliament. In 1973, the Ombudsman received 997 complaints, of which 44 complaints were referred from the Chancellor of Justice and 14 were self initiated cases. The powers of the Ombudsman and the Chancellor of Justice in the investigation of complaints are very similar. The Chancellor of Justice is Risto Leskinen, who had served as Ombudsman. The Chancellor who is appointed by the President received 988 complaints in 1973 of which 214 were self initiated cases. Mikael Hiden's "The Ombudsman in Finland: The First Fifty Years" has been published by The Institute of Governmental Studies, University of California, 109 Moses Hall, Berkeley, California, 97420.
42. FRANCE. In June, 1974, Aimé Paquet succeeded M. Antoine Pinay as Mediateur. Under French law No. 73 - 6 of January 3, 1973, complaints must be processed through members of Parliament. The Mediateur's first annual report for the year 1973 shows that he received 1,773 dossiers. 564 cases were rejected as being non-applicable and 469 cases were processed, of which 70 were justified and 112 partly satisfied. Dr. Henri Desfeuilles, Chairman of the Advisory Council to the Mediateur, has written the book, "Le Pouvoir de Controlles des Parlements Nordique," published by R. Richon et R. Durand Auxeas, 20 rue Soufflot, Paris, France.
43. GERMANY--FEDERAL REPUBLIC OF GERMANY--MILITARY OMBUDSMAN. The Parliamentary Commissioner for Military Affairs, Fritz-Rudolph Schultz, issued his annual report for the year 1973. He received 6,673 applications but fully processed 7,412. 1,966 applications were successful and 658 partly successful.
44. GERMANY--FEDERAL REPUBLIC OF GERMANY--PETITIONS COMMITTEE. Legislation is pending to extend the powers of the Petitions Committee of the Bundestag in dealing with complaints relative to administrative measures for which the Federal Government is responsible. Several states have in the past several years enacted laws which extend the powers of their Petitions Committees to handle complaints: North Rhine-Westphalia, Schleswig-Holstein, Rhineland Palatinate, Berlin, and Bremen.
45. GERMANY--FEDERAL REPUBLIC OF GERMANY--STATE OF RHINELAND-PALATINATE. In May, the Assembly passed the Citizen's Representative Law and Dr. Johannes Baptist Rösler, Assembly Member, became the first Citizen's Representative on May 16. He had served as Petitions Committee Chairman and in his new capacity is also the Commissioner of the Petitions Committee.
46. GHANA. Constitutional provisions for an Ombudsman contained in the 1969 Constitution lapsed with the suspension of the 1969 Constitution in 1972. The National Redemption Council

by decree No. 80 established the Special Actions Unit with a wing known as the Expediting Committee (thus reviving the 1966 Expediting Committee) which has Ombudsman-like duties. Its functions are performed through the Investigations and Complaints Division which receives and investigates complaints.

47. **GREAT BRITAIN.** The 1973 annual report of Sir Alan Marre, Parliamentary Commissioner for Administration, shows the receipt of 571 complaints through Members of the House of Commons. 133 uncompleted cases were brought forward from 1972. Out of the total of 704, 536 were completed during 1973. Investigation was completed and results reported to Members in 239 cases, and in 88 of these, the Parliamentary Commissioner found elements of maladministration which led to some measure of injustice. In addition to the annual report, reports are issued quarterly containing the full but anonymised texts of completed investigations.

Following the enactment of the National Health Service (Scotland) Act 1972 and the National Health Service Reorganization Act 1973, Sir Alan Marre was appointed Health Service Commissioner for England, Scotland and Wales. Complaints against the National Health Service are received directly from aggrieved persons. His first report covering the first six months has been issued. Sir Alan Marre has integrated the staffs working for him in his several capacities.

The Local Government Act 1974, Part III, provides for local commissioners to investigate complaints of maladministration against local authorities in England and Wales. Complaints will be received through local counsellors or directly if counsellors refuse to pass them on. Ultimately, there are expected to be nine commissioners for local administration for England and one or two for Wales. Lady Serota, D. B. Harrison and J. P. Cooks were appointed on June 12, 1974 as the first three of the local government commissioners. (See A-128)

The handling of complaints against the police is still not resolved. The report of the Working Group for England and Wales on the handling of complaints against the police stated that investigations of complaints should in the first instance remain with the police. The general view was expressed in the report that the scope of an independent ex-post factor review should be limited to scrutiny of the handling of the complaint. The Home Secretary is now expected to decide what form the new procedures should take.

48. **GUYANA.** G. A. S. van Sertima, Ombudsman, reported that he had received 179 complaints in 1970, 447 in 1971, 284 in 1972, and 307 in 1973. In 1971, his jurisdiction was extended to local councils and local authorities.
49. **HONG KONG.** The Unofficial Members of the Executive and Legislative Councils operate an office (known as the UMEICO Office) to which a member of the public may report a grievance at any time. Although the Office has no statutory powers, the Government undertakes to ensure that the Unofficial Members have access to official information including policy papers and departmental files. The Unofficial Members also have

ready access to senior Government officers and are able to raise questions by personal discussion, by letter, or by question or debate in the Executive and Legislative Councils. In addition, there are throughout the territory district offices, staffed by Government officers, which receive and investigate complaints from citizens. In the urban areas, there is also a ward system through which the urban councilors deal with complaints from members of the public. In view of all these channels being available, the Government has concluded that there seems to be no real need for an Ombudsman in Hong Kong. Robert Primrose is Administrative Secretary, Office of Unofficial Members of Executive and Legislative Councils. The third annual report of the UMELCO Office for the period, 7/1/72-6/30/73, shows 268 cases were brought forward from the previous year and 1,689 new cases were received. 1,611 cases were completed. In 359 cases, the complaint was rectified or the client's difficulty fully overcome. In 524 cases some degree of help, advice, information or explanation was given to the person concerned even though his problem could not be fully solved.

50. ICELAND. At the request of the Prime Minister, Attorney Sigurdur Gizurarson drafted an Ombudsman bill in 1973. It was submitted to Parliament last fall but no action has been taken to date.
51. INDIA--CENTRAL GOVERNMENT. Ombudsman legislation, the Lokpal and Lokayuktas Bill, was introduced in 1971 and is awaiting further action. It is somewhat identical to the bill which was passed by the Lok Sabha (House of the People) in 1969 but which lapsed on dissolution of the Lok Sabha.

A Central Vigilance Commission has been functioning since 1974. It can inquire into any transaction where a public servant is suspected or alleged to have acted for an improper purpose or in a corrupt manner or into any complaint that a public servant had exercised or refrained from exercising his powers with an improper or corrupt motive or into any complaints of misconduct or lack of integrity or any malpractice or misdemeanor on the part of a public servant. Shri B. K. Acharya is Central Vigilance Commissioner. The Commission's annual report covering the period from April 1, 1972 to March 31, 1973 shows that the Commission received 1,059 complaints.

The Petitions Committee of the Lok Sabha receives petitions regarding public grievances. The Petitions Committee of the Rajya Sabha (Council of States) receives petitions from organizations (not individuals) with respect to grievances.

52. INDIA--STATE OF BIHAR. The Bihar Lokayukta Act 1973 (Bihar Act VI of 1974) was enacted in 1973. Dr. S. V. Sohoni took office as Lokayukta on May 28, 1973.
53. INDIA--STATE OF GUYARAT. The Chief Minister had in 1973 stated that the Government intended to introduce Lok Pal legislation. The Cabinet on February 1, 1974 was reported to have decided to appoint a Lok Pal. However, before any further action could be taken, the President's Rule intervened in the State on February 9, 1974.

54. INDIA--STATE OF JAMMU AND KASHMIR. Information has been received that two institutions, the Anti-Corruption Organization and the Grievance Commissioner, receive complaints from citizens for abuses of authority by government officials.
55. INDIA--STATE OF KARNATAKA. The Lokayukta and Upa-Lokayukta Bill was introduced on September 12, 1973. Action is still pending.
56. INDIA--STATE OF KERALA. Under the 1969 Interim Probe Machinery Executive Order, petitions may be addressed to the Chief Secretary requesting an inquiry into an allegation of misconduct against any public man specified in the petition. The Government will then appoint a Commissioner to report if a prima facie case has been made out justifying reference of the case to a Commission of Inquiry and upon consideration of the report take such action as may be necessary.
57. INDIA--STATE OF MADHYA PRADESH. A Lokayukta Bill was introduced on April 24, 1974 and was referred to a Select Committee.
58. INDIA--MAHARASHTRA. Shri S. P. Kotval took office as Lokayukta on October 25, 1972, the first to be appointed in India, under the Lokayukta and Upa-Lokayuktas Act 1971. Shri Kotval has given the information that "Lok" means "the people," "Ayukta" means "care taker" or "Commissioner" and the prefix "Upa" means "deputy." He received 288 complaints from October 25, 1972 to December 31, 1972 and 767 during the year, 1973. His first report for the period from October 25, 1972 to October 24, 1973 was submitted to the Governor on November 17, 1973.
59. INDIA--MANIPUR. The Director of Vigilance acts also as the Director of Public Grievances.
60. INDIA--STATE OF ORISSA. The Assembly passed the Lokpal and Lokayukta Bill on October 28, 1970 but no Lokayukta has been appointed as yet.
61. INDIA--STATE OF RAJASTHAN. Under the Lokayukta and Upa-Lokayukta Act of 1973, Shri I. D. Dua, a retired Judge of the Supreme Court, has been serving as Lokayukta. Shri L. M. Nadkarni became Upa-Lokayukta on October 1, 1973.
62. INDIA--STATE OF TAMIL-NADU. The Public Men (Criminal Misconduct) Act, 1973, enables a citizen to set into motion machinery for investigations into charges of misconduct against ministers and legislators.
63. INDIA--STATES--GENERAL. Vigilance Committees are functioning in the States of Andhra Pradesh, Assam, Gujarat, Karnataka, Madhya Pradesh, Tamil Nadu and West Bengal. Petitions Committees in the state legislatures also receive petitions from the public against the administration.
64. INDONESIA. The Pengabdian Hukum (Law Upholder) is a private institution sponsored by non-governmental organizations (5 legal associations and the Indonesia League of Human Rights).

It receives complaints from individuals against public agencies and has many of the characteristics of the Ombudsman system, operating through a joint secretariat of six from its member organizations.

65. INTER-AMERICAN. The Inter-American Commission on Human Rights was created in 1959. The Second Special Inter-American Conference at Rio de Janeiro in 1965 adopted a resolution extending the powers of the Commission to consider individual complaints of violations of certain basic rights. On receipt of such complaints, the Commission has the right to request information, and make recommendations to governments. The organ responsible for hearing individual petitions is the Inter-American Commission on Human Rights whose competence in the matter is automatically recognized by states parties to the Convention. The Convention set up a second organ, the Inter-American Court of Human Rights, with optional jurisdiction. Before the merits of the case can be studied by the Commission and perhaps eventually by the Inter-American Court, a petition must be declared admissible by the Commission. The Commission will, having notified the parties, look into the facts alleged in the petition. A friendly settlement may be reached and if not reached the Commission will publish the report. If the case is not finally settled, it can be taken to the Inter-American Court by the Commission or by the state or states concerned. If the case is neither settled nor submitted to the Court, the Commission may by a vote of the majority of its members set forth its opinion and conclusions on the case and make any appropriate recommendations and prescribe a period within which the state concerned is to take the measures necessary to remedy the situation. At the end of the period, the Commission will decide whether such measures have been taken and whether or not to publish its report.
66. INTERNATIONAL BAR ASSOCIATION. Sir Denys Hicks, President, is expected to make appointments in the near future to the Ombudsman Committee, which is headed by Bernard Frank. Two supplemental committees have been established: the I.B.A. Member Organizations Liaison to which 28 national bar associations have made appointments and the I.B.A. Ombudsman Advisory Board on which 22 Ombudsmen throughout the world have accepted membership. A newsletter was issued in May and July to a mailing list of about 350, including the Member Organizations Liaison and Advisory Board.
67. IRAN. Lieutenant General Yazdan Panah who headed the Imperial Inspection Organization died in 1973 and has been succeeded by Lieutenant General Fardoost. Under the 1969 Law for the Establishment of the Imperial Inspection Organization, the organization under the supervision of the Shahanshah (who appoints its head) deals with grievances of the people against government agencies, police, local government, public utility institutions and affiliated government institutions. Complaints against ministries and governmental organizations can also be made under the Constitution to Petitions Committees of the two Houses of Parliament.
68. IRELAND. There has been some discussion on the Ombudsman but no definitive move has been made as yet. The Irish Times

(1/10/74) states that a report on the implications of appointing an Ombudsman is being prepared by the Department of Public Service.

69. ISRAEL--COMMISSIONER FOR COMPLAINTS FROM THE PUBLIC. The State Comptroller, Dr. I. E. Nebenzahl, by law has jurisdiction as Commissioner for Complaints from the Public to handle complaints against acts including delay in performance or omissions contrary to law or without lawful authority or contrary to sound administration or unduly harsh or manifestly unjust. The Commissioner is assisted by a special unit called the Office of the Commissioner for Complaints from the Public. Gershon Avner resigned the post of Director of the office to become Secretary to the Cabinet. Yehuda Salant is Director, an appointment made by the Knesset House Committee. From September 1972 to September 1973, the Office of the Commissioner received 6,762 original complaints.
70. ISRAEL--SOLDIERS COMPLAINTS COMMISSIONER. Major General Haim Laskov, former Chief of Staff, who became Soldiers Complaints Commissioner on November 1, 1972 under the Military Justice (Sixth Amendment) Law 5732-1972 received from that date until March 31, 1973, 2,258 complaints. 1,626 complaints were dealt with, of which 539 were justified.
71. ISRAEL--POLICE. The Police Commissioner of the Israel Police by order created the Office of Public Complaints to receive complaints against police officers headed by Deputy Commander Zeev Margalit.
72. ISRAEL--JERUSALEM. Shelomo Kaddar, who has been serving as Jerusalem Ombudsman since 1967, reports that he received 759 cases in 1973 and carried over 42 from 1972. He completed 771 cases, of which 307 were found justified.
73. ISRAEL--HAIFA. Sources report that the Mayor of Haifa has appointed an Ombudsman, Jacob Lvav.
74. ISRAEL--TEL-AVIV. Yehuda Greener, City Ombudsman, reports that he received 9,368 complaints in 1973.
75. ITALY. Dr. G. Treves of the University of Turin had been appointed by the Italian National Research Council to collect materials and prepare proposals for the institution of the Ombudsman in Italy. The volume "L' Ombudsman (Il Difensore Civico)" has been published by UTET in Turin. Sources report that the Liberal Party has again proposed Civil Defender legislation in Parliament.
76. ITALY--REGION OF TUSCANY. Regional Law no. 8 of January 21, 1974, establishing the Civic Defender, was passed, the first region (out of 20) to do so. No appointment has been made yet.
77. ITALY--REGION OF LIGURIA. Legislation similar to the Tuscany Civic Defender Law has been passed in June in Liguria. No appointment has been made yet.

78. ITALY--REGIONS--GENERAL. Sources report that Civil Defender bills have been introduced in four regions--Emilia, Lombardia, Trentino, Alto Adige and Umbria.
79. JAMAICA. The report of the Ombudsman Working Party was issued on August 27, 1973 recommending the establishment of the Ombudsman. The report is being examined by a subcommittee of the House of Representatives.
80. JAPAN. The Civil Liberties Bureau, a part of the Ministry of Justice, handles various matters relating to the protection of human rights. Civil Liberties Commissioners, not to exceed 20,000 in number, are appointed by the Ministry of Justice to serve in cities, towns and villages. The Administrative Inspection Bureau of the Administrative Management Agency, inter alia, receives, investigates and seeks to redress grievances. Local administrative counselors in localities receive grievances and forward to the Bureau those deserving of attention. The Ministry of Justice has published a 1973 16-page booklet on "The Governmental and Non-Governmental Machinery for the Protection of Human Rights and Legal Aid in Japan" which discusses in Part I the Civil Liberties Bureau and the Civil Liberties Commissioners.
81. MALAYSIA. The Government did not implement the 1965 report by Sir Guy Powles, New Zealand Ombudsman, but considers the reorganized Anti-Corruption Agency as working satisfactorily. The Agency deals, among other functions, with individual cases of inefficiency, delay, and nepotism. The Public Complaints Bureau became operational on August 1, 1971. It is an administrative division of the General Planning Unit of the Prime Minister's Department under the portfolio of the Minister with Special Functions. An essential feature of the organization setup is the appointment of Bureau representatives in local areas to receive public complaints and refer them to the Bureau. The Bureau receives complaints against administrative acts done or omitted relating to a matter of public administration by a Federal department (includes all Federal statutory bodies).
82. MALAYSIA--STATE OF PENANG. A special committee known as the Efficiency, Good Relationship and Complaints Committee has been appointed by the state Government. Its terms of reference include investigation of complaints received from the public, the taking of appropriate action, and when necessary the making of recommendations to the proper authorities.
83. MALAYSIA--STATE OF PERAK. There has been a proposal for the Ombudsman but nothing further has developed pending the outcome of a special study initiated by the Federal authorities.
84. MALTA. The Labour Party Programme, on which platform the present Government won the last elections in June, 1971, proposed the institution of the post of Ombudsman. No legislation has as yet been presented in the House of Representatives.
85. MAURITIUS. The Ombudsman, S. Mootoosamy, who took office on January 23, 1973, issued a report covering the period from March 2, 1970 (when his predecessor, Judge Gunnar Lindh assumed

office) until December 31, 1973. 315 complaints were received during this period, of which 91 were considered justified. In 1973, 89 complaints had been received, 29 investigated, and 5 considered to be justified.

86. MEXICO. The Mexican Constitution provides for the writ of amparo--special and extraordinary in nature--which protects individual rights and properties. It can be brought against acts of administrative tribunals, ordinary bureaucrats, police officers, judges, legislatures, and even against the President. In administrative matters, amparo may be invoked against decisions which cause an injury that cannot be remedied through any legal resource, trial, or defense.
87. NAURU. Some thought had been given to Ombudsman in the Republic of Nauru. However, in view of the size of the Island with a population of approximately 6,000 persons, the need for the Ombudsman does not exist at present.
88. NETHERLANDS. This year the Government requested G. E. Lange-meyer, former Attorney General, to draft a plan for an Ombudsman. In 1971, Government proposals for an Ombudsman receiving complaints from Parliament only was discussed and rejected. The Second Chamber instead voted for an independent Ombudsman who would receive complaints from the public directly. Dr. H. H. Kirchheiner's "Ombudsman En Democratie" published in 1971 contains a nineteen-page English summary.
89. NETHERLANDS--TV OMBUDSMAN. The Vara broadcasting company has established an Ombudsman program on TV and radio. In addition, an Ombudsman Foundation was established in 1972 in connection with the Vara Ombudsman TV and radio program but at the same time independent. The media Ombudsman is Hans Ouwerkerk. The Foundation with a staff of 30 is headed by Guido M. Zuur.
90. NEW ZEALAND. The report of the Ombudsman, Sir Guy Powles, for the year ended March 31, 1974 shows he had received 865 complaints in that year, making the total since the inception of the office on October 1, 1962, 9,610. In the year, 373 complaints were fully investigated, and of these 114 were found to be justified. The Government has in preparation legislation to extend the jurisdiction to all local government authorities and ad hoc local bodies. The Bill is expected to be introduced into Parliament towards the end of the year, and, if passed, will require major changes in the structure and operation of the Ombudsman's office.
91. NIGERIA. Complaints against officials and department may be made to the appropriate Permanent Secretary. If the complaint is against the Permanent Secretary of a Ministry or the Head of an Extra-Ministerial Department, it is made to the Secretary to the Military Government in the case of a state or to the Secretary to the Federal Military Government in the case of the Federal Government. Complaints against the Government, ministries and departments may also be made to the Attorney General of the Federation and Commissioner for Justice and occasionally complaints are sent

to the Head of State Commissioners, or other Government officials.

92. NORTHERN IRELAND. Stephen McGonagle succeeded J. M. Benn who retired as Parliamentary Commissioner for Administration and Commissioner for Complaints on January 1, 1974. As Parliamentary Commissioner for Administration he receives complaints against central government through members of the Northern Ireland Assembly. In 1973 he received 43 complaints. As Commissioner for Complaints, he receives complaints against local government and public authorities from the public directly. In 1973 he received 659. The effect of the recall of the Assembly in May and direct rule by British Parliament will be to require reports to the Parliament at Westminster.
93. NORWAY--PARLIAMENTARY OMBUDSMAN. The Parliamentary Ombudsman, Andreas Schei, retired on July 1, 1974, and was succeeded by Judge (of the Supreme Court) Erling Sandine. During 1973, the Ombudsman received 1,395 complaints, 52 informational inquiries, and took up 21 cases on his own initiative. 1,373 cases were handled during the year, of which 562 were investigated and 178 were considered justified.
94. NORWAY--MILITARY OMBUDSMAN. Edg Andreassen, Military Ombudsman, received 248 complaints in 1972 and 230 in 1973.
95. NORWAY--CONSUMER OMBUDSMAN. The Law on the Control of Marketing came into effect on January 1, 1973. The function of the Consumer Ombudsman is to see that advertising and other marketing measures are in accordance with the law and that advertising is not untrue or misleading. Mrs. Inger Louise Valle, the Consumer Ombudsman, is on leave to serve as Attorney General and Judge Charles Philipson serves as acting Consumer Ombudsman. In 1973, 1,191 cases were registered, of which 300 were on the Consumer Ombudsman's own initiative.
96. PAKISTAN. The Permanent Constitution adopted in 1973 contains a Fourth Schedule which includes the subject of the Ombudsman as being under the competence of the Federal Legislature. A bill is in the process of preparation. The office of the Prime Minister's Representative on Administrative Inspection handles complaints against central government officials on corruption, delay, inefficiency, unfair treatment and discourteous behavior.
97. PAPUA--NEW GUINEA. The motion by Mr. Anton Paroa, an opposition member of the House of Assembly, to appoint an Ombudsman was debated on September 20, 1973 and March 7, 1974 with negative results. The Constitutional Planning Committee proposed an Ombudsman Commissioner consisting of a chief Ombudsman and two Ombudsmen. It is currently being debated in the House of Assembly.
98. PHILIPPINES. On January 17, 1973, the President proclaimed that the Constitution proposed by the 1971 Constitutional Convention had been ratified and had then become effective. Section 6 of Article XIII provides for an Ombudsman to be

established by the National Assembly and to be known as the Tanodbayan. The Secretary of Justice has submitted to the President the draft of a presidential decree creating the office of the Philippine Ombudsman to be called the Tanodbayan. Pending the President's action on the draft decree creating the Philippine Ombudsman, he issued Letters of Instructions No. 137 dated October 15, 1973, constituting a Special Cabinet Committee to deter "backsliding" of government officials and employees. In addition to the Letters of Instruction, the President, late in 1973, directed all cabinet members to set up Public Assistance offices to receive citizen complaints. The Special Action Unit in the office of the President receives complaints which are brought to the attention of the department head concerned.

99. **POLAND.** Under the Code of Administrative Procedure, complaints may be filed by individuals pertaining to "negligence or an irregularity on the part of organs or their staff members in performing their duties, to violations of law or disregard of legitimate interest, and to undue delay or bureaucratic attitude in disposing of matters." The Council of Ministers has provided for an Office of Complaints. The Procurator General, among other duties, supervises the strict fulfillment of the law by all institutions, authorities and departments, on district, regional and village levels, as well as by the various components of the public economy, public institutions and by individual citizens; supervising the conformity to the law of the acts and activities of the institutions and the organizations mentioned above; and supervising the safeguarding of citizens' rights. The supervision does not extend to the acts and activities of central institutions. The Code of Administrative Procedure also permits a citizen to submit a complaint or suggestion to the press, radio and television networks, producers of news films, and the institutions concerned must act as if complaint had been filed directly by the citizen. They must submit their reply both to the citizen and the media.
100. **ROMANIA.** The Procurator General is elected by the Grand National Assembly for the duration of the legislative term. The Procurator General appoints the procurators in the regions, districts and towns. The Procuratura keeps watch over compliance with the law by the ministries and other central organs of state administration, the local organs of state administration, the penal prosecuting authorities, the courts, the civil servants and other citizens.
101. **RUSSIA.** The Soviet Procuratura is the supreme national institution fulfilling the constitutional function of control over the exact observance of the law by government departments and bodies and institutions subordinate to them, by various officials of all grades and by the public. The Procurator General is appointed by the Supreme Soviet of the U.S.S.R. for a period of seven years. He appoints the procurators of the union republics and of the autonomous republics, the territories, the regions and the autonomous regions. The lower grades of procurators are appointed by

the procurators of the Union Republics subject to the confirmation of the Procuratura General. The General Military Procurator is appointed by the Procuratura General of the U.S.S.R. on the recommendation of the Ministry of Defense. Carrying out the general supervision of Procurator over legality or administrative orders and administrative activity, among other methods, the Procurator receives written and oral communications from members of the public and also observes cases reported in the press. In addition, a 1968 law regarding "Procedure for Handling of Suggestions, Requests and Complaints from the Public," deals with the procedure for handling complaints from the public.

102. SINGAPORE. The Corruption Practices Investigation Bureau deals with allegations involving corruption by government employees. The Central Complaints Bureau under the Ministry of Social Affairs handles complaints not involving corruption such as discourtesy, misconduct, unnecessary delay, and discrimination. From 1962-1973, about 10,000 cases were handled. The Government has never accepted the recommendation of the 1966 Constitutional Commission recommending the establishment of the Ombudsman system.
103. SOUTH AFRICA. Several years ago, the House of Assembly debated a motion proposed by Mr. D. D. Baxter to consider the appointment of a judicial commission to report on the establishment of an Ombudsman. The motion was withdrawn, but members of the Government termed it a "very interesting motion." The Association of Law Societies reports that it is arranging a law conference in March 1975 on Administrative Law and has invited one of the Swedish Ombudsmen to speak.
104. SRI LANKA. The Government has formed Janatha Committees (People's Committees) in each district to receive grievances but with no power of investigation. The People's Committee Act was passed in 1971.
105. SUDAN. The Central Bureau for Public Control Act 1970 consists of the Public Commissioner, a Deputy Public Commissioner and other members. The Bureau, among other functions, is to conduct the necessary investigation and inquiry for the detection of the administrative and financial contraventions committed by government employees, which include negligence in carrying out the duties of the office, misuse of discretion and abuse of power.
106. SWEDEN. Sweden has three Parliamentary Ombudsmen who all have the same rank but are responsible for different spheres of supervision. Mr. Bertil Wennergren supervises the field of social welfare and is also in charge of matters relating to social insurance and education as well as those concerning the access of the general public to official documents. Ulf Lundvik handles cases on taxation and execution of judgments and all other matters concerning civil administration not supervised by Mr. Wennergren. Gunnar Thyresson supervises the courts of justice, the public prosecutors, the police and the armed forces including authorities responsible to the latter. The Ombudsmen are elected by the Swedish Riksdag for a term of four years and it also elects two

Deputy Ombudsmen, the latter being Mr. Anders Wigelius and Mr. Tor Sverne. In 1973, 3,699 new cases were registered with the Ombudsman, of which 445 were cases initiated by the Ombudsmen themselves. Seven proposals were submitted to Parliament. Prosecution or disciplinary proceedings were instituted in 9 cases. There were 551 admonitions.

107. SWEDEN--ANTI-TRUST OMBUDSMAN. The Ombudsman for Protection of the Freedom of Trade is Judge Torsten Lowbeer appointed by the King in Council. His activities are based on the Restrictive Trade Practice Act. Judge Lowbeer handled 473 cases in 1973 of which 351 arose during this year.
108. SWEDEN--CONSUMER OMBUDSMAN. The Consumer Ombudsman, Judge Sven Heurgren, is appointed by the King in Council and he ensures that laws for the protection of consumers are observed--the Marketing Practices Act and the Act Prohibiting Improper Contract Terms. Professor Donald B. King has written a book entitled "Consumer Protection Experiments in Sweden," published by Fred B. Rothman & Co., 1974. (See A-123)
109. SWEDEN--PRESS OMBUDSMAN. The Press Ombudsman, appointed by a special committee, is a voluntary institution of the Swedish press. Judge Lennart Groll, Press Ombudsman, reports 391 complaints in 1972 and 392 in 1973.
110. SWITZERLAND--FEDERAL. The Federal Justice and Police Department is considering the introduction of Ombudsman legislation and will prepare a report. The National Council is considering proposals for a Military Ombudsman.
111. SWITZERLAND--CANTONS. Basel, Zurich and Solothurn are considering cantonal Ombudsmen.
112. SWITZERLAND--CITY OF ZURICH. Dr. Jacques Vontobel has been serving as Zurich Ombudsman or Complaints Commissioner since 1971. In 1972, he received 396 complaints and in 1973, 344 complaints.
113. TANZANIA. The Permanent Commission of Enquiry consists of three members. Chief Erasto A. M. Mang'anya, Chairman of the Commission, was elected Speaker of the National Assembly on November 20, 1973. Information has not been received as to the name of his successor as Chairman. An article on the Permanent Commission of Enquiry by Bernard Frank was published in the Denver Journal of International Law and Policy, Volume 2, No. 2, Fall 1972.
114. THAILAND. On May 21, a seven man committee was appointed by the Prime Minister to investigate allegations of corruption on the part of Government officials. The status of the committee following the Prime Minister's resignation and then return to office is unknown. Judge Sansorn Kraichitti, International Bar Association Council Member, was one of the members of the committee.
115. TRINIDAD AND TOBAGO. The Constitution Commission submitted its report to the Governor-General on January 22. It

recommended the creation of the office of Ombudsman and proposed that the Government redraft its draft Ombudsman Bill in accordance with the Commission's recommendations. Dr. Selwyn Ryan, disagreeing with a single Ombudsman system, recommended a plural Ombudsman of at least three persons with a rotating chairmanship.

116. UNITED NATIONS. The Commission on Human Rights in 1967 adopted Resolution 14 proposing the creation of the office of a United Nations High Commissioner for Human Rights which, among other functions, would seek communications concerning human rights addressed to the United Nations which it may draw to the attention of the government concerned. (See A-125)
117. VENEZUELA. An English summary of an article in the International Review of Administrative Science (Vol. 38, No. 3, 1972), Summaries xiv and xv discuss the office of the Commissioner of the President of the Republic appointed under the Decree of July 16, 1969. The Presidential Commission receives complaints of citizens against officials with regard to inefficiency of the public services, the mismanagement of public funds, trading on influence, and generally, any maladministration.
118. VIETNAM (REPUBLIC OF). It has an institution known as the Inspectorate (Censorate) with power of audit, inspections, control and investigation of all public and private agencies, engaged as accessory or accomplice in corruption, speculations, influence--peddling, or acts harmful to the national interests; may propose disciplinary measures or request prosecution. A 1974 law broadened the powers of the Censorate over Government agencies, state owned industrial and commercial corporations, public agencies with financial autonomy status, and semi-public corporations.
119. WORLD PEACE THROUGH LAW. The Geneva World Conference on World Peace Through Law in 1967 recommended in its future work program that, "The Center disseminate widely information about the role which an ombudsman can perform in protecting citizens against violation of their rights by administrative authorities; and seek to assist financially or otherwise projects designed to encourage research on the establishment of ombudsmen."

The Belgrade World Conference on World Peace Through Law (1971) adopted Resolution No. 19 which called upon states "to make every effort towards the establishment of effective national machinery for the protection of human rights including, where appropriate, the institution of ombudsman or similar institutions."

120. YUGOSLAVIA. The Public Prosecutor is authorized to carry out general supervision over the legality of administrative acts and the protection of citizens' rights. There is a Bureau for Complaints within the Cabinet of the President of Yugoslavia. In addition, citizens can lodge requests and proposals to Petition Committees. There was some discussion in 1973 of the Ombudsman system.

121. ZAMBIA. The 1973 Constitution provides in Part IX, Articles 117-119 for a Commission of Investigations consisting of an Investigator General as the Chairman and three Commissioners, all appointed by the President. The Constitution became effective on August 25, 1973. On December 11, 1973, Justice Frederick Chomba was appointed Investigator General. He had been Puisne Judge of the High Court of Zambia, which is a qualification requirement. Removal of the Investigator General by the President requires a vote of 2/3 of the members of the National Assembly passing a resolution that the question of removal be investigated, appointment of a tribunal of three persons by the Chief Justice, and a finding by the tribunal that the Investigator General be removed for disability or misbehavior. The Commission has jurisdiction to investigate cases of alleged misconduct or abuse of office or authority by government, party and local officials, by members and employees of parastatal bodies, institutions of higher learning and commissions. Legislation is being drafted to supplement the Constitutional provisions.
122. AUSTRALIA--FEDERAL. (See A-1) The draft of a federal Ombudsman bill is in its final stage and is expected to be introduced in the near future. At the same time a bill to introduce a separate Defense Forces Ombudsman will be introduced.
123. SWEDEN--CONSUMER OMBUDSMAN. (See A-108) Judge Heurgren, the Consumer Ombudsman, reports receiving 4,286 cases and taking up 541 on his own initiative in 1973.
124. GREECE. The 1968 Constitution provides for a Parliamentary Commissioner. This provision has not as yet been implemented. A Government Administrative Ombudsman has been in operation since 1968 by the Legislative Decree No. 2/1968. The Government Administrative Ombudsman is Efsthathios Latsoudis who has been in office since 1972 succeeding Spyridon Velianitis. He acts on his own initiative, or on receiving complaints from the public, or on requests from the Prime Minister.
125. UNITED NATIONS. (See A-116) The Commission on Human Rights now reviews cases of gross violations of human rights referred to it by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The creation of the post of UN High Commissioner for Human Rights has been incorporated by UN Resolution #3136 into an item entitled "Alternative approaches and ways and means within the United Nations system for improving the effective enjoyment of human rights and fundamental freedoms." This was adopted on December 14, 1973. This item will be considered by the 30th Session of the General Assembly in 1975.
126. AUSTRALASIAN AND PACIFIC OMBUDSMAN CONFERENCE. A Conference of Australasian and Pacific Ombudsmen from New Zealand, Western Australia, South Australia, Victoria, Queensland, Fiji, and Hawaii will be held in New Zealand in November. Sir Guy Powles, New Zealand Ombudsman, is chairman of the conference.

127. AUSTRALIA--STATE OF QUEENSLAND. (See A-2) The Parliamentary Commissioner Act 1974 was proclaimed by the Governor on June 27, 1974 with an operative date of July 1, 1974. The position of Commissioner has been advertised.
128. GREAT BRITAIN. (See A-47) Mr. Dafydd Jones-Williams has been appointed Local Commissioner for Wales.
- AA. OMBUDSMEN AND OMBUDSMAN PROPOSALS. The strong trend toward the Ombudsman system throughout the world continues. The following Ombudsman officials (using the word Ombudsman in its restricted meaning) are in office throughout the world: Australia (State of South Australia, State of Queensland, State of Victoria, and State of Western Australia), Canada (Commissioner of Official Languages, Provinces of Alberta, Manitoba, New Brunswick, Nova Scotia, Quebec, and Saskatchewan), Denmark, Fiji, Finland, France, Federal Republic of Germany (Federal Military and State of Rhineland-Palatinate), Great Britain (Parliamentary Commissioner for Administration, National Health Service Commissioners, and Local Government Commissioners), Guyana, India (States of Bihar, Maharashtra, and Rajasthan), Israel (Commissioner for Complaints From the Public, Soldiers Complaints Commissioner, City of Jerusalem, and City of Tel Aviv), Mauritius, New Zealand, Northern Ireland (Parliamentary Commissioner for Administration and Commissioner for Complaints), Norway (Parliamentary Commissioner and Military Ombudsman), Sweden, Switzerland (City of Zurich), Tanzania, and Zambia. In the United States there are Ombudsman officials in the states of Hawaii, Nebraska, and Iowa, and in the cities of Atlanta (Georgia), Seattle-King County (Washington), Detroit (Michigan), Jamestown (New York), Lexington-Fayette County (Kentucky), Wichita (Kansas), Dayton City and School District and Montgomery County (Ohio), and Jackson County (Missouri).

Legislation has passed and awaiting assent in Australia (Northern Territories), Canada (Newfoundland and British Columbia Labor Ombudsman). Constitutional provisions have been enacted but there has been no implementing legislation as yet in Bangladesh, the Philippines and Greece. Legislation has been passed but no appointment of an Ombudsman made in Cyprus, India (State of Orissa), and Italy (Regions of Tuscany and Liguria). Proposals are under consideration in Australia (Federal, both civil and military, and the State of New South Wales), Austria, Belgium, Canada (Northwest Territory and Yukon Territory), Ethiopia, Iceland, India (Federal as well as states of Gujarat, Karnataka, and Madhya Pradesh), Ireland, Italy, Jamaica, Malaysia (State of Perak), Malta, Netherlands, Pakistan, Papua-New Guinea, Switzerland, and Trinidad and Tobago. In the United States, Ombudsman proposals are under consideration on the Federal, state and local government levels.

## B. UNITED STATES--FEDERAL

Federal legislative proposals continue to be introduced without success. However, the affection that government agencies have for the term "ombudsman" still exists.

1. ADMINISTRATIVE CONFERENCE OF THE UNITED STATES. The Administrative Conference does not contemplate altering its position taken in the past--that the Conference is not suited to serving as an Ombudsman for citizen complaints. Its role will be to suggest improvements in the agencies themselves. It issued a study by Professor Victor G. Rosenblum of federal agency procedures and procedures in handling citizen-initiated complaints and a report by Professor Howard Lesnick on grievance procedures for federal prisoners. The latter did not consider the institution of an Ombudsman feasible in the special circumstances of prison life. The Committee on Informal Action did not propose any action to be taken on Professor Lesnick's report by the Administrative Conference Assembly, principally because it felt that the members of the Conference do not have the required expertise to speak authoritatively in the field. The Conference announced in May a major study of certain administrative procedures of the Internal Revenue Service including the handling of citizen complaints.
2. DEPARTMENT OF AGRICULTURE. The Office of the Inspector General has been dissolved and in its place an Office of Investigation reporting to the Secretary of Agriculture and the Office of Audit reporting to the Assistant Secretary for Administration were established. The two offices will independently inquire into allegations of irregularity on the part of personnel or in the operations of the Department's programs. Congressman Whitten stated in Congress on June 21, 1974 in the consideration of HR 15472 that the committee had seen fit to restore the Office of Inspector General to its former status. No further information has been received.
3. HR 11257. Congressman Les Aspin of Wisconsin introduced on November 6, 1973, HR 11257 which would permit each Congressman to appoint an Ombudsman for his or her district. In addition, the bill provides for an Ombudsman Center to train, assist, and certify the Ombudsmen. The bill is pending in the House Committee on House Administration, Subcommittee on Accounts. In March 1971, the Congressman appointed Tim Cullen to serve full time as his Ombudsman in his Wisconsin district. Mr. Cullen handles 200-300 complaints and requests monthly.
4. DEPARTMENT OF COMMERCE. The Department of Commerce established on March 26, 1971 the Office of Ombudsman for Business. John P. Kearney has been appointed to succeed Thomas E. Drumm, Jr., who resigned in August, 1973. Mr. Kearney will serve as Director of the Office of Business Relations and also as Ombudsman for Business. About 9,600 inquiries were received in 1973, of which about 5-10% were complaints involving improper operation of government programs relating to business or action by government

officials managing such programs or other abuses or capricious acts of public officials.

5. OFFICE OF CONSTITUENT ASSISTANCE. Senator Vance Hartke, for himself and Senator M. Gravel, introduced S.2500 on September 28, 1973 to establish an Office of Constituent Assistance, similar to his S.2134 introduced in 1971. The Office of Constituent Assistance would be headed by a Director who would receive complaints through members of Congress. Hearings may be held on the bill by the Committee on Government Operations.
6. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE. HEW had established in 1972 the position of Ombudsman in the Office of Civil Rights to monitor alleged abuses in affirmative action programs in the higher education community. The position was disbanded recently.
7. CORRECTIONAL OMBUDSMAN. Congressman William J. Keating introduced on October 19, 1973, HR 11146 which provides for an Office of the United States Correctional Ombudsman to handle complaints with respect to any administrative act of the Bureau of Prisons or of the Board of Parole pertaining to the treatment of a Federal prisoner or parolee or conditions in any Federal penal institution. It also would amend the Omnibus Crime Control and Safe Street Act of 1968 to provide for states seeking correctional improvement funds to set up a state Correctional Ombudsman program. The bill was referred to the Judiciary Committee.
8. CORRECTIONAL OMBUDSMAN. On June 20, 1973, Congressman Ralph Metcalfe introduced HR 8848 which would establish the Office of Correctional Ombudsman to investigate any administrative act of the Bureau of Prisons or the Board of Parole pertaining to the treatment of a Federal prisoner or parolee or conditions in any Federal penal institution. The bill was referred to the Judiciary Committee. The bill was re-introduced on July 12, 1973 as HR 9270 with six additional co-sponsors, on July 24, 1973 as HR 9543 with 17 additional co-sponsors, and on September 12, 1973 as HR 10216 with two additional co-sponsors.
9. NAVY. Rear Admiral C. F. Rauch, Assistant Chief of Staff of Navy Personnel to Human Goals, also holds the official title of "Navy Ombudsman." In addition, the Navy has a Navy Wives Ombudsman program. Anyone who feels that she has been unfairly dealt with by a government agency, local command, or service member may complain to a Navy Wives Ombudsman.
10. FEDERAL CITIZENS APPEAL BOARD. Senator Gaylord Nelson introduced on February 21, 1974, S.3043 which sets up Federal Citizens Appeal Boards in each of ten Federal districts. Each board is to consist of five members and will review complaints against agency action after agency appeal procedures have been exhausted. Decisions would be

appealable to a federal district court. An advisory council would be established which, among other functions, would be responsible for distributing grants to local and state governments for establishing local citizen appeal boards.

Senator Nelson has appointed a member of his staff to act as an Ombudsman in his Milwaukee office.

11. CONGRESSIONAL OMBUDSMAN. Congressman Wayne Owens and eleven other members introduced HR 7680 on May 9, 1973, a Bill to establish an Office of Congressional Ombudsman. The Congressional Ombudsman would be responsible only to Congress and would principally do case work referred to him by members of Congress with the help of a staff trained in the different case work areas. Information would be released only to the member or Senator who referred the case originally who could then communicate directly with his constituent. There would be no access to the Ombudsman except by specific referral from the member or Senator. The Ombudsman would be chosen by a twelve-man board which would consist of six Senators and six Representatives. The Chairmanship of the Board would alternate between members of the two Houses of Congress each session. The bill was referred to the House Administration Committee.
12. FEDERAL CRIMINAL JUSTICE SYSTEM. Senator Charles H. Percy introduced S.2160 on July 12, 1973, which contains provisions for the Office of Ombudsman of the Federal Criminal Justice System. The Office would handle complaints and disputes of confinement or other related matters and would also consider petitions for collateral review filed by any state or federal prisoner with a federal court and endeavor to resolve the matter out of court within 90 days.
13. WATERGATE. The Senate Watergate Committee in its report made public on July 13, 1974 recommended the establishment of the Office of Public Attorney to be chosen by members of the judiciary subject to Senate confirmation. The Public Attorney would have power to investigate and prosecute where conflicts of interest in the executive branch exist and also to inquire into (with power to gain access to executive records) the status and progress of complaints and criminal charges concerning matters pending in or involving the conduct of Federal departments and regulatory agencies. The report terms the Public Attorney as not only a "special prosecutor" but also as an "ombudsman" having power to inquire into the administration of justice in the executive branch.
14. HEALTH OMBUDSMAN. The federal phase of this aspect is covered in Section E - United States - Health of this report.

C. UNITED STATES--STATES

Ombudsman bills were introduced in 1973 in 28 states, Puerto Rico and the Virgin Islands, and in 1974 in 21 states and in Puerto Rico.

Complaint-handling mechanisms, legislative Ombudsman proposals and other Ombudsman or complaint-handling developments in the states, territories, and districts are summarized as follows:

1. ALABAMA. 1973 - S. 280 - died in committee; and 1974 - no session.
2. ALASKA. 1973 - H.B. 15 - continued over to 1974; and 1974 - H.B. 15 - died in committee.
3. ARIZONA. 1973 - H.B. 2235 - provided for Ombudsman appointed by and responsible to Governor - Legislature adjourned without passage; and 1974 - no legislation.
4. ARKANSAS. 1973 - H.B. 274 (Public Protector) - Legislature adjourned without passage; and 1974 - no information.
5. CALIFORNIA. 1973 - S.B. 130 - died in committee; S.B. 1105 (Ombudsman for Corrections) - died in committee; and 1974 - no information.
6. COLORADO. 1973 - H.B. 1277 - died in committee; and 1974 - no legislation.
7. CONNECTICUT. 1973 - no bills; and 1974 - no bills. The Governor, Thomas J. Meskill, established on June 29, 1973, the Governor's State Information Bureau, which permits persons to call toll-free from any area of the State to the Bureau. The Bureau personnel will answer inquiries, supply information, and provide, if required, "in depth" follow-up service. Calls from the deaf are handled by special telephone facilities. An interpreter is available for the Spanish-speaking populations. Twenty case workers are employed to handle the approximately 500 daily inquiries.
8. DELAWARE. 1973 - no bills; and 1974 - H.B. 869 - Legislature adjourned without passage.
9. DISTRICT OF COLUMBIA. The City Hall Complaint Center originated in 1964. It handles problems that citizens may encounter with city agencies. Volunteers and one paid staff member handle about 200 calls per week. During the second half of 1973, 3,755 complaints were received. It is reported that one of the Senators is considering introducing a District Ombudsman bill. Senators Edward Long, Philip Hart, and Robert Kennedy introduced a District of Columbia bill in 1967 without success.
10. FLORIDA. 1973 - H.B. 1715 and S.B. 852 - Legislature adjourned without passage; and 1974 - H.B. 3665 (Nursing Home Ombudsman). On May 23, 1973, the Senate President announced that the Senate Governmental Operations Committee would offer commencing June 4, 1973, a service allowing any Senator or his staff to phone or write the Committee for the central processing of constituent inquiries or complaints dealing with services

rendered by state government. The service was opened to the general public on January 16, 1974. A report (referring to it as an Ombudsman service) for the period June 4, 1973 to February 28, 1974 issued by Committee Chairman J. H. Williams shows 800 inquiries were received. An Ombudsman was appointed by the Department of Health and Rehabilitation Services in October, 1973. The title of the position was subsequently changed to Co-ordinator of Client Relations since the position was not in line with the true concept of the Ombudsman.

11. GEORGIA. 1973 - H.B. 85 (City of Atlanta Ombudsman); and 1974 - H.B. 85 - carried over from 1973 - passed - approved by Governor on March 22, 1974 as Act 1047.
12. HAWAII. Herman Doi has been serving as the Ombudsman since July 1, 1969, the first to serve under the Ombudsman Act of 1967. His Report No. 4 for the period July 1, 1972 to June 30, 1973 shows a total of 2,041 inquiries, of which 509 were outside of his jurisdiction, 573 were requests for information, and 959 were complaints. 6% of the inquiries were by mail, 12.5% by visits, and 81.4% by telephone. Complaints against specifically named persons must be reduced to writing. 34% of the complaints were justified or partly justified. The Ombudsman's jurisdiction extends over local and state government. During the period from July 1, 1973 to December 31, 1973, the Ombudsman received 968 inquiries. H.B. 1711 (1973-1974 sessions) providing for the establishment of a consumer arbitrator in the Office of the Ombudsman died in committee. H.B. 2431 (1974 session) amending the Ombudsman Act of 1967 in several particulars passed and was signed into law by the Governor as Act 46, Session Laws of Hawaii, 1974.
13. ILLINOIS. 1973 - H.B. 530 and H.B. 2053 (the latter providing for an Office of Citizen Information and Assistance in the Office of the Lieutenant Governor) were both tabled; and 1974 - no legislation introduced. Governor Dan Walker established a Mail Control Center to receive inquiries, complaints and problems by mail or telephone and to respond by mail. In addition, he established a Citizen Affairs Office to deal with emergency referral, telephone inquiries, complaints, problems and letters of an emergency nature. The Mail Control Center receives approximately 700 grievance letters per month. The Citizen Affairs Office receives an average of 360 grievances per month, 90% of which are by telephone.
14. IOWA. Thomas Mayer was appointed as Citizens' Aide under the Citizens' Aide Act 1972 to succeed Lawrence D. Carstensen who resigned effective May 21, 1973. Mr. Mayer, a lawyer, had served as Deputy Citizens' Aide and Acting Citizens' Aide. Files were opened in 1,200 cases, according to the report issued by the Citizens' Aide for 1973. The Iowa Crime Commission funded the appointment of a Deputy for Corrections, Raymond Cornell, in September, 1973 to handle

complaints of inmates from correctional institutions. The office became permanent under S.F. 73 passed in 1974 and effective July 1. H.F. 284 introduced in 1973 gave the Citizens' Aide the power to investigate complaints against companies who have nearly exclusive control over an area of business. It carried over to 1974 but did not pass.

15. KANSAS. 1973 - S.B. 98 - stricken from the calendar; S.B. 72 (providing for an Ombudsman of Correctional Institutions) was enacted into law and became effective July 1, 1974; and 1974 - S.B. 703 (amending the 1973 Correctional Ombudsman Act) was enacted into law. The 1974 Legislature also approved Senate Concurrent Resolution 96 which provided for a special committee to make a legislative study of the feasibility of establishing offices of Ombudsman at the state and local levels.
16. KENTUCKY. No legislative session was held in 1973. The Governor by executive order in 1973 established the Office of the Ombudsman in the Department for Human Resources to handle complaints with respect to services rendered by the Department. J. E. Reeves was appointed to serve as the Ombudsman. In 1974, the legislature enacted S.B. 112 into law, making the office a statutory office.
17. MAINE. 1973 - L.D. 1515 and L.D. 576 (Office of Constituent Services) - both failed to pass; and 1974 - no legislation.
18. MASSACHUSETTS. 1973 - Senate No. 1209 (Office of Ombudsman appointed by the Secretary of State and an Information and Referral Agency in the Ombudsman Office), House Bill No. 1129 (the Office of Ombudsman elected by the Legislature and an Information and Referral Agency under the direction of the Ombudsman), House No. 2371 (Ombudsman for direct case personnel working in the schools for retarded of the Department of Mental Health), House No. 4024 (a Division of Citizen Inquiry and Complaint headed by an Ombudsman within the Department of the State Auditor), and House No. 5188 (Office of Ombudsman within the Executive Office of Elder Affairs) - all killed; and 1974 - Senate No. 1287 (Office of Ombudsman for Corrections), Senate No. 1316 (Ombudsman and Information and Referral Agency in the Office of the Secretary of State), House No. 912 (Ombudsman and Division of State Inquiry and Complaint within the Department of the State Auditor), House No. 1113 (Ombudsman and Information and Referral Agency in the Department of the State Secretary), House No. 2033 (residential care Ombudsman), and House No. 3040 (Ombudsman and Division of Citizen Inquiry and Complaint within the Department of the State Auditor) - all killed except House No. 3040, which was substituted by House No. 5520. House No. 5520 directed the Legislative Research Council to investigate and study the matter of establishing a State Ombudsman Office. No further information concerning House No. 5520.

19. MICHIGAN. 1973 - H.B. No. 4359 and S.B. No. 377 (State Education Ombudsman within the Department of Education) carried over to 1974; and 1974 - H.B. No. 4359 and S.B. No. 377 still in committee - no further bills introduced. Joint house resolution for a constitutional amendment to provide for an Ombudsman introduced in April, 1974 still in committee.
20. MINNESOTA. 1973 - S.F. 1048, H.F. 182, H.F. 1220, H.F. 691 (Lieutenant Governor to hold office of Ombudsman) - did not pass; S.F. 672 creating the office of Ombudsman for the State Department of Corrections did pass and was enacted in law; and 1974 - S.F. 2652 (Ombudsman of State Forms within the Department of Commerce) and H.F. 3500 (fixing salaries of Ombudsman and Deputy Ombudsman) died in committee.
21. MISSOURI. 1973 - S.B. 130 (Commissioner of Administrative Investigations to be known as Ombudsman) and S.B. 323 (Lieutenant Governor as Ombudsman) - both died; and 1974 - S.B. 465 (Commissioner of Administrative Investigations to be known as Ombudsman) - died. Lieutenant Governor William C. Phelps announced on July 11, 1973, he would voluntarily assume Ombudsman duties. He has been receiving 100-150 complaints per month but lacks an adequate staff. A first year summary of activity is in the process of preparation.
22. MONTANA. 1973 - S.B. 89 (Office of Ombudsman with Lieutenant Governor as Ombudsman) - did not pass; H.B. 597 (appropriations for Office of Ombudsman) - held over to 1974; and H.B. 439 passed on March 16, 1973, but the Senate, on the request of the Governor, voted to reconsider and referred the bill to the Rules Committee; and 1974 - H.B. 597 and H.B. 439 held over from 1973 were killed in committee. In return for the actions of the Senate on H.B. 439, the Governor appointed in 1973 a Citizen's Advocate as part of his office. For the period from July 1, 1973--December 31, 1973, the Citizen's Advocate, Kent Kleinkopf, received between 4,000-5,000 phone calls, responded to approximately 1,200 pieces of correspondence and had almost 500 visitors.
23. NEBRASKA. Murrell B. McNeil has been serving as Public Counsel (Ombudsman) since June, 1971. The Public Counsel Law was enacted in 1969. Mr. McNeil's third annual report shows that he received 579 documented contacts, of which 383 were complaints. 77 of the complaints were justified and 34 were partially justified. Alan J. Wyner, Ombudsman Activities Project, Department of Political Science, Santa Barbara, has issued a report to the Office of Economic Opportunity entitled, "The Nebraska Ombudsman: Innovation in State Government." Bernard Frank's article on "The Nebraska Public Counsel--the Ombudsman" will be published in the Cumberland-Samford Law Review shortly. Persons desiring reprints should write to Bernard Frank.
24. NEW JERSEY. 1973 - S.34 and A. 495 filed in 1972 and carried over to 1973 - did not pass; 1974 - A. 1409 (Department of the Public Advocate) - passed and enacted into law on May 13, 1974. Under the Department of the Public

Advocate Act of 1974, the Department is headed by a Commissioner who is the Public Advocate. Included in the Office of the Public Advocate is the Office of Inmate Advocacy to represent the interests of inmates, a Division of Rate Counsel, a Division of Mental Health Advocacy, a Division of Public Interest Advocacy, and a Division of Citizen Complaints and Dispute Settlement. Included in the Division of Citizen Complaints and Dispute Settlement are the Office of Citizen Complaints and the Office of Disputes Settlement. The Office of Citizen Complaints handles complaints from any citizen relating to administrative action or inaction of agencies and its findings and recommendations are reported to the Public Advocate. Stanley C. Van Ness became Public Advocate on May 21. John Gleeson heads the Division of Citizen Complaints and Dispute Settlements. The New Jersey Ombudsman Committee has concluded that despite reservations the new legislation is a worthwhile experiment.

25. **NEW MEXICO.** 1971 legislation (Chapter 138 of the Laws of New Mexico) gave to the Lieutenant Governor, in addition to his other duties, the power to (1) facilitate and promote the cooperation and understanding between the people of this state and the agencies of state government, by assisting them in their dealings with such agencies, and by assisting the agencies to explain their functions, duties and administrative procedures insofar as they affect the people of this state; and (2) refer any complaints or special problems of the citizens of this state to the proper agency. The third annual report for the year 1973 issued by Robert A. Mondragon, Lieutenant Governor, contains a section entitled "Ombudsman." He reports having had 8,000 contacts by individuals and groups during the reporting year.
26. **NEW YORK.** 1973 - A. 413, A. 1050 and S. 2185 (both Office of Public Redress), A. 1052, S. 2184, S. 2227, S. 2603 (Office of Correction Ombudsman), A. 3840 (Office of Public Redress), S. 4823 (Office of Correction Ombudsman), S. 5013 (Office of Correction Ombudsman), A. 5355 (Inmate Counsels with authority to appoint Facility Ombudsmen), A. 6117 (Office of Correction Ombudsman), A. 6805 (Correction Facility Ombudsman), A. 6438 (Office of Correction Ombudsman) - no bill passed; and 1974, S. 7009, S. 8829 and A. 10647 (both Office of Public Redress headed by Ombudsmen within Banking Department), S. 7645 (Correctional Facility Ombudsman), A. 9369 (Correctional Facility Ombudsman) - no bill passed.
27. **NORTH CAROLINA.** In March, 1973, Governor J. Holshouser created the office of "People's Man" to receive and investigate complaints from the public about illegal, unreasonable, unfair, or discriminatory actions by officials or employees and to recommend suitable action. Fred M. Gallagher, who serves as "People's Man," uses the term "Governor's Ombudsman."
28. **NORTH DAKOTA.** 1973 - S.B. 2367 - an Ombudsman bill amended in its entirety to provide for a special interim committee of legislators appointed by the Legislative Council to

investigate complaints submitted by legislators for citizens - passed the Senate but was defeated in the House; and 1974 - no session.

29. OHIO. 1973 - H.B. 457 (co-operation and financial assistance to nonprofit Ombudsman corporations) - passed and enacted into law; and 1974 - no legislation introduced. The State has several self-termed Ombudsman type of services, each located within an administrative agency: Businessman's Ombudsman Bureau, Department of Economic and Community Development; Insurance Ombudsman, Department of Insurance; Environmental Protection Agency Ombudsman; Consumer Protection Ombudsman, Department of Commerce; and Local Government Ombudsman, Department of Community and Economic Development.
30. OKLAHOMA. 1973 - no legislation; and 1974 - H.B. 1789 - died in committee.
31. OREGON. 1973 - S.B. 244 (sponsored by the Committee on Judiciary at the request of the Administrative Law Committee of the Oregon State Bar), S.B. 189, and H.B. 2280 - none passed; and 1974 - no legislation introduced. Governor Tom McCall created the office of Ombudsman by executive action on July 1, 1969. The New York Times, July 21, carried an article stating that Marc Ted Winters, an ex-convict, was serving as Ombudsman.
32. PENNSYLVANIA. 1973 - H.B. No. 239 (Office of Grievance Commissioner) - carried over to 1974, and S.B. 170 (a revision of the Mental Health Act providing, inter alia, for a Mental Health Ombudsman Service); and 1974 - H.B. No. 239 (1973) - still under committee consideration. The Office of Business Ombudsman was established in the Department of Commerce in 1971 by executive order. The Governor's Action line established in June, 1973 for the 814 exchange area was extended to the 412 area in October, the 717 area in January, and the final area, the 215, in June. The Action Line is a toll-free line for complaints or inquiries about state government. In 1971 the Insurance Commissioner appointed an Insurance Department Commissioner. The Auditor General in reviewing the Insurance Department considered the position ineffective because the Ombudsman viewed his position in a broader perspective than did the Department. The Auditor General recommended a definition of the duties and a re-examination of the performance of the Ombudsman.
33. PUERTO RICO. 1973 - H.B. No. 11 - carries over to 1974-1975-1976; and 1974 - H.B. No. 11 (1973) - pending.
34. RHODE ISLAND. 1973 - no legislation introduced; and 1974 - 74-S 2566 and 74-S 2579 - neither passed. 74-S 2579 introduced by Senator Julius C. Michaelson was the first bill based on the American Bar Association Model Ombudsman Statute for State Governments. The Little State House program established by S. 473 enacted in 1969 was eliminated in 1973.

35. SAMOA (AMERICAN). 1973 - H.B. 113 - did not pass.
  36. SOUTH CAROLINA. 1973 - no legislation; and 1974 - S. 860 (authorizing the Nursing Home Ombudsman of the State Commission on Aging to investigate complaints) - enacted into law. Governor John C. West created within the Office of the Governor the Office of Citizen Services to receive complaints. Its activities are reviewed by a Citizens Service Review Board. Judy S. Hodgins serves as Coordinator of the Office of Citizen Services.
  37. TEXAS. 1973 - H.B. 12 and H.B. 1973 - both died in committee; and 1974 - no session.
  38. UTAH. 1973 and 1974 - no legislation. The Governor, Calvin L. Rampton, appointed Daniel L. Cope as Black Ombudsman and Gilbert Rameriz as Chicano Ombudsman to serve in liaison positions between their respective communities and the Governor.
  39. VIRGIN ISLANDS. 1973 - Bill 5852 - did not pass; and 1974 - no legislation. Information has been received that the President of the Senate has appointed an Ombudsman for the Legislature but no details are known concerning the office.
  40. VIRGINIA. 1973 and 1974 - no legislation. Pursuant to House Joint Resolution No. 8, 1972, the Virginia Advisory Legislative Council issued a report in 1973 recommending that the Governor's Secretaries establish a complaint resolving procedure but at the same time incorporating without recommendation the report of a special committee which favored Ombudsman legislation. The Governor then established the State Citizens' Service Assistance Office headed by Roy L. Farmer, Director of Consumer Affairs in the Department of Agriculture and Commerce, with each agency designating an agency's Citizens' Service Assistance Officer.
  41. WASHINGTON. 1973 - H.B. 954 (Ombudsman for nursing home patients within the Department of Social and Health Services - did not pass, H.B. 1326 and S.B. 3054 (both Office of Ombudsman for Corrections), and H.B. 1331 - did not pass.
  42. WEST VIRGINIA. 1973 - H.B. 712 (Legislative Ombudsman) - died in committee; and 1974 - H.B. 788 (Legislative Ombudsman) and H.B. 105d (Juvenile Ombudsman) - died in committee.
  43. The American Bar Association Ombudsman Committee has issued a Model Ombudsman Statute for State Governments, a joint product of the Committee and the Yale Legislative Services. Copies may be obtained by writing to Bernard Frank.
- D. UNITED STATES--LOCAL GOVERNMENT--CITIES AND COUNTIES

Although many cities have some form of complaint-handling mechanisms, those described following are limited to those having true legislative Ombudsmen or to those offices although under the control of the executive which bear the Ombudsman title or to mixed types of offices under the supervision of the executive but created by the legislative body.

1. ATLANTA, GEORGIA. H.B. 85 amending the City Charter to provide for an Ombudsman was passed and enacted into law in 1974. However, the City Attorney rendered an opinion that the state law was illegal and City Council then passed an ordinance on May 20, 1974 establishing the Office of Ombudsman. Calvin O. Carter was appointed by the Mayor, Maynard Jackson, as Ombudsman and confirmed by City Council.
2. BUFFALO, NEW YORK. The Buffalo Citizens Administrative Service was an ombudsman-like demonstration project sponsored by the Law School of the State University of New York at Buffalo and funded by a grant from the OEO. The Service was in operation for 71 weeks in 1967 to 1969 and received a total of 1,244 complaints and inquiries. A report on this project has been published by the Institute of Governmental Studies, University of California, Berkeley, California 04720, entitled "Buffalo Citizens Administrative Service: An Ombudsman Demonstration Project."
3. CHARLESTON, SOUTH CAROLINA. The Charleston Ombudsman program was established by City Council ordinance and provided for a Chief Ombudsman and 16 Ward Ombudsmen. It was reorganized in 1974 and consists of an Ombudsman who heads the Office of Citizens' Complaints and a Board of Directors of ten members who act as advisors. It is not clear how the Board members are designated and whether the reorganization was pursuant to ordinance. Approximately 961 complaints were received in 1973. The Ombudsman is elected by the Board of Directors. James B. Moore serves as Ombudsman.
4. CHESAPEAKE, VIRGINIA. M. Reid MacCallum, Administrative Assistant to the City Manager, holds the title of Ombudsman. He handles about 500-600 complaints per year.
5. COLUMBUS, OHIO. Nodine Henniger-Miller serves as Ombudsman under the general direction of the Mayor. From December 18, 1972 to November 13, 1973, the office acted on 3,308 cases. Nineteen volunteers assist the program.
6. DAYTON, OHIO. Bonnie Z. Macaulay succeeded Theodore C. Bingham, who died on July 3, 1973, as director of the Joint Office of Citizen Complaints. The Congressional Record of July 12, 1973 contains a tribute to Ted Bingham. The Joint Office of Citizen Complaints opened on March 1, 1971, funded by the Charles F. Kettering Foundation and the OEO. It was established as an independent agency reporting to a community-based Board functioning within the corporate limits of Dayton but dealing with municipal public, educational, and county problems. The office receives complaints of acts done or omitted by any department (where the board or agency is responsible to the Dayton City School Board, the City of Dayton, or the Montgomery County Board of Commissioners), which act or omitted act causes any citizen in Montgomery County to be aggrieved. A Board of Trustees of the Joint Office of Citizen Complaints was created with the approval

of the School Board, the City and the County Commissioners. The Joint Office of Citizen Complaints was incorporated in 1972. Any political subdivision in the Dayton, Ohio metropolitan area is eligible to become a member of the corporation upon the affirmative vote of not less than a majority of the Board of Trustees. The initial members of the corporation are the City of Dayton, Ohio, the Dayton School District, and Montgomery County. Each member of the corporation elects three Trustees. The Board of Trustees elects an Ombudsman to be the Chief Executive Officer of the corporation. Complaints are received in person, by telephone, or in writing. The duty of the Ombudsman is to investigate complaints and also includes the ability to review upon reasonable notice all of the documents of the agency, departments, and boards, subject to her jurisdiction. The office has seven full-time staff and 19 students and volunteers. Its present sources of funds are the City, School Board, County, and the United Fund. The 1973 annual report shows 2,368 cases were received. A report evaluating the Dayton Ombudsman was submitted to the Charles F. Kettering Foundation in 1972. The Foundation has commissioned Anthony Wolff to write a book-length report on the Dayton Ombudsman Office and its role in the community.

7. DETROIT, MICHIGAN. The Detroit new Charter which provided in Chapter 3 for an Ombudsman was passed on November 6, 1973. The Ombudsman to be appointed by two-thirds vote of City Council will serve a single term of ten years. He may investigate any official act of any agency which aggrieves any person but excluded from jurisdiction are elective offices. Reports are to be made periodically to the City Council. At the end of ten years, the question of retention of the Office of Ombudsman will be submitted to the electorate. A seminar on the Ombudsman was held on May 4, 1974, sponsored by the Michigan Assembly for the Ombudsman. Retired Swedish Ombudsman, Alfred Bexelius, was among the speakers.
8. ERIE, PENNSYLVANIA. Louis A. Colussi serves as Ombudsman. The office, funded by H.U.D., originally was a Model City project and now is a Planned Variation City project. A staff of approximately 20 operates the main office, a field office, and two mobile vans, receiving about 800 cases per month, most of which concern city services. The office is not provided for by ordinance and is dependent on the Mayor.
9. FAIRBANKS, ALASKA. The Fairbanks area charter containing an optional Ombudsman clause was not approved by the voters.
10. FORT WAYNE, INDIANA. Betty Elliot heads the Department of Citizens' Assistance, as Ombudsman. Mayor Ivan Lebanoff created the position to fulfill a campaign promise that if he were elected he would establish such a post to handle complaints. The Department handles about 1,000 calls per month, most of them requests for services.
11. GRAND RAPIDS, MICHIGAN. The City Council has endorsed the Ombudsman concept and an ordinance is in the process of preparation.

12. HONOLULU, HAWAII. The 1959 City and County Charter provides for an Office of Information and Complaint in the Mayor's office to receive complaints and inquiries. James L. Loomis, Director, reports that in fiscal year 1973 he received 5,622 complaints, mainly requests for services.
13. JACKSON COUNTY, MISSOURI. The Constitutional Home Rule Charter of Jackson County, approved on November 3, 1970, established an Office of Human Relations and Citizen Complaints. Within the office there is a Commission on Human Relations and Citizen Complaints consisting of eight members appointed by the County Executive. The Commission selects the Director of Human Relations and Citizen Complaints. The Director may be removed by the vote of a majority of the members of the Commission. The Director has the power to receive and investigate complaints and to make findings and recommendations. The Commission may hold hearings with respect to any complaint which the Director is authorized to investigate and has the right to subpoena witnesses, compel their attendance, administer oaths, take the testimony of persons under oath, and require the production for examination of books and papers relating to any matter under consideration by the Commission. Jurisdiction is limited to offices that by ordinance are under the control of the Jackson County legislature. Agencies not covered are the courts, municipal police departments, and state and Federal governments. The County Charter became effective January 1, 1973. Lawrence B. Guillot became the first Director on June 11, 1973. In the first year, from about July 1, 1973 to June 30, 1974, the Office received over 1,300 contacts from the public and worked on nearly 800 cases.
14. JAMESTOWN, NEW YORK. In 1970, City Council passed Local Law No. 3 establishing the Office of Ombudsman. Appointment of the Ombudsman is made by the Mayor subject to the approval of a majority of all the members of City Council. The Ombudsman has the power to receive complaints, suggestions and requests for information from any person concerning administrative matters of government and to assist citizens with problems in dealing with city government. The Ombudsman is also authorized to perform such other duties as may be assigned to him by the Mayor. Sam J. Nalbene was appointed Ombudsman on February 1, 1970. In 1973, he received 2,149 complaints, many of which related to service. From January to April, 1974, he received 648 complaints.
15. LEXINGTON AND FAYETTE COUNTY, KENTUCKY. The Charter of the Lexington-Fayette Urban County Government adopted in November, 1972, merges the county and city governments. The Charter provides for an Office of Citizens' Advocate to investigate complaints, disclose any abuses or irregularities on the part of the Government, officers, agents or employees, and to recommend substantive or procedural policies required to reduce or eliminate problems of citizen access to the Government. The Citizens' Advocate is to be appointed by the

Urban County Council. Information has not been received as to the appointee.

16. LITTLE ROCK, ARKANSAS. The city has funded a one-man office with the title of "Ombudsman" to receive complaints from residents of the Model Cities Neighborhood.
17. MAUI COUNTY, HAWAII. The County Board of Appeals was established by Charter adopted in 1968. It is a three-man citizen board, which handled only one complaint to June 3, 1974.
18. MILWAUKEE, WISCONSIN. The Milwaukee Urban Observatory in 1973 submitted a feasibility study on the Ombudsman concept to Common Council. A committee was appointed to review the study and make recommendations. No further action has been made as of June 13, 1974.
19. NASSAU COUNTY, NEW YORK. The Commissioner of Accounts, under the Nassau County Charter, is assigned investigative duties on behalf of the County Executive. By executive order, the Commissioner assumed the additional duties of County Public Protector to receive complaints against the various departments of the county, town governments and special districts. Commissioner Benedict P. Ciaraviano handled 1,002 matters in 1972 and 1,295 in 1973.
20. NEWARK, NEW JERSEY. An Ombudsman ordinance was passed by City Council in 1972 but was never established. The Mayor, Kenneth A. Gibson, returned funds granted by the OEO for the office.
21. NEW YORK CITY. City Council President, Paul O'Dwyer, introduced Bill #333 on February 26, 1974 providing for the Office of Citizen Redress. Its director would be appointed for a six-year term by City Council from names selected by a Citizen's Selection Board. The director has power to receive complaints from any person in regard to the conduct of any agency, officer, or employee, and to investigate the conduct and affairs of any agency and the official conduct of any officer or employee. Hearings are scheduled to be held on the bill in September.
22. OMAHA, NEBRASKA. City Charter provides for a Taxpayer Complaint Office, in the office of the Mayor, to receive complaints and inquiries. The office is known as the City Services Office.
23. OXNARD, CALIFORNIA. City Council by resolution in 1969 created the position of Community Relations Representative under the general direction of the City Manager. Catarino Soria, Community Relations Representative, handles complaints and inquiries about city government, among other duties.
24. PEORIA, ILLINOIS. The Field Representative, an Administrative Assistant to the City Manager, has been given the title

of Ombudsman by the press. The position is held by Ron Ulmer.

25. PHILADELPHIA, PENNSYLVANIA. The Home Rule Charter of 1952 established the Mayor's Office for Information and Complaints which had 197,691 contacts with the public in 1972 and 179,141 from January 1, 1973 to December 27, 1973. The Charter Revision Commission issued its report in July, 1973, recommending the Mayor's Office for Information and Complaints be continued as part of a new Department of Consumer Affairs. In addition, the seven councilmen-at-large (out of a council of 17 members) would constitute a Committee for Public Hearings meeting at least four times a year. The Commission rejected the proposal of the Citizen's Council on Charter Revision, recommending an Ombudsman Commission of three full-time members to receive and resolve complaints against any administrative agency or agent.
26. PITTSBURGH, PENNSYLVANIA. The discussion draft of the Government Study Commission provided for the Office of Controller-Ombudsman setting forth, in addition to Controller duties, Ombudsman powers and duties. The Home Rule Charter to be voted on in November omits the Ombudsman portions but the commentary states that, "Traditionally, the controller has recognized and responded to citizen complaints and nothing in this charter prevents a controller from continuing this practice."
27. PORTLAND, OREGON. The Metropolitan Human Relations Commission proposed to City Council that an office of Ombudsman be created. A report by Management Services assisted by a committee of administrative review members recommended instead that an Information Co-ordinator to receive complaints be appointed by and make reports directly to City Council.
28. SACRAMENTO, CALIFORNIA. The Charter Commission has under consideration in its preliminary draft provisions for an Ombudsman.
29. SAGINAW, MICHIGAN. The Charter provides for a Bureau of Public Information and Complaint to furnish information and receive complaints of citizens relative to the public service for investigation and report. The Bureau is under the direction and supervision of the City Clerk. In addition, there is a Community Information Officer, a position held by Gerald O. Werle, who is a member of the City Manager's staff.
30. ST. PETERSBURG, FLORIDA. A position with the title of Ombudsman was instituted in 1970 in the City Manager's Office. Don Donley receives citizen requests sent to the City Manager's Office.
31. SALT LAKE COUNTY, UTAH. The County Commission appointed a Senior Citizens Ombudsman in 1973, to, among other duties, investigate complaints. Mrs. V. Lucile Hutchings holds the position.

32. SAN JOSE, CALIFORNIA. The Office of the Ombudsman was established by City Council in 1971 as part of the City Manager's Office and funded by Model Cities monies. Sam Sanchez was appointed to the position. He can only be removed by a two-thirds vote of City Council and the Board of Directors of Model Cities. Mr. Sanchez has issued an annual report covering the period from October 15, 1971 to October 15, 1973, showing 337 complaints received. The office is now fully funded by the City.
33. SAN LEANDRO, CALIFORNIA. The position of Community Relations Representative was created by City Council in 1968 to receive and investigate complaints, among other duties. City Council elected C. H. Gustafson to serve under the supervision of the City Manager. He can be discharged only by City Council.
34. SEATTLE AND KING COUNTY, WASHINGTON. The Office of Citizen Complaints was established by the Home Rule Charter of King County in 1968. In 1971, King County and the City of Seattle agreed upon a Joint Office of Citizen Complaints and also upon an ordinance. The Director of the Office of Citizen Complaints was selected by the City and County Councils for a five-year term, subject to removal only by two-thirds vote of both Councils. The Ombudsman appoints a deputy for Seattle and a deputy for the County together with the necessary supporting staff. The Director is authorized to investigate complaints filed by the citizens against city and county administrative agencies but is prohibited from investigating the Councils, the Courts, the Chief Executive, and the County Prosecutor. Mr. Fred L. Maxie serves as Acting Ombudsman. The City of Seattle also has a Citizens Service Bureau within the Office of the Mayor.
35. TROY, NEW YORK. The new City Charter provides for an assistant to the Manager appointed by the Manager to provide a Citizen's Information and Complaint Service.
36. WHITEHALL TOWNSHIP, LEHIGH COUNTY, PENNSYLVANIA. The proposed Home Rule Charter to be voted on in November provides that the Board of Commissioners may by ordinance establish an Office of Information and Complaints headed by an Information and Complaint Officer appointed by the Board. The ordinance must include a number of powers based on the Ombudsman concept.
37. WICHITA, KANSAS. In 1972, the Wichita City Commission established a Community Grievance Office. The Grievance Officer is appointed by, reports to, and is accountable to a five-member Citizens Advisory Board appointed by the Board of City Commissioners. He is independent of city government control and by ordinance is empowered to investigate complaints involving any aspect of city government, of policy or practices. The Advisory Board is also responsible for evaluating the performance of the Community Grievance Officer and must review, at least quarterly, the statistical reports and narrative summaries

of the activities of the Community Grievance Officer and submit a report on the same to the Board of City Commissioners and the City Manager. Operations began on July 10, 1972. Frederick Linde who serves as Grievance Officer reports that a total number of 2,300 grievances have been received from July 10, 1972 to May 24, 1974.

**E. UNITED STATES--LOCAL GOVERNMENT--SCHOOL DISTRICTS.**

Information concerning school districts is rather limited. The following school districts have some type of Ombudsman mechanism to handle complaints.

1. ANN ARBOR PUBLIC SCHOOLS, MICHIGAN. Robert L. Potts heads the Office of Human Relations Ombudsman which handles grievances from students, parents, and staff, among other duties.
2. DALLAS, TEXAS. Jack Kcten serves as Ombudsman. His services relate to teachers.
3. DAYTON, OHIO. The jurisdiction of the Joint Office of Citizen Complaints includes the Dayton School District. The 1973 annual report shows 54 cases involving the school district.
4. MONTGOMERY COUNTY PUBLIC SCHOOLS, MARYLAND. Thomas S. Foss serves as Ombudsman and staff assistant to the Board of Education. He was appointed by the Board on the advice of the Superintendent and reports both to the Board and the Superintendent. Mr. Foss handles complaints from employees, students, and citizens, among other duties.
5. NIAGARA FALLS, NEW YORK. Lt. Alfred Bakula of the Police Department serves as Ombudsman for the secondary school students.
6. PHILADELPHIA, PENNSYLVANIA. The Student Bill of Rights and Responsibilities of the School District provides for discretionary appointment by each high school student government of Ombudsmen. Training sessions are held for newly elected Ombudsmen.
7. SEATTLE, WASHINGTON. In 1973, the Office of Ombudsman was established for the Public Schools. The Ombudsman is appointed by the Superintendent of Schools and reports to him. He handles complaints from citizens, students, and employees. Carroll Hanson, who heads the office, reported 121 grievances and more than 700 routine inquiries in his first six months in office. Funding is shared by the district and the U. S. Office of Education.
8. WICHITA, KANSAS. The League of Women Voters in 1973 received grants from H.E.W. to fund a School Ombudsman project. The Board of Education voted to co-operate and adopted a policy proposed by the League. Robert D. Wright was selected by the League and an Advisory Committee in August, 1973. He resigned and Rex Krieg was appointed in July as School Ombudsman. From September, 1973 to April, 1974, 429 cases were received.

- F. UNITED STATES--BUSINESS OMBUDSMAN. The trend toward governmental business complaint-handling offices frequently bearing the term "Ombudsman" instituted by the United States Department of Commerce in 1971 with its Ombudsman for Business continued (see B-4). The list on the state level includes Pennsylvania with the Office of Business Ombudsman (see C-32), Ohio with the Businessman's Ombudsman Bureau (see C-29), Tennessee's Ombudsman to Industry, Maryland's Office of Business Liaison, and Michigan's Pro-Businessman's Program.
- G. UNITED STATES--HEALTH. The use of patient advocates, patient representatives, and Ombudsmen continued to increase.
1. NURSING HOME OMBUDSMAN DEMONSTRATION PROJECT. The U. S. Department of Health, Education and Welfare funded projects in Idaho (Arlene D. Warner, State Ombudsman for Nursing Homes, under the general supervision of the Department of Special Services); Massachusetts (John J. Donovan, Nursing Home Ombudsman, under the direction of the Executive Office of Elder Affairs); Michigan (Marilyn A. Schiff, National Director, Nursing Home Ombudsman Program under contract with the National Council of Senior Citizens, Inc.); Oregon (Puth Hocks, Assistant Ombudsman for Nursing Homes); Pennsylvania (Carol Delany, Director, Nursing Home Ombudsman Project); South Carolina (William V. Bradley, State Nursing Home Ombudsman; see C-36 for legislation authorizing the Nursing Home Ombudsman to investigate complaints); and Wisconsin (Lieutenant Governor, Martin J. Schreiber, is the head of the Nursing Home Ombudsman program).
2. STATE LEGISLATION. Bills for Health Ombudsmen were introduced in Florida (C-10), Massachusetts (C-18), Pennsylvania (C-32), South Carolina (C-36), and Washington (C-41). The only bill to be enacted into law was the South Carolina legislation.
- H. UNITED STATES--CORRECTIONAL INSTITUTIONS. The Ombudsman concept has attracted a great deal of attention in the correctional institution area.
1. FEDERAL PROPOSALS. The Administrative Conference of the United States issued a study on grievance procedure for prisoners (see B-1). Legislative correctional Ombudsman proposals introduced into Congress were H.R. 11146--(see B-7), H.R. 8849--(See B-8), and S. 2160--(see B-12). The House of Representatives Select Committee on Crime recommended an office of National Correctional Ombudsman and state Correctional Ombudsman in its report, No. 93-329.
2. STATE PROPOSALS. California (see C-5), Massachusetts (see C-18), New York (see C-26), and Washington (see C-41).
3. CONNECTICUT. James R. Bookwalter serves as Connecticut Correctional Ombudsman under an agreement between the Hartford Institute of Criminal and Social Justice and the Department of Correction. From September 18, 1973 to December 18, 1973,

he received 105 complaints and from December 18, 1973 to March 18, 1974, he received 68 complaints.

4. HAWAII. The Hawaii Ombudsman's powers include jurisdiction over state and local prisons (see C-12).
5. IOWA. The Citizens' Aide Office has a Deputy Citizens' Aide for Correction, an office now made permanent by S.F. 73 which passed in 1974 (see C-14). The 1973 annual report of the Citizens' Aide states that 105 complaints were received against the Bureau of Adult Correction and its institutions.
6. KANSAS. S.B. 72 providing for an Ombudsman of Correctional Institutions became effective July 1 (see C-15).
7. MICHIGAN. The Office of Legislative Corrections Ombudsman was established by 1973 legislation. The Ombudsman, James Spivey, was appointed on March 11, 1974 by the Legislative Council (under whose authority the office functions).
8. MINNESOTA. S.F. 672 creating the Office of Ombudsman for the State Department of Corrections was enacted in 1973. Ombudsman Theatrice Williams who held office since 1972 under executive order of Governor Wendell R. Anderson reported 927 complaints received in his July 1, 1972--June 30, 1973 annual report. From July 1, 1973--June 30, 1974, he received 1,008 complaints.
9. NEBRASKA. Murrell B. McNeil, State Ombudsman, states in his 1973 annual report that he is receiving an increase in complaints from prisoners. (See C-23)
10. NEW YORK. The State Department of Correctional Services has established the Office of the Inspector General to, among other duties, receive complaints. Federal Judge Morris E. Lasker ordered the city to establish an Ombudsman to handle grievances of children held in New York City detention centers. It is expected that the office will be established shortly. The New York State Division for Youth has an Ombudsman program in its facilities.
11. OHIO. The Department of Rehabilitation has established the in-house position of Chief Ombudsman held by George E. Miller.
12. OREGON. L. L. Oliver serves as Ombudsman at the Oregon State Penitentiary, an office established in 1971.
13. SOUTH CAROLINA. The Department of Corrections has appointed an Ombudsman under the supervision of its director.
14. WISCONSIN. Alan Lee, Assistant Attorney General, serves as Corrections Complaint Examiner, receiving appeals from the Inmate Complaint Review System. From November 20, 1972 to March 19, 1974, he received 396 complaints on appeal from the Inmate Complaint Review System which had received 2,891 complaints in the same period.

HB

48

COMMITTEE REPORT

2/2 75

HOUSE

Mr. Speaker:

Date \_\_\_\_\_

The Committee on JUDICIARY has had HB 48

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR HB 48 AND THAT

CS FOR HB 48 DO PASS

( ) "and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

<u>Jerry Hardman</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____
<u>[Signature]</u>	_____	_____

Members NOT concurring in the Majority report:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

Jerry Hardman Chairman

*file on HB 48  
for the floor*

Alaska Association of Realtors  
2223 Spenard Road  
Anchorage, Alaska 99503

April 2, 1975

The Honorable Terry Gardiner  
Pouch V, State Capitol  
Juneau, Alaska 99811

Dear Representative:

We solicit your support for CSHB 48 "An Act relating to contractual restrictions on transferability of interests in realty", which is now under consideration in Rules Committee.

While the majority of Alaskan Financial Institutions do not unreasonably withhold approval and acceptance of a new owner wishing to assume an existing security agreement covering the property he is purchasing, certain of these institutions ordinarily refuse to approve such assumptions unless the purchaser agrees to an increase in the interest rate. We believe this unfair.

When a security agreement (mortgage or deed of trust) is assumed by a new purchaser of property, it does not relieve the original owner of responsibility to pay the debt. Indeed, it adds one additional guarantor of payments and further insures the security of the mortgagee.

A favorable interest rate on a mortgage is a definite plus to an owner and increases the value of his property. Those home owners who purchase their property and arrange to finance the purchase by amortization of the loan over a definite period of time at a definite rate, have every reason to believe that they can sell their interest in the property to someone who can continue to make the payments as agreed between the original owner and the mortgagee as long as he, the original owner, is still responsible for payment to the mortgagee.

In times of increasing interest rates and scarce mortgage financing, the ability of property owners to freely dispose of their equity becomes very important. The enactment of HB 48 would insure that they would not be deprived of this one possibility of sale and would provide prospective purchasers with a purchase method that meets their capabilities.

Thank you,

*Audie L. Moore*  
Audie L. Moore, Co-Chairman  
Legislative Committee  
Alaska Association of Realtors

ALM/pd

## HOUSE JOURNAL

"March 5, 1975

House Judiciary Committee

Statement of Intent

CS HB 48 "An Act relating to contractual restrictions on the transferability of interests in realty."

Some commercial lending institutions in the state have not been allowing assumptions of existing secured loans on real estate. Most lending institutions do allow assumptions of the old loan where the lender's interest in the property is not impaired and the original buyer is not released from his obligation to pay. But some lenders have recently been demanding that the property be refinanced instead of merely assumed. The refinancing is at a considerably higher rate of interest in most cases. These lenders point out to the borrower, who now wants to sell his equity, that the trust deed or other security instrument contains a clause that provides for default if the borrower sells or attempts to sell his equity without the consent of the lender.

Most banks or other lending institutions involved with transfers of interest in real property do not include such "default upon transfer" provisions, or if provided for, the clause is not invoked where the real property is the security and the sale of the equity presents no threat or impairment of that security. In some cases, the transfer actually strengthens the position of the lender, as it will have two people from whom it can collect instead of only the original borrower. The only reason for refusing to permit the transfer of the beneficial interest to a buyer is to enable the lender to call in the original loan and force the buyer to pay a higher interest rate on a new loan.

The scope of the bill does not extend to natural persons because such a lender is more likely to be relying on the credit of the person he deals with rather than simply the value of the collateral. "Default upon transfer" language in contracts between natural persons would seem appropriate in cases where the credit and character of the parties may be fundamental to the transaction. Therefore, the bill would permit reasonable restrictions on transfers found in contracts between natural persons.

Such "default upon transfer" provisions would probably be held to constitute invalid restraints on alienation if challenged in court. A court challenge is not likely, however, as the lending institutions generally permit an assignment if the other parties in the transaction appear to want to take the matter into the courts. Legislative action is proper therefore, to eliminate this unconscionable use of the fine print in the lender's adhesion contracts.

An exemption is available for federal agencies at the discretion of the Commissioner of Commerce in order that the Federal National Mortgage Administration and the Federal Home Loan Bank Board may continue to use their standard deeds of trust which do contain transfer restrictions. It is not intended that the FHA and VA loans be affected by this measure.

HB

52

# COMMITTEE REPORT

3/5/75

HOUSE

Mr. Speaker:

Date 4/21/75

The Committee on JUDICIARY has had HR 52

under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMFNDMENT(S)

() recommends it BE REPLACED WITH CS FOR HR 52 AND THAT

CS FOR HR 52 DO PASS

( ) "and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

<u>Jerry Handman</u>	_____	_____
<u>Robert R. ...</u>	_____	_____
<u>A. E. Bradley</u>	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

Robert R. ... recommends: No RFE.

Sparks recommends: No rec.

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

Jerry Handman Chairman

Here is the report I told Jerry -  
you I had done - The  
back page includes some  
additional information gained  
from testimony in Commerce &  
Other States - Judy

HOUSE BILL 52

House Bill 52, an act entitled: "An act creating an office of the public adjustor; and providing for an effective date."

The purpose of HB 52 is to protect and assist the insurance claimant within the state of Alaska by providing for a Public Adjustor within the Division of Insurance, Department of Commerce.

A Public Adjustor as proposed in HB 52 acts as an ombudsman for members of the public needing help in the determination of the amount of claims or in the settlement of claims with insurers. The Public Adjustor would be of most benefit to the insurance claimant with a small claim.

Currently there is no public assistance for a person filing an insurance claim. If the claim is a large one, it is economically feasible to hire an attorney to negotiate with the insurance company or contest the settlement in court. In the case of the claimant with a small claim, in most cases it is not feasible to hire an attorney or take the company to court. The only recourse left to the claimant is to accept the settlement offered by the insurance company which is, in some cases, an amount far less than a fair settlement for the claim. The Director of the Division of Insurance stated that in some states insurance adjustors are brought in to assist the public in such matters.

An adjustor is one who investigates and reports to his employer concerning claims arising under insurance contracts. Their investigations are made on behalf of either the insurer or the insured, whichever employs them. There are three types of claims adjustors to help one when filing a claim. A company adjustor is an employee of the insurance company. An independent adjustor is employed by the insurance company as a private contractor, and is usually used when the company does not have its own company adjuster available. A public adjustor in some states is hired by the claimant and is paid by the claimant. Brokers and agents assist in claims also.

The Public Adjustor would be of assistance to the public not only in the settlement of claims but also in the determination of claims. Currently the only recourse a claimant has if there are problems with claims determination or settlement is to file a complaint with the Governor's office. A complaint received by the Governor's office is forwarded to the Commis-

sioner of Commerce who forwards it to the Director of the Division of Insurance. John O'Shea, the Director of the Division of Insurance stated that he and his staff handle one half of the complaints for the State while his Deputy in Anchorage handles the rest. I would question this system in that most people are unfamiliar with government and would not know where assistance was available to aid them in an insurance problem. I would also question the time involved in this procedure.

The Public Adjustor in accordance with HB 52 would be appointed by the Director fo the Division of Insurance. Once appointed this person would serve independently of the Division of Insurance. As it states in this bill the Public Adjustor can be removed for cause as determined by the Legislature by concurrence of a 2/3 vote. There may be problems here with the appointment by the Director of the Division and the removal of this person by the Legislature. As the Legislature's role is not to act as an administrator and this person must be in cooperation with the State administration, a better sclusion might be to have the Public Adjustor appointed by the Governor with confirmation by the Legislature. The Governor would then also be able to remove this appointee with concurrence of the Legislature. The term of the Public Adjustor as stated in the bill is four years. If the procedure of hiring and terminating is changed the term of service might also be investigated.

The Public Adjustor although independent of the Division of Insurance will be included under the Prohibited Interests Rewards section 21.06.040. This insures that the Public Adjustor has no conflict of interest in dealing with the public or insurers, as is easily understood in this amendment to the current law.

The direct responsibilities of this position, as stated before, are to assist the public in the determination of the amount of claims and aid in the settlement of claims. Through this assistance, the Public Adjustor will become familiar with the settlement practices of insurers and shall review their records on both settlement practices and claim payment records. During this process if it is discovered that an insurer is habitually uncooperative in settling claims, slow in making payments on claims, or engages in practices inconsistent with the purposes of this title, the Public Adjustor shall request the Director of Insurance to hold a hearing and if warranted suspend the license of an insurer not complying with the requirements of this title. This process reinforces the position of public ombudsman which the Adjustor will have in dealing with the insurance company.

House Bill 51 requests a special appropriation to the Department of Commerce, Division of Insurance to fund the office of the Public Adjustor. This act will take effect July 1, 1975

*bill has been amended concerning appointment/removal*

and requests the sum of \$75,000, appropriated from the general fund, for this purpose. In talking with Mr. Fink, prime sponsor of this bill, he stated that he felt a good insurance adjustor could be hired for \$25,000 yearly. This appropriation would allow for a small staff and funding for an information brochure.

The location of the office is not stated in the bill. The logical assumption would be that the office be located in Juneau. During the first year of business, while the public is becoming aware of this service, it seems more logical to place the office in Anchorage where the most people are and therefore the most claims. Although this is not an important facet of this legislation, there is currently a state insurance office located in Anchorage so the office of the Public Adjustor could be located in either Anchorage or Juneau.

Opinions of this bill are forthcoming from Mr. Roger Grummett, Legislative Representative for the State Association of Independent Agents. Mr. Grummett is attending a board meeting of this organization in Sitka this weekend and will report their opinions to us on Monday. Attached is an opinion from John George, the Risk Manager for the State. I spoke with John O'Shea present Director of the Division of Insurance. He spoke against HB 52 and cited reasons for his opposition. He was opposed to this bill because the office of the Public Adjustor was not in keeping with the administrative process of his office and it would only compound administrative problems. He felt the ombudsman as proposed by the Governor and Senator Kerttula could handle these problems. He did emphasize the special expertise needed for such a position and felt that the costs to provide this would be tremendously high. He felt that the funds expended for this position could be better utilized within his own department and that there would be better claim settlements if there was more funding in his department. He objected to the Public Adjustor being appointed by the Director and then only removed by the Legislature. Mr. O'Shea was basically very concerned over his position and the administration of his division.

Mr. O'Shea stated that he knew of no state that had a public adjustor. He stated some states hire adjustors on public license, who work similarly to our concept of a Public Adjustor, for a small fee. I learned that Pennsylvania has a system similar to this and am awaiting a response from them on how their system functions.

I have received information from the State of Washington concerning questions on who handles these responsibilities (meaning those delegated to the Public Adjustor in HB 52) within their state structure. The Washington Insurance Department has established a Comprehensive Consumer Division within the office of the Commissioner of Insurance. The Supervisor of

the Consumer Division is not independent of the Commissioner, but this system seems to be working. Attached are explanatory brochures on this system. The last page of the brochure explains to the reader how to file a complaint with the Commissioner. The State of Alaska Division of Insurance has no such literature on insurance and no way to inform the public on how and where to file a complaint. The State Consumer Protection Office refers insurance complaints to the Division of Insurance as do individual insurance agents.

As further information is gained in respect to this bill, it will be forwarded to your office.

STATE  
of ALASKA

## MEMORANDUM

TO: [ Honorable Bob Bradley  
Chairman, House Commerce Committee  
Alaska State Legislature

THRU: Andrew S. Warwick, Commissioner  
THRU: A.M. Saylor, Director *AMS*

FROM: John George  
Risk Manager *JG*  
Division of General Services & Supply  
Department of Administration

DATE : February 19, 1975

SUBJECT: HB 51 and HB 52  
Committee Hearing

At the request of Ms. Judy Whitney, comments on House Bills 51 and 52 for review by the House Commerce Committee are respectfully submitted.

The establishment of a public adjuster within the Department of Commerce will not have an effect on the State's Risk Management program. It is designed to protect the individual policyholder and claimant who lacks specific insurance expertise.

It is our opinion that the Department of Commerce, Division of Insurance, already provides a valuable service to the individual purchaser of insurance by investigating and regulating insurance companies and claims adjusters. Appointment of a public adjuster would unnecessarily overlap with work already carried out by the Division of Insurance. If there is a need for additional investigation and arbitration of claims settlement, it seems logical that the Division of Insurance should be expanded by one or more classified persons to handle this additional workload along with other regulatory duties.

To our knowledge, all persons requesting assistance from the Division of Insurance have received help. The number of these requests is relatively small and, in our opinion, does not justify either a full time, exempt position or an appropriation of \$75,000 at this time.

Alaska Independent  
Insurance Agents & Brokers, Inc.



SEND REPLY TO:

February 24, 1975

BRATTUCK & GRUMMETT, INC.  
301 SEWARD STREET  
SITKA, ALASKA 99801

The Ninth State Legislature

To Whom it May Concern:

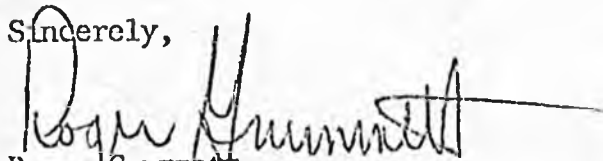
Re: HB 52 & HB 51

On behalf of the Board of Directors of the Alaska Independent Insurance Agents and Brokers, Inc., I would like to make the following statement regarding the Public Adjuster.

We are against your idea of a Public Adjuster. We feel that someone within the Department of Insurance should be designated to handle the consumer complaints. We also feel that the independence of this individual as proposed in HB 52 is far too strong for the position.

We, on the other hand, would like to see the Legislature pass on the \$75,000 which was earmarked for HB 51 to go to the Division of Insurance to fund the additional personnel needed to run that department.

Sincerely,

  
Roger Grummett  
Director and  
Chairman of Legislative Committee

RG: eh

## House Bill 52- Public Adjustor

House Bill 52 was amended in the Commerce Committee so that the Governor would appoint the Public Adjustor for a term of four years. He remains independent of the Director and Commissioner but may be removed for cause or by the Governor's request with concurrence of the Legislature. When removal is requested by the Governor the Public Adjustor remains in office until the legislature removes him.

Our Consumer Protection Agency is not equipped to handle insurance complaints currently and therefore refers them to the Division of Insurance. As I stated before the Director of the Division of Insurance and his secretary handle one half of the complaints for the state of Alaska, while his deputy in Anchorage handles the remainder. John ~~George~~ O'shea testified in the Commerce Committee that the Division of Insurance dealt with 125 complaints involving claims last year, recovering \$350,000 for the claimants. He of course wants more money to be invested in his division instead of the new position of Public Adjustor. John O'shea stated that if more money was invested in his operating budget he could advertise the services of the department. He felt the Public Adjustor created a duplication of services within his division.

This information below is merely to show how two other states aside from Washington have dealt with consumer problems concerning insurance.

### Pennsylvania

In December of 1971, the Insurance Commissioner appointed an ombudsman in the State Insurance Department. There was confusion over the responsibilities of this office and the position has not been filled since December of 1974.

In the 1975 session under House Bill 175, Printers No. 853, a consumer advocate would be created with reference to regulatory agencies including the Insurance Department. This bill passed the House March 20, 1975. Attached is a copy of a press release of the appointment of the ombudsman and a report on this position.

### California

California does not have a position similar to the Public Adjustor, but they do have a Policy Services Bureau, Division of Consumer Affairs in the Department of Insurance. This bureau consists of 22 Insurance Officers who receive complaints from the public and assist the complainants in the adjustment of their claims. If the evidence indicates that a company is as a matter of practice, violating certain of the Unfair Trade Practices set forth in the statutes, this information is used in the event it is determined that a hearing on the insurers's license is warranted.

75  
House Judiciary Committee  
April 14, 1975

#### HB 52 Public Adjustor

Mr. Bradner, sponsor of the bill, testified that the public presently does not complain about insurance problems because they do not know where to go. The bill would create an insurance ombudsman who would function within the Division of Insurance. He would remain independent and would have authority to pursue routine complaints and identify abusive companies. The Division does not favor an independent Adjustor but would like additional monies so that the Division could handle complaints. Mr. Bradner felt that because of the very existence of the Adjustor, many problems would never develop. A pamphlet advertising that the Adjustor will handle complaints is being provided for in another bill.

page 2, line 4, delete the word "ombudsman" and replace with "will assist" Mr. Parr moved the amendment which passed.

Mr. Brown moved on page 1, line 10 that "director" be changed to "governor". There being no objection, it was so ordered.

Ted Smith explained that an appointee of the governor working independently within a Division would have a difficult time. He suggested that the Adjustor be explicitly made a member of the partially exempt service. Mr. Brown moved that an addition to the bill to this effect be added. There being no objection, it was so ordered.

Mr. Brown moved that a CS be drawn up incorporating the above amendments. It was so ordered.

#### HB 385 Early Judicial appointment

The Judicial Council, which suggested the bill, submitted proposed language to take care of the problem of possible lame duck appointments. Mr. Brown moved that on page 1, line 22 and page 2, line 9 add "no more than sixty days early" be added. The amendment passed and Mr. Brown moved HB 385 am out of committee do pass. There being no objection, it was so ordered.

HB

81

1/27/75

COMMITTEE REPORT

FINANCE

HOUSE

Mr. Speaker:

Date Feb 3, 1975

The Committee on Judiciary has had HB 81

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR \_\_\_\_\_ AND THAT

CS FOR \_\_\_\_\_ DO PASS

"and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

<u>Jerry Anderson</u>	_____	_____
<u>R. A. ...</u>	_____	_____
<u>...</u>	_____	_____
<u>...</u>	_____	_____

Members NOT concurring in the Majority report:

<u>Tom ...</u>	recommends:	<u>Do Not Pass</u>
<u>...</u>	recommends:	<u>...</u>
_____	recommends:	
_____	recommends:	
_____	recommends:	

Jerry Anderson Chairman

A M E N D M E N T

OFFERED IN THE HOUSE:

By: Judiciary Committee

To: \_\_\_\_\_ HOUSE BILL No. 81

SENATE BILL No. \_\_\_\_\_

PAGE: 1

LINE: 11 - 12

Line 11

after "funding for:" ADD: specialized legal services in

Line 12

change "in which" to: to which

after "party" ADD: a period

delete: "and for specialized legal services."

February 4, 1975

Rep. Hugh Malone  
Chairman  
House Finance

Dear Rep. Malone:

Although the House Judiciary Committee passed HB 81 as amended on February 3, 1975, the Committee stipulated that the following be submitted to the Finance Committee for their consideration:

Testimony of Mr. Bob Shroedor, Department of Law, indicated that part of the request, \$107,900, is for continued funding of the Cook Inlet Oil Pricing case. It would cover expenses necessary to bring this case to an end and would cover funding that extended past FY 75 into FY 76. It would appear improper for a supplemental request to extend past the current fiscal year.

In addition, the catch all phrase, "and for specialized legal services" was removed and language changed (see amendment) to limit the appropriation to the Cook Inlet Oil Pricing case and the late billing charge of \$12,400. Mr. Shroedor stated that HB 81 was to cover these cases specifically.

Sincerely,

Terry Gardiner  
Chairman, House Judiciary Committee

Introduced: 1/27/75  
Referred: Judiciary and  
Finance

BY THE RULES COMMITTEE BY  
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 81

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making a supplemental appropriation to the  
7 Department of Law; and providing for an effective  
8 date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. The sum of \$120,300 is appropriated from the general fund  
11 to the Department of Law to provide funding for *Specialized Legal services in*  
12 *two major pending law suits*  
13 ~~which the state is a party, and for specialized legal services.~~

14 \* Sec. 2. The appropriation made by this Act is to provide continuing  
15 funding for more than one year and is not subject to the lapse provisions  
16 of AS 37.25.010.

17 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.  
18 10.070(c).

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Sincerely,

Terry Gardiner  
Chairman, House Judiciary Committee

House Judiciary Committee  
February 3, 1975

The meeting was called to order at 1:38 by Vice Chairman Bradley. Members present: Bradley, Parr, Fink, Specking, Cotton, Brown.

HB 81 - Supplemental appropriation to Department of Law

Bob Shroeder of the Department of Law explained why the \$120,300 was needed. \$12,400 would go to pay off private attorney fees on work done in FY 74. FY 74 funding to meet this obligation lapsed before a billing was submitted. \$107,900 would cover the amount necessary to bring the lower Cook Inlet case to a close -- FY 75 and FY 76. He explained that there was no liquidity in the FY 75 budget to meet these obligations without taking from something else. Rep. Fink stated that these were old cases of which the department has been aware for several years. He felt that supplemental appropriations should be for unforeseen expenses.

Rep. Specking moved that in line 12 a period be inserted after "party" and that the rest of the sentence be deleted.

Rep. Brown suggested that the language "specialized legal services in" be inserted after "funding for" in line 11 and be deleted from line 12.

Rep. Bradley moved and asked unanimous consent that Mr. Brown's version of the amendment be adopted. There was no objection.

Rep. Brown moved that HB 81 be passed out favorably as amended with a report to the Finance Committee requesting that they thoroughly explore the fiscal ramifications. There being no objection, HB 81 was signed out.

SB 89 Conflict of Interest

The redrafted CS of SB 89 was accepted by the committee and passed out.

HB 55 - Requirement to post bond

. Cowper, sponsor of the legislation, gave the following testimony:

This is a special requirement of the State of Alaska. The federal government does not require posting of bond. The requirement is discriminatory and its constitutionality questionable. The State's insurance company requested the bill - Alaska Pacific Insurance. Indigents don't have to post bond.

HB

94

"An Act relating to conflicts of interest; and providing for an effective date."

1/28/75

# COMMITTEE REPORT

## HOUSE

Mr. Speaker:

Date Jan 30, 1975

The Committee on Judiciary has had HB 94

under consideration. A Majority of the members of the Committee

recommends it DO PASS

recommends it DO NOT PASS

recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR HB 94 AND THAT

CS FOR HB 94 DO PASS

"and" recommends it BE REFERRED TO THE \_\_\_\_\_

COMMITTEE

reports it back WITHOUT RECOMMENDATION

"other"

Members signing the Majority report:

_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Members NOT concurring in the Majority report:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_ recommends:

\_\_\_\_\_  
Chairman



ALASKA  
STATE LEGISLATURE /

*Proposed  
but not  
used*

**MEMORANDUM**

A M E N D M E N T

IN THE HOUSE

BY THE JUDICIARY COMMITTEE

TO: HOUSE BILL NO. 94

On page 1, between lines 15 and 16, insert:

\* Sec. 2. The extension of the initial filing date for statements required under AS 39.50 by incumbent public officials, provided for in sec. 1 of this Act, is applicable to public officials who had been elected but who had not taken the oath of office on December 11, 1974.

Re-number bill sections accordingly.

HB

114

STATE OF ALASKA  
Inter-Department Route Slip

TO:  
MAIL STATION NUMBER 3100

DEPARTMENT House of Representatives  
Rep. T. Gardiner, Chairman  
ATTENTION House Judiciary Committee

- |  |  |
|--|--|
| <input type="checkbox"/> Approval      | <input type="checkbox"/> Note & Return               |
| <input type="checkbox"/> Signature     | <input type="checkbox"/> Initial & Return            |
| <input type="checkbox"/> Comment       | <input type="checkbox"/> Return As Requested         |
| <input type="checkbox"/> Contact Me    | <input type="checkbox"/> Return For Approval         |
| <input type="checkbox"/> Prepare Reply | <input type="checkbox"/> Necessary Action            |
| <input type="checkbox"/> For Your File | <input checked="" type="checkbox"/> Your Information |

Remarks: The question of Board per diem rates was raised at the Violent Crimes Comp. hearing and Mr. Iverson gave you the latest revised rates. The attached is the memorandum received from the Dept. of Administration with regard to the change of rates for employees as well as board members. We hope this will be of use to you. Thank you.

FROM:  
MAIL STATION NUMBER 0600

DEPARTMENT H & SS / Violent Crimes Comp. Bd.

BY D. Benson DATE 3/4/75

02-002 (REV.10/73)

## MEMORANDUM

State of Alaska

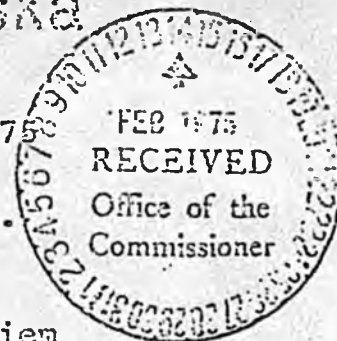
DEPARTMENT OF ADMINISTRATION

TO: ALL COMMISSIONERS

DATE: February 10, 1975

FOR INFO:

REFERENCE TO:



*Andrew S. Warwick*  
 FROM: Andrew S. Warwick  
 Commissioner

SUBJECT: Increased Per Diem

It has been demonstrated that the cost of food and lodging have risen to the extent that the existing per diem allowance and meal allowance for State employees is no longer adequate to cover reasonable expenses. I am therefore increasing per diem and other expenses effective February 16, 1975, for those employees not covered by a collective bargaining agreement. This authority is granted under AS 39.20.110 and AS 39.20.130.

The schedule of per diem shall be as follows:

Per Diem Allowances  
For Employees Who Obtain Overnight Lodging

House Election District#	Steps Above Basic Per Diem	Percent Factor	Short-Term** Per Diem Rate	Long-Term Rate (60% of Short-Term)
0 *	0	100.00	\$40.00	\$24.00
1	0	100.00	40.00	24.00
4	0	100.00	40.00	24.00
8	0	100.00	40.00	24.00
2	1	103.75	41.00	24.60
3	1	103.75	41.00	24.60
7	1	103.75	41.00	24.60
5	2	107.50	43.00	25.80
9	2	107.50	43.00	25.80
10	2	107.50	43.00	25.80
11	2	107.50	43.00	25.80
15-S	3	111.25	44.00	26.40
6	4	115.00	45.00	27.00
12	7	126.25	49.00	29.40
13	7	126.25	49.00	29.40
18	7	126.25	49.00	29.40
14	8	130.00	51.00	30.60
19	8	130.00	51.00	30.60
15	9	133.75	52.00	31.20
15-N	9	133.75	52.00	31.20
17	9	133.75	52.00	31.20

The Election Districts used are those designated by the Proclamation of Reapportionment Redistricting of December 7, 1961, and retained for the House of Representatives by proclamation of the Governor September 3, 1965.

\* House Election District "0" denotes any place not in Alaska.  
 \*\* "Short-term" rate is rounded to nearest whole dollar.

Page Two

For those employees who do not obtain overnight lodging but are on travel status, a meal allowance is provided as follows:

A meal allowance will be allowed an employee who is on travel status for at least three (3) hours:

<u>Time</u>	<u>Meal</u>	<u>Allowance</u>
Midnight to 10:00 a.m.	Breakfast	\$3.50
10:00 a.m. to 3:00 p.m.	Lunch	4:00
3:00 p.m. to midnight	Dinner	8.50

The mileage allowance as provided in AS 39.40.130 shall be twenty cents (20¢) per mile.

The basic per diem for members of boards and commissions as provided in AS 39.20.180 shall be fifty dollars (\$50) per day.

Employees of the General Government, Labor Trades and Crafts, and Confidential bargaining units shall be paid in accordance with the attached letters of agreement effective February 16, 1975.

Employees of the Supervisory bargaining unit shall be paid in accordance with Article XXIV of their collective bargaining agreement retroactive to its effective date which is November 16, 1975.

If you have questions on this matter, please contact the Division of Personnel.

Attachments: Letters of Understanding (three)

RECEIVED  
FEB 26 1975  
ADMINISTRATIVE SERVICES  
OFFICE OF THE DIRECTOR

STATE OF ALASKA  
Inter-Department Route Slip

TO:  
MAIL STATION NUMBER 3100

DEPARTMENT House of Representatives  
Rep. T. Gardiner, Chairman  
ATTENTION House Judiciary Committee

- |  |  |
|--|--|
| <input type="checkbox"/> Approval      | <input type="checkbox"/> Note & Return       |
| <input type="checkbox"/> Signature     | <input type="checkbox"/> Initial & Return    |
| <input type="checkbox"/> Comment       | <input type="checkbox"/> Return As Requested |
| <input type="checkbox"/> Contact Me    | <input type="checkbox"/> Return For Approval |
| <input type="checkbox"/> Prepare Reply | <input type="checkbox"/> Necessary Action    |
| <input type="checkbox"/> For Your File | <input type="checkbox"/> Your Information    |

Remarks: The question of Board per diem rates was raised at the Violent Crimes Comp. hearing and Mr. Iverson gave you the latest revised rates. The attached is the memorandum received from the Dept. of Administration with regard to the change of rates for employees as well as board members. We hope this will of use to you. Thank you.

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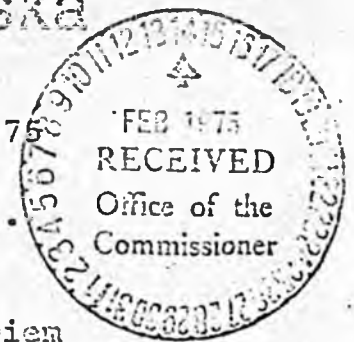
## MEMORANDUM

State of Alaska

DEPARTMENT OF ADMINISTRATION

TO: ALL COMMISSIONERS

DATE: February 10, 1975



TITLE:

ISSUE NUMBER:

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 Commissioner

SUBJECT: Increased Per Diem

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5	2	107.50	43.00	25.80
9	2	107.50	43.00	25.80
10	2	107.50	43.00	25.80
11	2	107.50	43.00	25.80
16-S	3	111.25	44.00	26.40
6	4	115.00	45.00	27.00
12	7	126.25	49.00	29.40
13	7	126.25	49.00	29.40
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If you have questions on this matter, please contact the Division of Personnel.

Attachments: Letters of Understanding (three)

RECEIVED  
FEB 26 1975  
ADMINISTRATIVE SERVICES  
OFFICE OF THE DIRECTOR

# PROVIDENCE HOSPITAL



3200 Providence Drive  
Anchorage, Alaska 99504

277-6671

February 27, 1975

Representative Terry Gardiner  
Chairman, House Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

Dear Representative Gardiner:

Recently I reviewed the proposed House Bill 114 relating to Violent Crimes Compensation and generally agree and support the intent of the bill as it has been presented with your amendments, however, the following changes additionally should also be considered before pressing the bill for passage.

Section 050 - Attorney Fees: I am in agreement with HB 114, however feel strongly that a CEILING BE PLACED ON ATTORNEY FEES - NOT TO EXCEED \$6,000 regardless of the size of settlement over \$25,000. or PLACE A CEILING ON THE TOTAL MAXIMUM AWARD (NOT TO EXCEED \$40,000) regardless of the number of dependents.

Section 090 - Recovery from Collateral Source - your section is good.

Section 120 - Emergency Compensation - Advocate adoption as amended in HB 114.

Section 130 - Limitations on awarding compensation. Max. award of \$25,000 per incident (adopt). However, in the case of a deceased victim - I would prefer to see the first dependent receive the \$25,000 - and \$3,000 for each additional ~~victim~~ not to exceed a total award of \$40,000. dependent

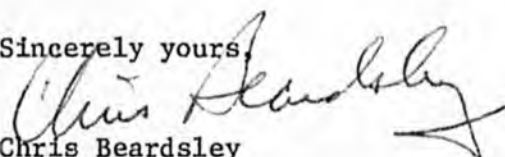
Payment of above awards should be in a lump sum or in periodic payments depending on the claimants circumstances and/or at the discretion of the board.

Section 175 - Duty to Display Information - I support the adoption of this section with the following additions. 1. Display of information should also include the main entrance and business office of the hospital. 2 Brochures, giving general information on the provisions of this chapter and on where the family can get application forms, should be available and in the offices of Social Service workers and the Patient Care Coordinator if the hospital has one.

Section 020 - add - at least one member of the board should be a licensed attorney - licensed to practice in Alaska.

Thank you for your consideration.

Sincerely yours,

  
Mr. Chris Beardsley  
Director of Public Relations

# PROVIDENCE HOSPITAL



3200 Providence Drive  
Anchorage, Alaska 99504

277-6671

February 26, 1975

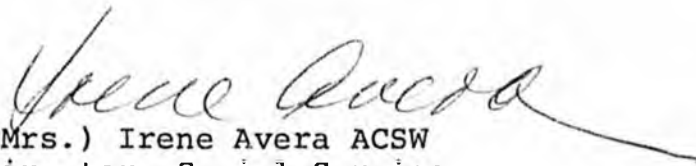
Representative Terry Gardiner, Chairman  
House Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

Dear Representative Gardiner:

As director of Social Service at Providence Hospital I occasionally have an opportunity to inform patients about the provision of the Violent Crimes Compensation law. In its present state the law has so many flaws, that it is frequently ineffective. The liberalization of this law as proposed in the up-coming House Bill #114 would serve to render it more useful and effective.

While I have no personal or pecuniary interest in the law, I have observed its effect on a number of patients here at Providence Hospital who had occasion to apply and am convinced the law needs revamping and liberalization. I could cite case after case in which patients were found ineligible, because they had third party coverage (insurance) or their medical bills exceeded the prescribed maximum. In reading the provisions of Bill #114 these shortcomings would be eliminated, and as a disinterested party I urge you to vote for its enactment.

Sincerely yours,

  
(Mrs.) Irene Avera ACSW  
Director, Social Service

IA/mcc

Recommendation for change in Section AS 18.67.130 (c)

No compensation may be awarded under this chapter in an amount in excess of \$25,000 per victim per incident. However, in the case of the death of a victim who has more than one dependent applying for compensation, the total compensation which may be awarded as a result of that death may not exceed the sum of the maximum award of \$25,000 for one dependent plus \$2,500 [\$5,000] for each additional dependent to \$10,000 maximum for additional dependents and the board shall prorate the total awarded among those dependents according to relative need. In no circumstances shall the total to the dependents of a deceased victim exceed \$35,000. All [\$10,000 AND ALL] payments shall be made in a lump sum.