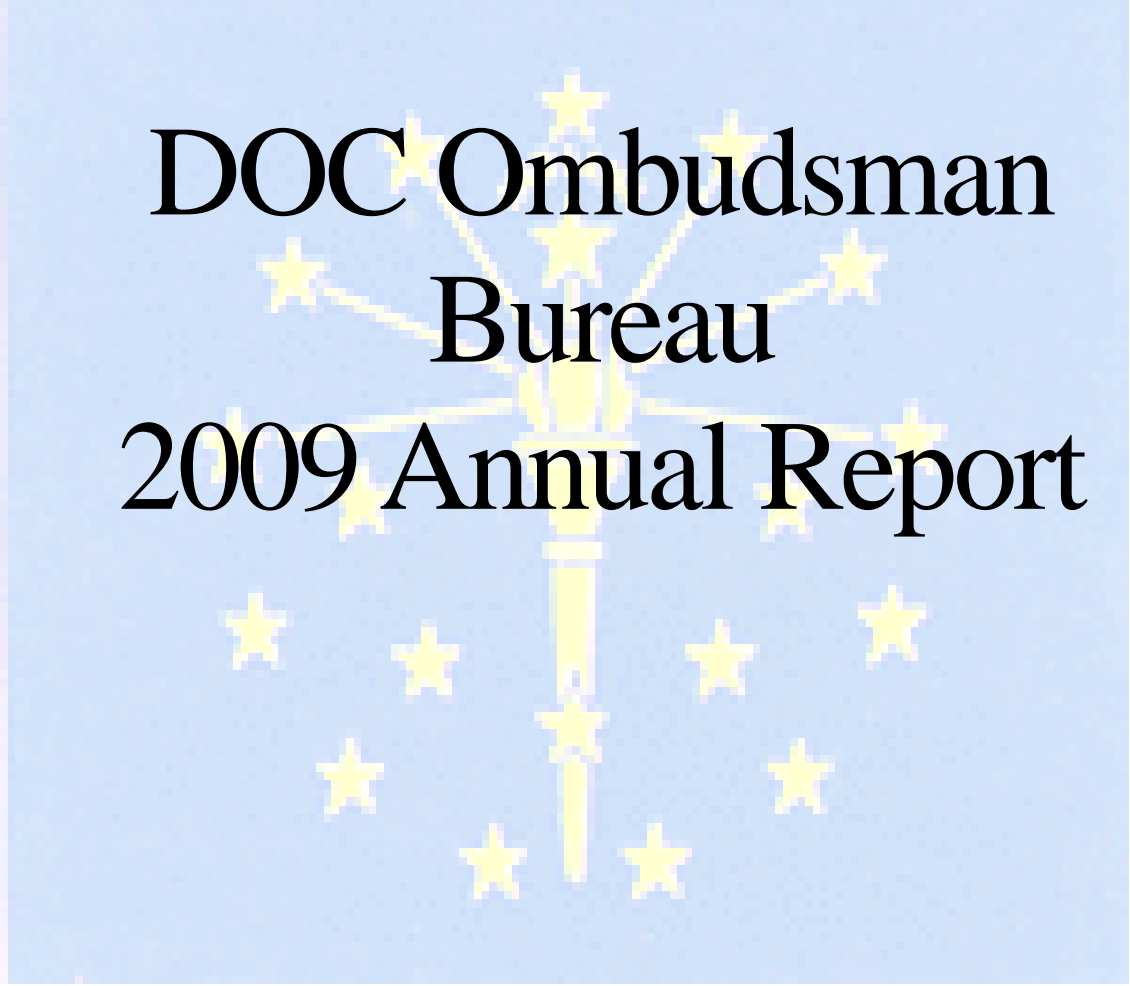


Indiana DOC Ombudsman Bureau

402 W. Washington Room W479
Indianapolis IN 46204

The background of the central graphic is the Indiana state flag, which features a blue field with a central yellow torch and a circle of yellow stars around it.

DOC Ombudsman Bureau 2009 Annual Report

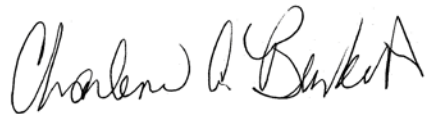
*A synopsis of the 2009 DOC Ombudsman
Bureau Activity*

February 24, 2010

Dear Governor Daniels, Commissioners Buss and Everson, the Honorable Speaker and President Pro Tem,

I have the honor of submitting to you the 2009 Annual Report of the Department of Correction Ombudsman Bureau as required by I.C. 4-13-1.2-10.

Sincerely,

A handwritten signature in black ink that reads "Charlene A. Burkett". The signature is written in a cursive style with a large initial 'C' and 'B'.

Charlene A. Burkett
DOC Ombudsman Bureau Director

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Ombudsman's Message

The Department of Correction (“DOC”) Ombudsman Bureau continued performing its statutory duties in 2009 to effectively and efficiently serve its complainants and provide useful feedback to the DOC. Despite feeling the harshness of these fragile economic times, the Bureau discovered new resources to aid in maintaining its efficiency.

Among these minimum statutory obligations is the receiving and investigating of complaints concerning whether the DOC followed policy or procedure or endangered the health or safety of a person housed in the DOC (“offender”). The Ombudsman Bureau received 859 complaints in 2009, which is slightly higher than 2008.¹ Although statutorily the Ombudsman Bureau can receive complaints from any source, most complaints were received from offenders themselves.² Complaints were also received from State Representatives’ Offices, the Governor’s Office, and Family Members.³

Of the 859 complaints received by the Bureau in 2009, 319 were investigated.⁴ This represents 37% of the total number of complaints received for 2009.⁵ Of the 319 complaints investigated by the Bureau, 56 were substantiated.⁶ This represents 7% of the total number of complaints received. Compared to 2008, investigated complaints decreased, however the number of substantiated complaints increased slightly.⁷ A summary of the 56 substantiated cases can be found later in this report. The substantiated cases were facility specific cases involving policy or procedure that had not been

¹ See Attachments A and B

² See Attachment C

³ See Attachment D

⁴ See Attachment E

⁵ See Attachment E

⁶ See Attachment E

⁷ See Attachment B

followed or someone's health or safety had been threatened requiring DOC action. The incidents addressed, however, were isolated incidents rather than systemic issues that would require recommending a policy change.⁸

As in 2008, the complaint subject for which the Bureau received the most complaints in 2009 was medical care with 140.⁹ Of these, 65 were investigated and 9 were substantiated.¹⁰

Of the complaints that were not investigated, most were determined not to contain a violation. Notably, however, 25% of the complaints not investigated were routed back to the DOC and were told to use the appropriate DOC process before contacting the Bureau.¹¹

The facility from which the Bureau received the most complaints in 2009 was Wabash Valley Correctional Facility with 143 complaints received, investigated and substantiated.¹² Of these, 50 were investigated and ten were substantiated. Second to Wabash was Pendleton. The Bureau received 92 complaints from Pendleton, investigated 37 of these and substantiated 5 complaints.¹³ These numbers vary from 2008 in that the Bureau received the highest number of complaints from Westville and no facility had over 100 complaints received. Wabash Valley and Pendleton had previously not ranked in the top three of any category. Although New Castle had 82 complaints received, this is comparable to the number in years' past. New Castle's investigated and

⁸ See page 10 for a sampling of the substantiated cases

⁹ See Attachment F

¹⁰ See Attachments G and H

¹¹ See Attachment I

¹² See Attachment K

¹³ See Attachment K

substantiated complaints were also comparable to that of year's past with 35 and 7, respectively.

The Bureau and Director Burkett would like to extend a sincere thank you to Commissioner Buss as well as the many DOC staff members that respond to Bureau's inquiries for their support and timely responses to the Ombudsman Bureau. Without this support the Bureau would not be able to continue to resolve complaints in a timely manner.

The Year in Review

The Ombudsman Bureau set three goals for 2009. These goals are not delineated statutorily, but are functions necessary for the effective and efficient operation of the Bureau. Moreover, the Bureau's operating procedures now include the setting of annual goals. These goals are an effort to increase the Bureau's utility to the Department and the offender population. The goals and results follow.

1. Continue the timely resolution of complaints.

The total average number of days all complaints were open in 2009 was 6.17 days.¹⁴ This is slightly higher than that of 4.3 in 2008. When breaking down this number into complaints investigated and substantiated, the time investigated complaints were open was slightly increased from 2008 from 6.43 days to 11.28 days in 2009. The number of days substantiated complaints were open, however, slightly decreased from 14.38 days in 2008 to 11.37 days in 2009.¹⁵ With the slight increase in the number of days all complaints were open, the Ombudsman Bureau slightly exceeds its green goal of all complaints being open less than 5 days. The Bureau exceeded its Green Goal in its

¹⁴ See Attachment J

¹⁵ See Attachment J

Metrics in the substantiated complaints as well for the year, but the 11.28 days investigated complaints were open represents a slight increase that is slightly higher than the green goal.¹⁶

The Bureau contributes this slight increase to the Bureau being downsized due to harsh economic conditions. Considering that since April 2009 the Director has ran the Bureau with very little help and was able to only slightly increase its response time and actually improve in substantiated complaints, this is a testament of the hard work not only of that of the Director, but also the DOC staff, from which the Bureau relies upon timely responses. Together, these have resulted in efficient operation of the Bureau.

2. Continue to send monthly reports the DOC Commissioner and IDOA Commissioner, and other bodies as requested.

The Bureau continued sending monthly reports to the above referenced recipients. These reports were consistently sent out in a timely fashion by the fifteenth of each month. The Bureau occasionally received inquiries back concerning these reports and was able to respond promptly generally in a five day time period or less.

The Bureau improved the manner in which it reports information in improving the format of these reports to provide as much useful information succinctly as possible. Also, included in these monthly reports are the substantiated cases for each month.

The Bureau further began sending monthly summaries to each facility summarizing the complaints received from each facility for the month whether or not the complaint was substantiated or investigated.

3. Continue to raise awareness about the Bureau both within the Department and outside the Department.

¹⁶ See Attachment J

Director Burkett made 18 trips to facilities over the past year. As she took these trips, she checked at the facilities to ensure that the Bureau's materials were available to offenders. At times, she recommended places where forms could be readily available or where information about the Bureau could be posted. In addition, she also responded to numerous requests from facilities to provide the facilities with complaint forms. This is in addition to the showing of the Ombudsman Bureau DVD occasionally at two or more facilities and during DOC intake.

The Complaint Resolution Process

The Ombudsman Bureau's complaint resolution process is delineated specifically in its Operational Procedures. Below is a summary of its Operational Procedures.

Complaint Origination:

The Ombudsman Bureau receives most of its complaints from offenders. However, as directed statutorily, the Bureau may receive complaints from any source. As a result, the Bureau also received complaints from the Governor's Office, legislators, family members of offenders, and other governmental agencies.¹⁷

Jurisdiction of the Bureau:

IC 4-13-1.2 is very specific concerning the jurisdiction of the Bureau. It limits the Bureau to investigate and attempt to resolve complaints that the DOC, (1) violated a specific law, rule, or department written policy; or (2) endangered the health or safety of any person.

The Complaint Process:

Once the Bureau receives a complaint, it determines whether the matter falls under its jurisdiction. The limited jurisdiction of the Bureau is stated above. If a matter

¹⁷ See attachment C

is not within the Bureau's jurisdiction then a letter is sent in response to this effect. In 2009, these responses reflected 8% of the total responses issued by the Bureau.

If it is within the Bureau's jurisdiction, the complaint is further reviewed to determine whether the DOC has already attempted to resolve the issue. The Bureau requires that any offender who submits a complaint must first attempt to resolve the complaint using the DOC process that properly addresses the issue. If the offender has prematurely contacted the Bureau, the Bureau directs the offender to use the proper DOC process and lets the offender know when it would be appropriate to contact the Bureau.¹⁸ These complaints represented 25% of the total number of complaints that were received but not investigated by the Bureau.

The Bureau maintains some latitude in enforcement of the requirement of offenders using the DOC process first. Once the Bureau is contacted concerning an imminent matter of offender safety or health, the Bureau immediately investigates the matter, before ensuring the offender has already filed a grievance or used the appropriate DOC resolution process.¹⁹ Even in these cases, however, the Bureau does stress to the complainant the importance of notifying the facility first and directs the complainant to use the proper channels in the future.

During preliminary review, the Bureau may determine that a complaint does not require further investigation because no violation of law, policy, or rule exists. These complaints were the largest category representing 61% of the complaints received but not investigated in 2008.

¹⁸ Please note that the Bureau does not send letters of receipt to offenders. Due to the response time of averaging within seven days of receipt, it does not seem necessary to send such letters.

¹⁹ In most of these instances, however, the offender has already notified someone at the facility, but has just not received action.

If the Bureau believes that it is necessary to receive further information regarding a complaint, then an investigation commences. The investigation begins by contacting the necessary Department of Correction personnel. Once the Bureau reviews the matter with Department of Correction personnel, the Bureau determines whether the complaint is substantiated or not substantiated. In either case, the complainant is sent a letter once the investigation is completed informing the complainant of its findings during the investigation.²⁰

A substantiated complaint is one that is found to be true and requires the DOC to take some action on the matter. The Bureau may find that a complaint is true, but actions have already been taken or the offender has not given the facility time to respond to the matter. In either case, the matter would not be substantiated. For a partial list of substantiated complaints in 2009 see below.

²⁰ As required, per IC 4-13-1.2-5

Summary of Selected 2009 Substantiated Complaints:²¹

Indiana State Prison

1. Officer Misbehavior

Complaint: Offender was told that he couldn't file a grievance on an officer.

Recommendation: Review matter and address with staff.

DOC Action: Staff admonished.

New Castle Correctional Facility

1. Credit time

Complaint: Offender claims his outdate is wrong due to time cuts from previous sentence not being applied.

Recommendation: Review matter.

DOC Action: Time cuts not applied correctly. Offender released.

2. Classification

Complaint: Offender thinks that he is wrongly classified as a PREA offender.

Recommendation: Review matter and determine if properly classified.

DOC Action: Matter being further reviewed by Central Office. Offender was recommended for the PREA flag to be removed.

3. Medical

Complaint: Offender complains filed a medical grievance over 30 days ago and hasn't received a response.

Recommendation: Review matter and respond as deemed appropriate.

DOC Action: Facility will respond to matter. Facility is currently addressing a backlog in medical grievances.

Pendleton Correctional Facility

²¹A complete list of 2009 substantiated cases can be requested from the Ombudsman Bureau.

1. Food

Complaint: Offender complains concerning salt, pepper, and sporks not being passed out on PC and lock ranges.

Recommendation: Review proper procedures with staff.

DOC Action: Per Aramark procedures had changed to ensure these items were being received. Per Supt. issue will be addressed.

Putnamville Correctional Facility

1. Confinement Conditions

Complaint: Offender complains of raccoons in ASU. Says they are entering because officers are leaving the back door open.

Recommendation: Advise staff that leaving the door open presents security concerns.

DOC Action: Facility addressing issue with staff.

2. Medical

Complaint: Offender says he was taken off in-dorm meals and not sure why and needs medical treatment for back injury.

Recommendation: Review matter to determine if he should be receiving in-dorm meals and if he's receiving adequate healthcare.

DOC Action: Reviewed matter and determined that he had wrongly been taken off of his in-dorm meals and reinstated the in-dorm meals.

Wabash Valley Correctional Facility

1. Classification

Complaint: The offender claims that his Maximum Release Date is incorrect and that it keeps changing.

Recommendation: Review offender's packet and classification.

DOC Action: Classification has corrected the EPRD.

2. Classification

Complaint: Offender classified as DS pending transfer.

Recommendation: Review offender's status.

DOC Action: Offender is pending transfer and is now AS and receiving AS privileges.

3. Classification

Complaint: Offender claims that he is wrongly being held in DS. His seg time has expired.

Recommendation: Review status and determine if appropriately placed.

DOC Action: Offender's DS time has expired. Facility working to move him and other offenders who have expired DS time to AS.

4. Disciplinary Action

Complaint: Offender received conduct report for refusing to work, but conduct report was dismissed. He claims that he was given a bad work evaluation and forced to be idle, no pay, for 90 days. He claims that the work evaluation was untruthful because he was unable to work because the CO didn't allow him to since he didn't have state issued boots.

Recommendation: Review conduct report and work evaluation.

DOC Action: The facility will credit the offender 90 days of back pay.

5. Medical Care

Complaint: Bureau was contacted by family member regarding infection in legs and dressings needing changed.

DOC Action: Review offender's information and determine if he's been seen or treated and treat, if necessary.

Recommendation: Medical called him down and found infection and gave new orders for dressings to be changed daily.

6. Personal Property

Complaint: The offender claims that he filed a tort claim in 2006 for a sweat suit lost by laundry staff. He claims that he never received a response to his tort claim.

Recommendation: Review offender's tort claim.

DOC Action: Offender will be reimbursed for sweat suit.

Westville Correctional Facility

1. Disciplinary Action

Complaint: The offender claims that he and 3 other offenders were charged with B245 for possession of tobacco. He claims that one of the offenders had it in their room and that they were all given conduct reports. He claims that him and the other 2 offenders that didn't know about the tobacco appealed the conduct report. The 2 other offenders were given modifications by the Final Reviewing Authority but he wasn't given the same modification. He would like the bureau to investigate the reason why his sanctions aren't modified.

Recommendation: Review conduct report and appeals.

DOC Action: Final Review Authority is modifying his sanctions.

2. Medical

Complaint: Family member complained that son was not receiving new medication prescribed to him when he went to the hospital last week. Is concerned about his healthcare.

Recommendation: Determine if he is in need of medication.

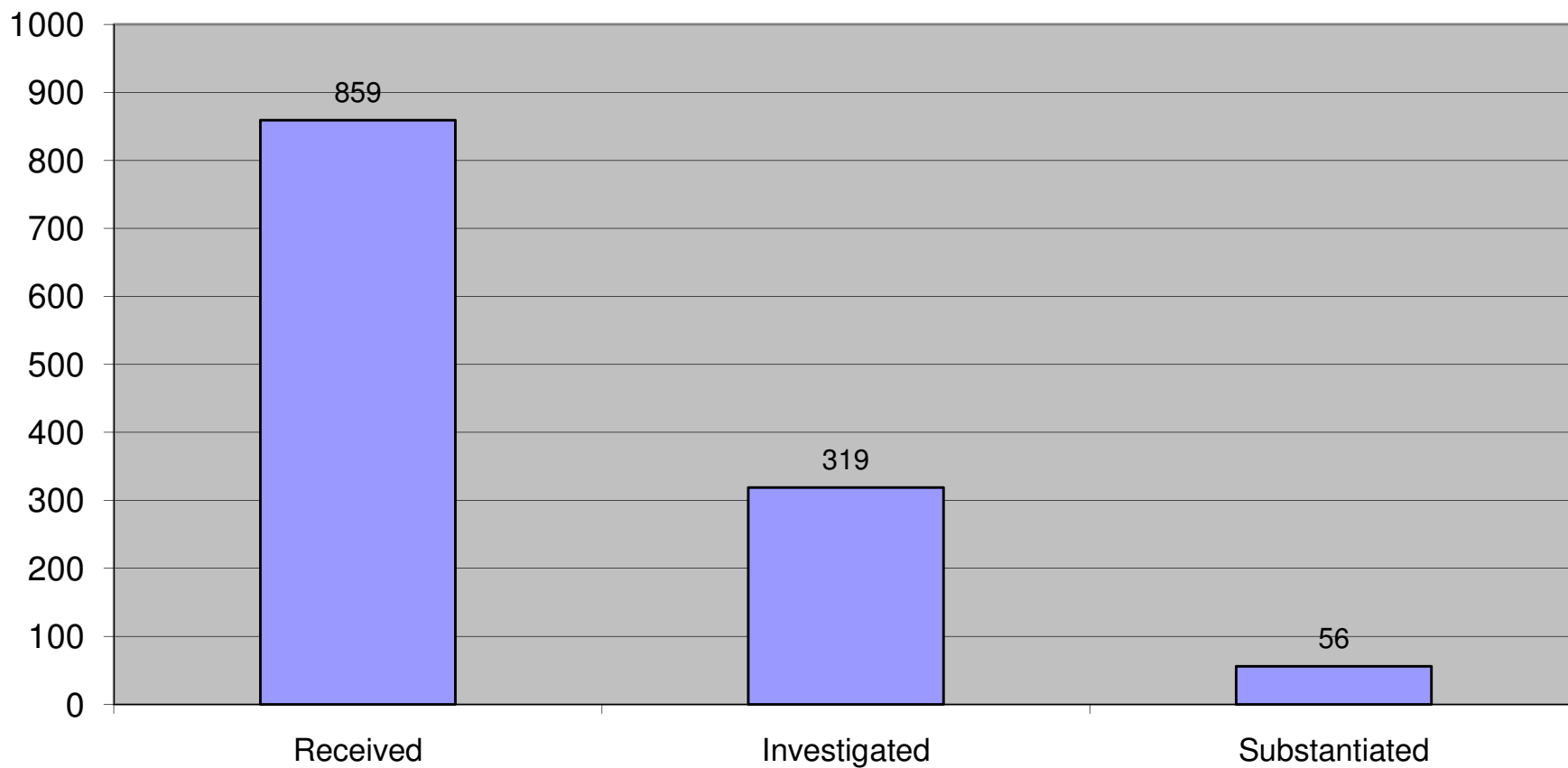
DOC Action: Medication given to him.

Looking into the Future

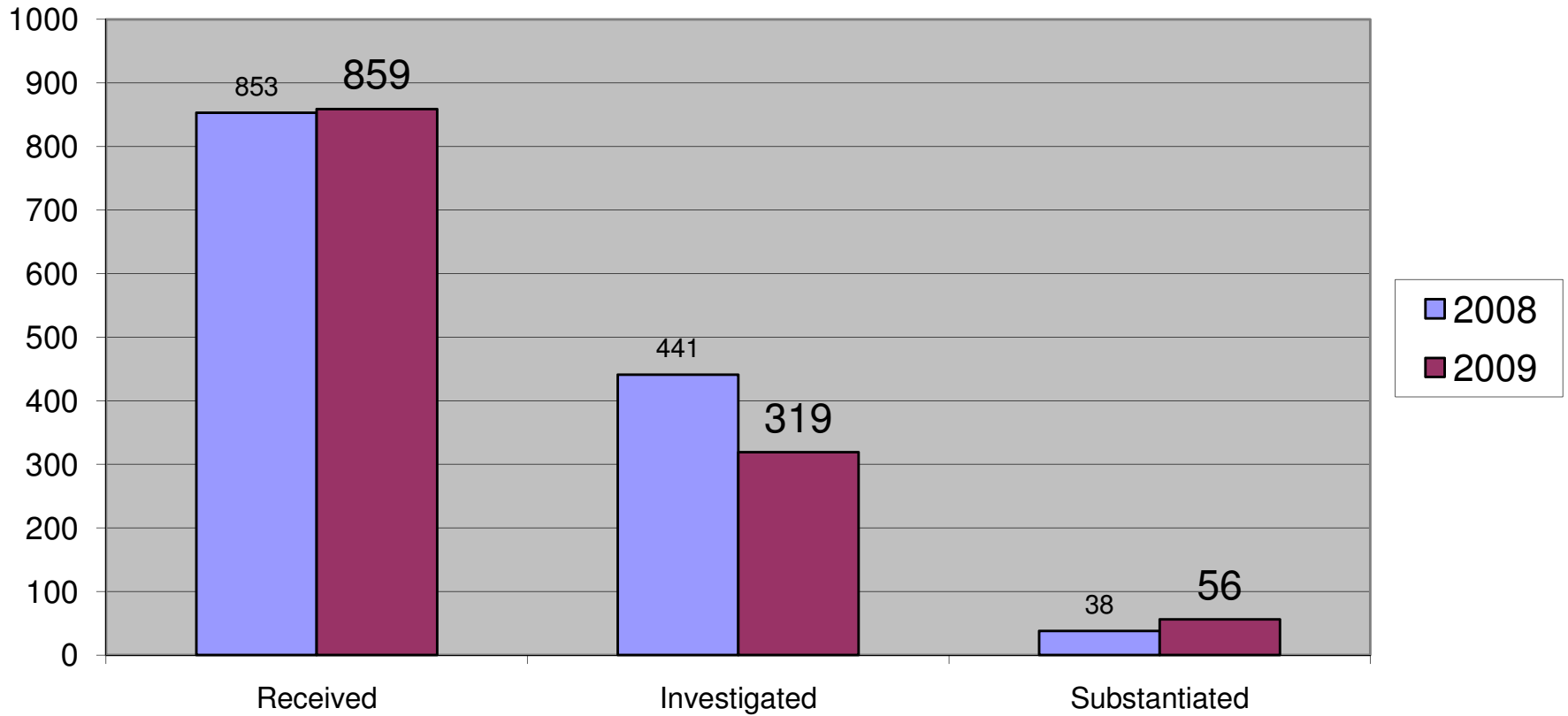
The Ombudsman Bureau has set the following goals for the year 2009:

1. Continue to send timely reports to interested parties and continue to improve/expand reporting mechanisms.
2. Further revise/update policies and procedures of the Bureau.
3. Meet the green performance goals set for the Bureau in respect to the number of days complaints are open.

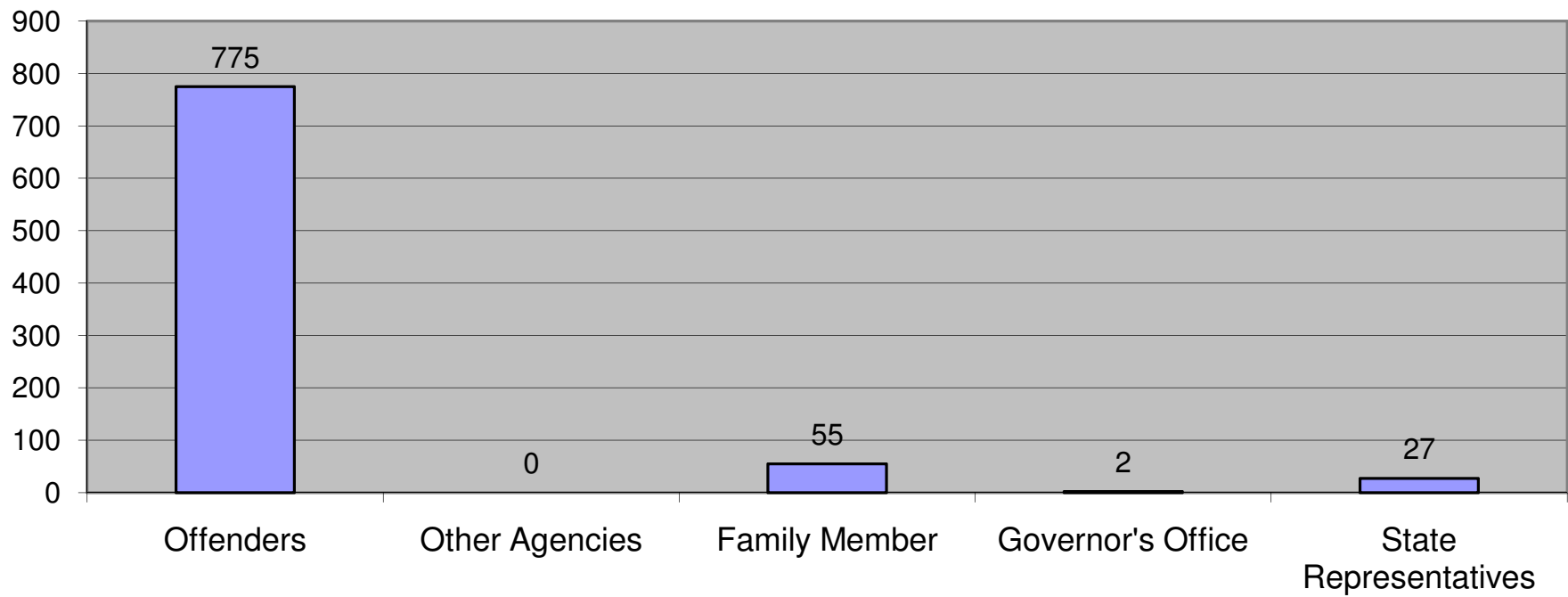
2009 Complaint Totals



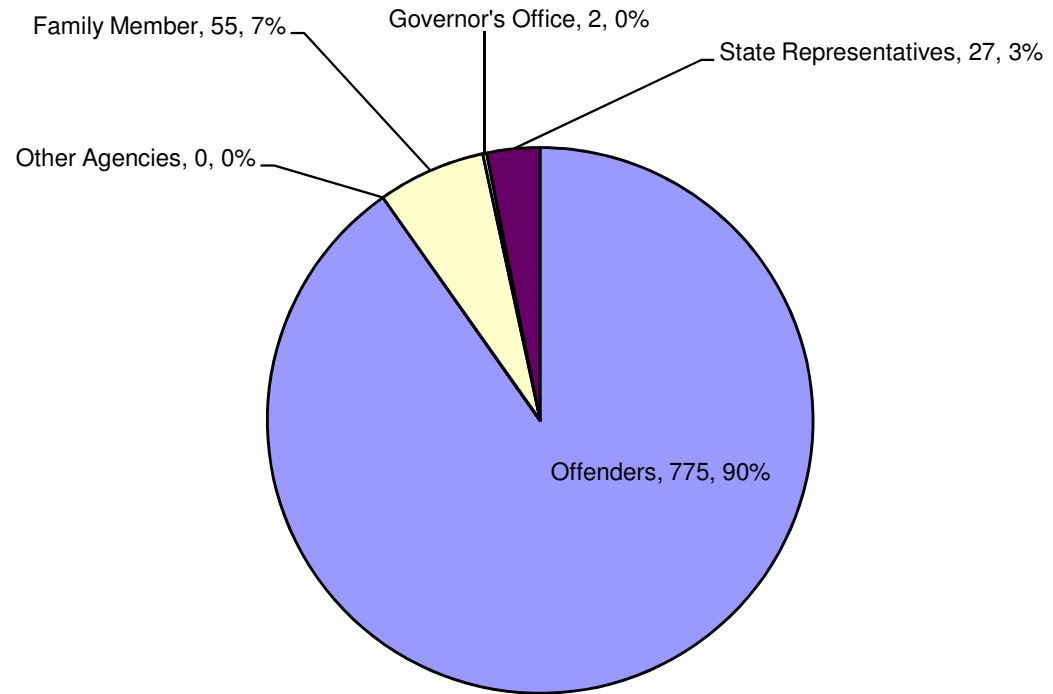
2008- 2009 Complaint Totals



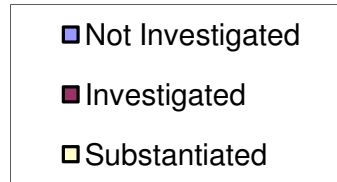
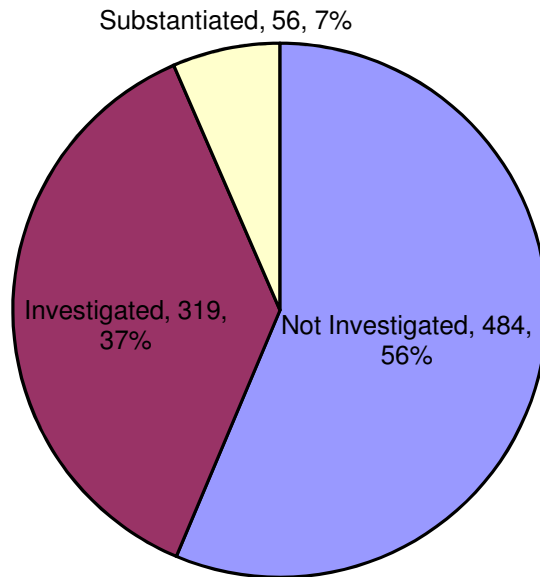
How Complaints Were Received in 2009



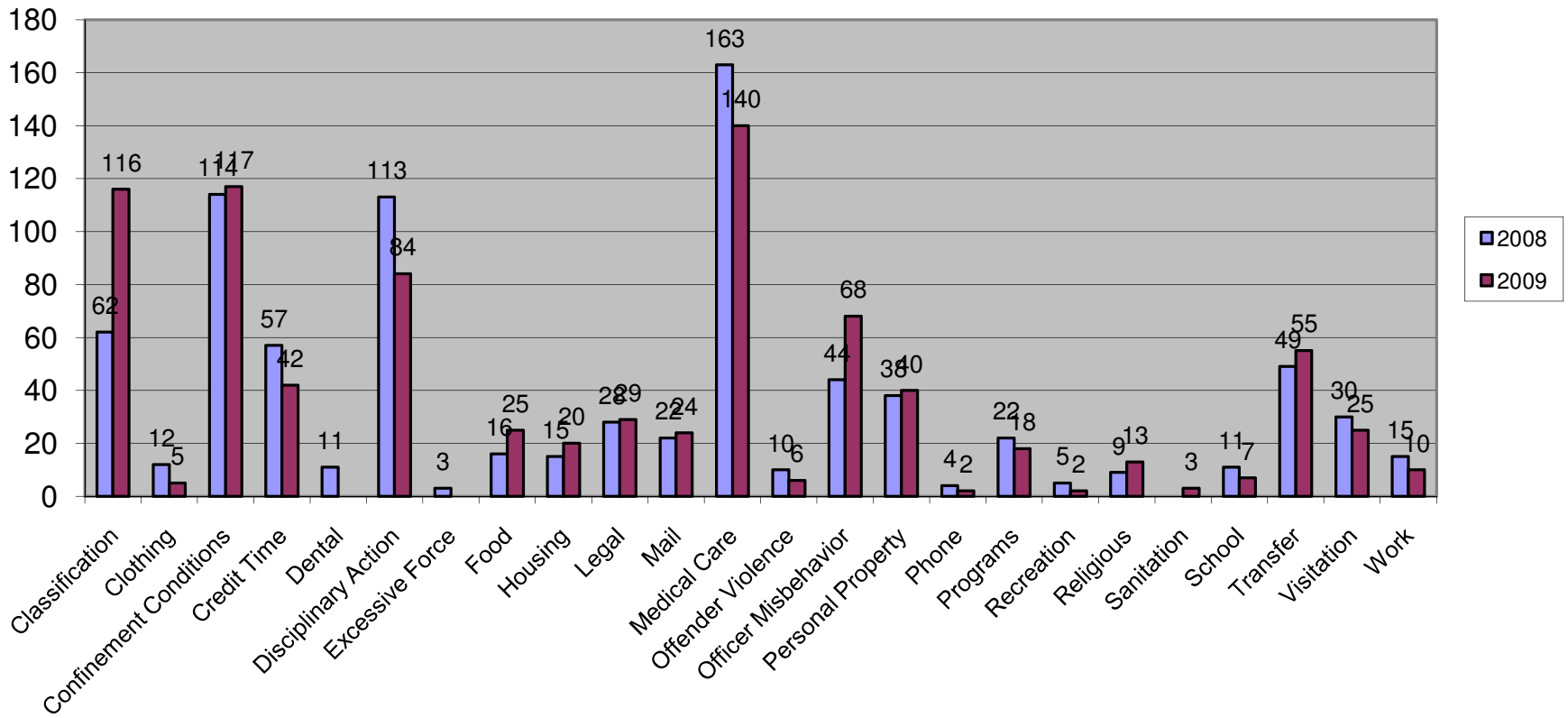
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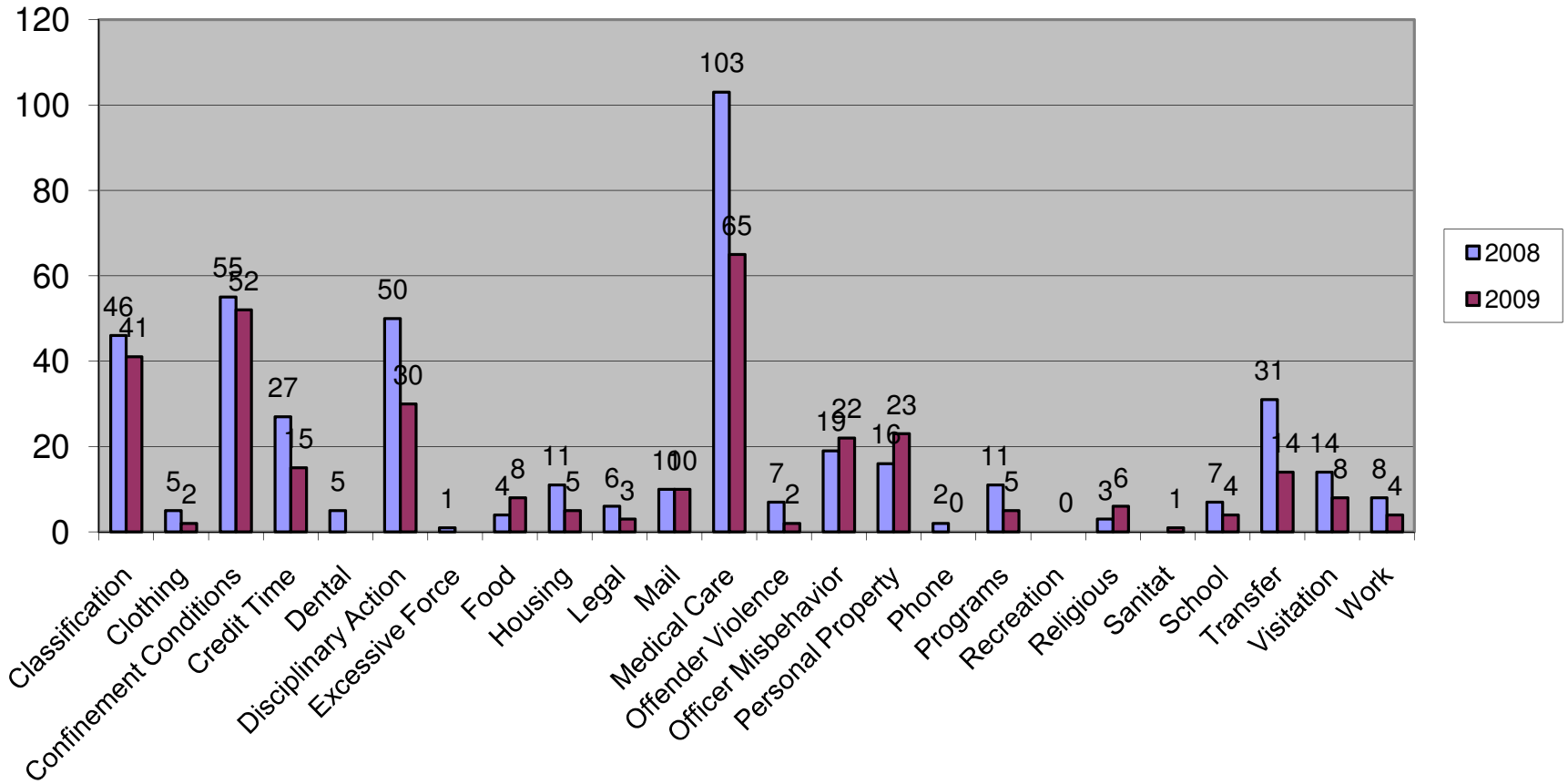
2009 Complaints



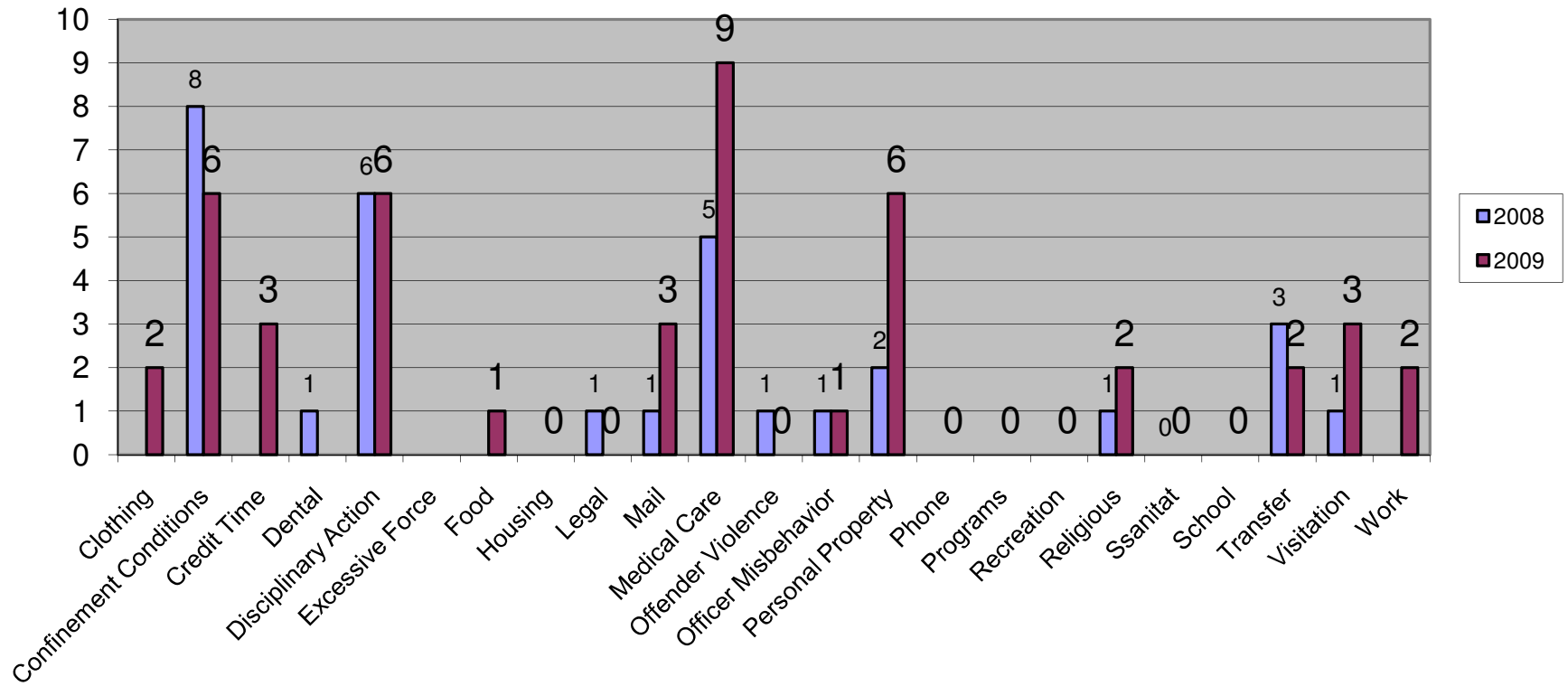
Total Complaints Received by Type in 2008 and 2009



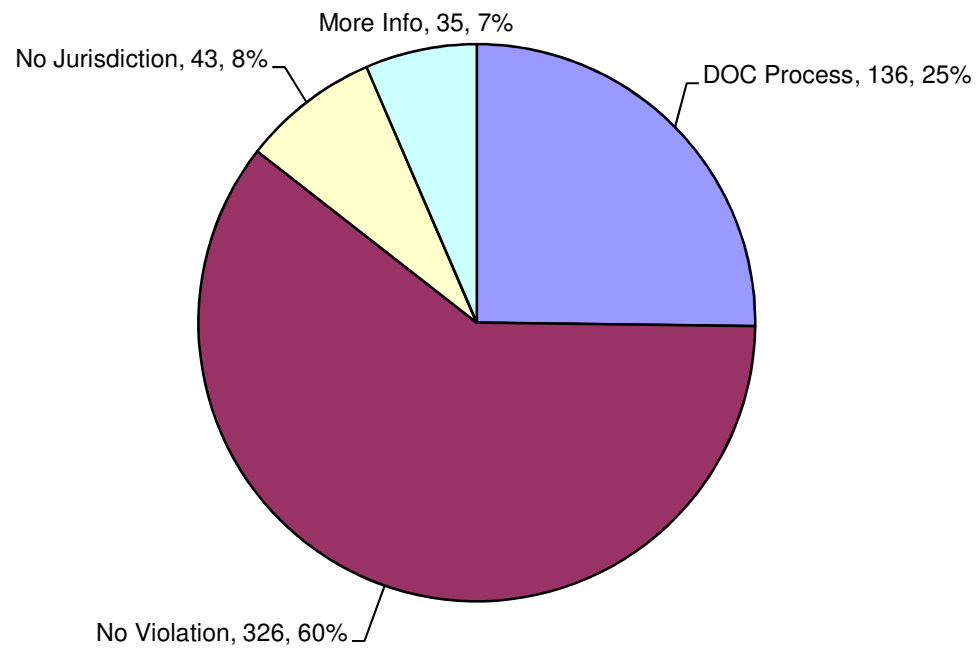
Investigated Complaints by Type in 2008 and 2009



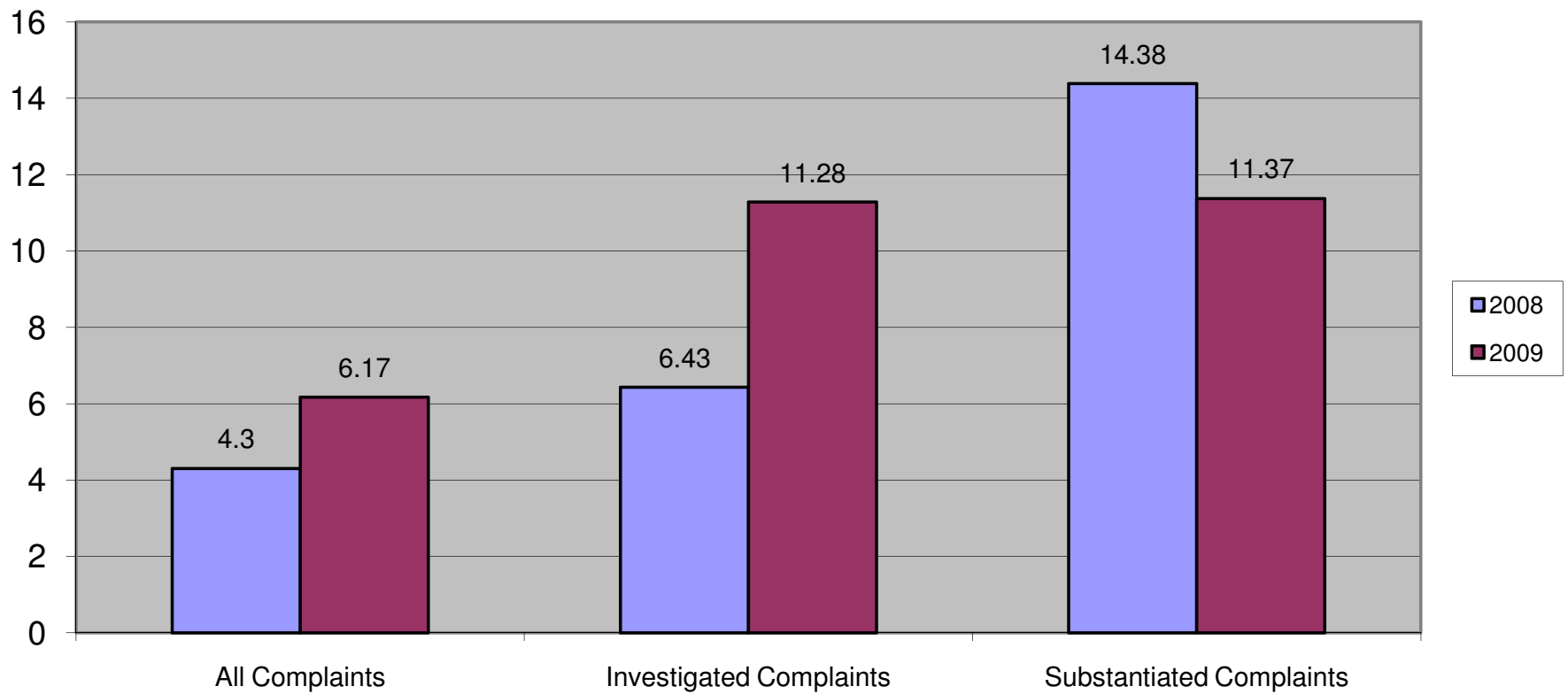
Substantiated Complaints by Type in 2008 and 2009



2009 Complaints Not Investigated



Average Number of Days Complaints were Open in 2008 and 2009



Facilities with Highest Number of Complaints in 2009

