Indiana DOC Ombudsman Bureau

402 W. Washington Room W479
Indianapolis IN 46204

DOC Ombudsman Bureau 2011 Annual Report

A synopsis of the 2011 DOC Ombudsman Bureau Activity

January 24, 2011

Dear Governor Daniels, the Honorable Speaker, President Pro Tem, and Commissioners Lemmon and Wynkoop,

It is with great pleasure that I submit to you the 2011 Annual Report of the Department of Correction Ombudsman Bureau as required by I.C. 4-13-1.2-10.

This report provides an overview of the number and types of complaints that the Bureau received from January 1, 2011 through December 31, 2011. It also includes examples of substantiated cases as well as an outline of the operations of the Bureau.

Thank you to Governor Daniels for this opportunity to serve the great people of our State. I am truly humbled to have served as part of this Administration.

Sincerely,

Charlene A. Burkett
DOC Ombudsman Bureau Director

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I. The Year in Review

The Ombudsman Bureau received a total of 859 complaints, investigated a total of 198 and substantiated a total of 30 complaints in 2011. See Figure 1 below.

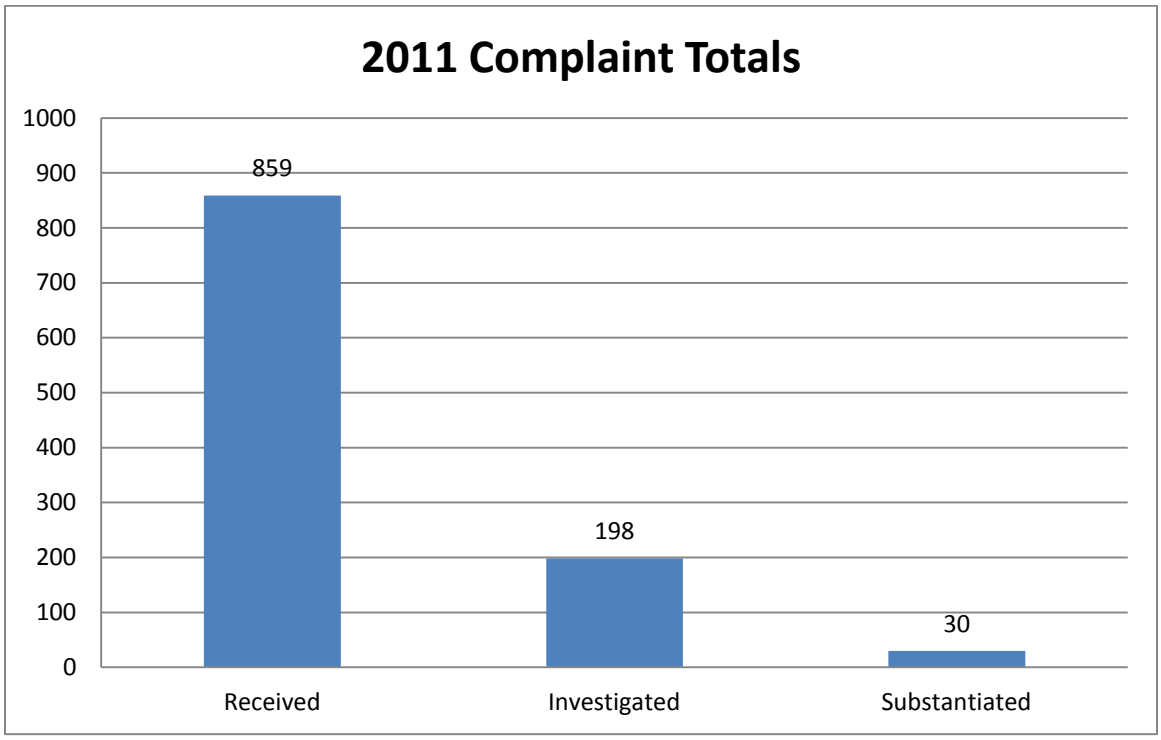


Figure 1

The graph below (Figure 2) depicts the trend in complaint totals Received, Investigated, and Substantiated by the Bureau each year since 2008. This graph demonstrates that the complaint totals for the Bureau have remained steady, for the most part. Also noteworthy, the 859 complaints Received in 2011 matches the Bureau's highest total number of complaints Received since 2009. The graph below (Figure 2) further demonstrates that the number of complaints Investigated and Substantiated by the Bureau remained steady from that in 2010 with 198 and 30 respectively.

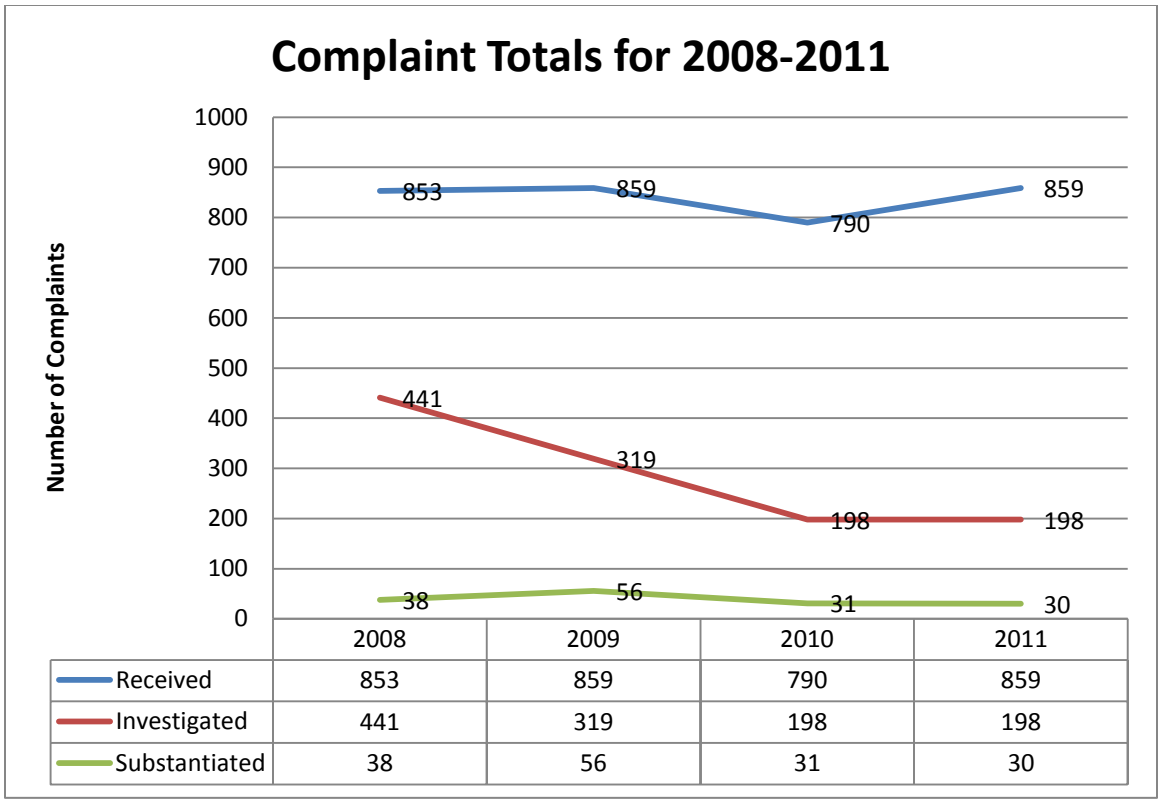


Figure 2

Of the 859 complaints received by the Bureau in 2011, 74% or 661 of these complaints were classified as "Not Investigated" by the Bureau. As the graph below depicts (Figure 3), these complaints that were classified as "Not Investigated" fall into four main categories: No Violation, DOC Process, No Jurisdiction, and More Information. A complaint is determined to have "No Violation", the largest of the four categories, when the Bureau reviews the complaint and associated policy, procedure, and/or law and determines that the DOC has acted in accordance with such. A complaint falls into the "DOC Process" category when, after reviewing the complaint, the Bureau determines that the offender has not completed the requisite DOC Process in attempting to resolve the matter. In this case, the Bureau instructs the offender to complete this process first before filing a complaint with the Bureau. A complaint is categorized as

"No Jurisdiction" when the matter falls outside the statutory functions of the Bureau. Lastly, a complaint is categorized as needing "More Information" when the complainant has failed to provide the Bureau with enough information to make any further determination in regard to the matter.

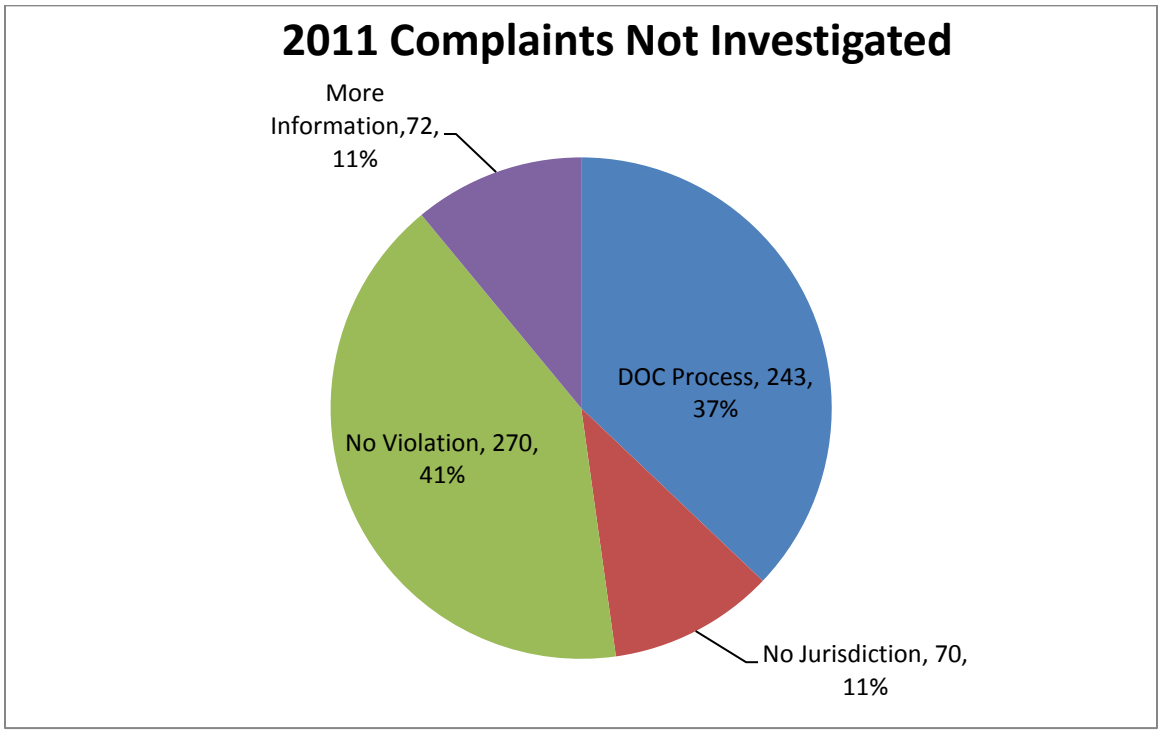


Figure 3

As I.C. 4-13-1.2-5 dictates, the Bureau can receive complaints from any source. The graph below (Figure 4) depicts that the Bureau, in 2011, as in past years, received the overwhelming majority of its complaints directly from Offenders.

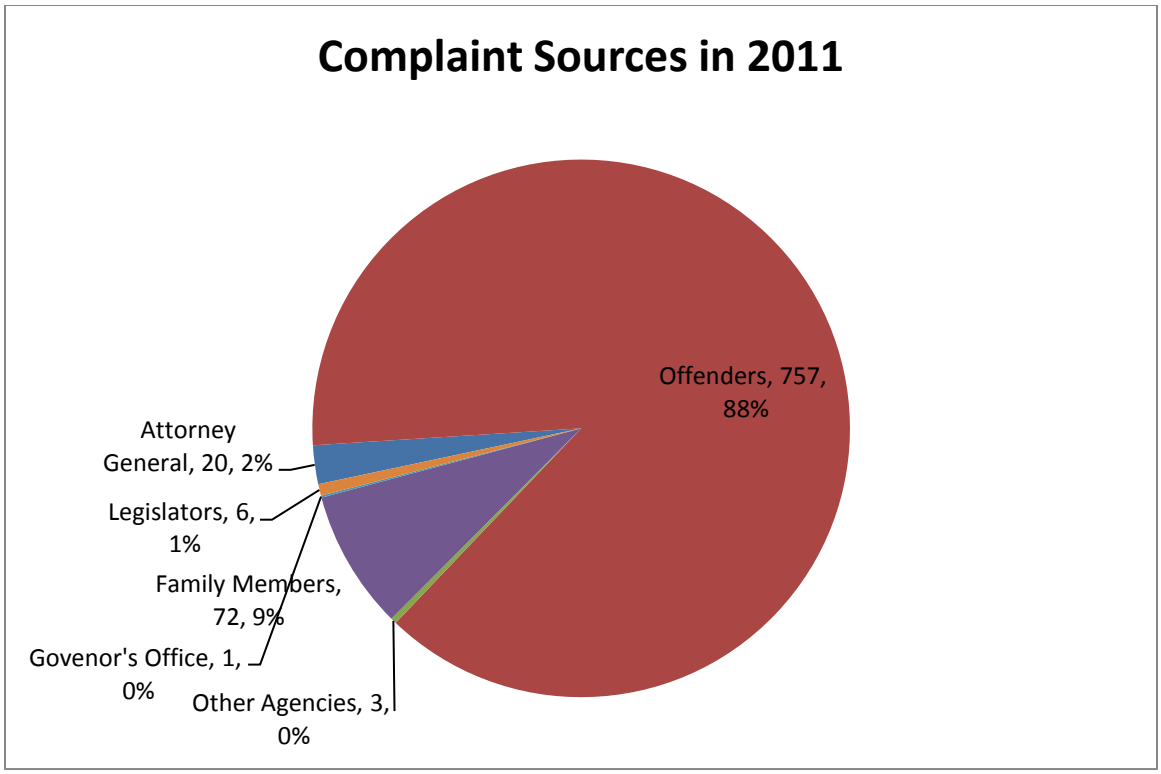


Figure 4

Complaint Characteristics

As in past years, the subject in 2011 for which the Bureau received the most complaints was medical care with 153. Of these 152 complaints, 53 were investigated and 4 were substantiated. See Figures 5-7, below.

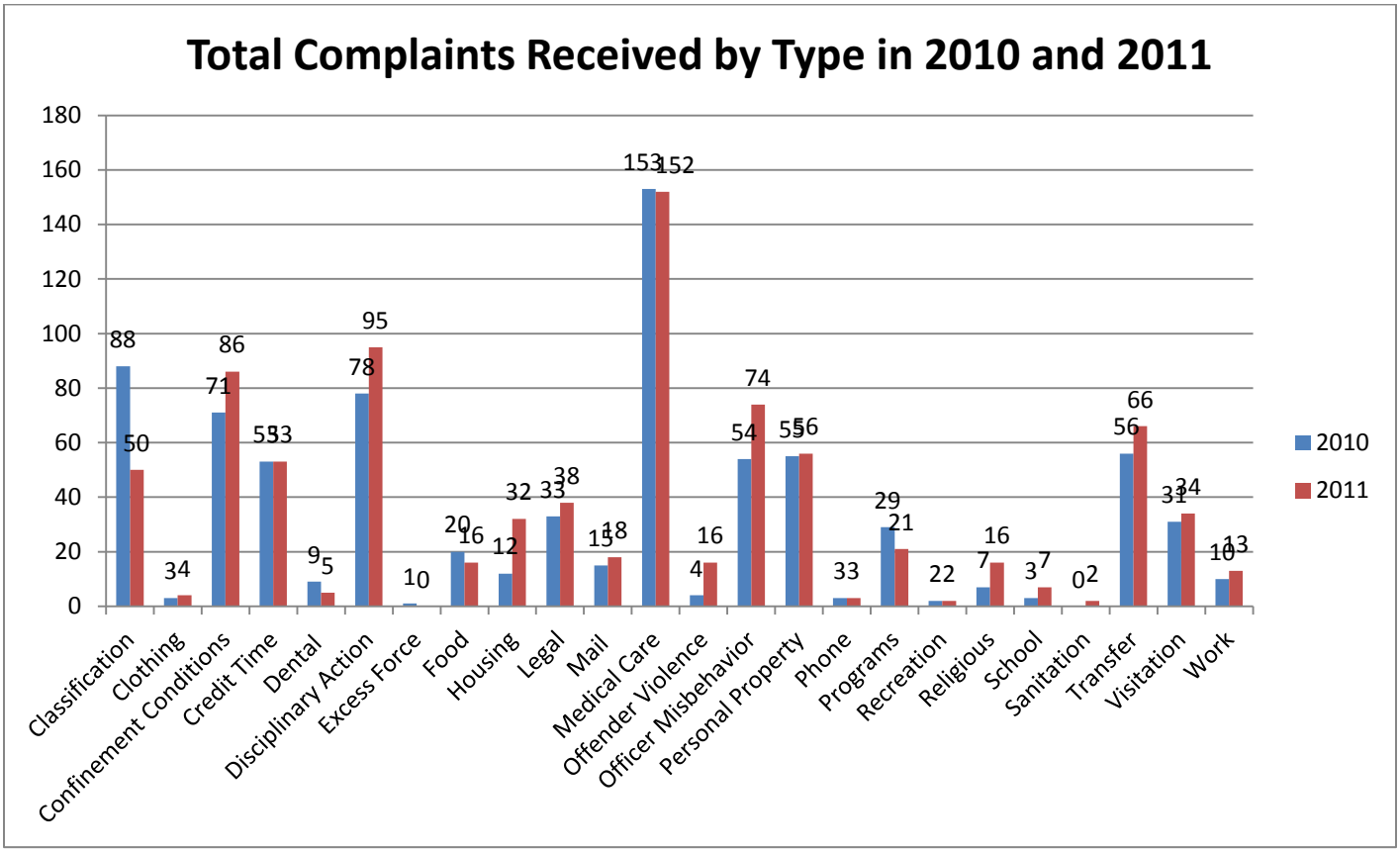


Figure 5

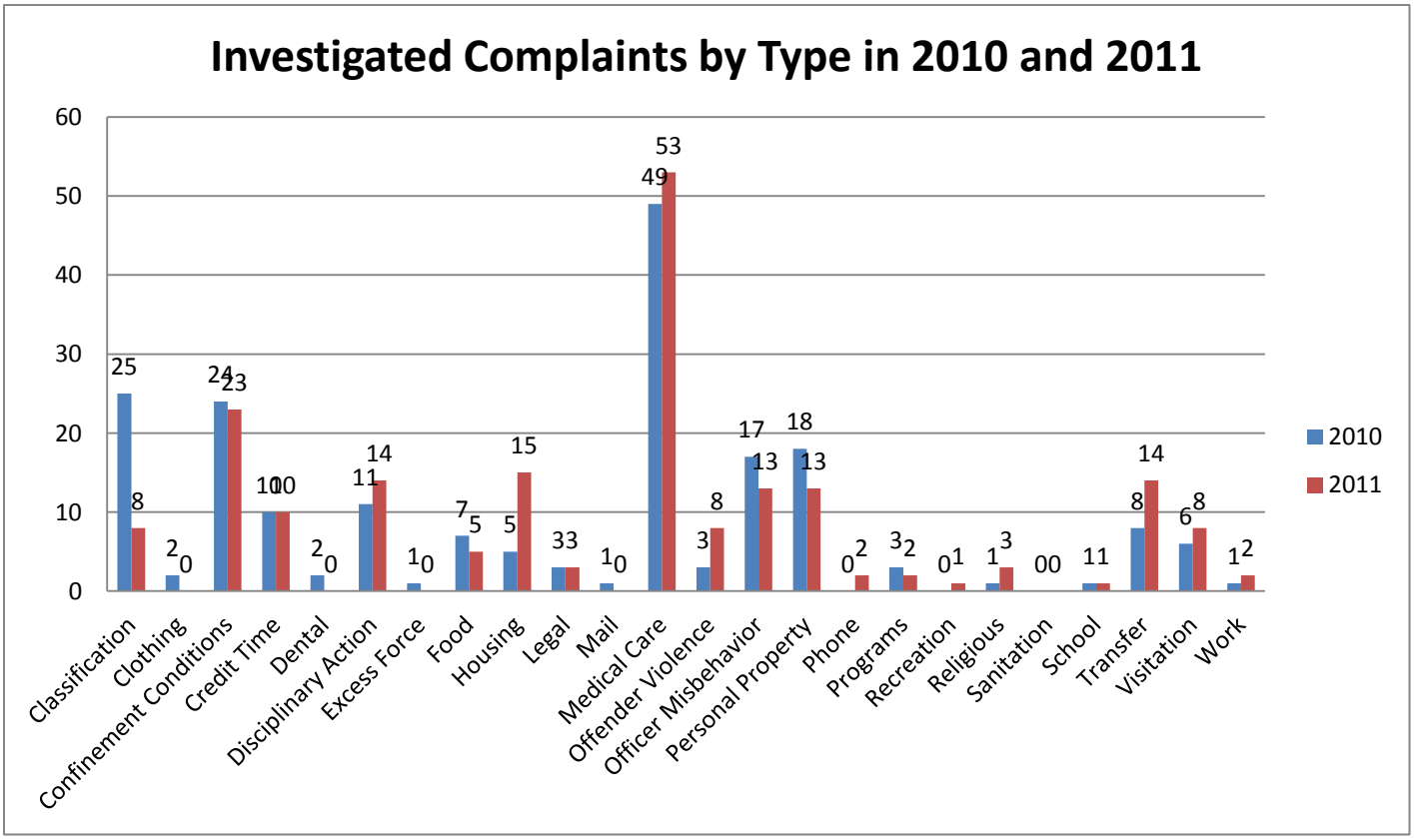


Figure 6

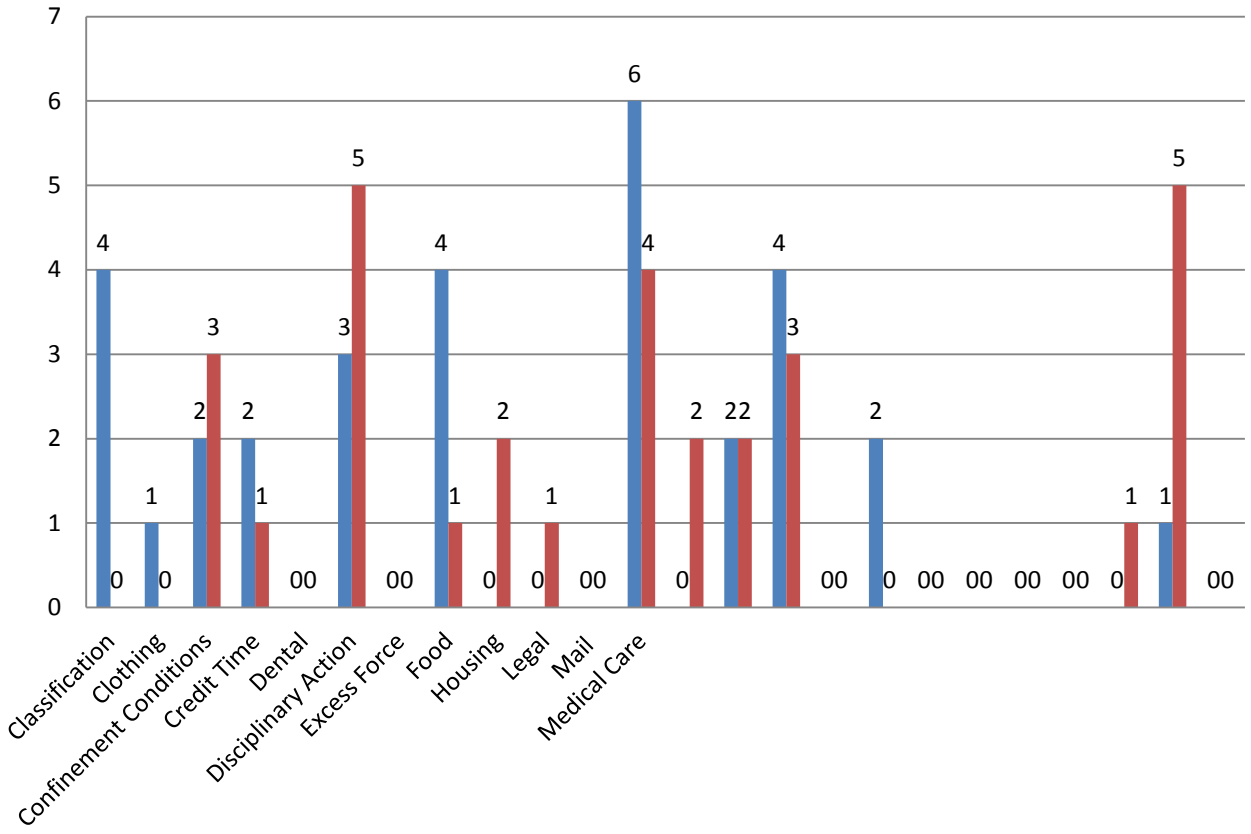


Figure 7

The figures below (Figures 8-9) indicate the facilities which received the highest numbers of complaints in 2011. As Figure 8 shows, the Indiana State Prison received the most complaints in 2011 with 104 complaints received, 24 investigated, and 5 substantiated. Putnamville Correctional Facility (ISF) followed closely with 102 received, 22 investigated, and 2 substantiated.

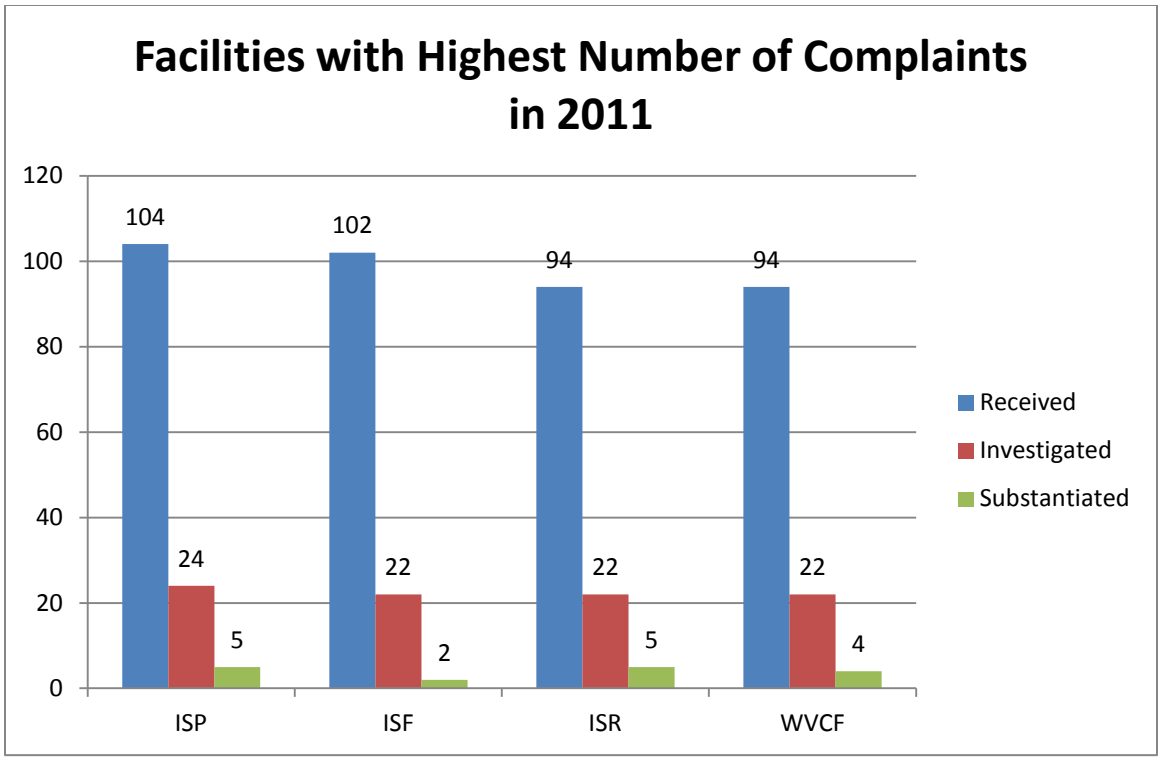


Figure 8

These numbers are comparable to those of 2010 when Pendleton (ISR) received the highest number of complaints with 98 (See Figure 9). This closely resembles the 94 received in 2011. The numbers investigated and received are also very similar to that of 2010. On the other hand, the Indiana State Prison experienced an increase in complaints received, increasing from 76 to 104 making it the facility with the highest number of complaints received. Also notable is the increase in Putnamville's (ISF) complaints received. This number has almost doubled since 2010. Despite this increase, the numbers for the other facilities have remained fairly consistent (See Figure 9, below).

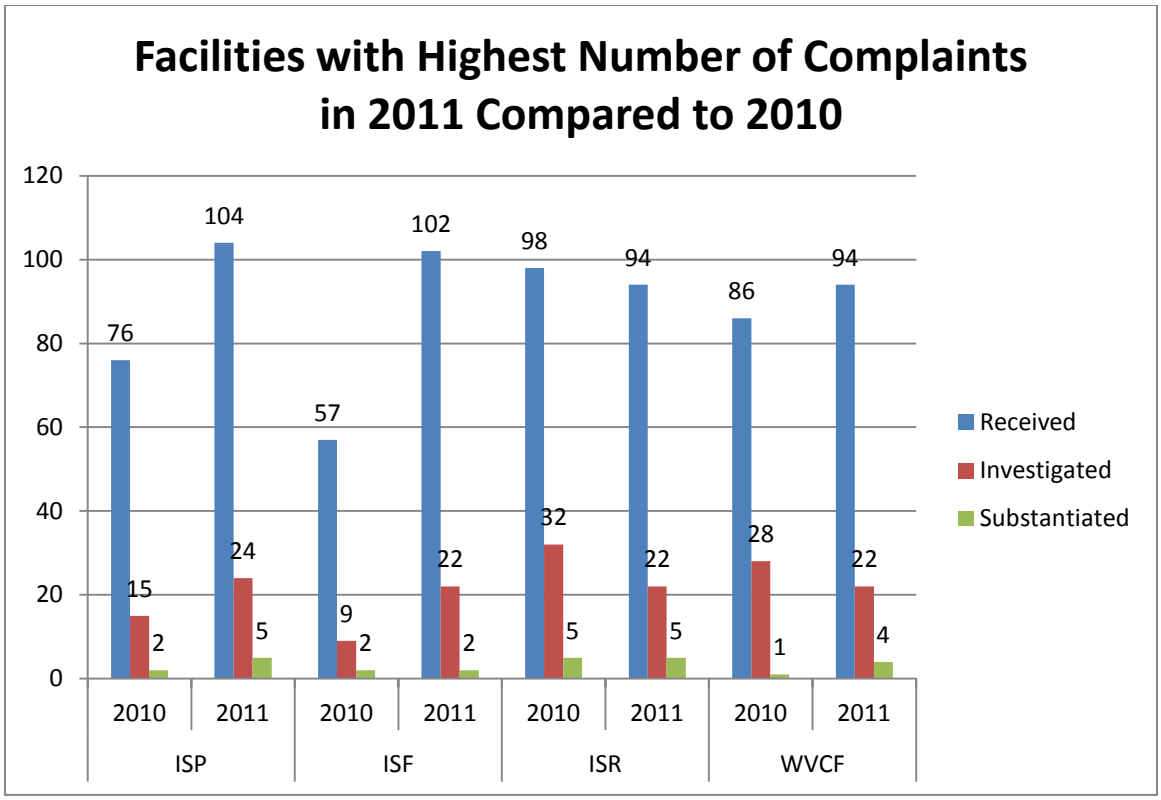


Figure 9

A Final Look

The total average number of days all complaints were open in 2011 was 3.29 days. This number continues to be reduced since the 5.17 days reported in 2010 and the 6.17 in 2009. When breaking this number into complaints investigated and substantiated, the time investigated complaints were open was slightly decreased from 14.35 days in 2010 to 9.15 days in 2011. Additionally, the number of days substantiated complaints were open slightly decreased from 14.51 days in 2010 to 12 days in 2011. With these slight decreases in the number of days all complaints were open, the DOC Ombudsman Bureau met its green performance metric of all complaints being open less than 5 days. As a matter of fact, the Bureau met all its green metric goals for the year 2011. For a further comparison of the DOC Ombudsman Bureau's Performance Metrics see Figure 10, below.

2011 PERFORMANCE METRICS FOR OMBUDSMAN

Category	Metric	2011 Reported Performance	Green Target	Yellow Target	Rationale
Ombudsman	Average number of days investigated complaints are open	9.00	10	12	Accountability / Offender complaints being addressed in a timely manner
Ombudsman	Average number of days substantiated complaints are open	12.00	15	22	Accountability / Offender complaints being addressed in a timely manner
Ombudsman	Average response time to all complaints (in days)	3.00	5	7	Accountability / Offender complaints being addressed in a timely manner

2010 PERFORMANCE METRICS FOR OMBUDSMAN

Category	Metric	2010 Reported Performance	Green Target	Yellow Target	Rationale
Ombudsman	Average number of days investigated complaints are open	14.35	10	12	Accountability / Offender complaints being addressed in a timely manner
Ombudsman	Average number of days substantiated complaints are open	14.50	15	22	Accountability / Offender complaints being addressed in a timely manner
Ombudsman	Average response time to all complaints (in days)	5.00	5	7	Accountability / Offender complaints being addressed in a timely manner

Figure 10

Ombudsman Closing

Finally, Director Burkett expresses sincere gratitude to Commissioner Lemmon, the Deputy Commissioners, Superintendents as well as the numerous other DOC staff members and contractors that respond to the Bureau's inquiries, for their support and timely responses to the Ombudsman Bureau. Without this support, the Bureau would not be able to function or continue to resolve complaints in a timely manner. Furthermore, the Director is grateful for the cooperation that she receives throughout the DOC in resolving complaints. It is truly wonderful to be able to work together with individuals

who maintain a professional demeanor and understand that we are working together for the common good of the DOC and its offenders.

II. 2011 Wrap-up and 2012 Goals

In its 2010 Annual Report, the Ombudsman Bureau set three goals for 2011. These goals are not delineated statutorily, but are functions necessary for the 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 are as follows:

1. Continue to send timely reports to interested parties and continue to improve/expand reporting mechanisms. Each month throughout the year the Bureau submits Monthly Reports to the Commissioners as well as other interested parties. These reports are issued before the 15th of the month. The monthly reports not only include the basic raw numbers of the number of complaints Received, Investigated, and Substantiated, but also provide a break down by subject matter and facility. The reports further provide graphs to aid in understanding the information. These reports update its audience on the activities of the Bureau. The Bureau strives to answer any inquiries regarding these within a day or at the very least, five days.

From time to time, the Bureau meets with DOC to ensure the utility of the reports to DOC. This past year, the Bureau met with the Central Office Research and Planning Director. The Bureau meets with this person regularly to ensure that the categories the Bureau uses in classifying its complaints mirror those that the DOC uses for its grievances.

The Bureau continued sending a monthly summary to each individual facility as well. These reports give a brief summary of all cases received from each facility by the Bureau and their outcomes. The Bureau has received good feedback concerning this practice from facility administrators.

The Bureau has also expanded sending its monthly reports to relevant Executive Directors in DOC, as well.

2. Meet the green performance goals set for the Bureau in respect to the number of days complaints are open.

The Bureau met all its Performance Metric Goals for the year 2011. See Figure 10, above.

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

Director Burkett made 13 trips to facilities over the past year. These trips were made for various reasons including to attend staff assemblies, attend a PLUS Unit Graduation, interview offenders and staff and to inspect premises.

The trips may have also been made to attend the facility's Offender Dorm Representative meeting. The Director continued attending at least one of these meetings at each facility over the past year. At these meetings, the Director was able to communicate with offenders concerning using the Ombudsman Bureau, as well as hear issues the offender population may have been experiencing. As she took these trips, she was also able to check and ensure 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, the Bureau also responded to

numerous requests for complaint forms. The Bureau has supplied IPAS (the Indiana Protection Advocacy Services) as well as numerous DOC facilities with complaint forms, to ensure that these are available for offenders.

The Director also met with an offender advocacy group entitled C.U.R.E. ("Citizens United for the Rehabilitation of Errants"). The Director met with this group to ensure that their questions are answered and concerns are addressed.

Another way the Director stayed in touch with the offender population is through the use of video conferencing technology. Through use of this technology, the Director was able to speak to offenders directly concerning their complaints, but did not have to spend costly State dollars traveling out to facilities to do so. The Director found this technology quite useful and plans on continuing to use it in the future when possible.

The Ombudsman Bureau DVD also continued to occasionally be shown at facilities and during DOC intake. The Ombudsman Bureau DVD is shown periodically at the facilities that have closed captioned television capabilities. The DVD is a brief three and a half minute video that discusses what issues the Bureau can address, how to file a complaint with the Bureau, and what to expect once a complaint is filed. This informative DVD is also shown to every offender that comes into DOC at RDC as part of the Admission and Operation Procedure.

The Ombudsman Bureau has set the following goals for the year 2012:

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

3. Continue to keep the offender population aware of the Bureau.

III. The Complaint Resolution Process

The Ombudsman Bureau's complaint resolution process is delineated specifically in its Policies and Procedures located at www.idoa.in.gov/idoa/2356.htm. Please see an outline of the Bureau's complaint resolution process in Attachment 1. Additionally, this process is more fully explained below.

Complaint Origination:

The Ombudsman Bureau receives most of its complaints from offenders by mail. However, as directed statutorily, the Bureau may receive complaints from any source. These sources include: the Governor's Office, legislators, family members of offenders, and other governmental agencies. Other means in which the Bureau receives complaints are by fax, e-mail, and phone.

The Bureau requires the use of the Ombudsman Bureau complaint form in filing a complaint with the Bureau. These forms are available at every facility through the law library and through the counselors. The Bureau also requires that the offenders send all relevant paperwork with their complaints.

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 is not within the Bureau's jurisdiction, then a letter is sent stating such.

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.

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. 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 the DOC has already addressed the issue**.**

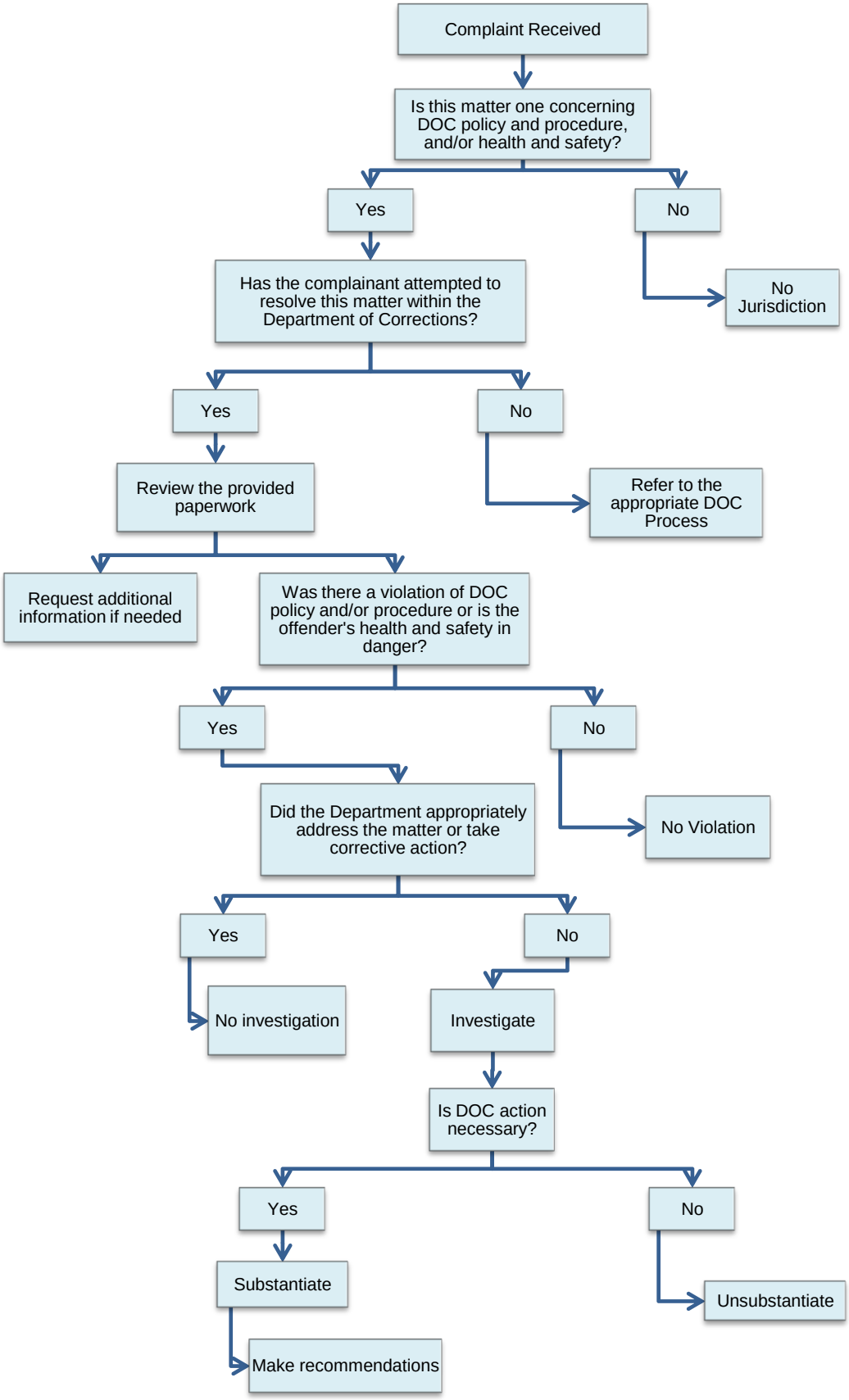
If the Bureau believes that it is necessary to receive further information regarding a complaint, then an investigation commences. The investigation begins by contacting the necessary Department of Correction personnel. Once this contact is made, the Bureau determines whether further action is needed by the DOC at this time. At times, further action is not needed because the issue was already being addressed by the Department or

facility. If, however, further action is needed, the complaint is substantiated at this time and the Bureau makes further recommendations to the DOC.

Whether or not the Bureau investigates a complaint, notice is sent to the complainant concerning the outcome of the complaint. This notice includes either the reasons for not investigating the complaint or the reasoning behind investigating, only to find that no further action is needed in regards to the matter. The notice also includes a detailed description regarding the resolution of the case, if the case is substantiated.

Attachment 1

DOC Ombudsman Complaint Process



2011 Summary of Substantiated Complaints

Correctional Industrial Facility – Confinement Conditions

Complaint: The offender claims that he has filed several grievances and hasn't received responses and two are 90 days outstanding.

Recommendation: Review matter to see if grievances are overdue.

DOC Action: The facility will respond to the grievances shortly.

Correctional Industrial Facility – Confinement Conditions

Complaint: Family member believes that facility has been on lockdown for a week and ranges and bathrooms are dirty. She claims that offenders have not been able to have restroom breaks or showers during this time.

Recommendation: Address issues regarding restrooms and ranges.

DOC Action: The facility addressed matters regarding the cleanliness of the dorms.

Indiana State Prison – Disciplinary Action

Complaint: A legal mail envelope addressed to the offender was discovered by mail room staff. Staff noticed brown stains coming from the envelope; upon opening the envelope tobacco was found. The offender received an A111/113, Conspiracy to Traffick, with no grievous loss, so he may not appeal to a higher level than the facility.

Recommendation: Further review matter.

DOC Action: After further review, the Final Review Authority determined conduct report should be dismissed.

Indiana State Prison – Offender Violence

Complaint: The offender claims that his co-defendant is a Gangster Disciple and placed at the institution with him. The offender says he has to carry around a knife for protection. Says he's told staff that he's scared, despite being in Disciplinary Segregation ("DS").

Recommendation: Review matter to see if information can be confirmed.

DOC Action: Internal Affairs searched offender and confirmed that offender was in possession of a knife. He has received a conduct report and will remain in Disciplinary Segregation where he's been placed since he arrived at the facility. Consequently, he's been separated from co-defendant.

Indiana State Prison – Visitation

Complaint: Offender is upset that visits have been taken, despite the related conduct report being dismissed.

Recommendation: Further review matter.

DOC Action: Upon further review the offender was transferred and non-contact visits were re-instated.

Miami Correctional Facility – Medical Care

Complaint: The offender claims that he was given an MRI in November, but never received the results. He claims he requested an appointment and was told he would have to wait 3 months.

Recommendation: Review matter to see if offender has been scheduled an appointment.

DOC Action: The offender received an appointment for the following day.

New Castle Correctional Facility – Visitation

Complaint: The offender's brother went to visit him 9/17/11. When he returned on 9/19/11, the staff person told him he was not on the approved visitor list and that there was only one person approved. The brother is the only one who has been to visit his brother and says he got a letter saying that he was approved to visit.

Recommendation: Further review matter.

DOC Action: Upon further review the facility corrected issue. Offender's name was accidentally mixed up with the visitor's name on the list.

Pendleton Correctional Facility – Food
Complaint: The offender claims that a policy requiring offenders to wear their ID in the upper left hand corner of their shirts at all times has been enacted. He claims that if you are on the way to the dining hall and have forgotten to wear your ID, you are sent back to the housing unit and forfeit the opportunity to eat.

Recommendation: Review policy.

DOC Action: The facility agreed to review the policy.

Pendleton Correctional Facility – Housing

Complaint: The offender claims that he was placed under investigation and moved to Administrative Segregation. He claims that is has been almost a week and no one has talked with him regarding why he is on Administrative Segregation or provided him recreation time.

Recommendation: Further review matter.

DOC Action: Facility staff will be reviewing his status.

Plainfield Correctional Facility – Disciplinary Action

Complaint: Offender has requested PC status claiming he was jumped by Aryan gang members. He claims that the facility is trying to force him back into population, even though his life is in danger. He claims that he keeps receiving conduct reports for refusing to go back to population.

Recommendation: Review matter to determine if offender can be placed in a better suitable location.

DOC Action: The offender's transfer is currently pending and any conduct reports relative to this situation are being dismissed.

Plainfield STOP – Disciplinary Action

Complaint: Offender says he was written up for an A 113 "trafficking" by an officer who has since been terminated. He says he was not involved in any sort of trafficking and he sent his appeal to the facility head within 10 working days of the incident. He says he still has not received a response and it has been more than 15 working days. He was moved to RDC and has been there for over 3 weeks, pending investigation for trafficking even though they have never found any evidence of trafficking.

Recommendation: Review Offender's status.

DOC Action: Offender returned to PSTOP.

Putnamville Correctional Facility – Transfer

Complaint: Family member contacted the Bureau regarding the safety of the offender. The family member believes the offender needs to be transferred due to his son testifying against another offender located at the facility. He claims that his son is being threatened on daily basis and has already had an altercation with him.

Recommendation: Review matter to see if information can be confirmed and action is required.

DOC Action: The offender's separatee and transfer paperwork has been submitted to the Classification Department, as well as the offender is being monitored and placed in Administrative Segregation pending transfer.

Wabash Valley Correctional Facility – Housing

Complaint: Offender is complaining that he's been in the SHU (Secured Housing Unit) for 4 years and has still been denied release. He says that he has no history of violence, assault, escape, drugs, or anything else. He says he's completed his GED, Anger Management, coping skills, and social skills since being in the SHU. He wants help to get released into general population.

Recommendation: Further review matter

DOC Action: Facility staff will be reviewing his status.

Wabash Valley Correctional Facility – Officer Misbehavior

Complaint: Says that on 7/3/11 he witnessed CO Baxley punch Offender Simpson and on 8/3/11 witnessed CO Baxley slam Offender Martin McDaniels' head into the wall. Says on 8/4/11 he and Offender McDaniels' were not fed lunch or breakfast.

Recommendation: Further review matter.

DOC Action: Facility reviewed conduct complaints of Officer and Officer was moved to a new location with his actions to be further supervised.

Wabash Valley Correctional Facility – Visitation

Complaint: The offender believes he was incorrectly placed on non-contact visits. He claims he filed a grievance regarding this matter and has yet to receive a response to his appeal. The appeal response is four and a half months overdue.

Recommendation: Review matter and provide responses as policy requires.

DOC Action: Attempt was made to receive necessary paperwork to respond to grievance.

Westville Correctional Facility – Credit Time

Complaint: The offender is complaining that he has not received his time cut for having completed the PLUS Program. He says other offenders that have an outdate equivalent to his or later have already received their time cut and he completed the program in 2008. He says he has recently finished an 18 month program and has already received his time cut for that.

Recommendation: Further review matter.

DOC Action: Upon further review, the offender was given his time cut.