



OMBUDSMAN'S REPORT

1998



Annual report of the Iowa Citizens' Aide/Ombudsman

April 1999

Highlights



Handy 800 numbers **6**



Government extra milers **8**

From the Ombudsman's case files



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Have a complaint or question about state or local government? Call us toll-free at 1-888-426-6283 (or 281-3592 in the Des Moines area.) Maybe we can help!

See page 4 article, "What to do before calling the Ombudsman"

Ombudsman: Helping make good governments better

Iowa appointed its first Ombudsman in 1970, when Governor Robert Ray established the position in his office. In 1972, the Legislature approved the Ombudsman Act, now located in Chapter 2C of the Code of Iowa. The ombudsman became an independent office working under the auspices of the Iowa Legislature.

The ombudsman position is selected by the bi-partisan, bicameral Legislative Council subject to the approval of the General Assembly. The appointment is for a term of four years, renewable for additional terms.

Under Iowa Code Chapter 2C, the Ombudsman is generally charged with answering questions and receiving complaints about most agencies of state and local government in Iowa. Chapter 2C gives the Ombudsman authority to investigate administrative actions that might be:

- Contrary to law or regulation.
- Unreasonable, unfair, oppressive, or inconsistent with the general course of an agency's functioning, even though in accordance with law.
- Based on a mistake of law or arbitrary in ascertaining facts of fact.
- Based on improper motivation or irrelevant considerations.
- Unaccompanied by an adequate statement of reasons.

The ombudsman system is based upon the principle that every person has a right to have his or her grievances against government heard and if justified, satisfied.

SIGN OF THE TIMES



This sign and others were installed at the Des Moines International Airport last year because of a suggestion made by the Ombudsman's office. See article on page six. (Photo by Doug Wells, Copyright 1999, The Des Moines Register and Tribune Company. Reprinted with permission.)

Water pollution leads to criticism of DNR

The Iowa Department of Natural Resources (DNR) failed to meet its duties under law in responding to complaints about sewage entering a stream, according to a report released by the Citizens' Aide/Ombudsman in August 1998.

The report concerns DNR's response to complaints about sewage from a 33-home subdivision just north of Oskaloosa. DNR found each home had a septic tank that connected into a series of underground lines feeding into an unnamed tributary to the South Skunk River.

The Ombudsman determined DNR was required by Iowa law to regulate the situation and should not have deferred its responsibility to the Mahaska County Sanitarian. The Ombudsman found DNR should have been more involved in getting the subdivision into compliance sooner. The overall problem was not resolved for over three years after it was first reported to DNR.

DNR indicated the case represents how it handles similar situations. "This suggests the problems identified in this report are not unique — that DNR may have systemic failure in how it responds to violations involving sewage discharges into surface waters," the Ombudsman said. "DNR acknowledges other communities and subdivisions may be discharging sewage into surface waters but doesn't know how many."

DNR (Continued on page 6)

Message from the Ombudsman

We received over 5300 new contacts in 1998. This is the second highest annual volume of inquiries in the history of the office. I believe it reflects two factors: one is our concerted effort to outreach; the second is the growing population in Iowa's prisons and correctional programs. Outreach is important. It allows us to inform more Iowans about our services and gives them the opportunity to use us if the need arises. This last year my staff and I made presentations to a variety of groups across the state. I appeared on WHO TV's morning program. And, of course, we operated our information booth in the Varied Industries Building during the Iowa State Fair. We routinely make presentations to the State Jailers School at the Iowa Law Enforcement Academy. These opportunities bring us many new and different contacts whom we might not otherwise be able to assist.



William P. Angrick II

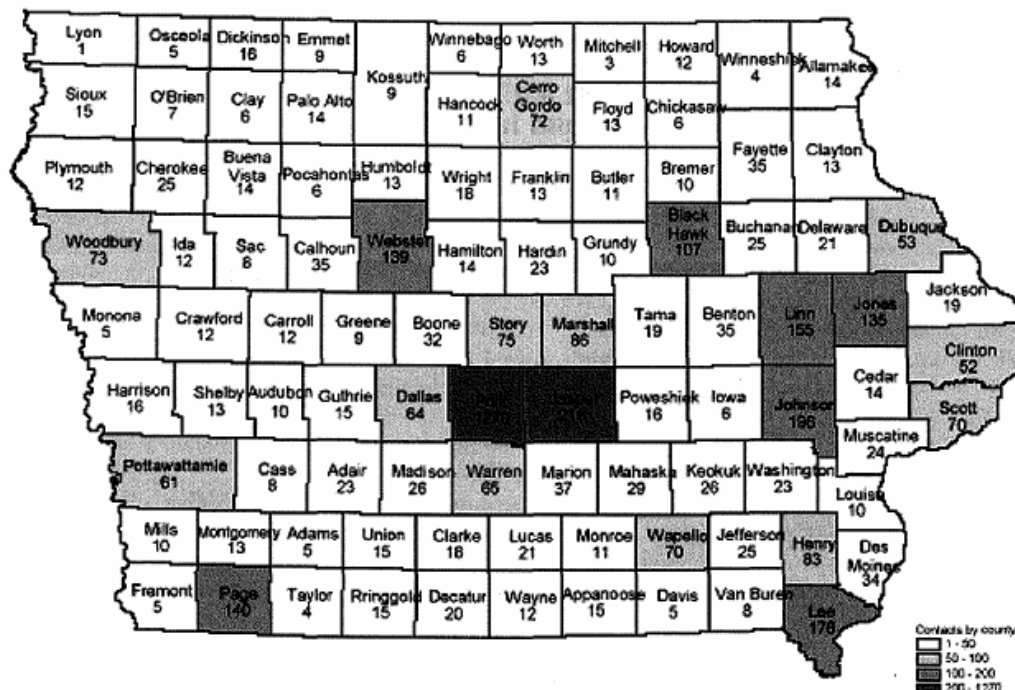
Iowa's increasing prison, correctional program and jail population generates a large number of inquiries and complaints to our office. Corrections related

I continue to keep a close eye on the impact corrections complaints have upon the overall operation of the office.

complaints closed during 1998 accounted for over 22% of our caseload. New corrections and jail-related complaints received during the year reached closer to 25% of our cases. Extension of our toll-free telephone service to Iowa's prisons facilitated part of this increase — but the proportions of these complaints have been steadily increasing for several years. It is now much more efficient, cost effective and productive to do most of our corrections intake by telephone than during in-person interviews at the institutions. For example, an intake trip to the Men's Penitentiary in Fort Madison requires 8 hours of driving time for each visit. That time can be better used if the initial contact is by telephone — even more so than in writing — because many times a complaint or inquiry can be resolved with a brief telephone conversation and immediate response. I continue to keep a close eye on the impact corrections complaints have upon the overall operation of the office.

ANGRICK (Continued on page 4)

Where's your county? Contacts closed by Citizens' Aide/Ombudsman in 1998





E-mail solution

A soldier stationed in South Korea contacted us by e-mail. He was having problems with the Child Support Recovery Unit (CSRU). With him on the other side of the planet, it was taking a few weeks to communicate on issues that typically would only take a few days.

We contacted CSRU and learned it doesn't routinely use e-mail to communicate with its customers. But at our request, CSRU e-mailed the soldier. The message said CSRU doesn't routinely communicate via e-mail "because we do not have enough staff to be properly responsive to the volume of inquiry it is likely to bring. We also don't do it because we understand that there is no way to secure the confidentiality of information that is exchanged. Apparently it is possible

for outside parties to intercept and change messages. We think it is likely that these issues will be resolved and e-mail used in this way at some time in the future."

In the meantime, CSRU's message said it would communicate with the soldier via e-mail, "as long as you explicitly tell us in your 1st message that you understand about the security concerns and will not hold us responsible should information about your case 'leak' inappropriately."

The soldier responded to CSRU's message and apparently was able to get his concerns resolved. In addition, on the issue of "Internet e-mail security," we referred CSRU to an intergovernmental computer project called IowAccess, which has a website at: <http://www.state.ia.us/government/iitt/iowaccess/index.htm>

Child support offset not getting to children

A man reported he was not getting an answer from either the Department of Human Services (DHS) or the Department of Revenue and Finance (DORF) as to the whereabouts of the child support offset from his state paycheck. It had been offset over a month ago, but still had not been received by the custodian of his children. He is not a state employee, but rather a vendor who provides a service for the state. Due to his not being current on child support owed, the state offsets each of his paychecks towards payment of his total child support arrearage.

We spoke with DHS staff at both the Child Support Recovery Unit (CSRU) and the Collection Services Center (CSC), along with staff at DORF. We learned DHS provides DORF with a state vendor list. DORF monitors for a match of names on this list with names in their computerized system of people who owe back support. When a match is found, DORF provides CSRU a notice of the match. DHS provides

confirmation and specifics to DORF regarding child support arrearage owing at that time.

DORF then provides CSC a request to process this child support payment. CSC, within two days of receiving the payment, credits the obligor's CSRU account and facilitates the paperwork necessary for DORF to cut a warrant which is then mailed to the obligee.

A new DORF staff person and her supervisor explained that the new worker had not understood that the confirmations returned from CSRU to DORF, then had to be wired to CSC to complete the process. Upon catching this error, a number of confirmations were wired to CSC from DORF, which included this obligor's case. Although later than usual due to error, the warrant had been cut, mailed, and would be received by the obligee shortly. Our contact soon confirmed that the child support check had been received.

When seeing is believing

A man received a notice from the Child Support Recovery Unit (CSRU) listing him as the biological father of a certain woman's child, making him responsible for child support.

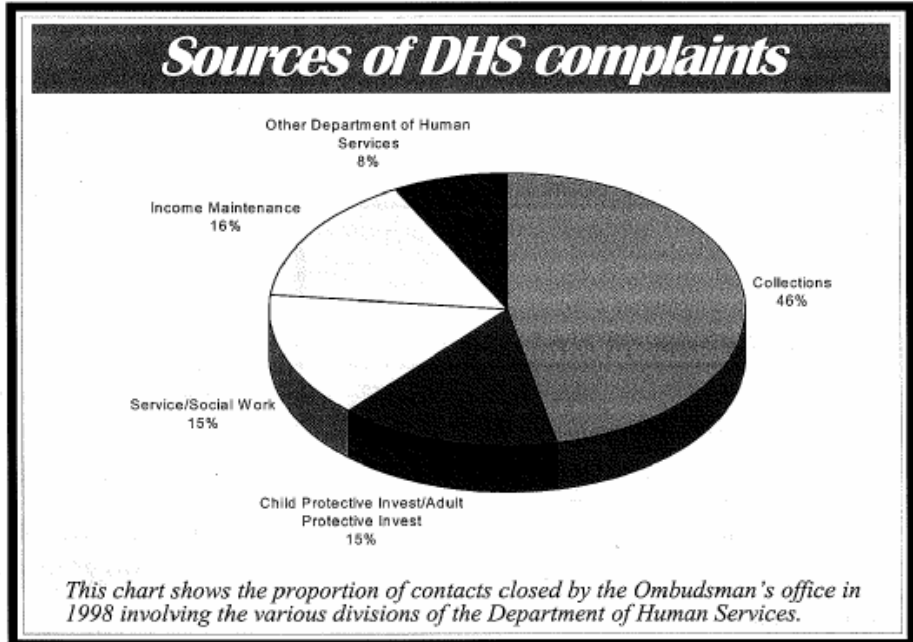
But he had never known a woman by the name given. From the description of the father on the notice, he figured it would be obvious that he could not possibly be the father. There were striking differences between him and the description of the father as to race, height and weight.

The man met with a CSRU worker, who agreed a mistake had occurred. But the worker would not move to dismiss the

action. She told him he had no choice but to submit to DNA testing and proceed with the court process. So he called us for help.

We contacted CSRU. Upon swift but careful review of the facts, CSRU responded that he did not need to report for DNA testing. CSRU moved to dismiss the paternity action. They explained the worker had mistakenly thought it was too late to cancel tests and court action on the matter.

At our request, CSRU agreed to ultimately provide the man with a copy of the dismissal. CSRU included an apology to him for any inconvenience this matter may have caused.



Ombudsman helps woman get tax refund

A woman was caught in a dispute between the Child Support Recovery Unit (CSRU) and the Department of Revenue and Finance (DORF).

Her husband owed back child support and was making payments to CSRU. In preparing their tax returns, they filed "married filing separately on this combined return." Under those circumstances, she would receive a refund but her husband's refund would go towards his child support delinquency.

But they got a notice from DORF stating their refund would go to the child support delinquency. They checked and found they had incorrectly listed her husband's income in column "A" when the woman's income

should have been put there.

They sent a letter to CSRU explaining their error and asking for her portion of the refund. CSRU did this but returned the amount according to the incorrectly-filed tax return, which was really her husband's refund amount and substantially lower than her refund. CSRU later suggested she file an amended return to get the difference.

After our inquiry, the local CSRU office checked and found that it should have treated the couple's letter as a formal appeal. The appeal process would have allowed them a chance to further explain the situation. As a result, the local CSRU office refunded the woman's portion of the tax refund.

Child Support Advisory Committee



Deputy and Legal Counsel Ruth Cooperrider

Iowa law requires the Ombudsman's office to have a representative on the state's Child Support Advisory Committee. The committee gives input about the Department of Human Services' (DHS) child support policies and operations. I am the Ombudsman's representative on the committee and served as the chairperson of its guidelines and policy subcommittee.

Several issues studied by the DHS and the committee in 1997 ended up in legislation in 1998. The legislation required DHS to decrease the amount of income withheld for payment of delinquent support effective July 1, 1998. Based on the study done, DHS lowered the percentage withheld from 50 percent of the current support obligation to 20 percent, for support orders entered or modified on or after July 1, 1998.

The legislation also requires DHS to accomplish two changes. One, by July 1, 1999 DHS must adopt rules for imputing income based on the earning capacity of a parent who does not provide income information or for whom income information is not available. Currently, DHS uses the estimated state median income for a one-person family when calculating that parent's support obligation. Second, on or after July 1, 1999, DHS must implement a program allowing for the satisfaction of sup-

port debts, based upon an obligor's timely payment of both current and accrued support. The committee is working with DHS on these issues.

The committee heard special reports about several aspects of the child support program. Representatives from the Specialized Customer Service Unit (SCSU), which began operating in November 1997, gave updates on how the unit was functioning. SCSU handles phone calls about establishing or enforcing support obligations. The Collection Services Center, which processes and distributes child support payments, shared information about its audio response service with the committee. The Attorney General's office reported on its planned media campaign in early 1999 to encourage parents to support their children. The committee discussed whether the public awareness project should remain with the Attorney General's office and decided to review this issue around mid-year of 1999.

The committee held a special meeting in June about legislative and budget issues and how DHS can do better in meeting the child support program's vision, mission and goals.

Because the child support guidelines are due to be reviewed by the Iowa Supreme Court in 1999, the committee and DHS held six public forums around the state in November and December to get input about the guidelines. The committee is considering this input as it prepares its written comments and suggestions to the Iowa Supreme Court.

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 [THREE ASSISTANTS RESIGNED IN 1998: MICHAEL J. FERJAK, JERRY MOORE AND GREGORY L. ROSEBERRY]

This publication was released by the Office of the Citizens' Aide/Ombudsman, which printed 6,500 copies at a cost of 28.2 cents per copy, to provide an annual report to the legislature, the governor and the public.



Department of Revenue and Finance

No deal, no wheels

A woman called to complain that she could not get her vehicle registration even though she had set up a payment schedule for old tax obligations owed to the state. The Department of Revenue and Finance (DORF) told the Ombudsman that vehicle registrations could be issued if a payment plan had been approved.

Upon further inquiry, the Ombudsman discovered that DORF doesn't advise people with past due tax obligations that they can't get their vehicle registration if they don't pay their taxes or if they don't set up

a payment schedule. As a result of the Ombudsman's inquiry, DORF and the Department of Transportation have added language to their notices informing people that vehicle registrations may be withheld if there is an outstanding tax obligation.

(Unfortunately in this case, the woman had multiple years tax liabilities and only had a payment schedule set up for one year.)

Going, going, gone!

It's bad enough when the government seizes some of your property and puts it up for auction. But when one of the officials involved in a seizure later bid on and bought an item, the property owner cried foul. So she called us.

We checked and found this had indeed occurred. It involved an employee of the Department of Revenue and Finance (DORF). Interestingly, state law prohibits sheriffs and their deputies from bidding on items at sheriff's auctions. But the prohibition doesn't apply to DORF employees. (The employee was at the auction at the request of the sheriff's department to be available for any questions.)

DORF supervisors confirmed the employee had broken no written policy. However, that division of DORF generally discouraged employees from bidding at such an auction while on the time clock. Although the employee had not violated any law, rule, or policy, we believed DORF should adopt a written policy for the future.

DORF's director agreed to review this issue. He ultimately implemented a written policy forbidding DORF employees (except the Lottery division) from bidding on or purchasing property "that has been seized by the State of Iowa in the function of the Department's tax enforcement policies."



Lottery players get more information

Players of the Iowa Lottery started getting more information in 1998 about unclaimed

stickers to be placed on or near all lottery terminals, playstations and vending machines. The Ombudsman suggested the message, brochures and stickers as a way to help Iowans redeem the hundreds of thousands of dollars worth of winning tickets that the Lottery purges each year because they aren't claimed.

The Ombudsman's suggestions also prompted the Lottery to run a two-page advertisement in *The Des Moines Register* in an effort to find the winners of more than \$5.3 million in unclaimed lotto and instant ticket prizes. "Analysis we did earlier this

prizes and how to play the game because of input from the State Ombudsman.

At the Ombudsman's suggestion, the Iowa Lottery added the following message to tickets:

"Players are responsible for determining whether a ticket is a winner. The Iowa Lottery recommends

players use the following sources:

- Watch the televised drawing (if available).
- Call Lottery offices (telephone numbers provided in brochure).
- Ask retailers to print winning number from the terminal.
- Check the Iowa Lottery home page at <http://www.ialottery.com>"

The message was also included in a new brochure the Lottery published, as well as

The Lottery purges hundreds of thousands of dollars worth of winning tickets each year that aren't claimed.

year revealed that we had nearly \$15 million in prizes that had gone unclaimed going back to 1992," Lottery commissioner Ed Stanek said in

a press release. "As a result, we want to make sure we do our best to locate our winners."

The Ombudsman's suggestions stemmed from a complaint about the Lottery's operations.

Cadet gets probation instead of class

We were contacted by a young man from Iowa who was in the Navy and was stationed in Virginia. He had received three driving tickets in Virginia within a 12 month period. The tickets were a "HOV" or high occupancy violation.

Virginia has certain roads that are restricted to vehicles with three or more people. Virginia classifies these as "non-moving" violations. But since Iowa didn't have a similar law, the Iowa DOT classified them as "moving" violations and was requiring him to take a driver improvement class. That's when he called us.

At the time, he was leaving the next day to attend Naval training in Texas. He would not be able to take a driver improvement class, as he would be in class from 5 a.m. until possibly 6 p.m. each day, with no leave granted.

We contacted DOT. It determined the tickets would stand as moving violations but recognized it was impractical for the man to take the driver improvement class. So instead, it placed him on driving probation for one year.

DOT finds misfiled report

A teen-ager got in a crash while driving his father's car. They did not file an accident report at the time.

They got a letter from DOT giving them 30 days to file an accident report. The man took the form to his insurance agent to complete and send to DOT. The agent later could not recall whether he sent it in.

They later received a notice from DOT saying it did not receive the completed form. As a result, DOT suspended the driver's licenses for father and son.

DOT rescinded the suspension for both the client and his son.

The father later received a "lift notice" saying the suspension period was over. So he believed the matter was resolved.

But a few months later, his son was given a ticket for failure to post surety bond with DOT. The insurance agent then contacted DOT, which said nothing could be done because it didn't have any record of receiving the accident report.

We contacted DOT. Ultimately, DOT found it had received the accident report but had misfiled it. As a result, DOT rescinded the suspension for both the client and his son.



Department of Transportation

Suspension lifted after Ombudsman finds error

A man got in a car crash. The DOT sent him a notice saying it was going to suspend his license.

The notice said the man's insurance company was not authorized to do business in Iowa. The company was based in Illinois.

The man's insurance agent called DOT. A representative said the suspension was appropriate.

The agent then called our office. He questioned why it would matter whether the company was licensed to do business in Iowa. First, we encouraged him to have his client appeal the suspension notice.

We then called DOT. A representative said an Iowa law [Code section 321A.5(3)] requires auto liability companies to either be authorized to do business in Iowa or to submit a

form to DOT giving it "power of attorney."

The DOT representative said he checked with the department's "accidents section" and they confirmed that the insurance company in this case was not licensed to do business in Iowa.

The office director assured us he would take appropriate steps to ensure such a mistake would not happen again.

We double-checked with the State Insurance Commissioner's office. To our surprise, a representative there said the company was licensed to do business in Iowa, and had been since 1983.

We relayed this information to DOT. It rescinded the suspension later that day. DOT said an

employee had mistakenly used an outdated "paper reference." The office director assured us he would take appropriate steps to ensure such a mistake would not happen again.

DOT ends contract with "process server"

A man answered a knock on his door. He was met by a process server who had some legal notices for one of the man's relatives. The man refused to accept the notices, because the relative had not lived there for many months.

But the process server persisted and put the notices in the door. The homeowner kicked the notices away. The process server threatened to call police to make the man accept the notices. He also asked for the man's name, saying he would report that the man accepted service. The man went inside, but later found the notices on his porch.

Concerned about the process server's behavior, the man called our office. Since the notices were issued by DOT, we contacted them. DOT said it prefers to use law enforcement to serve notices, but sometimes contracts with private process servers.

Since this was the last known address for the subject of the notice, DOT said it was limited to attempting service at that address. Staff from the DOT agreed they do not want to

cause additional problems when serving notices and agreed to tell the process server in this case to not serve any more notices at that address. Additionally, the DOT was going to request a statement from the process server about this situation.

A few months later, DOT reported that it did not renew its contract with this process server. DOT was able to get the local sheriff departments to serve notices, removing the need to use private process servers.

Additionally, DOT staff reported that while the process server's actions technically may not have been illegal, this was not how the DOT wanted this process to be handled. DOT acknowledged one thing that may have contributed to the process server's motivation to serve the notice was that the DOT did not pay for anything not served.

What to do before calling the Ombudsman

A difference of opinion or misunderstanding is often resolved by simply taking the time to talk and listen.

So, if you have a problem with a state or local government agency, first take the matter up with the agency involved before calling our office. Many times an agency official will be eager to explain a specific policy or will correct the problem to your satisfaction. If they don't, give us a call.

Here are some good common sense steps to take when trying to resolve any "consumer" problem, whether it be with a government agency or a company in the private sector:

Be prepared. Know what questions you are going to ask (it helps to write them down.) Be sure to have any relevant information you need available before you contact the agency.

Be pleasant. Treat public employees as you like to be treated. Getting angry or rude will not resolve your problem and may only confuse the real issues.

Keep records. Take notes, ask for the names and titles of employees you speak with, and save all of your correspondence.

Ask questions. Ask why the agency acted as it did. Ask employees to identify the rules, policies or laws that governed their actions. Ask for copies.

Talk to the right people. Don't get angry with the first employee you meet; usually, he or she cannot make or change policy. If you cannot resolve the matter, ask to talk with a supervisor. Keep asking questions until you understand what happened and why.

Read what is sent to you (including the fine print!) Carefully read all information sent to you. Many agency decisions may be appealed, but there are deadlines. Be sure to follow appeal rules and deadlines. It's a good idea to mail your appeal certified, return receipt.

If you follow these suggestions and still cannot resolve the problem, then give us a call toll-free at 1-888-IA-OMBUD (426-6283) or in the Des Moines area at 281-3592. Maybe we can help.

How to reach us

Telephone
1-888-426-6283 (toll-free nationwide)
(515) 281-3592 (Des Moines area)

TTY
1-888-426-6283 (we will transfer call to TTY line)
(515) 242-5065 (Des Moines area)

FAX
(515) 242-6007

Internet
Ombud@Legis.State.Ia.US

Write or visit
Citizens' Aide/Ombudsman's Office
215 East Seventh Street, Capitol Complex
Des Moines, Iowa 50319-0231

1998 Complaints Closed by Agency

State Government Department or Agency	Jurisdictional Complaints	Non-Jurisdictional Complaints	Information & Referrals	Other	Total	Percent of Total
Appeal Board	1	0	1	0	2	0.0%
Agriculture & Land Stewardship	3	0	8	0	11	0.2%
Attorney General/Department of Justice	18	0	39	0	57	1.2%
Auditor	1	0	2	0	3	0.1%
Blind	4	0	1	0	5	0.1%
Citizen's Aide/Ombudsman	1	0	56	5	62	1.3%
Civil Rights Commission	4	0	7	0	11	0.2%
College Aid Commission	3	0	0	0	3	0.1%
Commerce, Department of	20	0	32	0	52	1.1%
Corrections, Department of	981	0	92	5	1078	22.1%
Cultural Affairs	0	0	2	0	2	0.0%
Economic Development	4	0	6	0	10	0.2%
Education	19	0	15	0	34	0.7%
Elder Affairs	5	0	25	0	30	0.6%
Ethics and Campaign Disclosure Board	0	0	2	0	2	0.0%
General Services	7	0	4	0	11	0.2%
Human Rights	1	0	3	0	4	0.1%
Human Services	546	0	63	3	612	12.5%
Inspections & Appeals	27	0	10	1	38	0.8%
Law Enforcement Academy	0	0	2	0	2	0.0%
Lottery Division	1	0	0	0	1	0.0%
Management	1	0	1	0	2	0.0%
Natural Resources	20	0	9	2	31	0.6%
Parole Board	36	0	23	0	59	1.2%
Personnel	5	0	4	0	9	0.2%
Professional Licensure Boards	8	0	5	0	13	0.3%
Public Defense	9	0	6	0	15	0.3%
Public Health	9	0	13	0	22	0.5%
Public Safety	14	0	12	1	27	0.6%
Regents	16	0	3	0	19	0.4%
Revenue & Finance	52	0	25	0	77	1.6%
Secretary of State	0	0	5	0	5	0.1%
State Government (General)	14	0	197	2	213	4.4%
Transportation	76	0	21	1	98	2.0%
Treasurer	1	0	2	0	3	0.1%
Workforce Development	42	0	27	0	69	1.4%
Other state government (non jurisdictional)	0	148	36	1	185	3.8%
Local government						
City Government	449	0	42	0	491	10.1%
County Government	446	0	36	0	482	9.9%
Metropolitan/Regional Government	12	0	1	0	13	0.3%
Schools & School Districts	22	0	10	0	32	0.7%
Other entities						
Federal Government	0	61	46	0	107	2.2%
Foreign Government	0	1	0	0	1	0.0%
Private, quasi-government agencies	6	18	5	0	29	0.6%
States other than Iowa	3	25	19	0	47	1.0%
Non-jurisdictional - General	0	550	225	0	775	15.9%
Undetermined	0	0	0	30	30	0.6%
Totals	2887	803	1143	51	4884	100.0%

ANGRICK (Continued from page 1)

Child support issues once again dominated our Human Services contacts. Child and Adult Protective Services and Social Work contacts ranked third of those inquiries and complaints. Municipal and County issues each account for a consistent 10% of our caseload and have done so for several years.

Interestingly, complaints about Municipal and County governments are the greatest source of our Public Records and Open Meetings issues. We don't hear many Public Records or Open Meetings complaints about state government anymore. And the one's we do hear are usually addressed quickly and satisfactorily by working with the agency and the Iowa Attorney General. But local governments vary in their understanding and conformity with Iowa's laws calling for open government. Challenges in these arenas will continue to be important work by my staff.

During 1998 I issued a report critical of the Environmental Protection Division of the Department of Natural Resources. That report chronicled the need for a greater commitment and proactive administration of Iowa's laws regulating sewage discharges into surface waters by small communities and subdivisions.

In early 1999 I released a report recommending a need to change the way complaints about police officers are handled by the Des Moines Police Department.

Those were two important issues, however, I still find that our most rewarding work is done quietly, without the necessity of issuing a report when the agency or official moves quickly and responsively to rectify a wrong or otherwise

accommodate a citizen's situation. The majority of case examples in this annual report reflect that way of doing business.

A significant task undertaken in 1998 and completed in early 1999 was a review of the Child Protection System mandated by SF 2359. We relied upon the policy-consulting firms of State Public Police Group (SPPG) and Child and Family Policy Center (CFPC) to conduct this research and prepare the report. The review, how it was conducted and the major conclusions it reached is reported elsewhere in this Annual Report.

Nineteen ninety-eight was a busy year for the Citizens' Aide/Ombudsman. Nineteen ninety-nine is well on its way to be just as challenging.

In my 1997 Newsletter I reported on the report I issued in November of that year about inadequate regulation of nursing homes by the Department of Inspections and Appeals. During the 1998 Legislative Session one of my recommendations, to develop a nursing home report card, was passed statutorily. Since then my office has worked with DIA and others to implement an Internet web based report card system for Iowa. An it is important to note that the fines imposed and monies collected by the DIA have markedly increased over the past three years.

As one of the oldest established ombudsman offices in the United States we are often contacted by legislators and other officials wanting information about how an ombudsman functions or assistance in creating an ombudsman's office. I believe this is an important responsibility - it provides us the opportunity to show off the quality government we have in Iowa.

In January 1998 we were visited by Andrew So, Ombudsman for Hong Kong. Mr. So was the second Ombudsman for Hong Kong and faced the challenges of transfer from British rule to that of The People's Republic of China. During his visit we exchanged ideas on how to administer ombudsman offices and how to best address and resolve complaints. Hong Kong was the birthplace of Deputy Citizens' Aide Ruth Cooperrider, and his visit gave her an opportunity to renew contact with her homeland. Later in the year Ruth traveled to Hong Kong to re-unite with her birth family. During that trip, she was able to reciprocate a visit to the Hong Kong Ombudsman.

We were also visited by Katarzyna Maria Piekarka, a member of the Polish Parliament, who was interested in learning how an Ombudsman protects children's rights. Later in the year I saw Ms. Piekarka on CNN speaking about some of the concepts and ideas we exchanged.

Also during 1998 we hosted three government officials from Japan; Susumu Michikawa, Shinichi Hamasaki and Kyoko II who were interested in Iowa's agricultural processes and production and how we respond to complaints from farmers and the agricultural sector.

Another group to meet with our office included Georgi Kourtev, Press Secretary to the President of Bulgaria, Biliana Detcheva-Gountcheva, Information Directorate; and Daniela Feralieva-Simeonova, Advisor. Mr. Kourtev said his country wants to establish a national ombudsman which they see as a fundamental office in a developing democracy.

When a violation is really only a recommendation

A church was cited for problems with its boiler after an inspection by the Labor Services Division, under the Department of Workforce Development. (Boilers are defined in Iowa Code Chapter 89 as "a vessel in which water of other liquids are heated, steam or other vapors are generated, steam or other vapors are superheated, or any combination thereof, under pressure or vacuum by the direct application of heat.")

At issue were two missing items: A shut-off switch outside the boiler room and a safety valve. But the minister said the boiler had been inspected every year since it was installed in 1992 and nothing had ever been said before.

He called Labor Services and was told the previous inspector had been fired for doing an inadequate job. The minister felt this meant he had been paying for inadequate inspections. So he contacted us.

Our inquiries showed that new rules had gone into effect in 1993. Labor Services said the boiler was not cited for these violations in 1993 because inspectors try to work with facilities before they send a "Notice of Defect." We could not substantiate that Labor Services had inadequately inspected the boiler, but we recommended they note all uncorrected violations on subsequent inspection reports until violations are corrected.

After Labor Services formally responded to our recommendations, we realized the church's boiler had been "grandfathered in" because it was installed before the rule change. So the "violation" was merely a recommendation. Labor Services promised to "more clearly delineate between a requirement and a recommendation to meet the code" in the future.

Gas station gets reimbursed

A gas station complained it was owed money from the state going back to 1996 for times it allowed state employees to charge their gas purchases.

At our request, the station's accountant faxed copies of the invoices he had submitted to the State Motor Pool for payment. We took the invoices to the Motor Pool office and met with staff to review the company's account.

We were able to determine the following:

- Some of the invoices should have been mailed to an office in Ames. But the Motor Pool had not shared this with the gas station.
- Some of the invoices had been paid but incorrectly applied in the company's accounting process.
- The Motor Pool had no record of seven of the invoices.
- The State of Iowa is not obligated to pay finance charges.

The Motor Pool said it would need copies of the invoices and a letter from the business saying it had not been paid. The company faxed the information to our office and we took the material to the Motor Pool to expedite the process. After almost two years, the gas station received payment in full (\$205).



Small businesses

Pet shop license is for the birds

A woman sells baby birds out of her home, about one a year. She got a letter from the Department of Agriculture saying she may need to get a pet shop license.

The letter explained that under state law (Iowa Code Chapter 162), a person must get a pet shop license if they:

- Receive at least \$500 from the sale or exchange of vertebrate animals during a 12-month period; and
- Sell or exchange at least six animals during a 12-month period.

When she replied to the letter, the department agreed she didn't need a license. When she asked who had "turned her in," the department wouldn't tell her, so she called us.

We contacted the department and learned they had gotten a large list of people who were potential bird dealers. The

department said it doesn't reveal the identity of people who file complaints, which we found to be proper under the public records law.

The letter she received was a form letter the department had sent out in hopes of bringing people into compliance if they fell under the requirements of the law. The department said it wanted to improve the letter because it generated some negative responses.

We offered to rewrite the letter so it was easier to understand and less threatening. We rewrote the letter and included an apology for people who got a letter but didn't need a license. The department accepted our revised version in its entirety.

Money accounted for, but landlord left in the dark

A landlord who lived in another state had a rental property that was managed by a real estate agent. The agent was to send documentation of all income and expenses.

The landlord's calculations indicated the agent failed to account for about \$1,500 in rental income received in 1995. So he filed a complaint with the Real Estate Commission (under the State Department of Commerce).

The Commission can suspend or revoke an agent's license if it finds them guilty of failing, "within a reasonable time, to account for or to remit any monies coming into the licensee's possession which belong to others" (under Iowa Code section 543B.34).

In support of his complaint, the landlord provided copies of the agent's documentation. Five months later, the landlord received a letter from the Commission saying, "After review of your letter of complaint and the information that you submitted, probable cause to pursue formal charges could not be established."

Frustrated with the lack of any further explanation, he contacted our office. We reviewed his documentation and found that, indeed, about \$1,500 in rental income was not accounted for (at least not in those documents).

We contacted the Commission and questioned how their review of the documentation led them to dismiss the complaint. They responded that, contrary to their closing letter to the landlord, their decision was based on other documentation they had obtained from the agent (who claimed she had previously shared it with the owner).

A few days later, the landlord reported he had just received additional documentation from the agent. In response to our contact, the Commission had called the agent and suggested she send all relevant documentation to the landlord.

Had the Commission done so before closing the landlord's complaint, we doubt he would have contacted us to complain about the Commission. This is because our review of the additional documentation found that only \$10 was unaccounted for (the Commission had already reached the same conclusion, but had not informed the landlord).

We relayed this to the landlord, who was pleased to finally learn there was no major problem. We then asked the Commission why its closing letter to the landlord didn't explain that it had reviewed additional documentation showing only \$10 was unaccounted for. The Commission

Our review of the additional documentation found that only \$10 was unaccounted for.

said it has no authority to release information obtained in connection with a complaint investigation, under Code section 272C.6(4).

We were struck by this paradox: The Commission's conclusions were based on information the agent said she already provided to the landlord (indicating she had no interest in keeping them from him), but the Commission said it lacked authority to even mention their existence to the landlord.

In a closing letter, we suggested the Commission consider:

- Proposing legislative action to allow dissemination upon written authorization from an agent.
- Relying only on documents provided by complainants. If there's a need for additional documentation, have the agent send it to the complainant, who can then send it to the Commission. In this way, the Commission could discuss its analysis of those documents without violating the law.



Department of Human Services

Misunderstanding unraveled, family gets benefits

A woman moved from California to Iowa with her two children. She applied for various welfare programs through the Department of Human Services (DHS). But she was frustrated with how long it was taking to get approved.

She was living with friends and really needed the money to feed her children and rent an apartment. DHS was requiring a certified copy of her birth certificate before it would provide assistance. She had mailed a check to the California Department of Vital Records to get the required document.

About two weeks after learning the check had been cashed, she called us for help. We checked with the California Department of Vital Records. The average

processing time after a check is cashed is fifteen weeks. So it could be several more months before she received the document she needed.

We called the woman back to explain the misunderstanding and that she would be getting her check soon.

So we called DHS to see if there was some other form of identification that would meet their needs. DHS said the copy of the birth certificate she had already provided was sufficient. They were merely waiting for California to verify that she was no longer receiving benefits there.

As a result, DHS expected to issue her a check the next week. We called the woman back to explain the misunderstanding and that she would be getting her check soon.

DHS grants "exception to policy"

A man received notice that his son's Medicaid benefits (Title 19) would be cancelled when he turned 18 in a few months.

His son had a learning disability and had been diagnosed with Attention Deficit Disorder. The father was a single parent on disability and had been receiving food stamps, family investment program assistance, and Medicaid benefits. His son was not scheduled to graduate from high school for another five months.

Whenever people get a notice that government benefits are being cancelled, we typically suggest they exercise their right to file a formal appeal. In this case, the man had spoken with a worker for the Department of Human Services. He said the worker explained the appeal process but speculated an appeal probably would not change the decision to cancel his son's Medicaid benefits.

Since the department has to give benefits while a case is under appeal, the worker had explained that the man would have to repay any benefits received in that period if his appeal was not successful.

The man asked us for advice. We encouraged him to appeal. If it was denied, we explained that he could then petition the DHS Director for an "exception to policy" (under DHS rules, exceptions to the department's rules may be granted in individual cases upon the director's own initiative or upon request). Six months later, the man reported that he lost his appeal but successfully petitioned for an "exception to policy."



Ombudsman's suggestion leads to better signage

The Des Moines International Airport has been undergoing considerable remodeling inside and out. The baggage claim area was recently expanded to include three large baggage carousels. A new parking garage is going directly across from the terminal and the exterior of the building is being remodeled.

One of our office's investigators travels frequently. Returning to Des Moines after a trip, she noted there were no signs indicating where the parking shuttle would pick up passengers. After looking around, the assistant went outside and joined a small group of other passengers who were also waiting for the shuttle. When the driver arrived, he picked

up the group but pointed out the waiting area was actually south of the building. As the shuttle drove past the terminal, the assistant noted the only sign indicating the shuttle stop was at the stop itself.

The assistant called the Director of Marketing and Business for the Des Moines Airport. He assured the assistant this problem would be remedied immediately.

There was no confusion when the assistant returned from the next trip. The signs directing people to the shuttle stop, rental cars, and so on were large and well marked.

City alters bus route to accommodate family

The husband of a disabled woman contacted us when his wife was refused access to public transportation. She wanted to ride with her children to school so she could help them make the bus connections.

The bus was equipped with a wheelchair ramp, but she was given a time restriction, which prevented her from riding with her children. The city was required to follow the federal guidelines, of securing the woman, and this took up to ten minutes, causing a delay in the bus schedule.

We contacted the City Manager while the family was trying to work out a suitable arrangement so she could ride with her children. Within a

week, the City Manager and the husband called our office to report that the woman was accommodated. The city altered the bus route within ten minutes, and now she could ride with her children.

Within a week, the city altered the bus route and the woman could ride with her children.

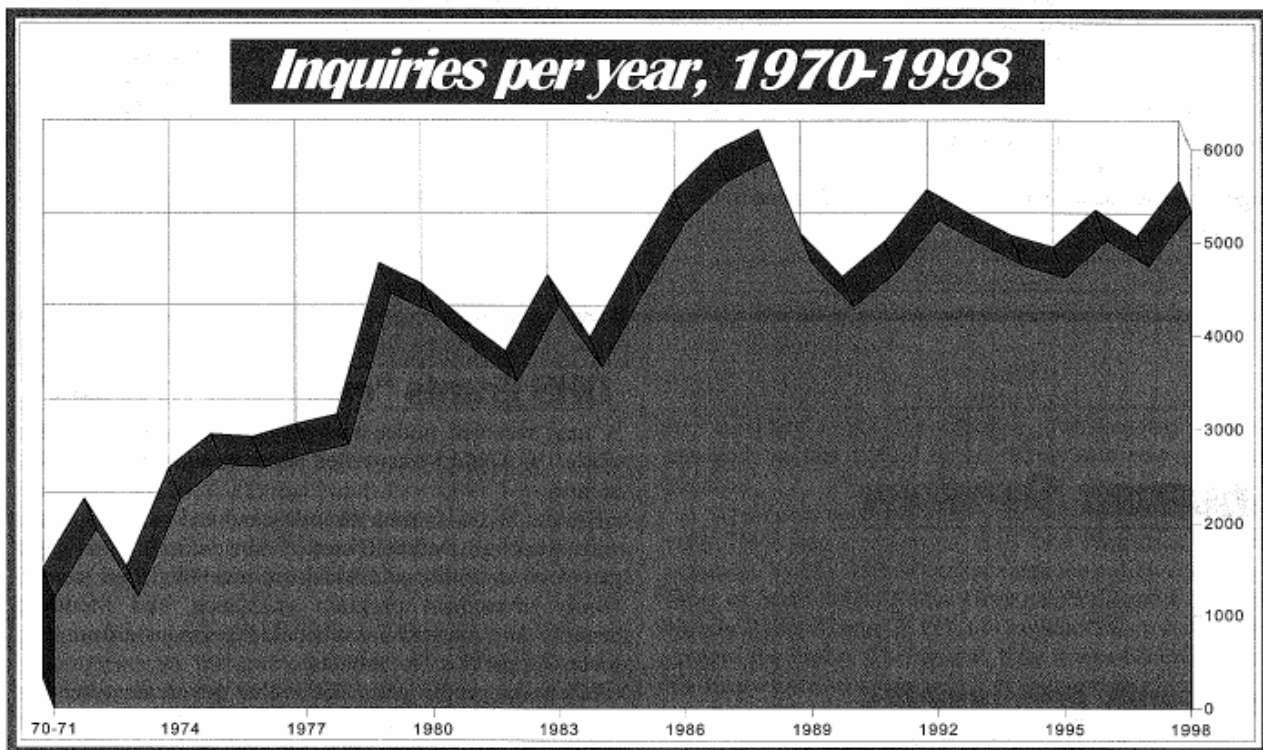
Appeal leads to lower rent payments

Receiving an eviction notice is never pleasant - especially when you don't deserve it. We were contacted by a woman who was being evicted because she allegedly had not followed the terms of her housing agreement with the city-operated rent subsidy program.

The problem started over two years ago when the woman got a job. This meant she should not be receiving as much money in rent subsidy. But due to miscommunication, she continued to receive the full payments. When the problem was discovered, the woman and the city agreed to set up a promissory note for \$1,675. Unfortunately, the city did not

draw up the promissory note for well over a year - shortly before the woman lost her job.

We argued that had the promissory note been drawn up in a timely manner, it would have been paid off before the woman lost her job. Based on this argument, the woman won her appeal and her rent payments were lowered to a manageable level. In addition, we were also able to confirm for the woman and her landlord, that she would not be evicted and her rent would be paid until the appeal process had been completed.



DNR (continued from page 1)

According to the report, an official with the State Health Department said sewage from communities without a central sewer system is a greater threat to public health than large-scale animal feeding operations, which have been the subject of intense debate the past few years. DNR replied it has no plan for addressing the issue of sewage from communities with no central sewer system.

The report has eight recommendations for DNR's Environmental Protection Division. Included is a recommendation to arrange for the inspection of unsewered communities and subdivisions to determine how many are in violation of the law, particularly the prohibition against

discharges to a water of the state without a permit from DNR.

AGENCY'S REPLY

In his response to the report, then-DNR Director Larry Wilson defended the agency's performance and disputed a number of the Ombudsman's findings and recommendations. "Resolution of a problem of this nature within three years is a relative success story, given our workload, resources, and other mandated priorities," Wilson wrote. A copy of his unedited reply is appended to the report.

Copies of the report and DNR's reply can be obtained from the Ombudsman's office.

Handy 800 numbers



STATE GOVERNMENT

Attorney General (Child Support Awareness Project)	1-800-374-5437
Blind (Department for the)	1-800-362-2587
Child Abuse/Dependent Adult Hotline	1-800-362-2178
Child Support Recovery Unit (Specialized Customer Service Unit)	1-888-229-9223
Civil Rights Commission	1-800-457-4416
Citizens' Aide/Ombudsman	1-888-426-6283
Collections Service Center (child support)	1-800-223-1302
Commission on the Status of Women	1-800-558-4427
Crime Victim Assistance Division	1-800-373-5044
Gambling Treatment Hotline	1-800-238-7633
Health Facilities Division (home health hotline)	1-800-383-4920
Human Services (Department of)	1-800-972-2017
Inspections and Appeals (Department of), Investigations Division	1-800-831-1394
Iowa Client Assistance Program (advocacy for clients of Vocational Rehabilitation and Blind Commission)	1-800-652-4298
Iowa COMPASS (information and referral for Iowans with disabilities)	1-800-779-2001
Iowa Waste Reduction Center	1-800-422-3109
Long Term Care Residents Advocate (inquiries about nursing facilities)	1-800-532-3213
Narcotics Division	1-800-532-0052
Prison Industries	1-800-332-7922
Radon Line	1-800-383-5992
Revenue and Finance (Department of)	1-800-367-3388
Senior Health Insurance Information Program (SHIIP)	1-800-351-4664
Small Business Development	1-800-532-1216
Small Business Liaison for Air Quality	1-800-351-4668
State Fair (number active only from June to end of fair)	1-800-545-3247
State Patrol Highway Emergency Helpline	1-800-525-5555
Tourism Information	1-800-345-4692
Transportation (Department of)	1-800-532-1121
Veterans Affairs Commission	1-800-838-4692
Utilities Board Consumer Services	1-877-565-4450
Vocational Rehabilitation Division	1-800-532-1486
Workforce Development Department	1-800-562-4692 TTY: 1-800-831-1399

ISU EXTENSION HOTLINES

Iowa Concern (stress counseling, money problems, legal questions and other areas)	1-800-447-1985
Healthy Families (questions and referrals on maternity health services)	1-800-369-2229
Home Economics (questions about home and family issues)	1-800-262-3804
Teen Line (information and referrals for teens)	1-800-443-8336

MISCELLANEOUS

AIDS Hotline	1-800-445-2437
Better Business Bureau	1-800-222-1600
Domestic abuse hotline	1-800-942-0333
Federal information hotline	1-800-688-9889
Iowa Protection & Advocacy (for people with disabilities and mental illness)	1-800-779-2502
Lawyer Referral Service (Iowa State Bar Association)	1-800-532-1108
Legal Services Corporation of Iowa	1-800-532-1503
Legal Hotline for Older Iowans	1-800-992-8161
Youth Law Center	1-800-728-1172



Giving credit where credit is due

An inmate complained he had not received credit for time spent at a residential correctional facility. After numerous inquiries by the inmate and his attorney, the records administrator at the prison and our office, the correct documentation still had not been received.

The residential correctional facility insisted they sent the jail credit statement to the Clerk of Court's office twice. With the credit, the inmate would be released within a week; but without it, he would have to serve three more months in prison.

Although the Clerk of Court's office is not jurisdictional to our office, we went there in hopes of resolving the problem. They said the document had been sent to the judge's office for his signature. A representative at the judge's office said the judge had promptly signed and returned the documents.

So we went back to the clerk's office and asked for a copy of the letter they had sent to the judge so we could hand-deliver it to the judge for his signature. A half hour later, the clerk's office handed us a certified copy of the court order verifying the inmate's jail credit.

We promptly provided the document to the records administrator at the prison and the inmate was released within a week.

IN A SIMILAR CASE, a work releasee believed some prior jail time he served should have been deducted from his Department of Corrections (DOC) discharge date. DOC staff had calculated his discharge date as being approximately one month away. However, according to his calculations, he should have already been discharged.

We contacted two DOC employees experienced in time computation processing. They explained that the jail time in question had been served in an out-of-state jail. The jail time was the result of this work releasee escaping from an Iowa DOC work release center. DOC gave him credit for the period of time between when DOC was notified of his jail incarceration and when DOC could schedule an out-of-state-trip to take custody of him.

To be thorough, one of the DOC employees, without our asking, happened to double check this complainant's entire DOC time computation record. And, in so doing, she discovered and brought to our attention an error of which the releasee had no knowledge or suspicion. He had not received credit for time served as a participant in the violators program at the Newton Correctional Facility.

The usual process would have been for him to write the clerk of court, asking that certified documentation of his time in that program be provided to DOC. However, this had not been done. This discovery brought to light the fact that this work releasee indeed should have already been discharged. And, for that reason, the DOC employee immediately facilitated getting the appropriate certification, resulting in the releasee's discharge yet that day.

We applaud the DOC worker's extra effort that resulted in correct results for this releasee.

Message from the prison ombudsman

Iowa's corrections "scene" in 1998 was dominated by the Sexually Violent Predator Act. By putting the Act into effect, the Legislature and Governor created a civil commitment procedure for certain sex offenders.



Assistant for Corrections
Judith Milosevich

This new law applies to three groups:

1. People convicted of a sexually violent offense who have served a sentence and are scheduled for release or discharge, or who have been released or discharged;
2. People convicted of a sexually violent offense and found to be incompetent to stand trial, who are going to be or have been released;
3. People found not guilty by reason of insanity of a sexually violent offense and are going to be or have been released.

Iowa joins the list of states which have mandated a review of sex offenders nearing the end of their sentences or who have some potential for release and who appear to have potential to re-offend. Six beds have been set aside for this program at the Iowa Medical and Classification Center at Oakdale. The Department of Human Services will administer the treatment program.

To keep informed about this program, I attended meetings of institutional treatment directors, community based facility directors, Board of Parole members, and staff from the Attorney General's Office. With the information gleaned from these meetings, we have been able to answer many questions from inmates who may be facing the commitment process.

ALSO IN 1998, the Department of Corrections (DOC) contracted with the State Public Defender to provide legal resource attorneys to the nine correctional institutions in Iowa through June 30, 1999. DOC tried this alternative instead of buying law books and supplements (or computers and compact discs) in hopes that inmates, after consulting with attorneys who can research the issues, won't file cases with little or no merit.

The change in prison legal libraries in

Iowa and other states is because of a U.S. Supreme Court case which originated in Arizona. The Court ruled that to win a claim of inadequate access to the courts, an inmate must prove he/she has suffered as the result of inadequate access to legal materials. The Court also stated inmates do not have the right to browse law books.

One interesting problem: The legal resource attorneys may find themselves in the position of advising inmates to sue DOC for inadequate legal resources.

IN THE LARGEST TRANSFER of its kind in Iowa history, DOC contracted with Virginia's DOC to house Iowa's women inmates. While our total population of women inmates is relatively small, the Iowa Correctional Institution for Women (ICIW) is our most overcrowded institution. (The situation should improve with a 100-bed special needs unit, scheduled to open in a wing of the Mental Health Institute at Mount Pleasant in early 1999. Also, a 200-bed unit is under construction at ICIW.)

I visited the Virginia institution where our inmates are housed. It appeared to be a clean, well-run, professionally staffed institution. The inmates expressed few complaints about the conditions, though they were unhappy about the separation from home and families. They had many questions about information being forwarded to appropriate agencies. Iowa's DOC established a teleconference and invited my participation so we could discuss complaints about medical co-payment issues, property issues, and program and work opportunities. The teleconference resulted in many solutions. I reported the results through a memorandum for distribution to all Iowa inmates housed in Virginia.

DOC established a process by which information regarding inmates' overall behavior, adherence to institutional rules, and participation in treatment programs would be forwarded to the Iowa Board of Parole in a timely manner so that no inmate would be denied release based upon incomplete information.

Phone access leads to more complaints

For several years, inmates at the Iowa State Penitentiary (ISP) could call our office's toll-free number. It was unclear why inmates at the other institutions could not do so as well.

But this changed about two years ago. We learned an ISP inmate tried to call our toll-free number but got a message saying the line was blocked.

At the time, the Department of Corrections (DOC) had recently gone to another long-distance company to provide the system for inmate phone calls. We contacted DOC, which confirmed our toll-free number was now blocked at ISP. In fact, they were surprised it hadn't been blocked all along.

We explained to DOC that it would be important to allow inmates at all state

institutions to have phone access to our office. Such access would allow inmates to contact our office immediately in the event of emergency issues affecting their health and/or safety.

About a year later, DOC arranged to install a dedicated phone line allowing inmates at all institutions to call our office. DOC pays for the access line from each institution out of the telephone rebate money. Each call is forwarded to our toll-free number.

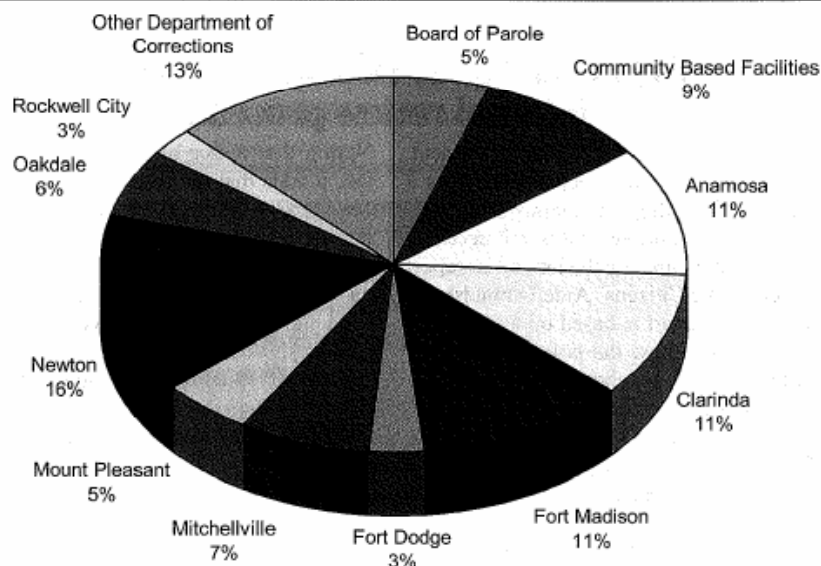
It appears this greater access has at least partly accounted for an increase in the number of contacts we receive from inmates. In 1997, before inmates had phone access to us, we had 980 contacts about DOC. The number increased to 1,134 contacts in 1998.

Prison addresses wet kitchen floors

An inmate called to complain about unsafe working conditions in the institution's kitchen. The floors get wet and there were no mats to prevent slipping. Compounding the problem was an old knee injury. He brought this to the attention of a correctional officer, who in turn was told by kitchen staff that there were not going to be any mats in the kitchen.

We contacted the deputy warden. He agreed that the inmate should not be working in the service line considering his disability. He also said the safety director for the institution had recently recommended mats in the kitchen and that the institution would be following through with that recommendation.

Sources of Corrections complaints



This chart shows the proportion of contacts closed by the Ombudsman's office in 1998 involving the various institutions of the Department of Corrections.

Hearing not held, man released from jail

A man was arrested on a warrant charging him with violating his parole. He was held in a county jail.

In such cases, a court hearing must be held within a certain timeframe (where a judge determines whether to revoke the person's parole). But in this case, the deadline passed and no hearing was held.

The man wrote to our office, claiming he should be released from jail. We checked and found that indeed, the hearing had not been held and the deadline had passed. We also found that his parole officer didn't even

know he was in jail.

We contacted staff with the Department of Corrections (DOC). They viewed this as a serious error and immediately ordered that the man be released from jail.

We later learned that the inmate's name had been put on a jail list which went to parole services for review. While it was policy that the list be reviewed by a parole officer or their supervisor, that did not happen in this case. DOC said the requirement would now be enforced.

Disabled inmate gets shower with hand railings

A man with a disability wrote that he fell and injured himself in the shower at a county jail. As a below-the-knee amputee, he was concerned that the shower lacked "non-slip strips" and did not have any hand railings. He feared he might fall again.

We called the jail. In light of the man's

fall, they had already made arrangements to install hand railings in the shower. But it was going to take another two weeks.

As a result, the jail agreed to move the man to the infirmary (where the shower had hand railings) for the time being.

Can we meet...

... with your organization or group? Staff from the Ombudsman's Office are available to give talks about our services and the kinds of complaints and problems we deal with. A video about the office is also available. Brochures and newsletters are available in quantity.

Citizens' Aide/Ombudsman
Capitol Complex
215 East Seventh Street
Des Moines, Iowa 50319-0231
1-888-426-6283 (515) 281-3592
FAX (515) 242-6007
TTY 1-888-426-6283 or (515) 242-5065
Internet: Ombud@Legis.State.Ia.US



Law enforcement

Unsupervised inmate stumbles back to jail after trip to party

Some complaints are so bizarre, we have trouble believing any of the information could be true. Such was the case with the complaint that a jail inmate was let out long enough to go to another town and watch the Super Bowl at a bar, unsupervised.

The inmate was serving a 40-day sentence after a judge found him in contempt for not completing "batterers class" following a conviction of domestic abuse assault. He was seen by someone who knew he was supposed to be in jail.

When we started asking questions, the sheriff agreed it was a bad idea to release the inmate unsupervised. "We're just lucky nothing happened," the sheriff told us.

That might be an understatement. While he was out, the inmate did not commit any criminal offenses or engage in any other activity which would have forced the sher-

iff's department to publicly explain why it temporarily released an inmate without supervision.

The potential for problems was underscored by information indicating the inmate left the county seat with his father and was seen at a bar in a town 18 miles away, drinking beer and watching the Super Bowl. What kind of liability judgment would the county have faced if there had been an accident, with injuries, in which the inmate was at fault and was above the legal limit?

Fortunately, he returned to jail a few hours later, though he reportedly smelled of cologne and was observed to stumble. The sheriff assures us it won't happen again.

Complaint leads to man's arrest

A woman said her ex-husband had been violating a "no-contact" order. It prohibited him from contacting her or their children. But he had telephoned them several times.

She had reported the incidents to the county sheriff and showed him a copy of the court order. But the sheriff suggested she contact her attorney and refused to arrest her ex-husband.

We called the sheriff. He said that normally, he would have arrested the man. But the sheriff recently made an arrest in a

similar case only to have a magistrate judge revoke the arrest warrant. Before making another such arrest, he wanted to consult with the county attorney, who was gone for the week.

Based on the sheriff's admission that the woman's report contained credible information that the man had violated the court order, we suggested it was the sheriff's lawful duty to arrest the man. The sheriff offered to do so and had the man arrested.

Should mentally ill be able to buy guns?

Should someone with a history of mental illness be able to buy guns? Under Iowa law, the answer may not be as clear as you might expect.

The question came out of a complaint from a man who was diagnosed with paranoid schizophrenia in the early 1980s. He had recently applied for a permit to acquire a pistol or revolver, under Iowa Code section 724.15(1).

The county sheriff had denied his application but didn't give a reason. The man suspected it was because of his psychiatric history. But he said the law didn't list that as a reason to deny his application. So he contacted us.

In part, the law says that a permit "shall not be issued to any person unless ... [t]he person has never been adjudged mentally incompetent" (one of six requirements listed). The man was never adjudged mentally incompetent, so he said the sheriff was required to approve his application.

Further, the man noted that an adjacent county had approved his application for a permit to acquire. The man was able to buy at least several guns, though that county revoked the permit after receiving additional information.

We contacted the sheriff. He confirmed his denial was based on the man's

psychiatric history.

We wrestled with the issue of whether the sheriff had enough basis to lawfully deny the man's permit. When we asked the sheriff to clarify the reasons for his denial, he gave a second reason: The man had a history of repeated acts of violence (another disqualifying factor under Code section 724.15).

The sheriff provided documentation showing the man had kicked his brother in 1978 and had threatened to kill the former sheriff in 1981. We found this information gave the sheriff sufficient basis under law to deny the man's permit application.

If not for those incidents, it's unclear how this case would have proceeded. We discussed the situation with an assistant county attorney, who agreed the law could be made more clear.

Should mental illness be a factor in deciding if someone can have a permit? To what extent should mental illness be a factor? What if someone was mentally ill years ago but is no longer mentally ill?

We found plenty of questions. But with no similar cases on which to base any changes, we decided not to make a formal recommendation to the General Assembly.



EXTRA MILERS

Public employees we recognize as special because they deliver top quality service

- Steve Gunson, Assistant to the Des Moines City Manager — for being a responsive and caring public administrator.
- Dick Hendrickson, Compliance Officer II, Department of Transportation (retired in December 1998) — for always patiently answering our questions, explaining the process in great detail, and his incredible knowledge of state law.
- Terry Mapes, Deputy Warden, Clarinda Correctional Facility — for being prompt, professional, fair and responsive in the management of his institution.
- John Mathes, Warden, Newton Correctional Facility — a public administrator with high standards of responsibility and accountability.
- Robin Menuey, Mayor, City of Harlan — for taking those "extra steps" to ensure government is open and understandable to the citizens of her community.
- Rosemary Norlin, Registry Review Program Manager, Department of Human Services — for being thorough and prompt in providing information about child protection cases.

Report critiques Des Moines police internal review process

Seven years after the Larry Milton incident, the Des Moines Police Department does a better job of handling complaints about officers, but more improvement is still needed.

That's the main conclusion of a report released by the Citizens' Aide/Ombudsman. The 24-page report is based on a follow-up investigation of how the police department handles complaints about officers, which the Ombudsman initially reviewed in 1992 following the controversial arrest of Milton.

The report says the department has made several improvements, including creation of a five-member committee which reviews proposed dispositions. But initial findings and recommendations are still made by an officer's bosses — called the "chain of command" — before going to the Police Chief, then to the committee and ultimately to the City Manager, who makes the final decision.

Just as he found in 1992, the Ombudsman says the involvement of the "chain of command" conflicts with standards set by two independent law enforcement organizations, which recommend that internal affairs units report directly to the police chief on serious complaints. "Whether gathering information or recommending a disposition, a supervisor might be motivated to ensure complaints are not sustained, including those that have merit," the report says.

The Ombudsman's follow-up investigation included a "customer satisfaction" survey of people who filed formal complaints with the police department in 1996. The responses showed:

- 70 percent said the internal affairs unit showed favoritism to fellow officers "sometimes" or "most of the time."
- 67 percent were dissatisfied with the explanation of the final decision.
- 61 percent were dissatisfied with how the unit handled their complaint.

"Significantly, all of these 'negative' majorities included a majority of people who had a complaint sustained," the report says.

Noting that police already have a difficult job, it adds that the responses indicate officers in Des Moines "are additionally burdened by a public perception that formal complaints about them are not handled adequately and fairly."

On the positive side, survey participants gave positive ratings for:

- Office structure (i.e., hours, location, availability).
- Treating people with politeness and respect.
- Getting to formal complaints in a timely manner.

As in his 1992 report, the Ombudsman again recommends the department stop involving the "chain of command" in reviewing misconduct complaints. "While it certainly appears changes are needed, the Ombudsman is not advocating change to the degree of establishing an independent panel of citizens to review complaints alleging serious misconduct," the report says. "However, should the Des Moines Police Department and city leaders fail to take any corrective action in light of these findings and recommendations, such failure may actually increase the chances for a civilian review board to be established."

AGENCY'S REPLY

In his reply to the report, Police Chief William Moulder says the department's internal affairs unit does report directly to the chief of police, and that involving the "chain of command" complies with a policy statement by one of the two independent law enforcement organizations referenced in the Ombudsman's report.

A copy of Chief Moulder's unedited, six-page reply is appended to the report, as well as the Ombudsman's three-page comment to that reply.