



OMBUDSMAN'S REPORT



Annual report of the Iowa Citizens' Aide/Ombudsman

2001

May 2002

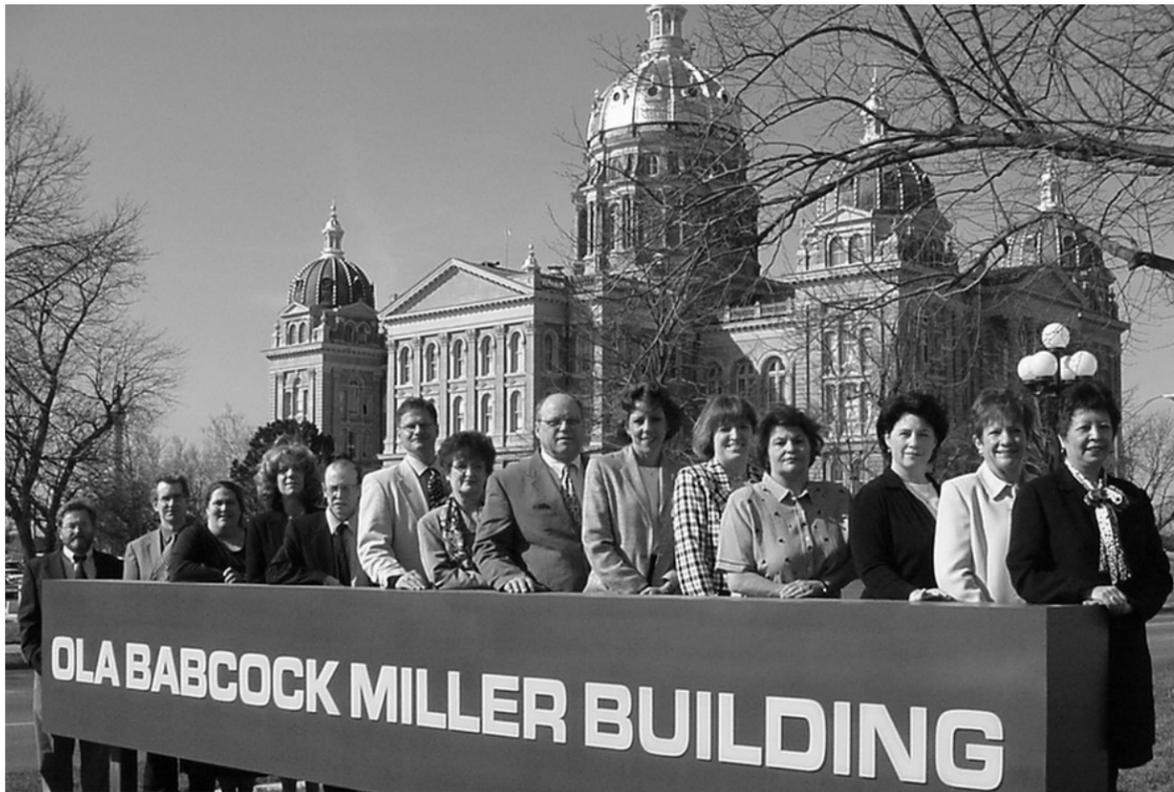


Photo by Craig Cronbaugh, Legislative Information Officer

Message from the Ombudsman



Bill Angrick

2001 was another busy year for the Citizens' Aide/Ombudsman. We received 5,800 new contacts during the year. Those requests for information and complaints about government reflected the same general distributions and patterns seen in recent prior years. The most numerous complaints were about corrections issues: Prisons, parole, work release, community based corrections, probation and jails. Next in number were those involving the Department of Human Services, especially: Child support collection, child protection and various welfare assistance programs. County government and city government each made up the next most frequent contacts brought to the Ombudsman during the year.

I had hoped 2001 would be a year of recovery, so we could catch up with many open cases, ongoing investigations and unfinished projects. My hopes were not completely realized, although some progress was made. While the number of new contacts were down somewhat from the previous record year, they still accounted for significant staff time and agency resources.

During the year, Deputy Ombudsman Ruth Cooperrider appeared before several meetings of two different interim legislative committees as the General Assembly explored issues about child protection in Iowa, including the Ombudsman's recommendation for a centralized intake system for child abuse and neglect. A centralized system was and remains the primary recommendation coming from the ombudsman's investigation and report of the way DHS handled complaints and reports about Shelby Duis. Deputy Cooperrider also chaired the Child Support Advisory Committee during the year.

In Spring 2001 I was asked to investigate circumstances surrounding the "aging out" of Reggie Kelsey, a young man who spent most of his life in various foster care placements before leaving state custody, and shortly after his 18th birthday, was found dead in the Des Moines River. While the Ombudsman's investigation remained in progress at the year's end, state legislators moved to address a fundamental problem of the foster care system by requiring coordinated state and local transition planning from age 16 of persons in the system.

ANGRICK (Continued on page 3)

We're next to the Capitol now!

Iowans with complaints about government should have an easier time finding the state agency established to help them.

In late November 2001, the Iowa Citizens' Aide/Ombudsman moved to the newly-renovated Ola Babcock Miller Building, directly north of the State Capitol Building on Grand Avenue. The building is commonly referred to as the Old State Historical Building. It was renamed three years ago in honor of Ola Babcock Miller, a former secretary of state who founded the Iowa State Patrol.

State Ombudsman Bill Angrick and his staff occupied the first floor of the building's west wing, effective Wednesday, November 28. The street address is now 1112 East Grand Avenue (Des Moines, Iowa 50319). The office will continue accepting complaints in person. Visitor parking and handicapped access is on the north side of the building. (The office's phone numbers and Internet e-mail address are unchanged.)

The move was prompted by long-term plans to demolish the small building that the office had occupied at 215 East Seventh Street since 1988.



Ola Babcock Miller Building

How to reach Ombudsman

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or (515) 281-3592

E-mail: ombudsman@legis.state.ia.us

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TTY: (515) 242-5065

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Des Moines, Iowa 50319-0231

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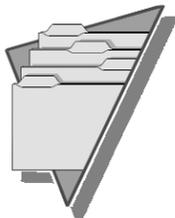
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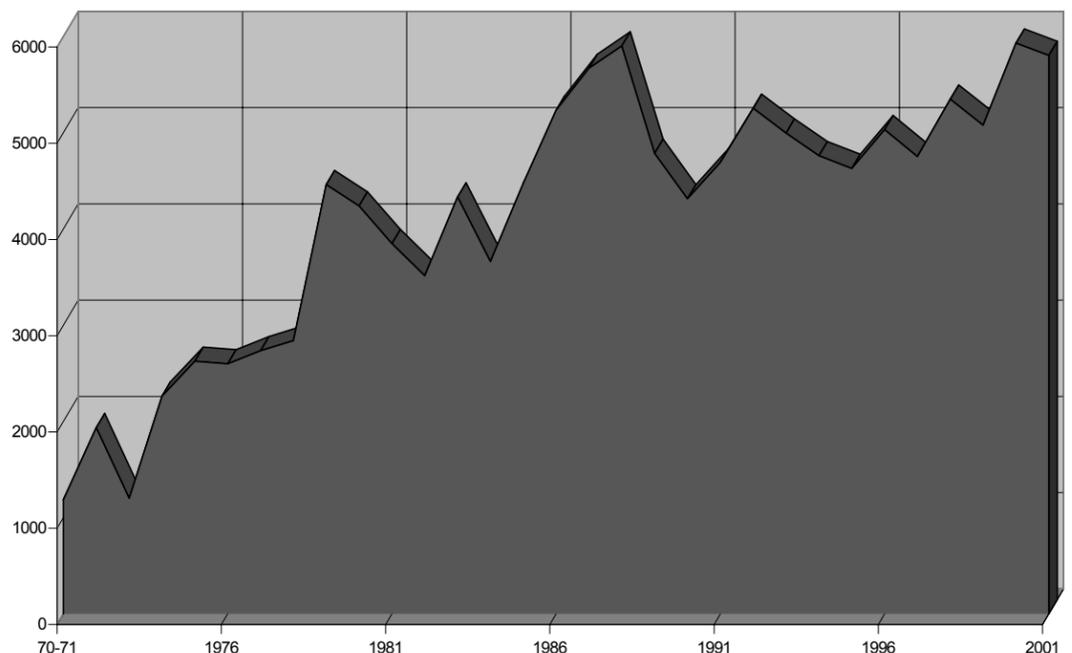
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Annual contacts to Ombudsman since 1970



This chart shows the number of contacts received by the Ombudsman's office for each year from 1970 through 2001.

Message from Iowa's first public records ombudsman

Publicity invites company — and plenty of it.

When I stepped into the role of assistant citizens' aide ombudsman in July, I already had my first call waiting about a public record that a government agency would not release. It was the first of many complaints and inquiries I received — and the volume of complaints does not seem to be on the wane.

I had joined the ombudsman's office in the newly created role to handle contacts about public records, open meetings and privacy; or PROMP, for short. The appointment followed the Legislature approving the new position, after a well-publicized series of newspaper articles that showed compliance with open records requests at the local level was poor, with officials often challenging legitimate requests for open records.

Has the situation improved since I have been on the job? It is difficult to say, but I do know that I have made my best attempt to reach out to local officials, including sheriffs, jailers, city and county clerks and county supervisors to let them know that allowing access to public records is an important part of their public trust.

I visited with these officials in presentations I have given since I began the job. For the most part I found the audiences receptive to my message. Most recently, some county supervisors took my advice when they pondered whether they could charge two groups of people different rates for access to public records on the Internet. In a presentation, I told the supervisors that charging two different rates was not supported by the open records law. The supervisors carried that message to a county conference board, and the two-tier plan was eliminated.

How much officials can charge for copies still pre-



PROMP
ombudsman
Robert
Anderson

dominates as the number one source of complaints and questions about the open records law. Iowa Code section 22.3 says the fee for copying as determined by the custodian "shall not exceed the cost of providing the service." But reasonable fees may be charged to recapture the cost of supervisory work needed to retrieve and allow access to records. Some jurisdictions have allowed their fees for copying to climb to a dollar, two dollars and more. In one instance, the *Des Moines Register* challenged high fees in the courts. The paper reached a settlement dramatically lowering the costs of copying some local records. In my short time in this position, I have educated officials that our office can and will investigate complaints about high and unjustified copying



Public records

costs.

The number two problem appears to be access to law enforcement records, particularly police reports. On the upside, I have found that several law enforcement officials are aware that they can release records such as police reports, as long as confidential information is withheld. On the downside, I am still investigating a case in which law enforcement agencies are refusing to release police reports that are clearly public records. The biggest problem overall is that law enforcement agencies don't have a uniform response to these public records requests.

In the wake of September 11, a third issue about public records has emerged — how to shield information about state, national and local infrastructure, which could create an opportunity for another terrorist attack. A new

law that goes into effect in July 2002 will restrict records of airports, municipal utilities or rural water districts, where disclosure could "reasonably be expected to jeopardize the security or the public health and safety" of citizens. This new law will be repealed automatically within five years. Although the implementation of such measures seems a necessary component of homeland security, I still believe that questions could emerge about when a document or records could "reasonably be expected" to cause danger to security. I will closely monitor the law, when it becomes effective.

Not only has the ombudsman's office stepped up its role on open records questions, but the state Attorney General's office has begun releasing its "Sunshine Advisory," an occasional bulletin on key issues in the public records and public meetings laws that is circulated to state and local government offices, as well as to the media. Both I and officials of the attorney general's office have participated in presentations to educate officials about these issues. I believe this working partnership with the attorney general's office in education and publicity is the best way to improve compliance with the public records and open meetings laws.

Pawnshop records are confidential

A pawnshop owner complained information she released to a local police department subsequently had been released by the department to a customer's ex-husband. The police chief admitted the information had been inadvertently released, when the chief, the custodian of records, had not been in the office. But the chief also said he was uncertain whether the pawnshop records always could be withheld from the public. He asked for our help in getting a definitive answer.

After consulting with the Iowa Attorney General's office, we discovered that pawnshop records are considered "intelligence data," which can be used to track possible future criminal actions. Iowa Code 962.18 states: "Intelligence data in the possession of the department or bureau, or disseminated by the department or bureau, are not public records within the provisions of chapter 22 [the public records law]."

Further, Iowa Code section 692.8 states that intelligence data may be given only to "a peace officer, criminal or juvenile justice agency or federal regulatory agency" and only if the need to know is reasonable.

We informed both the police chief and the complainant about the confidentiality of these pawnshop records.



Local government

Towns should plow everyone's streets

A pre-Christmas snow had fallen on a small town. A snow plow cleared all the streets, except for two.

A man who lives at the corner of those two streets called our office. He said city officials don't like him. He thought it was more than a coincidence that this happened at his corner.

We initially suggested he report the problem to the city clerk. But the caller informed us of a "no contact order" prohibiting him from having any contact with the city clerk. We then suggested he contact the mayor, and call us back if the mayor didn't resolve the matter.

He called us back the next day. The mayor agreed to have one of the streets plowed. But the mayor wouldn't have the other street plowed because it is owned by the railroad, not the city.

We immediately called the mayor. He confirmed it was his understanding the second street was not the

city's responsibility because it was owned by the railroad. The mayor added that the man "is trouble" and encouraged us to verify this with the police chief. We noted that whether a person "is trouble" or not should not be a factor in deciding whether to plow a street. So the mayor referred us to the city attorney.

We then called the city attorney. He checked into this and called us back that same afternoon. He said the city would plow the street either that day or the next day.

The city attorney said his research could not find a definitive answer on whether the street was owned by the railroad or the city. Rather than conducting further legal research, he said the mayor agreed to have the street plowed on an ongoing basis.

We relayed this information to the caller and asked him to let us know if there were any further problems. We have not heard from him since.

Open for business

A vendor at a local farmer's market complained her licensing requirements had changed. She said the new fee was too expensive and would force her to quit.

Our office reviewed the situation and discovered there had been a change in the law two years prior. More importantly, we found the county had been issuing the wrong license to this vendor — a less expensive temporary permit — since the law had changed.

A special meeting was held consisting of stakeholders and government officials from both the county

and the state. It was noted that the Department of Inspection's (DIA) rules conflicted with state law because they allowed for a 14-day temporary permit and the law only allowed an annual license. We proposed passing an emergency rule to change the temporary permit and the associated fees to an annual permit (and fee) until this issue could be addressed and corrected by the Legislature. A new law has since been passed correcting the problem.

Grass grows greener

Our American bureaucracy sometimes fails to resolve relatively minor problems in a timely fashion. This was the case for a homeowner who had been trying for more than two years to get city officials to repair his driveway approach.

His water line had broken during a cold snap. Water works employees tried to shut the water off, but inadvertently broke the "stop box." They had to dig out part of the driveway approach to replace it.

The homeowner was initially led to believe the driveway approach would be restored to its previous condition. But the project kept getting pushed back. The man became angry when the city's public works department said that nothing would be done to the damaged

area, because his driveway approach was illegal.

The man complained to our office. We contacted city officials and obtained photos of the site. We reviewed a city ordinance and found that vehicles would indeed be violating city law if parked on the driveway approach (because they would be blocking the sidewalk). As a result, we agreed that the city was not obligated to repair the approach, and we explained this to the homeowner.

However, the photos also showed that next to the approach was a small area of dirt in a state of disrepair — including rocks and cement spillage remaining from the project more than two years prior. At our suggestion, city officials agreed to clean and reseed the area off to the side of the approach.

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LAURA HEEMSTRA, SECRETARY RECEPTIONIST
[WENDY L. SHEETZ, ASSISTANT III, RESIGNED IN 2001 AND JUDITH L. GREEN, FINANCIAL OFFICER, RETIRED IN 2002]

This publication was released by the office of the Citizens' Aide/Ombudsman, which printed 2,500 copies at a cost of 52 cents per copy, to provide an annual report to the legislature, the governor and the public.

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 bipartisan, 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 ascertainties of fact.
- Based on improper motivation or irrelevant consideration.
- 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.

ANGRICK (Continued from page 1)

In mid-December, the Legislative Council of the General Assembly directed the Ombudsman to assume administrative responsibility for the Court Appointed Special Advocate (CASA) program. CASA operates in 30 counties and all 8 Judicial Districts. The Court assigns an advocate to objectively investigate the circumstances of an abused, neglected, or delinquent child and report to the judge regarding placement and services for the child. CASA has operated in Iowa for 15 years. It was determined by leadership of the Judicial Council to be an optional program when the courts were faced with implementing a 4.3% budget reduction in November 2001.

The Legislative Council, in response to public pleas to save the program, directed the Ombudsman to administer CASA for the remaining five months of fiscal year 2002 and provided a \$500,000 appropriation to do so. Familiarizing ourselves with CASA, its operation and incorporating its personnel in 13 different office locations and its over 600 volunteers, overseeing the relocation of the state program from off-campus rental space to the state complex, migrating the program from its mixed private and judicial computer systems to a mixed private and legislative system, plus working with legislative and CASA stakeholders to find a permanent home for CASA after June 30, 2002 have been a significant series of ongoing challenges.

In late 2001 the Ombudsman agreed to investigate, upon referral from the Secretary of State, a complaint that the Polk County Redistricting Commission and Polk County Board of Supervisors adopted a redistricting plan flawed by considerations of partisanship and incumbency. Even though the original Polk County plan has been replaced by the Secretary of State with a plan developed by the nonpartisan Legislative Service Bureau, the allegations of inappropriate consideration remain and the complaint is under investigation by my office.

In early 2002, longtime Citizens' Aide Financial Officer, Judy Green, retired after 27 years with the office. Judy diligently and professionally managed the office financial and personnel business for three different ombudsmen during her tenure. Her quiet competency will be missed and her contributions will be remembered. The Ombudsman staff also lost a valued 10-year veteran assistant when Wendy Sheetz resigned to pursue an opportunity with the Department of Human Services.

In July, I created, with Legislative Council approval, a new position — the specialty of assistant for public records, open meeting and privacy (PROMP). I selected Robert Anderson of the University of Missouri Freedom of Information Center and a former award-winning newspaper reporter, to be Iowa's first freedom of information assistant. Robert's time has been spent learning the role of an investigative ombudsman, familiarizing himself with Iowa freedom of information law and practice, making presentations to government officials and organizations, and responding to questions and com-

2001: Complaints Opened by Agency

Department or Agency	Jurisdictional complaints	Non-juris. complaints	Information requests	Pending	Total	Percent of total
Agriculture & Land Stewardship	2	0	2	0	4	0.0%
Attorney General/Department of Justice	9	0	48	2	59	1.0%
Auditor	0	0	3	0	3	0.1%
Blind	2	0	0	0	2	0.0%
Citizen's Aide/Ombudsman	4	0	23	0	27	0.5%
Civil Rights Commission	17	0	14	1	32	0.6%
College Aid Commission	6	0	1	1	8	0.1%
Commerce	9	0	28	5	42	0.7%
Corrections	1698	0	262	141	2101	36.2%
Cultural Affairs	0	0	3	0	3	0.1%
Economic Development	0	0	5	0	5	0.1%
Education	9	0	8	1	18	0.3%
Educational Examiners Board	1	0	0	0	1	0.0%
Elder Affairs	0	0	46	1	47	0.8%
Ethics and Campaign Disclosure Board	0	0	1	0	1	0.0%
Executive Council	0	0	0	0	0	0.0%
General Services	0	0	2	0	2	0.0%
Human Rights	0	0	1	0	1	0.0%
Human Services	451	0	83	78	612	10.6%
Independent Professional Licensure	2	0	2	1	5	0.1%
Information & Technology Services	0	0	0	0	0	0.0%
Inspections & Appeals	12	0	12	1	25	0.4%
Iowa Communication Network	0	0	1	0	1	0.0%
Iowa Finance Authority	0	0	2	0	2	0.0%
Iowa Public Television	0	0	1	0	1	0.0%
Law Enforcement Academy	0	0	1	0	1	0.0%
Lottery	1	0	0	1	2	0.0%
Management	2	0	0	0	2	0.0%
Natural Resources	15	0	2	3	20	0.4%
Parole Board	51	0	40	6	97	1.7%
Personnel	6	0	2	0	8	0.1%
Professional Teachers Practice Commission	0	0	0	0	0	0.0%
Public Defense	0	0	0	0	0	0.0%
Public Employees Relations Board	0	0	0	0	0	0.0%
Public Health	8	0	16	4	28	0.5%
Public Safety	18	0	10	3	31	0.5%
Regents	23	0	3	2	28	0.5%
Revenue & Finance	56	0	16	6	78	1.4%
Secretary of State	2	0	3	0	5	0.1%
State Fair Authority	1	0	0	0	1	0.0%
State Government (General)	17	0	217	10	244	4.2%
Transportation	54	0	21	10	85	1.5%
Treasurer	2	0	0	0	2	0.0%
Veterans Affairs Commission	4	0	0	1	5	0.1%
Workforce Development	36	0	30	4	70	1.2%
State government - non-jurisdictional						
Governor	0	4	4	0	8	0.1%
Judiciary	0	172	32	3	207	3.6%
Legislature and Legislative Agencies	0	6	7	0	13	0.2%
Governmental Employee-Employer	0	33	2	0	35	0.6%
Local government						
City Government	359	0	55	82	496	8.6%
County Government	398	0	45	77	520	9.0%
Metropolitan/Regional Government	8	0	3	4	15	0.3%
Community Based Correctional Facilities/Programs	159	0	17	16	192	3.3%
Schools & School Districts	29	0	2	3	34	0.6%
Non-Jurisdictional						
Non-Iowa Government	0	85	47	0	132	2.3%
Private	0	341	92	6	439	7.6%
Totals	3471	641	1215	473	5800	100.0%

plaints. His column is on page two of this report.

In an effort to manage office workload and resources and to better prioritize our cases, in February 2002, after carefully analyzing the nature of our caseload, I ended the practice of accepting toll free telephone calls from inmates in Iowa's prisons. The practice had evolved as a way to efficiently and cost effectively receive and respond to the complaints and issues about Iowa's prisons. It allowed my staff to quickly clarify the issue being raised, to separate serious from frivolous complaints, to avoid costly trips to Iowa's institutions, and reduced the time and costs of writing letters to inmates who raised issues to the Ombudsman. These open lines certainly contributed to the increasing complaints and inquiries in recent years. But it also created a skewed concentration of effort with an ever-increasing portion of staff re-

sources being spent on corrections issues. Corrections complaints can be extremely important, but many are also premature or trivial. The volume of these calls impacted the staff time available for my office to concentrate on the investigation of significant and systemic issues and complaints. As a result of my decision I expect the numbers of contacts my office receives in calendar year 2002, and in future years, will decrease. But I also expect my staff will be able to handle individual cases more quickly. I intend to use those resource "savings" to focus on investigations, reports and recommendations that are important to Iowa's citizens, policy makers and other stakeholders. Please let me know how well we're able to meet your needs and expectations as I implement this refocusing of the Ombudsman's efforts.



DOC inmate jobs reviewed

We received a complaint about the hiring process of inmates for job openings with Iowa Prison Industries (IPI). We contacted IPI and interviewed several staff who make the actual hiring decisions. We also toured the IPI shops at one prison, and spoke with IPI staff as well as inmate employees.

During our inquiry, we began comparing the numbers and percentages of African-American inmates at particular DOC facilities with the numbers and percentages of such inmates employed by IPI at those particular facilities.

We compared the numbers and percentages in August 1999, June 2000, August 2001, and again, in January 2002. Our review showed the numbers and percentages of African-American inmates employed by IPI matched or came close to the numbers and percentages of such inmates at most facilities.

One notable exception is the Anamosa State Penitentiary (ASP). In August

1999, 27.3% of the inmates at ASP were African-American, but only 14.5% of the inmates employed in Traditional Industries were African-American. In June 2000, the percentages improved — 26.8% of the inmates were African American and 17% of the Traditional Industries workforce was African American. The percentages improved even more by August 2001 — 26.5% and 24%, respectively. But by January 2002, the gap had increased again — 25.9% and 12.1%, respectively.

During our inquiry, IPI's director expressed a commitment to maintaining a workforce free of discrimination. He also said he was willing to consider any suggestions we might have for improving the hiring process.

Based on this information, we will continue, on an intermittent basis, to review this data. Beginning this year, we will also review the data for inmates who belong to other minority groups.

Disabled inmate accommodated

People with Multiple Sclerosis (MS) can experience muscle weakness in their extremities and problems with coordination and balance. These symptoms may be severe enough to impair walking or even standing. This was the case for a prison inmate with MS who called us.

He said the prison was making him sleep on the lower bunk. This meant he needed help in getting up or he had to crawl on to the floor and use the sink to pull himself up. A doctor at another prison had given him a middle bunk restriction but since he was transferred, prison staff at the new location interpreted the doctor's note to mean that the inmate was capable of sleeping in a middle bunk or anything lower. The inmate's requests to get this clarified with the doctor had not been responded to.

We immediately contacted the prison and the inmate's counselor assured us that the inmate would be assigned a middle bunk. We also called the unit manager and verified the inmate was no longer going to be required to use a lower bunk and we later confirmed he was scheduled to be seen by a doctor.

DOC says "I do" to inmate marriages

Several inmates complained to us that the Department of Corrections had denied their requests to marry private citizens while in prison.

Under a 1997 DOC policy, marriages required warden approval. The policy provided guidance suggesting wardens consider factors such as the nature and duration of the relationship, marital histories and criminal history, including abuse.

We researched case law and found a 1987 U.S. Supreme Court decision (Turner v. Safley) which held that marriage is a constitutional right. It indi-

cated DOC could not reject and deny a marriage request unless the warden's rejection was reasonably related to a legitimate security issue.

We shared this case with DOC and suggested it modify the marriage policy to be consistent with the decision in Turner v. Safley. DOC reviewed the issue further and ultimately adopted a new marriage policy which is consistent with the Supreme Court case. The new policy encourages couples to take at least one counseling session and places the burden on the couple for paying all expenses related to the marriage ceremony.

We found a 1987 U.S. Supreme Court decision which held that marriage is a constitutional right.

"You broke in to *whose* house?"

An offender contacted us regarding his new cellmate who was moved into his cell the previous evening. While acknowledging he's in prison, and unwelcome adjustments to his lifestyle are expected (including not being able to pick your cellmate) he said this new cellmate was more than he could handle.

His new cellmate was in prison on a

burglary charge. This was nothing unusual. The real issue, however, was the victims of his burglary were the complainant's parents.

The offender who called us was trying to control the animosity he was feeling, but was unsure how long he would be able to control his anger. He thought it unreasonable that he should be forced to share a cell with a man who burglarized his parents' home.

We made a call to prison officials. After verifying the accuracy of the information, the new cellmate was moved to another cell that same day.

Bookkeeping error resolved

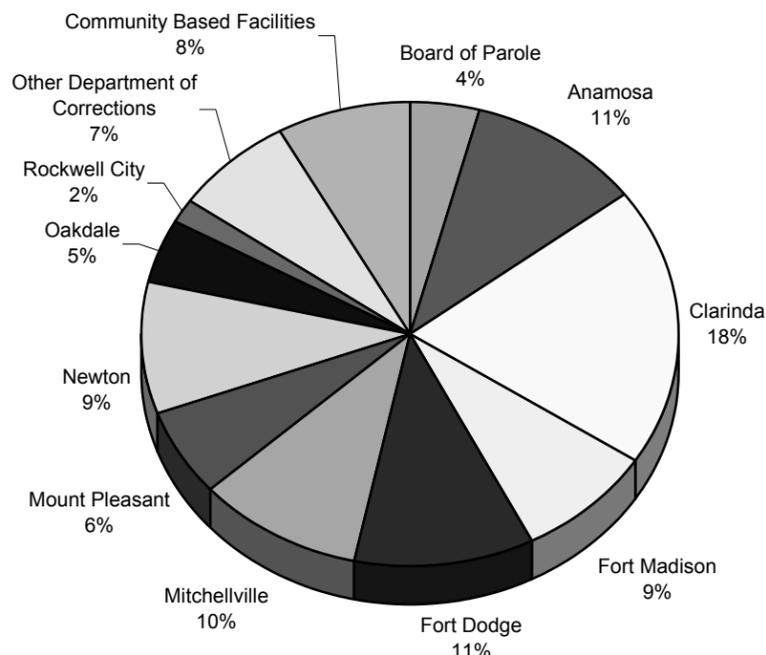
A woman re-entered the Iowa Correctional Institution for Women (ICIW). She was notified that she owed money from the last time she was incarcerated there.

She tried to get an explanation from the bookkeeping department, but was not successful. She was told the bookkeeping department could research her debt, but it would cost her \$10 for this service. She contacted our office and we began making an inquiry.

Initially, the business office considered making the inmate file a Tort Claim. We noted that such a process would penalize the inmate by having to go through a lengthy proceeding for a debt that could not be initially justified.

Upon further review, the business office concluded it could not justify its claim that the inmate owed them any money from her last incarceration, and removed the debt from her account.

Sources of Corrections complaints



This chart shows the proportion of contacts opened by the Ombudsman's office in 2001 involving the various institutions of the Department of Corrections.

"Number, please?" — Message from the prison ombudsman

In September, the Iowa Department of Corrections (IDOC) changed phone carriers and completely changed the way offenders may make calls.

Except for the Iowa State Penitentiary (ISP) in Fort Madison, there were no phones for offenders' use at the other state penal institutions until approximately 10 years ago. There were few companies with inmate phone systems and few options to customize service to fit different states' needs. AT&T was the only game in town. Offenders could only call collect. Numbers could be blocked at the customer's request and there was a limited ability to trace whom offenders were calling.

Those were also the days before deregulation of the telephone industry. Once deregulated, phone companies with different options began popping up all over. Many even began offering different inmate calling systems with varying charges and rebates sent back to departments of corrections and local jails. With these new systems came a new set of problems. Some phone companies which weren't providing the prison's phone service refused to bill their customers for phone charges from the prisons. That resulted in a large volume of complaints about phones being blocked and a large balance of unpaid phone charges.

This new system fixes some of the earlier problems, but at a cost. Funds must be deposited in advance in an account set aside just for phone access. The offender, friends, or family may deposit money in the individual offender's phone account. The money must be dedicated to specific telephone numbers. Gone is the system of rebates from the phone companies to the IDOC. This now operates as a for-profit enterprise. There are no longer problems with blocked calls due to companies' billing practices.



Assistant for
Corrections
Judith
Milosevich

As before, the profit goes to fund various offender programs. The Board of Corrections (BOC) must approve expenditure of the money. The programs partially or fully funded by phone funds include: Education program at the Fort Dodge Correctional Facility; the chapel at the Iowa Correctional Institution for Women; the InnerChange program at the Newton Correctional Facility; the system-wide crime victims program; the Legal Resource Attorneys; and the statewide religious issues coordinator.

Our most frequent complaints involve the cost of the calls. People often ask why can't the phone cards many consumers use be available for use within prisons, or why can't they choose their own carrier. According to one of the cases litigated recently, "Any system of billing that gave either the inmate or call recipient the ability to select their long distance carrier would have to include some provision for reimbursing one company for the costs [uniquely] associated with the inmate calling system."

The current Code of Iowa provides for a phone rebate fund that allows IDOC to collect rebates and disburse the money to uses "for the benefit of inmates." Since there are no longer rebates, the profit from the phone system is deposited in IDOC's budget and the funds are used for the programs described above. The biggest objection to this system is that the burden to fund these programs falls directly on the offenders and friends and family members of the offender. Without phone profit funds, these programs will be eliminated.

This issue is not handled consistently across the country. Some states chose to install a cost-based phone system with no rebates and no profit. Other states have the collect-calling system with rebates. Once dependent on a revenue stream such as this, it will be difficult for Iowa to break its reliance. There appears to be nothing in Iowa law prohibiting this practice. The Legislature chose not to review this issue in the 2002 session.



Iowa State Patrol

Trooper tape storage procedures questioned

A man was pulled over by two officers of the Iowa State Patrol (ISP). The traffic stop was documented by a recording device in the troopers' squad car.

The man, a convicted felon, was subsequently charged with having a firearm. Related to the charge, the troopers gave a copy of the tape to a prosecutor. The defendant became aware that the tape had an unexplained gap of about 22 minutes. He questioned why there would be such a gap. He wondered whether the troopers had erased part of the tape and whether anyone witnessed the copying of the tape.

Before contacting our office, the man had already filed a formal complaint with ISP's "internal affairs bureau" — the Professional Responsibility Bureau (PRB) of the State Department of Public Safety. PRB concluded there was no evidence of any wrongdoing by the troopers, but the defendant was not satisfied with PRB's conclusions.

We obtained PRB's file and also conducted our own interviews of the key witnesses. Our review found no reason to believe the troopers erased any part of the tapes. Instead, we found a rather simple explanation: The camera in the patrol car stopped recording several minutes into the stop because the first tape

was full. The troopers did not immediately realize this. By the time they saw this and put a second tape in, 22 minutes had elapsed.

However, our review also found several concerns which were not noted in PRB's file:

1. The replacement tape did not have an "audio explanation" by either trooper, contrary to ISP policy. (ISP agreed this should have been done and issued a reminder to all troopers.)
2. One of the troopers took the tapes home with him. ISP policy indicates recorded tapes are to be kept and stored only at the trooper's post. (ISP said some troopers do not live near their post and as a result, it does not see a need to require troopers to immediately transport such tapes to the district office. ISP also noted each trooper is responsible for tapes and other evidence until transported to the district office.)
3. The trooper copied the tapes at home, using his own copying equipment. ISP policy does not prohibit or authorize such a practice. (ISP said this issue is best dealt with on a case-by-case basis.)

Failure to cancel warrant triggers real-life nightmare

It's bad enough getting arrested and thrown in jail because of a bureaucratic mistake. When they also impound your van — the one you've been living in — and you can't afford the impoundment fees, that just makes it downright aggravating.

A central Iowa woman lived through this real-life nightmare early last year. It all started when she was pulled over for driving with a broken taillight. It appeared to be a routine traffic stop, until the police officer mentioned an outstanding warrant for her arrest.

The woman knew it was a mistake. Two months before, she was in the courtroom when the judge said he was dismissing the warrant on a contempt of court charge. But her memory alone would not "overrule" the radio dispatcher who was telling the officer that there was still an active warrant for her arrest.

Under law, the officer had no choice but to take the woman to jail. As for the van, while the woman's fiancé was there, he did not have a valid driver's license. So the officer arranged to have the van impounded.

The woman was in jail for nearly 24 hours. She was finally taken before a judge, who confirmed the warrant was dismissed two months prior and ordered her immediate release.

Her attention then turned to getting her

van back. The storage and towing fees were already more than she could afford. And that amount would grow by \$10 for each additional day that the van sat in the impoundment lot.

Five days later, her fiancé's mother called our office. They asserted that the agency responsible for not rescinding the warrant should also be responsible for paying to get the van out of impoundment.

We spoke with the attorney who had represented the woman in court two months before. It was his understanding that the clerk of court had notified the sheriff's department that the war-

rant was to be dismissed, but the sheriff's dispatch center did not remove it from their computer database.

We contacted the sheriff. He was able to provide documentation showing his staff did two important things:

- They had indeed logged the report to dismiss the warrant from their own records.
- They also relayed the information to Iowa State Patrol (ISP) Communications, which administers a statewide database of law enforcement information.

The sheriff said he would be willing to pay the impoundment fees if his staff had been remiss in their duties, but he said the facts indicated his staff had handled everything appropriately.

We then contacted the state Department of Public Safety's Professional Responsibility Bureau (which can look into complaints about ISP Communications). They agreed to investigate this matter and report their findings.

Two days after we received the initial call on this matter, we learned the sheriff had agreed to pay the storage and towing fees (though he still denied responsibility). The woman got her van back about a week after the incident.

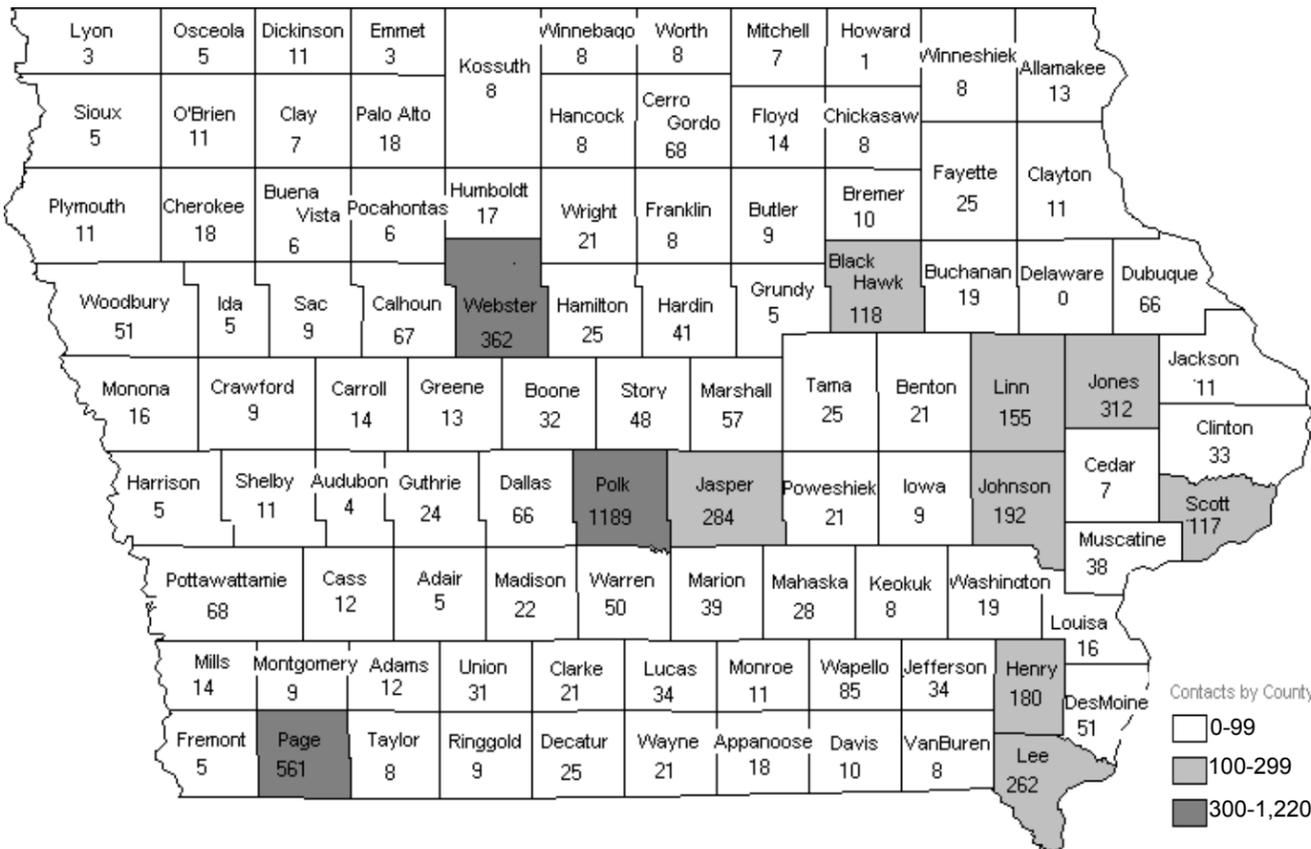
The Professional Responsibility Bureau later issued a letter summarizing the findings of its investigation. Included were these key findings:

- An ISP Communications employee had acted contrary to department policy.
- The agency does not condone such conduct and appropriate corrective action would be taken.
- The investigation prompted a review of procedures regarding the cancellation of warrants.

Under the law, the officer had no choice but to take the woman to jail.

Where's your county?

Contacts opened by Citizens' Aide/Ombudsman in 2001



What to do before contacting 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 contacting 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.



Department of Human Services

Grandpa rescues granddaughters, but winds up with large debt

A grandfather was notified that his two granddaughters were the subjects of a child protection investigation. He was notified the children had been deserted and left in intolerable conditions, so he went and got them.

However, due to his own financial situation, ongoing health condition, and the fact he was retired and on disability himself, he requested help from the Department of Human Services (DHS). He applied for assistance through the Family Investment Program (FIP). He received a check every month and filled out necessary paperwork.

With the help of the girls' aunt (who they eventually moved in with), the grandfather continued to assist with their day-to-day care. He knew he could keep them safe, in a healthy environment — and most of all show them love.

Over the next several months, an ongoing case worker made several trips to the aunt's house to check on their well-being. It was only when going for their annual review with DHS did he realize there was a problem. He was told at that time he was not eligible for the assistance he had received for the past year because the children didn't live with him. Not only would his case be terminated, he would have to repay the state more than \$10,000.

Although he appealed the decision and explained to

everyone involved there was no intent to deceive on his part, the state was mandated to recoup the payments. The department didn't believe there was criminal intent, but did require him to pay back the money as well as almost \$5,000 in Title 19 (Medicaid) expenditures. His future tax refunds would be intercepted and he was also required to enter into a payment plan.

That's when he contacted our office. He had paid part of what was owed, but there was a substantial amount still owing.

After reviewing the situation, we suggested that he request an exception to policy. Exceptions to the department's rules may be granted in individual cases upon the director's own initiative or upon request.

Typically our office does not help write such requests, but we found this was a unique situation. It was important that he specify the basis for his request.

He received a response from the director of the DHS which stated the department did not believe he intentionally misled them to receive benefits, and acknowledged that the assistance he received was used to care for his granddaughters with no personal gain for himself. It is also important to note that the children would have been eligible for assistance, had the aunt applied instead. Therefore, the Department waived the remaining FIP and Medicaid overpayment balance.

Computer problem resolved, provider finally gets paid

A woman provided in-home services to a DHS client. DHS still had not paid her for services provided two months before.

If they didn't pay her soon, she said she would have no choice but to quit caring for the client. We contacted DHS. They explained that this was a fairly complicated

problem involving two computer systems (one for DHS and one for the private company managing the state's Title 19 program).

DHS authorized the private company to make an override on its system and issue the payment. The woman received it two weeks after calling our office.



Department of Transportation

At the time of the accident, this was NOT my truck

When recently applying for a job, our complainant was told there was a driving suspension on his record for an accident. He contended he had no involvement in the accident referred to — he knew it was a big mistake.

Our complainant traded a truck into a dealership about two years previously. He completed the transaction by signing and dating the title as required. However, the next day someone test drove the vehicle and got in a wreck. Although the situation was resolved to the satisfaction of the legal authorities, the DOT was not notified.

Although our complainant received notice of the suspension from the DOT, he thought the issue had been resolved previously, so he did not respond to the notice.

The man contacted the DOT and provided necessary paperwork verifying the date of the transaction. However, the suspension had already gone into effect, and he was told there was no method for removing it from his record. The suspension would be lifted, but it would stay on his driving record for five years. He wanted it to be erased totally from his record.

It was at this point he contacted our office. After discussions with DOT officials, it was determined this was an internal policy and not mandated in rules or statute. As a result, DOT made an exception in this case, and removed the accident from the man's driving record.

On the road again

A man's driver's license was suspended for not paying a fine. He alleged he did pay the fine — to the Department of Revenue and Finance (DORF) — but DORF misplaced or lost the payment.

We contacted a DORF representative who said his agency received the man's payment but applied it to a different account. The DORF representative admitted the mistake, and said he would notify the Clerk of Court.

We then contacted the Clerk of Court, who said she had received notice from DORF that the payment was made. The Clerk said she would notify the Department of Transportation (DOT). She said DOT would then lift the suspension.

We relayed this information to the man and told him to recontact us if the problem did not get resolved.

Six months later, the man recontacted us and said local police just took his driver's license because DOT records still showed his license was suspended.

We recontacted the Clerk, who said she recorded the payment was made six months ago. She said DOT should have taken the "payment-made" information from her computer entry and corrected its records. She said

she would check with DOT to see what happened. The Clerk later reported that DOT did not change its records, so she faxed a "Notice to Withdraw Suspension" to DOT.

We then contacted a DOT representative, who acknowledged receiving the faxed "Notice" from the Clerk. The DOT representative said his agency had no record indicating the Notice was received previously. He said his agency would update its records to show the suspension was lifted, but for the man to get his license back he must pay a \$20 reinstatement fee and \$1 for a duplicate license.

Later in the day, the DOT recontacted us. They had called the Clerk of Court. He said even though his agency has no record of receiving the transmission, DOT would accept the Clerk's account. He said his agency would remove any record of the suspension from its computer file, which meant the man would not have to pay any fee to regain his license. He said DOT would send a letter to the man stating the suspension record has been removed and no fee would be required to regain his license.



EXTRA MILERS

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

 Mike Balmer, Jasper County Sheriff — for quickly cutting through "red tape" to resolve a significant problem that was not caused by his agency.

 Sheryl Lockwood, Deputy Warden, Iowa Correctional Institution for Women — for her patience and extra effort in answering our inquiries.

 John Meeker, Sergeant, Office of Professional Standards, Des Moines Police Department — for his continuing responsiveness and thoroughness in addressing our concerns when dealing with complaints involving the Des Moines Police Department.

 Darwin Meyer, Assistant Chief, Independence Police Department — for being dedicated to getting to the truth of the matter and proactively following-up with us.

 Russell "Rusty" Rogerson, Warden, and Julie Scurr, Outreach Coordinator, Iowa Medical and Classification Center — for developing Project Hope, a Hospice program for incarcerated offenders.

 Marilyn Sales, Nursing Director, Department of Corrections — for her dogged determination in getting a paralyzed lifer's sentence commuted so he could be released to a care facility outside prison walls without decreasing public safety and saving the state's prison system thousands of dollars a year.

 William Sperfslage, Deputy Warden, Iowa State Penitentiary — for helping to improve the overall operation of that institution.

 Judy Vonnahme, Field Office Support Unit, Department of Human Services — for the timeliness and quality of responses she provides us.



When a simple phone call makes all the difference

A man was ordered to pay more than \$400 a month in child support. But that was more than his income, so he was falling behind.

CSRU sent him a notice threatening he could lose his driver's license if he didn't start paying an amount that was more than he could afford. He asked for a conference to discuss the matter. But out of that process, his obligation was still much more than he could afford. So he called our office.

We contacted CSRU and asked a supervisor to review his case. She found that while the man had recently been asked to provide financial information, the information he provided was two years old. As a result, the worker used their discretion to use a statewide median income figure for calculating his monthly obligation.

We asked whether there was any indication that CSRU staff had explained to the man that the information he provided was not sufficient. The supervisor said it was not clear whether that had happened.

At our request, the supervisor agreed to call the man and explain how CSRU arrived at his current obligation. She also agreed to explain to him that if he could pro-

vide verification of his current income, CSRU might reduce his obligation significantly.

The supervisor called us back two days later. She had spoken with the man. He was able to verify his current income. CSRU recalculated his obligation and it came to \$100 a month — \$300 less than it had been.

We recontacted the man to confirm what had happened. He was very pleased at what

had happened and thanked us for helping resolve his problem.

At our request, the supervisor agreed to call the man and explain how CSRU arrived at his current obligation.

Ombudsman facilitates arrest

A former Iowa resident complained that little or no enforcement had been done on her child support case. Income support orders have been in place for years, but her ex-husband had paid next to nothing. A contempt warrant was issued several years ago, but apparently was not served. The former resident advised that her ex-husband had been arrested several times and placed in the "drunk tank," but never served with this warrant. She provided his address, phone number, social security number, date of birth and physical description.

We called the CSRU field office assigned to her case. A case resolution specialist told us they issued a bench warrant for the man several years prior. There has been no arrest. They recently verified his address (different from the one provided by the children's mother). His social security number is in the automated pool, so if he obtains a job that results in paying taxes, the wage withholding order will be in place. We also talked with an official of the Iowa Department of Revenue and Finance (DORF). There was no record of this man filing taxes.

We learned that the bench warrant was filed in a different county from where obligor lives. We called the sheriff of the county of residence. He agreed to obtain a copy of the bench warrant and serve it.

The man was arrested the next evening. However, he was released after posting a \$500 cash bond — state law does not allow for that bond to be attached to pay child support.

As the result of our call to DORF, they will follow up on him in an effort to determine if he makes enough to file taxes and if there is a way to trace his income.

Child Support Advisory Committee

I represent the Ombudsman's Office on the State of Iowa's Child Support Advisory Committee. The Committee was created by Iowa Code section 232B.18 and is responsible for reviewing child support guidelines and operations and making recommendations to the Department of Human Services (DHS) for improvements in the program. The Committee has four subcommittees: Policy and Legislation, Operations, Public Awareness, and Membership.



*Deputy and Legal Counsel
Ruth
Cooperrider*

The Committee held six regular bi-monthly meetings during the year 2001. I served as the Chairperson of the Committee for the year. I was also on the Policy and Legislation Subcommittee. In addition, I worked on two ad-hoc subcommittees.

One of the ad-hoc subcommittees assisted the DHS in reviewing all the child support rules in response to the Governor's directive that all agencies complete a comprehensive review to ensure that their rules "meet standards of need, reasonableness, effectiveness, clarity, fairness, stakeholder involvement, and consistency with legislative intent and statutory authority."

The other ad-hoc subcommittee focused on working on some legislative and administrative proposals that

the Committee identified as priorities. The subcommittee began work on three related issues:

1. Suspension or termination of a support order upon an obligor's request (even if the custodial parent does not give consent) in situations when the obligor has physical custody of the child. One example of this is when the obligor assumes care of the child under a juvenile court order. Another example is when a custodial parent leaves the child in the obligor's care and then cannot be located.

2. Suspension or termination of a portion of a support order if both parents agree that one but not all children covered under the support order is now living with the obligor.

3. Examine whether the State can temporarily stop enforcing a support order once an obligor provides genetic test results that verify he is not the biological father, until a court action to disestablish paternity is completed.

The Operations Subcommittee completed work on a Child Support Handbook that would be available to the public. The DHS staff is reviewing the handbook before its publication. The Attorney General's representative on the Public Awareness Subcommittee reported on the creation of several vignettes to be aired on television and radio and the production of a video about responsibilities of parenting to be distributed to schools statewide for use in their curricula.

Check expedited, unwanted assistance corrected

A woman moved back to Iowa with her children after a divorce. Until she could get on her feet financially, she applied for medical assistance for her children. That prompted opening a case with the Child Support Recovery Unit (CSRU).

The worker told this woman she qualified for food stamps and the Family Investment Plan (FIP), but the woman told her she didn't want help in either program.

The worker assured her she would not put her on those programs, but somehow she was enrolled. She received two checks totaling nearly \$400. The woman returned the checks and told the worker she did not want FIP benefits. She also gave the worker her ex-husband's employer and phone number. Her ex-husband also went to the local office in person and paid them \$200 while they were setting up his wage withholding and gave them information regarding his employment.

A short time later, the woman received a letter in the mail telling her that her \$600 per month in child support was transferred to the state to offset her assistance. She explained again that she doesn't want assistance and requested the child support be sent to her. The letter also stated her ex-husband was \$400 in arrears. She knew that wasn't the case because he had prepaid some support and the wage withholding was in place.

We called a case resolution specialist. She said there is a check for \$200 that needs to go out to this woman. There were computer problems on a day they were processing and for some reason the check did not go out. She believed it would go out on a Friday. However, we advised the woman has now been without support for several weeks, that a three-day weekend is approaching and if she doesn't receive her check on Saturday, it would be Tuesday at the earliest. The Collection Services Center (CSC) agreed to hold the check and if the woman came to their office with photo identification, they would release the check to her. She agreed and was able to pick up her check before the weekend.

Want to learn more about the Ombudsman's office?

Just ask us! Our staff are available to give presentations about our services. There is no charge. We also have a videotape which explains what we do, as well as brochures and newsletters. We'd enjoy meeting you and your group!

Citizens' Aide/Ombudsman
Ola Babcock Miller Building
1112 East Grand Avenue
Des Moines, Iowa 50319

Phone: 1-888-426-6283 (toll-free) or
(515) 281-3592

TTY: (515) 242-5065

E-mail: ombudsman@legis.state.ia.us

Fax: (515) 242-6007

Web: <http://staff/web.legis.state.ia.us/cao/>

Toll-free numbers



Other state agencies

STATE GOVERNMENT

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
College Student Aid Commission	1-800-383-4222
Commission on the Status of Women	1-800-558-4427
Crime Victim Assistance Division	1-800-373-5044
Economic Development (Department of)	1-800-245-4692
Gambling Treatment Hotline	1-800-238-7633
HAWK-I ("Healthy and Well Kids in Iowa" — insurance for low-income kids)	1-800-257-8563
Health Facilities Division (home health hotline)	1-800-383-4920
Human Services (Department of)	1-800-972-2017
Inspections and Appeals (Department of), Welfare Fraud 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 Finance Authority	1-800-432-7230
Iowa Waste Reduction Center	1-800-422-3109
Long Term Care Residents Advocate (inquiries about nursing facilities)	1-800-532-3213
Missing Persons Information Clearinghouse	1-800-346-5507
Narcotics Division	1-800-532-0052
Revenue and Finance (Department of)	1-800-367-3388
Senior Health Insurance Information Program (SHIIP)	1-800-351-4664
Small Business Development Licensing	1-800-532-1216
State Fair	1-800-545-3247
State Patrol Highway Emergency Helpline	1-800-525-5555
Substance Abuse Information Center	1-800-247-0614
Tourism Information	1-800-345-4692
Transportation (Department of)	1-800-532-1121
Vaccines for Children	1-800-831-6293
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

MISCELLANEOUS

ADA Project	1-800-949-4232
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	1-800-779-2502
Lawyer Referral Service	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

Ombudsman helps reduce \$5,000 debt to a \$293 debt

Seven years after leaving Iowa, a man got a notice saying he still owed more than \$5,000 in income taxes from 1994.

He said the notice was the first he received regarding these taxes. Information at the Iowa Department of Revenue and Finance (DORF) indicates a notice was sent to him in 1998, but they received no response.

One revenue collector told him this bill resulted from comparing federal and state tax records for 1993. But the man no longer had his tax records from 1993, only those from 1994 to date. He kept his records for seven tax years, as the Internal Revenue Service (IRS) advises. He states he only worked for about six weeks while in Iowa during the year in question, but his tax bill was over \$5,000.

Staff with DORF said if he still had his federal return for 1993, he could send that along with copies of his W-

2 forms. But he no longer had those records. Obtaining duplicates from the IRS could take months. He tried contacting the former employer to see if by chance they had those records. They didn't.

He provided information regarding his income and the deductions he would have claimed based upon family size. The DORF official was able to reduce the \$5,000 figure to just over \$800 using the withholding allowed for 1993.

The complainant resident then provided what he believed was his withholding based on notes made in the file of his 1994 return. The DORF official recalculated everything again, using all the withholding information and tax laws in effect at the time and recalculated his debt to \$293. The California resident still believed his debt should be lower, but agreed to this amount since he had no documentation to dispute it.

Definition of legal term clarified

A woman alleged a local school superintendent denied her daughter's request for a special minor's school license. She said the superintendent and Iowa Department of Transportation (DOT) claimed her daughter was not eligible for the license because she lives less than one mile from the school. She said her daughter has special circumstances, which justify the license.

We contacted DOT. They said an Iowa Department of Education (DOE) rule makes the one-mile distance a "hard and fast" requirement for the special minor's license.

We then reviewed Iowa Code section 321.194(1)(b), which provides, "The fact that the applicant resides at a distance less than one mile from the applicant's schools of enrollment is prima facie evidence of the nonexistence of necessity for the issuance of a license."

We also reviewed the relevant rules from the Iowa Administrative Code, which states, "The school board or superintendent ... shall ensure that the following requirements are met prior to certifying a need exists for the issuance of the special minor's license.... (1) The applicant lives one mile or more from the applicant's school of attendance."

We contacted DOE's legal consultant and asked whether their agency's rule is consistent with Iowa Code section 321.194(1)(b). We asked if DOE may

have misinterpreted the term, "prima facie evidence," as not allowing extenuating or special circumstances. After review, the legal consultant said she believed the rule was inconsistent, and therefore invalid. She said when the General Assembly included the term, prima facie, they created a "rebuttable presumption." She said applicants who live within one mile should be given a chance to establish that a need does exist, and local school boards and superintendents should not be restricted to DOE's "hard and fast" one-mile requirement. She said she would recommend deleting the invalid rule.

We then contacted the DOT. Their written response stated, "The Office of Driver Services will not resist a superintendent's approval of a [minor school license] if the student lives less than one mile from the school. Since DOE has taken the position that their rule concerning the one mile requirement is invalid, we have no intention of resisting that position."

The DOT management analyst also said his agency would inform staff at all offices regarding the change in DOE's position.

DOE's legal consultant said her agency would amend the rule (26.7) to acknowledge that a student must be given the opportunity to rebut the presumption of non-necessity. In the meantime, the student in this case obtained her driver's license shortly after turning 16.

Anyone seen my farm? It was here just a minute ago...

A citizen complained that the Secretary of State's Office (SOS) dissolved their farm corporation with no notice. This had a dramatic affect on their taxes and on their ability to transfer corporation stock to their heirs.

They called the SOS office, but were told that since they had not filed their updates as required, they could not be reinstated. Initially these filings were required annually, but were changed in 1998 to be filed biannually. When the citizen called SOS, they discovered that at some time in 1993, their address was changed to a completely different town, so notices were being sent to the wrong address. The SOS office initially declined to help fix the problem.

We called the SOS office and talked with a supervisor

in the division responsible for maintaining lists of corporations and their updates. She agreed to check the records of this corporation back to its initial application that involved checking old microfiche records.

She discovered the SOS office changed the town name in 1993, but there was no indication why. There did not appear to be any information in the file requesting such a change. The supervisor discussed this with the Secretary of State. They determined that fairest resolution was to send forms to the citizen for each period in which no updates were filed. If the citizen completed the forms and returned them to the SOS office, it would reinstate their corporation. The citizen readily agreed to this resolution.

Ombudsman persuades Civil Rights agency to reopen case

On behalf of a client, an attorney mailed a written complaint to the Iowa Civil Rights Commission (ICRC). Nearly a year later, the man contacted ICRC — only to learn the agency had administratively closed his complaint several months before. The man appealed, questioning how ICRC could close his complaint without at least notifying him, but his appeal was denied.

Frustrated, the man contacted our office. We contacted ICRC and reviewed their file in this matter. We found the following key points:

1. The man's attorney had listed an incomplete address on the complaint form — it had the correct address, but failed to list the lot number of the man's trailer.
2. ICRC mailed a questionnaire to the address supplied by the attorney, but it was returned with a note from postal officials, "This is a multi-unit complex, address is incomplete."
3. ICRC called the attorney's office. A secretary gave a lot number — but it was the wrong one!
4. The ICRC staff member had made the mistaken

assumption that the man lived in an apartment complex. When the secretary gave him a lot number, he was convinced that information was wrong, and so he did not try to resend the questionnaire.

5. A few months later, because of no response from the complainant, the ICRC staffer mailed an "administrative closure" letter to the man, using the incorrect address the secretary had supplied. When no response was received within 30 days, ICRC then closed the case.

An ICRC supervisor initially defended how the case was handled. But when we persisted with questions, the supervisor eventually agreed that the staff had erred by not resending the questionnaire to the address supplied by the secretary. We also questioned how ICRC could close the case without ever trying to call the man — the complaint form had included his telephone number. As a result of our inquiry, the supervisor recommended — and an ICRC committee agreed — that the agency should reopen the man's complaint.