Message from the Ombudsman

Marking another year of increased contacts received, Iowans complained to the Ombudsman in record setting numbers in 2000. We received 5,929 new contacts during the year and closed 5,266 of those; 3,500 were jurisdictional complaints. Additionally, 386 contacts which had been opened in 1999 or before were closed in 2000.

Generally the pattern of agencies we heard about remained similar to years past. However, corrections-related contacts --prisons, parole, community-based programs and jails -- rose to 2,653, a staggering 44.5 percent of all the contacts received during the year. There are several reasons for this continuing trend -- individuals in correctional settings don't like the controls and conditions and are prone to complain; many prisons and jails are crowded beyond capacity and the programs and conditions reflect that fact by generating dissatisfaction; many sentences are mandatory and the lengths of time prisoners serve are long, taxing available space, resources and staff; and it is relatively easy for Iowa inmates to contact the Ombudsman -- especially by telephone or mail.

County government contacts (610) accounted for the second highest number received for the second year in a row. County jail and sheriff issues made up the greatest proportion of these accounting for 64 percent. Contacts about county attorneys (112) ranked a strong third. Contacts about other county-level agencies and programs were significantly smaller in number.

The Department of Human Services (DHS) accounted for the third largest number of contacts received during the year (585). Child support and other collections accounted for 32 percent of the DHS total, child and adult protective services for 29 percent, while income maintenance and social work/service were somewhat less.

Municipal government accounted for almost 9 percent (523) of the total contacts received, with complaints and information requests about police making up 268 or a little over 51 percent of the city government total of 523. Contacts about city administration, mayors and city councils totaled 141 or almost 27 percent. Zoning, housing, public works and utilities accounted for significantly lesser numbers.

The year 2000 will forever remain in the minds of the Ombudsman staff as the year of the Shelby Duis case. The year was but a few days old when Shelby's life came to a violent and tragic end. In February, three Iowa state senators asked me to investigate how well the Department of Human Services responded to calls about Shelby's well-being. In mid-December I released my public report with findings, conclusions and recommendations.

During those ten and one-half months I had the good fortune of working with a talented and dedicated staff -- three of whom spent most of the year investigating and analyzing the Department of Human Services from the perspective of the Shelby Duis case and the remainder who responded to, investigated and resolved the requests and complaints received throughout the year.

What was learned from the Shelby Duis investigation should allow Iowa to improve its response to the challenge of child abuse and neglect. From the articulation of a "when there is a doubt, work to take the child out" intervention philosophy, to the debate over the number of social workers and child abuse investigators needed, and consideration of a centralized versus decentralized child abuse reporting system -- Iowa's policymakers were challenged with significant legislative, budgetary and administrative issues

Of considerable interest to me was the fact that the specific findings I reported in the Shelby Duis Report mirrored general concerns which had been noted by the State Public Policy Group and the Child and Family Policy Center in the work those two consulting organizations did for the Ombudsman in 1999. The improvements these consultants recommended in the areas of management and supervisory oversight, policy development, record keeping, service delivery, staff training, communication and resources were tragically found to have meaning and consequence in the real life experience.

Several print and electronic media and the Iowa Freedom of Information Council cooperated in conducting a statewide investigation of local government compliance with the Iowa Public Records Law. What they reported was a significant lack of understanding and failure to comply with openness in Iowa government. I discussed these findings with Iowa's legislative leadership during my budget presentation and proposed adding a position to the Ombudsman's staff that would focus upon open meetings, public records and individual privacy in Iowa state and local government. This idea was looked on favorably by the Legislative Council and I anticipate adding that role to the Ombudsman office early in the Fiscal Year beginning July 1, 2001.

The Iowa Ombudsman remains a leader among other ombudsman offices nationally and internationally.

Our Case Management System software has been licensed to the state ombudsman offices in Hawaii and Alaska and is currently being evaluated by the ombudsman in King County (Seattle), Washington. The sale of each license allows Iowa taxpayers to recover a portion of the development costs of this software and demonstrates the creativity and versatility of our computer programming industry.

During this past year Deputy Ombudsman Ruth Cooperrider and I continued our work on the American Bar Association's Ombudsman Definition and Standards Committee. I also fulfilled my responsibilities as North American Regional Vice-President of the International Ombudsman Institute. And Deputy Cooperrider and I contributed to the work of the United States Ombudsman Association.

As a result of the history and experience of the Iowa Ombudsman office we are frequently contacted by newly established offices for direction and assistance as well as the legislators of other states and countries as they consider creating an ombudsman for their citizens. Recently we have provided comment or assistance to legislators or officials in the states of Oregon, Indiana, Connecticut and Missouri, and the city of Portland, Oregon as they worked toward establishing or modifying offices similar to Iowa's.

As time and resources permit I hope we can continue to contribute to sharing what has been established and works well in Iowa to the rest of the country and the world.

Report critiques child abuse system

The death of Shelby Duis was preceded by a number of instances where state child abuse investigators did not respond appropriately or could have responded differently to concerns about her, according to a report the Ombudsman released in 2000.

But the report did not draw any conclusions whether those investigators could have protected Shelby from the abuse that ended her life.

The 125-page report was based on a 10-month-long investigation by the Ombudsman's office into how the Department of Human Services (DHS) handled child abuse allegations involving Shelby, who died on January 4, 2000.

The Ombudsman's report, available upon request, said many actions or decisions by DHS workers were appropriate. Given the Ombudsman's role of helping to improve government, the report focused on DHS policies, procedures or practices that the Ombudsman found questionable or inappropriate.

Problems were found in each part of DHS' child abuse system:

- *Reporting process* (how people make child abuse reports to DHS). For example, in several instances, people who wanted to report abuse had trouble reaching intake workers. And in two instances, DHS employees who were not intake workers considered calls from persons who suspected abuse as calls "expressing concerns" only, and neither call was forwarded to an intake worker.
- *Intake process* (how DHS decides to accept or reject a report of alleged abuse). For example, three reports of child abuse that were rejected should have been accepted for investigation or assessment. The last rejected report occurred three weeks before Shelby died.
- *Assessment process* (how DHS responds after accepting a report). For example, in several instances, child abuse workers did not contact and interview people who may have had relevant information regarding the allegations of abuse. And three weeks before Shelby's death, a child abuse investigator received additional information and had sufficient concerns to repeatedly refer Shelby to a doctor. But he did not take any further assessment actions, including observation of Shelby, to ensure she was not being abused.

"The Ombudsman believes many of these instances are indicative of the need for certain policy and practice changes or improvements within DHS and in the way DHS interacts with components of the child protection system in Iowa," the report says.

Based on his findings and conclusions, the Ombudsman's report has 23 recommendations for DHS to improve how it handles child abuse reports. Included are recommendations to:

- Create a statewide centralized unit to receive reports and complete intakes. "Streamlining how reporters interact with the DHS child abuse system and dedicating a centralized unit of uniformly trained intake workers would go a long way toward resolving individual differences and regional variances found in the current decentralized intake system," the report adds.
- Provide additional training to child protection workers about the signs and indicators of physical abuse, sexual abuse, neglect, and distinguishing the characteristics of accidental versus inflicted injuries.
- Study the accessibility to and the sufficiency of medical child abuse expertise available to DHS

child protection staff.

In her reply to the report, DHS Director Jessie Rasmussen says, "While we may not fully agree with every conclusion the Ombudsman made, it is clear that we do need to make changes to improve our child protective system."

Rasmussen says her agency has already acted on many of the Ombudsman's recommendations and plans to act on the others. Regarding centralized intake, she writes, "While we strongly concur with the results the Ombudsman believes will be accomplished through centralized intake … there may be other effective strategies to consider.

"Since centralized intake would be a significant change in how Iowa's intake system works today, we will establish a thoughtful deliberative process to review this issue in consultation with community stakeholders and policy makers," Rasmussen adds.

Rasmussen's reply calls Shelby's death a "tragedy" and says, "We must learn from this tragedy. We must act on the insights and recommendations from the Ombudsman's Report as well as recommendations from others." A copy of Rasmussen's unedited, four-page reply is appended to the report.

In his reply to the report, child protective worker Charles Illg writes, "I realize that with the vast publicity of this case, some have already concluded that I did not do my job and that I am responsible for Shelby's death.

"I know I cannot sway the public opinion of me," he adds. "I am not responding to the Ombudsman's report to do that. I am responding to the Ombudsman to try to point out that things do not always appear as they are. I hope that changes can be made within the system." A copy of Illg's seven-page reply is appended to the report. Illg's reply is redacted to avoid identifying certain individuals for confidentiality reasons.

Copies of the full report can be obtained from the Ombudsman's office, which can investigate complaints about most agencies of state and local government. Iowans can call the office toll-free at 1-888-IA-OMBUD (426-6283) or at (515) 281-3592. The office has a TTY which can be reached using the toll-free number or at (515) 242-5065. Its fax number is (515) 242-6007. Internet users can contact the office at: Ombud@legis.state.ia.us

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

Chief Ron Babb, Pleasant Hill Police Department — for ensuring that handicap parking signage was appropriately placed in his community.

David Boyd, State Court Administrator — for being responsive to problems and questions citizens have about the Iowa State Court System.

Bill Dawson, Bureau Chief, Investigation Recovery Bureau, Department of Workforce Development — for his patience and extra-effort in answering our inquiries.

Rich Running, Director, Workforce Development Department — for his fair exercise of discretion in a case.

Lance Starbuck, Maintenance Manager, District 1 Office, Iowa Department of Transportation — for his foresight and safety consciousness in establishing the Highway Helper program on Interstate Highway 235.

Two case numbers, only one child

A man who had custody of his son was frustrated that he still had to pay child support for the same child. The child's mother had signed documents drawn up by an attorney giving the father custody of the child. But he said the Child Support Recovery Unit (CSRU) would not accept the documents.

CSRU told us they would review any documents the man had. When we relayed this to the man, he insisted he had already provided CSRU with copies of the documents in question. He had also provided, upon request, his son's school records. But when we recontacted CSRU, they said they had no record of ever receiving these items.

The man then told us that he had just received an application to apply for child support *as the custodial parent*. He questioned how he could have received that application if CSRU had not received the paperwork in question. We discovered during this inquiry, however, that the child support case number on the letter accompanying the application was different than the number on the case he was complaining about.

When we brought this to the attention of CSRU, they agreed that there were two separate cases on the same child. Apparently when a child begins receiving Medicaid, CSRU is automatically notified and sets up a case to collect child support from the non-custodial parent (the mother.) We questioned why on one hand, CSRU was saying the man was the child's custodian and eligible for child support, and on the other hand, CSRU was collecting support from him in a separate case for the same child. CSRU suggested he submit the application for child support and attach the custody documentation signed by the mother and they would get everything straightened out.

Home sweet home

A woman needed help refinancing a mortgage. She was recently divorced and was awarded the house.

There was a lien against the house. One of her children had been in foster care. Both the mother and her ex-husband had a parental liability owing to the Foster Care Recovery Unit (FCRU). To help get a new loan, the mother had agreed to pay off 75 percent of her ex-husband's obligation along with her own obligation.

The loan company was not willing to approve the loan until FCRU agreed to subordinate their lien — in other words, to allow the lien to be in second place after the refinanced mortgage. FCRU told us that it cannot release the lien or agree to subordination unless at least 75 percent of the obligation is paid. The mother told us that the loan amount included money to pay off the FCRU obligations. So once the loan was approved, the loan company would be sending a check to FCRU for the unpaid parental liability.

FCRU said that in similar situations, lending institutions have been, in essence, willing to "front" the money by approving the loan, forwarding the money to FCRU for the obligation, at which time FCRU would then release or subordinate its lien and the lending institution's lien would then be in first place. We discussed this with the loan company's representative. She said she had never heard of such an arrangement. We explained that apparently the company had done this before with FCRU or the Child Support Recovery Unit.

Shortly after this conversation, the loan company contacted FCRU to discuss this process. A few days later, the loan company agreed to this arrangement. A week later, the mother confirmed she had received the loan and FCRU confirmed the money was received from the loan company, and the mother's obligation was terminated.

Child Support Advisory Committee

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Life on hold

Everyone hates to be placed on hold when calling for assistance. But on hold for over an hour?

Most government agencies are busy and it is not always possible to talk to a worker immediately. However, an hour on hold seems excessive. This was the situation behind a complaint we received about CSRU's Specialized Customer Service Unit (SCSU), where a woman had been on hold for more than an hour.

After contacting a supervisor and ensuring our "on-hold" citizen received the information she needed, we then followed-up on whether CSRU had a plan for addressing the problem. They did. Research had been conducted and contracts nearly complete for a new company to provide customer services for CSRU.

The new contract became effective July 1, 2000. In November 2000, staff from our office toured SCSU operations under the new contract. The new system allows supervisors to monitor how long each call is on hold waiting for a representative. Long-term tracking identified the hours when the most calls are received and staff assignments are made accordingly.

During the tour, we were presented with a computer report showing that even during the highest call volume times the average on-hold time was less than six minutes.

Ombudsman helps solve "impossible" problem

A woman complained that her daughter had not received her child support checks for almost three weeks. The money had been withheld from the obligor's check but it was her understanding that the Child Support Recovery Unit (CSRU) may have been provided with an incorrect address for her daughter. Her daughter had repeatedly contacted CSRU but she was given conflicting information as to whether they had even received the money. The daughter could not pay her babysitter and was in danger of losing her job if she did not get this money soon.

We immediately contacted CSRU and they confirmed they had received two child support payments. CSRU said the daughter should have received the first check the week before and the second check would be mailed out the following day. We verified that CSRU had the daughter's correct address. It was then that the CSRU worker noted the first check had been returned as undeliverable. We were told CSRU had the check in their office and since the daughter lived in the area, she could pick up the check anytime during regular business hours.

When we relayed this information to the daughter, she said she could get the check that same day. Her mother thanked us in a subsequent e-mail which said, "It is so nice to know that there are people that can actually help with problems that seem impossible."

Utah couple gets help with child support problem

A couple in Utah complained about notices from the Collection Services Center (CSC). The notices said the man had accumulated a huge arrearage.

They tried to contact CSC but were unable to resolve this issue. Each time they talked with a CSC representative, the couple said, they were told they owed this money and had to pay it.

The first notice said he was $32,000 in arrears for child support. He insisted he was up to date. He had paid his support directly to his ex-wife and he had kept all of his cancelled checks.

The couple received another notice that he owed back alimony. The divorce decree required alimony for a specified period of time or until she remarried. He insisted his ex-wife had remarried twice since their divorce.

His ex-wife had also applied recently for state assistance. That created a case with the Child Support Recovery Unit (CSRU) where none existed before. But when CSRU contacted her, she refused to answer questions about her remarriage, since she was not requesting enforcement of the alimony. CSRU amended the withholding order once it confirmed no alimony was owed. However, the employer had not yet provided the requested address and fax number so this amended order could be sent to the accounting department.

Through our inquiry, CSRU contacted the father. He persuaded his employer to call CSRU and give them the address of the head office. The CSRU representative also provided the couple with a fax number so they could fax her a message when they need to discuss a problem.

School reconsiders decision, student stays

A man called on behalf of his son, a teen-ager with attention-deficit disorder. The boy had previously lived with his mother, and had received permission to "open enroll" at a middle school in a neighboring town. The boy attended that school the year before.

Towards the end of the school year, the man gained custody of his son. The man lived in the town where the boy's middle school was located. The boy finished the school year at the middle school. The man did not notify school officials about the change in custody, as he assumed his son could continue going to the same school the next fall.

During the summer, the man began to realize that he had not received any information in the mail about the upcoming school year. Two weeks before school started, he took his son to the middle school and learned he had a problem. Staff told him that he lived in a district for another middle school, and his son would have to attend that school.

The man contacted school board officials, but they said the same thing. They also explained that the middle school had already approved the maximum number of special education students.

Though realizing he had made an incorrect assumption, the man felt this was ultimately unfair to his son. So he called our office.

We called the school board office and left a message. When they returned our call the next day, they had already reconsidered this matter and had decided to allow the boy to continue going to the same middle school as the year before.

Staff said it was a very difficult decision. On one hand was the concern that changing schools might be extremely upsetting to the boy. On the other hand was the number of special education students already approved at his old middle school.

College reverses decision, allows nurse to enroll

A woman complained a community college had unfairly rejected her application for enrollment into its registered nurse (RN) program.

Two years before, she had obtained a degree as a licensed practical nurse (LPN) from the college. At that time, she applied for admission into the college's RN program. The college sent a letter of acceptance, provided her final grade point average in the LPN program was at least 2.9.

Because of other things in her life, she changed her mind and did not pursue entry into the RN program at that time. Instead, she decided to work as an LPN. Before she could do that, however, state law required

her to pass a standard exam. She took the test five times over two years, but was unsuccessful each time. During that time, she worked as a certified nurse's aide.

She then reapplied for admission into the community college's RN program. This time, the college rejected her application. The woman said the college's reasons were inconsistent. First, they said it was because she hadn't passed the state boards. Later, they said it was because her final grade point average in the LPN program was below 2.9 (a point she disputed).

Frustrated, she contacted our office. We received her complaint about two weeks before the first day of class for the summer session of the year-long RN program. We immediately contacted key officials with the college. Over the next week, we had several conversations with them. Through our numerous questions, college officials stood by their decision to reject the woman's application.

We also reviewed relevant documentation (such as policies and transcripts) received from the college and the woman. One thing that was readily apparent was that the issue of what her final GPA was in the LPN program was relatively complicated. Even if she had not achieved a 2.9 in that program, we also were considering whether the college was fairly applying its policy for entry into the RN program. A key point, which we noted to college officials, was that the college had more than one version of its policy, which added confusion to the entire matter.

While we were still reviewing the matter, college officials recontacted the Ombudsman. After rethinking the matter, they had decided to allow her into the RN program, with "no strings attached." Needless to say, the woman was extremely pleased.

As an added bonus, the college clarified its policy for entry into the RN program to reduce the likelihood for such confusion in the future. Most significantly, the new policy clarified that returning students could not enter the RN program without first successfully passing the state nursing boards.

Mayor ignores complaint letter, then resigns

When people tell us about a problem, we almost always ask them what they've done about it. If they haven't contacted the agency involved, we usually suggest they do that, and then recontact us if the problem isn't resolved.

This was the case when a woman called with a complaint about the actions of a local police officer. She had not shared her complaint with city officials. We suggested she write a letter of complaint to the police chief and ask for a written response. She said the position of police chief was vacant. So we suggested she address her letter to the mayor, as the city's chief administrative officer – and encouraged her to recontact us if she wasn't satisfied with the mayor's reply.

She called us back two months later. She had sent a letter of complaint to the mayor, but had not received a reply. She sent us a copy of her letter to the mayor. After reviewing her letter, we called the mayor. He confirmed receiving the woman's letter of complaint. He also stated he would not reply to her because he wasn't directly involved in the matter and therefore believed it was none of his business. (Instead, he had given the letter to the officer involved and said the officer was free to decide whether to respond.)

We tried to persuade the mayor to reconsider his position. We explained that our office commonly suggests citizens air their grievances with the agency involved by writing a letter and asking for a reply. We noted that even if the agency doesn't substantiate the complaint, a written response will at least let the citizen know their grievance has been heard and reviewed.

We added that one of our basic tenets of "good government" is that citizens who take the time to communicate their concerns in writing deserve the courtesy of a written response from the agency.

However, the mayor stood by his decision to not respond to the woman. Pursuant to Iowa Code section 2C.15, we drafted a report which concluded by criticizing the mayor's refusal to respond to the woman. Immediately after sending the report to the mayor for his review and reply, we learned he had suddenly resigned the position of mayor the week before.

As a result, we chose not to publish the drafted report. But we did communicate with other city officials, including the new mayor, and eventually persuaded them to write to the woman apologizing for the prior mayor's refusal to respond.

Meeting minutes to be timely published

A man complained his City Council, County Board of Supervisors, and Community School District Board frequently fail to meet their deadlines set by Iowa Code to send their meeting minutes to the official newspapers for publication.

He provided a list of 1999 and 2000 meeting and publication dates for each of the three governing bodies. The list showed several publication dates between one and two months after meeting dates.

Under Iowa law, city councils must publish their minutes within 15 days after a meeting; county supervisors have one week; and school boards have two weeks.

We contacted the three governing bodies. All acknowledged being late on occasion. Each offered different reasons, such as workload and other tasks taking priority.

Each said they send only "approved" minutes to the newspaper, which means they don't send minutes until the board approves them at the next meeting. Sometimes, the legal timeline passed before the next meeting.

Each said they would be more conscious of the deadline and would try to do a better job. When we recontacted the complainant, he asked if the governing bodies had considered sending "unapproved" minutes to the newspaper. We reviewed the Iowa Code and found no requirement that minutes be approved before being sent to the newspaper for publication.

We contacted several organizations and agencies who have an interest in open records issues for governing bodies. We asked whether they thought governing bodies should send "unapproved" minutes in order to meet statutory publication time lines and eventually, all agreed with that approach in order to meet the statutory deadline.

The Iowa Attorney General's Office warned if the bodies do not meet the deadline, they could be sued. According to the Attorney General, someone adversely affected could bring a mandamus action, forcing the body to meet the deadline.

Several of the contacted organizations offered ideas on how bodies might more efficiently get minutes approved and sent. For example, the president of the County Auditors Association said she uses a laptop computer and types minutes during the meeting. If she knows the board won't meet again until the deadline for sending the minutes has passed, she will print the minutes and ask the board to approve before they adjourn.

We relayed these ideas to the three governing bodies the man had complained about. Each said they would meet the time line every time no matter what, even if that means sending unapproved minutes.

Social worker allowed to work at care facility

A woman was convicted seven years ago of a forgery crime against an elderly Iowan. She said her attorney advised that her name would go on the adult abuse registry for one year, as a result of the crime.

She later became a licensed social worker. When her employer's company changed ownership, a background check was conducted on all employees. The background check revealed that her name was still on the adult abuse registry. DHS said she was not eligible for a record check evaluation. (If a person's name is on the adult abuse registry, their employer can request a record check evaluation to determine if the individual can still work for the employer with or without restrictions. In certain instances, individuals are not eligible for a record check evaluation.) The caller was suspended from her job.

DHS told our office that the caller had been misinformed by her attorney — by law, her name would stay on the adult abuse registry for ten years. Her ability to appeal had long since expired.

But we questioned why she was not eligible for a record check evaluation. After repeated contacts, DHS admitted she should have been eligible for a record check evaluation. We advised the complainant to have her employer resubmit a request for a record check evaluation. This time, a record check evaluation was completed. DHS determined she could not work because of the dependent adult abuse report.

We told her she could appeal the decision. She did so and the administrative law judge (ALJ) said DHS' decision to prohibit or restrict her employment was incorrect. DHS then appealed the ALJ's decision to the director of DHS. The director decided she could be employed at the health care facility and have direct contact with patients but could not have access to any patient's financial records or accounts.

Grandparents get to see grandchildren one last time

A man was convicted of child endangerment. Two of his children were placed in foster care. The children's paternal grandparents wanted to have visitation to see these two grandchildren.

The grandparents said they called DHS to talk about visitation. They said they spoke to a receptionist, who said she would have the social worker call them back. Because they did not hear from the social worker, the grandparents assumed their request had been denied.

They called the Ombudsman for help. We contacted DHS. Its staff said it had no record of any such calls from the grandparents. DHS noted the courts had terminated the parental rights of the children's father. As a result, the grandparents could have a one-time visit, but that would be all without an additional court order.

At our suggestion, a DHS social worker called the grandparents to set up a one-time visit. DHS later said the grandparents were not aware their son's parental rights had been terminated.

Delinquent payment expedited

A woman submitted a claim for services rendered under a block grant program administered by the Department of Human Services (DHS). Nearly four months later, she had not received reimbursement. So she called the Ombudsman.

We contacted DHS. Through our inquiry, a supervisor in the field office discovered their staff had neglected to send a critical form to the central office.

They faxed the form to the central office immediately. This supervisor also called the applicant to explain what happened and to inform her she should receive a check within two weeks.

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.

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 ascertainments 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.

Message from the prison ombudsman

The year 2000 began with a flood of complaints about a new drug scanning tool used on visitors at all of Iowa's state correctional facilities. This instrument is called by various names, but known commonly as the ION Scan.

It's a fairly simple looking machine with a wand attachment. A porous paper filter is attached to the wand. A correctional officer runs the wand over clothing and hands, then places the wand on an area of the machine for it to determine if the individual has been in contact with any illegal drugs.

Initially, if the result was positive, the visitor was turned away, not provided with a retest, and not allowed to visit for one month. Visits for the following 90 days were no contact (a special area of the visiting room which completely separates visitors and offenders by glass).

Many visitors were turned away, prompting numerous calls to us. We investigated the use of the ION Scan. We examined the policy, the training provided, and the policies in other jurisdictions. We found the first policy the Department of Corrections (DOC) developed was overly punitive and not in line with general practice elsewhere. We also found the policy did not allow for an appropriate appeal mechanism for those testing positive. We further believed those testing positive should be given a retest.

The biggest discovery was that many of the machines were not being calibrated correctly or, in some cases, not at all. DOC brought in trainers from the manufacturer to ensure all institutions were using the technology properly. They changed their policy so that it was consistent with the generally accepted practice elsewhere. DOC also developed administrative rules with input from our office, visitors, and the Iowa Civil Liberties Union. Since these changes, we have received few additional complaints about the ION Scan's use.

Allowance Equity

A female offender contacted us to complain that incarcerated women were not provided the same allowance as male offenders in similar situations.

This did not raise an alarm until we began comparing the allowances from one institution to another. We discovered that the women were receiving for one day nearly the same amount that men were receiving for one hour.

The warden at the women's institution agreed this needed to be changed, but was also concerned about the effect on her institution's budget. She worked with DOC central office staff and changed the policy so that all offenders receive approximately the same amount.

Earned Time

The 2000 Legislature changed how most offenders' sentences will be calculated. The change was scheduled to go into effect January 1, 2001.

DOC needed a new computer program to change all effected sentences to the new calculation after

January 1 and end the old calculation on December 31. DOC appointed a committee representing all areas of corrections. This committee did an exemplary job of creating the policy, working with the Department of Human Services Computer Support Bureau to design the computer program, and also to train records staff, counselors and administrative law judges.

In turn, institution staff met with inmates and explained how the new law would affect their sentences. They provided a handbook for offenders and a handbook for staff. By February 1, 2001, most offenders had a copy of their time computation calculated with the new program.

As a result of this huge cooperative effort, January 1 passed with very few complaints and only a few questions about the new earned time law.

Prison improves policy for notifying families of sick inmates

A man entered prison in poor health. During visitation with his wife six months later, he had a fever. Three days later, he was transferred to University Hospitals for surgery. He was moved to intensive care the next day and surgery was delayed. Prison staff started trying to telephone the man's wife the day after that -- two days after he was transferred to the hospital. They made numerous attempts but nobody answered. Finally, nearly 24 hours later, they reached the man's wife (three days after he was taken to hospital). By the time she was able to get to the hospital, her husband was no longer coherent. His situation quickly deteriorated and he died the morning after she arrived.

His wife later contacted our office to complain about the delay in being notified by prison staff. We contacted the deputy warden. In response to our inquiry, the deputy warden wrote a letter to the woman stating that staff should have called her immediately upon his transfer to hospital; and also advising that as a result of her complaint, the prison has established a new policy requiring staff to make family contact any time an offender is admitted to the hospital. The woman said she was satisfied with the prison's response to her complaint. While she felt bittersweet at the entire situation, she was pleased to know that hopefully other families will be notified immediately in such cases.

Prison “party line” disconnected

Inmates in Iowa prisons are allowed non-monitored telephone calls to our office. Prison officers may only monitor the call long enough to verify the inmate is calling this office, and then must get off the line.

During what seemed to be a routine call with a male inmate, we heard another male voice. “Who is on this line?” we asked. “This is the Citizens’ Aide/Ombudsman’s office and this call is private. Please identify yourself.” There was no reply, only the sound of someone breathing.

As a result, we ended the call. We immediately called the prison and asked them to find out who the third-party was — and why he had been able to listen to our “private” conversation.

A check of the control center log showed only one officer monitoring inmate calls — a woman with a distinctively non-masculine voice. This made the situation even more mysterious: If the eavesdropper was not a prison staff member, who could it be and how did they do it?

We got a second call from the inmate who originated the first call. He said that after the last call ended, he picked up the receiver. He heard the tones of someone dialing out and then heard another inmate complete his call to an attorney. This inmate knew better than to eavesdrop, and hung up.

We relayed this new information to the prison. They checked the cellhouse and called us back with the mystery solved.

On each floor of the unit there are several telephone jacks and a telephone with a long cord is plugged in to reach to the inmate’s cell when a call request is submitted. All the phone jacks are connected to the same outgoing line. Usually only one phone is available on each unit. But in this case, two phones were on the same unit and plugged in on separate floors at the same time. It was like a child picking up the phone in the basement while a parent is on the phone in the kitchen.

While it is more work to carry one phone between floors on the unit, the prison agreed that is the only way to ensure that only one inmate at a time is on the outgoing line.

Appropriate diet ensured

An offender's girlfriend asked for our help regarding his dental problems. He had four wisdom teeth removed five days before her call to us.

The Health Services Unit ordered a liquid diet for three days and then a soft diet for three days. But the dietary department did not give him his liquid meals at least two times in one day. Dietary later served him regular food even though he was supposed to be on a soft diet.

When the offender asked about his soft diet, he said he was told they lost his paperwork so he would simply have to eat regular food. He also said he was still bleeding and had taken his blood-stained pillowcases to the laundry in "bio bags" three times in the last five days. Yet he was unable to get any help at the prison. We contacted the deputy warden.

The offender's girlfriend called back later that same day with thanks. The institution ensured the dietary unit had all the correct paperwork for a continued soft diet. In addition, the health services staff examined him and made an appointment for a return examination.

Payment facilitated

An inmate was asked by a prison staff member to do a crochet project for another staff member. They said the inmate would be paid for her time and expenses.

The inmate agreed. She completed the project and charged thirty dollars.

Two months later, the inmate was about to discharge her sentence and still had not been paid. She checked with staff and they said the business office was handling this matter.

More than a month after being out of prison, she wrote to our office for help. We immediately contacted the prison's deputy warden. They reported back to us that the payment was being mailed to the woman later that same afternoon.

Religious drop-outs no longer put in lock-up status

We were contacted by several inmates who had volunteered for a new faith-based program at Newton Correctional Facility (NCF).

Each had tried the program, decided it was not for them and dropped out. While awaiting transfers back to their original prisons, NCF staff placed them into lock-up status.

Frustrated, the inmates called us. They didn't think it was fair for NCF to put them in lock-up status. They hadn't picked up any disciplinary reports to warrant that status. And nobody had explained they would go to that status if they dropped out of the new program.

We contacted NCF about this. They looked into the issue further.

They later told us that they had reconsidered this practice and decided that such inmates would no longer be placed in lock-up status while awaiting transfer back to their original prisons (provided they hadn't picked up any disciplinary reports).

Tax department refunds overpayment

The Department of Revenue and Finance (DORF) had garnished 100 percent of a man's paycheck for failing to file and pay his state income taxes. The problem was that DORF continued to take his entire paycheck even though the man later did file his state tax returns.

The returns showed the state actually owed him money. His employer contacted DORF and was told the agency was awaiting papers from the court to release the garnishment. The employee requested our help in getting his money back.

DORF said the sheriff had to release the garnishment. Notification had been mailed to the sheriff and the man's employer. When we relayed this to the man, he asked when he could expect DORF to return the wages that had been garnished. We again contacted DORF and were told they would call the appropriate authorities to make sure his money was in the process of being returned.

A month later, the man told us he still had not received the $1,800 he believed he was entitled to. DORF told us his employer had not sent in the money from the wage garnishment. We received a message from DORF the next day that they had reviewed the employee's file and would be sending him a check for $1,464 — some money was kept for taxes he owed from prior years. We were told the man should have a check in one to two weeks. (At this point, we were beginning to agree with the employee — there was a different reason every time we called as to where the money was or where it should be.)

The man later got the $1,464 but insisted he did not owe any taxes from prior years. He provided copies of his tax returns to our office as evidence. The employee called again to report he had received a letter from DORF indicating he was owed a refund in those years but because of the statute of limitations, DORF could not return those refunds to him. He believed this letter proved he did not owe money for the prior years, contradicting what DORF had been saying. He wanted the additional $400 that DORF kept from the garnishment of his wages.

We decided at this point to request a review of the man's case by a supervisor. The supervisor called back later and said his review indicated DORF had already returned all of the employee's wages that had been taken through the garnishment process. We asked for the dollar amounts so we could study and confirm DORF's calculations. We had hardly hung up the phone when DORF called back and said they had identified another payment from the employer for $512 that had *not* been refunded. DORF said the man would have the check for the balance within ten days.

Agency compromises on monthly payments

A taxpayer owed almost $1,700 in back income taxes because her now former spouse had not filed income taxes for 1991-92 and 1994 until 1995, when they were still married and filed jointly. DORF, through its contract collections service, wanted a monthly payment amount she felt she couldn't afford.

The contract collection service wouldn't negotiate on the $142 monthly payment it was demanding. The taxpayer believed she could only afford between $50 and $75 per month. The collection service was adamant: either accept their payment schedule, pay the delinquency in full, or they would initiate a garnishment. The private contract collection service claimed the taxpayer was being uncooperative and unresponsive. The ombudsman asked a DORF official to review this case. He did and learned she had very little monthly income after paying bills. Based upon this information the department and the taxpayer came to a mutually agreed upon payment schedule.

Tax penalty correctly credited

A woman's son owed a $200 penalty for a traffic citation. She had sent in a money order for that amount. It had been cashed, but the amount was not credited to her son's account.

The mother contacted us. We in turn contacted the Department of Revenue and Finance (DORF). A few hours later a DORF representative called back with the news they located the funds.

It turns out the son's parents had an outstanding tax liability and the money order was credited against their outstanding balance. In addition, the couple made the money order out to DORF and not to the Department of Transportation, as it should have been. However, since the money order had only the son's name and social security number on it, DORF agreed it should be for the civil penalty — and credited the payment accordingly.

Insurance Division clarifies investigative role for complainants

A man complained the Iowa Insurance Division (IID) failed to require an insurance company to fairly pay him for the total loss of his vehicle and the costs of renting another one.

The man said he filed a complaint with IID and he had expected IID to determine the fair compensation amount and then force the insurance company to pay.

We contacted IID's Insurance Commissioner and Assistant Commissioner. We also reviewed IID's law and rules.

According to the Commissioner and Assistant Commissioner, IID's investigative role is two-fold. Part one is to review the insurance company's actions and practices to see if the company violated any insurance law. Part two is to review the company's claim settlement practices to see if the company performed a competent, reasonable appraisal.

The Assistant Commissioner said if the company, as a general practice, didn't perform a competent, reasonable appraisal, then that would also be an insurance law violation. Either way, after their investigation, according to the Assistant Commissioner, if IID staff believe the company's action or practice violated the law, IID will set the complaint for public hearing.

We reviewed all the paperwork generated by IID's investigation. The man and the insurance company offered different book values and dealer estimates to support their respective claimed fair compensation amounts.

After review, we agreed with IID. Both the man and the insurance company offered proof of competent, reasonable appraisals and it was not clear which was the more reasonable. Both looked at industry standard appraisal estimate books and both collected reputable dealers' estimates.

After talking with two other persons who filed similar complaints with us against IID, we discovered all three expected a definitive decision from IID on the facts. Each expected IID to investigate the insurance agency decision and determine the proper compensation amount for a totaled vehicle.

After talking with the Insurance Commissioner and the Assistant Insurance Commissioner, we learned IID's role is limited by statute and rule to determine: (1) Whether the insurance agency violated insurance law; and (2) Whether the agency's investigation or evaluation of the claim is reasonable.

IID does not determine the appropriate or right compensation amount; instead, it determines whether the insurance agency's decision-making process is reasonable.

We then discussed with the Insurance Commissioner and Assistant Insurance Commissioner what efforts IID made to communicate its investigative role to complainants. We also reviewed the paperwork and forms normally given to complainants during IID's investigative process.

The Commissioner and Assistant agreed little or nothing is done to tell complainants up front about IID's role and limitations. They also agreed their closing letter to complainants, stating IID is not a fact-finding agency, does little to communicate their two-step investigative role. They agreed complainants could reasonably expect a Judge Judy decision based on IID's "postcard complainant acknowledgement notice" and closing letter. They agreed to review their investigative process, notices and letters.

After reviewing the process with her staff, the Assistant Commissioner offered to develop a brochure explaining IID's investigative role, what IID can and cannot do. The brochure would be sent to every complainant early on in IID's investigation and would also be available to the public. The Assistant also offered to change IID's intake process. From now on, according to the Assistant, staff would be more careful in explaining what IID can and cannot do in the investigative process.

After several re-writes and after considering our input, IID completed the brochure. We relayed this information to the man and learned he and the insurance company had reached a settlement on the rental amount.

State adopts industry standard

A Regents owned vehicle was involved in an accident involving a privately owned vehicle. The State driver was at fault and the private vehicle was totaled. When the private party sought reimbursement through the State Tort Claim process for a replacement vehicle, an interim rental car and the sales tax and title fee of their damaged van the State refused to pay for the sales tax and title fee. While reimbursement for sales tax and title fee is an insurance industry standard and an unofficial unwritten expectation of the Iowa Insurance Division of the regulated insurance industry, the State of Iowa is self-insured and holds that it is not regulated by the standards placed upon the insurance industry. The Ombudsman argued that the State should not exempt itself from generally accepted insurance industry standards and that if it did so it was being unfair. The Ombudsman's rationale was persuasive and the final tort claim settlement to the private party included the sales tax and title fee they had paid when the vehicle had been purchased.

Additionally the State indicated it would adopt this insurance industry standard in its future settlement of vehicle accident claims where the State is at fault.

Agency improves telephone accessibility

A homeless man said he couldn't access the "Treasury Offset Program" (TOP) at the Iowa Department of Inspections and Appeals (DIA) because the program only used an answering machine — there was no way to reach a "live" person.

The man said DIA sent him a notice at his old address saying he owed money for over-issued food stamps. The notice said if the debt wasn't paid in 60 days, the state Department of Human Services would submit the debt to TOP for collection.

The notice said federal payments eligible for offset include income tax refunds and certain other federal benefits. The notice provided a toll-free number to call with any questions or concerns.

The man had many questions, so he called the number. His call was answered by an answering machine with instructions to leave his name and phone number so someone could call him back. Not having a phone number, this presented a problem for the man. He called back several times, but could find no way to talk to a "real person." He finally left his name and the phone number of a relative.

TOP staff did return his call, but couldn't reach him because he didn't live with the relative. The relative took messages, each one stating to call TOP back at the same toll-free number he had already called.

Tired of the "runaround," the man called our office. We contacted TOP staff. They said the man was right — the answering machine is used exclusively and there was no way to "opt out" and get a "live" person.

The director of DIA's Investigations Division said even though she had received no other complaint about the answering machine, she would change the system for answering calls to TOP. She said she understood and appreciated the man's dilemma.

The division director re-coded TOP's toll-free question line immediately so that all calls would be routed to the lead investigator. If the lead investigator is available, the call will be answered; and if not, the caller may leave a message or opt out to the receptionist.

Message from the small business ombudsman

The growing economy over the last few years has motivated many individuals to start their own business. This is evident by the number of inquires I have received about:

- Where to get a permit
- What grants and financial assistance are available
- Where and how to register a trade name and how to set up a corporation or partnership.

In addition to referring people to specific people in agencies, I often refer people to web sites for the various agencies, counties and communities. Some of these agencies have placed a considerable amount of information on their web sites in an effort to make government more accessible to the citizens of Iowa.

I also can count on receiving complaints every year on a variety of tax issues, including income tax, unemployment tax and local option sales tax. And there are always zoning and signage issues.

The area, however, that most quickly elevates the blood pressure of the small business owner is the government procurement process, both on the state and local level. Callers argue that bid specifications were not followed or that some portion of the process was unfair and biased. There is also the perception in many instances that the successful bidder has some inside connections, regardless of the merit and competitiveness of their bid. It is important that government employees responsible for procuring goods and services understand how critical it is to carefully monitor their actions and decisions to avoid any appearance of bias. This advice holds equally true when the amount of the purchase does not necessitate going through the bidding process.

Regardless of the nature of the complaint, honest, open and prompt communication by all parties involved can prevent many problems from reaching my desk.

When a picture is not worth 1,000 words

The DOT revoked a business owner's outdoor advertising permit. The permit was required for his billboard located along the interstate. The business owner said he was repairing the billboard and he knew the billboard could not be modified.

During the repair process the business owner installed additional support posts. He did not realize that DOT rules specify that a change in the number or type of support posts is a modification. DOT notified the business owner that it would revoke his permit when the repairs were completed. Included in the notice were pictures of the billboard during different phases of the repair process.

The business owner argued that if DOT had the time to stop and take pictures, their staff could have taken the time to talk to him about the problem. He also said his permit did not include the rules for modifying a billboard.

He appealed DOT's decision to revoke his permit. The administrative law judge (ALJ) upheld DOT's decision but suggested the business owner bring the billboard into compliance by removing the extra supports instead of tearing down the whole billboard as DOT had required. DOT then appealed the ALJ's decision to allow the business owner to bring his billboard back into conformance.

After reviewing this case, we questioned why DOT staff took pictures of the billboard but did not tell the business owner that what he was doing could result in revocation of his permit. DOT offered to include a notice with every annual permit billing statement explaining what can and cannot be done to the sign without securing a new permit to ensure permit holders understand the law. DOT also said it would send permit holders a letter reviewing what is allowed as routine maintenance when they observe work being done.

DOT subsequently informed our office that it had offered a compromise to the business owner. He could keep the billboard up for five years to recoup his costs. At the end of five years, the billboard would have to come down. (DOT rules state that modified signs must be torn down. By essentially waiving that rule in this case, the DOT was concerned it might risk loss of some highway funds from the federal government, which requires states to maintain control of roadside advertising.)

But the DOT official had not heard back from the business owner. We suggested that DOT make the business owner aware that the decision on DOT's appeal was on hold pending his response.

We also suggested that DOT give the business owner a deadline to reply to their original offer. Two weeks later, we received a copy of a settlement agreement between DOT and the business owner. The parties agreed that the billboard could stay for five years, at which time it would be removed without replacement at that location. DOT agreed to withdraw its appeal of the ALJ's decision and to withdraw its demand that the sign come down immediately.

Temporary license allows Iowan to drive home

A man was born and raised in Iowa. Five years ago, he left to go work in Asia. Now, he wanted to come back to Iowa.

He had flown to the United States and was temporarily in Arizona. His goal was to fly to Los Angeles, buy a car there, and drive back to Iowa.

Trouble was, he had allowed his Iowa driver's license to expire two years prior. He called the Iowa DOT and was told the only way he could get a new license was to go to their station in person and take the required tests. He specifically asked for a temporary license under the circumstances, but the DOT representative told him she could not do so.

So he called our office. We called the DOT and explained the situation. At our suggestion, they agreed to call this man. During their conversation, the DOT staff member agreed to send the man a temporary paper license good for 30 days. This would allow him to drive to Iowa, where he still would need to go through the process of getting a new, permanent license.

DOT corrects driving records

Iowans convicted of a drug-related criminal offense in the mid 1990s had their drivers licenses revoked by the Department of Transportation, pursuant to a state law in effect at the time. The DOT estimated that hundreds of licenses were revoked under this law.

In 1996, the Iowa Supreme Court issued a decision which held that the state law was unconstitutional as violating the double jeopardy clause. That case was filed by another driver whose license was suspended due to a drug-related criminal conviction.

In response to the court's ruling, the DOT rescinded the revocations of all drivers whose licenses were revoked under the law in question. However, DOT left the drug-related convictions on those people's driving records.

One of those drivers later wrote to DOT, asking it remove the conviction from his driving record, because it negatively impacted the amount he had to pay for automobile insurance. DOT denied his request, saying the conviction would stay on his record for seven years from the date it occurred.

Frustrated, the man contacted our office. We contacted DOT. Eventually, they agreed to remove the man's conviction from his driving record. DOT also agreed to remove such convictions upon request of other drivers similarly effected.