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Iowa Citizens' Aide/Ombudsman

**1993
ANNUAL REPORT**

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Should you call the ombudsman?

When a person calls the Citizens' Aide/Ombudsman (CA/O) with a complaint, often among the first questions asked is, what steps have you taken to resolve the problem? In many cases, such steps may rectify things. The CA/O recommends:

Be prepared. Write down your questions before calling or visiting a state or local government office. Have your information at hand, including any license, case or loan number, or any other identifying number.

Try calling first. A brief telephone call may save hours of time or any number of headaches such as not finding the right person present. Check to see whether you need to explain your concern in person and, if so, when to go and what documents to bring.

Be pleasant. State and local government employees, like most people, appreciate polite and courteous treatment. Confrontive or obscene language is unlikely to resolve the problem. Treat others as you wish to be treated.

Ask questions. Ask why the agency acted as it did. Ask employees to identify the rules, laws or policies which governed their actions. Ask for copies. Ask about exceptions to the rules, and about any right of appeal you may have.

Talk to the right people. Don't get angry with the first person you meet; usually he or she cannot change policy or make exceptions.

Read what is sent to you. Carefully read all letters and forms, front and back. Watch especially for rights to appeal decisions which often include deadlines. Respond well before the end of the deadline and consider sending appeals by certified mail. If you cannot write before the deadline, call to see if you can issue notice of appeal by telephone.

Keep records. Take good notes regarding telephone discussions. Ask for the names and titles of the people with whom you speak. Keep the letters and forms you are sent as well as the envelopes.

If all that fails, call the Citizens' Aide/Ombudsman. The CA/O has the authority to investigate complaints about many state and local government agencies (major exceptions are the federal government, the governor, the courts and the legislature). In the Des Moines area, call 281-3592. The toll-free number is 1-800-358-5510. Hearing-impaired persons may call the TDD number, (515) 242-5065. Write to Citizens' Aide/Ombudsman, State Capitol Complex, Des Moines, Iowa 50319. People generally are welcome on a walk-in basis at the office at 215 East Seventh Street, but may be able to save a wait by calling ahead.



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Overview of 1993

by

William P. Angrick II
Citizens' Aide/Ombudsman

Nineteen ninety-three was an eventful year for the office.

During the year we issued a Special Report regarding a child abuse investigation by the Department of Human Services and learned once again how frustrating it is to have access to significant information that is confidential by law yet we are constrained in our ability to share specific elements of that information when making a public report.

It is ironic that the Iowa public cannot become fully informed about some of the major cases or events which gain public attention. Nor can one of the public's watchdogs, the Ombudsman, openly, completely and candidly discuss what is specifically right or wrong with certain government agencies, programs and policies. Openness of government should be of continuing interest to a vigilant and responsible citizenry.

The CA/O was successful during 1993 in litigating a matter with the Iowa Department of Corrections which further strengthens our ability to obtain information needed for an investigation and to determine the manner by which an investigation will be conducted. In a different case we are litigating an aspect of our access power with the Board of Mortuary Science Examiners, which continues to resist our ability to review the investigative files of that agency to ascertain the quality of a complaint investigation it conducted. The outcome of that litigation will be of extreme importance in determining what role the CA/O will have in investigating complaints about professional licensing boards.

In 1993 we were designated the 1990 Clean Air Act Amendments' Small Business Ombudsman for the state by the federal Environmental Protection Agency. Under the Amendments each state is required to establish a technical assistance program, an ombudsman and a small business advisory board to assure that the regulatory enforcement actions to achieve the clear air standards do not cause undue hardship upon the state's small businesses. Funding for this responsibility will not be realized until November 1994, however we have been developing working relationships with the Waste Reduction Center at the University of Northern Iowa and various organizations and associations representing the types of businesses that will be regulated by the clean air act standards.

The Floods of '93 did not yield a significant number of complaints about government. Some complaints and assistance requests were received and two examples appear in the summary section of this report. By and large Iowa government at all levels worked admirably throughout this crisis.

The Legislative Branch of Iowa government responded to the crisis and the plea from Des Moines officials to reduce the demand on downtown infrastructure and resources by permitting legislative employees to perform volunteer services in lieu of reporting to the capitol complex

for work. The CA/O coordinated a volunteer information link between those services needing volunteers and the various staff of the Iowa Legislature.

During the 1993 State Fair the office operated an information booth in the Hall of Justice. This was our first year doing outreach at the fair and a significant number of people were made aware of our services and numerous contacts were received from this outreach activity. A refrigerator magnet giving address and telephone information about the office and a descriptive brochure were available for persons wanting to contact the office in the future.

In October Ruth L. Mosher, Deputy Citizens' Aide/Ombudsman retired. Ruth had been associated with the office since its beginning, initially as a part-time secretary when the CA/O was funded by a federal grant and located within the office of the governor. She fulfilled every capacity in the office including her service as acting Citizens' Aide/Ombudsman in 1977 and 1978. Ruth, a tireless champion of making good government better, resolved thousands of citizens complaints during her 23 years of service to the office. She remains respected throughout Iowa government and in the national and international circles of ombudsmanry.

ANNUAL REPORT NARRATIVE

During the calendar year 1993 the office of Citizens' Aide/Ombudsman received 4,994 contacts from individuals with complaints or requests for information. These contacts were received from all but one of the 99 Iowa counties, 33 states, the District of Columbia and one foreign country. A map illustrating the geographic distribution of the contacts originating from Iowa is included elsewhere in this report.

Individuals may contact the office by telephone, TDD, FAX, mail or in person. Flexibility is sought and there are no initial forms to complete. However, written complaints may be requested when the issues are detailed, complex or sensitive. Written complaints are generally requested for complaints dealing with law enforcement. During 1993 contacts were initiated with the office in the following proportions:

<u>SOURCE</u>	<u>TOTAL</u>	<u>PERCENT</u>
Telephone	4,002	80%
Mail	518	10%
Institutional Visit	344	7%
Office Visit	74	1%
Self-Initiated	34	less than 1%
Site Visit	22	less than 1%
	<hr/> 4,994	<hr/> 100%

In 1993 approximately 15 percent of the 2,162 jurisdictional complaints received and completed were found to be justified or partially justified; 33 percent were determined not justified; and 52 percent were either referred, withdrawn or there was no basis to evaluate the merits of the complaint.

Non-jurisdictional complaints accounted for 850 of the contacts received in 1993. Jurisdictional information requests numbered 1,088 during the year, while 607 of the contacts were non-jurisdictional information requests. Sixty-one contacts were of undetermined nature.

Of the 4,994 contacts received during 1993, 95 percent were completed and closed during the year. Two hundred and twenty-six contacts remained open and under investigation into 1994.

The length of time a contact remained open -- that is, until the complaint was evaluated as justified or not justified, and if determined to be justified an equitable resolution achieved; the information located and provided; or an appropriate referral made -- ranged considerably. Statistics demonstrate that 91 percent of the contacts were completed in 60 days or less.

<u>DAYS OPEN</u>	<u>NUMBER OF CONTACTS</u>	<u>PERCENT</u>
10 days or less	3,624	72%
11 - 30 days	601	12%
31 - 60 days	310	6%
61 - 90 days	110	2%
91 - 180 days	111	2%
181 days or more	12	less than 1%
Remained open into 1994	226	5%
	<u>4,994</u>	<u>100%</u>

Approximately 22.6 percent of the contacts dealt with divisions, institutions, or programs of the Department of Corrections and the Board of Parole. Lesser numbers involved the Department of Human Services (11 percent); the Department of Transportation (2.2 percent); and the Department of Employment Services (1.3 percent). Municipal government accounted for 9.2 percent and county government comprised 8.2 percent of the contacts received during the year. Approximately one percent of the contacts received during the year dealt with complaints or information requests concerning conditions, programs, or policies relating to the Floods of '93 and the aftermath. Less than one percent pertained to schools and school districts. A complete listing of the agencies, levels of government, and other subject areas about which the Ombudsman received contacts is presented elsewhere in this report.

The Citizens' Aide/Ombudsman has statutory authority to issue reports regarding governmental officers and agencies. These reports may be either critical or special in nature. A critical report may conclude that an agency or official acted arbitrarily, capriciously, unreasonably, or contrary to law. A special report details investigative findings that are not critical of an officer or agency yet involves matters sufficiently important or which have generated public attention to a degree that the Ombudsman believes a public statement is necessary. Copies of any public reports issued by the office are available upon request.

LEGISLATIVE RECOMMENDATIONS

The CA/O made the following legislative recommendations to the 1993 Iowa General Assembly: that the definition of domestic abuse be expanded to include persons who are parents of the same child, regardless of whether they have resided together at any time; the assault is between persons who have been family or household members residing together in the past and are not at the time of the assault; and the assault is between persons who are currently, or have within the past, been involved together in a dating relationship, regardless of whether they are currently or have previously resided together; and the person committing the assault is eighteen years of age or older that a criminal offense for violation of a domestic abuse protective order.

Some of the CA/O's legislative recommendations were passed into law by the General Assembly including a limited expansion of the definition of domestic abuse and clarification of the role of the county attorney in providing assistance to survivors of domestic abuse who are seeking to file domestic abuse protective orders.

BUDGET

During Fiscal year 1992-93 the state appropriation for operation of the office of Citizens' Aide/Ombudsman was \$587,378. Staff includes the Deputy Citizens' Aide/Ombudsman, Legal Counsel, Assistants for Corrections and Public Safety, four assistants with general assignment, and three support staff.

CITIZENS' AIDE/OMBUDSMAN TOTAL CONTACTS

1993 - 4,994	
1992 - 5,251	1981 - 3,846
1991 - 4,689	1980 - 4,237
1990 - 4,311	1979 - 4,458
1989 - 4,783	1978 - 2,838
1988 - 5,900	1977 - 2,733
1987 - 5,668	1976 - 2,597
1986 - 5,231	1975 - 2,624
1985 - 4,471	1974 - 2,262
1984 - 3,660	1973 - 1,199
1983 - 4,330	1972 - 1,934
1982 - 3,512	1971 - 1,185

SERVICE STAFF

William P. Angrick II, Citizens' Aide/Ombudsman

Ruth L. Mosher, Senior Deputy (Retired October 21, 1993)

- administrative oversight of support staff
- professional staff case management reviews and intake oversight
- new staff trainer
- specific assignment to Iowa Correctional Institution for Women
- general casework

Ruth H. Cooperrider, Legal Counsel II

- external legal representative of the office
- legal research, advice and opinions to staff
- ADA compliance officer
- affirmative action officer
- general casework

Michael J. Ferjak, Assistant for Public Safety (Assistant III)

- overall responsibility for complaints dealing with law enforcement, fire protection, disaster relief, and emergency medical services and county jails
- general casework

Judith A. Milosevich, Assistant for Corrections (Assistant II)

- overall responsibility for complaints dealing with adult correctional facilities and jails
- specific assignment to Iowa State Penitentiary, John Bennett Correctional Center, Mount Pleasant Correctional Facility, Iowa Correctional Institution for Women, county jails, and community based correctional facilities

Connie L. Bencke, Assistant II

- general casework
- specific assignment to the four mental health institutes, the Correctional Treatment Unit, and the Iowa Veterans' Home

Wendy L. Sheetz, Assistant I

- general casework
- specific assignment to the two juvenile institutions and the two hospital-schools

Steven L. Exley, Assistant

- general casework
- specific assignment to the Iowa Men's Reformatory, Iowa Medical & Classification Center, and North Central Correctional Facility

Jeffrey E. Burnham, Assistant

- general casework
- specific assignment to Correctional Release Center

SUPPORT STAFF

Judith L. Green, Executive Secretary
Patricia Nett, Administrative Secretary
Maureen Lee, CA/O Secretary

**1993
CITIZENS' AIDE/OMBUDSMAN
CONTACT STATISTICS**

JURISDICTIONAL AGENCIES, DEPARTMENTS AND OFFICES	TOTAL NUMBER OF CONTACTS	PERCENT OF TOTAL CONTACTS
State of Iowa (General)	273	5.5%
- Iowa Law/Bill Status	[191]	
- Governmental Financial Assistance	[15]	
- 1993 Flood Related	[47]	
Citizens' Aide/Ombudsman	87	1.7%
Department of Justice (Attorney General)	66	1.3%
Secretary of State	19	0.3%
- Notaries Public	[4]	
Treasurer of State	6	less than 0.1%
Department of Agriculture and Land Stewardship	10	0.2%
State Fair Board	3	less than 0.0%
Civil Rights Commission	25	0.5%
Department of Commerce	73	1.4%
- Banking Division	[9]	
- Insurance Division	[37]	
- Professional Licensing and Regulation Division		
- Accountancy Examining Board	(1)	
- Engineering & Land Surveying Examining Board	(1)	
- Real Estate Commission	(7)	
- Utilities Division	[17]	

Bracketed figures indicate divisional totals, figures in parenthesis represent sub-divisional totals.

Department of Corrections	1,045	20.9%
- Community Services Division	[4]	
- Community Based Corrections	(201)	
- Jail Inspector	(1)	
- Supervised Programs	(66)	
- Institution Division	[32]	
- Iowa Men's Reformatory, Anamosa and Luster Heights Facility	(144)	
- Correctional Treatment Unit, Clarinda	(52)	
- Iowa State Penitentiary, John Bennett Correctional Center and Prison Farms, Fort Madison	(178)	
- Iowa Correctional Institution for Women, Mitchellville	(80)	
- Medium Security Unit, Mount Pleasant	(144)	
- Correctional Release Center, Newton	(23)	
- Iowa Medical and Classification Center, Oakdale	(96)	
- North Central Correctional Facility, Rockwell City	(8)	
- Prison Industries Division	(3)	
Board of Parole	84	1.6%
Department of Cultural Affairs	4	less than 0.0%
- Historical Division	[2]	
- Historic Preservation Division	[1]	
Iowa Public Television	2	less than 0.0%
Department of Economic Development	26	0.5%
- Iowa Finance Authority	[3]	
Department of Education	28	0.5%
- Area Education Agencies	[2]	
- Area Schools Division	[3]	
- Community Colleges	[3]	
- Vocational Rehabilitation Division	[9]	
College Aid Commission	11	0.2%
Department of Elder Affairs	39	0.7%
- Nursing Home Ombudsman	[37]	
- Area Agencies on Aging	[1]	

Bracketed figures indicate divisional totals, figures in parenthesis represent sub-divisional totals.

Department of Employment Services	70	1.3%
- Industrial Services Division	[16]	
- Job Service Division	[11]	
- Labor Services Division	[32]	
Department of General Services	5	less than 0.0%
Department of Human Rights	17	0.3%
- Children, Youth & Families Division	[1]	
- Community Action Agencies Division	[5]	
- Deaf Services Division	[3]	
- Persons with Disabilities Division	[2]	
- Latino Affairs Division	[2]	
- Criminal and Juvenile Justice Planning Agency	[1]	
- Status of African Americans Division	[1]	
Department of Human Services	550	11.0%
- Community Services Division		
- Collections	(214)	
- Child Protective Investigations/Adult Protective Investigations	(93)	
- Social Worker	(72)	
- Income Maintenance	(105)	
- Mental Health, Mental Retardation, and Developmental Disabilities Division		
- Mental Health Institute, Cherokee	(13)	
- Mental Health Institute, Clarinda	(1)	
- Mental Health Institute, Independence	(10)	
- Mental Health Institute, Mount Pleasant	(4)	
- Social Services Division		
- State Training School, Eldora	(4)	
- Iowa Juvenile Home, Toledo	(7)	
Department of Inspections and Appeals	20	0.4%
- Employment Appeal Board	[3]	
- Hospital Licensing Board	[1]	
- State Appellate Defender	[2]	
- Public Defender	[1]	
- Racing & Gaming Commission	[2]	
State Appeal Board	1	less than 0.0%
Department of Management	1	less than 0.0%

Bracketed figures indicate divisional totals, figures in parenthesis represent sub-divisional totals.

Department of Natural Resources	31	0.6%
- Environmental Protection Division	[10]	
- Natural Resources Division	[5]	
Department of Personnel	17	0.3%
- Iowa Public Employees Retirement System (IPERS)	[10]	
Public Employment Relations Board	1	less than 0.0%
Department of Public Defense	12	0.2%
- Disaster Services Division	[2]	
- Military Division	[1]	
- Veterans Affairs Division		
- Iowa Veterans Home-Marshalls town	(9)	
Department of Public Health	28	0.5%
- Board of Barbers Examiners	(1)	
- Board of Chiropractic Examiners	(1)	
- Board of Cosmetology Examiners	(2)	
- Board of Mortuary Science Examiners	(1)	
- Board of Nursing Home Examiners	(1)	
- Board of Psychology Examiners	(2)	
- Board of Social Work	(2)	
Professional Licensure Boards	11	0.2%
- Board of Medical Examiners	[4]	
- Board of Dental Examiners	[2]	
- Board of Pharmacy Examiners	[1]	
Department of Public Safety	34	0.6%
- Criminal Investigation Division	[6]	
- Fire Marshal Division	[5]	
- State Patrol Division	[17]	
- Capitol Security	(1)	
- Medical Examiner	[1]	
Law Enforcement Academy	1	less than 0.0%
Board of Regents	32	0.6%
- University of Iowa	[11]	
- Hospitals and Clinics	(6)	
- Iowa State University	[11]	
- University of Northern Iowa	[2]	
- Iowa School for the Deaf	[2]	

Bracketed figures indicate divisional totals, figures in parenthesis represent sub-divisional totals.

Department of Revenue and Finance	58	1.1%
- Lottery Division	[11]	
Department of Transportation	112	2.2%
- Administration Division	[2]	
- Highway Division	[19]	
- Motor Vehicle Division	[79]	
- Planning & Research Division	[1]	

Schools and School Districts	45	0.8%
- Administration	[14]	
- Board	[12]	
- Teachers	[5]	
Municipal Government	461	9.2%
- Administration/Clerk/Manager	[8]	
- Assessor	[1]	
- Attorney	[3]	
- Housing and Zoning	[30]	
- Mayor/Council	[75]	
- Municipal Utilities	[42]	
- Parks/Recreation	[1]	
- Police/Jails	[216]	
- Public Works	[31]	
County Government	410	8.2%
- Assessor/Conference Board/Board of Review	[14]	
- Attorney	[74]	
- Auditor	[3]	
- Conservation Commission	[7]	
- Engineer/Roads Department	[14]	
- General Relief	[15]	
- Recorder	[1]	
- Sheriff/Jail	[205]	
- Board of Supervisors	[21]	
- Treasurer	[8]	
- Weed Commissioner	[2]	
- Zoning	[5]	
- Mental Health	[4]	
- Hospital	[7]	
Metropolitan/Regional Government	4	less than 0.0%
Private Non-Profit Quasi-Government Agency	18	0.3%

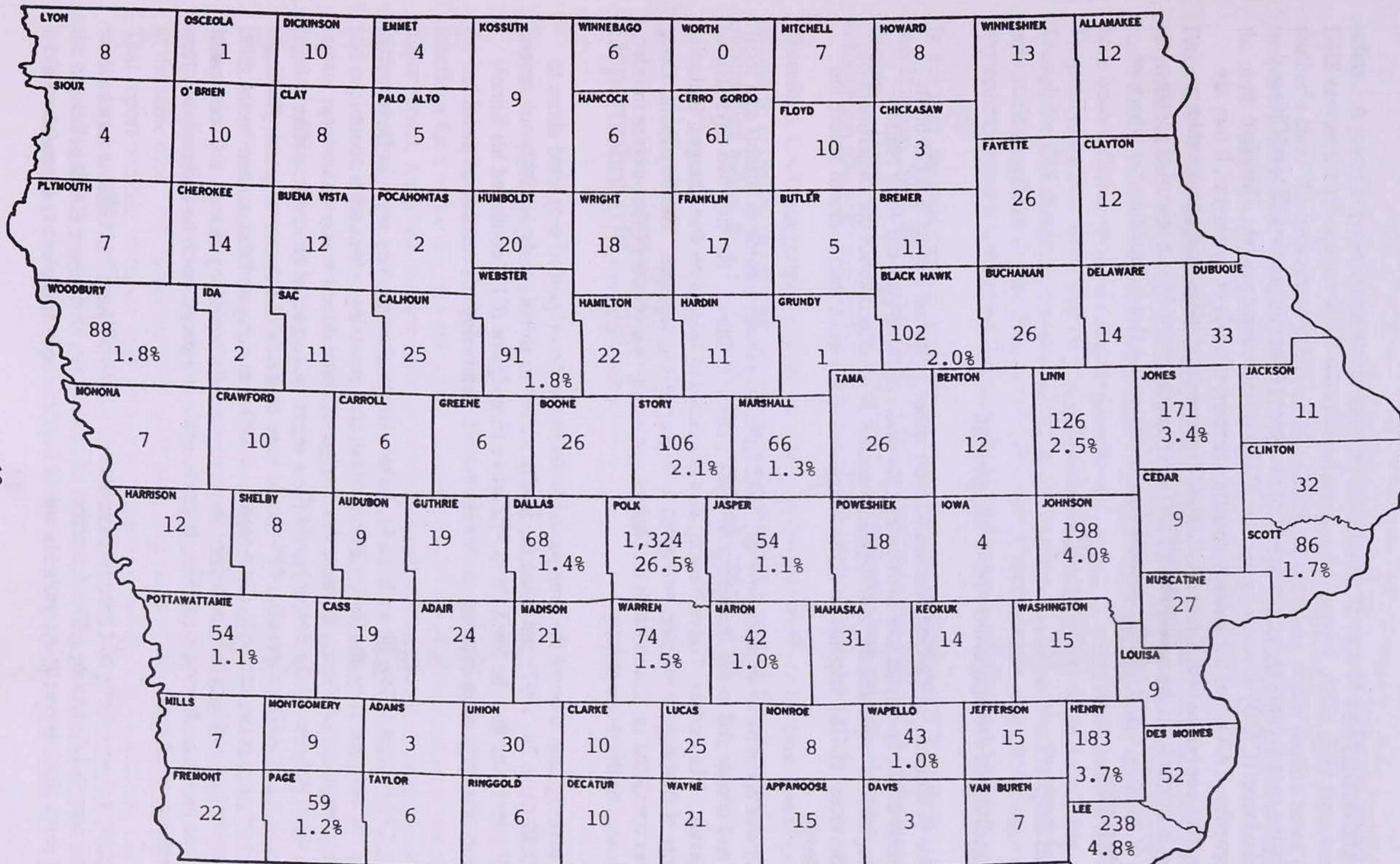
Bracketed figures indicate divisional totals, figures in parenthesis represent sub-divisional totals.

NON-JURISDICTIONAL

Government, State	162	3.2%
- Governor and Staff	[23]	
- Judiciary	[98]	
- Clerks of Court	[16]	
- Juvenile Court Officers	[4]	
- Legislature/Legislative Agencies	[19]	
States Other Than Iowa	35	0.6%
- Interstate Compact Matters	[12]	
Government, Federal	135	2.7%
Non-Jurisdictional - General	1,022	20.4%
- Consumer	[143]	
- Employer/Employee	[180]	
- Financial Institution	[33]	
- Insurance	[43]	
- Landlord/Tenant	[93]	
- Private Dispute	[269]	
- Health Professionals	[32]	
- Nursing Homes	[11]	
- Utilities	[28]	
- Legal Professionals	[75]	
Undetermined	61	1.2%

Bracketed figures indicate divisional totals, figures in parenthesis represent intra-divisional totals.

1993 CONTACTS BY COUNTY



Iowa Unknown	595	11.9%
Other States	119	2.4%
District of Columbia	1	
Foreign Countries	1	
Unknown	6	

For counties reflecting contact count without percentage figure the percentage was less than one percent.

Case summaries

The following case summaries are a sampling of the types of complaints the Office of Citizens' Aide/Ombudsman (CA/O) attempts to resolve. CA/O is resolution oriented. Therefore, as a general practice, CA/O does not publicly criticize agencies, officials or employees, if they are receptive to or cooperate with CA/O conclusions or recommendations, and a reasonable resolution is reached. In the summaries which CA/O has determined to be critical of specific agencies or persons, CA/O has not revealed their names, unless that information has otherwise been made public.

Special report

DHS' handling of Nelson child abuse allegations

The Office of Citizens' Aide/Ombudsman (CA/O) issued a Special Report in 1993 on its investigation of the circumstances surrounding the death of three-year-old Jerry Nelson. Several legislators requested the investigation because of questions about the Department of Human Services' (DHS) response to abuse allegations made more than a month before the child's death.

The child was taken by ambulance July 29, 1992 from his mother's home in Illinois to a local hospital and transferred to the University of Iowa's Hospital Clinic. He died two days later of brain injuries. His mother, Tonya Nelson, was convicted in Illinois on five charges, including two counts of first-degree murder, and given a 75-year prison sentence. Her boyfriend, Doug Oaks, was convicted in Illinois on three charges, including two counts of first-degree murder, and sentenced to the death penalty.

CA/O's investigation showed the time period between the first report of suspected abuse to Iowa's DHS (June 24, 1992) and when the family moved to Illinois (July 1, 1992) was seven days. Of note is the fact the Iowa Child Protective Investigator (CPI) contacted his Illinois counterpart promptly upon learning the family moved, expressing his concern of possible abuse.

The Iowa CPI did not follow up with the St. Luke's Hospital emergency room in Davenport, where he had referred Jerry for further examination after receiving information about additional allegations of abuse. Because the emergency room doctor was a mandatory reporter, the CPI believed the doctor would file a report of suspected child abuse if he suspected abuse. CA/O believes the CPI should have contacted the doctor to get his findings instead of relying on the doctor to file a report. CA/O communicated this concern to the CPI and his supervisor and they acknowledged the omission. (In testimony at trial, the doctor said he observed marks on Jerry's ears, back, buttock, groin and penis which he believed may have been indicative of abuse.)

If the doctor's observations had been communicated to DHS on June 26, 1992, it may have been sufficient to substantiate a founded report of child abuse. However, CA/O believes a founded child abuse report alone probably would not have been sufficient to ensure the child's

safety. A juvenile court order would have been necessary to require family participation in DHS services, a no-contact order with the perpetrator or removal of the child from his mother's care. To immediately remove the child from the home would require an ex parte temporary order from the juvenile court, for which DHS would have to present evidence that the child was in imminent danger.

From CA/O's experience in reviewing child abuse cases, we believe the information known to all parties at the time did not rise to the level of imminent danger. Even if the emergency room doctor's observations had been timely reported to DHS, CA/O does not believe it would have been sufficient evidence to gain juvenile court action to immediately remove the child. Tragically, we now know that may have been the only way to have saved Jerry's life. Though the CPI should have contacted the doctor directly, CA/O believes that with the information available to him from family and medical professionals, the CPI demonstrated appropriate concern and alerted Illinois officials of his concerns in a timely fashion.

In this case, the trial transcripts placed much of the information about DHS' role into the public arena. With that source of information, CA/O was able to report the substance of our findings. This is not possible in the majority of child abuse cases CA/O investigates, because information about those cases is confidential by law.

Therefore, CA/O suggested Iowa law on confidentiality of DHS' child abuse investigations should be examined to consider whether the public is best served by the shroud of secrecy surrounding both high and low profile cases. (Special Report 93-1)

Department of Corrections

Inmate loses privilege

An inmate at Iowa State Men's Reformatory (ISMR) in Anamosa complained about his sanctions for a minor disciplinary report. A minor report is not considered as severe as a major report, for which the sanctions may include weeks of disciplinary detention lockup or increased prison time. The inmate also complained he did not have all of his legal paperwork and copies of his disciplinary report. After CA/O contacted the security director of ISMR, the inmate received copies of his disciplinary reports and legal paperwork. Prison officials have to regularly decide between security and access to legal materials; the state fire marshal's office repeatedly warns prison officials to reduce the amount of combustible materials in inmates' cells, but inmates have the right to possess items including religious, legal and prison-related materials. One of this inmate's disciplinary reports involved tampering with equipment. He and a roommate had wired together two sets of headphones so they could both listen to music at the same time. For tampering with equipment, they received major disciplinary reports. That report was later dropped from a major to a minor infraction, greatly reducing the sanctions allowed by ISMR and Department of Corrections (DOC) policies. CA/O determined the sanction given exceeded that allowed by the policies; the headphones were taken away for 14 days rather than the maximum of 10. CA/O found the ISMR policy received from DOC

Central Office in Des Moines was outdated. The update made the ISMR policy consistent with DOC policy on the number of days which the loss of the privilege may be imposed. Subsequently, CA/O has found several outdated policies among DOC's records and has pointed them out. ISMR explained the problem to the inmate. The inmate was paroled to a sentence in a neighboring state. (92-09)

Penitentiary allows religious newsletter

An inmate at the Iowa State Penitentiary (ISP) in Fort Madison complained prison officials denied his request to publish and distribute an inmate religious newsletter. Inmate cited a court settlement agreement stating, "Inmates shall be allowed to ... publish, distribute and receive newsletters, tracts, etc., within the institution." CA/O suggested he file a grievance, which the treatment director denied. CA/O contacted the treatment director to learn why he denied the grievance in light of the settlement agreement. The treatment director refused to change his position. When the new warden was appointed, CA/O met with him and brought up this issue. The warden initially said the request would be denied. CA/O continued to press for correctional justification, particularly in light of a settlement agreement. Eventually, the warden approved the inmate's request to publish and distribute the newsletter. (93-108)

Claim: Art materials damaged

An inmate at Iowa Men's Reformatory (ISMR) in Anamosa had several complaints following a search of his cell. He claimed his legal materials were searched without anyone seeking his written consent. During the search, he claimed, several original artworks which he had hoped to use to seek employment as a commercial artist were damaged. Finally, he received a minor disciplinary report for having a cardboard box in his cell. The inmate said Iowa State Penitentiary at Fort Madison and Mount Pleasant Correctional Facility at Mount Pleasant utilized a notification form prior to searches of legal materials. The inmate included a copy of the form with his complaint. ISMR officials indicated they were not interested in adopting a similar form. This is one of several discrepancies CA/O has found between Iowa prison institutions which cause confusion and discontent among inmates. Some of these are results of federal lawsuits filed by inmates at Fort Madison or Mount Pleasant. Iowa is divided into two federal court jurisdictions, and DOC officials often do not apply decisions in one division to prisons in the other. DOC officials have an outside consultant reviewing policies, however, which CA/O hopes leads to more uniform application. This inmate said the ISMR policy allowed one cardboard box of legal materials to be stored in his cell. The policy did not, however, state the materials could be stored in a cardboard box; instead, it appeared the amount of materials may be limited to that which would fit in such a box. ISMR officials contended drugs or other contraband could be hidden within the corrugated folds of cardboard and, hence, cardboard is not allowed in cells. Prisons are encouraged by the state fire marshal to limit the amount of combustible materials in cells. Regarding his allegedly damaged artwork, the inmate was advised he may wish to file a tort claim, or claim against the state. Prisons are authorized to settle tort claims in the amount of \$50 or less while larger tort claims are decided by the State Appeal Board, with appeals to a legislative committee possible. The inmate was advised to estimate the value of the artwork, the amount the alleged damage detracted from that value and submit a claim. (April 93-28)

No-smoking policy at IMCC

A no-smoking policy went into effect at Iowa Medical and Classification Center (IMCC) at Oakdale on January 1, 1993, resulting in numerous challenges to inmates and staff. One inmate complained an officer, seated at a central desk on the main floor, accused him of smoking in his room many feet away and one floor above. The officer then turned the light on all night in the cell. CA/O questioned this practice to IMCC officials, who confirmed it had happened and told the officer that was not an acceptable sanction for a smoking infraction. Staff was told to discontinue that sanction. Inmates later complained the same practice had recurred, and CA/O and IMCC officials went through the same steps to attempt to halt it. IMCC officials attempted to limit smoking by controlling access to matches. This led to inmates finding creative places to hide contraband matches, such as taping them to the bottom of doors. Eventually, inmates could trade one match for up to two packs of cigarettes. Early in 1994, inmates reported they had received some disciplinary reports for using graphite from pencils and electrical sockets to light cigarettes. Inmates apparently discovered they could create an electrical arc by inserting two pieces of graphite into an electrical socket (one at a time to prevent electrocuting one's self) and holding a cigarette between them, resulting in an electrical arc which could light a cigarette. These and other issues are likely to continue and multiply as more institutions recognize the dangers of second-hand smoke and go to smoke-free environments. Inmates still are allowed to smoke outside with officers or fixed electrical lighters supplying the fire. (September 93-28)

Accident costs inmate

An inmate at a work release center called to complain about the costs of an accident which had been assessed to him. While working at the Iowa State Men's Reformatory (ISMR) at Anamosa on August 21, 1992, he said, he had accidentally scraped another vehicle with a dump truck which he was backing up. The accident put a dent which the inmate described as about three and one-half feet long in the box of the neighboring vehicle, which he said was similar to a small moving truck. The inmate, who said he had been driving prison vehicles for about six months, reported the accident immediately to his prison work supervisor. He received a major disciplinary report for destruction of state property. A hearing committee reduced it to a minor disciplinary report, reducing the possible sanctions. The inmate said he signed it because he believed if he refused, he would not be allowed to transfer to a minimum security facility as scheduled. He also agreed to pay the damages because, he claimed, he knew of another inmate who had a similar accident and the damages amounted to about \$50. The inmate was surprised some time later when he learned he had been assessed \$1,445 for the damage. Still, he did not complain because he was afraid he would damage his prospects of gaining work release. He made some \$459.55 in payments, but eventually came to believe the nearly \$1,000 he still owed would jeopardize his timely release from work release. CA/O reminded ISMR the state is self-insured and when most state employees have accidents involving state vehicles, they are not held personally liable for the damages. ISMR had some difficulty reconstructing the case because records of minor disciplinary reports are destroyed after 90 days. ISMR reviewed and decided to rescind the order to hold the inmate accountable for the damages. ISMR reimbursed the inmate the \$459.55. (November 93-28)

Facility gets equipment for hearing-impaired inmate

An inmate complained the Mount Pleasant Correctional Facility (MPCF) was failing to provide services to allow him to participate in the Sex Offender Treatment Program (SOTP). The hearing-impaired inmate said the judge, before sentencing, contacted MPCF and determined they could deal with the inmate's disability in the SOTP. Upon arrival, the inmate found there was no teletypewriter (TTY) telephone or closed captioned television for him to use. CA/O researched the recently enacted Americans with Disabilities Act (ADA) to determine its applicability to correctional facilities. CA/O spoke with the facility's treatment director in an effort to obtain some services for the inmate. CA/O also spoke with another facility's treatment director, who was willing to loan a TTY phone and TV adapter to MPCF. MPCF treatment director seemingly made no move to borrow this equipment, stating the inmate had few people to contact anyway. CA/O eventually wrote a letter to MPCF's warden suggesting the facility borrow the equipment and hire a translator for the inmate. MPCF chose to obtain a TTY phone and a closed-captioned TV and contracted for an interpreter to help the inmate a few hours every week. (92-64)

Resident relieved of medical bills

A resident of the Beje Clark Residential Center in Mason City complained the facility refused to pay medical bills for a back injury. The injury occurred when he fell in the shower after a timed-light went off. CA/O learned that when the facility was built, the bathroom lights were installed with motion detectors. At CA/O's request, the facility checked and found the motion detectors could detect movement in the bathroom but not in the shower -- meaning they turned off after 10 minutes of no motion. When the facility still refused to pay the resident's medical bills, CA/O presented the case to the assistant director of the Second Judicial District, Department of Correctional Services. After reviewing the matter, he agreed the facility was liable. The bill had already been paid by a private agency which assists the indigent population. (May 1993-27)

Infectious materials clean up

Several inmates at Iowa Medical and Classification Center (IMCC) complained they were forced to clean up urine and feces thrown into a hallway by unruly inmates, but the cleaners had not received the proper training in how to handle potentially infectious wastes and were not given the proper protective gear. Another inmate complained he was forced to clean up blood under similar circumstances. IMCC administration reviewed and determined such an event did occur. Trained inmates were not available and untrained inmates were called in. The administration told staff not to use untrained inmates in the future. Normally, inmates receive training and sign forms indicating its completion. At one point, IMCC decided to test inmates to ensure they had learned the material. Almost immediately, an inmate flunked the test and IMCC staff wondered whether the failure was on purpose. IMCC was considering other ways besides tests to see whether the inmates had learned the material. Inmates who handle potentially infectious wastes use rubber gloves and other appropriate equipment after the training, IMCC staff said. (September 93-28)

County jails

Polk County Jail improves transportation practice

A former Polk County Jail prisoner complained about the jail's practice of sending some low-risk inmates to other jails to complete their sentence and not providing transportation back when ready to discharge. Even inmates who had enough money to pay for transportation back to Polk County had no advantage since their checks were issued at discharge, shortly after midnight when most towns have no stores open to cash checks. CA/O contacted jail administrators and expressed concern about the practice and its potential to create more victims. Less than one week later, Polk County jail administrators informed CA/O they had contracted with three bus lines to provide transportation at Polk County's expense. Inmates need only notify the jail 24 hours before discharge that transportation will be needed. This is a far less expensive alternative than using sworn officers to transport inmates back to Polk County. (January 1993-27)

Appanoose County Jail bills inmate for medication

An inmate complained the Appanoose County Jail was charging him for medical bills for which he believed they were responsible. The inmate had been taken to a Centerville hospital, where medication was prescribed for an ear infection. The hospital began billing the inmate, who in turn believed the jail should be paying for his care. CA/O contacted the jail administrator, who said they were acting on the advice of the South Iowa Area Crime Commission. CA/O contacted the commission's attorney, who promised to research the issue, instruct jail staff appropriately and apprise CA/O of the results. Research by CA/O found a court case where the Iowa Supreme Court ruled that while a jail must make medical attention available, it does not necessarily follow that they must also pay for it. CA/O also found a 1989 Attorney General's Opinion which construed that the Code of Iowa does not prohibit county jails from seeking reimbursement of medical bills paid for non-indigent inmates. The crime commission's attorney later instructed the jails that medical attention should be provided and if the inmate is indigent, the county may have to guarantee payment. CA/O advised the complainant that the jail's actions appear to be reasonable. CA/O suggested the inmate could file a tort claim against the county if he wished to pursue the matter. (93-86)

Board of Parole

Parole Board refigures inmates' risk assessments

An inmate at the Mount Pleasant Correctional Facility complained about his risk assessment -- a calculation the parole board uses to determine an inmate's potential risk to the community if released. The score is partly based on the inmate's past criminal history and weighs violent crimes more heavily than non-violent crimes. The inmate had a past conviction for criminal mischief which was considered a violent offense for past assessments. However, its status was changed to a non-violent offense after a review of the risk-assessment program by its developer. CA/O contacted the parole board, which said the new model would be used for

new inmates but not for current inmates. CA/O asked the parole board to review this inmate's risk assessment based on the new model. His score changed from a nine (high risk, requiring votes of all five board members for parole) to a six (low risk, requiring only three votes). The parole board agreed to recalculate scores for all inmates two months before their annual review. (September 1993-27)

Changes in parole procedures

A legislative staffer contacted CA/O to inquire about proposed changes in parole law which proponents had billed as "minor" changes. It was not immediately clear the changes had been proposed by the parole board. CA/O reviewed the bill and decided some of the changes were extensive. For instance, the law would no longer require the parole board meet with inmates, annually and in person, to discuss possibilities for release. Inmates who contact CA/O put much value in those meetings, because the parole board generally recommended steps inmates needed to take to increase their chances for release. For some inmates, it seemed the only incentive for self-improvement, and a very powerful incentive. CA/O forwarded concerns to several legislators. The Parole Board Chair then contacted CA/O, complaining CA/O undermined his efforts at passage without even the courtesy of a telephone call to discuss the concerns with him. The call was the first time CA/O realized the changes had been proposed by the parole board. The chair said very few parole decisions are based upon the interviews; rather, the parole board could more fruitfully spend its time conducting reviews of individual files, the method by which it finds the bulk of its good candidates for parole. CA/O expressed its reservations as outlined above. Further, CA/O questioned what assurance inmates would have the parole board was reviewing their progress on a regular basis. There was no requirement in the legislation for regular reviews or notices to inmates when such reviews were conducted. CA/O shared these concerns with the parole board chair, the director of the Department of Corrections and legislators. The legislation was amended to reflect many of CA/O's concerns and to preserve the best of both approaches. The legislature passed the bill and it was signed by the governor. (93-45)

Department of Human Services

Foster family alleges poor service by DHS

A foster couple complained they and their severely-disabled foster child had been receiving poor service from a Department of Human Services (DHS) county office. It had been nearly five months since the caseworker had seen the child at school, where he lived during the week. No caseworker had seen the child at the couple's central Iowa home, though he had been placed there for a year, where he lived weekends and in the summer. (DHS policy required at least one visit every 35 days, according to the county director, who said he expected at least half of those visits be to the foster home.) Also, the child needed medical attention, but the foster parents lacked authority to take him without written approval from the child's biological parents, who still had guardianship. While the caseworker had said she was trying to resolve this problem, the foster parents had not heard from her for more than a month. The day before calling CA/O, they called the caseworker and learned she no longer worked there. They left a message for the county DHS director but had not heard from him. CA/O

immediately contacted county and regional DHS officials. Within two hours, the foster parents received, from DHS, faxed copies of the documents granting them authority to obtain medical care for the child. The county director said the documents had been in the case file, unattended to, for more than a month. CA/O wrote the county director asking for copies of case plans and court orders involving the child. The letter also asked about caseweights of workers in the DHS county office. DHS responded that the child's worker had a caseweight of 330 when she resigned. At that time, the office average caseweight was 310, and rose to 325 after the resignation. (DHS refined the caseweight system in 1985, at which time the workload level was set at 130 per service worker.) The regional administrator said the office had experienced high staff turnover, which he attributed to a reduction of force and restructuring. In a letter to CA/O, he wrote, "Due to the large number of vacancies and the fact that social workers were not handling cases they were familiar with it was extremely difficult to provide all needed services to the families involved during this time." About a year after CA/O received the complaint, the office average caseweight was about 220. While this indicated an improvement, even the 220 level was higher than the 199 level, which was the statewide average for DHS service workers during fiscal year 1992 and which prompted a November 16, 1992 report to DHS from the State Auditor's Office noting the potential risk for lawsuits if DHS workloads were not reduced. Regarding visits to the foster child in this case, DHS said the new caseworker would visit the child in the foster parents' home every other month. CA/O later contacted the foster parents and learned the caseworker had been making regular visits about every 35 days to see child. Most of the visits had been in the home. (92-230)

Delivery bill paid

A woman complained Title XIX (Title 19) was refusing to pay her hospital bill for the delivery of her child. The child was placed for adoption and the adoptive parents paid the child's hospital bill. The woman was on Title XIX through Scott County but was in Des Moines when she went into early labor. She was admitted to a private hospital and was sent directly to the birthing room, bypassing the emergency room. As a result, no prior authorization was received from the insurance provider which provides Title XIX benefits in Scott County. The insurance provider, therefore, refused to pay the mother's bill. CA/O discussed the case with DHS and noted the unusual circumstances. DHS agreed to continue working with the insurance provider in an attempt to get payment and the hospital suspended collection of the bill. DHS subsequently obtained records from the hospital. Those records were reviewed by the insurance provider, which agreed to pay the outstanding bill. (93-168)

Department of Transportation

CA/O reviews property dispute

A woman complained the Department of Transportation (DOT) was trying to take more of her property than agreed to in condemnation proceedings for a highway improvement project. At issue was a 17-foot stretch of land extending the length of the woman's farm property, approximately one-quarter mile long. She contended DOT's surveying crew had misidentified the highway's "center line" in an effort to take more property. She believed what DOT

marked as the "center line" was some distance, perhaps up to one foot or more, closer to her property than the actual "center line". Because the measurement for the condemned land would start from the "center line," she alleged DOT would end-up with more of her property than it was supposed to. She based her allegation on her memory of surveying work done the previous summer by a DOT contractor who she believed had accurately identified the "center line". She contacted a legislator, who visited her property, agreed DOT may have been taking too much property and suggested she contact CA/O. CA/O arranged to inspect the property along with the woman, her legislator and two DOT officials. During the inspection, CA/O had DOT officials explain how they located the "center line" by using a "tie sheet" (drawn years ago by surveyors who set the highway's boundaries) to locate iron pipes and a granite slab buried under the road surface to mark the "center line". CA/O contacted the contractor and discussed the matter at length. CA/O provided him with a copy of the "tie sheet" DOT used to locate the "center line." After reviewing those documents, the contractor found them to be the same documents he had used in locating the buried granite slab and iron pipes. As a result, the contractor believed DOT had marked the same "center line" as he had found the previous summer. CA/O concluded there was no evidence indicating DOT was taking more property than agreed. (93-96)

DOT resolves foundry access problem

A worker at a business complained the Department of Transportation (DOT) was prohibiting his vehicles from using a public highway for the purpose of hauling used sand from a foundry to his facility. He claimed the vehicles traveled only about 900 feet on the public highway. He said his company used vehicles comprised of tractors pulling dump-truck style wagons, because their trucks cannot fit between the columns in the loading area. DOT warned the business it would be cited because the tractors were not licensed commercial vehicles and therefore could not haul sand over a public highway. DOT noted the exemption for farm tractors from DOT registration and licensing requirements generally applies to agricultural uses. CA/O asked if DOT could exercise discretion to grant the company an exception or grace period to find alternative arrangements. Although DOT replied it had no such legal authority, DOT considered the situation further and worked out an acceptable solution with the concerned parties. The vehicles would simply cross the highway to other property owned by the foundry and from there travel through the parking area to the business, which abuts the foundry property. Since vehicles may be driven or moved upon a highway for the purpose of crossing from one property to another under Iowa Code section 321.18, this arrangement resolved the problem. (January 1993-24)

DOT rescinds policy

CA/O received two similar complaints regarding the Department of Transportation (DOT). First, a woman complained DOT asked her to produce an unusually large amount of documentation to prove her citizenship. She is a naturalized citizen from Greece and has been a resident for over 20 years. When she tried to renew her driver's license, DOT ordered her to produce documentation of her citizenship, even though she had a valid Iowa driver's license. She was informed the additional documentation was needed because of her accent and she appeared to be of foreign origin. When she asked for a copy of the policy, she was told it was strictly verbal. CA/O made inquiry to DOT. After several exchanges between CA/O, the

Department of Human Services' Bureau of Refugee Services (BRS) and DOT, DOT changed its policy. (93-55)

Second, a Monsignor contacted CA/O on behalf of a Hispanic parishioner whose green card and Social Security card were confiscated by DOT when he applied for a driver's license. CA/O made inquiry to DOT, which said the documents were confiscated because the applicant gave inconsistent answers when asked about any prior issuance of identifications by Iowa authorities. DOT contended it is responsible to ensure illegal aliens and others who may be concealing their identity are not able to do so through an Iowa driver's license or identification card. CA/O challenged DOT's authority to confiscate documents it had not issued. DOT agreed to return the documents in this case but remained firm in its stance that it had a role to play in thwarting illegal aliens. CA/O believed this was unreasonable. A BRS official joined CA/O on this. Ultimately, the DOT policy was rescinded. (93-54)

Other state agencies

State Fair disposes of cup policy

A man complained the Iowa State Fair (ISF) would be requiring concessionaires to buy their beverage cups for 1992 and future fairs from ISF. The policy was initiated as part of ISF's effort to recycle beverage cups, thereby reducing the amount of solid waste going to the landfill. The man questioned the legality of the policy, including whether it was an unlawful restraint of trade. CA/O contacted ISF on the complaint. CA/O acknowledged ISF had broad authority to grant privileges to contractors selling commodities under Code section 173.14 and to coordinate with waste management authorities under section 455B.48 for the proper handling and disposal of waste generated by ISF. CA/O questioned the need to require concessionaires to buy cups from ISF. Through further investigation, CA/O concluded the proposed recycling program was not unreasonable. However, CA/O believed ISF needed to adopt new administrative rules about the program because it was a change in policy and procedure which affected a segment of the public. ISF agreed to begin the process of drafting new rules and CA/O monitored the progress. Several months later, however, ISF terminated the policy, apparently due in part to problems experienced by some concessionaires. The policy would stay in effect for the 1993 State Fair to use the existing cup inventory, after which ISF would require concessionaires to use a certain type of recyclable cup. CA/O decided against pressing for adoption of rules on this new policy, since concessionaires affected would be informed about it through correspondence with ISF. (92-25)

Job Service reverses decision

Four people complained Job Service was penalizing them for following a Job Service representative's advice. Each received a notice stating they were "overpaid" because they failed to properly report severance pay from the employer who laid them off. The overpayments ranged individually from \$1,456 to \$6,363 and totaled \$12,699. The four said they followed a Job Service representative's advice in reporting severance pay. That advice was documented on an audio-tape recording of a meeting between laid-off workers and the Job

Service representative. The four appealed Job Service's decision. Before appeal hearings were held, they contacted a legislator who referred the complaint to CA/O, which presented the case to the Chief of the Job Insurance Bureau. He told CA/O that the four would likely lose their appeals because Job Service is mandated to recover overpayments, regardless of the reason. CA/O explained the existence of the tape recording and pointed out that eight months had elapsed before the four had any idea there was a problem. CA/O noted this meant they did not know they would be asked to repay those benefits and so could not make decisions regarding their personal finances accordingly. The bureau chief then offered to review the tape recording of the Job Service representative's comments. He later issued four rulings rescinding the overpayment notices. The rulings cited the logic pointed out by CA/O. (93-04)

Sexual harassment exempted

A woman contacted CA/O to complain she had suffered sexual harassment in the workplace. She was employed by a truck driver. She and her boss were the only two employees of the business. She was fired, she complained, because she refused to have a relationship with her boss. She filed for jobless benefits and assistance from the state Department of Human Services. In response, her employer offered to rehire her. She objected to working for him, claiming he continued to insist she have a relationship with him as a condition of employment. His job offer muddied the waters of her unemployment claim, she believed. CA/O recommended she contact the Iowa Civil Rights Commission (ICRC) to see whether she could file a civil rights complaint. She called back to say ICRC advised her it could not entertain a civil rights complaint because of Iowa Code Section 216.6(6a) which exempts "(a)ny employer who regularly employs less than four individuals" not counting "members of the employer's family." The ICRC confirmed that interpretation. Federal law is no help, the ICRC said, because it excludes companies with fewer than 15 employees from sexual harassment protection. An individual may be able to sue an employer for assault or wrongful termination, but not for violation of civil rights. (December 1993-28)

Insurance division wins argument

A retired Iowan who lives in Washington, D.C., contacted an Iowa congressman to complain about the Iowa Department of Commerce's Insurance Division. The congressman asked CA/O to review the situation. The retiree was a member of a benevolent society which offered to pay a \$1,000 benefit upon a member's death. Members paid \$1 upon the death of other members to fund the benefits program, plus 25 cents per death for administrative fees. The retiree had been a member of the benevolent society since his parents enrolled him in the 1930s. Prior to April 1983, members of benevolent societies were considered to have paid in full the cost of the plan once their payments equaled that of the benefit. The retiree contended he and his parents had paid well over \$1,000 in his more than 50 years in the group. He had no records, however, showing the total amount of payments. In 1983, the Iowa Administrative Code was amended so fees no longer were considered ever paid in full. The insurance division had told the retiree changes in Iowa law no longer allow the formation of new benevolent societies because they are considered a poor investment. At CA/O's request, the insurance division requested records and determined the benevolent society had been sold twice and did not have complete records. Partial records showed the retiree had paid more than \$800. Given the period of time which the records did not cover, CA/O urged the

insurance division to argue it was likely the retiree had met the payment threshold prior to the change in the Iowa Administrative Code. Finally the company "reluctantly agreed" to consider the retiree paid up and proposed in the future, it would charge only the 25-cent administrative fee per death, dropping the \$1 assessment. Given the lack of records, CA/O believed this to be a reasonable compromise. (92-334)

Extra income doesn't pay off

A retiree who had gained benefits from the Iowa Public Employees' Retirement System (IPERS) felt he was unfairly penalized when ordered to repay benefits because he still had a part-time public job. His career included work for a school district, a small city and two other public employers. IPERS paid him retirement benefits until it discovered he had not retired from the part-time position with the small city. It then ordered him to repay some \$6,000 in benefits. The man complained the action was taken without IPERS giving him a hearing, and the "fine" was excessive given the small amount he earned in the part-time employment. IPERS said the case was clear under law, and it had no choice but to recoup payments made in error. There had been no fine. The man had not achieved a "bona fide retirement" because he had not resigned all of his public employment. The man had provided documentation he had retired from all jobs with public employers. The man complained his attorney did not receive notice of IPERS' decisions and thus had no notice of rights to appeal. IPERS' records, however, showed several contacts with the attorney. CA/O concluded IPERS extended the original 30-day deadline for appeals by several months. CA/O advised the retiree he may file a complaint against his attorney by contacting the Iowa State Bar Association's Committee on Professional Ethics and Conduct. CA/O concluded IPERS had not exceeded its authority or acted unreasonably. (93-35)

Mortuary Board reconsiders apprenticeship

A man complained about the Board of Mortuary Science Examiners' (board) denial of his registration for apprenticeship. The denial was based on the board's determination that he had not fulfilled the board's educational requirements. He claimed that when he was at the University of Northern Iowa (UNI), a board member told him a B.A. degree and an A.A. degree in mortuary science would satisfy the board's educational requirements. After graduation, he attended Kansas City Kansas Community College (KCKCC) and obtained an A.A. degree in mortuary science. KCKCC accepted a writing competency exam he passed at UNI as fulfilling KCKCC's required Composition I and II classes, both worth three semester hours at KCKCC. At the time of the complaint, the board was refusing to recognize the competency exam towards any of the required nine hours in communication courses. The board's rules require at least 64 semester hours of coursework in five subject areas and electives; nine of the hours must be in communications. The board reviewed the applicant's educational credits at a meeting attended by CA/O and the legislator who referred him to CA/O. Both the legislator and CA/O asked the board to reconsider its denial, since the man had demonstrated proficiency in communications and the board could exercise discretion in granting him six hours for the exam, as KCKCC had done. The board instead granted him three credit hours, UNI determined its exam was equivalent to three semester hours of credit. In view of the basis for the decision, CA/O could not conclude the board was unreasonable.

The man later took a CLEP exam, credit for which was accepted by UNI and placed on his transcript. The board accepted the credits and granted the man his apprenticeship. The legislator later introduced an amendment to Iowa Code section 156.3 under which an applicant could fulfill the general educational requirements by obtaining a bachelor's degree, without specifying the required coursework. (93-133)

Legal battle avoided

A man complained the Department of Revenue and Finance's Inheritance Tax Division (ITD) wanted to collect \$3,257 for inheritance tax on a trust fund a judge declared null and void. The initial notice from ITD gave him a deadline for filing an appeal. His attorney contacted ITD to ask for the legal basis for collecting the tax. The attorney spoke with an ITD official who was uncertain whether ITD could cite any such legal authority. The citizen then contacted CA/O, who in turn contacted the same ITD official. When CA/O pressed for ITD's legal basis for imposing the tax, she finally agreed to do some research. Within an hour, she called CA/O back and provided the case citation for a 1975 Iowa Supreme Court decision which supported collection of the tax. CA/O relayed the case citation to the citizen so he could pass it on to his attorney. After reviewing the case, the attorney concluded ITD had sufficient authority to impose and collect inheritance tax in this matter. The citizen pointed out that had he not contacted CA/O, he and his attorney were preparing to challenge ITD largely because the ITD official initially said she could not cite any legal basis for the action. The citizen noted both he and ITD may have spent considerable time and resources arguing a matter which, as it turned out, they agreed on. CA/O agreed with the citizen's concerns and recontacted the ITD official. After some discussion, she agreed to "try to be more clear" in the future. (93-100)

Cities

CA/O investigates a city's Animal Shelter

CA/O conducted a lengthy investigation into seven complaints about a city's Animal Shelter. The complaints raised general concerns about policies and practices on seizure, impoundment and disposition of dogs and cats, as well as specific issues surrounding some cases. CA/O conducted numerous interviews and made three on-site visits to the shelter, one involving a random review of records of dogs and cats. CA/O also completed a statistical comparison of adoptions over four years. CA/O found on one complaint the shelter failed to impound a dog the required minimum three business days before destroying it, because the city veterinarian counted any part of a 24-hour day the dog was at the shelter as one day. The shelter later clarified its policy to ensure dogs are kept a minimum of three full business days. CA/O found on another complaint the shelter's agreement to board a dog at the city treasurer's request was not based on any stated legal authority and deviated from standard and past practices. In an incident involving the seizure of a dog suspected of being neglected, CA/O concluded the shelter failed to follow city code by not giving the owner contemporaneous notice of the charge. Based on the investigation, CA/O suggested to the mayor and city council that:

- Owners who call trying to find their stray dog be informed stray dogs housed at the shelter are subject to disposal after being held three business days. The shelter adopt this disclosure practice as policy, in addition to clarifying that stray dogs be impounded a minimum of three full business days.
- The city reassess its licensing policies and practices regarding legal ownership of a dog, including whether a minor child can be listed as owner, whether all joint owners should be listed and whether the consent of all legal owners should be obtained for purposes of transferring ownership to the city for disposal.
- The shelter refrain from boarding or keeping animals for unauthorized reasons.
- The shelter maintain detailed records of actions taken involving an impounded dog.
- The city consider creating an expedited administrative procedure for dealing with dogs suspected of being vicious, dangerous or having been abused.
- The city determine if it is satisfied with the shelter's adoption track record and if not, implement changes in the adoption guidelines and procedures as deemed necessary.
- The city adopt regulations on the ownership of cats, including any licensing or vaccination tag requirements, circumstances under which cats may be impounded, and the dispositional alternatives following impoundment.
- The shelter reassess its policy on controlling feline respiratory diseases during the fall seasons, to determine if an effective isolation program and/or vaccination program can be implemented first, before resorting to destroying all kittens. (91-91; 91-109; 91-120; 91-152; 92-28)

Chatsworth faces common small-town challenges

A Chatsworth resident questioned the legality of a council member serving as town constable and the mayor mowing the city park for \$5 an hour. CA/O contacted city officials, who said Chatsworth did not have its own police protection; the council member appointed as constable primarily maintained decorum at public gatherings or occasions calling for law enforcement and was not paid. They said the mayor was appointed to maintain the city park at \$5 per hour after no one responded to a posted notice seeking applicants. Though the mayor was being compensated for other services, which is generally prohibited under Iowa Code section 372.13(8), CA/O believed it fell under an exception in section 362.5(11), since the population of Chatsworth was under 2,500 and he was compensated less than \$2,500 in the fiscal year. Since this issue had arisen in other complaints, CA/O obtained an Attorney General's Opinion, which confirmed the mayor was acting legally. CA/O informed city officials the council member could not serve as a peace officer for law enforcement purposes unless he was trained and certified as a peace officer. CA/O noted an Attorney General's Opinion (#87-10-4) had construed Code section 372.4 as "imposing a responsibility on all cities to provide police protection either by appointing, at a minimum, a chief of police or marshal, or by contracting with the county or another city for such protection." CA/O suggested Chatsworth explore contracting for police protection, if it could not afford to hire its own police officer. CA/O later recontacted city officials and learned they had contacted the Sioux County Sheriff's Office about contracting for services, but the cost was prohibitive. Fortunately, the sheriff's office was continuing to respond to calls involving more serious criminal offenses. CA/O suggested the city continue to study any feasible long-term solutions, including entering into an intergovernmental agreement with surrounding towns for joint or cooperative law enforcement. (92-138)

City gets out of rental business

A citizen complained her small business was suffering from unfair competition by the city of McCausland. The citizen provided council minutes showing the council agreed to rent city maintenance "staff/equipment" for \$35 an hour. CA/O questioned whether this practice violated provisions of Iowa Code Chapter 23A, "Noncompetition by Government." CA/O discussed the matter with the mayor, including the question of whether the practice violated Chapter 23A. The mayor agreed to review the matter. The council later voted to rescind the practice. (June 1993-29)

Lake View Council reduces church's electric bill

A representative of a church in Lake View complained the city council had raised the cost of the church's electrical service significantly. The council had approved an ordinance with a higher rate category for three-phase systems. The church was the only church in Lake View with such a system. The man contended his church should be billed at the same rate as other churches. He and others had raised the complaint to the council but had received no response. CA/O wrote a letter to the mayor and received a reply stating the council had approved a new ordinance providing for a lower rate category for churches with three-phase systems. As a result, the church would see a reduced rate compared to other three-phase customers, retroactive to the time the rate increase was put into effect. (93-47)

Counties

Where now, dead cow?

A homeowner in rural Jones County complained a dead cow had been in her front yard for a week and no one would remove it. When she first saw the carcass, it was caught in a creek fence under a bridge bordering her yard. She called the Jones County Environmental Sanitarian, who arranged to have a rendering truck pick up the carcass the next day. Two days later, the homeowner noticed the carcass was gone from the fence and she assumed it had been picked up. Later in the week, she was mowing her yard when she discovered the carcass again -- still in the creek but this time only about 200 feet from the house. Heavy rains had apparently dislodged the carcass from the fence. By this time, the rotting carcass was giving off unpleasant odors. The homeowner called the county sanitarian, who suggested she hire someone to remove the carcass. When she called the rendering company, they declined to help and suggested she call the farmer who was the presumed owner of the carcass. Efforts to reach the farmer were unsuccessful. The homeowner then called CA/O, who in turn made several phone calls to county officials, including the sanitarian. By the end of the day, the sanitarian said the sheriff's and roads departments would move the carcass to the roadside the next day, at which time the farmer would remove it. But later that same afternoon, the homeowner called CA/O and left the following message: "The cow is gone. The (owners) came with a tractor and hauled it away. Thank you." (May 1993-29)

Unsafe ladder replaced

A title abstractor contacted CA/O regarding what she said was an unsafe situation at the Jones County Recorder's office. The office stored large, heavy docket books on individual shelves reaching up to eight or 10 feet off the floor. Office staff and members of the public, including abstractors, used an old, wooden stepladder to access the books. The abstractor believed this situation was particularly unsafe for a woman of her strength and age, greater than 50. CA/O asked the abstractor to put her complaint in writing to the Jones County Recorder and Board of Supervisors. She did so and they agreed to provide a new, four-step, metal ladder with rails on the side and front. CA/O visited the office to view the situation. The new ladder seemed wider and more sturdy than the old wooden step ladder, and seemed to address the concern. The abstractor also complained about availability of new records. She believed the new documents should be made available to her immediately upon receipt by the recorder. The recorder said those documents needed to be reviewed and processed first, and the documents normally are made available within 24 hours of receipt, when processing is complete. She declined to have the abstractor dictate the methods by which she operates the office and expressed concerns documents may otherwise be susceptible to loss. Further, names of people involved in real estate transactions are immediately recorded in "fee books" which are instantly available to the public. The recorder argued that gave sufficient notice to the abstractor about whether one of her properties was involved in a new document. There may be some validity to the concern regarding loss of documents prior to processing. The abstractor believed the recorder's method violated Iowa Code Chapter 22, "Access to Public Records (Open Records)." CA/O directed her to Iowa Code Section 22.5, "Enforcement of rights.... (R)ights under this chapter may be enforced by an action for judicial review...." CA/O has no authority to represent an individual in such a lawsuit. (93-149)

Law enforcement

City police officer loses evidence

A woman complained a city police department mishandled evidence, failed to interview witnesses and did not respond to her inquiries concerning the vandalism of her vehicle. CA/O interviewed the complainant, police chief and the investigating officer. CA/O determined the department in fact failed to properly secure and transfer evidence to the state crime lab in Des Moines. This failure resulted in the loss of the items identified as evidence. The police chief agreed with CA/O's determination. CA/O advised the department to review its procedure for handling evidence and provided a copy of the Commission on Accreditation for Law Enforcement Agencies' national standards for such operations. CA/O was satisfied that the chief took appropriate action with regard to the officer, however, CA/O cannot release the nature of that action because it is confidential personnel information. Regarding interviews of witnesses, CA/O found the department pursued interviews to a reasonable conclusion. Several witnesses simply refused to give a statement and the county attorney did not compel them to do so. Testimony by the investigating officer persuaded CA/O to believe the complainant was informed that the investigation had ceased, and that she was told her option rested in a civil court action of some kind. (93-15)

State Patrol gives information to mourning mother

A woman whose son was killed in a motor vehicle accident complained a state trooper refused to identify the other party's insurance company. Her son had no insurance and was single at the time of his death. She said the trooper said only a spouse or attorney could obtain the name of the insurance company from the accident investigation report. CA/O contacted the Iowa State Patrol (ISP) and noted the mother was the only surviving family member because there was no surviving spouse. ISP then contacted the woman and provided her with the name of the insurance company. (February 1993-17)

Flood-related problems

Record floods delay water-bill reminders

An Ankeny homeowner complained the Des Moines Water Works (DMWW) was charging her for a bill that accrued before she bought the property. She made the offer to buy on June 9, 1993 and the closing was August 5. She later received a September 17 bill from DMWW charging her \$51 because efforts to collect from the previous occupants were unsuccessful. CA/O contacted DMWW, which said a June 8 bill was mailed to the previous occupants. In a typical year, DMWW would have mailed a "reminder statement" after 30 days. In July 1993, however, DMWW sustained significant flooding, preventing DMWW from mailing the reminder until August 17. Still receiving no response, DMWW mailed a notice to the new property owner September 17 and a duplicate reminder to the previous occupants. Eventually, the new homeowner paid the bill and was reimbursed by her Realtor®. This is not uncommon, according to DMWW, which believes Realtors® should determine whether there are any unpaid utility bills involving a property before closing. While she was reimbursed, the homeowner wondered why DMWW did not "go after" the former occupants. CA/O advised her that under Iowa Code section 384.84(1), a city utility has only one means of enforcing collection of unpaid bills -- by contacting the county treasurer to attach a lien to the property. (93-196)

Flood threatens wedding plans

A mother called about an application for a marriage license filed with the Polk County Clerk of Court's office, an office which is non-jurisdictional to CA/O. The application was filed in plenty of time, about 10 days before the wedding. The flood of 1993, however, struck in the interim, closing down the Polk County Courthouse and much of downtown Des Moines. CA/O called around and located several county court services, but no one who could describe how to deal with this situation. With the wedding a few days away, CA/O recommended the mother contact the state court administrator to seek resolution to the problem. The problem was resolved in time for the wedding, and the mother later reported the young couple was "very happy." (July 1993-28)

CHAPTER 2C

CITIZENS' AIDE

This chapter not enacted as a part of this title; transferred from chapter 601G in Code 1993

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2C.1 Definitions.

As used in this chapter:

1. "Administrative action" means any policy or action taken by an agency or failure to act pursuant to law.

2. "Agency" means all governmental entities, departments, boards, commissions, councils or institutions, and any officer, employee or member thereof acting or purporting to act in the exercise of official duties, but it does not include:

a. Any court or judge or appurtenant judicial staff.

b. The members, committees, or permanent or temporary staffs of the Iowa general assembly.

c. The governor of Iowa or the governor's personal staff.

d. Any instrumentality formed pursuant to an interstate compact and answerable to more than one state.

3. "Employee" means any employee of an agency.

4. "Officer" means any officer of an agency.

5. "Person" means an individual, aggregate of individuals, corporation, partnership, or unincorporated association.

[C73, 75, 77, 79, 81, §601G.1]

C93, §2C.1

Section transferred from §601G.1

Subsections renumbered to alphabetize

2C.2 Office established.

The office of citizens' aide is established.

[C73, 75, 77, 79, 81, §601G.2]

C93, §2C.2

Section transferred from §601G.2

2C.3 Appointment — vacancy.

The citizens' aide shall be appointed by the legislative council with the approval and confirmation of a constitutional majority of the senate and with the approval and confirmation of a constitutional majority of the house of representatives. The legislative council shall fill a vacancy in this office in the same manner as the original appointment. If the appointment or vacancy occurs while the general assembly is not in session, such appointment shall be reported to the senate and the house of representatives within thirty days of their convening at their next regular session for approval and confirmation.

The citizens' aide shall employ and supervise all employees under the citizens' aide's direction in such positions and at such salaries as shall be authorized by the legislative council. The legislative council shall hear and act upon appeals of aggrieved employees of the office of the citizens' aide.

[C73, 75, 77, 79, 81, §601G.3]

C93, §2C.3

Section transferred from §601G.3

2C.4 Citizen of United States and resident of Iowa.

The citizens' aide shall be a citizen of the United States and a resident of the state of Iowa, and shall

be qualified to analyze problems of law, administration and public policy.

[C73, 75, 77, 79, 81, §601G.4]

C93, §2C.4

Section transferred from §601G.4

2C.5 Term — removal.

The citizens' aide shall hold office for four years from the first day in July of the year of approval by the senate and the house of representatives, and until a successor is appointed by the legislative council, unless the citizens' aide can no longer perform the official duties, or is removed from office. The citizens' aide may at any time be removed from office by constitutional majority vote of the two houses of the general assembly or as provided by chapter 66. If a vacancy occurs in the office of citizens' aide, the deputy citizens' aide shall act as citizens' aide until the vacancy is filled by the legislative council.

[C73, 75, 77, 79, 81, §601G.5]

C93, §2C.5

Section transferred from §601G.5

2C.6 Deputy — assistant for penal agencies.

The citizens' aide shall designate one of the members of the staff as the deputy citizens' aide, with authority to act as citizens' aide when the citizens' aide is absent from the state or becomes disabled. The citizens' aide may delegate to members of the staff any of the citizens' aide's authority or duties except the duty of formally making recommendations to agencies or reports to the governor or the general assembly.

The citizens' aide shall appoint an assistant who shall be primarily responsible for investigating complaints relating to penal or correctional agencies.

[C73, 75, 77, 79, 81, §601G.6]

84 Acts, ch 1046, §1

C93, §2C.6

Section transferred from §601G.6

2C.7 Prohibited activities.

Neither the citizens' aide nor any member of the staff shall:

1. Hold another public office of trust or profit under the laws of this state other than the office of notary public.

2. Engage in other employment for remuneration with an agency against which a complaint may be filed under this chapter or that could create a conflict of interest or interfere in the performance of the person's duties under this chapter.

3. Knowingly engage in or maintain any business transactions with persons employed by agencies against whom complaints may be made under the provisions of this chapter.

4. Be actively involved in partisan affairs.

[C73, 75, 77, 79, 81, §601G.7]

84 Acts, ch 1046, §2

C93, §2C.7

Section transferred from §601G.7

2C.8 Closed files.

The citizens' aide may maintain secrecy in respect to all matters including the identities of the complainants or witnesses coming before the citizens' aide, except that the general assembly, any standing committee of the general assembly or the governor may require disclosure of any matter and shall have complete access to the records and files of the citizens' aide. The citizens' aide may conduct private hearings.

[C73, 75, 77, 79, 81, §601G.8]

C93, §2C.8

Section transferred from §601G.8

2C.9 Powers.

The citizens' aide may:

1. Investigate, on complaint or on the citizens' aide's own motion, any administrative action of any agency, without regard to the finality of the administrative action, except that the citizens' aide shall not investigate the complaint of an employee of an agency in regard to that employee's employment relationship with the agency. A communication or receipt of information made pursuant to the powers prescribed in this chapter shall not be considered an ex parte communication as described in the provisions of section 17A.17.

2. Prescribe the methods by which complaints are to be made, received, and acted upon; determine the scope and manner of investigations to be made; and, subject to the requirements of this chapter, determine the form, frequency, and distribution of the conclusions and recommendations of the citizens' aide.

3. Request and receive from each agency assistance and information as necessary in the performance of the duties of the office. Notwithstanding section 22.7, pursuant to an investigation the citizens' aide may examine any and all records and documents of any agency unless its custodian demonstrates that the examination would violate federal law or result in the denial of federal funds to the agency. Confidential documents provided to the citizens' aide by other agencies shall continue to maintain their confidential status. The citizens' aide is subject to the same policies and penalties regarding the confidentiality of the document as an employee of the agency. The citizens' aide may enter and inspect premises within any agency's control and may observe proceedings and attend hearings, with the consent of the interested party, including those held under a provision of confidentiality, conducted by any agency unless the agency demonstrates that the attendance or observation would violate federal law or result in the denial of federal funds to that agency. This subsection does not permit the examination of records or access to hearings and proceedings which are the work product of an attorney under section 22.7, subsection 4, or which are privileged communications under section 622.10.

4. Issue a subpoena to compel any person to appear, give sworn testimony, or produce documentary

or other evidence relevant to a matter under inquiry. The citizens' aide, deputies, and assistants of the citizens' aide may administer oaths to persons giving testimony before them. If a witness either fails or refuses to obey a subpoena issued by the citizens' aide, the citizens' aide may petition the district court having jurisdiction for an order directing obedience to the subpoena. If the court finds that the subpoena should be obeyed, it shall enter an order requiring obedience to the subpoena, and refusal to obey the court order is subject to punishment for contempt.

5. Establish rules relating to the operation, organization, and procedure of the office of the citizens' aide. The rules are exempt from chapter 17A and shall be published in the Iowa administrative code.

[C73, 75, 77, 79, 81, §601G.9; 82 Acts, ch 1026, §1]

88 Acts, ch 1247, §1; 89 Acts, ch 296, §78

C93, §2C.9

Section transferred from §601G.9

2C.10 No charge for services.

No monetary or other charge shall be levied upon any person as a prerequisite to presentation of a complaint to the citizens' aide.

[C73, 75, 77, 79, 81, §601G.10]

C93, §2C.10

Section transferred from §601G.10

2C.11 Subjects for investigations.

An appropriate subject for investigation by the office of the citizens' aide is an administrative action that might be:

1. Contrary to law or regulation.
2. Unreasonable, unfair, oppressive, or inconsistent with the general course of an agency's functioning, even though in accordance with law.
3. Based on a mistake of law or arbitrary in ascertainties of fact.
4. Based on improper motivation or irrelevant consideration.
5. Unaccompanied by an adequate statement of reasons. The citizens' aide may also be concerned with strengthening procedures and practices which lessen the risk that objectionable administrative actions will occur.

[C73, 75, 77, 79, 81, §601G.11]

C93, §2C.11

Section transferred from §601G.11

2C.12 Complaints investigated.

The citizens' aide may receive a complaint from any source concerning an administrative action. The citizens' aide shall conduct a suitable investigation into the administrative actions complained of unless the citizens' aide finds substantiating facts that:

1. The complainant has available another remedy or channel of complaint which the complainant could reasonably be expected to use.
2. The grievance pertains to a matter outside the citizens' aide power.
3. The complainant has no substantive or procedural interest which is directly affected by the matter complained about.

4. The complaint is trivial, frivolous, vexatious, or not made in good faith.
5. Other complaints are more worthy of attention.
6. The citizens' aide resources are insufficient for adequate investigation.
7. The complaint has been delayed too long to justify present examination of its merit.

The citizens' aide may decline to investigate a complaint, but shall not be prohibited from inquiring into the matter complained about or into related problems at some future time.

[C73, 75, 77, 79, 81, §601G.12]
C93, §2C.12

Section transferred from §601G.12

2C.13 No investigation — notice to complainant.

If the citizens' aide decides not to investigate, the complainant shall be informed of the reasons for the decision. If the citizens' aide decides to investigate, the complainant and the agency shall be notified of the decision. After completing consideration of a complaint, whether or not it has been investigated, the citizens' aide shall without delay inform the complainant of the fact, and if appropriate, shall inform the administrative agency involved. The citizens' aide shall on request of the complainant, and as appropriate, report the status of the investigation to the complainant.

[C73, 75, 77, 79, 81, §601G.13; 82 Acts, ch 1026, §2]
C93, §2C.13

Section transferred from §601G.13

2C.14 Institutionalized complainants.

A letter to the citizens' aide from a person in a correctional institution, a hospital, or other institution under the control of an administrative agency shall be immediately forwarded, unopened to the citizens' aide by the institution where the writer of the letter is a resident. A letter from the citizens' aide to such a person shall be immediately delivered, unopened to the person.

[C73, 75, 77, 79, 81, §601G.14]
C93, §2C.14

Section transferred from §601G.14

2C.15 Reports critical of agency or officer.

Before announcing a conclusion or recommendation that criticizes an agency or any officer or employee, the citizens' aide shall consult with that agency, officer or employee, and shall attach to every report sent or made under the provisions of this chapter a copy of any unedited comments made by or on behalf of the officer, employee, or agency.

[C73, 75, 77, 79, 81, §601G.15]
C93, §2C.15

Section transferred from §601G.15

2C.16 Recommendations to agency.

If, having considered a complaint and whatever material the citizens' aide deems pertinent, the citizens' aide finds substantiating facts that:

1. A matter should be further considered by the agency;
2. An administrative action should be modified or canceled;
3. A rule on which an administrative action is based should be altered;
4. Reasons should be given for an administrative action; or

5. Any other action should be taken by the agency, the citizens' aide shall state the recommendations to the agency. If the citizens' aide requests, the agency shall, within twenty working days notify the citizens' aide of any action taken on the recommendations or the reasons for not complying with them.

If the citizens' aide believes that an administrative action has occurred because of laws of which results are unfair or otherwise objectionable, the citizens' aide shall notify the general assembly concerning desirable statutory change.

[C73, 75, 77, 79, 81, §601G.16]
C93, §2C.16

Section transferred from §601G.16

2C.17 Publication of conclusions.

The citizens' aide may publish the conclusions, recommendations, and suggestions and transmit them to the governor, the general assembly or any of its committees. When publishing an opinion adverse to an administrative agency or official the citizens' aide shall, unless excused by the agency or official affected, include with the opinion any unedited reply made by the agency.

Any conclusions, recommendations, and suggestions so published may at the same time be made available to the news media or others who may be concerned.

[C73, 75, 77, 79, 81, §601G.17]
C93, §2C.17

Section transferred from §601G.17

2C.18 Report to general assembly.

The citizens' aide shall by April 1 of each year submit an economically designed and reproduced report to the general assembly and to the governor concerning the exercise of the citizens' aide functions during the preceding calendar year. In discussing matters with which the citizens' aide has been concerned, the citizens' aide shall not identify specific persons if to do so would cause needless hardship. If the annual report criticizes a named agency or official, it shall also include unedited replies made by the agency or official to the criticism, unless excused by the agency or official affected.

[C73, 75, 77, 79, 81, §601G.18; 82 Acts, ch 1026, §3]
C93, §2C.18

Section transferred from §601G.18

2C.19 Disciplinary action recommended.

If the citizens' aide believes that any public official, employee or other person has acted in a manner warranting criminal or disciplinary proceedings, the citizens' aide shall refer the matter to the appropriate authorities.

[C73, 75, 77, 79, 81, § 601G.19]
C93, §2C.19

Section transferred from §601G.19

2C.20 Immunities.

No civil action, except removal from office as provided in chapter 66, or proceeding shall be commenced against the citizens' aide or any member of the staff for any act or omission performed pursuant to the provisions of this chapter unless the act or omission is actuated by malice or is grossly negligent, nor shall the citizens' aide or any member of the staff be compelled to testify in any court with respect to any matter involving the exercise of the citizens' aide's official duties except as may be necessary to enforce the provisions of this chapter.

[C73, 75, 77, 79, 81, §601G.20]
C93, §2C.20

Section transferred from §601G.20

2C.21 Witnesses.

A person required by the citizens' aide to provide information shall be paid the same fees and travel allowances as are extended to witnesses whose attendance has been required in the district courts of this state. Officers and employees of an agency shall not be entitled to such fees and allowances. A person

who, with or without service of compulsory process, provides oral or documentary information requested by the citizens' aide shall be accorded the same privileges and immunities as are extended to witnesses in the courts of this state, and shall also be entitled to be accompanied and advised by counsel while being questioned.

[C73, 75, 77, 79, 81, §601G.21]
C93, §2C.21

Section transferred from §601G.21

2C.22 Penalties.

A person who willfully obstructs or hinders the lawful actions of the citizens' aide or the citizens' aide's staff, or who willfully misleads or attempts to mislead the citizens' aide in the citizens' aide's inquiries, shall be guilty of a simple misdemeanor.

[C73, 75, 77, 79, 81, §601G.22]
C93, §2C.22

Section transferred from §601G.22

2C.23 Citation.

This chapter shall be known and may be cited as the "*Iowa Citizens' Aide Act*".

[C73, 75, 77, 79, 81, §601G.23]
C93, §2C.23

Section transferred from §601G.23

