

Ombudsman helps mother get replacement check

A woman complained her child support check was mistakenly mailed to California. She had never lived in California and had no plans to move there. Staff with the Child Support Recovery Unit (CSRU) were unable to tell her how the mistake occurred.

Making matters worse, the \$240 check was cashed in California. The woman needed the money to pay bills, but CSRU staff told her it would be some time before they could send another check. At their suggestion, she called her county's sheriff's office, which told her it couldn't

After listening to her, we immediately contacted CSRU and asked why the woman couldn't get a check as soon as possible, since the mistake apparently was made by CSRU or the Collections Service Center.

press charges in California.

That's when she called our office. After listening to her, we immediately contacted CSRU and asked why the woman couldn't get a replacement check as soon as possible, since the mistake apparently was made by CSRU or the Collections Service Center. While CSRU and CSC did not explain how the error occurred, staff took swift action and another check was mailed to the woman within 10 days.



Child Support Recovery Unit

Should the State seek past support for custodial parents?

A father's attorney questioned CSRU's authority to seek a court order requiring him to pay past-due child support to his ex-wife. CSRU also wanted the court to order him to reimburse the state for welfare payments for a child in his ex-wife's custody, which the attorney conceded was legal. But the attorney believed CSRU could not get back support for the father's ex-wife, since their divorce decree did not provide for any child support (they each got joint custody.)

We considered the complaint from a different angle. CSRU had previously informed our office that it does not have legal responsibility to seek past support (only current

and future support) on behalf of a custodial parent. The reason given by CSRU is that under Iowa law, the CSRU attorney is the legal representative for the State, not the parent. So CSRU only asks for reimbursement of past support owed to the State. We confirmed this policy should apply to this case. CSRU conferred with its attorney, and he agreed to limit the state's claim for past support only to the amount of the welfare payments.

Our office continues to review CSRU's policy to determine whether it is in accordance with federal and state laws.

Oops! The computer system is fixed ... now



A father was surprised to receive several coupon booklets from the Child Support Recovery Unit (CSRU) for what it claimed were overdue child support payments. He was surprised because he had full custody of his daughter for a year and CSRU had told him his account was all paid up. He contacted our office for help.

We in turn contacted CSRU, which confirmed the father

was correct — the coupons were sent by mistake due to a computer system error. We told him the matter appeared to be resolved. But several months later, he received more coupon booklets from CSRU. Concerned that CSRU records might show him as delinquent, and afraid of being labeled a "deadbeat dad," he called our office again.

CSRU confirmed his account had a zero balance — the computer had erred again. CSRU did not pursue any collection action and the computer problem was eventually fixed.

Child Support Advisory Committee

By law, the ombudsman's office has a representative on the Child Support Advisory Committee, which gives input to CSRU administrators. Staff legal counsel Ruth Cooperrider serves as the ombudsman's representative on this committee. She also chairs a subcommittee created in 1996 to review support guidelines and policy issues.

The subcommittee first focused on developing guidelines for foster care support. The Legislature required the Department of Human Services to develop guidelines for setting support obligations in foster care cases "without causing a serious disruption of the family of the obligor." Apparently, there was some concern that application of the existing guidelines could result in obligations which

may be burdensome, especially to intact families.

Some subcommittee members opposed establishing a separate set of guidelines and preferred allowing additional deviations for foster care cases. Our representative did some sample calculations and found that the guidelines yielded different obligations for intact families with the same total income, but with varying combinations of incomes between the parents. Our representative brought this to the committee's attention. DHS agreed to take these comments, along with other recommendations of the subcommittee, into consideration in developing the guidelines.



Department of Human Services

State agencies play "hot potato" with abuse allegation

How quickly should the state investigate reports that a dependent adult has been abused? We received a complaint where more than four months had gone by and there still was no investigation of a particular allegation.

We received the complaint from a home health agency. It employed the person accused and would not let her work again until she was cleared. She was caring for a patient of a state hospital school who was temporarily at a hospital. Someone alleged she slapped the patient at the hospital.

We contacted both DHS and the other agency involved, the Department of Inspections and Appeals (DIA.) Iowa law gives each agency the following duties:

- DIA investigates reports involving staff of health care facilities. Iowa Code section 135C.38 requires DIA to start investigating within 20 days of receiving the report.
- DHS investigates all other dependent adult abuse reports. Iowa Code section 235B.3(1) requires DHS to evaluate reports "expeditiously." DHS' administrative rules require reasonable effort to examine the adult within 24 hours (unless there is an immediate threat to their safety, where the timeframe is one hour.)

We learned the allegation was initially reported to the county DHS office, which immediately relayed it to DIA — which DIA agreed with. The agencies disagreed about what happened next. DIA claimed a DHS employee called back and said DHS would investigate the allegation. But DHS

claimed its employee did not make any such call. Neither agency could provide documentation supporting its claim.

About the only thing clear was that neither agency was investigating the allegation. According to DHS, it received a call from the employer two and a half months later wondering why there had been no investigation. A DHS regional supervisor said she and other DHS officials began discussing which agency was responsible. Nearly three weeks later, she said, DHS' assistant attorney general told her a DIA supervisor had agreed to do the investigation.

But the DIA supervisor told us he did not agree to do it. Further, we contacted DHS' assistant attorney general, who denied telling the regional supervisor that DIA had agreed to do it. Instead, the attorney said she had suggested the DHS regional supervisor discuss the matter with the DIA supervisor to resolve the problem. But they never did. (Coincidentally, the DIA supervisor said he was advised to call the DHS regional supervisor at the same time. He said he left a message for her but did not get a return call.)

So another month went by — making for a total of four months — and still there was no investigation. That's when the home health agency called our office. After a week's worth of phone calls, we were unable to determine whether DHS or DIA was responsible. But we stressed the need for an immediate investigation without any further delay. At that point, DIA agreed to investigate the allegation.

Mother gets copy of abuse report

A woman asked for help in getting a copy of a dependent adult abuse investigation report involving her mentally handicapped daughter. The woman said she filed a written request to DHS several months before but still hadn't received the report. About a week before contacting us, she spoke with someone in the local DHS office who said they would give a note to a secretary to send it right away. But she was surprised and frustrated she hadn't received it yet.

We contacted the local DHS service supervisor, who assured she would have a report sent out immediately. She said processing those requests often becomes a lower priority for abuse investigators and requests may end up on a secretary's desk. Their county had since been selected as a pilot county for a new process for investigations. With that process, a copy of the report goes out automatically.

OMBUDSMAN'S REPORT

1996

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This publication was released by the Office of the Citizens' Aide/Ombudsman, printed at a cost of 15.6 cents per copy, to provide an annual report to the legislature, the governor and the public. Permission was obtained from Mr. Steines and Ms. Robertson for use of their names and photographs.

Paycheck snafus fixed for two daycare providers

A woman said she needed help convincing DHS that it took too much of her money to make up for a prior debt she owed to the state. Years before, she had received unemployment benefits and was "overpaid" about \$500. That debt was still owed when she began working for DHS to provide day care through its transitional child care program.

She wasn't surprised when the state kept her first monthly paycheck for about \$300. But when the state kept all of her second \$300 paycheck, she called DHS and noted the state had taken about \$100 more than she owed. She said the local DHS worker said she needed to discuss the problem with Job Service. But when she called Job Service, they said she needed to take it up with DHS.

That's when she called us. We immediately contacted DHS. Within a week, the woman received a check for approximately \$100, the amount that should not have been kept by the state. At our insistence, the matter was also referred to the local DHS worker's supervisor to discuss how he might have handled the situation better.

Another woman complained DHS hadn't paid her for daycare services she had provided over three months. We contacted DHS, which said she had submitted her work hours on time. A supervisor said the lack of a paycheck was due to DHS' oversight. The information was submitted and the woman was paid by the end of the week.



Florence Robertson with one of her fox. (Photo by James Robertson)

ANIMAL ORDINANCE (Continued from page 1)

farm if she got a permit and met the requirements. But Robertson and other citizens said they had trouble following the committee's work, which made it hard for them to give input. As a result, they believed the final ordinance was not as good as it could have been. Robertson said the committee failed to keep minutes of all its meetings, contrary to the Iowa Open Meetings Law. She also complained about the committee's decision against exempting domesticated, fur-farmed fox from the ordinance's requirements. After notifying the board about the complaint, our office started an in-depth investigation, which concluded last year. In addition to recommendations to improve officials' awareness of Iowa's open meetings and open records laws, the ombudsman also noted several typographical errors in the ordinance and recommended they be corrected. The ombudsman also submitted information indicating there may be merit to exempting domesticated, fur-farmed fox from the ordinance. Because a new committee was reviewing the ordinance, the ombudsman recommended the board ask the new committee to consider all available information on whether to exempt domesticated, fur-farmed fox. The board has since accepted all the recommendations.

Civil rights complaint refused, opened, closed

Tom Steines felt he wasn't given his "day in court." He became more frustrated when the Iowa Civil Rights Commission refused to help. It all started when his new driveway developed cracks. Steines filed a small claims lawsuit in Dubuque County District Court to try to get his money back. Steines, who has a hearing loss due to his tour of duty in the Vietnam War, said he asked court staff for help if his case went to a hearing. Because he's not fluent in sign language, Steines said he asked for "real-time captioning"—where a court reporter electronically translates what is being said onto a computer screen. But Steines didn't get "real-time captioning." Though he won a \$60 judgment, he believed it would have been much larger if he had been able to fully participate. Steines complained to the State Court Administrator. "My entire experience with the Court and my Small Claims proceeding was a disaster," Steines wrote. "I couldn't defend my position or respond to statements the other party made. I don't feel I was given 'my day in Court' and was deprived of my civil rights under the Americans With Disabilities Law." A response from the Chief Judge of the Judicial District stated real-time captioning services were previously not available. "Since you brought the need to our attention ... [w]e have now identified people who provide this service and developed a mechanism for payment," the letter stated. A week later, Steines wrote to the Iowa Civil Rights Commission (ICRC) for help. A month went by and ICRC did not contact him. So Steines contacted ICRC, which sent him a complaint form. He filled it out and mailed it back. Steines was surprised to get a letter from ICRC saying it was refusing his case because he had not filed his complaint within a required 6-month timeframe of the incident. Steines exercised his right to appeal ICRC's decision, and noted he sent his initial letter only 4½ months after the appeal hearing—well within the 6-month deadline. But ICRC denied his appeal. That's when Steines wrote to our office. We reviewed his records and found a date-stamp showing ICRC received his first letter before the deadline. We contacted ICRC and pointed out the error. After a few calls, ICRC reopened Steines' complaint. A few months later, ICRC closed the complaint for good. A closing memo noted judges have immunity on decisions about the "conduct of the court and the proceedings." The memo said ICRC lacks authority to challenge a judge's decision on accommodations for people with disabilities "... even if the decision were to be considered a clear violation of the ADA" and Iowa's civil rights laws.

Local government

County Attorney apologizes for delay in returning evidence

A woman asked for help in getting her murdered husband's money returned from prosecutors. The person charged with the murder had pled guilty to involuntary manslaughter. There was no appeal. Police collected the money, \$420 worth, as evidence. The also collected a camera and several photos, including one of the victim. According to the victim's wife, the county attorney said she could have the items back but it would take a while. Eight months after the guilty plea, the county attorney said she could have the items in two weeks. Two months later, she sent a letter to the county attorney repeat-

ing her request. After waiting another month she contacted our office — nearly a year after the guilty plea. We contacted the county attorney, saying he knew she needed the money. He apologized, saying he knew she needed the money. He said he needed to seek a court order to release the items and would do so as soon as possible. The attorney believed the case was only partially solved. The defendant admitted being at the scene of the crime but denied committing the murder. The county attorney was concerned there may still be a murderer who has not been found, and he wanted to make sure the evidence not be lost.

The county attorney apologized, saying he knew she needed the money.

City agrees to order additional sidewalk repairs

Sidewalk repairs can be costly, and they were at the heart of one man's complaint. City officials required him to repair his sidewalk under a city ordinance, but not two nearby property owners. Regarding the sidewalks on the other properties, the city manager told our office that city records indicate one was repaired and the other was virtually gone (almost entirely overgrown with weeds or grass), so it was not recognized as an existing sidewalk. He said the second property would be covered under a proposed program requiring sidewalks on properties that don't have them. Unsatisfied, the man sent photos of cracks in the first sidewalk and a few patches of cement in the second sidewalk. We could not determine if the cracks necessitated repair, but believed a sidewalk did exist on the second

property, though it was almost completely overgrown. After further discussion with the city manager, he agreed to personally inspect the cracks in the first sidewalk to determine if it met the definition of "defective sidewalk" under the city's recently amended ordinance. He found that it did. He also discovered that when the sidewalk was last inspected in 1993, the inspector had confused the owner with another person and mistakenly recorded that the sidewalk had been repaired. He agreed to send a notice to the owner in the spring requiring him to fix the sidewalk. The city manager conferred with the city street committee on the second sidewalk. They decided to treat it as an existing sidewalk. He said he would send a notice to that property owner requiring him to repair or reconstruct it.

Invasion of privacy alleged over telephonic meter reader

A man complained about his city water utility's plans to gauge his water usage by attaching a device to his telephone line. The utility hoped to save time and money by reading people's water usage through a computer that automatically dials individual telephone lines and accesses an automatic meter reading device (AMR) placed in each home or business. Other cities around the country, such as Minneapolis, have already been using AMRs. But the man said it would be an unlawful and unreasonable invasion of his privacy. He feared the utility could use the device to listen to his private phone conversations.

We contacted the utility. It provided information indicating AMRs cannot be used to invade anyone's privacy. Included was a brochure for customers which said AMRs comply with federal rules and regulations. It also said, "The system can only send or receive signals that are in digital form. It cannot understand, receive or allow others to hear voice communication." With no information to the contrary, we were unable to conclude AMRs are unlawful or unreasonable. We suggested he contact the Federal Communications Commission to confirm AMRs meet federal rules and regulations.

Small businesses

Mailings simplified

Current law requires businesses to get permits before installing or changing equipment which emits or controls pollutants. Businesses with unpermitted equipment are in violation and can get administrative penalties, including fines. DNR designed an amnesty program to encourage voluntary compliance. The program (effective until July 1, 1997) allows businesses to get permits without penalty. At the same time, however, a DNR mailing to applicants described itself as an official notice of noncompliance (referred to as a notice of violation, or NOV.) This confused applicants, which viewed NOV's as a "black eye" on their environmental record, when the amnesty program was supposed to protect them. Our Assistant for Small Business suggested DNR improve its mailing to praise businesses for their efforts to come into compliance. She provided a sample letter in place of the NOV. The DNR agreed to use the sample language for future mailings.

Business gets referrals

Operating capital can be hard to get for fledgling businesses. We were contacted by a businessman who uses recycled wood to make picture frames, bird houses, planter boxes and novelties. What started as a hobby turned into a successful business, before he lost his largest customer. Until new marketing brochures started generating customers, he needed additional financing to get through this period. Our Assistant for Small Business gave him information about an upcoming wood recyclers conference, literature on loan programs through Iowa's Department of Economic Development, and an application for the Department of Natural Resources' Landfills Alternative Grant and Low Interest Loan program.

An ombudsman for small businesses



Assistant for Small Business Kristie Hirschman

Significant changes took place in my job duties in 1996. As Assistant for Small Business, I began the year with the responsibility of informing small businesses (under 100 employees) about their rights and compliance obligations under the federal Clean Air Act. The Citizens' Aide/Ombudsman provided these services through a 28E agreement with and funded by the Department of Natural Resources (DNR). When the DNR did not renew the contract in June, a new avenue of opportunity was created for my position. Not only could I continue to help small businesses with air issues, but now as an employee of the Ombudsman's office, I could help small businesses with a wide variety of problems and issues! I adopted the United States Small Business Administration's definition of small businesses — 500 employees or less. Small business owners are confused by the myriad of environmental regulations, permitting and licensing requirements, OSHA rules, and tax laws. In the last half of the year, I dealt with zoning disputes, financing alternatives, underground storage tank problems, permitting issues and administrative rule review, just to name a few. I have received calls from an Internet company, home health care agencies, manufacturers, auto body shops, grain elevators, recycling companies, equipment dealers and contractors. Small businesses are an important part of Iowa's economy. My job is to make their job a little bit easier.

How to reach us

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

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

FAX
(515) 242-6007

Internet
OMBD@Legis.State.Ia.US

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

What to do before calling the Ombudsman

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

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

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

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

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

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

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

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

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

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

1996 Complaints Closed by Agency

| State Government Agency | Jurisdictional Complaints | Non-Jurisdictional Complaints | Information/Referrals | Other | Total |
|------------------------------------|---------------------------|-------------------------------|-----------------------|------------|-------------|
| Agriculture | 4 | 0 | 0 | 0 | 4 |
| Attorney General | 20 | 2 | 27 | 0 | 49 |
| Auditor | 2 | 0 | 1 | 0 | 3 |
| Board of Regents | 20 | 1 | 4 | 1 | 26 |
| Citizens' Aide/Ombudsman | 11 | 0 | 89 | 15 | 115 |
| Civil Rights | 10 | 1 | 3 | 0 | 14 |
| College Aid Commission | 6 | 0 | 1 | 0 | 7 |
| Commerce | 9 | 1 | 11 | 0 | 21 |
| Corrections | 997 | 1 | 114 | 11 | 1123 |
| Cultural Affairs | 0 | 0 | 1 | 0 | 1 |
| Economic Development | 1 | 0 | 16 | 1 | 18 |
| Education | 15 | 1 | 7 | 0 | 23 |
| Elder Affairs | 3 | 2 | 14 | 0 | 19 |
| General Services | 3 | 0 | 1 | 0 | 4 |
| Governor & Staff | 0 | 5 | 10 | 0 | 15 |
| Health Profession Boards | 12 | 1 | 4 | 1 | 18 |
| Human Rights | 6 | 0 | 2 | 0 | 8 |
| Human Services | 467 | 2 | 47 | 2 | 518 |
| Inspections & Appeals | 14 | 0 | 7 | 0 | 21 |
| Interstate Compacts | 0 | 1 | 0 | 0 | 1 |
| Judiciary | 0 | 118 | 22 | 0 | 140 |
| Law Enforcement Academy | 1 | 0 | 0 | 1 | 2 |
| Legislature & Agencies | 0 | 1 | 6 | 1 | 8 |
| Management | 1 | 1 | 0 | 0 | 2 |
| Natural Resources | 33 | 0 | 167 | 11 | 211 |
| Parole Board | 30 | 0 | 15 | 0 | 45 |
| Personnel | 12 | 0 | 4 | 0 | 16 |
| Professional Licensing | 2 | 0 | 1 | 0 | 3 |
| Professional Teachers Practices | 0 | 0 | 1 | 0 | 1 |
| Public Defense | 7 | 1 | 0 | 0 | 8 |
| Public Health | 2 | 0 | 6 | 0 | 8 |
| Public Safety | 20 | 0 | 7 | 0 | 27 |
| Revenue & Finance | 54 | 0 | 26 | 1 | 81 |
| State Fair | 1 | 0 | 1 | 0 | 2 |
| Secretary of State | 3 | 0 | 10 | 0 | 13 |
| State Government General | 19 | 7 | 222 | 4 | 252 |
| Transportation | 78 | 0 | 17 | 0 | 95 |
| Treasurer | 0 | 0 | 1 | 0 | 1 |
| Workforce Development | 42 | 1 | 17 | 0 | 60 |
| Sub Total State Government | 1905 | 147 | 882 | 49 | 2983 |
| Local Government | | | | | |
| County Government | 329 | 7 | 26 | 0 | 362 |
| Regional Government | 4 | 1 | 0 | 0 | 5 |
| Municipal Government | 375 | 10 | 24 | 2 | 411 |
| Schools & School Districts | 30 | 0 | 7 | 0 | 37 |
| Sub Total Local Governments | 738 | 18 | 57 | 2 | 815 |
| Other Entities | | | | | |
| Non-Iowa Governments | 0 | 76 | 62 | 1 | 139 |
| Private Sector | 0 | 686 | 240 | 62 | 988 |
| Sub Total Other Entities | 0 | 762 | 302 | 63 | 1127 |
| Total 1996 Closed Contacts | 2643 | 927 | 1241 | 114 | 4925 |

ANGRICK *Continued from page 1*

my office with monies collected from businesses' discharge permit fees. A significant amount of that assistant's time was spent in outreach, advising small businesses of the impending requirements.

In 1996, our relationship with the DNR became adversarial as we questioned and critiqued their programs and policies on behalf of Iowa's small businesses and promoting good government. In June, the DNR did not renew the contract.

But again, Iowa's Legislative leadership supported the work my office was accomplishing for Iowa's small businesses. Bipartisan action of the Legislative Council allowed the temporary reallocation of our budget to continue the work of the small business ombudsman. This action has benefited our work, and ultimately, Iowa's small businesses. We are no longer limited to working only on air pollution regulation complaints - we now handle all aspects of environmental regulation as well as the myriad of other state and local laws and regulations affecting small businesses, including taxation, zoning, purchasing, and health and safety requirements. Examples of this work are presented elsewhere in this report (see page 3.)

The important thing to remember is that small businesses are "citizens" too. Small business owners and their employees contribute significantly to Iowa's economic and social stability. The actions and policies of Iowa's state and local governments affect all of them.

resolved and the challenges we anticipate are exciting and rewarding. I look forward to continuing to provide ombudsman services to Iowa's small business men and women.

Any Ombudsman office must have independence if it is to be successful. Independence means freedom from political forces and organizational impediments. It also ensures an ombudsman can objectively, impartially and professionally fulfill the assigned duties. Iowa is fortunate that when the

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office was established by law, the ombudsman was made an independent, nonpartisan agency of the Legislature.

During 1996, my office opened 5,039 contacts and closed 4,925 from 1996 and previous years. We had a significant increase in the percentage of contacts involving corrections (prisons and jails), which historically is the single largest complaint category. Its percentage went up last year to 24 percent of all contacts (up from 19 percent in 1995.)

The constantly increasing prison population is the primary cause. Reductions in privileges, delays in programming, difficulty in finding jobs in prison, and demands on correctional staff lead to more grievances and complaints.

My office received 58 more contacts last year involving DNR's Environmental Protection Division than in 1995. Only two other state agencies accounted for more contacts last year - the Department of Corrections and the Department of Human Services.

Those DNR contacts, which include complaints and information requests, reflect the success of our small business outreach effort and the increasing regulation felt by businesses. In the current legislative session, we have encouraged voluntary compliance with pollution control standards. Toward that end, my office has supported responsible environmental audit legislation. I have also taken a lead in encouraging DNR to be more flexible in how it regulates.

We received fewer contacts last year involving child support collection issues - 209 compared to 224 in 1995. Child support contacts come from both sides, from, "I'm not getting paid on time," to, "I've paid too much and the State doesn't care." As the consequences of not paying court-ordered child support become more severe - intercepting tax refunds, placing liens on properties, and revoking licenses - it also becomes more critical that the state accurately and timely administers child support collection issues. By law, my office has a representative on the Child Support Advisory Committee. (See article on page two.)

I believe many of the issues we have raised and been able to get resolved as a member of that committee, or as part of our casework, have contributed to the slight reduction in complaints about Iowa's child support enforcement system.



Law enforcement

Post specializes in complaints about law enforcement

Did you know there are more than 2,500 public safety agencies in Iowa? Most notably this includes police, sheriff's and fire departments. But it also includes emergency medical services, emergency management agencies and public defense operations.



Assistant for Public Safety
Michael J. Ferjak

Complaints about these agencies can be made with our office. In fact, since 1989, the office has designated a staff position to specialize in public safety complaints — the first such designation for any ombudsman's office in the country. The Assistant for Public Safety was created when Citizens' Aide/Ombudsman William P. Angrick II saw a need for special expertise and attention concerning public safety complaints and issues.

I was selected for the position because of my previous experience as a police officer, police chief, public safety administrator, paramedic and firefighter. I was assigned to review and investigate complaints involving alleged misconduct by public safety officials and/or agencies.

The goal of my position is the same as our office's goal for any other aspect of government — to make good government better. Almost every day, we receive contacts concerning public safety officials and agencies, particularly

law enforcement. We have conducted numerous in-depth investigations. These involved issues ranging from allegations of excessive use of force to death investigations to allegations of gross negligence.

One of our investigations into alleged excessive use of force caused a large metropolitan police department to improve its internal affairs operations. Another investigation was partly responsible for criminal charges being filed in a domestic abuse case police had mishandled. Yet another investigation caused police to reclassify a teen-ager's death from suicide to "cause unknown" due to evidence we uncovered. As a result, the police investigation is still open. We also handle hundreds of inquiries about police procedure, officer conduct, service and internal reviews.

Law enforcement agencies have even contacted us from time to time to conduct impartial investigations when they have been accused of misconduct. We have also helped evaluate and improve agencies' policies and procedures.

Currently, our office and the Iowa Civil Rights Commission are the only state civilian entities (other than the courts) with oversight authority for Iowa's law enforcement agencies. It is a responsibility we take seriously. Our goal is to ensure public safety agencies act fairly, with justification and within the confines of the law and established procedure. Anything we can do to further that goal is in the best interests of citizens and the government that serves them.

A lot of good can happen late on a Friday afternoon!

A man said police were thwarting his efforts to help an elderly woman. Police had charged her son with drunken driving and impounded his car. At that time, a serious illness struck the son and he was hospitalized. With daily impoundment fees mounting, the woman — who had trouble getting around herself — asked the man to get her son's car released.

The man contacted police, explaining he would pay the costs to release the car so he could drive it to his elderly friend's home. Police said policy dictated they could release it only to the registered owner — the incapacitated son. Police suggested the woman be taken to the county courthouse immediately (a Friday afternoon) to try to get a court order to release the car. The man responded that was not realistic, but police reiterated they would not release it to him.

We immediately contacted the police. The officer who handled the impoundment was not on duty. The shift officer in charge confirmed the car was cleared for release to the owner upon payment of impoundment and towing fees. He reported there was a note in the file stating the car could be

released to family. But he did not know if the owner had requested an officer to write the note. The shift officer said even if police could release the car to family, which they could not, the man trying to help was not family.

The officer suggested the man take the elderly woman to the courthouse to try to get a court order. We asked if this was realistic — it was a Friday afternoon and the woman's health was in question. We asked if the officer could call

the city attorney for advice. The officer agreed to do so. He called back a few minutes later to report that, while it was an exception to the city's policy, an assistant city attorney advised him to take immediate steps to release the car to the man.

Later that afternoon, the man confirmed arrangements were underway for him to get the car yet that day. Our office acknowledges there are good reasons for the policy. However, the persistence of a caring citizen, an officer's willingness to cooperate with our suggestions and a city attorney understanding there are times when common sense prevails, all combined to make good government work better.

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Police scanner + eavesdropping in-laws = trouble

A woman asked whether there was a law against using a police scanner to listen to other people's cordless telephone calls. Her in-laws were using a scanner to listen to neighbors' phone conversations.

During one conversation, an elderly neighbor said something negative about the people doing the eavesdropping. Despite being friends for years with that neighbor, the in-laws became very angry and began listening to more of her calls. The woman's in-laws were frequently complaining about this neighbor, often to the point of yelling and swearing about her.

The family had become frustrated with the situation. They tried to tell the in-laws to stop listening to the calls, but they refused. Family members also didn't want to tell the neighbor what had happened, as she too would become upset, and the in-laws would be angry with the family for telling her.

We told the woman it was our understanding that listening to the calls was not illegal, but the Federal Communications Commission (FCC) might regulate the use of information obtained.

Policing the thoughts of police?

An elderly woman called and asked if there was a law prohibiting the police from *thinking* about breaking down her apartment door. The woman, who was in poor health, had recently left town to visit some relatives for a few days. Apparently, someone who didn't know she was gone feared something was wrong — two deliveries from "Meals on Wheels" were left outside her front door. The person called police, fearing there was a medical emergency.

Police officers went to the apartment building and knocked on the doors of other tenants. Eventually, they found someone who knew that the woman was out of town — and even called the woman for the police to verify she was alright. The woman told us she was upset, however, because she learned from her neighbors that the officers indicated they had been thinking about breaking the woman's door down if they were unable to verify her whereabouts. She was horrified that the police had even thought about damaging her front door.

We pointed out that *if* the police had knocked her door down, it would have been to ensure her safety. If there ever were a time where she had a medical emergency in the apartment and no one could unlock the door to help, knocking down the door would appear to be the *only* way to help her. We also stressed that the police in this case *did not* knock the door down, they only *thought* about it. Finally, we told her we're not aware of any laws prohibiting police from having such thoughts.



Department of Revenue and Finance

"Your check is in the mail"

A man complained he had filed his state income tax return two months earlier but still had not received his refund. He tried calling the Department of Revenue and Finance (DORF) but kept getting an automated message.

We contacted DORF, which said it had erred. While he had made his fourth quarter payment on time, that information was not entered onto the computer system before his tax return was processed, so the system "kicked out" the return.

We relayed this information to the man and told him he should be getting his refund soon. When he didn't get it

within a week, he called DORF and was told it would be another month. Frustrated, he called us again. We said we would check with DORF again, but he told us to "forget it" and hung up.

We contacted DORF. It had entered the corrected information, but the return was again "kicked out." The error had been corrected the day before, and staff would be able to verify it the next day. DORF staff did tell us the next day that the system finally indicated the man's refund was authorized and he should receive it in a few days. We relayed this information to the taxpayer.

DORF returns garnished funds

A married couple was in the process of filing for bankruptcy. DORF garnished money from both of their paychecks, despite the bankruptcy proceeding. The couple complained DORF should not have garnished the money.

The man said they received notice from DORF about the potential garnishment, including a deadline by which it would happen. He had "filed" the bankruptcy proceeding with his attorney before the deadline, but it was not filed

with the clerk of court until after the deadline.

We contacted DORF, which said it could keep the money only if it was garnished before the bankruptcy proceeding was filed with the clerk of court. After checking into the case, DORF reported the funds were not condemned before the bankruptcy filing and so it would release the money to the couple.

Tax refund applied properly

A taxpayer asked for help with an ongoing problem with the Department of Revenue and Finance (DORF). She had requested on her 1993 income tax return that the refund be applied to her 1994 tax. Instead, DORF sent her a refund check. She contacted a DORF supervisor and was told the refund would be applied to her 1994 tax if she returned the check. The taxpayer returned the check and assumed that resolved the problem.

So she was surprised to receive a notice in early 1996 that she owed taxes, plus interest and penalty, on her 1994 return. She said her attorney wrote to DORF about the mistake, but she did not receive any reply other than monthly notices of the delinquency.

We explained the problem to a DORF administrator and he agreed to have a taxpayer services specialist look into it. The specialist found DORF had no record of the refund check being returned, but verified it was never cashed. DORF also had no record of the attorney's letter. In the meantime, the taxpayer's 1995 income tax refund had been offset to pay the 1994 taxes, interest and penalties. Therefore DORF would reissue her the 1993 refund check.

We wondered if it was possible that the refund check and attorney's letter were misplaced and asked DORF to consider waiving the interest and penalties. After further review, DORF agreed to apply the 1993 refund to the 1994 taxes and to waive the interest and penalties. DORF then sent the taxpayer the 1995 refund it had previously offset, plus interest.



"Toxic Avenger" visits Des Moines

The "good news, bad news" storytelling technique best describes a contact from a property owner in Des Moines:

Good news: He had sold his house on contract.

Bad news: The buyer was arrested on a drug charge and stopped making contract payments.

Good news: He started foreclosure proceedings and 45 days later regained possession of the property.

Bad news: He found a five gallon container which said, "100% Nitro."

Good news: Rather than just dump it down the drain or outside somewhere, he acted responsibly and called his local Hazardous Materials team.

Bad news: They told him the product was aniline, a highly flammable, hazardous chemical which can cause cancer of the liver, lungs and blood. The chemical is used in methamphetamine labs to make drugs. He was told it would

cost him about \$1,000 to dispose of it even though it wasn't his.

At that point, the man called our office. We in turn made numerous calls to local, regional, state and federal agencies to find a cheaper disposal option. The regional household hazardous materials center refused to take it because it is not a commonly found household chemical. With the help of the Hazardous Materials team, the regional center eventually agreed to take the chemical for only \$100. He returned to get the container, but it had been stolen in an apparent burglary.

Our office continues to monitor the problem of hazardous material disposal, especially involving unsuspecting property owners and criminal activity.

He was told it would cost him about \$1,000 to dispose of the chemical even though it wasn't his.

Class rescheduled for driver

A very upset young woman complained about an experience with the Iowa Department of Transportation (DOT). She was required to take a driving class due to three speeding tickets for going more than 25 miles per hour over the limit. She understood why she had to take the class, but had a problem getting there.

She was having extreme emotional problems and was afraid to go outside alone. She did not feel she could drive at all. She was seeing a counselor for help, but the class she was assigned to was just too soon. She said she tried to explain her problem to DOT, but felt no one was listening. She contacted us for help.

We contacted one of the DOT staff the woman had talked to. He said he had tried to reassure her that she would be able to go to the class, but she had gotten upset with him. He said her license would be suspended if she didn't go. He said DOT has a contract with a local community college to

provide the class, and only allows drivers to reschedule one time. He was willing to contact the college about rescheduling, but wanted to know when the woman thought she would be able to go.

We relayed this to the woman. She believed she could go in a couple months. We explained it was very important she make the class. We suggested she discuss this with her counselor and recontact us with a proposed date.

She called back to report she went driving one day, got rear-ended and was taken to a hospital. However, she agreed to picking a date for the class. We relayed this to the DOT staff, who said he would contact the college and reschedule the class.

We recontacted the woman a few months later. She had completed the class. Driving was going OK and in general, things were going much better.

She said she tried to explain her problem to DOT but felt no one was listening. She contacted us for help.

Hospital lifts restriction on file access

Staff at the University of Iowa Hospitals and Clinics had been rude and unfair, according to a woman who had been a patient there. She said staff had placed restrictions on her access to her own medical file.

She claimed when she went there as an outpatient, she was usually allowed to take her medical file from one clinic to another. However, after a visit to the eye clinic, a receptionist refused to give her the file back. The patient said she had told the receptionist she wanted to jot down a word from her file, so she could ask a doctor about it. The next day she saw a note on her file stating, "Do not let patient have this file."

A Medical Records supervisor confirmed the woman could only see her file in front of staff. The woman said the supervisor and a patient advocate told her she reportedly had indicated she would "steal" the file or take it home. The woman denied she had given that impression. She saw the restriction as a "black mark" against her.

The woman contacted our office, and we asked a hospital official to review if there was sufficient basis for the restriction. After talking with the people involved, the hospital found it was just a misunderstanding between the patient and the receptionist. The hospital then lifted the restriction.

Handy 800 numbers



STATE GOVERNMENT

| | |
|--|---------------------------------------|
| AIDS Hotline | 1-800-445-2437 |
| Attorney General (Child Support Awareness Project) | 1-800-374-5437 |
| Child Abuse/Dependent Adult Hotline | 1-800-362-2178 |
| Civil Rights Commission | 1-800-457-4416 |
| Citizens' Aide/Ombudsman | 1-888-IA-OMBUD (426-6283) |
| Collections Service Center (child support) | 1-800-223-1302 |
| Commission on the Status of Women | 1-800-558-4427 |
| Crime Victim Assistance Division | 1-800-373-5044 |
| Department for the Blind | 1-800-362-2587 |
| Department of Human Services | 1-800-972-2017 |
| Department of Inspections and Appeals, Health Facilities Division (questions about home health agencies) | 1-800-383-4920 |
| Department of Revenue and Finance | 1-800-367-3388 |
| Department of Transportation | 1-800-532-1121 |
| Division of Vocational Rehabilitation | 1-800-532-1486 |
| Gambling Treatment Hotline | 1-800-238-7633 |
| Iowa Client Assistance Program (advocacy for clients of Vocational Rehabilitation and Blind Commission) | 1-800-652-4298 |
| Iowa COMPASS (information and referral for Iowans with disabilities and their families) | 1-800-779-2001 |
| Iowa State Fair (number active only from June to end of fair) | 1-800-545-FAIR |
| Long Term Care Residents Advocate (questions and complaints about nursing homes and other facilities) | 1-800-532-3213 |
| Radon Line | 1-800-383-5992 |
| Small Business Development | 1-800-532-1216 |
| State Patrol Highway Emergency Helpline | 1-800-525-5555 |
| Tourism Information | 1-800-345-4692 |
| Workforce Development Department (formerly Department of Employment Services) | 1-800-562-4692 TTY: 1-800-831-1399 |

ISU EXTENSION HOTLINES

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

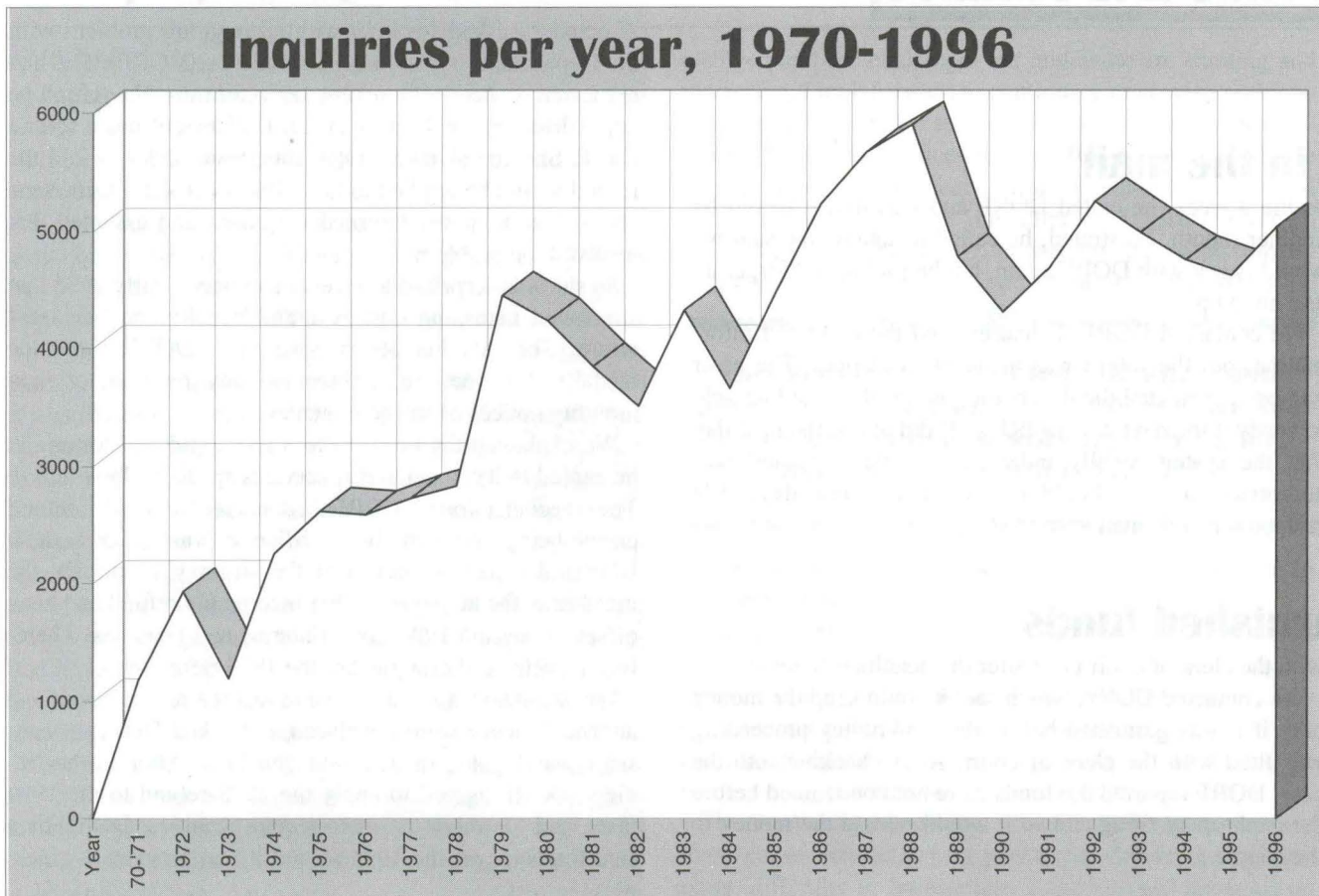
FEDERAL GOVERNMENT

| | |
|---|---------------------------------------|
| Federal information hotline | 1-800-688-9889 |
| Equal Employment Opportunity Commission | 1-800-669-4000 TTY: 1-800-800-3302 |

MISCELLANEOUS

| | |
|--|----------------|
| Better Business Bureau | 1-800-222-1600 |
| Domestic abuse hotline | 1-800-942-0333 |
| Iowa Protection & Advocacy (for people with disabilities and mental illness) | 1-800-779-2502 |
| Lawyer Referral Service (Iowa State Bar Association) | 1-800-532-1108 |
| Legal Services Corporation of Iowa | 1-800-532-1503 |
| Youth Law Center | 1-800-728-1172 |

Inquiries per year, 1970-1996



We're pretty proud!

Our office was honored for having the highest percentage of employee participation for a small agency in the State of Iowa's 1996 "One Gift Campaign." The campaign encourages state employees to donate money to a multitude of social service agencies across the state.

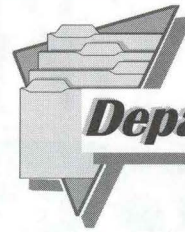
Seriously ill inmates receive televisions

Some penitentiary inmates asked our office to help two inmates permanently housed in the infirmary. Both had debilitating illnesses which kept them from ever returning to the general prison population (GP). One was completely bedridden. Inmates in GP are allowed to buy their own televisions while inmates in the infirmary are not. GP inmates wanted to donate money to help the two buy televisions.

We contacted penitentiary officials. They said this policy was designed to keep inmates from becoming too comfortable in

the infirmary and trying to stay there longer than necessary. We agreed with the general practice, but noted these two would never be able to return to GP. But officials would not consider an exception to the policy.

While we understand the issue of cable television in prisons has generated enormous criticism, television reception is impossible in Fort Madison without cable wiring. After we contacted Iowa Department of Corrections (DOC) officials, cable wiring was later installed and both inmates were able to obtain televisions.



Department of Corrections

Message from Prison Ombudsman

The Iowa Department of Corrections faces many difficult challenges in its daily efforts to balance the safety and security of the institutions with rapidly changing laws governing not only treatment of inmates, but creating a fair employment environment as well. One case I dealt with last year vividly illustrates the sometimes conflicting mandates.



Assistant for Corrections
Judith Milosevich

A penitentiary inmate called about a "pat" search by a female correctional officer. The inmate's assigned job requires he be searched when he returns to his unit. One day, a female officer started to search him. According to the Muslim inmate, he explained that would be forbidden by his religion, and asked to have a nearby male officer search

Title VII of the Civil Rights Act of 1964.

To complicate matters, the courts have given little consistent direction to guide corrections' officials. Not only is there a conflict between employment rights and exercise of inmates' religious beliefs, but also between what the courts allow at men's institutions and women's institutions. The courts seem to say women inmates have more rights to certain personal privacy than male inmates. While the overriding issue must be safety and security, it must be balanced with common sense regarding sexual privacy of inmates.

I do not believe Iowa wants to be in the same position Oregon prison officials found themselves in recently. They tried to defend themselves in a lawsuit where prisoners sued to stop non-emergency "pat" searches of clothed male inmates. Prison officials lost this round. Then they tried to defend

Corrections' staff face complicated issues like these daily. However, I believe officers who act professionally will be viewed in the most favorable light.

him. The two officers switched places and the inmate was searched without incident.

Security staff came to his cell later and said he was under investigation for refusing the search. He tried to explain he did not refuse the search. He had a long record of good conduct with no disciplinary reports for many years.

This was a very difficult case for corrections officials because of conflicting laws. On one hand, the Religious Freedom Restoration Act (RFRA) requires they try to accommodate certain religious requirements under a standard of the least restrictive alternative. Yet, in order to achieve parity for women employees, female staff are required to perform all of the same duties as the males. An inability to perform all of the functions will lead to fewer promotions for women in an already male dominated system, a fact recognized by

themselves from a lawsuit brought by female corrections' officers after prison officials designated 90% of certain positions as "male only." They lost that case also.

Corrections' staff face complicated issues like these daily. However, I believe officers who act professionally will be viewed in the most favorable light. In the institution matter described above, the officers appeared to have no difficulty changing places to accommodate this request. Had the female officer been the only one available, the request would not have been reasonable. However, I do not believe that accommodating the inmate only to later charge him with a rule violation was reasonable.

Central office officials agreed to suspend the sanctions for six months and expunge it from the record if the inmate received no further disciplinary reports. Once the report was expunged, he was eligible to enter the honor lifer unit again once there was an opening.

Counseling provided for rape victims

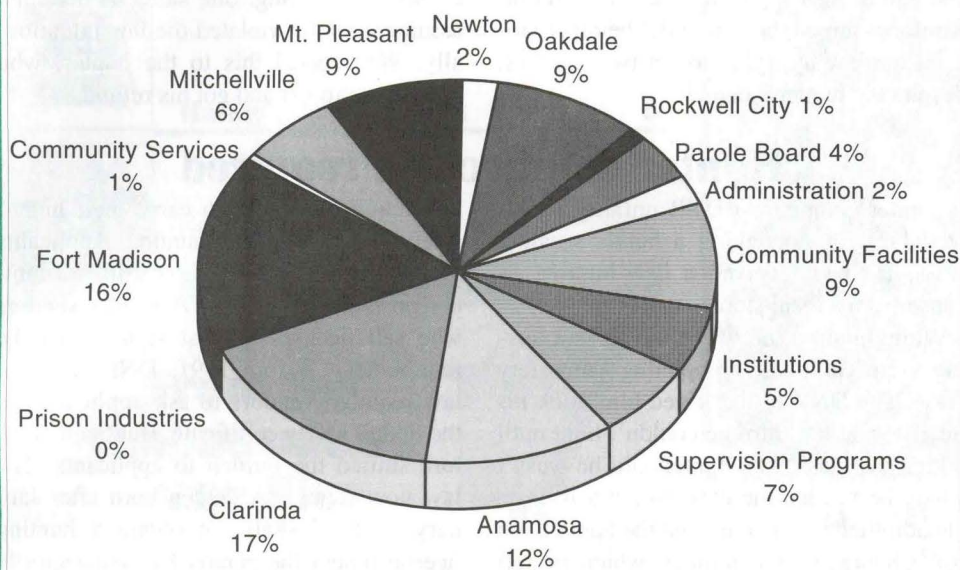
An inmate at a medium security prison raped five other inmates. The victims complained they were being denied counseling to help them deal with the assaults. They said prison officials were not receptive to the idea of providing victim's counseling to inmates who had been convicted of various sexual abuse crimes.

We contacted a Department of Corrections official. He persuaded the institution to provide counseling to the inmate victims.

The inmates were given the names of counselors in the area who might be able to provide such services.

When the inmates reported the rapes to prison authorities, the allegations were investigated and criminal charges were filed against the inmate, as well as prison disciplinary reports. A jury found him guilty on several counts and a long sentence was added to his original term of commitment.

Sources of corrections complaints



Ombudsman monitors prisons' "use of force"

Prison Ombudsman's note: Force is defined in the Iowa Department of Corrections policy manual as, "Any physical contact deliberately made by an employee with an inmate in a confrontational situation to control an inmate's behavior."

Over the past six years, our office has investigated complaints of excessive force in Iowa's prisons. These investigations have led to a number of improvements to the system's "use of force" policies. The two cases in the following summary show the need to develop and enforce a uniform policy for all the institutions.

In our continuing effort to ensure prisons use force appropriately, we asked Iowa State Penitentiary officials to investigate a "use of force" incident involving an inmate serving a life sentence. We then reviewed their investigation.

The inmate had a history of assaultive behavior but prison officials recognized he had created few problems for many years. The incident was prompted by an officer's discovery that a hinge was missing from the inmate's footlocker. They feared he had removed it to use later as a weapon.

Officers said the inmate was lying on the floor and refused their orders to come to his cell door to be handcuffed. The inmate said he did not hear their orders because he was asleep on his "good" ear and he has some hearing loss in the other. Since he's been in prison so long, he said, he's learned to sleep through nearly anything. He sleeps on the floor to diminish pain from a back injury.

In previous DOC "force" cases, our office has encouraged officers to videotape the incident, where practicable, to accurately document the events. But in this case, the video technician was not called, even though officers waited over an hour to assemble their "entry" team. While they audiotaped the cell entry, the tape only recorded what the officers said and what the inmate later said. Officers sprayed him with pepper mace, entered his cell, cuffed and shackled him, then took him to the shower to wash the mace off. While he was show-

ered, they searched his cell and found no material which could be used as a weapon.

More video cameras have since been obtained and are kept in the lockup cellhouses where forced moves are most likely. Understandably, it will be impossible to videotape all moves or dynamic cell entries. But there was no adequate explanation why this move was not videotaped. As a result, the warden issued a memo telling staff to videotape "force" incidents whenever possible.

IN A SEPARATE INCIDENT, five Muslim inmates at the Iowa Men's Reformatory got pork and beans on their trays as a side dish. They asked to have the trays replaced with food not containing pork — not allowed for Muslims. They were refused. Prison officers ordered the inmates to return their trays and the inmates refused to comply. The officers used pepper mace on the inmates in an attempt to force compliance.

The institution later admitted the pork and beans were sent by mistake. There were beans available with no pork. The Muslim consultant for the Department of

Corrections (DOC) said while it is preferable to have no pork on a tray, eating around it would have been acceptable. Still, we questioned the immediate use of pepper mace with no apparent consideration of the many other ways to resolve the problem. Our investigation found this institution has the highest rate of "use of force" incidents of any DOC institution.

There were no video cameras available at the time. Since the policy change, video cameras have been used whenever possible. Separate cameras were ordered, as a result of previous incidents, for use solely in the lockup units where the potential for "use of force" is greatest. The institution now orders staff to begin filming as soon as possible and continue until the incident is over. This is an important improvement and should reduce the potential for inmate lawsuits over "use" incidents. Since this institution's warden was transferred to another institution, its "use of force" has dropped dramatically.

We questioned the immediate use of pepper mace with no apparent consideration of the many other ways to resolve the problem.

Relief from heel spurs: It's gotta be the shoes

While our staff has no medical training, we helped get relief from heel spurs for an inmate at the Iowa Correctional Institution for Women (ICIW.) We merely injected a healthy dose of common sense into an on-going problem.

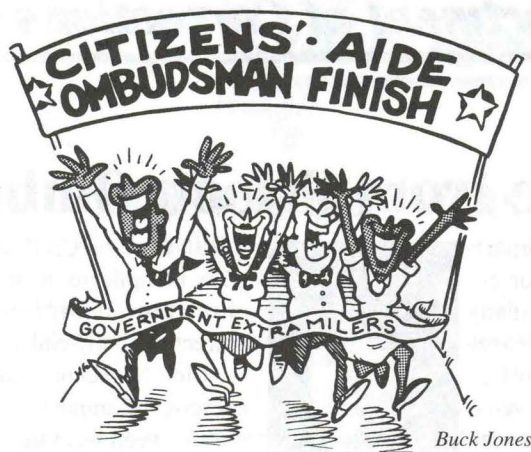
Before her arrest, the woman was fitted for special shoes to relieve her heel spurs. While police had a pair of these special shoes in their property inventory, the shoes were not sent with her to the Iowa Medical and Classification Center (IMCC.) She explained the problem to an IMCC doctor, who contacted her doctor on the "outside," who verified her need for the special shoes. IMCC allowed her to have a pair mailed in (not normally allowed due to concerns about contraband entering the prison.)

Before the shoes were given to her, the inmate was transferred to ICIW. The shoes

were also sent to ICIW, which told the inmate she must pay to send the shoes out or she would get a major disciplinary report for having contraband.










She put in a sick call slip to talk to a nurse, who told her she must speak with the doctor. She put in several slips to see the doctor, but was told it was unnecessary — and was charged a \$3 co-payment fee each time.

That's when she contacted our office. We asked institution officials to review this issue and to keep her shoes until a decision was reached. We suggested the co-payment charges were possibly inappropriate and asked officials to review them. Officials later allowed the inmate to keep her shoes and deleted all but the original co-payment charges. Her inmate account was credited.



EXTRA MILERS

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

-  Ron Carter, Mailroom Supervisor, Grimes State Office Building — for his affable service and constant willingness to pitch in and help out.
-  Norris Davis, Department of Transportation — for his courteous, timely and thorough assistance in resolving drivers' license problems over many years.
-  Robert Keefe, Ottumwa City Administrator — for facilitating a timely response to a complicated complaint. Less than 48 hours after contacting him on a zoning complaint, we received photos of the property and a detailed response from an inspector.
-  Judith Pawell, Department of Natural Resources, Bureau Chief of Licensing and Data Processing — for having a common sense approach to government and its involvement with citizens, and her willingness to recognize and "do the right thing."
-  Shirley Roach, Capitol Complex printing coordinator — for her cheerful and helpful manner, especially when asked to do work on short notice and under a deadline.
-  Willis Roberts, Jail Instructor at the Iowa Law Enforcement Academy — for being a consistently effective and accurate resource person for our office in matters involving the operation and administration of county and city jails.
-  Fred Scaletta, Department of Corrections, Institution Programs Manager — for his thorough follow-up on issues taken to him, as well as his courteous and conscientious responses.
-  Robert Schroder, Manager, Residential Correctional Facility in Council Bluffs — this facility once generated a relatively high number of complaints. Since Mr. Schroder's appointment as manager, complaints have diminished to nearly none at all.
-  State of Iowa Law Library staff — for their consistent, quick and accurate responses to our requests for information.



Refund issued to hunter

A hunter complained the Department of Natural Resources (DNR) was refusing to refund his \$25 shotgun license fee, after finding his application was invalid. He had submitted applications for early muzzle loader and shotgun licenses. Since he could not legally obtain both licenses, DNR granted him only the muzzle loader license. The DNR administrator of the Fish and Wildlife Division refused to refund the shotgun license application fee. The administrator assumed the hunter deliberately violated the law by trying to get two licenses, despite the hunter's denial.

Our office questioned whether the administrator had sufficient basis to conclude the hunter intended to get around DNR's rules. We also questioned whether he had authority to keep the fee, since nothing in the rules allowed such action to be taken in the event of an improper application.

We contacted DNR's Licensing Bureau Chief, who said her practice has been to refund the application fee if a hunter requests it in writing. She said she does not assume a hunter violated the law intentionally. We relayed this to the hunter, who later wrote to her and got his refund.

Hunter safety class required

A hunter complained DNR unfairly penalized him for not taking a hunter's safety class. He had received a deer-hunting license from a local store.

While hunting, he was cited for not having certification of completing the safety class. The DNR officer fined him, took his license, and told him he couldn't hunt until taking the class. The hunter said he wasn't aware he needed the class to get a license. He admitted seeing a box on the application for a hunter safety number, which he left blank. He said the store clerk did not question his application.

Current law requires the safety class for hunters born after January 1, 1967. DNR staff had told the hunter that ignorance of the law was no excuse. DNR staff had also informed him about his right to appeal the citation.

We contacted DNR. They said current

law requires hunters to carry their hunter safety certificate while hunting. Applicants are responsible to write the certificate number on the application. DNR asks vendors who sell licenses to post signs about the requirement. Before 1991, DNR said, the law required vendors to ask applicants for the hunter safety certificate. But the legislature shifted the burden to applicants. The law now states, "A person born after January 1, 1967 shall not obtain a hunting license unless the person has satisfactorily completed a hunter safety and ethics education course...."

We also learned this requirement is included in the license application booklets. We concluded that the law change shifted the responsibility to applicants and that there is sufficient information available for potential hunters to learn about Iowa's hunting laws before firing a gun.

Can we meet...

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

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

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Clarification

Page 7, "Use of force" article

The last sentence can be read to blame the number of "use of force" incidents on the former warden. That impression was not intended. Adoption of a policy common to all institutions and video-taping contributed significantly to the reduction of "use of force". The warden's transfer identified the timeframes. The ombudsman regrets any inaccurate conclusions reached by the reader.

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Citizens' Aide/Ombudsman

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