

JK  
6349  
.04  
A56  
1975

REPORT TO  
THE GOVERNOR OF IOWA  
AND  
THE SIXTY-SIXTH GENERAL ASSEMBLY  
SECOND SESSION  
BY THE IOWA CITIZENS' AIDE



JANUARY 1, 1975 - - DECEMBER 31, 1975

STATE LIBRARY COMMISSION OF IOWA  
Historical Building  
DES MOINES, IOWA 50319

17

C581.72

Low

1975



STATE OF IOWA

CITIZENS' AIDE OFFICE  
515 E. TWELFTH STREET  
DES MOINES, IOWA 50319  
(515) 281-3592



THOMAS R. MAYER  
CITIZENS' AIDE  
OMBUDSMAN

RUTH L. MOSHER  
DEPUTY

In reply, please refer to:

February 19, 1976

The Honorable Robert D. Ray  
Governor of Iowa

The Honorable Arthur A. Neu  
Lieutenant Governor

The Honorable Dale M. Cochran  
Speaker of the House

Members of the Sixty-Sixth General Assembly  
(Second Session)

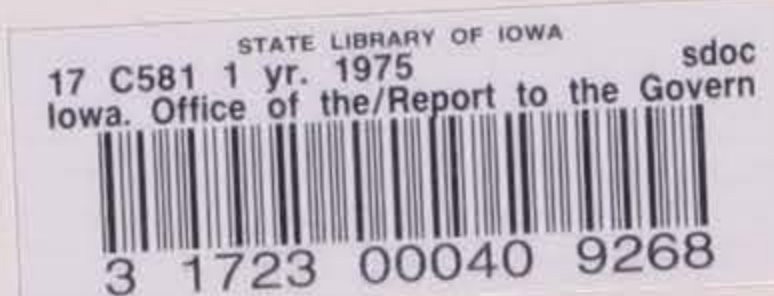
Dear Gentlemen and Ladies:

I respectfully submit the attached report of the  
Citizens' Aide for the period of January 1, 1975  
to December 31, 1975.

Respectfully,

*Thomas R. Mayer*  
Thomas R. Mayer,  
Citizens' Aide-Ombudsman

TRM:pn  
Attached



RAYMOND A. CORNELL  
DEPUTY FOR CORRECTIONS

326540

FRANK THOMAS  
LEGAL ANALYST

ANDREW ROBERTS  
SPECIALIST - INDIAN AFFAIRS

*Spring 1976 off of an original Aide v. Gyls*



January 12, 1912

The Honorable John W. Aldrich,  
Governor of Iowa

The Honorable Arthur C. Wood,  
Lieutenant Governor

The Honorable John W. Aldrich,  
Speaker of the House

Members of the Board of Regents,  
University of Iowa

Dear Sirs:

I have the honor to acknowledge the receipt of your letter of the 10th inst. and in reply to inform you that the same has been forwarded to the proper authorities for their consideration.

Very respectfully,  
John W. Aldrich,  
Governor



CONTENTS

STAFF.....1

THE OFFICE OF CITIZENS' AIDE.....2

THE OFFICE OF CITIZENS' AIDE - 1975.....4

    FEDERAL COURT SUBPOENA.....5

    THE CITIZENS' AIDE SUBPOENA.....7

    THE IOWA ADMINISTRATIVE PROCEDURE ACT.....8

    SPECIALIST-INDIAN AFFAIRS.....9

A NATIONAL OMBUDSMAN? - A PROPOSAL.....10

CASE STATISTICS.....12

SAMPLE CASE SUMMARIES.....23

LEGISLATIVE PROPOSALS.....27

STAFF

Thomas R. Mayer  
Citizens' Aide

Ruth L. Mosher  
Deputy

Raymond A. Cornell  
Deputy for Corrections

Frank Thomas  
Legal Analyst

Andrew Roberts  
Specialist-Indian Affairs

Patricia Nett  
Secretary

Judy Green  
Secretary



## THE OFFICE OF CITIZENS' AIDE

The Citizens' Aide Office has completed its fifth year of operation. This annual report covers the calendar year 1975. Before recounting the events of 1975, it might be of interest to review what has happened generally during the first five years.

Governor Robert D. Ray appointed Lawrence D. Carstensen as Iowa's first ombudsman, giving him the title of "Citizens' Aide", on October 1, 1970. Funding was through a grant from the Office of Economic Opportunity, which had agreed to fund the office as a demonstration project for a maximum of two years. The challenge of initiating such a new office was great. In assisting citizens with their problems with state government, the need for a permanent ombudsman office was established. The Iowa General Assembly, during its 1972 legislative session, passed the Iowa Citizens' Aide Act which transferred the office from the executive branch to the legislative branch. Based upon model ombudsman legislation, the Act spells out the powers and duties of the Citizens' Aide. The establishment of the office, first by Governor Ray, and then by statute, is a significant event in the history of Iowa government. By this act, Iowa's highest elected officials demonstrated their interest in the



problems of the average citizen. The office has as its primary purpose the receipt and investigation of complaints from the public concerning the administrative acts or omissions of agencies of state and local government in Iowa, excluding the Governor's office, the General Assembly, and the courts.

The Citizens' Aide is not a court and cannot order an agency to comply with its findings. However, the Citizens' Aide can be of assistance to citizens who have been treated arbitrarily or unfairly by government, by pointing out the wrong done and making recommendations for rectification. The Citizens' Aide provides information about government and refers people to other agencies when appropriate. The Citizens' Aide reports to the Governor and General Assembly, and makes legislative proposals when appropriate.

By resolving individual citizens' justified complaints and explaining the reasons for the action taken when not justified, government becomes more responsive to the people. It is to this purpose, namely, making good government better, that the Office of Citizens' Aide is dedicated.



THE OFFICE OF CITIZENS' AIDE

1975

During the year 1975, a number of "firsts" occurred in the Office of Citizens' Aide. In April, the first subpoena to be issued to a member of the Citizens' Aide staff relating to official duties was issued by the United States District Court, Southern District of Iowa.

In October, the Citizens' Aide issued the first subpoena under the Citizens' Aide Act to a police officer who refused to give testimony to the Citizens' Aide.

On July 1, the new Iowa Administrative Procedures Act<sup>1</sup> became effective, and the Citizens' Aide, for the first time, published rules under this Act.

Also, a new position was added to the Citizens' Aide staff which may be unique among ombudsmen offices, namely, a specialist for a specific minority group, the American Indians living in the state of Iowa.

The reputation and prestige of the office has grown to the point where, during 1975, 95% of the legitimate complaints received were informally resolved. Cooperation with agencies, particularly at the state level was

<sup>1</sup>Iowa adopted version of Uniform Act.



excellent. This spirit of cooperation, enjoyed by the Citizens' Aide, reflects well upon the governmental agencies involved.

In some cases, agencies have contacted the Citizens' Aide seeking advice on pending matters. While issuing such "advisory opinions" may be a deviation from the traditional role of the ombudsman, it indicates that the office of the ombudsman is truly an intermediary serving both the people and the government. In serving the government, the ombudsman is also serving the people, by helping to make government more responsive and fair.

Following, some of the above noted "firsts" are discussed in more detail:

#### FEDERAL COURT SUBPOENA

Section 601G.20 of the Citizens' Aide Act provides in part:

"...nor shall the citizens' aide or any member of his staff be compelled to testify in any court with respect to any matter involving the exercise of his official duties..."

Such immunity from subpoena is clear in a court of the state of Iowa, but is not clear when the subpoena is issued by a court of the United States.

On April 21, the Deputy Citizens' Aide for Corrections received a subpoena in a case pending before the United



States District Court, Southern District of Iowa. The case was filed on behalf of an inmate from the Iowa State Penitentiary. The stated purpose of the subpoena was to obtain testimony relevant to certain issues because of the deputy's "experience, both as a former inmate and as this state's 'Prison Ombudsman', and because of his familiarity with the Iowa State Penitentiary and with plaintiff..., and because of his neutrality in this matter...".

A motion to quash was filed, but the court ruled that the immunity granted by Section 601G.20 was not controlling and overruled the motion to quash. By agreement, the subpoena was withdrawn and the testimony sought was given "in camera", and the record of the testimony was sealed, and kept confidential. (Copies of the pleadings on the subpoena issue will be furnished to interested persons upon request.)

Since the real strength of an ombudsman lies in the ability to obtain information, his effectiveness lies to a great extent in the integrity with which the ombudsman makes use of the information. The immunity from subpoena is an important weapon in his arsenal. An ombudsman must be in a position to guarantee to agencies that information given will be used for his purposes only, and will not be used



in court against the agency. Otherwise, the free flow of information might be seriously impaired.

A solution, and possibly the only solution, to the problem would be federal legislation granting immunity from federal subpoena to state ombudsmen. Attorneys have discovery procedures available to them. The ombudsman is not intended to be a discovery mechanism. Without immunity from subpoena, it is possible that the ombudsman could become an alternative discovery mechanism and the effectiveness of the office could diminish as a result. There have already been several attempts in Iowa to use this office as a means of discovery for litigation. However, the Citizens' Aide has stood firm in resisting these attempts.

#### THE CITIZENS' AIDE SUBPOENA

In October, the Citizens' Aide issued the first subpoena under the Citizens' Aide Act. The case involved an investigation of the handling of an arrest by members of the Davenport, Iowa, police department. One of the officers involved in the incident refused to talk with the Citizens' Aide. A subpoena was issued. The officer filed a motion to quash, not challenging the authority of the Citizens' Aide to issue a subpoena, but rather the power to compel a person to travel more than one hundred miles to answer the subpoena. Without litigating the issues, arrangements



were made to interrogate the officer with his attorney present.

While the legal issues were thereby avoided, the Citizens' Aide obtained the necessary result of interrogating the officer. Without the subpoena power, there would have been no way to elicit testimony from the officer involved. (A summary of this case, #75-896, is not contained in this report since it was the subject of a special report during 1975. Copies of the summary will be furnished upon request.)

#### THE IOWA ADMINISTRATIVE PROCEDURE ACT

The Act, which took effect on July 1, 1975, exempts the general assembly, the courts, the governor, and political subdivisions of the state from the provisions of the Act. The Act is not clear as to whether "the general assembly" includes legislative agencies, such as the Citizens' Aide.

The Citizens' Aide chose not to contest being subject to the Act, and promulgated rules which are basically descriptive of the manner in which the office functions.

(Copies of the filed rules will be furnished to interested persons upon request.)



## SPECIALIST-INDIAN AFFAIRS

The position of Specialist-Indian Affairs was established as an attempt to determine and to meet the needs of American Indians in the state of Iowa in their dealings with government. This position may be unique in the field of ombudsmandry.

The Specialist-Indian Affairs shall specialize in investigating complaints received from American Indians and, it is hoped, will meet the need of Native Americans to have someone in government working on their behalf at the state level. The Specialist-Indian Affairs will also act as a coordinator in locating any federal grant money which might be available to Indians and assisting eligible persons to apply.

The position was approved by the Iowa Legislative Council on a conditional or experimental basis. There is no data available at this time since the position had just been filled in late November, 1975.



## A NATIONAL OMBUDSMAN?

### A PROPOSAL

There have been several proposals to establish an ombudsman on a national level. One would provide that a Senator or Representative be granted funds to establish an ombudsman for his or her constituency. Another proposal would establish ombudsmen offices within certain departments, such as an ombudsman for the Department of Health, Education and Welfare (HEW). Many consider the federal bureaucracy too large to accommodate an independent ombudsman with power to investigate actions of all administrative agencies of the government.

Without getting to the merits of the other proposals, the Citizens' Aide would suggest, as an alternative, the passage of federal legislation encouraging states to adopt ombudsman offices. State ombudsmen would have authority to investigate federal agencies, which now are beyond the jurisdiction of state ombudsmen. From the citizen's point of view, this would provide one office to which a person may go with a problem concerning any level of government, state or federal. An ombudsman at the state level would be more readily accessible to the people.

Rather than one large central ombudsman office, possibly adding to the bureaucracy, there would be smaller inde-



pendent offices in the various states. Under such a plan, a small central office might be desirable for coordinating and analyzing reports of the various ombudsmen, spotting trends, and making legislative recommendations to Congress. Such a proposal, if implemented, could provide better ombudsman service to people at less cost than the establishment of a federal ombudsman. A central ombudsman could become virtually inaccessible unless branch offices were established. It would provide wider jurisdictional coverage than limited ombudsmen for specific departments and more continuity than ombudsmen offices established for certain constituencies. An ombudsman established in congressional districts would be subject to the varying attitudes of the individual Congressmen and the continued change brought about by the election process.



## CASE STATISTICS

During the calendar year 1975, the number of citizen contacts with the Citizens' Aide office increased to a total of 2,624. This represents an increase of 362 over the total for calendar year 1974. Monthly totals of contacts were highest during the legislative session. The following is a breakdown by the month:

January, 1975.....	273
February.....	239
March.....	267
April.....	198
May.....	205
June.....	256
July.....	234
August.....	226
September.....	208
October.....	193
November.....	157
December.....	<u>168</u>
Total	2,624

Of these total contacts, 777 were jurisdictional complaints, 613 were requests for information concerning agencies over which the Citizens' Aide has jurisdiction, and 1,341 were non-jurisdictional complaints or requests for information. Of the total caseload for the year, 58 cases remained open.



Investigations were conducted in 724 of the 777 jurisdictional complaints received. After investigation, 293 complaints were deemed to be justified in whole or in part, and 279 (95%) of those complaints deemed justified or partially justified were rectified in whole or in part, 13 were not rectified, and one complaint was withdrawn by the complainant. Complaints were deemed to be not justified in 335 cases. In one of these, however, the agency rectified the matter voluntarily, even though the complaint was not justified, and in 12 cases, the matter was partially rectified, even though not justified. In 127 of the complaints, there was no basis to judge whether the complaint was justified, and in 20 complaints it would take legislation to resolve the matter. In two of these cases, legislation was passed.

The following is a breakdown of the contacts. The totals may exceed the total number of contacts because many related to more than one subject.

Total contacts.....	2,624
Non-jurisdictional complaints and requests for information.....	1,341
Jurisdictional requests for information..	613
Jurisdictional complaints.....	777



The following is a breakdown of the disposition of the jurisdictional complaints:

Justified.....	164	(21%)
Rectified.....	154	(94% of 164)
Partially rectified.....	8	(5% of 164)
Not rectified.....	1	
Withdrawn.....	1	

As the breakdown shows, 162 of the 164 complaints which were deemed to be justified were rectified in whole or in part which is 98.7%.

Partially justified.....	129	(17%)
Rectified.....	35	(27% of 129)
Partially rectified.....	82	(64% of 129)
Not rectified.....	12	
Withdrawn.....	0	

As the above breakdown shows, 117 of the 129 complaints which were deemed to be partially justified were rectified in whole or in part, which is 90.6%. On the total of 293 (164 + 129) which were deemed to be justified or partially justified, 279 were rectified or partially rectified for an average of 95.2%. While this figure reflects well upon the Citizens' Aide office, credit must also be given to the agencies of government involved for their cooperation in resolving legitimate grievances.



The breakdown of the remaining complaints is as follows:

Not justified.....	335
Rectified.....	1
Partially rectified.....	12
No basis to judge.....	127
Legislation needed to rectify.....	20
Legislation passed.....	2

The telephone remains as the most used means of contacting the Citizens' Aide. Citizens may still call the office collect, station to station, from anywhere within the state of Iowa. The breakdown of initial contact is as follows:

Phone.....	1,820	(69.4%)
Mail.....	535	(20.4%)
Visit.....	269	(10.2%)

The following is a breakdown of referrals. Other referrals include those received from United States Senators and Representatives, private attorneys, private agencies, and individuals. The source of the referral was not recorded in 1,225 of the contacts.

General Assembly.....	146
Governor's Office.....	175
Attorney General.....	27



State Agencies.....	46
Other Referrals.....	211
Not Referred.....	794
Referral not recorded.....	1,225

Contacts were divided into jurisdictional complaints, requests for information and non-jurisdictional matters. Some of the larger agencies, especially those dealing in people service programs, or in public assistance programs will show the largest number of contacts. There was a significant increase in the number of contacts relating to the Employment Security Commission. This is an obvious reflection of the economy. More people were unemployed in 1975 than in 1974, and therefore, more claims were filed for unemployment benefits. The large number of contacts relating to some of the larger agencies should not be interpreted as meaning that these agencies are not treating citizens fairly, or are otherwise not doing their jobs. This does mean that they are dealing with more people and, therefore, their actions are more likely to foster questions or complaints. In general, cooperation with the Citizens' Aide, particularly among state agencies, has been excellent.

The following is a breakdown of contacts by department or category.



The totals will exceed the total number of contacts since many related to more than one agency or category.

State Government, generally.....	13
Accounting Board.....	2
Aging Commission.....	2
Agriculture Department.....	8
Attorney General's Office.....	2
Consumer Protection Division.....	7
Blind Commission.....	2
Bonus Board.....	7
Car Dispatcher.....	1
Civil Rights Commission.....	5
Commerce Commission.....	4
Comptroller.....	3
Conservation Commission.....	15
Crime Commission.....	1
Development Commission.....	1
Educational Radio and Television.....	1
Employment Security Commission.....	178
I.P.E.R.S.....	9
Engineering Examiners.....	2
Fair Board.....	4
Health Department.....	12
Alcoholism Commission.....	3
Higher Education Facility.....	1
Highway Commission/Highway Department.....	28
Historical Society.....	2
Industrial Commissioner.....	11
Insurance Department.....	8
Labor Bureau.....	8
Legislative Service Bureau.....	4
Beer and Liquor Control Department.....	2
Merit Employment Department.....	12
Natural Resources Council.....	1
Pharmacy Examiners.....	1
Planning and Programming.....	5
Public Defense.....	4
Public Instruction.....	9
Vocational Rehabilitation Division.....	20
Public Safety, generally.....	8
Highway Patrol.....	9
Motor Vehicles.....	36
Fire Marshall.....	3
Drivers' License.....	23
Automobile Dealer's License.....	3
Real Estate Commission.....	2



Regents, Board of.....	6
Iowa State University.....	6
State University of Iowa.....	6
University Hospitals.....	12
Reciprocity Board.....	6
Revenue Department.....	52
Secretary of State.....	3
Social Services (Excluding Corrections)...	239
Adult Corrections & Community Services..	294
Status of Women Commission.....	1
State Treasurer.....	1
Watchmaker's Board.....	1
Citizens' Aide.....	2
Board of Parole.....	45
Department of Environmental Quality.....	6
Drug Abuse Authority.....	1
Bicentennial Commission.....	1
Municipal Government.....	179
County Government.....	176
Veteran's Affairs Commissions.....	8
School Districts.....	25

The following are non-jurisdictional categories:

Governor's Office.....	8
General Assembly.....	4
Supreme Court and Judiciary.....	16
Federal Government.....	106
Social Security.....	41
Military.....	7
Veteran's Administration.....	10
Federal Prisons.....	2
Wage and Employment Matters.....	116
Miscellaneous Legal Matters.....	315
Criminal Matters.....	108
Consumer Matters.....	136
Child Custody, Support, and Marital.....	65
Insurance Matters.....	27
Workman's Compensation Matters.....	9
Banks and Banking Matters.....	6
Automobile Dealer Complaints.....	12
Utility Complaints.....	43
Miscellaneous.....	356



The breakdown of contacts by county are as follows:

Adair.....	11
Adams.....	3
Allamakee.....	7
Appanoose.....	16
Audubon.....	2
Benton.....	9
Black Hawk.....	65
Boone.....	12
Bremer.....	5
Buchanan.....	12
Buena Vista.....	6
Butler.....	4
Calhoun.....	14, 16*
Carroll.....	2
Cass.....	9
Cedar.....	8
Cerro Gordo.....	32
Cherokee.....	17
Chickasaw.....	2
Clarke.....	6
Clay.....	4
Clayton.....	6
Clinton.....	45
Crawford.....	9
Dallas.....	21
Davis.....	5
Decatur.....	5
Delaware.....	13
Des Moines.....	25
Dickinson.....	7
Dubuque.....	16
Emmet.....	12
Fayette.....	17
Floyd.....	5
Franklin.....	11
Fremont.....	3
Greene.....	3
Grundy.....	3
Guthrie.....	6
Hamilton.....	4
Hancock.....	4
Hardin.....	16
Harrison.....	13
Henry.....	9
Howard.....	11

\*denotes contacts received from correctional institutions



Humboldt.....	4
Ida.....	4
Iowa.....	4
Jackson.....	12
Jasper.....	20, 10*
Jefferson.....	9
Johnson.....	57, 6*
Jones.....	10, 98*
Keokuk.....	9
Kossuth.....	4
Lee.....	38, 187*
Linn.....	150
Louisa.....	6
Lucas.....	8
Lyon.....	0
Madison.....	11
Mahaska.....	19
Marion.....	18
Marshall.....	21
Mills.....	16
Mitchell.....	2
Monona.....	4
Monroe.....	2
Montgomery.....	2
Muscatine.....	12
O'Brien.....	5
Osceola.....	2
Page.....	10
Palo Alto.....	3
Plymouth.....	4
Pocahontas.....	4
Polk.....	880
Pottawattamie.....	35
Poweshiek.....	8
Ringgold.....	6
Sac.....	3
Scott.....	47
Shelby.....	1
Sioux.....	10
Story.....	46
Tama.....	15
Taylor.....	5
Union.....	5
Van Buren.....	5
Wapello.....	24
Warren.....	34
Washington.....	5
Wayne.....	8
Webster.....	27

\*denotes contacts received from correctional institutions



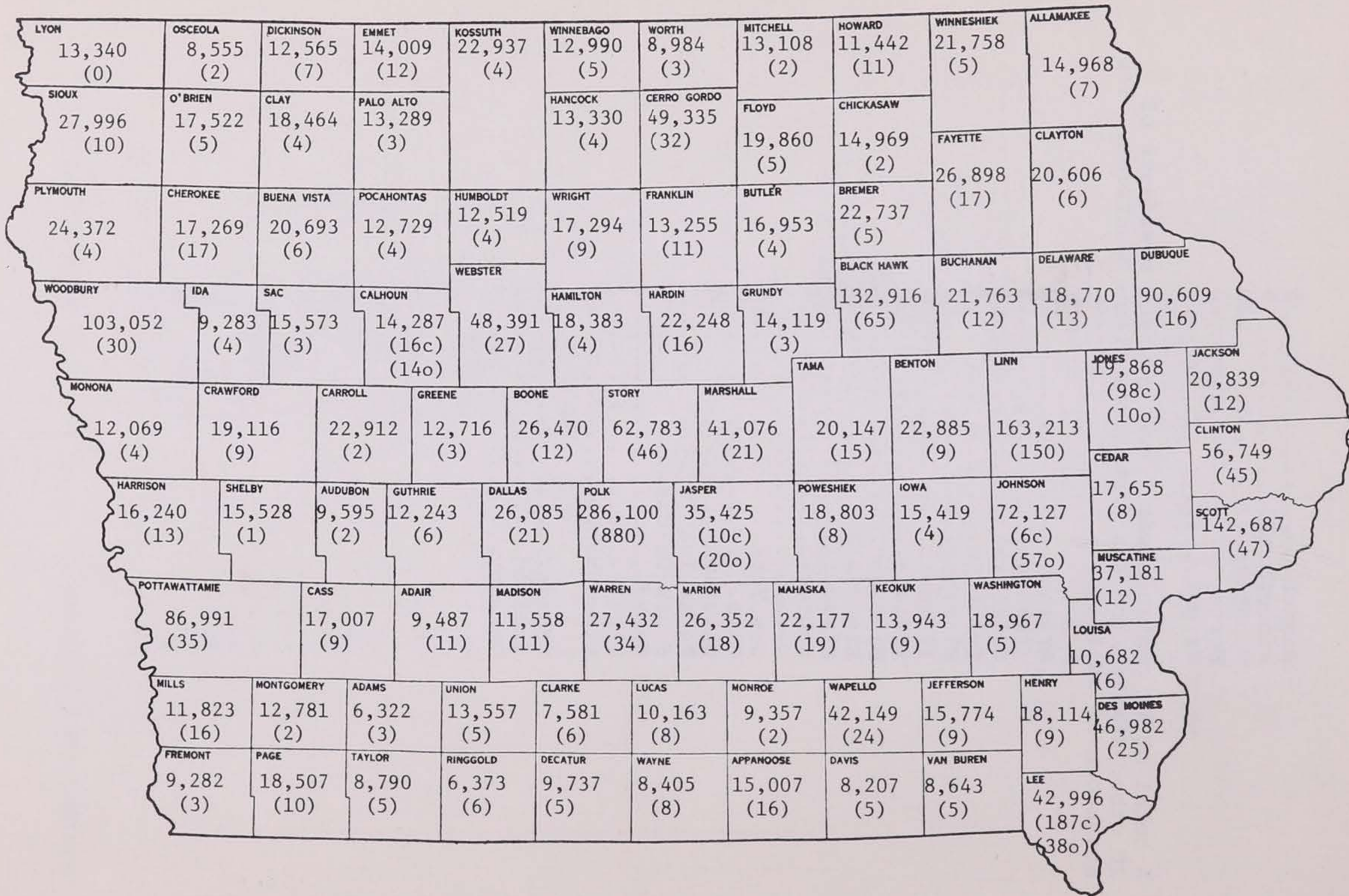
Winnebago.....	5
Winneshiek.....	5
Woodbury.....	30
Worth.....	3
Wright.....	9

A total of 76 contacts were received from residents of 20 other states, and six from three other countries. The breakdown is as follows:

Arizona.....	2
Arkansas.....	4
California.....	2
Colorado.....	4
Florida.....	4
Illinois.....	9
Indiana.....	2
Michigan.....	2
Minnesota.....	2
Missouri.....	7
Nebraska.....	16
Nevada.....	2
New York.....	3
Ohio.....	4
Oklahoma.....	2
Pennsylvania.....	2
South Dakota.....	1
Texas.....	2
Utah.....	1
Wisconsin.....	5
Canada.....	1
Ireland.....	1
Germany.....	4



NUMBER OF CONTACTS AND POPULATION BY COUNTY



22

Upper number denotes county population, 1970 census.

Lower number ( ) denotes number of contacts.

"c" denotes correctional cases in CALHOUN, JASPER, JOHNSON, JONES & LEE COUNTIES.

"o" denotes other complaints in " " " " " "



## SAMPLE CASE SUMMARIES

(75-390) A citizen contacted CA stating that she had been living in a house which she rented in Altoona, Iowa and that the house had burned down in January, 1975. She later returned to the house to reclaim any property which remained. She was informed by the landlord that the Altoona Police and the Polk County Sheriff's office had been there and had confiscated some human bones which had been found on the premises. The citizen explained that the bones had come from an Indian burial ground near Sioux City which had been unearthed during construction. She had had them for about two years. When she attempted to reclaim the bones, she was advised that criminal charges were being considered against her. For some six weeks she attempted to reclaim the bones, and no charges were filed. However, she was unsuccessful in reclaiming the bones. She then contacted the Citizens' Aide office.

CA contacted the Sheriff's office and discussed the matter. It was determined that no charges could be filed, and, after the Sheriff's office consulted with a District Court Judge, the bones were returned to the citizen. The Deputy Sheriff handling the matter commented, "It don't seem right to me these hippies having those bones in their houses."

\*\*\*\*\*

(76-660) A doctor from Grand Island, Nebraska wrote to the Governor's office stating that he had cared for a welfare patient from Jasper County, Iowa in March, 1974. The letter was received in May, 1975. He stated that the balance owing was \$68.04. He had written the county Department of Social Services on several occasions and had received responses, but no payment. The letter was referred to CA.

CA contacted the Jasper County Department and there seemed to be considerable confusion as to how this claim could be paid. CA contacted the state Department of Social Services and was advised that if the doctor would send an explanation of the medicare form which he used, the state department would handle the matter.

CA so advised the doctor. The requested information was received from the doctor on June 9, 1975 and referred to the Title XIX carrier on June 11, 1975. Payment was received in approximately sixty (60) days.

\*\*\*\*\*



(75-181) An inmate filed a complaint in the United States District Court for the Southern District of Iowa stating that he was in need of a hernia operation, and had been approved for surgery, but was not allowed the surgery for security reasons. The Court asked the Citizens' Aide office to look into the matter.

CA made inquiry and determined that the inmate's complaint was correct and justified. The surgery was re-scheduled. The problem is that, after much community pressure, the University Hospitals imposed the requirement that all inmates receiving in-patient care at the hospital would receive a one to one guard. This meant that, due to the fact that the Division of Corrections does not have sufficient security personnel to provide one to one coverage in all cases involving both required and elective surgery, elective surgery or other elective medical care was being postponed. The hernia operation was considered elective.

The Citizens' Aide is presently working with both the University Hospital and the Division of Corrections to attempt to work out a plan to provide the security necessary to protect the community, however, taking into consideration the cost to the taxpayer, and insuring that inmates needing care will not experience undue delay. CA feels that the Division of Corrections is in the best position to determine the degree of security necessary for an individual inmate.

\*\*\*\*\*

(75-504) The Citizens' Aide was contacted by an inmate from the Iowa State Penitentiary who had recently been transferred from the Riverview Release Center. He stated that he was having difficulty obtaining some of his personal property which was in his possession at the Release Center. CA contacted the superintendent of the Release Center who looked into the matter. The property was found and promptly returned.

\*\*\*\*\*

(75-35) A State Representative asked the Citizens' Aide to find some information with regard to the Canadian Wheat Board. CA contacted the Manitoba, Canada, Ombudsman who relayed the request to the Canadian Wheat Board. The Board supplied the requested information and it was relayed to the State Representative.

\*\*\*\*\*



(75-1363) An attorney wrote to the Citizens' Aide regarding his attempt to get information concerning a railroad from the Iowa Department of Revenue. The Department had written to the attorney and had advised him that the information which he requested was confidential and that he would have to get it from some other source. The attorney was of the opinion that the information was public record and not confidential.

CA contacted the Department and it was determined that the Department's original position was in error. The information was not confidential and the Department agreed to send out the requested information right away.

The attorney later wrote back the following:

"Your request to the Iowa Department of Revenue that it change its policy and make records of the ..... Company available to me has been honored, and helpful information received from the Department.

The result speaks eloquently and bluntly for the need of your office.

On behalf of my clients and myself, I thank you and those who support the existence of the Citizens' Aide."

\*\*\*\*\*

(75-1338) A citizen had heart surgery at the University of Iowa Hospital in Iowa City. Because the operation would require a large quantity of blood, residents of the citizen's home town initiated a blood drive to provide the necessary amount of blood so that the citizen would not have to pay for any blood needed for the operation. The necessary amount of blood was donated; however, after the operation the hospital billed the citizen for the blood used during the operation. The citizen advised that the blood had been donated and paid the hospital bill, less the charges for blood. He continued to be billed for the blood, even though he on many occasions advised the hospital that the blood had been donated and that he should have received credit for it. After about six months, he contacted the Citizens' Aide.

CA contacted the head of the billing department of the University Hospitals and advised him of what had happened.



(75-1338 continued)

He stated that he would look into the matter and report back.

On the next day he called back to state that an error had been made and that the account would be credited. He further stated that the citizen would receive a zero billing in the near future.

\*\*\*\*\*



OFFICE OF CITIZENS' AIDE

LEGISLATIVE PROPOSALS TO BE INCLUDED IN ANNUAL REPORT  
FOR CALENDAR YEAR 1975

1. Elderly citizens living on fixed incomes are sometimes placed in the position of losing their homes because they are unable to pay assessments for street or sewer repairs or construction. It is suggested that the General Assembly consider legislation permitting counties to suspend such assessments in a similar manner as property taxes are suspended pursuant to Sections 427.8 through 427.12 of the Iowa Code. Refer to Case #75-337.
  
2. A person who has had his or her driver's license suspended at any time must so advise driver's license personnel when applying for renewal of the driver's license pursuant to Section 321.183 of the Iowa Code. There is no time limit on this requirement. In one case a woman whose driver's license had been suspended some fifteen (15) years in the past was compelled to give this information while standing in a long line of people who were waiting to renew their licenses. Section 321.12 requires that records of the department be kept for a period of three (3) years only. CA recommends that Section 321.183 be amended to require citizens to state current suspensions or those which have occurred within the previous three (3) years only and that suspensions previous to that time need not be stated. Refer to Case #75-425.
  
3. The real strength of an Ombudsman office lies in its ability to find out information. Section 601G.9(3) states that the citizens' aide "may examine the records and documents of all agencies not specifically made confidential by law". This, in effect, gives the citizens' aide access to public documents only. There is no similar exclusion in the acts establishing the Hawaiian Ombudsman nor the Nebraska Ombudsman. It is suggested that the General Assembly consider amending the Citizens' Aide Act to delete the phrase from Section 601G.9(3) "not specifically made confidential by law". Refer to Case #'s 75-896, 75-258.



## CITIZENS' AIDE LEGISLATIVE PROPOSALS

4. The Alcoholism Commission contracts with and funds local agencies for the treatment of alcoholism. Counties are required to also contribute a portion of the funding. Businessmen dealing in goods and services who sell their goods and services to these local alcoholism treatment centers many times are under the impression that they are dealing with agencies of state or county government when in fact the treatment centers are private corporations in most cases. Over the past several years it has come to the Citizens' Aide's attention that local businesses have provided products or services in good faith feeling that they were dealing with government and have later not been paid for their goods and services because funds were later withheld from the agency due to poor money managing on the part of the agency officials. If such an agency closes, the businessman is not paid for his product. Since there are governmental funds involved, CA suggests that the General Assembly consider taking steps to reduce the risk of this happening in the future. One suggestion would be to make officers of any such agency or corporation personally liable for debts incurred by the agency if the agency becomes insolvent or is not funded. Another possibility would be that if the Alcoholism Commission decides to not fund a local program any further that outstanding debts will be paid by the State Alcoholism Commission. Another possibility might be the bonding of the local agencies' officers and employees. Refer to Case #75-292.
  
5. Structures used to seat persons to view stock car races in Iowa are not subject to safety inspections by the Labor Bureau or any other state or local governmental agency. In one instance it was brought to the Citizens' Aide's attention that a grandstand for the viewing of stock car races was hit by a car during the race and the force of the accident rocked the entire grandstand structure. It is further pointed out that this particular grandstand was quite old and possibly could have collapsed. Since the grandstand in question was a permanent structure, it was not covered by the Carnival Act legislation which gave authority to the Labor Bureau to investigate and impose safety require-



CITIZENS' AIDE LEGISLATIVE PROPOSALS

5. cont'd.

ments. It is suggested that the General Assembly consider legislation which would give authority to the Labor Bureau to impose safety standards in any structure not covered under present law at which large crowds of people gather to witness events. Refer to Case #75-874.

6. Civil service for a municipal employee is governed by Chapter 400 of the Code. Civil service for deputy county sheriffs is governed by Chapter 341A of the Code. Under existing law, with the exception of a chief of police or fire chief, a person desiring to transfer from a job under one civil service commission to a job under another civil service commission has no right to transfer his accrued pension, his seniority, and he may even be required to take another civil service test. For example, a police officer who applied to fill a vacancy in the sheriff's department would not be permitted to transfer any of his accrued benefits and would most likely be required to take another civil service examination even though his new duties may not be substantially different from his old. This would also be true if the same police officer were taking a position with a different municipality. Service rules may vary greatly from commission to commission and generally there is no uniformity in many areas. CA suggests that the General Assembly consider amending Chapters 400 and 341A to provide for the transfer of benefits for persons transferring from one jurisdiction to another. CA further suggests that the General Assembly consider amending the above mentioned chapters to permit combined county-municipal civil service commissions which might be more economically and efficiently operated. CA further suggests that the General Assembly consider establishing a State Civil Service Board which could give oversight to local commissions and could review rules and regulations and testing to promote more uniformity throughout the state. As an alternative to the establishment of a commission, the General Assembly might consider whether the State Merit Department could assume this responsibility. Refer to Case #75-1219.



## CITIZENS' AIDE LEGISLATIVE PROPOSALS

7. The Internal Revenue Code provides that property passing through a decedent's estate may be valued for tax purposes at the time of death or alternatively six (6) months after death. In a depressed economy such as we have been experiencing in recent months, the value of the property at the time of death might actually be higher than six (6) months later thereby causing the tax to be determined on an amount higher than the actual market value of the property. CA recommends that the General Assembly consider amending Section 450.6 of the Iowa Code to provide for a valuation date. In many cases this might also work to the advantage of the state in that if the taxpayer chose the later valuation date and the property increased in value, tax valuation would be raised accordingly. Refer to Case #75-683.
  
8. The Citizens' Aide recommends that the General Assembly consider adopting a retirement plan for correctional officers which would permit retirement at age fifty-five (55) or after twenty-five (25) years of service.

The following recommendations for legislation were made in previous reports of the Citizens' Aide.

### Case Number 71-116

The widow of a fireman who married him after he retired is not eligible to receive a widow's pension, no matter how long they lived together as husband and wife. The widow of a Judge need only be married to the Judge for five years before he dies, without regard to when he retired. It is suggested that the General Assembly consider modification of the requirements for a fireman's widow to qualify for a pension to make the requirements more equitable.



## PREVIOUS CITIZENS' AIDE LEGISLATIVE PROPOSALS

Case Number 72-675

Currently when the Iowa Natural Resources Council declares an area to be in a flood plain, there is no notice to citizens who might later purchase property in the flood plain because there is no requirement that such declaration of a flood plain be recorded on the abstract of title. It is suggested that the General Assembly consider legislation to require such recording of the flood plain designation.

Case Number 73-201

It is suggested that the General Assembly consider whether inmates at the state's correctional institutions who perform work for the state should be covered by workman's compensation.

Case Number 74-1372

Free legal services are available in only a handful of counties in Iowa, mainly the more heavily populated counties. Persons in rural counties many times are in need of legal services, but such services are not available to them. Chapter 252 of the Iowa Code permits General Relief agencies to expend money for legal services to indigents in civil matters as long as there is a legal aid program approved by the Board of Supervisors. It is suggested that the General Assembly consider whether to make the establishment of such programs mandatory.

Cases Number 74-304 and 74-799

Low rent housing developments for elderly citizens have been granted tax-exempt status in some counties, and denied such status in other counties. The determination is made by the local Board of Adjustment. Cases have been appealed to the district courts in different counties with differing results. It is suggested that the General Assembly consider whether the law should be clarified so that it is clear whether such developments are eligible for tax-exempt status.

It might be pointed out that if such a development is granted tax-exempt status, it can charge lower rent to elderly residents.



PREVIOUS CITIZENS' AIDE LEGISLATIVE PROPOSALS

Case Number 74-635

It is suggested that the General Assembly consider whether persons in need of public assistance might be served more efficiently, and at less expense to the taxpayer by combining present relief agencies, Veteran's Affairs, General Relief and County Departments of Social Services, into one agency at the county level. The County Departments of Social Services could likely perform the functions of the other offices. In most counties, General Relief is already combined with Social Services.

It should also be pointed out that many county general relief agencies still adhere to the one year residency requirement with regard to a person applying for relief. This contrary to the opinion of the United States Supreme Court in Shapiro v. Thompson which was applied to counties in Iowa in an Opinion of the Attorney General dated January 12, 1972. It is suggested that the General Assembly amend Chapter 252 of the Iowa Code to clearly reflect the Shapiro decision.

Case Number 74-1407

Section 321.105 of the Iowa Code permits a disabled veteran who is given a vehicle by the United States government to be entitled to one free automobile registration. If the vehicle is other than an automobile, the veteran must purchase an automobile in order to take advantage of this free registration. In the case of a veteran who is given a pickup truck, and does not own an automobile, he is not entitled to a free registration, even though the truck fee is lower than the registration fee for an automobile. It is suggested that the General Assembly consider whether to include a pickup truck among the vehicles for which a veteran might be entitled to a free registration when the vehicle is given to the veteran by the federal government.



